

## CITY OF SPOKANE



### NOTICE

#### REGARDING CITY COUNCIL MEETINGS

Notice is hereby given that, pursuant to Governor Jay Inslee's Fourth Updated Proclamation 20-28.4, dated May 29, 2020, all public meetings subject to the Open Public Meetings Act, Chapter 42.30 RCW, are to be held remotely and that the in-person attendance requirement in RCW 42.30.030 has been suspended until at least through July 1, 2020. **We are awaiting further direction as to whether there will be an extension of this date.**

**Until further direction is received, it is possible the below information will still apply to the July 13, 2020, City Council meeting:**

Temporarily and until further notice, the public's ability to attend City Council meetings is by remote access only. In-person attendance is not permitted at this time. The public is encouraged to tune in to the meeting as noted below. Due to the suspension of the in-person attendance requirement, no public testimony will be taken on the items under consideration. However, written public comment may be submitted via email to [CityCouncil2@SpokaneCity.org](mailto:CityCouncil2@SpokaneCity.org).

The regularly scheduled Spokane City Council 3:30 p.m. Briefing/Administrative Sessions will be held virtually and streamed live online and airing on City Cable 5. Some members of the City Council and City staff will be attending virtually. **The public is encouraged to tune in to the meeting live on Channel 5, at <https://my.spokanecity.org/citycable5/live>, or by calling 408-418-9388 and entering the access code (to be filled in when the Advance Agenda is converted to Current) when prompted; meeting password is (to be filled in when the Advance Agenda is converted to Current).**

**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 the first open forum more often than once per calendar 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 and items not currently on the current or advance Council agendas. No person shall be permitted to speak in open forum 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 from residents of the City of Spokane, no person shall be permitted to speak at the first open forum more often than once per calendar month. Any person may speak at the second open forum if they have not yet spoken in that meeting's first open forum or concerning any agenda item at that day's meeting, unless the meeting is that person's first address at open forum in that month.. There is no limit on the number of regular legislative agenda 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 2.7      SERVICE ANIMALS AT CITY COUNCIL MEETINGS**

- B.      Service animals must, at all times while present in a City Council meeting, be harnessed, leashed, or tethered, unless these devices interfere with the service animal's work or the individual's disability prevents using these devices, in which case, the individual must maintain control of the animal through voice, signal, or other effective controls.

**Rule 5.3      PARTICIPATION OF MEMBERS OF THE PUBLIC IN COUNCIL MEETINGS**

- A.      Members of the public may address the Council regarding items on the Council's legislative agenda, special consideration items, hearing items, and other items before the City Council requiring Council action that are not adjudicatory or administrative in nature. This rule shall not limit the public's right to speak during the open forum.
- B.      No member of the public may speak without first being recognized for that purpose by the Chair. Except for named parties to an adjudicative hearing, a person may be required to sign a sign-up sheet and provide their city of residence as a condition of recognition. In order for a Council member to be recognized by the Chair for the purpose of obtaining the floor, the Council member shall either raise a hand or depress the call button on the dais until recognized by the Council President.
- C.      Each person speaking at the public microphone shall verbally identify themselves by name, city of residence, and, if appropriate, representative capacity.
- D.      Each speaker shall follow all written and verbal instructions so that verbal remarks are electronically recorded and documents submitted for the record are identified and marked by the Clerk.
- E.      In order that evidence and expressions of opinion be included in the record and that decorum befitting a deliberative process be maintained, no modes of expression not provided by these rules, including but not limited to demonstrations, banners, signs, applause, profanity, vulgar language, or personal insults will be permitted.
- F.      A speaker asserting a statement of fact may be asked to document and identify the sources of the factual datum being asserted.



- G. When addressing the Council, members of the public shall direct all remarks to the Council President and shall confine remarks to the matters that are specifically before the Council at that time.
- H. When any person, including members of the public, City staff, and others, are addressing the Council, Council members shall observe the same decorum and process, as the rules require among the members inter se. That is, a Council member shall not engage the person addressing the Council in colloquy, but shall speak only when granted the floor by the Council President. All persons and/or Council members shall not interrupt one another. The duty of mutual respect set forth in Rule 1.2 and the rules governing debate set forth in Robert's Rules of Order, newly revised, shall extend to all speakers before the City Council. The City Council Policy Advisor and/or City Attorney shall, with the assistance of Council staff, assist the Council President to ensure that all individuals desiring to speak shall be identified, appropriately recognized, and provided the opportunity to speak.

**Rule 5.4 PUBLIC TESTIMONY REGARDING LEGISLATIVE AGENDA ITEMS – TIME LIMITS**

- A. 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 their discretion, the Chair determines that, because of the number of speakers signed up to testify, less time will be needed for each speaker in order to accommodate all 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 items on the Council's consent agenda, amendments to legislative agenda items, or procedural, parliamentary, or administrative matters of the Council, including amendments to these Rules.
- 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 their 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 allotted time between or among themselves.
    - c. Following the presentation of the proponents of the issue, three (3) minutes shall be granted for any other person not associated with the designated representative of the proponents 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 amount of time which was allotted to the proponents.
    - e. Following the presentation by the opponents of the issue, three (3) minutes shall be granted for any other person not associated with the designated representative of the opponents who wishes to speak on behalf of the opponents' position.
    - f. Up to ten (10) minutes of rebuttal time shall be granted to the designated
  - 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 (3) minutes to present their 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 there to 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 13, 2020

### MISSION STATEMENT

TO DELIVER EFFICIENT AND EFFECTIVE SERVICES  
THAT FACILITATE ECONOMIC OPPORTUNITY  
AND ENHANCE QUALITY OF LIFE.

MAYOR NADINE WOODWARD

COUNCIL PRESIDENT BREEAN BEGGS

COUNCIL MEMBER KATE BURKE

COUNCIL MEMBER LORI KINNEAR

COUNCIL MEMBER KAREN STRATTON

COUNCIL MEMBER MICHAEL CATHCART

COUNCIL MEMBER CANDACE MUMM

COUNCIL MEMBER BETSY WILKERSON

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.

### **ADDRESSING THE COUNCIL**

- No member of the public may speak without first being recognized for that purpose by the Chair. Except for named parties to an adjudicative hearing, a person may be required to sign a sign-up sheet and provide their city of residence as a condition of recognition.
- Each person speaking at the public microphone shall verbally identify themselves by name, city of residency 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, no modes of expression including but not limited to demonstrations, banners, signs, applause, profanity, vulgar language or personal insults will 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 by accessing the City website at [www.spokanecity.org](http://www.spokanecity.org). Agenda items are available for public review in the Office of the City Clerk during regular business hours.

# BRIEFING SESSION

(3:30 p.m.)

(Council Chambers Lower Level of City Hall)  
(No Public Testimony Taken)

Roll Call of Council

Council Reports

Staff Reports

Committee Reports

Advance Agenda Review

Current Agenda Review

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## ADMINISTRATIVE SESSION

### CONSENT AGENDA

#### REPORTS, CONTRACTS AND CLAIMS

#### RECOMMENDATION

- |    |                                                                                                                                                                                                                                                                                        |         |                              |
|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|------------------------------|
| 1. | Renewal of existing value blanket order with Oxarc, Inc. (Spokane, WA) for liquid chlorine in 150# cylinders and one ton containers—\$75,000 annually (incl. tax).<br><b>Loren Searl</b>                                                                                               | Approve | OPR 2019-0454<br>BID 5070-19 |
| 2. | Spokane Police Department Special Event Service Contract with Spokane Transit Authority to provide officers on overtime to ride along in buses during the COVID19-Stay at Home order—\$76,678. (Relates to Special Budget Ordinance C35918)<br><b>Jennifer Hammond</b>                 | Approve | OPR 2020-0565                |
| 3. | Amendment to Interdepartmental Agreement between the Parks & Recreation Department and the Utilities Division related to reimbursement of lost parking revenue at Bosch Lot and Lot 6 (Council parking) during the construction of Post Street Bridge—\$912,000.<br><b>Kyle Twohig</b> | Approve | OPR 2016-0370<br>ENG 2017105 |

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|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|------------------------------|
| 4. | <b>Local Area A&amp;E Professional Services Consultant Agreements, for 2020-2022 Federal Aid Project, with:</b>                                                                                                                                          | <b>Approve</b> |                              |
|    | a. <b>Coffman Engineers (Spokane, WA) for Surveying Engineering Services—not to exceed \$100,000.</b>                                                                                                                                                    |                | OPR 2020-0566<br>ENG 2020093 |
|    | b. <b>Thomas Dean &amp; Hoskins Inc. (Spokane, WA) for Structural Engineering Services for 2020-2022 Federal Aid Project—not to exceed \$150,000.</b>                                                                                                    |                | OPR 2020-0567<br>ENG 2020094 |
|    | c. <b>GeoEngineers, Inc. (Spokane, WA) for Geotechnical Engineering for 2020-2022 Federal Aid Project—not to exceed \$350,000.</b>                                                                                                                       |                | OPR 2020-0568<br>ENG 2020089 |
|    | d. <b>Historical Research Associates Inc. (Spokane, WA) for Cultural Resource Services for 2020-2022 Federal Aid Project—not to exceed \$200,000.</b>                                                                                                    |                | OPR 2020-0569<br>ENG 2020090 |
|    | e. <b>Commonstreet Consulting LLC. (Spokane, WA) for Real Estate Services for 2020-2022 Federal Aid Project—not to exceed \$350,000.</b>                                                                                                                 |                | OPR 2020-0570<br>ENG 2020091 |
|    | f. <b>Parametix, Inc. (Spokane, WA) for Landscaping Architecture Services for 2020-2022 Federal Aid Project—not to exceed \$200,000.</b>                                                                                                                 |                | OPR 2020-0571<br>ENG 2020092 |
|    | <b>(Various Neighborhoods)</b>                                                                                                                                                                                                                           |                |                              |
|    | <b>Dan Buller</b>                                                                                                                                                                                                                                        |                |                              |
| 5. | <b>Amendment to the House of Charity Emergency Shelter Program Agreement to add Emergency Solutions Grant-Coronavirus funds for the coronavirus pandemic response in the shelter system—\$358,735.</b>                                                   | <b>Approve</b> | OPR 2020-0061                |
|    | <b>Matt Davis</b>                                                                                                                                                                                                                                        |                |                              |
| 6. | <b>Agreement with Volunteers of America of Eastern Washington and North Idaho, for the VOA Hope House Shelter Program, to provide Emergency Solutions Grant-Coronavirus funds for the coronavirus pandemic response in the shelter system—\$105,873.</b> | <b>Approve</b> | OPR 2020-0572                |
|    | <b>Matt Davis</b>                                                                                                                                                                                                                                        |                |                              |
| 7. | <b>Contract Extension with Superior LLC for continued joint administration of the False Alarm Program from July 1, 2020 through June 30, 2021—estimated Revenue \$330,000 per year.</b>                                                                  | <b>Approve</b> | OPR 2011-0535                |
|    | <b>Eric Olsen</b>                                                                                                                                                                                                                                        |                |                              |
| 8. | <b>Interlocal Agreement with the City of Airway Heights for the City of Spokane to provide sewer service to select parcels owned by Spokane Airport within Airway Heights sewer service.</b>                                                             | <b>Approve</b> | OPR 2020-0573                |
|    | <b>Scott Simmons</b>                                                                                                                                                                                                                                     |                |                              |

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|-----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|---------------|
| 9.  | Contract with Spokane Area Workforce Development Council for HOME Tenant Based Rent Assistance to renters experiencing financial hardship due to COVID-19—\$500,000 HUD HOME Funds (Citywide).<br><b>Paul Trautman</b>                                                                  | Approve                            | OPR 2020-0574 |
| 10. | Report of the Mayor of pending claims and payments of previously approved obligations, including those of Parks and Library, through _____, 2020, total \$_____, with Parks and Library claims approved by their respective boards. Warrants excluding Parks and Library total \$_____. | Approve &<br>Authorize<br>Payments | CPR 2020-0002 |
| 11. | City Council Meeting Minutes: _____, 2020.                                                                                                                                                                                                                                              | Approve<br>All                     | CPR 2020-0013 |
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## EXECUTIVE SESSION

(Closed Session of Council)

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

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## 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.

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## LEGISLATIVE SESSION

(6:00 P.M.)

(Council Reconvenes in Council Chamber)

**NOTE: We are awaiting further direction as to whether there will be an extension of the May 31, 2020, date regarding the current suspension of the in-person attendance requirement.**

WORDS OF INSPIRATION

PLEDGE OF ALLEGIANCE

ROLL CALL OF COUNCIL

## **ANNOUNCEMENTS**

(Announcements regarding Changes to the City Council Agenda)

## **NO BOARDS AND COMMISSIONS APPOINTMENTS**

## **ADMINISTRATIVE REPORT**

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### **COUNCIL COMMITTEE REPORTS**

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

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### **OPEN FORUM**

**May not be held pending extension of July 1, 2020 date.**

This is an opportunity for citizens to discuss items of interest not relating to the Current or Advance Agendas, pending hearing items, or initiatives or referenda in a pending election. 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 fifteen (15) 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:** Any person may speak at the second open forum if they have not yet spoken in that meeting's first open forum or concerning any agenda item at that day's meeting, unless the meeting is that person's first address at open forum in that month. (Counsel Rule 2.2.E)

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## **LEGISLATIVE AGENDA**

### **SPECIAL BUDGET ORDINANCES**

Ordinance C35918 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:

**Police Fund – Special Events**

**FROM: Law Enforcement Services, \$76,678;**

**TO: Overtime Uniform, same amount.**

(This action recognizes unbudgeted revenue and expenditure pertaining to acceptance of a Spokane Transit Authority contract for law enforcement presence on buses.) (Relates to Consent Agenda Item #2) (Council Sponsor: Council Member Kinneary)

**Jennifer Hammond**

**EMERGENCY ORDINANCES**(Require Five Affirmative, Recorded Roll Call Votes)

**ORD C35860** Establishing a local residential tenancy code; recodifying Division I of Title 10 as Title 10A; recodifying Division II of Title 10 as Title 10B; enacting a new Title 10C; enacting new sections 07.08.153 and 18.03.030; and amending sections 08.01.090, 08.01.120, 08.01.180, 08.01.200, 08.02.0206, and 18.01.030 of the Spokane Municipal Code; and declaring an emergency. (Deferred from May 4, 2020 Agenda) (Council Sponsor: Council President Beggs)

**Council President Beggs**

**ORD C35861** Requiring specific cause for most residential evictions; enacting new sections 18.03.005 and 18.03.030 of the Spokane Municipal Code; and declaring an emergency. (Deferred from May 4, 2020 Agenda) (Council Sponsor: Council President Beggs)

**Council President Beggs****RESOLUTIONS & FINAL READING ORDINANCES**(Require Four Affirmative, Recorded Roll Call Votes)

**RES 2020-0045** Approving the appointment of Amber Richards as Director of Human Resources for the City of Spokane.

**Meghann Steinolfson**

**ORD C35908** Establishing official City policy relating to homelessness response efforts; enacting a new section 18.05.030 to the Spokane Municipal Code. (Deferred from June 22, 2020, Agenda) (Council Sponsor: Council President Beggs)

**Council President Beggs****NO FIRST READING ORDINANCES**

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**NO SPECIAL CONSIDERATIONS****NO HEARINGS**

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**Motion to Approve Advance Agenda for July 13, 2020**  
(per Council Rule 2.1.2)

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**OPEN FORUM****May not be held pending extension of July 1, 2020 date.**

This is an opportunity for citizens to discuss items of interest not relating to the Current or Advance Agendas, pending hearing items, or initiatives or referenda in a pending election. 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 fifteen (15) 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: Any person may speak at the second open forum if they have not yet spoken in that meeting's first open forum or concerning any agenda item at that day's meeting, unless the meeting is that person's first address at open forum in that month. (Counsel Rule 2.2.E)

## **ADJOURNMENT**

The July 13, 2020, Regular Legislative Session of the City Council is adjourned to July 20, 2020.

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## **NOTES**

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

07/13/2020

<b><u>Date Rec'd</u></b>	6/26/2020
<b><u>Clerk's File #</u></b>	OPR 2019-0454
<b><u>Renews #</u></b>	
<b><u>Cross Ref #</u></b>	
<b><u>Project #</u></b>	
<b><u>Bid #</u></b>	5070-19
<b><u>Requisition #</u></b>	VALUE BLANKET

<b><u>Submitting Dept</u></b>	WATER & HYDROELECTRIC SERVICES
<b><u>Contact Name/Phone</u></b>	LOREN SEARL 625-7851
<b><u>Contact E-Mail</u></b>	LSEARL@SPOKANECITY.ORG
<b><u>Agenda Item Type</u></b>	Purchase w/o Contract
<b><u>Agenda Item Name</u></b>	4100 - LIQUID CHLORINE - VALUE BLANKET ORDER

**Agenda Wording**

Renewal of existing value blanket order with Oxarc, Inc. (Spokane, WA) for liquid chlorine in 150# cylinders and one (1) ton containers valued at \$75,000.00 annually, including tax.

**Summary (Background)**

RFQ #5070-19 for Liquid Chlorine, 150# Cylinders and 1 Ton Containers - Annual Supply was publicly solicited in May 2019. Award was correspondingly recommended to Oxarc, Inc. (Spokane, WA) as the low responsive, responsible bidder. Product will be ordered on an as-needed basis. This represents the first annual renewal with no change in cost at mutual consent; one annual renewal option remains.

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

Expense	\$ 75,000.00	# VARIOUS
Select	\$	#
Select	\$	#
Select	\$	#

**Approvals**

<b><u>Dept Head</u></b>	SAKAMOTO, JAMES
<b><u>Division Director</u></b>	SIMMONS, SCOTT M.
<b><u>Finance</u></b>	ALBIN-MOORE, ANGELA
<b><u>Legal</u></b>	ODLE, MARI
<b><u>For the Mayor</u></b>	ORMSBY, MICHAEL

**Council Notifications**

<b><u>Study Session\Other</u></b>	URBAN EXPERIENCE 7/13
<b><u>Council Sponsor</u></b>	PRESIDENT BEGGS

**Distribution List**

sjohnson@spokanecity.org

**Additional Approvals**

<b><u>Purchasing</u></b>	PRINCE, THEA
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## Briefing Paper

### Urban Experience Committee

<b>Division &amp; Department:</b>	Public Works, 4100 Water & Hydroelectric Services
<b>Subject:</b>	Liquid Chlorine – Annual Value Blanket
<b>Date:</b>	13 July 2020
<b>Author (email &amp; phone):</b>	Loren Searl, <a href="mailto:lsearl@spokanecity.org">lsearl@spokanecity.org</a> , x7851
<b>City Council Sponsor:</b>	Breean Beggs, Council President
<b>Executive Sponsor:</b>	Scott Simmons, Director – Public Works
<b>Committee(s) Impacted:</b>	PIES
<b>Type of Agenda item:</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
<b>Alignment:</b> (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	Funding for this order is included annually in the Water & Hydroelectric Services department budget.
<b>Strategic Initiative:</b>	Innovative Infrastructure, Urban Experience
<b>Deadline:</b>	The existing value blanket for these products expired July 1, 2020.
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	This order supports the competitive procurement of liquid chlorine cylinders on an as-needed basis for water disinfection over a one year period.
<b>Background/History:</b> RFQ #5070-19 for Liquid Chlorine, 150# Cylinders and 1 Ton Containers – Annual Supply was publicly solicited in May 2019. Award was correspondingly recommended to Oxarc, Inc. (Spokane, WA) as the low responsive, responsible bidder. This represents the first annual renewal with no change in cost at mutual consent; one annual renewal option remains.	
<b>Executive Summary:</b> <ul style="list-style-type: none"> <li>• Renewal recommended with Oxarc, Inc. (Spokane, WA) for \$75,000.00 including tax</li> <li>• First renewal at no change in cost, one renewal option remaining</li> <li>• Original RFQ #5070-19</li> </ul>	
<b>Budget Impact:</b> Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Annual/Reoccurring expenditure? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If new, specify funding source: N/A Other budget impacts: None	
<b>Operations Impact:</b> 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: None Known challenges/barriers: None	

# Expenditure Control Form



1. All requests being made must be accompanied by this form.
2. Route **ALL** requests to the Finance Department for signature.
3. If request is greater than \$100,000 it requires signatures by Finance and the City Administrator. Finance Dept. will route to City Administrator.

**Today's Date:** 6/29/20

**Type of expenditure:** Goods ☒ Services ☐

**Department:** Water

**Approving Supervisor:** Loren Searl

**Amount of Proposed Expenditure:** \$75,000

**Funding Source:** Water Department Budget

**Please verify correct funding sources. Please indicate breakdown if more than one funding source.**

**Why is this expenditure necessary now?**

Current value blanket expires 7/1/20.

**What are the impacts if expenses are deferred?**

We would have to purchase chlorine in one-off purchases, likely at a higher price, to continue to be able to disinfect water as it is pumped from wells and to disinfect new water mains as they are put into service.

**What alternative resources have been considered?**

None.

**Description of the goods or service and any additional information?**

Renewal of Value Blanket 301071.  
150# cylinders - \$195.31 each.  
1 ton containers - \$875.00 each.

**Person Submitting Form/Contact:** Ryan Treffry x7817

**FINANCE SIGNATURE:**

DocuSigned by:

*Michelle Hughes*  
7652E6209F6941D...

**CITY ADMINISTRATOR SIGNATURE:**

DocuSigned by:

*[Signature]*  
9C36E3376992442...

## Briefing Paper

### PIES

<b>Division &amp; Department:</b>	Engineering Services; Public Works
<b>Subject:</b>	Amendment to Interdepartmental Agreement
<b>Date:</b>	June 22, 2020
<b>Contact (email &amp; phone):</b>	Kyle Twohig (ktwohig@spokanecity.org, 625-6152)
<b>City Council Sponsor:</b>	
<b>Executive Sponsor:</b>	Scott Simmons
<b>Committee(s) Impacted:</b>	PIES
<b>Type of Agenda item:</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
<b>Alignment:</b> (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	
<b>Strategic Initiative:</b>	Innovative Infrastructure
<b>Deadline:</b>	
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	Informational - background information for committee review
<p><u>Background/History:</u> Public Works has an interdepartmental agreement with the Parks Department to utilize Parks property for capital project construction. This agreement defines the reimbursement for lost revenue from parking services on Parks properties impacted.</p>	
<p><u>Executive Summary:</u></p> <ul style="list-style-type: none"> <li>Public Works and the Parks Department have an interdepartmental agreement to utilize Parks property for capital construction projects, and to reimburse for lost revenue from parking services</li> <li>This agreement amends the agreement to cover the impacts from additional projects including the Post St. Bridge project</li> <li>The Post St. Bridge project will impact parking in both Bosch Lot as well as Lot 6 (Council parking)</li> <li>The agreement compensates the Parks Department with capital project funds quarterly throughout the project in the amount of \$24,233, or \$96,865 annually</li> <li>The impacted lots will be restored to pre-construction conditions at the end of the projects</li> </ul>	
<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>	
<p><u>Operations Impact:</u></p> <p>Consistent with current operations/policy? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Requires change in current operations/policy? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Specify changes required:</p> <p>Known challenges/barriers:</p>	

# AGENDA SHEET FOR PARK BOARD MEETING OF: June 11, 2020



Submitting Division  
Parks & Recreation

Contact Person  
Jonathan Moog

Phone No.  
625-6243

Department: ☐ Finance ☐ Operations ☐ Recreation/Golf ☒ Riverfront Park

Committee: ☐ Finance ☐ Golf ☐ Land ☐ Recreation ☒ Riverfront ☐ UFTC

Type of contract: ☐ New ☐ Renewal ☒ Amendment ☐ Extension ☐ Other

Beginning date: 06-15-2020 Expiration date: 2022 Open ended ☐

CLERKS' FILE	OPR 2016-0370
RENEWAL	
CROSS REF	
ENG	
BID	
REQUISITION	

## AGENDA WORDING:

Utilities/Parks interdepartmental agreement amendment/Riverfront Park parking lots (Revenue: \$96,865, no tax)

## BACKGROUND:

Utilities desires continued use of Riverfront Park parking lots during construction of the Post Street Bridge. This amendment adds the use of Parking Lot #6 in addition to the continued use of the Bosch Lot (Lot #7). The amendment also updates the financial compensation to Parks for loss of revenue and use by the public. The original agreement was executed in 2016 to provide Utilities access to construction the Combined Sewer Overflow on the Bosch lot site. Later, the same site was used as lay-down construction yard supporting the construction of the CSO tank/plaza adjacent to the downtown library. Should Park Board approval be given, this amendment will need to be approved by City Council before it may be fully executed.

## RECOMMENDATION:

Approve Utilities/Parks interdepartmental agreement amendment for use of Riverfront Park parking lots

**ATTACHMENTS:** Include in packets. See back of Agenda Sheet for specific supporting document requirements.

## SIGNATURES:

Requester - Jonathan Moog Dept. Manager \_\_\_\_\_ Director of Parks & Recreation – Garrett Jones

Parks Accounting – Megan Qureshi Legal Dept. – James Richman

## DISTRIBUTION:

Parks: Accounting

Parks: Pamela Clarke

Budget Manager:

Requester: Jonathan Moog

PARK BOARD ACTION:

APPROVED BY SPOKANE PARK BOARD

President - Jennifer Ogden

June 11, 2020

<b><u>Fiscal Impact</u></b>	<b><u>Budget Account</u></b>
<b>Expenditure:</b>	
_____	_____
_____	_____
_____	_____
_____	_____
<b>Revenue:</b>	
<u>\$96,865, no tax</u>	<u>1400-54370-76901-36231</u>
_____	_____
_____	_____
_____	_____
_____	_____

☐ Existing vendor

☐ New vendor – If so, please include vendor packet ☐

**Supporting documents:**

☐ Quotes/Solicitation (RFP, RFQ, RFB)

☐ W-9 (for new contractors/consultants/vendors)

☐ Contractor is on the City's A&E Roster City of Spokane

☐ ACH Forms (for new contractors/consultants/vendors)

☐ Spokane Business registration expiration date: \_\_\_\_\_

☐ Insurance Certificate (minimum \$1 million in General Liability)



**City of Spokane**  
**AMENDMENT TO  
INTERDEPARTMENTAL AGREEMENT**  
Title: **BOSCH LOT PROPERTY**

**THIS INTERDEPARTMENTAL AGREEMENT AMENDMENT** is between the City of Spokane, Utilities Division, on behalf of the Water-Wastewater Management Department, whose address is Second Floor City Hall, 808 West Spokane Falls Boulevard, Spokane, Washington 99201, hereafter referred to as "Water-Wastewater Department" and the City of Spokane, Parks and Recreation Department, whose address is Fifth Floor City Hall, 808 West Spokane Falls Boulevard, Spokane, Washington 99201, herein after referred to as "Parks Department," hereinafter jointly referred to as the "Parties".

*WHEREAS, on November 30, 2011, and May 4, 2015, the Parties entered into Interdepartmental Agreements for CSO Control Facilities and Stormwater Surface and Infiltration Facilities to be sited on Parks Property; and*

*WHEREAS, the Parties recorded permanent easements for CSO and stormwater projects installed on Parks-owned properties, including the Bosch Lot Property, which is located at the northwest corner of Summit Boulevard and Lincoln Street; and*

*WHEREAS, the Parties would like to use Riverfront Park Lot 6 as a staging area for the Post Street Bridge Project; and*

*WHEREAS, a change or revision of the Work has been requested, thus the original Contract needs to be formally Amended by this written document; and*

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

**1. CONTRACT DOCUMENTS.**

The original Agreements, dated November 30, 2011, and May 4, 2015, and the first Amendment attested by the City Clerk on May 2, 2016, any previous amendments, addendums and / or extensions / renewals thereto, are incorporated by reference into this document as though written in full and shall remain in full force and effect except as provided herein.

**2. EFFECTIVE DATE.**

This Contract Amendment shall become effective on June 15, 2020.

**3. AMENDMENT.**

The Original Agreement and First Amendment are revised to include the following:

2. PURPOSE: The purpose of this Agreement is to establish the terms and conditions for use of the Bosch Lot Property and to define the calculation of the lost revenues to Parks for parking services during the construction of the three (3) projects affecting the Property.



3. CONSIDERATION: The parties agree as follows:

a. Utilities will pay to Parks for the number of parking stalls used during the duration of each project. The expected number of stalls for the Bosch Lot is 42 charged at a rate of \$924 per stall annually and upper portion of Parking Lot #6 is 29 charged at a rate of \$2003 per stall annually. Total annual compensation is \$96,865

b. Quarterly payments of twenty four thousand two hundred twenty three dollars (\$24,223) will be paid no later than the last month of each quarter for the term of this Agreement.

4. DURATION: This Agreement shall be effective April 1, 2016 and shall remain in effect until the earlier of completion of the three (3) construction projects or 2022.

Detail any repairs to the lot(s) required to restore them to their pre-construction condition (not a full rebuild, but the repair of irrigation or other damage as required).

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 by having legally-binding representatives affix their signatures below.

**CITY OF SPOKANE PARKS  
AND RECREATION DEPARTMENT**

By \_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Title

Approved:

\_\_\_\_\_  
Attorney for Park Board

Attest:

\_\_\_\_\_  
City Clerk

**CITY OF SPOKANE**

By \_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Title

Approved:

\_\_\_\_\_  
Director of Utilities Division

Approved as to form:

\_\_\_\_\_  
Assistant City Attorney





**City of Spokane**  
**AMENDMENT TO  
INTERDEPARTMENTAL AGREEMENT**  
Title: **BOSCH LOT PROPERTY**

**THIS INTERDEPARTMENTAL AGREEMENT AMENDMENT** is between the City of Spokane, Utilities Division, on behalf of the Water-Wastewater Management Department, whose address is Second Floor City Hall, 808 West Spokane Falls Boulevard, Spokane, Washington 99201, hereafter referred to as "Water-Wastewater Department" and the City of Spokane, Parks and Recreation Department, whose address is Fifth Floor City Hall, 808 West Spokane Falls Boulevard, Spokane, Washington 99201, herein after referred to as "Parks Department," hereinafter jointly referred to as the "Parties".

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*WHEREAS, the Parties recorded permanent easements for CSO and stormwater projects installed on Parks-owned properties, including the Bosch Lot Property, which is located at the northwest corner of Summit Boulevard and Lincoln Street; and*

*WHEREAS, the Parties would like to use Riverfront Park Lot 6 as a staging area for the Post Street Bridge Project; and*

*WHEREAS, a change or revision of the Work has been requested, thus the original Contract needs to be formally Amended by this written document; and*

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

**1. CONTRACT DOCUMENTS.**

The original Agreements, dated November 30, 2011, and May 4, 2015, and the first Amendment attested by the City Clerk on May 2, 2016, any previous amendments, addendums and / or extensions / renewals thereto, are incorporated by reference into this document as though written in full and shall remain in full force and effect except as provided herein.

**2. EFFECTIVE DATE.**

This Contract Amendment shall become effective on June 1, 2020

**3. AMENDMENT.**

The Original Agreement and First Amendment are revised to include the following:

2. PURPOSE: The purpose of this Agreement is to establish the terms and conditions for use of the Bosch Lot Property and to define the calculation of the lost revenues to Parks for parking services during the construction of the ~~two (2)~~ three (3) projects affecting the Property.

3. CONSIDERATION: The parties agree as follows:

b. Utilities will pay to Parks for the number of parking stalls used during the duration of each project. The expected number of stalls for the Bosch Lot is 42 charged at a rate of \$924 per stall annually and upper portion of Parking Lot #6 is 29 charged at a rate of \$2003 per stall annually. Total annual compensation is \$96,865

d. Quarterly payments of twenty four thousand two hundred twenty three dollars (\$24,223) will be paid no later than the last month of each quarter for the term of this Agreement.

4. DURATION: This Agreement shall be effective April 1, 2016 and shall remain in effect until the earlier of completion of the two (2) construction projects or 2022.

Detail any repairs to the lot(s) required to restore them to their pre-construction condition (not a full rebuild, but the repair of irrigation or other damage as required).

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 by having legally-binding representatives affix their signatures below.

**CITY OF SPOKANE PARKS  
AND RECREATION DEPARTMENT**

By \_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Title

Approved:

\_\_\_\_\_  
Attorney for Park Board

Attest:

**CITY OF SPOKANE**

By \_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Title

Approved:

\_\_\_\_\_  
Director of Utilities Division

Approved as to form:

---

City Clerk

---

Assistant City Attorney

20-065



# Expenditure Control Form

1. All requests being made must be accompanied by this form.
2. Route **ALL** requests to the Finance Department for signature.
3. If request is greater than \$100,000 it requires signatures by Finance and the City Administrator. Finance Dept. will route to City Administrator.

**Today's Date:** 6/23/20

**Type of expenditure:** Goods ☐ Services ☒

**Department:** Engineering Services

**Approving Supervisor:** Kyle Twohig

**Amount of Proposed Expenditure:**

**Funding Source:**

**Please verify correct funding sources. Please indicate breakdown if more than one funding source.**

**Why is this expenditure necessary now?**

N/A

**What are the impacts if expenses are deferred?**

N/A

**What alternative resources have been considered?**

N/A

**Description of the goods or service and any additional information?**

N/A

**Person Submitting Form/Contact:** Brittany Kraft

**FINANCE SIGNATURE:**

\_\_\_\_\_

**CITY ADMINISTRATOR SIGNATURE:**

\_\_\_\_\_

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

07/13/2020

Date Rec'd

6/17/2020

Clerk's File #

OPR 2020-0565

Renews #Submitting Dept

POLICE

Cross Ref #Contact Name/PhoneJENNIFER 625-4056  
HAMMONDProject #Contact E-Mail

JHAMMOND@SPOKANECITY.ORG

Bid #Agenda Item Type

Contract Item

Requisition #Agenda Item Name

0680-STA CONTRACT WITH SPOKANE POLICE FOR COVID 19 SAFETY

Agenda Wording

Contract with Spokane Transit Authority with the Spokane Police Department to provide officers on overtime to ride along in buses during the COVID19-Stay at Home order.

Summary (Background)

The contract agreement with STA to provide officers to ride along in buses during the COVID19-Stay at Home order. STA provided fare free buses and allowed passengers to ride, but unintended consequences of providing free fares were that passengers were not exiting the buses throughout the day. Contract provides officers on overtime to STA for the necessary cause from April 23-May 31 at an estimated cost of \$76,678 utilizing varied shifts and levels of staff.

Fiscal Impact

Grant related? NO

Budget Account

Public Works? NO

Expense \$ 76,678

# 0680111502125051215

Select \$

#

Select \$

#

Select \$

#

ApprovalsCouncil NotificationsDept Head

HAMMOND, JENNIFER

Study Session\Other

5/29/2020

Division Director

HAMMOND, JENNIFER

Council Sponsor

Kinnear

Finance

SCHMITT, KEVIN

Distribution ListLegal

ODLE, MARI

emccowan@spokanecity.org

For the Mayor

ORMSBY, MICHAEL

spdfinance

Additional Approvals

jgately

Purchasing


## CITY OF SPOKANE POLICE DEPARTMENT SPECIAL EVENT SERVICE CONTRACT

Sponsor: Spokane Transit Authority  
Sponsor Address: 1230 W Boone Spokane WA 99201  
Sponsor Billing Address: Same  
Sponsor Contact Name: Nancy Williams/Mike Toole  
Sponsor Phone Number: 509-325-6081/509-325-6067

The City and the Sponsor agree as follows:

1. PERFORMANCE. The City shall provide the Sponsor with the following special event police officer services:

- A. Number of officers: **See attached**
- B. Hours and dates to be worked: **See attached**
- C. Vehicles and equipment: All personally issued
- D. Specific location of service: **STA Bus routes**
- E. Duties may include (but are not limited to): Enforce Laws and bus conduct

2. CONTRACT TERM. The time of performance of the contract shall be:

Begin Date: 4/23/2020                      End date: 5/31/2020  
**Excluding 05/25/20 Memorial Day**

3. COMPENSATION. The Sponsor shall pay the City the actual costs incurred by the Police Department due to the event as outlined under this contract. Except as otherwise provided, these costs will be actual overtime pay plus LEOFF retirement and Medicare costs. A minimum of three (3) hours per officer is required for every event. The City will not bill for vehicle and equipment use for most special events.

4. ESTIMATED COSTS.

- A. Estimated Costs: \$76,678.00

Officers:	HOURS hours x \$73.81 = \$000.00
Sergeant:	HOURS hours x \$83.18 = \$000.00
Lieutenant:	HOURS hours x \$99.74 = \$000.00



- B. The estimated costs for this event are based on the event's Police Action Plan. If the event runs longer than expected, those costs will be added to the invoice. The Sponsor will be invoiced for actual costs. The estimate is a good faith figure based on the information available to the Special Events Office at the time this contract is written. As the event approaches, there is a possibility that the number of officers or length of event may change resulting in a change to the costs associated with this event. The sponsor will be informed of all changes through the Special Events Office.
- C. If it is determined that the City needs to bill for something other than law enforcement wages, Medicare and retirement contributions, the City will meet with event coordinators and/or staff to discuss this prior to the event.
- D. The estimate is based on senior wages to avoid under-estimation. Depending on the size of the event and number of law enforcement at each rank, the actual costs are likely to be lower for larger events as more junior staff will be working the event. The goal is to allow for budgeting ahead of time. Previous events of a similar nature may be used to provide a cost estimate of current charges for similar events.
- E. The Special Events Office will work with the Sponsor to identify cost reduction strategies, if possible. It is ultimately the decision of the Chief of Police as to the number of officers assigned to an event. The Chief of Police has final approval for the department.

5. PAYMENT. The Sponsor shall be billed the City's actual costs following the event for services rendered. Payment is due thirty (30) days from date of invoice. If payment is received after the thirty (30) days; a \$15.00 late fee will be imposed and one percent (1%) interest per month will be added to the amount owed. All checks shall be payable to "City of Spokane."

6. FEES. The City of Spokane has estimated fees for services as follows:

A. Police Officer: (three hour minimum)

1)	Estimated Hourly Wage Rate (estimate is based on 25-year corporal/detective overtime wage)	\$ 66.62
2)	LEOFF Retirement @ 5.43%	\$ 3.62
	LEOFF Retirement-City @ 3.5%	\$ 2.33
	Medicare @ 1.45%	\$ 0.97
	PFML @ .4%	<u>\$ 0.27</u>
	<b>Total cost per hour per officer</b>	<b><u>\$73.81</u></b>

B. Supervisor: (three hour minimum)

1)	Estimated Hourly Wage Rate (estimate is based on 25-year sergeant overtime wage)	\$ 75.08
----	-------------------------------------------------------------------------------------	----------

2)	LEOFF Retirement @ 5.43%	\$ 4.08
	LEOFF Retirement-City @ 3.5%	\$ 2.63
	Medicare @ 1.45%	\$ 1.09
	PFML @ .4%	\$ 0.30

**Total cost per hour per supervisor \$ 83.18**

C. Incident Command for Large Events: (three hour minimum)

1)	Estimated Hourly Wage Rate (estimate is based on 25-year lieutenant overtime wage)	\$ 90.09
2)	LEOFF Retirement @ 5.43%	\$ 4.89
	LEOFF Retirement-City @ 3.5%	\$ 3.15
	Medicare @ 1.45%	\$ 1.31
	PFML @ .4%	\$ 0.30

**Total cost per hour per lieutenant \$ 99.74**

7. EVENT CANCELLATION: In the event it becomes necessary for the Sponsor to cancel the special event, it is the Sponsor's responsibility to notify the Special Events Supervisor (835-4575 or cell phone 209-7183), as soon as possible, but in any case no less than twenty four (24) hours before the special event was to begin. Every effort will be made by the City to contact the officers scheduled to work the event. If an officer(s) cannot be contacted and reports to the assigned duty, each reporting officer shall be paid a minimum of three (3) hours. The Sponsor is responsible for these costs. The Sponsor will also be responsible for any overtime incurred by the Special Events Supervisor attempting to notify each of these officers of the event cancellation.

8. DUTY STATUS. Each police officer engaged in special events is considered to be in an on-duty status. The police officers are subject to call by the Chief of Police or designee at any time for emergencies.

9. ADHERENCE TO CITY POLICIES AND PROCEDURES. Police officers engaged in special event duty employment are obligated to discharge all duties of their office and to adhere to Spokane Police Department policies and procedures at all times.

10. DUTY TO SPONSOR. Police officers on special event duty assignment have a primary obligation to the City, not the Sponsor. They are expected to discharge all duties of their office, to enforce all laws and ordinances, and to adhere to all Police Department policies, procedures, rules and regulations. The duty to the Sponsor is secondary.

11. NONDISCRIMINATION. No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this contract because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation, 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.

12. LIABILITY. Each party shall be responsible and liable for the consequences of any act or failure to act on the part of itself, its employees and its agents. Each party shall be responsible for its own negligence. Neither party shall indemnify nor hold the other party harmless.

13. INSURANCE. The Sponsor must have insurance to obtain a special event permit. The City of Spokane shall be listed as an additional insured and the certificate holder per the Special Event Permit Ordinance and Application.

Dated: 05/13/20

CITY OF SPOKANE

By:   
~~Police Chief~~ ASST. POLICE CHIEF

Dated: May 12, 2020

SPONSOR

By: E. Susan Meyer

Title: Chief Executive Officer

Name Printed: E. Susan Meyer

Pre-approved as to form:

City Legal

12/27/2018

## STA Job description

Patrol Purpose: To provide a law enforcement presence on various bus routes throughout the service area. Act as a deterrent to undesirable activity and response to illegal acts.

- SPD will begin the two-officer **patrols beginning 4/23/20 and continue through 5/31/20.**
  - Monday thru Friday
    - Two 2-officer patrols will run from 8am to Noon
    - Two 2-officer patrols will run from 6pm to 10pm
  - Saturday and Sunday
    - One 2-officer patrol from 10am to 2pm
    - One 2-officer patrol from 4pm to 8pm
- All 2-officer patrol will begin and end at the STA Plaza (701 W. Riverside Avenue). SPD vehicle parking will be provided in the STA garage.
- STA will designate the bus routes to ride each day to help ensure the entire service area is covered over the 14 day period.
- SPD Officer will be in uniform and have department issued PPE if needed.
- Breaks will be completed as needed on route, lunch not an issue due to the 4-hour patrol intervals
- The 2-officer patrols will operate in both the City and County as routes continue and any SPD patrol jurisdictional coordination will be done by SPD.
- Reimbursement will be invoiced to Spokane Transit at a rate not to exceed \$75.00 per hour. All other terms and conditions mirror the Plaza Police Services Interlocal Agreement.
- Points for Contact for STA
  - Mike Toole, Safety & Security Manager **325-6067**
    - Agreement, invoicing and issues that come to light.
  - Ann Frunk, STA Security Coordinator **232-6300**
    - Assisting SPS patrols board the correct busses at the Plaza and general assistance
  - Fixed Route Dispatch **325-6044**
    - SPD patrol assistance while out on the routes (what bus do I catch to get back?)
  - Bus Operators
    - Help the officers with any issues on the bus – very helpful.

DETECTIVE-25 YR

<u>RATE-REG</u>	<u>OT RATE</u>
44.41	66.615

**MONDAY - FRIDAY**

Two Officers per shift/2 Teams

SHIFT 1	0800-1200
SHIFT 2	1600-2000

April 23-May 30

DAYS

**SATURDAY-SUNDAY**

Two Officer-1 Team

SHIFT 1	1000-1400
SHIFT 2	1800-2200

April 23-May 30

DAYS

Total Contract Estimate

RETIREME

MEDICARE	NT	Leoff-Add-	PFML-	
.0145	.0533	.035	.004	LOADED OT RATE
0.9659175	3.5505795	2.331525	0.26646	73.729482

OFFICERS HOURS

4	4
4	4

1,179.67

1,179.67

2,359.34 Amount per day

27 days

63,702.27 Amount for Required Days

OFFICERS HOURS

2	4
2	4

589.84

589.84

1,179.67 Amount per day

11 days

12,976.39 Amount for Required Days

76,678.66

# Expenditure Control Form



1. All requests being made must be accompanied by this form.
2. Route **ALL** requests to the Finance Department for signature.
3. If request is greater than \$100,000 it requires signatures by Finance and the City Administrator. Finance Dept. will route to City Administrator.

**Today's Date:** 6/16/2020

**Type of expenditure:**

Goods



Services



**Department:** Police

**Approving Supervisor:** Justin Lundgren

**Amount of Proposed Expenditure:**

**Funding Source:** Spokane Transit

**Please verify correct funding sources. Please indicate breakdown if more than one funding source.**

**Why is this expenditure necessary now?**

The contract agreement with STA was a necessary request from STA to SPD to provide officers to ride along in buses during the COVID19-Stay at Home order. STA provided fare free buses and allowed passengers to ride, but unintended consequences of providing free fares were that passengers were not exiting the buses throughout the day.

**What are the impacts if expenses are deferred?**

STA agreed to reimburse for overtime paid to SPD officers in order to keep their bus drivers safe. The general fund will absorb costs if contract agreement is not executed.

**What alternative resources have been considered?**

n/a- Revenue contract requested by STA

**Description of the goods or service and any additional information?**

Provide officers on overtime to STA for the necessary cause from April 23-May 30 at an estimated cost of \$76,678 utilizing varied shifts and levels of staffed officers.

**Person Submitting Form/Contact:** Erika McCowan

**FINANCE SIGNATURE:**

DocuSigned by:

*Tonya Wallace*

CBC812B631244E9...

**CITY ADMINISTRATOR SIGNATURE:**

## CITY OF SPOKANE POLICE DEPARTMENT SPECIAL EVENT SERVICE CONTRACT

Sponsor: Spokane Transit Authority  
Sponsor Address: 1230 W Boone Spokane WA 99201  
Sponsor Billing Address: Same  
Sponsor Contact Name: Nancy Williams/Mike Toole  
Sponsor Phone Number: 509-325-6081/509-325-6067

The City and the Sponsor agree as follows:

1. PERFORMANCE. The City shall provide the Sponsor with the following special event police officer services:

- A. Number of officers: **See attached**
- B. Hours and dates to be worked: **See attached**
- C. Vehicles and equipment: All personally issued
- D. Specific location of service: **STA Bus routes**
- E. Duties may include (but are not limited to): Enforce Laws and bus conduct

2. CONTRACT TERM. The time of performance of the contract shall be:

Begin Date: 4/23/2020                      End date: 5/31/2020  
**Excluding 05/25/20 Memorial Day**

3. COMPENSATION. The Sponsor shall pay the City the actual costs incurred by the Police Department due to the event as outlined under this contract. Except as otherwise provided, these costs will be actual overtime pay plus LEOFF retirement and Medicare costs. A minimum of three (3) hours per officer is required for every event. The City will not bill for vehicle and equipment use for most special events.

4. ESTIMATED COSTS.

- A. Estimated Costs: \$76,678.00

Officers:	HOURS hours x \$73.81 = \$000.00
Sergeant:	HOURS hours x \$83.18 = \$000.00
Lieutenant:	HOURS hours x \$99.74 = \$000.00



- B. The estimated costs for this event are based on the event's Police Action Plan. If the event runs longer than expected, those costs will be added to the invoice. The Sponsor will be invoiced for actual costs. The estimate is a good faith figure based on the information available to the Special Events Office at the time this contract is written. As the event approaches, there is a possibility that the number of officers or length of event may change resulting in a change to the costs associated with this event. The sponsor will be informed of all changes through the Special Events Office.
- C. If it is determined that the City needs to bill for something other than law enforcement wages, Medicare and retirement contributions, the City will meet with event coordinators and/or staff to discuss this prior to the event.
- D. The estimate is based on senior wages to avoid under-estimation. Depending on the size of the event and number of law enforcement at each rank, the actual costs are likely to be lower for larger events as more junior staff will be working the event. The goal is to allow for budgeting ahead of time. Previous events of a similar nature may be used to provide a cost estimate of current charges for similar events.
- E. The Special Events Office will work with the Sponsor to identify cost reduction strategies, if possible. It is ultimately the decision of the Chief of Police as to the number of officers assigned to an event. The Chief of Police has final approval for the department.

5. PAYMENT. The Sponsor shall be billed the City's actual costs following the event for services rendered. Payment is due thirty (30) days from date of invoice. If payment is received after the thirty (30) days; a \$15.00 late fee will be imposed and one percent (1%) interest per month will be added to the amount owed. All checks shall be payable to "City of Spokane."

6. FEES. The City of Spokane has estimated fees for services as follows:

A. Police Officer: (three hour minimum)

1)	Estimated Hourly Wage Rate (estimate is based on 25-year corporal/detective overtime wage)	\$ 66.62
2)	LEOFF Retirement @ 5.43%	\$ 3.62
	LEOFF Retirement-City @ 3.5%	\$ 2.33
	Medicare @ 1.45%	\$ 0.97
	PFML @ .4%	<u>\$ 0.27</u>
	<b>Total cost per hour per officer</b>	<b><u>\$73.81</u></b>

B. Supervisor: (three hour minimum)

1)	Estimated Hourly Wage Rate (estimate is based on 25-year sergeant overtime wage)	\$ 75.08
----	-------------------------------------------------------------------------------------	----------

2)	LEOFF Retirement @ 5.43%	\$ 4.08
	LEOFF Retirement-City @ 3.5%	\$ 2.63
	Medicare @ 1.45%	\$ 1.09
	PFML @ .4%	<u>\$ 0.30</u>

**Total cost per hour per supervisor \$ 83.18**

C. Incident Command for Large Events: (three hour minimum)

1)	Estimated Hourly Wage Rate (estimate is based on 25-year lieutenant overtime wage)	\$ 90.09
2)	LEOFF Retirement @ 5.43%	\$ 4.89
	LEOFF Retirement-City @ 3.5%	\$ 3.15
	Medicare @ 1.45%	\$ 1.31
	PFML @ .4%	<u>\$ 0.30</u>

**Total cost per hour per lieutenant \$ 99.74**

7. EVENT CANCELLATION: In the event it becomes necessary for the Sponsor to cancel the special event, it is the Sponsor's responsibility to notify the Special Events Supervisor (835-4575 or cell phone 209-7183), as soon as possible, but in any case no less than twenty four (24) hours before the special event was to begin. Every effort will be made by the City to contact the officers scheduled to work the event. If an officer(s) cannot be contacted and reports to the assigned duty, each reporting officer shall be paid a minimum of three (3) hours. The Sponsor is responsible for these costs. The Sponsor will also be responsible for any overtime incurred by the Special Events Supervisor attempting to notify each of these officers of the event cancellation.

8. DUTY STATUS. Each police officer engaged in special events is considered to be in an on-duty status. The police officers are subject to call by the Chief of Police or designee at any time for emergencies.

9. ADHERENCE TO CITY POLICIES AND PROCEDURES. Police officers engaged in special event duty employment are obligated to discharge all duties of their office and to adhere to Spokane Police Department policies and procedures at all times.

10. DUTY TO SPONSOR. Police officers on special event duty assignment have a primary obligation to the City, not the Sponsor. They are expected to discharge all duties of their office, to enforce all laws and ordinances, and to adhere to all Police Department policies, procedures, rules and regulations. The duty to the Sponsor is secondary.


11. NONDISCRIMINATION. No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this contract because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation, 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.

12. LIABILITY. Each party shall be responsible and liable for the consequences of any act or failure to act on the part of itself, its employees and its agents. Each party shall be responsible for its own negligence. Neither party shall indemnify nor hold the other party harmless.

13. INSURANCE. The Sponsor must have insurance to obtain a special event permit. The City of Spokane shall be listed as an additional insured and the certificate holder per the Special Event Permit Ordinance and Application.

Dated: 05/13/20

CITY OF SPOKANE

By:   
~~Police Chief~~ ASST. POLICE CHIEF

Dated: May 12, 2020

SPONSOR

By: E. Susan Meyer

Title: Chief Executive Officer

Name Printed: E. Susan Meyer

Pre-approved as to form:

City Legal

12/27/2018

## STA Job description

Patrol Purpose: To provide a law enforcement presence on various bus routes throughout the service area. Act as a deterrent to undesirable activity and response to illegal acts.

- SPD will begin the two-officer **patrols beginning 4/23/20 and continue through 5/31/20.**
  - Monday thru Friday
    - Two 2-officer patrols will run from 8am to Noon
    - Two 2-officer patrols will run from 6pm to 10pm
  - Saturday and Sunday
    - One 2-officer patrol from 10am to 2pm
    - One 2-officer patrol from 4pm to 8pm
- All 2-officer patrol will begin and end at the STA Plaza (701 W. Riverside Avenue). SPD vehicle parking will be provided in the STA garage.
- STA will designate the bus routes to ride each day to help ensure the entire service area is covered over the 14 day period.
- SPD Officer will be in uniform and have department issued PPE if needed.
- Breaks will be completed as needed on route, lunch not an issue due to the 4-hour patrol intervals
- The 2-officer patrols will operate in both the City and County as routes continue and any SPD patrol jurisdictional coordination will be done by SPD.
- Reimbursement will be invoiced to Spokane Transit at a rate not to exceed \$75.00 per hour. All other terms and conditions mirror the Plaza Police Services Interlocal Agreement.
- Points for Contact for STA
  - Mike Toole, Safety & Security Manager **325-6067**
    - Agreement, invoicing and issues that come to light.
  - Ann Frunk, STA Security Coordinator **232-6300**
    - Assisting SPS patrols board the correct busses at the Plaza and general assistance
  - Fixed Route Dispatch **325-6044**
    - SPD patrol assistance while out on the routes (what bus do I catch to get back?)
  - Bus Operators
    - Help the officers with any issues on the bus – very helpful.

DETECTIVE-25 YR

<u>RATE-REG</u>	<u>OT RATE</u>
44.41	66.615

**MONDAY - FRIDAY**

Two Officers per shift/2 Teams

SHIFT 1	0800-1200
SHIFT 2	1600-2000

April 23-May 30

DAYS

**SATURDAY-SUNDAY**

Two Officer-1 Team

SHIFT 1	1000-1400
SHIFT 2	1800-2200

April 23-May 30

DAYS

Total Contract Estimate

RETIREME

MEDICARE	NT	Leoff-Add-	PFML-	
.0145	.0533	.035	.004	LOADED OT RATE
0.9659175	3.5505795	2.331525	0.26646	73.729482

OFFICERS HOURS

4	4
4	4

1,179.67

1,179.67

2,359.34 Amount per day

27 days

63,702.27 Amount for Required Days

OFFICERS HOURS

2	4
2	4

589.84

589.84

1,179.67 Amount per day

11 days

12,976.39 Amount for Required Days

76,678.66

## Briefing Paper

### Public Safety & Community Housing

<b>Division &amp; Department:</b>	Spokane Police Department
<b>Subject:</b>	STA Bus Fare-COVID 19 Restrictions
<b>Date:</b>	
<b>Contact (email &amp; phone):</b>	Kevin King – <a href="mailto:kking@spokanepolice.org">kking@spokanepolice.org</a> 509-835-4514
<b>City Council Sponsor:</b>	
<b>Executive Sponsor:</b>	
<b>Committee(s) Impacted:</b>	Public Safety Community Health Committee
<b>Type of Agenda item:</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
<b>Alignment:</b> (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	
<b>Strategic Initiative:</b>	
<b>Deadline:</b>	
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	Inter-local agreement with Spokane Transit Authority to provide scheduled officers on buses for security enhancements during COVID-19 phases of Non-Fare buses from April 23, 2020 through May 30, 2020. Estimated revenue and expense will be around \$76,678.
<b>Background/History:</b> The Spokane Transit Authority has contracted with Police Department to provide the public with police services on STA busses. STA requested SPD to provide a presence to ensure the safety of passengers and bus drivers.	
<b>Executive Summary:</b> The purpose of the STA (Spokane Transit Authority) and SPD (Spokane Police Department) contract during COVID-19 phases is to ensure the safety of passengers and bus drivers with the entrance and exit of passengers. The contract is expected to last April 23 through May 30, 2020.  Estimated revenue reimbursement from overtime costs is \$76,678 and will be tracked specifically to STA for billing. There will be 4 officers present during certain day shifts on various buses and 2 officers during the weekends.  Contract Request to bypass rules of 2 week public comment due to nature and timing of events. SBO for overtime and revenue will also be included with the contract.	
<b>Budget Impact:</b> Approved in current year budget? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A Annual/Reoccurring expenditure? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A If new, specify funding source: Federal Funding – Department of Justice Other budget impacts: (revenue generating, match requirements, etc.)	
<b>Operations Impact:</b> 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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A Specify changes required: Known challenges/barriers:	

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

07/13/2020

<u>Date Rec'd</u>	6/19/2020
<u>Clerk's File #</u>	OPR 2016-0370
<u>Renews #</u>	
<u>Cross Ref #</u>	
<u>Project #</u>	2017105
<u>Bid #</u>	
<u>Requisition #</u>	

<u>Submitting Dept</u>	ENGINEERING SERVICES
<u>Contact Name/Phone</u>	KYLE TWOHIG 625-6152
<u>Contact E-Mail</u>	KTWOHIG@SPOKANECITY.ORG
<u>Agenda Item Type</u>	Contract Item
<u>Agenda Item Name</u>	0370 - INTERDEPARTMENTAL AGREEMENT RELATED TO BOSCH LOT PARKING

**Agenda Wording**

An amendment to interdepartmental agreement between the Parks & Recreation Department and the Utilities Division related to reimbursement of lost parking revenue at Bosch Lot and Lot 6 (Council parking) during the construction of Post Street Bridge.

**Summary (Background)**

The original agreement provided for use of the Bosch Lot by the Public Works Dept. for use of the site for construction staging. The amendment to the original MOU adds the use of Parking Lot #6 in addition to Bosch Lot (Lot #7). The amendment also updates financial compensation to the Parks Department for loss of revenue and use by the public. Annual compensation has been set at \$96,865.00, to be paid on a quarterly basis in the amount of \$24,223.00.

<u>Fiscal Impact</u>	Grant related? NO	<u>Budget Account</u>
	Public Works? NO	
Expense	\$ 96,865.00 annually	# 4250-43387-94350-56501-14392
Revenue	\$ 96,865.00 annually	# 1400-54370-76901-36231-99999
Select	\$	#
Select	\$	#

<u>Approvals</u>	<u>Council Notifications</u>
<b><u>Dept Head</u></b>	TWOHIG, KYLE
<b><u>Division Director</u></b>	SIMMONS, SCOTT M.
<b><u>Finance</u></b>	WALLACE, TONYA
<b><u>Legal</u></b>	RICHMAN, JAMES
<b><u>For the Mayor</u></b>	ORMSBY, MICHAEL
Additional Approvals	kgoodman@spokanecity.org
<b><u>Purchasing</u></b>	htrautman@spokanecity.org
<b><u>GRANTS &amp; CONTRACT MGMT</u></b>	STOPHER, SALLY
	aduffey@spokanecity.org
	parksaccounting@spokanecity.org
	jmoog@spokanecity.org



## Briefing Paper

### PIES

<b>Division &amp; Department:</b>	Engineering Services; Public Works
<b>Subject:</b>	Amendment to Interdepartmental Agreement
<b>Date:</b>	June 22, 2020
<b>Contact (email &amp; phone):</b>	Kyle Twohig (ktwohig@spokanecity.org, 625-6152)
<b>City Council Sponsor:</b>	
<b>Executive Sponsor:</b>	Scott Simmons
<b>Committee(s) Impacted:</b>	PIES
<b>Type of Agenda item:</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
<b>Alignment:</b> (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	
<b>Strategic Initiative:</b>	Innovative Infrastructure
<b>Deadline:</b>	
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	Informational - background information for committee review
<p><b>Background/History:</b> Public Works has an interdepartmental agreement with the Parks Department to utilize Parks property for capital project construction. This agreement defines the reimbursement for lost revenue from parking services on Parks properties impacted.</p>	
<p><b>Executive Summary:</b></p> <ul style="list-style-type: none"> <li>Public Works and the Parks Department have an interdepartmental agreement to utilize Parks property for capital construction projects, and to reimburse for lost revenue from parking services</li> <li>This agreement amends the agreement to cover the impacts from additional projects including the Post St. Bridge project</li> <li>The Post St. Bridge project will impact parking in both Bosch Lot as well as Lot 6 (Council parking)</li> <li>The agreement compensates the Parks Department with capital project funds quarterly throughout the project in the amount of \$24,233, or \$96,865 annually</li> <li>The impacted lots will be restored to pre-construction conditions at the end of the projects</li> </ul>	
<p><b>Budget Impact:</b></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>	
<p><b>Operations Impact:</b></p> <p>Consistent with current operations/policy? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Requires change in current operations/policy? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Specify changes required:</p> <p>Known challenges/barriers:</p>	

# AGENDA SHEET FOR PARK BOARD MEETING OF: \_\_\_\_\_



Submitting Division  
Parks & Recreation

Contact Person

Phone No.

Department:      Finance              Operations              Recreation/Golf              Riverfront Park

Committee:      Finance              Golf              Land              Recreation              Riverfront              UFTC

Type of contract:      New              Renewal              Amendment              Extension              Other

Beginning date: \_\_\_\_\_ Expiration date: \_\_\_\_\_ Open ended

CLERKS' FILE	_____
RENEWAL	_____
CROSS REF	_____
ENG	_____
BID	_____
REQUISITION	_____

## **AGENDA WORDING:**

## **BACKGROUND:**

## **RECOMMENDATION:**

**ATTACHMENTS:** Include in packets. See back of Agenda Sheet for specific supporting document requirements.

## **SIGNATURES:**

\_\_\_\_\_  
Requester - \_\_\_\_\_ Dept. Manager \_\_\_\_\_ Director of Parks & Recreation – Garrett Jones

\_\_\_\_\_  
Parks Accounting – Megan Qureshi      Legal Dept. – James Richman      \_\_\_\_\_

**DISTRIBUTION:**      Parks: Accounting      \_\_\_\_\_  
                         Parks: Pamela Clarke      \_\_\_\_\_  
                         Budget Manager:      \_\_\_\_\_  
                         Requester: \_\_\_\_\_      \_\_\_\_\_

PARK BOARD ACTION:      APPROVED BY SPOKANE PARK BOARD

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

<b><u>Fiscal Impact</u></b>	<b><u>Budget Account</u></b>
<b>Expenditure:</b>	
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
<b>Revenue:</b>	
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Existing vendor

New vendor – If so, please include vendor packet

### **Supporting documents:**

Quotes/Solicitation (RFP, RFQ, RFB)

W-9 (for new contractors/consultants/vendors)

Contractor is on the City's A&E Roster City of Spokane

ACH Forms (for new contractors/consultants/vendors)

Spokane Business registration expiration date: \_\_\_\_\_

Insurance Certificate (minimum \$1 million in General Liability)



**City of Spokane**  
**AMENDMENT TO  
INTERDEPARTMENTAL AGREEMENT**  
**Title: BOSCH LOT PROPERTY**

**THIS INTERDEPARTMENTAL AGREEMENT AMENDMENT** is between the City of Spokane, Utilities Division, on behalf of the Water-Wastewater Management Department, whose address is Second Floor City Hall, 808 West Spokane Falls Boulevard, Spokane, Washington 99201, hereafter referred to as "Water-Wastewater Department" and the City of Spokane, Parks and Recreation Department, whose address is Fifth Floor City Hall, 808 West Spokane Falls Boulevard, Spokane, Washington 99201, herein after referred to as "Parks Department," hereinafter jointly referred to as the "Parties".

*WHEREAS, on November 30, 2011, and May 4, 2015, the Parties entered into Interdepartmental Agreements for CSO Control Facilities and Stormwater Surface and Infiltration Facilities to be sited on Parks Property; and*

*WHEREAS, the Parties recorded permanent easements for CSO and stormwater projects installed on Parks-owned properties, including the Bosch Lot Property, which is located at the northwest corner of Summit Boulevard and Lincoln Street; and*

*WHEREAS, the Parties would like to use Riverfront Park Lot 6 as a staging area for the Post Street Bridge Project; and*

*WHEREAS, a change or revision of the Work has been requested, thus the original Contract needs to be formally Amended by this written document; and*

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

**1. CONTRACT DOCUMENTS.**

The original Agreements, dated November 30, 2011, and May 4, 2015, and the first Amendment attested by the City Clerk on May 2, 2016, any previous amendments, addendums and / or extensions / renewals thereto, are incorporated by reference into this document as though written in full and shall remain in full force and effect except as provided herein.

**2. EFFECTIVE DATE.**

This Contract Amendment shall become effective on June 15, 2020.

**3. AMENDMENT.**

The Original Agreement and First Amendment are revised to include the following:

2. PURPOSE: The purpose of this Agreement is to establish the terms and conditions for use of the Bosch Lot Property and to define the calculation of the lost revenues to Parks for parking services during the construction of the three (3) projects affecting the Property.

3. CONSIDERATION: The parties agree as follows:

a. Utilities will pay to Parks for the number of parking stalls used during the duration of each project. The expected number of stalls for the Bosch Lot is 42 charged at a rate of \$924 per stall annually and upper portion of Parking Lot #6 is 29 charged at a rate of \$2003 per stall annually. Total annual compensation is \$96,865

b. Quarterly payments of twenty four thousand two hundred twenty three dollars (\$24,223) will be paid no later than the last month of each quarter for the term of this Agreement.

4. DURATION: This Agreement shall be effective April 1, 2016 and shall remain in effect until the earlier of completion of the three (3) construction projects or 2022.

Detail any repairs to the lot(s) required to restore them to their pre-construction condition (not a full rebuild, but the repair of irrigation or other damage as required).

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 by having legally-binding representatives affix their signatures below.

**CITY OF SPOKANE PARKS  
AND RECREATION DEPARTMENT**

By \_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Title

Approved:

\_\_\_\_\_  
Attorney for Park Board

Attest:

\_\_\_\_\_  
City Clerk

**CITY OF SPOKANE**

By \_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Title

Approved:

\_\_\_\_\_  
Director of Utilities Division

Approved as to form:

\_\_\_\_\_  
Assistant City Attorney





**City of Spokane**  
**AMENDMENT TO  
INTERDEPARTMENTAL AGREEMENT**  
**Title: BOSCH LOT PROPERTY**

**THIS INTERDEPARTMENTAL AGREEMENT AMENDMENT** is between the City of Spokane, Utilities Division, on behalf of the Water-Wastewater Management Department, whose address is Second Floor City Hall, 808 West Spokane Falls Boulevard, Spokane, Washington 99201, hereafter referred to as "Water-Wastewater Department" and the City of Spokane, Parks and Recreation Department, whose address is Fifth Floor City Hall, 808 West Spokane Falls Boulevard, Spokane, Washington 99201, herein after referred to as "Parks Department," hereinafter jointly referred to as the "Parties".

*WHEREAS, on November 30, 2011, and May 4, 2015, the Parties entered into Interdepartmental Agreements for CSO Control Facilities and Stormwater Surface and Infiltration Facilities to be sited on Parks Property; and*

*WHEREAS, the Parties recorded permanent easements for CSO and stormwater projects installed on Parks-owned properties, including the Bosch Lot Property, which is located at the northwest corner of Summit Boulevard and Lincoln Street; and*

*WHEREAS, the Parties would like to use Riverfront Park Lot 6 as a staging area for the Post Street Bridge Project; and*

*WHEREAS, a change or revision of the Work has been requested, thus the original Contract needs to be formally Amended by this written document; and*

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

**1. CONTRACT DOCUMENTS.**

The original Agreements, dated November 30, 2011, and May 4, 2015, and the first Amendment attested by the City Clerk on May 2, 2016, any previous amendments, addendums and / or extensions / renewals thereto, are incorporated by reference into this document as though written in full and shall remain in full force and effect except as provided herein.

**2. EFFECTIVE DATE.**

This Contract Amendment shall become effective on June 1, 2020

**3. AMENDMENT.**

The Original Agreement and First Amendment are revised to include the following:

2. PURPOSE: The purpose of this Agreement is to establish the terms and conditions for use of the Bosch Lot Property and to define the calculation of the lost revenues to Parks for parking services during the construction of the ~~two (2)~~ three (3) projects affecting the Property.

3. CONSIDERATION: The parties agree as follows:

b. Utilities will pay to Parks for the number of parking stalls used during the duration of each project. The expected number of stalls for the Bosch Lot is 42 charged at a rate of \$924 per stall annually and upper portion of Parking Lot #6 is 29 charged at a rate of \$2003 per stall annually. Total annual compensation is \$96,865

d. Quarterly payments of twenty four thousand two hundred twenty three dollars (\$24,223) will be paid no later than the last month of each quarter for the term of this Agreement.

4. DURATION: This Agreement shall be effective April 1, 2016 and shall remain in effect until the earlier of completion of the two (2) construction projects or 2022.

Detail any repairs to the lot(s) required to restore them to their pre-construction condition (not a full rebuild, but the repair of irrigation or other damage as required).

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 by having legally-binding representatives affix their signatures below.

**CITY OF SPOKANE PARKS  
AND RECREATION DEPARTMENT**

By \_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Title

Approved:

\_\_\_\_\_  
Attorney for Park Board

Attest:

**CITY OF SPOKANE**

By \_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Title

Approved:

\_\_\_\_\_  
Director of Utilities Division

Approved as to form:



---

City Clerk

---

Assistant City Attorney

20-065



# Expenditure Control Form

1. All requests being made must be accompanied by this form.
2. Route **ALL** requests to the Finance Department for signature.
3. If request is greater than \$100,000 it requires signatures by Finance and the City Administrator. Finance Dept. will route to City Administrator.

**Today's Date:** 6/23/20

**Type of expenditure:** Goods ☐ Services ☒

**Department:** Engineering Services

**Approving Supervisor:** Kyle Twohig

**Amount of Proposed Expenditure:**

**Funding Source:**

**Please verify correct funding sources. Please indicate breakdown if more than one funding source.**

**Why is this expenditure necessary now?**

N/A

**What are the impacts if expenses are deferred?**

N/A

**What alternative resources have been considered?**

N/A

**Description of the goods or service and any additional information?**

N/A

**Person Submitting Form/Contact:** Brittany Kraft

**FINANCE SIGNATURE:**

\_\_\_\_\_

**CITY ADMINISTRATOR SIGNATURE:**

\_\_\_\_\_

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

07/13/2020

<u>Date Rec'd</u>	6/24/2020
<u>Clerk's File #</u>	OPR 2020-0566
<u>Renews #</u>	
<u>Cross Ref #</u>	
<u>Project #</u>	2020093
<u>Bid #</u>	
<u>Requisition #</u>	MASTER

<u>Submitting Dept</u>	ENGINEERING SERVICES
<u>Contact Name/Phone</u>	DAN BULLER 625-6391
<u>Contact E-Mail</u>	DBULLER@SPOKANECITY.ORG
<u>Agenda Item Type</u>	Contract Item
<u>Agenda Item Name</u>	0370 - COFFMAN - SURVEYING ON-CALL SERVICES FEDERAL AID

**Agenda Wording**

Local Area A&E Professional Services Consultant Agreement with Coffman Engineers; (Spokane, WA) for Surveying Engineering Services for 2020-2022 Federal Aid Project for the amount not to exceed \$100,000.00. (Various Councils)

**Summary (Background)**

The Agreement for Surveying Engineering Services is for a period of two years. An option for a one year extension will be granted at the City's discretion. Supplemental Agreements will be prepared under this agreement and scopes for individual project needs. Funding shall be from the individual project.

<u>Fiscal Impact</u>	Grant related? YES	<u>Budget Account</u>
	Public Works? YES	
Expense	\$ 100,000.00	# Various
Select	\$	#
Select	\$	#
Select	\$	#
<u>Approvals</u>	<u>Council Notifications</u>	
<u>Dept Head</u>	TWOHIG, KYLE	<u>Study Session\Other</u> PIES 6/22/20
<u>Division Director</u>	TWOHIG, KYLE	<u>Council Sponsor</u> Beggs
<u>Finance</u>	WALLACE, TONYA	<u>Distribution List</u>
<u>Legal</u>	ODLE, MARI	eraea@spokanecity.org
<u>For the Mayor</u>	ORMSBY, MICHAEL	publicworksaccounting@spokanecity.org
Additional Approvals		kgoodman@spokanecity.org
<u>Purchasing</u>		htrautman@spokanecity.org
<u>GRANTS &amp; CONTRACT MGMT</u>	STOPHER, SALLY	aduffey@spokanecity.org
		tom.arnold@coffman.com
		dbuller@spokanecity.org

## Briefing Paper

### PIES

<b>Division &amp; Department:</b>	Engineering Services; Public Works
<b>Subject:</b>	On-Call Engineering Consultants
<b>Date:</b>	June 22, 2020
<b>Contact (email &amp; phone):</b>	Dan Buller ( <a href="mailto:dbuller@spokanecity.org">dbuller@spokanecity.org</a> , 625-6391)
<b>City Council Sponsor:</b>	
<b>Executive Sponsor:</b>	Scott Simmons
<b>Committee(s) Impacted:</b>	PIES
<b>Type of Agenda item:</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
<b>Alignment:</b> (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	
<b>Strategic Initiative:</b>	Innovative Infrastructure
<b>Deadline:</b>	
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	Informational - background information for committee review
<b>Background/History:</b> Engineering Services has “on-call” agreements with various consultants for specialized engineering or related services (structural, geotech., surveying, landscape architecture, cultural resource and real estate acquisition) associated with the City’s public works projects. Those firms are selected on the basis of qualifications as required by RCW 39. These typically agreements last from 2-3 years.	
<b>Executive Summary:</b> <ul style="list-style-type: none"> <li>A request for qualifications was advertised earlier this spring for structural engineering, geotechnical engineering, surveying, landscape architecture, culture resource and real estate acquisition consultants.</li> <li>A review committee ranked the firms by qualifications. One firm will be selected for each discipline.</li> <li>Engineering Services expects to bring six agreements to council over the next several weeks.</li> <li>Costs incurred under the proposed contracts are paid as part of each public works project for which the consultant is used.</li> </ul>	
<b>Budget Impact:</b> Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Annual/Reoccurring expenditure? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A If new, specify funding source: Other budget impacts: (revenue generating, match requirements, etc.)	
<b>Operations Impact:</b> 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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A Specify changes required: Known challenges/barriers:	

# **Local Agency A&E Professional Services Negotiated Hourly Rate Consultant Agreement**

Agreement Number: \_\_\_\_\_

Firm/Organization Legal Name (do not use dba's):		
Address	Federal Aid Number	
UBI Number	Federal TIN	
Execution Date	Completion Date	
1099 Form Required <input type="checkbox"/> Yes <input type="checkbox"/> No	Federal Participation <input type="checkbox"/> Yes <input type="checkbox"/> No	
Project Title		
Description of Work		
<input type="checkbox"/> Yes <input type="checkbox"/> Yes <input type="checkbox"/> Yes <input type="checkbox"/> Yes	<input type="checkbox"/> No DBE Participation <input type="checkbox"/> No MBE Participation <input type="checkbox"/> No WBE Participation <input type="checkbox"/> No SBE Participation	Maximum Amount Payable:

## **Index of Exhibits**

<a href="#">Exhibit A</a>	Scope of Work
<a href="#">Exhibit B</a>	DBE Participation
<a href="#">Exhibit C</a>	Preparation and Delivery of Electronic Engineering and Other Data
<a href="#">Exhibit D</a>	Prime Consultant Cost Computations
<a href="#">Exhibit E</a>	Sub-consultant Cost Computations
<a href="#">Exhibit F</a>	Title VI Assurances
<a href="#">Exhibit G</a>	Certification Documents
<a href="#">Exhibit H</a>	Liability Insurance Increase
<a href="#">Exhibit I</a>	Alleged Consultant Design Error Procedures
<a href="#">Exhibit J</a>	Consultant Claim Procedures

THIS AGREEMENT, made and entered into as shown in the “Execution Date” box on page one (1) of this AGREEMENT, between the \_\_\_\_\_, hereinafter called the “AGENCY,” and the “Firm / Organization Name” referenced on page one (1) of this AGREEMENT, hereinafter called the “CONSULTANT.”

WHEREAS, the AGENCY desires to accomplish the work referenced in “Description of Work” on page one (1) of this AGREEMENT and hereafter called the “SERVICES;” and does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary SERVICES; and

WHEREAS, the CONSULTANT represents that they comply with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the AGENCY.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

## **I. General Description of Work**

The work under this AGREEMENT shall consist of the above-described SERVICES as herein defined, and necessary to accomplish the completed work for this project. The CONSULTANT shall furnish all services, labor, and related equipment and, if applicable, sub-consultants and subcontractors necessary to conduct and complete the SERVICES as designated elsewhere in this AGREEMENT.

## **II. General Scope of Work**

The Scope of Work and projected level of effort required for these SERVICES is described in Exhibit “A” attached hereto and by this reference made a part of this AGREEMENT. The General Scope of Work was developed utilizing performance based contracting methodologies.

## **III. General Requirements**

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress, and presentation meetings with the AGENCY and/or such State, Federal, Community, City, or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days’ notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit “A.”

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the SERVICES in sufficient detail so that the progress of the SERVICES can easily be evaluated.

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations, and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

Participation for Disadvantaged Business Enterprises (DBE) or Small Business Enterprises (SBE), if required, per 49 CFR Part 26, shall be shown on the heading of this AGREEMENT. If DBE firms are utilized at the commencement of this AGREEMENT, the amounts authorized to each firm and their certification number will be shown on Exhibit “B” attached hereto and by this reference made part of this AGREEMENT. If the Prime CONSULTANT is, a DBE certified firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY’s “DBE Program Participation Plan” and perform a minimum of 30% of the total amount of this AGREEMENT. It is recommended, but not required, that non-DBE Prime CONSULTANTS perform a minimum of 30% of the total amount of this AGREEMENT.

In the absence of a mandatory UDBE, the Consultant shall continue their outreach efforts to provide SBE firms maximum practicable opportunities.

The CONSULTANT, on a monthly basis, shall enter the amounts paid to all firms (including Prime) involved with this AGREEMENT into the [wsdot.diversitycompliance.com](http://wsdot.diversitycompliance.com) program. Payment information shall identify any DBE Participation. Non-minority, woman owned DBEs does not count towards UDBE goal attainment.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit “C – Preparation and Delivery of Electronic Engineering and other Data.”

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for these SERVICES, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring, as a part of this SERVICE, shall be without liability or legal exposure to the CONSULTANT.

Any and all notices or requests required under this AGREEMENT shall be made in writing and sent to the other party by (i) certified mail, return receipt requested, or (ii) by email or facsimile, to the address set forth below:

If to AGENCY:				If to CONSULTANT:			
Name: Dan Buller				Name: Tom Arnold			
Agency: City of Spokane				Agency: Coffman Engineers, Inc.			
Address: 808 W. Spokane Falls Blvd.				Address: 10 N. Post St., Suite 500			
City: Spokane		State: WA	Zip: 99201	City: Spokane		State: WA	Zip: 99201
Email: <a href="mailto:dbuller@spokanecity.org">dbuller@spokanecity.org</a>				Email: <a href="mailto:tom.arnold@coffman.com">tom.arnold@coffman.com</a>			
Phone: 509-625-6700				Phone: 509-328-2994			
Facsimile: 509-625-6349				Facsimile: 509-328-2999			

**IV. Time for Beginning and Completion**

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY. All work under this AGREEMENT shall conform to the criteria agreed upon detailed in the AGREEMENT documents. These SERVICES must be completed by the date shown in the heading of this AGREEMENT titled “Completion Date.”

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD, governmental actions, or other conditions beyond the control of the CONSULTANT. A prior supplemental AGREEMENT issued by the AGENCY is required to extend the established completion time.

## V. Payment Provisions

The CONSULTANT shall be paid by the AGENCY for completed SERVICES rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for SERVICES performed or SERVICES rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete SERVICES. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31 ([www.ecfr.gov](http://www.ecfr.gov)).

- A. Hourly Rates: Hourly rates are comprised of the following elements - Direct (Raw) Labor, Indirect Cost Rate, and Fee (Profit). The CONSULTANT shall be paid by the AGENCY for work done, based upon the negotiated hourly rates shown in Exhibits "D" and "E" attached hereto and by reference made part of this AGREEMENT. These negotiated hourly rates will be accepted based on a review of the CONSULTANT's direct labor rates and indirect cost rate computations and agreed upon fee. The accepted negotiated rates shall be memorialized in a final written acknowledgment between the parties. Such final written acknowledgment shall be incorporated into, and become a part of, this AGREEMENT. The initially accepted negotiated rates shall be applicable from the approval date, as memorialized in a final written acknowledgment, to 180 days following the CONSULTANT's fiscal year end (FYE) date.

The direct (raw) labor rates and classifications, as shown on Exhibits "D" and "E" shall be subject to renegotiations for each subsequent twelve (12) month period (180 days following FYE date to 180 days following FYE date) upon written request of the CONSULTANT or the AGENCY. The written request must be made to the other party within ninety (90) days following the CONSULTANT's FYE date. If no such written request is made, the current direct (raw) labor rates and classifications as shown on Exhibits "D" and "E" will remain in effect for the twelve (12) month period.

Conversely, if a timely request is made in the manner set forth above, the parties will commence negotiations to determine the new direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period. Any agreed to renegotiated rates shall be memorialized in a final written acknowledgment between the parties. Such final written acknowledgment shall be incorporated into, and become a part of, this AGREEMENT. If requested, the CONSULTANT shall provide current payroll register and classifications to aid in negotiations. If the parties cannot reach an agreement on the direct (raw) labor rates and classifications, the AGENCY shall perform an audit of the CONSULTANT's books and records to determine the CONSULTANT's actual costs. The audit findings will establish the direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period.

The fee as identified in Exhibits "D" and "E" shall represent a value to be applied throughout the life of the AGREEMENT.

The CONSULTANT shall submit annually to the AGENCY an updated indirect cost rate within 180 days of the close of its fiscal year. An approved updated indirect cost rate shall be included in the current fiscal year rate under this AGREEMENT, even if/when other components of the hourly rate are not renegotiated. These rates will be applicable for the twelve (12) month period. At the AGENCY's option, a provisional and/or conditional indirect cost rate may be negotiated. This provisional or conditional indirect rate shall remain in effect until the updated indirect cost rate is completed and approved. Indirect cost rate costs incurred during the provisional or conditional period will not be adjusted. The CONSULTANT may request an extension of the last approved indirect cost rate for the twelve (12) month period. These requests for provisional indirect cost rate and/or extension will be considered on a case-by-case basis, and if granted, will be memorialized in a final written acknowledgment.

The CONSULTANT shall maintain and have accessible support data for verification of the components of the hourly rates, i.e., direct (raw) labor, indirect cost rate, and fee (profit) percentage. The CONSULTANT shall bill each employee's actual classification, and actual salary plus indirect cost rate plus fee.



- A. **Direct Non-Salary Costs:** Direct Non-Salary Costs will be reimbursed at the actual cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges, and fees of sub-consultants. Air or train travel will be reimbursed only to lowest price available, unless otherwise approved by the AGENCY. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the WSDOT's Accounting Manual M 13-82, Chapter 10 – Travel Rules and Procedures, and all revisions thereto. Air, train, and rental car costs shall be reimbursed in accordance with 48 Code of Federal Regulations (CFR) Part 31.205-46 "Travel Costs." The billing for Direct Non-salary Costs shall include an itemized listing of the charges directly identifiable with these SERVICES. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the STATE upon request. All above charges must be necessary for the SERVICES provided under this AGREEMENT.
- B. **Maximum Amount Payable:** The Maximum Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT on page one (1.) The Maximum Amount Payable does not include payment for extra work as stipulated in section XIII, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.
- C. **Monthly Progress Payments:** Progress payments may be claimed on a monthly basis for all costs authorized in A and B above. Detailed statements shall support the monthly billings for hours expended at the rates established in Exhibit "D," including names and classifications of all employees, and billings for all direct non-salary expenses. To provide a means of verifying the billed salary costs for the CONSULTANT's employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the SERVICES at the time of the interview.
- D. **Final Payment:** Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the SERVICES under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data, and other related documents, which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) calendar days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. Per WSDOT's "Audit Guide for Consultants," Chapter 23 "Resolution Procedures," the CONSULTANT has twenty (20) working days after receipt of the final Post Audit to begin the appeal process to the AGENCY for audit findings

E. **Inspection of Cost Records:** The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY and the United States, for a period of six (6) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this AGREEMENT is initiated before the expiration of the six (6) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed. An interim or post audit may be performed on this AGREEMENT. The audit, if any, will be performed by the State Auditor, WSDOT's Internal Audit Office and /or at the request of the AGENCY's Project Manager.

## **VI. Sub-Contracting**

The AGENCY permits subcontracts for those items of SERVICES as shown in Exhibit "A" attached hereto and by this reference made part of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any SERVICE under this AGREEMENT without prior written permission of the AGENCY. No permission for subcontracting shall create, between the AGENCY and sub-consultant, any contract or any other relationship.

Compensation for this sub-consultant SERVICES shall be based on the cost factors shown on Exhibit "E" attached hereto and by this reference made part of this AGREEMENT.

The SERVICES of the sub-consultant shall not exceed its maximum amount payable identified in each sub consultant cost estimate unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, indirect cost rate, direct non-salary costs and fee costs for the sub-consultant shall be negotiated and substantiated in accordance with section V "Payment Provisions" herein and shall be memorialized in a final written acknowledgment between the parties

All subcontracts shall contain all applicable provisions of this AGREEMENT, and the CONSULTANT shall require each sub-consultant or subcontractor, of any tier, to abide by the terms and conditions of this AGREEMENT. With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the STATE's Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT, sub-recipient, or sub-consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the recipient deems appropriate.

## **VII. Employment and Organizational Conflict of Interest**

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from this AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT's employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of this AGREEMENT, any professional or technical personnel who are, or have been, at any time during the period of this AGREEMENT, in the employ of the United States Department of Transportation or the AGENCY, except regularly retired employees, without written consent of the public employer of such person if he/she will be working on this AGREEMENT for the CONSULTANT.

Agreement Number:

## VIII. Nondiscrimination

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, sub-consultants, subcontractors and successors in interest, agrees to comply with the following laws and regulations:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Chapter 21 Subchapter V § 2000d through 2000d-4a)
- Federal-aid Highway Act of 1973 (23 U.S.C. Chapter 3 § 324)
- Rehabilitation Act of 1973 (29 U.S.C. Chapter 16 Subchapter V § 794)
- Age Discrimination Act of 1975 (42 U.S.C. Chapter 76 § 6101 *et. seq.*)
- Civil Rights Restoration Act of 1987 (Public Law 100-259)
- American with Disabilities Act of 1990 (42 U.S.C. Chapter 126 § 12101 *et. seq.*)
- 23 CFR Part 200
- 49 CFR Part 21
- 49 CFR Part 26
- RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit “F” attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit “F” in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

## IX. Termination of Agreement

The right is reserved by the AGENCY to terminate this AGREEMENT at any time with or without cause upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY, other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of this AGREEMENT, plus any direct non-salary costs incurred up to the time of termination of this AGREEMENT.

No payment shall be made for any SERVICES completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth in paragraph two (2) of this section, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In the event of a termination for default, the amount to be paid to the CONSULTANT shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing SERVICES to the date of termination, the amount of SERVICES originally required which was satisfactorily completed to date of termination, whether that SERVICE is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the SERVICES required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the SERVICES performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth in paragraph two (2) of this section.

If it is determined for any reason, that the CONSULTANT was not in default or that the CONSULTANT’s failure to perform is without the CONSULTANT’s or its employee’s fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

The CONSULTANT shall, within 15 days, notify the AGENCY in writing, in the event of the death of any member, partner, or officer of the CONSULTANT or the death or change of any of the CONSULTANT's supervisory and/or other key personnel assigned to the project or disaffiliation of any principally involved CONSULTANT employee.

The CONSULTANT shall also notify the AGENCY, in writing, in the event of the sale or transfer of 50% or more of the beneficial ownership of the CONSULTANT within 15 days of such sale or transfer occurring. The CONSULTANT shall continue to be obligated to complete the SERVICES under the terms of this AGREEMENT unless the AGENCY chooses to terminate this AGREEMENT for convenience or chooses to renegotiate any term(s) of this AGREEMENT. If termination for convenience occurs, final payment will be made to the CONSULTANT as set forth in the second and third paragraphs of this section.

Payment for any part of the SERVICES by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform SERVICES required of it by the AGENCY.

Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

## **X. Changes of Work**

The CONSULTANT shall make such changes and revisions in the completed work of this AGREEMENT as necessary to correct errors appearing therein, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed SERVICES or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under section XIII "Extra Work."

## **XI. Disputes**

Any disputed issue not resolved pursuant to the terms of this AGREEMENT shall be submitted in writing within 10 days to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J". In the event that either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this AGREEMENT, this action shall be initiated in the Superior Court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in the county in which the AGENCY is located.

## **XII. Legal Relations**

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall defend, indemnify, and hold the State of Washington (STATE) and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the negligence of, or the breach of any obligation under this AGREEMENT by, the CONSULTANT or the CONSULTANT's agents, employees, sub consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable; provided that nothing herein shall require a CONSULTANT

to defend or indemnify the STATE and the AGENCY and their officers and employees against and hold harmless the STATE and the AGENCY and their officers and employees from claims, demands or suits based solely upon the negligence of, or breach of any obligation under this AGREEMENT by the STATE and the AGENCY, their agents, officers, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the STATE and /or the AGENCY may be legally liable; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT is legally liable, and (b) the STATE and/or AGENCY, their agents, officers, employees, sub-consultants, subcontractors and or vendors, of any tier, or any other persons for whom the STATE and/or AGENCY may be legally liable, the defense and indemnity obligation shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable. This provision shall be included in any AGREEMENT between CONSULTANT and any sub-consultant, subcontractor and vendor, of any tier.

The CONSULTANT shall also defend, indemnify, and hold the STATE and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable, in performance of the Work under this AGREEMENT or arising out of any use in connection with the AGREEMENT of methods, processes, designs, information or other items furnished or communicated to STATE and/or the AGENCY, their agents, officers and employees pursuant to the AGREEMENT; provided that this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from STATE and/or AGENCY's, their agents', officers and employees' failure to comply with specific written instructions regarding use provided to STATE and/or AGENCY, their agents, officers and employees by the CONSULTANT, its agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable.

The CONSULTANT's relation to the AGENCY shall be at all times as an independent contractor.

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the AGENCY may, in its sole discretion, by written notice to the CONSULTANT terminate this AGREEMENT if it is found after due notice and examination by the AGENCY that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the CONSULTANT in the procurement of, or performance under, this AGREEMENT.

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees or its agents against the STATE and/or the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. The Parties have mutually negotiated this waiver.

Unless otherwise specified in this AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the project. Subject to the processing of a new sole source, or an acceptable supplemental AGREEMENT, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of this AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

## Insurance Coverage

- A. Worker's compensation and employer's liability insurance as required by the STATE.
- B. Commercial general liability insurance written under ISO Form CG 00 01 12 04 or its equivalent with minimum limits of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate for each policy period.
- C. Business auto liability insurance written under ISO Form CG 00 01 10 01 or equivalent providing coverage for any "Auto" (Symbol 1) used in an amount not less than a one million dollar (\$1,000,000.00) combined single limit for each occurrence.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance, the STATE and AGENCY, their officers, employees, and agents will be named on all policies of CONSULTANT and any sub-consultant and/or subcontractor as an additional insured (the "AIs"), with no restrictions or limitations concerning products and completed operations coverage. This coverage shall be primary coverage and non-contributory and any coverage maintained by the AIs shall be excess over, and shall not contribute with, the additional insured coverage required hereunder. The CONSULTANT's and the sub-consultant's and/or subcontractor's insurer shall waive any and all rights of subrogation against the AIs. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by this AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to:

Name: Engineering Services

Agency: City of Spokane

Address: 808 W. Spokane Falls Blvd.

City: Spokane State: WA Zip: 99201

Email: eraea@spokanecity.org

Phone: 509-625-6700

Facsimile: 509-625-6349

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT's professional liability to the AGENCY, including that which may arise in reference to section IX "Termination of Agreement" of this AGREEMENT, shall be limited to the accumulative amount of the authorized AGREEMENT or one million dollars (\$1,000,000.00), whichever is greater, unless the limit of liability is increased by the AGENCY pursuant to Exhibit H. In no case shall the CONSULTANT's professional liability to third parties be limited in any way.

The parties enter into this AGREEMENT for the sole benefit of the parties, and to the exclusion of any third part, and no third party beneficiary is intended or created by the execution of this AGREEMENT.

The AGENCY will pay no progress payments under section V "Payment Provisions" until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

### **XIII. Extra Work**

- A. The AGENCY may at any time, by written order, make changes within the general scope of this AGREEMENT in the SERVICES to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the SERVICES under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of this AGREEMENT, the AGENCY shall make an equitable adjustment in the: (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify this AGREEMENT accordingly.
- C. The CONSULTANT must submit any “request for equitable adjustment,” hereafter referred to as “CLAIM,” under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of this AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the section XI “Disputes” clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (A.) and (B.) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

### **XIV. Endorsement of Plans**

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

### **XV. Federal Review**

The Federal Highway Administration shall have the right to participate in the review or examination of the SERVICES in progress.

### **XVI. Certification of the Consultant and the Agency**

Attached hereto as Exhibit “G-1(a and b)” are the Certifications of the CONSULTANT and the AGENCY, Exhibit “G-2” Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit “G-3” Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit “G-4” Certificate of Current Cost or Pricing Data. Exhibit “G-3” is required only in AGREEMENT’s over one hundred thousand dollars (\$100,000.00) and Exhibit “G-4” is required only in AGREEMENT’s over five hundred thousand dollars (\$500,000.00.) These Exhibits must be executed by the CONSULTANT, and submitted with the master AGREEMENT, and returned to the AGENCY at the address listed in section III “General Requirements” prior to its performance of any SERVICES under this AGREEMENT.

### **XVII. Complete Agreement**

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as a supplement to this AGREEMENT.

### **XVIII. Execution and Acceptance**

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and AGREEMENT’s contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept this AGREEMENT and agrees to all of the terms and conditions thereof.

## **XIX. Protection of Confidential Information**

The CONSULTANT acknowledges that some of the material and information that may come into its possession or knowledge in connection with this AGREEMENT or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other local, state, or federal statutes (“State’s Confidential Information”). The “State’s Confidential Information” includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles credit card information, driver’s license numbers, medical data, law enforcement records (or any other information identifiable to an individual), STATE and AGENCY source code or object code, STATE and AGENCY security data, non-public Specifications, STATE and AGENCY non-publicly available data, proprietary software, STATE and AGENCY security data, or information which may jeopardize any part of the project that relates to any of these types of information. The CONSULTANT agrees to hold the State’s Confidential Information in strictest confidence and not to make use of the State’s Confidential Information for any purpose other than the performance of this AGREEMENT, to release it only to authorized employees, sub-consultants or subcontractors requiring such information for the purposes of carrying out this AGREEMENT, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make it known to any other party without the AGENCY’s express written consent or as provided by law. The CONSULTANT agrees to release such information or material only to employees, sub-consultants or subcontractors who have signed a nondisclosure AGREEMENT, the terms of which have been previously approved by the AGENCY. The CONSULTANT agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to the State’s Confidential Information.

Immediately upon expiration or termination of this AGREEMENT, the CONSULTANT shall, at the AGENCY’s option: (i) certify to the AGENCY that the CONSULTANT has destroyed all of the State’s Confidential Information; or (ii) returned all of the State’s Confidential Information to the AGENCY; or (iii) take whatever other steps the AGENCY requires of the CONSULTANT to protect the State’s Confidential Information.

As required under Executive Order 00-03, the CONSULTANT shall maintain a log documenting the following: the State’s Confidential Information received in the performance of this AGREEMENT; the purpose(s) for which the State’s Confidential Information was received; who received, maintained, and used the State’s Confidential Information; and the final disposition of the State’s Confidential Information. The CONSULTANT’s records shall be subject to inspection, review, or audit upon reasonable notice from the AGENCY.

The AGENCY reserves the right to monitor, audit, or investigate the use of the State’s Confidential Information collected, used, or acquired by the CONSULTANT through this AGREEMENT. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by the CONSULTANT or its sub-consultants or subcontractors may result in termination of this AGREEMENT and demand for return of all State’s Confidential Information, monetary damages, or penalties

It is understood and acknowledged that the CONSULTANT may provide the AGENCY with information, which is proprietary and/or confidential during the term of this AGREEMENT. The parties agree to maintain the confidentiality of such information during the term of this AGREEMENT and afterwards. All materials containing such proprietary and/or confidential information shall be clearly identified and marked as “Confidential” and shall be returned to the disclosing party at the conclusion of the SERVICES under this AGREEMENT.



The CONSULTANT shall provide the AGENCY with a list of all information and materials it considers confidential and/or proprietary in nature: (a) at the commencement of the term of this AGREEMENT, or (b) as soon as such confidential or proprietary material is developed. "Proprietary and/or confidential information" is not meant to include any information which, at the time of its disclosure: (i) is already known to the other party; (ii) is rightfully disclosed to one of the parties by a third party that is not acting as an agent or representative for the other party; (iii) is independently developed by or for the other party; (iv) is publicly known; or (v) is generally utilized by unaffiliated third parties engaged in the same business or businesses as the CONSULTANT.

The parties also acknowledge that the AGENCY is subject to Washington State and federal public disclosure laws. As such, the AGENCY shall maintain the confidentiality of all such information marked proprietary and or confidential or otherwise exempt, unless such disclosure is required under applicable state or federal law. If a public disclosure request is made to view materials identified as "Proprietary and/or confidential information" or otherwise exempt information, the AGENCY will notify the CONSULTANT of the request and of the date that such records will be released to the requester unless the CONSULTANT obtains a court order from a court of competent jurisdiction enjoining that disclosure. If the CONSULTANT fails to obtain the court order enjoining disclosure, the AGENCY will release the requested information on the date specified.

The CONSULTANT agrees to notify the sub-consultant of any AGENCY communication regarding disclosure that may include a sub-consultant's proprietary and/or confidential information. The CONSULTANT notification to the sub-consultant will include the date that such records will be released by the AGENCY to the requester and state that unless the sub-consultant obtains a court order from a court of competent jurisdiction enjoining that disclosure the AGENCY will release the requested information. If the CONSULTANT and/or sub-consultant fail to obtain a court order or other judicial relief enjoining the AGENCY by the release date, the CONSULTANT shall waive and release and shall hold harmless and indemnify the AGENCY from all claims of actual or alleged damages, liabilities, or costs associated with the AGENCY's said disclosure of sub-consultants' information.

## **XX. Records Maintenance**

During the progress of the Work and SERVICES provided hereunder and for a period of not less than six (6) years from the date of final payment to the CONSULTANT, the CONSULTANT shall keep, retain, and maintain all "documents" pertaining to the SERVICES provided pursuant to this AGREEMENT. Copies of all "documents" pertaining to the SERVICES provided hereunder shall be made available for review at the CONSULTANT's place of business during normal working hours. If any litigation, claim, or audit is commenced, the CONSULTANT shall cooperate with AGENCY and assist in the production of all such documents. "Documents" shall be retained until all litigation, claims or audit findings have been resolved even though such litigation, claim, or audit continues past the six (6) year retention period.

For purposes of this AGREEMENT, "documents" means every writing or record of every type and description, including electronically stored information ("ESI"), that is in the possession, control, or custody of the CONSULTANT, including, without limitation, any and all correspondences, contracts, AGREEMENTs, appraisals, plans, designs, data, surveys, maps, spreadsheets, memoranda, stenographic or handwritten notes, reports, records, telegrams, schedules, diaries, notebooks, logbooks, invoices, accounting records, work sheets, charts, notes, drafts, scribbings, recordings, visual displays, photographs, minutes of meetings, tabulations, computations, summaries, inventories, and writings regarding conferences, conversations or telephone conversations, and any and all other taped, recorded, written, printed or typed matters of any kind or description; every copy of the foregoing whether or not the original is in the possession, custody, or control of the CONSULTANT, and every copy of any of the foregoing, whether or not such copy is a copy identical to an original, or whether or not such copy contains any commentary or notation whatsoever that does not appear on the original.

For purposes of this AGREEMENT, "ESI" means any and all computer data or electronic recorded media of any kind, including "Native Files", that are stored in any medium from which it can be retrieved and examined, either directly or after translation into a reasonably useable form. ESI may include information and/or documentation stored in various software programs such as Email, Outlook, Word, Excel, Access, Publisher, PowerPoint, Adobe Acrobat, SQL databases, or any other software or electronic communication programs or databases that the CONSULTANT may use in the performance of its operations. ESI may be located on network servers, backup tapes, smart phones, thumb drives, CDs, DVDs, floppy disks, work computers, cell phones, laptops, or any other electronic device that CONSULTANT uses in the performance of its Work or SERVICES hereunder, including any personal devices used by the CONSULTANT or any sub-consultant at home.

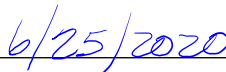
"Native files" are a subset of ESI and refer to the electronic format of the application in which such ESI is normally created, viewed, and /or modified

The CONSULTANT shall include this section XX "Records Maintenance" in every subcontract it enters into in relation to this AGREEMENT and bind the sub-consultant to its terms, unless expressly agreed to otherwise in writing by the AGENCY prior to the execution of such subcontract.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the "Execution Date" box on page one (1) of this AGREEMENT.



Signature



Date

Signature

Date

*Any modification, change, or reformation of this AGREEMENT shall require approval as to form by the Office of the Attorney General.*

# ***Exhibit A*** ***Scope of Work***

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Project No. \_\_\_\_\_

The scope of work for the various federal aid projects covered in this agreement will vary by project but is generally described in the "Description of Work" on the first page of this agreement.

The project covered include:

12th Ave. – Deer Heights to Flint Rd.  
Centennial Trail Summit Blvd.  
Driscoll – Alberta to Garland  
Fish Lake Trail Phase 3B  
Fish Lake Trail to Centennial Trail Connection  
Fort George Wright  
Freya St., Garland to Francis  
Freya – Wellesley to Francis  
Havana St. – Sprague to Broadway  
Maple-Wellesley Intersection  
Millwood Trail – Greene to Felts Field  
North Bank Trail  
North River Dr. Sidewalk – East of Washington St.  
Ray/Freya – Hartson to 17th  
Riverside Ave. – Monroe to Division  
Sherman Ave. / 5th Ave. Traffic Signal  
Sprague Ave (multiple phases) – pavement reconstruction, curb bumpouts, stormwater separation etc.  
Sunset Highway Bike Path – Royal to Deer Heights – bike path construction  
Thor-Freya Reconstruction – Sprague to Hartson  
Wellesley Ave., Freya to Havana

## ***Exhibit B***

### ***DBE Participation Plan***

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In the absence of a mandatory UDBE, the Consultant shall continue their outreach efforts to provide SBE maximum practicable opportunities.

# ***Exhibit C***

## ***Preparation and Delivery of Electronic Engineering and Other Data***

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In this Exhibit the agency, as applicable, is to provide a description of the format and standards the consultant is to use in preparing electronic files for transmission to the agency. The format and standards to be provided may include, but are not limited to, the following:

I. Surveying, Roadway Design & Plans Preparation Section

A. Survey Data

To be mutually agreed upon

B. Roadway Design Files

To be mutually agreed upon

C. Computer Aided Drafting Files

Industry standard - to be mutually agreed upon

D. Specify the Agency's Right to Review Product with the Consultant

Phone and in-person consultation as necessary

E. Specify the Electronic Deliverables to Be Provided to the Agency

Varies by project

F. Specify What Agency Furnished Services and Information Is to Be Provided

Varies by project

II. Any Other Electronic Files to Be Provided  
Varies by project

III. Methods to Electronically Exchange Data  
Email or city provided FTP

A. Agency Software Suite  
Industry standard

B. Electronic Messaging System  
Industry standard

C. File Transfers Format  
Industry standard



***Exhibit D***  
***Prime Consultant Cost Computations***

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Will be negotiated project by project subject to the attached fee/rate schedule (Exhibit K) before notice to proceed for each project is given.

## ***Exhibit E***

### ***Sub-consultant Cost Computations***

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The CONSULTANT shall not sub-contract for the performance of any work under this AGREEMENT without prior written permission of the AGENCY. Refer to section VI “Sub-Contracting” of this AGREEMENT.

There is no planned sub-consultant work planned. In the event consultant desires a sub-consultant, the procedures in Section VI of this agreement shall be followed.

# **Exhibit F**

## **Title VI Assurances**

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During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the “REGULATIONS”), which are herein incorporated by reference and made a part of this AGREEMENT.
2. **Non-discrimination:** The CONSULTANT, with regard to the work performed during this AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when this AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
3. **Solicitations for Sub-consultants, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT’s obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports:** The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the AGENCY, the STATE, or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, the STATE, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the CONSULTANT’s non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE, or the FHWA may determine to be appropriate, including, but not limited to:
  - Withholding of payments to the CONSULTANT under this AGREEMENT until the CONSULTANT complies, and/or;
  - Cancellation, termination, or suspension of this AGREEMENT, in whole or in part.
6. **Incorporation of Provisions:** The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the STATE, the AGENCY, or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY enter into such litigation to protect the interests of the STATE and/or the AGENCY and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.

# ***Exhibit G***

## ***Certification Document***

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- Exhibit G-1(a) Certification of Consultant
- Exhibit G-1(b) Certification of \_\_\_\_\_
- Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions
- Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying
- Exhibit G-4 Certificate of Current Cost or Pricing Data

## Exhibit G-1(a) Certification of Consultant

I hereby certify that I am the and duly authorized representative of the firm of \_\_\_\_\_

whose address is \_\_\_\_\_

and that neither the above firm nor I have

- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this AGREEMENT;
- b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);


I acknowledge that this certificate is to be furnished to the \_\_\_\_\_

and the Federal Highway Administration, U.S. Department of Transportation in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

\_\_\_\_\_  
Consultant (Firm Name)



\_\_\_\_\_  
Signature (Authorized Official of Consultant)



\_\_\_\_\_  
Date

**Exhibit G-1(b) Certification of \_\_\_\_\_**

I hereby certify that I am the:

☐ Mayor

☐ Other

of the \_\_\_\_\_, and \_\_\_\_\_

or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this AGREEMENT to:

- a) Employ or retain, or agree to employ to retain, any firm or person; o
- b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be furnished to the \_\_\_\_\_

and the Federal Highway Administration, U.S. Department of Transportation, in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

  
\_\_\_\_\_  
Signature

6/25/2020  
\_\_\_\_\_  
Date

## Exhibit G-2 Certification Regarding Debarment Suspension and Other Responsibility Matters - Primary Covered Transactions

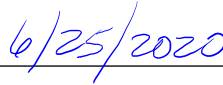
- I. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
  - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - B. Have not within a three (3) year period preceding this proposal been convicted of 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 anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; an
  - D. Have not within a three (3) year period preceding this application / proposal had one or more public transactions (Federal, State and local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification such prospective participant shall attach an explanation to this proposal.

---

Consultant (Firm Name)



Signature (Authorized Official of Consultant)



Date

## Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative AGREEMENT, and the extension, continuation, renewal, amendment, or modification of Federal contract, grant, loan or cooperative AGREEMENT.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative AGREEMENT, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00, and not more than \$100,000.00 for each such failure.

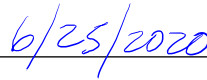
The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier sub-contracts, which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

---

Consultant (Firm Name)



Signature (Authorized Official of Consultant)



Date




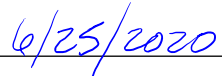
## Exhibit G-4 Certification of Current Cost or Pricing Data

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4) submitted, either actually or by specific identification in writing, to the Contracting Officer or to the Contracting Officer's representative in support of \_\_\_\_\_\* are accurate, complete, and current as of \_\_\_\_\_\*\*.

This certification includes the cost or pricing data supporting any advance AGREEMENT's and forward pricing rate AGREEMENT's between the offer or and the Government that are part of the proposal.

Firm: \_\_\_\_\_

  
\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Title

Date of Execution \_\_\_\_\_\*\*\*.

\_\_\_\_\_  
\*Identify the proposal, quotation, request for pricing adjustment, or other submission involved, giving the appropriate identifying number (e.g. project title.)

\*\*Insert the day, month, and year, when price negotiations were concluded and price AGREEMENT was reached.

\*\*\*Insert the day, month, and year, of signing, which should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed to.

# **Exhibit H**

## **Liability Insurance Increase**

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### **To Be Used Only If Insurance Requirements Are Increased**

The professional liability limit of the CONSULTANT to the AGENCY identified in Section XII, Legal Relations and Insurance of this Agreement is amended to \$ \_\_\_\_\_.

The CONSULTANT shall provide Professional Liability insurance with minimum per occurrence limits in the amount of \$ \_\_\_\_\_.

Such insurance coverage shall be evidenced by one of the following methods:

- Certificate of Insurance
- Self-insurance through an irrevocable Letter of Credit from a qualified financial institution

Self-insurance through documentation of a separate fund established exclusively for the payment of professional liability claims, including claim amounts already reserved against the fund, safeguards established for payment from the fund, a copy of the latest annual financial statements, and disclosure of the investment portfolio for those funds.

Should the minimum Professional Liability insurance limit required by the AGENCY as specified above exceed \$1 million per occurrence or the value of the contract, whichever is greater, then justification shall be submitted to the Federal Highway Administration (FHWA) for approval to increase the minimum insurance limit.

If FHWA approval is obtained, the AGENCY may, at its own cost, reimburse the CONSULTANT for the additional professional liability insurance required.

Notes: Cost of added insurance requirements: \$ \_\_\_\_\_.

- Include all costs, fee increase, premiums.
  - This cost shall not be billed against an FHWA funded project.
  - For final contracts, include this exhibit
-

# **Exhibit I**

## ***Alleged Consultant Design Error Procedures***

---

The purpose of this exhibit is to establish a procedure to determine if a consultant has alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

### **Step 1 Potential Consultant Design Error(s) is Identified by Agency's Project Manager**

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

### **Step 2 Project Manager Documents the Alleged Consultant Design Error(s)**

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include all decisions and descriptions of work, photographs, records of labor, materials, and equipment.

### **Step 3 Contact the Consultant Regarding the Alleged Design Error(s)**

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

### **Step 4 Attempt to Resolve Alleged Design Error with Consultant**

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide LP, through the Region Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.
- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

## **Step 5 Forward Documents to Local Programs**

For federally funded projects, all available information, including costs, should be forwarded through the Region Local Programs Engineer to LP for their review and consultation with the FHWA. LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, LP will request assistance from the Attorney General's Office for legal interpretation. LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

# **Exhibit J**

## **Consultant Claim Procedures**

---

The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) total a \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

### **Step 1 Consultant Files a Claim with the Agency Project Manager**

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

### **Step 2 Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation**

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will meet with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action is needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

### **Step 3 Preparation of Support Documentation Regarding Consultant's Claim(s)**

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associate with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

### **Step 4 Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation**

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

### **Step 5 Informing Consultant of Decision Regarding the Claim**

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

### **Step 6 Preparation of Supplement or New Agreement for the Consultant's Claim(s)**

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit



COFFENG-01

MKELLY

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/24/2020

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).

<b>PRODUCER</b> License # 0C36861 <b>Seattle-Alliant Insurance Services, Inc.</b> 1420 Fifth Ave 15th Floor Seattle, WA 98101	<b>CONTACT NAME:</b> Melanie Kelly <b>PHONE (A/C, No, Ext):</b> (206) 204-9140 <b>FAX (A/C, No):</b> (206) 204-9205 <b>E-MAIL ADDRESS:</b> Melanie.Kelly@Alliant.com	
	<b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A:</b> American Casualty Company of Reading, Pennsylvania <b>INSURER B:</b> Continental Insurance Company <b>INSURER C:</b> Alaska National Insurance Company <b>INSURER D:</b> Lloyd's of London <b>INSURER E:</b> <b>INSURER F:</b>	
<b>INSURED</b>  Coffman Engineers, Inc.	<b>NAIC #</b> 20427 35289 38733 00000	

## COVERAGES

## CERTIFICATE NUMBER:

## REVISION NUMBER:

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 INSD	SUBR 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"/> PROJECT <input type="checkbox"/> LOC OTHER:	X	X	6079681167	11/30/2019	11/30/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	X	X	6079740007	11/30/2019	11/30/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 0			6079681170	11/30/2019	11/30/2020	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000
C	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	19KWS08597	11/30/2019	11/30/2020	<input checked="" type="checkbox"/> PER STATUTE E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	Prof/Pollution Liab			B0146LDUSA1904416	11/30/2019	11/30/2020	Each Claim 1,000,000
D	Prof/Pollution Liab			B0146LDUSA1904416	11/30/2019	11/30/2020	Aggregate 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
 City of Spokane On-Call Survey Contract (Fed Aid)

The STATE and AGENCY, their officers, employees, and agents will be additional insureds on all the General Liability and Auto Liability as respects liability arising out of the ongoing operations of the named insured. Waiver of Subrogation and Primary and Non Contributory coverage afforded per the attached endorsements.

## CERTIFICATE HOLDER

## CANCELLATION

<b>Engineering Services, City of Spokane</b> Attn: Dan Buller 808 W Spokane Falls Blvd Spokane, WA 99201	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 
-------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------



WAIVER OF TRANSFER OF RIGHTS OF RECOVERY  
AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM

BUSINESS AUTO COVERAGE FORM

MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

**Named Insured:** COFFMAN ENGINEERS, INC.

**Endorsement Effective Date:** 11/30/2019

**SCHEDULE**

**Name(s) Of Person(s) Or Organization(s):**

ANY PERSON OR ORGANIZATION FOR WHOM OR WHICH YOU ARE REQUIRED BY WRITTEN CONTRACT OR AGREEMENT TO OBTAIN THIS WAIVER FROM US. YOU MUST AGREE TO THAT REQUIREMENT PRIOR TO LOSS

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The **Transfer Of Rights Of Recovery Against Others To Us** condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "**accident**" or the "**loss**" under a contract with that person or organization.

Form No: CA 04 44 10 13

Endorsement Effective Date:

Endorsement No: 7; Page: 1 of 1

Underwriting Company: American Casualty Company of Reading, Pennsylvania, 151 N Franklin St,  
Chicago, IL 60606

Endorsement Expiration Date:

Policy No: 6079740007

Policy Effective Date: 11/30/2019

Policy Page: 53 of 176





ADDITIONAL INSURED - PRIMARY AND NON-CONTRIBUTORY

It is understood and agreed that this endorsement amends the **BUSINESS AUTO COVERAGE FORM** as follows:

**SCHEDULE**

**Name of Additional Insured Person Or Organization**

ANY PERSON OR ORGANIZATION THAT YOU ARE REQUIRED BY WRITTEN CONTRACT OR WRITTEN AGREEMENT TO NAME AS AN ADDITIONAL INSURED.

1. In conformance with paragraph **A.1.c.** of **Who Is An Insured** of Section **II - LIABILITY COVERAGE**, the person or organization scheduled above is an insured under this policy.
2. The insurance afforded to the additional insured under this policy will apply on a primary and non-contributory basis if you have committed it to be so in a written contract or written agreement executed prior to the date of the "**accident**" for which the additional insured seeks coverage under this policy.

All other terms and conditions of the policy remain unchanged

This endorsement, which forms a part of and is for attachment to the policy issued by the designated Insurers, takes effect on the Policy Effective date of said policy at the hour stated in said policy, unless another effective date (the Endorsement Effective Date) is shown below, and expires concurrently with said policy.

Form No: CNA71527XX (10-2012)

Endorsement Effective Date:

Endorsement Expiration Date:

Endorsement No: 26; Page: 1 of 1

Underwriting Company: American Casualty Company of Reading, Pennsylvania, 151 N Franklin St,  
Chicago, IL 60606

Policy No: 6079740007

Policy Effective Date: 11/30/2019

Policy Page: 117 of 176

**General Liability Extension Endorsement**

It is understood and agreed that this endorsement amends the **COMMERCIAL GENERAL LIABILITY COVERAGE PART** as follows. If any other endorsement attached to this policy amends any provision also amended by this endorsement, then that other endorsement controls with respect to such provision, and the changes made by this endorsement with respect to such provision do not apply.

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**General Liability Extension Endorsement****1. ADDITIONAL INSURED**

- a. **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization described in paragraphs **A. through K.** below whom a **Named Insured** is required to add as an additional insured on this **Coverage Part** under a written contract or written agreement, provided such contract or agreement:

(1) is currently in effect or becomes effective during the term of this **Coverage Part**; and

(2) was executed prior to:

(a) the **bodily injury** or **property damage**; or

(b) the offense that caused the **personal and advertising injury**,

for which such additional insured seeks coverage.

- b. However, subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:

(1) a higher limit of insurance than required by such contract or agreement; or

(2) coverage broader than required by such contract or agreement, and in no event broader than that described by the applicable paragraph **A. through K.** below.

Any coverage granted by this endorsement shall apply only to the extent permissible by law.

**A. Controlling Interest**

Any person or organization with a controlling interest in a **Named Insured**, but only with respect to such person or organization's liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of:

1. such person or organization's financial control of a **Named Insured**; or

2. premises such person or organization owns, maintains or controls while a **Named Insured** leases or occupies such premises;

provided that the coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

**B. Co-owner of Insured Premises**

A co-owner of a premises co-owned by a **Named Insured** and covered under this insurance but only with respect to such co-owner's liability for **bodily injury**, **property damage** or **personal and advertising injury** as co-owner of such premises.

**C. Grantor of Franchise**

Any person or organization that has granted a franchise to a **Named Insured**, but only with respect to such person or organization's liability for **bodily injury**, **property damage** or **personal and advertising injury** as grantor of a franchise to the **Named Insured**.

**D. Lessor of Equipment**

Any person or organization from whom a **Named Insured** leases equipment, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** caused, in whole or in part, by the **Named Insured's** maintenance, operation or use of such equipment, provided that the **occurrence** giving rise to such **bodily injury**, **property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease.

**General Liability Extension Endorsement****E. Lessor of Land**

Any person or organization from whom a **Named Insured** leases land but only with respect to liability for **bodily injury, property damage or personal and advertising injury** arising out of the ownership, maintenance or use of such land, provided that the **occurrence** giving rise to such **bodily injury or property damage**, or the offense giving rise to such **personal and advertising injury**, takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

**F. Lessor of Premises**

An owner or lessor of premises leased to the **Named Insured**, or such owner or lessor's real estate manager, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** arising out of the ownership, maintenance or use of such part of the premises leased to the **Named Insured**, and provided that the **occurrence** giving rise to such **bodily injury, property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

**G. Mortgagee, Assignee or Receiver**

A mortgagee, assignee or receiver of premises but only with respect to such mortgagee, assignee or receiver's liability for **bodily injury, property damage or personal and advertising injury** arising out of the **Named Insured's** ownership, maintenance, or use of a premises by a **Named Insured**.

The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

**H. State or Governmental Agency or Subdivision or Political Subdivisions – Permits**

A state or governmental agency or subdivision or political subdivision that has issued a permit or authorization, but only with respect to such state or governmental agency or subdivision or political subdivision's liability for **bodily injury, property damage or personal and advertising injury** arising out of:

1. the following hazards in connection with premises a **Named Insured** owns, rents, or controls and to which this insurance applies:
  - a. the existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoistaway openings, sidewalk vaults, street banners, or decorations and similar exposures; or
  - b. the construction, erection, or removal of elevators; or
  - c. the ownership, maintenance or use of any elevators covered by this insurance; or
2. the permitted or authorized operations performed by a **Named Insured** or on a **Named Insured's** behalf.

The coverage granted by this paragraph does not apply to:

- a. **Bodily injury, property damage or personal and advertising injury** arising out of operations performed for the state or governmental agency or subdivision or political subdivision; or
- b. **Bodily injury or property damage** included within the **products-completed operations hazard**.

With respect to this provision's requirement that additional insured status must be requested under a written contract or agreement, the Insurer will treat as a written contract any governmental permit that requires the **Named Insured** to add the governmental entity as an additional insured.

50020006550951428655502

**General Liability Extension Endorsement****I. Trade Show Event Lessor**

1. With respect to a **Named Insured's** participation in a trade show event as an exhibitor, presenter or displayer, any person or organization whom the **Named Insured** is required to include as an additional insured, but only with respect to such person or organization's liability for **bodily injury, property damage or personal and advertising injury** caused by:
  - a. the **Named Insured's** acts or omissions; or
  - b. the acts or omissions of those acting on the **Named Insured's** behalf,in the performance of the **Named Insured's** ongoing operations at the trade show event premises during the trade show event.
2. The coverage granted by this paragraph does not apply to **bodily injury or property damage included within the products-completed operations hazard**.

**J. Vendor**

Any person or organization but only with respect to such person or organization's liability for **bodily injury or property damage** arising out of **your products** which are distributed or sold in the regular course of such person or organization's business, provided that:

1. The coverage granted by this paragraph does not apply to:
  - a. **bodily injury or property damage** for which such person or organization is obligated to pay **damages** by reason of the assumption of liability in a contract or agreement unless such liability exists in the absence of the contract or agreement;
  - b. any express warranty unauthorized by the **Named Insured**;
  - c. any physical or chemical change in any product made intentionally by such person or organization;
  - d. repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
  - e. any failure to make any inspections, adjustments, tests or servicing that such person or organization has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
  - f. demonstration, installation, servicing or repair operations, except such operations performed at the such person or organization's premises in connection with the sale of a product;
  - g. products which, after distribution or sale by the **Named Insured**, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for such person or organization; or
  - h. **bodily injury or property damage** arising out of the sole negligence of such person or organization for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:
    - (1) the exceptions contained in Subparagraphs **d.** or **f.** above; or
    - (2) such inspections, adjustments, tests or servicing as such person or organization has agreed with the **Named Insured** to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.
2. This Paragraph **J.** does not apply to any insured person or organization, from whom the **Named Insured** has acquired such products, nor to any ingredient, part or container, entering into, accompanying or containing such products.



**General Liability Extension Endorsement**

3. This Paragraph J. also does not apply:

- a. to any vendor specifically scheduled as an **additional insured** by endorsement to this **Coverage Part**;
- b. to any of **your products** for which coverage is excluded by endorsement to this **Coverage Part**; nor
- c. if **bodily injury** or **property damage** included within the **products-completed operations hazard** is excluded by endorsement to this **Coverage Part**.

**K. Other Person Or Organization**

Any person or organization who is not an additional insured under Paragraphs A. through J. above. Such additional insured is an **Insured** solely for **bodily injury**, **property damage** or **personal and advertising injury** for which such additional insured is liable because of the **Named Insured's** acts or omissions.

The coverage granted by this paragraph does not apply to any person or organization:

1. for **bodily injury**, **property damage**, or **personal and advertising injury** arising out of the rendering or failure to render any professional service;
2. for **bodily injury** or **property damage** included within the **products-completed operations hazard**; nor
3. who is specifically scheduled as an additional insured on another endorsement to this **Coverage Part**.

**2. ADDITIONAL INSURED - PRIMARY AND NON-CONTRIBUTORY TO ADDITIONAL INSURED'S INSURANCE**

A. The **Other Insurance** Condition in the **COMMERCIAL GENERAL LIABILITY CONDITIONS** Section is amended to add the following paragraph:

If the **Named Insured** has agreed in writing in a contract or agreement that this insurance is primary and non-contributory relative to an additional insured's own insurance, then this insurance is primary, and the Insurer will not seek contribution from that other insurance. For the purpose of this Provision 2., the additional insured's own insurance means insurance on which the additional insured is a named insured.

B. With respect to persons or organizations that qualify as additional insureds pursuant to paragraph 1.K. of this endorsement, the following sentence is added to the paragraph above:

Otherwise, and notwithstanding anything to the contrary elsewhere in this Condition, the insurance provided to such person or organization is excess of any other insurance available to such person or organization.

**3. BODILY INJURY – EXPANDED DEFINITION**

Under **DEFINITIONS** the definition of **bodily injury** is deleted and replaced by the following:

**Bodily injury** means physical injury, sickness or disease sustained by a person, including death, humiliation, shock, mental anguish or mental injury sustained by that person at any time which results as a consequence of the physical injury, sickness or disease.

**4. BROAD KNOWLEDGE OF OCCURRENCE/ NOTICE OF OCCURRENCE**

Under **CONDITIONS**, the condition entitled **Duties in The Event of Occurrence, Offense, Claim or Suit** is amended to add the following:

**A. BROAD KNOWLEDGE OF OCCURRENCE**

The **Named Insured** must give the Insurer or the Insurer's authorized representative notice of an **occurrence**, offense or **claim** only when the **occurrence**, offense or **claim** is known to a natural person **Named Insured**, to a partner, executive officer, manager or member of a **Named Insured**, or to an **employee** designated by any of the above to give such notice.

**B. NOTICE OF OCCURRENCE**



**General Liability Extension Endorsement**

The **Named Insured's** rights under this **Coverage Part** will not be prejudiced if the **Named Insured** fails to give the Insurer notice of an **occurrence**, offense or **claim** and that failure is solely due to the **Named Insured's** reasonable belief that the **bodily injury** or **property damage** is not covered under this **Coverage Part**. However, the **Named Insured** shall give written notice of such **occurrence**, offense or **claim** to the Insurer as soon as the **Named Insured** is aware that this insurance may apply to such **occurrence**, offense or **claim**.

**5. BROAD NAMED INSURED**

**WHO IS AN INSURED** is amended to delete its Paragraph **3.** in its entirety and replace it with the following:

3. Pursuant to the limitations described in Paragraph **4.** below, any organization in which a **Named Insured** has management control:

- a. on the effective date of this **Coverage Part**; or
- b. by reason of a **Named Insured** creating or acquiring the organization during the **policy period**,

qualifies as a **Named Insured**, provided that there is no other similar liability insurance, whether primary, contributory, excess, contingent or otherwise, which provides coverage to such organization, or which would have provided coverage but for the exhaustion of its limit, and without regard to whether its coverage is broader or narrower than that provided by this insurance.

But this **BROAD NAMED INSURED** provision does not apply to:

- (a) any partnership, limited liability company or joint venture; or
- (b) any organization for which coverage is excluded by another endorsement attached to this **Coverage Part**.

For the purpose of this provision, management control means:

- A. owning interests representing more than 50% of the voting, appointment or designation power for the selection of a majority of the Board of Directors of a corporation; or
  - B. having the right, pursuant to a written trust agreement, to protect, control the use of, encumber or transfer or sell property held by a trust.
4. With respect to organizations which qualify as **Named Insureds** by virtue of Paragraph **3.** above, this insurance does not apply to:
- a. **bodily injury** or **property damage** that first occurred prior to the date of management control, or that first occurs after management control ceases; nor
  - b. **personal or advertising injury** caused by an offense that first occurred prior to the date of management control or that first occurs after management control ceases.
5. The insurance provided by this **Coverage Part** applies to **Named Insureds** when trading under their own names or under such other trading names or doing-business-as names (dba) as any **Named Insured** should choose to employ.

**6. ESTATES, LEGAL REPRESENTATIVES, AND SPOUSES**

The estates, heirs, legal representatives and **spouses** of any natural person **Insured** shall also be insured under this policy; provided, however, coverage is afforded to such estates, heirs, legal representatives, and **spouses** only for **claims** arising solely out of their capacity or status as such and, in the case of a **spouse**, where such **claim** seeks **damages** from marital community property, jointly held property or property transferred from such natural person **Insured** to such **spouse**. No coverage is provided for any act, error or omission of an estate, heir, legal representative, or **spouse** outside the scope of such person's capacity or status as such, provided however that the **spouse** of a natural person **Named Insured** and the **spouses** of members or partners of joint venture or partnership **Named Insureds** are **Insureds** with respect to such **spouses'** acts, errors or omissions in the conduct of the **Named Insured's** business.

## General Liability Extension Endorsement

**7. EXPECTED OR INTENDED INJURY – EXCEPTION FOR REASONABLE FORCE**

Under **COVERAGES, Coverage A – Bodily Injury And Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Expected or Intended Injury** and replace it with the following:

This insurance does not apply to:

**Expected or Intended Injury**

**Bodily injury** or **property damage** expected or intended from the standpoint of the **Insured**. This exclusion does not apply to **bodily injury** or **property damage** resulting from the use of reasonable force to protect persons or property.

**8. IN REM ACTIONS**

A quasi in rem action against any vessel owned or operated by or for the **Named Insured**, or chartered by or for the **Named Insured**, will be treated in the same manner as though the action were in personam against the **Named Insured**.

**9. INCIDENTAL HEALTH CARE MALPRACTICE COVERAGE**

Solely with respect to **bodily injury** that arises out of a **health care incident**:

A. Under **COVERAGES, Coverage A – Bodily Injury And Property Damage Liability**, the **Insuring Agreement** is amended to replace Paragraphs **1.b.(1)** and **1.b.(2)** with the following:

b. This insurance applies to **bodily injury** provided that the professional health care services are incidental to the **Named Insured's** primary business purpose, and only if:

(1) such **bodily injury** is caused by an **occurrence** that takes place in the **coverage territory**.

(2) the **bodily injury** first occurs during the **policy period**. All **bodily injury** arising from an **occurrence** will be deemed to have occurred at the time of the first act, error, or omission that is part of the **occurrence**; and

B. Under **COVERAGES, Coverage A – Bodily Injury And Property Damage Liability**, the paragraph entitled **Exclusions** is amended to:

i. add the following to the **Employers Liability** exclusion:

This exclusion applies only if the **bodily injury** arising from a **health care incident** is covered by other liability insurance available to the **Insured** (or which would have been available but for exhaustion of its limits).

ii. delete the exclusion entitled **Contractual Liability** and replace it with the following:

This insurance does not apply to:

**Contractual Liability**

the **Insured's** actual or alleged liability under any oral or written contract or agreement, including but not limited to express warranties or guarantees.

iii. add the following additional exclusions.

This insurance does not apply to:

**Discrimination**

any actual or alleged discrimination, humiliation or harassment, including but not limited to **claims** based on an individual's race, creed, color, age, gender, national origin, religion, disability, marital status or sexual orientation.

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**General Liability Extension Endorsement****Dishonesty or Crime**

Any actual or alleged dishonest, criminal or malicious act, error or omission.

**Medicare/Medicaid Fraud**

any actual or alleged violation of law with respect to Medicare, Medicaid, Tricare or any similar federal, state or local governmental program.

**Services Excluded by Endorsement**

Any **health care incident** for which coverage is excluded by endorsement.

**C. DEFINITIONS** is amended to:**i.** add the following definitions:

**Health care incident** means an act, error or omission by the **Named Insured's employees** or **volunteer workers** in the rendering of:

- a. professional health care services** on behalf of the **Named Insured** or
- b. Good Samaritan services** rendered in an emergency and for which no payment is demanded or received.

**Professional health care services** means any health care services or the related furnishing of food, beverages, medical supplies or appliances by the following providers in their capacity as such but solely to the extent they are duly licensed as required:

- a.** Physician;
- b.** Nurse;
- c.** Nurse practitioner;
- d.** Emergency medical technician;
- e.** Paramedic;
- f.** Dentist;
- g.** Physical therapist;
- h.** Psychologist;
- i.** Speech therapist;
- j.** Other allied health professional; or

**Professional health care services** does not include any services rendered in connection with human clinical trials or product testing.

**ii.** delete the definition of **occurrence** and replace it with the following:

**Occurrence** means a **health care incident**. All acts, errors or omissions that are logically connected by any common fact, circumstance, situation, transaction, event, advice or decision will be considered to constitute a single **occurrence**;

**iii.** amend the definition of **Insured** to:

- a.** add the following:
  - the **Named Insured's employees** are **Insureds** with respect to:

**General Liability Extension Endorsement**

(1) **bodily injury** to a co-**employee** while in the course of the co-**employee's** employment by the **Named Insured** or while performing duties related to the conduct of the **Named Insured's** business; and

(2) **bodily injury** to a **volunteer worker** while performing duties related to the conduct of the **Named Insured's** business;

when such **bodily injury** arises out of a **health care incident**.

- the **Named Insured's volunteer workers** are **Insureds** with respect to:

(1) **bodily injury** to a co-**volunteer worker** while performing duties related to the conduct of the **Named Insured's** business; and

(2) **bodily injury** to an **employee** while in the course of the **employee's** employment by the **Named Insured** or while performing duties related to the conduct of the **Named Insured's** business;

when such **bodily injury** arises out of a **health care incident**.

b. delete Subparagraphs (a), (b), (c) and (d) of Paragraph 2.a.(1) of **WHO IS AN INSURED**.

c. add the following:

**Insured** does not include any physician while acting in his or her capacity as such.

D. The **Other Insurance** condition is amended to delete Paragraph b.(1) in its entirety and replace it with the following:

**Other Insurance**

**b. Excess Insurance**

(1) To the extent this insurance applies, it is excess over any other insurance, self insurance or risk transfer instrument, whether primary, excess, contingent or on any other basis, except for insurance purchased specifically by the **Named Insured** to be excess of this coverage.

**10. JOINT VENTURES / PARTNERSHIP / LIMITED LIABILITY COMPANIES**

**WHO IS AN INSURED** is amended to delete its last paragraph and replace it with the following:

No person or organization is an **Insured** with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a **Named Insured** in the Declarations, except that if the **Named Insured** was a joint venturer, partner, or member of a limited liability company and such joint venture, partnership or limited liability company terminated prior to or during the **policy period**, such **Named Insured** is an **Insured** with respect to its interest in such joint venture, partnership or limited liability company but only to the extent that:

- a. any offense giving rise to **personal and advertising injury** occurred prior to such termination date, and the **personal and advertising injury** arising out of such offense first occurred after such termination date;
- b. the **bodily injury** or **property damage** first occurred after such termination date; and
- c. there is no other valid and collectible insurance purchased specifically to insure the partnership, joint venture or limited liability company.

**11. LEGAL LIABILITY – DAMAGE TO PREMISES**

A. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete the first paragraph immediately following subparagraph (6) of the **Damage to Property** exclusion and replace it with the following:

Paragraphs (1), (3) and (4) of this exclusion do not apply to **property damage** (other than damage by fire) to premises rented to the **Named Insured** or temporarily occupied by the **Named Insured** with the permission of the

**General Liability Extension Endorsement**

owner, nor to the contents of premises rented to the **Named Insured** for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in **LIMITS OF INSURANCE**.

- B. Under COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete its last paragraph and replace it with the following:

Exclusions **c.** through **n.** do not apply to damage by fire to premises while rented to a **Named Insured** or temporarily occupied by a **Named Insured** with permission of the owner, nor to damage to the contents of premises rented to a **Named Insured** for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to this coverage as described in the **LIMITS OF INSURANCE** Section.

- C. LIMITS OF INSURANCE** is amended to delete Paragraph **6.** (the Damage To Premises Rented To You Limit) and replace it with the following:

- 6.** Subject to Paragraph **5.** above, (the Each Occurrence Limit), the Damage To Premises Rented To You Limit is the most the Insurer will pay under **COVERAGE A** for **damages** because of **property damage** to:

- a.** any one premises while rented to a **Named Insured** or temporarily occupied by a **Named Insured** with the permission of the owner; and
- b.** contents of such premises if the premises is rented to the **Named Insured** for a period of 7 or fewer consecutive days.

The Damage To Premises Rented To You Limit is \$200,000. unless a higher Damage to Premises Rented to You Limit is shown in the Declarations.

- D. The Other Insurance** Condition is amended to delete Paragraph **b.(1)(a)(ii)**, and replace it with the following:

- (ii)** That is property insurance for premises rented to a **Named Insured**, for premises temporarily occupied by the **Named Insured** with the permission of the owner; or for personal property of others in the **Named Insured's** care, custody or control;

- E. This Provision 11.** does not apply if liability for damage to premises rented to a **Named Insured** is excluded by another endorsement attached to this **Coverage Part**.

## **12. MEDICAL PAYMENTS**

- A. LIMITS OF INSURANCE** is amended to delete Paragraph **7.** (the Medical Expense Limit) and replace it with the following:

- 7.** Subject to Paragraph **5.** above (the Each Occurrence Limit), the Medical Expense Limit is the most the Insurer will pay under **Coverage C - Medical Payments** for all medical expenses because of **bodily injury** sustained by any one person. The Medical Expense Limit is the greater of:

- (1)** \$15,000 unless a different amount is shown here: \_\_\_\_\_ ; or
- (2)** the amount shown in the Declarations for Medical Expense Limit.

- B. Under COVERAGES, Coverage C – Medical Payments**, the **Insuring Agreement** is amended to replace Paragraph **1.a.(3)(b)** with the following:

- (b)** The expenses are incurred and reported to the Insurer within three years of the date of the accident; and

## **13. NON-OWNED AIRCRAFT**

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended as follows:



## General Liability Extension Endorsement

The exclusion entitled **Aircraft, Auto or Watercraft** is amended to add the following:

This exclusion does not apply to an aircraft not owned by any **Named Insured**, provided that:

1. the pilot in command holds a currently effective certificate issued by the duly constituted authority of the United States of America or Canada, designating that person as a commercial or airline transport pilot;
2. the aircraft is rented with a trained, paid crew to the **Named Insured**; and
3. the aircraft is not being used to carry persons or property for a charge.

**14. NON-OWNED WATERCRAFT**

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete subparagraph (2) of the exclusion entitled **Aircraft, Auto or Watercraft**, and replace it with the following.

This exclusion does not apply to:

- (2) a watercraft that is not owned by any **Named Insured**, provided the watercraft is:
  - (a) less than 75 feet long; and
  - (b) not being used to carry persons or property for a charge.

**15. PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION**

A. Under **DEFINITIONS**, the definition of **personal and advertising injury** is amended to add the following tort:

- Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.

B. Under **COVERAGES, Coverage B – Personal and Advertising Injury Liability**, the paragraph entitled **Exclusions** is amended to:

1. delete the Exclusion entitled **Knowing Violation Of Rights Of Another** and replace it with the following:

This insurance does not apply to:

**Knowing Violation of Rights of Another**

**Personal and advertising injury** caused by or at the direction of the **Insured** with the knowledge that the act would violate the rights of another and would inflict **personal and advertising injury**. This exclusion shall not apply to discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is not done intentionally by or at the direction of:

- (a) the **Named Insured**; or
- (b) any **executive officer**, director, stockholder, partner, member or manager (if the **Named Insured** is a limited liability company) of the **Named Insured**.

2. add the following exclusions:

This insurance does not apply to:

**Employment Related Discrimination**

discrimination or humiliation directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person by any **Insured**.

**Premises Related Discrimination**

discrimination or humiliation arising out of the sale, rental, lease or sub-lease or prospective sale, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any **Insured**.



**General Liability Extension Endorsement**

Notwithstanding the above, there is no coverage for fines or penalties levied or imposed by a governmental entity because of discrimination.

The coverage provided by this **PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION** Provision does not apply to any person or organization whose status as an **Insured** derives solely from

- Provision **1. ADDITIONAL INSUREDS** of this endorsement; or
- attachment of an additional insured endorsement to this **Coverage Part**.

**16. PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY**

- A.** Under **COVERAGES, Coverage B –Personal and Advertising Injury Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Contractual Liability** and replace it with the following:

This insurance does not apply to:

**Contractual Liability**

**Personal and advertising injury** for which the **Insured** has assumed liability in a contract or agreement.

This exclusion does not apply to liability for **damages**:

- (1) that the **Insured** would have in the absence of the contract or agreement; or
- (2) assumed in a contract or agreement that is an **insured contract** provided the offense that caused such **personal or advertising injury** first occurred subsequent to the execution of such **insured contract**. Solely for the purpose of liability assumed in an **insured contract**, reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an **Insured** are deemed to be **damages** because of **personal and advertising injury** provided:
  - (a) liability to such party for, or for the cost of, that party's defense has also been assumed in such **insured contract**; and
  - (b) such attorney fees and litigation expenses are for defense of such party against a civil or alternative dispute resolution proceeding in which covered **damages** are alleged.

- B.** Solely for the purpose of the coverage provided by this paragraph, **DEFINITIONS** is amended to delete the definition of **insured contract** in its entirety, and replace it with the following:

**Insured contract** means that part of a written contract or written agreement pertaining to the **Named Insured's** business under which the **Named Insured** assumes the tort liability of another party to pay for **personal or advertising injury** arising out of the offense of false arrest, detention or imprisonment. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

- C.** Solely for the purpose of the coverage provided by this paragraph, the following changes are made to the Section entitled **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B**:

1. Paragraph **2.d.** is replaced by the following:

- d. The allegations in the **suit** and the information the Insurer knows about the offense alleged in such **suit** are such that no conflict appears to exist between the interests of the **Insured** and the interests of the indemnitee;

2. The first unnumbered paragraph beneath Paragraph **2.f.(2)(b)** is deleted and replaced by the following:

So long as the above conditions are met, attorneys fees incurred by the Insurer in the defense of that indemnitee, necessary litigation expenses incurred by the Insurer, and necessary litigation expenses incurred by the indemnitee at the Insurer's request will be paid as **defense costs**. Notwithstanding the provisions of Paragraph **e.(2)** of the Contractual Liability exclusion (as amended by this Endorsement), such payments will





## General Liability Extension Endorsement

not be deemed to be **damages** for **personal and advertising injury** and will not reduce the limits of insurance.

- D. This **PERSONAL AND ADVERTISING INJURY - LIMITED CONTRACTUAL LIABILITY** Provision does not apply if **Coverage B –Personal and Advertising Injury Liability** is excluded by another endorsement attached to this **Coverage Part**.

**17. PROPERTY DAMAGE – ELEVATORS**

- A. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended such that the **Damage to Your Product** Exclusion and subparagraphs (3), (4) and (6) of the **Damage to Property** Exclusion do not apply to **property damage** that results from the use of elevators.
- B. Solely for the purpose of the coverage provided by this **PROPERTY DAMAGE – ELEVATORS** Provision, the **Other Insurance** conditions is amended to add the following paragraph:

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis that is Property insurance covering property of others damaged from the use of elevators.

**18. SUPPLEMENTARY PAYMENTS**

The section entitled **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** is amended as follows:

- A. Paragraph 1.b. is amended to delete the \$250 limit shown for the cost of bail bonds and replace it with a \$5,000. limit; and
- B. Paragraph 1.d. is amended to delete the limit of \$250 shown for daily loss of earnings and replace it with a \$1,000. limit.

**19. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS**

If the **Named Insured** unintentionally fails to disclose all existing hazards at the inception date of the **Named Insured's Coverage Part**, the Insurer will not deny coverage under this **Coverage Part** because of such failure.

**20. WAIVER OF SUBROGATION - BLANKET**

Under **CONDITIONS**, the **Transfer Of Rights Of Recovery Against Others To Us** Condition is amended to add the following:

The Insurer waives any right of recovery the Insurer may have against any person or organization because of payments the Insurer makes for injury or damage arising out of:

1. the **Named Insured's** ongoing operations; or
2. **your work** included in the **products-completed operations hazard**.

However, this waiver applies only when the **Named Insured** has agreed in writing to waive such rights of recovery in a written contract or written agreement, and only if such contract or agreement:

1. is in effect or becomes effective during the term of this **Coverage Part**; and
2. was executed prior to the **bodily injury, property damage or personal and advertising injury** giving rise to the claim.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

# Expenditure Control Form



1. All requests being made must be accompanied by this form.
2. Route **ALL** requests to the Finance Department for signature.
3. If request is greater than \$100,000 it requires signatures by Finance and the City Administrator. Finance Dept. will route to City Administrator.

**Today's Date:** 6-30-20

**Type of expenditure:** Goods ☐ Services ☒

**Department:** Engineering Services

**Approving Supervisor:** Kyle Twohig

**Amount of Proposed Expenditure:** \$100,000

**Funding Source:** Federal

**Please verify correct funding sources. Please indicate breakdown if more than one funding source.**

**Why is this expenditure necessary now?**

The proposed contract with Coffman is an on-call contract to be used to pay for surveying services on federally funded capital projects (generally street or trail projects). Money paid to Coffman under this contract will generally be reimbursed to the city by WSDOT on a project by project basis (i.e., each project has a separate pot of federal money available to the city for use only on that project).

**What are the impacts if expenses are deferred?**

These mostly grant funded capital projects (generally street or trail projects) would be deferred potentially meaning a loss of grant funds.

**What alternative resources have been considered?**

This contract is paid with federal funds.

**Description of the goods or service and any additional information?**

This expenditure is for hiring a consultant to provide specialized services which the City does not have in house.

**Person Submitting Form/Contact:** Dan Buller dbuller@spokanecity.org

**FINANCE SIGNATURE:**

DocuSigned by:

*Tonya Wallace*

CBC812B631244E9...

**CITY ADMINISTRATOR SIGNATURE:**

DocuSigned by:

*[Signature]*

9C36E3376992442...

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

07/13/2020

**Date Rec'd**

6/22/2020

**Clerk's File #**

OPR 2020-0567

**Renews #****Submitting Dept**

ENGINEERING SERVICES

**Cross Ref #****Contact Name/Phone**

DAN BULLER 625-6391

**Project #**

2020094

**Contact E-Mail**

DBULLER@SPOKANECITY.ORG

**Bid #****Agenda Item Type**

Contract Item

**Requisition #**

MASTER

**Agenda Item Name**

0370-THOMAS DEAN &amp; HOSKINS INC. - STRUCTURAL ENGINEERING - FEDERAL AID

**Agenda Wording**

Local Area A&E Professional Services Consultant Agreement with Thomas Dean & Hoskins Inc. (TD&H); (Spokane, WA) for Structural Engineering Services for 2020-2022 Federal Aid Project for the amount not to exceed \$150,000.00. (Various Councils)

**Summary (Background)**

The Agreement for Structural Engineering Services is for a period of two years. An option for a one year extension will be granted at the City's discretion. Supplemental Agreements will be prepared under this agreement and scopes for individual project needs. Funding shall be from the individual project.

**Fiscal Impact**

Grant related? YES

Public Works? YES

**Budget Account**

Expense \$ 150,000.00

# Various

Select \$

#

Select \$

#

Select \$

#

**Approvals****Dept Head**

TWOHIG, KYLE

**Division Director**

SIMMONS, SCOTT M.

**Finance**

WALLACE, TONYA

**Legal**

ODLE, MARI

**For the Mayor**

ORMSBY, MICHAEL

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

PIES 6/22/20

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eraea@spokanecity.org

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aduffey@spokanecity.org

smarsh@q.com

dbuller@spokanecity.org

**Additional Approvals****Purchasing****GRANTS &****CONTRACT MGMT**

STOPHER, SALLY



## Briefing Paper

### PIES

<b>Division &amp; Department:</b>	Engineering Services; Public Works
<b>Subject:</b>	On-Call Engineering Consultants
<b>Date:</b>	June 22, 2020
<b>Contact (email &amp; phone):</b>	Dan Buller ( <a href="mailto:dbuller@spokanecity.org">dbuller@spokanecity.org</a> , 625-6391)
<b>City Council Sponsor:</b>	
<b>Executive Sponsor:</b>	Scott Simmons
<b>Committee(s) Impacted:</b>	PIES
<b>Type of Agenda item:</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
<b>Alignment:</b> (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	
<b>Strategic Initiative:</b>	Innovative Infrastructure
<b>Deadline:</b>	
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	Informational - background information for committee review
<b>Background/History:</b> Engineering Services has “on-call” agreements with various consultants for specialized engineering or related services (structural, geotech., surveying, landscape architecture, cultural resource and real estate acquisition) associated with the City’s public works projects. Those firms are selected on the basis of qualifications as required by RCW 39. These typically agreements last from 2-3 years.	
<b>Executive Summary:</b> <ul style="list-style-type: none"> <li>• A request for qualifications was advertised earlier this spring for structural engineering, geotechnical engineering, surveying, landscape architecture, culture resource and real estate acquisition consultants.</li> <li>• A review committee ranked the firms by qualifications. One firm will be selected for each discipline.</li> <li>• Engineering Services expects to bring six agreements to council over the next several weeks.</li> <li>• Costs incurred under the proposed contracts are paid as part of each public works project for which the consultant is used.</li> </ul>	
<b>Budget Impact:</b> Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Annual/Reoccurring expenditure? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A If new, specify funding source: Other budget impacts: (revenue generating, match requirements, etc.)	
<b>Operations Impact:</b> 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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A Specify changes required: Known challenges/barriers:	

# **Local Agency A&E Professional Services Negotiated Hourly Rate Consultant Agreement**

Agreement Number:

Firm/Organization Legal Name (do not use dba's): <b>Thomas Dean &amp; Hoskins, Inc.</b>	
Address <b>303 E. 2nd Ave., Spokane, WA 99202</b>	Federal Aid Number
UBI Number <b>601-014-909</b>	Federal TIN <b>81-0295283</b>
Execution Date	Completion Date <b>07/31/21</b>
1099 Form Required <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Federal Participation <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Project Title <b>City of Spokane Structural Engineering On-Call Services Federal Aid</b>	
Description of Work <b>Structural Engineering work for the projects listed in Exhibit A below.</b>	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No DBE Participation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No MBE Participation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No WBE Participation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No SBE Participation	Maximum Amount Payable: <b>\$150,000.00</b>

## **Index of Exhibits**

Exhibit A	Scope of Work
Exhibit B	DBE Participation
Exhibit C	Preparation and Delivery of Electronic Engineering and Other Data
Exhibit D	Prime Consultant Cost Computations
Exhibit E	Sub-consultant Cost Computations
Exhibit F	Title VI Assurances
Exhibit G	Certification Documents
Exhibit H	Liability Insurance Increase
Exhibit I	Alleged Consultant Design Error Procedures
Exhibit J	Consultant Claim Procedures

THIS AGREEMENT, made and entered into as shown in the "Execution Date" box on page one (1) of this AGREEMENT, between the City of Spokane, hereinafter called the "AGENCY," and the "Firm / Organization Name" referenced on page one (1) of this AGREEMENT, hereinafter called the "CONSULTANT."

WHEREAS, the AGENCY desires to accomplish the work referenced in "Description of Work" on page one (1) of this AGREEMENT and hereafter called the "SERVICES;" and does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary SERVICES; and

WHEREAS, the CONSULTANT represents that they comply with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the AGENCY.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

## **I. General Description of Work**

The work under this AGREEMENT shall consist of the above-described SERVICES as herein defined, and necessary to accomplish the completed work for this project. The CONSULTANT shall furnish all services, labor, and related equipment and, if applicable, sub-consultants and subcontractors necessary to conduct and complete the SERVICES as designated elsewhere in this AGREEMENT.

## **II. General Scope of Work**

The Scope of Work and projected level of effort required for these SERVICES is described in Exhibit "A" attached hereto and by this reference made a part of this AGREEMENT. The General Scope of Work was developed utilizing performance based contracting methodologies.

## **III. General Requirements**

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress, and presentation meetings with the AGENCY and/or such State, Federal, Community, City, or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days' notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit "A."

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the SERVICES in sufficient detail so that the progress of the SERVICES can easily be evaluated.

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations, and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

Participation for Disadvantaged Business Enterprises (DBE) or Small Business Enterprises (SBE), if required, per 49 CFR Part 26, shall be shown on the heading of this AGREEMENT. If DBE firms are utilized at the commencement of this AGREEMENT, the amounts authorized to each firm and their certification number will be shown on Exhibit "B" attached hereto and by this reference made part of this AGREEMENT. If the Prime CONSULTANT is, a DBE certified firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY's "DBE Program Participation Plan" and perform a minimum of 30% of the total amount of this AGREEMENT. It is recommended, but not required, that non-DBE Prime CONSULTANTS perform a minimum of 30% of the total amount of this AGREEMENT.

In the absence of a mandatory UDBE, the Consultant shall continue their outreach efforts to provide SBE firms maximum practicable opportunities.

The CONSULTANT, on a monthly basis, shall enter the amounts paid to all firms (including Prime) involved with this AGREEMENT into the [wsdot.diversitycompliance.com](http://wsdot.diversitycompliance.com) program. Payment information shall identify any DBE Participation. Non-minority, woman owned DBEs does not count towards UDBE goal attainment.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit "C – Preparation and Delivery of Electronic Engineering and other Data."

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for these SERVICES, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring, as a part of this SERVICE, shall be without liability or legal exposure to the CONSULTANT.

Any and all notices or requests required under this AGREEMENT shall be made in writing and sent to the other party by (i) certified mail, return receipt requested, or (ii) by email or facsimile, to the address set forth below:

**If to AGENCY:**

Name: Dan Buller  
Agency: City of Spokane  
Address: 808 W. Spokane Falls Blvd.  
City: Spokane State: WA Zip: 99201  
Email: [dbuller@spokanecity.org](mailto:dbuller@spokanecity.org)  
Phone: 509-625-6700  
Facsimile: 509-625-6349

**If to CONSULTANT:**

Name: Steven Marsh  
Agency: Thomas Dean & Hoskins, Inc.  
Address: 303 E. 2nd Ave.  
City: Spokane State: WA Zip: 99202  
Email: [dbuller@spokanecity.org](mailto:dbuller@spokanecity.org)  
Phone: 509-625-6700  
Facsimile: 509-625-6349

#### **IV. Time for Beginning and Completion**

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY. All work under this AGREEMENT shall conform to the criteria agreed upon detailed in the AGREEMENT documents. These SERVICES must be completed by the date shown in the heading of this AGREEMENT titled "Completion Date."

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD, governmental actions, or other conditions beyond the control of the CONSULTANT. A prior supplemental AGREEMENT issued by the AGENCY is required to extend the established completion time.

## V. Payment Provisions

The CONSULTANT shall be paid by the AGENCY for completed SERVICES rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for SERVICES performed or SERVICES rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete SERVICES. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31 ([www.ecfr.gov](http://www.ecfr.gov)).

- A. Hourly Rates: Hourly rates are comprised of the following elements - Direct (Raw) Labor, Indirect Cost Rate, and Fee (Profit). The CONSULTANT shall be paid by the AGENCY for work done, based upon the negotiated hourly rates shown in Exhibits "D" and "E" attached hereto and by reference made part of this AGREEMENT. These negotiated hourly rates will be accepted based on a review of the CONSULTANT's direct labor rates and indirect cost rate computations and agreed upon fee. The accepted negotiated rates shall be memorialized in a final written acknowledgment between the parties. Such final written acknowledgment shall be incorporated into, and become a part of, this AGREEMENT. The initially accepted negotiated rates shall be applicable from the approval date, as memorialized in a final written acknowledgment, to 180 days following the CONSULTANT's fiscal year end (FYE) date.

The direct (raw) labor rates and classifications, as shown on Exhibits "D" and "E" shall be subject to renegotiations for each subsequent twelve (12) month period (180 days following FYE date to 180 days following FYE date) upon written request of the CONSULTANT or the AGENCY. The written request must be made to the other party within ninety (90) days following the CONSULTANT's FYE date. If no such written request is made, the current direct (raw) labor rates and classifications as shown on Exhibits "D" and "E" will remain in effect for the twelve (12) month period.

Conversely, if a timely request is made in the manner set forth above, the parties will commence negotiations to determine the new direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period. Any agreed to renegotiated rates shall be memorialized in a final written acknowledgment between the parties. Such final written acknowledgment shall be incorporated into, and become a part of, this AGREEMENT. If requested, the CONSULTANT shall provide current payroll register and classifications to aid in negotiations. If the parties cannot reach an agreement on the direct (raw) labor rates and classifications, the AGENCY shall perform an audit of the CONSULTANT's books and records to determine the CONSULTANT's actual costs. The audit findings will establish the direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period.

The fee as identified in Exhibits "D" and "E" shall represent a value to be applied throughout the life of the AGREEMENT.

The CONSULTANT shall submit annually to the AGENCY an updated indirect cost rate within 180 days of the close of its fiscal year. An approved updated indirect cost rate shall be included in the current fiscal year rate under this AGREEMENT, even if/when other components of the hourly rate are not renegotiated. These rates will be applicable for the twelve (12) month period. At the AGENCY's option, a provisional and/or conditional indirect cost rate may be negotiated. This provisional or conditional indirect rate shall remain in effect until the updated indirect cost rate is completed and approved. Indirect cost rate costs incurred during the provisional or conditional period will not be adjusted. The CONSULTANT may request an extension of the last approved indirect cost rate for the twelve (12) month period. These requests for provisional indirect cost rate and/or extension will be considered on a case-by-case basis, and if granted, will be memorialized in a final written acknowledgment.

The CONSULTANT shall maintain and have accessible support data for verification of the components of the hourly rates, i.e., direct (raw) labor, indirect cost rate, and fee (profit) percentage. The CONSULTANT shall bill each employee's actual classification, and actual salary plus indirect cost rate plus fee.



- A. **Direct Non-Salary Costs:** Direct Non-Salary Costs will be reimbursed at the actual cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges, and fees of sub-consultants. Air or train travel will be reimbursed only to lowest price available, unless otherwise approved by the AGENCY. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the WSDOT's Accounting Manual M 13-82, Chapter 10 – Travel Rules and Procedures, and all revisions thereto. Air, train, and rental card costs shall be reimbursed in accordance with 48 Code of Federal Regulations (CFR) Part 31.205-46 "Travel Costs." The billing for Direct Non-salary Costs shall include an itemized listing of the charges directly identifiable with these SERVICES. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the STATE upon request. All above charges must be necessary for the SERVICES provided under this AGREEMENT.
- B. **Maximum Amount Payable:** The Maximum Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT on page one (1.) The Maximum Amount Payable does not include payment for extra work as stipulated in section XIII, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.
- C. **Monthly Progress Payments:** Progress payments may be claimed on a monthly basis for all costs authorized in A and B above. Detailed statements shall support the monthly billings for hours expended at the rates established in Exhibit "D," including names and classifications of all employees, and billings for all direct non-salary expenses. To provide a means of verifying the billed salary costs for the CONSULTANT's employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the SERVICES at the time of the interview.
- D. **Final Payment:** Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the SERVICES under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data, and other related documents, which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) calendar days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. Per WSDOT's "Audit Guide for Consultants," Chapter 23 "Resolution Procedures," the CONSULTANT has twenty (20) working days after receipt of the final Post Audit to begin the appeal process to the AGENCY for audit findings

E. **Inspection of Cost Records:** The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY and the United States, for a period of six (6) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this AGREEMENT is initiated before the expiration of the six (6) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed. An interim or post audit may be performed on this AGREEMENT. The audit, if any, will be performed by the State Auditor, WSDOT's Internal Audit Office and /or at the request of the AGENCY's Project Manager.

## **VI. Sub-Contracting**

The AGENCY permits subcontracts for those items of SERVICES as shown in Exhibit "A" attached hereto and by this reference made part of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any SERVICE under this AGREEMENT without prior written permission of the AGENCY. No permission for subcontracting shall create, between the AGENCY and sub-consultant, any contract or any other relationship.

Compensation for this sub-consultant SERVICES shall be based on the cost factors shown on Exhibit "E" attached hereto and by this reference made part of this AGREEMENT.

The SERVICES of the sub-consultant shall not exceed its maximum amount payable identified in each sub consultant cost estimate unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, indirect cost rate, direct non-salary costs and fee costs for the sub-consultant shall be negotiated and substantiated in accordance with section V "Payment Provisions" herein and shall be memorialized in a final written acknowledgment between the parties

All subcontracts shall contain all applicable provisions of this AGREEMENT, and the CONSULTANT shall require each sub-consultant or subcontractor, of any tier, to abide by the terms and conditions of this AGREEMENT. With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the STATE's Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT, sub-recipient, or sub-consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the recipient deems appropriate.

## **VII. Employment and Organizational Conflict of Interest**

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from this AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT's employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of this AGREEMENT, any professional or technical personnel who are, or have been, at any time during the period of this AGREEMENT, in the employ of the United States Department of Transportation or the AGENCY, except regularly retired employees, without written consent of the public employer of such person if he/she will be working on this AGREEMENT for the CONSULTANT.

Agreement Number:



## VIII. Nondiscrimination

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, sub-consultants, subcontractors and successors in interest, agrees to comply with the following laws and regulations:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Chapter 21 Subchapter V § 2000d through 2000d-4a)
- Federal-aid Highway Act of 1973 (23 U.S.C. Chapter 3 § 324)
- Rehabilitation Act of 1973 (29 U.S.C. Chapter 16 Subchapter V § 794)
- Age Discrimination Act of 1975 (42 U.S.C. Chapter 76 § 6101 *et. seq.*)
- Civil Rights Restoration Act of 1987 (Public Law 100-259)
- American with Disabilities Act of 1990 (42 U.S.C. Chapter 126 § 12101 *et. seq.*)
- 23 CFR Part 200
- 49 CFR Part 21
- 49 CFR Part 26
- RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit "F" attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit "F" in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

## IX. Termination of Agreement

The right is reserved by the AGENCY to terminate this AGREEMENT at any time with or without cause upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY, other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of this AGREEMENT, plus any direct non-salary costs incurred up to the time of termination of this AGREEMENT.

No payment shall be made for any SERVICES completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth in paragraph two (2) of this section, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In the event of a termination for default, the amount to be paid to the CONSULTANT shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing SERVICES to the date of termination, the amount of SERVICES originally required which was satisfactorily completed to date of termination, whether that SERVICE is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the SERVICES required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the SERVICES performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth in paragraph two (2) of this section.

If it is determined for any reason, that the CONSULTANT was not in default or that the CONSULTANT's failure to perform is without the CONSULTANT's or its employee's fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.



The CONSULTANT shall, within 15 days, notify the AGENCY in writing, in the event of the death of any member, partner, or officer of the CONSULTANT or the death or change of any of the CONSULTANT's supervisory and/or other key personnel assigned to the project or disaffiliation of any principally involved CONSULTANT employee.

The CONSULTANT shall also notify the AGENCY, in writing, in the event of the sale or transfer of 50% or more of the beneficial ownership of the CONSULTANT within 15 days of such sale or transfer occurring. The CONSULTANT shall continue to be obligated to complete the SERVICES under the terms of this AGREEMENT unless the AGENCY chooses to terminate this AGREEMENT for convenience or chooses to renegotiate any term(s) of this AGREEMENT. If termination for convenience occurs, final payment will be made to the CONSULTANT as set forth in the second and third paragraphs of this section.

Payment for any part of the SERVICES by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform SERVICES required of it by the AGENCY.

Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

## **X. Changes of Work**

The CONSULTANT shall make such changes and revisions in the completed work of this AGREEMENT as necessary to correct errors appearing therein, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed SERVICES or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under section XIII "Extra Work."

## **XI. Disputes**

Any disputed issue not resolved pursuant to the terms of this AGREEMENT shall be submitted in writing within 10 days to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J". In the event that either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this AGREEMENT, this action shall be initiated in the Superior Court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in the county in which the AGENCY is located.

## **XII. Legal Relations**

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall defend, indemnify, and hold the State of Washington (STATE) and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the negligence of, or the breach of any obligation under this AGREEMENT by, the CONSULTANT or the CONSULTANT's agents, employees, sub consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable; provided that nothing herein shall require a CONSULTANT

to defend or indemnify the STATE and the AGENCY and their officers and employees against and hold harmless the STATE and the AGENCY and their officers and employees from claims, demands or suits based solely upon the negligence of, or breach of any obligation under this AGREEMENT by the STATE and the AGENCY, their agents, officers, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the STATE and /or the AGENCY may be legally liable; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT is legally liable, and (b) the STATE and/or AGENCY, their agents, officers, employees, sub-consultants, subcontractors and or vendors, of any tier, or any other persons for whom the STATE and/or AGENCY may be legally liable, the defense and indemnity obligation shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable. This provision shall be included in any AGREEMENT between CONSULTANT and any sub-consultant, subcontractor and vendor, of any tier.

The CONSULTANT shall also defend, indemnify, and hold the STATE and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable, in performance of the Work under this AGREEMENT or arising out of any use in connection with the AGREEMENT of methods, processes, designs, information or other items furnished or communicated to STATE and/or the AGENCY, their agents, officers and employees pursuant to the AGREEMENT; provided that this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from STATE and/or AGENCY's, their agents', officers and employees' failure to comply with specific written instructions regarding use provided to STATE and/or AGENCY, their agents, officers and employees by the CONSULTANT, its agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable.

The CONSULTANT's relation to the AGENCY shall be at all times as an independent contractor.

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the AGENCY may, in its sole discretion, by written notice to the CONSULTANT terminate this AGREEMENT if it is found after due notice and examination by the AGENCY that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the CONSULTANT in the procurement of, or performance under, this AGREEMENT.

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees or its agents against the STATE and/or the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. The Parties have mutually negotiated this waiver.

Unless otherwise specified in this AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the project. Subject to the processing of a new sole source, or an acceptable supplemental AGREEMENT, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of this AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

## Insurance Coverage

- A. Worker's compensation and employer's liability insurance as required by the STATE.
- B. Commercial general liability insurance written under ISO Form CG 00 01 12 04 or its equivalent with minimum limits of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate for each policy period.
- C. Business auto liability insurance written under ISO Form CG 00 01 10 01 or equivalent providing coverage for any "Auto" (Symbol 1) used in an amount not less than a one million dollar (\$1,000,000.00) combined single limit for each occurrence.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance, the STATE and AGENCY, their officers, employees, and agents will be named on all policies of CONSULTANT and any sub-consultant and/or subcontractor as an additional insured (the "AIs"), with no restrictions or limitations concerning products and completed operations coverage. This coverage shall be primary coverage and non-contributory and any coverage maintained by the AIs shall be excess over, and shall not contribute with, the additional insured coverage required hereunder. The CONSULTANT's and the sub-consultant's and/or subcontractor's insurer shall waive any and all rights of subrogation against the AIs. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by this AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to:

Name: Engineering Services

Agency: City of Spokane

Address: 808 W. Spokane Falls Blvd.

City: Spokane                      State: WA      Zip: 99201

Email: dbuller@spokanecity.org

Phone: 509-625-6700

Facsimile: 509-625-6349

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT's professional liability to the AGENCY, including that which may arise in reference to section IX "Termination of Agreement" of this AGREEMENT, shall be limited to the accumulative amount of the authorized AGREEMENT or one million dollars (\$1,000,000.00), whichever is greater, unless the limit of liability is increased by the AGENCY pursuant to Exhibit H. In no case shall the CONSULTANT's professional liability to third parties be limited in any way.

The parties enter into this AGREEMENT for the sole benefit of the parties, and to the exclusion of any third part, and no third party beneficiary is intended or created by the execution of this AGREEMENT.

The AGENCY will pay no progress payments under section V "Payment Provisions" until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

### **XIII. Extra Work**

- A. The AGENCY may at any time, by written order, make changes within the general scope of this AGREEMENT in the SERVICES to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the SERVICES under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of this AGREEMENT, the AGENCY shall make an equitable adjustment in the: (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify this AGREEMENT accordingly.
- C. The CONSULTANT must submit any "request for equitable adjustment," hereafter referred to as "CLAIM," under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of this AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the section XI "Disputes" clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (A.) and (B.) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

### **XIV. Endorsement of Plans**

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

### **XV. Federal Review**

The Federal Highway Administration shall have the right to participate in the review or examination of the SERVICES in progress.

### **XVI. Certification of the Consultant and the Agency**

Attached hereto as Exhibit "G-1(a and b)" are the Certifications of the CONSULTANT and the AGENCY, Exhibit "G-2" Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit "G-3" Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit "G-4" Certificate of Current Cost or Pricing Data. Exhibit "G-3" is required only in AGREEMENT's over one hundred thousand dollars (\$100,000.00) and Exhibit "G-4" is required only in AGREEMENT's over five hundred thousand dollars (\$500,000.00.) These Exhibits must be executed by the CONSULTANT, and submitted with the master AGREEMENT, and returned to the AGENCY at the address listed in section III "General Requirements" prior to its performance of any SERVICES under this AGREEMENT.

### **XVII. Complete Agreement**

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as a supplement to this AGREEMENT.

### **XVIII. Execution and Acceptance**

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and AGREEMENT's contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept this AGREEMENT and agrees to all of the terms and conditions thereof.

## **XIX. Protection of Confidential Information**

The CONSULTANT acknowledges that some of the material and information that may come into its possession or knowledge in connection with this AGREEMENT or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other local, state, or federal statutes ("State's Confidential Information"). The "State's Confidential Information" includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles credit card information, driver's license numbers, medical data, law enforcement records (or any other information identifiable to an individual), STATE and AGENCY source code or object code, STATE and AGENCY security data, non-public Specifications, STATE and AGENCY non-publicly available data, proprietary software, STATE and AGENCY security data, or information which may jeopardize any part of the project that relates to any of these types of information. The CONSULTANT agrees to hold the State's Confidential Information in strictest confidence and not to make use of the State's Confidential Information for any purpose other than the performance of this AGREEMENT, to release it only to authorized employees, sub-consultants or subcontractors requiring such information for the purposes of carrying out this AGREEMENT, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make it known to any other party without the AGENCY's express written consent or as provided by law. The CONSULTANT agrees to release such information or material only to employees, sub-consultants or subcontractors who have signed a nondisclosure AGREEMENT, the terms of which have been previously approved by the AGENCY. The CONSULTANT agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to the State's Confidential Information.

Immediately upon expiration or termination of this AGREEMENT, the CONSULTANT shall, at the AGENCY's option: (i) certify to the AGENCY that the CONSULTANT has destroyed all of the State's Confidential Information; or (ii) returned all of the State's Confidential Information to the AGENCY; or (iii) take whatever other steps the AGENCY requires of the CONSULTANT to protect the State's Confidential Information.

As required under Executive Order 00-03, the CONSULTANT shall maintain a log documenting the following: the State's Confidential Information received in the performance of this AGREEMENT; the purpose(s) for which the State's Confidential Information was received; who received, maintained, and used the State's Confidential Information; and the final disposition of the State's Confidential Information. The CONSULTANT's records shall be subject to inspection, review, or audit upon reasonable notice from the AGENCY.

The AGENCY reserves the right to monitor, audit, or investigate the use of the State's Confidential Information collected, used, or acquired by the CONSULTANT through this AGREEMENT. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by the CONSULTANT or its sub-consultants or subcontractors may result in termination of this AGREEMENT and demand for return of all State's Confidential Information, monetary damages, or penalties

It is understood and acknowledged that the CONSULTANT may provide the AGENCY with information, which is proprietary and/or confidential during the term of this AGREEMENT. The parties agree to maintain the confidentiality of such information during the term of this AGREEMENT and afterwards. All materials containing such proprietary and/or confidential information shall be clearly identified and marked as "Confidential" and shall be returned to the disclosing party at the conclusion of the SERVICES under this AGREEMENT.

The CONSULTANT shall provide the AGENCY with a list of all information and materials it considers confidential and/or proprietary in nature: (a) at the commencement of the term of this AGREEMENT, or (b) as soon as such confidential or proprietary material is developed. "Proprietary and/or confidential information" is not meant to include any information which, at the time of its disclosure: (i) is already known to the other party; (ii) is rightfully disclosed to one of the parties by a third party that is not acting as an agent or representative for the other party; (iii) is independently developed by or for the other party; (iv) is publicly known; or (v) is generally utilized by unaffiliated third parties engaged in the same business or businesses as the CONSULTANT.

The parties also acknowledge that the AGENCY is subject to Washington State and federal public disclosure laws. As such, the AGENCY shall maintain the confidentiality of all such information marked proprietary and or confidential or otherwise exempt, unless such disclosure is required under applicable state or federal law. If a public disclosure request is made to view materials identified as "Proprietary and/or confidential information" or otherwise exempt information, the AGENCY will notify the CONSULTANT of the request and of the date that such records will be released to the requester unless the CONSULTANT obtains a court order from a court of competent jurisdiction enjoining that disclosure. If the CONSULTANT fails to obtain the court order enjoining disclosure, the AGENCY will release the requested information on the date specified.

The CONSULTANT agrees to notify the sub-consultant of any AGENCY communication regarding disclosure that may include a sub-consultant's proprietary and/or confidential information. The CONSULTANT notification to the sub-consultant will include the date that such records will be released by the AGENCY to the requester and state that unless the sub-consultant obtains a court order from a court of competent jurisdiction enjoining that disclosure the AGENCY will release the requested information. If the CONSULTANT and/or sub-consultant fail to obtain a court order or other judicial relief enjoining the AGENCY by the release date, the CONSULTANT shall waive and release and shall hold harmless and indemnify the AGENCY from all claims of actual or alleged damages, liabilities, or costs associated with the AGENCY's said disclosure of sub-consultants' information.

## **XX. Records Maintenance**

During the progress of the Work and SERVICES provided hereunder and for a period of not less than six (6) years from the date of final payment to the CONSULTANT, the CONSULTANT shall keep, retain, and maintain all "documents" pertaining to the SERVICES provided pursuant to this AGREEMENT. Copies of all "documents" pertaining to the SERVICES provided hereunder shall be made available for review at the CONSULTANT's place of business during normal working hours. If any litigation, claim, or audit is commenced, the CONSULTANT shall cooperate with AGENCY and assist in the production of all such documents. "Documents" shall be retained until all litigation, claims or audit findings have been resolved even though such litigation, claim, or audit continues past the six (6) year retention period.


For purposes of this AGREEMENT, "documents" means every writing or record of every type and description, including electronically stored information ("ESI"), that is in the possession, control, or custody of the CONSULTANT, including, without limitation, any and all correspondences, contracts, AGREEMENTs, appraisals, plans, designs, data, surveys, maps, spreadsheets, memoranda, stenographic or handwritten notes, reports, records, telegrams, schedules, diaries, notebooks, logbooks, invoices, accounting records, work sheets, charts, notes, drafts, scribbings, recordings, visual displays, photographs, minutes of meetings, tabulations, computations, summaries, inventories, and writings regarding conferences, conversations or telephone conversations, and any and all other taped, recorded, written, printed or typed matters of any kind or description; every copy of the foregoing whether or not the original is in the possession, custody, or control of the CONSULTANT, and every copy of any of the foregoing, whether or not such copy is a copy identical to an original, or whether or not such copy contains any commentary or notation whatsoever that does not appear on the original.

For purposes of this AGREEMENT, "ESI" means any and all computer data or electronic recorded media of any kind, including "Native Files", that are stored in any medium from which it can be retrieved and examined, either directly or after translation into a reasonably useable form. ESI may include information and/or documentation stored in various software programs such as Email, Outlook, Word, Excel, Access, Publisher, PowerPoint, Adobe Acrobat, SQL databases, or any other software or electronic communication programs or databases that the CONSULTANT may use in the performance of its operations. ESI may be located on network servers, backup tapes, smart phones, thumb drives, CDs, DVDs, floppy disks, work computers, cell phones, laptops, or any other electronic device that CONSULTANT uses in the performance of its Work or SERVICES hereunder, including any personal devices used by the CONSULTANT or any sub-consultant at home.

"Native files" are a subset of ESI and refer to the electronic format of the application in which such ESI is normally created, viewed, and /or modified

The CONSULTANT shall include this section XX "Records Maintenance" in every subcontract it enters into in relation to this AGREEMENT and bind the sub-consultant to its terms, unless expressly agreed to otherwise in writing by the AGENCY prior to the execution of such subcontract.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the "Execution Date" box on page one (1) of this AGREEMENT.

  
\_\_\_\_\_  
Signature

June 26, 2020  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

*Any modification, change, or reformation of this AGREEMENT shall require approval as to form by the Office of the Attorney General.*

# ***Exhibit A***

## ***Scope of Work***

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Project No. \_\_\_\_\_

The scope of work for the various federal aid projects covered in this agreement will vary by project but is generally described in the "Description of Work" on the first page of this agreement.

The project covered include:

12th Ave. – Deer Heights to Flint Rd.

Centennial Trail Summit Blvd.

Driscoll – Alberta to Garland

Fish Lake Trail Phase 3B

Fish Lake Trail to Centennial Trail Connection

Fort George Wright

Freya St., Garland to Francis

Freya – Wellesley to Francis

Havana St. – Sprague to Broadway

Maple-Wellesley Intersection

Millwood Trail – Greene to Felts Field

North Bank Trail

North River Dr. Sidewalk – East of Washington St.

Ray/Freya – Hartson to 17th

Riverside Ave. – Monroe to Division

Sherman Ave. / 5th Ave. Traffic Signal

Sprague Ave (multiple phases) – pavement reconstruction, curb bumpouts, stormwater separation etc.

Sunset Highway Bike Path – Royal to Deer Heights – bike path construction

Thor-Freya Reconstruction – Sprague to Hartson

Wellesley Ave., Freya to Havana



## ***Exhibit B***

### ***DBE Participation Plan***

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In the absence of a mandatory UDBE, the Consultant shall continue their outreach efforts to provide SBE maximum practicable opportunities.

# **Exhibit C**

## **Preparation and Delivery of Electronic Engineering and Other Data**

In this Exhibit the agency, as applicable, is to provide a description of the format and standards the consultant is to use in preparing electronic files for transmission to the agency. The format and standards to be provided may include, but are not limited to, the following:

### **I. Surveying, Roadway Design & Plans Preparation Section**

#### **A. Survey Data**

To be mutually agreed upon

#### **B. Roadway Design Files**

To be mutually agreed upon

#### **C. Computer Aided Drafting Files**

Industry standard - to be mutually agreed upon

D. Specify the Agency's Right to Review Product with the Consultant

Phone and in-person consultation as necessary

E. Specify the Electronic Deliverables to Be Provided to the Agency

Varies by project

F. Specify What Agency Furnished Services and Information Is to Be Provided

Varies by project

II. Any Other Electronic Files to Be Provided

Varies by project

III. Methods to Electronically Exchange Data

Email or city provided FTP

A. Agency Software Suite  
Industry standard

B. Electronic Messaging System  
Industry standard

C. File Transfers Format  
Industry standard

## **Exhibit D**

### **Prime Consultant Cost Computations**

Will be negotiated project by project subject to the attached fee/rate schedule (Exhibit K) before notice to proceed for each project is given.

## ***Exhibit E***

### ***Sub-consultant Cost Computations***

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The CONSULTANT shall not sub-contract for the performance of any work under this AGREEMENT without prior written permission of the AGENCY. Refer to section VI "Sub-Contracting" of this AGREEMENT.

There is no planned sub-consultant work planned. In the event consultant desires a sub-consultant, the procedures in Section VI of this agreement shall be followed.

# **Exhibit F**

## **Title VI Assurances**

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During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "REGULATIONS"), which are herein incorporated by reference and made a part of this AGREEMENT.
2. **Non-discrimination:** The CONSULTANT, with regard to the work performed during this AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when this AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
3. **Solicitations for Sub-consultants, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports:** The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the AGENCY, the STATE, or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, the STATE, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the CONSULTANT's non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE, or the FHWA may determine to be appropriate, including, but not limited to:
  - Withholding of payments to the CONSULTANT under this AGREEMENT until the CONSULTANT complies, and/or;
  - Cancellation, termination, or suspension of this AGREEMENT, in whole or in part.
6. **Incorporation of Provisions:** The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the STATE, the AGENCY, or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY enter into such litigation to protect the interests of the STATE and/or the AGENCY and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.



# **Exhibit G**

## **Certification Document**

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- Exhibit G-1(a) Certification of Consultant
- Exhibit G-1(b) Certification of City of Spokane
- Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions
- Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying
- Exhibit G-4 Certificate of Current Cost or Pricing Data

## Exhibit G-1(a) Certification of Consultant

I hereby certify that I am the and duly authorized representative of the firm of  
Thomas Dean & Hoskins, Inc.

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whose address is

303 E. 2nd Ave., Spokane, WA 99202

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and that neither the above firm nor I have

- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this AGREEMENT;
- b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be furnished to the City of Spokane  
and the Federal Highway Administration, U.S. Department of Transportation in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

**Thomas Dean & Hoskins, Inc.**

---

Consultant (Firm Name)



Signature (Authorized Official of Consultant)

**June 26, 2020**

---

Date

**Exhibit G-1(b) Certification of** City of Spokane

I hereby certify that I am the:

☒ Mayor

☐ Other

of the City of Spokane, and Thomas Dean & Hoskins, Inc.

or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this AGREEMENT to:

- a) Employ or retain, or agree to employ to retain, any firm or person; or
- b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be furnished to the Thomas Dean & Hoskins, Inc.

and the Federal Highway Administration, U.S. Department of Transportation, in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## Exhibit G-2 Certification Regarding Debarment Suspension and Other Responsibility Matters - Primary Covered Transactions

- I. The prospective primary participant 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 (3) year period preceding this proposal been convicted of 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 anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; an
  - D. Have not within a three (3) year period preceding this application / proposal had one or more public transactions (Federal, State and local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification such prospective participant shall attach an explanation to this proposal.

**Thomas Dean & Hoskins, Inc.**

Consultant (Firm Name)



Signature (Authorized Official of Consultant)

**June 26, 2020**

Date

## Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative AGREEMENT, and the extension, continuation, renewal, amendment, or modification of Federal contract, grant, loan or cooperative AGREEMENT.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative AGREEMENT, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00, and not more than \$100,000.00 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier sub-contracts, which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

**Thomas Dean & Hoskins, Inc.**

Consultant (Firm Name)



Signature (Authorized Official of Consultant)

**June 26, 2020**

Date

## Exhibit G-4 Certification of Current Cost or Pricing Data

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4) submitted, either actually or by specific identification in writing, to the Contracting Officer or to the Contracting Officer's representative in support of THIS AGREEMENT \* are accurate, complete, and current as of the date of execution of this agreement \*\*.

This certification includes the cost or pricing data supporting any advance AGREEMENT's and forward pricing rate AGREEMENT's between the offer or and the Government that are part of the proposal.

Firm: Thomas Dean & Hoskins, Inc.



Signature

June 26, 2020

Title

Date of Execution \_\_\_\_\_ \*\*\*.

\*Identify the proposal, quotation, request for pricing adjustment, or other submission involved, giving the appropriate identifying number (e.g. project title.)

\*\*Insert the day, month, and year, when price negotiations were concluded and price AGREEMENT was reached.

\*\*\*Insert the day, month, and year, of signing, which should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed to.

## **Exhibit H**

### **Liability Insurance Increase**

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#### **To Be Used Only If Insurance Requirements Are Increased**

The professional liability limit of the CONSULTANT to the AGENCY identified in Section XII, Legal Relations and Insurance of this Agreement is amended to \$ N/A .

The CONSULTANT shall provide Professional Liability insurance with minimum per occurrence limits in the amount of \$ \_\_\_\_\_.

Such insurance coverage shall be evidenced by one of the following methods:

- Certificate of Insurance
- Self-insurance through an irrevocable Letter of Credit from a qualified financial institution

Self-insurance through documentation of a separate fund established exclusively for the payment of professional liability claims, including claim amounts already reserved against the fund, safeguards established for payment from the fund, a copy of the latest annual financial statements, and disclosure of the investment portfolio for those funds.

Should the minimum Professional Liability insurance limit required by the AGENCY as specified above exceed \$1 million per occurrence or the value of the contract, whichever is greater, then justification shall be submitted to the Federal Highway Administration (FHWA) for approval to increase the minimum insurance limit.

If FHWA approval is obtained, the AGENCY may, at its own cost, reimburse the CONSULTANT for the additional professional liability insurance required.

Notes: Cost of added insurance requirements: \$ \_\_\_\_\_.

- Include all costs, fee increase, premiums.
  - This cost shall not be billed against an FHWA funded project.
  - For final contracts, include this exhibit
-

# **Exhibit I**

## ***Alleged Consultant Design Error Procedures***

---

The purpose of this exhibit is to establish a procedure to determine if a consultant has alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

### **Step 1 Potential Consultant Design Error(s) is Identified by Agency's Project Manager**

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

### **Step 2 Project Manager Documents the Alleged Consultant Design Error(s)**

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include all decisions and descriptions of work, photographs, records of labor, materials, and equipment.

### **Step 3 Contact the Consultant Regarding the Alleged Design Error(s)**

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

### **Step 4 Attempt to Resolve Alleged Design Error with Consultant**

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide LP, through the Region Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.
- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.



## **Step 5 Forward Documents to Local Programs**

For federally funded projects, all available information, including costs, should be forwarded through the Region Local Programs Engineer to LP for their review and consultation with the FHWA. LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, LP will request assistance from the Attorney General's Office for legal interpretation. LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

# **Exhibit J**

## **Consultant Claim Procedures**

---

The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) total a \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

### **Step 1 Consultant Files a Claim with the Agency Project Manager**

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

### **Step 2 Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation**

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will meet with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action is needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

### **Step 3 Preparation of Support Documentation Regarding Consultant's Claim(s)**

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associate with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

### **Step 4 Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation**

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

### **Step 5 Informing Consultant of Decision Regarding the Claim**

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

### **Step 6 Preparation of Supplement or New Agreement for the Consultant's Claim(s)**

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit

**EXHIBIT K - CONSULTANT FEE DETERMINATION - SUMMARY SHEET**

City of Spokane - On-Call Structural Engineering (Fed Aid) for 2020

Prepared By: Steve Marsh, TD&H Engineering

\*\*\* CONFIDENTIAL \*\*\*

DISCIPLINE OR JOB TITLE	AUDITED OVERHEAD RATE					15% PROFIT	=	LABOR RATE
	DIRECT LABOR	+	145.60%	+				
Engineer VI	\$ 57.45		\$ 83.65		\$	8.62		\$ 149.71
Engineer V	\$ 52.39		\$ 76.28		\$	7.86		\$ 136.53
Engineer IV	\$ 44.94		\$ 65.43		\$	6.74		\$ 117.11
Engineer III	\$ 40.25		\$ 58.60		\$	6.04		\$ 104.89
Engineer II	\$ 35.00		\$ 50.96		\$	5.25		\$ 91.21
Engineer I	\$ 28.85		\$ 42.01		\$	4.33		\$ 75.18
CAD Designer	\$ 20.10		\$ 29.27		\$	3.02		\$ 52.38
Construction Representative II	\$ 34.00		\$ 49.50		\$	5.10		\$ 88.60
Administrative Assistant	\$ 20.02		\$ 29.15		\$	3.00		\$ 52.17
Engineering Technician	\$ 35.69		\$ 51.96		\$	5.35		\$ 93.01
Registered Land Surveyor	\$ 41.24		\$ 60.05		\$	6.19		\$ 107.47



STATE OF WASHINGTON

Department of Labor & Industries

# Certificate of Workers' Compensation Coverage

June 19, 2020

WA UBI No.	601 014 909
L&I Account ID	145,678-00
Legal Business Name	THOMAS DEAN & HOSKINS INC
Doing Business As	THOMAS DEAN & HOSKINS INC
Workers' Comp Premium Status:	Account is current.
Estimated Workers Reported (See Description Below)	Quarter 1 of Year 2020 "11 to 20 Workers"
Account Representative	Employer Services Help Line, (360) 902-4817
Licensed Contractor?	No

## What does "Estimated Workers Reported" mean?

Estimated workers reported represents the number of full time position requiring at least 480 hours of work per calendar quarter. A single 480 hour position may be filled by one person, or several part time workers.

## Industrial Insurance Information

Employers report and pay premiums each quarter based on hours of employee work already performed, and are liable for premiums found later to be due.

Industrial insurance accounts have no policy periods, cancellation dates, limitations of coverage or waiver of subrogation (See [RCW 51.12.050](#) and [51.16.190](#)).

ACORD™

## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/22/2020

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 any rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> <b>Greyling Ins. Brokerage/EPIC</b> <b>3780 Mansell Rd. Suite 370</b> <b>Alpharetta, GA 30022</b>	<b>CONTACT NAME:</b> Nicole Larsen <b>PHONE (A/C, No, Ext):</b> 770.552.4225 <b>FAX (A/C, No):</b> 866.550.4082 <b>E-MAIL ADDRESS:</b> Nicole.Larsen@greyling.com																					
<b>INSURED</b> <b>Thomas, Dean &amp; Hoskins, Inc.</b> <b>1800 River Drive North</b> <b>Great Falls, MT 59401</b>	<table border="1"> <tr> <th colspan="2">INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr> <tr> <td colspan="2">INSURER A : Sentinel Insurance Company</td><td>11000</td></tr> <tr> <td colspan="2">INSURER B : Hartford Casualty Ins. Co.</td><td>29424</td></tr> <tr> <td colspan="2">INSURER C :</td><td></td></tr> <tr> <td colspan="2">INSURER D :</td><td></td></tr> <tr> <td colspan="2">INSURER E :</td><td></td></tr> <tr> <td colspan="2">INSURER F :</td><td></td></tr> </table>	INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A : Sentinel Insurance Company		11000	INSURER B : Hartford Casualty Ins. Co.		29424	INSURER C :			INSURER D :			INSURER E :			INSURER F :		
INSURER(S) AFFORDING COVERAGE		NAIC #																				
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INSURER C :																						
INSURER D :																						
INSURER E :																						
INSURER F :																						

## COVERAGES

CERTIFICATE NUMBER: 19-20

REVISION NUMBER:

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 INSR 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 <input checked="" type="checkbox"/> EL & Stop Gap(ND&WA) <b>\$1M/\$1M\$1M</b> GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:		20SBWPI6386	09/01/2019	09/01/2020	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 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 OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY		20UEGAU8256	09/01/2019	09/01/2020	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$10000		20XHGYH2417	09/01/2019	09/01/2020	EACH OCCURRENCE \$8,000,000 AGGREGATE \$8,000,000 \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y/N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

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

Re: Project - City of Spokane Structural Engineering On-Call Services Federal Aid. City of Spokane, State of Washington, their officers, employees, and agents are named as Additional Insureds on the above referenced liability policies with the exception of workers compensation & professional liability where required by written contract.

## CERTIFICATE HOLDER

## CANCELLATION

<b>City of Spokane</b> <b>808 W Spokane Falls Blvd</b> <b>Spokane, WA 99201</b>	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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# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/19/2020

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  
Hall & Company  
19660 10th Ave NE  
Poulsbo WA 98370

CONTACT NAME: Sarah Fish  
PHONE (A/C, No, Ext): 360-626-2961 FAX (A/C, No): 360-626-2961  
E-MAIL ADDRESS: sfish@hallandcompany.com

INSURED  
Thomas Dean & Hoskins Inc  
1800 River Drive N  
Great Falls MT 59401

THOMDEA-01

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Argonaut Insurance Company	19801
INSURER B : RLI Insurance Company	13056
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

**COVERAGES****CERTIFICATE NUMBER:** 2088775316**REVISION NUMBER:**

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 INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>COMMERCIAL GENERAL LIABILITY</b>						
	<input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR						EACH OCCURRENCE \$
							DAMAGE TO RENTED PREMISES (Ea occurrence) \$
							MED EXP (Any one person) \$
							PERSONAL & ADV INJURY \$
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE \$
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						PRODUCTS - COMP/OP AGG \$
	OTHER:						\$
	<b>AUTOMOBILE LIABILITY</b>						
	<input type="checkbox"/> ANY AUTO						COMBINED SINGLE LIMIT (Ea accident) \$
	<input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS						BODILY INJURY (Per person) \$
	<input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						BODILY INJURY (Per accident) \$
							PROPERTY DAMAGE (Per accident) \$
							\$
	<b>UMBRELLA LIAB</b>						EACH OCCURRENCE \$
	<input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE						AGGREGATE \$
	DED RETENTION \$						\$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>						
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y / N <input type="checkbox"/> N / A						PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/>
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. EACH ACCIDENT \$
							E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$
A B	Professional Liability Excess Professional Liability			121AE015449500 RDP0037387	9/1/2019 9/1/2019	9/1/2020 9/1/2020	\$1,000,000 Per Claim \$1,000,000 Per Claim \$1,000,000 Agg \$1,000,000 Agg

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

Professional Liability limit is \$2 Million per claim, \$2 Million aggregate. Argonaut insurance provides the first \$1 Million and RLI Insurance provides excess \$1 Million, over Argonaut, for total Professional Liability limits of \$2 Million each claim/ \$2 Million Aggregate

Project: City of Spokane Structural Engineering On-Call Services Federal Aid

**CERTIFICATE HOLDER****CANCELLATION**

City of Spokane  
808 W Spokane Falls Blvd  
Spokane WA 99201

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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# Expenditure Control Form

1. All requests being made must be accompanied by this form.
2. Route **ALL** requests to the Finance Department for signature.
3. If request is greater than \$100,000 it requires signatures by Finance and the City Administrator. Finance Dept. will route to City Administrator.

Today's Date:

Type of expenditure:

Goods

☐

Services

☐

Department:

Approving Supervisor:

Amount of Proposed Expenditure:

Funding Source:

**Please verify correct funding sources. Please indicate breakdown if more than one funding source.**

**Why is this expenditure necessary now?**

**What are the impacts if expenses are deferred?**

**What alternative resources have been considered?**

**Description of the goods or service and any additional information?**

Person Submitting Form/Contact:

FINANCE SIGNATURE:

---

CITY ADMINISTRATOR SIGNATURE:

---

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

07/13/2020

**Date Rec'd**

6/22/2020

**Clerk's File #**

OPR 2020-0568

**Renews #****Submitting Dept**

ENGINEERING SERVICES

**Cross Ref #****Contact Name/Phone**

DAN BULLER 625-6391

**Project #**

2020089

**Contact E-Mail**

DBULLER@SPOKANECITY.ORG

**Bid #****Agenda Item Type**

Contract Item

**Requisition #**

MASTER

**Agenda Item Name**0370 - GEOENGINEERS - GEOTECHNICAL ENGINEERING ON-CALL SERVICES  
FEDERAL AID**Agenda Wording**

Local Area A&E Professional Services Consultant Agreement with GeoEngineers, Inc.; (Spokane, WA) for Geotechnical Engineering for 2020-2022 Federal Aid Project for the amount not to exceed \$350,000.00. (Various Councils)

**Summary (Background)**

The Agreement for Geotechnical Engineering Services is for a period of two years. An option for a one year extension will be granted at the City's discretion. Supplemental Agreements will be prepared under this agreement and scopes for individual project needs. Funding shall be from the individual project.

**Fiscal Impact**

Grant related? YES

**Budget Account**

Public Works? YES

Expense \$ 350,000.00

# Various

Select \$

#

Select \$

#

Select \$

#

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

TWOHIG, KYLE

**Study Session\Other**

PIES 6/22/20

**Division Director**

SIMMONS, SCOTT M.

**Council Sponsor**

Beggs

**Finance**

WALLACE, TONYA

**Distribution List****Legal**

ODLE, MARI

eraea@spokanecity.org

**For the Mayor**

ORMSBY, MICHAEL

publicworksaccounting@spokanecity.org

**Additional Approvals**

kgoodman@spokanecity.org

**Purchasing**

htrautman@spokanecity.org

**GRANTS &  
CONTRACT MGMT**

STOPHER, SALLY

aduffey@spokanecity.org

tdugger@geoengineers.com

dbuller@spokanecity.org

## Briefing Paper

### PIES

<b>Division &amp; Department:</b>	Engineering Services; Public Works
<b>Subject:</b>	On-Call Engineering Consultants
<b>Date:</b>	June 22, 2020
<b>Contact (email &amp; phone):</b>	Dan Buller ( <a href="mailto:dbuller@spokanecity.org">dbuller@spokanecity.org</a> , 625-6391)
<b>City Council Sponsor:</b>	
<b>Executive Sponsor:</b>	Scott Simmons
<b>Committee(s) Impacted:</b>	PIES
<b>Type of Agenda item:</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
<b>Alignment:</b> (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	
<b>Strategic Initiative:</b>	Innovative Infrastructure
<b>Deadline:</b>	
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	Informational - background information for committee review
<b>Background/History:</b> Engineering Services has “on-call” agreements with various consultants for specialized engineering or related services (structural, geotech., surveying, landscape architecture, cultural resource and real estate acquisition) associated with the City’s public works projects. Those firms are selected on the basis of qualifications as required by RCW 39. These typically agreements last from 2-3 years.	
<b>Executive Summary:</b> <ul style="list-style-type: none"> <li>A request for qualifications was advertised earlier this spring for structural engineering, geotechnical engineering, surveying, landscape architecture, culture resource and real estate acquisition consultants.</li> <li>A review committee ranked the firms by qualifications. One firm will be selected for each discipline.</li> <li>Engineering Services expects to bring six agreements to council over the next several weeks.</li> <li>Costs incurred under the proposed contracts are paid as part of each public works project for which the consultant is used.</li> </ul>	
<b>Budget Impact:</b> Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Annual/Reoccurring expenditure? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A If new, specify funding source: Other budget impacts: (revenue generating, match requirements, etc.)	
<b>Operations Impact:</b> 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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A Specify changes required: Known challenges/barriers:	

# Local Agency A&E Professional Services Negotiated Hourly Rate Consultant Agreement

Agreement Number:

Firm/Organization Legal Name (do not use dba's): <b>GeoEngineers, Inc.</b>		
Address <b>523 E. Second Ave., Spokane, WA 99202</b>	Federal Aid Number	
UBI Number <b>600-375-010</b>	Federal TIN <b>91-6237984</b>	
Execution Date	Completion Date <b>7/31/21</b>	
1099 Form Required <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Federal Participation <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Project Title <b>City of Spokane Geotechnical Engineering On-Call Services Federal Aid</b>		
Description of Work <b>Geotechnical work for the projects listed in Exhibit A below.</b>		
<input type="checkbox"/> Yes <input type="checkbox"/> Yes <input type="checkbox"/> Yes <input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No DBE Participation <input checked="" type="checkbox"/> No MBE Participation <input checked="" type="checkbox"/> No WBE Participation <input checked="" type="checkbox"/> No SBE Participation	Maximum Amount Payable: \$350,000.00

## Index of Exhibits

<a href="#">Exhibit A</a>	Scope of Work
<a href="#">Exhibit B</a>	DBE Participation
<a href="#">Exhibit C</a>	Preparation and Delivery of Electronic Engineering and Other Data
<a href="#">Exhibit D</a>	Prime Consultant Cost Computations
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<a href="#">Exhibit F</a>	Title VI Assurances
<a href="#">Exhibit G</a>	Certification Documents
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<a href="#">Exhibit J</a>	Consultant Claim Procedures

THIS AGREEMENT, made and entered into as shown in the “Execution Date” box on page one (1) of this AGREEMENT, between the City of Spokane, hereinafter called the “AGENCY,” and the “Firm / Organization Name” referenced on page one (1) of this AGREEMENT, hereinafter called the “CONSULTANT.”

WHEREAS, the AGENCY desires to accomplish the work referenced in “Description of Work” on page one (1) of this AGREEMENT and hereafter called the “SERVICES;” and does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary SERVICES; and

WHEREAS, the CONSULTANT represents that they comply with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the AGENCY.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

## **I. General Description of Work**

The work under this AGREEMENT shall consist of the above-described SERVICES as herein defined, and necessary to accomplish the completed work for this project. The CONSULTANT shall furnish all services, labor, and related equipment and, if applicable, sub-consultants and subcontractors necessary to conduct and complete the SERVICES as designated elsewhere in this AGREEMENT.

## **II. General Scope of Work**

The Scope of Work and projected level of effort required for these SERVICES is described in Exhibit “A” attached hereto and by this reference made a part of this AGREEMENT. The General Scope of Work was developed utilizing performance based contracting methodologies.

## **III. General Requirements**

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress, and presentation meetings with the AGENCY and/or such State, Federal, Community, City, or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days’ notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit “A.”

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the SERVICES in sufficient detail so that the progress of the SERVICES can easily be evaluated.

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations, and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

Participation for Disadvantaged Business Enterprises (DBE) or Small Business Enterprises (SBE), if required, per 49 CFR Part 26, shall be shown on the heading of this AGREEMENT. If DBE firms are utilized at the commencement of this AGREEMENT, the amounts authorized to each firm and their certification number will be shown on Exhibit “B” attached hereto and by this reference made part of this AGREEMENT. If the Prime CONSULTANT is, a DBE certified firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY’s “DBE Program Participation Plan” and perform a minimum of 30% of the total amount of this AGREEMENT. It is recommended, but not required, that non-DBE Prime CONSULTANTS perform a minimum of 30% of the total amount of this AGREEMENT.

In the absence of a mandatory UDBE, the Consultant shall continue their outreach efforts to provide SBE firms maximum practicable opportunities.

The CONSULTANT, on a monthly basis, shall enter the amounts paid to all firms (including Prime) involved with this AGREEMENT into the [wsdot.diversitycompliance.com](http://wsdot.diversitycompliance.com) program. Payment information shall identify any DBE Participation. Non-minority, woman owned DBEs does not count towards UDBE goal attainment.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit “C – Preparation and Delivery of Electronic Engineering and other Data.”

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for these SERVICES, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring, as a part of this SERVICE, shall be without liability or legal exposure to the CONSULTANT.

Any and all notices or requests required under this AGREEMENT shall be made in writing and sent to the other party by (i) certified mail, return receipt requested, or (ii) by email or facsimile, to the address set forth below:

If to AGENCY:

Name:  
Agency:  
Address:  
City:                      State:              Zip:  
Email:  
Phone:  
Facsimile:

If to CONSULTANT:

Name:  
Agency:  
Address:  
City:                      State:              Zip:  
Email:  
Phone:  
Facsimile:

**IV. Time for Beginning and Completion**

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY. All work under this AGREEMENT shall conform to the criteria agreed upon detailed in the AGREEMENT documents. These SERVICES must be completed by the date shown in the heading of this AGREEMENT titled “Completion Date.”

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD, governmental actions, or other conditions beyond the control of the CONSULTANT. A prior supplemental AGREEMENT issued by the AGENCY is required to extend the established completion time.

## V. Payment Provisions

The CONSULTANT shall be paid by the AGENCY for completed SERVICES rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for SERVICES performed or SERVICES rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete SERVICES. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31 ([www.ecfr.gov](http://www.ecfr.gov)).

- A. Hourly Rates: Hourly rates are comprised of the following elements - Direct (Raw) Labor, Indirect Cost Rate, and Fee (Profit). The CONSULTANT shall be paid by the AGENCY for work done, based upon the negotiated hourly rates shown in Exhibits “D” and “E” attached hereto and by reference made part of this AGREEMENT. These negotiated hourly rates will be accepted based on a review of the CONSULTANT’s direct labor rates and indirect cost rate computations and agreed upon fee. The accepted negotiated rates shall be memorialized in a final written acknowledgment between the parties. Such final written acknowledgment shall be incorporated into, and become a part of, this AGREEMENT. The initially accepted negotiated rates shall be applicable from the approval date, as memorialized in a final written acknowledgment, to 180 days following the CONSULTANT’s fiscal year end (FYE) date.

The direct (raw) labor rates and classifications, as shown on Exhibits “D” and “E” shall be subject to renegotiations for each subsequent twelve (12) month period (180 days following FYE date to 180 days following FYE date) upon written request of the CONSULTANT or the AGENCY. The written request must be made to the other party within ninety (90) days following the CONSULTANT’s FYE date. If no such written request is made, the current direct (raw) labor rates and classifications as shown on Exhibits “D” and “E” will remain in effect for the twelve (12) month period.

Conversely, if a timely request is made in the manner set forth above, the parties will commence negotiations to determine the new direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period. Any agreed to renegotiated rates shall be memorialized in a final written acknowledgment between the parties. Such final written acknowledgment shall be incorporated into, and become a part of, this AGREEMENT. If requested, the CONSULTANT shall provide current payroll register and classifications to aid in negotiations. If the parties cannot reach an agreement on the direct (raw) labor rates and classifications, the AGENCY shall perform an audit of the CONSULTANT’s books and records to determine the CONSULTANT’s actual costs. The audit findings will establish the direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period.

The fee as identified in Exhibits “D” and “E” shall represent a value to be applied throughout the life of the AGREEMENT.

The CONSULTANT shall submit annually to the AGENCY an updated indirect cost rate within 180 days of the close of its fiscal year. An approved updated indirect cost rate shall be included in the current fiscal year rate under this AGREEMENT, even if/when other components of the hourly rate are not renegotiated. These rates will be applicable for the twelve (12) month period. At the AGENCY’s option, a provisional and/or conditional indirect cost rate may be negotiated. This provisional or conditional indirect rate shall remain in effect until the updated indirect cost rate is completed and approved. Indirect cost rate costs incurred during the provisional or conditional period will not be adjusted. The CONSULTANT may request an extension of the last approved indirect cost rate for the twelve (12) month period. These requests for provisional indirect cost rate and/or extension will be considered on a case-by-case basis, and if granted, will be memorialized in a final written acknowledgment.

The CONSULTANT shall maintain and have accessible support data for verification of the components of the hourly rates, i.e., direct (raw) labor, indirect cost rate, and fee (profit) percentage. The CONSULTANT shall bill each employee’s actual classification, and actual salary plus indirect cost rate plus fee.

- A. **Direct Non-Salary Costs:** Direct Non-Salary Costs will be reimbursed at the actual cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges, and fees of sub-consultants. Air or train travel will be reimbursed only to lowest price available, unless otherwise approved by the AGENCY. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the WSDOT's Accounting Manual M 13-82, Chapter 10 – Travel Rules and Procedures, and all revisions thereto. Air, train, and rental car costs shall be reimbursed in accordance with 48 Code of Federal Regulations (CFR) Part 31.205-46 "Travel Costs." The billing for Direct Non-salary Costs shall include an itemized listing of the charges directly identifiable with these SERVICES. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the STATE upon request. All above charges must be necessary for the SERVICES provided under this AGREEMENT.
- B. **Maximum Amount Payable:** The Maximum Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT on page one (1.) The Maximum Amount Payable does not include payment for extra work as stipulated in section XIII, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.
- C. **Monthly Progress Payments:** Progress payments may be claimed on a monthly basis for all costs authorized in A and B above. Detailed statements shall support the monthly billings for hours expended at the rates established in Exhibit "D," including names and classifications of all employees, and billings for all direct non-salary expenses. To provide a means of verifying the billed salary costs for the CONSULTANT's employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the SERVICES at the time of the interview.
- D. **Final Payment:** Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the SERVICES under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data, and other related documents, which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) calendar days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. Per WSDOT's "Audit Guide for Consultants," Chapter 23 "Resolution Procedures," the CONSULTANT has twenty (20) working days after receipt of the final Post Audit to begin the appeal process to the AGENCY for audit findings

E. **Inspection of Cost Records:** The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY and the United States, for a period of six (6) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this AGREEMENT is initiated before the expiration of the six (6) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed. An interim or post audit may be performed on this AGREEMENT. The audit, if any, will be performed by the State Auditor, WSDOT's Internal Audit Office and /or at the request of the AGENCY's Project Manager.



## **VI. Sub-Contracting**

The AGENCY permits subcontracts for those items of SERVICES as shown in Exhibit "A" attached hereto and by this reference made part of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any SERVICE under this AGREEMENT without prior written permission of the AGENCY. No permission for subcontracting shall create, between the AGENCY and sub-consultant, any contract or any other relationship.

Compensation for this sub-consultant SERVICES shall be based on the cost factors shown on Exhibit "E" attached hereto and by this reference made part of this AGREEMENT.

The SERVICES of the sub-consultant shall not exceed its maximum amount payable identified in each sub consultant cost estimate unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, indirect cost rate, direct non-salary costs and fee costs for the sub-consultant shall be negotiated and substantiated in accordance with section V "Payment Provisions" herein and shall be memorialized in a final written acknowledgment between the parties

All subcontracts shall contain all applicable provisions of this AGREEMENT, and the CONSULTANT shall require each sub-consultant or subcontractor, of any tier, to abide by the terms and conditions of this AGREEMENT. With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the STATE's Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT, sub-recipient, or sub-consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the recipient deems appropriate.

## **VII. Employment and Organizational Conflict of Interest**

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from this AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT's employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of this AGREEMENT, any professional or technical personnel who are, or have been, at any time during the period of this AGREEMENT, in the employ of the United States Department of Transportation or the AGENCY, except regularly retired employees, without written consent of the public employer of such person if he/she will be working on this AGREEMENT for the CONSULTANT.

Agreement Number:

## VIII. Nondiscrimination

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, sub-consultants, subcontractors and successors in interest, agrees to comply with the following laws and regulations:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Chapter 21 Subchapter V § 2000d through 2000d-4a)
- Federal-aid Highway Act of 1973 (23 U.S.C. Chapter 3 § 324)
- Rehabilitation Act of 1973 (29 U.S.C. Chapter 16 Subchapter V § 794)
- Age Discrimination Act of 1975 (42 U.S.C. Chapter 76 § 6101 *et. seq.*)
- Civil Rights Restoration Act of 1987 (Public Law 100-259)
- American with Disabilities Act of 1990 (42 U.S.C. Chapter 126 § 12101 *et. seq.*)
- 23 CFR Part 200
- 49 CFR Part 21
- 49 CFR Part 26
- RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit “F” attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit “F” in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

## IX. Termination of Agreement

The right is reserved by the AGENCY to terminate this AGREEMENT at any time with or without cause upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY, other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of this AGREEMENT, plus any direct non-salary costs incurred up to the time of termination of this AGREEMENT.

No payment shall be made for any SERVICES completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth in paragraph two (2) of this section, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In the event of a termination for default, the amount to be paid to the CONSULTANT shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing SERVICES to the date of termination, the amount of SERVICES originally required which was satisfactorily completed to date of termination, whether that SERVICE is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the SERVICES required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the SERVICES performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth in paragraph two (2) of this section.

If it is determined for any reason, that the CONSULTANT was not in default or that the CONSULTANT’s failure to perform is without the CONSULTANT’s or its employee’s fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

The CONSULTANT shall, within 15 days, notify the AGENCY in writing, in the event of the death of any member, partner, or officer of the CONSULTANT or the death or change of any of the CONSULTANT's supervisory and/or other key personnel assigned to the project or disaffiliation of any principally involved CONSULTANT employee.

The CONSULTANT shall also notify the AGENCY, in writing, in the event of the sale or transfer of 50% or more of the beneficial ownership of the CONSULTANT within 15 days of such sale or transfer occurring. The CONSULTANT shall continue to be obligated to complete the SERVICES under the terms of this AGREEMENT unless the AGENCY chooses to terminate this AGREEMENT for convenience or chooses to renegotiate any term(s) of this AGREEMENT. If termination for convenience occurs, final payment will be made to the CONSULTANT as set forth in the second and third paragraphs of this section.

Payment for any part of the SERVICES by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform SERVICES required of it by the AGENCY.

Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

## **X. Changes of Work**

The CONSULTANT shall make such changes and revisions in the completed work of this AGREEMENT as necessary to correct errors appearing therein, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed SERVICES or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under section XIII "Extra Work."

## **XI. Disputes**

Any disputed issue not resolved pursuant to the terms of this AGREEMENT shall be submitted in writing within 10 days to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J". In the event that either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this AGREEMENT, this action shall be initiated in the Superior Court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in the county in which the AGENCY is located.

## **XII. Legal Relations**

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall defend, indemnify, and hold the State of Washington (STATE) and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the negligence of, or the breach of any obligation under this AGREEMENT by, the CONSULTANT or the CONSULTANT's agents, employees, sub consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable; provided that nothing herein shall require a CONSULTANT

to defend or indemnify the STATE and the AGENCY and their officers and employees against and hold harmless the STATE and the AGENCY and their officers and employees from claims, demands or suits based solely upon the negligence of, or breach of any obligation under this AGREEMENT by the STATE and the AGENCY, their agents, officers, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the STATE and /or the AGENCY may be legally liable; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT is legally liable, and (b) the STATE and/or AGENCY, their agents, officers, employees, sub-consultants, subcontractors and or vendors, of any tier, or any other persons for whom the STATE and/or AGENCY may be legally liable, the defense and indemnity obligation shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable. This provision shall be included in any AGREEMENT between CONSULTANT and any sub-consultant, subcontractor and vendor, of any tier.

The CONSULTANT shall also defend, indemnify, and hold the STATE and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable, in performance of the Work under this AGREEMENT or arising out of any use in connection with the AGREEMENT of methods, processes, designs, information or other items furnished or communicated to STATE and/or the AGENCY, their agents, officers and employees pursuant to the AGREEMENT; provided that this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from STATE and/or AGENCY's, their agents', officers and employees' failure to comply with specific written instructions regarding use provided to STATE and/or AGENCY, their agents, officers and employees by the CONSULTANT, its agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable.

The CONSULTANT's relation to the AGENCY shall be at all times as an independent contractor.

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the AGENCY may, in its sole discretion, by written notice to the CONSULTANT terminate this AGREEMENT if it is found after due notice and examination by the AGENCY that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the CONSULTANT in the procurement of, or performance under, this AGREEMENT.

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees or its agents against the STATE and/or the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. The Parties have mutually negotiated this waiver.

Unless otherwise specified in this AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the project. Subject to the processing of a new sole source, or an acceptable supplemental AGREEMENT, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of this AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

## Insurance Coverage

- A. Worker's compensation and employer's liability insurance as required by the STATE.
- B. Commercial general liability insurance written under ISO Form CG 00 01 12 04 or its equivalent with minimum limits of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate for each policy period.
- C. Business auto liability insurance written under ISO Form CG 00 01 10 01 or equivalent providing coverage for any "Auto" (Symbol 1) used in an amount not less than a one million dollar (\$1,000,000.00) combined single limit for each occurrence.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance, the STATE and AGENCY, their officers, employees, and agents will be named on all policies of CONSULTANT and any sub-consultant and/or subcontractor as an additional insured (the "AIs"), with no restrictions or limitations concerning products and completed operations coverage. This coverage shall be primary coverage and non-contributory and any coverage maintained by the AIs shall be excess over, and shall not contribute with, the additional insured coverage required hereunder. The CONSULTANT's and the sub-consultant's and/or subcontractor's insurer shall waive any and all rights of subrogation against the AIs. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by this AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to:

Name:

Agency:

Address:

City: State: Zip:

Email:

Phone:

Facsimile:

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT's professional liability to the AGENCY, including that which may arise in reference to section IX "Termination of Agreement" of this AGREEMENT, shall be limited to the accumulative amount of the authorized AGREEMENT or one million dollars (\$1,000,000.00), whichever is greater, unless the limit of liability is increased by the AGENCY pursuant to Exhibit H. In no case shall the CONSULTANT's professional liability to third parties be limited in any way.

The parties enter into this AGREEMENT for the sole benefit of the parties, and to the exclusion of any third part, and no third party beneficiary is intended or created by the execution of this AGREEMENT.

The AGENCY will pay no progress payments under section V "Payment Provisions" until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

### **XIII. Extra Work**

- A. The AGENCY may at any time, by written order, make changes within the general scope of this AGREEMENT in the SERVICES to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the SERVICES under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of this AGREEMENT, the AGENCY shall make an equitable adjustment in the: (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify this AGREEMENT accordingly.
- C. The CONSULTANT must submit any “request for equitable adjustment,” hereafter referred to as “CLAIM,” under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of this AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the section XI “Disputes” clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (A.) and (B.) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

### **XIV. Endorsement of Plans**

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

### **XV. Federal Review**

The Federal Highway Administration shall have the right to participate in the review or examination of the SERVICES in progress.

### **XVI. Certification of the Consultant and the Agency**

Attached hereto as Exhibit “G-1(a and b)” are the Certifications of the CONSULTANT and the AGENCY, Exhibit “G-2” Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit “G-3” Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit “G-4” Certificate of Current Cost or Pricing Data. Exhibit “G-3” is required only in AGREEMENT’s over one hundred thousand dollars (\$100,000.00) and Exhibit “G-4” is required only in AGREEMENT’s over five hundred thousand dollars (\$500,000.00.) These Exhibits must be executed by the CONSULTANT, and submitted with the master AGREEMENT, and returned to the AGENCY at the address listed in section III “General Requirements” prior to its performance of any SERVICES under this AGREEMENT.

### **XVII. Complete Agreement**

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as a supplement to this AGREEMENT.

### **XVIII. Execution and Acceptance**

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and AGREEMENT’s contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept this AGREEMENT and agrees to all of the terms and conditions thereof.

## **XIX. Protection of Confidential Information**

The CONSULTANT acknowledges that some of the material and information that may come into its possession or knowledge in connection with this AGREEMENT or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other local, state, or federal statutes (“State’s Confidential Information”). The “State’s Confidential Information” includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles credit card information, driver’s license numbers, medical data, law enforcement records (or any other information identifiable to an individual), STATE and AGENCY source code or object code, STATE and AGENCY security data, non-public Specifications, STATE and AGENCY non-publicly available data, proprietary software, STATE and AGENCY security data, or information which may jeopardize any part of the project that relates to any of these types of information. The CONSULTANT agrees to hold the State’s Confidential Information in strictest confidence and not to make use of the State’s Confidential Information for any purpose other than the performance of this AGREEMENT, to release it only to authorized employees, sub-consultants or subcontractors requiring such information for the purposes of carrying out this AGREEMENT, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make it known to any other party without the AGENCY’s express written consent or as provided by law. The CONSULTANT agrees to release such information or material only to employees, sub-consultants or subcontractors who have signed a nondisclosure AGREEMENT, the terms of which have been previously approved by the AGENCY. The CONSULTANT agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to the State’s Confidential Information.

Immediately upon expiration or termination of this AGREEMENT, the CONSULTANT shall, at the AGENCY’s option: (i) certify to the AGENCY that the CONSULTANT has destroyed all of the State’s Confidential Information; or (ii) returned all of the State’s Confidential Information to the AGENCY; or (iii) take whatever other steps the AGENCY requires of the CONSULTANT to protect the State’s Confidential Information.

As required under Executive Order 00-03, the CONSULTANT shall maintain a log documenting the following: the State’s Confidential Information received in the performance of this AGREEMENT; the purpose(s) for which the State’s Confidential Information was received; who received, maintained, and used the State’s Confidential Information; and the final disposition of the State’s Confidential Information. The CONSULTANT’s records shall be subject to inspection, review, or audit upon reasonable notice from the AGENCY.

The AGENCY reserves the right to monitor, audit, or investigate the use of the State’s Confidential Information collected, used, or acquired by the CONSULTANT through this AGREEMENT. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by the CONSULTANT or its sub-consultants or subcontractors may result in termination of this AGREEMENT and demand for return of all State’s Confidential Information, monetary damages, or penalties

It is understood and acknowledged that the CONSULTANT may provide the AGENCY with information, which is proprietary and/or confidential during the term of this AGREEMENT. The parties agree to maintain the confidentiality of such information during the term of this AGREEMENT and afterwards. All materials containing such proprietary and/or confidential information shall be clearly identified and marked as “Confidential” and shall be returned to the disclosing party at the conclusion of the SERVICES under this AGREEMENT.

The CONSULTANT shall provide the AGENCY with a list of all information and materials it considers confidential and/or proprietary in nature: (a) at the commencement of the term of this AGREEMENT, or (b) as soon as such confidential or proprietary material is developed. "Proprietary and/or confidential information" is not meant to include any information which, at the time of its disclosure: (i) is already known to the other party; (ii) is rightfully disclosed to one of the parties by a third party that is not acting as an agent or representative for the other party; (iii) is independently developed by or for the other party; (iv) is publicly known; or (v) is generally utilized by unaffiliated third parties engaged in the same business or businesses as the CONSULTANT.

The parties also acknowledge that the AGENCY is subject to Washington State and federal public disclosure laws. As such, the AGENCY shall maintain the confidentiality of all such information marked proprietary and or confidential or otherwise exempt, unless such disclosure is required under applicable state or federal law. If a public disclosure request is made to view materials identified as "Proprietary and/or confidential information" or otherwise exempt information, the AGENCY will notify the CONSULTANT of the request and of the date that such records will be released to the requester unless the CONSULTANT obtains a court order from a court of competent jurisdiction enjoining that disclosure. If the CONSULTANT fails to obtain the court order enjoining disclosure, the AGENCY will release the requested information on the date specified.

The CONSULTANT agrees to notify the sub-consultant of any AGENCY communication regarding disclosure that may include a sub-consultant's proprietary and/or confidential information. The CONSULTANT notification to the sub-consultant will include the date that such records will be released by the AGENCY to the requester and state that unless the sub-consultant obtains a court order from a court of competent jurisdiction enjoining that disclosure the AGENCY will release the requested information. If the CONSULTANT and/or sub-consultant fail to obtain a court order or other judicial relief enjoining the AGENCY by the release date, the CONSULTANT shall waive and release and shall hold harmless and indemnify the AGENCY from all claims of actual or alleged damages, liabilities, or costs associated with the AGENCY's said disclosure of sub-consultants' information.

## **XX. Records Maintenance**

During the progress of the Work and SERVICES provided hereunder and for a period of not less than six (6) years from the date of final payment to the CONSULTANT, the CONSULTANT shall keep, retain, and maintain all "documents" pertaining to the SERVICES provided pursuant to this AGREEMENT. Copies of all "documents" pertaining to the SERVICES provided hereunder shall be made available for review at the CONSULTANT's place of business during normal working hours. If any litigation, claim, or audit is commenced, the CONSULTANT shall cooperate with AGENCY and assist in the production of all such documents. "Documents" shall be retained until all litigation, claims or audit findings have been resolved even though such litigation, claim, or audit continues past the six (6) year retention period.

For purposes of this AGREEMENT, "documents" means every writing or record of every type and description, including electronically stored information ("ESI"), that is in the possession, control, or custody of the CONSULTANT, including, without limitation, any and all correspondences, contracts, AGREEMENTs, appraisals, plans, designs, data, surveys, maps, spreadsheets, memoranda, stenographic or handwritten notes, reports, records, telegrams, schedules, diaries, notebooks, logbooks, invoices, accounting records, work sheets, charts, notes, drafts, scribbings, recordings, visual displays, photographs, minutes of meetings, tabulations, computations, summaries, inventories, and writings regarding conferences, conversations or telephone conversations, and any and all other taped, recorded, written, printed or typed matters of any kind or description; every copy of the foregoing whether or not the original is in the possession, custody, or control of the CONSULTANT, and every copy of any of the foregoing, whether or not such copy is a copy identical to an original, or whether or not such copy contains any commentary or notation whatsoever that does not appear on the original.

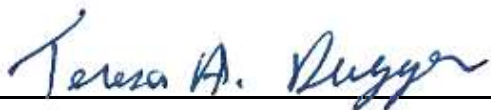


For purposes of this AGREEMENT, "ESI" means any and all computer data or electronic recorded media of any kind, including "Native Files", that are stored in any medium from which it can be retrieved and examined, either directly or after translation into a reasonably useable form. ESI may include information and/or documentation stored in various software programs such as Email, Outlook, Word, Excel, Access, Publisher, PowerPoint, Adobe Acrobat, SQL databases, or any other software or electronic communication programs or databases that the CONSULTANT may use in the performance of its operations. ESI may be located on network servers, backup tapes, smart phones, thumb drives, CDs, DVDs, floppy disks, work computers, cell phones, laptops, or any other electronic device that CONSULTANT uses in the performance of its Work or SERVICES hereunder, including any personal devices used by the CONSULTANT or any sub-consultant at home.

"Native files" are a subset of ESI and refer to the electronic format of the application in which such ESI is normally created, viewed, and /or modified

The CONSULTANT shall include this section XX "Records Maintenance" in every subcontract it enters into in relation to this AGREEMENT and bind the sub-consultant to its terms, unless expressly agreed to otherwise in writing by the AGENCY prior to the execution of such subcontract.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the "Execution Date" box on page one (1) of this AGREEMENT.



Signature

June 23, 2020

Date

Signature

Date

*Any modification, change, or reformation of this AGREEMENT shall require approval as to form by the Office of the Attorney General.*

# ***Exhibit A Scope of Work***

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Project No.

## ***Exhibit B***

### ***DBE Participation Plan***

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In the absence of a mandatory UDBE, the Consultant shall continue their outreach efforts to provide SBE maximum practicable opportunities.

# ***Exhibit C***

## ***Preparation and Delivery of Electronic Engineering and Other Data***

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In this Exhibit the agency, as applicable, is to provide a description of the format and standards the consultant is to use in preparing electronic files for transmission to the agency. The format and standards to be provided may include, but are not limited to, the following:

### **I. Surveying, Roadway Design & Plans Preparation Section**

#### **A. Survey Data**

#### **B. Roadway Design Files**

#### **C. Computer Aided Drafting Files**

D. Specify the Agency's Right to Review Product with the Consultant

E. Specify the Electronic Deliverables to Be Provided to the Agency

F. Specify What Agency Furnished Services and Information Is to Be Provided

## II. Any Other Electronic Files to Be Provided

## III. Methods to Electronically Exchange Data

A. Agency Software Suite

B. Electronic Messaging System

C. File Transfers Format

***Exhibit D***  
***Prime Consultant Cost Computations***

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## ***Exhibit E***

### ***Sub-consultant Cost Computations***

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The CONSULTANT shall not sub-contract for the performance of any work under this AGREEMENT without prior written permission of the AGENCY. Refer to section VI “Sub-Contracting” of this AGREEMENT.

# **Exhibit F**

## **Title VI Assurances**

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During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the “REGULATIONS”), which are herein incorporated by reference and made a part of this AGREEMENT.
2. **Non-discrimination:** The CONSULTANT, with regard to the work performed during this AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when this AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
3. **Solicitations for Sub-consultants, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT’s obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports:** The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the AGENCY, the STATE, or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, the STATE, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the CONSULTANT’s non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE, or the FHWA may determine to be appropriate, including, but not limited to:
  - Withholding of payments to the CONSULTANT under this AGREEMENT until the CONSULTANT complies, and/or;
  - Cancellation, termination, or suspension of this AGREEMENT, in whole or in part.
6. **Incorporation of Provisions:** The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the STATE, the AGENCY, or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY enter into such litigation to protect the interests of the STATE and/or the AGENCY and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.

# **Exhibit G**

## **Certification Document**

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- Exhibit G-1(a) Certification of Consultant
- Exhibit G-1(b) Certification of City of Spokane
- Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions
- Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying
- Exhibit G-4 Certificate of Current Cost or Pricing Data

## Exhibit G-1(a) Certification of Consultant

I hereby certify that I am the and duly authorized representative of the firm of  
GeoEngineers, Inc.

whose address is

523 E. 2nd Avenue, Spokane, WA 99202

and that neither the above firm nor I have

- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this AGREEMENT;
- b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be furnished to the City of Spokane  
and the Federal Highway Administration, U.S. Department of Transportation in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

**GeoEngineers, Inc.**

Consultant (Firm Name)



Signature (Authorized Official of Consultant)

**June 23, 2020**

Date

**Exhibit G-1(b) Certification of** City of Spokane

I hereby certify that I am the:

☒

☐ Other

of the City of Spokane, and GeoEngineers, Inc.

or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this AGREEMENT to:

- a) Employ or retain, or agree to employ to retain, any firm or person; o
- b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be furnished to the GeoEngineers, Inc.

and the Federal Highway Administration, U.S. Department of Transportation, in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

\_\_\_\_\_  
Signature

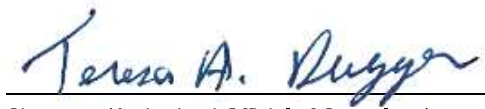
\_\_\_\_\_  
Date

## Exhibit G-2 Certification Regarding Debarment Suspension and Other Responsibility Matters - Primary Covered Transactions

- I. The prospective primary participant 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 (3) year period preceding this proposal been convicted of 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 anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; an
  - D. Have not within a three (3) year period preceding this application / proposal had one or more public transactions (Federal, State and local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification such prospective participant shall attach an explanation to this proposal.

GeoEngineers, Inc.

Consultant (Firm Name)



Signature (Authorized Official of Consultant)

June 23, 2020

Date

## Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

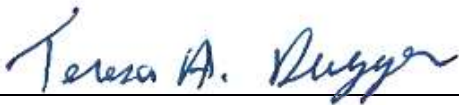
1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative AGREEMENT, and the extension, continuation, renewal, amendment, or modification of Federal contract, grant, loan or cooperative AGREEMENT.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative AGREEMENT, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00, and not more than \$100,000.00 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier sub-contracts, which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

GeoEngineers, Inc.

Consultant (Firm Name)



Signature (Authorized Official of Consultant)

June 23, 2020

Date

## Exhibit G-4 Certification of Current Cost or Pricing Data

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4) submitted, either actually or by specific identification in writing, to the Contracting Officer or to the Contracting Officer's representative in support of THIS AGREEMENT \* are accurate, complete, and current as of the date of execution of this agreement \*\*.

This certification includes the cost or pricing data supporting any advance AGREEMENT's and forward pricing rate AGREEMENT's between the offer or and the Government that are part of the proposal.

Firm: GeoEngineers, Inc.

Teresa A. Duggan  
Signature

Associate  
Title

Date of Execution \_\_\_\_\_ \*\*\*.

\*Identify the proposal, quotation, request for pricing adjustment, or other submission involved, giving the appropriate identifying number (e.g. project title.)

\*\*Insert the day, month, and year, when price negotiations were concluded and price AGREEMENT was reached.

\*\*\*Insert the day, month, and year, of signing, which should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed to.



# **Exhibit H**

## **Liability Insurance Increase**

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### **To Be Used Only If Insurance Requirements Are Increased**

The professional liability limit of the CONSULTANT to the AGENCY identified in Section XII, Legal Relations and Insurance of this Agreement is amended to \$ N/A .

The CONSULTANT shall provide Professional Liability insurance with minimum per occurrence limits in the amount of \$ 1,000,000 .

Such insurance coverage shall be evidenced by one of the following methods:

- Certificate of Insurance
- Self-insurance through an irrevocable Letter of Credit from a qualified financial institution

Self-insurance through documentation of a separate fund established exclusively for the payment of professional liability claims, including claim amounts already reserved against the fund, safeguards established for payment from the fund, a copy of the latest annual financial statements, and disclosure of the investment portfolio for those funds.

Should the minimum Professional Liability insurance limit required by the AGENCY as specified above exceed \$1 million per occurrence or the value of the contract, whichever is greater, then justification shall be submitted to the Federal Highway Administration (FHWA) for approval to increase the minimum insurance limit.

If FHWA approval is obtained, the AGENCY may, at its own cost, reimburse the CONSULTANT for the additional professional liability insurance required.

Notes: Cost of added insurance requirements: \$ \_\_\_\_\_.

- Include all costs, fee increase, premiums.
  - This cost shall not be billed against an FHWA funded project.
  - For final contracts, include this exhibit
-

# **Exhibit I**

## ***Alleged Consultant Design Error Procedures***

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The purpose of this exhibit is to establish a procedure to determine if a consultant has alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

### **Step 1 Potential Consultant Design Error(s) is Identified by Agency's Project Manager**

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

### **Step 2 Project Manager Documents the Alleged Consultant Design Error(s)**

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include all decisions and descriptions of work, photographs, records of labor, materials, and equipment.

### **Step 3 Contact the Consultant Regarding the Alleged Design Error(s)**

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

### **Step 4 Attempt to Resolve Alleged Design Error with Consultant**

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide LP, through the Region Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.
- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

## **Step 5 Forward Documents to Local Programs**

For federally funded projects, all available information, including costs, should be forwarded through the Region Local Programs Engineer to LP for their review and consultation with the FHWA. LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, LP will request assistance from the Attorney General's Office for legal interpretation. LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

# **Exhibit J**

## **Consultant Claim Procedures**

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The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) total a \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

### **Step 1 Consultant Files a Claim with the Agency Project Manager**

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

### **Step 2 Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation**

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will meet with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action is needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

### **Step 3 Preparation of Support Documentation Regarding Consultant's Claim(s)**

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associate with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

### **Step 4 Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation**

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

### **Step 5 Informing Consultant of Decision Regarding the Claim**

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

### **Step 6 Preparation of Supplement or New Agreement for the Consultant's Claim(s)**

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit

**ACORD**<sup>TM</sup>**CERTIFICATE OF LIABILITY INSURANCE**

DATE (MM/DD/YYYY)

6/19/2020

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 any rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> <b>USI Insurance Services NW PR</b> <b>601 Union Street, Suite 1000</b> <b>Seattle, WA 98101</b>	<b>CONTACT NAME:</b> Tracy Taylor <b>PHONE (A/C, No, Ext):</b> 206 441-6300 <b>E-MAIL ADDRESS:</b> tracy.taylor@usi.com		<b>FAX (A/C, No):</b> 610-362-8530
	<b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A:</b> Continental Insurance Company <b>INSURER B:</b> Liberty Insurance Corporation <b>INSURER C:</b> National Fire Insurance Co. of Hartford <b>INSURER D:</b> <b>INSURER E:</b> <b>INSURER F:</b>		<b>NAIC #</b> <b>35289</b> <b>42404</b> <b>20478</b>
<b>INSURED</b> <b>GeoEngineers, Inc.</b> <b>17425 NE Union Hill Road, Suite 250</b> <b>Redmond, WA 98052</b>			

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

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 INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
<b>A</b>	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> <b>Stop Gap WA OH ND</b> GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<b>6023113030</b>	<b>06/30/2019</b>	<b>06/30/2020</b>	EACH OCCURRENCE \$ <b>1,000,000</b> DAMAGE TO RENTED PREMISES (Ea occurrence) \$ <b>500,000</b> MED EXP (Any one person) \$ <b>15,000</b> PERSONAL & ADV INJURY \$ <b>1,000,000</b> GENERAL AGGREGATE \$ <b>2,000,000</b> PRODUCTS - COMP/OP AGG \$ <b>2,000,000</b> <b>Stop Gap/EL</b> \$ <b>1,000,000</b>
<b>C</b>	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<b>6023117823</b>	<b>06/30/2019</b>	<b>06/30/2020</b>	COMBINED SINGLE LIMIT (Ea accident) \$ <b>1,000,000</b> BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<b>UMBRELLA LIAB</b> <b>EXCESS LIAB</b> DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
<b>B</b>	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE/OFFICER/MEMBER EXCLUDED? <input checked="" type="checkbox"/> Y / N <input checked="" type="checkbox"/> N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		<input checked="" type="checkbox"/>	<b>WC7291470641019</b> <b>(AOS: Includes MEL/USL&amp;H)</b>	<b>06/30/2019</b>	<b>06/30/2020</b>	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ <b>1,000,000</b> E.L. DISEASE - EA EMPLOYEE \$ <b>1,000,000</b> E.L. DISEASE - POLICY LIMIT \$ <b>1,000,000</b>

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

**RE: GeoEngineers Project Name: City of Spokane 2020-21 Geotechnical Engineering On-Call Services.**

The General Liability policy includes an automatic Additional Insured endorsement that provides Additional Insured status to the Certificate Holder, only when there is a written contract that requires such status, and only with regard to work performed on behalf of the named insured.

**CERTIFICATE HOLDER****CANCELLATION**

**City of Spokane**  
**808 West Spokane Falls Blvd.**  
**Spokane, WA 99201**

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

*Open A. Ryan*

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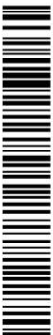
**Architects, Engineers and Surveyors General Liability  
Extension Endorsement**

It is understood and agreed that this endorsement amends the **COMMERCIAL GENERAL LIABILITY COVERAGE PART** as follows. If any other endorsement attached to this policy amends any provision also amended by this endorsement, then that other endorsement controls with respect to such provision, and the changes made by this endorsement with respect to such provision do not apply.

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**Architects, Engineers and Surveyors General Liability  
Extension Endorsement****1. ADDITIONAL INSURED**

- a. **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization described in paragraphs **A.** through **I.** below whom a **Named Insured** is required to add as an additional insured on this **Coverage Part** under a written contract or written agreement, provided such contract or agreement:

(1) is currently in effect or becomes effective during the term of this **Coverage Part**; and

(2) was executed prior to:

(a) the **bodily injury** or **property damage**; or

(b) the offense that caused the **personal and advertising injury**,

for which such additional insured seeks coverage.

- b. However, subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:

(1) a higher limit of insurance than required by such contract or agreement; or

(2) coverage broader than required by such contract or agreement, and in no event broader than that described by the applicable paragraph **A.** through **I.** below.

Any coverage granted by this endorsement shall apply only to the extent permissible by law.

**A. Controlling Interest**

Any person or organization with a controlling interest in a **Named Insured**, but only with respect to such person or organization's liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of:

1. such person or organization's financial control of a **Named Insured**; or

2. premises such person or organization owns, maintains or controls while a **Named Insured** leases or occupies such premises;

provided that the coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

**B. Co-owner of Insured Premises**

A co-owner of a premises co-owned by a **Named Insured** and covered under this insurance but only with respect to such co-owner's liability for **bodily injury**, **property damage** or **personal and advertising injury** as co-owner of such premises.

**C. Engineers, Architects or Surveyors Engaged By You**

An architect, engineer or surveyor engaged by the **Named Insured**, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** caused in whole or in part by the **Named Insured's** acts or omissions, or the acts or omissions of those acting on the **Named Insured's** behalf:

a. in connection with the **Named Insured's** premises; or

b. in the performance of the **Named Insured's** ongoing operations.

But the coverage hereby granted to such additional insureds does not apply to **bodily injury**, **property damage** or **personal and advertising injury** arising out of the rendering of or failure to render any professional services by, on behalf of, or for the **Named Insured**, including but not limited to:

**Architects, Engineers and Surveyors General Liability  
Extension Endorsement**

1. the preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
2. supervisory, inspection, architectural or engineering activities.

**D. Lessor of Equipment**

Any person or organization from whom a **Named Insured** leases equipment, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** caused, in whole or in part, by the **Named Insured's** maintenance, operation or use of such equipment, provided that the **occurrence** giving rise to such **bodily injury, property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease.

**E. Lessor of Land**

Any person or organization from whom a **Named Insured** leases land but only with respect to liability for **bodily injury, property damage or personal and advertising injury** arising out of the ownership, maintenance or use of such land, provided that the **occurrence** giving rise to such **bodily injury, property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

**F. Lessor of Premises**

An owner or lessor of premises leased to the **Named Insured**, or such owner or lessor's real estate manager, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** arising out of the ownership, maintenance or use of such part of the premises leased to the **Named Insured**, and provided that the **occurrence** giving rise to such **bodily injury or property damage**, or the offense giving rise to such **personal and advertising injury**, takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

**G. Mortgagee, Assignee or Receiver**

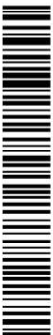
A mortgagee, assignee or receiver of premises but only with respect to such mortgagee, assignee or receiver's liability for **bodily injury, property damage or personal and advertising injury** arising out of the **Named Insured's** ownership, maintenance, or use of a premises by a **Named Insured**.

The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

**H. State or Governmental Agency or Subdivision or Political Subdivisions – Permits**

A state or governmental agency or subdivision or political subdivision that has issued a permit or authorization but only with respect to such state or governmental agency or subdivision or political subdivision's liability for **bodily injury, property damage or personal and advertising injury** arising out of:

1. the following hazards in connection with premises a **Named Insured** owns, rents, or controls and to which this insurance applies:
  - a. the existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoistaway openings, sidewalk vaults, street banners, or decorations and similar exposures; or
  - b. the construction, erection, or removal of elevators; or
  - c. the ownership, maintenance or use of any elevators covered by this insurance; or



**Architects, Engineers and Surveyors General Liability  
Extension Endorsement**

2. the permitted or authorized operations performed by a **Named Insured** or on a **Named Insured's** behalf.

The coverage granted by this paragraph does not apply to:

- a. **Bodily injury, property damage or personal and advertising injury** arising out of operations performed for the state or governmental agency or subdivision or political subdivision; or
- b. **Bodily injury or property damage** included within the **products-completed operations hazard**.

With respect to this provision's requirement that additional insured status must be requested under a written contract or agreement, the Insurer will treat as a written contract any governmental permit that requires the **Named Insured** to add the governmental entity as an additional insured.

**I. Trade Show Event Lessor**

1. With respect to a **Named Insured's** participation in a trade show event as an exhibitor, presenter or displayer, any person or organization whom the **Named Insured** is required to include as an additional insured, but only with respect to such person or organization's liability for **bodily injury, property damage or personal and advertising injury** caused by:

- a. the **Named Insured's** acts or omissions; or
- b. the acts or omissions of those acting on the **Named Insured's** behalf,

in the performance of the **Named Insured's** ongoing operations at the trade show event premises during the trade show event.

2. The coverage granted by this paragraph does not apply to **bodily injury or property damage** included within the **products-completed operations hazard**.

**2. ADDITIONAL INSURED - PRIMARY AND NON-CONTRIBUTORY TO ADDITIONAL INSURED'S INSURANCE**

The **Other Insurance** Condition in the **COMMERCIAL GENERAL LIABILITY CONDITIONS** Section is amended to add the following paragraph:

If the **Named Insured** has agreed in writing in a contract or agreement that this insurance is primary and non-contributory relative to an additional insured's own insurance, then this insurance is primary, and the Insurer will not seek contribution from that other insurance. For the purpose of this Provision 2., the additional insured's own insurance means insurance on which the additional insured is a named insured. Otherwise, and notwithstanding anything to the contrary elsewhere in this Condition, the insurance provided to such person or organization is excess of any other insurance available to such person or organization.

**3. ADDITIONAL INSURED – EXTENDED COVERAGE**

When an additional insured is added by this or any other endorsement attached to this **Coverage Part, WHO IS AN INSURED** is amended to make the following natural persons **Insureds**.

If the additional insured is:

- a. An individual, then his or her **spouse** is an **Insured**;
- b. A partnership or joint venture, then its partners, members and their **spouses** are **Insureds**;
- c. A limited liability company, then its members and managers are **Insureds**; or
- d. An organization other than a partnership, joint venture or limited liability company, then its executive officers, directors and shareholders are **Insureds**;

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Extension Endorsement**

but only with respect to locations and operations covered by the additional insured endorsement's provisions, and only with respect to their respective roles within their organizations.

Please see the **ESTATES, LEGAL REPRESENTATIVES, AND SPOUSES** provision of this endorsement for additional coverage and restrictions applicable to **spouses** of natural person **Insureds**.

**4. BOATS**

Under **COVERAGES, Coverage A – Bodily Injury And Property Damage Liability**, the paragraph entitled **Exclusions** is amended to add the following additional exception to the exclusion entitled **Aircraft, Auto or Watercraft**:

This exclusion does not apply to:

Any watercraft owned by the **Named Insured** that is less than 30 feet long while being used in the course of the **Named Insured's** inspection or surveying work.

**5. BODILY INJURY – EXPANDED DEFINITION**

Under **DEFINITIONS**, the definition of **bodily injury** is deleted and replaced by the following:

**Bodily injury** means physical injury, sickness or disease sustained by a person, including death, humiliation, shock, mental anguish or mental injury sustained by that person at any time which results as a consequence of the physical injury, sickness or disease.

**6. BROAD KNOWLEDGE OF OCCURRENCE/ NOTICE OF OCCURRENCE**

Under **CONDITIONS**, the condition entitled **Duties in The Event of Occurrence, Offense, Claim or Suit** is amended to add the following provisions:

**A. BROAD KNOWLEDGE OF OCCURRENCE**

The **Named Insured** must give the Insurer or the Insurer's authorized representative notice of an **occurrence**, offense or **claim** only when the **occurrence**, offense or **claim** is known to a natural person **Named Insured**, to a partner, executive officer, manager or member of a **Named Insured**, or to an **employee** designated by any of the above to give such notice.

**B. NOTICE OF OCCURRENCE**

The **Named Insured's** rights under this **Coverage Part** will not be prejudiced if the **Named Insured** fails to give the Insurer notice of an **occurrence**, offense or **claim** and that failure is solely due to the **Named Insured's** reasonable belief that the **bodily injury** or **property damage** is not covered under this **Coverage Part**. However, the **Named Insured** shall give written notice of such **occurrence**, offense or **claim** to the Insurer as soon as the **Named Insured** is aware that this insurance may apply to such **occurrence**, offense or **claim**.

**7. BROAD NAMED INSURED**

**WHO IS AN INSURED** is amended to delete its Paragraph 3. in its entirety and replace it with the following:

3. Pursuant to the limitations described in Paragraph 4. below, any organization in which a **Named Insured** has management control:
  - a. on the effective date of this **Coverage Part**; or
  - b. by reason of a **Named Insured** creating or acquiring the organization during the **policy period**,  
qualifies as a **Named Insured**, provided that there is no other similar liability insurance, whether primary, contributory, excess, contingent or otherwise, which provides coverage to such organization, or which would have



**Architects, Engineers and Surveyors General Liability  
Extension Endorsement**

provided coverage but for the exhaustion of its limit, and without regard to whether its coverage is broader or narrower than that provided by this insurance.

But this **BROAD NAMED INSURED** provision does not apply to:

- (a) any partnership, limited liability company or joint venture; or
- (b) any organization for which coverage is excluded by another endorsement attached to this **Coverage Part**.

For the purpose of this provision, management control means:

- A. owning interests representing more than 50% of the voting, appointment or designation power for the selection of a majority of the Board of Directors of a corporation; or
  - B. having the right, pursuant to a written trust agreement, to protect, control the use of, encumber or transfer or sell property held by a trust.
4. With respect to organizations which qualify as **Named Insureds** by virtue of Paragraph 3. above, this insurance does not apply to:
- a. **bodily injury** or **property damage** that first occurred prior to the date of management control, or that first occurs after management control ceases; nor
  - b. **personal or advertising injury** caused by an offense that first occurred prior to the date of management control or that first occurs after management control ceases.
5. The insurance provided by this **Coverage Part** applies to **Named Insureds** when trading under their own names or under such other trading names or doing-business-as names (dba) as any **Named Insured** should choose to employ.

**8. CONTRACTUAL LIABILITY – RAILROADS**

With respect to operations performed within 50 feet of railroad property, the definition of **insured contract** is replaced by the following:

**Insured Contract** means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to a **Named Insured** or temporarily occupied by a **Named Insured** you with permission of the owner is not an **insured contract**;
- b. A sidetrack agreement;
- c. Any easement or license agreement;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to the **Named Insured's** business (including an indemnification of a municipality in connection with work performed for a municipality) under which the **Named Insured** assumes the tort liability of another party to pay for **bodily injury** or **property damage** to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:



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- (1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
- (a) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
  - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage;
- (2) Under which the **Insured**, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (1) above and supervisory, inspection, architectural or engineering activities.

**9. ESTATES, LEGAL REPRESENTATIVES, AND SPOUSES**

The estates, executors, heirs, legal representatives, administrators, trustees, beneficiaries and **spouses** of any natural person **Insured** or living trust shall also be insured under this policy; provided, however, coverage is afforded to such estates, executors, heirs, legal representatives, administrators, trustees, beneficiaries and **spouses** only for **claims** arising solely out of their capacity or status as such and, in the case of a **spouse**, where such **claim** seeks **damages** from marital community property, jointly held property or property transferred from such natural person **Insured** to such **spouse**. No coverage is provided for any act, error or omission of an estate, heir, legal representative, or **spouse** outside the scope of such person's capacity or status as such, provided, however, that the **spouse** of a natural person **Named Insured**, and the **spouses** of members or partners of joint venture or partnership **Named Insureds** are **Insureds** with respect to such **spouses'** acts, errors or omissions in the conduct of the **Named Insured's** business.

**10. EXPECTED OR INTENDED INJURY – EXCEPTION FOR REASONABLE FORCE**

Under **COVERAGES, Coverage A – Bodily Injury And Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Expected or Intended Injury** and replace it with the following:

This insurance does not apply to:

**Expected or Intended Injury**

**Bodily injury** or **property damage** expected or intended from the standpoint of the **Insured**. This exclusion does not apply to **bodily injury** or **property damage** resulting from the use of reasonable force to protect persons or property.

**11. GENERAL AGGREGATE LIMITS OF INSURANCE - PER LOCATION**

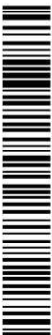
- A. A separate Location General Aggregate Limit, equal to the amount of the General Aggregate Limit, is the most the Insurer will pay for the sum of:

- 1. All **damages** under **Coverage A**, except **damages** because of **bodily injury** or **property damage** included in the **products-completed operations hazard**; and
- 2. All medical expenses under **Coverage C**,

that arise from **occurrences** or accidents which can be attributed solely to ongoing operations at that location. Such payments shall not reduce the General Aggregate Limit shown in the Declarations, nor the Location General Aggregate Limit of any other location.

- B. All:

- 1. **Damages** under **Coverage B**, regardless of the number of locations involved;



**Architects, Engineers and Surveyors General Liability  
Extension Endorsement**

2. **Damages** under **Coverage A**, caused by **occurrences** which cannot be attributed solely to ongoing operations at a single location, except **damages** because of **bodily injury** or **property damage** included in the **products-completed operations hazard**; and
3. Medical expenses under **Coverage C** caused by accidents which cannot be attributed solely to ongoing operations at a single location,

will reduce the General Aggregate Limit shown in the Declarations.

- C. For the purpose of this **GENERAL AGGREGATE LIMITS OF INSURANCE - PER LOCATION** Provision, "location" means:

1. a premises the **Named Insured** owns or rents; or
2. a premises not owned or rented by any **Named Insured** at which the **Named Insured** is performing operations pursuant to a contract or written agreement. If operations at such a location have been discontinued and then restarted, or if the authorized parties deviate from plans, blueprints, designs, specifications or timetables, the location will still be deemed to be the same location.

For the purpose of determining the applicable aggregate limit of insurance, premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad shall be considered a single location.

- D. The limits shown in the Declarations for Each Occurrence, for Damage To Premises Rented To You and for Medical Expense continue to apply, but will be subject to either the Location General Aggregate Limit or the General Aggregate Limit, depending on whether the **occurrence** can be attributed solely to ongoing operations at a particular location.
- E. When coverage for liability arising out of the **products-completed operations hazard** is provided, any payments for **damages** because of **bodily injury** or **property damage** included in the **products-completed operations hazard**, regardless of the number of locations involved, will reduce the Products-Completed Operations Aggregate Limit shown in the Declarations.
- F. The provisions of **LIMITS OF INSURANCE** not otherwise modified by this **GENERAL AGGREGATE LIMITS OF INSURANCE - PER LOCATION** Provision shall continue to apply as stipulated.

**12. IN REM ACTIONS**

A quasi in rem action against any vessel owned or operated by or for the **Named Insured**, or chartered by or for the **Named Insured**, will be treated in the same manner as though the action were in personam against the **Named Insured**.

**13. INCIDENTAL HEALTH CARE MALPRACTICE COVERAGE**

Solely with respect to **bodily injury** that arises out of a **health care incident**:

- A. Under **COVERAGES, Coverage A – Bodily Injury And Property Damage Liability**, the **Insuring Agreement** is amended to replace Paragraphs **1.b.(1)** and **1.b.(2)** with the following:
- b. This insurance applies to **bodily injury** provided that the professional health care services are incidental to the **Named Insured's** primary business purpose, and only if:
- (1) such **bodily injury** is caused by an **occurrence** that takes place in the **coverage territory**.
  - (2) the **bodily injury** first occurs during the **policy period**. All **bodily injury** arising from an **occurrence** will be deemed to have occurred at the time of the first act, error, or omission that is part of the **occurrence**; and

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**B. Under COVERAGES, Coverage A – Bodily Injury And Property Damage Liability**, the paragraph entitled **Exclusions** is amended to:

- i. add the following to the **Employers Liability** exclusion:

This exclusion applies only if the **bodily injury** arising from a **health care incident** is covered by other liability insurance available to the **Insured** (or which would have been available but for exhaustion of its limits).

- ii. delete the exclusion entitled **Contractual Liability** and replace it with the following:

This insurance does not apply to:

**Contractual Liability**

the **Insured's** actual or alleged liability under any oral or written contract or agreement, including but not limited to express warranties or guarantees.

- iii. to add the following additional exclusions:

This insurance does not apply to:

**Discrimination**

any actual or alleged discrimination, humiliation or harassment, including but not be limited to **claims** based on an individual's race, creed, color, age, gender, national origin, religion, disability, marital status or sexual orientation.

**Dishonesty or Crime**

Any actual or alleged dishonest, criminal or malicious act, error or omission.

**Medicare/Medicaid Fraud**

any actual or alleged violation of law with respect to Medicare, Medicaid, Tricare or any similar federal, state or local governmental program.

**Services Excluded by Endorsement**

Any **health care incident** for which coverage is excluded by endorsement.

**C. DEFINITIONS** is amended to:

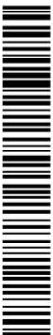
- i. add the following definitions:

**Health care incident** means an act, error or omission by the **Named Insured's employees** or **volunteer workers** in the rendering of:

- a. **professional health care services** on behalf of the **Named Insured** or  
b. Good Samaritan services rendered in an emergency and for which no payment is demanded or received.

**Professional health care services** means any health care services or the related furnishing of food, beverages, medical supplies or appliances by the following providers in their capacity as such but solely to the extent they are duly licensed as required:

- a. Physician;





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Extension Endorsement**

- b. Nurse;
- c. Nurse practitioner;
- d. Emergency medical technician;
- e. Paramedic;
- f. Dentist;
- g. Physical therapist;
- h. Psychologist;
- i. Speech therapist;
- j. Other allied health professional; or

**Professional health care services** does not include any services rendered in connection with human clinical trials or product testing.

- ii. delete the definition of **occurrence** and replace it with the following:

**Occurrence** means a **health care incident**. All acts, errors or omissions that are logically connected by any common fact, circumstance, situation, transaction, event, advice or decision will be considered to constitute a single **occurrence**;

- iii. amend the definition of **Insured** to:

- a. add the following:

the **Named Insured's employees** are **Insureds** with respect to:

- (1) **bodily injury** to a co-**employee** while in the course of the co-**employee's** employment by the **Named Insured** or while performing duties related to the conduct of the **Named Insured's** business; and
- (2) **bodily injury** to a **volunteer worker** while performing duties related to the conduct of the **Named Insured's** business;

when such **bodily injury** arises out of a **health care incident**.

the **Named Insured's volunteer workers** are **Insureds** with respect to:

- (1) **bodily injury** to a co-**volunteer worker** while performing duties related to the conduct of the **Named Insured's** business; and
- (2) **bodily injury** to an **employee** while in the course of the **employee's** employment by the **Named Insured** or while performing duties related to the conduct of the **Named Insured's** business;

when such **bodily injury** arises out of a **health care incident**.

- b. delete Subparagraphs (a), (b), (c) and (d) of Paragraph 2.a.(1) of **WHO IS AN INSURED**.

- D. The **Other Insurance** condition is amended to delete Paragraph b.(1) in its entirety and replace it with the following:

**Other Insurance**

**Architects, Engineers and Surveyors General Liability  
Extension Endorsement****b. Excess Insurance**

- (1) To the extent this insurance applies, it is excess over any other insurance, self insurance or risk transfer instrument, whether primary, excess, contingent or on any other basis, except for insurance purchased specifically by the **Named Insured** to be excess of this coverage.

**14. JOINT VENTURES / PARTNERSHIP / LIMITED LIABILITY COMPANIES****A. Past Joint Ventures, Partnerships, Limited Liability Companies**

The following is added to **WHO IS AN INSURED**:

If the **Named Insured** was a joint venturer, partner, or member of a limited liability company and such joint venture, partnership or limited liability company terminated prior to or during the **policy period**, such **Named Insured** is an **Insured** with respect to its interest in such joint venture, partnership or limited liability company but only to the extent that:

- a. any offense giving rise to **personal and advertising injury** occurred prior to such termination date, and the **personal and advertising injury** arising out of such offense, first occurred after such termination date;
- b. the **bodily injury** or **property damage** first occurred after such termination date; and
- c. there is no other valid and collectible insurance purchased specifically to insure the partnership, joint venture or limited liability company.

If the joint venture, partnership or limited liability company is or was insured under a **consolidated (wrap-up) insurance program**, then such insurance will always be considered valid and collectible for the purpose of paragraph c. above. But this provision will not serve to exclude **bodily injury**, **property damage** or **personal and advertising injury** that would otherwise be covered under the **Architects, Engineers And Surveyors General Liability Extension Endorsement** provision entitled **WRAP-UP EXTENSION: OCIP, CCIP, OR CONSOLIDATED (WRAP-UP) INSURANCE PROGRAMS**. Please see that provision for the definition of **consolidated (wrap-up) insurance program**.

**B. Participation In Current Professional Joint Ventures**

The following is added to **WHO IS AN INSURED**:

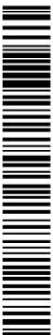
The **Named Insured** is also an **Insured** for participation in a current joint venture that is not named on the Declarations, but only if such joint venture meets all of the following criteria:

- a. Each and every one of the **Named Insured's** co-venturers are architectural, engineering or surveying firms only; and
- b. There is no other valid and collectible insurance purchased specifically to insure the joint venture.

However, the **Named Insured** is an **Insured** only for the conduct of such **Named Insured's** business within such a joint venture. The **Named Insured** is not insured for liability arising out of the acts or omissions of other co-venturers, nor of their partners, members or employees.

**C. WHO IS AN INSURED** is amended to delete its last paragraph and replace it with the following:

Except as provided under this **Architects, Engineers And Surveyors General Liability Extension Endorsement** or by the attachment of another endorsement (if any), no person or organization is an **Insured** with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a **Named Insured** in the Declarations.



**Architects, Engineers and Surveyors General Liability  
Extension Endorsement****15. LEGAL LIABILITY – DAMAGE TO PREMISES / ALIENATED PREMISES / PROPERTY IN THE NAMED INSURED'S CARE, CUSTODY OR CONTROL**

- A.** Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete exclusion **j. Damage to Property** in its entirety and replace it with the following:

This insurance does not apply to:

**j. Damage to Property**

**Property damage to:**

- (1) Property the **Named Insured** owns, rents, or occupies, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises the **Named Insured** sells, gives away or abandons, if the **property damage** arises out of any part of those premises;
- (3) Property loaned to the **Named Insured**;
- (4) Personal property in the care, custody or control of the **Insured**;
- (5) That particular part of real property on which the **Named Insured** or any contractors or subcontractors working directly or indirectly on the **Named Insured's** behalf are performing operations, if the **property damage** arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because **your work** was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to **property damage** (other than damage by fire) to premises rented to the **Named Insured** or temporarily occupied by the **Named Insured** with the permission of the owner, nor to the contents of premises rented to the **Named Insured** for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in **LIMITS OF INSURANCE**.

Paragraph (2) of this exclusion does not apply if the premises are **your work**.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to **property damage** included in the **products-completed operations hazard**.

Paragraphs (3) and (4) of this exclusion do not apply to **property damage** to:

- i. tools, or equipment the **Named Insured** borrows from others, nor
- ii. other personal property of others in the **Named Insured's** care, custody or control while being used in the **Named Insured's** operations away from any **Named Insured's** premises.

However, the coverage granted by this exception to Paragraphs (3) and (4) does not apply to:

- a. property at a job site awaiting or during such property's installation, fabrication, or erection;
- b. property that is **mobile equipment** leased by an **Insured**;

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Extension Endorsement**

- c. property that is an **auto**, aircraft or watercraft;
- d. property in transit; or
- e. any portion of **property damage** for which the **Insured** has available other valid and collectible insurance, or would have such insurance but for exhaustion of its limits, or but for application of one of its exclusions.

A separate limit of insurance and deductible apply to such property of others. See **LIMITS OF INSURANCE** as amended below.

- B.** Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete its last paragraph and replace it with the following:

Exclusions **c.** through **n.** do not apply to damage by fire to premises while rented to a **Named Insured** or temporarily occupied by a **Named Insured** with permission of the owner, nor to damage to the contents of premises rented to a **Named Insured** for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to this coverage as described in **LIMITS OF INSURANCE**.

- C.** The following paragraph is added to **LIMITS OF INSURANCE**:

Subject to **5.** above, \$25,000 is the most the Insurer will pay under **Coverage A** for **damages** arising out of any one **occurrence** because of the sum of all **property damage** to borrowed tools or equipment, and to other personal property of others in the **Named Insured's** care, custody or control, while being used in the **Named Insured's** operations away from any **Named Insured's** premises. The Insurer's obligation to pay such **property damage** does not apply until the amount of such **property damage** exceeds \$1,000. The Insurer has the right but not the duty to pay any portion of this \$1,000 in order to effect settlement. If the Insurer exercises that right, the **Named Insured** will promptly reimburse the Insurer for any such amount.

- D.** Paragraph **6.**, Damage To Premises Rented To You Limit, of **LIMITS OF INSURANCE** is deleted and replaced by the following:

- 6.** Subject to Paragraph **5.** above, (the Each Occurrence Limit), the Damage To Premises Rented To You Limit is the most the Insurer will pay under **Coverage A** for **damages** because of **property damage** to any one premises while rented to the **Named Insured** or temporarily occupied by the **Named Insured** with the permission of the owner, including contents of such premises rented to the **Named Insured** for a period of 7 or fewer consecutive days. The Damage To Premises Rented To You Limit is the greater of:

- a. \$500,000; or
- b. The Damage To Premises Rented To You Limit shown in the Declarations.

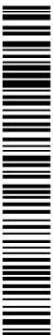
- E.** Paragraph **4.b.(1)(a)(ii)** of the **Other Insurance** Condition is deleted and replaced by the following:

- (ii) That is property insurance for premises rented to the **Named Insured**, for premises temporarily occupied by the **Named Insured** with the permission of the owner; or for personal property of others in the **Named Insured's** care, custody or control;

**16. LIQUOR LIABILITY**

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Liquor Liability**.

This **LIQUOR LIABILITY** Provision does not apply to any person or organization who otherwise qualifies as an additional insured on this **Coverage Part**.



**Architects, Engineers and Surveyors General Liability  
Extension Endorsement****17. MEDICAL PAYMENTS**

**A. LIMITS OF INSURANCE** is amended to delete Paragraph 7. (the Medical Expense Limit) and replace it with the following:

7. Subject to Paragraph 5. above (the Each Occurrence Limit), the Medical Expense Limit is the most the Insurer will pay under **Coverage C** for all medical expenses because of **bodily injury** sustained by any one person. The Medical Expense Limit is the greater of:

(1) \$15,000 unless a different amount is shown here: \$N,NNN,NNN,NNN; or

(2) the amount shown in the Declarations for Medical Expense Limit.

**B. Under COVERAGES, the Insuring Agreement of Coverage C – Medical Payments** is amended to replace Paragraph 1.a.(3)(b) with the following:

(b) The expenses are incurred and reported to the Insurer within three years of the date of the accident; and

**18. NON-OWNED AIRCRAFT**

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended as follows:

The exclusion entitled **Aircraft, Auto or Watercraft** is amended to add the following:

This exclusion does not apply to an aircraft not owned by any **Named Insured**, provided that:

1. the pilot in command holds a currently effective certificate issued by the duly constituted authority of the United States of America or Canada, designating that person as a commercial or airline transport pilot;
2. the aircraft is rented with a trained, paid crew to the **Named Insured**; and
3. the aircraft is not being used to carry persons or property for a charge.

**19. NON-OWNED WATERCRAFT**

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete subparagraph (2) of the exclusion entitled **Aircraft, Auto or Watercraft**, and replace it with the following.

This exclusion does not apply to:

(2) a watercraft that is not owned by any **Named Insured**, provided the watercraft is:

- (a) less than 75 feet long; and
- (b) not being used to carry persons or property for a charge.

**20. PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION**

**A. Under DEFINITIONS**, the definition of **personal and advertising injury** is amended to add the following tort:

Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.

**B. Under COVERAGES, Coverage B – Personal and Advertising Injury Liability**, the paragraph entitled **Exclusions** is amended to:

1. delete the Exclusion entitled **Knowing Violation Of Rights Of Another** and replace it with the following:

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This insurance does not apply to:

**Knowing Violation of Rights of Another**

**Personal and advertising injury** caused by or at the direction of the **Insured** with the knowledge that the act would violate the rights of another and would inflict **personal and advertising injury**. This exclusion shall not apply to discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is not done intentionally by or at the direction of:

(a) the **Named Insured**; or

(b) any **executive officer**, director, stockholder, partner, member or manager (if the **Named Insured** is a limited liability company) of the **Named Insured**.

2. add the following exclusions:

This insurance does not apply to:

**Employment Related Discrimination**

discrimination or humiliation directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person by any **Insured**.

**Premises Related Discrimination**

discrimination or humiliation arising out of the sale, rental, lease or sub-lease or prospective sale, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any **Insured**.

Notwithstanding the above, there is no coverage for fines or penalties levied or imposed by a governmental entity because of discrimination.

The coverage provided by this **PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION** Provision does not apply to any person or organization whose status as an **Insured** derives solely from

Provision 1. **ADDITIONAL INSURED** of this endorsement; or

attachment of an additional insured endorsement to this **Coverage Part**.

**21. PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY**

A. Under **COVERAGES, Coverage B –Personal and Advertising Injury Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Contractual Liability**.

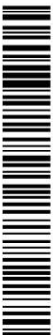
B. Solely for the purpose of the coverage provided by this **PERSONAL AND ADVERTISING INJURY - LIMITED CONTRACTUAL LIABILITY** provision, the following changes are made to the section entitled **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B**:

1. Paragraph 2.d. is replaced by the following:

d. The allegations in the **suit** and the information the Insurer knows about the offense alleged in such **suit** are such that no conflict appears to exist between the interests of the **Insured** and the interests of the indemnitee;

2. The first unnumbered paragraph beneath Paragraph 2.f.(2)(b) is deleted and replaced by the following:

So long as the above conditions are met, attorney's fees incurred by the Insurer in the defense of that indemnitee, necessary litigation expenses incurred by the Insurer, and necessary litigation expenses incurred





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by the indemnitee at the Insurer's request will be paid as **defense costs**. Such payments will not be deemed to be **damages** for **personal and advertising injury** and will not reduce the limits of insurance.

- C. This **PERSONAL AND ADVERTISING INJURY - LIMITED CONTRACTUAL LIABILITY** Provision does not apply if **Coverage B –Personal and Advertising Injury Liability** is excluded by another endorsement attached to this **Coverage Part**.

This **PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY** Provision does not apply to any person or organization who otherwise qualifies as an additional insured on this **Coverage Part**.

**22. PROPERTY DAMAGE – ELEVATORS**

- A. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended such that the **Damage to Your Product** Exclusion and subparagraphs (3), (4) and (6) of the **Damage to Property** Exclusion do not apply to **property damage** that results from the use of elevators.
- B. Solely for the purpose of the coverage provided by this **PROPERTY DAMAGE – ELEVATORS** Provision, the **Other Insurance** conditions is amended to add the following paragraph:

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis that is Property insurance covering property of others damaged from the use of elevators.

**23. RETIRED PARTNERS, MEMBERS, DIRECTORS AND EMPLOYEES**

**WHO IS INSURED** is amended to include as **Insureds** natural persons who are retired partners, members, directors or employees, but only for **bodily injury, property damage or personal and advertising injury** that results from services performed for the **Named Insured** under the **Named Insured's** direct supervision. All limitations that apply to **employees** and **volunteer workers** also apply to anyone qualifying as an **Insured** under this Provision.

**24. SUPPLEMENTARY PAYMENTS**

The section entitled **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** is amended as follows:

- A. Paragraph **1.b.** is amended to delete the \$250 limit shown for the cost of bail bonds and replace it with a \$5,000. limit; and
- B. Paragraph **1.d.** is amended to delete the limit of \$250 shown for daily loss of earnings and replace it with a \$1,000. limit.

**25. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS**

If the **Named Insured** unintentionally fails to disclose all existing hazards at the inception date of the **Named Insured's Coverage Part**, the Insurer will not deny coverage under this **Coverage Part** because of such failure.

**26. WAIVER OF SUBROGATION - BLANKET**

Under **CONDITIONS**, the condition entitled **Transfer Of Rights Of Recovery Against Others To Us** is amended to add the following:

The Insurer waives any right of recovery the Insurer may have against any person or organization because of payments the Insurer makes for injury or damage arising out of:

1. the **Named Insured's** ongoing operations; or
2. **your work** included in the **products-completed operations hazard**.

However, this waiver applies only when the **Named Insured** has agreed in writing to waive such rights of recovery in a written contract or written agreement, and only if such contract or agreement:

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1. is in effect or becomes effective during the term of this **Coverage Part**; and
2. was executed prior to the **bodily injury, property damage** or **personal and advertising injury** giving rise to the claim.

**27. WRAP-UP EXTENSION: OCIP, CCIP, OR CONSOLIDATED (WRAP-UP) INSURANCE PROGRAMS**

**Note:** The following provision does not apply to any public construction project in the state of Oklahoma, nor to any construction project in the state of Alaska, that is not permitted to be insured under a **consolidated (wrap-up) insurance program** by applicable state statute or regulation.

If the endorsement **EXCLUSION – CONSTRUCTION WRAP-UP** is attached to this policy, or another exclusionary endorsement pertaining to Owner Controlled Insurance Programs (O.C.I.P.) or Contractor Controlled Insurance Programs (C.C.I.P.) is attached, then the following changes apply:

- A.** The following wording is added to the above-referenced endorsement:

With respect to a **consolidated (wrap-up) insurance program** project in which the **Named Insured** is or was involved, this exclusion does not apply to those sums the **Named Insured** become legally obligated to pay as **damages** because of:

1. **Bodily injury, property damage, or personal or advertising injury** that occurs during the **Named Insured's** ongoing operations at the project, or during such operations of anyone acting on the **Named Insured's** behalf; nor
2. **Bodily injury or property damage** included within the **products-completed operations hazard** that arises out of those portions of the project that are not **residential structures**.

- B.** Condition **4. Other Insurance** is amended to add the following subparagraph **4.b.(1)(c)**:

This insurance is excess over:

- (c)** Any of the other insurance whether primary, excess, contingent or any other basis that is insurance available to the **Named Insured** as a result of the **Named Insured** being a participant in a **consolidated (wrap-up) insurance program**, but only as respects the **Named Insured's** involvement in that **consolidated (wrap-up) insurance program**.

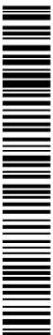
- C. DEFINITIONS** is amended to add the following definitions:

**Consolidated (wrap-up) insurance program** means a construction, erection or demolition project for which the prime contractor/project manager or owner of the construction project has secured general liability insurance covering some or all of the contractors or subcontractors involved in the project, such as an Owner Controlled Insurance Program (O.C.I.P.) or Contractor Controlled Insurance Program (C.C.I.P.).

**Residential structure** means any structure where 30% or more of the square foot area is used or is intended to be used for human residency, including but not limited to:

1. single or multifamily housing, apartments, condominiums, townhouses, co-operatives or planned unit developments; and
2. the common areas and structures appurtenant to the structures in paragraph 1. (including pools, hot tubs, detached garages, guest houses or any similar structures).

However, when there is no individual ownership of units, **residential structure** does not include military housing, college/university housing or dormitories, long term care facilities, hotels or motels. **Residential structure** also does not include hospitals or prisons.







**CNA PARAMOUNT**

**Architects, Engineers and Surveyors General Liability  
Extension Endorsement**

This **WRAP-UP EXTENSION: OCIP, CCIP, OR CONSOLIDATED (WRAP-UP) INSURANCE PROGRAMS** Provision does not apply to any person or organization who otherwise qualifies as an additional insured on this **Coverage Part**.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.



# Expenditure Control Form

1. All requests being made must be accompanied by this form.
2. Route **ALL** requests to the Finance Department for signature.
3. If request is greater than \$100,000 it requires signatures by Finance and the City Administrator. Finance Dept. will route to City Administrator.

Today's Date:

Type of expenditure:

Goods

☐

Services

☐

Department:

Approving Supervisor:

Amount of Proposed Expenditure:

Funding Source:

**Please verify correct funding sources. Please indicate breakdown if more than one funding source.**

**Why is this expenditure necessary now?**

**What are the impacts if expenses are deferred?**

**What alternative resources have been considered?**

**Description of the goods or service and any additional information?**

Person Submitting Form/Contact:

FINANCE SIGNATURE:

---

CITY ADMINISTRATOR SIGNATURE:

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**Agenda Sheet for City Council Meeting of:**  
07/13/2020

<b>Date Rec'd</b>	6/22/2020
<b>Clerk's File #</b>	OPR 2020-0569
<b>Renews #</b>	

<b>Submitting Dept</b>	ENGINEERING SERVICES	<b>Cross Ref #</b>	
<b>Contact Name/Phone</b>	DAN BULLER 625-6391	<b>Project #</b>	2020090
<b>Contact E-Mail</b>	DBULLER@SPOKANCECITY.ORG	<b>Bid #</b>	
<b>Agenda Item Type</b>	Contract Item	<b>Requisition #</b>	MASTER
<b>Agenda Item Name</b>	0370 - HRA - CULTURAL RESOURCE ON-CALL SERVICES - FEDERAL AID		

**Agenda Wording**

Local Area A&E Professional Services Consultant Agreement with Historical Research Associates Inc., (HRA); (Spokane, WA) for Cultural Resource Services for 2020-2022 Federal Aid Project for the amount not to exceed \$200,000.00. (Various Councils)

**Summary (Background)**

The Agreement for Cultural Resource Services is for a period of two years. An option for a one year extension will be granted at the City's discretion. Supplemental Agreements will be prepared under this agreement and scopes for individual project needs. Funding shall be from the individual project.

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

Expense	\$ 200,000.00	# Various
Select	\$	#
Select	\$	#
Select	\$	#

<b><u>Approvals</u></b>		<b><u>Council Notifications</u></b>	
<b><u>Dept Head</u></b>	TWOHIG, KYLE	<b><u>Study Session\Other</u></b>	PIES 6/22/20
<b><u>Division Director</u></b>	SIMMONS, SCOTT M.	<b><u>Council Sponsor</u></b>	Beggs
<b><u>Finance</u></b>	WALLACE, TONYA	<b><u>Distribution List</u></b>	
<b><u>Legal</u></b>	RICHMAN, JAMES	eraea@spokanecity.org	
<b><u>For the Mayor</u></b>	ORMSBY, MICHAEL	publicworksaccounting@spokanecity.org	
<b><u>Additional Approvals</u></b>		kgoodman@spokanecity.org	
<b><u>Purchasing</u></b>		htrautman@spokanecity.org	
<b><u>GRANTS &amp; CONTRACT MGMT</u></b>	STOPHER, SALLY	aduffey@spokanecity.org	
		nperrin@hraassoc.com	
		dbuller@spokancecity.org	

## Briefing Paper

### PIES

<b>Division &amp; Department:</b>	Engineering Services; Public Works
<b>Subject:</b>	On-Call Engineering Consultants
<b>Date:</b>	June 22, 2020
<b>Contact (email &amp; phone):</b>	Dan Buller ( <a href="mailto:dbuller@spokanecity.org">dbuller@spokanecity.org</a> , 625-6391)
<b>City Council Sponsor:</b>	
<b>Executive Sponsor:</b>	Scott Simmons
<b>Committee(s) Impacted:</b>	PIES
<b>Type of Agenda item:</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
<b>Alignment:</b> (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	
<b>Strategic Initiative:</b>	Innovative Infrastructure
<b>Deadline:</b>	
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	Informational - background information for committee review
<p><b>Background/History:</b> Engineering Services has “on-call” agreements with various consultants for specialized engineering or related services (structural, geotech., surveying, landscape architecture, cultural resource and real estate acquisition) associated with the City’s public works projects. Those firms are selected on the basis of qualifications as required by RCW 39. These typically agreements last from 2-3 years.</p>	
<p><b>Executive Summary:</b></p> <ul style="list-style-type: none"> <li>• A request for qualifications was advertised earlier this spring for structural engineering, geotechnical engineering, surveying, landscape architecture, culture resource and real estate acquisition consultants.</li> <li>• A review committee ranked the firms by qualifications. One firm will be selected for each discipline.</li> <li>• Engineering Services expects to bring six agreements to council over the next several weeks.</li> <li>• Costs incurred under the proposed contracts are paid as part of each public works project for which the consultant is used.</li> </ul>	
<p><b>Budget Impact:</b></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>	
<p><b>Operations Impact:</b></p> <p>Consistent with current operations/policy? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Requires change in current operations/policy? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Specify changes required:</p> <p>Known challenges/barriers:</p>	

# Local Agency Professional Services Negotiated Hourly Rate Consultant Agreement

Agreement Number:

Does this Require DES filing? ☐ Yes ☐ No

Firm/Organization Legal Name (do not use dba's): Historical Research Associates, Inc.			
Address 715 E. Sprague Ave., Suite 200, Spokane, WA 99202		Federal Aid Number	
UBI Number 601-180-083		Federal TIN 81-0373761	
Execution Date		Completion Date 7/31/21	
1099 Form Required <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Federal Participation <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Project Title City of Spokane Cultural Resources On-Call Services Federal Aid			
Description of Work Cultural resource work for the projects listed in Exhibit A below.			
<input type="checkbox"/> Yes	%	<input checked="" type="checkbox"/> No DBE Participation	Maximum Amount Payable: \$200,000.00
<input type="checkbox"/> Yes	%	<input checked="" type="checkbox"/> No MBE Participation	
<input type="checkbox"/> Yes	%	<input checked="" type="checkbox"/> No WBE Participation	
<input type="checkbox"/> Yes	%	<input checked="" type="checkbox"/> No SBE Participation	

## Index of Exhibits

<a href="#">Exhibit A</a>	Scope of Work
<a href="#">Exhibit B</a>	DBE Participation
<a href="#">Exhibit C</a>	Preparation and Delivery of Electronic Engineering and Other Data
<a href="#">Exhibit D</a>	Prime Consultant Cost Computations
<a href="#">Exhibit E</a>	Sub-consultant Cost Computations
<a href="#">Exhibit F</a>	Title VI Assurances
<a href="#">Exhibit G</a>	Certification Documents
<a href="#">Exhibit H</a>	Liability Insurance Increase
<a href="#">Exhibit I</a>	Alleged Consultant Design Error Procedures
<a href="#">Exhibit J</a>	Consultant Claim Procedures

Agreement Number:

THIS AGREEMENT, made and entered into as shown in the “Execution Date” box on page one (1) of this AGREEMENT, between the City of Spokane hereinafter called the “AGENCY,” and the “Firm/Organization Name” referenced on page one (1) of this AGREEMENT, hereinafter called the “CONSULTANT.”

WHEREAS, the AGENCY desires to accomplish the work referenced in “Description of Work” on page one (1) of this AGREEMENT and hereafter called the “SERVICES;” and does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary SERVICES; and

WHEREAS, the CONSULTANT represents that they comply with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the AGENCY.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

## **I. General Description of Work**

The work under this AGREEMENT shall consist of the above-described SERVICES as herein defined, and necessary to accomplish the completed work for this project. The CONSULTANT shall furnish all services, labor, and related equipment and, if applicable, sub-consultants and subcontractors necessary to conduct and complete the SERVICES as designated elsewhere in this AGREEMENT.

## **II. Scope of Work**

The Scope of Work and projected level of effort required for these SERVICES is described in Exhibit “A” attached hereto and by this reference made a part of this AGREEMENT. The Scope of Work was developed utilizing performance based contracting methodologies.

## **III. General Requirements**

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress, and presentation meetings with the AGENCY and/or such State, Federal, Community, City, or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days’ notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit “A.”

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the SERVICES in sufficient detail so that the progress of the SERVICES can easily be evaluated.

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations, and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

Agreement Number:

Participation for Disadvantaged Business Enterprises (DBE) or Small Business Enterprises (SBE), if required, per 49 CFR Part 26 shall be shown on the heading of this AGREEMENT. If DBE firms are utilized at the commencement of this AGREEMENT, the amounts authorized to each firm and their certification number will be shown on Exhibit “B” attached hereto and by this reference made part of this AGREEMENT. If the Prime CONSULTANT is a DBE certified firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY’s “DBE Program Participation Plan” and perform a minimum of 30% of the total amount of this AGREEMENT. It is recommended, but not required, that non-DBE Prime CONSULTANTS perform a minimum of 30% of the total amount of this AGREEMENT.

In the absence of a mandatory UDBE, the Consultant shall continue their outreach efforts to provide SBE firms maximum practicable opportunities.

The CONSULTANT, on a monthly basis, shall enter the amounts paid to all firms involved with this AGREEMENT into the [wsdot.diversitycompliance.com](http://wsdot.diversitycompliance.com) program. Payment information shall identify any DBE Participation. Non-minority, woman owned DBEs does not count towards UDBE goal attainment.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit “C – Preparation and Delivery of Electronic Engineering and other Data.”

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for these SERVICES, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring as a part of this SERVICE, shall be without liability or legal exposure to the CONSULTANT.

Any and all notices or requests required under this AGREEMENT shall be made in writing and sent to the other party by (i) certified mail, return receipt requested, or (ii) by email or facsimile, to the address set forth below:

If to AGENCY:		If to CONSULTANT:	
Name: Dan Buller		Name: Natalie Perrin	
Agency: City of Spokane		Agency: Historical Research Associates, Inc.	
Address: 808 W. Spokane Falls Blvd.		Address: 715 E. Sprague Ave., Suite 200	
City: Spokane	State: WA Zip: 99201	City: Spokane	State: WA Zip: 99202
Email: <a href="mailto:dbuller@spokanecity.org">dbuller@spokanecity.org</a>		Email: <a href="mailto:nperrin@hrassoc.com">nperrin@hrassoc.com</a>	
Phone: 509-625-6700		Phone: 971-386-2047	
Facsimile: 509-625-6349		Facsimile: 406-721-1964	

**IV. Time for Beginning and Completion**

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY. This AGREEMENT may require filing with the Department of Enterprise Services (DES) pursuant to RCW 39.26.140. If such approval is required by DES, this AGREEMENT shall not bind the AGENCY until approved by DES. If the AGREEMENT must be approved by DES, work cannot begin, nor payment made until ten (10) or more working days following the date of filing, and until approved by DES. Any subsequent SUPPLEMENTAL AGREEMENT may also be subject to filing and/or approval from DES. All work under this AGREEMENT shall be completed by the date shown in the heading of this AGREEMENT titled “Completion Date.”

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD, governmental actions, or other conditions beyond the control of the CONSULTANT. A prior supplemental AGREEMENT issued by the AGENCY is required to extend the established completion time.

Agreement Number:

## V. Payment Provisions

The CONSULTANT shall be paid by the AGENCY for completed SERVICES rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for SERVICES performed or SERVICES rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete SERVICES. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31 ([www.ecfr.gov](http://www.ecfr.gov)).

- A. Hourly Rates: Hourly rates are comprised of the following elements - Direct (Raw) Labor, Indirect Cost Rate, and Fee (Profit). The CONSULTANT shall be paid by the AGENCY for work done, based upon the negotiated hourly rates shown in Exhibits “D” and “E” attached hereto and by reference made part of this AGREEMENT. These negotiated hourly rates will be accepted based on a review of the CONSULTANT’s direct labor rates and indirect cost rate computations and agreed upon fee. The accepted negotiated rates shall be memorialized in a final written acknowledgment between the parties. Such final written acknowledgment shall be incorporated into, and become a part of, this AGREEMENT. The initially accepted negotiated rates shall be applicable from the approval date, as memorialized in a final written acknowledgment, to 180 days following the CONSULTANT’s fiscal year end (FYE) date.

The direct (raw) labor rates and classifications, as shown on Exhibits “D” and “E” shall be subject to renegotiations for each subsequent twelve (12) month period (180 days following FYE date to 180 days following FYE date) upon written request of the CONSULTANT or the AGENCY. The written request must be made to the other party within ninety (90) days following the CONSULTANT’s FYE date. If no such written request is made, the current direct (raw) labor rates and classifications as shown on Exhibits “D” and “E”, will remain in effect for the twelve (12) month period.

Conversely, if a timely request is made in the manner set forth above, the parties will commence negotiations to determine the new direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period. Any agreed to renegotiated rates shall be memorialized in a final written acknowledgement between the parties. Such final written acknowledgement shall be incorporated into, and become a part of, this AGREEMENT. If requested, the CONSULTANT shall provide current payroll register and classifications to aid in negotiations. If the parties cannot reach an agreement on the direct (raw) labor rates and classifications, the AGENCY shall perform an audit of the CONSULTANT’s books and records to determine the CONSULTANT’s actual costs. The audit findings will establish the direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period.

The fee as identified in Exhibits “D” and “E” shall represent a value to be applied throughout the life of the AGREEMENT.

The CONSULTANT shall submit annually to the AGENCY an updated indirect cost rate within 180 days of the close of its fiscal year. An approved updated indirect cost rate shall be included in the current fiscal year rates under this AGREEMENT, even if/when other components of the hourly rate are not renegotiated. These rates will be applicable for the twelve (12) month period. At the AGENCY’s option, a provisional and/or conditional indirect cost rate may be negotiated. This provisional or conditional indirect rate shall remain in effect until the updated indirect cost rate is completed and approved. Indirect cost rate costs incurred during the provisional or conditional period will not be adjusted. The CONSULTANT may request an extension of the last approved indirect cost rate for the twelve (12) month period. These requests for provisional indirect cost rate and/or extension will be considered on a case-by-case basis, and if granted, will be memorialized in a final written acknowledgement.

The CONSULTANT shall maintain and have accessible support data for verification of the components of the hourly rates, i.e., direct (raw) labor, indirect cost rate, and fee (profit) percentage. The CONSULTANT shall bill each employee’s actual classification, and actual salary plus indirect cost rate plus fee.

Agreement Number:



- B. **Direct Non-Salary Costs:** Direct Non-Salary Costs will be reimbursed at the actual cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the WSDOT'S Accounting Manual M 13-82, Chapter 10 – Travel Rules and Procedures, and all revisions thereto. Air, train and rental car costs shall be reimbursed in accordance with 48 Code of Federal Regulations (CFR) Part 31.205-46 "Travel Costs." The billing for direct non-salary costs shall include an itemized listing of the charges directly identifiable with these SERVICES. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the AGENCY upon request. All above charges must be necessary for the SERVICES provided under this AGREEMENT.
- C. **Maximum Amount Payable:** The Maximum Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT on page one (1.) The Maximum Amount Payable does not include payment for extra work as stipulated in section XIII, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.
- D. **Monthly Progress Payments:** Progress payments may be claimed on a monthly basis for all costs authorized in A and B above. The monthly billings shall be supported by detailed statements for hours expended at the rates established in Exhibit "D," including names and classifications of all employees, and billings for all direct non-salary expenses. To provide a means of verifying the billed salary costs for the CONSULTANT's employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the SERVICES at the time of the interview.
- E. **Final Payment:** Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the SERVICES under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data, and other related documents which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.
- The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) calendar days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. Per the WSDOT's "Audit Guide for Consultants," Chapter 23 "Resolution Procedures," the CONSULTANT has twenty (20) working days after receipt of the final Post Audit to begin the appeal process to the AGENCY for audit findings.
- F. **Inspection of Cost Records:** The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY and the United States, for a period of six (6) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this AGREEMENT is initiated before the expiration of the six (6) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

An interim or post audit may be performed on this AGREEMENT. The audit, if any, will be performed by the State Auditor, WSDOT's Internal Audit Office and /or at the request of the AGENCY's Project Manager.

Agreement Number:

## **VI. Sub-Contracting**

The AGENCY permits subcontracts for those items of SERVICES as shown in Exhibit “A” attached hereto and by this reference made part of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any SERVICE under this AGREEMENT without prior written permission of the AGENCY. No permission for subcontracting shall create, between the AGENCY and sub-consultant, any contract or any other relationship.

Compensation for this sub-consultant SERVICES shall be based on the cost factors shown on Exhibit “E” attached hereto and by this reference made part of this AGREEMENT.

The SERVICES of the sub-consultant shall not exceed its maximum amount payable identified in each Task Order unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, indirect cost rate, direct non-salary costs and fee costs for the sub-consultant shall be negotiated and substantiated in accordance with section V “Payment Provisions” herein and shall be memorialized in a final written acknowledgement between the parties.

All subcontracts shall contain all applicable provisions of this AGREEMENT, and the CONSULTANT shall require each sub-consultant or subcontractor, of any tier, to abide by the terms and conditions of this AGREEMENT. With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the STATE’s Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT, sub-recipient, or sub-consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the recipient deems appropriate.

## **VII. Employment and Organizational Conflict of Interest**

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from this AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen’s Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT’s employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of this AGREEMENT, any professional or technical personnel who are, or have been, at any time during the period of this AGREEMENT, in the employ of the United States Department of Transportation or the AGENCY, except regularly retired employees, without written consent of the public employer of such person if he/she will be working on this AGREEMENT for the CONSULTANT.

Agreement Number:

## VIII. Nondiscrimination

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, sub-consultants, subcontractors and successors in interest, agrees to comply with the following laws and regulations:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Chapter 21 Subchapter V § 2000d through 2000d-4a)
- Federal-aid Highway Act of 1973 (23 U.S.C. Chapter 3 § 324)
- Rehabilitation Act of 1973 (29 U.S.C. Chapter 16 Subchapter V § 794)
- Age Discrimination Act of 1975 (42 U.S.C. Chapter 76 § 6101 *et. seq.*)
- Civil Rights Restoration Act of 1987 (Public Law 100-259)
- American with Disabilities Act of 1990 (42 U.S.C. Chapter 126 § 12101 *et. seq.*)
- 23 CFR Part 200
- 49 CFR Part 21
- 49 CFR Part 26
- RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit “F” attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit “F” in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

## IX. Termination of Agreement

The right is reserved by the AGENCY to terminate this AGREEMENT at any time with or without cause upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY, other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of this AGREEMENT, plus any direct non-salary costs incurred up to the time of termination of this AGREEMENT.

No payment shall be made for any SERVICES completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth in paragraph two (2) of this section, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In the event of a termination for default, the amount to be paid to the CONSULTANT shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing SERVICES to the date of termination, the amount of SERVICES originally required which was satisfactorily completed to date of termination, whether that SERVICE is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the SERVICES required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the SERVICES performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth in paragraph two (2) of this section.

If it is determined for any reason that the CONSULTANT was not in default or that the CONSULTANT’s failure to perform is without the CONSULTANT’s or its employee’s fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

Agreement Number:

The CONSULTANT shall, within 15 days, notify the AGENCY in writing, in the event of the death of any member, partner, or officer of the CONSULTANT or the death or change of any of the CONSULTANT's supervisory and/or other key personnel assigned to the project or disaffiliation of any principally involved CONSULTANT employee. The CONSULTANT shall also notify the AGENCY, in writing, in the event of the sale or transfer of 50% or more of the beneficial ownership of the CONSULTANT within 15 days of such sale or transfer occurring. The CONSULTANT shall continue to be obligated to complete the SERVICES under the terms of this AGREEMENT unless the AGENCY chooses to terminate this AGREEMENT for convenience or chooses to renegotiate any term(s) of this AGREEMENT. If termination for convenience occurs, final payment will be made to the CONSULTANT as set forth in the second and third paragraphs of this section.

Payment for any part of the SERVICES by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform SERVICES required of it by the AGENCY. Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

## **X. Changes of Work**

The CONSULTANT shall make such changes and revisions in the completed work of this AGREEMENT as necessary to correct errors appearing therein, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed SERVICES or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under section XIII "Extra Work."

## **XI. Disputes**

Any disputed issue not resolved pursuant to the terms of this AGREEMENT shall be submitted in writing within 10 days to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J". In the event that either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this AGREEMENT, this action shall be initiated in the Superior Court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in the county in which the AGENCY is located.

## **XII. Legal Relations**

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall defend, indemnify, and hold the State of Washington (STATE), the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the negligence of, or the breach of any obligation under this AGREEMENT by, the CONSULTANT or the CONSULTANT's agents, employees, sub consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable; provided that nothing herein shall require a CONSULTANT

Agreement Number:

to defend or indemnify the STATE and the AGENCY and their officers and employees against and hold harmless the STATE and the AGENCY and their officers and employees from claims, demands or suits based solely upon the negligence of, or breach of any obligation under this AGREEMENT by the STATE and/or the AGENCY, their agents, officers, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the STATE and/or the AGENCY may be legally liable; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT is legally liable, and (b) the STATE and/or the AGENCY, its agents, officers, employees, sub-consultants, subcontractors and or vendors, of any tier, or any other persons for whom the STATE and/or the AGENCY may be legally liable, the defense and indemnity obligation shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable. This provision shall be included in any AGREEMENT between CONSULTANT and any sub-consultant, subcontractor and vendor, of any tier.

The CONSULTANT shall also defend, indemnify, and hold the STATE and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable, in performance of the Work under this AGREEMENT or arising out of any use in connection with the AGREEMENT of methods, processes, designs, information or other items furnished or communicated to STATE and/or the AGENCY, its agents, officers and employees pursuant to the AGREEMENT; provided that this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from STATE's and/or the AGENCY's, their agents', officers' and employees' failure to comply with specific written instructions regarding use provided to STATE and/or the AGENCY, their agents, officers and employees by the CONSULTANT, its agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable.

The CONSULTANT's relation to the AGENCY shall be at all times as an independent contractor.

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the AGENCY may, in its sole discretion, by written notice to the CONSULTANT terminate this AGREEMENT if it is found after due notice and examination by the AGENCY that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the CONSULTANT in the procurement of, or performance under, this AGREEMENT.

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees or its agents against the STATE and/or the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. This waiver has been mutually negotiated by the Parties.

Unless otherwise specified in this AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the project. Subject to the processing of a new sole source, or an acceptable supplemental AGREEMENT, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for: proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of this AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

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## Insurance Coverage

- A. Worker's compensation and employer's liability insurance as required by the STATE.
- B. Commercial general liability insurance written under ISO Form CG 00 01 12 04 or its equivalent with minimum limits of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate for each policy period.
- C. Business auto liability insurance written under ISO Form CG 00 01 10 01 or equivalent providing coverage for any "Auto" (Symbol 1) used in an amount not less than a one million dollar (\$1,000,000.00) combined single limit for each occurrence.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance, the STATE and AGENCY, their officers, employees, and agents will be named on all policies of CONSULTANT and any sub-consultant and/or subcontractor as an additional insured (the "AIs"), with no restrictions or limitations concerning products and completed operations coverage. This coverage shall be primary coverage and non-contributory and any coverage maintained by the AIs shall be excess over, and shall not contribute with, the additional insured coverage required hereunder. The CONSULTANT's and the sub-consultant's and/or subcontractor's insurer shall waive any and all rights of subrogation against the AIs. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by this AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to:

Name: Engineering Services  
Agency: City of Spokane  
Address: 808 W. Spokane Falls Blvd.  
City: Spokane State: WA Zip: 99201  
Email: eraea@spokanecity.org  
Phone: 509-625-6700  
Facsimile: 509-625-6349

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT's professional liability to the AGENCY, including that which may arise in reference to section IX "Termination of Agreement" of this AGREEMENT, shall be limited to the accumulative amount of the authorized AGREEMENT or one million dollars (\$1,000,000.00), whichever is greater, unless the limit of liability is increased by the AGENCY pursuant to Exhibit H. In no case shall the CONSULTANT's professional liability to third parties be limited in any way.

The parties enter into this AGREEMENT for the sole benefit of the parties, and to the exclusion of any third party, and no third party beneficiary is intended or created by the execution of this AGREEMENT.

The AGENCY will pay no progress payments under section V "Payment Provisions" until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

Agreement Number:

### **XIII. Extra Work**

- A. The AGENCY may at any time, by written order, make changes within the general scope of this AGREEMENT in the SERVICES to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the SERVICES under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of this AGREEMENT, the AGENCY shall make an equitable adjustment in the: (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify this AGREEMENT accordingly.
- C. The CONSULTANT must submit any “request for equitable adjustment,” hereafter referred to as “CLAIM,” under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of this AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the section XI “Disputes” clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (A.) and (B.) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

### **XIV. Endorsement of Plans**

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

### **XV. Federal Review**

The Federal Highway Administration shall have the right to participate in the review or examination of the SERVICES in progress.

### **XVI. Certification of the Consultant and the AGENCY**

Attached hereto as Exhibit “G-1(a and b)” are the Certifications of the CONSULTANT and the AGENCY, Exhibit “G-2” Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit “G-3” Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit “G-4” Certificate of Current Cost or Pricing Data. Exhibit “G-3” is required only in AGREEMENT’s over one hundred thousand dollars (\$100,000.00) and Exhibit “G-4” is required only in AGREEMENT’s over five hundred thousand dollars (\$500,000.00.) These Exhibits must be executed by the CONSULTANT, and submitted with the master AGREEMENT, and returned to the AGENCY at the address listed in section III “General Requirements” prior to its performance of any SERVICES under this AGREEMENT.

### **XVII. Complete Agreement**

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as a supplement to this AGREEMENT.

Agreement Number:

## **XVIII. Execution and Acceptance**

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and AGREEMENT's contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept this AGREEMENT and agrees to all of the terms and conditions thereof.

## **XIX. Protection of Confidential Information**

The CONSULTANT acknowledges that some of the material and information that may come into its possession or knowledge in connection with this AGREEMENT or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other local, state or federal statutes ("State's Confidential Information"). The "State's Confidential Information" includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records (or any other information identifiable to an individual), STATE and AGENCY source code or object code, STATE and AGENCY security data, non-public Specifications, STATE and AGENCY non-publicly available data, proprietary software, STATE and AGENCY security data, or information which may jeopardize any part of the project that relates to any of these types of information. The CONSULTANT agrees to hold the State's Confidential Information in strictest confidence and not to make use of the State's Confidential Information for any purpose other than the performance of this AGREEMENT, to release it only to authorized employees, sub-consultants or subcontractors requiring such information for the purposes of carrying out this AGREEMENT, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make it known to any other party without the AGENCY's express written consent or as provided by law. The CONSULTANT agrees to release such information or material only to employees, sub-consultants or subcontractors who have signed a nondisclosure AGREEMENT, the terms of which have been previously approved by the AGENCY. The CONSULTANT agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to the State's Confidential Information.

Immediately upon expiration or termination of this AGREEMENT, the CONSULTANT shall, at the AGENCY's option: (i) certify to the AGENCY that the CONSULTANT has destroyed all of the State's Confidential Information; or (ii) returned all of the State's Confidential Information to the AGENCY; or (iii) take whatever other steps the AGENCY requires of the CONSULTANT to protect the State's Confidential Information.

As required under Executive Order 00-03, the CONSULTANT shall maintain a log documenting the following: the State's Confidential Information received in the performance of this AGREEMENT; the purpose(s) for which the State's Confidential Information was received; who received, maintained and used the State's Confidential Information; and the final disposition of the State's Confidential Information. The CONSULTANT's records shall be subject to inspection, review, or audit upon reasonable notice from the AGENCY.

The AGENCY reserves the right to monitor, audit, or investigate the use of the State's Confidential Information collected, used, or acquired by the CONSULTANT through this AGREEMENT. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by the CONSULTANT or its sub-consultants or subcontractors may result in termination of this AGREEMENT and demand for return of all State's Confidential Information, monetary damages, or penalties.

It is understood and acknowledged that the CONSULTANT may provide the AGENCY with information which is proprietary and/or confidential during the term of this AGREEMENT. The parties agree to maintain the confidentiality of such information during the term of this AGREEMENT and afterwards. All materials containing such proprietary and/or confidential information shall be clearly identified and marked as "Confidential" and shall be returned to the disclosing party at the conclusion of the SERVICES under this AGREEMENT.

Agreement Number:



The CONSULTANT shall provide the AGENCY with a list of all information and materials it considers confidential and/or proprietary in nature: (a) at the commencement of the term of this AGREEMENT; or (b) as soon as such confidential or proprietary material is developed. "Proprietary and/or confidential information" is not meant to include any information which, at the time of its disclosure: (i) is already known to the other party; (ii) is rightfully disclosed to one of the parties by a third party that is not acting as an agent or representative for the other party; (iii) is independently developed by or for the other party; (iv) is publicly known; or (v) is generally utilized by unaffiliated third parties engaged in the same business or businesses as the CONSULTANT.

The parties also acknowledge that the AGENCY is subject to Washington State and federal public disclosure laws. As such, the AGENCY shall maintain the confidentiality of all such information marked proprietary and/or confidential or otherwise exempt, unless such disclosure is required under applicable state or federal law. If a public disclosure request is made to view materials identified as "Proprietary and/or confidential information" or otherwise exempt information, the AGENCY will notify the CONSULTANT of the request and of the date that such records will be released to the requester unless the CONSULTANT obtains a court order from a court of competent jurisdiction enjoining that disclosure. If the CONSULTANT fails to obtain the court order enjoining disclosure, the AGENCY will release the requested information on the date specified.

The CONSULTANT agrees to notify the sub-consultant of any AGENCY communication regarding disclosure that may include a sub-consultant's proprietary and/or confidential information. The CONSULTANT notification to the sub-consultant will include the date that such records will be released by the AGENCY to the requester and state that unless the sub-consultant obtains a court order from a court of competent jurisdiction enjoining that disclosure the AGENCY will release the requested information. If the CONSULTANT and/or sub-consultant fail to obtain a court order or other judicial relief enjoining the AGENCY by the release date, the CONSULTANT shall waive and release and shall hold harmless and indemnify the AGENCY from all claims of actual or alleged damages, liabilities, or costs associated with the AGENCY's said disclosure of sub-consultants' information.

## **XIX. Records Maintenance**

During the progress of the Work and SERVICES provided hereunder and for a period of not less than six (6) years from the date of final payment to the CONSULTANT, the CONSULTANT shall keep, retain and maintain all "documents" pertaining to the SERVICES provided pursuant to this AGREEMENT. Copies of all "documents" pertaining to the SERVICES provided hereunder shall be made available for review at the CONSULTANT's place of business during normal working hours. If any litigation, claim or audit is commenced, the CONSULTANT shall cooperate with AGENCY and assist in the production of all such documents. "Documents" shall be retained until all litigation, claims or audit findings have been resolved even though such litigation, claim or audit continues past the six (6) year retention period.

For purposes of this AGREEMENT, "documents" means every writing or record of every type and description, including electronically stored information ("ESI"), that is in the possession, control, or custody of the CONSULTANT, including, without limitation, any and all correspondences, contracts, AGREEMENT 's, appraisals, plans, designs, data, surveys, maps, spreadsheets, memoranda, stenographic or handwritten notes, reports, records, telegrams, schedules, diaries, notebooks, logbooks, invoices, accounting records, work sheets, charts, notes, drafts, scribbles, recordings, visual displays, photographs, minutes of meetings, tabulations, computations, summaries, inventories, and writings regarding conferences, conversations or telephone conversations, and any and all other taped, recorded, written, printed or typed matters of any kind or description; every copy of the foregoing whether or not the original is in the possession, custody, or control of the CONSULTANT, and every copy of any of the foregoing, whether or not such copy is a copy identical to an original, or whether or not such copy contains any commentary or notation whatsoever that does not appear on the original.

Agreement Number:

For purposes of this AGREEMENT, “ESI” means any and all computer data or electronic recorded media of any kind, including “Native Files”, that are stored in any medium from which it can be retrieved and examined, either directly or after translation into a reasonably useable form. ESI may include information and/or documentation stored in various software programs such as: Email, Outlook, Word, Excel, Access, Publisher, PowerPoint, Adobe Acrobat, SQL databases, or any other software or electronic communication programs or databases that the CONSULTANT may use in the performance of its operations. ESI may be located on network servers, backup tapes, smart phones, thumb drives, CDs, DVDs, floppy disks, work computers, cell phones, laptops or any other electronic device that CONSULTANT uses in the performance of its Work or SERVICES hereunder, including any personal devices used by the CONSULTANT or any sub-consultant at home.

“Native files” are a subset of ESI and refer to the electronic format of the application in which such ESI is normally created, viewed, and /or modified.

The CONSULTANT shall include this section XX “Records Maintenance” in every subcontract it enters into in relation to this AGREEMENT and bind the sub-consultant to its terms, unless expressly agreed to otherwise in writing by the AGENCY prior to the execution of such subcontract.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the “Execution Date” box on page one (1) of this AGREEMENT.

Natalie Perrin

Digitally signed by Natalie Perrin  
DN: cn=Natalie Perrin, o=HRA, ou,  
email=nperrin@hrassoc.com, c=US  
Date: 2020.06.18 14:18:34 -07'00'

Signature

June 18, 2020

Date

Signature

Date

*Any modification, change, or reformation of this AGREEMENT shall require approval as to form by the Office of the Attorney General.*

Agreement Number:

# ***Exhibit A***

## ***Scope of Work***

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Federal Aid No.

The scope of work for the various federal aid projects covered in this agreement will vary by project but is generally described in the "Description of Work" on the first page of this agreement. The project covered include:

12th Ave. – Deer Heights to Flint Rd.  
Centennial Trail Summit Blvd.  
Driscoll – Alberta to Garland  
Fish Lake Trail Phase 3B  
Fish Lake Trail to Centennial Trail Connection  
Fort George Wright  
Freya St., Garland to Francis  
Freya – Wellesley to Francis  
Havana St. – Sprague to Broadway  
Maple-Wellesley Intersection  
Millwood Trail – Greene to Felts Field  
North Bank Trail  
North River Dr. Sidewalk – East of Washington St.  
Ray/Freya – Hartson to 17th  
Riverside Ave. – Monroe to Division  
Sherman Ave. / 5th Ave. Traffic Signal  
Sprague Ave (multiple phases) – pavement reconstruction, curb bumpouts, stormwater separation etc.  
Sunset Highway Bike Path – Royal to Deer Heights – bike path construction  
Thor-Freya Reconstruction – Sprague to Hartson  
Wellesley Ave., Freya to Havana

Agreement Number:

***Exhibit B***  
***DBE Participation Plan***

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Agreement Number:

# ***Exhibit C***

## ***Preparation and Delivery of Electronic Engineering and Other Data***

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In this Exhibit the agency, as applicable, is to provide a description of the format and standards the consultant is to use in preparing electronic files for transmission to the agency. The format and standards to be provided may include, but are not limited to, the following:

I. Surveying, Roadway Design & Plans Preparation Section

A. Survey Data

To be mutually agreed upon

B. Roadway Design Files

To be mutually agreed upon

C. Computer Aided Drafting Files

Industry standard - to be mutually agreed upon

Agreement Number:

D. Specify the Agency's Right to Review Product with the Consultant

Phone and in-person consultation as necessary

E. Specify the Electronic Deliverables to Be Provided to the Agency

Varies by project

F. Specify What Agency Furnished Services and Information Is to Be Provided

Varies by project

Agreement Number:

## II. Any Other Electronic Files to Be Provided

Varies by project

## III. Methods to Electronically Exchange Data

Email or city provided FTP

A. Agency Software Suite

Industry standard

B. Electronic Messaging System

Industry standard

C. File Transfers Format

Industry standard



## ***Exhibit D***

### ***Prime Consultant Cost Computations***

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Will be negotiated project by project subject to the attached fee/rate schedule (Exhibit K) before notice to proceed for each project is given.

Agreement Number:

## ***Exhibit E***

### ***Sub-consultant Cost Computations***

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The CONSULTANT shall not sub-contract for the performance of any work under this AGREEMENT without prior written permission of the AGENCY. Refer to section VI “Sub-Contracting” of this AGREEMENT.

There is no planned sub-consultant work planned. In the event consultant desires a sub-consultant, the procedures in Section VI of this agreement shall be followed.

Agreement Number:

# **Exhibit F**

## **Title VI Assurances**

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During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the “REGULATIONS”), which are herein incorporated by reference and made a part of this AGREEMENT.
2. **Non-discrimination:** The CONSULTANT, with regard to the work performed during this AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when this AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
3. **Solicitations for Sub-consultants, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT’s obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports:** The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the AGENCY, the STATE, or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, the STATE, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the CONSULTANT’s non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE, or the FHWA may determine to be appropriate, including, but not limited to:
  - Withholding of payments to the CONSULTANT under this AGREEMENT until the CONSULTANT complies, and/or;
  - Cancellation, termination, or suspension of this AGREEMENT, in whole or in part.
6. **Incorporation of Provisions:** The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the STATE, the AGENCY, or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY enter into such litigation to protect the interests of the STATE and/or the AGENCY and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.

Agreement Number:

## ***Exhibit G***

### ***Certification Documents***

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- Exhibit G-1(a) Certification of Consultant
- Exhibit G-1(b) Certification of City of Spokane
- Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters -  
Primary Covered Transactions
- Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying
- Exhibit G-4 Certificate of Current Cost or Pricing Data

Agreement Number:

## Exhibit G-1(a) Certification of Consultant

I hereby certify that I am the and duly authorized representative of the firm of  
Historical Research Associates, Inc.

whose address is

715 E. Sprague Ave., Suite 200, Spokane, WA 99202

and that neither the above firm nor I have:

- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this AGREEMENT;
- b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be furnished to the City of Spokane  
and the Federal Highway Administration, U.S. Department of Transportation in connection with this  
AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and  
Federal laws, both criminal and civil.

Historical Research Associates, Inc.

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Consultant (Firm Name)

**Natalie Perrin**

Digitally signed by Natalie Perrin  
DN: cn=Natalie Perrin, o=HRA, ou,  
email=nperrin@hrassoc.com, c=US  
Date: 2020.06.18 14:19:50 -07'00'

June 18, 2020

---

Signature (Authorized Official of Consultant)

Date

Agreement Number:

**Exhibit G-1(b) Certification of** City of Spokane

I hereby certify that I am the:

☒ Mayor

☐ Other

of the City of Spokane, and Historical Research Associates, Inc.  
or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this AGREEMENT to:

- a) Employ or retain, or agree to employ to retain, any firm or person; or
- b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be furnished to the Historical Research Associates, Inc. and the Federal Highway Administration, U.S. Department of Transportation, in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Agreement Number:

**Exhibit G-2    Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions**

- I.    The prospective primary participant 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 (3) year period preceding this proposal been convicted of 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 anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - C.    Are not presently indicted for or otherwise criminally or civilly charged by a governmental 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 (3) year period preceding this application / proposal had one or more public transactions (Federal, State and local) terminated for cause or default.
- II.   Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Historical Research Associates, Inc.  
\_\_\_\_\_  
Consultant (Firm Name)

**Natalie Perrin**  
Digitally signed by Natalie Perrin  
DN: cn=Natalie Perrin, o=HRA, ou,  
email=nperrin@hrassoc.com, c=US  
Date: 2020.06.18 14:20:25 -07'00'

\_\_\_\_\_  
Signature (Authorized Official of Consultant)

June 18, 2020  
\_\_\_\_\_  
Date

## Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative AGREEMENT, and the extension, continuation, renewal, amendment, or modification of Federal contract, grant, loan or cooperative AGREEMENT.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative AGREEMENT, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00, and not more than \$100,000.00, for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier sub-contracts, which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly.

Historical Research Associates, Inc.

Consultant (Firm Name)

Natalie Perrin

Digitally signed by Natalie Perrin  
DN: cn=Natalie Perrin, o=HRA, ou,  
email=nperrin@hrassoc.com, c=US  
Date: 2020.06.18 14:20:49 -07'00'

June 18, 2020

Signature (Authorized Official of Consultant)

Date

Agreement Number:



Exhibit G-4 Certificate of Current Cost or Pricing Data

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section 2.101 of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4) submitted, either actually or by specific identification in writing, to the Contracting Officer or to the Contracting Officer’s representative in support of this agreement \* are accurate, complete, and current as of the date of execution of this agreement \*\*.

This certification includes the cost or pricing data supporting any advance AGREEMENT’s and forward pricing rate AGREEMENT’s between the offer or and the Government that are part of the proposal.

Firm: Historical Research Associates, Inc.

Natalie Perrin Digitally signed by Natalie Perrin  
DN: cn=Natalie Perrin, o=HRA, ou,  
email=nperrin@hrassoc.com, c=US  
Date: 2020.06.18 14:21:25 -07'00'

Signature

Principal Architectural Historian

Title

Date of Execution\*\*\*: June 18, 2020

\*Identify the proposal, quotation, request for pricing adjustment, or other submission involved, giving the appropriate identifying number (e.g. project title.)  
\*\*Insert the day, month, and year, when price negotiations were concluded and price AGREEMENT was reached.  
\*\*\*Insert the day, month, and year, of signing, which should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed to.

Agreement Number:

# **Exhibit H**

## **Liability Insurance Increase**

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### **To Be Used Only If Insurance Requirements Are Increased**

The professional liability limit of the CONSULTANT to the AGENCY identified in Section XII, Legal Relations and Insurance of this Agreement is amended to \$ N/A .

The CONSULTANT shall provide Professional Liability insurance with minimum per occurrence limits in the amount of \$ .

Such insurance coverage shall be evidenced by one of the following methods:

- Certificate of Insurance.
- Self-insurance through an irrevocable Letter of Credit from a qualified financial institution.

Self-insurance through documentation of a separate fund established exclusively for the payment of professional liability claims, including claim amounts already reserved against the fund, safeguards established for payment from the fund, a copy of the latest annual financial statements, and disclosure of the investment portfolio for those funds.

Should the minimum Professional Liability insurance limit required by the AGENCY as specified above exceed \$1 million per occurrence or the value of the contract, whichever is greater, then justification shall be submitted to the Federal Highway Administration (FHWA) for approval to increase the minimum insurance limit.

If FHWA approval is obtained, the AGENCY may, at its own cost, reimburse the CONSULTANT for the additional professional liability insurance required.

Notes: Cost of added insurance requirements: \$ .

- Include all costs, fee increase, premiums.
- This cost shall not be billed against an FHWA funded project.
- For final contracts, include this exhibit.

Agreement Number:

# **Exhibit I**

## ***Alleged Consultant Design Error Procedures***

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The purpose of this exhibit is to establish a procedure to determine if a consultant's alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

### **Step 1 Potential Consultant Design Error(s) is Identified by Agency's Project Manager**

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

### **Step 2 Project Manager Documents the Alleged Consultant Design Error(s)**

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include: all decisions and descriptions of work; photographs, records of labor, materials and equipment.

### **Step 3 Contact the Consultant Regarding the Alleged Design Error(s)**

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

### **Step 4 Attempt to Resolve Alleged Design Error with Consultant**

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide LP, through the Region Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.
- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

Agreement Number:

## **Step 5 Forward Documents to Local Programs**

For federally funded projects all available information, including costs, should be forwarded through the Region Local Programs Engineer to LP for their review and consultation with the FHWA. LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, LP will request assistance from the Attorney General's Office for legal interpretation. LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

Agreement Number:

# **Exhibit J**

## **Consultant Claim Procedures**

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The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) are a total of \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

### **Step 1 Consultant Files a Claim with the Agency Project Manager**

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

### **Step 2 Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation**

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will met with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action in needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

Agreement Number:

### **Step 3 Preparation of Support Documentation Regarding Consultant's Claim(s)**

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

### **Step 4 Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation**

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

### **Step 5 Informing Consultant of Decision Regarding the Claim**

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

### **Step 6 Preparation of Supplement or New Agreement for the Consultant's Claim(s)**

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit.

Agreement Number:



# Expenditure Control Form

1. All requests being made must be accompanied by this form.
2. Route **ALL** requests to the Finance Department for signature.
3. If request is greater than \$100,000 it requires signatures by Finance and the City Administrator. Finance Dept. will route to City Administrator.

Today's Date:

Type of expenditure:

Goods

☐

Services

☐

Department:

Approving Supervisor:

Amount of Proposed Expenditure:

Funding Source:

**Please verify correct funding sources. Please indicate breakdown if more than one funding source.**

**Why is this expenditure necessary now?**

**What are the impacts if expenses are deferred?**

**What alternative resources have been considered?**

**Description of the goods or service and any additional information?**

Person Submitting Form/Contact:

FINANCE SIGNATURE:

---

CITY ADMINISTRATOR SIGNATURE:

---



HRAHIST-01

CHYER

## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

12/26/2019

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 Missoula Office PayneWest Insurance, Inc. P.O. Box 4386 Missoula, MT 59808	CONTACT NAME: Candice Hyer	
	PHONE (A/C, No, Ext): E-MAIL ADDRESS: chyer@paynewest.com	
INSURED  HRA Historical Research Associates	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : Charter Oak Fire Insurance Company	25615
	INSURER B : Travelers Indemnity Company of CT	25682
	INSURER C : Travelers Indemnity Company	25658
	INSURER D : Houston Casualty Company	42374
	INSURER E :	
	INSURER F :	

## COVERAGES

## CERTIFICATE NUMBER:

## REVISION NUMBER:

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 INSD	SUBR 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 checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:			6805C5603281942	1/1/2020	1/1/2021	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 WA Stop-Gap \$ 1,000,000
B	<input type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			BA3635W36519SEL	1/1/2020	1/1/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			CUP703W52581842	1/1/2020	1/1/2021	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$ PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/>
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y / N If yes, describe under DESCRIPTION OF OPERATIONS below		N / A				E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
D	Professional Liabili			68034672	1/1/2020	1/1/2021	Occurrence/Aggregate 3,000,000

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

## CERTIFICATE HOLDER

## CANCELLATION

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



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

07/13/2020

<b><u>Date Rec'd</u></b>	6/22/2020
<b><u>Clerk's File #</u></b>	OPR 2020-0570
<b><u>Renews #</u></b>	

<b><u>Submitting Dept</u></b>	ENGINEERING SERVICES	<b><u>Cross Ref #</u></b>	
<b><u>Contact Name/Phone</u></b>	DAN BULLER 625-6391	<b><u>Project #</u></b>	2020091
<b><u>Contact E-Mail</u></b>	DBULLER@SPOKANECITY.ORG	<b><u>Bid #</u></b>	
<b><u>Agenda Item Type</u></b>	Contract Item	<b><u>Requisition #</u></b>	MASTER
<b><u>Agenda Item Name</u></b>	0370 - COMMONSTREET - REAL ESTATE ON-CALL SERVICES - FEDERAL AID		

**Agenda Wording**

Local Area A&E Professional Services Consultant Agreement with Commonstreet Consulting LLC.; (Spokane, WA) for Real Estate Services for 2020-2022 Federal Aid Project for the amount not to exceed \$350,000.00. (Various Councils)

**Summary (Background)**

The Agreement for Real Estate Services is for a period of two years. An option for a one year extension will be granted at the City's discretion. Supplemental Agreements will be prepared under this agreement and scopes for individual project needs. Funding shall be from the individual project.

<b><u>Fiscal Impact</u></b>		Grant related? YES	<b><u>Budget Account</u></b>
		Public Works? YES	
Expense	\$ 350,000.00		# Various
Select	\$		#
Select	\$		#
Select	\$		#
<b><u>Approvals</u></b>		<b><u>Council Notifications</u></b>	
<b><u>Dept Head</u></b>	TWOHIG, KYLE	<b><u>Study Session\Other</u></b>	PIES 6/22/20
<b><u>Division Director</u></b>	SIMMONS, SCOTT M.	<b><u>Council Sponsor</u></b>	Beggs
<b><u>Finance</u></b>	WALLACE, TONYA	<b><u>Distribution List</u></b>	
<b><u>Legal</u></b>	RICHMAN, JAMES	eraea@spokanecity.org	
<b><u>For the Mayor</u></b>	ORMSBY, MICHAEL	publicworksaccounting@spokanecity.org	
<b><u>Additional Approvals</u></b>		kgoodman@spokanecity.org	
<b><u>Purchasing</u></b>		htrautman@spokanecity.org	
<b><u>GRANTS &amp; CONTRACT MGMT</u></b>	STOPHER, SALLY	aduffey@spokanecity.org	
		tami@csrow.com	
		dbuller@spokanecity.org; dsteele@spokanecity.org	

## Briefing Paper

### PIES

<b>Division &amp; Department:</b>	Engineering Services; Public Works
<b>Subject:</b>	On-Call Engineering Consultants
<b>Date:</b>	June 22, 2020
<b>Contact (email &amp; phone):</b>	Dan Buller ( <a href="mailto:dbuller@spokanecity.org">dbuller@spokanecity.org</a> , 625-6391)
<b>City Council Sponsor:</b>	
<b>Executive Sponsor:</b>	Scott Simmons
<b>Committee(s) Impacted:</b>	PIES
<b>Type of Agenda item:</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
<b>Alignment:</b> (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	
<b>Strategic Initiative:</b>	Innovative Infrastructure
<b>Deadline:</b>	
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	Informational - background information for committee review
<b>Background/History:</b> Engineering Services has “on-call” agreements with various consultants for specialized engineering or related services (structural, geotech., surveying, landscape architecture, cultural resource and real estate acquisition) associated with the City’s public works projects. Those firms are selected on the basis of qualifications as required by RCW 39. These typically agreements last from 2-3 years.	
<b>Executive Summary:</b> <ul style="list-style-type: none"> <li>A request for qualifications was advertised earlier this spring for structural engineering, geotechnical engineering, surveying, landscape architecture, culture resource and real estate acquisition consultants.</li> <li>A review committee ranked the firms by qualifications. One firm will be selected for each discipline.</li> <li>Engineering Services expects to bring six agreements to council over the next several weeks.</li> <li>Costs incurred under the proposed contracts are paid as part of each public works project for which the consultant is used.</li> </ul>	
<b>Budget Impact:</b> Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Annual/Reoccurring expenditure? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A If new, specify funding source: Other budget impacts: (revenue generating, match requirements, etc.)	
<b>Operations Impact:</b> 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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A Specify changes required: Known challenges/barriers:	

# Local Agency Real Estate Professional Services Negotiated Hourly Rate Consultant Agreement

Agreement Number:

Does this Require DES filing? ☐ Yes ☐ No

Firm/Organization Legal Name (do not use dba's): Commonstreet Consulting, LLC			
Address 304 W. Pacific Ave., Suite 360, Spokane, WA 99201		Federal Aid Number	
UBI Number 604-107-152		Federal TIN or SSN Number 82-1456894	
Execution Date		Completion Date 7/31/21	
1099 Form Required <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Federal Participation <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Project Title City of Spokane Real Estate Consulting On-Call Services Federal Aid			
Description of Work Real estate services for the projects listed in Exhibit A below.			
<input type="checkbox"/> Yes	%	<input checked="" type="checkbox"/> No DBE Participation	Maximum Amount Payable: \$350,000
<input type="checkbox"/> Yes	%	<input checked="" type="checkbox"/> No MBE Participation	
<input type="checkbox"/> Yes	%	<input checked="" type="checkbox"/> No WBE Participation	
<input type="checkbox"/> Yes	%	<input checked="" type="checkbox"/> No SBE Participation	

## Index of Exhibits

Exhibit A	Scope of Work
Exhibit B	DBE Participation
Exhibit C	Preparation and Delivery of Electronic Engineering and Other Data
Exhibit D	Prime Consultant Cost Computations
Exhibit E	Sub-consultant Cost Computations
Exhibit F	Title VI Assurances
Exhibit G	Certification Documents
Exhibit H	Liability Insurance Increase
Exhibit I	Alleged Consultant Design Error Procedures
Exhibit J	Consultant Claim Procedures

Agreement Number:



THIS AGREEMENT is made and entered into as shown in the "Execution Date" on page one (1) in the heading of this AGREEMENT, between the City of Spokane, hereinafter called the "AGENCY," and the name/organization referenced on page one (1) in the heading of this AGREEMENT, hereinafter called the "CONSULTANT."

WHEREAS, the AGENCY desires to accomplish the work referenced in the section I. "Description of Work" section of this AGREEMENT and hereafter called the "SERVICES"; and does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary SERVICES; and

WHEREAS, the CONSULTANT represents that they comply with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting Services to the AGENCY.

NOW, THEREFORE, in consideration of the terms and conditions contained herein, or attached and incorporated and made a part hereof, the AGENCY, and the CONSULTANT mutually agree as follows:

### *I. Description of Work*

The Scope of Work and projected level of effort required for these SERVICES is described in Exhibit "A" attached hereto and by this reference made a part of this AGREEMENT.

If, due to the CONSULTANT'S error or oversight, corrections to the SERVICES contracted for herein are necessary, the CONSULTANT will make such corrections at no additional cost to the AGENCY and will submit such corrections to the AGENCY within ten (10) days of receipt of the AGENCY'S request.

### *II. General Requirements*

CONSULTANT shall, at all times, comply with all applicable federal, state and local laws, codes, ordinances, rules, regulations, decrees, directives, guidelines, etc., (together "Laws") which may impact or apply to the performance of SERVICES under this AGREEMENT, regardless of whether such Laws are modified or are enacted during the term of this AGREEMENT.

### *III. Period of Performance*

This AGREEMENT shall commence on the date executed by the AGENCY and the CONSULTANT shown in "Execution Date" in the heading of this AGREEMENT on page one (1) and shall be completed on the date shown in "Completion Date" in the heading of this AGREEMENT on page one (1), unless modified by a written AGREEMENT revision extending the "Completion Date" or unless terminated sooner as provided herein.

Upon completion or termination of this AGREEMENT, the CONSULTANT shall turn over all documents, records and file materials to the AGENCY.

### *IV. Payment Provisions*

The CONSULTANT shall be paid by the AGENCY for completed SERVICES rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for SERVICES performed or SERVICES rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete SERVICES. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31 ([www.ecfr.gov](http://www.ecfr.gov)).

Agreement Number:



- A. Hourly Rates: The CONSULTANT shall be paid by the AGENCY for work done, based upon the negotiated hourly rates shown in Exhibits "D" and "E" attached hereto and by reference made part of this AGREEMENT. The accepted negotiated rates shall be memorialized in a final written acknowledgement between the parties. Such final written acknowledgement shall be incorporated into, and become a part of, this AGREEMENT. The initially accepted negotiated rates shall be applicable from the approval date, as memorialized in a final written acknowledgement, to 180 days following the CONSULTANT's fiscal year end (FYE) date.

The accepted negotiated hourly rates, as shown on Exhibits "D" and "E" shall be subject to renegotiations for each subsequent twelve (12) month period (180 days following FYE date to 180 days following FYE date) upon written request of the CONSULTANT or the AGENCY. The written request must be made to the other party within ninety (90) days following the CONSULTANT's FYE date. If no such written request is made, the initial twelve (12) month negotiated hourly rates, as shown on Exhibits "D" and "E", will remain in effect for the next twelve (12) month period.

Conversely, if a timely request is made in the manner set forth above, the parties will commence negotiations to determine the new hourly rates that will be applicable for the next twelve (12) month period. Any agreed to renegotiated rates shall be memorialized in a final written acknowledgement between the parties. Such final written acknowledgement shall be incorporated into, and become a part of, this AGREEMENT. If requested, the CONSULTANT shall provide current payroll register and classifications to aid in negotiations. If the parties cannot reach an agreement on the new hourly rates, the AGENCY may perform an audit of the CONSULTANT's books and records to determine the CONSULTANT's actual costs. The audit findings may be used to establish the new hourly rates that will be applicable for the next twelve (12) month period.

The fixed fee as identified in Exhibits "D" and "E" shall represent a value to be applied throughout the life of the AGREEMENT.

The CONSULTANT shall maintain and have accessible support data for verification of the components of the hourly rates, i.e., direct (raw) labor, indirect cost rate, and fixed fee (profit) percentage. If the classification ranges (Actuals not to Exceed Table) are utilized, the CONSULTANT shall bill each employee's actual classification, and actual salary plus indirect cost rate plus fixed fee within the appropriate classification ranges.

- B. Direct Non-Salary Costs: Direct Non-Salary Costs will be reimbursed at the actual cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges and fees of sub-consultants. Air or train travel will be reimbursed only to lowest price available, unless otherwise approved by the AGENCY. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the AGENCY, Washington State Department of Transportation (WSDOT)'s Accounting Manual M 13-82, Chapter 10 – Travel Rules and Procedures, and all revisions thereto. Air, train and rental card costs shall be reimbursed in accordance with 48 Code of Federal Regulations (CFR) Part 31.205-46 "Travel Costs." The billing for Direct Non-salary Costs shall include an itemized listing of the charges directly identifiable with these SERVICES. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the AGENCY upon request. All above charges must be necessary for the SERVICES provided under this AGREEMENT.

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- C. Maximum Amount Payable: The Maximum Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT on page one (1.) The Maximum Amount Payable does not include payment for extra work as stipulated in section XIII, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.
- D. Monthly Progress Payments: Progress payments may be claimed on a monthly basis for all costs authorized in A and B above. The monthly billings shall be supported by detailed statements for hours expended at the rates established in Exhibit "D," including names and classifications of all employees, and billings for all direct non-salary expenses. To provide a means of verifying the billed salary costs for the CONSULTANT's employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the SERVICES at the time of the interview.
- E. Final Payment: Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the SERVICES under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data, and other related documents which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) calendar days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. Per the WSDOT's "Audit Guide for Consultants," Chapter 23 "Resolution Procedures," the CONSULTANT has twenty (20) working days after receipt of the final Post Audit to begin the appeal process to the AGENCY for audit findings.

- F. Inspection of Cost Records: The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY, the State, and the United States, for a period of six (6) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this AGREEMENT is initiated before the expiration of the six (6) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

An interim or post audit may be performed on this AGREEMENT. The audit, if any, will be performed by the State Auditor, WSDOT's Internal Audit Office and / or at the request of the AGENCY's Project Manager.

#### *V. Compensation*

The CONSULTANT shall be paid up to \$350,000 for all SERVICES and expenses under this AGREEMENT, provided that the total reimbursement under this AGREEMENT shall not exceed \$350,000. Such payment shall include all the CONSULTANT'S expenses in the performance of this AGREEMENT unless otherwise

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specified in Section XVII "Special Provisions." The CONSULTANT'S invoice shall include: the project title, description of the services rendered, and the dates worked.

## *VI. Records and Accounts*

The CONSULTANT and any authorized sub-consultant, or any other person or firm, shall keep detailed records relating to the charges made and expenses incurred for work required by this AGREEMENT.

The CONSULTANT's accounting records pertaining to this AGREEMENT shall be available for inspection by representatives of the AGENCY, the State, and the United States, at the office of the CONSULTANT. The CONSULTANT shall include in any sub-consultant agreement/contract or any agreement/contract with any person or firm a provision requiring such sub-consultant, person, or firm to make its financial records available for inspection by the AGENCY in accordance with this provision.

The accounting record referred to in the preceding paragraph shall be available for inspection during normal business hours and shall be retained by the CONSULTANT or sub-consultant, or any other person or firm, for a period of three (3) years following final payment from the AGENCY to the CONSULTANT with the following exception: if any litigation, claim, or audit is started before the expiration of the three (3) year retention period, the records shall be retained until all litigation, claim, or audit findings involving the records have been resolved.

The CONSULTANT further agrees that any duly authorized representative of the AGENCY, the State or of the United States, in the official conduct of its business shall have access to and the right to examine any directly pertinent books, documents, papers, photographic negatives, and records of the CONSULTANT involving the SERVICES provided under the terms of this AGREEMENT at any time during normal business hours during the life of this AGREEMENT and for three (3) years after the date of the final payment under this AGREEMENT.

An audit may be performed on this AGREEMENT. The audit, if any, will be performed by the State Auditor, WSDOT's Internal Audit Office and / or at the request of the AGENCY's Project Manager.

## *VII. Performance of Services*

In the performance of the SERVICES under this AGREEMENT, the CONSULTANT shall comply with all applicable AGENCY regulations, State and Federal laws, regulations and procedures.

### *1. Non-delegation*

The SERVICES to be furnished under the terms of this AGREEMENT shall be performed by the CONSULTANT and the CONSULTANT'S bona fide employees, and shall not be delegated to any other person or firm.

### *2. Subcontracting*

The CONSULTANT shall not hire sub-consultants or any other person or firm to provide SERVICES under this AGREEMENT except pursuant to a revision of this AGREEMENT as authorized in Section XVIII "Modification of Agreement." All applicable portions of this AGREEMENT shall be contained in the subcontract between the CONSULTANT and its sub-consultant(s).

The CONSULTANT shall remove any employee from assignment to perform SERVICES under this AGREEMENT immediately upon receipt of written request to do so from the AGENCY.

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The CONSULTANT warrants that, if it is full or partially employed by any public agency other than the AGENCY, its acceptance of this AGREEMENT is with the consent of such agency; that the CONSULTANT shall spend no time in the performance required in this AGREEMENT during which time the CONSULTANT should normally be employed and paid by such agency; and that the acceptance of this AGREEMENT will not interfere with any obligations the CONSULTANT may have to such agency.

### *VIII. Employment and Organizational Conflict of Interest*

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this AGREEMENT, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this AGREEMENT. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from this AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or SERVICES required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT'S employees or other persons while so engaged on any of the work or SERVICES provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of this AGREEMENT, any professional or technical personnel who are, or have been, at any time during the period of this AGREEMENT, in the employ of the United States Department of Transportation or the AGENCY, except regularly retired employees, without written consent of the public employer of such person if he/she will be working on this AGREEMENT for the CONSULTANT.

The CONSULTANT shall comply with the Federal Fair Labor Standards Act and any other legislation affecting its employees and the rules and regulations issued there under; and shall save the AGENCY free, clear and harmless from all actions, claims, demands and expenses arising out of said Act and any rules and regulations that are or may be promulgated in connection therewith.

The CONSULTANT assumes full responsibility for the payment of all payroll taxes, use, sales, income or any other form of taxes, fees, licenses, excises, or payments required by any Federal or State legislation which are now or which may be enacted during the term of this AGREEMENT as to all the CONSULTANT'S employees, and as to all the duties, activities, and requirements of the CONSULTANT in the performance of this AGREEMENT.

The CONSULTANT shall comply with the WSDOT'S Organizational Conflict of Interest Policy, WSDOT Manual 3043, and revisions thereto <http://www.wsdot.wa.gov/Publications/Manuals/M3043.htm>, and its requirements for employees, the CONSULTANT firm and any entities created to do business with the AGENCY.

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## *IX. Nondiscrimination*

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees and successors in interest, agrees as follows:

1. Compliance with Laws and Regulations

The CONSULTANT shall comply with the regulations relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, hereinafter referred to as the "REGULATIONS", which are herein incorporated by reference and made a part of this AGREEMENT. The CONSULTANT shall comply with the State Law Against Discrimination, Chapter 49.60 RCW and any REGULATIONS adopted thereto.

2. Nondiscrimination

The CONSULTANT with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of age, sex, marital status, race, creed, color, national origin, or the presence of any sensory, mental, or physical handicap unless based upon a bona fide occupational qualification, in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Chapter 49.60 RCW or by section 21.5 of the REGULATIONS, including employment practices when the AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.

3. Solicitation for Sub-consultants, Including Procurement of Materials and Equipment

In all solicitations either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT'S obligations under this AGREEMENT and the REGULATIONS relative to nondiscrimination on the above grounds.

4. Information and Reports

The CONSULTANT shall provide all information and reports required by the REGULATIONS; or directives issued pursuant thereto, and shall permit access to its books, records, accounts or other sources of information, and its facilities as may be determined by the AGENCY or the Federal Highway Administration to be pertinent to ascertain compliance with such REGULATIONS, directives or laws. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refused to furnish this information, the CONSULTANT shall so certify to the AGENCY, WSDOT, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance

In the event of the CONSULTANT's noncompliance with the discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it may determine to be appropriate, including but not limited to (1) withholding of payments to the CONSULTANT under this AGREEMENT until the CONSULTANT complies, and/or (2) cancellation, termination, or suspension of this AGREEMENT in whole or in part.

6. Incorporation of Provisions

The CONSULTANT shall include the provisions of paragraphs 1 through 6 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any subcontract or procurement as the AGENCY, WSDOT, or Federal Highway Administration may direct as a means of

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enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the CONSULTANT may request the AGENCY to enter into such litigation to protect the interests of the AGENCY and / or WSDOT; and, in addition, the CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

#### *X. Termination*

The right is reserved by the AGENCY to terminate this AGREEMENT at any time with or without cause upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY, other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT which, when added to any payments previously made, shall total the same percentage of the Lump Sum Amount as the work completed at the time of termination is to the total work required for the SERVICES. In addition, the CONSULTANT shall be paid for any authorized extra work completed.

No payment shall be made for any SERVICES completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth in paragraph two (2) of this section, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In the event of a termination for default, the amount to be paid to the CONSULTANT shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing SERVICES to the date of termination, the amount of SERVICES originally required which was satisfactorily completed to date of termination, whether that SERVICE is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the SERVICES required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the SERVICES performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth in paragraph two (2) of this section.

If it is determined for any reason that the CONSULTANT was not in default or that the CONSULTANT's failure to perform is without the CONSULTANT's or its employee's fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

The CONSULTANT shall, within 15 days, notify the AGENCY in writing, in the event of the death of any member, partner, or officer of the CONSULTANT or the death or change of any of the CONSULTANT's supervisory and/or other key personnel assigned to the project or disaffiliation of any principally involved CONSULTANT employee. The CONSULTANT shall also notify the AGENCY, in writing, in the event of the sale or transfer of 50% or more of the beneficial ownership of the CONSULTANT within 15 days of such sale or transfer occurring. The CONSULTANT shall continue to be obligated to complete the SERVICES under the terms of this AGREEMENT unless the AGENCY chooses to terminate this AGREEMENT for convenience or

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chooses to renegotiate any term(s) of this AGREEMENT. If termination for convenience occurs, final payment will be made to the CONSULTANT as set forth in the second and third paragraphs of this section.

Payment for any part of the SERVICES by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform SERVICES required of it by the AGENCY. Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

#### *XI. Disputes*

Any disputed issue not resolved pursuant to the terms of this AGREEMENT shall be submitted in writing within 10 days to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subjected to judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J". In the event that either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this AGREEMENT, this action shall be initiated in the Superior Court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in the county in which the AGENCY is located.

#### *XII. Legal Relations*

The CONSULTANT, any sub-consultant, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, and regulations applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall defend, indemnify, and hold the State of Washington (STATE) and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the negligence of, or the breach of any obligation under this AGREEMENT by, the CONSULTANT or the CONSULTANT'S agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable; provided that nothing herein shall require a CONSULTANT to defend or indemnify the STATE and the AGENCY against and hold harmless the STATE and AGENCY from claims, demands or suits based solely upon the negligence of, or breach of any obligation under this AGREEMENT by the STATE and the AGENCY, their agents, officers, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the STATE and / or the AGENCY may be legally liable; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT or the CONSULTANT'S agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT is legally liable, and (b) the STATE and / or AGENCY, their agents, officers, employees, sub-consultants, subcontractors and or vendors, of any tier, or any other persons for whom the STATE and / or AGENCY may be legally liable, the indemnity obligation shall be valid and enforceable only to the extent of the CONSULTANT'S negligence or the negligence of the CONSULTANT'S agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable. This provision shall be included in any AGREEMENT between CONSULTANT and any sub-consultants, subcontractor and vendor, of any tier.

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The CONSULTANT shall also defend, indemnify, and hold the STATE and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the CONSULTANT or the CONSULTANT'S agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable, in performance of SERVICES under this AGREEMENT or arising out of any use in connection with the AGREEMENT of methods, processes, designs, information or other items furnished or communicated to STATE and / or AGENCY, their agents, officers and employees pursuant to the AGREEMENT; provided that this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from STATE's and / or AGENCY's, their agents', officers' and employees' failure to comply with specific written instructions regarding use provided to STATE and / or AGENCY, their agents, officers and employees by the CONSULTANT, its agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable.

The CONSULTANT'S professional liability to the AGENCY, including that which may arise in reference to Section XIV "Insurance" of this AGREEMENT, shall be limited to the total amount of the AGREEMENT or one million dollars (\$1,000,000.00), whichever is greater. In no case shall the CONSULTANT'S professional liability to third parties be limited in any way.

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT'S own employees or its agents against the STATE and / or AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the STATE industrial insurance law, Title 51 RCW.

### *XIII. Independent Contractor*

The CONSULTANT shall be deemed an independent contractor for all purposes. The CONSULTANT and its employees and any authorized sub-consultants, or any other person of firm, shall not be deemed the employees of the AGENCY for any purpose.

### *XIV. Insurance*

The CONSULTANT shall obtain and keep in force during the terms of this AGREEMENT, or as otherwise required, insurance with companies or through sources approved by the STATE Insurance Commissioner pursuant to Title 48 RCW.

It is the CONSULTANT'S responsibility to provide evidence of continuing coverage during the overlap periods of the policy and the AGREEMENT.

The parties enter into this AGREEMENT for the sole benefit of the parties, and to the exclusion of any third party, and no third party beneficiary is intended or created by the execution of this AGREEMENT.

### *XV. Confidentiality*

The AGENCY is contracting for the CONSULTANT'S independent performance of the specified SERVICES. Should the AGENCY employ another CONSULTANT to perform the same services, the CONSULTANT shall not discuss or otherwise exchange information with such other CONSULTANT.

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The project for which the SERVICES of the CONSULTANT are required may involve litigation of claims against or brought by the STATE and / or AGENCY. Subject to Washington's Public Records Act (RCW ch. 42.17 et. al.) all information developed by the CONSULTANT and all information made available to the CONSULTANT and all analyses, conclusions, and/or opinions reached by the CONSULTANT shall be confidential as between the CONSULTANT and the AGENCY. Such information shall not be revealed by the CONSULTANT to any other person, organization, or entity without the express consent of the AGENCY. The confidentiality of such information will survive the completion of work under this AGREEMENT and/or the termination of this AGREEMENT.

The SERVICES to be performed under this AGREEMENT do not include SERVICES as an expert witness; in the event of the commencement of litigation, SERVICES as an expert witness will be the subject of a separate AGREEMENT.

*XVI. Applicability of Law*

This AGREEMENT shall be deemed executed in the State of Washington and the laws of the State of Washington shall govern the interpretation and application of its provisions. Venue for any suits between the CONSULTANT and the AGENCY arising from this AGREEMENT shall be brought and maintained in the Superior Court of the State of Washington, situated in the county in which the AGENCY is located.

*XVII. Special Provisions*

*XVIII. Modification of Agreement*

This AGREEMENT, or any provision thereof, may be modified or amended only by express written AGREEMENT revision properly signed by all parties.

This AGREEMENT is hereby tendered and the terms and obligations hereof shall not become binding on the State of Washington unless and until accepted and approved hereon in writing for the AGENCY's authorized representative.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the "Execution Date" in the heading on page one (1) of this AGREEMENT.

By \_\_\_\_\_

Title Mayor - City of Spokane

Date \_\_\_\_\_

By Jami Judge

Title President

Date 6/19/2020

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## ***Exhibit A***

### ***Scope of Work***

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Project No.

The scope of work for the various federal aid projects covered in this agreement will vary by project but is generally described in the "Description of Work" on the first page of this agreement. The project covered include:

12th Ave. – Deer Heights to Flint Rd.  
Centennial Trail Summit Blvd.  
Driscoll – Alberta to Garland  
Fish Lake Trail Phase 3B  
Fish Lake Trail to Centennial Trail Connection  
Fort George Wright  
Freya St., Garland to Francis  
Freya – Wellesley to Francis  
Havana St. – Sprague to Broadway  
Maple-Wellesley Intersection  
Millwood Trail – Greene to Felts Field  
North Bank Trail  
North River Dr. Sidewalk – East of Washington St.  
Ray/Freya – Hartson to 17th  
Riverside Ave. – Monroe to Division  
Sherman Ave. / 5th Ave. Traffic Signal  
Sprague Ave (multiple phases) – pavement reconstruction, curb bumpouts, stormwater separation etc.  
Sunset Highway Bike Path – Royal to Deer Heights – bike path construction  
Thor-Freya Reconstruction – Sprague to Hartson  
Wellesley Ave., Freya to Havana

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***Exhibit B***  
***DBE Participation***

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# ***Exhibit C***

## ***Preparation and Delivery of Electronic Engineering and Other Data***

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In this Exhibit the agency, as applicable, is to provide a description of the format and standards the consultant is to use in preparing electronic files for transmission to the agency. The format and standards to be provided may include, but are not limited to, the following:

I. Surveying, Roadway Design & Plans Preparation Section

A. Survey Data

To be mutually agreed upon

B. Roadway Design Files

To be mutually agreed upon

C. Computer Aided Drafting Files

Industry standard - to be mutually agreed upon

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D. Specify the Agency's Right to Review Product with the Consultant  
Phone and in-person consultation

E. Specify the Electronic Deliverables to Be Provided to the Agency  
Varies by project

F. Specify What Agency Furnished Services and Information Is to Be Provided  
Varies by project

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II. Any Other Electronic Files to Be Provided

Varies by project

III. Methods to Electronically Exchange Data

Email or city provided FTP

A. Agency Software Suite  
Industry standard

B. Electronic Messaging System  
Industry standard

C. File Transfers Format  
Industry standard

## ***Exhibit D***

### ***Prime Consultant Cost Computations***

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Will be negotiated project by project subject to the attached fee/rate schedule before notice to proceed for each project is given.

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## **Exhibit E**

### **Sub-consultant Cost Computations**

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There isn't any sub-consultant participation at this time. The CONSULTANT shall not sub-contract for the performance of any work under this AGREEMENT without prior written permission of the AGENCY. Refer to section VI "Sub-Contracting" of this AGREEMENT.

There is no planned sub-consultant work planned. In the event consultant desires a sub-consultant, the procedures in Section VI of this agreement shall be followed.

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## **Exhibit F**

### **Title VI Assurances**

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During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "REGULATIONS"), which are herein incorporated by reference and made a part of this AGREEMENT.
2. **Non-discrimination:** The CONSULTANT, with regard to the work performed during this AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when this AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
3. **Solicitations for Sub-consultants, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports:** The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the AGENCY, the STATE, or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, the STATE, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the CONSULTANT's non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE, or the FHWA may determine to be appropriate, including, but not limited to:
  - Withholding of payments to the CONSULTANT under this AGREEMENT until the CONSULTANT complies, and/or;
  - Cancellation, termination, or suspension of this AGREEMENT, in whole or in part.
6. **Incorporation of Provisions:** The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the STATE, the AGENCY, or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY enter into such litigation to protect the interests of the STATE and/or the AGENCY and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.

Agreement Number:

# **Exhibit G**

## **Certification Documents**

---

- Exhibit G-1(a) Certification of Consultant
- Exhibit G-1(b) Certification of City of Spokane
- Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters -  
Primary Covered Transactions
- Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying
- Exhibit G-4 Certificate of Current Cost or Pricing Data

Agreement Number:



## Exhibit G-1(a) Certification of Consultant

I hereby certify that I am the and duly authorized representative of the firm of  
Commonstreet Consulting, LLC

whose address is

304 W. Pacific Ave., Suite 360, Spokane, WA 99201

and that neither the above firm nor I have:

- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this AGREEMENT;
- b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be furnished to the City of Spokane  
and the Federal Highway Administration, U.S. Department of Transportation in connection with this  
AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and  
Federal laws, both criminal and civil.

Commonstreet Consulting, LLC

Consultant (Firm Name)

Jami Gudge  
Signature (Authorized Official of Consultant)

6/19/2020  
Date

Agreement Number:



**Exhibit G-1(b) Certification of** City of Spokane

I hereby certify that I am the:

☒ Mayor

☐ Other

of the City of Spokane, and Commonstreet Consulting, LLC  
or its representative has not been required, directly or indirectly as an express or implied condition in connection  
with obtaining or carrying out this AGREEMENT to:

- a) Employ or retain, or agree to employ to retain, any firm or person; or
- b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration  
of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be furnished to the Commonstreet Consulting, LLC  
and the Federal Highway Administration, U.S. Department of Transportation, in connection with this  
AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and  
Federal laws, both criminal and civil.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

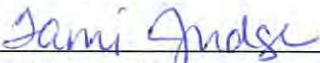
Agreement Number:

## Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions

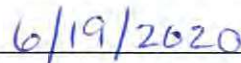
- I. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - B. Have not within a three (3) year period preceding this proposal been convicted of 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 anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental 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 (3) year period preceding this application / proposal had one or more public transactions (Federal, State and local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Commonstreet Consulting, LLC

Consultant (Firm Name)



Signature (Authorized Official of Consultant)



Date

Agreement Number:

## Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative AGREEMENT, and the extension, continuation, renewal, amendment, or modification of Federal contract, grant, loan or cooperative AGREEMENT.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative AGREEMENT, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00, and not more than \$100,000.00, for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier sub-contracts, which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly.

Commonstreet Consulting, LLC

Consultant (Firm Name)

*Jamie Judge*

Signature (Authorized Official of Consultant)

*6/19/2020*

Date

Agreement Number:



## Exhibit G-4 Certificate of Current Cost or Pricing Data

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section 2.101 of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4) submitted, either actually or by specific identification in writing, to the Contracting Officer or to the Contracting Officer's representative in support of this agreement <sup>\*</sup> are accurate, complete, and current as of the date of execution of this agreement <sup>\*\*</sup>.

This certification includes the cost or pricing data supporting any advance AGREEMENT's and forward pricing rate AGREEMENT's between the offer or and the Government that are part of the proposal.

Firm: Commonstreet Consulting, LLC

Jami Gudge  
Signature

President  
Title

Date of Execution\*\*\*:

\*Identify the proposal, quotation, request for pricing adjustment, or other submission involved, giving the appropriate identifying number (e.g. project title.)

\*\*Insert the day, month, and year, when price negotiations were concluded and price AGREEMENT was reached.

\*\*\*Insert the day, month, and year, of signing, which should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed to.

Agreement Number:

# **Exhibit H**

## **Liability Insurance Increase**

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### **To Be Used Only If Insurance Requirements Are Increased**

The professional liability limit of the CONSULTANT to the AGENCY identified in Section XII, Legal Relations and Insurance of this Agreement is amended to \$ N/A

The CONSULTANT shall provide Professional Liability insurance with minimum per occurrence limits in the amount of \$

Such insurance coverage shall be evidenced by one of the following methods:

- Certificate of Insurance.
- Self-insurance through an irrevocable Letter of Credit from a qualified financial institution.

Self-insurance through documentation of a separate fund established exclusively for the payment of professional liability claims, including claim amounts already reserved against the fund, safeguards established for payment from the fund, a copy of the latest annual financial statements, and disclosure of the investment portfolio for those funds.

Should the minimum Professional Liability insurance limit required by the AGENCY as specified above exceed \$1 million per occurrence or the value of the contract, whichever is greater, then justification shall be submitted to the Federal Highway Administration (FHWA) for approval to increase the minimum insurance limit.

If FHWA approval is obtained, the AGENCY may, at its own cost, reimburse the CONSULTANT for the additional professional liability insurance required.

Notes: Cost of added insurance requirements: \$

- Include all costs, fee increase, premiums.
- This cost shall not be billed against an FHWA funded project.
- For final contracts, include this exhibit.

Agreement Number:



# **Exhibit I**

## ***Alleged Consultant Design Error Procedures***

---

The purpose of this exhibit is to establish a procedure to determine if a consultant's alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

### **Step 1 Potential Consultant Design Error(s) is Identified by Agency's Project Manager**

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

### **Step 2 Project Manager Documents the Alleged Consultant Design Error(s)**

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include: all decisions and descriptions of work; photographs, records of labor, materials and equipment.

### **Step 3 Contact the Consultant Regarding the Alleged Design Error(s)**

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

### **Step 4 Attempt to Resolve Alleged Design Error with Consultant**

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide LP, through the Region Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.
- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

Agreement Number:

### **Step 5 Forward Documents to Local Programs**

For federally funded projects all available information, including costs, should be forwarded through the Region Local Programs Engineer to LP for their review and consultation with the FHWA. LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, LP will request assistance from the Attorney General's Office for legal interpretation. LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

Agreement Number:



# **Exhibit J**

## **Consultant Claim Procedures**

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The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) are a total of \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

### **Step 1 Consultant Files a Claim with the Agency Project Manager**

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

### **Step 2 Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation**

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will met with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action is needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

Agreement Number:



### **Step 3 Preparation of Support Documentation Regarding Consultant's Claim(s)**

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

### **Step 4 Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation**

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

### **Step 5 Informing Consultant of Decision Regarding the Claim**

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

### **Step 6 Preparation of Supplement or New Agreement for the Consultant's Claim(s)**

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit.

Agreement Number:



# COMMONSTREET

## CONSULTING

**Client:** City of Spokane  
**Project:** Real Estate Consulting On-Call Services Federal Aid  
**Formula/Basis:** WSDOT Approved Safe Harbor ANTE Table (110% ICR, 30% Fee)  
**Status:** Approved  
**Effective Date:** 2/24/20  
**Renewal Date:**

### Project Rates ANTE Table:

Classification	110%		30%	
	Direct Labor ANTE	ICR	Fixed Fee	Billing Rate
Principal/Senior Advisor	\$ 83.40	\$ 91.74	\$ 25.02	\$ 200.17
Senior Project Manager	\$ 76.14	\$ 83.75	\$ 22.84	\$ 182.73
Senior Controller	\$ 73.60	\$ 80.95	\$ 22.08	\$ 176.63
Senior Right of Way Agent	\$ 65.35	\$ 71.89	\$ 19.61	\$ 156.85
Acquisition Project Manager	\$ 65.35	\$ 71.89	\$ 19.61	\$ 156.85
Relocation Project Manager	\$ 63.45	\$ 69.79	\$ 19.04	\$ 152.27
Property Manager	\$ 63.45	\$ 69.79	\$ 19.04	\$ 152.27
Right of Way Agent	\$ 58.37	\$ 64.21	\$ 17.51	\$ 140.10
Senior Project Support Specialist	\$ 52.79	\$ 58.07	\$ 15.84	\$ 126.69
Project Support Specialist	\$ 31.67	\$ 34.84	\$ 9.50	\$ 76.01
Right of Way Technician	\$ 26.39	\$ 29.03	\$ 7.92	\$ 63.35

### Currently Available Consultants:

Classification	Name	110%		30%	
		Direct Labor Rate	ICR	Fixed Fee	Billing Rate
Principal/Senior Advisor	Todd Hudak	\$ 83.40	\$ 91.74	\$ 25.02	\$ 200.17
Senior Controller	Tami Judge	\$ 73.60	\$ 80.95	\$ 22.08	\$ 176.63
Acquisition Project Manager	Morgan Bishop	\$ 63.10	\$ 69.41	\$ 18.93	\$ 151.44
Senior Right of Way Agent	De Ressa	\$ 63.10	\$ 69.41	\$ 18.93	\$ 151.44
Senior Project Support Specialist	Tina Thorson	\$ 38.47	\$ 42.32	\$ 11.54	\$ 92.33
Project Support Specialist	Kelly Skove	\$ 31.67	\$ 34.84	\$ 9.50	\$ 76.01





## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

08/08/2019

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 Pacific Insurance Partners wafinsurancegroup.com P. O. Box 327 Forest Grove, OR 97116 Forest Grove House	503-357-7111	CONTACT NAME: Kay Andrew PHONE (A/C, No, Ext): 503-357-7111 FAX (A/C, No): 503-359-0340 E-MAIL ADDRESS: Kay@PacifcInsPartners.com
INSURED Commonstreet Consulting LLC Hutch Goodman 100 S King St Ste 100 Seattle, WA 98104		INSURER(S) AFFORDING COVERAGE INSURER A: Ohio Security Insurance Co INSURER B: Ohio Casualty Insurance Co INSURER C: Hiscox Insurance Company Inc INSURER D: INSURER E: INSURER F:
		NAIC # 24082 24074

## COVERAGES

## CERTIFICATE NUMBER:

## REVISION NUMBER:

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 INSD	SUBR 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 checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:	X		BLS58159671	08/01/2019	08/01/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
B	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$	X		ESO58159671	08/01/2019	08/01/2020	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
	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				PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
C	Professional Liab			MPL2022282.19	07/28/2019	07/28/2020	Ea Claim \$ 1,000,000 Aggregate \$ 1,000,000

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

Consultant NOC - The City of Spokane, its officers and employees are additional insureds but only with respect to the Consultant's services to be provided to the extent of coverage under form CG8810 0413.

## CERTIFICATE HOLDER

## CANCELLATION

Asset Management Department  
City of Spokane  
2nd Floor - City Hall  
808 West Spokane Falls Blvd  
Spokane, WA 99201

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

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## COMMERCIAL GENERAL LIABILITY EXTENSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

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With respect to coverage afforded by this endorsement, the provisions of the policy apply unless modified by the endorsement.

**A. NON-OWNED AIRCRAFT**

Under Paragraph 2. **Exclusions of Section I – Coverage A - Bodily Injury And Property Damage Liability**, exclusion **g. Aircraft, Auto Or Watercraft** does not apply to an aircraft provided:

1. It is not owned by any insured;
2. It is hired, chartered or loaned with a trained paid crew;
3. The pilot in command holds a currently effective certificate, issued by the duly constituted authority of the United States of America or Canada, designating her or him a commercial or airline pilot; and
4. It is not being used to carry persons or property for a charge.

However, the insurance afforded by this provision does not apply if there is available to the insured other valid and collectible insurance, whether primary, excess (other than insurance written to apply specifically in excess of this policy), contingent or on any other basis, that would also apply to the loss covered under this provision.

**B. NON-OWNED WATERCRAFT**

Under Paragraph 2. **Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability**, Subparagraph (2) of exclusion **g. Aircraft, Auto Or Watercraft** is replaced by the following:

This exclusion does not apply to:

- (2) A watercraft you do not own that is:
- (a) Less than 52 feet long; and
  - (b) Not being used to carry persons or property for a charge.

**C. PROPERTY DAMAGE LIABILITY – ELEVATORS**

1. Under Paragraph 2. **Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability**, Subparagraphs (3), (4) and (6) of exclusion **j. Damage To Property** do not apply if such "property damage" results from the use of elevators. For the purpose of this provision, elevators do not include vehicle lifts. Vehicle lifts are lifts or hoists used in automobile service or repair operations.
2. The following is added to **Section IV – Commercial General Liability Conditions**, Condition 4. **Other Insurance**, Paragraph **b. Excess Insurance**:

The insurance afforded by this provision of this endorsement is excess over any property insurance, whether primary, excess, contingent or on any other basis.

**D. EXTENDED DAMAGE TO PROPERTY RENTED TO YOU (Tenant's Property Damage)**

If Damage To Premises Rented To You is not otherwise excluded from this Coverage Part:

1. Under Paragraph 2. **Exclusions of Section I - Coverage A - Bodily Injury and Property Damage Liability**:

- a. The fourth from the last paragraph of exclusion **j. Damage To Property** is replaced by the following:

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire, lightning, explosion, smoke, or leakage from an automatic fire protection system) to:

- (i) Premises rented to you for a period of 7 or fewer consecutive days; or
- (ii) Contents that you rent or lease as part of a premises rental or lease agreement for a period of more than 7 days.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" to contents of premises rented to you for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to this coverage as described in **Section III – Limits of Insurance**.

- b. The last paragraph of subsection **2. Exclusions** is replaced by the following:

Exclusions c. through n. do not apply to damage by fire, lightning, explosion, smoke or leakage from automatic fire protection systems to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to Damage To Premises Rented To You as described in **Section III – Limits Of Insurance**.

2. Paragraph 6. under **Section III – Limits Of Insurance** is replaced by the following:

6. Subject to Paragraph 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to:

- a. Any one premise:

- (1) While rented to you; or
- (2) While rented to you or temporarily occupied by you with permission of the owner for damage by fire, lightning, explosion, smoke or leakage from automatic protection systems; or

- b. Contents that you rent or lease as part of a premises rental or lease agreement.

3. As regards coverage provided by this provision **D. EXTENDED DAMAGE TO PROPERTY RENTED TO YOU (Tenant's Property Damage)** - Paragraph 9.a. of **Definitions** is replaced with the following:

- 9.a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning, explosion, smoke, or leakage from automatic fire protection systems to premises while rented to you or temporarily occupied by you with the permission of the owner, or for damage to contents of such premises that are included in your premises rental or lease agreement, is not an "insured contract".

#### **E. MEDICAL PAYMENTS EXTENSION**

If **Coverage C Medical Payments** is not otherwise excluded, the Medical Payments provided by this policy are amended as follows:

Under Paragraph 1. **Insuring Agreement of Section I – Coverage C – Medical Payments**, Subparagraph (b) of Paragraph a. is replaced by the following:

- (b) The expenses are incurred and reported within three years of the date of the accident; and

#### **F. EXTENSION OF SUPPLEMENTARY PAYMENTS – COVERAGES A AND B**

1. Under **Supplementary Payments – Coverages A and B**, Paragraph 1.b. is replaced by the following:

- b. Up to **\$3,000** for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

2. Paragraph 1.d. is replaced by the following:

- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to **\$500** a day because of time off from work.

#### **G. ADDITIONAL INSURED - BY CONTRACT, AGREEMENT OR PERMIT**

1. Paragraph 2. under **Section II – Who Is An Insured** is amended to include as an insured any person or organization whom you have agreed to add as an additional insured in a written contract, written agreement or permit. Such person or organization is an additional insured but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused in whole or in part by:

- a. Your acts or omissions, or the acts or omissions of those acting on your behalf, in the performance of your on going operations for the additional insured that are the subject of the written contract or written agreement provided that the "bodily injury" or "property damage" occurs, or the "personal and advertising injury" is committed, subsequent to the signing of such written contract or written agreement; or



- b. Premises or facilities rented by you or used by you; or
- c. The maintenance, operation or use by you of equipment rented or leased to you by such person or organization; or
- d. Operations performed by you or on your behalf for which the state or political subdivision has issued a permit subject to the following additional provisions:
  - (1) This insurance does not apply to "bodily injury", "property damage", or "personal and advertising injury" arising out of the operations performed for the state or political subdivision;
  - (2) This insurance does not apply to "bodily injury" or "property damage" included within the "completed operations hazard".
  - (3) Insurance applies to premises you own, rent, or control but only with respect to the following hazards:
    - a) The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, street banners, or decorations and similar exposures; or
    - (b) The construction, erection, or removal of elevators; or
    - (c) The ownership, maintenance, or use of any elevators covered by this insurance.

However:

- 1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
- 2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

With respect to Paragraph 1.a. above, a person's or organization's status as an additional insured under this endorsement ends when:

- (1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
- (2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

With respect to Paragraph 1.b. above, a person's or organization's status as an additional insured under this endorsement ends when their written contract or written agreement with you for such premises or facilities ends.

With respects to Paragraph 1.c. above, this insurance does not apply to any "occurrence" which takes place after the equipment rental or lease agreement has expired or you have returned such equipment to the lessor.

The insurance provided by this endorsement applies only if the written contract or written agreement is signed prior to the "bodily injury" or "property damage".

We have no duty to defend an additional insured under this endorsement until we receive written notice of a "suit" by the additional insured as required in Paragraph b. of Condition 2. **Duties In the Event Of Occurrence, Offense, Claim Or Suit under Section IV – Commercial General Liability Conditions.**



2. With respect to the insurance provided by this endorsement, the following are added to Paragraph 2. **Exclusions under Section I - Coverage A - Bodily Injury And Property Damage Liability:**

This insurance does not apply to:

- a. "Bodily injury" or "property damage" arising from the sole negligence of the additional insured.
- b. "Bodily injury" or "property damage" that occurs prior to you commencing operations at the location where such "bodily injury" or "property damage" occurs.
- c. "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:
  - (1) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
  - (2) Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of, or the failure to render, any professional architectural, engineering or surveying services.

- d. "Bodily injury" or "property damage" occurring after:
  - (1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
  - (2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.
- e. Any person or organization specifically designated as an additional insured for ongoing operations by a separate **ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS** endorsement issued by us and made a part of this policy.

3. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

- a. Required by the contract or agreement; or
  - b. Available under the applicable Limits of Insurance shown in the Declarations;
- whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

#### **H. PRIMARY AND NON-CONTRIBUTORY ADDITIONAL INSURED EXTENSION**

This provision applies to any person or organization who qualifies as an additional insured under any form or endorsement under this policy.

Condition 4. Other Insurance of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS** is amended as follows:

- a. The following is added to Paragraph a. **Primary Insurance:**

If an additional insured's policy has an Other Insurance provision making its policy excess, and you have agreed in a written contract or written agreement to provide the additional insured coverage on a primary and noncontributory basis, this policy shall be primary and we will not seek contribution from the additional insured's policy for damages we cover.

- b. The following is added to Paragraph **b. Excess Insurance**:

When a written contract or written agreement, other than a premises lease, facilities rental contract or agreement, an equipment rental or lease contract or agreement, or permit issued by a state or political subdivision between you and an additional insured does not require this insurance to be primary or primary and non-contributory, this insurance is excess over any other insurance for which the additional insured is designated as a Named Insured.

Regardless of the written agreement between you and an additional insured, this insurance is excess over any other insurance whether primary, excess, contingent or on any other basis for which the additional insured has been added as an additional insured on other policies.

**I. ADDITIONAL INSURED - EXTENDED PROTECTION OF YOUR "LIMITS OF INSURANCE"**

This provision applies to any person or organization who qualifies as an additional insured under any form or endorsement under this policy.

1. The following is added to Condition **2. Duties In The Event Of Occurrence, Offense, Claim or Suit**:

An additional insured under this endorsement will as soon as practicable:

- a. Give written notice of an "occurrence" or an offense that may result in a claim or "suit" under this insurance to us;
  - b. Tender the defense and indemnity of any claim or "suit" to all insurers whom also have insurance available to the additional insured; and
  - c. Agree to make available any other insurance which the additional insured has for a loss we cover under this Coverage Part.
  - d. We have no duty to defend or indemnify an additional insured under this endorsement until we receive written notice of a "suit" by the additional insured.
2. The limits of insurance applicable to the additional insured are those specified in a written contract or written agreement or the limits of insurance as stated in the Declarations of this policy and defined in **Section III – Limits of Insurance** of this policy, whichever are less. These limits are inclusive of and not in addition to the limits of insurance available under this policy.

**J. WHO IS AN INSURED - INCIDENTAL MEDICAL ERRORS / MALPRACTICE  
WHO IS AN INSURED - FELLOW EMPLOYEE EXTENSION - MANAGEMENT EMPLOYEES**

Paragraph **2.a.(1)** of **Section II - Who Is An Insured** is replaced with the following:

- (1) "Bodily injury" or "personal and advertising injury":
- (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
  - (b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph (1) (a) above;
  - (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1) (a) or (b) above; or
  - (d) Arising out of his or her providing or failing to provide professional health care services. However, if you are not in the business of providing professional health care services or providing professional health care personnel to others, or if coverage for providing professional health care services is not otherwise excluded by separate endorsement, this provision (Paragraph (d)) does not apply.



Paragraphs (a) and (b) above do not apply to "bodily injury" or "personal and advertising injury" caused by an "employee" who is acting in a supervisory capacity for you. Supervisory capacity as used herein means the "employee's" job responsibilities assigned by you, includes the direct supervision of other "employees" of yours. However, none of these "employees" are insureds for "bodily injury" or "personal and advertising injury" arising out of their willful conduct, which is defined as the purposeful or willful intent to cause "bodily injury" or "personal and advertising injury", or caused in whole or in part by their intoxication by liquor or controlled substances.

The coverage provided by provision J. is excess over any other valid and collectable insurance available to your "employee".

#### **K. NEWLY FORMED OR ADDITIONALLY ACQUIRED ENTITIES**

Paragraph 3. of **Section II - Who Is An Insured** is replaced by the following:

3. Any organization you newly acquire or form and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
  - a. Coverage under this provision is afforded only until the expiration of the policy period in which the entity was acquired or formed by you;
  - b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
  - c. Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.
  - d. Records and descriptions of operations must be maintained by the first Named Insured.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations or qualifies as an insured under this provision.

#### **L. FAILURE TO DISCLOSE HAZARDS AND PRIOR OCCURRENCES**

Under **Section IV – Commercial General Liability Conditions**, the following is added to Condition 6. **Representations:**

Your failure to disclose all hazards or prior "occurrences" existing as of the inception date of the policy shall not prejudice the coverage afforded by this policy provided such failure to disclose all hazards or prior "occurrences" is not intentional.

#### **M. KNOWLEDGE OF OCCURRENCE, OFFENSE, CLAIM OR SUIT**

Under **Section IV – Commercial General Liability Conditions**, the following is added to Condition 2. **Duties In The Event of Occurrence, Offense, Claim Or Suit:**

Knowledge of an "occurrence", offense, claim or "suit" by an agent, servant or "employee" of any insured shall not in itself constitute knowledge of the insured unless an insured listed under Paragraph 1. of **Section II – Who Is An Insured** or a person who has been designated by them to receive reports of "occurrences", offenses, claims or "suits" shall have received such notice from the agent, servant or "employee".

#### **N. LIBERALIZATION CLAUSE**

If we revise this Commercial General Liability Extension Endorsement to provide more coverage without additional premium charge, your policy will automatically provide the coverage as of the day the revision is effective in your state.

#### **O. BODILY INJURY REDEFINED**

Under **Section V – Definitions**, Definition 3. is replaced by the following:

3. "Bodily Injury" means physical injury, sickness or disease sustained by a person. This includes mental anguish, mental injury, shock, fright or death that results from such physical injury, sickness or disease.

**P. EXTENDED PROPERTY DAMAGE**

**Exclusion a. of COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY** is replaced by the following:

**a. Expected Or Intended Injury**

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

**Q. WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US – WHEN REQUIRED IN A CONTRACT OR AGREEMENT WITH YOU**

Under **Section IV – Commercial General Liability Conditions**, the following is added to **Condition 8. Transfer Of Rights Of Recovery Against Others To Us**:

We waive any right of recovery we may have against a person or organization because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard" provided:

1. You and that person or organization have agreed in writing in a contract or agreement that you waive such rights against that person or organization; and
2. The injury or damage occurs subsequent to the execution of the written contract or written agreement.





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
12/06/2019

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).

<b>PRODUCER</b>  Roy Ovenell(790133R) 13751 Lake City Way NE Ste 222  Seattle WA 98125-8612		<b>CONTACT NAME:</b>  <b>PHONE</b> (A/C, NO, EXT): 206-362-9062 <b>FAX</b> (A/C, NO): 206-362-1003 <b>E-MAIL ADDRESS:</b> rovenell@farmersagent.com	
<b>INSURED</b>  COMMONSTREET CONSULTING, LLC TODD HUDAK PO BOX 608 QUILCENE WA 98376		<b>INSURER(S) AFFORDING COVERAGE</b>  <b>INSURER A:</b> Truck Insurance Exchange <b>INSURER B:</b> Farmers Insurance Exchange <b>INSURER C:</b> Mid Century Insurance Company <b>INSURER D:</b> <b>INSURER E:</b> <b>INSURER F:</b>	
		<b>NAIC #</b>  21709 21652 21687	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAME 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	ADDTL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>COMMERCIAL GENERAL LIABILITY</b>  <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea Occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
A	<b>AUTOMOBILE LIABILITY</b>  <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y		606646327	01/18/2020	01/18/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/ EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A					PER STATUTE OTHER \$ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

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

ASSET MANAGEMENT DEPARTMENT, CITY OF SPOKANE ADDED AS AN ADDITIONAL INSURED.  
2010 DODGE RAM 2500, VIN: 3D7UT2CL1AG121293

CERTIFICATE HOLDER

CANCELLATION

ASSET MANAGEMENT DEPARTMENT, CITY OF SPOKANE 808 W SPOKANE BLVD, 2ND FLOOR SPOKANE WA 99201	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  ROY OVENELL
------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------



STATE OF WASHINGTON

Department of Labor &amp; Industries

# Certificate of Workers' Compensation Coverage

May 4, 2020

WA UBI No.	604 107 152
L&I Account ID	652,018-00
Legal Business Name	COMMONSTREET CONSULTING LLC
Doing Business As	COMMONSTREET CONSULTING
Workers' Comp Premium Status:	Account is current.
Estimated Workers Reported (See Description Below)	Quarter 1 of Year 2020 "11 to 20 Workers"
Account Representative	Employer Services Help Line, (360) 902-4817
Licensed Contractor?	No

## What does "Estimated Workers Reported" mean?

Estimated workers reported represents the number of full time position requiring at least 480 hours of work per calendar quarter. A single 480 hour position may be filled by one person, or several part time workers.

## Industrial Insurance Information

Employers report and pay premiums each quarter based on hours of employee work already performed, and are liable for premiums found later to be due. **Industrial insurance accounts have no policy periods, cancellation dates, limitations of coverage or waiver of subrogation** (See [RCW 51.12.050](#) and [51.16.190](#)).



# Expenditure Control Form

1. All requests being made must be accompanied by this form.
2. Route **ALL** requests to the Finance Department for signature.
3. If request is greater than \$100,000 it requires signatures by Finance and the City Administrator. Finance Dept. will route to City Administrator.

Today's Date:

Type of expenditure:

Goods

☐

Services

☐

Department:

Approving Supervisor:

Amount of Proposed Expenditure:

Funding Source:

**Please verify correct funding sources. Please indicate breakdown if more than one funding source.**

**Why is this expenditure necessary now?**

**What are the impacts if expenses are deferred?**

**What alternative resources have been considered?**

**Description of the goods or service and any additional information?**

Person Submitting Form/Contact:

FINANCE SIGNATURE:

---

CITY ADMINISTRATOR SIGNATURE:

---



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

07/13/2020

<b><u>Date Rec'd</u></b>	6/22/2020
<b><u>Clerk's File #</u></b>	OPR 2020-0571
<b><u>Renews #</u></b>	

<b><u>Submitting Dept</u></b>	ENGINEERING SERVICES	<b><u>Cross Ref #</u></b>	
<b><u>Contact Name/Phone</u></b>	DAN BULLER 625-6391	<b><u>Project #</u></b>	2020092
<b><u>Contact E-Mail</u></b>	DBULLER@SPOKANECITY.ORG	<b><u>Bid #</u></b>	
<b><u>Agenda Item Type</u></b>	Contract Item	<b><u>Requisition #</u></b>	MASTER
<b><u>Agenda Item Name</u></b>	0370 - PARAMETRIX - LANDSCAPING ARCHITECTURE -ON-CALL SERVICES-FEDERAL AID		

**Agenda Wording**

Local Area A&E Professional Services Consultant Agreement with Parametrix, Inc.; (Spokane, WA) for Landscaping Architecture Services for 2020-2022 Federal Aid Project for the amount not to exceed \$200,000.00. (Various Councils)

**Summary (Background)**

The Agreement for Landscaping Architecture Services is for a period of two years. An option for a one year extension will be granted at the City's discretion. Supplemental Agreements will be prepared under this agreement and scopes for individual project needs. Funding shall be from the individual project.

<b><u>Fiscal Impact</u></b>		Grant related? YES	<b><u>Budget Account</u></b>
		Public Works? YES	
Expense	\$ 200,000.00		# Various
Select	\$		#
Select	\$		#
Select	\$		#
<b><u>Approvals</u></b>		<b><u>Council Notifications</u></b>	
<b><u>Dept Head</u></b>	TWOHIG, KYLE	<b><u>Study Session\Other</u></b>	PIES 6/22/20
<b><u>Division Director</u></b>	SIMMONS, SCOTT M.	<b><u>Council Sponsor</u></b>	Beggs
<b><u>Finance</u></b>	WALLACE, TONYA	<b><u>Distribution List</u></b>	
<b><u>Legal</u></b>	ODLE, MARI	eraea@spokanecity.org	
<b><u>For the Mayor</u></b>	ORMSBY, MICHAEL	publicworksaccounting@spokanecity.org	
<b><u>Additional Approvals</u></b>		kgoodman@spokanecity.org	
<b><u>Purchasing</u></b>		htrautman@spokanecity.org	
<b><u>GRANTS &amp; CONTRACT MGMT</u></b>	STOPHER, SALLY	aduffey@spokanecity.org	
		rflint@parametrix.com	
		dbuller@spokanecity.org	

## Briefing Paper

### PIES

<b>Division &amp; Department:</b>	Engineering Services; Public Works
<b>Subject:</b>	On-Call Engineering Consultants
<b>Date:</b>	June 22, 2020
<b>Contact (email &amp; phone):</b>	Dan Buller ( <a href="mailto:dbuller@spokanecity.org">dbuller@spokanecity.org</a> , 625-6391)
<b>City Council Sponsor:</b>	
<b>Executive Sponsor:</b>	Scott Simmons
<b>Committee(s) Impacted:</b>	PIES
<b>Type of Agenda item:</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
<b>Alignment:</b> (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	
<b>Strategic Initiative:</b>	Innovative Infrastructure
<b>Deadline:</b>	
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	Informational - background information for committee review
<b>Background/History:</b> Engineering Services has “on-call” agreements with various consultants for specialized engineering or related services (structural, geotech., surveying, landscape architecture, cultural resource and real estate acquisition) associated with the City’s public works projects. Those firms are selected on the basis of qualifications as required by RCW 39. These typically agreements last from 2-3 years.	
<b>Executive Summary:</b> <ul style="list-style-type: none"> <li>A request for qualifications was advertised earlier this spring for structural engineering, geotechnical engineering, surveying, landscape architecture, culture resource and real estate acquisition consultants.</li> <li>A review committee ranked the firms by qualifications. One firm will be selected for each discipline.</li> <li>Engineering Services expects to bring six agreements to council over the next several weeks.</li> <li>Costs incurred under the proposed contracts are paid as part of each public works project for which the consultant is used.</li> </ul>	
<b>Budget Impact:</b> Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Annual/Reoccurring expenditure? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A If new, specify funding source: Other budget impacts: (revenue generating, match requirements, etc.)	
<b>Operations Impact:</b> 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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A Specify changes required: Known challenges/barriers:	

# **Local Agency A&E Professional Services Negotiated Hourly Rate Consultant Agreement**

Agreement Number: \_\_\_\_\_

Firm/Organization Legal Name (do not use dba's):		
Address	Federal Aid Number	
UBI Number	Federal TIN	
Execution Date	Completion Date	
1099 Form Required <input type="checkbox"/> Yes <input type="checkbox"/> No	Federal Participation <input type="checkbox"/> Yes <input type="checkbox"/> No	
Project Title		
Description of Work		
<input type="checkbox"/> Yes <input type="checkbox"/> Yes <input type="checkbox"/> Yes <input type="checkbox"/> Yes	<input type="checkbox"/> No DBE Participation <input type="checkbox"/> No MBE Participation <input type="checkbox"/> No WBE Participation <input type="checkbox"/> No SBE Participation	Maximum Amount Payable:

## **Index of Exhibits**

<a href="#">Exhibit A</a>	Scope of Work
<a href="#">Exhibit B</a>	DBE Participation
<a href="#">Exhibit C</a>	Preparation and Delivery of Electronic Engineering and Other Data
<a href="#">Exhibit D</a>	Prime Consultant Cost Computations
<a href="#">Exhibit E</a>	Sub-consultant Cost Computations
<a href="#">Exhibit F</a>	Title VI Assurances
<a href="#">Exhibit G</a>	Certification Documents
<a href="#">Exhibit H</a>	Liability Insurance Increase
<a href="#">Exhibit I</a>	Alleged Consultant Design Error Procedures
<a href="#">Exhibit J</a>	Consultant Claim Procedures

THIS AGREEMENT, made and entered into as shown in the “Execution Date” box on page one (1) of this AGREEMENT, between the \_\_\_\_\_, hereinafter called the “AGENCY,” and the “Firm / Organization Name” referenced on page one (1) of this AGREEMENT, hereinafter called the “CONSULTANT.”

WHEREAS, the AGENCY desires to accomplish the work referenced in “Description of Work” on page one (1) of this AGREEMENT and hereafter called the “SERVICES;” and does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary SERVICES; and

WHEREAS, the CONSULTANT represents that they comply with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the AGENCY.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

## **I. General Description of Work**

The work under this AGREEMENT shall consist of the above-described SERVICES as herein defined, and necessary to accomplish the completed work for this project. The CONSULTANT shall furnish all services, labor, and related equipment and, if applicable, sub-consultants and subcontractors necessary to conduct and complete the SERVICES as designated elsewhere in this AGREEMENT.

## **II. General Scope of Work**

The Scope of Work and projected level of effort required for these SERVICES is described in Exhibit “A” attached hereto and by this reference made a part of this AGREEMENT. The General Scope of Work was developed utilizing performance based contracting methodologies.

## **III. General Requirements**

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress, and presentation meetings with the AGENCY and/or such State, Federal, Community, City, or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days’ notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit “A.”

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the SERVICES in sufficient detail so that the progress of the SERVICES can easily be evaluated.

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations, and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

Participation for Disadvantaged Business Enterprises (DBE) or Small Business Enterprises (SBE), if required, per 49 CFR Part 26, shall be shown on the heading of this AGREEMENT. If DBE firms are utilized at the commencement of this AGREEMENT, the amounts authorized to each firm and their certification number will be shown on Exhibit “B” attached hereto and by this reference made part of this AGREEMENT. If the Prime CONSULTANT is, a DBE certified firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY’s “DBE Program Participation Plan” and perform a minimum of 30% of the total amount of this AGREEMENT. It is recommended, but not required, that non-DBE Prime CONSULTANTS perform a minimum of 30% of the total amount of this AGREEMENT.

In the absence of a mandatory UDBE, the Consultant shall continue their outreach efforts to provide SBE firms maximum practicable opportunities.

The CONSULTANT, on a monthly basis, shall enter the amounts paid to all firms (including Prime) involved with this AGREEMENT into the [wsdot.diversitycompliance.com](http://wsdot.diversitycompliance.com) program. Payment information shall identify any DBE Participation. Non-minority, woman owned DBEs does not count towards UDBE goal attainment.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit “C – Preparation and Delivery of Electronic Engineering and other Data.”

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for these SERVICES, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring, as a part of this SERVICE, shall be without liability or legal exposure to the CONSULTANT.

Any and all notices or requests required under this AGREEMENT shall be made in writing and sent to the other party by (i) certified mail, return receipt requested, or (ii) by email or facsimile, to the address set forth below:

If to AGENCY:				If to CONSULTANT:			
Name: Dan Buller				Name: Roger Flint			
Agency: City of Spokane				Agency: Parametrix, Inc.			
Address: 808 W. Spokane Falls Blvd.				Address: 835 N. Post St., Suite 201			
City: Spokane		State: WA	Zip: 99201	City: Spokane		State: WA	Zip: 99201
Email: <a href="mailto:dbuller@spokanecity.org">dbuller@spokanecity.org</a>				Email: <a href="mailto:rflint@parametrix.com">rflint@parametrix.com</a>			
Phone: 509-625-6700				Phone: 206-838-3979			
Facsimile: 509-625-6349				Facsimile: 855-542-6353			

**IV. Time for Beginning and Completion**

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY. All work under this AGREEMENT shall conform to the criteria agreed upon detailed in the AGREEMENT documents. These SERVICES must be completed by the date shown in the heading of this AGREEMENT titled “Completion Date.”

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD, governmental actions, or other conditions beyond the control of the CONSULTANT. A prior supplemental AGREEMENT issued by the AGENCY is required to extend the established completion time.

## V. Payment Provisions

The CONSULTANT shall be paid by the AGENCY for completed SERVICES rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for SERVICES performed or SERVICES rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete SERVICES. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31 ([www.ecfr.gov](http://www.ecfr.gov)).

- A. Hourly Rates: Hourly rates are comprised of the following elements - Direct (Raw) Labor, Indirect Cost Rate, and Fee (Profit). The CONSULTANT shall be paid by the AGENCY for work done, based upon the negotiated hourly rates shown in Exhibits “D” and “E” attached hereto and by reference made part of this AGREEMENT. These negotiated hourly rates will be accepted based on a review of the CONSULTANT’s direct labor rates and indirect cost rate computations and agreed upon fee. The accepted negotiated rates shall be memorialized in a final written acknowledgment between the parties. Such final written acknowledgment shall be incorporated into, and become a part of, this AGREEMENT. The initially accepted negotiated rates shall be applicable from the approval date, as memorialized in a final written acknowledgment, to 180 days following the CONSULTANT’s fiscal year end (FYE) date.

The direct (raw) labor rates and classifications, as shown on Exhibits “D” and “E” shall be subject to renegotiations for each subsequent twelve (12) month period (180 days following FYE date to 180 days following FYE date) upon written request of the CONSULTANT or the AGENCY. The written request must be made to the other party within ninety (90) days following the CONSULTANT’s FYE date. If no such written request is made, the current direct (raw) labor rates and classifications as shown on Exhibits “D” and “E” will remain in effect for the twelve (12) month period.

Conversely, if a timely request is made in the manner set forth above, the parties will commence negotiations to determine the new direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period. Any agreed to renegotiated rates shall be memorialized in a final written acknowledgment between the parties. Such final written acknowledgment shall be incorporated into, and become a part of, this AGREEMENT. If requested, the CONSULTANT shall provide current payroll register and classifications to aid in negotiations. If the parties cannot reach an agreement on the direct (raw) labor rates and classifications, the AGENCY shall perform an audit of the CONSULTANT’s books and records to determine the CONSULTANT’s actual costs. The audit findings will establish the direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period.

The fee as identified in Exhibits “D” and “E” shall represent a value to be applied throughout the life of the AGREEMENT.

The CONSULTANT shall submit annually to the AGENCY an updated indirect cost rate within 180 days of the close of its fiscal year. An approved updated indirect cost rate shall be included in the current fiscal year rate under this AGREEMENT, even if/when other components of the hourly rate are not renegotiated. These rates will be applicable for the twelve (12) month period. At the AGENCY’s option, a provisional and/or conditional indirect cost rate may be negotiated. This provisional or conditional indirect rate shall remain in effect until the updated indirect cost rate is completed and approved. Indirect cost rate costs incurred during the provisional or conditional period will not be adjusted. The CONSULTANT may request an extension of the last approved indirect cost rate for the twelve (12) month period. These requests for provisional indirect cost rate and/or extension will be considered on a case-by-case basis, and if granted, will be memorialized in a final written acknowledgment.

The CONSULTANT shall maintain and have accessible support data for verification of the components of the hourly rates, i.e., direct (raw) labor, indirect cost rate, and fee (profit) percentage. The CONSULTANT shall bill each employee’s actual classification, and actual salary plus indirect cost rate plus fee.

- A. **Direct Non-Salary Costs:** Direct Non-Salary Costs will be reimbursed at the actual cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges, and fees of sub-consultants. Air or train travel will be reimbursed only to lowest price available, unless otherwise approved by the AGENCY. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the WSDOT's Accounting Manual M 13-82, Chapter 10 – Travel Rules and Procedures, and all revisions thereto. Air, train, and rental car costs shall be reimbursed in accordance with 48 Code of Federal Regulations (CFR) Part 31.205-46 "Travel Costs." The billing for Direct Non-salary Costs shall include an itemized listing of the charges directly identifiable with these SERVICES. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the STATE upon request. All above charges must be necessary for the SERVICES provided under this AGREEMENT.
- B. **Maximum Amount Payable:** The Maximum Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT on page one (1.) The Maximum Amount Payable does not include payment for extra work as stipulated in section XIII, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.
- C. **Monthly Progress Payments:** Progress payments may be claimed on a monthly basis for all costs authorized in A and B above. Detailed statements shall support the monthly billings for hours expended at the rates established in Exhibit "D," including names and classifications of all employees, and billings for all direct non-salary expenses. To provide a means of verifying the billed salary costs for the CONSULTANT's employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the SERVICES at the time of the interview.
- D. **Final Payment:** Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the SERVICES under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data, and other related documents, which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) calendar days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. Per WSDOT's "Audit Guide for Consultants," Chapter 23 "Resolution Procedures," the CONSULTANT has twenty (20) working days after receipt of the final Post Audit to begin the appeal process to the AGENCY for audit findings

E. **Inspection of Cost Records:** The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY and the United States, for a period of six (6) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this AGREEMENT is initiated before the expiration of the six (6) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed. An interim or post audit may be performed on this AGREEMENT. The audit, if any, will be performed by the State Auditor, WSDOT's Internal Audit Office and /or at the request of the AGENCY's Project Manager.



## **VI. Sub-Contracting**

The AGENCY permits subcontracts for those items of SERVICES as shown in Exhibit "A" attached hereto and by this reference made part of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any SERVICE under this AGREEMENT without prior written permission of the AGENCY. No permission for subcontracting shall create, between the AGENCY and sub-consultant, any contract or any other relationship.

Compensation for this sub-consultant SERVICES shall be based on the cost factors shown on Exhibit "E" attached hereto and by this reference made part of this AGREEMENT.

The SERVICES of the sub-consultant shall not exceed its maximum amount payable identified in each sub consultant cost estimate unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, indirect cost rate, direct non-salary costs and fee costs for the sub-consultant shall be negotiated and substantiated in accordance with section V "Payment Provisions" herein and shall be memorialized in a final written acknowledgment between the parties

All subcontracts shall contain all applicable provisions of this AGREEMENT, and the CONSULTANT shall require each sub-consultant or subcontractor, of any tier, to abide by the terms and conditions of this AGREEMENT. With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the STATE's Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT, sub-recipient, or sub-consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the recipient deems appropriate.

## **VII. Employment and Organizational Conflict of Interest**

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from this AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT's employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of this AGREEMENT, any professional or technical personnel who are, or have been, at any time during the period of this AGREEMENT, in the employ of the United States Department of Transportation or the AGENCY, except regularly retired employees, without written consent of the public employer of such person if he/she will be working on this AGREEMENT for the CONSULTANT.

Agreement Number:

## VIII. Nondiscrimination

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, sub-consultants, subcontractors and successors in interest, agrees to comply with the following laws and regulations:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Chapter 21 Subchapter V § 2000d through 2000d-4a)
- Federal-aid Highway Act of 1973 (23 U.S.C. Chapter 3 § 324)
- Rehabilitation Act of 1973 (29 U.S.C. Chapter 16 Subchapter V § 794)
- Age Discrimination Act of 1975 (42 U.S.C. Chapter 76 § 6101 *et. seq.*)
- Civil Rights Restoration Act of 1987 (Public Law 100-259)
- American with Disabilities Act of 1990 (42 U.S.C. Chapter 126 § 12101 *et. seq.*)
- 23 CFR Part 200
- 49 CFR Part 21
- 49 CFR Part 26
- RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit “F” attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit “F” in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

## IX. Termination of Agreement

The right is reserved by the AGENCY to terminate this AGREEMENT at any time with or without cause upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY, other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of this AGREEMENT, plus any direct non-salary costs incurred up to the time of termination of this AGREEMENT.

No payment shall be made for any SERVICES completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth in paragraph two (2) of this section, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In the event of a termination for default, the amount to be paid to the CONSULTANT shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing SERVICES to the date of termination, the amount of SERVICES originally required which was satisfactorily completed to date of termination, whether that SERVICE is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the SERVICES required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the SERVICES performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth in paragraph two (2) of this section.

If it is determined for any reason, that the CONSULTANT was not in default or that the CONSULTANT’s failure to perform is without the CONSULTANT’s or its employee’s fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

The CONSULTANT shall, within 15 days, notify the AGENCY in writing, in the event of the death of any member, partner, or officer of the CONSULTANT or the death or change of any of the CONSULTANT's supervisory and/or other key personnel assigned to the project or disaffiliation of any principally involved CONSULTANT employee.

The CONSULTANT shall also notify the AGENCY, in writing, in the event of the sale or transfer of 50% or more of the beneficial ownership of the CONSULTANT within 15 days of such sale or transfer occurring. The CONSULTANT shall continue to be obligated to complete the SERVICES under the terms of this AGREEMENT unless the AGENCY chooses to terminate this AGREEMENT for convenience or chooses to renegotiate any term(s) of this AGREEMENT. If termination for convenience occurs, final payment will be made to the CONSULTANT as set forth in the second and third paragraphs of this section.

Payment for any part of the SERVICES by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform SERVICES required of it by the AGENCY.

Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

## **X. Changes of Work**

The CONSULTANT shall make such changes and revisions in the completed work of this AGREEMENT as necessary to correct errors appearing therein, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed SERVICES or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under section XIII "Extra Work."

## **XI. Disputes**

Any disputed issue not resolved pursuant to the terms of this AGREEMENT shall be submitted in writing within 10 days to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J". In the event that either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this AGREEMENT, this action shall be initiated in the Superior Court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in the county in which the AGENCY is located.

## **XII. Legal Relations**

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall defend, indemnify, and hold the State of Washington (STATE) and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the negligence of, or the breach of any obligation under this AGREEMENT by, the CONSULTANT or the CONSULTANT's agents, employees, sub consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable; provided that nothing herein shall require a CONSULTANT

to defend or indemnify the STATE and the AGENCY and their officers and employees against and hold harmless the STATE and the AGENCY and their officers and employees from claims, demands or suits based solely upon the negligence of, or breach of any obligation under this AGREEMENT by the STATE and the AGENCY, their agents, officers, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the STATE and /or the AGENCY may be legally liable; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT is legally liable, and (b) the STATE and/or AGENCY, their agents, officers, employees, sub-consultants, subcontractors and or vendors, of any tier, or any other persons for whom the STATE and/or AGENCY may be legally liable, the defense and indemnity obligation shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable. This provision shall be included in any AGREEMENT between CONSULTANT and any sub-consultant, subcontractor and vendor, of any tier.

The CONSULTANT shall also defend, indemnify, and hold the STATE and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable, in performance of the Work under this AGREEMENT or arising out of any use in connection with the AGREEMENT of methods, processes, designs, information or other items furnished or communicated to STATE and/or the AGENCY, their agents, officers and employees pursuant to the AGREEMENT; provided that this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from STATE and/or AGENCY's, their agents', officers and employees' failure to comply with specific written instructions regarding use provided to STATE and/or AGENCY, their agents, officers and employees by the CONSULTANT, its agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable.

The CONSULTANT's relation to the AGENCY shall be at all times as an independent contractor.

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the AGENCY may, in its sole discretion, by written notice to the CONSULTANT terminate this AGREEMENT if it is found after due notice and examination by the AGENCY that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the CONSULTANT in the procurement of, or performance under, this AGREEMENT.

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees or its agents against the STATE and/or the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. The Parties have mutually negotiated this waiver.

Unless otherwise specified in this AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the project. Subject to the processing of a new sole source, or an acceptable supplemental AGREEMENT, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of this AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

## Insurance Coverage

- A. Worker's compensation and employer's liability insurance as required by the STATE.
- B. Commercial general liability insurance written under ISO Form CG 00 01 12 04 or its equivalent with minimum limits of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate for each policy period.
- C. Business auto liability insurance written under ISO Form CG 00 01 10 01 or equivalent providing coverage for any "Auto" (Symbol 1) used in an amount not less than a one million dollar (\$1,000,000.00) combined single limit for each occurrence.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance, the STATE and AGENCY, their officers, employees, and agents will be named on all policies of CONSULTANT and any sub-consultant and/or subcontractor as an additional insured (the "AIs"), with no restrictions or limitations concerning products and completed operations coverage. This coverage shall be primary coverage and non-contributory and any coverage maintained by the AIs shall be excess over, and shall not contribute with, the additional insured coverage required hereunder. The CONSULTANT's and the sub-consultant's and/or subcontractor's insurer shall waive any and all rights of subrogation against the AIs. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by this AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to:

Name: Engineering Services

Agency: City of Spokane

Address: 808 W. Spokane Falls Blvd.

City: Spokane State: WA Zip: 99201

Email: eraea@spokanecity.org

Phone: 509-625-6700

Facsimile: 509-625-6349

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT's professional liability to the AGENCY, including that which may arise in reference to section IX "Termination of Agreement" of this AGREEMENT, shall be limited to the accumulative amount of the authorized AGREEMENT or one million dollars (\$1,000,000.00), whichever is greater, unless the limit of liability is increased by the AGENCY pursuant to Exhibit H. In no case shall the CONSULTANT's professional liability to third parties be limited in any way.

The parties enter into this AGREEMENT for the sole benefit of the parties, and to the exclusion of any third part, and no third party beneficiary is intended or created by the execution of this AGREEMENT.

The AGENCY will pay no progress payments under section V "Payment Provisions" until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

### **XIII. Extra Work**

- A. The AGENCY may at any time, by written order, make changes within the general scope of this AGREEMENT in the SERVICES to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the SERVICES under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of this AGREEMENT, the AGENCY shall make an equitable adjustment in the: (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify this AGREEMENT accordingly.
- C. The CONSULTANT must submit any “request for equitable adjustment,” hereafter referred to as “CLAIM,” under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of this AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the section XI “Disputes” clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (A.) and (B.) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

### **XIV. Endorsement of Plans**

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

### **XV. Federal Review**

The Federal Highway Administration shall have the right to participate in the review or examination of the SERVICES in progress.

### **XVI. Certification of the Consultant and the Agency**

Attached hereto as Exhibit “G-1(a and b)” are the Certifications of the CONSULTANT and the AGENCY, Exhibit “G-2” Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit “G-3” Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit “G-4” Certificate of Current Cost or Pricing Data. Exhibit “G-3” is required only in AGREEMENT’s over one hundred thousand dollars (\$100,000.00) and Exhibit “G-4” is required only in AGREEMENT’s over five hundred thousand dollars (\$500,000.00.) These Exhibits must be executed by the CONSULTANT, and submitted with the master AGREEMENT, and returned to the AGENCY at the address listed in section III “General Requirements” prior to its performance of any SERVICES under this AGREEMENT.

### **XVII. Complete Agreement**

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as a supplement to this AGREEMENT.

### **XVIII. Execution and Acceptance**

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and AGREEMENT’s contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept this AGREEMENT and agrees to all of the terms and conditions thereof.

## **XIX. Protection of Confidential Information**

The CONSULTANT acknowledges that some of the material and information that may come into its possession or knowledge in connection with this AGREEMENT or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other local, state, or federal statutes ("State's Confidential Information"). The "State's Confidential Information" includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles credit card information, driver's license numbers, medical data, law enforcement records (or any other information identifiable to an individual), STATE and AGENCY source code or object code, STATE and AGENCY security data, non-public Specifications, STATE and AGENCY non-publicly available data, proprietary software, STATE and AGENCY security data, or information which may jeopardize any part of the project that relates to any of these types of information. The CONSULTANT agrees to hold the State's Confidential Information in strictest confidence and not to make use of the State's Confidential Information for any purpose other than the performance of this AGREEMENT, to release it only to authorized employees, sub-consultants or subcontractors requiring such information for the purposes of carrying out this AGREEMENT, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make it known to any other party without the AGENCY's express written consent or as provided by law. The CONSULTANT agrees to release such information or material only to employees, sub-consultants or subcontractors who have signed a nondisclosure AGREEMENT, the terms of which have been previously approved by the AGENCY. The CONSULTANT agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to the State's Confidential Information.

Immediately upon expiration or termination of this AGREEMENT, the CONSULTANT shall, at the AGENCY's option: (i) certify to the AGENCY that the CONSULTANT has destroyed all of the State's Confidential Information; or (ii) returned all of the State's Confidential Information to the AGENCY; or (iii) take whatever other steps the AGENCY requires of the CONSULTANT to protect the State's Confidential Information.

As required under Executive Order 00-03, the CONSULTANT shall maintain a log documenting the following: the State's Confidential Information received in the performance of this AGREEMENT; the purpose(s) for which the State's Confidential Information was received; who received, maintained, and used the State's Confidential Information; and the final disposition of the State's Confidential Information. The CONSULTANT's records shall be subject to inspection, review, or audit upon reasonable notice from the AGENCY.

The AGENCY reserves the right to monitor, audit, or investigate the use of the State's Confidential Information collected, used, or acquired by the CONSULTANT through this AGREEMENT. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by the CONSULTANT or its sub-consultants or subcontractors may result in termination of this AGREEMENT and demand for return of all State's Confidential Information, monetary damages, or penalties

It is understood and acknowledged that the CONSULTANT may provide the AGENCY with information, which is proprietary and/or confidential during the term of this AGREEMENT. The parties agree to maintain the confidentiality of such information during the term of this AGREEMENT and afterwards. All materials containing such proprietary and/or confidential information shall be clearly identified and marked as "Confidential" and shall be returned to the disclosing party at the conclusion of the SERVICES under this AGREEMENT.



The CONSULTANT shall provide the AGENCY with a list of all information and materials it considers confidential and/or proprietary in nature: (a) at the commencement of the term of this AGREEMENT, or (b) as soon as such confidential or proprietary material is developed. "Proprietary and/or confidential information" is not meant to include any information which, at the time of its disclosure: (i) is already known to the other party; (ii) is rightfully disclosed to one of the parties by a third party that is not acting as an agent or representative for the other party; (iii) is independently developed by or for the other party; (iv) is publicly known; or (v) is generally utilized by unaffiliated third parties engaged in the same business or businesses as the CONSULTANT.

The parties also acknowledge that the AGENCY is subject to Washington State and federal public disclosure laws. As such, the AGENCY shall maintain the confidentiality of all such information marked proprietary and or confidential or otherwise exempt, unless such disclosure is required under applicable state or federal law. If a public disclosure request is made to view materials identified as "Proprietary and/or confidential information" or otherwise exempt information, the AGENCY will notify the CONSULTANT of the request and of the date that such records will be released to the requester unless the CONSULTANT obtains a court order from a court of competent jurisdiction enjoining that disclosure. If the CONSULTANT fails to obtain the court order enjoining disclosure, the AGENCY will release the requested information on the date specified.

The CONSULTANT agrees to notify the sub-consultant of any AGENCY communication regarding disclosure that may include a sub-consultant's proprietary and/or confidential information. The CONSULTANT notification to the sub-consultant will include the date that such records will be released by the AGENCY to the requester and state that unless the sub-consultant obtains a court order from a court of competent jurisdiction enjoining that disclosure the AGENCY will release the requested information. If the CONSULTANT and/or sub-consultant fail to obtain a court order or other judicial relief enjoining the AGENCY by the release date, the CONSULTANT shall waive and release and shall hold harmless and indemnify the AGENCY from all claims of actual or alleged damages, liabilities, or costs associated with the AGENCY's said disclosure of sub-consultants' information.

## **XX. Records Maintenance**

During the progress of the Work and SERVICES provided hereunder and for a period of not less than six (6) years from the date of final payment to the CONSULTANT, the CONSULTANT shall keep, retain, and maintain all "documents" pertaining to the SERVICES provided pursuant to this AGREEMENT. Copies of all "documents" pertaining to the SERVICES provided hereunder shall be made available for review at the CONSULTANT's place of business during normal working hours. If any litigation, claim, or audit is commenced, the CONSULTANT shall cooperate with AGENCY and assist in the production of all such documents. "Documents" shall be retained until all litigation, claims or audit findings have been resolved even though such litigation, claim, or audit continues past the six (6) year retention period.

For purposes of this AGREEMENT, "documents" means every writing or record of every type and description, including electronically stored information ("ESI"), that is in the possession, control, or custody of the CONSULTANT, including, without limitation, any and all correspondences, contracts, AGREEMENTs, appraisals, plans, designs, data, surveys, maps, spreadsheets, memoranda, stenographic or handwritten notes, reports, records, telegrams, schedules, diaries, notebooks, logbooks, invoices, accounting records, work sheets, charts, notes, drafts, scribbles, recordings, visual displays, photographs, minutes of meetings, tabulations, computations, summaries, inventories, and writings regarding conferences, conversations or telephone conversations, and any and all other taped, recorded, written, printed or typed matters of any kind or description; every copy of the foregoing whether or not the original is in the possession, custody, or control of the CONSULTANT, and every copy of any of the foregoing, whether or not such copy is a copy identical to an original, or whether or not such copy contains any commentary or notation whatsoever that does not appear on the original.

For purposes of this AGREEMENT, “ESI” means any and all computer data or electronic recorded media of any kind, including “Native Files”, that are stored in any medium from which it can be retrieved and examined, either directly or after translation into a reasonably useable form. ESI may include information and/or documentation stored in various software programs such as Email, Outlook, Word, Excel, Access, Publisher, PowerPoint, Adobe Acrobat, SQL databases, or any other software or electronic communication programs or databases that the CONSULTANT may use in the performance of its operations. ESI may be located on network servers, backup tapes, smart phones, thumb drives, CDs, DVDs, floppy disks, work computers, cell phones, laptops, or any other electronic device that CONSULTANT uses in the performance of its Work or SERVICES hereunder, including any personal devices used by the CONSULTANT or any sub-consultant at home.

“Native files” are a subset of ESI and refer to the electronic format of the application in which such ESI is normally created, viewed, and /or modified

The CONSULTANT shall include this section XX “Records Maintenance” in every subcontract it enters into in relation to this AGREEMENT and bind the sub-consultant to its terms, unless expressly agreed to otherwise in writing by the AGENCY prior to the execution of such subcontract.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the “Execution Date” box on page one (1) of this AGREEMENT.



, Chief Operating Officer

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

*Any modification, change, or reformation of this AGREEMENT shall require approval as to form by the Office of the Attorney General.*

# ***Exhibit A***

## ***Scope of Work***

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Project No.

The scope of work for the various federal aid projects covered in this agreement will vary by project but is generally described in the "Description of Work" on the first page of this agreement.

The project covered include:

12th Ave. – Deer Heights to Flint Rd.  
Centennial Trail Summit Blvd.  
Driscoll – Alberta to Garland  
Fish Lake Trail Phase 3B  
Fish Lake Trail to Centennial Trail Connection  
Fort George Wright  
Freya St., Garland to Francis  
Freya – Wellesley to Francis  
Havana St. – Sprague to Broadway  
Maple-Wellesley Intersection  
Millwood Trail – Greene to Felts Field  
North Bank Trail  
North River Dr. Sidewalk – East of Washington St.  
Ray/Freya – Hartson to 17th  
Riverside Ave. – Monroe to Division  
Sherman Ave. / 5th Ave. Traffic Signal  
Sprague Ave (multiple phases) – pavement reconstruction, curb bumpouts, stormwater separation etc.  
Sunset Highway Bike Path – Royal to Deer Heights – bike path construction  
Thor-Freya Reconstruction – Sprague to Hartson  
Wellesley Ave., Freya to Havana

## ***Exhibit B***

### ***DBE Participation Plan***

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In the absence of a mandatory UDBE, the Consultant shall continue their outreach efforts to provide SBE maximum practicable opportunities.

# ***Exhibit C***

## ***Preparation and Delivery of Electronic Engineering and Other Data***

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In this Exhibit the agency, as applicable, is to provide a description of the format and standards the consultant is to use in preparing electronic files for transmission to the agency. The format and standards to be provided may include, but are not limited to, the following:

I. Surveying, Roadway Design & Plans Preparation Section

A. Survey Data

To be mutually agreed upon

B. Roadway Design Files

To be mutually agreed upon

C. Computer Aided Drafting Files

Industry standard - to be mutually agreed upon

D. Specify the Agency's Right to Review Product with the Consultant

Phone and in-person consultation as necessary

E. Specify the Electronic Deliverables to Be Provided to the Agency

Varies by project

F. Specify What Agency Furnished Services and Information Is to Be Provided

Varies by project

II. Any Other Electronic Files to Be Provided  
Varies by project

III. Methods to Electronically Exchange Data  
Email or city provided FTP



A. Agency Software Suite  
Industry standard

B. Electronic Messaging System  
Industry standard

C. File Transfers Format  
Industry standard

***Exhibit D***  
***Prime Consultant Cost Computations***

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Will be negotiated project by project subject to the attached fee/rate schedule (Exhibit K) before notice to proceed for each project is given.

## ***Exhibit E***

### ***Sub-consultant Cost Computations***

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The CONSULTANT shall not sub-contract for the performance of any work under this AGREEMENT without prior written permission of the AGENCY. Refer to section VI “Sub-Contracting” of this AGREEMENT.

There is no planned sub-consultant work planned. In the event consultant desires a sub-consultant, the procedures in Section VI of this agreement shall be followed.

# **Exhibit F**

## **Title VI Assurances**

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During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the “REGULATIONS”), which are herein incorporated by reference and made a part of this AGREEMENT.
2. **Non-discrimination:** The CONSULTANT, with regard to the work performed during this AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when this AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
3. **Solicitations for Sub-consultants, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT’s obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports:** The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the AGENCY, the STATE, or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, the STATE, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the CONSULTANT’s non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE, or the FHWA may determine to be appropriate, including, but not limited to:
  - Withholding of payments to the CONSULTANT under this AGREEMENT until the CONSULTANT complies, and/or;
  - Cancellation, termination, or suspension of this AGREEMENT, in whole or in part.
6. **Incorporation of Provisions:** The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the STATE, the AGENCY, or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY enter into such litigation to protect the interests of the STATE and/or the AGENCY and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.

# ***Exhibit G***

## ***Certification Document***

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- Exhibit G-1(a) Certification of Consultant
- Exhibit G-1(b) Certification of \_\_\_\_\_
- Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions
- Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying
- Exhibit G-4 Certificate of Current Cost or Pricing Data

## Exhibit G-1(a) Certification of Consultant

I hereby certify that I am the and duly authorized representative of the firm of \_\_\_\_\_

whose address is \_\_\_\_\_


and that neither the above firm nor I have

- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this AGREEMENT;
- b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be furnished to the \_\_\_\_\_

and the Federal Highway Administration, U.S. Department of Transportation in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

\_\_\_\_\_  
Consultant (Firm Name)

 Roger W. Flint, Chief Operating Officer      June 25, 2020  
\_\_\_\_\_  
Signature (Authorized Official of Consultant)      Date

**Exhibit G-1(b) Certification of \_\_\_\_\_**

I hereby certify that I am the:

☐ Mayor

☐ Other

of the \_\_\_\_\_, and \_\_\_\_\_

or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this AGREEMENT to:

- a) Employ or retain, or agree to employ to retain, any firm or person; o
- b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be furnished to the \_\_\_\_\_

and the Federal Highway Administration, U.S. Department of Transportation, in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

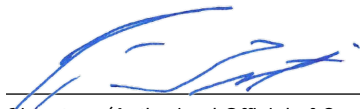


## Exhibit G-2 Certification Regarding Debarment Suspension and Other Responsibility Matters - Primary Covered Transactions

- I. The prospective primary participant 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 (3) year period preceding this proposal been convicted of 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 anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; an
  - D. Have not within a three (3) year period preceding this application / proposal had one or more public transactions (Federal, State and local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification such prospective participant shall attach an explanation to this proposal.

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Consultant (Firm Name)



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Signature (Authorized Official of Consultant)

---

Date

## Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative AGREEMENT, and the extension, continuation, renewal, amendment, or modification of Federal contract, grant, loan or cooperative AGREEMENT.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative AGREEMENT, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00, and not more than \$100,000.00 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier sub-contracts, which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

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Consultant (Firm Name)



Roger W. Flint, Chief Operating Officer

June 25, 2020

Signature (Authorized Official of Consultant)


Date

## Exhibit G-4 Certification of Current Cost or Pricing Data

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4) submitted, either actually or by specific identification in writing, to the Contracting Officer or to the Contracting Officer's representative in support of \_\_\_\_\_\* are accurate, complete, and current as of \_\_\_\_\_\*\*.

This certification includes the cost or pricing data supporting any advance AGREEMENT's and forward pricing rate AGREEMENT's between the offer or and the Government that are part of the proposal.

Firm: \_\_\_\_\_

  
Signature \_\_\_\_\_ Roger W. Flint

Chief Operating Officer  
Title \_\_\_\_\_

Date of Execution \_\_\_\_\_\*\*\*.

\*Identify the proposal, quotation, request for pricing adjustment, or other submission involved, giving the appropriate identifying number (e.g. project title.)

\*\*Insert the day, month, and year, when price negotiations were concluded and price AGREEMENT was reached.

\*\*\*Insert the day, month, and year, of signing, which should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed to.

# **Exhibit H**

## **Liability Insurance Increase**

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### **To Be Used Only If Insurance Requirements Are Increased**

The professional liability limit of the CONSULTANT to the AGENCY identified in Section XII, Legal Relations and Insurance of this Agreement is amended to \$ \_\_\_\_\_.

The CONSULTANT shall provide Professional Liability insurance with minimum per occurrence limits in the amount of \$ \_\_\_\_\_.

Such insurance coverage shall be evidenced by one of the following methods:

- Certificate of Insurance
- Self-insurance through an irrevocable Letter of Credit from a qualified financial institution

Self-insurance through documentation of a separate fund established exclusively for the payment of professional liability claims, including claim amounts already reserved against the fund, safeguards established for payment from the fund, a copy of the latest annual financial statements, and disclosure of the investment portfolio for those funds.

Should the minimum Professional Liability insurance limit required by the AGENCY as specified above exceed \$1 million per occurrence or the value of the contract, whichever is greater, then justification shall be submitted to the Federal Highway Administration (FHWA) for approval to increase the minimum insurance limit.

If FHWA approval is obtained, the AGENCY may, at its own cost, reimburse the CONSULTANT for the additional professional liability insurance required.

Notes: Cost of added insurance requirements: \$ \_\_\_\_\_.

- Include all costs, fee increase, premiums.
  - This cost shall not be billed against an FHWA funded project.
  - For final contracts, include this exhibit
-

# **Exhibit I**

## ***Alleged Consultant Design Error Procedures***

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The purpose of this exhibit is to establish a procedure to determine if a consultant has alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

### **Step 1 Potential Consultant Design Error(s) is Identified by Agency's Project Manager**

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

### **Step 2 Project Manager Documents the Alleged Consultant Design Error(s)**

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include all decisions and descriptions of work, photographs, records of labor, materials, and equipment.

### **Step 3 Contact the Consultant Regarding the Alleged Design Error(s)**

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

### **Step 4 Attempt to Resolve Alleged Design Error with Consultant**

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide LP, through the Region Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.
- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

## **Step 5 Forward Documents to Local Programs**

For federally funded projects, all available information, including costs, should be forwarded through the Region Local Programs Engineer to LP for their review and consultation with the FHWA. LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, LP will request assistance from the Attorney General's Office for legal interpretation. LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

# **Exhibit J**

## **Consultant Claim Procedures**

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The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) total a \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

### **Step 1 Consultant Files a Claim with the Agency Project Manager**

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

### **Step 2 Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation**

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will meet with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action is needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.



### **Step 3 Preparation of Support Documentation Regarding Consultant's Claim(s)**

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associate with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

### **Step 4 Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation**

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

### **Step 5 Informing Consultant of Decision Regarding the Claim**

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

### **Step 6 Preparation of Supplement or New Agreement for the Consultant's Claim(s)**

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit



# Expenditure Control Form

1. All requests being made must be accompanied by this form.
2. Route **ALL** requests to the Finance Department for signature.
3. If request is greater than \$100,000 it requires signatures by Finance and the City Administrator. Finance Dept. will route to City Administrator.

Today's Date:

Type of expenditure:

Goods

☐

Services

☐

Department:

Approving Supervisor:

Amount of Proposed Expenditure:

Funding Source:

**Please verify correct funding sources. Please indicate breakdown if more than one funding source.**

**Why is this expenditure necessary now?**

**What are the impacts if expenses are deferred?**

**What alternative resources have been considered?**

**Description of the goods or service and any additional information?**

Person Submitting Form/Contact:

FINANCE SIGNATURE:

---

CITY ADMINISTRATOR SIGNATURE:

---



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/19/2020

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).

<b>PRODUCER</b> Dealey, Renton & Associates P. O. Box 12675 Oakland, CA 94604-2675 License #0020739		<b>CONTACT NAME:</b> <b>PHONE (A/C, No, Ext):</b> 510-465-3090 <b>FAX (A/C, No):</b> 510-452-2193 <b>E-MAIL ADDRESS:</b> certificates@dealeyrenton.com													
<b>INSURED</b> Parametrix, Inc. 1019 39th Ave. SE Suite 100 Puyallup, WA 98374 (253) 604-6600		<b>INSURER(S) AFFORDING COVERAGE</b> <table border="1"> <tr> <td><b>INSURER A:</b> National Fire Insurance Co of Hartford</td> <td><b>NAIC #</b> 20478</td> </tr> <tr> <td><b>INSURER B:</b> Continental Insurance Company</td> <td>35289</td> </tr> <tr> <td><b>INSURER C:</b> American Casualty Company of Reading PA</td> <td>20427</td> </tr> <tr> <td><b>INSURER D:</b> XL Specialty Insurance Co.</td> <td>37885</td> </tr> <tr> <td><b>INSURER E:</b> Valley Forge Insurance Company</td> <td>20508</td> </tr> <tr> <td><b>INSURER F:</b></td> <td></td> </tr> </table>		<b>INSURER A:</b> National Fire Insurance Co of Hartford	<b>NAIC #</b> 20478	<b>INSURER B:</b> Continental Insurance Company	35289	<b>INSURER C:</b> American Casualty Company of Reading PA	20427	<b>INSURER D:</b> XL Specialty Insurance Co.	37885	<b>INSURER E:</b> Valley Forge Insurance Company	20508	<b>INSURER F:</b>	
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<b>INSURER D:</b> XL Specialty Insurance Co.	37885														
<b>INSURER E:</b> Valley Forge Insurance Company	20508														
<b>INSURER F:</b>															

## COVERAGES

**CERTIFICATE NUMBER:** 839504293

**REVISION NUMBER:**

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.

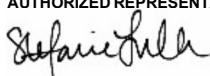
INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Contractual Liab <input checked="" type="checkbox"/> XCU Included GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input checked="" type="checkbox"/> OTHER: WA Stop Gap/EL	Y	Y	6050531366	11/1/2019	11/1/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 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 WA Stop Gap \$ 1,000,000
E	<input checked="" type="checkbox"/> <b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	6050531352	11/1/2019	11/1/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 0			6050531433	11/1/2019	11/1/2020	EACH OCCURRENCE \$ 15,000,000 AGGREGATE \$ 15,000,000 \$
C	<input checked="" type="checkbox"/> <b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	6050531383 6050531402	11/1/2019 11/1/2019	11/1/2020 11/1/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER WA STOP GAP E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	Professional Liability Claims Made Pollution Liability Included		Y	DPR9949704	11/1/2019	11/1/2020	Per Claim \$ 1,000,000 Annual Aggregate \$ 1,000,000 Retroactive Date: 01/01/1969

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

Umbrella Liability policy is a follow-form to underlying General Liability/Auto Liability/Employers Liability.  
Project Name: City of Spokane Landscape Architecture On-Call Services Fed. Aid --  
State of Washington and City of Spokane, their officers, employees, and agents are named as Additional Insured as respects General and Auto Liability as required per written contract or agreement. General Liability insurance is Primary/Non-Contributory per policy form wording. Insurance coverage includes Waiver of Subrogation per the attached.

## CERTIFICATE HOLDER

## CANCELLATION 30 Days Notice of Cancellation

City of Spokane 808 W Spokane Falls Blvd. Spokane WA 99201	<b>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.</b>  <b>AUTHORIZED REPRESENTATIVE</b> 
------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

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**Blanket Additional Insured - Owners, Lessees or  
Contractors - with Products-Completed  
Operations Coverage Endorsement**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

It is understood and agreed as follows:

- I.** The **WHO IS AN INSURED** section is amended to add as an **Insured** any person or organization whom the **Named Insured** is required by **written contract** to add as an additional insured on this **coverage part**, including any such person or organization, if any, specifically set forth on the Schedule attachment to this endorsement. However, such person or organization is an **Insured** only with respect to such person or organization's liability for:
- A.** unless paragraph **B.** below applies,
- 1.** **bodily injury, property damage, or personal and advertising injury** caused in whole or in part by the acts or omissions by or on behalf of the **Named Insured** and in the performance of such **Named Insured's** ongoing operations as specified in such **written contract**; or
  - 2.** **bodily injury or property damage** caused in whole or in part by **your work** and included in the **products-completed operations hazard**, and only if
    - a.** the **written contract** requires the **Named Insured** to provide the additional insured such coverage; and
    - b.** this **coverage part** provides such coverage.
- B.** **bodily injury, property damage, or personal and advertising injury** arising out of **your work** described in such **written contract**, but only if:
- 1.** this **coverage part** provides coverage for **bodily injury or property damage** included within the **products completed operations hazard**; and
  - 2.** the **written contract** specifically requires the **Named Insured** to provide additional insured coverage under the 11-85 or 10-01 edition of CG2010 or the 10-01 edition of CG2037.
- II.** Subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:
- A.** coverage broader than required by the **written contract**; or
- B.** a higher limit of insurance than required by the **written contract**.
- III.** The insurance granted by this endorsement to the additional insured does not apply to **bodily injury, property damage, or personal and advertising injury** arising out of:
- A.** the rendering of, or the failure to render, any professional architectural, engineering, or surveying services, including:
- 1.** the preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
  - 2.** supervisory, inspection, architectural or engineering activities; or
- B.** any premises or work for which the additional insured is specifically listed as an additional insured on another endorsement attached to this **coverage part**.
- IV.** Notwithstanding anything to the contrary in the section entitled **COMMERCIAL GENERAL LIABILITY CONDITIONS**, the Condition entitled **Other Insurance**, this insurance is excess of all other insurance available to the additional insured whether on a primary, excess, contingent or any other basis. However, if this insurance is required by **written**

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**Blanket Additional Insured - Owners, Lessees or  
Contractors - with Products-Completed  
Operations Coverage Endorsement**

**contract** to be primary and non-contributory, this insurance will be primary and non-contributory relative solely to insurance on which the additional insured is a named insured.

**V. Solely with respect to the insurance granted by this endorsement, the section entitled **COMMERCIAL GENERAL LIABILITY CONDITIONS** is amended as follows:**

The Condition entitled **Duties In The Event of Occurrence, Offense, Claim or Suit** is amended with the addition of the following:

Any additional insured pursuant to this endorsement will as soon as practicable:

1. give the Insurer written notice of any **claim**, or any **occurrence** or offense which may result in a **claim**;
2. except as provided in Paragraph IV. of this endorsement, agree to make available any other insurance the additional insured has for any loss covered under this **coverage part**;
3. send the Insurer copies of all legal papers received, and otherwise cooperate with the Insurer in the investigation, defense, or settlement of the **claim**; and
4. tender the defense and indemnity of any **claim** to any other insurer or self insurer whose policy or program applies to a loss that the Insurer covers under this **coverage part**. However, if the **written contract** requires this insurance to be primary and non-contributory, this paragraph (4) does not apply to insurance on which the additional insured is a named insured.

The Insurer has no duty to defend or indemnify an additional insured under this endorsement until the Insurer receives written notice of a **claim** from the additional insured.

**VI. Solely with respect to the insurance granted by this endorsement, the section entitled **DEFINITIONS** is amended to add the following definition:**

**Written contract** means a written contract or written agreement that requires the **Named Insured** to make a person or organization an additional insured on this **coverage part**, provided the contract or agreement:

- A. is currently in effect or becomes effective during the term of this policy; and
- B. was executed prior to:
  1. the **bodily injury** or **property damage**; or
  2. the offense that caused the **personal and advertising injury**for which the additional insured seeks coverage.

Any coverage granted by this endorsement shall apply solely to the extent permissible by law.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.



CNA PARAMOUNT

**Waiver of Transfer of Rights of Recovery Against  
Others to the Insurer Endorsement**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE
<b>Name Of Person Or Organization:</b>
ANY PERSON OR ORGANIZATION WHOM THE NAMED INSURED HAS AGREED IN WRITING IN A CONTRACT OR AGREEMENT TO WAIVE SUCH RIGHTS OF RECOVERY, BUT ONLY IF SUCH CONTRACT OR AGREEMENT:
1. IS IN EFFECT OR BECOMES EFFECTIVE DURING THE TERM OF THIS COVERAGE PART; AND 2. WAS EXECUTED PRIOR TO THE BODILY INJURY, PROPERTY DAMAGE OR PERSONAL AND ADVERTISING INJURY GIVING RISE TO THE CLAIM.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

It is understood and agreed that the condition entitled **Transfer Of Rights Of Recovery Against Others To The Insurer** is amended by the addition of the following:

Solely with respect to the person or organization shown in the Schedule above, the Insurer waives any right of recovery the Insurer may have against such person or organization because of payments the Insurer makes for injury or damage arising out of the **Named Insured's** ongoing operations or **your work** done under a contract with that person or organization and included in the **products-completed operations hazard**.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

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CNA75008XX (1-15)

Page 1 of 1

Nat'l Fire Ins Co of Hartford

Insured Name: PARAMETRIX, INC.

Policy No: 6050531366  
Endorsement No: 7



CONTRACTORS EXTENDED COVERAGE ENDORSEMENT - BUSINESS AUTO PLUS

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

**I. LIABILITY COVERAGE**

**A. Who Is An Insured**

The following is added to **Section II, Paragraph A.1., Who Is An Insured**:

1. a. Any incorporated entity of which the Named Insured owns a majority of the voting stock on the date of inception of this Coverage Form; provided that,
  - b. The insurance afforded by this provision **A.1.** does not apply to any such entity that is an **insured** under any other liability "policy" providing **auto** coverage.
2. Any organization you newly acquire or form, other than a limited liability company, partnership or joint venture, and over which you maintain majority ownership interest.

The insurance afforded by this provision **A.2.:**

- a. Is effective on the acquisition or formation date, and is afforded only until the end of the policy period of this Coverage Form, or the next anniversary of its inception date, whichever is earlier.
- b. Does not apply to:
  - (1) **Bodily injury or property damage** caused by an **accident** that occurred before you acquired or formed the organization; or
  - (2) Any such organization that is an **insured** under any other liability "policy" providing **auto** coverage.
3. Any person or organization that you are required by a written contract to name as an additional insured is an **insured** but only with respect to their legal liability for acts or omissions of a person, who qualifies as an **insured** under **SECTION II – WHO IS AN INSURED** and for whom Liability Coverage is afforded under this policy. If required by written contract, this insurance will be primary and non-contributory to insurance on which the additional insured is a Named Insured.
4. An **employee** of yours is an **insured** while operating an **auto** hired or rented under a contract or agreement in that **employee's** name, with your permission, while performing duties related to the conduct of your business.

"Policy", as used in this provision **A. Who Is An Insured**, includes those policies that were in force on the inception date of this Coverage Form but:

1. Which are no longer in force; or
2. Whose limits have been exhausted.

**B. Bail Bonds and Loss of Earnings**

**Section II, Paragraphs A.2. (2) and A.2. (4)** are revised as follows:

1. In **a.(2)**, the limit for the cost of bail bonds is changed from \$2,000 to \$5,000; and
2. In **a.(4)**, the limit for the loss of earnings is changed from \$250 to \$500 a day.





**C. Fellow Employee**

Section II, Paragraph B.5 does not apply.

Such coverage as is afforded by this provision C. is excess over any other collectible insurance.

**II. PHYSICAL DAMAGE COVERAGE**

**A. Glass Breakage – Hitting A Bird Or Animal – Falling Objects Or Missiles**

The following is added to **Section III, Paragraph A.3.:**

With respect to any covered **auto**, any deductible shown in the Declarations will not apply to glass breakage if such glass is repaired, in a manner acceptable to us, rather than replaced.

**B. Transportation Expenses**

**Section III, Paragraph A.4.a.** is revised, with respect to transportation expense incurred by you, to provide:

- a. \$60 per day, in lieu of \$20; subject to
- b. \$1,800 maximum, in lieu of \$600.

**C. Loss of Use Expenses**

**Section III, Paragraph A.4.b.** is revised, with respect to loss of use expenses incurred by you, to provide:

- a. \$1,000 maximum, in lieu of \$600.

**D. Hired "Autos"**

The following is added to **Section III. Paragraph A.:**

**5. Hired "Autos"**

If Physical Damage coverage is provided under this policy, and such coverage does not extend to Hired Autos, then Physical Damage coverage is extended to:

- a. Any covered **auto** you lease, hire, rent or borrow without a driver; and
- b. Any covered **auto** hired or rented by your **employee** without a driver, under a contract in that individual **employee's** name, with your permission, while performing duties related to the conduct of your business.
- c. The most we will pay for any one **accident** or **loss** is the actual cash value, cost of repair, cost of replacement or \$75,000, whichever is less, minus a \$500 deductible for each covered auto. No deductible applies to **loss** caused by fire or lightning.
- d. The physical damage coverage as is provided by this provision is equal to the physical damage coverage(s) provided on your owned **autos**.
- e. Such physical damage coverage for hired **autos** will:
  - (1) Include loss of use, provided it is the consequence of an **accident** for which the Named Insured is legally liable, and as a result of which a monetary loss is sustained by the leasing or rental concern.
  - (2) Such coverage as is provided by this provision will be subject to a limit of \$750 per **accident**.

**E. Airbag Coverage**

The following is added to **Section III, Paragraph B.3.:**

The accidental discharge of an airbag shall not be considered mechanical breakdown.



**F. Electronic Equipment**

**Section III, Paragraphs B.4.c and B.4.d.** are deleted and replaced by the following:

- c. Physical Damage Coverage on a covered **auto** also applies to **loss** to any permanently installed electronic equipment including its antennas and other accessories
- d. A \$100 per occurrence deductible applies to the coverage provided by this provision.

**G. Diminution In Value**

The following is added to **Section III, Paragraph B.6.:**

Subject to the following, the **diminution in value** exclusion does not apply to:

- a. Any covered **auto** of the private passenger type you lease, hire, rent or borrow, without a driver for a period of 30 days or less, while performing duties related to the conduct of your business; and
- b. Any covered **auto** of the private passenger type hired or rented by your **employee** without a driver for a period of 30 days or less, under a contract in that individual **employee's** name, with your permission, while performing duties related to the conduct of your business.
- c. Such coverage as is provided by this provision is limited to a **diminution in value** loss arising directly out of accidental damage and not as a result of the failure to make repairs; faulty or incomplete maintenance or repairs; or the installation of substandard parts.
- d. The most we will pay for **loss** to a covered **auto** in any one accident is the lesser of:
  - (1) \$5,000; or
  - (2) 20% of the **auto's** actual cash value (ACV).

**III. Drive Other Car Coverage – Executive Officers**

The following is added to **Sections II and III:**

- 1. Any **auto** you don't own, hire or borrow is a covered **auto** for Liability Coverage while being used by, and for Physical Damage Coverage while in the care, custody or control of, any of your "executive officers", except:
  - a. An **auto** owned by that "executive officer" or a member of that person's household; or
  - b. An **auto** used by that "executive officer" while working in a business of selling, servicing, repairing or parking **autos**.

Such Liability and/or Physical Damage Coverage as is afforded by this provision.

- (1) Equal to the greatest of those coverages afforded any covered **auto**; and
- (2) Excess over any other collectible insurance.

- 2. For purposes of this provision, "executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document, and, while a resident of the same household, includes that person's spouse.

Such "executive officers" are **insureds** while using a covered **auto** described in this provision.

**IV. BUSINESS AUTO CONDITIONS**

**A. Duties In The Event Of Accident, Claim, Suit Or Loss**

The following is added to **Section IV, Paragraph A.2.a.:**

- (4) Your **employees** may know of an **accident** or **loss**. This will not mean that you have such knowledge, unless such **accident** or **loss** is known to you or if you are not an individual, to any of your executive officers or partners or your insurance manager.

The following is added to **Section IV, Paragraph A.2.b.:**

- (6) Your **employees** may know of documents received concerning a claim or **suit**. This will not mean that you have such knowledge, unless receipt of such documents is known to you or if you are not an individual, to any of your executive officers or partners or your insurance manager.

**B. Transfer Of Rights Of Recovery Against Others To Us**

The following is added to **Section IV, Paragraph A.5. Transfer Of Rights Of Recovery Against Others To Us:**

We waive any right of recovery we may have, because of payments we make for injury or damage, against any person or organization for whom or which you are required by written contract or agreement to obtain this waiver from us.

This injury or damage must arise out of your activities under a contract with that person or organization.

You must agree to that requirement prior to an **accident** or **loss**.

**C. Concealment, Misrepresentation or Fraud**

The following is added to **Section IV, Paragraph B.2.:**

Your failure to disclose all hazards existing on the date of inception of this Coverage Form shall not prejudice you with respect to the coverage afforded provided such failure or omission is not intentional.

**D. Other Insurance**

The following is added to **Section IV, Paragraph B.5.:**

Regardless of the provisions of Paragraphs **5.a.** and **5.d.** above, the coverage provided by this policy shall be on a primary non-contributory basis. This provision is applicable only when required by a written contract.

That written contract must have been entered into prior to **Accident** or **Loss**.

**E. Policy Period, Coverage Territory**

**Section IV, Paragraph B. 7.(5).(a).** is revised to provide:

- a. 45 days of coverage in lieu of 30 days.

**V. DEFINITIONS**

**Section V. paragraph C.** is deleted and replaced by the following:

**Bodily injury** means bodily injury, sickness or disease sustained by a person, including mental anguish, mental injury or death resulting from any of these.



## Workers Compensation And Employers Liability Insurance Policy Endorsement

### WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule.

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

#### Schedule

Any Person or Organization on whose behalf you are required to obtain this waiver of our right to recover from under a written contract or agreement.

The premium charge for the endorsement is reflected in the Schedule of Operations.

All other terms and conditions of the policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the policy issued by the designated Insurers, takes effect on the Policy Effective Date of said policy at the hour stated in said policy, unless another effective date (the Endorsement Effective Date) is shown below, and expires concurrently with said policy unless another expiration date is shown below.

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

07/13/2020

**Date Rec'd**

6/24/2020

**Clerk's File #**

OPR 2020-0061

**Renews #****Submitting Dept**

HOUSING &amp; HUMAN SERVICES

**Cross Ref #**

OPR 2020-0550

**Contact Name/Phone**

MATT DAVIS 625-6815

**Project #****Contact E-Mail**

MRDAVIS@SPOKANECITY.ORG

**Bid #****Agenda Item Type**

Contract Item

**Requisition #****Agenda Item Name**

1680 - HOUSE OF CHARITY SHELTER ESG-CV AMENDMENT

**Agenda Wording**

CHHS seeks approval of the attached amendment to the House of Charity Emergency Shelter Program agreement. This amendment adds Emergency Solutions Grant-Coronavirus funds ("ESG-CV") for the coronavirus pandemic response in the shelter system.

**Summary (Background)**

The federal CARES Act authorized funding to prevent, prepare for, and respond to the COVID-19 pandemic. As a part of this, the City received ESG-CV funds which were put out for public competition and this project was awarded under the ongoing COVID-19 RFP. See the attached briefing paper for more background information.

**Fiscal Impact**

Grant related? YES

Public Works? NO

**Budget Account**

Expense \$ 358,735.00

# 1540-95588-65410-54201-99999

Select \$

#

Select \$

#

Select \$

#

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

SIGLER, TIMOTHY

**Study Session\Other**

PIES - 6.22.20

**Division Director**

CORTRIGHT, CARLY

**Council Sponsor****Finance**

HUGHES, MICHELLE

**Distribution List****Legal**

ODLE, MARI

mrdavis@spokanecity.org

**For the Mayor**

ORMSBY, MICHAEL

srasmussen@spokanecity.org

**Additional Approvals**

tdanzig@spokanecity.org

**Purchasing**

tsigler@spokanecity.org

**GRANTS &  
CONTRACT MGMT**

BROWN, SKYLER

chhsgrants@spokanecity.org

chhsaccounting@spokanecity.org

## COVID-19 Emergency Solutions Grant Briefing Paper

<b>Division &amp; Department:</b>	Neighborhood and Business Services – Community, Housing, and Human Services
<b>Subject:</b>	COVID-19 Supplemental ESG Award
<b>Date:</b>	4/20/20
<b>Author (email &amp; phone):</b>	Matt Davis ( <a href="mailto:mrdavis@spokanecity.org">mrdavis@spokanecity.org</a> ext. 6815)
<b>City Council Sponsor:</b>	N/A
<b>Executive Sponsor:</b>	Tim Sigler
<b>Committee(s) Impacted:</b>	Public Safety and Community Health
<b>Type of Agenda item:</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
<b>Alignment:</b> (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	2020-2025 Strategic Plan to End Homelessness; Greater Spokane Comprehensive Emergency Management Plan
<b>Strategic Initiative:</b>	Safe & Healthy / Reduce Homelessness
<b>Deadline:</b>	The award letter was received on April 2, 2020. Funds are expected to be disbursed by April 27 <sup>th</sup> .
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	CHHS is requesting permission to accept \$991,359 in Emergency Solutions Grant – Coronavirus (ESG-CV) funding from the U.S. Department of Housing and Urban Development to respond to the COVID-19 outbreak and approval to subaward funds to eligible organizations awarded through the ongoing COVID-19 RFP.
<p><b>Background/History:</b> The CARES Act was signed on March 27, 2020 to help the support the response to the novel coronavirus outbreak. The CARES Act made available an additional \$4 billion in ESG-CV funds to supplement the Fiscal Year (FY) 2020 ESG funding. Of this amount, the Department is immediately allocating \$1 billion for ESG-CV grants based on the FY 2020 ESG formula. The rest of the funding for ESG-CV grants will be allocated directly to ESG recipients by a separate formula developed by HUD. These special ESG-CV funds are to be used to prevent, prepare for, and respond to the coronavirus pandemic among individuals and families who are homeless or receiving homeless assistance; and to support additional homeless assistance and homelessness prevention activities to mitigate the impacts of COVID-19.</p>	
<p><b>Executive Summary:</b></p> <p>Given the immediate needs faced by our communities, the Department has announced the first allocation of funds, which are subject to the following flexibilities and conditions provided by the CARES Act:</p> <ul style="list-style-type: none"> <li>• The funds may be used to cover or reimburse allowable costs incurred by the City and its subrecipients before the award of funding (including prior to the signing of the CARES Act) to prevent, prepare for, and respond to COVID-19;</li> <li>• The funds are not subject to the 60% spending cap on emergency shelter and outreach;</li> <li>• Up to 10 percent of funds may be used for administrative costs, as opposed to the typical 7.5 percent;</li> <li>• The funds are exempt from typical ESG match requirements;</li> <li>• The funds are not subject to the consultation and citizen participation requirements that otherwise apply to ESG, however the City must publish how its allocation has and will be used, at a minimum, on the City's website site or through other electronic media;</li> <li>• That City may deviate from applicable procurement standards when using these funds to procure goods and services to prevent, prepare for, and respond to coronavirus.</li> </ul> <p>The funds will be allocated through the ongoing COVID-19 RFP process and are anticipated to support shelter, isolation, and sanitation, as needed.</p>	

Budget Impact:

Approved in current year budget? ☐ Yes ☒ No  
Annual/Reoccurring expenditure? ☐ Yes ☒ No  
If new, specify funding source: HUD  
Other budget impacts: N/A

Operations Impact:

Consistent with current operations/policy? ☒ Yes ☐ No  
Requires change in current operations/policy? ☒ Yes ☐ No  
Specify changes required: None.  
Known challenges/barriers: None.





**City of Spokane**  
**AGREEMENT AMENDMENT A**

Title: House of Charity Emergency  
Shelter Program

This Agreement Amendment is made and entered into by and between the **City of Spokane** as ("City"), a Washington municipal corporation, and **Catholic Charities of Spokane**, whose address is 12 East 5th Avenue, Spokane, Washington 99202 as ("GRANTEE").

*WHEREAS, the parties entered into an Agreement wherein the GRANTEE agreed to administer for the City the House of Charity Emergency Shelter Program; and*

*WHEREAS, a change or revision of the work has been requested in response to the COVID-19 outbreak, thus the original Agreement needs to be formally Amended by this written document and*

*WHEREAS, additional funds are necessary to complete the Project, thus the original Agreement needs to formally Amended by this written document; and*

*WHEREAS, additional funding has been made available under the Emergency Solutions Grant - Coronavirus allocation, Grantor Award # E-20-MW-53-0006, Total Federal Award \$991,359.00, Federal Award Date May 29, 2020; and*

*WHEREAS, the parties desire to increase funding and modify the corresponding Project budget and to supplant the original Agreement billing form Attachment referenced as part of the original Agreement documents; and*

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

**1. CONTRACT DOCUMENTS.**

The original Agreement, dated January 17, 2020, any previous amendments, addendums and / or extensions / renewals thereto, are incorporated by reference into this document as though written in full and shall remain in full force and effect except as provided herein.

**2. EFFECTIVE DATE.**

This Agreement Amendment shall become effective on March 15, 2020.

**3. AMENDMENT.**

**SECTION NO. 3 – BUDGET.** The total amount City shall pay GRANTEE is increased by **THREE HUNDRED EIGHTY FIVE THOUSAND SEVEN HUNDRED THIRTY FIVE AND NO/100 DOLLARS (\$385,735.00)** for everything furnished and done under this Amendment which equates to a new total Agreement amount not to exceed **FIVE HUNDRED FIFTY ONE THOUSAND NINE HUNDRED FIFTY EIGHT AND NO/100 DOLLARS (\$551,958.00)** for everything furnished and done under the original Agreement and this Amendment. This is the maximum amount to be paid under this Amendment and original Agreement, and shall not be exceeded without the prior written authorization of the City, memorialized with the same formality as the original Agreement and this Amendment document. The original Agreement BUDGET chart is modified as follows (this budget chart entirely replaces the budget chart portrayed in SECTION NO. 3 {page 5} of the original Agreement):

<b>EMERGENCY SOLUTIONS GRANT – PROGRAM YEAR 2019</b>	
Operations	\$166,223
<b>Subtotal</b>	<b>\$166,223</b>
<b>EMERGENCY SOLUTIONS GRANT - CORONAVIRUS</b>	
Operations	\$104,689
Essential Services	\$258,903
Administration	\$22,143
<b>Subtotal</b>	<b>\$385,735</b>
<b>GRAND TOTAL</b>	<b>\$551,958</b>

Emergency Solutions Grant – Coronavirus funds (“ESG-CV”) are available March 15, 2020 through May 29, 2022 only. All funds expended under the ESG-CV award are subject to the requirements provided under the “Homeless Assistance Grants” heading of Title XII of Division B of the CARES Act Public Law 116-136), Subtitle B of Title IV of the McKinney-Vento Homeless Act (42 U.S.C. 11371 et seq.), and the Emergency Solutions Grant regulations at 24 CFR Part 576. After May 29, 2022, any coronavirus outbreak related services provided by the GRANTEE will be deemed ineligible for reimbursement under the original Agreement and this Amendment.

#### 4. AMENDMENT.

The CITY shall reimburse the GRANTEE only for actual incurred costs upon presentation of accurate and complete reimbursement forms as provided by the CITY in ~~Attachment B~~ Attachment 2 and approved by the CITY. Only those allowable costs directly related to this Agreement shall be paid. The amount of each request must be limited to the amount needed for payment of eligible costs.

Requests for reimbursement by GRANTEE shall be submitted no more than once per month on or before the 15<sup>th</sup> of each month for the previous month’s expenditures as directed below, using the forms provided by the CITY in ~~Attachment B~~ Attachment 2. For expenses incurred during the month of December, the reimbursement request shall be submitted on or before the 10<sup>th</sup> of January, and for expenses incurred during the month of June, the reimbursement request shall be submitted on or before the 10<sup>th</sup> of July. In conjunction with each reimbursement request, GRANTEE shall certify that services to be performed under this Agreement do not duplicate any services to be charged against any other grant, subgrant or other founding source. **GRANTEE shall submit reimbursement requests to the CITY’s Contract Representative designated on the FACE SHEET of this Agreement either by mail to the address listed above or by e-mail to [chhsreports@spokanecity.org](mailto:chhsreports@spokanecity.org).**

##### a. Reimbursement Requests

The GRANTEE shall submit comprehensive invoice packets for the first and last months of the period of performance as identified on the FACE SHEET of this Agreement. Comprehensive invoices must include the billing form, sub-reports, general ledger, and complete supporting documentation. The CITY may request a comprehensive invoice in lieu of a monthly invoice for monitoring purposes throughout the period of performance of this Agreement.

With the exception of the invoices for the first and last months of the project, the GRANTEE shall submit monthly invoices that include the billing form, appropriate sub-reports (e.g. payee expense detail, staff expense detail, housing assistance detail report, program income), and the general ledger report for the applicable month. The GRANTEE shall maintain appropriate supporting documentation, including copies of receipts, time and effort tracking, and proof of payment.

##### b. Payment

Payment will be made via direct deposit/ACH within thirty (30) days after receipt of the GRANTEE’s application except as provided by state law. If the CITY objects to all or any portion of the invoice, it shall notify the GRANTEE 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.

In the event that the CITY determines that any funds were expended by the GRANTEE for unauthorized or ineligible purposes or the expenditures constitute disallowed costs in any other way, the CITY may order repayment of the same. The GRANTEE shall remit the disallowed amount to the CITY within thirty (30) days of written notice of the disallowance.

- i. The GRANTEE agrees that funds determined by the CITY to be surplus upon completion of the Agreement will be subject to cancellation by the CITY.
- ii. The CITY shall be relieved of any obligation for payments if funds allocated to the CITY cease to be available for any cause other than misfeasance of the CITY itself.
- iii. The CITY reserves the right to withhold payments pending timely delivery of program reports or documents as may be required under 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 Amendment by having legally-binding representatives affix their signatures below.

**CATHOLIC CHARITIES OF SPOKANE**

By \_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Title

**CITY OF SPOKANE**

By \_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Title

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
Assistant City Attorney

**Attachments that are part of this Agreement:**  
Attachment 1 – Debarment Certification  
Attachment 2 – REVISED Grantee Billing Form

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

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

4. I understand that a false statement of this certification may be grounds for termination of the contract.

Catholic Charities of Spokane	House of Charity Shelter Emergency Shelter
Name of Subrecipient / Contractor / Consultant (Type or Print)	Program Title (Type or Print)
Name of Certifying Official (Type or Print)	Signature
Title of Certifying Official (Type or Print)	Date (Type or Print)

## Information & Instructions for Completing Grantee Billing Form & Itemized Expense Reports

A reimbursement request, otherwise known as a bill, consists of a Grantee Billing Form, Payee Expense Report, Staff Expense Report and detailed documentation of the expenses. The billing form includes the approved budget categories and amounts during the active performance period of the Agreement. The Payee Expense Report and Staff Expense Report should be completed to detail each itemized expense being requested on the billing form in the Current Expense Request in Column B in aggregate value for each Approved Budget Category for the current expense period.

You should bill monthly for expenditures. If there have been no expenditures paid for the previous month, an invoice is not required. Please submit a final reimbursement request with all required documentation by the identified date in your Agreement. A final program report will be required to be submitted as well. You will not be paid until all documentation and final reports are received. HMIS Data MUST be electronically posted in the HMIS database before invoices will be paid.

Complete the Staff Expense Report for each employee you are requesting reimbursement of salary and fringe benefits based on the allowed activity and amount of actual time spent performing that activity. Record the employee Name, allowed Activity being funded, the Expense Category of the approved budget applicable to the activity, Total Hours Worked, Hours Worked on Listed Activity, and Total Salary & Fringe paid during the Expense Period. If you are claiming indirect costs, indicate whether or not each expense is included in your indirect cost base. Total Salary and Fringe should be reflected as the monthly amount. If your grant supports more than one project, complete the Project Name column to clearly associate each expense with a single project.

Complete the Payee Expense Report for the project expenses that are not staff salary/benefits or housing assistance. Record the Payee (who you paid), Expense Category (Rapid Re-Housing, Emergency Shelter or Administration), Expenditure Type (Rent, Housing Stabilization, Program Operations, etc.), Total Bill (total amount of expense). If you are claiming indirect costs, indicate whether or not each expense is included in your indirect cost base. If your grant supports more than one project, complete the Project Name column to clearly associate each expense with a

Complete the Housing Assistance Detail Report for each housing assistance expense (rental application fees, rental assistance, security deposits, etc.) you are claiming reimbursement for. Record the HMIS client ID number, housing assistance expense type (application fee, security deposit, rent assistance, etc.) unit/FMR info if known, client lease information if known, and reimbursement information. If your grant is providing housing assistance through two or more projects, complete a Housing Assistance Detail Report for each one. If needed, complete the Housing Assistance Adjustment Report to explain changes to previously reported housing assistance expenses charged to the grant including Adjustment Reason.

**The voucher and itemized expense reports MUST be signed in ink. The formulas should not be changed or adjusted in the form(s).**

### Completing the Grantee Billing Form:

☐ Name and address of your organization requesting reimbursement.

☐ Expense Period (should bill as monthly expenses, January, February, etc.)

☐ Enter total amount of Monthly Actual in Column B to represent the amount requested for reimbursement for the current period in the line item category of the approved budget (i.e. - Rapid Re-Housing, Emergency Shelter and Administration) and should reflect the total of itemized expenses on the Payee Expense and Staff Expense Reports. The Payee Expense and Staff Expense Reports must be completed and submitted with the billing form. You may not transfer funds between approved categories without written preapproval from the City.

☐ Enter Total Previously Requested in Column C, as applicable to each line item in the approved category of the budget. The amount entered should reflect all previously requested amounts except the current monthly amount. This must be completed and updated each time you prepare the form to request reimbursement of expenses. (The documents' formulas will calculate totals and update remaining Budget Balance in Column D to ensure reconciliation and budget tracking for both the agency and the City).

☐ Ensure all back up documentation is included for payment processing if you are using any type of the allocation for direct or indirect expenses please send the allocation plan to the City for review and approval if it has not already been provided.

☐ Sign in ink, provide title, date, email address and telephone number before sending for approval and payment processing to City of Spokane Community, Housing, and Human Services Department.

## Documentation Required for Billing Forms:

All requests for reimbursement must be supported by documentation necessary to show that the costs charged to the grant funds were incurred during the active performance period of the Agreement, were actually paid out, were allowable items and have been approved by the responsible official within the organization. For example:

**Salary and Fringe** – receipts, payroll reports, timesheets signed by the employee and the immediate supervisor, letters of employment that include rate of pay, benefits and employee withholdings. For staff directly charged to a grant funded program or project time and attendance records should be included as well. Other sources of documentation might include, canceled checks from employees, insurance provider, etc. or evidence of direct deposits which document outlay of expenses. **100% of the time daily must be recorded for all hours worked by activity performed. This is required for all federally funded grant positions.**

**Rent/Utilities** – proof of payment to vendor, rental or lease agreement, utility bills. If the cost of the space or utilities is split between grant funded and other sources, there must be a reasonable method in place to allocate the charges fairly among the sources and the method provided.


**Supplies and Materials (all Goods)** – proof of payment to vendor, purchase orders, requisition forms, receipts, and invoices from vendors. It's also helpful to keep information regarding where the supplies are stored and for what program or project are they being used in the organizations' internal file.

**Equipment** – proof of payment to vendor, purchase orders, requisition forms, receipts, and invoices from vendors. Packing slips are only proof of delivery and do not act as an invoice from the vendor. If the item received is an inventorial piece of equipment, the serial number, model, and inventory tag should be noted on the purchase order or invoice from the vendor.

**Other** – proof of payment, receipts, invoices from vendor. Please contact the City for specific questions on required documentation.

**Admin/Indirect Costs** – methodology of application applied in accordance with Federal Guidance on allocation of direct costs for non-profits using the base most appropriate (for federally funded agreements) or applied in accordance with a methodology that the City has approved the use of (for agreements funded with non-federal sources).

If you are allocating either direct expenses or indirect expenses using a rate other than a federally negotiated rate or the de minimis rate (10% MTDC) the use of your allocation plan must be approved by the City prior to you charging the grant program. The allocation should consist of your pooled costs or cost basis and the narrative for the methodology applied to determining the calculated rate or percentage. Direct expenses allocated usually include utilities, rent, agency liability insurance, and may include staff paid time allocated as well.

	<b>City of Spokane</b> <b>Grantee Billing Form</b> <b>2019-2024 Emergency Solutions Grant</b>		City Clerk #	OPR 2020-0061	
			Vendor ID #	012876	
			FMS Acct #	1540-95573-65410-54201 73906	
<b>SUBMIT BILLING TO:</b> City of Spokane Community, Housing, and Human Services Dept. 808 W. Spokane Falls Blvd, 6th Floor Spokane, WA 99201			Submit this form to claim payment for materials, merchandise, and/or services. Show complete detail for each item. <u>Vendor/Claimant Certificate:</u> I hereby certify under perjury that the items and totals listed herein are proper charges for materials, merchandise and/or services furnished, and that all goods furnished and/or services rendered have been provided without discrimination because of age, sex, marital status, race, creed, color, national origin, handicap, religion or Vietnam era or disabled veteran status. By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812). Services performed under this Agreement do not duplicate any services to be charged against any other grant, subgrant or other funding source.		
<b>GRANTEE (Warrant is to be payable to:)</b> Catholic Charities of Spokane 12 E. 5th Ave Spokane, WA 99202					
<b>Grantee Certification</b>					
Project/Program:	House of Charity Emergency Shelter	By:			
Award Number:	E19-MC-53-0006	(SIGN IN INK)			
National Objective:	N/A	(TITLE) (DATE)			
Eligibility Code:	N/A				
IDIS Activity ID:	4348	(EMAIL ADDRESS) (TELEPHONE NUMBER)			
Grant Term:	07/01/2019 - 06/30/2024	Billing date:			
Indirect Cost Rate:	10% MTDC	Expense Period:			
<b>EXPENSE Categories:</b>		<b>A</b> <b>Grant Budget</b>	<b>B</b> <b>Current Expense Request</b>	<b>C</b> <b>Total Previously Requested</b>	<b>D</b> <b>Grant Balance (A-B-C)</b>
<b>EMERGENCY SOLUTIONS GRANT - PROGRAM YEAR 2019</b>					
<b>SHELTER OPERATIONS</b>					
Salaries & Benefits - Maintenance	\$ 119,628.00	\$ -	\$ 95,554.40	\$ 24,073.60	
Salaries & Benefits - Security	\$ 31,484.00	\$ -	\$ 19,445.38	\$ 12,038.62	
Indirect Costs	\$ 15,111.00	\$ -	\$ 11,499.98	\$ 3,611.02	
ESG PY 2019 Subtotal	\$ 166,223.00	\$ -	\$ 126,499.76	\$ 39,723.24	
<b>EMERGENCY SOLUTIONS GRANT - CORONAVIRUS ("ESG-CV")</b>					
<b>ESG-CV SHELTER OPERATION</b>					
Maintenance - Staff	\$ 21,600.00	\$ -	\$ -	\$ 21,600.00	
Security - Staff	\$ 45,185.00	\$ -	\$ -	\$ 45,185.00	
Facility Rent	\$ 8,950.00	\$ -	\$ -	\$ 8,950.00	
Food	\$ 5,250.00	\$ -	\$ -	\$ 5,250.00	
Shelter Supplies	\$ 15,000.00	\$ -	\$ -	\$ 15,000.00	
Indirect Costs	\$ 8,704.00	\$ -	\$ -	\$ 8,704.00	
<b>ESG-CV ESSENTIAL SERVICE</b>					
Case Management	\$ 235,366.00	\$ -	\$ -	\$ 235,366.00	
Indirect Costs	\$ 23,537.00	\$ -	\$ -	\$ 23,537.00	
<b>ESG-CV ADMINISTRATION</b>					
Direct Admin	\$ 20,130.00	\$ -	\$ -	\$ 20,130.00	
Indirect Costs	\$ 2,013.00	\$ -	\$ -	\$ 2,013.00	
ESG-CV Subtotal	\$ 385,735.00	\$ -	\$ -	\$ 385,735.00	
<b>GRAND TOTAL</b>	<b>\$ 551,958.00</b>	<b>\$ -</b>	<b>\$ 126,499.76</b>	<b>\$ 425,458.24</b>	
Contract Amount (auto populated)		\$ 551,958.00	% Expended:	22.92%	
Total Expended to Date (auto populated)		\$ 126,499.76			
Contract Remaining Balance		\$ 425,458.24	% Remaining:	77.08%	
← Check box if final request.			CHHS Approval:		



## Payee Expense Report

Organization:	Catholic Charities	Grant #:	E19-MC-53-0006	City Clerk #:	OPR 2020-0061
Prepared By:		Title:		Date:	

Please complete the table for ALL (non-Staff) expenses for the reported period. Copies of receipts and invoices MUST be attached.

Payee/Vendor Name	Expense Category (Support Services, Operating Expenses, etc.)	Expenditure Type (Rent, Maintenance, Furnishings, Case Management etc.)	Direct Amount Billed to Grant	Indirect Amount Billed to Grant	Total
EXAMPLE: Avista	Operating Expenses	Utilities	\$ 90.91	\$ 9.09	\$ 100.00
			\$ -	\$ -	\$ -
			\$ -	\$ -	\$ -
			\$ -	\$ -	\$ -
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Total Current Expenses Requested this Period			\$ -	\$ -	\$ -

# Staff Expense Report

Organization:		Catholic Charities	Grant #:		E19-MC-53-0006	City Clerk #:		OPR 2020-0061	
Prepared By:			Title:			Date:			
Please complete the table for all STAFF expenses for the reported period. Signed timesheets MUST be attached.									
Name	Activity Funded	Total Hours Worked (100% of time on ALL activities)	Hours Worked on Listed Activity	Total Salary and Fringe paid to Employee	Direct Amount Billed to Grant	Indirect Amount Billed to Grant	Total Billed to this Grant	Match Contribution this Period	
Example: Doe, John	Case Management	80.00	60.00	\$ 1,200.00	\$ 818.00	\$ 82.00	\$ 900.00	\$ -	-
				\$ -	\$ -	\$ -	\$ -	\$ -	-
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				\$ -	\$ -	\$ -	\$ -	\$ -	-
Total Staff Expenses Requested this Period					\$ -	\$ -	\$ -	\$ -	-

# Program Income Report

Organization:	Catholic Charities	Grant #:	E19-MC-53-0006	City Clerk #:	OPR 2020-0061
Prepared By:		Title:		Date:	

Please complete the table for ALL expenses paid with Program Income prior to the request for reimbursement of grant funds for the reported period.

[illegible]

## Expenditure Control Form



1. All requests being made must be accompanied by this form.
2. Route **ALL** requests to the Finance Department for signature.
3. If request is greater than \$100,000 it requires signatures by Finance and the City Administrator. Finance Dept. will route to City Administrator.

**Today's Date:** 6/22/2020

**Type of expenditure:** Goods ☐ Services ☒

**Department:** CHHS

**Approving Supervisor:** Scott Rasmussen/Tim Sigler

**Amount of Proposed Expenditure:** \$385,735.00

**Funding Source:** U.S. Department of Housing and Urban Developm

**Please verify correct funding sources. Please indicate breakdown if more than one funding source.**

**Why is this expenditure necessary now?**

This project is incurring additional costs in order to maintain existing shelter inventory and comply with social distancing requirements in addition to other necessary and appropriate measures to prevent the spread of COVID-19 amongst patrons.

**What are the impacts if expenses are deferred?**

The agency will not be able to afford to maintain current shelter inventory resulting individuals being subjected to unsheltered homelessness.

**What alternative resources have been considered?**

This source is a specific allocation from the Federal government for the coronavirus pandemic response in the local homeless services system.

**Description of the goods or service and any additional information?**

Emergency Shelter Operations

**Person Submitting Form/Contact:** Matt Davis / mrdavis@spokanecity.org or ext 6i

**FINANCE SIGNATURE:**

*Tonya Wallace*

6/23/2020

CBC812B631244E9...

**CITY ADMINISTRATOR SIGNATURE:**

*[Signature]*

6/23/2020

9C36E3376002442...

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

07/13/2020

<b><u>Date Rec'd</u></b>	6/24/2020
<b><u>Clerk's File #</u></b>	OPR 2020-0572
<b><u>Renews #</u></b>	
<b><u>Cross Ref #</u></b>	OPR 2020-0050
<b><u>Project #</u></b>	
<b><u>Bid #</u></b>	
<b><u>Requisition #</u></b>	

<b><u>Submitting Dept</u></b>	HOUSING & HUMAN SERVICES
<b><u>Contact Name/Phone</u></b>	MATT DAVIS 625-6185
<b><u>Contact E-Mail</u></b>	MRDAVIS@SPOKANECITY.ORG
<b><u>Agenda Item Type</u></b>	Contract Item
<b><u>Agenda Item Name</u></b>	1680 - HOPE HOUSE SHELTER ESG-CV AGREEMENT

**Agenda Wording**

CHHS seeks approval of the attached agreement for the VOA Hope House Shelter Program. This agreement provides Emergency Solutions Grant-Coronavirus funds ("ESG-CV") for the coronavirus pandemic response in the shelter system.

**Summary (Background)**

The federal CARES Act authorized funding to prevent, prepare for, and respond to the COVID-19 pandemic. As a part of this, the City received ESG-CV funds which were put out for public competition and this project was awarded under the ongoing COVID-19 RFP. See the attached briefing paper for more background information.

<b><u>Fiscal Impact</u></b>	Grant related? YES Public Works? NO	<b><u>Budget Account</u></b>
Expense	\$ 105,873.00	# 1540-95588-65410-54201-99999
Select	\$	#
Select	\$	#
Select	\$	#
<b><u>Approvals</u></b>		<b><u>Council Notifications</u></b>
<b><u>Dept Head</u></b>	SIGLER, TIMOTHY	<b><u>Study Session\Other</u></b> PIES 6.22.20
<b><u>Division Director</u></b>	CORTRIGHT, CARLY	<b><u>Council Sponsor</u></b>
<b><u>Finance</u></b>	HUGHES, MICHELLE	<b><u>Distribution List</u></b>
<b><u>Legal</u></b>	ODLE, MARI	mrDavis@spokanecity.org
<b><u>For the Mayor</u></b>	ORMSBY, MICHAEL	srasmussen@spokanecity.org
<b><u>Additional Approvals</u></b>		tdanzig@spokanecity.org
<b><u>Purchasing</u></b>		tsigler@spokanecity.org
<b><u>GRANTS &amp; CONTRACT MGMT</u></b>	BROWN, SKYLER	chhsgrants@spokanecity.org
		chhsaccounting@spokanecity.org

## COVID-19 Emergency Solutions Grant Briefing Paper

<b>Division &amp; Department:</b>	Neighborhood and Business Services – Community, Housing, and Human Services
<b>Subject:</b>	COVID-19 Supplemental ESG Award
<b>Date:</b>	4/20/20
<b>Author (email &amp; phone):</b>	Matt Davis ( <a href="mailto:mrdavis@spokanecity.org">mrdavis@spokanecity.org</a> ext. 6815)
<b>City Council Sponsor:</b>	N/A
<b>Executive Sponsor:</b>	Tim Sigler
<b>Committee(s) Impacted:</b>	Public Safety and Community Health
<b>Type of Agenda item:</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
<b>Alignment:</b> (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	2020-2025 Strategic Plan to End Homelessness; Greater Spokane Comprehensive Emergency Management Plan
<b>Strategic Initiative:</b>	Safe & Healthy / Reduce Homelessness
<b>Deadline:</b>	The award letter was received on April 2, 2020. Funds are expected to be disbursed by April 27 <sup>th</sup> .
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	CHHS is requesting permission to accept \$991,359 in Emergency Solutions Grant – Coronavirus (ESG-CV) funding from the U.S. Department of Housing and Urban Development to respond to the COVID-19 outbreak and approval to subaward funds to eligible organizations awarded through the ongoing COVID-19 RFP.
<p><b>Background/History:</b> The CARES Act was signed on March 27, 2020 to help the support the response to the novel coronavirus outbreak. The CARES Act made available an additional \$4 billion in ESG-CV funds to supplement the Fiscal Year (FY) 2020 ESG funding. Of this amount, the Department is immediately allocating \$1 billion for ESG-CV grants based on the FY 2020 ESG formula. The rest of the funding for ESG-CV grants will be allocated directly to ESG recipients by a separate formula developed by HUD. These special ESG-CV funds are to be used to prevent, prepare for, and respond to the coronavirus pandemic among individuals and families who are homeless or receiving homeless assistance; and to support additional homeless assistance and homelessness prevention activities to mitigate the impacts of COVID-19.</p>	
<p><b>Executive Summary:</b></p> <p>Given the immediate needs faced by our communities, the Department has announced the first allocation of funds, which are subject to the following flexibilities and conditions provided by the CARES Act:</p> <ul style="list-style-type: none"> <li>• The funds may be used to cover or reimburse allowable costs incurred by the City and its subrecipients before the award of funding (including prior to the signing of the CARES Act) to prevent, prepare for, and respond to COVID-19;</li> <li>• The funds are not subject to the 60% spending cap on emergency shelter and outreach;</li> <li>• Up to 10 percent of funds may be used for administrative costs, as opposed to the typical 7.5 percent;</li> <li>• The funds are exempt from typical ESG match requirements;</li> <li>• The funds are not subject to the consultation and citizen participation requirements that otherwise apply to ESG, however the City must publish how its allocation has and will be used, at a minimum, on the City's website site or through other electronic media;</li> <li>• That City may deviate from applicable procurement standards when using these funds to procure goods and services to prevent, prepare for, and respond to coronavirus.</li> </ul> <p>The funds will be allocated through the ongoing COVID-19 RFP process and are anticipated to support shelter, isolation, and sanitation, as needed.</p>	

Budget Impact:

Approved in current year budget? ☐ Yes ☒ No  
Annual/Reoccurring expenditure? ☐ Yes ☒ No  
If new, specify funding source: HUD  
Other budget impacts: N/A

Operations Impact:

Consistent with current operations/policy? ☒ Yes ☐ No  
Requires change in current operations/policy? ☒ Yes ☐ No  
Specify changes required: None.  
Known challenges/barriers: None.



**AGREEMENT BETWEEN****CITY OF SPOKANE (“CITY”) AND VOLUNTEERS OF AMERICA OF EASTERN WASHINGTON  
AND NORTHERN IDAHO (“GRANTEE”) IN CONJUNCTION WITH EMERGENCY SOLUTIONS  
GRANT – CORONAVIRUS PROGRAM (“ESG-CV”)**

<b>1. Grantee</b> Volunteers of America of Eastern Washington and Northern Idaho 525 West Second Avenue Spokane, Washington 99201		<b>2. Contract Amount</b> \$105,873.00		<b>3. Tax ID#</b> 91-0577131	
				<b>4. DUNS#</b> 613015353	
<b>5. Grantee's Program Representative</b> Stephen Miller, Director of Adult Services 525 W. Second Ave. Spokane, WA 99201 509-688-1140 <a href="mailto:smiller@voasokane.org">smiller@voasokane.org</a>			<b>6. City's Program Representative</b> Matt Davis, Homeless Program Professional 808 W. Spokane Falls Blvd, 6 <sup>th</sup> Floor Spokane, WA 99201 509-625-6815 <a href="mailto:mrDavis@spokanecity.org">mrDavis@spokanecity.org</a>		
<b>7. Grantee's Financial Representative</b> Kirsten De Simone, Accts. Receivable & Contract Billing Mgr. 525 W. Second Ave. Spokane, WA 99201 509-688-1107 <a href="mailto:kdesimone@voasokane.org">kdesimone@voasokane.org</a>			<b>8. City's Contract Representative</b> Matt Davis, Homeless Program Professional 808 W. Spokane Falls Blvd, 6 <sup>th</sup> Floor Spokane, WA 99201 509-625-6815 <a href="mailto:mrDavis@spokanecity.org">mrDavis@spokanecity.org</a>		
<b>9. Grantor Award #</b> E-20-MW-53-0006		<b>10. Start Date</b> 05/15/2020		<b>11. End Date</b> 08/15/2020	
<b>12. Federal Funds</b> Emergency Solutions Grant - Coronavirus Program		<b>CFDA #</b> 14.231	<b>Federal Agency</b> U.S. Department of Housing & Urban Development (“HUD”)		
<b>13. Total Federal Award</b> \$991,359.00		<b>14. Federal Award Date</b> 05/29/2020		<b>15. Research &amp; Development?</b> No	<b>16. Indirect Cost Rate</b> 10% MTDC
<b>17. Grantee Selection Process:</b> (check all that apply or qualify) <input type="checkbox"/> Sole Source <input type="checkbox"/> A/E Services <input checked="" type="checkbox"/> Competitive Bidding/RFP <input type="checkbox"/> Pre-approved by Funder			<b>18. Grantee Type: (check all that apply)</b> <input type="checkbox"/> Private Organization/Individual <input type="checkbox"/> Public Organization/Jurisdiction <input type="checkbox"/> CONTRACTOR <input checked="" type="checkbox"/> SUBRECIPIENT <input checked="" type="checkbox"/> Non-Profit <input type="checkbox"/> For-Profit		
<b>19. Grant Purpose:</b> The Emergency Solutions Grant - Coronavirus program is designed to prevent, prepare for, and respond to the coronavirus pandemic (“COVID-19”) among individuals and families who are homeless or receiving homeless assistance and to support additional homeless assistance and homelessness prevention activities to mitigate the impacts of COVID-19.  This Agreement is subject to the requirements provided under the Homeless Assistance Grants heading of Title XII of Division B of the CARES Act Public Law 116-136, applicable uniform administrative requirements as described in and 2 CFR 200, and program regulations as described in 24 CFR Parts 91 and 576, as applicable.					
<b>20. CITY and the GRANTEE, as identified above, acknowledge and accept the terms of this Agreement and attachments and have executed this Agreement the date below to start as of the date and year referenced above. The rights and obligations of both parties to this Agreement are governed by this Agreement and the following other documents incorporated by reference: (1) Terms and Conditions, (2) GRANTEE's COVID-19 Outbreak Emergency Housing Application for Funding, (3) CITY Guidelines for HHOS Grants, (4) Spokane City/County Continuum of Care 5-Year Performance Management Plan, (5) Homeless Services and Rehousing Programs Project Monitoring Guide for Sub-Recipients, (6) Data Quality Plan, (7) Attachment “A” - Suspension &amp; Debarment and FFATA Certification, and (8) Attachment “B” – Grantee Billing Form.</b>					

**(FACE SHEET)**

## TERMS AND CONDITIONS

### **SECTION NO. 1: SCOPE OF SERVICE**

#### A. ACTIVITIES.

The GRANTEE will be responsible for administering an Emergency Solutions Grant - Coronavirus (“ESG-CV”) Hope House Shelter Program (“Program”) in a manner satisfactory to the CITY, in accordance with the COVID-19 Outbreak Emergency Housing Application for Funding, the CITY Guidelines for Homeless Housing, Operations, and Services Grants, the Homeless Services and Rehousing Programs Project Monitoring Guide for Sub-Recipients, and the Spokane City/County Continuum of Care 5-Year Performance Management Plan (incorporated herein by reference), and consistent with any standards required as a condition of providing these funds. The CITY and GRANTEE are hereinafter jointly referenced as the “PARTIES”, and individually a “PARTY”. Such program will include the following activities eligible under the Emergency Solutions Grant - Coronavirus program:

##### 1) Program Delivery.

###### Component #1

###### Emergency Shelter:

Renovation of a building to serve as an emergency shelter. Site must serve homeless persons for at least 3 or 10 years, depending on the cost and type of renovation (major rehabilitation, conversion, or other renovation). Note: Property acquisition and new construction are ineligible.

Essential Services for individuals and families in emergency shelter. Component services generally consist of case management, child care, education services, employment assistance and job training, outpatient health services, legal services, life skills training, mental health services, substance abuse treatment services, and transportation.

Shelter Operations, including maintenance, rent, security, fuel, equipment, insurance, utilities, and furnishings

Relocation assistance for persons displaced by a project assisted with ESG-CV funds.

For specific requirements and eligible costs, see 24 CFR 576.102.

##### 2) Goals and Performance Measures

The GRANTEE agrees to provide the following Program services:

HMIS Project Name(s):	VOA-ES-HOPE HOUSE SHELTER
Population(s) Served:	Homeless, female identifying, age 18 and over
# of Units in Inventory:	58
# of Beds in Inventory:	58
Projected # of Households Served	350

Emergency Shelter	Minimum Performance Standards	System Performance Target	Year 1 7/1/19- 6/30/20	Year 2 7/1/20- 6/30/21
# of households served			350	350
<b>Local Measure:</b> Average utilization rate (average # of clients served on a given night/ total project inventory)	40%	50%	40%	40%
<b>Measure 2b:</b> % of households exiting to permanent housing destinations who return to homelessness within 2 years.	20%	10%	15%	15%
<b>Measure 1a:</b> The average length of time person are homeless in Emergency Shelter (measured from average bed night services).	90 Days	30 Days	90 Days	85 Days
<b>Local Measure:</b> The average length of time from first contact to date of engagement.	30 Days	10 Days	20 Days	15 Days

It is the intent of the CITY to continue funding for this Program for the term of this Agreement based upon performance and funding availability, but continuation of the Program is solely based upon the discretion of the CITY and entirely contingent upon receipt of federal grant funds specifically allowed for this Program.

3) General Administration.

GRANTEE shall provide administrative services related to the planning and execution of all ESG-CV activities, including general management, oversight and coordination and training on ESG-CV requirements.

In the event of a conflict between 24 CFR 576, ESG-CV Program Guidelines, and the CITY Guidelines for Homeless Housing, Operations, and Services Grant, the ESG-CV Program Guidelines shall supersede the CITY Guidelines for Homeless Housing, Operations, and Services Grant.

B. COORDINATED ASSESSMENT.

The GRANTEE shall participate in the Spokane Continuum of Care Coordinated Assessment system.

C. RENTAL ASSISTANCE.

The GRANTEE shall employ a progressive engagement approach if the GRANTEE will provide rental assistance under this Agreement.

D. CHILDREN'S SERVICES.

If the project provides housing or services to families, GRANTEE shall designate a staff person to be responsible for ensuring that children being served through the project are enrolled in school and connected to appropriate services in the community, including early childhood programs such as Head Start.

E. PROGRAM PARTICIPANT ELIGIBILITY REVIEW.

The GRANTEE is responsible for re-evaluating the program participant's eligibility in accordance with the CITY's Guidelines for the Homeless Housing, Operations, and Services Grants.

F. PERFORMANCE MONITORING.

The CITY will monitor the performance of the GRANTEE using a risk-based approach against program goals and performance measures as stated above, complete and timely submittal of performance data, spend down of grant funds, and all other terms and conditions of this agreement in accordance with the Homeless Services and Rehousing Programs Project Monitoring Guide for Sub-Recipients. Substandard performance as determined by the CITY will constitute noncompliance with this Agreement and shall result in action which may include, but is not limited to: the GRANTEE being required to submit and implement a corrective action plan, payment suspension, funding reduction, or grant termination. If action to correct such substandard performance is not taken by the GRANTEE within a reasonable period of time after being notified by the CITY, Agreement suspension or termination procedures will be initiated.

**SECTION NO. 2: PERIOD OF PERFORMANCE**

The term of this Agreement shall commence as of the date on the FACE SHEET and shall terminate on the date on the FACE SHEET, unless terminated sooner upon mutual agreement of the PARTIES or upon termination of the CITY's ESG-CV Program as funded by HUD. The term of this Agreement and the provisions herein shall be extended to cover any additional time period during which the GRANTEE remains in control of ESG-CV funds or other ESG-CV assets, including program income.

### **SECTION NO. 3: BUDGET**

<u>Category</u>	<u>Amount</u>
Essential Services	\$19,823
Shelter Operations	\$74,252
Administration	\$11,798
TOTAL	\$105,873

Any indirect costs charged must be consistent with 2 CFR 200 and its Appendix IX and applied using the rate and basis specified on the Face Sheet. In addition, the CITY may require a more detailed budget breakdown than the one contained herein, and the GRANTEE shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the CITY.

Any amendments to the budget, including additions or deletions of eligible costs or activities, must be requested in writing by the GRANTEE and shall be submitted to the CITY's Contract Representative. If approved, the CITY will notify the GRANTEE in writing. **Budgeted amounts shall not be shifted between categories or programs without written approval by the CITY** and any costs for over and above the amount awarded by the CITY shall be the responsibility of the GRANTEE. Requests for amendments to the budget must be submitted in writing as set forth in Section No. 8, paragraph G of this Agreement.

### **SECTION NO. 4: PAYMENT**

CITY shall reimburse GRANTEE an amount not to exceed the amount set forth on the Face Sheet of this Agreement for all things necessary for, or incidental to the performance of Services as set forth in Section No. 1 of this Agreement.

GRANTEE's reimbursement for Services set forth in Section No. 1 of this Agreement shall be in accordance with the terms and conditions set forth in the budget as outlined in Section No. 3 of this Agreement, as well as in accordance with the performance requirements. The CITY reserves the right to revise this amount in any manner which the CITY may deem appropriate in order to account for any future fiscal limitations affecting the CITY.

### **SECTION NO. 5: NOTICES**

- A. Notices required by this Agreement shall be in writing and delivered via mail (postage prepaid), commercial courier, or personal delivery or sent by facsimile or other electronic means. Any notice delivered or sent as aforesaid, shall be effective on the date of delivery or sending. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice by the PARTIES.
- B. Communication and details concerning this Agreement shall be directed to the Agreement representatives as identified on the Face Sheet.

## **SECTION NO. 6: SPECIAL CONDITIONS**

The GRANTEE shall send essential staff to all mandatory HUD / CITY training and information meetings.

The GRANTEE shall notify CITY in writing of any changes in the Key Personnel assigned to the Program within thirty (30) days.

The GRANTEE shall not subaward any funds included in this Agreement.

## **SECTION NO. 7: GENERAL CONDITIONS**

### **A. GENERAL COMPLIANCE.**

The GRANTEE agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Parts 91 and 576 (the U.S. Housing and Urban Development regulations concerning Emergency Solutions Grants and Consolidated Plan Conforming Amendments), as applicable. The GRANTEE does not assume the recipient's (CITY) environmental responsibilities described in 24 CFR Part 58 and (2) the GRANTEE does not assume the recipient's (CITY) responsibility for initiating the review process under the provisions of 24 CFR Part 58. The GRANTEE also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this Agreement. The GRANTEE further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

The GRANTEE shall ensure screening, assessment, and referral of program participants is consistent with the Written Standards for providing ESG-CV Assistance, 24 CFR 576.400(d).

The GRANTEE shall provide housing stability case management when providing homelessness prevention or rapid re-housing assistance to a program participant, in accordance with 24 CFR 576.401(e).

The GRANTEE shall assist each program participant as needed to obtain the mainstream and other resources described in 24 CFR 576.401(d).

The GRANTEE shall ensure that data on all persons served and all activities assisted under the ESG-CV Program are entered into the HMIS in line with HUD's standards on participation, data collection, and reporting in accordance with 24 CFR 576.400(f).

The GRANTEE shall conduct an initial evaluation to determine the eligibility of each individual or family for ESG-CV assistance and the amount and types of assistance the individual or family need to regain stability in permanent housing in accordance with 24 CFR 576.401(a).

If a Program participant violates program requirements, the GRANTEE may terminate the assistance in accordance with a formal process established by the GRANTEE that recognizes the rights of the individuals affected in accordance with 24 CFR 576.402.

The GRANTEE certifies that shelters and housing supported by ESG-CV funds and used by ESG-CV beneficiaries will conform to 24 CFR 576.403.

The GRANTEE certifies that it will involve, to the maximum extent practicable, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted under the ESG-CV program, and in providing services for occupants of these facilities in accordance with 24 CFR 576.405 and 42 USC 11375(d).

B. “INDEPENDENT CONTRACTOR”.

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The GRANTEE shall at all times remain an “independent contractor” with respect to the services to be performed under this Agreement. The CITY shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers’ Compensation Insurance, as the GRANTEE is an independent contractor.

C. HOLD HARMLESS.

The GRANTEE shall hold harmless, defend and indemnify the CITY from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the GRANTEE’s performance or nonperformance of the services or subject matter called for in this Agreement.

D. WORKERS’ COMPENSATION.

The GRANTEE shall provide statutorily sufficient Workers’ Compensation Insurance coverage for all subject employees involved in the performance of this Agreement in accordance 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.

E. INSURANCE AND BONDING.

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

- 1) 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.

Supplemental umbrella insurance coverage combined with the General Liability Insurance of not less than \$1,000,000 each occurrence for Bodily Injury and Property Damage is also acceptable. It shall provide that the CITY, its agents, officers and



employees are Additional Insureds but only with respect to the GRANTEE's services to be provided under this Agreement; and

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

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

GRANTEE shall comply with the bonding and insurance requirements of 2 CFR 200.304, Bonds, and 2 CFR 200.310, Insurance coverage.

F. CITY RECOGNITION.

The GRANTEE shall insure recognition of the role of the CITY in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to the funding source. In addition, the GRANTEE will include a reference to the support provided herein in all publications which are made possible via the funds made available under this Agreement.

G. AMENDMENTS/MODIFICATIONS.

The CITY or GRANTEE may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing and signed by a duly authorized representative of each organization. Such amendments shall not invalidate this Agreement, nor relieve or release the CITY or GRANTEE from its obligations under this Agreement. **All amendments to this agreement must be requested in writing by the GRANTEE and shall be submitted to the CITY's Contract Representative at least ninety (90) days prior to the end date of this Agreement as listed on the FACE SHEET. Requests submitted within the final ninety days of the period of performance of this Agreement shall be denied unless an extenuating circumstance exists which will be reviewed on a case by case basis.** Requests for amendments to the budget must be submitted in writing as set forth in Section No. 3 of this Agreement.

The CITY may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the overall funding, the scope of services, period of performance or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both PARTIES.

H. SUSPENSION OR TERMINATION.

- 1) In accordance with 2 CFR 200.338 and 200.339, the CITY may suspend or terminate this Agreement if the GRANTEE materially fails to comply with any terms of this Agreement, which include (but are not limited to) the following:
  - a. Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and HUD guidelines, policies or directives as may become applicable at any time;
  - b. Failure, for any reason, of the GRANTEE to fulfill in a timely and proper manner its obligations under this Agreement;
  - c. Ineffective or improper use of funds provided under this Agreement; or
  - d. Submission by the GRANTEE to the CITY reports that are incorrect or incomplete in any material respect.
- 2) In accordance with 2 CFR 200.339, this Agreement may also be terminated for convenience by either the CITY or the GRANTEE, in whole or in part, by setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if in the case of a partial termination, the CITY determines that the remaining portion of the award will not accomplish the purpose for which the award was made, the CITY may terminate the award in its entirety.
- 3) If the Agreement is terminated or partially terminated, both the CITY and GRANTEE remain responsible for compliance with the requirements in 2 CFR 200.343 Closeout and 200.344 Post-closeout adjustments and continuing responsibilities. In addition, CITY shall report any terminations for the GRANTEE's material failure to comply with the Federal statutes, regulations, or terms and conditions of the Federal award into the OMB-designated integrity and performance system accessible through SAM (currently FAPIIS) as required under 2 CFR 200.340.

I. BUSINESS REGISTRATION REQUIREMENT.

Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the CITY without first having obtained a valid annual business registration. The GRANTEE 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 GRANTEE 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.

G. DEBARMENT AND SUSPENSION.

The GRANTEE has provided its certification using the form provided by the CITY as Attachment A that 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.

F. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT OF 2006.

The GRANTEE shall comply with the requirements of the Federal Funding Accountability and Transparency Act of 2006 as outlined in Attachment A.

**SECTION NO. 8: ADMINISTRATIVE REQUIREMENTS**

A. FINANCIAL MANAGEMENT.

1) Accounting Standards

The GRANTEE agrees to comply with 2 CFR 200 Subpart D and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

The GRANTEE shall establish and maintain a system of internal accounting control which complies with applicable Generally Accepted Accounting Principles (GAAP).

2) Cost Principles

The GRANTEE shall administer its program in conformance with 2 CFR 200 Subpart E, as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

B. DOCUMENTATION AND RECORD KEEPING

1) Records to be Maintained

The GRANTEE shall maintain all records required by the Federal regulations specified in 24 CFR 576.500 and in 2 CFR 200 Subpart D, that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

- a. In general;
- b. Homeless status and At risk of homelessness status;
- c. Determinations of ineligibility;
- d. Annual income;

- e. Program participant records;
- f. Centralized or coordinated assessment system and procedures;
- g. Rental assistance agreements and payments
- h. Utility Allowance;
- i. Shelter and housing standards;
- j. Emergency shelter facilities;
- k. Services and assistance provided;
- l. Coordination with Continuum(s) of Care and other programs;
- m. HMIS;
- n. Matching;
- o. Conflicts of interest;
- p. Homeless participation;
- q. Faith-based activities;
- r. Other Federal requirements;
- s. Relocation;
- t. Financial records;
- u. Subrecipient and contractors;
- v. Other records specified by HUD;
- w. Confidentiality;
- x. Period of record retention;
- y. Access to records; and
- z. Reports

2) Retention

The GRANTEE shall retain all financial records, supporting documents, statistical records, and all other records pertinent to this Agreement for a period of five (5) years in accordance with 24 CFR 576.500. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and have commenced before the expiration of the five-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the five-year period, whichever occurs later.

3) Client Data

The GRANTEE shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to: client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to CITY monitors or their designees for review upon request.

4) Disclosure

a. "Confidential Information" as used in this section includes:

- i. All material provided to the GRANTEE by CITY that is designated as "confidential" by CITY;
- ii. All material produced by the GRANTEE that is designated as "confidential" by CITY; and
- iii. All personal information, and Personally Identifiable Information (PII) in the possession of the GRANTEE that may not be disclosed under state or Federal law. "Personal information" includes but is not limited to: information related to a person's name, health, finances, education, business, use of government services, addresses, telephone numbers, social security number, driver's license number and other identifying numbers, and "Protected Health Information" (PHI) under the Federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).

b. The GRANTEE shall comply with all state and Federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The GRANTEE shall use Confidential Information solely for the purposes of this Grant and shall not use, share, transfer, sell or disclose any Confidential Information to any third party, except with the prior written consent of CITY or as may be required by law. The GRANTEE shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information, or violation of any state or Federal laws related thereto. Upon

request, the GRANTEE shall provide CITY with its policies and procedures on confidentiality. CITY may require changes to such policies and procedures as they apply to this Agreement, whenever CITY reasonably determines that changes are necessary to prevent unauthorized disclosures of Confidential Information. The GRANTEE shall make the changes within the time period specified by CITY. Upon request, the GRANTEE shall immediately return to CITY any Confidential Information that CITY reasonably determines has not been adequately protected by the GRANTEE against unauthorized disclosure.

- c. Unauthorized Use or Disclosure. The GRANTEE shall notify CITY within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.
- d. GRANTEE shall maintain the confidentiality of records pertaining to any individual or family that was provided family violence prevention or treatment services through the project.
- e. GRANTEE certifies that the address or location of any family violence project will not be made public, except with written authorization of the person responsible for the operation of such project.

5) Close-outs

The GRANTEE's obligation to the CITY shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the CITY), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the GRANTEE has control over ESG-CV funds, including program income.

6) Audits & Inspections

All GRANTEE records with respect to any matters covered by this Agreement shall be made available to the CITY, HUD, or its agent, or other authorized Federal officials, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data.

If this Agreement is funded by Federal sources as identified on the FACE SHEET, the GRANTEE that expends \$750,000 or more in a fiscal year in federal funds from all sources hereby agrees to have an annual agency audit conducted in accordance with 2 CFR 200 Subpart F. The CITY reserves the right to require special procedures which are more limited in scope than a full audit for those GRANTEES

expending less than \$750,000 in Federal funds. GRANTEE's requirement to have an audit must ensure the audits are performed in accordance with Generally Accepted Auditing Standards (GAAS) or; Government Auditing Standards (the Revised Yellow Book) developed by the Comptroller General.

The GRANTEE must send a copy of its audit report, corrective action plan for any audit finding(s), and Management Letter to the CITY's Contract Representative (designated on the FACE SHEET of this Agreement), 808 West Spokane Falls Boulevard, Spokane, Washington 99201, or to [chhsreports@spokanecity.org](mailto:chhsreports@spokanecity.org), within the earlier of thirty (30) calendar days after receipt of the auditor's report(s), but no later than nine (9) months after the end of the audit period. Corrective action plans are to be submitted for all finding and Management Letters, not only those related to funding received from the CITY.

The GRANTEE that expends less than \$750,000 in a fiscal year in federal funds from all sources shall submit a copy of the GRANTEE's most recent Audited Financial Statement to the CITY's Contract Representative (designated on the FACE SHEET of this Agreement), 808 West Spokane Falls Boulevard, Spokane, Washington 99201, or to [chhsreports@spokanecity.org](mailto:chhsreports@spokanecity.org), within the earlier of thirty (30) calendar days after receipt of the auditor's report(s), or no later than nine (9) months after the end of the audit period. The GRANTEE that does not receive a financial audit shall submit financial statements within ninety (90) calendar days of GRANTEE's fiscal year end to the CITY's Contract Representative by mail to the address listed above, or to [chhsreports@spokanecity.org](mailto:chhsreports@spokanecity.org).

The GRANTEE shall maintain its records and accounts so as to facilitate the audit requirement and shall ensure that Subcontractors also maintain auditable records in the same manner. The CITY has the right to audit the finances of the GRANTEE to ensure that actual expenditures remain consistent with the spirit and intent of this Agreement.

The GRANTEE is responsible for any audit exceptions or expenses incurred by its own organization or that of its Subcontractors and the CITY reserves the right to recover from the GRANTEE all disallowed costs resulting from the audit.

Failure of the GRANTEE to comply with the audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments.

#### C. REPORTING AND PAYMENT PROCEDURES.

##### 1) Program Income

The GRANTEE shall report monthly utilizing the Program Income Report form included in Attachment B on all program income (as defined at 24 CFR 576.2) generated by activities carried out with ESG-CV funds made available under this Agreement. The use of program income by the GRANTEE shall comply with the



requirements set forth at 24 CFR 576.201(f) and 24 CFR 576.407(c). By way of further limitations, the GRANTEE may use such income during the Agreement period for activities permitted under this Agreement and shall reduce requests for additional funds by the amount of any such program income balances on hand. All unexpended program income shall be returned to the CITY at the end of the Agreement period.

2) Indirect Costs

If indirect costs are charged using a methodology other than a Federally negotiated indirect cost rate or 10% of Modified Total Direct Costs (MTDC), as defined in 2 CFR 200.68, the GRANTEE shall submit an indirect cost allocation plan in compliance with 2 CFR Part 200, Subpart E and Appendix IV, including a cost policy statement, to the CITY's Contract Representative for approval prior to charging indirect costs to the project. The CITY's approval of the use of the rate shall be made in writing and the plan and cost policy statement must be updated and submitted annually. Indirect costs shall be applied in accordance with 2 CFR Part 200 Subpart E and 24 CFR 576.109.

3) Payment Procedures

The CITY shall reimburse the GRANTEE only for actual incurred costs upon presentation of accurate and complete reimbursement forms as provided by the CITY in Attachment B and approved by the CITY. Only those allowable costs directly related to this Agreement shall be paid. The amount of each request must be limited to the amount needed for payment of eligible costs.

Requests for reimbursement by GRANTEE shall be submitted no more than once per month on or before the 15<sup>th</sup> of each month for the previous month's expenditures as directed below, using the forms provided by the CITY in Attachment B. For expenses incurred during the month of December, the reimbursement request shall be submitted on or before the 10<sup>th</sup> of January, and for expenses incurred during the month of June, the reimbursement request shall be submitted on or before the 10<sup>th</sup> of July. In conjunction with each reimbursement request, GRANTEE shall certify that services to be performed under this Agreement do not duplicate any services to be charged against any other grant, subgrant or other founding source. **GRANTEE shall submit reimbursement requests to the CITY's Contract Representative designated on the FACE SHEET of this Agreement either by mail to the address listed above or by e-mail to [chhsreports@spokanecity.org](mailto:chhsreports@spokanecity.org).**

a. Reimbursement Requests

The GRANTEE shall submit comprehensive invoice packets for the first and last months of the period of performance as identified on the FACE SHEET of this Agreement. Comprehensive invoices must include the billing form, sub-reports, general ledger, and complete supporting

documentation. The CITY may request a comprehensive invoice in lieu of a monthly invoice for monitoring purposes throughout the period of performance of this Agreement.

With the exception of the invoices for the first and last months of the project, the GRANTEE shall submit monthly invoices that include the billing form, appropriate sub-reports (e.g. payee expense detail, staff expense detail, housing assistance detail report, program income), and the general ledger report for the applicable month. The GRANTEE shall maintain appropriate supporting documentation, including copies of receipts, time and effort tracking, and proof of payment.

b. Payment

Payment will be made via direct deposit/ACH within thirty (30) days after receipt of the GRANTEE's application except as provided by state law. If the CITY objects to all or any portion of the invoice, it shall notify the GRANTEE 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.

In the event that the CITY determines that any funds were expended by the GRANTEE for unauthorized or ineligible purposes or the expenditures constitute disallowed costs in any other way, the CITY may order repayment of the same. The GRANTEE shall remit the disallowed amount to the CITY within thirty (30) days of written notice of the disallowance.

- i. The GRANTEE agrees that funds determined by the CITY to be surplus upon completion of the Agreement will be subject to cancellation by the CITY.
- ii. The CITY shall be relieved of any obligation for payments if funds allocated to the CITY cease to be available for any cause other than misfeasance of the CITY itself.
- iii. The CITY reserves the right to withhold payments pending timely delivery of program reports or documents as may be required under this Agreement.

4) Homeless Management Information System (HMIS)

GRANTEE shall abide by all stipulated guidelines, rules, and/or directions, as specified in the HMIS Policies and Procedures, the Agency Partnership Agreement, the Data Quality Plan, and any subsequent agreements, entered into before, or during, the term of this Agreement.

If the GRANTEE is a designated Victim Service Provider, as defined under the Violence Against Women Act “VAWA” or the Victims of Crime Act “VOCA”, the GRANTEE must establish a comparable database that follows all HUD requirements. Upon request, the GRANTEE must provide aggregated data to fulfill contractual performance measures and validation of overall data quality within the comparable database. The HMIS Program Manager is responsible for certifying a database as ‘comparable’.

The GRANTEE shall enter data into the CITY Homeless Management Information System for every client served under this Agreement in accordance with current HUD/HMIS Data Standards, the Data Quality Plan, and other quality/completeness standards as established by the local Continuum of Care. Client records shall be submitted and updated, as required, **no less frequently than monthly on or before the 5<sup>th</sup> day of each month.** HMIS required data elements are determined by the funder and the HMIS Committee of the Continuum of Care Board.

GRANTEE shall submit a notice in the form of an email communication to City of Spokane HMIS, [HMIS@spokanecity.org](mailto:HMIS@spokanecity.org), on or before the 5<sup>th</sup> of the month. The email must contain the names of the projects for which data has been entered and must include a statement verifying that the data is both complete and accurate and a list of all projects reviewed for the month. All issues preventing accurate and complete data submissions in the HMIS shall be communicated through the HMIS support ticket system.

GRANTEE shall utilize the HMIS housing inventory tool to manage the occupancy of units and update unit information as occupancy, or housing inventory, changes. All unit information shall be updated within forty eight (48) hours of an occupancy change, or at whatever frequency is determined by mutual agreement between the GRANTEE and CITY. GRANTEE staff that are responsible for maintaining and/or updating the housing inventory shall attend offered training on the use and operation of the HMIS-based housing tool and will respond promptly to questions regarding housing inventory posed by the CITY. Guidance regarding the information needed to accurately account for housing inventory for the annual submission of the Housing Inventory Count Report and for local planning purposes can be found on the HMIS website at [www.spokanehmis.org](http://www.spokanehmis.org).

The GRANTEE shall ensure that all applicable staff are fully trained to operate in the HMIS and the Service Prioritization Decision Assistant Tool (SPDAT) and Vulnerability Index – Service Prioritization Decision Assistant Tool (VI-SPDAT) prior to using these systems within ninety (90) days of providing services under this Agreement. GRANTEES providing permanent supportive housing and transitional will complete a SPDAT on all program participants at program entry, program exit, and if applicable, annually.

CITY HMIS staff will post the most current versions of all applicable documents, reports, and operational guidelines to [www.spokanehmis.org](http://www.spokanehmis.org). Communications

regarding updates to the website will be distributed via e-mail to current HMIS users or those that opt-in to the HMIS listserv (those wishing to opt-in to the HMIS listserv should submit a request to [HMIS@spokanecity.org](mailto:HMIS@spokanecity.org)).

GRANTEE will submit questions regarding participation in the HMIS, including data collection responsibilities, via the support request tool in the HMIS. Those without access to the HMIS should submit their question(s) to [HMIS@spokanecity.org](mailto:HMIS@spokanecity.org).

5) Quarterly Performance Report (“QPR”)

The GRANTEE shall submit a Quarterly Performance Report generated from the HMIS to the CITY Contract Representative for the respective reporting period in accordance with the Spokane City/County Continuum of Care 5-Year Performance Management Plan.

5) Inventory Reports

The GRANTEE shall provide an annual and close-out inventory report to the CITY, of any fixed assets with an initial cost exceeding \$5,000 purchased or passed-through under this Agreement. The inventory report shall contain: the CFDA number of the grant which purchased the equipment and other award identification information, description of the property, serial or other identification number, who holds title, the acquisition date, cost of the property, percentage of federal participation in the costs, location, use and condition of the property, and any ultimate disposition data, including the date of disposal and sale price of the property being tracked. The annual report shall be provided within thirty (30) days of the end of the fiscal year of the GRANTEE during the performance period and the close-out inventory report shall be provided within thirty (30) days of the end of the term of this Agreement.

6) Other Reporting Requirements

GRANTEE shall submit data required for the Annual Homeless Assessment Report, Commerce Annual Report, Housing Inventory Count, the Annual Point-in-Time Count, the System Performance Measures Report, and other reporting obligations as identified by the CITY or the HMIS Committee of the CoC Board.

D. PROCUREMENT.

1) Compliance

GRANTEE shall maintain and follow procurement policies and procedures in accordance with 2 CFR 200 Subpart D, for all purchases funded by Federal funds under this Agreement.

GRANTEE and Subgrantees must receive prior approval from CITY for using funds from this Grant to enter into a sole source Grant or a Grant where only one bid or proposal is received when value of this Grant is expected to exceed \$5,000.

Prior approval requests shall include a copy of proposed Grants and any related procurement documents and justification for non-competitive procurement, if applicable.

2) Travel

The GRANTEE shall obtain written approval from the CITY for any travel outside the metropolitan area with funds provided under this Agreement.

E. USE AND REVERSION OF ASSETS.

The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 2 CFR 200 Subpart D and 24 CFR 576.407.

**SECTION NO. 9: PERSONNEL AND PARTICIPANT CONDITIONS**

A. CIVIL RIGHTS.

1) Compliance

The GRANTEE agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107 and 12086.

The GRANTEE shall also comply with the Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule (Equal Access Rule) as provided under 77 FR 5662.

2) Nondiscrimination

The GRANTEE agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations, and Executive Orders referenced in 24 CFR Part 1 and 24 CFR 5 Subpart A. The applicable non-discrimination provisions in Section 109 of the HCDA are still applicable.

No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Contract because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation including gender expression or

gender identity, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities. The GRANTEE 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 GRANTEE.

Discrimination shall not include GRANTEE's selection of certain individuals to serve as Board members or managers on the basis of membership in a protected class provided that the selection is based on a bona fide occupational qualification.

3) Section 504

The GRANTEE agrees to comply with all Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination against the individuals with disabilities or handicaps in any Federally assisted program. The CITY shall provide the GRANTEE with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.

B. AFFIRMATIVE ACTION.

1) Approved Plan

The GRANTEE agrees that it shall be committed to carry out an Affirmative Action Program in accordance with President's Executive Order 11246.

2) Women- and Minority-Owned Businesses (W/MBE)

The GRANTEE will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51%) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are: Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The GRANTEE may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

3) Access to Records

The GRANTEE shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the CITY, HUD or its agent, or

other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

4) Notifications

The GRANTEE will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the GRANTEE's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5) Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement

The GRANTEE will, in all solicitations or advertisements for employees placed by or on behalf of the GRANTEE, state that it is an Equal Opportunity or Affirmative Action employer.

6) Subcontract Provisions

The GRANTEE will include the provisions of Section No. 10 A, Civil Rights , and B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subgrantees or subcontractors.

C. EMPLOYMENT RESTRICTIONS.

1) Prohibited Activity

The GRANTEE is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; inherently religious activities; lobbying; political patronage; and nepotism activities.

2) Labor Standards

- a. The GRANTEE agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C. 327 *et seq.*) and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The GRANTEE agrees to comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874 *et seq.*) and its implementing regulations of the U.S. Department of Labor at 29 CFR Part 5. The GRANTEE shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the CITY for review upon request.



- b. The GRANTEE agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of \$2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this Agreement, shall comply with Federal requirements adopted by the CITY pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided that, if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the GRANTEE of its obligation, if any, to require payment of the higher wage. The GRANTEE shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

3) “Section 3” Clause

a. Compliance

Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended, and as implemented by the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this Agreement, shall be a condition of the Federal financial assistance provided under this Agreement and binding upon the CITY, the GRANTEE and any of the GRANTEE’s subrecipients and subcontractors. Failure to fulfill these requirements shall subject the CITY, the GRANTEE and any of the GRANTEE’s subrecipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. The GRANTEE certifies and agrees that no contractual or other disability exists that would prevent compliance with these requirements.

The GRANTEE further agrees to comply with these “Section 3” requirements and to include the following language in all subcontracts executed under this Agreement:

“The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701). Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns that provide economic

opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located.”

The GRANTEE further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the ESG-CV funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction projects to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the ESG-CV funded project is located; where feasible, priority should be given to business concerns that provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The GRANTEE certifies and agrees that no contractual or other legal incapacity exists that would prevent compliance with these requirements.

b. Notifications

The GRANTEE agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker’s representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

c. Subcontracts

The GRANTEE will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The GRANTEE will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

D. CONDUCT.

1) Assignability

The GRANTEE shall not assign or transfer any interest in this Agreement without the prior written consent of the CITY thereto; provided, however, that claims for money due or to become due to the GRANTEE from the CITY under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the CITY.

2) Subcontracts

a. Approvals

The GRANTEE shall not enter into any subcontracts with any agency or individual in the performance of this Agreement without the written consent of the CITY prior to the execution of such agreement.

b. Monitoring

The GRANTEE will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

The GRANTEE shall cause all of the provisions of this Agreement in its entirety to be included in, and made a part of any subcontract executed in the performance of this Agreement.

d. Selection Process

The GRANTEE shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis, in accordance with applicable procurement requirements. Executed copies of all subcontracts shall be forwarded to the CITY along with documentation concerning the selection process.

3) Hatch Act

The GRANTEE agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

4) Conflict of Interest

The GRANTEE agrees to abide by the provisions of 2 CFR 200.112 and 576.404, which include (but are not limited to) the following:

- a. The GRANTEE shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.
- b. No employee, officer or agent of the GRANTEE shall participate in the selection, or in the award, or administration of, a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.
- c. No covered persons who exercise or have exercised any functions or responsibilities with respect to ESG-CV assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the ESG-CV assisted activity, or with respect to the proceeds from the ESG-CV assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a “covered person” includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the CITY, the GRANTEE, or any designated public agency.
- d. GRANTEE shall disclose in writing any potential conflict of interest to the CITY in a timely manner.

5) Organizational Conflicts of Interest

The provision of any type or amount of ESG-CV assistance may not be conditioned on an individual’s or family’s acceptance or occupancy of emergency shelter or housing owned by the recipient, the subrecipient, or a parent or subsidiary of the subrecipient. No subrecipient may, with respect to individuals or families occupying housing owned by the subrecipient, or any parent or subsidiary or the subrecipient, carry out the initial evaluation required under 24 CFR 576.401 or administer homelessness prevention assistance under 24 CFR 576.103. Recipients and subrecipients must also maintain written standards of conduct covering organizational conflicts of interest required under 2 CFR 200.318.

6) Lobbying

The GRANTEE hereby certifies that:

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement; and
- b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
- c. It will require that the language of paragraph (d) [below] of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly; and
- d. Lobbying Certification

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

7) Copyright

If this Agreement results in any copyrightable material or inventions, the CITY and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for governmental purposes.

8) Religious Activities

The GRANTEE agrees that funds provided under this Agreement will not be utilized for inherently religious activities prohibited by 24 CFR 576.406, such as worship, religious instruction, or proselytization.

- a. Organizations that are directly funded under the CDBG program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded under this part. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this part, and participation must be voluntary for the beneficiaries of the HUD-funded programs or services.

9) Compliance With Laws

Each PARTY shall comply with all applicable federal, state and local laws, regulations, and Executive Orders applicable to the subject matter of this Agreement, which are incorporated by reference into this Agreement.

10) Non-Waiver

No delay or waiver by either party to exercise any contractual right shall be considered as a waiver of such right or any other right currently or in the future.

11) Anti-Kickback

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

**SECTION NO. 10: ENVIRONMENTAL CONDITIONS**

A. AIR AND WATER

The GRANTEE agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:

- Clean Air Act, 42 U.S.C. , 7401, *et seq.*;
- Federal Water Pollution Control Act, as amended, 33 U.S.C., 1251, *et seq.*, as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder;
- Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.

B. FLOOD DISASTER PROTECTION

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), the GRANTEE shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. LEAD-BASED PAINT

The GRANTEE agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 576.403, and 24 CFR Part 35, Subpart B. Such regulations pertain to all ESG-CV assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven (7) years. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

D. HISTORIC PRESERVATION

The GRANTEE agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this Agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty (50) years old or older or that are included on a Federal, state, or local historic property list.

**SECTION NO. 11: SEVERABILITY**

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

**SECTION NO. 12: SECTION HEADINGS AND SUBHEADINGS**

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.



**SECTION NO. 13: WAIVER**

The CITY's failure to act with respect to a breach by the GRANTEE does not waive its right to act with respect to subsequent or similar breaches. The failure of the CITY to exercise or enforce any right, remedy or provision shall not constitute a waiver of such right, remedy or provision, at any time.

**SECTION NO. 14: ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement between the CITY and the GRANTEE for the use of funds received under this Agreement, and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the CITY and the GRANTEE with respect to this Agreement.

**SECTION NO. 13: CONSTRUAL**

The GRANTEE acknowledges receipt of a copy of the Agreement documents and agrees to comply with them. The silence or omission in the Agreement documents concerning any detail required for the proper execution and completion of the performance means that only the best general practice is to prevail, and that only material and workmanship of the best quality are to be used. This Agreement shall be construed neither in favor of, nor against either PARTY, and is intended to benefit only the PARTIES to this Agreement, there are no third-party beneficiaries.

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 signature below. The undersigned certifies compliance with all Agreement provisions as listed above.

VOLUNTEERS OF AMERICA OF NORTHERN IDAHO AND EASTERN WASHINGTON      CITY OF SPOKANE

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Attest:

Approved as to form:

---

City Clerk

---

Assistant City Attorney

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 2 CFR Part 180.

- (1) The prospective primary participant certifies to the best of its knowledge and belief that it and its principals:
- (a) Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - (b) Have not within a three-year period preceding this application been convicted of or had a civil judgement 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 for or otherwise criminally or civilly charged by a governmental 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 Agreement had one or more public transactions (Federal, State, or local) terminated for cause or default.
- (2) The undersigned agrees by signing this Agreement 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 Agreement that it will include the following required certification, 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.
- (4) The undersigned shall notify the City immediately that if it or a lower tier contractor become debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency during the period of performance of this Agreement.
- (5) 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.
- (6) I understand that a false statement of this certification may be grounds for termination of the Agreement.
- By signing this Attachment, the Grantee indicates acceptance of and compliance with all requirements described above.**

**ATTACHMENT A - CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION  
AND FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) CERTIFICATION**

**Federal Funding Accountability and Transparency Act (FFATA) Certification**

**The Federal Funding Accountability and Transparency Act (FFATA) seeks to provide the public with greater access to Federal spending information. Due to FFATA requirements, you are required to provide the following information which will be used by the City to comply with federal reporting requirements.**

If certain conditions are met, Grantee must provide names and total compensation of the top five highly compensated Executives. Please answer question 1, and follow the instructions. If directed to question 2, please answer and follow instructions.

1. In Grantee's previous fiscal year, did Grantee receive (a) 80% or more of Grantee's annual gross revenues in U.S. Federal contracts and subcontracts and other Federal financial assistance subject to the Transparency Act, as defined in 2 CFR 170.320; AND (b) \$25,000,000 or more in annual gross revenues from contracts and subcontracts and other Federal financial assistance subject to the Transparency Act, as defined in 2 CFR 170.320?

Yes ☐ If yes, answer question 2 below.

No ☐ If no, stop, you are not required to report names and compensation. Please sign and submit form with the Agreement.

2. Does the public have access to information about the compensation of Grantee's Executives through periodic reports filed under section 13(a) or 15(d) of the Security Exchange Act of 1934 (15 U.S.C. 78(m)(a), 78o(d)), or section 6104 of the Internal Revenue Code of 1986?

Yes ☐ If yes, stop, you are not required to report names and compensation. Please sign and submit form with the Agreement.

No ☐ If no, you are required to report names and compensation. Please fill out the remainder of this form.

Please provide the names and Total Compensation of the top five most highly compensated Executives in the space below.

Name:	Total Compensation:
Name:	Total Compensation:
Name:	Total Compensation:
Name:	Total Compensation:
Name:	Total Compensation:

**The Grantee certifies that the information contained on this form is true and accurate.**

**By:** \_\_\_\_\_  
**Title:** \_\_\_\_\_  
**Date:** \_\_\_\_\_

## Information & Instructions for Completing Grantee Billing Form & Itemized Expense Reports

A reimbursement request, otherwise known as a bill, consists of a Grantee Billing Form, Payee Expense Report, Staff Expense Report and detailed documentation of the expenses. The billing form includes the approved budget categories and amounts during the active performance period of the Agreement. The Payee Expense Report and Staff Expense Report should be completed to detail each itemized expense being requested on the billing form in the Current Expense Request in Column B in aggregate value for each Approved Budget Category for the current expense period.

You should bill monthly for expenditures. If there have been no expenditures paid for the previous month, an invoice is not required. Please submit a final reimbursement request with all required documentation by the identified date in your Agreement. A final program report will be required to be submitted as well. You will not be paid until all documentation and final reports are received. HMIS Data MUST be electronically posted in the HMIS database before invoices will be paid.

Complete the Staff Expense Report for each employee you are requesting reimbursement of salary and fringe benefits based on the allowed activity and amount of actual time spent performing that activity. Record the employee Name, allowed Activity being funded, the Expense Category of the approved budget applicable to the activity, Total Hours Worked, Hours Worked on Listed Activity, and Total Salary & Fringe paid during the Expense Period. If you are claiming indirect costs, indicate whether or not each expense is included in your indirect cost base. Total Salary and Fringe should be reflected as the monthly amount. If your grant supports more than one project, complete the Project Name column to clearly associate each expense with a single project.

Complete the Payee Expense Report for the project expenses that are not staff salary/benefits or housing assistance. Record the Payee (who you paid), Expense Category (Rapid Re-Housing, Emergency Shelter or Administration), Expenditure Type (Rent, Housing Stabilization, Program Operations, etc.), Total Bill (total amount of expense). If you are claiming indirect costs, indicate whether or not each expense is included in your indirect cost base. If your grant supports more than one project, complete the Project Name column to clearly associate each expense with a

Complete the Housing Assistance Detail Report for each housing assistance expense (rental application fees, rental assistance, security deposits, etc.) you are claiming reimbursement for. Record the HMIS client ID number, housing assistance expense type (application fee, security deposit, rent assistance, etc.) unit/FMR info if known, client lease information if known, and reimbursement information. If your grant is providing housing assistance through two or more projects, complete a Housing Assistance Detail Report for each one. If needed, complete the Housing Assistance Adjustment Report to explain changes to previously reported housing assistance expenses charged to the grant including Adjustment Reason.

**The voucher and itemized expense reports MUST be signed in ink. The formulas should not be changed or adjusted in the form(s).**

### Completing the Grantee Billing Form:

☐ Name and address of your organization requesting reimbursement.

☐ Expense Period (should bill as monthly expenses, January, February, etc.)

☐ Enter total amount of Monthly Actual in Column B to represent the amount requested for reimbursement for the current period in the line item category of the approved budget (i.e. - Rapid Re-Housing, Emergency Shelter and Administration) and should reflect the total of itemized expenses on the Payee Expense and Staff Expense Reports. The Payee Expense and Staff Expense Reports must be completed and submitted with the billing form. You may not transfer funds between approved categories without written preapproval from the City.

☐ Enter Total Previously Requested in Column C, as applicable to each line item in the approved category of the budget. The amount entered should reflect all previously requested amounts except the current monthly amount. This must be completed and updated each time you prepare the form to request reimbursement of expenses. (The documents' formulas will calculate totals and update remaining Budget Balance in Column D to ensure reconciliation and budget tracking for both the agency and the City).

☐ Ensure all back up documentation is included for payment processing if you are using any type of the allocation for direct or indirect expenses please send the allocation plan to the City for review and approval if it has not already been provided.

☐ Sign in ink, provide title, date, email address and telephone number before sending for approval and payment processing to City of Spokane Community, Housing, and Human Services Department.

## Documentation Required for Billing Forms:

All requests for reimbursement must be supported by documentation necessary to show that the costs charged to the grant funds were incurred during the active performance period of the Agreement, were actually paid out, were allowable items and have been approved by the responsible official within the organization. For example:

**Salary and Fringe** – receipts, payroll reports, timesheets signed by the employee and the immediate supervisor, letters of employment that include rate of pay, benefits and employee withholdings. For staff directly charged to a grant funded program or project time and attendance records should be included as well. Other sources of documentation might include, canceled checks from employees, insurance provider, etc. or evidence of direct deposits which document outlay of expenses. **100% of the time daily must be recorded for all hours worked by activity performed. This is required for all federally funded grant positions.**

**Rent/Utilities** – proof of payment to vendor, rental or lease agreement, utility bills. If the cost of the space or utilities is split between grant funded and other sources, there must be a reasonable method in place to allocate the charges fairly among the sources and the method provided.


**Supplies and Materials (all Goods)** – proof of payment to vendor, purchase orders, requisition forms, receipts, and invoices from vendors. It's also helpful to keep information regarding where the supplies are stored and for what program or project are they being used in the organizations' internal file.

**Equipment** – proof of payment to vendor, purchase orders, requisition forms, receipts, and invoices from vendors. Packing slips are only proof of delivery and do not act as an invoice from the vendor. If the item received is an inventorial piece of equipment, the serial number, model, and inventory tag should be noted on the purchase order or invoice from the vendor.

**Other** – proof of payment, receipts, invoices from vendor. Please contact the City for specific questions on required documentation.

**Admin/Indirect Costs** – methodology of application applied in accordance with Federal Guidance on allocation of direct costs for non-profits using the base most appropriate (for federally funded agreements) or applied in accordance with a methodology that the City has approved the use of (for agreements funded with non-federal sources).

If you are allocating either direct expenses or indirect expenses using a rate other than a federally negotiated rate or the de minimis rate (10% MTDC) the use of your allocation plan must be approved by the City prior to you charging the grant program. The allocation should consist of your pooled costs or cost basis and the narrative for the methodology applied to determining the calculated rate or percentage. Direct expenses allocated usually include utilities, rent, agency liability insurance, and may include staff paid time allocated as well.

	<b>City of Spokane</b> <b>Grantee Billing Form</b> <b>2020-2021 Emergency Solutions Grant - CV</b>		City Clerk #		
			Vendor ID #		
			FMS Acct #		
<b>SUBMIT BILLING TO:</b>		Submit this form to claim payment for materials, merchandise, and/or services. Show complete detail for each item. <b>Vendor/Claimant Certificate:</b> I hereby certify under perjury that the items and totals listed herein are proper charges for materials, merchandise and/or services furnished, and that all goods furnished and/or services rendered have been provided without discrimination because of age, sex, marital status, race, creed, color, national origin, handicap, religion or Vietnam era or disabled veteran status. By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812). Services performed under this Agreement do not duplicate any services to be charged against any other grant, subgrant or other funding source.			
City of Spokane Community, Housing, and Human Services Dept. 808 W. Spokane Falls Blvd, 6th Floor Spokane, WA 99201					
<b>GRANTEE (Warrant is to be payable to:)</b>					
Volunteers of America 525 W. Second Ave. Spokane, WA 99201					
		<b>Grantee Certification</b>			
Project/Program:	Hope House Shelter	<b>By:</b>			
Award Number:	E-20-MW-53-0006	(SIGN IN INK)			
National Objective:	N/A	(TITLE) (DATE)			
Eligibility Code:	N/A				
IDIS Activity ID:		(EMAIL ADDRESS) (TELEPHONE NUMBER)			
Grant Term:	05/15/2020 - 08/15/2020	Billing date:			
Indirect Cost Rate:	10% MTDC	Expense Period:			
<b>EXPENSE Categories:</b>	<b>A</b> Grant Budget	<b>B</b> Current Expense Request	<b>C</b> Total Previously Requested	<b>D</b> Grant Balance (A-B-C)	
<b>ESSENTIAL SERVICES</b>					
Case Management	\$ 18,021.00	\$ -	\$ -	\$ 18,021.00	
Indirect Costs	\$ 1,802.00	\$ -	\$ -	\$ 1,802.00	
<b>OPERATIONS</b>					
Maintenance	\$ 32,025.00	\$ -	\$ -	\$ 32,025.00	
Security	\$ 4,320.00	\$ -	\$ -	\$ 4,320.00	
Food	\$ 16,500.00	\$ -	\$ -	\$ 16,500.00	
Furnishings	\$ 8,657.00	\$ -	\$ -	\$ 8,657.00	
Supplies	\$ 6,000.00	\$ -	\$ -	\$ 6,000.00	
Indirect Costs	\$ 6,750.00	\$ -	\$ -	\$ 6,750.00	
<b>ADMINISTRATION</b>					
Administration	\$ 10,725.00	\$ -	\$ -	\$ 10,725.00	
Indirect Costs	\$ 1,073.00	\$ -	\$ -	\$ 1,073.00	
<b>GRAND TOTAL</b>	<b>\$ 105,873.00</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 105,873.00</b>	
Contract Amount (auto populated)		\$ 105,873.00	% Expended:		0.00%
Total Expended to Date (auto populated)		\$ -	% Remaining:		100.00%
Contract Remaining Balance		\$ 105,873.00			
← Check box if final request.		CHHS Approval:			



## Payee Expense Report

Organization:	VOA	Grant #:	E-20-MW-53-0006	City Clerk #:
Prepared By:		Title:		Date:

Please complete the table for ALL (non-Staff) expenses for the reported period. Copies of receipts and invoices MUST be attached.

[illegible]

# Staff Expense Report

[illegible]

# Program Income Report

Organization:	VOA	Grant #:	E-20-MW-53-0006	City Clerk #:
Prepared By:		Title:		Date:

Please complete the table for ALL expenses paid with Program Income prior to the request for reimbursement of grant funds for the reported period.

[illegible]

## Expenditure Control Form



1. All requests being made must be accompanied by this form.
2. Route **ALL** requests to the Finance Department for signature.
3. If request is greater than \$100,000 it requires signatures by Finance and the City Administrator. Finance Dept. will route to City Administrator.

Today's Date: 6/22/2020

Type of expenditure: Goods ☐ Services ☒

Department: CHHS

Approving Supervisor: Scott Rasmussen/Tim Sigler

Amount of Proposed Expenditure: \$105,873.00

Funding Source: U.S. Department of Housing and Urban Developm

**Please verify correct funding sources. Please indicate breakdown if more than one funding source.**

**Why is this expenditure necessary now?**

This project is incurring additional costs in order to maintain existing shelter inventory and comply with social distancing requirements in addition to other necessary and appropriate measures to prevent the spread of COVID-19 amongst patrons.

**What are the impacts if expenses are deferred?**

The agency will not be able to afford to maintain current shelter inventory resulting individuals being subjected to unsheltered homelessness.

**What alternative resources have been considered?**

This source is a specific allocation from the Federal government for the coronavirus pandemic response in the local homeless services system.

**Description of the goods or service and any additional information?**

Emergency Shelter Operations

**Person Submitting Form/Contact:** Matt Davis / mrdavis@spokanecity.org or ext 6i

**FINANCE SIGNATURE:**

*Tonya Wallace*

6/23/2020

CBC912862124450...

**CITY ADMINISTRATOR SIGNATURE:**

*[Signature]*

6/23/2020

9636E337699244E...

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

07/13/2020

**Date Rec'd**

6/23/2020

**Clerk's File #**

OPR 2011-0535

**Renews #****Submitting Dept**

POLICE

**Cross Ref #****Contact Name/Phone**

ERIC OLSEN 835-4505

**Project #****Contact E-Mail**

EOLSEN@SPOKANEPOLICE.ORG

**Bid #****Agenda Item Type**

Contract Item

**Requisition #****Agenda Item Name**

0680 SPD FALSE ALARM PROGRAM EXTENSION

**Agenda Wording**

One year contract extension with Superior LLC for continued joint administration of the False Alarm Program. Estimated revenue from the program is \$330,000 per year. Extension term is July 1, 2020 to June 30, 2021

**Summary (Background)**

The Spokane Police Department responds to over 7,000 alarm calls annually. Approximately, 98% of these alarms are false, resulting in the commitment of over 8,000 man-hours in Police Department resources to these alarms. It is necessary to extend the contract for 1-year as SPD is evaluating to make potential changes to Spokane City Ordinance.

**Fiscal Impact**

Grant related? NO

**Budget Account**

Public Works? NO

Revenue \$ 330,000.00

# 0680-11150-21250-34210-68148

Select \$

#

Select \$

#

Select \$

#

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

MEIDL, CRAIG

**Study Session\Other**

03/30/2019

**Division Director**

MEIDL, CRAIG

**Council Sponsor**

Councilmember Kinnear

**Finance**

SCHMITT, KEVIN

**Distribution List****Legal**

ODLE, MARI

spdfinance@spokanepolice.org

**For the Mayor**

ORMSBY, MICHAEL

jgoldman@spokanepolice.org

**Additional Approvals****Purchasing**

## Briefing Paper/Agenda

### PSCH Committee Meeting & Spokane City Council – April 2020

<b>Division &amp; Department:</b>	Spokane Police Department
<b>Subject:</b>	OPR 2011-0525 – SPD FARP Program
<b>Date:</b>	3/18/20
<b>Contact (email) :</b>	Lt. Dan Waters, Captain Tom Hendren, Major Kevin King & Jody Goldman
<b>City Council Sponsor:</b>	Councilwoman Kinnear
<b>Executive Sponsor:</b>	
<b>Committee(s) Impacted:</b>	Public Safety
<b>Type of Agenda item:</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
<b>Alignment:</b> (link agenda item to guiding document – i.e., Master Plan, Budget , Comp Plan, Policy, Charter, Strategic Plan)	
<b>Strategic Initiative:</b>	
<b>Deadline:</b>	06/30/2020
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	<p><b><u>Action</u></b> SPD FARP additional contract extension from July 1, 2020 through June 30, 2021. The current vendor Superior LLC whom owns 100% of assets of PSC including all right in the Crywolf software system has agreed to a 1-year contract extension with accepting the same terms and conditions for this 1-year contract extension period.</p> <p><b><u>Funding</u></b> This is revenue to the general fund of approximately \$19,000 to \$35,000 a month.</p>
<p><b><u>Background/History:</u></b> The current contract between PSC-now amended to Superior LLC and the City of Spokane will expire on June 30, 2020. SPD received an additional 1-year contract extension by Spokane City Legal. The additional 1-year contract extension is necessary as SPD is evaluating to make potential changes to Spokane City Ordinance.</p>	
<p><b><u>Executive Summary:</u></b></p> <p><b><u>Subject</u></b> Contract extension with Superior LLC for the administration of the False Alarm Program. The estimated revenue that impacts the general fund is approximately \$330,000 for the 1-year term from July 1, 2020 through June 30, 2021.</p> <p><b><u>Impact</u></b> The False Alarm Program has substantial revenue impacts on the general fund. The Police Department responds to over 7,000 alarm calls annually. Approximately, 98% of these alarms are false, resulting in the commitment of over 8,000 man-hours in Police Department resources to those alarms. This program will identify false alarm problems and hold alarm companies and their customers accountable through annual registration, education, and an assessment of cost recovery fees to reimburse the expense of responding to false alarms.</p>	
<p><b><u>Budget Impact:</u></b> Approved in current year budget?    <input checked="" type="checkbox"/> Yes    <input type="checkbox"/> No    <input type="checkbox"/> N/A</p>	

Annual/Reoccurring expenditure? ☒ Yes ☐ No ☐ N/A

If new, specify funding source: Federal Funding – Department of Justice

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

Operations Impact:

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:





**City of Spokane**

**CONTRACT EXTENSION  
WITH COST**

Title: **ADMINISTRATION OF THE CITY'S  
FALSE ALARM PROGRAM**

This Contract Extension including additional compensation is made and entered into by and between the **City of Spokane** as ("City"), a Washington municipal corporation, and **SUPERION, LLC**, whose address is 1000 Business Center Drive, Lake Mary, Florida 32746 as ("Company"), individually hereafter referenced as a "party", and together as the "parties".

*WHEREAS, the parties entered into a Contract wherein AOT Public Safety Corporation agreed to provide for the City a system and Program for the monitoring of False Alarms; and*

*WHEREAS, the Contract with AOT Public Safety Corporation has been assigned to Superion, LLC; and*

*WHEREAS, the original contract including Extensions has run its Term, but additional time is required, and thus the original Contract currently in place needs to be formally extended by this written document for one (1) additional year.*

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

**1. CONTRACT DOCUMENTS.**

The Contract, dated May 23, 2011 and May 27, 2011, any previous amendments, addendums and / or extensions / renewals thereto, are incorporated by reference into this document as though written in full and shall remain in full force and effect except as provided herein.

**2. EFFECTIVE DATE.**

This Contract Extension shall become effective on July 1, 2020.

**3. EXTENSION.**

The contract documents are hereby extended and shall run through June 30, 2021.

**4. COMPENSATION.**

The City shall receive an estimated annual revenue after compensation of the Program of **THREE HUNDRED THIRTY THOUSAND AND NO/100 DOLLARS (\$330,000.00)** for everything furnished and done under this Contract Extension.

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

**SUPERION, LLC**

**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



# Expenditure Control Form

1. All requests being made must be accompanied by this form.
2. Route **ALL** requests to the Finance Department for signature.
3. If request is greater than \$100,000 it requires signatures by Finance and the City Administrator. Finance Dept. will route to City Administrator.

Today's Date:

Type of expenditure:

Goods

☐

Services

☐

Department:

Approving Supervisor:

Amount of Proposed Expenditure:

Funding Source:

**Please verify correct funding sources. Please indicate breakdown if more than one funding source.**

**Why is this expenditure necessary now?**

**What are the impacts if expenses are deferred?**

**What alternative resources have been considered?**

**Description of the goods or service and any additional information?**

Person Submitting Form/Contact:

FINANCE SIGNATURE:

---

CITY ADMINISTRATOR SIGNATURE:

---

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

07/13/2020

**Date Rec'd**

6/24/2020

**Clerk's File #**

OPR 2020-0573

**Renews #****Submitting Dept**

PUBLIC WORKS

**Cross Ref #****Contact Name/Phone**

SCOTT 625-6584

**Project #****Contact E-Mail**

SMSIMMONS@SPOKANECITY.ORG

**Bid #****Agenda Item Type**

Contract Item

**Requisition #****Agenda Item Name**

5200 - MEMORANDUM OF UNDERSTANDING (MOU) AIRWAY HEIGHTS SEWER

**Agenda Wording**

MOU for the City of Spokane to provide sewer service to select parcels owned by Spokane Airport within Airway Heights sewer service.

**Summary (Background)**

Airway Heights has determined that a connection to the City of Airway Heights Water Reclamation Plant ("AHWRP") is not presently feasible to properties owned by the Spokane Airport given the required construction activities which include installing a pump station to move effluent to the AHWRP. The City of Spokane has a sewer main that runs along the south border of these properties and would allow for a direct connection with no required infrastructure investment by the City sewer utility.

**Fiscal Impact**

Grant related? NO

Public Works? YES

**Budget Account**

Revenue \$ 00

# 4310-43100-35052-34351-99999

Select \$

#

Select \$

#

Select \$

#

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

SIMMONS, SCOTT M.

**Study Session\Other**

Study Session 6/24/20

**Division Director**

SIMMONS, SCOTT M.

**Council Sponsor**

Beggs

**Finance**

WALLACE, TONYA

**Distribution List****Legal**

SCHOEDEL, ELIZABETH

publicworksaccounting@spokanecity.org

**For the Mayor**

ORMSBY, MICHAEL

eraea@spokanecity.org

**Additional Approvals**

smsimmons@spokanecity.org

**Purchasing**

aduffey@spokanecity.org

aalbinmoore@spokanecity.org&gt;;

## Briefing Paper

### Public Infrastructure, Environment and Sustainability Committee

<b>Division &amp; Department:</b>	Public Works Division
<b>Subject:</b>	MOU with Airway Heights to provide sewer service to select parcels
<b>Date:</b>	6/24/20
<b>Author (email &amp; phone):</b>	Scott Simmons <a href="mailto:smsimmons@spokanecity.org">smsimmons@spokanecity.org</a> 625-6584
<b>City Council Sponsor:</b>	Breean Beggs
<b>Executive Sponsor:</b>	Scott Simmons
<b>Committee(s) Impacted:</b>	Public Infrastructure, Environment and Sustainability Committee
<b>Type of Agenda item:</b>	<input type="checkbox"/> Consent <input checked="" type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
<b>Alignment:</b> (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	Spokane County Sewer Service Comprehensive Plan
<b>Strategic Initiative:</b>	
<b>Deadline:</b>	
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	Approval of MOU for the City of Spokane to provide sewer service to select parcels owned by Spokane Airport within Airway Heights sewer service area
<b>Background/History:</b> Airway Heights has determined that a connection to the City of Airway Heights Water Reclamation Plant ("AHWRP") is not presently feasible to properties owned by the Spokane Airport given the required construction activities which include installing a pump station to move effluent to the AHWRP. The City of Spokane has a sewer main that runs along the south border of these properties and would allow for a direct connection with no required infrastructure investment by the City sewer utility. There are 4 parcels identified in the MOU.	
<b>Executive Summary:</b> <ul style="list-style-type: none"> <li>Approve MOU with Airway Heights</li> <li>Allow City of Spokane to provide sewer service to identified parcels owned by Spokane Airport utilizing adjacent sewer infrastructure</li> <li>No capital costs required to be borne by City of Spokane Sewer utility</li> </ul>	
<b>Budget Impact:</b> 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: N/A Other budget impacts: (revenue generating, match requirements, etc.)	
<b>Operations Impact:</b> Consistent with current operations/policy? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Requires change in current operations/policy? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Specify changes required: Future amendment to Spokane County Sewer Comprehensive Plan Known challenges/barriers:	

Sewer MOU with Airway Heights identified parcels



Legend

- Lines**
  - City of Spokane Boundary
  - Sanitary Gravity Main - Interceptor
- Areas**
  - Override 1
  - Interceptor

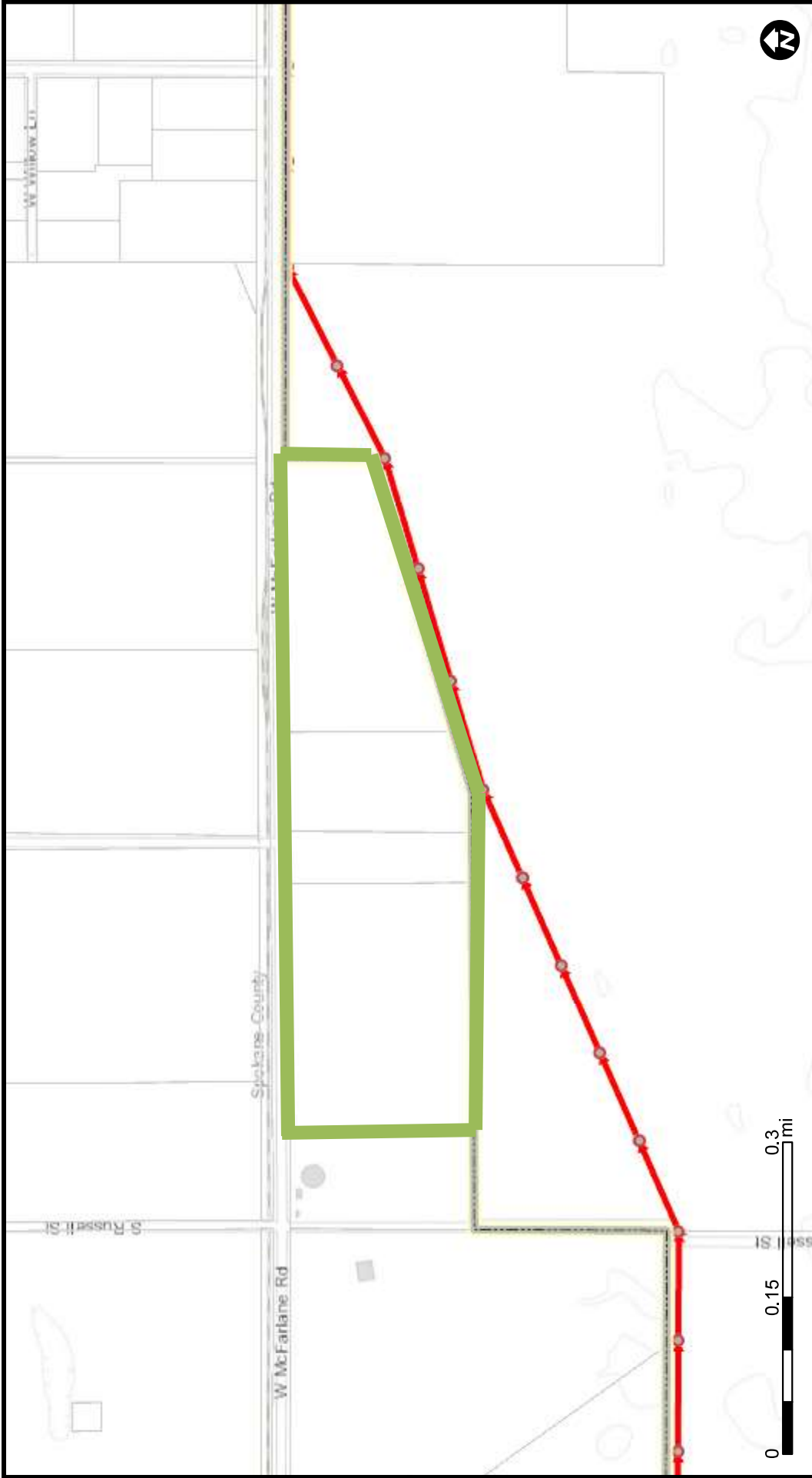
City of Spokane GIS



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



# MOU with Airway Heights identified parcels



## Legend

### Lines

Override 1

City of Spokane Boundary

Sanitary Manhole

Sanitary Clean Out

Sanitary Node

Sanitary Misc

Sanitary Outfall

Sanitary Lift Station

Sanitary Valve

Sanitary Force Main

Sanitary Gravity Main

Main

Interceptor

CSO Outfall

Overflow

Siphon

Parcel

## City of Spokane GIS



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

**INTERLOCAL AGREEMENT BETWEEN CITY OF SPOKANE AND CITY OF  
AIRWAY HEIGHTS  
FOR  
SEWER SERVICE AREA MODIFICATION**

This Interlocal Agreement ("**Agreement**") is made and entered into this \_\_\_\_ day of June, 2020 ("**Effective Date**"), by and between the City of Airway Heights, a non-charter code city of the State of Washington ("**Airway Heights**"), and the City of Spokane, a first-class charter city of the State of Washington ("**Spokane**"), jointly referred to as "**Parties**."

**I. BACKGROUND**

- A. On June 4, 2020, the City of Spokane requested that the Spokane-Airway Heights Sewer Service Area ("**Sewer Service Area**") as defined in the Spokane County 2014 Comprehensive Wastewater Management Plan ("**SCCWMP**") be modified to allow the City of Spokane to provide sewer service to Spokane County parcel nos. 15362.0029, 15362.0030, 15362.0031 and 15362.0032 (the "**Property**") (which is located in the City of Airway Heights).
- B. The purpose of modifying the Sewer Service Area is to assist AT Acquisitions' development and occupancy of private property located within the City of Airway Heights.
- C. As of the Effective Date, Airway Heights has determined that a connection to the City of Airway Heights Water Reclamation Plant ("**AHWRP**") is not presently feasible given the required construction activities which include installing a pump station to move effluent to the AHWRP.
- D. To promote the best interests of the City of Airway Heights and the City of Spokane, it is reasonable and necessary to adjust the sewer service area boundary between the City of Airway Heights and the City of Spokane as set forth in this Agreement.

**II. AGREEMENT**

The following terms and conditions are agreed between the Parties.

1. Sewer Service Area. The Parties agree to work cooperatively to adjust the City of Airway Heights Sewer Service Area such that the Property has available sewer service from the City of Spokane on both an interim basis and thereafter following modification of the SCCWMP and service area boundaries. Consistent with RCW 36.70.360, the Parties shall cooperate to prepare, finalize and submit the joint documents necessary for the adoption of a new SCCWMP by Spokane County containing the amended Sewer Service Area and the amendment of the City of Airway Heights Waste Water Facilities Plan ("**AHWWFP**") consistent with the intent contained herein.
2. Annexation, Rates, and Charges. The City of Spokane, agrees it will not require the specified Property to sign an annexation covenant or any other agreement that will have the effect



of removing the Property from the City of Airway Heights as a condition of sewer service. All rates and charges for sewer service shall be assessed pursuant to the Spokane Municipal Code (SMC) Chapter 13.03, as may be amended from time to time, for the location of the property and type of service.

3. Further Agreements. The Parties shall enter into further agreements as are required to conclude the transaction contemplated herein. The Parties pledge to cooperate, with diligence and in good faith, to negotiate and agree upon such further documents as are reasonably necessary for this transaction.

4. Authority of the Parties. By signing this Agreement, the Party signing on behalf of an entity hereby represents and warrants that he or she has full authority to sign the same and bind the entity.

5. Binding Affect. All covenants, agreements and provisions of this Agreement shall be binding upon and be for the benefit of the Parties hereto and their respective successors and assigns. This Agreement shall be governed by the laws of the State of Washington. Venue shall be Spokane County.

6. Contact Information. The following persons shall implement this MOU and be the primary representative for their jurisdiction.

City of Airway Heights: Albert Tripp, City Manager  
1208 S. Lundstrom Street  
Airway Heights, WA 99001  
[atripp@cawh.org](mailto:atripp@cawh.org)  
(509) 244-5578

or

Kevin Anderson, Public Works Director  
12400 W. 21st Avenue  
Airway Heights, WA 99001  
[kanderson@cawh.org](mailto:kanderson@cawh.org)  
(509) 244-5429

City of Spokane: Scott Simmons  
Public Works Director  
City of Spokane  
W. 808 Spokane Falls Blvd  
Spokane, WA 99210  
[ssimmons@cityofspokane.org](mailto:ssimmons@cityofspokane.org)  
(509) 625-6584

With a Copy to: City Attorney's Office  
Fifth Floor, City Hall  
W. 808 Spokane Falls Blvd  
Spokane, WA 99210

7. Modification. This Agreement may only be modified by written agreement of the Parties upon signature of their authorized representatives.

8. Term. The term of this Agreement shall be two (2) years from the Effective Date, or until adoption of the Spokane County 2021 Comprehensive Wastewater Management Plan, whichever is sooner. Thereafter, this Agreement shall automatically renew for one-year periods until such time as the Sewer Service Area is adjusted by Spokane County pursuant to a new Comprehensive Wastewater Management Plan or the Parties agree to terminate this Agreement.

9. Third Party Beneficiary. No third party, including AT Acquisitions, shall have any right or legal interest in this Agreement to include the right to enforce any terms or conditions contained herein. This Agreement provides no benefit to any third party (including AT Acquisitions or the property owner of the Property).

10. Effective Date. This Agreement is effective as of the date of signature by both Parties.

11. Attorney Fees. In the event of a controversy brought under this Agreement, each Party shall be responsible for their own attorney fees and costs.

12. Severability. If any provision of this Agreement shall be invalid or unenforceable, the affected provisions of this Agreement shall be limited only to the extent necessary to permit compliance with the purpose of this Agreement.

13. Counterparts. This Agreement is executed in two identical copies, one for each Party and all such executed copies shall constitute one (1) agreement binding on all of the Parties hereto exactly as if all Parties hereto had executed the same counterpart and in spite of the fact that they did not execute the same counterpart.

14. RCW Chapter 39.34 Required Clauses.

A. PURPOSE

See Section No. 1 above.

B. DURATION/TERMINATION

See Section 8.

C. ORGANIZATION OF SEPARATE ENTITY AND ITS POWERS

The Parties shall individually administer and cooperate on the joint undertakings set forth herein.

D. RESPONSIBILITIES OF THE PARTIES

See provisions above.

E. AGREEMENT TO BE FILED

This Agreement may be filed with the County Auditor or published on the Parties' websites, as available.

F. FINANCING

The Parties shall except as provided herein shall upon agreement allocate costs and expenses for the purposes authorized in this Agreement.

G. PROPERTY UPON TERMINATION

No real or personal property is being transferred to the other Party.

[Signature page follows.]

In witness whereof, the Parties have entered into this agreement on the day and year set forth above.

CITY OF AIRWAY HEIGHTS

\_\_\_\_\_  
By: Albert Tripp, City Manager

Date: \_\_\_\_\_

CITY OF SPOKANE

\_\_\_\_\_  
By: Nadine Woodward  
Title: Mayor

ATTEST:

Approved as to form:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Assistant City Attorney



# Expenditure Control Form

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3. If request is greater than \$100,000 it requires signatures by Finance and the City Administrator. Finance Dept. will route to City Administrator.

Today's Date:

Type of expenditure:

Goods

☐

Services

☐

Department:

Approving Supervisor:

Amount of Proposed Expenditure:

Funding Source:

**Please verify correct funding sources. Please indicate breakdown if more than one funding source.**

**Why is this expenditure necessary now?**

**What are the impacts if expenses are deferred?**

**What alternative resources have been considered?**

**Description of the goods or service and any additional information?**

Person Submitting Form/Contact:

FINANCE SIGNATURE:

---

CITY ADMINISTRATOR SIGNATURE:

---

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

07/13/2020

**Date Rec'd**

6/17/2020

**Clerk's File #**

OPR 2020-0574

**Renews #****Submitting Dept**

HOUSING &amp; HUMAN SERVICES

**Contact Name/Phone**

PAUL 625-6329

**Contact E-Mail**

PTRAUTMAN@SPOKANECITY.ORG

**Agenda Item Type**

Contract Item

**Agenda Item Name**

1680 - HUD HOME RENT ASSISTANCE FOR COVID-IMPACTED RENTERS

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

CR 21793000

**Agenda Wording**

Authorize contract with Spokane Area Workforce Development Council (Spokane) for HOME Tenant Based Rent Assistance to renters experiencing financial hardship due to COVID-19. \$500,000 HUD HOME Funds (citywide)

**Summary (Background)**

A Request for Proposals returned 4 applications to deliver a rapid-delivery HUD-funded Tenant Based Rent Assistance (TBRA) project serving renters experiencing financial hardship of reduced or lost wages due to COVID-19. The CHHS Executive Committee recommends contracting with Spokane Area Workforce Development Council to serve a diverse renter population at reasonable administrative cost. This project is expected to serve over 200 low-income renters.

**Fiscal Impact**

Grant related? YES

Public Works? NO

**Budget Account**

Expense \$ 213,781.41

# 1710-95579-51010-54201-79325

Expense \$ 177,240.45

# 1710-95579-51010-54201-79326

Expense \$ 108,978.14

# 1715-95579-51010-54201-79326

Select \$

#

**Approvals****Dept Head**

SIGLER, TIMOTHY

**Division Director**

CORTRIGHT, CARLY

**Finance**

WALLACE, TONYA

**Legal**

PICCOLO, MIKE

**For the Mayor**

ORMSBY, MICHAEL

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

June 4, 2020

**Council Sponsor**

Wilkerson

**Distribution List**

CHHSAccounting@spokanecity.org

cbrown@spokanecity.org

kkeck@spokanecity.org

**Additional Approvals****Purchasing**

WAHL, CONNIE

**GRANTS &**

STOPHER, SALLY



# Expenditure Control Form

1. All requests being made must be accompanied by this form.
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**Today's Date:** 6/24/2020

**Type of expenditure:** Goods ☐ Services ☒

**Department:** Community, Housing, and Human Services

**Approving Supervisor:** Tim Sigler, Director

**Amount of Proposed Expenditure:** \$500,000

**Funding Source:** HUD Grants

**Please verify correct funding sources. Please indicate breakdown if more than one funding source.**

**Why is this expenditure necessary now?**

These funds must be implemented quickly to help low-income renters avoid eviction due to unpaid rent prior to eviction moratorium expiration on 8/1/2020.

**What are the impacts if expenses are deferred?**

Low income renters unable to make monthly rent payment(s) due to COVID could be evicted.

**What alternative resources have been considered?**

This contract utilizes HUD grants made specifically available to low-income renters unable to pay rent due to COVID financial impact.

**Description of the goods or service and any additional information?**

Rent payments to landlords for eligible low-income renters and reimbursement of program delivery costs incurred by a procured subrecipient.

**Person Submitting Form/Contact:** Paul Trautman, Program Manager

**FINANCE SIGNATURE:**

---

**CITY ADMINISTRATOR SIGNATURE:**

---

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

07/13/2020

<u>Date Rec'd</u>	7/1/2020
<u>Clerk's File #</u>	ORD C35918
<u>Renews #</u>	
<u>Cross Ref #</u>	
<u>Project #</u>	
<u>Bid #</u>	
<u>Requisition #</u>	

<u>Submitting Dept</u>	POLICE
<u>Contact Name/Phone</u>	JENNIFER 625-4056 HAMMOND
<u>Contact E-Mail</u>	JHAMMOND@SPOKANECITY.ORG
<u>Agenda Item Type</u>	Special Budget Ordinance
<u>Agenda Item Name</u>	0680-STA CONTRACT-SBO

**Agenda Wording**

An ordinance amending Ordinance No. C-35857, passed by the City Council December 16, 2019 and appropriating funds in the General Fund-Police - Special Events, FROM: Police - Special Events Services \$76,678; TO: Police - Overtime \$76,678

**Summary (Background)**

Action on this Special Budget Ordinance (SBO) will create a budget to increase Revenue and Overtime from reimbursement contract with Spokane Transit Authority (STA).

<u>Fiscal Impact</u>	Grant related? NO	<u>Budget Account</u>
	Public Works? NO	
Neutral	\$	#
Select	\$	#
Select	\$	#
Select	\$	#

<u>Approvals</u>	<u>Council Notifications</u>
<b><u>Dept Head</u></b>	HAMMOND, JENNIFER
<b><u>Division Director</u></b>	HAMMOND, JENNIFER
<b><u>Finance</u></b>	SCHMITT, KEVIN
<b><u>Legal</u></b>	PICCOLO, MIKE
<b><u>For the Mayor</u></b>	ORMSBY, MICHAEL
<u>Additional Approvals</u>	jgately
<b><u>Purchasing</u></b>	
<b><u>BUDGET</u></b>	INGIOSI, PAUL



ORDINANCE NO C35918

An ordinance amending Ordinance No. C-35857, passed by the City Council December 16, 2019, and entitled, "An ordinance adopting the Annual Budget of the City of Spokane for 2020, making appropriations to the various funds of the City of Spokane government for the fiscal year ending December 31, 2020, and providing it shall take effect immediately upon passage", and declaring an emergency.

WHEREAS, subsequent to the adoption of the 2020 budget Ordinance No. C-35857, as above entitled, and which passed the City Council December 16, 2019, it is necessary to make changes in the appropriations of the Police 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 Police Fund, and the budget annexed thereto with reference to the Police Fund, the following changes be made:

FROM:	0680-11320	Police Fund – Special Events	
	21250-34210	Law Enforcement Services	
			<u>\$ 76,678</u>
TO:	0680-11320-		
	21250-51215	Police Fund – Special Events	
		Overtime Uniform	<u>\$ 76,678</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 recognize unbudgeted revenue and expenditure pertaining to acceptance of a Spokane Transit Authority contract for law enforcement presence on buses, 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

# Expenditure Control Form



1. All requests being made must be accompanied by this form.
2. Route **ALL** requests to the Finance Department for signature.
3. If request is greater than \$100,000 it requires signatures by Finance and the City Administrator. Finance Dept. will route to City Administrator.

**Today's Date:** 6/16/2020

**Type of expenditure:** Goods ☒ Services ☐

**Department:** Police

**Approving Supervisor:** Justin Lundgren

**Amount of Proposed Expenditure:**

**Funding Source:** Spokane Transit

**Please verify correct funding sources. Please indicate breakdown if more than one funding source.**

**Why is this expenditure necessary now?**

The contract agreement with STA was a necessary request from STA to SPD to provide officers to ride along in buses during the COVID19-Stay at Home order. STA provided fare free buses and allowed passengers to ride, but unintended consequences of providing free fares were that passengers were not exiting the buses throughout the day.

**What are the impacts if expenses are deferred?**

STA agreed to reimburse for overtime paid to SPD officers in order to keep their bus drivers safe. The general fund will absorb costs if contract agreement is not executed.

**What alternative resources have been considered?**

n/a- Revenue contract requested by STA

**Description of the goods or service and any additional information?**

Provide officers on overtime to STA for the necessary cause from April 23-May 30 at an estimated cost of \$76,678 utilizing varied shifts and levels of staffed officers.

**Person Submitting Form/Contact:** Erika McCowan

**FINANCE SIGNATURE:**

Digitally signed by

*Tonya Wallace*

CBC812B631244E9...

**CITY ADMINISTRATOR SIGNATURE:**



OFFICE OF THE CITY CLERK  
808 W. SPOKANE FALLS BLVD.  
SPOKANE, WASHINGTON 99201-3342  
509.625.6350

December 2, 2019


City Clerk File Nos.:  
ORD C35860  
ORD C35861

COUNCIL ACTION MEMORANDUM

RE: EMERGENCY ORDINANCE C35860 ESTABLISHING A LOCAL RESIDENTIAL TENANCY CODE and EMERGENCY ORDINANCE C35861 REQUIRING SPECIFIC CAUSE FOR MOST RESIDENTIAL EVICTIONS

During its 3:30 p.m. Briefing Session held Monday, December 2, 2019, upon review of Emergency Ordinances C35860 and C35861 on the December 9, 2019, Advance Agenda, the following action was taken:

**Motion** by Council Member Beggs, seconded by Council Member Stratton, **to defer** Emergency Ordinance C35860 (establishing a local residential tenancy code) and Emergency Ordinance C35861 (requiring specific cause for most residential evictions) until March 2, 2020; **carried 6-1 (Council Member Burke absent)**. (Clerical Note: The motion made was to defer the ordinances to March 1, 2020; however, March 1 falls on a Sunday and so the City Clerk corrected the record to March 2, 2020, which is a Monday.)

  
\_\_\_\_\_  
Terri Pfister, MMC  
Spokane City Clerk



OFFICE OF THE CITY CLERK  
808 W. SPOKANE FALLS BLVD.  
SPOKANE, WASHINGTON 99201-3342  
509.625.6350

February 24, 2020

City Clerk File Nos.:  
ORD C35860  
ORD C35861

COUNCIL ACTION MEMORANDUM

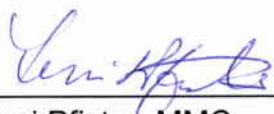
RE: EMERGENCY ORDINANCE C35860 ESTABLISHING A LOCAL RESIDENTIAL TENANCY CODE and EMERGENCY ORDINANCE C35861 REQUIRING SPECIFIC CAUSE FOR MOST RESIDENTIAL EVICTIONS (Deferred from December 9, 2019, Agenda)

During its 3:30 p.m. Briefing Session held Monday, February 24, 2020, upon review of Emergency Ordinances C35860 and C35861 on the March 2, 2020, Advance Agenda, the following actions were taken:

**Motion** by Council Member Stratton, seconded by Council Member Cathcart, **to defer** Emergency Ordinance C35860—establishing a local residential tenancy code—to May 4, 2020; **carried unanimously.**

**Motion** by Council Member Stratton, seconded by Council Member Cathcart, **to defer** Emergency Ordinance C35861—requiring specific cause for most residential evictions—to May 4, 2020; **carried unanimously.**

Council Member Cathcart noted there are plans in place for some public forums on these matters (Ordinance C35860 and C35861). Council President Beggs stated that discussion has started, and he's heard various proposals how to do that, and noted there are plenty of people who want to be heard.

  
\_\_\_\_\_  
Terri Pfister, MMC  
Spokane City Clerk



OFFICE OF THE CITY CLERK  
808 W. SPOKANE FALLS BLVD.  
SPOKANE, WASHINGTON 99201-3342  
509.625.6350

April 27, 2020


City Clerk File Nos.:  
ORD C35860  
ORD C35861

COUNCIL ACTION MEMORANDUM

RE: EMERGENCY ORDINANCE C35860 ESTABLISHING A LOCAL RESIDENTIAL TENANCY CODE and EMERGENCY ORDINANCE C35861 REQUIRING SPECIFIC CAUSE FOR MOST RESIDENTIAL EVICTIONS (Deferred from March 2, 2020, Advance Agenda)

During its 3:30 p.m. Briefing Session held Monday, April 27, 2020, upon review of Emergency Ordinances C35860 and C35861 on the May 4, 2020, Advance Agenda, the following action was taken:

**Motion** by Council Member Burke, seconded by Council Members Kinnear and Cathcart, **to defer** Emergency Ordinance C35860 (establishing a local residential tenancy code) and Emergency Ordinance C35861 (requiring specific cause for most residential evictions) to July 13, 2020; **carried unanimously.**

  
\_\_\_\_\_  
Terri Pfister, MMC  
Spokane City Clerk



**Agenda Sheet for City Council Meeting of:**  
12/09/2019

<u>Date Rec'd</u>	11/19/2019
<u>Clerk's File #</u>	ORD C35860
<u>Renews #</u>	

<u>Submitting Dept</u>	CITY COUNCIL	<u>Cross Ref #</u>	
<u>Contact Name/Phone</u>	BREEAN BEGGS 625-6714	<u>Project #</u>	
<u>Contact E-Mail</u>	BBEGGS@SPOKANECITY.ORG	<u>Bid #</u>	
<u>Agenda Item Type</u>	Emergency Ordinance	<u>Requisition #</u>	
<u>Agenda Item Name</u>	0320 AN ORDINANCE ESTABLISHING A LOCAL RESIDENTIAL TENANCY CODE		

Agenda Wording

An ordinance establishing a local residential tenancy code; recodifying and amending sections of the Spokane Municipal Code; and declaring an emergency

Summary (Background)

See attached white paper for summary.

<u>Fiscal Impact</u>	Grant related? NO	<u>Budget Account</u>
	Public Works? NO	
Neutral	\$	#
Select	\$	#
Select	\$	#
Select	\$	#

<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	MCDANIEL, ADAM	<u>Study Session</u>	December 5
<u>Division Director</u>		<u>Other</u>	
<u>Finance</u>	BUSTOS, KIM	<u>Distribution List</u>	
<u>Legal</u>	PICCOLO, MIKE	kateburke@spokanecity.org	
<u>For the Mayor</u>	ORMSBY, MICHAEL		
<u>Additional Approvals</u>			
<u>Purchasing</u>			

## **ORDINANCE NO. C35860**

An ordinance establishing a local residential tenancy code; recodifying Division I of Title 10 as Title 10A; recodifying Division II of Title 10 as Title 10B; enacting a new Title 10C; enacting new sections 07.08.153 and 18.03.030; and amending sections 08.01.090, 08.01.120, 08.01.180, 08.01.200, 08.02.0206, and 18.01.030 of the Spokane Municipal Code; and declaring an emergency.

**WHEREAS**, the rate of vacancies for rental properties in Spokane is currently at 3.3%, its lowest level in a decade and below 5%, which is normally considered a sign of a healthy rental market and which the Spokane market has not attained since 2015; and

**WHEREAS**, the average rent for is now over \$1,000 per month, the highest level in at least a decade, having risen by 74% since 2010; and

**WHEREAS**, nearly 50% of renters in Spokane are cost-burdened, meaning they spend 30% or more of their income on housing each month

**WHEREAS**, almost a quarter of renters in Spokane are severely cost-burdened, meaning they spend half or more of their income on housing each month; and

**WHEREAS**, the median household income is climbing, but the median income for renter households remains below the median – for example, in 2017, the median household income in Spokane was \$46,543, but the median income for renting households was \$33,812 – and while the average rent in Spokane has increased by 74% since 2010, the median renting household's income over that same period only increased by 51%; and

**WHEREAS**, lower-income people who are cost-burdened or severely cost-burdened are at a much higher risk of eviction and therefore, of homelessness, particularly if they report substandard conditions or unfair housing practices; and

**WHEREAS**, research from the Washington State Department of Commerce and data from our own CHHS Department's point-in-time count reveal that lack of affordable housing and eviction from housing are two significant drivers of homelessness; and

**WHEREAS**, the number of unsheltered people experiencing homelessness in Spokane is now at a decade high, confirming the observations from around the state that as rents increase, homelessness does as well; and

**WHEREAS**, one way to lower the rate of homelessness in our community is to keep housed people housed if at all possible, and one way to do this is to reduce the number of evictions in Spokane, which currently stands at 4 households each and every week, according to data compiled by the Eviction Lab at Princeton University; and

**WHEREAS**, the Spokane City Council, in view of these facts, sees that a housing emergency is underway in Spokane, and likely has been for the past few years, and that this emergency poses a danger to the health, welfare, and safety of many people of lower incomes throughout Spokane and necessitates the enactment of this ordinance.

**NOW THEREFORE**, the City of Spokane does ordain:

**Section 1.** That Division I of Title 10 of the Spokane Municipal Code is renumbered as Title 10A Penal Code.

**Section 2.** That Division II of Title 10 of the Spokane Municipal Code, comprising chapter 10.23 through 10.56, inclusive, are renumbered as Title 10B License Code.

**Section 3.** That chapter 10.52 of the Spokane Municipal Code is renumbered as chapter 10C.03 of the Spokane Municipal Code.

**Section 4.** That there is enacted a new Title 10C of the Spokane Municipal Code to read as follows:

**Title 10C Residential Tenancy Code**

**Chapter 10C.01 General Provisions**

**Section 10C.01.010 Purpose and Intent**

- A. The City Council finds that the enactment of local residential tenancy code is necessary to protect the health, safety, and welfare of the public.
- B. It is the intent of this Title 10C to protect and preserve the health, safety, and welfare of the public by instituting regulations on the rental of most dwelling units in Spokane.

**Section 10C.01.020 Definitions**

For purposes of this Title 10C, the following terms are defined as follows:

- A. "Accessory dwelling unit" has the same meaning as set forth in SMC 17A.020.010(D).
- B. "Common areas" means areas on a property that are accessible by all tenants of the property including but not limited to: hallways; lobbies; laundry rooms; and common kitchens, parking areas, or recreation areas.
- C. "Department" means the City of Spokane's code enforcement department.
- D. "Deposit" means any payment, charge, or deposit of money paid to the landlord by the tenant at the beginning of the tenancy as a deposit and security for the purpose of:



1. Repairing damage to the premises, exclusive of ordinary wear and tear, caused by the tenant, or a guest or licensee of the tenant, or a pet of the tenant;
2. Compensating the landlord for the tenant's breach of the tenant's duties prescribed in the rental agreement to restore, replace, or return personal property or appurtenances; or
3. Compensating the landlord for the tenant's failure to return keys to the premises, except that a landlord shall not retain any portion of the deposit for keys for lock mechanisms that must be changed upon a change of tenancy.

E. "Dwelling unit" has the same meaning as set forth in RCW 59.18.030(9).

F. "Fee" means a one-time, non-refundable payment made by the tenant to the landlord to reimburse the landlord for a specific expense, including, without limitation, screening reports, background checks, credit reports, or to pay for the cleaning of the dwelling unit upon termination of the tenancy.

G. "Landlord" has the same meaning as set forth in RCW 59.18.030(14).

H. "Last month's rent" means money that is paid at the inception of the tenancy as rent for the last month of a residential tenancy.

I. "Manufactured Home" has the same meaning as set forth in RCW 59.20.030(6).

J. "Mobile Home" has the same meaning as set forth in RCW 59.20.030(8).

K. "Month-to-month tenancy" means a residential tenancy of an indefinite period with monthly or other periodic rent reserved.

L. "Owner" has the same meaning as set forth in RCW 59.18.030(16).

M. "Person" has the same meaning as set forth in RCW 59.18.030(17).

N. "Rent" means any payment or charge payable from the tenant to the landlord, usually periodically, for the residential use of any property, buildings, land, and equipment, including the basic rent charge, charge for parking facilities (whether called a fee or rent), and any other periodic charges by the landlord for other services connected with the residential use of property, but does not include utility charges that are based on usage and to which the tenant has agreed in a written rental agreement to pay.

- O. "Rental agreement" means an agreement which establishes or modifies the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit for compensation in the city of Spokane.
- P. "Rental Housing Registration" means a registration issued under chapter 10C.02, SMC.
- Q. "Shelter" means a facility with overnight sleeping accommodations, owned, operated, or managed by a nonprofit organization, religious organization or governmental entity, the primary purpose of which is to provide temporary shelter for the homeless in general or for specific populations of the homeless.
- R. "Single-room occupancy housing" (S.R.O.) has the meaning set forth in SMC 17A.020.190(AU).
- S. "Substantial rehabilitation" means the renovation, alteration, or remodeling of a residential unit of 30 or more years of age which (i) has been condemned, (ii) does not qualify for a certificate of occupancy, or (iii) requires substantial renovation in order to be in compliance with contemporary standards for decent, safe and sanitary housing. Substantial rehabilitation may vary in degree from gutting and extensive reconstruction to extensive improvements that cure substantial deferred maintenance. Cosmetic improvements alone such as painting, decorating and minor repairs, or other work which can be performed safely without having the unit vacated do not qualify as substantial rehabilitation.
- T. "Tenant" means any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement in the city of Spokane.
- U. "Transitional housing" means housing units owned, operated or managed by a nonprofit organization, religious organization or governmental entity in which supportive services are provided to individuals and families that were formerly homeless, with the intent to stabilize them and move them to permanent housing.
- V. "Unit unavailable for rent" means a housing unit that is not offered or available for rent as a rental unit, and where prior to offering or making the unit available as a rental housing unit, the owner is required to obtain a rental housing registration for the property where the rental housing unit is located and comply with all rules adopted under this chapter.

**Section 10C.01.030                      Relationship with State Law; Construction; Severability.**

- A. The provisions of this Title 10C are supplementary and in addition to any rights, obligations, protections, remedies, and requirements of the Washington Residential Landlord-Tenant Act, chapter 59.18, RCW.

- B. This Title 10C shall be construed liberally and enforced for the benefit of the health, safety, and welfare of the general public, and not for the benefit of any particular person or class of persons.
- C. No provision of or term used in this Title 10C is intended to impose any duty upon the City or any of its officers or employees that would subject them to damages in a civil action.
- D. Should any provision of this Title 10C be determined by a court of competent jurisdiction to be void or unenforceable, such provision shall be severed from this Title 10C, and the remainder of this Title 10C shall continue in effect.

**Chapter 10C.02     Residential Rental Agreements**  
**Section 10C.02.010     Rental Agreement Requirements**

- A. A landlord shall not require the payment of last month's rent by a tenant unless such payment is required by a written rental agreement that specifies the amount of the last month's rent to be paid.
- B. Any rental agreement entered into after the effective date of this chapter shall describe the terms and conditions of any monthly or periodic payments required as a condition of tenancy, including but not limited to: rent, deposits, non-refundable fees, last month's rent, utility payments, late fees authorized by the rental agreement, or other monthly or periodic payments required to be made by the tenant to the landlord. When any monthly or periodic payment is made pursuant to the rental agreement, the landlord shall first apply the payment to the rent due before applying it to other payments due by the tenant to the landlord, except that if the payment is made in response to a notice issued pursuant to RCW 59.12.030 during the period of that notice, the landlord shall first apply the payment to the amount specified in that notice, before applying it to the rent due or to other payments due by the tenant to the landlord.
- C. A landlord shall not require the payment of a pet damage deposit unless the same is required by a written rental agreement, or an addendum to the written rental agreement, that specifies the amount of the pet damage deposit, and subject to the limits on the amount of such deposit stated in SMC 10C.02.040.

**Section 10C.02.020     Distribution of Information Packets to Tenants Required**

- A. The Department shall compile an information packet that includes:
  - 1. Summaries of the respective rights, obligations, and remedies of landlords and tenants thereunder as established in this chapter and in the Washington Residential Landlord Tenant Act; and

2. Information describing how to register to vote and how to update voter registration, including a voter registration form and a change of address form.
- B. The Department shall make the information packet required by this section available on the city's website and in hard copy at no cost to the public.
  - C. The information packet shall include informational documents only, and shall clearly state that nothing in the information packet shall be construed as binding on or affecting any judicial determination of the rights and responsibilities of landlords and tenants, nor is the Department liable for any misstatement or misinterpretation of the applicable laws.
  - D. A copy of the information packet described in this section shall be provided to each tenant or prospective tenant by or on behalf of a landlord when such rental agreement is offered, whether or not such agreement is for a new or renewal rental agreement. The landlord may provide the copy of the information packet to the tenant electronically, including by providing a link to the Department's web page that contains the information packet.
  - E. If there is an oral rental agreement, the landlord shall provide the tenant a copy of the information packet described in this section either before entering into the oral agreement or as soon as reasonably possible after entering into the oral agreement.
  - F. Landlords shall, within thirty (30) days after the Department makes the information packet available, distribute the information packet to existing tenants, including by electronic means set out in subsection D. The Department shall update the information packet periodically and shall notify landlords whenever it is updated.

#### **Section 10C.02.030                      Notification Requirements for Rent Increases**

Any rental agreement or renewal of a rental agreement for a dwelling unit in the city of Spokane entered into after January 1, 2020 shall include or be deemed to include a provision requiring a minimum of ninety (90) days' prior written notice whenever the periodic or monthly housing costs to be charged a tenant are to increase.

#### **Section 10C.02.040                      Pet Damage Deposits**

- A. A landlord shall not require payment of a pet damage deposit which exceeds twenty-five percent (25%) of the first full month's rent or \$150, whichever is higher. If rent is not paid or otherwise apportioned on a monthly basis then for the sole purpose of applying this limit the total rent shall be pro-rated on an equal, monthly basis and the total charge to a tenant for the pet damage deposit may not exceed twenty-five percent (25%) of the pro-rated, monthly rental amount or \$150, whichever is higher.

- B. The landlord may not require a pet damage deposit if the pet serves as an individually trained service animal for the tenant. Nothing in this section prohibits a landlord from bringing an action for damages resulting from damage to the landlord's property caused by the tenant's service animal.
- C. The landlord cannot keep any portion of the pet damage deposit for damage that was not caused by a pet or service animal for which the tenant is responsible.
- D. Other than the pet damage deposit authorized by SMC 10C.02.050(A), the landlord may not charge the tenant any fee for keeping a pet.

**Section 10C.02.050                      Deposits and Fees; Limitation**

- A. For rental agreements executed on or after the effective date of this chapter, the total amount of all deposits (including pet damage deposits) may not exceed the amount of a full month's rent for the dwelling unit. If rent is not paid or otherwise apportioned on a monthly basis, then for the sole purpose of applying this limit the total rent shall be pro-rated on an equal, monthly basis and the total charge to a tenant for the cost of a security deposit and nonrefundable move-in fees may not exceed the pro-rated, monthly rental amount.
- B. Restrictions on fees
  - 1. Except for the fees, deposits, and last month's rent defined in this Title 10C, landlords may not impose fees or charges upon tenants at the beginning of the tenancy.
  - 2. Pursuant to RCW 59.18.257, any fees charged to a prospective tenant by the landlord for the cost of obtaining a tenant screening report cannot exceed the actual cost of obtaining the report, which may not exceed the customary costs charged to the landlord by a tenant screening service in the city of Spokane. The landlord shall provide, personally or by mail, the prospective tenant with a receipt for any fees charged to the landlord for the cost of obtaining the screening report. The landlord shall provide the tenant with the name and address of the reporting agency and the prospective tenant's rights to obtain a free copy of the consumer report, pursuant to RCW 59.18.257.
  - 3. If the tenant has paid a cleaning fee at the inception of the tenancy, the landlord may not deduct additional cleaning fees from the tenant's security deposit at the conclusion of the tenancy, except for cleaning to remedy conditions beyond ordinary wear and tear.
  - 4. The total amount of fees may not exceed twenty-five percent (25%) of the first full month's rent or \$150, whichever is higher, except that if the cost of a tenant screening report exceeds ten percent (10%) of the first full month's rent, the amount in excess of ten percent (10%) may be included

in the non-refundable fee but may not exceed the customary costs charged by a screening service in the city of Spokane.

- C. No deposit may be collected or retained by a landlord unless the rental agreement is in writing and a written checklist or statement specifically describing the condition and cleanliness of or existing damages to the premises and furnishings is provided by the landlord to the tenant at the commencement of the tenancy. The checklist or statement shall be completed, signed, and dated by the landlord and the tenant, and the landlord shall provide to the tenant a copy of the signed checklist or statement.
- D. Nothing in this chapter prohibits a landlord from bringing an action against a tenant to recover sums exceeding the amount of the tenant's security deposit for damage to the dwelling unit for which the tenant is responsible.
- E. This section does not apply to a tenant who rents a housing unit in a single-family residence that is the principal residence of the owner of the residence.

**Section 10C.02.060            Rental Agreement Waiving Tenant's Remedies Prohibited—Exception.**

- A. No rental agreement, whether oral or written, may provide that the tenant waives or foregoes rights or remedies under this chapter, except as provided by subsection B.
- B. A landlord and tenant may agree, in writing, to waive specific requirements of this chapter if all of the following conditions have been met:
  - 1. The waiver of specific provisions is in writing and identifies the specific provisions to be waived;
  - 2. The waiver appears in a stand-alone document, does not appear in a standard form written lease or rental agreement, and is clearly titled "Waiver of Tenant's Remedies"; and
  - 3. There is no substantial inequality in the bargaining positions of the parties.

**Section 10C.02.070            Provisions in Violation of this Chapter Void**

Any provisions in a rental agreement that violate SMC 10C.02.010 – 10C.02.060 are null and void and of no lawful force and effect.

**Section 10C.02.080            Tenant Organizing Activity**

It is a violation of this chapter to interfere with, retaliate against, or prohibit the activities of tenants to organize themselves or take concerted action to address rental housing conditions or advocate for tenants.

## **Section 10C.02.090**

### **Retaliation Prohibited**

- A. It is a violation of this chapter for any person to retaliate against a tenant or prospective tenant because the tenant or prospective tenant exercised or attempted to exercise rights conferred by this chapter or made a complaint or a report to any governmental entity concerning any landlord's or property manager's alleged noncompliance with any provision of a code, statute, ordinance, rule, or regulation which governs the maintenance or operation of rental housing. In addition to all the actions stated in RCW 59.18.240(2), for purpose of this section, "retaliation" includes:
1. Refusing to provide, accept, or approve a rental application or a rental agreement;
  2. Termination of tenancy, giving notice of termination of tenancy, or threatening to terminate the tenancy;
  3. Applying more onerous terms, conditions, or privileges, including increased rent, to a tenant or prospective tenant who exercises his or her rights under this chapter than to a tenant or prospective tenant who does not assert those rights;
  4. Misrepresenting any material fact when providing a rental reference about a tenant;
  5. Threatening to allege to a government agency that a tenant or prospective tenant, or a family member of a tenant or prospective tenant, is not lawfully in the United States; and
  6. During the period from the date that the City first notifies the property owner of conditions that violate applicable codes, statutes, ordinances, or regulations to the time that either (i) relocation assistance payments under SMC 10C.02.200 are paid to eligible tenants, or (ii) the conditions leading to the notification are corrected:
    - a. Evicting, harassing, or intimidating tenants into vacating their units for the purpose of avoiding or diminishing application of SMC 10C.02.200 (relocation assistance payments);
    - b. Reducing services to any tenant; or
    - c. Materially increasing or changing the obligations of any tenant, including but not limited to any rent increase.
- B. Any retaliatory action identified in SMC 10C.02.090(A) and occurring within ninety (90) days of the date a tenant or prospective tenant first exercises rights conferred by this chapter is presumed to be retaliatory, and the presumption of retaliation may be rebutted by the production of clear and convincing evidence that the action was taken for a non-retaliatory purpose. Retaliatory actions alleged ninety (90) days or more after the date a tenant or prospective tenant first exercises rights conferred by this chapter may be established by a preponderance of evidence.

## **Section 10C.02.100**

### **Administration and Enforcement**

- A. The department shall administer the provisions of this Title 10C and is authorized to adopt administrative rules and regulations consistent with this chapter. In the event of any conflict between such rules and this chapter, this chapter shall control.
- B. Enforcement of this chapter shall be by department action, as provided in SMC 10C.02.110 (notices of violation; review; appeal), or by an aggrieved person, as provided in SMC 10C.02.120 (private right of action).
- C. The department may seek legal or equitable relief at any time to enjoin any acts or practices that violate the provisions of this chapter.

#### **Section 10C.02.110                      Notices of Violation; Review; Appeal**

Except as provided in SMC 10C.02.120 (private right of action; choice of remedies), notices of violation, review, and appeals concerning violations of this chapter shall be conducted pursuant to chapter 01.05, SMC (civil infraction system).

#### **Section 10C.02.120                      Private Right of Action; Choice of Remedies**

- A. Any person or class of persons injured as a result of a violation of this Title 10C may bring a civil action in the Spokane County Superior Court against the landlord, property owner, property manager, or other person violating this Title 10C and, upon prevailing, may be awarded reasonable attorneys' fees and costs and such legal or equitable relief as may be appropriate to remedy the violation and secure the compliance therewith, including, without limitation, rent refund or credit, reinstatement to tenancy, actual damages, damages for loss of the right to be free from discrimination in real estate transactions, injunctive or equitable relief, any other appropriate remedy set forth in the federal Fair Housing Amendments Act of 1988 (42 U.S.C. §3601 et seq.), and assessment of civil penalties as set forth in SMC 10C.02.130. An order may include the requirement for a report on the matter of compliance.
- B. Any person who is the subject of retaliation as defined in SMC 10C.02.090 or SMC 10C.03.040 may be awarded damages of up to ten thousand dollars (\$10,000) in any action filed in the Spokane County Superior Court to remedy such violation, in addition to all other remedies described in this section.
- C. No person may secure relief from more than one governmental entity, agency, or tribunal for the same harm or injury arising from the same facts, circumstances, transaction, or incident.

#### **Section 10C.02.130                      Civil Penalty**

- A. In cases either decided by the department or brought by the City Attorney alleging unfair practices filed under this chapter, in addition to any other award of damages or grant of injunctive relief, a civil penalty may be assessed against the respondent to vindicate the public interest, which penalty shall be payable



to the City of Spokane and deposited into the rental assistance fund established by SMC 07.08.153. Payment of a civil penalty may be ordered by the Spokane Superior Court in a proceeding filed under SMC 10C.02.120.

B. The civil penalty assessed under this section shall not exceed:

1. Five thousand dollars (\$5,000) if the respondent has not been determined to have committed any prior unfair housing practice;
2. Seven thousand five hundred dollars (\$7,500) if the respondent has been determined to have committed one (1) other unfair housing practice during the five (5) year period ending on the date of the filing of the complaint; or
3. Ten thousand dollars (\$10,000) if the respondent has been determined to have committed two (2) or more unfair housing practices during the five (5) year period ending on the date of the filing of the complaint.

#### **Section 10C.02.140                      Defense in Commencing Action – Award of Fees and Costs**

In any legal action commenced for unlawful detainer or to enforce a rental agreement, to impose penalties, or to forfeit a deposit contrary to rental agreement provisions of this Title 10C, or pursuant to rental agreement provisions prohibited by this Title 10C, it is a defense to such action that such provisions are in violation of this Title 10C, and a tenant who prevails on such defense shall be awarded reasonable attorney fees and costs.

#### **Section 10C.02.200                      Relocation Assistance**

- A. Within seven (7) calendar days of the occurrence of either of the following, the landlord shall pay relocation assistance in the amount of two thousand dollars (\$2,000) for each tenant household directly impacted:
1. the landlord's receipt of notice that a dwelling unit for which the landlord is responsible is unlawful to occupy due to the existence of a condition(s) that violate applicable codes, statutes, ordinances, or regulations, and the landlord knew or should have known of the existence of the condition(s) before receiving such notice; or
  2. the landlord's receipt of notice from a tenant occupying a rental dwelling unit for which the landlord has notified the tenant that the rental amount to charged is to increase by more than 5% in any calendar year and the tenant provides written notice that they are rent burdened as defined in SMC 10C.01.010 and must vacate due to the increased rental amount. A landlord so notified is entitled to obtain all household income information from the tenant and file a written appeal to the Hearing Examiner if the Landlord believes that the tenant does not meet the definition of rent burdened.

- B. In addition to relocation assistance, the property owner shall pay to the displaced tenants the entire amount of any deposit prepaid by the tenant and all prepaid rent.
- C. The property owner shall make relocation assistance payments and any prepaid deposit and prepaid rent as required by this section either by certified check to the displaced tenant(s) or to the City of Spokane for distribution to the displaced tenant(s).
- D. A property owner shall not be required to pay the relocation assistance required by this section if the dwelling unit is or will be unlawful to occupy, and this condition:
  - 1. was directly caused by a tenant's or a third party's conduct; or
  - 2. resulted from conditions arising from a natural disaster.
- E. If the landlord fails to pay relocation assistance as required by SMC 10C.02.200(A), the City may make the relocation assistance payments to the displaced tenants from the Rental Assistance Fund established by SMC 07.08.153 and seek reimbursement from the landlord pursuant to subsection (G) of this section.
- F. If, starting sixty (60) days from the date that the City first made a relocation assistance payment to a displaced tenant, a property owner has failed to reimburse the City in the amount of relocation assistance advanced to such tenant, the City may assess civil penalties in the amount of fifty dollars (\$50.00) per tenant per day such payment remains unreimbursed. In addition to this penalty, the City may impose interest on the amount of relocation assistance paid by the City for which the property owner has not reimbursed the City, at the maximum legal rate of interest permitted under RCW 19.52.020, starting sixty (60) days after the date that the City first advanced relocation assistance funds to the displaced tenant(s).
- G. If the City must initiate legal action in order to recover the amount of relocation assistance payments that it has advanced to a displaced tenant(s), including any interest and penalties under SMC 10C.02.200(F), the City shall be entitled to reasonable attorneys' fees and costs arising from its legal action, pursuant to RCW 59.18.085(3)(h).

**Chapter 10C.03     Housing Quality**  
**Section 10C.03.010     Purpose; Intent**

- A. The purpose of this code is to protect the health, welfare, and safety of tenants in rental housing in the city of Spokane.
- B. This chapter is intended to secure the rights of tenants in Spokane to have safe, secure, affordable, and well-maintained housing.

- C. The City of Spokane enacts this chapter to implement the recommendations of the Mayor's Housing Quality Task Force, as stated in its November 22, 2016 report, that the City of Spokane "should define and establish a minimum housing quality standard."

**Section 10C.03.020                      Applicability and exclusions**

This chapter is inapplicable to the following types of dwelling units:

- A. Dwelling units owned by an individual natural person or family and which are the sole dwelling unit such individual or family makes available for rent in the city of Spokane;
- B. Housing units lawfully used as vacation rentals for periods not to exceed three (3) consecutive months and not consecutively used by the same individual or individuals for more than three (3) months in any twelve-month period;
- C. Housing units rented for not more than twelve (12) consecutive months as a result of the property owner, who previously occupied the unit as a primary residence, taking a work-related leave of absence or assignment such as an academic sabbatical or temporary transfer;
- D. Housing units that are not available for rent;
- E. Housing units in hotels, motels, inns, bed and breakfasts, or in similar accommodations that provide lodging for transient guests;
- F. Housing units in facilities licensed or required to be licensed under RCW 18.20, RCW 70.128, or RCW 72.36, or subject to another exemption under this Chapter;
- G. Housing units in any state licensed hospital, hospice, community-care facility, intermediate-care facility, or nursing home;
- H. Housing units in any convent, monastery, or other facility occupied exclusively by members of a religious order or congregation;
- I. Emergency or temporary-shelter or transitional housing accommodations;
- J. Housing units owned, operated, or managed by a major educational or medical institution or by a third party for the institution; and
- K. Housing units that a government entity or housing authority owns, operates or manages; or units exempted from municipal regulation by federal, state, or local law.

### **Section 10C.03.030            Complaints**

A tenant who observes an item or condition which the tenant believes is in violation of the City of Spokane's building and conservation code standards, as specified in Chapter 17F.070, SMC, may file a written complaint to the City's code enforcement department (the "Department"). Upon receipt of such a complaint, the department shall provide notice of the complaint and the substance thereof to the landlord and proceed under the process described in SMC 17F.070.420 – 17F.070.490.

### **Section 10C.03.040            Retaliation Prohibited**

- A. It shall be a violation of this chapter for any landlord to retaliate in any way against any tenant or any member of the tenant's family or a guest of the tenant who is on the premises lawfully and in compliance with the terms of a valid lease or rental agreement, in response to a complaint filed under SMC 10C.03.030.
- B. Actions to change the terms or conditions of the tenancy, termination of the tenancy, or threats to terminate the tenancy shall be deemed per se retaliation under this section if done within ninety (90) days of the filing of a complaint under SMC 10C.03.030.

### **Section 10C.03.050            Compliance Focus**

- A. The Department shall, in administering and enforcing the requirements of this chapter, endeavor first to assist property owners in efforts to come into compliance with this chapter.
- B. Only when all reasonable efforts to achieve compliance with this chapter have failed will the Department and code official proceed to enforcement actions.

### **Section 10C.03.060            Penalties for Non-Compliance; Escalation**

- A. Violation of this chapter is a class 1 civil infraction.
- B. Failure to repair defective items or conditions as provided in SMC 17F.075.030 within ninety (90) days of the notice provided by the Department or other time period mutually agreed upon between the property owner and the Department is a class 1 civil infraction. For purposes of this section, each defective condition which the landlord fails to repair shall be considered a separate infraction.
- C. Failure to keep all required records of inspections under SMC 17F.075.020 is a class 1 civil infraction.
- D. Knowingly submitting or assisting in the submission falsified information regarding the inspections required by SMC 10C.03.020 is a Class 1 civil infraction and may subject the person submitting or assisting in the submission of such false information to criminal liability under RCW 59.18.125(10).

### **Section 10C.03.070 Incentive Programs Authorized**

Beginning on January 1, 2021, the Department is authorized to create and administer a set of incentives for landlords who have had zero code violations from the effective date of this section to that date.

### **Section 10C.03.080 Microloan program authorized**

The Department is authorized to create and administer a program for microloans to assist tenants with rental and security deposits.

### **Section 10C.03.090 Inspections**

Before it can be offered for rent in Spokane, each dwelling unit offered for rent in Spokane after January 1, 2020 must either (i) have been inspected by a home inspector licensed in the state of Washington under RCW 18.280.020, or (ii) have received a certificate of occupancy in the five (5) years prior to being offered for rent. For purposes of this section, "first offered for rent" means that the unit has not previously been offered for rent within the immediately preceding two years.

**Section 5.** That there is enacted a new section 07.08.153 of the Spokane Municipal Code to read as follows:

#### **Section 07.08.153 Rental Assistance Fund**

- A. There is established as a special revenue fund a rental assistance fund, the proceeds of which shall be used (i) to reimburse tenants who must relocate due to the termination of their tenancy through no fault of their own, and (ii) for landlord and tenant education and materials publication costs.
- B. The annual business registration fees received from those who rent real property in Spokane, any fines or penalties associated with violations of the rental housing code, and any attorneys' fees recovered by the City pursuant to SMC 10C.02.200(G), shall be deposited in the rental assistance fund.

**Section 6.** That section 08.01.090 of the Spokane Municipal Code is amended to read as follows:

#### **Section 08.01.090 Exemptions**

Unless otherwise provided, the following exemptions apply to the requirement to obtain a general business registration under this chapter:

- A. Presenters of a show, such as a trade show, that is directly associated with or ancillary to a convention or a major national meeting, when entry is limited to

those attending the convention or meeting and the immediate family or associates of the conventioners.

B. Consumer Show Exhibitors.

Consumer show organizers remain responsible to purchase a regular business registration unless otherwise exempted.

C. Persons or entities otherwise subject to the requirement to obtain a business registration, but only to the extent such requirement arises from operating at locations operated or managed by an airport board pursuant to interlocal agreement arising under the authority of chapter 14.08 RCW, where such locations have been annexed to the city, said annexation taking effect on or after January 1, 2012; and

D. Where preempted by the federal or state constitution or laws.

E. Operators of market gardens under chapter 17C.380 SMC.

F. Owners of the following types of residential dwelling units:

1. Dwelling units owned by an individual natural person or family and which are the sole dwelling unit such individual or family makes available for rent in the city of Spokane;
2. Housing units lawfully used as vacation rentals for periods not to exceed three (3) consecutive months and not consecutively used by the same individual or individuals for more than three (3) months in any twelve-month period;
3. Housing units rented for not more than twelve (12) consecutive months as a result of the property owner, who previously occupied the unit as a primary residence, taking a work-related leave of absence or assignment such as an academic sabbatical or temporary transfer;
4. Housing units that are not available for rent;
5. Housing units in hotels, motels, inns, bed and breakfasts, or in similar accommodations that provide lodging for transient guests;
6. Housing units in facilities licensed or required to be licensed under RCW 18.20, RCW 70.128, or RCW 72.36, or subject to another exemption under this Chapter;
7. Housing units in any state licensed hospital, hospice, community-care facility, intermediate-care facility, or nursing home;

8. Housing units in any convent, monastery, or other facility occupied exclusively by members of a religious order or congregation;
9. Emergency or temporary-shelter or transitional housing accommodations;
10. Housing units owned, operated, or managed by a major educational or medical institution or by a third party for the institution; and
11. Housing units that a government entity or housing authority owns, operates or manages; or units exempted from municipal regulation by federal, state, or local law.

**Section 7.** That section 08.01.120 of the Spokane Municipal Code is amended to read as follows:

**Section 08.01.120 Registration – Application**

- A. The application for a registration shall be made on forms which set forth the:
  1. name of the applicant,
  2. applicant's residence,
  3. place of business,
  4. nature of the business,
  5. number of personnel, and
  6. amount of the registration fee.
- B. Applicants whose circumstances fall under the definition of SMC 10.40.010 must further disclose information as required in SMC 10.40.030.
- C. For purposes of the registration of businesses which rent residential dwelling units, persons or entities owning multiple dwelling units shall file a single registration for each person or entity which lists the number of units owned by that person or entity. By way of illustration only, a person who owns one single-family rental property in Spokane would file one business registration listing one property, while a LLC which owns a 20-unit apartment building would file one registration which lists 20 units.

**Section 8.** That section 08.01.180 of the Spokane Municipal Code is amended to read as follows:

**Section 08.01.180 Computation of Business Registration Fee**

- A. As fixed in SMC 8.02.0206, in addition to the basic registration fee, the total business registration fee due includes a per person fee amount applied to the total number of personnel of the business and, for owners of residential real property offered for rent in Spokane, a per-dwelling unit amount is applied to the

total number of dwelling units offered for rent.

- B. All persons employed at each business location as of the time of a business registration renewal are to be counted in the number of personnel for registration fee purposes. As appropriate, such as in the case of a business with seasonal fluctuations in the work force, the number of personnel by which the fee is measured is the number shown upon the business payroll for each of the payroll periods during that year, added together and divided by the number of payroll periods.
- C. In the case of a new business, the fee for the initial business registration is based upon the registrant's estimated number of personnel.
- D. For the per-dwelling unit fee, any dwelling unit offered for rent or actually rented for at least thirty (30) days in any calendar year is included within the number of dwelling units owned by the registrant.

**Section 9.** That section 08.01.200 of the Spokane Municipal Code is amended to read as follows:

#### **Section 08.01.200 Businesses Within City**

Businesses with a permanent location within the City must obtain a business registration. The measure of the fee is determined in part based upon the number of personnel who perform any part of their duties within the City and, for lessors of residential dwelling units, the number of such dwelling units owned by the registrant within Spokane.

**Section 10.** That section 08.02.0206 of the Spokane Municipal Code is amended to read as follows:

#### **Section 08.02.0206 Business Registration**

- A. A regular business registration basic fee is one hundred twenty dollars (\$120) per twelve-month period.
- B. The basic fee for a nonresident business registration is one hundred twenty dollars (\$120) per twelve-month period.
- C. In addition to the basic registration fee, each business must pay ~~((an))~~ additional ~~((fee for each personnel,))~~ fees per license year, as follows (all personnel of a business are charged the same amount corresponding to the respective category of the total number of personnel defined below):
  - 1. Businesses with fewer than six personnel in total: Ten dollars per person.
  - 2. Businesses with six to ten personnel in total: Fifteen dollars per person.



3. Businesses with more than ten personnel in total: Twenty dollars per person.
  4. Businesses offering dwelling units for rent in the city of Spokane: ten dollars (\$10.00) per dwelling unit.
- D. Whenever there is a change of ownership, the holder of the registration must notify the Washington State business licensing service within thirty (30) days of such event. The new owner must file an application with the Washington State business licensing service to acquire a new registration, as provided in chapter 8.01 SMC.
- E. For businesses qualifying under SMC 08.01.190(A) (low gross income businesses) for a reduced registration fee, the reduced business registration fee is one-half the basic registration fee, but all applicable personnel, inspection, per-dwelling unit, or other applicable fees or charges apply in full.
- F. For businesses qualifying under SMC 08.01.190(B) (nonprofit organizations) for a reduced registration fee, the reduced business registration fee is one-half the basic registration fee. Nonprofit businesses are exempt from personnel fees and per-dwelling unit fees.
- G. For businesses qualifying under SMC 08.01.190(C) (social purpose corporations) for a reduced registration fee, the reduced business registration fee is one-half the basic registration fee.
- H. For businesses qualifying under SMC 08.01.190(D) (Certified B Corporations) for a reduced registration fee, the reduced business registration fee is one-half the basic registration fee.
- I. Any Certified B Corporation certified by B Lab is exempt from personnel fees and per residential unit fees.

#### Annual Fee Adjustment.

Effective January 1, 2011, and the first of January of each year thereafter, the business registration fees set forth in this section shall be adjusted by the Chief Financial Officer by an amount equal to the consumer price index adjustment of the previous July – July U.S. All City Average (CPI-U and CPI-W). The newly determined amount shall be rounded up to the nearest dollar. In addition, the adjusted fees shall be presented to the City Council for approval and a copy of the approved fees filed with the Chief Financial Officer before becoming effective. The annual fee adjustment provided for in this section shall not apply to the personnel fee stated in SMC 08.02.0206(C).

**Section 11.** That section 18.01.030 of the Spokane Municipal Code is amended to read as follows:

## Section 18.01.030 Definitions

- A. "Commission" means the Spokane Human Rights Commission.
- B. "Data management protocols" means the procedures governing how data collected by surveillance equipment will be retained, stored, indexed and accessed. Information comprising data management protocols includes, at a minimum, the information required in SMC 18.04.020.
- C. "Disability" means the presence of a sensory, mental, or physical impairment that, whether temporary or permanent, common or uncommon, mitigated or unmitigated, a limitation or not on the ability to work generally or work at a particular job, or a limitation or not on the ability to engage in any other activity within the scope of this Title 18:
  - 1. is medically cognizable or diagnosable; or
  - 2. exists as a record or history; or
  - 3. is perceived to exist whether or not it exists in fact.
  - 4. For the purposes of reasonable accommodation in employment, an impairment must be known or shown through an interactive process to exist in fact and:
    - a. The impairment must have a substantially limiting effect upon the individual's ability to perform his or her job, the individual's ability to apply or be considered for a job, or the individual's access to equal benefits, privileges, or terms or conditions of employment; or
    - b. The employee must have put the employer on notice of the existence of an impairment, and medical documentation must establish a reasonable likelihood that engaging in job functions without an accommodation would aggravate the impairment to the extent that it would create a substantially limiting effect.
  - 5. For purposes of this definition, a limitation is not substantial if it has only a trivial effect.
  - 6. For purposes of housing, a "reasonable accommodation" is an adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces, where there is an identifiable relationship or nexus between the requested accommodation and the person's disability.
- D. "Discrimination" means different or unequal treatment because of race, religion, creed, color, sex, national origin, marital status, familial status, domestic violence victim status, age, sexual orientation, gender identity, honorably discharged veteran or military status, refugee status, disability, the use of a guide dog or service animal, or the use or eligibility for the use of housing choice or other subsidy program or alternative source of income. "Discriminate" means to treat differently or unequally because of race, religion, creed, color, sex, national origin, marital status, familial status, domestic violence victim status, age, sexual orientation, gender identity, honorably discharged veteran or military status, refugee status, the presence of any sensory, mental or physical disability as defined by the Americans with Disabilities Act and/or the Washington State Law

Against Discrimination, or the use or eligibility for the use of housing choice or other subsidy program or alternative source of income. For purposes of this definition, it is discriminatory to fail to offer reasonable accommodation in housing or employment to an otherwise qualified applicant or employee with a disability, absent a showing that the accommodation would impose an undue hardship.

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

rent is paid either partially by the program (through a direct arrangement between the program and the owner or lessor of the real property), and partially by the tenant or completely by the program; or (ii) HUD-Veteran Affairs Supportive Housing (VASH) vouchers, Housing and Essential Needs (HEN) funds, and short-term rental assistance provided by Rapid Rehousing subsidies.

- N. "Impairment" includes, without limitation, any:
1. physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitor-urinary, hemic and lymphatic, skin and endocrine; or
  2. mental, developmental, traumatic, or psychological disorder, including but not limited to cognitive limitation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
- O. "Income" means lawful, verifiable income derived from all sources, including without limitation wages, salaries or other compensation for employment; Social Security benefits; supplemental security income; unemployment benefits; retirement programs; child support; payments from the Aged, Blind or Disabled Cash Assistance Program; Refugee Cash Assistance; any federal, state, local government, private, or nonprofit-administered benefit program, including without limitation payments from any housing choice or other subsidy program as defined in this chapter; financial aid for college students; and per capita payments or distributions received from a federally-recognized tribe.
- P. "Labor organization" means an organization which is constituted for the purpose, in whole or in part, of collective bargaining or for dealing with an employer concerning grievances, terms or conditions of employment, or for other mutual aid or protection in connection with an employer.
- Q. "Marital status" means the status of being married, single, separated, divorced or widowed.
- R. "National origin" includes ancestry.
- S. "Operational protocols" means the procedures governing how and when surveillance equipment may be used and by whom and includes, at a minimum, the information required in SMC 18.04.010.
- T. "Person" includes:
1. A natural individual, partnership, association, organization, corporation, cooperative, legal representative, trustee and receiver, and any group of persons acting in concert;
  2. an owner, lessee, proprietor, manager, agent or employee, of a person, whether consisting of one or more natural persons;
  3. entities under common ownership; and
  4. any political or civil subdivisions of the City and any agency or instrumentality of the City or of any political or civil subdivision thereof.

This definition does not include the federal government or any federally-recognized tribe.

- U. "Place of public resort, accommodation, assemblage or amusement" includes, but is not limited to, any place, licensed or unlicensed, kept for gain, hire or reward, or where charges are made for admission, service, occupancy, or use of any property or facilities, whether conducted for the entertainment, housing, or lodging of transient guests, or for the benefit, use, or accommodation of those seeking health, recreation, or rest, or for the burial or other disposition of human remains, or for the sale of goods, merchandise, services, or personal property, or for the rendering of personal services, or for public conveyance or transportation on land, water or in the air, including the stations and terminals thereof and the garaging of vehicles, or where food or beverages of any kind are sold for consumption on the premises, or where public amusement, entertainment, sports, or recreation of any kind is offered with or without charge, or where medical service or care is made available, or where the public gathers, congregates, or assembles for amusement, recreation, or public purposes, or public halls, public elevators, and public washrooms of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants, or any public library or educational institution, or schools of special instruction, or nursery schools, or day care centers or children's camps, provided that nothing contained in this definition shall be construed to include or apply to any institute, bona fide club, or place of accommodation, which is by its nature distinctly private, including fraternal organizations, though where public use is permitted that use shall be covered by this section; nor shall anything contained in this definition apply to any educational facility, columbarium, crematory, mausoleum, or cemetery operated or maintained by a bona fide religious or sectarian institution.
- V. "Profiling" means actions of the Spokane Police Department, its members, or officers commissioned by the Spokane Police Department to rely on actual or perceived race, religion, national origin, color, creed, age, citizenship status, immigration status, refugee status, gender, sexual orientation, gender identity, disability, socio-economic status, housing status, or membership in any protected class under federal, state or local law as the determinative factor in initiating law enforcement action against an individual, rather than an individual's behavior or other information or circumstances that links a person or persons to suspected unlawful activity.
- W. "Real estate transaction" means the sale, purchase, conveyance, exchange, rental, lease, sublease, assignment, transfer, or other disposition of real property.
- X. "Real estate-related transaction" means any of the following:
1. The making or purchasing of loans or providing other financial assistance:
    - a. For purchasing, constructing, improving, repairing, or maintaining real property, or
    - b. Secured by real property; or
  2. The selling, brokering, or appraising of real property; or

3. The insuring of real property, mortgages, or the issuance of insurance related to any real estate transaction.

~~((W.))~~Y. "Refugee status" means the status of a person who, under the provisions of 8 USC 1101(a)(42), is outside a country of that person's nationality or, in the case of a person having no nationality, is outside any country in which that person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

~~((X.))~~Z. "Service animal" means an animal that is trained for the purposes of assisting or accommodating a person with a disability.

~~((Y.))~~AA. "Sex" means gender.

~~((Z.))~~AB. "Sexual orientation" means heterosexuality, homosexuality, bisexuality and gender expression or identity. As used in this definition, "gender expression or identity" means having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth.

~~((AA.))~~AC. "Surveillance equipment" means equipment capable of capturing or recording data, including images, videos, photographs or audio operated by or at the direction of a City department that may deliberately or inadvertently capture activities of individuals on public or private property, regardless of whether "masking" or other technology might be used to obscure or prevent the equipment from capturing certain views. "Surveillance equipment" includes drones or unmanned aircraft and any attached equipment used to collect data. "Surveillance equipment" does not include the following equipment which are in use by the City of Spokane as of March 1, 2017:

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

6. cameras installed to monitor and protect the physical integrity of City infrastructure, including without limitation fire stations and utility service facilities.

**Section 12.** That section 18.01.060 of the Spokane Municipal Code is amended to read as follows:

**Section 18.01.060 Penalty for Violation**

- A. The commission of an act of discrimination as defined in this Title 18 is punishable as a Class 1 civil infraction pursuant to chapter 01.05, SMC.
- B. Notwithstanding the foregoing, the commission of an act of discrimination based on source of income in the rental of a housing unit shall subject the person in violation to liability in a civil action of up to four and one-half (4.5) times the monthly rent of the housing unit at issue, in addition to court costs and reasonable attorneys' fees.

**Section 13.** That there is enacted a new section 18.01.090 of the Spokane Municipal Code to read as follows:

**Section 18.01.090 Private right of action; choice of remedies**

- A. Any person or class of persons that suffers injury as a result of a violation of SMC 18.03.010 may bring a civil action in the Spokane Municipal Court against the property owner, property manager, or other person violating such section and, upon prevailing, may be awarded reasonable attorneys' fees and costs and such legal or equitable relief as may be appropriate to remedy the violation and secure the compliance therewith, including, without limitation, rent refund or credit, reinstatement to tenancy, actual damages, damages for loss of the right to be free from discrimination in real estate transactions, injunctive or equitable relief, any other appropriate remedy set forth in the federal Fair Housing Amendments Act of 1988 (42 U.S.C. §3601 et seq.), and assessment of civil penalties as set forth in SMC 10C.02.130. An order may include the requirement for a report on the matter of compliance.
- B. Any person who is the subject of retaliation as defined in SMC 18.01.040 may be awarded damages of up to ten thousand dollars (\$10,000) in any action filed in the Spokane County Superior Court to remedy such violation, in addition to all other remedies described in this section.
- C. No person may secure relief from more than one governmental entity, agency, or tribunal for the same harm or injury arising from the same facts, circumstances, transaction, or incident.

**Section 14.** That there is enacted a new section 18.03.030 of the Spokane Municipal Code to read as follows:

### **Section 18.03.030 Prohibited Practices in Real Estate Related Transactions**

It is unlawful for any person whose business includes engaging in real estate related transactions, to:

- A. Discriminate against any person, owner, prospective occupant, or occupant of real property in the granting, withholding, extending, making available, modifying, or renewing, or in the rates, terms, conditions, or privileges of a real estate related transaction, or in the extension of services in connection therewith; or
- B. Discriminate by using any form of application for a real estate related transaction or making any record of inquiry in connection with applications for a real estate related transaction which expresses, directly or indirectly, an intent to discriminate unless required or authorized by local, state, or federal laws or agencies to prevent discrimination in real property; provided that, nothing in this provision shall prohibit any party to a credit transaction from requesting designation of marital status for the purpose of considering application of community property law to the individual case or from taking reasonable action thereon or from requesting information regarding age, parental status, or participation in a Section 8 or other subsidy program when such information is necessary to determine the applicant's ability to repay a loan.

**Section 15.** That an urgency and emergency exists such that the enactment of this ordinance is necessary for the protection of the public health, welfare, and safety, and that under Section 19(a) of the City Charter, this ordinance shall be effective immediately upon passage by the affirmative vote of one more than a majority of the City Council.

**PASSED** by the City Council on \_\_\_\_\_.

\_\_\_\_\_  
Council President

Attest:

Approved as to form:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Assistant City Attorney



---

Mayor

---

Date

---

Effective Date



**SPOKANE CITY COUNCIL  
Policy Advisor Memorandum**

TO: Council Members  
FROM: Brian McClatchey, Policy Advisor  
DATE: April 24, 2020  
RE: Summary of proposed residential tenancies code

---

This memorandum summarizes the proposed provisions of a local residential tenancies code. This proposal, and all the prior iterations of it, have been the subject of numerous meetings with landlords and tenants. As well, the housing quality provisions are intended to implement the recommendations of the 2016 report of the Mayor's Housing Quality Task Force.

**1. Rental agreement regulations.**

The proposed ordinance establishes some local regulations on rental agreements, for example, by prohibiting waivers of mandatory terms in rental agreements unless the waiver is clearly identified in a separate document as a waiver.

The proposed ordinance deals with deposits and pre-payment of last months' rent by requiring such payments or deposits to be authorized by a written rental agreement which identifies the amount of such required payment. Under the proposal, landlords can still impose cleaning fees, but they would be prohibited from taking an amount of money over the amount of the cleaning fee out of a deposit.

Pet deposits would be limited to 25% of one months' rent or \$150, whichever is higher, and landlords would not be able to charge a pet deposit for service animals, though they still would be able to recover for damage to a rental unit caused by a service animal. And overall, the proposal would cap the total deposits (defined as refundable payments) which can be required to an amount equal to one months' rent. Total fees (defined as one-time, non-refundable payments) would be capped at 25% of one months' rent, including a limitation on the amount a tenant can be charged for a screening report fee to 10% of one months' rent.

Beginning on January 1, 2020, landlords will be required to provide 90 days' written notice to tenants of any rent increase.

**2. Rental Relocation Assistance Program.**

The proposed ordinance creates and funds a rental relocation assistance program. If a tenant has to move due to a 'do not occupy' order caused by conditions caused by the

landlord, or due to rent increases which make the tenant unable to afford the rent, the landlord must pay \$2,000, and refund all deposits and pre-paid rent within 7 days of receiving notice from the City that the property is not to be occupied. This will help low-income tenants move to habitable and affordable housing. If the landlord does not make the payment to the tenant within 7 days, the City can advance those funds to the tenant. The City can then seek repayment from the landlord, including penalties and interest if the repayment does not occur within 60 days. Relocation assistance payments are not required if the uninhabitable condition is caused by a natural disaster or the tenant's conduct.

### **3. Enforcement, Prohibitions, and Fines.**

The proposed ordinance contains specific and fair enforcement provisions, among them being a private right of action for tenants to bring suit in the Superior Court. There is a limitation on this, which is that tenants are limited to the choice of recovery from one entity (*i.e.*, can sue under local code but not both state and local code).

The proposed ordinance prohibits retaliation and interfering with or prohibiting tenant organizing activities, and creates a rebuttable presumption of retaliation where any negative action is taken within 90 days of a complaint.

The proposed ordinance also establishes serious and fair monetary penalties, including for housing discrimination, such as \$10,000 fines for retaliation and housing discrimination, an escalating penalty schedule of up to \$10,000 in fines for repeat violators, and a penalty (to match that established in state law) of 4.5 times the monthly rental amount for violations of the prohibition on discrimination based on the source of income. The proposed ordinance also makes clear that compliance is the goal to be sought before enforcement actions can be taken. Other violations, such as failure to repair defective conditions, failure to keep adequate records (for example, inspection reports), and falsifying records are all Class 1 civil infractions.

### **4. Housing Quality Standards.**

The proposed ordinance establishes housing quality standards for all rental units in Spokane, with some exceptions, such as owner-occupied units which is the only unit rented by the owner, vacation rentals offered for rent no more than 3 months per year, hotels, motels, B&Bs, etc., health care facilities (like long-term care, group homes, hospitals, hospice, and nursing homes), religious facilities such as convents, monasteries or other facilities occupied exclusively by members of a religious order, emergency shelter or transitional housing, housing units for a major medical or educational institutions, and government or housing authority-owned units.

Housing units must have an inspection before being offered for rent in Spokane and a certificate of occupancy can suffice for that inspection for newer properties. The City does not inspect the property, so no additional city staffing is required, as the landlord is required to use a third-party inspector who is certified to the same level as under state law, and retain inspection reports or documents.

If a defective condition is apparent, the tenant can notify the City, which will then notify the landlord of the potential existence of a defective condition within 5 days. The landlord must fix any defective condition within 30 days of getting notice from the City (or longer period if city negotiates that longer period). When repairs are completed, the landlord notifies city of the completion of the repairs, and the City can then choose to inspect the work itself.

This proposal does not impose new substantive standards, but relies on the existing building and conservation code in the Spokane Municipal Code.

#### **5. Other Proposals.**

There are a number of other smaller changes in the proposals, such as a requirement that the City create and distribute an information packet including change of address forms, a landlord-tenant law summary, and voter registration forms. The proposal also authorizes an incentive program for landlords with zero code violations starting 1/1/2021 and a microloan program for all tenant rental and security deposits (not just displaced tenants). It also adds “real estate transactions” and “real estate related transactions” to the scope of the City’s existing anti-discrimination law.

#### **6. Business Registration Requirement.**

Business registration will now be required for owners of residential rental property which is offered for rent in Spokane. Each “place of business” must be registered, which means that each single-family rental home, and each apartment building or multiple-family unit building must have its own registration. Owners of residential real property offered for rent in Spokane will be required to pay the standard business license fee plus a \$10 fee for each housing unit offered for rent. That additional \$10 fee will be used to fund the rental relocation assistance program.



OFFICE OF THE CITY CLERK  
808 W. SPOKANE FALLS BLVD.  
SPOKANE, WASHINGTON 99201-3342  
509.625.6350

December 2, 2019


City Clerk File Nos.:  
ORD C35860  
ORD C35861

COUNCIL ACTION MEMORANDUM

RE: EMERGENCY ORDINANCE C35860 ESTABLISHING A LOCAL RESIDENTIAL TENANCY CODE and EMERGENCY ORDINANCE C35861 REQUIRING SPECIFIC CAUSE FOR MOST RESIDENTIAL EVICTIONS

During its 3:30 p.m. Briefing Session held Monday, December 2, 2019, upon review of Emergency Ordinances C35860 and C35861 on the December 9, 2019, Advance Agenda, the following action was taken:

**Motion** by Council Member Beggs, seconded by Council Member Stratton, **to defer** Emergency Ordinance C35860 (establishing a local residential tenancy code) and Emergency Ordinance C35861 (requiring specific cause for most residential evictions) until March 2, 2020; **carried 6-1 (Council Member Burke absent)**. (Clerical Note: The motion made was to defer the ordinances to March 1, 2020; however, March 1 falls on a Sunday and so the City Clerk corrected the record to March 2, 2020, which is a Monday.)

  
\_\_\_\_\_  
Terri Pfister, MMC  
Spokane City Clerk



OFFICE OF THE CITY CLERK  
808 W. SPOKANE FALLS BLVD.  
SPOKANE, WASHINGTON 99201-3342  
509.625.6350

February 24, 2020

City Clerk File Nos.:  
ORD C35860  
ORD C35861

COUNCIL ACTION MEMORANDUM

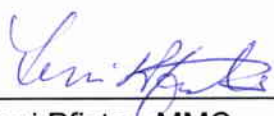
RE: EMERGENCY ORDINANCE C35860 ESTABLISHING A LOCAL RESIDENTIAL TENANCY CODE and EMERGENCY ORDINANCE C35861 REQUIRING SPECIFIC CAUSE FOR MOST RESIDENTIAL EVICTIONS (Deferred from December 9, 2019, Agenda)

During its 3:30 p.m. Briefing Session held Monday, February 24, 2020, upon review of Emergency Ordinances C35860 and C35861 on the March 2, 2020, Advance Agenda, the following actions were taken:

**Motion** by Council Member Stratton, seconded by Council Member Cathcart, **to defer** Emergency Ordinance C35860—establishing a local residential tenancy code—to May 4, 2020; **carried unanimously.**

**Motion** by Council Member Stratton, seconded by Council Member Cathcart, **to defer** Emergency Ordinance C35861—requiring specific cause for most residential evictions—to May 4, 2020; **carried unanimously.**

Council Member Cathcart noted there are plans in place for some public forums on these matters (Ordinance C35860 and C35861). Council President Beggs stated that discussion has started, and he's heard various proposals how to do that, and noted there are plenty of people who want to be heard.

  
\_\_\_\_\_  
Terri Pfister, MMC  
Spokane City Clerk



OFFICE OF THE CITY CLERK  
808 W. SPOKANE FALLS BLVD.  
SPOKANE, WASHINGTON 99201-3342  
509.625.6350

April 27, 2020


City Clerk File Nos.:  
ORD C35860  
ORD C35861

COUNCIL ACTION MEMORANDUM

RE: EMERGENCY ORDINANCE C35860 ESTABLISHING A LOCAL RESIDENTIAL TENANCY CODE and EMERGENCY ORDINANCE C35861 REQUIRING SPECIFIC CAUSE FOR MOST RESIDENTIAL EVICTIONS (Deferred from March 2, 2020, Advance Agenda)

During its 3:30 p.m. Briefing Session held Monday, April 27, 2020, upon review of Emergency Ordinances C35860 and C35861 on the May 4, 2020, Advance Agenda, the following action was taken:

**Motion** by Council Member Burke, seconded by Council Members Kinnear and Cathcart, **to defer** Emergency Ordinance C35860 (establishing a local residential tenancy code) and Emergency Ordinance C35861 (requiring specific cause for most residential evictions) to July 13, 2020; **carried unanimously.**

  
\_\_\_\_\_  
Terri Pfister, MMC  
Spokane City Clerk

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

12/09/2019

<u>Date Rec'd</u>	11/19/2019
<u>Clerk's File #</u>	ORD C35861
<u>Renews #</u>	

<u>Submitting Dept</u>	CITY COUNCIL	<u>Cross Ref #</u>	
<u>Contact Name/Phone</u>	BEN STUCKART 625-6258	<u>Project #</u>	
<u>Contact E-Mail</u>	BSTUCKART@SPOKANECITY.ORG	<u>Bid #</u>	
<u>Agenda Item Type</u>	Emergency Ordinance	<u>Requisition #</u>	
<u>Agenda Item Name</u>	0320 SPECIFIC CAUSE EVICTION ORDINANCE		

Agenda Wording

An ordinance requiring specific cause for most residential evictions; enacting new sections 18.03.005 and 18.03.030 of the Spokane Municipal Code; and declaring an emergency.

Summary (Background)

This ordinance establishes specific causes for which landlords and/or property management companies offering ten or more dwelling units for rent in Spokane may terminate a rental agreement.

<u>Fiscal Impact</u>	Grant related? NO	<u>Budget Account</u>
	Public Works? NO	
Neutral \$		#
Select \$		#
Select \$		#
Select \$		#

<u>Approvals</u>		<u>Council Notifications</u>	
<b><u>Dept Head</u></b>	MCDANIEL, ADAM	<b><u>Study Session</u></b>	12/5 Study Session
<b><u>Division Director</u></b>		<b><u>Other</u></b>	
<b><u>Finance</u></b>	BUSTOS, KIM	<u>Distribution List</u>	
<b><u>Legal</u></b>	PICCOLO, MIKE	amcdaniel@spokanecity.org	
<b><u>For the Mayor</u></b>	ORMSBY, MICHAEL	kateburke@spokanecity.org	
<u>Additional Approvals</u>			
<b><u>Purchasing</u></b>			



## **ORDINANCE NO. C35861**

An ordinance requiring specific cause for most residential evictions; enacting new sections 18.03.005 and 18.03.030 of the Spokane Municipal Code; and declaring an emergency.

**WHEREAS**, the rate of vacancies for rental properties in Spokane is currently at 3.3%, its lowest level in a decade and below what 5%, which is normally considered a sign of a healthy rental market and which the Spokane market has not attained since 2015; and

**WHEREAS**, the average rent for is now over \$1,000 per month, the highest level in at least a decade, having risen by 74% since 2010; and

**WHEREAS**, nearly 50% of renters in Spokane are cost-burdened, meaning they spend 30% or more of their income on housing each month

**WHEREAS**, almost a quarter of renters in Spokane are severely cost-burdened, meaning they spend half or more of their income on housing each month; and

**WHEREAS**, the median household income is climbing, but the median income for renter households remains below the median – for example, in 2017, the median household income in Spokane was \$46,543, but the median income for renting households was \$33,812 – and while the average rent in Spokane has increased by 74% since 2010, the median renting household's income over that same period only increased by 51%; and

**WHEREAS**, lower-income people who are cost-burdened or severely cost-burdened are at a much higher risk of eviction and therefore, of homelessness; and

**WHEREAS**, research from the Washington State Department of Commerce and data from our own CHHS Department's point-in-time count reveal that lack of affordable housing and eviction from housing are two significant drivers of homelessness; and

**WHEREAS**, the number of unsheltered people experiencing homelessness in Spokane is now at a decade high, confirming the observed relationship between increasing rents and increasing homelessness; and

**WHEREAS**, one way to lower the rate of homelessness is to keep housed people housed, and one way to do that is to reduce the number of evictions in Spokane, the rate of which in Spokane is currently 4 households each and every week, according to data compiled by the Eviction Lab at Princeton University; and

**WHEREAS**, the Spokane City Council, in view of these facts, sees that a housing emergency exists in Spokane, that this emergency poses a danger to the health, welfare, and safety of many low-income people in Spokane, and that this emergency necessitates the enactment of this ordinance.

**NOW THEREFORE**, the City of Spokane does ordain:

**Section 1.** That there is enacted a new section 18.03.005 of the Spokane Municipal Code to read as follows:

**Section 18.03.005 Definitions**

- A. "Dwelling unit" has the same meaning as set forth in RCW 59.18.030(9).
- B. "Landlord" has the same meaning as set forth in RCW 59.18.030(14).
- C. "Rental agreement" means an agreement which establishes or modifies the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit for compensation in the city of Spokane.
- D. "Substantial rehabilitation" means the renovation, alteration, or remodeling of a residential unit of 30 or more years of age which (i) has been condemned, (ii) does not qualify for a certificate of occupancy, or (iii) requires substantial renovation in order to be in compliance with contemporary standards for decent, safe and sanitary housing. Substantial rehabilitation may vary in degree from gutting and extensive reconstruction to extensive improvements that cure substantial deferred maintenance. Cosmetic improvements alone such as painting, decorating and minor repairs, or other work which can be performed safely without having the unit vacated do not qualify as substantial rehabilitation.
- E. "Tenant" means any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement in Spokane.

**Section 2.** That there is enacted a new section 18.03.030 of the Spokane Municipal Code to read as follows:

**Section 18.03.030 Eviction Only for Specific Cause**

- A. Except where the tenant cures the violation(s) as provided in this section, landlords and/or property management companies which offer ten (10) or more dwelling units for rent in Spokane may terminate a rental agreement only by providing written notice to the tenant of the existence of one or more of the causes listed in this section.
- B. Causes which are sufficient for the termination of a residential tenancy under this section are:
  - 1. Failure by the tenant to pay rent as required by the rental agreement;

2. Material violation by the tenant of any provision of RCW 59.18.130 (duties of tenant);
3. To allow the landlord or a member of the landlord's immediate family to occupy the dwelling unit;
4. To perform capital improvements which will make the unit temporarily uninhabitable while the work is being done;
5. to perform substantial rehabilitation work;
6. To withdraw the dwelling rental units from the rental market; or
7. To demolish or permanently remove a rental unit from housing use.

C. The notice required by subsection (A) must:

1. Specify the cause(s) for eviction from among the items listed in subsection B;
2. State that the tenancy will terminate due to such cause(s) no less than thirty (30) days after delivery of the notice, unless the cause(s) is/are cured by the tenant as described in this subsection; and
3. State that the tenant may cure one or more of the violations described in subsection (B)(1) and (B)(2) within fourteen (14) days of the delivery of the notice.
4. State that if a violation of subsection (B)(1) or (B)(2) which is described in the notice and is cured by the tenant within fourteen (14) days of the notice by a change in conduct, repairs, payment of money or otherwise, the rental agreement will not terminate.

D. If the cause of a written notice delivered as required by this section is failure by the tenant to pay rent within five (5) days of the date it is due under the rental agreement and for which notice was given under this section on two separate occasions within the previous six (6) months, the tenant does not have a right to cure a subsequent violation.

E. For week-to-week tenancies, the notice period in subsection (C)(2) changes from 30 days to seven days and the notice period in subsection (C)(4) of this section changes from 14 days to four days.

**Section 3.** That an urgency and emergency condition exists in the City of Spokane which poses a danger to the health, welfare, and safety of the people of Spokane and which necessitates that this ordinance be, under Section 19(a) of the City

Charter, effective immediately upon passage by the affirmative vote of one more than a majority of the City Council.

**PASSED** by the City Council on \_\_\_\_\_.

\_\_\_\_\_  
Council President

Attest:

Approved as to form:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Effective Date

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

07/13/2020

**Date Rec'd**

6/24/2020

**Clerk's File #**

RES 2020-0045

**Renews #****Submitting Dept**

HUMAN RESOURCES

**Cross Ref #****Contact Name/Phone**

MEGHANN 625-6903

**Project #****Contact E-Mail**

MSTEINOLFSON@SPOKANECITY.ORG

**Bid #****Agenda Item Type**

Resolutions

**Requisition #****Agenda Item Name**

0620 - RESOLUTION APPOINTING AMBER RICHARDS TO HR DIRECTOR

**Agenda Wording**

Resolution appointing Amber Richards to HR Director

**Summary (Background)**

Resolution appointing Amber Richards to HR Director

**Fiscal Impact**

Grant related? NO

**Budget Account**

Public Works? NO

Select

\$

#

Select

\$

#

Select

\$

#

Select

\$

#

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

STEINOLFSON,

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

STEINOLFSON,

**Council Sponsor**

karen Stratton

**Finance**

BUSTOS, KIM

**Distribution List****Legal**

PICCOLO, MIKE

Jennifer Quick

**For the Mayor**

CRAGO, WES

Meghann Steinolfson

**Additional Approvals****Purchasing**



## Mayor Nadine Woodward

June 17, 2020

Amber Richards  
[REDACTED]

Dear Ms. Richards:

It is with great pleasure that I offer you the position of Human Resources Director for the City of Spokane. I believe that you possess the experience and qualifications that the City is looking for as well as the ability to complement current staff of the Mayor's Office and Executive Team.

The appointment to this at-will, exempt position will be effective July 13, 2020. Your appointment will be contingent upon approval by City Council within six (6) months of appointment. The current salary for this position is Grade 63 of the Exempt-Confidential pay plan, starting at Step 5 or \$135,573.84 annually.

In the capacity of this position, you will continue to receive the following benefits:

- Accrual of 3.7 hours of vacation per pay period.
- Accrual of 6.0 hours of illness leave per pay period. Please note: The 6 hours will be split evenly between immediately accessible sick leave and sick leave that may be used only for absences due to a workplace injury or approved FMLA leave.
- Existing balances of floating holiday hours will carry over to use during the remaining 2020 calendar year. In 2021, forty (40) hours of floating holiday to use during the calendar year, eight (8) of which have been used to observe the Martin Luther King Jr. holiday in January.
- Medical and dental benefits, long-term disability, life insurance, Section 125 healthcare reimbursement account.
- Participation in the Spokane Employee's Retirement System (SERS) with matching employee and employer contributions of 9.75% of the employees' salary earnings. Vesting in SERS is after seven (7) years of service with the City.
- Option to participate in a 457 deferred compensation program and receive a match of up to \$200/month from the City if actively contributing.

Please note that the above benefits match those of the bargaining unit that your position most closely aligns with, Managerial & Professional Association – Exempt A, and are subject to change as those bargained benefits change.

As an at-will employee, you will be serving in this position at the pleasure of the current, sitting Mayor. At my discretion, the term of your assignment will be subject to my evaluation of your performance.

***The City of Choice***

808 W. Spokane Falls Blvd. • Spokane, Washington 99201-3335  
Phone: 509.625.6250 FAX: 509.625.6563

Please review the enclosed copy of the Code of Ethics and Code of Ethics Agreement. If you accept this offer, please sign below and return the offer letter and signed Code of Ethics to Greg Kinyon, Human Resources Department, within ten working days from receipt.


Sincerely,



Nadine Woodward  
Mayor


I hereby accept the position of Human Resources Director with the City of Spokane and agree to the salary and benefits stated herein.

I understand that this assignment is to an at-will, exempt position that serves at the pleasure of the current, sitting Mayor.

  
Amber Richards

6/22/20  
Date

Please return to: Greg Kinyon  
Human Resources Department  
808 W. Spokane Falls Blvd.  
Spokane, WA 99201-3327

  
Wes Crago  
City Administrator



CITY OF SPOKANE  
CODE OF ETHICS AGREEMENT

I understand that as an exempt employee of the City of Spokane, I am subject to the City's Code of Ethics set forth in Chapter 1.04A of the Spokane Municipal Code. I understand that the Code of Ethics prohibits specific conduct set forth in SMC 1.04A.030 A through O and that violation of the Code of Ethics may lead to a complaint before the City's Ethics Committee.

I also understand that a violation of the Code of Ethics may result in a penalty including a civil penalty and payment to the City of damages sustained by the City that are caused by the conduct constituting the violation.

I acknowledge that I have read and understand the Code of Ethics.

Aubrey Richards  
Name

[Signature]  
Signature

Human Resources Director  
Position

6/22/20  
Date





## JOB DESCRIPTION

**JOB TITLE:**

Human Resources (HR)  
Director

**REPORTS TO:**

City Administrator

**DATE:**

November 2019

**BARGAINING UNIT:**

Exempt - Confidential

**SPN:**

800

**PAY RANGE:**

63

### DEPARTMENT PURPOSE

Administers strategic and operational programs and services to employees and supports departments to positively impact the quality of services provided by the City workforce.

### POSITION PURPOSE

Administers, plans, organizes, directs and reviews department activities including exempt recruitments, employee and labor relations, compensation and benefits, employee development and training, workers compensation, and safety. Coordinates assigned activities with other departments, bargaining units and outside agencies. Provides highly responsible and complex administrative support to the Mayor and City Administrator.

### SUPERVISION EXERCISED

Work is performed with considerable independence within the framework established by the Mayor/City Administrator or designee. Provides supervision to direct and indirect reports in professional, administrative and technical positions.

*The following Responsibilities and Requirements are functions that the individual who holds or desires the position must be able to perform unaided or with the assistance of a reasonable accommodation.*

### KEY RESPONSIBILITIES

- Plans, directs, supervises and coordinates the HR management activities of the City to maximize the strategic use of human resources.
- Maintains functions such as employee compensation, benefits, administration, employee and labor relations, personnel policies, regulatory compliance, training, workers compensation and safety.
- Analyzes statistical data and reports to identify and determine root causes of various issues; develops recommended action for improvement.
- Advises the Mayor on sensitive and high profile human resources issues, union relations, and the City's strategic plan for utilizing its human resources effectively.

### BEHAVIORAL STANDARDS

As an exempt employee of the City of Spokane, the Human Resources Director is subject to the City's Code of Ethics set forth in Chapter 1.04A of the Spokane Municipal Code. As such, "it is the policy of the City of Spokane to uphold, promote, and demand the highest standards of ethics from all of its employees who shall maintain the utmost standards of responsibility, trustworthiness, integrity, truthfulness, honesty and fairness in carrying out their public duties, avoid any improprieties in their roles as a public servant including the appearance of impropriety, and never use their City position, authority or resources for personal gain."

#### Human Resources Director

- Serves as a member of citywide task forces and committees participating in the City's strategic planning efforts and addressing citywide policy and management issues.
- Provides human resources advice to City officials, providing information regarding the rights and obligations of the parties concerned and the recourse available to them.
- Prepares and administers departmental budget.
- Formulates and recommends policies, procedures, rules and regulations and strategies governing employee relations.

## **REQUIREMENTS**

### **Knowledge of:**

- Trends and practices of human resources administration.
- Organizational structure, compensation and benefits.
- Recruitment, selection and training.
- Labor relations and contract negotiations.
- Business and management principles involved in strategic planning, resource allocation, HR modeling, leadership techniques and coordination of people and resources.
- Human behavior and performance; individual differences in ability, personality, and interests; learning and motivation.
- Principles and processes for providing customer service, including customer needs assessment, meeting quality standards for service, and evaluation of customer satisfaction.
- Principles of supervision, training and performance feedback.

### **Ability to:**

- Effectively lead and manage staff by developing and directing people as they work.
- Manage multiple projects, meet deadlines and work well under pressure.
- Work cooperatively with others and maintain positive relationships.
- Proficiently operate office equipment and programs including computers and supporting work processing, spreadsheet and program-specific applications.
- Gather, assemble, analyze and evaluate complex data and facts to draw logical conclusions and make proper recommendations.
- Compose clear, concise and accurate reports using data and research gathered by self and others to effectively present to various audiences both orally and in writing.
- Adapt to other duties as assigned and prioritize, organize and plan work as needed to meet objectives.

### **Skill in:**

Research, interpretation and application of municipal codes, ordinances, statutes, and other applicable rules and regulations.

## **MINIMUM QUALIFICATIONS**

Any combination equivalent to the experience and education that would likely provide the relevant knowledge and abilities would be qualifying. Generally, this will include:

Graduation from an accredited four-year college or university with major course work related to business administration, human resources, public administration, labor relations, or a closely related field; AND, a minimum of ten (10) years or more of increasingly responsible experience involving all aspects of HR administration, which should include a minimum of five (5) years of supervisory experience. Working with public safety collective bargaining units is preferred, but not required.

**WORKING CONDITIONS**

Work is conducted primarily in an office setting. It may involve frequent attendance at meetings to include some irregular hours and potentially out-of-town travel. Incumbents in this classification are expected to communicate verbally, in person and by telephone. A computer terminal is used and may require the use of repetitive arm-hand movements.



Theresa M. Sanders, City Administrator



Date

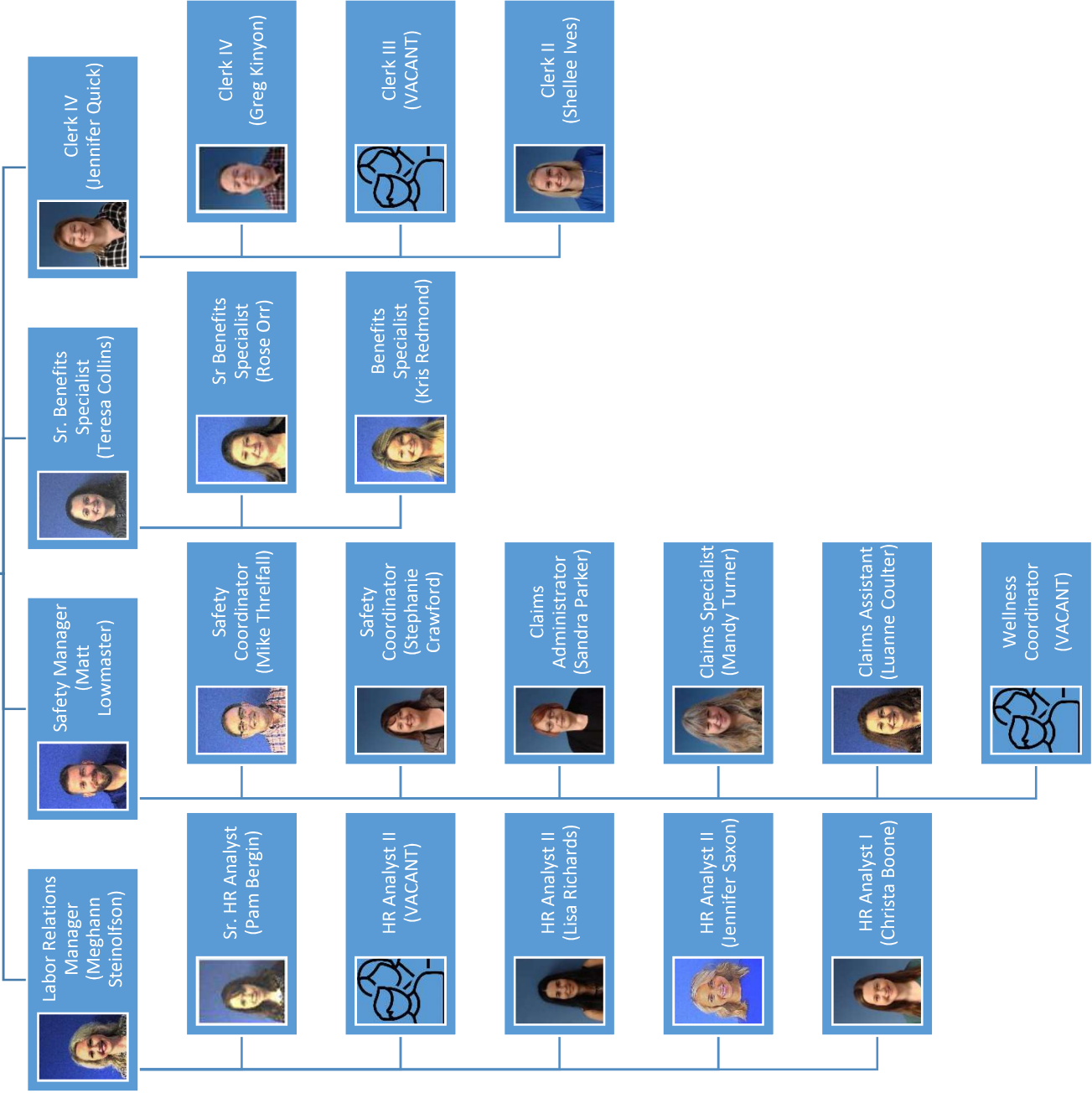


Christine Cavanaugh, Human Resources Director



Date

Human Resources Director (VACANT)



RESOLUTION 2020-0045

A resolution approving the appointment of Amber Richards as Director of Human Resources for the City of Spokane.

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

WHEREAS, Section 5.2 F of the City Council Rules of Procedures states that approval of appointment of department heads shall be by resolution during the City Council's legislative session; and

WHEREAS, after full consideration, Mayor Nadine Woodward has appointed Amber Richards as Director of Human Resources for the City of Spokane.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Spokane that is hereby approves the appointment of Amber Richards as Director of Human Resources for the City of Spokane.

PASSED BY THE CITY COUNCIL ON \_\_\_\_\_, 2020.

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
Assistant City Attorney

# Expenditure Control Form



1. All requests being made must be accompanied by this form.
2. Route ALL requests to the Finance Department for signature.
3. If request is greater than \$100,000 it requires signatures by Finance and the City Administrator. Finance Dept. will route to City Administrator.

Today's Date: 6/24/20

Type of expenditure: Goods ☐ Services ☒

Department: Human Resources

Approving Supervisor: Wes Crago

Amount of Proposed Expenditure:

Funding Source: Human Resources

Please verify correct funding sources. Please indicate breakdown if more than one funding source.

Why is this expenditure necessary now?

Hiring of a funded and vacant HR Director position that has been vacant for several months. This position is needed as part of the Mayor's Cabinet and leadership of a city division that provides services across the City.

What are the impacts if expenses are deferred?

NA

What alternative resources have been considered?

NA

Description of the goods or service and any additional information?

NA

Person Submitting Form/Contact: Brandy Cote 625-6774

FINANCE SIGNATURE:

A handwritten signature in black ink, appearing to read 'Brandy Cote', written over a horizontal line.

CITY ADMINISTRATOR SIGNATURE:

A handwritten signature in black ink, appearing to read 'Wes Crago', written over a horizontal line.



OFFICE OF THE CITY CLERK  
808 W. SPOKANE FALLS BLVD.  
SPOKANE, WASHINGTON 99201-3342  
509.625.6350

June 1, 2020

City Clerk File Nos.:  
ORD C35908


COUNCIL ACTION MEMORANDUM

RE: FINAL READING ORDINANCE C35908 ESTABLISHING OFFICIAL CITY POLICY  
RELATING TO HOMELESSNESS RESPONSE EFFORTS

During its 3:30 p.m. Administrative Session held Monday, June 1, 2020, the City Council considered Final Reading Ordinance C35908. Subsequent to commentary by Council President Beggs on Final Reading Ordinance C35908—establishing official City policy relating to homelessness response efforts; enacting a new section 18.05.030 to the Spokane Municipal Code—the following actions were taken:

**Motion** by Council Member Burke, seconded by Council Member Wilkerson, **to substitute** with new version; **carried unanimously.**

**Motion** by Council Member Burke, seconded by Council Member Stratton, **to defer** Final Reading Ordinance C35908 to June 22, 2020; **carried unanimously.**

  
\_\_\_\_\_  
Terri Pfister, MMC  
Spokane City Clerk



OFFICE OF THE CITY CLERK  
808 W. SPOKANE FALLS BLVD.  
SPOKANE, WASHINGTON 99201-3342  
509.625.6350

June 22, 2020

City Clerk File Nos.:  
ORD C35908

COUNCIL ACTION MEMORANDUM


RE: FINAL READING ORDINANCE C35908 ESTABLISHING OFFICIAL CITY POLICY RELATING TO HOMELESSNESS RESPONSE EFFORTS (deferred from June 1, 2020, Agenda)

During its 3:30 p.m. Administrative Session held Monday, June 22, 2020, upon review of the June 22 Current Agenda, the following action was taken:

**Motion** by Council Member Wilkerson, seconded by Council Member Kinnear, to **substitute** Final Reading Ordinance C35908 (with revised version)—establishing official City policy relating to homelessness response efforts; enacting a new section 18.05.030 to the Spokane Municipal Code; **carried unanimously.**

At its 6:00 p.m. Legislative Session, the City Council took the following action subsequent to Council commentary:

**Motion** by Council Member Wilkerson, seconded by Council Member Kinnear, to **defer Ordinance C35908 (as substituted)**—establishing official City policy relating to homelessness response efforts; enacting a new section 18.05.030 to the Spokane Municipal Code—to July 13, 2020; **passed unanimously.**

  
\_\_\_\_\_  
Terri Pfister, MMC  
Spokane City Clerk



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

05/11/2020

<u>Date Rec'd</u>	5/6/2020
<u>Clerk's File #</u>	ORD C35908
<u>Renews #</u>	

<u>Submitting Dept</u>	CITY COUNCIL	<u>Cross Ref #</u>	
<u>Contact Name/Phone</u>	BREEAN BEGGS 625-6254	<u>Project #</u>	
<u>Contact E-Mail</u>	BBEGGS@SPOKANECITY.ORG	<u>Bid #</u>	
<u>Agenda Item Type</u>	Final Reading Ordinance	<u>Requisition #</u>	
<u>Agenda Item Name</u>	0320 - ORDINANCE ESTABLISHING OFFICIAL CITY POLICY FOR HOMELESS		

Agenda Wording

An ordinance establishing official City policy relating to homelessness response efforts; enacting a new section 18.05.030 to the Spokane Municipal Code.

Summary (Background)

This ordinance provides that in forming the City's response to homelessness, the City will form policy and operational steps in a manner that is regional in scope, includes all government, nonprofit, and for-profit regional stakeholders, includes early, continuous, active and direct involvement of the City Council, provides low- or no-barrier shelter to implement Housing First, creates no service gaps, and providing for no exceptions regardless of funding source.

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

Neutral	\$	#
Select	\$	#
Select	\$	#
Select	\$	#

<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	MCCLATCHEY, BRIAN	<u>Study Session\Other</u>	Urban Development
<u>Division Director</u>		<u>Council Sponsor</u>	Council President Beggs
<u>Finance</u>	BUSTOS, KIM	<u>Distribution List</u>	
<u>Legal</u>	PICCOLO, MIKE		
<u>For the Mayor</u>	ORMSBY, MICHAEL		

Additional Approvals

<u>Purchasing</u>		

## **ORDINANCE NO. C35908**

An ordinance establishing official City policy relating to homelessness response efforts; enacting a new section 18.05.030 to the Spokane Municipal Code.

**WHEREAS**, too many of our neighbors in Spokane are experiencing or have experienced homelessness; and

**WHEREAS**, too often, and for a variety of reasons, historically the City's night by night sheltering policy responses were either insufficient or carried out with insufficient collaboration with the City Council and other regional governmental and nonprofit partners; and

**WHEREAS**, historically the City has precipitously reduced shelter bed and warming center capacity below the demonstrated need, which displaced hundreds of people into the community to sleep on sidewalks, in doorways, in parks and along the Spokane River, none of which are equipped for such use.

**WHEREAS**, the City Council has previously adopted resolutions concerning the procurement of warming centers or emergency shelter during inclement weather which state the official policy of the City, yet there is still a need for a binding statement of official City policy to guide the City's responses to the ongoing issue of homelessness and night by night sheltering in our community; and

**WHEREAS**, the City Council finds that it is necessary to establish clear and specific baseline policy statements to guide the City and to notify the public as to how the City will determine what steps it will take in the future in forming responses to the ongoing issue of homelessness and night by night shelters so that we can more effectively provide for the most vulnerable members of our community without gaps in service and protect neighborhoods that are ill-equipped to absorb the unsheltered.

**NOW THEREFORE**, the City of Spokane does ordain:

**Section 1.** That there is enacted a new section 18.05.030 of the Spokane Municipal Code to read as follows:

### **Section 18.05.030 Homelessness Response Policy**

#### **A. Findings and Purpose**

1. The City finds that each resident of Spokane is entitled to a basic level of dignity and respect, regardless of whether they are housed or unhoused.
2. The City also finds that historically, City policy regarding the response to homelessness in our community needing night by night shelter has

been inconsistent and insufficiently transparent, collaborative, regional, or inclusive, and that process often resulted in harm to our community.

3. The purpose of this section is to set a baseline within the City's limits of providing night by night shelter as our City's minimum response to homelessness in our community as we collaborate with other jurisdictions and entities to create a regional solution that ends homelessness.

B. It is the official policy of the City of Spokane that its responses to homelessness will be undertaken in accordance with the following principles, without exception.

1. In all responses, a region-wide approach is the starting point and all regional stakeholders – government, nonprofit, and for-profit sectors – will be involved in the formation of a regional response policy.
2. The City Council, as a body or through its members, as the Council determines, will be actively and directly involved in all aspects of the City's formation of policy with the advice and consultation with the Community, Housing and Human Services and Continuum of Care Boards along with City staff in response to homelessness in our community, without exception, especially in regards to the provision of night by night shelter.
3. All night by night sheltering for people experiencing homelessness in Spokane, and funded with dollars either originating with or passing through the City of Spokane, will be low- or no-barrier shelter, to implement the preferred approach of Housing First.
4. The City as a minimum standard within the City's limits shall not reduce night by night shelter or warming center capacity (whether measured by beds, square feet, locations, or by any other capacity measure) without first having in place an agreed, published, and publicly-disseminated plan which is compliant with the principles established in this section and which provides equivalent capacity or it is demonstrated that the amount of capacity being reduced is no longer needed based on vacant space for at least two weeks so there is no gap in service to people in our community who are experiencing homelessness and ill-equipped neighborhoods are not burdened with unsheltered persons.
5. It is the intent of the City to implement this ordinance without interfering with the implementation of any existing plans or funding commitments derived from federal and state grants traditionally made pursuant to the Community, Housing and Human Services and Continuum of Care Boards.

**PASSED** by the City Council on \_\_\_\_\_.

\_\_\_\_\_  
Council President

Attest:

Approved as to form:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Effective Date