

CITY OF SPOKANE



NOTICE

REGARDING CITY COUNCIL MEETINGS

Notice is hereby given that, pursuant to Governor Jay Inslee's **Fifteenth** Updated Proclamation **20-28.15**, dated **January 19, 2021**, 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in RCW 42.30.030 has been suspended until termination of the state of emergency pursuant to RCW 43.06.210, or until rescinded, whichever occurs first.

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.

Public comment will be taken virtually on legislative items during the 6:00 p.m. Legislative Session on **March 1, 2021**.

The regularly scheduled Spokane City Council 3:30 p.m. Briefing Session and 6:00 p.m. Legislative Session 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 **1-408-418-9388** and entering the access code **146 396 3105** for the 3:30 p.m. Briefing Session or **146 307 8744** for the 6:00 p.m. Legislative Session when prompted; meeting password is **0320**.

**To participate in virtual public comment:**

Sign up to give testimony at **<https://forms.gle/RtcIKb2tju6322BB7>**. You must sign up in order to be called on to testify. The form will be **open at 5:00 p.m. on Monday, March 1, 2021, and will close at 6:00 p.m.** At 6:00 p.m., you will call in to the meeting using the information above. When it is your turn to testify, Council President will call your name and direct you to hit \*3 on your phone to ask to be unmuted. The system will alert you when you have been unmuted and you can begin giving your testimony. When you are done, you will need to hit \*3 again.

**To participate in Open Forum:**

Open Forum will take place at the end of the City Council Legislative Session unless the meeting lasts past 9:30 p.m., which may be extended by motion. Each speaker is limited to no more than three minutes. In order to participate in Open Forum, you must sign up here: **<https://forms.gle/WtfGZ3HqQuXCipcX9>**. The form will open at 5:00 p.m. on Monday, March 1, and will close at 6:00 p.m. Instructions for participating are available on the form. 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 of interest not relating to 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.

Open Forum will take place at the end of the City Council Legislative Session unless the meeting lasts past 9:00 p.m. Open Forum 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. The forum is limited to 3 minutes per person, with a maximum of 10 participants per night. Per Council Rules, each person may only participate in Open Forum once per calendar month. In order to participate in Open Forum, you must sign up here: **<https://forms.gle/WtfGZ3HqQuXCipcX9>**. The form will **open at 5:00 p.m. on Monday, March 1, and will close at 6:00 p.m. or when the spaces have filled**. Instructions for participating are the same as above under virtual public comment and are also available on the form.

**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, MARCH 1, 2021

### 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).

**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

**ADMINISTRATIVE SESSION****CONSENT AGENDA****REPORTS, CONTRACTS AND CLAIMS****RECOMMENDATION**

- |    |  |         |                               |
|----|--|---------|-------------------------------|
| 1. | Value Blanket Renewal No. 1 of 4 with Core & Main (Spokane Valley, WA) for coiled pit setter meter boxes—not to exceed \$350,000 (incl. tax).<br><b>Loren Searl</b>  | Approve | OPR 2020-0087<br>BID 5222-20  |
| 2. | Two-year Service Contract with Evergreen State Towing (Spokane) for Impounded and Abandoned RV Disposal Services from January 1, 2021, through December 31, 2022—not to exceed \$250,000.<br><b>Maj. Mike McNab</b>      | Approve | OPR 2021-0130<br>IRFP 5372-20 |
| 3. | Sub-recipient Agreement with Spokane County for the JAG 20 Edward Byrne Memorial Justice Assistance Grant (JAG) Program from October 1, 2019, through September 30, 2023—\$65,197.35 revenue.<br><b>Jennifer Hammond</b> | Approve | OPR 2021-0131                 |
| 4. | Contract Amendment with Willis Towers Watson Insurance Services (Seattle, WA) for insurance brokerage services from April 1, 2021, through March 31, 2022—\$60,000.<br><b>Mike Ormsby</b>                                | Approve | OPR 2016-0268                 |

- |     |  |         |                              |
|-----|--|---------|------------------------------|
| 5.  | Contract with Community Minded Enterprises (Spokane) to operate the City's Community Access Television Channel (CMTV 14) as part of the City's Cable Franchise Agreement with Comcast Cable from January 1, 2021, through December 31, 2021—\$65,000.<br><b>John Delay</b>             | Approve | OPR 2021-0132                |
| 6.  | Designation of KSPS (Spokane) as Administrator of C.A.B.L.E. Peg Funds under Section 19 subsection (b) of the City's Cable Franchise from January 1, 2021, through December 31, 2021—\$65,000.<br><b>John Delay</b>  | Approve | OPR 2021-0133                |
| 7.  | Value Blanket with Two Rivers Terminal, LLC. (Pasco, WA) to supply Citric Acid 50% to Riverside Park Water Reclamation Facility from March 1, 2021, through February 28, 2024—\$330,000 (plus applicable taxes).<br><b>Mike Cannon</b>   | Approve | OPR 2021-0134<br>RFQ 5378-21 |
| 8.  | Contract Renewal No. 1 of 2 with Kemira Water Solutions, Inc. (Lawrence, KS) to supply liquid Aluminum Sulfate to Riverside Park Water Reclamation Facility from April 1, 2021, through March 31, 2022—\$2,188,600 (plus applicable taxes).<br><b>Mike Cannon</b>                      | Approve | OPR 2018-0213<br>BID 4442-18 |
| 9.  | Contract Renewal No. 1 of 2 with Polydyne, Inc. (Riceboro, GA) to supply polymer to Riverside Park Water Reclamation Facility from March 1, 2021, through February 28, 2022—\$449,000.<br><b>Mike Cannon</b>   | Approve | OPR 2018-0127<br>BID 4438-18 |
| 10. | Contract Extension No. 4 of 4 with BrandSafway Services, LLC. (Spokane Valley, WA) from April 1, 2021, through March 31, 2022—not to exceed \$450,000 (plus tax).<br><b>Chris Averyt</b>   | Approve | OPR 2017-0155<br>RFB 4308-16 |
| 11. | Contract Amendment and Extension No. 1 of 2 with Divco, Inc. (Spokane) for scheduled and unscheduled maintenance on the HVAC systems at the Waste To Energy Facility from March 1, 2021, through February 28, 2022—not to exceed \$65,000 (incl. tax).<br><b>Chris Averyt</b>          | Approve | OPR 2018-0171<br>RFB 4227-17 |
| 12. | Contract Extension No. 4 of 4 with CH2M Hill Engineers, Inc. (Jacobs Engineering) (Spokane) for groundwater monitoring and report writing services for the Northside and Southside Landfills from March 10, 2021, through March 9, 2022—not to exceed \$49,000.<br><b>Chris Averyt</b> | Approve | OPR 2017-0140<br>RFQ 4304-16 |

The following item (OPR 2021-0032) is pending Council Action to be deferred to this Agenda:

13. Low Bid of Halme Construction (Spokane) for Centennial Trail - Summit Boulevard—\$1,954,325.97 (plus tax). An administrative reserve of \$195,432.60 (plus tax), which is 10% of the contract price (plus tax), will be set aside. (Deferred from February 22, 2021, Agenda)  
**Dan Buller** Approve OPR 2021-0032
14. Report of the Mayor of pending: Approve & Authorize Payments CPR 2021-0002
- a. Claims and payments of previously approved obligations, including those of Parks and Library, through \_\_\_\_\_, 2021, total \$\_\_\_\_\_, with Parks and Library claims approved by their respective boards. Warrants excluding Parks and Library total \$\_\_\_\_\_.
- b. Payroll claims of previously approved obligations through\_\_\_\_\_, 2021: \$\_\_\_\_\_. CPR 2021-0003
15. City Council Meeting Minutes: \_\_\_\_\_, 2021. Approve All CPR 2021-0013

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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)

WORDS OF INSPIRATION

**PLEDGE OF ALLEGIANCE**

**ROLL CALL OF COUNCIL**

**ANNOUNCEMENTS**

(Announcements regarding Changes to the City Council Agenda)

**BOARDS AND COMMISSIONS APPOINTMENTS**

(Includes Announcements of Boards and Commissions Vacancies)

**APPOINTMENTS**

**RECOMMENDATION**

Ethics Commission: Two Reappointments

Confirm CPR 2006-0042

Community, Housing, and Human Services Board: One  
Appointment

Confirm CPR 2012-0033

**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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**LEGISLATIVE AGENDA**

**NO SPECIAL BUDGET ORDINANCES**

**NO EMERGENCY ORDINANCES**

**RESOLUTIONS & FINAL READING ORDINANCES**

(Require Four Affirmative, Recorded Roll Call Votes)

RES 2021-0013 Setting a hearing before the City Council for March 22, 2021, for the vacation of the alley between Columbia Avenue and Joseph Avenue, from the east line of Julia Street to the west line of Myrtle Street, as requested by Dan Cantu. (Council Sponsor: Council Member Cathcart)

**Eldon Brown**

RES 2021-0014 Declaring Nalco Chemical Company a sole source provider of  
OPR 2021-0136 conditioning chemicals (and associated equipment) for use in the high pressure boilers and steam system at the Riverside Park Water Reclamation Facility (RPWRF) and authorizing the purchase of conditioning chemicals (and associated equipment) from Nalco Chemical Company for \$332,800 plus tax and shipping without public bidding for a five (5) year term. (Council Sponsor: Council President Beggs)

**Mike Cannon**

- ORD C36013 Amending Ordinance C31697 that vacated Madelia Street from the north line of Fairview Avenue to Euclid Avenue except North Foothills Drive and the alley between Madelia Street and Pittsburg Street from Fairview Avenue to Euclid Avenue except North Foothills Drive. (Council Sponsor: Council Member Cathcart)  
**Eldon Brown**
- ORD C35924 Final Reading Ordinance C35924 granting Yellowstone Pipe Line Company, a corporation, chartered in the State of Delaware, the nonexclusive right, privilege, authority, and franchise to construct, operate, maintain, remove, replace, and repair existing pipeline facilities together with equipment and appurtenances thereto, for the transportation of petroleum products and byproducts in the public right-of-way within and through the City of Spokane, Spokane County, WA. (Deferred from January 25, 2021, Agenda) (Council Sponsor: Council Member Cathcart)  
**Tim Szambelan**

## NO FIRST READING ORDINANCES

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### SPECIAL CONSIDERATIONS

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

#### RECOMMENDATION

- S1. Approve 2017 – 2021 Police Guild Tentative Agreement. Approve OPR 2021-0135  
(Council Sponsors: Council President Beggs, Council Member Cathcart, Council Member Kinnear, Council Member Mumm, Council Member Wilkerson)  
**Amber Richards**
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## NO HEARINGS

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**Motion to Approve Advance Agenda for March 1, 2021**  
(per Council Rule 2.1.2)

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### OPEN FORUM

At each meeting after the conclusion of the legislative agenda, the Council shall hold an open public comment period until 9:30 p.m., which may be extended by motion. Each speaker is limited to no more than three minutes. In order to participate in Open Forum, you must sign up here: <https://forms.gle/WtfGZ3HqQuXCipcX9>. The form will open at 5:00 p.m. on Monday, March 1, and will close at 6:00 p.m. Instructions for participating are available on the form. 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 of interest not relating to 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.

**ADJOURNMENT**

The March 1, 2021, Regular Legislative Session of the City Council is adjourned to March 8, 2021.

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**NOTES**

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

03/01/2021

<b><u>Date Rec'd</u></b>	2/5/2021
<b><u>Clerk's File #</u></b>	OPR 2020-0087
<b><u>Renews #</u></b>	
<b><u>Cross Ref #</u></b>	
<b><u>Project #</u></b>	
<b><u>Bid #</u></b>	5222-20
<b><u>Requisition #</u></b>	VB 301125

<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 - COILED PIT SETTER METER BOXES

**Agenda Wording**

Renewal of annual value blanket order for coiled pit setter meter boxes with Core & Main (Spokane Valley, WA) not to exceed \$350,000.00 including tax.

**Summary (Background)**

ITB #5222-20 was issued on the City's electronic bidding portal on January 10, 2020. Two bids were received by the closing deadline at 1:00pm on January 27, 2020. Business was correspondingly awarded by Council approval to Core & Main for one year as the low responsive, responsible bidder. This represents the first annual renewal of the original value blanket at no change in price. Three optional annual renewals remain, with the total term not to exceed five years.

Lease? NO Grant related? NO Public Works? NO

**Fiscal Impact**

Expense \$ 350,000.00

Select \$

Select \$

Select \$

**Budget Account**

# 4100-42440-94340-56595-99999

#

#

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**Approvals**

<b><u>Dept Head</u></b>	BURNS, STEVE
<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>	PIES 2/22/2021
<b><u>Council Sponsor</u></b>	PRESIDENT BEGGS

**Distribution List**

sjohnson@spokanecity.org  
rtreffry@spokanecity.org

**Additional Approvals**

**Purchasing** WAHL, CONNIE



## Briefing Paper

### Public Infrastructure, Environment, & Sustainability Committee

<b>Division &amp; Department:</b>	Public Works, 4100 Water & Hydroelectric Services
<b>Subject:</b>	Coiled Pit Setter Meter Boxes – Annual Value Blanket Renewal
<b>Date:</b>	22 February 2021
<b>Author (email &amp; phone):</b>	Loren Searl, <a href="mailto:lsearl@spokanecity.org">lsearl@spokanecity.org</a> , 625-7851
<b>City Council Sponsor:</b>	President Breean Beggs
<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 these purchases is available in the Water & Hydroelectric Services' department budget.
<b>Strategic Initiative:</b>	Innovative Infrastructure
<b>Deadline:</b>	The original value blanket for these products expired 2/11/2021.
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	This value blanket renewal will support the Water department's 2021 construction and maintenance season by facilitating the purchase of this critical component on an as-needed basis.
<p><b>Background/History:</b> Invitation to Bid #5222-20 was issued on the City's electronic bidding portal on January 10, 2020. Two bids were received by the closing deadline at 1:00pm on January 27, 2020. Business was correspondingly awarded by Council approval to Core &amp; Main (Spokane Valley, WA) for one year as the low responsive, responsible bidder. This represents the first annual renewal of the original value blanket at no change in price. Three optional annual renewals remain, with the total term not to exceed five years.</p>	
<p><b>Executive Summary:</b></p> <ul style="list-style-type: none"> <li>Renewal recommended with Core &amp; Main (Spokane Valley, WA) at no change in unit price</li> <li>Annual value not to exceed \$350,000.00 including tax</li> <li>Original ITB #5222-20 Coiled Pit Setter Meter Boxes – Annual Value Blanket</li> <li>Three optional annual renewals remain</li> </ul>	
<p><b>Budget Impact:</b></p> <p>Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Annual/Reoccurring expenditure? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If new, specify funding source: N/A</p> <p>Other budget impacts: N/A</p>	
<p><b>Operations Impact:</b></p> <p>Consistent with current operations/policy? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Requires change in current operations/policy? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Specify changes required: N/A</p> <p>Known challenges/barriers: N/A</p>	



**Agenda Sheet for City Council Meeting of:**  
03/01/2021

<b>Date Rec'd</b>	2/17/2021
<b>Clerk's File #</b>	OPR 2021-0130
<b>Renews #</b>	
<b>Cross Ref #</b>	
<b>Project #</b>	
<b>Bid #</b>	IRFP 5372-20
<b>Requisition #</b>	CR 22377

<b>Submitting Dept</b>	POLICE
<b>Contact Name/Phone</b>	MAJ. MIKE MCNAB 835-4514
<b>Contact E-Mail</b>	MMCNAB@SPOKANEPOLICE.ORG
<b>Agenda Item Type</b>	Contract Item
<b>Agenda Item Name</b>	0680 IMPOUNDED AND ABANDONED RV DISPOSAL SERVICES

**Agenda Wording**

Approval of Service Contract with Evergreen State Towing to provide Impounded and Abandoned RV Disposal Services.

**Summary (Background)**

On 12/16/2020, IRFP #5372-20 was sent to multiple firms for Impounded and Abandoned RV Disposal Services. Evergreen State Towing won the bid to provide services to the City of Spokane and the Spokane Police Department. The new contract being requested is for a two-year contract with renewal options with an amount not to exceed \$250,000 during the term of the contract.

Lease? NO Grant related? NO Public Works? NO

**Fiscal Impact**

Expense \$ 50,000.00

Expense \$ 25,000.00

Select \$

Select \$

**Budget Account**

# 1460-21200-21710-54201-99999

# 0680-11410-21250-54921-99999

#

#

**Approvals**

**Dept Head** LUNDGREN, JUSTIN

**Division Director** LUNDGREN, JUSTIN

**Finance** SCHMITT, KEVIN

**Legal** ODLE, MARI

**For the Mayor** ORMSBY, MICHAEL

**Additional Approvals**

**Purchasing** WAHL, CONNIE

**Council Notifications**

**Study Session\Other** Public Safety 02/01/2021

**Council Sponsor** Council Member Kinnear

**Distribution List**

spdfinance@spokanepolice.org

mroberge@spokanepolice.org

mmcnab@spokanepolice.org

## Briefing Paper

### Public Safety & Community Health Committee

<b>Division &amp; Department:</b>	Public Safety, Police Department
<b>Subject:</b>	Impounded and Abandoned RV Disposal Services
<b>Date:</b>	February 1, 2021
<b>Author (email &amp; phone):</b>	Mike McNab mmcnab@spokanepolice.org 509-835-4514
<b>City Council Sponsor:</b>	Councilmember Kinnear
<b>Executive Sponsor:</b>	Major Mike McNab
<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)	Approval of Service Contract with Evergreen State Towing to provide Impounded and Abandoned RV Disposal Services.
<b>Background/History:</b> On 12/16/2020, IRFP # 5372-20 was sent to multiple firms via the City's ProcureWare system, for Impounded and Abandoned RV Disposal Services. Evergreen State Towing won the bid to provide services to the City of Spokane and the Spokane Police Department for 1 year with an option to renew services for an additional 4 years.	
<b>Executive Summary:</b> This contract with Evergreen State Towing is for removal and disposal of junk/abandoned motorhomes and similar vehicles that other towing companies are unwilling to impound. These vehicles represent a blight on the neighborhoods in which they are abandoned and present significant health concerns; as nearly all RV's removed in 2020 were found leaking raw sewage or discharging black-water waste directly onto the streets.  The Police Department in partnership with Parking Enforcement, and Code Enforcement place notices on vehicles 24-72 hours in advance, giving the occupant's time to act. Most, if not all, vehicles towed under this contract are towed as junk/hulk vehicles. As such, the owner is able to reclaim the vehicle at no expense. In 2020, 13% of impounded vehicles were redeemed by the owner, the remainder were destroyed due to their extremely dilapidated condition and sanitation concerns. In 2020, 129 RV's were impounded, 108 were destroyed, and 19 were redeemed. (See attached 2020 synopsis)  New contract being requested is a two-year contract, with renewal options, for an amount not to exceed \$250,000 during the term of the contract. Current funding is a combination of Police and Parking Meter funds.	
<b>Budget Impact:</b> Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Annual/Reoccurring expenditure? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If new, specify funding source: Other budget impacts: (revenue generating, match requirements, etc.)	
<b>Operations Impact:</b> Consistent with current operations/policy? <input type="checkbox"/> Yes <input type="checkbox"/> No Requires change in current operations/policy? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Specify changes required: Known challenges/barriers:	



**City of Spokane**

**PURCHASED SERVICE CONTRACT**

**Title: IMPOUND AND ABANDONED  
RV DISPOSAL SERVICES**

This Contract is made and entered into by and between the **CITY OF SPOKANE POLICE DEPARTMENT** as ("City"), a Washington municipal corporation, and **EVERGREEN STATE TOWING, LLC.**, whose address is 6463 1/2 North Perry Street, Spokane, Washington, 99217, and whose mailing address is P.O. Box 48285, Spokane, Washington, 99228, as ("Company"), individually hereafter referenced as a "party", and together as the "parties".

The parties agree as follows:

**1. PERFORMANCE/SCOPE OF WORK.**

The Company shall provide IMPOUND AND ABANDONED RV DISPOSAL SERVICES in accordance with IRFP No. 5372-20 issued by the City, and the Company's Proposal dated December 21, 2020, which is attached as Exhibit B. In the event of a conflict between Company's Proposal and this City Contract, the terms of this contract will control.

**2. TERM OF CONTRACT.**

The term of this Contract begins on January 1, 2021 and shall run through December 31, 2022, unless amended by written agreement or terminated earlier under the provisions.

**3. TERMINATION.**

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

**4. COMPENSATION / PAYMENT.**

Total compensation for Company's services under this as-needed Contract shall not exceed **TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$250,000.00)**, in accordance with the costs noted in Exhibit B, unless modified by a written amendment to this Contract.

The Company shall submit its applications for payment to City of Spokane Police Department, West 1100 Mallon Avenue, Spokane, Washington, 99260. **Payment will be made via direct deposit/ACH** within thirty (30) days after receipt of the Company's application except as provided by state law. If the City objects to all or any portion of the invoice, it shall notify the Company and reserves the right to only pay that portion of the invoice not in dispute. In that event, the parties shall immediately make every effort to settle the disputed amount.

**5. INSURANCE.**

During the period of the Contract, the Contractor shall maintain in force at its own expense, each

insurance noted below with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW:

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

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

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

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

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

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without thirty (30) days written notice from the Consultant or its insurer(s) to the City. As evidence of the insurance coverage(s) required by this Contract, the Consultant shall furnish acceptable Certificates of Insurance (COI) to the City at the time it returns this signed Contract. **The certificate shall specify the City of Spokane as "Additional Insured"** specifically for Contractor's services under this Contract, as well as all of the parties who are additional insureds, and include applicable policy endorsements, the thirty (30) day cancellation clause, and the deduction or retention level. The Consultant shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

## **6. INDEMNIFICATION.**

The Contractor shall defend, indemnify, and hold the City and its officers and employees harmless from all claims, demands, or suits at law or equity asserted by third parties for bodily injury (including death) and/or property damage which arise from the Contractor's negligence or willful misconduct under this Contract, including attorneys' fees and litigation costs; provided that nothing herein shall require a Contractor to indemnify the City against and hold harmless the City from claims, demands or suits based solely upon the negligence of the City, its agents, officers, and employees. If a claim or suit is caused by or results from the concurrent negligence of the Contractor's agents or employees and the City, its agents, officers and employees, this indemnity provision shall be valid and enforceable to the extent of the negligence of the Contractor, its agents or employees. The Contractor specifically assumes liability and agrees to defend, indemnify, and hold the City harmless for actions brought by the Contractor's own employees against the City and, solely for the purpose of this indemnification and defense, the Contractor specifically waives any immunity under the Washington State industrial insurance law, or Title 51 RCW. The Contractor recognizes that this waiver was specifically entered into pursuant to the

provisions of RCW 4.24.115 and was the subject of mutual negotiation. The indemnity and agreement to defend and hold the City harmless provided for in this section shall survive any termination or expiration of this Contract.

#### **7. TAXES, FEES AND LICENSES.**

- A. Company shall pay and maintain in current status, all necessary licenses, fees, assessments, permit charges, etc. necessary to conduct the work included under this Contract. It is the Company's sole responsibility to monitor and determine changes or the enactment of any subsequent requirements for said fees, assessments, or changes and to immediately comply.
- B. The cost of any permits, licenses, fees, etc. arising as a result of the projects included in this Contract shall be included in the project budgets.

#### **8. CITY OF SPOKANE BUSINESS LICENSE.**

Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid annual business registration. The Company 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 Company does not believe it is required to obtain a business registration, it may contact the City's Taxes and Licenses Division at (509) 625-6070 to request an exemption status determination.

#### **9. SOCIAL EQUITY REQUIREMENTS / NON-DISCRIMINATION.**

No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this 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 Company agrees to comply with, and to require that all subcontractors comply with, federal, state and local nondiscrimination laws, including but not limited to: the Civil Rights Act of 1964, the Rehabilitation Act of 1973, the Age Discrimination in Employment Act, and the American's With Disabilities Act, to the extent those laws are applicable.

#### **10. DEBARMENT AND SUSPENSION.**

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

#### **11. AUDIT.**

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

#### **12. ASSIGNMENT AND SUBCONTRACTING.**

The Company shall not assign or subcontract its obligations under this Contract without the City's written consent, which may be granted or withheld in the City's sole discretion. Any subcontract made by the Company shall incorporate by reference this Contract, except as otherwise provided.

The Company shall ensure that all subcontractors comply with the obligations and requirements of the subcontract. The City's consent to any assignment or subcontract does not release the Company from liability or any obligation within this Contract, whether before or after City consent, assignment or subcontract.

### **13. STANDARD OF PERFORMANCE.**

The standard of performance applicable to Company's services will be the degree of skill and diligence normally employed by professional company performing the same or similar services at the time the services under this Contract are performed.

### **14. OWNERSHIP AND USE OF RECORDS AND DOCUMENTS.**

Original documents, drawings, designs, reports, or any other records developed or created under this Contract shall belong to and become the property of the City. All records submitted by the City to the Company shall be safeguarded by the Company. The Company shall make such data, documents and files available to the City upon the City's request. If the City's use of the Company's records or data is not related to this project, it shall be without liability or legal exposure to the Company.

Under Washington State Law (reference RCW Chapter 42.56, the *Public Records Act* [PRA]) all materials received or created by the City of Spokane are **public records** and are available to the public for viewing via the City Clerk's Records (online) or a valid Public Records Request (PRR).

### **15. ANTI KICK-BACK.**

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

### **16. MISCELLANEOUS PROVISIONS.**

- A. **Amendments/Modifications:** This Contract may be modified by the City in writing when necessary, and no modification or Amendment of this Contract shall be effective unless signed by an authorized representative of each of the parties hereto.
- B. The Company, at no expense to the City, shall comply with all laws of the United States and Washington, the Charter and ordinances of the City of Spokane; and rules, regulations, orders and directives of their administrative agencies and officers. Without limiting the generality of this paragraph, the Company shall comply with the requirements of this Section.
- C. This Contract shall be construed and interpreted under the laws of Washington. The venue of any action brought shall be in a court of competent jurisdiction, located in Spokane County, Washington.
- D. **Captions:** The titles of sections or subsections are for convenience only and do not define or limit the contents.
- E. **Severability:** If any term or provision is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Contract shall not be affected, and each term and provision shall be valid and enforceable to the fullest extent permitted by law.
- F. **Waiver:** No covenant, term or condition or the breach shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition shall not be deemed a waiver of any preceding or succeeding breach of the same or any other covenant, term of condition. Neither the acceptance by the City of any performance by the Company after the time the same shall

have become due nor payment to the Company for any portion of the Work shall constitute a waiver by the City of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by the City in writing.

- G. **Entire Contract:** This document along with any exhibits and all attachments, and subsequently issued addenda, comprises the entire Contract between the City and the Company. If conflict occurs between Contract documents and applicable laws, codes, ordinances or regulations, the most stringent or legally binding requirement shall govern and be considered a part of this Contract to afford the City the maximum benefits.
- H. **No personal liability:** No officer, agent or authorized employee of the City shall be personally responsible for any liability arising under this Contract, whether expressed or implied, nor for any statement or representation made or in any connection with this Contract.

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 by having legally-binding representatives affix their signatures below.

**EVERGREEN STATE TOWING, 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

**Attachments that are part of this Contract:**

Exhibit A – Certification Regarding Debarment  
Exhibit B – Company’s Proposal

21-015



## EXHIBIT A

### CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

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

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

1. The lower tier contractor certified, by signing this contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
  2. Where the lower tier contractor is unable to certify to any of the statements in this contract, such contractor shall attach an explanation to this contract.
4. I understand that a false statement of this certification may be grounds for termination of the contract.

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

## EXHIBIT B

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

03/01/2021

**Date Rec'd**

2/17/2021

**Clerk's File #**

OPR 2021-0131

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

POLICE

**Cross Ref #****Contact Name/Phone**JENNIFER 625-4056  
HAMMOND**Project #****Contact E-Mail**

JHAMMOND@SPOKANEPOLICE.ORG

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

Contract Item

**Requisition #****Agenda Item Name**

0680-POLICE-JAG 20 CONTRACT-

**Agenda Wording**

To accept a sub-recipient agreement contract with Spokane County for the JAG 20 Edward Byrne Memorial Justice Assistance Grant (JAG) Program. The City was awarded \$65,197.35 jointly with Spokane County. Term-10/1/2019-9/30/2023 CFDA 16.738

**Summary (Background)**

A joint grant application was submitted in total for \$144,883, to be split as follows: City - \$65,197.35 and County - \$79,685.65 utilizing the Edward Byrne Memorial Justice Assistance Grant (JAG) Program. The City was awarded \$65,197.35 jointly with Spokane County. Funds will be used to further the JAG 19 program items of enhancing officer and community safety visibility by purchasing red-dot sights and related accessories for equipping the teams.

Lease? NO

Grant related? YES

Public Works? NO

**Fiscal Impact****Budget Account**

Expense \$ 65,197.35

# 1620-91783-21250-53502-99999

Revenue \$ 65,197.35

# 1620-91783-21250-33316-99999

Select \$

#

Select \$

#

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

OLSEN, ERIC

**Study Session\Other**

8/3/2020

**Division Director**

OLSEN, ERIC

**Council Sponsor**

Kinnear

**Finance**

SCHMITT, KEVIN

**Distribution List****Legal**

ODLE, MARI

emccowan

**For the Mayor**

ORMSBY, MICHAEL

kgrytdal@spokanecounty.org

**Additional Approvals**

spd finance

**Purchasing****GRANTS,  
CONTRACTS &  
PURCHASING**

STOPHER, SALLY

## Briefing Paper

### Public Safety & Community Health Committee

<b>Division &amp; Department:</b>	Spokane Police Department
<b>Subject:</b>	Spokane county-Spokane Police Department Joint-JAG 20-App.
<b>Date:</b>	August 3, 2020
<b>Contact (email &amp; phone):</b>	Jennifer Hammond-625-4056, JHammond@spokanepolice.org
<b>City Council Sponsor:</b>	
<b>Executive Sponsor:</b>	Craig Meidl
<b>Committee(s) Impacted:</b>	Public Safety & Community Health Community
<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)	Strategic Plan and Comprehensive Plan (CFU 1.9)
<b>Strategic Initiative:</b>	Advance Public Safety and Build Sustainable Resources
<b>Deadline:</b>	August 3, 2020
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	Approval of Spokane county-Spokane Police Department Joint-JAG 20-App.
<p><u>Background/History:</u></p> <p>Each year, the Department of Justice Solicits Grant applications for the Edward Byrne Memorial Justice Assistance Grant (JAG) Program. The County and City act as Disparate Jurisdictions and must share the monies. In 2011, the City and County entered into the MOU OPR 2011-0729 on how to apply and split the money each year. The monies are to be split equally, and the fiscal agent of the grant is allowed an additional 10% of the joint money.</p> <p>The Spokane Police Department in collaboration with the Spokane County Sheriff's Office wishes to submit a request for funding for a joint proposal under the Edward Byrne Memorial Justice Assistance Grant (JAG) Program. A grant application will be submitted in total for \$144,883, which will be split as follows: City - \$65,197.35 and County - \$79,685.65.</p> <p>The Spokane County and Spokane Police Department would like to jointly apply for the recently advertised Department of Justice (DOJ) COVID JAG award in the amount of \$144,883. The Spokane County agrees to use the funds for prosecution and law enforcement equipment. The Spokane Police Department (SPD) agrees to use the funds towards law enforcement equipment.</p>	
<p><u>Executive Summary:</u></p> <ul style="list-style-type: none"> <li>• Approval for the MOU to apply with the Spokane County towards the Edward Byrnes-JAG FY2020 Grant</li> <li>• Total Grant-\$144,883: City-\$65,197.35 &amp; County-\$79,685.65</li> <li>• Supports Strategic Plan in Advancing Public Safety and developing Sustainable Resources by relying upon efficient funding from the DOJ.</li> </ul>	
<u>Budget Impact:</u>	

Approved in current year budget? ☒ Yes ☐ No ☐ N/A

Annual/Reoccurring expenditure? ☒ Yes ☐ No ☐ N/A

If new, specify funding source:

Other budget impacts: (revenue generating, match requirements, etc.) No match requirement

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:

**AGREEMENT BETWEEN SPOKANE COUNTY AND CITY OF SPOKANE  
POLICE DEPARTMENT IN CONJUNCTION WITH FY20 EDWARD BYRNE  
MEMORIAL JUSTICE ASSISTANCE (JAG) GRANT**

<b>1. Grantee</b> City of Spokane Spokane Police Department Public Safety Building 1100 W Mallon Spokane, WA 99201		<b>2. Contract Amount</b>  <p style="text-align: center;"><b>\$65,197.35</b></p>		<b>3. Tax ID#</b> <p style="text-align: center;"><b>91-6001280</b></p>	
<b>5. Grantee Representative</b> Jennifer Hammond Spokane Police Department 1100 W. Mallon Spokane, WA 99260 (509) 625-4056 jhammond@spokanepolice.org		<b>6. County's Representative</b> Kari Grytdal Office of Financial Assistance 1116 W. Broadway Spokane, WA 99260 (509) 477-7273 kgrytdal@spokanecounty.org			
<b>7. Grantor ID #</b>		<b>8. Original Grant ID#</b> <p style="text-align: center;"><b>2020-DJ-BX-0453</b></p>		<b>9. Start Date</b> <p style="text-align: center;">10/1/2019</p>	
<b>10. End Date</b> <p style="text-align: right;">9/30/2023</p>					
<b>11. Funding Source:</b> <div style="text-align: center;"> <input checked="" type="checkbox"/> Federal    <input type="checkbox"/> State    <input type="checkbox"/> Other         </div>					
<b>12. Federal Funds (as applicable)</b>		<b>CFDA #</b> <p style="text-align: center;">16.738</p>		<b>Federal Agency:</b> <p style="text-align: center;">U.S. Department of Justice</p>	
<b>13. Contractor Selection Process: (check all that apply or qualify)</b> <input type="checkbox"/> Sole Source <input type="checkbox"/> A/E Services <input type="checkbox"/> Competitive Bidding <input checked="" type="checkbox"/> Pre-approved by Funder			<b>14. Contractor Type: (check all that apply)</b> <input type="checkbox"/> Private Organization/Individual <input checked="" type="checkbox"/> Public Organization/ Individual <input type="checkbox"/> Vendor <input checked="" type="checkbox"/> Subrecipient o Non – Profit <input type="checkbox"/> For-Profit		
<b>15. Grant Purpose: To support local law enforcement efforts to prevent or reduce crime and violence.</b>					
<b>16. SPOKANE COUNTY and the CITY OF SPOKANE POLICE DEPARTMENT, acknowledge and accept the terms of this AGREEMENT and attachments and have executed this AGREEMENT on 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) General Terms and Conditions, (2) Attachment “A” Scope of Work, (3) Attachment “B” Budget, (4) Attachment “C” Statement of Assurances, (5) Attachment “D” Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion, (6) Attachment “E” FFATA, (7) Attachment “F” Restrictions and Certifications Regarding Non-Disclosure Agreements, (8) Attachment “G” National Environmental Policy Act, (9) Attachment “H” Acknowledgement of Allowable and Unallowable Costs, (10) Attachment “I” Equal Employment Opportunity Plan Certification Form, and (11) Attachment “J” CCR Registration of Sub-Recipient DUNS Numbers .</b>					
<b>FOR THE CITY:</b>			<b>FOR THE COUNTY:</b>		
Signature _____ Date _____			Signature _____ Date _____		
Name _____			Name _____		
Title _____			Title _____		

**(FACE SHEET)**

## **GENERAL TERMS AND CONDITIONS**

### **SECTION NO. 1: SERVICES**

The CITY OF SPOKANE POLICE DEPARTMENT, hereinafter known as the “CITY” shall provide those services set forth in the Scope of Work attached hereto as Attachment “A” and incorporated herein by reference.

### **SECTION NO. 2: COMPENSATION**

SPOKANE COUNTY, hereinafter known as the “COUNTY” shall reimburse the CITY an amount not to exceed the amount set forth in Attachment “B”, attached hereto and incorporated herein by reference for the performance of all things necessary for or incidental to the performance of Scope of Work as set forth in Attachment “A”. The CITY’S reimbursement for services set forth in Attachment “A” shall be in accordance with the terms and conditions set forth in the Budget attached hereto as Attachment “B” and incorporated herein by reference. Invoices must be submitted with appropriate supporting documentation, including copies of receipts and a brief narrative on the work program performed and progress achieved and how any items purchased are being used to further the work program, as directed by the COUNTY’S representative designated hereinafter. Requests for reimbursement by the CITY shall be made on or before the 20<sup>th</sup> of each month for the previous month’s expenditures. In conjunction with each reimbursement request, the CITY 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 funding source. Requests for reimbursement should not be submitted more than monthly. December’s reimbursement request must be received no later than January 10<sup>th</sup> to be allowable under grant. Reimbursement voucher is provided and required for requests for payment. Final request for reimbursement for all expenses is August 31, 2023.

Requests for reimbursement shall be submitted electronically to:

**Matt Descoteaux**  
**Grants & Contracts Analyst**  
**Office of Financial Assistance**  
**1116 West Broadway**  
**Spokane, WA 99260**  
**[mdescoteaux@spokanecounty.org](mailto:mdescoteaux@spokanecounty.org)**

Payment shall be considered timely if made by the COUNTY within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the CITY.

### **SECTION NO. 3: TERM**

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.

#### **SECTION NO. 4:     RELATIONSHIP OF THE PARTIES**

The PARTIES intend that an independent contractor relationship will be created by this AGREEMENT. The COUNTY is interested only in the results that can be achieved, and the conduct and control of the activities as set forth in Section No. 1 and described in Attachment “A” will be solely with the CITY. No agent, employee, servant or otherwise of the CITY shall be deemed to be an employee, agent, servant, or otherwise of the COUNTY for any purpose, and the employees of the CITY are not entitled to any of the benefits that the COUNTY provides for COUNTY employees. The CITY will be solely and entirely responsible for its acts and the acts of its agents, employees, servants, and subcontractors or otherwise, during the performance of this AGREEMENT.

#### **SECTION NO. 5:     VENUE STIPULATION**

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

#### **SECTION NO. 6:     COMPLIANCE WITH LAWS**

The PARTIES specifically agree to observe all federal, state and local laws, ordinances and regulations and policies to the extent that they may have any bearing on meeting their respective obligations under the terms of this AGREEMENT, including, but not limited to the following:

- A. Audits – 2 CFR Part 200;
- B. Labor and Safety Standards – Convict Labor 18 U.S.C. 751, 752, 4081, 4082; Drug-Free Workplace Act of 1988, 41 USC 701 et seq.; Federal Fair Labor Standards Act 29 U.S.C. 201 et seq.; Work Hours and Safety Act of 1962 40 U.S.C. 327-330 and Department of Labor Regulations, 29 CFR Part 5;
- C. Laws Against Discrimination – Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101-07, 45 CFR Part 90 Nondiscrimination in Federally Assisted Programs; Americans with Disabilities Act of 1990 Public Law 101-336; Equal Employment Opportunity, Executive Order 11246, as amended by Executive Order 11375 and supplemented in U.S. Department of Labor Regulations, 41 CFR Chapter 60; Executive Order 11246, as amended by EO 11375, 11478, 12086 and 12102; Employment under Federal Contracts, Rehabilitation Act of 1973, Section 503, 29 U.S.C. 793; Nondiscrimination under Federal Grants, Rehabilitation Act of 1973, Section 504, 29 U.S.C. 794; Minority Business Enterprises, Executive Order 11625, 15 U.S.C. 631; Minority Business Enterprise Development, Executive Order 12432, 48 CFR 32551; Nondiscrimination and Equal Opportunity, 24 CFR 5.105(a); Nondiscrimination in benefits, Title VI of the Civil Rights Act of 1964, Public Law 88-352, 42 U.S.C. 2002d et seq, 24 CFR Part 1; Nondiscrimination in employment, Title VII of the Civil Rights Act of 1964, Public Law 88-352; Nondiscrimination in Federally Assisted Construction Contracts, Executive Order 11246, 42 U.S.C. 2000e, as amended by Executive Order 11375, 41 CFR Chapter 60; Section 3, Housing and Urban Development Act of 1968, 12 U.S.C. 1701u (See 24 CFR 570.607(b));



Office of Management and Budget Circulars – 2 CFR Parts 200; Other – Anti-Kickback Act, 18 U.S.C. 874; 40 U.S.C. 276b, 276c; 41 U.S.C. 51-54; Governmental Guidance for New Restrictions on Lobbying: Interim Final Guidance, Federal Register 1, Vol. 54, No. 243\Wednesday, December 20, 1989; Hatch Political Activity Act, 5 U.S.C. 1501-8; Lobbying and Disclosure, 42 U.S.C. 3537a and 3545 and 31 U.S.C. 1352 (Byrd Anti-Lobbying Amendment); Non-Supplantation, 28 CFR Sec. 90, 18; Section 8 Housing Assistance Payments Program; and

D. Privacy – Privacy Act of 1974, 5 U.S.C. 552a.

#### Washington State Laws and Regulations

- A. Affirmative action, RCW 41.06.020 (11);
- B. Boards of directors or officers of non-profit corporations – Liability – Limitations, RCW 4.24.264;
- C. Disclosure-campaign finances-lobbying, Chapter 42.17 RCW;
- D. Discrimination-human rights commission, Chapter 49.60 RCW;
- E. Ethics in public service, Chapter 42.52 RCW;
- F. Office of minority and women’s business enterprises, Chapter 39.19 RCW and Chapter 326-02 WAC;
- G. Open public meetings act, Chapter 42.30 RCW;
- H. Public records act, Chapter 42.56 RCW; and
- I. State budgeting, accounting, and reporting system, Chapter 43.88 RCW.

### **SECTION NO. 7:     **AUDIT****

#### A. General Requirements

1. The CITY shall procure audit services based on the following guidelines.
2. The CITY shall maintain its records and accounts so as to facilitate the audit requirement and shall ensure that Subcontractors also maintain auditable records.
3. The CITY is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subcontractors.
4. The COUNTY reserves the right to recover from the CITY all disallowed costs resulting from the audit.
5. Responses to any unresolved management findings and disallowed or questioned costs shall be included with the audit report. The CITY must respond to the COUNTY requests for information or corrective action concerning audit issues within thirty (30) days of the date of request.

#### B. Federal Funds Requirement – 2 CFR Part 200

1. The CITY’S expending \$750,000 or more in a fiscal year in federal funds from all sources, direct and indirect, are required to have an audit conducted in accordance with 2

CFR Part 200. When state funds are also to be paid under this AGREEMENT a Schedule of State Financial Assistance as well as the required schedule of Federal Expenditure must be included. Both schedules include:

- a. Grantor agency name;
  - b. Federal agency;
  - c. Federal program income;
  - d. Other identifying contract numbers;
  - e. Catalog of Federal Domestic Assistance (CFDA) number (if applicable);
  - f. Grantor contract number;
  - g. Total award amount including amendments (total grant award); and
  - h. Current year expenditures.
2. If the CITY is a state or local government entity, the Office of the State Auditor shall conduct the audit. Audits of non-profit organizations are to be conducted by a certified public accountant selected by the CITY in accordance with 2 CFR Part 200.
  3. The CITY shall include the above audit requirements in any subcontracts.
  4. In any case, the CITY's financial records must be available for review by the COUNTY and the Department of Justice.

**C. Documentation Requirements**

1. The CITY must send a copy of the audit report described above no later than sixty (60) days after the completion of the audit to the COUNTY representative identified in Section No. 5 COMPENSATION.
2. In addition to sending a copy of the audit, when applicable, the CITY must include:
  - a. Corrective action plan for audit findings within three (3) months of the audit being received by the COUNTY.
  - b. Copy of the Management Letter.

**SECTION NO. 8:     REPORTING REQUIREMENTS**

- A. The CITY will use the Bureau of Justice Assistance (BJA) Performance Metric (PMT) at [www.bjaperformancetools.org](http://www.bjaperformancetools.org) (or any other performance metric device the Department of Justice institutes during the lifetime of the grant) to submit quarterly performance metrics relevant to their grant program. Logon and password information will be provided by the COUNTY. The CITY must submit its performance metrics into the BJA system before the 29th day of the month following the end of the prior quarter ending March 31st, June 30th, September 30th and December 31st.
- B. The CITY must submit quarterly accountability metrics data related to training that officers have received on the use of force, racial and ethnic bias, de-escalation of conflict, and constructive engagement with the public.

- C. The CITY shall also comply with the Federal Funding Accountability and Transparency Act (FFATA) and related Office of Management and Budget (OMB) Guidance consistent with Public Law (PL) 109-282 as amended by section 6202(a) of Public Law 110-252 (see 31 U.S.C. 6101 note) and complete and return to COUNTY the FFATA Form which is incorporated by reference and made a part of this AGREEMENT.

**SECTION NO. 9: AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336**

The CITY must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

**SECTION NO. 10: NON-DISCRIMINATION**

The PARTIES hereto specifically agree that no person shall, on the grounds of race, creed, color, sex, sexual orientation, national origin, marital status, age or the presence of any sensory, mental, or physical disability or Vietnam era or disabled veterans status be excluded from full employment rights and participation in, or be denied the benefits of, or be otherwise subject to, discrimination in conjunction with any Services which the CITY will receive payment under the provisions of this AGREEMENT.

**SECTION NO. 11: NONCOMPLIANCE WITH NONDISCRIMINATION LAWS**

During the performance of this AGREEMENT, the CITY shall comply with all federal, state, and local nondiscrimination laws, regulations and policies. In the event of the CITY's non-compliance or refusal to comply with any nondiscrimination law, regulation or policy, this AGREEMENT may be rescinded, canceled or terminated in whole or in part. The CITY shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

**SECTION NO. 12: NOTIFICATION OF FINDINGS OF DISCRIMINATION OR NON-COMPLIANCE**

In the event a state or federal court or a state or federal administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, age, disability, or sex against the CITY, the CITY will forward a copy of the finding to the U.S. Department of Justice, Office of Justice Programs, Office of Civil Rights (OCR), and the COUNTY.

The CITY shall include a statement clearly stating whether or not the funding is related to any grant activity supported with a grant in which U.S. Department of Justice Funds are involved, and identify all open grants utilizing U.S. Department of Justice funding, by Contract number and program title.

The CITY is required to ensure compliance with this requirement.

### **SECTION NO. 13: NEW CIVIL RIGHTS PROVISION**

The CITY shall comply with the Violence Against Women Reauthorization Act of 2013 provision that prohibits recipients from excluding, denying benefits to, or discriminating against any person on the basis of actual or perceived race, color, religion, national origin, sex, gender identity, sexual orientation, or disability in any program or activity funded in whole or in part by this AGREEMENT.

### **SECTION NO. 14: LIMITED ENGLISH PROFICIENCY (CIVIL RIGHTS ACT OF 1964 TITLE VI)**

The CITY must comply with the Title VI of the Civil Rights Act of 1964 (Title VI) prohibition against discrimination on the basis of national origin, which requires that subrecipients of federal financial assistance take reasonable steps to provide meaningful access to persons with Limited English Proficiency (LEP) to their programs and services. Providing meaningful access for persons with LEP may entail providing language assistance services, including oral interpretation and written translation. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (August 11, 2000), requires federal agencies to issue guidance to recipients, assisting such organizations and entities in understanding their language access obligations. Department of Homeland Security (DHS) published the required recipient guidance in April 2011, DHS Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 76 Fed. Reg. 21755-21768 (April 18, 2011). The Guidance provides helpful information such as how a recipient can determine the extent of its obligation to provide language services; selecting language services; and elements of an effective plan on language assistance for LEP persons. Assistance and information regarding language access obligations can be accessed at DHS Recipient Guidance at <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited> and additional resources on <http://www.lep.gov>.

### **SECTION NO. 15: EQUAL EMPLOYMENT OPPORTUNITY PROGRAM (EEOP)**

The CITY will determine whether it is required to formulate an Equal Employment Opportunity Program (EEOP), in accordance with 28 C.F.R. 42.301 et. seq. If the CITY is not required to formulate an EEOP, it will submit a certificate form to the U.S. Department of Justice, Office of Justice Programs, Office of Civil Rights (OCR), and the COUNTY indicating that it is not required to develop an EEOP.

If the CITY is required to develop an EEOP but not required to submit the EEOP to the OCR, the CITY will submit a certification to the OCR and the COUNTY certifying that it has an EEOP on file which meets the applicable requirements. If the CITY is awarded a grant of \$500,000 or more and has 50 or more employees, it will submit a copy of its EEOP to the OCR. Non-profit organizations, federally recognized Indian Tribes, and medical and education institutions are exempt from the EEOP requirement, but are required to submit a certification form to the OCR to claim the exemption. A copy of the certification form will also be submitted to the COUNTY. Information about civil rights obligations of grantees can be found at <http://www.opj.usdoj.gov/ocr/>.

#### **SECTION NO. 16: NON-SUPPLANTING CERTIFICATION**

No grant funds will be used to supplant existing state, local, or other nonfederal funding already in place to support current services. Grant funds will be used to increase the total amount of funds used to prevent or reduce crime and violence. Violation of the non-supplanting requirement can result in a range of penalties, including suspension of future funds under this grant, recoupment of monies provided under this grant, and civil and/or criminal penalties.

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

#### **SECTION NO. 17: APPLICANT DUTY TO ENSURE SUB-RECIPIENT COMPLIANCE**

The COUNTY is required to ensure compliance by any sub-recipient, program partner or participant receiving funding under this grant.

#### **SECTION NO. 18: INDEMNIFICATION**

The COUNTY shall protect, defend, indemnify, and hold harmless the CITY, its officers, officials, employees, and agents while acting within the scope of their employment as such, from any and all costs, claims, judgments, and/or awards of damages (both to persons and/or property). The COUNTY will not be required to indemnify, defend, or save harmless the CITY if the claim, suit, or action for injuries, death, or damages (both to persons and/or property) is caused by the sole negligence of the CITY. Where such claims, suits, or actions result from the concurrent negligence of both Parties, the indemnity provisions provided herein shall be valid and enforceable only to the extent of each Party's own negligence.

The CITY agrees to protect, defend, indemnify, and hold harmless the COUNTY, its officers, officials, employees, and agents while acting within the scope of their employment as such, from any and all costs, claims, judgments and/or awards of damages (both to persons and/or property). The CITY will not be required to indemnify, defend, or save harmless the COUNTY if the claim, suit, or action for injuries, death, or damages (both to persons and/or property) is caused by the sole negligence of the COUNTY. Where such claims, suits, or actions result from the concurrent negligence of both Parties, the indemnity provisions provided herein shall be valid and enforceable only to the extent of each Party's own negligence.

The COUNTY and the CITY agree that its obligations under this section extend to any claim, demand and/or cause of action brought by, or on behalf of, any COUNTY or CITY employees or agents while performing work authorized under this AGREEMENT. For this purpose, the COUNTY and the CITY, by mutual negotiation, hereby waives any immunity that would

otherwise be available to it against such claims under the Industrial Insurance provisions of chapter 51.12 RCW.

These indemnifications and waiver shall survive the termination of this AGREEMENT.

No officer or employee of the CITY or the COUNTY shall be personally liable for any act, or failure to act, in connection with this AGREEMENT, it is understood that in such matters they are acting solely as agents of their respective agencies.

#### **SECTION NO. 19:    INSURANCE**

The CITY is self-insured. A letter from the CITY's Risk Manager can be provided upon request.

#### **SECTION NO. 20:    MAINTENANCE OF RECORDS**

The CITY shall maintain all books, records, documents, data and other evidence relating to this AGREEMENT and performance of the Services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this AGREEMENT.

The CITY shall retain such records for a period of six (6) years following the date of final payment. At no additional cost, these records, including materials generated under the AGREEMENT, shall be subject at all reasonable times to inspection, review or audit by the COUNTY, personnel duly authorized by the COUNTY, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been finally resolved and an additional three (3) years beyond resolution.

#### **SECTION NO. 21:    TERMINATION FOR CAUSE / SUSPENSION**

In the event COUNTY determines that the CITY failed to comply with any term or condition of this AGREEMENT, COUNTY may terminate the AGREEMENT in whole or in part upon written notice to the CITY. Such termination shall be deemed "Termination for Cause." Termination shall take effect on the date specified in the notice.

In the alternative, COUNTY upon written notice may allow the CITY a specific period of time in which to correct the non-compliance. During the corrective-action time period, the COUNTY may suspend further payment to the CITY in whole or in part, or may restrict the CITY's right to perform duties under this AGREEMENT. Failure by the CITY to take timely corrective action shall allow the COUNTY to terminate the AGREEMENT upon written notice to the CITY.

"Termination for Cause" shall be deemed a "Termination for Convenience" when the COUNTY determines that the CITY did not fail to comply with the terms of the AGREEMENT or when COUNTY determines the failure was not caused by the CITY's actions or negligence. If the AGREEMENT is terminated for cause, the CITY shall be liable for damages as authorized by law, including, but not limited to, any cost difference between the original agreement and the

replacement agreement, as well as all costs associated with entering into the replacement agreement (i.e., competitive bidding, mailing, advertising, and staff time).

## **SECTION NO. 22:    TERMINATION FOR CONVENIENCE**

Except as otherwise provided in this AGREEMENT, the COUNTY may, by ten (10) business days' written notice, beginning on the second day after the mailing, terminate this AGREEMENT, in whole or in part. If this AGREEMENT is so terminated, the COUNTY shall be liable only for payment required under the terms of this AGREEMENT for services rendered prior to the effective date of termination.

## **SECTION NO. 23:    TERMINATION PROCEDURES**

After receipt of a Notice of Termination, except as otherwise directed by COUNTY, the CITY shall:

- A. Stop work under the AGREEMENT on the date, and to the extent specified, in the notice;
- B. Place no further orders for materials, services, or facilities related to the AGREEMENT;
- C. Assign to COUNTY all of the rights, title, and interest of the CITY under the orders and subcontracts so terminated, in which case COUNTY has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts. Any attempt by the CITY to settle such claims must have the prior written approval of COUNTY; and
- D. Preserve and transfer any materials, AGREEMENT deliverables and/or COUNTY property in the CITY's possession as directed by COUNTY.

Upon termination of the AGREEMENT, the COUNTY shall pay the CITY for any service provided by the CITY under the AGREEMENT prior to the date of termination. The COUNTY may withhold any amount due as the COUNTY reasonably determines is necessary to protect the COUNTY against potential loss or liability resulting from the termination. The COUNTY shall pay any withheld amount to the CITY if the COUNTY later determines that loss or liability will not occur.

The rights and remedies of the COUNTY under this Section are in addition to any other rights and remedies provided under this AGREEMENT or otherwise provided under law. Provided, further, in the event that the CITY fails to perform this AGREEMENT in accordance with state laws, federal laws, and/or the provisions of this AGREEMENT, the COUNTY reserves the right to recapture funds in an amount to compensate the COUNTY for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the CITY of funds under this recapture provision shall occur within the time period specified by the COUNTY. In the alternative, the COUNTY may recapture such funds from payments due under this AGREEMENT.

#### **SECTION NO. 24: DISPUTE RESOLUTION**

Any dispute between the PARTIES which cannot be resolved between the PARTIES shall be subject to arbitration. Except as provided for to the contrary herein, such dispute shall first be reduced to writing. If the COUNTY and the CITY representatives cannot resolve the dispute it will be submitted to arbitration. The provisions of chapter 7.04A RCW shall be applicable to any arbitration proceeding.

The COUNTY and the CITY shall have the right to designate one person each to act as an arbitrator. The two selected arbitrators shall then jointly select a third arbitrator. The decision of the arbitration panel shall be binding on the PARTIES and shall be subject to judicial review as provided for in chapter 7.04A RCW.

The costs of the arbitration panel shall be equally split between the PARTIES.

#### **SECTION NO. 25: CONTRACT REPRESENTATIVES**

The COUNTY hereby appoints and the CITY hereby accepts the COUNTY's representative or her designee as identified on the FACE SHEET as the COUNTY'S liaison for the purpose of administering this AGREEMENT. The CITY hereby appoints and the COUNTY hereby accepts the CITY's representative or his/her designee as identified on the FACE SHEET as the CITY's liaison for the purpose of administering this AGREEMENT.

#### **SECTION NO. 26: WAIVER**

No officer, employee, agent or otherwise of the COUNTY has the power, right or authority to waive any of the conditions or provisions to this AGREEMENT. No waiver of any breach of this AGREEMENT shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this AGREEMENT or at law, shall be taken and construed as cumulative that is, in addition to every other remedy provided herein or by law. Failure of the COUNTY to enforce at any time any of the provisions of this AGREEMENT, or to require at any time performance by the CITY of any provision hereof, shall in no way be construed to be a waiver of such provisions, nor in any way effect the validity of this AGREEMENT of any part hereof, or the right of the COUNTY to hereafter enforce each and every such provision.

#### **SECTION NO. 27: MODIFICATION**

No modification or amendment of this AGREEMENT shall be valid until the same is reduced to writing and executed with the same formalities as this present AGREEMENT.

#### **SECTION NO. 28: NO THIRD-PARTY BENEFICIARIES**

Nothing in this AGREEMENT is intended to give, or shall give, whether directly or indirectly, any benefit or right, greater than that enjoyed by the general public, to third persons.



## **SECTION NO. 29: NOTICES**

Except as provided to the contrary herein, all notices or other communications given hereunder shall be deemed given on: (i) the day such notices or other communications are received when sent by personal delivery; or (ii) the third day following the day on which the same have been mailed by first class delivery, postage prepaid addressed to the COUNTY or the CITY at the address set forth on the FACE SHEET for such party, or at such other address as either party shall from time-to-time designate by notice in writing to the other Party.

## **SECTION NO. 30: SURVIVAL**

Any Sections of this AGREEMENT which, by their sense and context, are intended to survive shall survive the termination of this AGREEMENT.

## **SECTION NO. 31: SEVERABILITY**

It is understood and agreed between the PARTIES that if any parts, terms, or provisions of this AGREEMENT are held by the courts to be illegal, the validity of the remaining portions or provisions shall not be affected and the rights and obligations of the PARTIES shall not be affected in regard to the remainder of the AGREEMENT. If it should appear that any part, term or provision of this AGREEMENT is in conflict with any statutory provisions of the State of Washington, then the part, term or provision thereof that may be in conflict shall be deemed inoperative and null and void insofar as it may be in conflict therewith and this AGREEMENT shall be deemed modify to conform to such statutory provision.

## **SECTION NO. 32: EXECUTION AND APPROVAL**

The PARTIES warrant that the officers/individuals executing below have been duly authorized to act for and on behalf of the party for purposes of confirming this AGREEMENT.

## **SECTION NO. 33: ACCESS TO DATA**

In compliance with RCW 39.26.180, the CITY shall provide access to data generated under this AGREEMENT to the COUNTY, Department of Justice, the Joint Legislative Audit and Review Committee, and the Office of the State Auditor at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of the CITY's reports, including computer models and the methodology for those models.

## **SECTION NO. 34: ACKNOWLEDGEMENT OF FEDERAL FUNDING**

The CITY shall submit to the COUNTY, for re-submission to the Bureau of Justice Assistance, one copy of all reports and proposed publications resulting from this grant twenty (20) days prior to public release. Any written, visual, or audio publications, with the exception of press releases, whether published at the CITY's or government's expense, shall contain the following statements:

“This project was supported by Grant No. **2020-DJ-BX-0453** awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the United States Department of Justice Office of Justice Programs, which also includes the National Institute of Justice, the Bureau of Justice Statistics, the Office of Juvenile Justice and Delinquency Prevention and the Office of Victims of Crime. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the United States Department of Justice.”

**SECTION NO. 35: ALL WRITINGS CONTAINED HEREIN**

This AGREEMENT contains all the terms and conditions agreed upon by the PARTIES. No other understandings, oral or otherwise, regarding the subject matter of this AGREEMENT shall be deemed to exist or to bind any of the PARTIES hereto. The CITY has read and understands all of this AGREEMENT and now states that no representation, promise or condition not expressed in this AGREEMENT has been made to induce the CITY to execute the same.

**SECTION NO. 36: ANTI-KICKBACK**

No officer or employee of the CITY, 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. 37: ASSIGNMENT**

Neither this AGREEMENT, nor any claim arising under this AGREEMENT, shall be transferred or assigned by the CITY without prior written consent of the COUNTY.

**SECTION NO. 38: ATTORNEYS' FEES**

Unless expressly permitted under another provision of the AGREEMENT, in the event of litigation or other action brought to enforce the terms of the AGREEMENT, each party agrees to bear its own attorneys' fees and costs.

**SECTION NO. 39: AUTHORITY TO OBLIGATE AWARD FUNDS CONTINGENT ON NONINTERFERENCE (WITHIN THE FUNDED "PROGRAM OR ACTIVITY") WITH FEDERAL LAW ENFORCEMENT (8 U.S.C. 1373 AND 1644); UNALLOWABLE COSTS; NOTIFICATION**

- A. If the CITY is a "State," a local government, or a "public" institution of higher education:
1. The CITY may not obligate AGREEMENT funds if, at the time of the obligation, the "program or activity" of the CITY (or of any subcontractor at any tier that is a State, a local government, or a public institution of higher education) that is

funded in whole or in part with AGREEMENT funds is subject to any information-communication restriction".

2. In addition, with respect to any project costs it incurs "at risk," the CITY may not obligate award funds to reimburse itself if, at the time it incurs such costs, the program or activity of the CITY (or of any subcontractor at any tier that is a State, a local government, or a public institution of higher education) that would be reimbursed in whole or in part with award funds was subject to any information-communication restriction.
  3. Any drawdown of award funds by the CITY shall be considered, for all purposes, to be a material representation by the CITY to OJP that, as of the date the CITY requests the drawdown, the CITY and each subcontractor (regardless of tier) that is a State, local government, or public institution of higher education, is in compliance with the award condition entitled "Noninterference (within the funded 'program or activity') with federal law enforcement: 8 U.S.C. 1373 and 1644 and ongoing compliance."
  4. The CITY must promptly notify the COUNTY (in writing) if the CITY, from its requisite monitoring of compliance with award conditions or otherwise, has credible evidence that indicates that the funded program or activity of the CITY, or of any subrecipient at any tier that is either a State or a local government or a public institution of higher education, may be subject to any information-communication restriction. In addition, any subcontract (at any tier) to a subcontractor that is a State, a local government, or a public institution of higher education must require prompt notification to the COUNTY, should the subcontractor have such credible evidence regarding an information-communication restriction.
- B. Any AGREEMENT, at any tier, to a subcontractor that is a State, a local government, or a public institution of higher education must provide that the subcontractor may not obligate award funds if, at the time of the obligation, the program or activity of the subcontractor (or of any further such subcontractor at any tier) that is funded in whole or in part with award funds is subject to any information-communication restriction.
- C. Absent an express written determination by the COUNTY or DOJ to the contrary, based upon a finding by the COUNTY or DOJ of compelling circumstances (e.g., a small amount of AGREEMENT funds obligated by the CITY at the time of a subcontractor's minor and transitory non-compliance, which was unknown to the CITY despite diligent monitoring), any obligations of AGREEMENT funds that, under this condition, may not be made shall be unallowable costs for purposes of this award. In making any such determination, the COUNTY or DOJ will give great weight to evidence submitted by the CITY that demonstrates diligent monitoring of subcontractors compliance with the requirements set out in the "Noninterference ... 8 U.S.C. 1373 and 1644 and ongoing compliance" AGREEMENT condition.
- D. Rules of Construction

1. For purposes of this condition "information-communication restriction" has the meaning set out in the "Noninterference ... 8 U.S.C. 1373 and 1644 and ongoing compliance" condition; and
2. Both the "Rules of Construction" and the "Important Note" set out in the "Noninterference ... 8 U.S.C. 1373 and 1644 and ongoing compliance" condition are incorporated by reference as though set forth here in full.

**SECTION NO. 40: CERTIFICATION REGARDING DEBARMENT, SUSPENSION OR INELIGIBILITY AND VOLUNTARY EXCLUSION – PRIMARY AND LOWER TIER COVERED TRANSACTION**

- A. The CITY, defined as the primary participant and its principal, certifies by signing these General Terms and Conditions that to the best of its knowledge and belief that they:
1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
  2. Have not within a three-year period preceding this AGREEMENT, 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 or private agreement or transaction, violation of Federal or state antitrust statutes or commission or embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;
  3. 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 (A)(2) of this section; and
  4. Have not within a three-year period preceding the signing of this AGREEMENT had one or more public transactions (Federal, state, or local) terminated for cause of default.
- B. Where the CITY is unable to certify to any of the statements in this AGREEMENT, the CITY shall attach an explanation to this AGREEMENT.
- C. The CITY 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, unless authorized by the COUNTY.
- D. The CITY further agrees by signing this AGREEMENT that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," as follows, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

**LOWER TIER COVERED TRANSACTIONS**

1. The lower tier grantee certifies, by signing this AGREEMENT that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared

ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the lower tier grantee is unable to certify to any of the statements in this AGREEMENT, such grantee shall attach an explanation to this AGREEMENT.

E. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, person, primary covered transaction, principal, and voluntarily excluded**, as used in this section, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the COUNTY for assistance in obtaining a copy of these regulations.

#### **SECTION NO. 41: CONFIDENTIALITY/SAFEGUARDING OF INFORMATION**

A. "Confidential Information" as used in this section includes:

1. All material provided to the CITY by COUNTY that is designated as "confidential" by COUNTY;
2. All material produced by the CITY that is designated as "confidential" by COUNTY; and
3. All personal information in the possession of the CITY 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" under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).

The CITY shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The CITY and any subgrantee at any tier, must comply with all confidentiality requirements of 34 U.S.C. section 10231 and 28 C.F.R. Part 22, that are applicable to collection, use, and revelation of data or information. The CITY agrees, as a condition of award approval, to submit a Privacy Certificate that is in accord with the requirements of 28 C.F.R. Part 22 and, in particular, 28 C.F.R. 22.23. 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 COUNTY or as may be required by law. The CITY 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 CITY shall provide the COUNTY with its policies and procedures on confidentiality. The COUNTY may require changes to such policies and procedures as they apply to this Grant whenever the COUNTY reasonably determines that changes are necessary to prevent unauthorized disclosures. The CITY shall make the changes within the time period specified by the COUNTY. Upon request, the CITY shall immediately return to the COUNTY any Confidential Information that the COUNTY reasonably determines has not been adequately protected by the CITY against unauthorized disclosure.

B. Unauthorized Use or Disclosure. The CITY shall notify the COUNTY 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.

## **SECTION NO. 42:    CONFLICT OF INTEREST**

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

Specific restrictions apply to contracting with current or former state employees pursuant to chapter 42.52 of the Revised Code of Washington. The CITY and their subgrantees(s) must identify any state of Washington employees or former state employees employed or on the firm's governing board during the past 24 months, identify the individual by name, the agency previously or currently employed by, job title or position held, and separation date. If it is determined by the COUNTY that a conflict of interest exists, the CITY may be disqualified from further consideration for the award of a contract.

In the event this AGREEMENT is terminated as provided above, the COUNTY shall be entitled to pursue the same remedies against the CITY as it could pursue in the event of a breach of the AGREEMENT by the CITY. The rights and remedies of the COUNTY provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which the COUNTY makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this AGREEMENT.

## **SECTION NO. 43:    COPYRIGHT PROVISIONS**

Unless otherwise provided, all Materials produced under this Grant shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by the COUNTY. The COUNTY shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, the CITY hereby irrevocably assigns all right, title, and interest in all Materials, including all intellectual property rights, moral rights, and rights of publicity to the COUNTY effective from the moment of creation of such Materials.

"Materials" means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. "Ownership" includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the Grant, but that incorporate pre-existing materials not produced under the Grant, the CITY hereby grants to the COUNTY a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The CITY warrants and represents that the CITY has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to the COUNTY.

The CITY shall exert all reasonable effort to advise the COUNTY, at the time of delivery of Materials furnished under this Grant, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Grant. The CITY shall provide the COUNTY with prompt written notice of each notice or claim of infringement received by the CITY with respect to any Materials delivered under this Grant. The COUNTY shall have the right to modify or remove any restrictive markings placed upon the Materials by the CITY.

The CITY understands and agrees that any training or training materials developed or delivered with funding provided through this AGREEMENT must adhere to the OJP Training Principles for Grantees and Subgrantees. The principles are available at <http://www.ojp.usdoj.gov/funding/ojptrainingguidingprinciples.html>.

**SECTION NO. 44: COUNTERPARTS**

This AGREEMENT may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same.

**SECTION NO. 45: EXPENDITURES PROHIBITED WITHOUT WAIVER**

No funds under this AGREEMENT may be expended on the purchase of items prohibited by the JAG program statute, unless, as set forth at 34 U.S.C. 10152, the BJA Director certifies that extraordinary and exigent circumstances exist, making such expenditures essential to the maintenance of public safety and good order.

**SECTION NO. 46: HEADINGS**

The Section headings in this AGREEMENT have been inserted solely for the purpose of convenience and ready-reference. In no way do they purport to, and shall not be deemed to, define, limit or extend the scope or intent of the Sections to which they appertain.

**SECTION NO. 47: LICENSING, ACCREDITATION, AND REGISTRATION**

The CITY shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of this Grant.

**SECTION NO. 48: LIMITATION OF AUTHORITY**

Only the Authorized Representative or Authorized Representative's designee by writing (designation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this AGREEMENT. Furthermore, any alteration, amendment, modification, or waiver of any clause or condition of this AGREEMENT is not effective or binding unless made in writing and signed by the Authorized Representative.

**SECTION NO. 49: LOSS OF FUNDING**

In the event funding from state, federal, or other sources which is the source of funding for this AGREEMENT is withdrawn, reduced, or limited in any way after the effective date of this AGREEMENT, and prior to normal completion, the COUNTY may terminate the AGREEMENT under the "Termination for Convenience" clause, without the ten business day notice requirement. In lieu of termination, the AGREEMENT may be amended to reflect the new funding limitations and conditions.

**SECTION NO. 50: NON-INTERFERENCE (WITHIN THE FUNDED "PROGRAM OR ACTIVITY") WITH FEDERAL LAW ENFORCEMENT: 8 U.S.C. 1373 AND 1644; ONGOING COMPLIANCE**

- A. With respect to the "program or activity" funded in whole or part under this AGREEMENT, including any such program or activity of any subcontractor at any tier, throughout the period of performance, no State or local government entity, agency, or official may prohibit or in any way restrict: (1) any government entity or official from sending or receiving information regarding citizenship or immigration status as described in 8 U.S.C. 1373(a); or (2) a government entity or agency from sending, requesting or receiving, maintaining, or exchanging information regarding immigration status as described in either 8 U.S.C. 1373(b) or 1644. Any prohibition (or restriction) that violates this condition is an "information-communication restriction" under this award.
- B. Certifications from subrecipients. The CITY may not make a subaward to a State, a local government, or a "public" institution of higher education, unless it first obtains a certification of compliance with 8 U.S.C. 1373 and 1644, properly executed by the chief legal officer of the government or educational institution that would receive the subaward, using the appropriate form available at <https://ojp.gov/funding/Explore/SampleCertifications-8USC1373.htm>. Also, the CITY must require that no subrecipient (at any tier) may make a further subaward to a State, a local government, or a public institution of higher education, unless it first obtains a certification of compliance with 8 U.S.C. 1373 and 1644, properly executed by the chief legal officer of the government or institution that would receive the further subaward, using the appropriate OJP form.
- C. The CITY's monitoring responsibilities include monitoring of subcontractors compliance with the requirements of this condition.
- D. Allowable costs. Compliance with these requirements is an authorized and priority purpose of this award. To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) that the CITY, or any subcontractor at any tier that is a State, a local government, or a public institution of higher education, incurs to implement this condition.
- E. Rules of Construction
  - 1. For purposes of this condition:
    - a. State and local government include any agency or other entity thereof, but not any institution of higher education or any Indian tribe;
    - b. A public institution of higher education is defined as one that is owned, controlled, or directly funded (in whole or in substantial part) by a State or local government. (Such a public institution is considered to be a "government entity," and its officials to be "government officials.");
    - c. Program or activity means what it means under title VI of the Civil Rights Act of 1964 (see 42 U.S.C. 2000d-4a);



- d. Immigration status means what it means under 8 U.S.C. 1373 and 8 U.S.C. 1644; and terms that are defined in 8 U.S.C. 1101 mean what they mean under that section 1101, except that "State" also includes American Samoa; and
  - e. Pursuant to the provisions set out at (or referenced in) 8 U.S.C. 1551 note ("Abolition ... and Transfer of Functions"), references to the "Immigration and Naturalization Service" in 8 U.S.C. 1373 and 1644 are to be read as references to particular components of the DHS.
2. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, any State or local government, any public institution of higher education, or any other entity (or individual) to violate any federal law, including any applicable civil rights or nondiscrimination law.
  3. IMPORTANT NOTE: Any questions about the meaning or scope of this condition should be directed to OJP, before award acceptance.

**SECTION NO. 51: NON-INTERFERENCE (WITHIN THE FUNDED "PROGRAM OR ACTIVITY") WITH FEDERAL LAW ENFORCEMENT: INTERROGATION OF CERTAIN ALIENS**

SCOPE: This condition applies with respect to the "program or activity" that is funded (in whole or in part) by this award, as of the date the CITY accepts this award, and throughout the remainder of the period of performance for the award. Its provisions must be among those included in any subaward (at any tier).

- A. Noninterference with statutory law enforcement access to correctional facilities. Consonant with federal law enforcement statutes and regulations, including 8 U.S.C. 1357(a), under which certain federal officers and employees "have power without warrant ... to interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States," and 8 C.F.R. 287.5(a), under which that power may be exercised "anywhere in or outside the United States" within the funded program or activity, no State or local government entity, agency, or official may interfere with the exercise of that power to interrogate "without warrant" (by agents of the United States acting under color of federal law) by impeding access to any State or local government (or government-contracted) correctional facility by such agents for the purpose "interrogating any alien or person believed to be an alien as to his [or her] right to be or to remain in the United States."
- B. Monitoring. The CITY's monitoring responsibilities include monitoring of subcontractors compliance with this condition.
- C. Allowable costs. To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions (e.g., training) designed to ensure compliance with this condition.
- D. Rules of construction
  1. For purposes of this condition:
    - a. The term "alien" means what it means under section 101 of the Immigration and Nationality Act (INA) (see 8 U.S.C. 1101(a)(3));

- b. The term "correctional facility" means what it means under the title I of the Omnibus Crime Control and Safe Streets Act of 1968 (see 34 U.S.C. 10251(a)(7));
  - c. The term "impede" includes taking or continuing any action, or implementing or maintaining any law, policy, rule, or practice, that: (1) is designed to prevent or to significantly delay or complicate; or (2) has the effect of preventing or of significantly delaying or complicating.
- 2. Both the "Rules of Construction" and the "Important Note" set out in the "Noninterference (within the funded 'program or activity') with federal law enforcement: 8 U.S.C. 1373 and 1644 and ongoing compliance" award condition are incorporated by reference as though set forth here in full.

**SECTION NO. 52: NON-INTERFERENCE (WITHIN THE FUNDED "PROGRAM OR ACTIVITY") WITH FEDERAL LAW ENFORCEMENT: NO PUBLIC DISCLOSURE OF CERTAIN LAW ENFORCEMENT SENSITIVE INFORMATION**

SCOPE: This condition applies with respect to the "program or activity" that is funded (in whole or in part) by this AGREEMENT, as of the date the CITY accepts this AGREEMENT, and throughout the remainder of the period of performance. Its provisions must be among those included in any subcontracts (at any tier).

- A. Noninterference: No public disclosure of federal law enforcement information, in order to conceal, harbor, or shield. Consistent with the purposes and objectives of federal law enforcement statutes and federal criminal law (including 8 U.S.C. 1324 and 18 U.S.C. chs. 1, 49, 227), no public disclosure may be made of any federal law enforcement information in a direct or indirect attempt to conceal, harbor, or shield from detection any fugitive from justice under 18 U.S.C. ch. 49, or any alien who has come to, entered, or remains in the United States in violation of 8 U.S.C. ch. 12 -without regard to whether such disclosure would constitute (or could form a predicate for) a violation of 18 U.S.C. 1071 or 1072 or of 8 U.S.C. 1324(a).
- B. Monitoring. The CITY's monitoring responsibilities include monitoring of subcontractors compliance with this condition.
- C. Allowable costs. To the extent that such costs are not reimbursed under any other federal program, AGREEMENT funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions (e.g., training) designed to ensure compliance with this condition.
- D. Rules of construction:
  - 1. For purposes of this condition:
    - a. The term "alien" means what it means under section 101 of the INA (see 8 U.S.C. 1101(a)(3));
    - b. The term "federal law enforcement information" means law enforcement sensitive information communicated or made available, by the federal government, to a State or local government entity, agency, or official, through any means, including, without limitation: (1) through any database; (2) in

connection with any law enforcement partnership or task-force; (3) in connection with any request for law enforcement assistance or cooperation; or (4) through any deconfliction (or courtesy) notice of planned, imminent, commencing, continuing, or impending federal law enforcement activity;

- c. The term "law enforcement sensitive information" means records or information compiled for any law enforcement purpose; and
- d. The term "public disclosure" means any communication or release other than one: (a) within the CITY; or (b) to any subcontractor (at any tier) that is a government entity.

- 2. Both the "Rules of Construction" and the "Important Note" set out in the "Noninterference (within the funded 'program or activity') with federal law enforcement: 8 U.S.C. 1373 and 1644 and ongoing compliance" award condition are incorporated by reference as though set forth here in full.

**SECTION NO. 53: NON-INTERFERENCE (WITHIN THE FUNDED "PROGRAM OR ACTIVITY") WITH FEDERAL LAW ENFORCEMENT: NOTICE OF SCHEDULED RELEASE**

SCOPE: This condition applies with respect to the "program or activity" that is funded (in whole or in part) by this AGREEMENT, as of the date the CITY accepts the AGREEMENT, and throughout the remainder of the period of performance. Its provisions must be among those included in any subcontract at any tier.

- A. Noninterference with "removal" process: Notice of scheduled release date and time. Consonant with federal law enforcement statutes including: 8 U.S.C. 1231 (for an alien incarcerated by a State or local government, a ninety (90) day removal period during which the federal government shall detain and then "shall" remove an alien from the U.S. begins no later than "the date the alien is released from ... confinement"; also, the federal government is expressly authorized to make payments to a "State or a political subdivision of the State ... with respect to the incarceration of [an] undocumented criminal alien"); 8 U.S.C. 1226 (the federal government "shall take into custody" certain criminal aliens "when the alien is released"); and 8 U.S.C. 1366 (requiring an annual DOJ report to Congress on "the number of illegal alien[ felons] in Federal and State prisons" and programs underway "to ensure the prompt removal" from the U.S. of removable "criminal aliens") -- within the funded program or activity, no State or local government entity, agency, or official (including a government-contracted correctional facility) may interfere with the removal process by failing to provide, as early as practicable (see para. 4.C. below), advance notice to DHS of the scheduled release date and time for a particular alien, if a State or local government (or government-contracted) correctional facility receives from DHS a formal written request pursuant to the INA that seeks such advance notice.
- B. Monitoring: The CITY's monitoring responsibilities include monitoring of subrecipient compliance with this condition.
- C. Allowable costs: To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions (e.g., training) designed to ensure compliance with this condition.

D. Rules of construction:

1. For purposes of this condition:
  - a. The term "alien" means what it means under section 101 of the INA (see 8 U.S.C. 1101(a)(3)).
  - b. The term "correctional facility" means what it means under the title I of the Omnibus Crime Control and Safe Streets Act of 1968 (see 34 U.S.C. 10251(a)(7)).
2. Nothing in this condition shall be understood to authorize or require any Grantee, any subcontractor at any tier, any State or local government, or any other entity or individual to maintain (or detain) any individual in custody beyond the date and time the individual otherwise would have been released.
3. Applicability:
  - a. Current DHS practice is ordinarily to request advance notice of scheduled release "as early as practicable (at least 48 hours, if possible)." (See DHS Form I-247A (3/17)). If (e.g., in light of the date DHS made such request) the scheduled release date and time for an alien are such as not to allow for the advance notice that DHS has requested, it shall NOT be a violation of this condition to provide only as much advance notice as practicable.
  - b. Current DHS practice is to use the same form for a second, distinct purpose, to request that an individual be detained for up to forty-eight (48) hours after the scheduled release. This condition does not encompass such DHS requests for detention.
4. Both the "Rules of Construction" and the "Important Note" set out in the "Noninterference (within the funded 'program or activity') with federal law enforcement: 8 U.S.C. 1373 and
5. 1644 and ongoing compliance" award conditions are incorporated by reference as though set forth here in full.

**SECTION NO. 54: ORDER OF PRECEDENCE:**

In the event of an inconsistency between the provisions in AGREEMENT, the inconsistency shall be resolved by giving precedence in the following order:

- A. Applicable federal and State of Washington statutes and regulations;
- B. Face Sheet;
- C. Attachment "A"-Scope of Work;
- D. Attachment "B"-Budget; and
- E. Attachment "C"-SUBSEQUENT EVENTS-COVID 19-MEMO M-20-15 & M-20-17

## **SECTION NO. 55: POLITICAL ACTIVITIES**

Political activity of CITY employees and officers are limited by the State Campaign Finances and Lobbying provisions of Chapter 42.17 RCW and the Federal Hatch Act, 5 USC 1501-1508.

No funds may be used under this AGREEMENT for working for or against ballot measures or for or against the candidacy of any person for public office.

## **SECTION NO. 56: PROHIBITION AGAINST PAYMENT OF BONUS OR COMMISSION**

The assistance provided under this AGREEMENT shall not be used in payment of any bonus or commission for the purpose of obtaining approval of the application for such assistance or any other approval or concurrence under this AGREEMENT provided, however, that reasonable fees or bona fide technical consultant, managerial, or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as project costs.

## **SECTION NO. 57: PROCUREMENT STANDARDS FOR FEDERALLY FUNDED PROGRAMS**

The CITY as a local government or Indian Tribal government must establish procurement policies and procedures in accordance with 2 CFR Part 200, for all purchases funded by this AGREEMENT.

The CITY's procurement system should include at least the following:

- A. A code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in the awarding of Grants using federal funds.
- B. Procedures that ensure all procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition.
- C. Minimum procedural requirements, as follows:
  1. Follow a procedure to assure the avoidance of purchasing unnecessary or duplicative items;
  2. Solicitations shall be based upon a clear and accurate description of the technical requirements of the procured items;
  3. Positive efforts shall be made to use small and minority-owned businesses;
  4. The type of procuring instrument (fixed price, cost reimbursement) shall be determined by the CITY, but must be appropriate for the particular procurement and for promoting the best interest of the program involved;
  5. Subgrants shall be made only with reasonable Subgrantees who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement;
  6. Some form of price or cost analysis should be performed in connection with every procurement action;
  7. Procurement records and files for purchases shall include all of the following:
    - a. The CITY's selection or rejection;

- b. The basis for the cost or price;
- c. Justification for lack of competitive bids if offers are not obtained;
- d. A system for a Grant administrator to ensure CITY conformance with terms, conditions and specifications of this AGREEMENT, and to ensure adequate and timely follow-up of all purchases; and
- e. The CITY and subgrantees must receive prior approval from the COUNTY for using funds from this AGREEMENT to enter into a sole source contract or a contract where only one bid or proposal is received when value of this AGREEMENT 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.

#### **SECTION NO. 58: PUBLICITY**

The CITY agrees not to publish or use any advertising or publicity materials in which the COUNTY's name is mentioned, or language used from which the connection with the COUNTY's name may reasonably be inferred or implied, without the prior written consent of the COUNTY.

#### **SECTION NO. 59: RECLASSIFICATION OF VARIOUS STATUTORY PROVISIONS TO A NEW TITLE 34 OF THE UNITED STATES CODE**

On September 1, 2018, various statutory provisions previously codified elsewhere in the U.S. Code were editorially reclassified to a new Title 34, entitled "Crime Control and Law Enforcement." The reclassification encompassed a number of statutory provisions pertinent to OJP awards (that is, OJP grants and cooperative agreements), including many provisions previously codified in Title 42 of the U.S. Code.

Effective September 1, 2018, any reference in this AGREEMENT to a statutory provision that has been reclassified to the new Title 34 of the U.S. Code is to be read as a reference to that statutory provision as reclassified to Title 34. This rule of construction specifically includes references set out in material incorporated by reference through conditions, and references set out in other requirements.

#### **SECTION NO. 60: REMEDIES FOR NON-COMPLIANCE OR FOR MATERIALLY FALSE STATEMENTS**

Failure to comply with any one or more of these AGREEMENT requirements – whether a condition set out in full below, a condition incorporated by reference below, or a certification or assurance related to conduct during the award period – may result in the COUNTY or OJP taking appropriate action with respect to the CITY and the agreement. Among other things, the COUNTY may withhold funds, disallow costs, or suspend or terminate this AGREEMENT. The COUNTY may also take other legal action as appropriate.

Any materially false, fictitious, or fraudulent statement to the federal government related to this AGREEMENT (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under 18 U.S.C. 1001 and/or 1621, and/or 34 U.S.C. 10271-10273), and also may

lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. 3729-3730 and 3801-3812).

**SECTION NO. 61:    REQUIREMENTS OF THE AWARD**

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

**SECTION NO. 62:    REQUIREMENT TO COLLECT CERTAIN INFORMATION FROM SUBCONTRACTORS**

The CITY may not make a subcontract to a State, a local government, or a "public" institution of higher education, unless it first obtains from the proposed subcontractor responses to the questions identified in the program solicitation as "Information regarding Communication with the Department of Homeland Security (DHS) and/or Immigration and Customs Enforcement (ICE)." All subcontractor responses must be collected and maintained by the CITY, consistent with regular document retention requirements, and must be made available to the COUNTY or DOJ upon request. Responses to these questions are not required from subcontractors that are either a tribal government/organization, a nonprofit organization, or a private institution of higher education.

**SECTION NO. 63:    REQUIREMENT TO DISCLOSE WHETHER RECIPIENT IS DESIGNATED "HIGH RISK" BY A FEDERAL GRANT-MAKING AGENCY OUTSIDE OF DOJ**

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

**SECTION NO. 64:    REQUIREMENT TO REPORT ACTUAL OR IMMINENT BREACH OF PERSONALLY IDENTIFIABLE INFORMATION (PII)**

The CITY, and any subcontractor at any tier, must have written procedures in place to respond in the event of an actual or imminent "breach" (OMB M-17-12) if it (or a subrecipient): 1) creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of Personally Identifiable Information (PII) (2 CFR 200.79) within the scope of an OJP grant-funded program or activity; or 2) uses or operates a Federal information system (OMB Circular A-130). The CITY's breach procedures must include a requirement to report actual or imminent breach of PII to the COUNTY's Program

Manager no later than twenty-four (24) hours after an occurrence of an actual breach, or the detection of an imminent breach.

**SECTION NO. 65:    RIGHT OF INSPECTION**

The CITY shall provide right of access to its facilities to the COUNTY, or any of its officers, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this AGREEMENT.

**SECTION NO. 66:    SITE SECURITY**

While on COUNTY premises, the CITY, its agents, employees, or subcontractors shall conform in all respects with physical, fire or other security policies or regulations.

**SECTION NO. 67:    SPECIAL PROVISIONS**

Applicable and attached and incorporated by reference to this AGREEMENT is the following: Attachment "A" Statement of Work; Attachment "B" Budget; Attachment "C" Statement of Assurances; Attachment "D" Certification Regarding Debarment, Suspension, Ineligibility; Attachment "E" FFATA; Attachment "F" Restrictions and Certifications Regarding Non-Disclosure Agreements; Attachment "G" National Environmental Policy Act; Attachment "H" Acknowledgment of Allowable and Unallowable Costs; Attachment "I" Equal Employment Opportunity Plan Certification Form; Attachment "J" CCR Registration of Sub-Recipient DUNS Numbers, and Washington State Department of Commerce Justice Assistance Grant Subrecipient Compliance Verification.

**SECTION NO. 68:    SUBCONTRACTORS**

The CITY shall seek and whenever appropriate will receive approval from the COUNTY for all subcontracts under this AGREEMENT. All subcontractors employed or used by the CITY to provide the services under the terms of this AGREEMENT agree to comply with Section Nos. 5, 16, 25, 29, and 38 of this AGREEMENT. The CITY shall notify the COUNTY's representative of any subcontractor and certify that the subcontractor has been advised of the above provisions and has satisfied the Insurance provisions prior to providing any subcontracting services.

**SECTION NO. 69:    SUBMISSION OF ELIGIBLE RECORDS RELEVANT TO THE NATIONAL INSTANT BACKGROUND CHECK SYSTEM**

Consonant with federal statutes that pertain to firearms and background checks, including 18 U.S.C. 922 and 34 U.S.C. ch. 409, if the CITY, or any subrecipient at any tier, uses this award to fund (in whole or in part) a specific project or program (such as a law enforcement, prosecution, or court program) that results in any court dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the National Instant Background Check System (NICS), or that has as one of its purposes the establishment or improvement of records systems that contain any court dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the NICS, the CITY (or subcontractor, if applicable) must ensure that all such court dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the NICS are promptly



made available to the NICS or to the "State" repository/database that is electronically available to (and accessed by) the NICS, and -- when appropriate -- promptly must update, correct, modify, or remove such NICS-relevant "eligible records".

In the event of minor and transitory non-compliance, the CITY may submit evidence to demonstrate diligent monitoring of compliance with this condition (including subrecipient compliance). DOJ will give great weight to any such evidence in any express written determination regarding this condition.

#### **SECTION NO. 70: TAXES**

If this AGREEMENT applies to the CITY staff, all payments accrued on account of payroll taxes, unemployment contributions, the CITY income or gross receipts, any other taxes, insurance or expenses for the CITY or its staff shall be the sole responsibility of the CITY.

**ATTACHMENT “A”**  
**SCOPE OF WORK**

The AGREEMENT is to clearly identify the roles and responsibilities of the CITY as they relate to the FY20 Edward Byrne Memorial Justice Assistance (JAG) Grant.

The term of this AGREEMENT is the period within which the project responsibilities of this AGREEMENT shall be performed. The term commences October 1, 2019 and terminates September 30, 2023. The principal purpose of this grant is to provide funding that supports local law enforcement to prevent and reduce crime and violence. Funding from this grant shall be used to purchase equipment to be used for law enforcement purposes. The CITY further agrees to, but not limited to, the following conditions:

1. Support local law enforcement efforts to prevent and reduce crime and violence by purchasing the equipment approved in the application.
2. Work together with the COUNTY to prevent and reduce crime and violence within the City of Spokane and Spokane COUNTY.
3. Subject to all administrative and financial requirements under Award Number 2020-DJ-BX-0453 set forth in the current edition of the Office of Justice Program (OJP) Guide.
4. Submit timely programmatic and performance reports due quarterly and submitted through the BJA Performance Tools website. The reports are considered to be timely filed if submitted no later than the 29<sup>th</sup> of the month following the end of each quarter. In addition to the quarterly reports, semi-annual reports must be timely filed within the Just Grants website. These reports are considered to be timely filed if submitted no later than the 29<sup>th</sup> of the month following the end of the semi-annual period.
5. Submit quarterly accountability metrics data related to training that officers have received on the use of force, racial and ethnic bias, de-escalation of conflict, and constructive engagement with the public.
6. Must collect and maintain data that measure the performance and effectiveness of work under this award. The data must be provided to OJP in the manner (including within the timeframes) specified by OJP in the program solicitation or other applicable written guidance. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, and other applicable laws.
7. Both the Point of Contact (POC) and all Financial Points of Contact (FPOCs) for this award must have successfully completed an “OJP financial management and grant administration training” by 120 days after the date of the CITY’s acceptance of the award.

In the event that either the POC or an FPOC for this award changes during the period of performance, the new POC or FPOC must have successfully completed an “OJP financial management and grant administration training” by 120 calendar days after – (1) the date of OJP’s approval of the “Change Grantee Contact” GAN (in the case of a new POC), or (2) the date the POC enters information on the new FPOC in GMS (in the case of a new FPOC).

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

OJP will immediately withhold (“freeze”) award funds if the CITY fails to comply with this condition. Failure to comply also may lead OJP to impose additional appropriate conditions on this award.

**ATTACHMENT “B”**  
**BUDGET**

<b><u>Funding Category</u></b>	<b><u>Computation</u></b>	<b><u>Amount</u></b>
<b>THE CITY OF SPOKANE POLICE DEPARTMENT</b>		
• Firearms		
• Glock firearms 7 @ \$429 per unit		\$ 3,003.00
• Firearm Equipment-		
• Red Dot Sights 70 @ \$448 per unit		\$31,360.00
• Suppressor Sights 70 @ \$110 per unit		\$ 7,700.00
• New holsters 70 @ \$120 per unit		\$ 8,400.00
• Case of 9 mm ammunition 72 @ \$204.64		\$14,734.35
<b>Total Budget</b>		<b>\$65,197.35</b>

Approved expenditures for the program as set forth in Attachment “A” (Scope of Work) must be itemized. Transfer of funds between Project categories must be approved by the COUNTY’S representative listed on the face sheet to this AGREEMENT. Any amendments to the budget must be made in writing and approved by the COUNTY’S representative listed on the face sheet to this AGREEMENT.

**The CITY shall obligate all grant funds prior to June 30, 2023.** Any portion of the grant funds which remain un-obligated or not expended at the end of this period will be available for use by the COUNTY.

Payment will be on a cost reimbursement basis only.

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

The CITY and any subcontractor at any tier, must comply with all applicable laws, regulations, policies, and official DOJ guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences (as that term is defined by DOJ), including the provision of food and/or beverages at such conferences, and costs of attendance at such conferences. Information on the pertinent DOJ definition of conferences and the rules applicable to this award appear in the DOJ Grants Financial Guide (currently, as section 3.10 of “Postaward Requirements” in the “DOJ Grants Financial Guide”).

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

**Spokane COUNTY  
INVOICE VOUCHER**

Subrecipient Number	Award Number	Award Name

<b>AGENCY NAME</b>
Spokane County Office of Financial Assistance Grants & Contracts Administrator 1116 W Broadway Spokane, WA 99260
<b>CLAIMANT (Warrant is to be payable to)</b>
Spokane City Spokane Police Dept. 1100 W. Mallon Spokane, WA 99260

*INSTRUCTIONS TO CLAIMANT: Submit this form to claim payment for materials, merchandise or services. Show complete detail for each item.*

*Claimant's Certificate: I hereby certify under penalty of perjury that the items and totals listed herein are proper charges for materials, merchandise or services furnished to Spokane CITY, 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 veterans status and all expenses claimed will not be charged to any other grant, subgrant or funding source.*



_____	_____
(TITLE)	(DATE)

<b>FEDERAL I.D. NO. OR SOCIAL SECURITY NO. (For reporting Personal Services Contract Payments to I.R.S.)</b>		<b>RECEIVED BY</b>	<b>DATE RECEIVED</b>
<b>DATE</b>	<b>DESCRIPTION</b>	<b>AMOUNT BILLED</b>	

**ATTACHMENT "C"**

## STATEMENT OF ASSURANCES

The CITY:

1. The CITY and any subcontractor at any tier, must comply with all applicable requirements for authorization of any subaward. This condition applies to agreements that, for purposes of federal grants administrative requirements, OJP considers a “subaward” (and therefore does not consider a procurement “contract”). The details of the requirement for authorization of any subaward are posted on the OJP web site at (Award condition: All subawards (“subgrants”) must have specific federal authorization), and are incorporated by reference here.
2. Has sufficient fiscal and management controls to implement and maintain the program in accordance with this application and program requirements. The CITY has sufficient monetary resources to implement and maintain program operations in accordance with this application.
3. Agrees to comply with any additional requirements that may be imposed by the DOJ awarding agency (OJP or OVW, as appropriate) during the period of performance for this award, if the recipient is designated as “high-risk” for purposes of the DOJ high-risk grantee list.
4. Will not use any grant funds to supplant local funds, but will use such grant funds to increase the amounts of funds that would, in the absence of federal funds, be made available for program activities.
5. The CITY and any subcontract at any tier, must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee’s disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant. The CITY also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712. Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this AGREEMENT, the CITY is to contact the DOJ awarding agency (OJP or OVW, as appropriate) for guidance.
6. Will comply with the financial and administrative requirements as set forth in the current edition of the Office of Justice Programs (OJP) Financial Guide. In addition to the financial and administrative requirements, will conform to the grant program requirements as stated in BJA program guidance. Agrees to submit, upon request, documentation of its policies and procedures for monitoring of subawards under this award.
7. The CITY and any subcontractor must promptly refer to the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award: 1) submitted a claim that violates the False Claims Act; or 2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct. Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by: 1) mail direct to: Office of the Inspector General, U.S. Department of Justice, Investigations Division, 1425 New York Avenue, N.W. Suite 7100, Washington, DC 20530; and/or 2) the DOJ OIG hotline: (contact information in English and Spanish) at (800) 869-4499 (phone) or (202) 616-9881 (fax). Additional information is available from the DOJ OIG website at <https://oig.justice.gov/hotline>.

8. Agrees to comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by the Department of Justice (DOJ) in 2 C.F.R. Part 2800 (together, the “Part 200 Uniform Requirements”) apply to this 2016 award from the Office of Justice Programs (OJP) and further understands and agrees that funds may be withheld, or other related requirements may be imposed, if recipient does not satisfactorily and promptly address outstanding audit issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.
9. The CITY and any subcontractor at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions, including from various “general provisions” in the Consolidated Appropriations Act, 2016, are set out at <http://ojp.gov/funding/Explore/FY2016-AppropriationsLawRestrictions.htm>, and are incorporated by reference here. Should a question arise as to whether a particular use of federal funds by the CITY or subrecipient would or might fall within the scope of an appropriations-law restriction, the CITY is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.
10. Understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of any contract or subaward to either the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries, without the express prior written approval of OJP.
11. Will follow the “Federal Leadership on Reducing Text Messaging While Driving”, 74 Federal Regulation 51225. The Department of Justice encourages recipients and sub-recipients to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this grant and to establish workplace safety policies and conduct education, awareness and other outreach to decrease crashes caused by distracted drivers.
12. Understands and agrees that (a) No award funds may be used to maintain or establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography and (b) Nothing in subsection (a) limits the use of funds necessary for any Federal, State, tribal, or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities.
13. Must verify its Point of Contact (POC), Financial Point of Contact (FPOC), and Authorized Representative contact information in GMS, including telephone number and e-mail address. If any information is incorrect or has changed, a Grant Adjustment Notice (GAN) must be submitted via the JUST GRANTS system to document changes.
14. Agrees to comply with DOJ’s Global Justice Information Sharing Initiative guidelines. The CITY and any subgrantee at any tier, must conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at: [https://it.ojp.gov/gsp\\_grantcondition](https://it.ojp.gov/gsp_grantcondition). The CITY and any subgrantee at any tier must document planned approaches to information sharing and describe compliance with the GSP and appropriate privacy policy that protects shared information, or provide detailed justification for why an alternative approach is recommended.

15. Agrees that within one hundred twenty (120) days of award acceptance, each current member of a law enforcement task force funded with award funds who is a task force commander, agency executive, task force officer, or other task force member of equivalent rank, must complete required online (internet-based) task force training. Additionally, all future task force members must complete this training once during the period of performance for this award, or once every four (4) years if multiple OJP awards include this requirement. The required training is available free of charge online through BJA-funded Center for Task Force Integrity and Leadership ([www.ctfli.org](http://www.ctfli.org)). The training addresses task force effectiveness, as well as other key issues including privacy and civil liberties/rights, task force performance measurement, personnel selection, and task force oversight and accountability. If award funds are used to support a task force, the CITY must compile and maintain a task force personnel roster, along with course completion certificates. Additional information regarding the training is available through BJA's web site and the Center for Task Force Integrity and Leadership ([www.ctfli.org](http://www.ctfli.org)).
16. Agrees to comply with OJP grant monitoring of this award pursuant to OJP's guidelines, protocols, procedures and to cooperate with OJP (including the grant manager for this award and the Office of Chief Financial Officer (OCFO)) requests related to such monitoring, including those related to desk reviews and/or site visits. The CITY agrees to provide to OJP all documentation necessary to complete monitoring tasks, including documentation related to the CITY's AGREEMENT. Further the CITY agrees to abide by reasonable deadlines set by OJP for providing the requested documents. Failure to cooperate with OJP's monitoring activities may result in sanctions affecting the CITY's DOJ awards, including, but not limited to: withholdings and/or other restrictions on the CITY's access to grant funds; referral to the DOJ OIG for audit review; designation of the recipient as a DOJ High Risk grantee, or termination of an award(s).
17. Agrees to participate in BJA-sponsored training events, technical assistance events, or conferences held by BJA or its designees, upon BJA's request.
18. Will comply with Title V of the Anti-Drug Abuse Act of 1988 and regulations promulgated by the federal government to maintain a drug-free workplace.
19. Will comply with Title II of the Americans with Disabilities Act of 1990.
20. Will not undertake any prohibited political activities with these funds including, but not limited to, voter registration; partisan political activity; lobbying congress, the Legislature, or any federal or state agency for project of jurisdictionally specific activity; or campaign for any ballot measure.
21. Will comply with the provisions of Title 28, Code of Federal Regulations; Part 61, Procedures for Implementing the National Environmental Policy Act; and Part 63, Floodplain Management and Wetland Protection Procedures.
22. Guarantees in performing any contract, purchase, or other agreement, the organization shall not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, marital status, national origin, political affiliation, or the presence of any sensory, mental, or physical disability. The organization agrees to take affirmative action to ensure that applicants are employed and that employees are treated during the employment without discrimination because of their race, color, religion, age, sex, political affiliation, handicap or national origin. Such action shall include, but not be limited to, employment upgrading,



demotion or transfer, recruitment and recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and training. This guarantee shall implement federal, state, and any local equal opportunity and non-discrimination statutes. The CITY further will, without delay, bring any finding of an equal opportunity or non-discrimination violation to the attention of the Department of Justice.

23. Agrees to comply with the applicable requirements of 28 C.F.R. Part 38, the Department of Justice regulation governing “Equal Treatment for Faith Based Organizations” (the “Equal Treatment Regulation”). The Equal Treatment Regulation provides in part that the Department of Justice grant awards of direct funding may not be used to fund any inherently religious activities, such as worship, religious instruction, or proselytization. Recipients of funding may still engage in inherently religious activities, but such activities must be separate in time or place from the Department of Justice funded program, and participation in such activities by individuals receiving services from the CITY must be voluntary. The Equal Treatment Regulation also makes clear that organizations participating in programs directly funded by the Department of Justice are not permitted to discriminate in the provision of services on the basis of a beneficiary’s religion. Notwithstanding any other special condition of this award, faith-based organizations may, in some circumstances, consider religion as a basis for employment.
24. The CITY and any subgrantee at any tier, must comply with the requirements of 28 C.F.R. Part 46 and all OJP policies and procedures regarding the protection of human research subjects, including obtainment of Institutional Review Board approval, if appropriate, and subject informed consent.
25. Agrees to comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of the CITY or individuals defined as employees of the CITY. Details of the CITY’s obligations related to prohibited conduct related to trafficking in persons are posted on the OJP web site at <http://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm>.
26. Understands and agrees that award funds may not be used for items that are listed on the Controlled Expenditure List at the time of purchase or acquisition, including as the list may be amended from time to time, without explicit written prior approval from BJA. The Controlled Expenditure List, and instructions on how to request approval for purchase or acquisitions may be accessed here: <https://www.bja.gov/funding/JAGControlledPurchaseList.pdf>
27. Understands that, pursuant to recommendation 2.1 of Executive Order 13688, law enforcement agencies that acquire controlled equipment through Federal programs must adopt robust and specific written policies and protocols governing General Policing Standards and Specific Controlled Equipment Standards. General Policing Standards includes policies on (a) Community Policing; (b) Constitutional Policing; and (c) Community Input and Impact Considerations. Specific Controlled Equipment Standards includes policies specifically related to (a) Appropriate Use of Controlled Equipment; (b) Supervision of Use; (c) Effectiveness Evaluation; (d) Auditing and Accountability; and (e) Transparency and Notice Considerations. Upon OJP’s request, the recipient agrees to provide a copy of the General Policing Standards and Specific Controlled Equipment Standards, and any related policies and protocols.
28. Understands and agrees that the purchase or acquisition of any item on the Controlled Expenditure List at the time of purchase or acquisition, including as the list may be amended from time to time, with award funds by an agency will trigger a requirement that the agency

collect and retain (for at least 3 years) certain information about the use of 1) any federally-acquired Controlled Equipment in the agency's inventory, and 2) any other controlled equipment in the same category as the federally-acquired controlled equipment in the agency's inventory, regardless of source; and make that information available to BJA upon request. Details about what information must be collected and retained may be accessed here: [http://www.whitehouse.gov/sites/default/files/docs/le\\_equipment\\_wg\\_final\\_report\\_final.pdf](http://www.whitehouse.gov/sites/default/files/docs/le_equipment_wg_final_report_final.pdf)

29. Understands and agrees that failure to comply with conditions related to Prohibited or Controlled Expenditures may result in a prohibition from further Controlled Expenditure approval under this or other federal awards.
30. Understands and agrees that award funds may not be used for items that are listed on the Prohibited Expenditure List at the time of purchase or acquisition, including as the list may be amended from time to time. The Prohibited Expenditure List may be accessed here: <https://www.bja.gov/funding/JAGControlledPurchaseList.prfl>.
31. Understands and agrees that, notwithstanding 2 CFR 200.313, no equipment listed on the Controlled Expenditure List that is purchased under this award may be transferred or sold to a third party, except as described as follows: a. Agencies may transfer or sell any controlled equipment, except riot helmets and riot shields, to a Law Enforcement Agency (LEA) after obtaining prior written approval from BJA. As a condition of that approval, the acquiring LEA will be required to submit information and certification to BJA as if it was requesting approval to use award fund for the initial purchase of items on the Controlled Expenditure List; b. Agencies may not transfer or sell any riot helmets or riot shields purchased under this award; c. Agencies may not transfer or sell any Controlled Equipment purchased under this award to non-LEAs, with the exception of fixed wing aircraft, rotary wing aircraft, and command and control vehicles. Before any such transfer or sale is finalized, the agency must obtain prior written approval from BJA. All law enforcement-related and other sensitive or potentially dangerous components, and all law enforcement insignias and identifying markings must be removed prior to transfer or sale. The CITY further understands and agrees to notify BJA prior to the disposal of any items on the Controlled Expenditure List purchased under this award, and to abide by any applicable laws and regulations in such disposal.
32. If award funds are being drawn down in advance, the CITY (or subgrantee, with respect to a subaward) is required to establish a trust fund account. The CITY (and subgrantee's) must maintain advance payments of federal awards in interest-bearing accounts, unless regulatory exclusions apply (2 C.F.R. 200.305(b)(8)). The trust fund, including any interest, may not be used to pay debts or expenses incurred by other activities beyond the scope of the Edward Byrne Memorial Justice Assistance Grant Program (JAG). The CITY also agrees to obligate the grant funds in the trust fund (including any interest earned) during the period of performance for the award and expend within ninety (90) days thereafter. Any unobligated or unexpended funds, including interest earned, must be returned to OJP at the time of closeout.

**Authorized Signature for the Applicant:**

September 30, 2023  
VALID THROUGH

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
PRINTED NAME OF SIGNATURE

\_\_\_\_\_  
TITLE

**ATTACHMENT “D”**

**DEBARMENT, SUSPENSION, INELIGIBILITY OR VOLUNTARY EXCLUSION  
CERTIFICATION FORM**

NAME		Doing business as (DBA) <span style="background-color: #cccccc; padding: 0 20px;"> </span>	
ADDRESS	Applicable Procurement or Solicitation #, if any: <span style="background-color: #cccccc; padding: 0 20px;"> </span>	WA Uniform Business Identifier (UBI)	Federal Employer Tax Identification #:
<b>This certification is submitted as part of a request to contract.</b>			

**Instructions For Certification Regarding Debarment, Suspension, Ineligibility and Voluntary  
Exclusion—Lower Tier Covered Transactions**

**READ CAREFULLY BEFORE SIGNING THE CERTIFICATION.** Federal regulations require contractors and bidders to sign and abide by the terms of this certification, without modification, in order to participate in certain transactions directly or indirectly involving federal funds.

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the department, institution or office to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable CFR, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under applicable CFR, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business activity.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under applicable CFR, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction**

**The prospective lower tier participant certifies, by submission of this proposal or 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. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this form.**

---

SIGNATURE

---

DATE

---

PRINTED NAME OF SIGNATURE

---

TITLE

# ATTACHMENT "E"

## FFATA FORM

<b>Subrecipient Agency:</b>		<b>Date Completed:</b>	
<b>Grant and Year:</b> JAG Grant FY 2020		<b>Agreement Number:</b>	
<b>Completed by:</b> _____ <div style="display: flex; justify-content: space-around; font-style: italic;"> <span>Name</span> <span>Title</span> <span>Telephone</span> </div>			
<b>STEP 1</b>			
Is your grant agreement less than \$25,000?	YES <input type="checkbox"/>	STOP, no further analysis needed, GO to Step 6	NO <input checked="" type="checkbox"/>
GO to Step 2			
<b>STEP 2</b>			
In your preceding fiscal year, did your organization receive 80% or more of its annual gross revenues from federal funding?	YES <input type="checkbox"/>	GO to STEP 3	NO <input checked="" type="checkbox"/>
STOP, no further analysis needed, GO to Step 6			
<b>STEP 3</b>			
In your preceding fiscal year, did your organization receive \$25,000,000 or more in federal funding?	YES <input type="checkbox"/>	GO to STEP 4	NO <input type="checkbox"/>
STOP, no further analysis needed, GO to Step 6			
<b>STEP 4</b>			
Does the public have access to information about the total compensation* of senior executives in your organization?	YES <input type="checkbox"/>	STOP, no further analysis needed, GO to step 6	NO <input type="checkbox"/>
GO to STEP 5			
<b>STEP 5</b>			
Executive #1	Name: _____		
	Total Compensation amount: \$ _____		
Executive #2	Name: _____		
	Total Compensation amount: \$ _____		
Executive #3	Name: _____		
	Total Compensation amount: \$ _____		
Executive #4	Name: _____		
	Total Compensation amount: \$ _____		
Executive #5	Name: _____		
	Total Compensation amount: \$ _____		
<b>STEP 6</b>			
If your organization does not meet these criteria, specifically identify below <b><u>each</u></b> criteria that is not met for your organization: <u>For Example: "Our organization received less than \$25,000."</u>			
Our agency did not receive more than 80% of its annual gross revenues from federal funding.			

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

\* Total compensation refers to:

- Salary and bonuses
- Awards of stock, stock options, and stock appreciation rights
- Other compensation including, but not limited to, severance and termination payments
- Life insurance value paid on behalf of the employee

\* Additional Resources:

<http://www.whitehouse.gov/omb/open>

<http://www.hrsa.gov/grants/ffata.html>

<http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010->

[22705.pdf](#)

<http://www.grants.gov/>

## **ATTACHMENT “F”**

### **RESTRICTIONS AND CERTIFICATIONS REGARDING NON-DISCLOSURE AGREEMENTS**

**October 1, 2019 through September 30, 2023**

The CITY or subcontractor under this AGREEMENT, or entity that receives a contract or subcontract with any funds under this grant, may **not** require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

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

1. In accepting this AGREEMENT, the CITY:
  - A. Represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and
  - B. Certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of fund funds, will provide prompt written notification to the agency making this grant, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.
2. If the CITY does or is authorized to make subcontracts or contracts under this AGREEMENT:
  - A. It represents that:
    1. It has determined that no other entity that the CITY’s application proposes may or will receive grant funds (whether through a subgrant, contract, or subcontractor) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and
    2. It has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and

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

---

Agency Name

---

Name of Authorized Official

---

Title

---

Signature of Authorized Official

---

Date

## ATTACHMENT “G”

### NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

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

Application of this Condition to the CITY’s Existing Program or Activities: For any of the CITY’s or its subcontractors existing programs or activities that will be funded by this AGREEMENT, the CITY, upon specific request from the COUNTY or BJA, agrees to cooperate with BJA in any preparation by BJA of a national or program environmental assessment of that funded program or activity.

The CITY agrees to first determine if any of the below listed activities will be funded by the project funds. Prior to obligating funds for the purpose of any of the below listed activities, the CITY agrees to contact the COUNTY’s representative who will contact the BJA for approval.

Please check one of the blanks to the left of each item below to indicate whether or not the activity described is being undertaken to support or facilitate the federally funded activity by the grant recipient or any other party.

- Yes  
Activity    N/A
- ☐    ☐ 1. New Construction
- ☐    ☐ 2. Minor renovation or remodeling of a property either:
- ☐    ☐ a. listed on or eligible for listing on the National Register of Historical Places; or
- ☐    ☐ b. located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species.
- ☐    ☐ 3. A renovation, lease, or any proposed use of a building or facility that will either:
- ☐    ☐ a. result in a change in its basic prior use (between industrial, office, residential, etc.); or
- ☐    ☐ b. significantly change its size (total structure, not program’s portion thereof).
- ☐    ☐ 4. Implementation of a new program involving use of chemicals other than chemicals that are:
- ☐    ☐ a. purchased as an incidental component of the funded activity; or
- ☐    ☐ b. traditionally used, for example, in office, household, recreational, or educational environments.
- ☐    ☐ 5. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

If any item above is checked, a clarification of the activity may be requested.

Response is made related to the following Justice Assistance Grant funded program/project:

Project: \_\_\_\_\_

Certificate Valid Through (max of 2 years) September 30, 2023

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

Representing: \_\_\_\_\_

## ATTACHMENT “H”

### ACKNOWLEDGEMENT OF ALLOWABLE AND UNALLOWABLE COSTS

#### ALLOWABLE COSTS

Allowable uses of federal grant funds include, but are not limited to, the following as they relate to the coordination and implementation of activities performed under the goal(s), objectives, and activities of the grant as described in Attachments “A” and “B” of the AGREEMENT, including:

- Operating costs, including:
  - Approved costs of personnel (salaries and benefits, and/or overtime).
  - Overtime
  - Costs reflected in the project budget proposal (such as training fees, printing, supplies, or contractual services).
- Procurement and installation of equipment (limitations may apply for high dollar items)
- Space and utilities, to the extent utilized for the approved project.
- Travel, per diem, and lodging at the federally approved rates.
- Printing and duplication of written and visual materials.

#### UNALLOWABLE COSTS

Unallowable uses of federal grant funds include:

- Body armor/protective vests
- Vehicles, vessels, and aircraft
- Construction
- Land acquisition
- Automatic and military grade weapons
- Victim compensation (direct payment)
- Food, beverages or other refreshments for meetings, conferences or training (prohibition does not include standard per diem when otherwise authorized)
- Consultant Fees (above a reasonable and consistent rate for similar services, and/or above \$650 for an eight-hour day—excluding travel and per diem)
- Losses arising from uncollected accounts
- Contributions to a contingency reserve
- Contributions or donations
- Entertainment
- Fines and penalties
- Interest and other financial costs

The undersigned agrees to the above requirements.

Certificate Valid Through (max of 2 years) September 30, 2023

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

Agency: \_\_\_\_\_



**ATTACHMENT "I"**  
**CERTIFICATION FORM**

**Compliance with the Equal Employment Opportunity Plan (EEOP) Requirements**

*Please read carefully the Instructions (see below) and then complete Section A or Section B or Section C, not all three. If recipient completes Section A or C and sub-grants a single award over \$500,000, in addition, please complete Section D.*

Recipient's Name:

Address:

Is agency a: ☐ Direct or ☐ Sub recipient of OJP, OVW or COPS funding? Law Enforcement Agency? ☐ Yes ☐ No

DUNS Number:

Vendor Number (only if direct recipient)  

Name and Title of Contact Person:

Telephone Number:

E-Mail Address:

**Section A—Declaration Claiming Complete Exemption from the EEOP Requirement**

*Please check all the following boxes that apply.*

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Less than fifty employees. | <input type="checkbox"/> Indian Tribe            | <input type="checkbox"/> Medical Institution.                            |
| <input type="checkbox"/> Nonprofit Organization     | <input type="checkbox"/> Educational Institution | <input type="checkbox"/> Receiving a single award(s) less than \$25,000. |

I, \_\_\_\_\_ [responsible official], certify that \_\_\_\_\_ [recipient] is not required to prepare an EEOP for the reason(s) checked above, pursuant to 28 C.F.R § 42.302. I further certify that \_\_\_\_\_ [recipient] will comply with applicable federal civil rights laws that prohibit discrimination in employment and in the delivery of services.

*If recipient sub-grants a single award over \$500,000, in addition, please complete Section D*

\_\_\_\_\_  
*Print or Type Name and Title*

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

**Section B—Declaration Claiming Exemption from the EEOP Submission Requirement and Certifying That an EEOP Is on File for Review**

*If a recipient agency has fifty or more employees and is receiving a single award or, subaward, of \$25,000 or more, but less than \$500,000, then the recipient agency does not have to submit an EEOP to the OCR for review as long as it certifies the following (42 C.F.R § 42.305):*

I, [responsible official], certify that [recipient], which has fifty or more employees and is receiving a single award of \$25,000 or more, but less than \$500,000, has formulated an EEOP in accordance with 28 CFR pt. 42, subpt. E. I further certify that within the last twenty-four months, the proper authority has formulated and signed into effect the EEOP and, as required by applicable federal law, it is available for review by the public, employees, the appropriate state planning agency, and the Office for Civil Rights, Office of Justice Programs, U.S. Department of Justice. The EEOP is on file at the following office:

\_\_\_\_\_  
[organization],

\_\_\_\_\_  
[address].

\_\_\_\_\_  
*Print or Type Name and Title*

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

**Section C—Declaration Stating that an EEOP Short Form Has Been Submitted to the Office for Civil Rights for Review**

*If a recipient agency has fifty or more employees and is receiving a single award, or subaward, of \$500,000 or more, then the recipient agency must send an EEOP Short Form to the OCR for review.*

I, \_\_\_\_\_ [responsible official], certify that \_\_\_\_\_ [recipient], which has fifty or more employees and is receiving a single award of \$500,000 or more, has formulated an EEOP in accordance with 28 CFR pt. 42, subpt. E, and sent it for review on \_\_\_\_\_ [date] to the Office for Civil Rights, Office of Justice Programs, U.S. Department of Justice.

*If recipient sub-grants a single award over \$500,000, in addition, please complete Section D.*

\_\_\_\_\_  
*Print or Type Name and Title*

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

## **ATTACHMENT “J”**

### **CCR REGISTRATION OF SUB-RECIPIENT DUNS NUMBERS**

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

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

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

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

Failure to maintain a valid DUNS registry in the CCR system prohibits disbursement of federal funds to that agency, effective the date of the registrations lapse. Equally renewed registration clears this prohibition effective the date of the renewed registration.

## CITY of SPOKANE Compliance Checklist

<b>A. FEDERALLY-MANDATED ACTIVITIES: EQUAL OPPORTUNITY PROGRAM</b>					
1.	EEOP total exemption criteria:	Yes	No	N/A	Comments
a.	Recipient agency (total agency/jurisdiction, not just applying component) has less than 50 employees	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
b.	Recipient agency is an educational institution	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
c.	Recipient agency is an Indian Tribe	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
d.	Recipient agency is a medical institution	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
e.	Recipient agency is a non-profit organization	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
f.	Recipient agency's award is less than \$25,000	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<b>Totally Exempt?</b> Is any complete exemption factor above (1a. thru 1f.) a "Yes"? In comments enter "EEOP Total Exemption" or "EEOP Required"	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2.	If totally EEOP exempt recipient agency has certified it is so exempt and that it will comply with applicable Federal civil rights laws that prohibit discrimination in employment and in the delivery of services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<b>Not Totally Exempt:</b>				
3.	If the award is for \$500,000 or more, EEOP submission made to the USDOJ Office of Civil Rights	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4.	Was the EEOP submitted to DOJ	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
5.	Approval and Expiration dates				Effective Date: <span style="background-color: #cccccc; display: inline-block; width: 60px; height: 15px;"></span> Expiration Date: <span style="background-color: #cccccc; display: inline-block; width: 60px; height: 15px;"></span>
6.	EEOP is available for review	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
7.	If the award is for less than \$500,000 EEOP Certification Form has been submitted to DOJ?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
8.	EEOP has been formulated and signed into effect within the past two (2) years	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<b>Generic Civil Rights Compliance (Non-EEOP):</b>				
9.	How does the agency notify <b>program participants</b> and <b>beneficiaries</b> that it does not discriminate on the basis of race, color, national origin, religion, sex, disability, and age in the delivery of services (e.g. posters, inclusion in brochures or other program materials, etc.)?				<input type="checkbox"/> Job Announcements <input type="checkbox"/> Web Site <input type="checkbox"/> Posters <input type="checkbox"/> Other (specify):
10.	How does the agency notify <b>employees</b> that it does not discriminate on the basis of race, color, national origin, religion, sex, and disability in employment practices (e.g. posters, dissemination of relevant orders or policies, inclusion in recruitment materials, etc.)				<input type="checkbox"/> Job Announcement <input type="checkbox"/> Orientation Training <input type="checkbox"/> Web Site <input type="checkbox"/> Refresher Training <input type="checkbox"/> Posters <input type="checkbox"/> Employee Handbook <input type="checkbox"/> Other (specify):
		Yes	No	N/A	Comments

## CITY of SPOKANE Compliance Checklist

11.	Does the agency have written policies or procedures in place for notifying program beneficiaries how to file complaints alleging discrimination by the agency with PG&R and the USDOJ Office for Civil Rights? Explain	<input type="checkbox"/>	<input type="checkbox"/>			
12.	<b>Grievance Procedures – Notification – Training - Point of Contact</b>					
a.	Adopted grievance procedures that incorporate due process standards and provide for the prompt and equitable resolution of complaints alleging a violation of the DOJ regulations implementing Section 504 of the Rehabilitation Act of 1973, found at 28 CFR Part 42, Subpart G, which prohibit discrimination on the basis of a disability in employment practices and the delivery of services	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/> Policy & Procedures <input type="checkbox"/> Web Site or Intranet <input type="checkbox"/> Employee Handbook <input type="checkbox"/> Collective Bargaining Agreement <input type="checkbox"/> Other (specify):	
b.	Designated a person to coordinate compliance with the prohibitions against disability discrimination contained in 28 CFR Part 42, Subpart G (Who).	<input type="checkbox"/>	<input type="checkbox"/>		Designee's Title:	
c.	Notified participants, beneficiaries, employees, applicants, and others that the agency does not discriminate on the basis of disability (How).	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/> Job Announcement <input type="checkbox"/> Orientation Training <input type="checkbox"/> Web Site <input type="checkbox"/> Refresher Training <input type="checkbox"/> Posters <input type="checkbox"/> Employee Handbook <input type="checkbox"/> Other (specify):	
d.	Does the agency conduct any training for its employees on the requirements under federal civil rights laws - Explain	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/> Orientation Training <input type="checkbox"/> Supervisor's Training <input type="checkbox"/> Refresher Training (type): <input type="checkbox"/> Other (specify):	
<b>Limited English Proficiency</b>					<div style="display: flex; justify-content: space-between;"> <span>Jurisdiction in general</span> <span>Law Enforcement</span> </div>	
13.	Steps has the agency taken to provide meaningful access to its programs and activities to persons who have limited English proficiency (LEP)	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/> Assessed LEP population & critical services	<input type="checkbox"/>
					<input type="checkbox"/> Hiring LEP language proficient speakers	<input type="checkbox"/>
					<input type="checkbox"/> Training personnel in LEP languages	<input type="checkbox"/>
					<input type="checkbox"/> Coordinating for LEP speakers in advance	<input type="checkbox"/>
					<input type="checkbox"/> LEP speakers called upon contact	<input type="checkbox"/>
					<input type="checkbox"/> Language Line used	<input type="checkbox"/>
					<input type="checkbox"/> Corresponding common phrase (crib) sheets	<input type="checkbox"/>
14.	Limited English Proficiency (LEP) – Written policy on providing language access to services ( <i>Not a requirement, a question</i> )	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/> Jurisdiction in general <input type="checkbox"/> Law Enforcement	
<div style="display: flex; justify-content: space-around; width: 100%;"> <span>Yes</span> <span>No</span> <span>N/A</span> <span>Comments</span> </div>						
15.	<b>Education Program or Activity</b> operated by the agency, has the agency taken the following actions:					

## CITY of SPOKANE Compliance Checklist

a.	Adopted grievance procedures that incorporate due process standards and provide for the prompt and equitable resolution of complaints alleging a violation of the DOJ regulations implementing Title IX of the Education Amendments of 1972, found at 28 CFR Part 54, which prohibit discrimination on the basis of sex?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
b.	Designated a person to coordinate compliance with the prohibitions against sex discrimination contained in 28 CFR Part 54? (Who)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Designee's Title: <span style="background-color: #cccccc; display: inline-block; width: 50px; height: 15px;"></span>
c.	Notified applicants for admission and employment, employees, students, parents, and others that the agency does not discriminate on the basis of sex in its educational programs or activities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<span style="background-color: #cccccc; display: inline-block; width: 50px; height: 15px;"></span>
16.	<b>Religious Activities</b> , if conducted as part of its program or services:				
a.	Provide services to everyone regardless of religion or religious belief	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<span style="background-color: #cccccc; display: inline-block; width: 50px; height: 15px;"></span>
b.	Ensure that it does not use federal funds to conduct inherently religious activities, such as prayer, religious instruction, or proselytization, and that such activities are kept separate in time or place from federally-funded activities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<span style="background-color: #cccccc; display: inline-block; width: 50px; height: 15px;"></span>
c.	Ensure that participation in religious activities is voluntary for beneficiaries of federally funded programs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<span style="background-color: #cccccc; display: inline-block; width: 50px; height: 15px;"></span>
17.	<b>Finding/Rulings</b>				
a.	Has the contractor, or its subcontractors/formal participants, had any formal findings or rulings against it or its key officers regarding Equal Opportunity (grounds of race, color, religion, national origin, or sex), within the last two years? – Explain if Yes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<span style="background-color: #cccccc; display: inline-block; width: 50px; height: 15px;"></span>
b.	Was DOJ (or Task Force Lead agency) and USDOJ Office of Civil Rights promptly notified of any finding?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<span style="background-color: #cccccc; display: inline-block; width: 50px; height: 15px;"></span>
c.	Corrective action, as negotiated or directed, been implemented?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<span style="background-color: #cccccc; display: inline-block; width: 50px; height: 15px;"></span>
18.	In accordance with the Federal Civil Rights Compliance Checklist, incorporated in this section of the monitoring tool, does the agency appear to be in full compliance with federal law and regulation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<span style="background-color: #cccccc; display: inline-block; width: 50px; height: 15px;"></span>
<b>B. DRUG-FREE WORKPLACE</b>		Yes	No	N/A	Comments
19.	Does the agency have a Drug-Free Workplace policy in place?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<span style="background-color: #cccccc; display: inline-block; width: 50px; height: 15px;"></span>
20.	Who administers the Drug-Free Workplace Program?				Office or Position Title: <span style="background-color: #cccccc; display: inline-block; width: 50px; height: 15px;"></span>
		Yes	No	N/A	Comments
21.	Do the provisions include: <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <span>• Counseling</span> <span>• Rehabilitation</span> <span>• Employee Assistance</span> </div>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<span style="background-color: #cccccc; display: inline-block; width: 50px; height: 15px;"></span>

## CITY of SPOKANE Compliance Checklist

22.	Do violations result in: • Termination      • Penalties      • Rehabilitation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
23.	Has any employee of the contractor, or its subcontractors/formal participants, been convicted of a criminal drug offense on the job or premises, within the last two years?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
24.	Was DOJ (or Task Force lead agency) notified promptly (within 5 days, BJA within 10 days of the conviction)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
25.	Was appropriate personnel action taken within 30 days?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>C. CONFLICT OF INTEREST</b>					
26.	Has any allegation or finding of Conflict of Interest been made against any employee or official of the contractor, or its subcontractors/formal participants, in relation to the grant within the last two years? (Limit response to project's personnel, supervisors and policy chain)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
27.	Was DOJ (or Task Force lead agency) notified promptly (within 30 days; if actively investigated, after conclusion of the investigation)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
28.	Describe the allegation or finding	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Certification: The undersigned certifies that the above is a true representation of the Civil Rights and other issues covered by this checklist for the City of Spokane:

\_\_\_\_\_  
Signature (of Human Resources/Personnel Respondent)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature (of grant activity coordinator (items 13, 14, 17 & 23-27)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name & Title of Respondent

\_\_\_\_\_  
Printed Name & Title of Respondent

NOTE: Project coordinator/liaison for the grant supported activity (right signature block) should respond to questions with color accented line numbers (13, 14, 17, and 23-27) as in some jurisdictions these events are not consistently reported to Human Resources/Personnel.



**Agenda Sheet for City Council Meeting of:**  
03/01/2021

<b>Date Rec'd</b>	2/17/2021
<b>Clerk's File #</b>	OPR 2016-0268
<b>Renews #</b>	
<b>Cross Ref #</b>	
<b>Project #</b>	
<b>Bid #</b>	
<b>Requisition #</b>	CR22351

<b>Submitting Dept</b>	RISK MANAGEMENT
<b>Contact Name/Phone</b>	MIKE ORMSBY 6287
<b>Contact E-Mail</b>	MORMSBY@SPOKANECITY.ORG
<b>Agenda Item Type</b>	Contract Item
<b>Agenda Item Name</b>	5800 CONTRACT AMENDMENT INSURANCE BROKERAGE SERVICES

**Agenda Wording**

Amendment to contract with Willis Towers Watson Insurance Services for insurance brokerage services.

**Summary (Background)**

The contract with the current insurance broker for the City expires on March 31, 2021. An RFP process may be appropriate for this contract, but the COVID situation makes such a process difficult to accomplish in a timely manner. This one year extension continues this necessary service and reserves the ability to do the RFP next year.

Lease? NO Grant related? NO Public Works? NO

**Fiscal Impact**

Expense \$ 60,000.00

Select \$

Select \$

Select \$

**Budget Account**

# 5800-78200-19000-54201-99999

#

#

#

**Approvals**

**Dept Head** ORMSBY, MICHAEL

**Division Director** ORMSBY, MICHAEL

**Finance** BUSTOS, KIM

**Legal** ODLE, MARI

**For the Mayor** ORMSBY, MICHAEL

**Council Notifications**

**Study Session\Other** 2/22/21 Committee Meeting

**Council Sponsor** Council Member Wilkerson

**Distribution List**

Lindsay.cunningham@willistowerswatson.com

karin.nelson@willistowerswatson.com

mormsby@spokanecity.org

sstopher@spokanecity.org

rkokot@spokanecity.org



**City of Spokane**

**CONTRACT AMENDMENT / EXTENSION**

Title: **INSURANCE SERVICES**

This Contract Amendment / Extension is made and entered into by and between the **CITY OF SPOKANE** as ("City"), a Washington municipal corporation, and **WILLIS TOWERS WATSON INSURANCE SERVICES WEST, INC.**, whose address is P.O. Box 34201, 505 5<sup>th</sup> Avenue, Suite 200, Seattle, Washington 98124 as ("Broker"), individually hereafter referenced as a "party", and together as the "parties".

*WHEREAS, the parties entered into a Contract wherein the Broker agreed to provide Insurance Brokerage Services for the City; and*

*WHEREAS, the Contract time for performance needs to be extended to allow for an RFP to be issued in 2021, and additional funds are necessary to continue the work for the extension of time, thus the original Contract needs to be formally Amended and Extended by this written document; and*

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

**1. CONTRACT DOCUMENTS.**

The Contract, dated March 10, 2016 and March 14, 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 / Extension shall become effective on April 1, 2021 and shall extend to March 31, 2022.

**3. COMPENSATION.**

The City shall pay an additional amount not to exceed **SIXTY THOUSAND AND NO/100 DOLLARS (\$60,000.00)** for everything furnished and done under this Contract Amendment / Extension. This is the maximum amount to be paid under this Amendment / Extension, and shall not be exceeded without the prior written authorization of the City, memorialized with the same formality as the original Contract and this document.

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



**WILLIS TOWERS WATSON  
INSURANCE SERVICES WEST, INC.**

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

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

\_\_\_\_\_  
Title

Attest:

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

**CITY OF SPOKANE**

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

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

\_\_\_\_\_  
Title

Approved as to form:

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

21-018

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

03/01/2021

<u>Date Rec'd</u>	2/18/2021
<u>Clerk's File #</u>	OPR 2021-0132
<u>Renews #</u>	
<u>Cross Ref #</u>	OPR 2006-0976
<u>Project #</u>	
<u>Bid #</u>	
<u>Requisition #</u>	CR22374

<u>Submitting Dept</u>	COMMUNICATIONS & MARKETING
<u>Contact Name/Phone</u>	JOHN DELAY 6355
<u>Contact E-Mail</u>	JDELAY@SPOKANECITY.ORG
<u>Agenda Item Type</u>	Contract Item
<u>Agenda Item Name</u>	1940 PEG FUNDS REIMBURSEMENT CONTRACT WITH CME

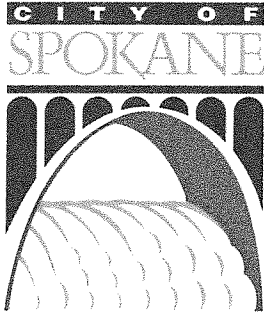
**Agenda Wording**

The City of Spokane contracts with Community Minded Enterprises (CME) to operate CMTV 14, the City of Spokane's Community access Television Channel as part of the City's Cable Franchise with Comcast Cable.

**Summary (Background)**

As part of the Franchise, CME operates CMTV at no additional charge, which is viewable by Comcast Subscribers without the need for additional equipment beyond that required to receive the Basic Cable Tier. This contract uses PEG funds for the reimbursement of capital equipment related to video production.

Lease? NO	Grant related? NO	Public Works? NO
<u>Fiscal Impact</u>		<u>Budget Account</u>
Expense \$ \$65,000		# 1940-37330-18900-54201-99999
Select \$		#
Select \$		#
Select \$		#
<u>Approvals</u>	<u>Council Notifications</u>	
<u>Dept Head</u>	DELAY, JOHN	<u>Study Session\Other</u> 2-22-21 Finance Committee
<u>Division Director</u>	CODDINGTON, BRIAN	<u>Council Sponsor</u> Beggs
<u>Finance</u>	BUSTOS, KIM	<u>Distribution List</u>
<u>Legal</u>	SZAMBELAN, TIMOTHY	leew@community-minded.org
<u>For the Mayor</u>	ORMSBY, MICHAEL	ywang@spokanecity.org
<u>Additional Approvals</u>		jdelay@spokanecity.org
<u>Purchasing</u>		
<u>ACCOUNTING</u>	STOPHER, SALLY	



**City of Spokane**  
**COMMUNITY ACCESS  
TELEVISION AGREEMENT**

This Agreement is made and entered into by and between the **CITY OF SPOKANE** as ("City"), a Washington municipal corporation, and **COMMUNITY MINDED ENTERPRISES**, whose address is 104 West Third Street, Spokane, Washington 99201 as ("CME"), individually hereafter referenced as a "party", and together as the "parties".

*WHEREAS, the City of Spokane has obtained certain channel resources and capital financing as a result of a Franchise renewal, C35970, with the local Cable Operator, Comcast Cable Communications Management, LLC, ("Comcast"); and*

*WHEREAS, the Franchise documents include the Franchise Ordinance itself which is attached hereto as Exhibit B and incorporated herein; and*

*WHEREAS, CME has agreed to provide community programming; and*

*WHEREAS, it does not appear there is any other entity capable or qualified to use the reserved channel resource identified above and CME Proposal appears to be in the public interest;*

The parties agree as follows:

**1. DESIGNATION OF CME AS CHANNEL MANAGER.**

The City designates CME as Channel Manager of the channel reserved in the Comcast Franchise. This designation terminates if the Comcast Franchise Agreement terminates or expires. The designation is in the nature of a quitclaim authorization, to the extent of the City's power and authority to make such designation, without any promises or warranties. This section and Section 2 comprise the entire obligations of the City under this Agreement, notwithstanding any other provision.

**2. 2021 CAPITAL FUNDING.** Subject to applicable Franchise requirements as provided in the cable franchise between the City and the Comcast cable company (C35970) for PEG Fee source expenditures, the City agrees to pay CME from the "PEG Fee" resource identified in Section 19 J of the franchise, a grant up to **SIXTY-FIVE THOUSAND AND NO/100 DOLLARS (\$65,000.00)** for capital expenditures for the calendar year 2021. Future grant funding at this value is not a guarantee, and is subject to change on a yearly basis.

- A. CME agrees to continue to present community programming on the cable channel designated for this purpose and represents to the City that it has adequate operational funding and other resources necessary to accomplish this function; and
- B. CME understands its obligation to be sure that all expenditures of PEG fee grant monies are consistent with any Comcast franchise restrictions for use of said monies. CME shall furnish the City with reasonable proof, upon request, that its use meets cable franchise requirements. In the event CME cannot do so to City's satisfaction, CME is responsible to reimburse the City any reduction in PEG funding obligations by Comcast under Section 19 J (4). CME further agrees to indemnify and hold harmless the City from any other loss or liability for failure to the City from failure to satisfy Comcast; and
- C. This is a grant from PEG fee resources only. Under no circumstances shall the City be independently liable to CME for payment of any sums under this agreement, directly or indirectly by way of reduction of other monies due and payable by Comcast.

**3. FUNDING APPROVAL.** PEG funds and expenses will be approved upon submission of expense receipts to the City.

**4. TERM/NOTICES**

- A. The Agreement takes effect January 1, 2021, and expires December 31, 2021; PROVIDED:
  - i. It automatically expires if the current Comcast Franchise expires or is otherwise terminated or substantially modified for any reason unless extended in writing by the City.
  - ii. It may be terminated without any requirement of showing cause by either party, upon sixty (60) days written notice; PROVIDED the City may terminate the Agreement upon a lesser notice period if it reasonably determines that it is exposed to any loss or liability because of continuation of the Agreement,
- B. Notices shall be given:
  - i. To the City: Attention: Deputy Mayor, 808 W. Spokane Falls Blvd., Spokane WA 99201.
  - ii. To CME: Attention: General Manager, 421 West Riverside Avenue, Suite 353, Spokane, Washington 99201.

**5. CITY OF SPOKANE BUSINESS LICENSE.**

Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid annual business registration. CME 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 Firm 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.

**6. SOCIAL EQUITY REQUIREMENTS / NON-DISCRIMINATION.**

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

**7. INDEMNIFICATION.**

CME shall defend, indemnify, and hold the City and its officers and employees harmless from all claims, demands, or suits at law or equity asserted by third parties for bodily injury (including death) and/or property damage which arise from CME's negligence or willful misconduct under this Agreement, including attorneys' fees and litigation costs; provided that nothing herein shall require a Firm to indemnify the City against and hold harmless the City from claims, demands or suits based solely upon the negligence of the City, its agents, officers, and employees. If a claim or suit is caused by or results from the concurrent negligence of CME's agents or employees and the City, its agents, officers and employees, this indemnity provision shall be valid and enforceable to the extent of the negligence of CME, its agents or employees. CME specifically assumes liability and agrees to defend, indemnify, and hold the City harmless for actions brought by CME's own employees against the City and, solely for the purpose of this indemnification and defense, CME specifically waives any immunity under the Washington State industrial insurance law, or Title 51 RCW. CME recognizes that this waiver was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation. The indemnity and agreement to defend and hold the City harmless provided for in this section shall survive any termination or expiration of this agreement.

**8. INSURANCE.**

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

- A. **Worker's Compensation Insurance** in compliance with RCW 51.12.020, which requires subject employers to provide workers' compensation coverage for all their subject workers and Employer's Liability Insurance in the amount of \$1,000,000;
- B. **General Liability Insurance** on an occurrence basis, with a combined single limit of not less than \$1,000,000 each occurrence for bodily injury and property damage. It shall include contractual liability coverage for the indemnity provided under this agreement. It shall provide that the City, its officers and employees are additional insureds but only with respect to CME's services to be provided under this Agreement;
  - i. Acceptable **supplementary Umbrella insurance** coverage combined with CMS's General Liability insurance policy must be a minimum of \$1,000,000, in order to meet the insurance coverage limits required in this Agreement; and

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

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 CME or its insurer(s) to the City. As evidence of the insurance coverage(s) required by this Agreement, CME shall furnish acceptable Certificates of Insurance (COI) to the City at the time it returns this signed Agreement. The certificate shall specify the City of Spokane as "Additional Insured" specifically for Firm's services under this Agreement, as well as all of the parties who are additional insureds, and include applicable policy endorsements, the thirty (30) day cancellation clause, and the deduction or retention level. CME shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

**9. DEBARMENT AND SUSPENSION.**

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

**10. AUDIT.**

CME and its sub-contractor shall maintain for a minimum of three (3) years following final payment all records related to its performance of the Agreement. CME and its sub-contractors shall provide access to authorized City representatives, at reasonable times and in a reasonable manner to inspect and copy any such record. In the event of conflict between this provision and related auditing provisions required under federal law applicable to the Agreement, the federal law shall prevail.

**11. ASSIGNMENT AND SUBCONTRACTING.**

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

**12. TERMINATION.**

Either party may terminate this Agreement, with or without cause, by sixty (60) days written notice to the other party. In the event of such termination, the City shall pay CME for all work previously authorized and performed prior to the termination date.

**13. STANDARD OF PERFORMANCE.**

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

**14. OWNERSHIP AND USE OF RECORDS AND DOCUMENTS.**

Original documents, drawings, designs, reports, or any other records developed or created under this Agreement shall belong to and become the property of the City. All records submitted by the City to CME shall be safeguarded by CME. CME shall make such data, documents and files

available to the City upon the City's request. If the City's use of CME's records or data is not related to this project, it shall be without liability or legal exposure to CME.

Under Washington State Law (reference RCW Chapter 42.56, the *Public Records Act* [PRA]) all materials received or created by the City of Spokane are **public records** and are available to the public for viewing via the City Clerk's Records (online) or a valid Public Records Request (PRR).

**15. ANTI KICK-BACK.**

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

**16. MISCELLANEOUS PROVISIONS.**

- A. **Amendments/Modifications:** This Agreement may be modified by the City in writing when necessary, and no modification or Amendment of this Agreement shall be effective unless signed by an authorized representative of each of the parties hereto.
- B. CME, at no expense to the City, shall comply with all laws of the United States and Washington, the Charter and ordinances of the City of Spokane; and rules, regulations, orders and directives of their administrative agencies and officers. Without limiting the generality of this paragraph, CME shall comply with the requirements of this Section.
- C. This Agreement shall be construed and interpreted under the laws of Washington. The venue of any action brought shall be in a court of competent jurisdiction, located in Spokane County, Washington.
- D. **Captions:** The titles of sections or subsections are for convenience only and do not define or limit the contents.
- E. **Severability:** If any term or provision is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected, and each term and provision shall be valid and enforceable to the fullest extent permitted by law.
- F. **Waiver:** No covenant, term or condition or the breach shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition shall not be deemed a waiver of any preceding or succeeding breach of the same or any other covenant, term of condition. Neither the acceptance by the City of any performance by CME after the time the same shall have become due nor payment to CME for any portion of the Work shall constitute a waiver by the City of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by the City in writing.
- G. **Entire Agreement:** This document along with any exhibits and all attachments, and subsequently issued addenda, comprises the entire agreement between the City and CME. If conflict occurs between Agreement documents and applicable laws, codes, ordinances or regulations, the most stringent or legally binding requirement shall govern and be considered a part of this Agreement to afford the City the maximum benefits.
- H. **No personal liability:** No officer, agent or authorized employee of the City shall be personally responsible for any liability arising under this Agreement, whether expressed or implied, nor for any statement or representation made or in any connection with this Agreement.

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

**COMMUNITY MINDED ENTERPRISES**

**CITY OF SPOKANE**

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

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

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

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Attest:

Approved as to form:

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

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

**Attachments that are part of this Agreement:**

Exhibit A – Certificate Regarding Debarment  
Exhibit B –Franchise Renewal Agreement C35970

21-019



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

**COMMUNITY MINDED ENTERPRISES**

**CITY OF SPOKANE**

By Lee M. Williams  
Signature Date

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

Lee M. Williams  
\_\_\_\_\_  
Type or Print Name

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

\_\_\_\_\_  
Chief Executive Officer  
Title

\_\_\_\_\_  
Title

Attest:

Approved as to form:

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

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

**Attachments that are part of this Agreement:**

- Exhibit A – Certificate Regarding Debarment
- Exhibit B –Franchise Renewal Agreement C35970

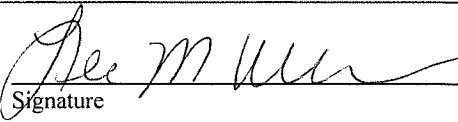
**EXHIBIT A**

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

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

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

1. The lower tier contractor certifies, by signing this contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
  2. Where the lower tier contractor is unable to certify to any of the statements in this contract, such contractor shall attach an explanation to this contract.
4. I understand that a false statement of this certification may be grounds for termination of the contract.

Health Improvement Partnership, d.b.a. Community-Minded Enterprises _____ Name of Subrecipient / Contractor / Consultant (Type or Print)	<u>Chief Executive Officer</u> _____ Program Title (Type or Print)
<u>Lee M. Williams</u> _____ Name of Certifying Official (Type or Print) <u>Chief Executive Officer</u> _____ Title of Certifying Official (Type or Print)	 _____ Signature _____ Date (Type or Print)

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

03/01/2021

<u>Date Rec'd</u>	2/18/2021
<u>Clerk's File #</u>	OPR 2021-0133
<u>Renews #</u>	
<u>Cross Ref #</u>	OPR 2007-0767
<u>Project #</u>	
<u>Bid #</u>	
<u>Requisition #</u>	CR22375

<u>Submitting Dept</u>	COMMUNICATIONS & MARKETING
<u>Contact Name/Phone</u>	JOHN DELAY 6355
<u>Contact E-Mail</u>	JDELAY@SPOKANECITY.ORG
<u>Agenda Item Type</u>	Contract Item
<u>Agenda Item Name</u>	1940 PEG FUNDS REIMBURSEMENT WITH KSPS

**Agenda Wording**

The City of Spokane designates KSPS as the administrator of C.A.B.L.E. PEG funds under Section 19 subsection (b) of the City's Cable Franchise. KSPS prioritizes the Capital Equipment needs of the C.A.B.L.E then relays requests to the City.

**Summary (Background)**

As part of the Franchise, KSPS ensures that the (E) Educational Channels of the PEG Channels are provided to any subscriber, at no additional charge, and viewable by Comcast Subscribers without the need for additional equipment beyond that required to receive the Basic Cable Tier.

Lease? NO	Grant related? NO	Public Works? NO
<u>Fiscal Impact</u>		<u>Budget Account</u>
Expense \$ \$65,000		# 1940-37330-18900-54201-99999
Select \$		#
Select \$		#
Select \$		#

<u>Approvals</u>	<u>Council Notifications</u>		
<u>Dept Head</u>	DELAY, JOHN	<u>Study Session\Other</u>	2-22-21 Finance Committee
<u>Division Director</u>	CODDINGTON, BRIAN	<u>Council Sponsor</u>	
<u>Finance</u>	BUSTOS, KIM	<u>Distribution List</u>	
<u>Legal</u>	SZAMBELAN, TIMOTHY	gstokes@ksps.org	
<u>For the Mayor</u>	ORMSBY, MICHAEL	ywang@spokanecity.org	
<u>Additional Approvals</u>		jdelay@spokanecity.org	
<u>Purchasing</u>			
<u>ACCOUNTING</u>	STOPHER, SALLY		
<u>COMMUNICATIONS &amp; MARKETING</u>	DELAY, JOHN		



This Agreement is made and entered into by and between the **CITY OF SPOKANE** as ("City"), a Washington municipal corporation, and **FRIENDS OF KSPS**, whose address is 3911 South Regal Street, Spokane, Washington 99223 as ("KSPS"), individually hereafter referenced as a "party", and together as the "parties".

*WHEREAS, the City of Spokane has obtained certain channel resources and capital financing as a result of a Franchise renewal, C35970, with the local Cable Operator, Comcast Cable Communications Management, LLC, ("Comcast"); and*

*WHEREAS, the Franchise documents include the Franchise Ordinance itself which is attached hereto as Exhibit B and incorporated herein; and*

*WHEREAS, KSPS has agreed to provide PEG C.A.B.L.E. Channel Distribution for Public Education Television; and*

*WHEREAS, KSPS is the established master control provider for PEG access channels.*

The parties agree as follows:

**1. DESIGNATION OF KSPS AS CHANNEL MANAGER.**

The City designates KSPS as Channel Manager of the channel reserved in the Comcast Franchise. This designation terminates if the Comcast Franchise Agreement terminates or expires. The designation is in the nature of a quitclaim authorization, to the extent of the City's power and authority to make such designation, without any promises or warranties. This section and Section 2 comprise the entire obligations of the City under this Agreement, notwithstanding any other provision.

**2. 2021 CAPITAL FUNDING.** Subject to applicable Franchise requirements as provided in the cable franchise between the City and the Comcast cable company (C35970) for PEG Fee source expenditures, the City agrees to pay KSPS from the "PEG Fee" resource identified in Section 19 J of the franchise, a grant up to **SIXTY-FIVE THOUSAND AND NO/100 DOLLARS (\$65,000.00)** for capital expenditures for the calendar year 2021. Future grant funding at this value is not a guarantee, and is subject to change on a yearly basis.

- A. KSPS agrees to continue to present community programming on the cable channel designated for this purpose and represents to the City that it has adequate

operational funding and other resources necessary to accomplish this function;  
and

- B. KSPS understands its obligation to be sure that all expenditures of PEG fee grant monies are consistent with any Comcast franchise restrictions for use of said monies. KSPS shall furnish the City with reasonable proof, upon request, that its use meets cable franchise requirements. In the event KSPS cannot do so to City's satisfaction, KSPS is responsible to reimburse the City any reduction in PEG funding obligations by Comcast under Section 19 J (4). KSPS further agrees to indemnify and hold harmless the City from any other loss or liability for failure to the City from failure to satisfy Comcast; and
- C. This is a grant from PEG fee resources only. Under no circumstances shall the City be independently liable to KSPS for payment of any sums under this agreement, directly or indirectly by way of reduction of other monies due and payable by Comcast.

**3. FUNDING APPROVAL.** PEG funds and expenses will be approved upon submission of expense receipts to the City.

**4. TERM/NOTICES**

- A. The Agreement takes effect January 1, 2021, and expires December 31, 2021; PROVIDED:
  - i. It automatically expires if the current Comcast Franchise expires or is otherwise terminated or substantially modified for any reason unless extended in writing by the City.
  - ii. It may be terminated without any requirement of showing cause by either party, upon sixty (60) days written notice; PROVIDED the City may terminate the Agreement upon a lesser notice period if it reasonably determines that it is exposed to any loss or liability because of continuation of the Agreement,
- B. Notices shall be given:
  - i. To the City: Attention: Deputy Mayor, 808 W. Spokane Falls Blvd., Spokane WA 99201.
  - ii. To KSPS: Attention: General Manager, 3911 South Regal Street, Spokane, Washington 99223.

**5. CITY OF SPOKANE BUSINESS LICENSE.**

Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid annual business registration. KSPS 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 Firm 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.

## **6. SOCIAL EQUITY REQUIREMENTS / NON-DISCRIMINATION.**

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

## **7. INDEMNIFICATION.**

KSPS shall defend, indemnify, and hold the City and its officers and employees harmless from all claims, demands, or suits at law or equity asserted by third parties for bodily injury (including death) and/or property damage which arise from KSPS's negligence or willful misconduct under this Agreement, including attorneys' fees and litigation costs; provided that nothing herein shall require a Firm to indemnify the City against and hold harmless the City from claims, demands or suits based solely upon the negligence of the City, its agents, officers, and employees. If a claim or suit is caused by or results from the concurrent negligence of KSPS's agents or employees and the City, its agents, officers and employees, this indemnity provision shall be valid and enforceable to the extent of the negligence of KSPS, its agents or employees. KSPS specifically assumes liability and agrees to defend, indemnify, and hold the City harmless for actions brought by KSPS's own employees against the City and, solely for the purpose of this indemnification and defense, KSPS specifically waives any immunity under the Washington State industrial insurance law, or Title 51 RCW. KSPS recognizes that this waiver was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation. The indemnity and agreement to defend and hold the City harmless provided for in this section shall survive any termination or expiration of this agreement.

## **8. INSURANCE.**

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

- A. **Worker's Compensation Insurance** in compliance with RCW 51.12.020, which requires subject employers to provide workers' compensation coverage for all their subject workers and Employer's Liability Insurance in the amount of \$1,000,000;
- B. **General Liability Insurance** on an occurrence basis, with a combined single limit of not less than \$1,000,000 each occurrence for bodily injury and property damage. It shall include contractual liability coverage for the indemnity provided under this agreement. It shall provide that the City, its officers and employees are additional insureds but only with respect to KSPS's services to be provided under this Agreement;
  - i. Acceptable **supplementary Umbrella insurance** coverage combined with CMS's General Liability insurance policy must be a minimum of \$1,000,000, in order to meet the insurance coverage limits required in this Agreement; and

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

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 KSPS or its insurer(s) to the City. As evidence of the insurance coverage(s) required by this Agreement, KSPS shall furnish acceptable Certificates of Insurance (COI) to the City at the time it returns this signed Agreement. The certificate shall specify the City of Spokane as "Additional Insured" specifically for Firm's services under this Agreement, as well as all of the parties who are additional insureds, and include applicable policy endorsements, the thirty (30) day cancellation clause, and the deduction or retention level. KSPS shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

**9. DEBARMENT AND SUSPENSION.**

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

**10. AUDIT.**

KSPS and its sub-contractor shall maintain for a minimum of three (3) years following final payment all records related to its performance of the Agreement. KSPS and its sub-contractors shall provide access to authorized City representatives, at reasonable times and in a reasonable manner to inspect and copy any such record. In the event of conflict between this provision and related auditing provisions required under federal law applicable to the Agreement, the federal law shall prevail.

**11. ASSIGNMENT AND SUBCONTRACTING.**

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

**12. TERMINATION.**

Either party may terminate this Agreement, with or without cause, by sixty (60) days written notice to the other party. In the event of such termination, the City shall pay KSPS for all work previously authorized and performed prior to the termination date.

**13. STANDARD OF PERFORMANCE.**

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

**14. OWNERSHIP AND USE OF RECORDS AND DOCUMENTS.**

Original documents, drawings, designs, reports, or any other records developed or created under this Agreement shall belong to and become the property of the City. All records submitted by the

City to KSPS shall be safeguarded by KSPS. KSPS shall make such data, documents and files available to the City upon the City's request. If the City's use of KSPS's records or data is not related to this project, it shall be without liability or legal exposure to KSPS.

Under Washington State Law (reference RCW Chapter 42.56, the *Public Records Act* [PRA]) all materials received or created by the City of Spokane are **public records** and are available to the public for viewing via the City Clerk's Records (online) or a valid Public Records Request (PRR).

**15. ANTI KICK-BACK.**

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

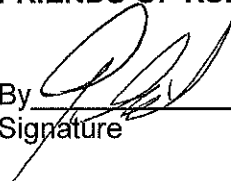
**16. MISCELLANEOUS PROVISIONS.**

- A. **Amendments/Modifications:** This Agreement may be modified by the City in writing when necessary, and no modification or Amendment of this Agreement shall be effective unless signed by an authorized representative of each of the parties hereto.
- B. KSPS, at no expense to the City, shall comply with all laws of the United States and Washington, the Charter and ordinances of the City of Spokane; and rules, regulations, orders and directives of their administrative agencies and officers. Without limiting the generality of this paragraph, KSPS shall comply with the requirements of this Section.
- C. This Agreement shall be construed and interpreted under the laws of Washington. The venue of any action brought shall be in a court of competent jurisdiction, located in Spokane County, Washington.
- D. **Captions:** The titles of sections or subsections are for convenience only and do not define or limit the contents.
- E. **Severability:** If any term or provision is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected, and each term and provision shall be valid and enforceable to the fullest extent permitted by law.
- F. **Waiver:** No covenant, term or condition or the breach shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition shall not be deemed a waiver of any preceding or succeeding breach of the same or any other covenant, term of condition. Neither the acceptance by the City of any performance by KSPS after the time the same shall have become due nor payment to KSPS for any portion of the Work shall constitute a waiver by the City of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by the City in writing.
- G. **Entire Agreement:** This document along with any exhibits and all attachments, and subsequently issued addenda, comprises the entire agreement between the City and KSPS. If conflict occurs between Agreement documents and applicable laws, codes, ordinances or regulations, the most stringent or legally binding requirement shall govern and be considered a part of this Agreement to afford the City the maximum benefits.
- H. **No personal liability:** No officer, agent or authorized employee of the City shall be personally responsible for any liability arising under this Agreement, whether expressed or implied, nor for any statement or representation made or in any connection with this Agreement.



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

**FRIENDS OF KSPS**

By  2/11/21  
Signature Date

Gary A. Stokes  
Type or Print Name

President and General Manager  
Title

Attest:

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

**CITY OF SPOKANE**

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

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

\_\_\_\_\_  
Title

Approved as to form:

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

**Attachments that are part of this Agreement:**

Exhibit A – Certificate Regarding Debarment  
Exhibit B –Franchise Renewal Agreement C35970

21-020

**EXHIBIT A**

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

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

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

1. The lower tier contractor certified, by signing this contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
  2. Where the lower tier contractor is unable to certify to any of the statements in this contract, such contractor shall attach an explanation to this contract.
4. I understand that a false statement of this certification may be grounds for termination of the contract.

Gary A. Stokes	
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)

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

03/01/2021

**Date Rec'd**

2/17/2021

**Clerk's File #**

OPR 2021-0134

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

WASTEWATER MANAGEMENT

**Contact Name/Phone**

MIKE CANNON 625-4642

**Contact E-Mail**

MCANNON@SPOKANECITY.ORG

**Agenda Item Type**

Contract Item

**Agenda Item Name**

4320 - CITRIC ACID 50%

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

RFQ 5378-21

**Requisition #**

VALUE BLANKET

**Agenda Wording**

Council approval to award RFQ #5378-21 to Two Rivers Terminal, LLC. to supply Citric Acid 50% to Riverside Park Water Reclamation Facility for a cost of \$330,000.00, plus applicable taxes for the period of March 1, 2021 to February 28, 2024.

**Summary (Background)**

Citric Acid 50% will be used with the new membrane facility, which is responsible for removing Phosphorus from water from the Riverside Park Water Reclamation Facility that is discharged to the Spokane River. RPWRF is required, by its discharge permit, to chemically remove Phosphorus from its effluent flow. This new chemical will be used to maintain the membranes, so we can achieve the extremely low phosphorus levels in accordance with NPDES permit and DO TMDL.

Lease? NO

Grant related? NO

Public Works? NO

**Fiscal Impact****Budget Account**

Expense \$ 330,000.00

# 4320.43260.35148.53203

Select \$

#

Select \$

#

Select \$

#

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

COSTER, MICHAEL

**Study Session\Other**

PIES 2/22 at 1:15PM

**Division Director**

SIMMONS, SCOTT M.

**Council Sponsor****Finance**

ALBIN-MOORE, ANGELA

**Distribution List****Legal**

ODLE, MARI

hbarnhart@spokanecity.org

**For the Mayor**

ORMSBY, MICHAEL

kkeck@spokanecity.org

**Additional Approvals**

mhughes@spokanecity.org

**Purchasing**

WAHL, CONNIE

Tax &amp; Licenses

tprince@spokanecity.org

traviso@tworiversterminal.com



**Continuation of Wording, Summary, Budget, and Distribution**

**Agenda Wording**

**Summary (Background)**

We are anticipating usage of approximately 188,000 pounds per year at \$0.585 per pound for a total of \$110,000.00 per year. A total cost over three years of \$330,000.00. The contract may be extended for two (2) additional one-year contract periods with the total contract period not to exceed five (5) years.

**Fiscal Impact**

Select \$

Select \$

**Budget Account**

#

#

**Distribution List**


# Briefing Paper

## Public Infrastructure, Environment, and Sustainability

<b>Division &amp; Department:</b>	Public Works and Utilities
<b>Subject:</b>	Award RFQ #5378-21 contract to supply Citric Acid 50% to Riverside Park Water Reclamation Facility.
<b>Date:</b>	2/22/2021
<b>Contact (email &amp; phone):</b>	Mike Cannon, Assistant Plant Manager 625-4642 mcannon@spokanecity.org
<b>City Council Sponsor:</b>	
<b>Executive Sponsor:</b>	
<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>	
<b>Strategic Initiative:</b>	Innovative Infrastructure – Affordable Utility Rates
<b>Deadline:</b>	
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	Council approval to award RFQ #5378-21 to Two Rivers Terminal, LLC. To supply Citric Acid 50% to Riverside Park Water Reclamation Facility, for a cost of \$330,000.00, plus applicable taxes for the period of March 1, 2021 to February 28, 2024.

Background/History: Citric Acid 50% will be used with the new membrane facility, which is responsible for removing Phosphorus from water from the Riverside Park Water Reclamation Facility that is discharged to the Spokane River. RPWRF is required, by its discharge permit, to chemically remove Phosphorus from its effluent flow. This new chemical will be used to maintain the membranes, so we can achieve the extremely low phosphorus levels in accordance with the NPDES permit and DO TMDL.

We are anticipating usage of approximately 188,000 pounds per year at \$0.585 per pound for a total of \$110,000.00 per year. A total cost over three years of \$330,000.00.

The contract may be extended for two (2) additional one-year contract periods with the total contract period not to exceed five (5) years.

Executive Summary:

Award of RFQ #5378-21 to Two Rivers Terminal, LLC. to supply approximately pounds of Citric Acid 50% to Wastewater Management's Riverside Park Water Reclamation Facility.

Funding for this purchase is provided in the Wastewater Management, RPWRF's budget, and revenue is derived from sewer rates.

Budget Impact:

Approved in current year budget? ☒ Yes ☐ No ☐ N/A

Annual/Reoccurring expenditure? ☒ Yes ☐ No ☐ N/A

If new, specify funding source: Department

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**

**PURCHASE AGREEMENT**

**Title: CITRIC ACID 50%**

THIS AGREEMENT is between the **CITY OF SPOKANE**, a Washington State municipal corporation, as ("City"), and **TWO RIVERS TERMINAL, LLC**, whose address is P.O. Box 2327, Pasco, Washington 99032, as ("Vendor"), individually hereafter referenced as a "party", and together as the "parties".

The parties agree as follows:

1. **GOODS.** The Vendor agrees to sell to the City **Citric Acid 50%**, subject to these terms and conditions.
2. **CONTRACT DOCUMENTS.** This Agreement, RFQ No. 5378-21, and the Vendor's Response to RFP constitute the contract documents. If there is a discrepancy between these documents, this Agreement controls. Federal and state requirements and the terms of this Agreement, respectively, supersede other inconsistent provisions. These contract documents are on file with the Riverside Park Water Reclamation Facility, 4401 North Aubrey L. White Parkway, Spokane, Washington 99205-3939, and are incorporated into this Agreement by reference as if they were set forth at length.
3. **TERM.** The Agreement shall begin March 1, 2021 and run through February 28, 2024, unless terminated earlier. The Agreement may be extended, upon mutual written agreement of both parties, for two (2) additional one year Agreement periods with the total contract period not to exceed five (5) years.
4. **DELIVERY TIME.** Truck deliveries will be accepted only between 7:30 a.m. and 2:00 p.m., Monday through Thursday (DELIVERIES SHOULD BE COMPLETE BY 2:00 PM). If the goods are not delivered within the terms and established delivery time, the City may procure comparable goods from another source and the Vendor will be required to pay any differences in cost.
5. **DELIVERY LOCATION.** The Vendor shall deliver the goods within seven (7) days from receipt of order to the Riverside Park Water Reclamation Facility, 4401 North Aubrey L. White Parkway, Spokane, Washington 99205-3939. In case of emergency, Vendor shall deliver the goods within twenty-four (24) hours after receipt of order.
6. **COMPENSATION.** The City will pay **ONE HUNDRED TEN THOUSAND AND NO/100 DOLLARS (\$110,000.00)**, plus tax, per year, for a total of **THREE HUNDRED THIRTY THOUSAND THREE HUNDRED FIFTY AND NO/100 DOLLARS (\$330,000.00)**, plus tax for everything furnished and done under this Agreement.

7. PAYMENT. The Vendor will send its applications for payment to the Riverside Park Water Reclamation Facility, 4401 North Aubrey L. White Parkway, Spokane, Washington 99205-3939. Payment will be made within thirty (30) days after receipt of the Vendor's application except as provided in RCW 39.76. **Payment will be made via direct deposit/ACH** within thirty (30) days after receipt of the Company's application except as provided by state law.
8. TITLE. Title to the goods purchase under this Agreement remains with the Vendor until they are delivered to the City's delivery location.
9. RISK OF LOSS. The risk of any damage to or destruction of the goods will be borne by the Vendor at all times until delivery.
10. UNIFORM COMMERCIAL CODE. This Agreement is subject to the Uniform Commercial Code, Title 62A Revised Code of Washington.
11. INSPECTION. All goods purchased are subject to inspection, test and approval at destination by the City, notwithstanding prior payments or inspections at the source. The City, without limitation to its other rights under this Agreement, may reject any goods that contain defective material or workmanship, do not meet the specifications, or otherwise do not conform to this Agreement. Defective goods or goods not in accordance with the City's specifications will be held for the Vendor's instructions and at the Vendor's risk and expense. The City reserves the right to inspect before shipment or during the process of manufacture, any goods on this Agreement.
12. OVERSHIPMENT. Quantities delivered by the Vendor in excess of that shown in this Agreement, if rejected, will be returned at the Vendor's risk and expense. Any excess quantities that the City accepts shall be the price stated in this Agreement.
13. WARRANTY. The Vendor warrants that the items furnished will conform to its description and any applicable specifications shall be of good merchantable quality and fit for the known purpose for which sold. This warranty is in addition to any standard warranty or service guarantee by the Vendor to the City.
14. UNLAWFUL OVERCHARGES. The Vendor assigns to the City all claims for anti-trust violations and overcharges relating to the goods purchased by the City.
15. TERMINATION.
  - A. Time is of the essence of this Agreement.
  - B. The City reserves the right to cancel this Agreement or any portion thereof without penalty in the event that deliveries are not made within the specified time, without liability for deliveries previously made and accepted by the City.
  - C. The City may also cancel this Agreement or any portion thereof without penalty if the Vendor breaches any of the terms of the Agreement.
  - D. The City may cancel this Agreement or any portion thereof without penalty if the Vendor is adjudged as bankrupt, files petition, application or other pleading seeking or consenting to any relief under the Bankruptcy Act, makes or attempts to make an assignment for the benefit of creditors or to effect a plan of compromise with respect to its debts. All further obligations automatically terminate, but obligations incurred are not discharged.

16. INDEMNIFICATION.

The Vendor shall defend, indemnify, and hold the City and its officers and employees harmless from all claims, demands, or suits at law or equity asserted by third parties for bodily injury (including death) and/or property damage which arise from the Vendor's negligence or willful misconduct under this Agreement, including attorneys' fees and litigation costs; provided that nothing herein shall require a Vendor to indemnify the City against and hold harmless the City from claims, demands or suits based solely upon the negligence of the City, its agents, officers, and employees. If a claim or suit is caused by or results from the concurrent negligence of the Vendor's agents or employees and the City, its agents, officers and employees, this indemnity provision shall be valid and enforceable to the extent of the negligence of the Vendor, its agents or employees. The Vendor specifically assumes liability and agrees to defend, indemnify, and hold the City harmless for actions brought by the Vendor's own employees against the City and, solely for the purpose of this indemnification and defense, the Vendor specifically waives any immunity under the Washington State industrial insurance law, or Title 51 RCW. The Vendor recognizes that this waiver was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation. The indemnity and agreement to defend and hold the City harmless provided for in this section shall survive any termination or expiration of this agreement.

17. INSURANCE.

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

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

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

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

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

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

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without sixty (60) days written notice from the Vendor or its insurer(s) to the City.



As evidence of the insurance coverage(s) required by this Agreement, the Vendor shall furnish acceptable Certificates Of Insurance (COI) to the City at the time it returns this signed Agreement. The certificate shall specify the City of Spokane as "Additional Insured" specifically for Vendor's services under this Agreement, as well as all of the parties who are additional insureds, and include applicable policy endorsements, the sixty (60) day cancellation clause, and the deduction or retention level. The Vendor shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

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

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

20. 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.

21. COMPLIANCE WITH LAWS. The Vendor warrants that the goods have been produced, sold, delivered and furnished in strict compliance with all applicable laws and regulations of which they are subject.

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

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

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

25. 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 Vendor 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 Vendor 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.

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

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

28. VENDOR'S ACKNOWLEDGEMENT. The Vendor acknowledges that it has visited the site of the work, has examined it, and is qualified to perform the work required by this Agreement.

29. MODIFICATIONS. The City may modify this Agreement and order changes in the work whenever necessary or advisable. The Vendor will accept modifications when ordered in writing by the Director of the Wastewater Reclamation Facility and the Agreement time and compensation will be adjusted accordingly.

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

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

**TWO RIVERS TERMINAL, LLC**

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

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

\_\_\_\_\_  
Title

**CITY OF SPOKANE**

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

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

\_\_\_\_\_  
Title

Attest:

Approved as to form:

---

City Clerk

---

Assistant City Attorney

Attachment that is a part of this Agreement:  
Exhibit A - Certificate Regarding Debarment

U2021-012

## ATTACHMENT A

### CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

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

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

1. The lower tier contractor certified, by signing this contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
  2. Where the lower tier contractor is unable to certify to any of the statements in this contract, such contractor shall attach an explanation to this contract.
4. I understand that a false statement of this certification may be grounds for termination of the contract.

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

Reference Number	Description	Type	UOM	Quantity	Extended Estimate	jennifer.perras@univar.com	TWO RIVERS TERMINAL	Northstar Chemical, Inc	Solugen, Inc.	Brenntag Pacific	Cascade Columbia Distribution Co.
Product						\$0.00	\$109,980.00	\$111,860.00	\$112,800.00	\$113,176.00	\$132,728.00
	1 Citric Acid 50%	Base	lb	188,000.00			\$109,980.00	\$111,860.00	\$112,800.00	\$113,176.00	\$132,728.00
Emergency Delivery						\$0.00	\$0.00	\$150.00	\$0.20	\$0.00	\$300.00
	Additional Freight cost per lb										
	1 for Emergency Deliveries ONLY	Base	lb	1		\$0.00		\$150.00	\$0.20	\$0.00	\$300.00
Total Extended						\$0.00	\$109,980.00	\$112,010.00	\$112,800.20	\$113,176.00	\$133,028.00

**Bid Response Summary**

**Bid Number** RFQ 5378-21  
**Bid Title** Citric Acid 50%  
**Due Date** Friday, January 22, 2021 3:00:00 PM [(UTC-08:00) Pacific Time (US & Canada)]  
**Bid Status** Closed to Bidding  
**Company** TWO RIVERS TERMINAL  
**Submitted By** Travis Owens - Friday, January 22, 2021 9:40:39 AM [(UTC-08:00) Pacific Time (US & Canada)]  
 traviso@tworiversterminal.com 5094129000

**Comments****Question Responses**

Group	Reference Number	Question	Response
Contact Information			
	1.	List Company Name & Address and Name of person submitting this bid response, including e-mail address and telephone number	Two Rivers Terminal LLC PO Box 2327 Pasco WA 99302 J. Travis Owens, Sr. traviso@tworiversterminal.com 509-412-9000
	2.	How many Addenda do you acknowledge receipt of?	0
Delivery			
	1.	Normal Delivery: Supplier agrees to deliver product to the FOB Delivery Point in accordance with the following timeline: Delivery Within seven (7) Business Days ARO.	Yes
	2.	EMERGENCY Delivery: Supplier agrees to deliver product to the FOB Delivery Point in accordance with the following timeline: Delivery Within TWENTY-FOUR (24) Hours ARO.	Yes
	3.	These items will be purchases on an "As Needed" basis by the Riverside Park Water Reclamation Facility Department	I Acknowledge
	4.	F.O.B. Delivery Point: 4401 North Aubrey L. White Pkway, Spokane WA 99205	I acknowledge
Term of Value Blanket Order			
	#1	The Value Blanket Order resulting from this Request for Quote will be for a three (3) year term with two (1) one-year optional renewal terms.	I acknowledge
Payment Terms			

1.	Payment shall be made via direct deposit/ACH (except as provided by state law) according to net30 terms after receipt of the goods/services ordered. A completed ACH application is required before a City order will be issued. If the City objects to all or any portion of an invoice, it shall notify the supplier and reserve the right to pay only that portion of the invoice not in dispute. In that event, all parties shall immediately make every effort to settle the disputed amount.	I Acknowledge
Sales Tax		
1.	The City of Spokane is not a tax exempt entity and is therefore obligated to pay sales tax under Washington State law. Sales tax should not be included in respondent's pricing. All submissions shall be tabulated with the applicable sales tax rate whether that tax shall be charged through the supplier or paid by the City as use tax.	I Acknowledge
Additional Items		
1.	The City of Spokane reserves the right to purchase additional quantities of these items at the quoted price. Supplier agrees to sell at the same price, terms, and conditions. If Yes, prices are good until further written notice.	Yes
Business Registration		
1.	Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained and being the holder of a valid annual business registration or temporary business registration as provided in this chapter. The supplier shall be responsible for contacting the State of Washington Business License Services at <a href="http://bls.dor.wa.gov">http://bls.dor.wa.gov</a> or 1-800-451-7985 to obtain a business registration. If the supplier 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.	I Acknowledge
2.	Suppliers Business Registration No.	602341599-001-0003
Special Instructions		
1.	The CITRIC ACID 50% shall be transported in DOT approved tanker trucks.	I acknowledge

2.	Quantities shown are estimates only and are not guaranteed. Actual usage may be more or less. Orders will be placed as needed throughout contract term with a blanket order process.	I acknowledge
3.	Bidders must UPLOAD HERE, a cover letter stating qualifications for supplying specified product on contract with the City of Spokane.	TRT_Statement_of_Qualifications_2021_sig.pdf
4.	The Citric Acid 50% shall be transported in DOT approved tanker trucks and transferred to storage tanks at the Riverside Park Water Reclamation Facility, 4401 North Aubrey L. White Pkway, Spokane, Washington, 99205. Method and equipment for delivery shall be compatible with the RPWRF site and with receiving and storage equipment available at the site. Deliveries are to be made from 7:30 a.m. to 2:00 p.m. Monday through Thursday, as required. (NOTE: DELIVERIES SHOULD BE COMPLETE BY 2:00 P.M.) Deliveries made outside these hours may be arranged occasionally on a case by case basis; notification must be made at least 1 hour prior to delivery. All vendors will be held responsible to comply with the established receiving program. Deliveries that would extend beyond 2:00 p.m. may be required to delay unloading until the following acceptable business day. All Citric Acid is to be delivered (F.O.B.) to the storage tanks at the RPWRF. The City of Spokane also reserves the right to add delivery locations, if needed, within the city limits.	I acknowledge
5.	Vendors being considered for award must supply a typical analysis sheet of their product analyzing for the parameters listed in the quote.	I acknowledge



6.	Any Citric Acid 50% delivered that does not meet specifications will not be acceptable. If the bidder's product is unsatisfactory but was inadvertently placed into the facilities system prior to rejection and subsequently causes physical damage or extra cleanup labor, the City will be reimbursed for any associated costs, and at the City's option, a new vendor will be used. Any equipment damage, down time, labor charges, fines, or any other costs caused by material that does not meet specifications or was not delivered on time, will be assumed by the vendor.	I acknowledge
7.	All of the Citric Acid 50% will be delivered to Riverside Park Water Reclamation Facility, 4401 North Aubrey L. White Pkway, Spokane WA 99205.	I acknowledge
8.	The awarded vendor may be subject to grab analyses to determine integrity of the quality of the product. Grabs will be taken by Plant Personnel at the time of product delivery. Product performance will additionally be evaluated as to its performance in previous years.	I acknowledge
9.	Upon delivery of non-conforming product, the vendor will be penalized \$500.00 per delivery. Two such non-conforming deliveries within a four week period will constitute breach of contract by non-performance, and the City reserves the right to cancel the contract. The vendor will be liable for the cost difference to the City of purchasing the product on the open market until such time as a new bid is awarded, not to exceed 45 days.	I acknowledge
10.	Certificate of Analysis: Upon delivery, the City shall be provided with a certificate of analysis which details the percent of NaOH and the Specific Gravity. The certificate shall include gross, tare and net delivery weights.	I acknowledge
11.	A representative 500 mL sample is to be extracted, prior to unloading, from each delivery for analysis by the RPWRF's laboratory. All material will be analyzed by the RPWRF lab staff in accordance with Standard Methods. SOP's and calculations can be provided by the RPWRF laboratory upon request.	I acknowledge
12.	If the product differs from the provisions contained herein, these differences must be explained in detail	I acknowledge

13.	Vendors found to have "overstated" the true ability of their product shall reimburse the City for all costs incurred with remanufacturing or replacement of units until all criteria has been satisfied. These costs shall also include legal, rentals, travel, etc.	I acknowledge	
14.	Brochures to be included with Bid Proposal forms.	I acknowledge	
15.	The City of Spokane reserves the right to accept or reject any variance from the published specifications and to award the bid in a manner that is most advantageous to the continued efficient operation of the RPWRF.	I acknowledge	
16.	The Vendor must have an adequate supply within a 25 mile distance, or 24-hour response/delivery of the City of Spokane.	I acknowledge	
17.	Delivery time shall be a consideration of awarding this contract. Therefore the City requests a completed delivery date as soon as possible within 7 days ARO.	I acknowledge	
18.	Successful Bidder shall furnish standard warranty as well as any other warranty required in the Bid specifications.	I acknowledge	
19.	Federal and State laws governing this product must be satisfied.	I acknowledge	
20.	It shall be the Vendor's responsibility to conform to all Federal Standards for certification.	I acknowledge	
21.	The following technical specifications are the minimum acceptable specifications and failure to comply may be used as a basis for rejection of the Bid.	I acknowledge	
22.	SAFETY DATA SHEETS must be uploaded here for the product you are quoting on.	Citric_Acid_Solution_Spec_Bulletin_SDS_2021.pdf	
23.	References are to be uploaded here. Bidder must furnish names, addresses, telephone numbers and e-mail addresses of representatives of at least three (3) companies/municipalities which have been continually using the product being bid for at least two years. If no references are completely applicable, provide two (2) references which most nearly apply. References must be located in similar climates.	References_CitricAcid50_TRT2021.pdf	
24.	Successful bidder will designate a representative who will be available during regular City business hours to serve as a primary contact for the City in the implementation of this supply agreement.	I acknowledge	

Technical Specifications		
2.	Citric Acid Solution 50% to be shipped in truckload quantities (Approximately 2000 gallons per load)	I acknowledge
3.	Capacity of tankers shall comply with DOT specifications	To be supplied
3.a	If you took exception to #3 above, explain in detail.	
4.	Deliveries shall be made to the two (2) 2,200 gallon storage tanks at Riverside Park Water Reclamation Facility.	To be supplied
4.a	If you took exception to #4 above, explain in detail.	
5.	Delivery method is to be compatible with unloading equipment at delivery point - Riverside Park Water Reclamation Facility.	To be supplied
5.a	If you took exception to #5 above, explain in detail.	
6.	Deliveries shall be made between 7:30 a.m. and 2:00 p.m. Monday through Friday with the exception of recognized holidays unless arranged in advance. Deliveries to be in accordance with special instructions above.	To be supplied
6.a	If you took exception to #6 above, explain in detail.	
7.	Emergency deliveries to be made within 24 hours of request. Purchaser will endeavor to keep emergency deliveries to a minimum.	To be supplied
7.a	If you took exception to #7 above, explain in detail.	
Minimum Specifications		
1.	Citric Acid, liquid, 50%, Technical Grade	I acknowledge
1a.	CAS number: 77-92-9	I acknowledge
1b.	Appearance: Clear Liquid	I acknowledge
1c.	Citric Acid Content as %W/W: 45.0 to 55.0	I acknowledge
1d.	Specific Gravity: 1.240	I acknowledge
Terms & Conditions		
1.	All freight charges shall be the responsibility of the winning supplier.	I Acknowledge
2.	The City reserves the right to accept or reject any variance from the noted specifications and to award this business in a manner that is most advantageous to the continued efficient operation of the City. This quote may be split and awarded to multiple suppliers.	I Acknowledge

3.	Delivery time shall be a consideration of awarding this business. Therefore, the City requires an ETA at time of quote.	I Acknowledge
4.	The respondent certifies that his/her firm has not entered into any agreement of any nature whatsoever to fix, maintain, increase or reduce the prices or competition regarding the items covered by this Quote invitation.	I Acknowledge
5.	Quotes must provide sixty (60) days for acceptance by the City from the due date for receipt of quotes.	I Acknowledge
6.	Supplier (____) IS) (____) IS NOT) a Minority Business Enterprise. A Minority Business Enterprise is defined as a "business, privately or publicly owned, at least 51% of which is owned by minority group members." For purpose of this definition, minority group members are Blacks, Hispanics, Asian Americans, American Indian or Alaskan Natives, or Women.	Is Not
7.	Supplier (____) IS) (____) IS NOT) a small business concern. (A small business concern for the purpose of government procurement is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operations in which it is bidding on government contracts, and can further qualify under the criteria concerning number of employees, average annual receipts, or other criteria as prescribed by the Small Business Administration).	Is
8.	The items to be furnished by the Bidder on this Quote must be of the latest possible design and production.	I Acknowledge
9.	Successful bidder will designate a representative who will be available during regular City business hours to serve as a primary contact for the City in the implementation of this supply agreement and if any issues arise regarding the product.	I Acknowledge
10.	If the product differs from the provisions contained herein, these differences must be explained in detail.	Does not differ
11.	Suppliers found to have "overstated" the true ability of their product shall reimburse the City for all costs incurred with remanufacturing or replacement of units until all criteria has been satisfied. These costs shall also include legal, rentals, travel, etc.	I Acknowledge

12.	<p>Quoteing Errors: When, after the opening and tabulation of Quotes, a Bidder claims error, and requests to be relieved of award, Bidder will be required to promptly present certified work sheets. The Purchaser will review the work sheets and if the Purchaser is convinced, by clear and convincing evidence, that an honest, mathematically excusable error or critical omission of costs has been made, the Bidder may be relieved of Bidder's Quote.</p>	I Acknowledge
13.	<p>Rejection of Quotes: The Purchaser reserves the right to reject any or all Quotes; to waive minor deviations from the specifications, to waive any informality in Quotes received, whenever it is in the Purchaser's best interest, and to accept or reject all or part of this Quote at prices shown.</p>	I Acknowledge
14.	<p>Award of Contract: Award of contract or purchase, when made, will be to the Bidder whose Quote is the most favorable to the Purchaser, taking into consideration price and the other evaluation factors. INTERLOCAL AND STATE CONTRACTS WHERE APPLICABLE WILL BE CONSIDERED AS A QUOTE. Unsuccessful Bidders will not automatically be notified of Quote results.</p>	I Acknowledge
15.	<p>ORGANIZATION Proposal of an ( ) individual ( ) partnership ( ) corporation organized and existing under the Laws of the State of</p>	LLC, Washington
16.	<p>INTERLOCAL PURCHASE AGREEMENTS The City of Spokane has entered into Interlocal Purchase Agreements with other public agencies pursuant to RCW 39.34. In submitting a response the Vendor agrees to sell additional items at the Bid price, terms and conditions to the City of Spokane and other public agencies contingent upon the seller's review and approval at the time of a requested sale. Any price de-escalation/escalation provisions of this Bid Proposal shall apply in the case of a sale of additional items. Seller's right to refuse to sell additional items at the time of request shall be absolute.</p>	I acknowledge.
Polychlorinated Biphenyls (PCBs)		

2.	If so, were PCBs found at a measureable level?	Don't Know	
3.	As far as you know, has this actual product been tested for PCBs by a WA State accredited lab using EPA Method 1668 (or equivalent as updated)?	No	
4.	If so, attach the results or note from whom the results can be obtained.		
5.	Do you have reason to believe the product contains measureable levels of PCBs?	No	
6.	Do you have reason to believe the product packaging contains measureable levels of PCBs?	No	
Evaluation of Quotes			
1.	Evaluation of Quotes Shall be based upon the following criteria, where applicable: A. The price, including sales tax and the effect of discounts. Price may be determined by life cycle costing or total cost quoting, when advantageous to the Purchaser. B. The quality of the items quoted, their conformity to specifications and the purpose for which they are required. C. The Bidder's ability to provide prompt and efficient service and/or delivery. D. The character, integrity, reputation, judgment, experience and efficiency of the Bidder. E. The quality of performance of previous contracts or services. F. The previous and existing compliance by the Bidder with the laws relating to the contract or services. G. Uniformity or interchangeability. H. The energy efficiency of the product throughout its life. J. Any other information having a bearing on the decision to award the contract.	I Acknowledge	

### Pricing Responses

Group	Reference Number	Description	Type	Unit Of Measure	Quantity	Unit Price	Ext Base Price	Comment
Product								
	1.	Citric Acid 50%	Base	lb	188,000.00	\$0.585	\$109,980.00	
Emergency Delivery								
	1.	Additional Freight cost per lb for Emergency Deliveries ONLY	Base	lb	1.00	\$0.00	\$0.00	

<b>Total Base Bid</b>	\$109,980.00
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## STATEMENT OF QUALIFICATION

Two Rivers Terminal is a local company and regional leader with manufacturing and distribution facilities located in Pasco and Moses Lake WA. We have grown steadily since our founding in 2003 to become a recognized leader in the manufacturing and distribution of industrial chemicals. Our principals have more than 70 years of combined experience and specific expertise in the manufacturing of wastewater treatment chemicals.

We've worked diligently to develop relationships with municipalities across the Pacific Northwest and California and have provided uninterrupted and continuous supply of industrial wastewater treatment chemicals for many years. We endeavor to maintain our reputation as a trusted, reliable and highly regarded industrial chemical provider by consistently delivering quality products with an incomparably high level of service and flexibility.

- Two Rivers Terminal has been manufacturing industrial and wastewater treatment chemicals since 2003.
- Two Rivers Terminal has been a contracted supplier to the City of Spokane for the past 8+ years.
- Two Rivers Terminal is the current supplier of sodium bisulfite to the City of Spokane.
- Two Rivers Terminal is the current supplier of calcium nitrate to the City of Spokane.
- Two Rivers Terminal has the requisite knowledge, understanding, and experience to provide continuous and uninterrupted supply of wastewater treatment chemicals.
- Two Rivers Terminal has retained the same staff who are familiar with key personnel at the City of Spokane as well as your plant and its requirements.

Two Rivers Terminal appreciates the opportunity to grow our business with the City of Spokane and looks forward to continuing to supply quality products on an as-needed basis.

A handwritten signature in black ink, appearing to read 'J. Owens', is written over a horizontal line.

J. Travis Owens, Sr. / Key Accounts Manager

1/22/2021

Date



## **CUSTOMER REFERENCES**

Two Rivers Terminal is supplying the following references to City of Spokane Riverside Park Water Reclamation Facility for Citric Acid 50% per RFQ 5378-21.

These references demonstrate our qualifications, capabilities, and experience as a manufacturer, distributor and service provider of citric acid 50% and other wastewater treatment chemicals.

### **CH2M HILL Plateau Remediation Company**

Mr. Terry Lucke  
Buyer's Technical Representative  
(509) 373-5317  
Richland, WA

CH2M Hill relies on Two Rivers Terminal to supply as-needed citric acid 50% solution to support their work on the Department of Energy's Hanford Site, a decommissioned nuclear production complex.

### **Spokane County**

Ms. Kim Coan  
Contract Manager  
(509) 477-1984  
Spokane, WA

Spokane County chose our calcium nitrate odor control product over all competitors. Two Rivers Terminal supplies approximately 115,000 gallons per year for treatment of sulfide in wastewater.

### **King County Wastewater Treatment Division**

West Point Wastewater Treatment Plant  
Mr. Pedro de Arteaga  
Process Analyst  
(206) 477-9749  
Seattle, WA 98199

For over seven years King County has relied on Two Rivers Terminal to provide sodium bisulfite (SBS) for dechlorination of their wastewater. Two Rivers Terminal supplies approximately 150,000 gallons per year from our manufacturing facility in Pasco, WA.

\*\*\*



## PRODUCT SPECIFICATION

### CITRIC ACID, LIQUID, 50% TECHNICAL GRADE

Citric Acid Content as %W/W.....	49% - 51%
Specific Gravity.....	~1.240
Appearance.....	Clear, Colorless to Light Tan
Color.....	Transparent
Freezing Point.....	~19°F
Boiling Point.....	~220°F
Odor.....	None

Manufactured By: Two Rivers Terminal, LLC  
PO Box 2327  
Pasco, WA 99302  
Ph: (509) 547-7776

Distributed By: Two Rivers Terminal, LLC  
PO Box 2327  
Pasco, WA 99302  
Ph: (509) 547-7776



## Citric Acid 50% Technical Grade

### PRODUCT DESCRIPTION:

Citric acid 50% is a weak organic acid with numerous uses in the food industry. It is a natural product used for such purposes as a flavoring ingredient, a preservative in food and beverages and as an activator used to produce chlorine dioxide and acidified sodium chlorite solutions.

### PROPERTIES:

Appearance: Clear, colorless to pale yellow liquid and free from foreign matter

Odor: None

Specific Gravity 20°C: 1.23-1.25

Solids %: 49-51

pH (1%w/w): 2.0-3.0

### SAFETY:

Contains concentrated Citric Acid. Avoid contact with skin and eyes. DO NOT INGEST. When handling, wear rubber gloves, goggles and other appropriate equipment or clothing to avoid skin contact. Avoid contact with clothing. Should contact occur, flush skin with water; for eyes, flood with large amounts of water for 15 minutes and get medical attention. If ingestion occurs, DO NOT INDUCE VOMITING. Rinse mouth, drink water and get medical attention immediately. Read the Safety Data sheet before using. Use in well ventilated area. Do not mix with chlorinated products.

PO Box 2327

Pasco WA 99302

(509) 547-7776

[www.tworiversterminal.com](http://www.tworiversterminal.com)

The information contained in the bulletin is, to the best of our knowledge, true and accurate. All recommendations or suggestions are made without guarantee, since the conditions of use are beyond our control, Two Rivers Terminal LLC, disclaims any liability in connection with the use of the data or suggestions.

**SECTION 1: Identification of the substance/mixture and of the company/undertaking****1.1. Product identifier**

Product form : Mixture  
Trade name : Citric Acid 50%  
CAS No : 77-92-9

**1.2. Relevant identified uses of the substance or mixture and uses advised against**

Use of the substance/mixture : Food industry: additive  
Industrial use

**1.3. Details of the supplier of the safety data sheet**

Two Rivers Terminal  
3300 North Glade Road  
Pasco, Wa. 99302 - USA  
T 509-547-7776 - F 509-546-9508  
[www.tworiversterminal.com](http://www.tworiversterminal.com)

**1.4. Emergency telephone number**

Emergency number : 24 Hour Emergency HAZMAT Response: (800) 229-5252; EPA National Response Center  
(800) 424-8802

**SECTION 2: Hazards identification****2.1. Classification of the substance or mixture****GHS-US classification**

Not classified

**2.2. Label elements****GHS-US labelling**

Precautionary statements (GHS-US) : P202 - Do not handle until all safety precautions have been read and understood  
P308+P311 - If exposed or concerned: Call a doctor

**2.3. Other hazards**

No additional information available

**2.4. Unknown acute toxicity (GHS US)**

Not applicable

**SECTION 3: Composition/information on ingredients****3.1. Substance**

Not applicable

**3.2. Mixture**

Full text of H-phrases: see section 16

**SECTION 4: First aid measures****4.1. Description of first aid measures**

First-aid measures after inhalation : Remove person to fresh air and keep comfortable for breathing.  
First-aid measures after skin contact : Wash skin with plenty of water.  
First-aid measures after eye contact : Rinse eyes with water as a precaution.

**4.2. Most important symptoms and effects, both acute and delayed**

Symptoms/injuries : Irritation of the eye tissue.  
Symptoms/injuries after inhalation : Irritation of the nasal mucous membranes.  
Symptoms/injuries after skin contact : Itching. Irritation.  
Symptoms/injuries after eye contact : May cause slight irritation. Redness of the eye tissue.  
Symptoms/injuries after ingestion : Irritation of the oral mucous membranes. Irritation of the gastric/intestinal mucosa.

**4.3. Indication of any immediate medical attention and special treatment needed**

Treat symptomatically.

# Citric Acid 50%

## Safety Data Sheet

according to Federal Register / Vol. 77, No. 58 / Monday, March 26, 2012 / Rules and Regulations

### SECTION 5: Firefighting measures

#### 5.1. Extinguishing media

Suitable extinguishing media : Water spray. Dry powder. Foam. Carbon dioxide.

#### 5.2. Special hazards arising from the substance or mixture

Reactivity : The product is non-reactive under normal conditions of use, storage and transport.

#### 5.3. Advice for firefighters

Protection during firefighting : Do not attempt to take action without suitable protective equipment. Self-contained breathing apparatus. Complete protective clothing.

### SECTION 6: Accidental release measures

#### 6.1. Personal precautions, protective equipment and emergency procedures

##### 6.1.1. For non-emergency personnel

Emergency procedures : Ventilate spillage area.

##### 6.1.2. For emergency responders

Protective equipment : Do not attempt to take action without suitable protective equipment. For further information refer to section 8: "Exposure controls/personal protection".

#### 6.2. Environmental precautions

Avoid release to the environment.

#### 6.3. Methods and material for containment and cleaning up

Methods for cleaning up : Take up liquid spill into absorbent material.

Other information : Dispose of materials or solid residues at an authorized site.

#### 6.4. Reference to other sections

For further information refer to section 13.

### SECTION 7: Handling and storage

#### 7.1. Precautions for safe handling

Precautions for safe handling : Ensure good ventilation of the work station. Wear personal protective equipment.

Hygiene measures : Do not eat, drink or smoke when using this product. Always wash hands after handling the product.

#### 7.2. Conditions for safe storage, including any incompatibilities

Storage conditions : Store in a well-ventilated place. Keep cool.

Incompatible products : Oxidizing agent. Strong bases.

Prohibitions on mixed storage : (strong) bases.

#### 7.3. Specific end use(s)

No additional information available

### SECTION 8: Exposure controls/personal protection

#### 8.1. Control parameters

Citric Acid 50% (77-92-9)	
ACGIH	Not applicable
OSHA	Not applicable

#### 8.2. Exposure controls

Appropriate engineering controls : Ensure good ventilation of the work station.

Hand protection : Protective gloves.

Eye protection : Safety glasses.

Skin and body protection : Wear suitable protective clothing.

Respiratory protection : In case of insufficient ventilation, wear suitable respiratory equipment.

Environmental exposure controls : Avoid release to the environment.

# Citric Acid 50%

## Safety Data Sheet

according to Federal Register / Vol. 77, No. 58 / Monday, March 26, 2012 / Rules and Regulations

### SECTION 9: Physical and chemical properties

#### 9.1. Information on basic physical and chemical properties

Physical state	: Liquid
Colour	: Mixture contains one or more component(s) which have the following colour(s): Colourless to white
Odour	: There may be no odour warning properties, odour is subjective and inadequate to warn of overexposure. Mixture contains one or more component(s) which have the following odour(s): Odourless
Odour threshold	: No data available
pH	: 2.2 2%
pH solution	: 2 %
Melting point	: Not applicable
Freezing point	: No data available
Boiling point	: $\approx 100\text{ }^{\circ}\text{C}$
Flash point	: No data available
Relative evaporation rate (butylacetate=1)	: No data available
Flammability (solid, gas)	: No data available
Explosive limits	: No data available
Explosive properties	: No data available
Oxidising properties	: No data available
Vapour pressure	: No data available
Relative density	: No data available
Relative vapour density at 20 °C	: No data available
Density	: 1.2 - 1.3
Solubility	: Water: Solubility in water of component(s) of the mixture : • citric acid: 59 g/100ml
Log Pow	: No data available
Log Kow	: No data available
Auto-ignition temperature	: No data available
Decomposition temperature	: No data available
Viscosity	: No data available
Viscosity, kinematic	: No data available
Viscosity, dynamic	: No data available

#### 9.2. Other information

No additional information available

### SECTION 10: Stability and reactivity

#### 10.1. Reactivity

The product is non-reactive under normal conditions of use, storage and transport.

#### 10.2. Chemical stability

Stable under normal conditions.

#### 10.3. Possibility of hazardous reactions

No dangerous reactions known under normal conditions of use.

#### 10.4. Conditions to avoid

None under recommended storage and handling conditions (see section 7).

#### 10.5. Incompatible materials

No additional information available

#### 10.6. Hazardous decomposition products

No additional information available

# Citric Acid 50%

## Safety Data Sheet

according to Federal Register / Vol. 77, No. 58 / Monday, March 26, 2012 / Rules and Regulations

### SECTION 11: Toxicological information

#### 11.1. Information on toxicological effects

Acute toxicity	: Not classified
Skin corrosion/irritation	: Not classified pH: 2.2 2%
Serious eye damage/irritation	: Not classified pH: 2.2 2%
Respiratory or skin sensitisation	: Not classified
Germ cell mutagenicity	: Not classified
Carcinogenicity	: Not classified
Reproductive toxicity	: Not classified
Specific target organ toxicity (single exposure)	: Not classified
Specific target organ toxicity (repeated exposure)	: Not classified
Aspiration hazard	: Not classified
Symptoms/injuries after inhalation	: Irritation of the nasal mucous membranes.
Symptoms/injuries after skin contact	: Itching. Irritation.
Symptoms/injuries after eye contact	: May cause slight irritation. Redness of the eye tissue.
Symptoms/injuries after ingestion	: Irritation of the oral mucous membranes. Irritation of the gastric/intestinal mucosa.

### SECTION 12: Ecological information

#### 12.1. Toxicity

Ecology - general	: The product is not considered harmful to aquatic organisms nor to cause long-term adverse effects in the environment.
-------------------	---

#### 12.2. Persistence and degradability

No additional information available

#### 12.3. Bioaccumulative potential

No additional information available

#### 12.4. Mobility in soil

No additional information available

#### 12.5. Other adverse effects

Effect on the global warming	: No known ecological damage caused by this product.
------------------------------	--

### SECTION 13: Disposal considerations

#### 13.1. Waste treatment methods

No additional information available

### SECTION 14: Transport information

#### Department of Transportation (DOT)

In accordance with DOT  
Not regulated for transport

#### Additional information

Other information	: No supplementary information available.
-------------------	---

#### ADR

No additional information available

#### Transport by sea

No additional information available

# Citric Acid 50%

## Safety Data Sheet

according to Federal Register / Vol. 77, No. 58 / Monday, March 26, 2012 / Rules and Regulations

### Air transport

No additional information available

## SECTION 15: Regulatory information

### 15.1. US Federal regulations

#### Citric Acid 50% (77-92-9)

Listed on the United States TSCA (Toxic Substances Control Act) inventory

### 15.2. International regulations

#### CANADA

No additional information available

#### EU-Regulations

No additional information available

#### Classification according to Regulation (EC) No. 1272/2008 [CLP]

No additional information available

#### Classification according to Directive 67/548/EEC [DSD] or 1999/45/EC [DPD]

Not classified

#### National regulations

No additional information available

### 15.3. US State regulations

## SECTION 16: Other information

NFPA health hazard

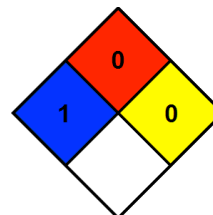
: 1 - Exposure could cause irritation but only minor residual injury even if no treatment is given.

NFPA fire hazard

: 0 - Materials that will not burn.

NFPA reactivity

: 0 - Normally stable, even under fire exposure conditions, and are not reactive with water.



SDS US (GHS HazCom 2012)

*All information contained in this Safety Data Sheet is furnished free of charge and is intended for your evaluation. In our opinion the information is, as of the date of this Safety Data Sheet, reliable, however, it is your responsibility to determine the suitability of the information for your use. You are advised not to construe the information as absolutely complete since additional information may be necessary or desirable when particular, exceptional or variable conditions or circumstances exist or because of applicable laws or government regulations. Therefore, you should use this information only as a supplement to other information gathered by you, and you must make independent determinations of the suitability and completeness of the information from all sources to assure both proper use of the material described herein and the safety and health of employees. Accordingly, no guarantee is expressed or implied as to the results to be obtained based upon your use of the information.*



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

03/01/2021

**Date Rec'd**

2/17/2021

**Clerk's File #**

OPR 2018-0213

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

WASTEWATER MANAGEMENT

**Contact Name/Phone**

MIKE CANNON 625-4642

**Contact E-Mail**

MCANNON@SPOKANECITY.ORG

**Agenda Item Type**

Contract Item

**Agenda Item Name**

4320-RENEWAL OF CONTRACT FOR ALUMINUM SULFATE WITH KEMIRA

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

4442-18

**Requisition #**

VALUE BLANKET

**Agenda Wording**

Council approval to renew the 1st of 2 renewals with Kemira Water Solutions, Inc. to supply liquid Aluminum Sulfate to Riverside Park Water Reclamation Facility, for a cost of \$2,188,600.00, plus applicable taxes.

**Summary (Background)**

Aluminum Sulfate is used to remove Phosphorus from water from the Riverside Park Water Reclamation Facility that is discharged to the Spokane River. In order to remove Phosphorus from water discharged from RPWRF, it is necessary to add Liquid Aluminum Sulfate.

Lease? NO

Grant related? NO

Public Works? NO

**Fiscal Impact****Budget Account**

Expense \$ 2,188,600.00

# 4320.43260.35148.53203

Select \$

#

Select \$

#

Select \$

#

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

COSTER, MICHAEL

**Study Session\Other**

PIES 2/22 at 1:15

**Division Director**

SIMMONS, SCOTT M.

**Council Sponsor****Finance**

ALBIN-MOORE, ANGELA

**Distribution List****Legal**

SCHOEDEL, ELIZABETH

hbarnhart@spokanecity.org

**For the Mayor**

ORMSBY, MICHAEL

kkeck@spokanecity.org

**Additional Approvals**

mhughes@spokanecity.org

**Purchasing**

PRINCE, THEA

Tax &amp; Licenses

tprince@spokanecity.org



**Continuation of Wording, Summary, Budget, and Distribution**

**Agenda Wording**

**Summary (Background)**

RPWRF is required, by its discharge permit, to chemically remove Phosphorus from its effluent flow. Additionally, the plant will be required to use more Alum as part of the next level of treatment to reach phosphorus levels at extremely low levels in accordance with the NPDES permit and DO TMDL. We are anticipating an increased usage of approximately 1,200 more dry tons, for a total of 6,200 dry tons. This 1st renewal is tentatively scheduled to begin on April 1st, 2021 and to end on March 31st, 2022. The contract may be extended for one (1) additional one-year contract period with the total contract period not to exceed five (5) years. Renewal of BID #4442-18 to Kemira Water Solutions, Inc. to supply approximately 6,200 dry tons of Aluminum Sulfate to Wastewater Management's Riverside Park Water Reclamation Facility.

**Fiscal Impact**

Select      \$

Select      \$

**Budget Account**

#

#

**Distribution List**


## Briefing Paper

### Public Infrastructure, Environment, and Sustainability

<b>Division &amp; Department:</b>	Public Works and Utilities
<b>Subject:</b>	Renewal of contract to supply liquid Aluminum Sulfate to Riverside Park Water Reclamation Facility.
<b>Date:</b>	2/22/2021
<b>Contact (email &amp; phone):</b>	Mike Cannon, Assistant Plant Manager 625-4642 mcannon@spokanecity.org
<b>City Council Sponsor:</b>	
<b>Executive Sponsor:</b>	
<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>	
<b>Strategic Initiative:</b>	Innovative Infrastructure – Affordable Utility Rates
<b>Deadline:</b>	
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	Council approval to renew the 1 <sup>st</sup> of 2 renewals with Kemira Water Solutions, Inc. to supply liquid Aluminum Sulfate to Riverside Park Water Reclamation Facility, for a cost of \$2,188,600.00, plus applicable taxes.
<p><u>Background/History:</u> Aluminum Sulfate is used to remove Phosphorus from water from the Riverside Park Water Reclamation Facility that is discharged to the Spokane River. In order to remove Phosphorus from water discharged from RPWRF, it is necessary to add Liquid Aluminum Sulfate.</p> <p>RPWRF is required, by its discharge permit, to chemically remove Phosphorus from its effluent flow. Additionally, the plant will be required to use more Alum as part of the next level of treatment to reach phosphorus levels at extremely low levels in accordance with the NPDES permit and DO TMDL. We are anticipating an increased usage of approximately 1,200 more dry tons, for a total of 6,200 dry tons.</p> <p>This 1<sup>st</sup> renewal is tentatively scheduled to begin on April 1<sup>st</sup>, 2021 and to end on March 31<sup>st</sup>, 2022. The contract may be extended for one (1) additional one-year contract period with the total contract period not to exceed five (5) years.</p>	
<p><u>Executive Summary:</u></p> <p>Renewal of BID #4442-18 to Kemira Water Solutions, Inc. to supply approximately 6,200 dry tons of Aluminum Sulfate to Wastewater Management's Riverside Park Water Reclamation Facility.</p> <p>Funding for this purchase is provided in the Wastewater Management, RPWRF's budget, and revenue is derived from sewer rates.</p>	
<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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>If new, specify funding source: Department</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>	



**City of Spokane**

**PURCHASE AGREEMENT RENEWAL  
1 OF 2**

**Title: PURCHASE AND DELIVERY OF  
ALUMINUM SULFATE**

This Contract Renewal is made and entered into by and between the **CITY OF SPOKANE** as ("City"), a Washington municipal corporation, and **KEMIRA WATER SOLUTIONS** whose address is 4321 West 6<sup>th</sup> Street, Lawrence, Kansas 66049 as ("Vendor"), individually hereafter referenced as a "party", and together as the "parties".

*WHEREAS, the parties entered into a Contract wherein the Vendor agreed to provide the City with Aluminum Sulfate; and*

*WHEREAS, the initial contract provided for 2 additional one-year renewals, with this being the 1<sup>st</sup> of those renewals.*

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

**1. CONTRACT DOCUMENTS.**

The original Contract, dated March 2, 2018 and April 12, 2018, any previous amendments, renewals and / or extensions / 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 Renewal shall become effective on April 1, 2021 and shall run through March 31, 2022.

**3. COMPENSATION.**

The City shall pay an estimated maximum annual cost not to exceed **TWO MILLION ONE HUNDRED EIGHTY-EIGHT THOUSAND SIX HUNDRED AND 00/100 (\$2,188,600.00)** excluding applicable sales tax, for everything furnished and done under this Contract Renewal. This is the maximum amount to be paid under this Renewal, and shall not be exceeded without the prior written authorization of the City, memorialized with the same formality as the original Contract and this Renewal document.

**4. DEBARMENT AND SUSPENSION.**

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

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 Renewal by having legally-binding representatives affix their signatures below.

**KEMIRA WATER SOLUTIONS**

**CITY OF SPOKANE**

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

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

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

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Attest:

Approved as to form:

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

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

**Attachments that are part of this Agreement:**

Certificate of Debarment

21-005

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

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

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

1. The lower tier contractor certified, by signing this contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
  2. Where the lower tier contractor is unable to certify to any of the statements in this contract, such contractor shall attach an explanation to this contract.
4. I understand that a false statement of this certification may be grounds for termination of the contract.

<div style="border-bottom: 1px solid black; height: 1.2em; margin-bottom: 5px;"></div> Name of Subrecipient / Contractor / Consultant (Type or Print)	<div style="border-bottom: 1px solid black; height: 1.2em; margin-bottom: 5px;"></div> Program Title (Type or Print)
<div style="border-bottom: 1px solid black; height: 1.2em; margin-bottom: 5px;"></div> Name of Certifying Official (Type or Print)	<div style="border-bottom: 1px solid black; height: 1.2em; margin-bottom: 5px;"></div> Signature
<div style="border-bottom: 1px solid black; height: 1.2em; margin-bottom: 5px;"></div> Title of Certifying Official (Type or Print)	<div style="border-bottom: 1px solid black; height: 1.2em; margin-bottom: 5px;"></div> Date (Type or Print)

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

03/01/2021

<b>Date Rec'd</b>	2/17/2021
<b>Clerk's File #</b>	OPR 2018-0127
<b>Renews #</b>	
<b>Cross Ref #</b>	
<b>Project #</b>	
<b>Bid #</b>	4438-18
<b>Requisition #</b>	VALUE BLANKET

<b>Submitting Dept</b>	WASTEWATER MANAGEMENT
<b>Contact Name/Phone</b>	MIKE CANNON 625-4642
<b>Contact E-Mail</b>	MCANNON@SPOKANECITY.ORG
<b>Agenda Item Type</b>	Contract Item
<b>Agenda Item Name</b>	4320-RENEWAL OF CONTRACT FOR POLYMER WITH POLYDYNE, INC.

**Agenda Wording**

Council approval to renew the 1st of 2 renewals with Polydyne, Inc. to supply polymer to Riverside Park Water Reclamation Facility for an annual cost of \$449,000.00. This is for the renewal period for March 1, 2021 to February 29, 2022.

**Summary (Background)**

Polymer is used in three processes - the Belt Filter Press for land application, the Gravity Belt Thickener processes for blending and the Primary Clarifiers for enhanced nutrient removal. This is the 1st of 2 renewals from the awarded BID #4438-18 to Polydyne, Inc. (Riceboro, GA) who was the lowest responsive bidder that met our 7-day delivery requirements to supply polymer.

Lease? NO Grant related? NO Public Works? NO

**Fiscal Impact**

Expense	\$ 449,000.00	# 4320.43260.35148.53203
Select	\$	#
Select	\$	#
Select	\$	#

**Budget Account****Approvals**

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

**Council Notifications**

<b>Study Session\Other</b>	PIES 2/22 at 1:15
<b>Council Sponsor</b>	

**Distribution List**

<b>Additional Approvals</b>	mhughes@spokanecity.org
<b>Purchasing</b>	PRINCE, THEA
	tax & licenses
	tprince@spokanecity.org
	bids@polydyneinc.com
	bstanley@polydyneinc.com

## Briefing Paper

### Public Infrastructure, Environment, and Sustainability

<b>Division &amp; Department:</b>	Public Works and Utilities
<b>Subject:</b>	Renewal of contract to supply polymer to Riverside Park Water Reclamation Facility.
<b>Date:</b>	2/22/21
<b>Contact (email &amp; phone):</b>	Mike Cannon, Assistant Plant Manager 625-4642 mcannon@spokanecity.org
<b>City Council Sponsor:</b>	
<b>Executive Sponsor:</b>	
<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>	
<b>Strategic Initiative:</b>	Innovative Infrastructure – Affordable Utility Rates
<b>Deadline:</b>	
<b>Outcome:</b>	Council approval to renew the 1 <sup>st</sup> of 2 renewals with Polydyne, Inc. to supply polymer to Riverside Park Water Reclamation Facility for an annual cost of \$449,000.00.
<u>Background/History:</u> Polymer is used in three processes - the Belt Filter Press for land application, the Gravity Belt Thickener processes for blending and the Primary Clarifiers for enhanced nutrient removal.	
<u>Executive Summary:</u> In order to function as a wastewater treatment and water recycling facility, it is necessary to add polymer.  This is the 1 <sup>st</sup> of 2 renewals from the awarded BID #4438-18 to Polydyne, Inc. (Riceboro, GA) who was the lowest responsive bidder that met our 7-day delivery requirements to supply polymer. The total annual contract cost is \$449,000.00. This is for the renewal period for March 1, 2021 to February 29, 2022.	
<u>Budget Impact:</u> Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Annual/Reoccurring expenditure? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A If new, specify funding source: Department Other budget impacts: (revenue generating, match requirements, etc.)	
<u>Operations Impact:</u> 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:	





**City of Spokane**

**PURCHASE AGREEMENT RENEWAL  
1 OF 2**

**Title: PURCHASE AND DELIVERY OF LIQUID AND DRY  
CHEMICAL ORGANIC POLYMER FLOCCULENT**

This Purchase Agreement Renewal is made and entered into by and between the **CITY OF SPOKANE** as ("City"), a Washington municipal corporation, and **POLYDYNE, INC.**, whose address is 1 Chemical Plant Road, Riceboro, Georgia 31323 (*Remittance address: P.O. Box 279, Riceboro, Georgia 31323*), as ("Vendor"), individually hereafter referenced as a "party", and together as the "parties".

*WHEREAS, the Vendor agreed to sell to the City LIQUID AND DRY CHEMICAL ORGANIC POLYMER FLOCCULENT; and*

*WHEREAS, the original Agreement provided for 2 additional one-year renewals, with this being the 1st of those renewals; and*

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

**1. CONTRACT DOCUMENTS.**

The original Agreement, dated March 14, 2018, any previous amendments, renewals and / or extensions / 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 Renewal shall become effective on March 1, 2021 and shall run through February 28, 2022.

**3. COMPENSATION.**

The City shall pay an estimated maximum annual cost not to exceed **FOUR HUNDRED FORTY-NINE THOUSAND AND 00/100 (\$449,000.00)** for the following goods to be purchased under this Agreement Renewal.

**Approximately 210,600 lbs. of dry polymer/yr. at a cost of \$1.59/lb; and  
6600 lbs. of Anionic polymer, powder/yr. at a cost of \$1.75/lb.**

This is the maximum amount to be paid under this Renewal, and shall not be exceeded without the prior written authorization of the City, memorialized with the same formality as the original Agreement and this Renewal document.

**4. DEBARMENT AND SUSPENSION.**

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

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 Renewal by having legally-binding representatives affix their signatures below.

**POLYDYNE, INC.**

**CITY OF SPOKANE**

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

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

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

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Attest:

Approved as to form:

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

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

**Attachments that are part of this Agreement:**  
Certificate of Debarment

21-011

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

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

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

1. The lower tier contractor certified, by signing this contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
  2. Where the lower tier contractor is unable to certify to any of the statements in this contract, such contractor shall attach an explanation to this contract.
4. I understand that a false statement of this certification may be grounds for termination of the contract.

<div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> Name of Subrecipient / Contractor / Consultant (Type or Print)	<div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> Program Title (Type or Print)
<div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> Name of Certifying Official (Type or Print)	<div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> Signature
<div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> Title of Certifying Official (Type or Print)	<div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> Date (Type or Print)

**From:** [Sandy Wells](#)  
**To:** [Barnhart, Heather](#)  
**Cc:** [Jacob Cole](#); [Rawlin Castro](#); [Rebecca Beasley](#); [Randal Vickery](#); [Pam McDermitt](#); [Kimberly Fleming](#); [Peggy Locke](#)  
**Subject:** RE: Renewal of Value Blanket  
**Date:** Tuesday, January 12, 2021 12:37:27 PM  
**Attachments:** [image001.png](#)

---

**[CAUTION - EXTERNAL EMAIL - Verify Sender]**

Good afternoon,

Polydyne Inc. is pleased to accept an extension of the subject Contract for an additional year. We look forward to continuing our valued supply position.

If I can be of further assistance, please feel free to contact me.

*Sandy Wells*  
Bid Specialist



SNF Polydyne Inc.  
1 Chemical Plant Road  
Riceboro, GA 31323  
Office: 912-880-2089  
Fax: 912-880-2078  
[www.polydyneinc.com](http://www.polydyneinc.com)

\*\*\*Please note our new departmental e-mail address is: [Bids@polydyneinc.com](mailto:Bids@polydyneinc.com), please add this to your address book. Also, any e-mails sent to [PolybidDPT@snfhc.com](mailto:PolybidDPT@snfhc.com) will be received and responded to.\*\*\*

**From:** Barnhart, Heather <hbarnhart@spokanecity.org>  
**Sent:** Wednesday, January 6, 2021 6:53 PM  
**To:** Sandy Wells <swells@snfhc.com>; Polydyne Bid Dept. <bids@polydyneinc.com>  
**Cc:** Jacob Cole <jcole@polydyneinc.com>; Jailisa Jones <JJones@snfhc.com>  
**Subject:** Renewal of Value Blanket  
**Importance:** High

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello –

The City of Spokane is looking at renewing your purchase order (the 1<sup>st</sup> of 2 renewals). Your current contract (Value Blanket Order) expires at the end of February.

Are you interested in renewing at current pricing? See the current pricing terms in the attached PDF.

Please advise and I will get the ball moving forward.

**Heather Barnhart** | Facility Inventory Foreperson | Procurement & Contracts Management  
Riverside Park Water Reclamation Facility | 4401 N Aubrey L White Pkwy, Spokane, WA 99205  
O: 509.625.4606 | C: 509.723.9392 | [hbarnhart@spokanecity.org](mailto:hbarnhart@spokanecity.org)

Please note that all SNF email addresses will be changing to an @snf.com format.  
Please update your email settings to mark all @snf.com emails as ???Safe Sender???.

**From:** [Barnhart, Heather](#)  
**To:** [Sandy Wells](#)  
**Subject:** Re: Renewal of Value Blanket  
**Date:** Monday, January 18, 2021 8:10:05 AM  
**Attachments:** [image001.png](#)  
[image001.png](#)  
[image001.png](#)

---

Absolutely Sandy. Thank you.

On Jan 18, 2021, at 7:29 AM, Sandy Wells <[swells@snfhc.com](mailto:swells@snfhc.com)> wrote:

**[CAUTION - EXTERNAL EMAIL - Verify Sender]**

Good morning,

The contract looks good to us. Boyd's email address is [bstanley@polydyneinc.com](mailto:bstanley@polydyneinc.com). When you send it could you please copy [bids@polydyneinc.com](mailto:bids@polydyneinc.com)? That way we can follow up to make sure it gets executed.

Have a great day!

*Sandy Wells*  
Bid Specialist

**SNF**

SNF Polydyne Inc.  
1 Chemical Plant Road  
Riceboro, GA 31323  
Office: 912-880-2089  
Fax: 912-880-2078  
[www.polydyneinc.com](http://www.polydyneinc.com)

\*\*\*Please note our new departmental e-mail address is: [Bids@polydyneinc.com](mailto:Bids@polydyneinc.com), please add this to your address book. Also, any e-mails sent to [PolybidDPT@snfhc.com](mailto:PolybidDPT@snfhc.com) will be received and responded to.\*\*\*

**From:** Barnhart, Heather <[hbarnhart@spokanecity.org](mailto:hbarnhart@spokanecity.org)>  
**Sent:** Friday, January 15, 2021 2:41 PM  
**To:** Sandy Wells <[swells@snfhc.com](mailto:swells@snfhc.com)>

**Cc:** Jacob Cole <jcole@polydyneinc.com>; Rawlin Castro <RCastro@polydyneinc.com>; Rebecca Beasley <rbeasley@polydyneinc.com>; Randal Vickery <randalv@polydyneinc.com>; Pam McDermitt <PamM@snfhc.com>; Kimberly Fleming <KimF@snfhc.com>; Peggy Locke <plocke@polydyneinc.com>

**Subject:** [EXTERNAL] RE: Renewal of Value Blanket

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good Friday morning Sandy –

Please review the attached contract. This is the contract that will be moving forward through the Committee and Agenda process. Once it has been accepted by the Committee and Council, the Clerk's Office will send this back out to the person who will be the signer via DocuSign for signature.

Also to confirm, Boyd Stanley is who signed the last contract. I need Boyd Stanley's email address for the signature via DocuSign. Once it is sent out from the Clerk's Office, it can't be forwarded.

If you would let me know if this is agreeable, I will get it in motion.

Thank you!

**Heather Barnhart** | Facility Inventory Foreperson | Procurement & Contracts Management  
Riverside Park Water Reclamation Facility | 4401 N Aubrey L White Pkwy, Spokane, WA 99205  
O: 509.625.4606 | C: 509.723.9392 | [hbarnhart@spokanecity.org](mailto:hbarnhart@spokanecity.org)

---

**From:** Barnhart, Heather

**Sent:** Tuesday, January 12, 2021 3:14 PM

**To:** Sandy Wells <[swells@snfhc.com](mailto:swells@snfhc.com)>

**Cc:** Jacob Cole <[jcole@polydyneinc.com](mailto:jcole@polydyneinc.com)>; Rawlin Castro <[RCastro@polydyneinc.com](mailto:RCastro@polydyneinc.com)>; Rebecca Beasley <[rbeasley@polydyneinc.com](mailto:rbeasley@polydyneinc.com)>; Randal Vickery <[randalv@polydyneinc.com](mailto:randalv@polydyneinc.com)>; Pam McDermitt <[PamM@snfhc.com](mailto:PamM@snfhc.com)>; Kimberly Fleming <[KimF@snfhc.com](mailto:KimF@snfhc.com)>; Peggy Locke <[plocke@polydyneinc.com](mailto:plocke@polydyneinc.com)>

**Subject:** RE: Renewal of Value Blanket

Thank you –

I will send you a draft version of the renewal soon.

Have a good evening,

**Heather Barnhart** | Facility Inventory Foreperson | Procurement & Contracts Management

Riverside Park Water Reclamation Facility | 4401 N Aubrey L White Pkwy, Spokane, WA 99205  
O: 509.625.4606 | C: 509.723.9392 | [hbarnhart@spokanecity.org](mailto:hbarnhart@spokanecity.org)

---

**From:** Sandy Wells <[swells@snfhc.com](mailto:swells@snfhc.com)>  
**Sent:** Tuesday, January 12, 2021 12:37 PM  
**To:** Barnhart, Heather <[hbarnhart@spokanecity.org](mailto:hbarnhart@spokanecity.org)>  
**Cc:** Jacob Cole <[jcole@polydyneinc.com](mailto:jcole@polydyneinc.com)>; Rawlin Castro <[RCastro@polydyneinc.com](mailto:RCastro@polydyneinc.com)>; Rebecca Beasley <[rbeasley@polydyneinc.com](mailto:rbeasley@polydyneinc.com)>; Randal Vickery <[randalv@polydyneinc.com](mailto:randalv@polydyneinc.com)>; Pam McDermitt <[PamM@snfhc.com](mailto:PamM@snfhc.com)>; Kimberly Fleming <[KimF@snfhc.com](mailto:KimF@snfhc.com)>; Peggy Locke <[plocke@polydyneinc.com](mailto:plocke@polydyneinc.com)>  
**Subject:** RE: Renewal of Value Blanket

**[CAUTION - EXTERNAL EMAIL - Verify Sender]**

Good afternoon,

Polydyne Inc. is pleased to accept an extension of the subject Contract for an additional year. We look forward to continuing our valued supply position.

If I can be of further assistance, please feel free to contact me.

*Sandy Wells*  
Bid Specialist



SNF Polydyne Inc.  
1 Chemical Plant Road  
Riceboro, GA 31323  
Office: 912-880-2089  
Fax: 912-880-2078  
[www.polydyneinc.com](http://www.polydyneinc.com)

\*\*\*Please note our new departmental e-mail address is: [Bids@polydyneinc.com](mailto:Bids@polydyneinc.com), please add this to your address book. Also, any e-mails sent to [PolybidDPT@snfhc.com](mailto:PolybidDPT@snfhc.com) will be received and responded to.\*\*\*



**From:** Barnhart, Heather <[hbarnhart@spokanecity.org](mailto:hbarnhart@spokanecity.org)>

**Sent:** Wednesday, January 6, 2021 6:53 PM

**To:** Sandy Wells <[swells@snfhc.com](mailto:swells@snfhc.com)>; Polydyne Bid Dept. <[bids@polydyneinc.com](mailto:bids@polydyneinc.com)>

**Cc:** Jacob Cole <[jcole@polydyneinc.com](mailto:jcole@polydyneinc.com)>; Jailisa Jones <[JJones@snfhc.com](mailto:JJones@snfhc.com)>

**Subject:** Renewal of Value Blanket

**Importance:** High

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Hello –

The City of Spokane is looking at renewing your purchase order (the 1<sup>st</sup> of 2 renewals). Your current contract (Value Blanket Order) expires at the end of February.

Are you interested in renewing at current pricing? See the current pricing terms in the attached PDF.

Please advise and I will get the ball moving forward.

**Heather Barnhart** | Facility Inventory Foreperson | Procurement & Contracts Management  
Riverside Park Water Reclamation Facility | 4401 N Aubrey L White Pkwy, Spokane, WA 99205  
O: 509.625.4606 | C: 509.723.9392 | [hbarnhart@spokanecity.org](mailto:hbarnhart@spokanecity.org)

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Please update your email settings to mark all @snf.com emails as ???Safe Sender???.

Please note that all SNF email addresses will be changing to an @snf.com format.

Please update your email settings to mark all @snf.com emails as 'Safe Sender'.



**Agenda Sheet for City Council Meeting of:**  
03/01/2021

<b>Date Rec'd</b>	2/17/2021
<b>Clerk's File #</b>	OPR 2017-0155
<b>Renews #</b>	
<b>Cross Ref #</b>	
<b>Project #</b>	
<b>Bid #</b>	RFB 4308-16
<b>Requisition #</b>	CR 22361

<b>Submitting Dept</b>	SOLID WASTE DISPOSAL
<b>Contact Name/Phone</b>	CHRIS AVERYT 625-6540
<b>Contact E-Mail</b>	CAVERYT@SPOKANECITY.ORG
<b>Agenda Item Type</b>	Contract Item
<b>Agenda Item Name</b>	4490 CONTRACT EXTENSION FOR SCAFFOLDING SERVICES AT THE WTE

**Agenda Wording**

Contract extension #4 of 4 with BrandSafway Services, LLC. (Spokane Valley, WA) from Apr. 1, 2021 - Mar. 31, 2022 for an additional a cost not to exceed \$450,000.00 plus tax.

**Summary (Background)**

During scheduled and emergency outages at the WTE, scaffolding must be placed in the boilers to allow safe access for repairs. Bids for these services were solicited under RFB 4308-16. BrandSafway Services, LLC.(fka Safeway Services, LLC.) was the only bidder and awarded the contract for one year with the option of four (4) additional one-year extensions. This will be the last of those extensions.

Lease? NO Grant related? NO Public Works? YES

**Fiscal Impact**

Expense \$ 450,000.00

Select \$

Select \$

Select \$

**Budget Account**

# 4490-44100-37148-54803-34002

#

#

#

**Approvals**

<b><u>Dept Head</u></b>	AVERYT, CHRIS
<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>	PIES 2/22/21
<b><u>Council Sponsor</u></b>	CP Beggs

**Distribution List**

mdorgan@spokanecity.org  
jsalstrom@spokanecity.org  
tprince@spokanecity.org  
rrinderle@spokanecity.org  
caveryt@spokanecity.org  
DocuSign to: jtorres4@brandsafway.com

**Additional Approvals**

**Purchasing** PRINCE, THEA

## Briefing Paper

### Public Infrastructure, Environment and Sustainability Committee

<b>Division &amp; Department:</b>	Public Works Division; Solid Waste Disposal
<b>Subject:</b>	Scaffolding Services at the Waste to Energy Facility
<b>Date:</b>	February 22, 2021
<b>Contact (email &amp; phone):</b>	Chris Averyt, caveryt@spokanecity.org, 625-6540
<b>City Council Sponsor:</b>	Breean Beggs, City Council President
<b>Executive Sponsor:</b>	Scott Simmons, Public Works Director
<b>Committee(s) Impacted:</b>	Public Infrastructure, Environment and Sustainability 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>	Innovative Infrastructure-Managing our assets
<b>Deadline:</b>	
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	Council approval of the final extension to the contract for scaffolding services at the WTE.
<b>Background/History:</b>  During scheduled and emergency outages at the WTE, scaffolding must be placed in the boilers to allow safe access for repairs. Bids for scaffolding services for the WTEF were solicited under RFB 4308-16. BrandSafway Services, LLC., of Spokane Valley, was the only bidder and was awarded the contract for one year with the option of four (4) additional one-year extensions. This will be the last of those extensions and will run from April 1, 2021 through March 31, 2022 for an additional cost not to exceed \$450,000.00 including taxes.	
<b>Executive Summary:</b> <ul style="list-style-type: none"> <li>Contract extension to provide scaffolding for two scheduled outages and emergency outages as required at the Waste to Energy Facility.</li> <li>Scaffolding is required for safe access during repairs to the boilers.</li> <li>This is extension #4 of 4, as specified in the RFB, running from April 1, 2021 through March 31, 2022.</li> <li>Annual cost of contract extension is not to exceed \$450,000.00.</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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A If new, specify funding source: Other budget impacts: (revenue generating, match requirements, etc.)	
<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:	



**City of Spokane**

**CONTRACT EXTENSION #4 of 4  
WITH COST**

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

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 **BRANDSAFWAY SERVICES, LLC.**, whose address is 6206 East Trent Avenue, Bldg. 3, Suite A., Spokane Valley, Washington 99212 as ("**Contractor**"), individually hereafter referenced as a "party", and together as the "parties".

*WHEREAS, the parties entered into a Contract wherein the **Contractor** agreed to provide for the City all labor, materials, tools, construction equipment, transportation, supplies, supervision, organization, and other items of work and costs necessary for the proper execution and completion of the work described in the City's Request for Bids entitled Scaffolding Services for Scheduled Outages and Emergency Outages RFB #4308-16; and*

*WHEREAS, the initial contract provided for 4 additional one-year extensions, with this being the 4th of those extensions.*

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

**1. CONTRACT DOCUMENTS.**

The Contract, dated March 21, 2017 and April 14, 2017, 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 April 1, 2021.

**3. EXTENSION.**

The contract documents are hereby extended and shall run through March 31, 2022.

**4. COMPENSATION.**

The City shall pay an additional amount not to exceed **FOUR HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$450,000.00)** plus tax, 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.

**BRANDSAFWAY SERVICES, 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

**Attachments that are part of this Contract Extension:**

U2021-013

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

03/01/2021

<b><u>Date Rec'd</u></b>	2/17/2021
<b><u>Clerk's File #</u></b>	OPR 2018-0171
<b><u>Renews #</u></b>	
<b><u>Cross Ref #</u></b>	
<b><u>Project #</u></b>	
<b><u>Bid #</u></b>	RFB 4227-17
<b><u>Requisition #</u></b>	CR 22362

<b><u>Submitting Dept</u></b>	SOLID WASTE DISPOSAL
<b><u>Contact Name/Phone</u></b>	CHRIS AVERYT 625-6540
<b><u>Contact E-Mail</u></b>	CAVERYT@SPOKANECITY.ORG
<b><u>Agenda Item Type</u></b>	Contract Item
<b><u>Agenda Item Name</u></b>	4490 CONTRACT EXTENSION FOR HVAC SERVICES AT THE WTE

**Agenda Wording**

Contract amendment and extension #1 of 2 with Divco, Inc. (Spokane, WA) for scheduled and unscheduled maintenance on the HVAC systems at the WTE from Mar. 1, 2021 - Feb. 28, 2022 with an additional cost not to exceed \$65,000.00 including tax.

**Summary (Background)**

The WTE facility utilizes HVAC systems in all areas of the facility and requires quarterly inspections and as-needed repairs. In 2018, Divco, Inc. was the low cost bidder of RFB 4227-17 and awarded a 3-year contract for \$195,000.00 with the option of two additional one-year extensions. This will be the first of those extensions, with an amendment to include the HVAC unit in the hazmat break trailer in the annual PM service schedule.

Lease? NO Grant related? NO Public Works? YES

**Fiscal Impact**

Expense \$ 65,000.00

Select \$

Select \$

Select \$

**Budget Account**

# 4490-44100-37148-54803-34002

#

#

#

**Approvals**

<b><u>Dept Head</u></b>	AVERYT, CHRIS
<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>	PIES 2/22/21
<b><u>Council Sponsor</u></b>	CP Beggs

**Distribution List**

mdorgan@spokanecity.org  
jsalstrom@spokanecity.org  
tprince@spokanecity.org  
rrinderle@spokanecity.org  
caveryt@spokanecity.org  
DocuSign to: danmcneal@divcoec.com

**Additional Approvals**

**Purchasing** PRINCE, THEA

## Briefing Paper

### Public Infrastructure, Environment and Sustainability Committee

<b>Division &amp; Department:</b>	Public Works Division; Solid Waste Disposal
<b>Subject:</b>	Annual HVAC Services at the Waste to Energy Facility
<b>Date:</b>	February 22, 2021
<b>Contact (email &amp; phone):</b>	Chris Averyt, caveryt@spokanecity.org, 625-6540
<b>City Council Sponsor:</b>	Breean Beggs, City Council President
<b>Executive Sponsor:</b>	Scott Simmons, Public Works Director
<b>Committee(s) Impacted:</b>	Public Infrastructure, Environment and Sustainability 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>	Sustainable Resources: Maintaining our assets
<b>Deadline:</b>	
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	Council approval of the contract renewal in order to maintain all of the HVAC equipment at the Waste to Energy Facility.
<b>Background/History:</b>	
<p>The WTE facility utilizes HVAC systems in all areas of the plant as well as the Administration Building. This equipment requires quarterly inspections and as-needed repairs to maintain safe operation of the facility and equipment. On January 8, 2018 four bids were received for RFB #4227-17 for these annual HVAC services. Divco Inc., of Spokane, was the lowest responsible bidder. The initial contract was for \$195,000.00 (\$65,000.00 annually) and spanned from March 1, 2018 to February 28, 2021 with the option of two optional one-year renewals. This will be the first of the two renewals and will span from March 1, 2021 through February 28, 2022 and have a cost not to exceed \$65,000.00 including taxes. An amendment to include the HVAC unit in the hazmat break trailer in the annual PM service schedule for an additional \$392 annually will also be included in this renewal.</p>	
<b>Executive Summary:</b>	
<ul style="list-style-type: none"> <li>Renewal #1 of 2 for inspections and as-needed repairs to the HVAC systems at the Waste to Energy Facility.</li> <li>Divco Inc., of Spokane, was the lowest bidder of the four bids received for RFB #4227-17.</li> <li>Contract renewal will span from March 1, 2021 to February 28, 2022</li> <li>Annual cost of the contract not to exceed \$65,000.00 including tax.</li> <li>Amendment to include the HVAC unit in the hazmat break trailer in the annual PM service schedule for an additional \$392 annually will also be included in this renewal.</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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A If new, specify funding source: Other budget impacts: (revenue generating, match requirements, etc.)	
<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:	



**City of Spokane**

**CONTRACT AMENDMENT /  
EXTENSION #1 of 2**

**Title: Annual HVAC Services for  
Waste to Energy Facility (WTE)**

This Contract Amendment / Extension is made and entered into by and between the **City of Spokane** as ("City"), a Washington municipal corporation, and **Divco, Inc.**, whose address is 715 North Madelia, Spokane, Washington 99201 as ("**Contractor**"), individually hereafter referenced as a "party", and together as the "parties".

*WHEREAS, the parties entered into a Contract wherein the Contractor agreed to provide Annual HVAC Services – WTEF Scheduled and Unscheduled in RFB #4427-17 for the City; and*

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

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

**1. CONTRACT DOCUMENTS.**

The Contract, dated March 20, 2018 and April 23, 2018, 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 / Extension shall become effective on March 1, 2021 and shall end February 28, 2022.

**3. ADDITIONAL WORK.**

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

**HVAC System in the Hazmat Break Trailer is added into the annual PM service schedule.**

**4. COMPENSATION.**

The City shall pay an additional amount not to exceed **SIXTY-FIVE THOUSAND AND NO/100 DOLLARS (\$65,000.00)** including tax, for everything furnished and done under this Contract Amendment / Extension. This is the maximum amount to be paid under this Amendment / Extension, and shall not be exceeded without the prior written authorization of the City, memorialized with the same formality as the original Contract and this document.



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

**DIVCO, INC.**

**CITY OF SPOKANE**

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

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

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

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Attest:

Approved as to form:

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

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

**Attachments that are part of this Agreement:**

Contract Renewal and addendum proposal dated February 3, 2021 – Scope of work and pricing.

U2020-0120a

**City of Spokane  
Waste to Energy  
Addendum to HVAC Standard Preventive Maintenance  
Service Agreement #2046140**

Proposal # 2021-046

**Prepared by:**

Jere Sullivan

**For:**

City of Spokane  
2900 S. Geiger Blvd  
Spokane, WA 99224-5400  
Forrest McKinney  
624-5575

**24 HOUR SERVICE: 509-534-7225 / 888-621-5103**

DIVCO Incorporated  
715 N. Madelia  
Spokane, WA 99202  
Office: 509-534-7225  
Fax: 509-534-6865

**2/3/2021**



V20.3

## DIVCO Service Team

**Principal Owners:** Jeff & Tricia Lathrop have assembled a team of industry professionals whose objective is to provide cost effective *building comfort* for commercial customers. The team achieves that objective by offering preventive maintenance services that 1) protect the customer's investment in mechanical equipment, 2) prolong the lifecycle of the mechanical equipment, 3) reduce energy & operating costs, 4) provide outstanding tenant comfort, and 5) deliver prompt & reliable customer service.

**Safety Director:** As safety director, Andrew Compton is responsible for developing, training, implementing, tracking and monitoring all phases of safety protocol for DIVCO employees. This will be accomplished by following all governing regulations as dictated for the HVAC mechanical services industry.

**Operations Manager:** Chris Markham is responsible for all service technicians at Divco Inc. This includes hiring, training, tasking, safety, tools, and vehicles.

**Account Manager:** Dan McNeal will be your account manager. The primary responsibility of the account manager is to provide support and coordination for the execution of your service program. Your account manager is ultimately responsible for providing you with excellent customer service.

**Quality Assurance:** The mechanical services performed by the staff of technicians will be randomly assessed by the Operations Manager, Account Manager and the Safety Director. This assessment ensures work performed is in compliance with factory recommended maintenance procedures, industry safety standards, applicable governing regulation, in-house training directives, and any pertinent customer compliance requests.

**Primary Service Technician:** The primary service technician will be performing the service and repair functions for your DIVCO related HVAC equipment whenever possible. In the event that the primary service technician is not available, DIVCO will ensure we have other highly skilled service technician trained on your specific systems. These technicians will also be capable and ready to respond to your specific needs. Your service technicians can be reached by calling 24HR Service Dispatch at 509-534-7225 / 888-621-5103.

**24HR Service Dispatcher:**

Tisha and Todd are our service dispatchers. Our Service Dispatchers are responsible for dispatching service technicians in response to your service needs. Service Dispatch can be reached at 509-534-7225 / 888-621-5103 for emergency service or normal service requests.

## Agreement Investment

This service agreement will remain in effect for an original term of 12 months, and renew automatically from year to year thereafter. During the renewal process, the agreement price is reviewed and may be adjusted according to the annual inflation rate. Either party may terminate this agreement with a 30 day notice.

## Scheduled Services

Listed below, you will find a common description of scheduled tasks and services for equipment covered herein. Detailed tasking's, specific to items on the attached equipment list, will be prepared by the operations manager and presented to your service technician upon agreement start-up. Our services include all maintenance materials, gaskets, oils, and lubricants required to perform these tasks.

DIVCO will test and cycle all equipment after service is complete, to ensure proper operational conditions. Upon completion of our services, you will receive a service report with written documentation of tasks performed and any recommendations of our findings for your records.

## DIVCO Standard Preventive Maintenance (PM)

DIVCO's Standard Preventive Maintenance program ensures performance and management of the manufacturers recommended maintenance routines. DIVCO's factory trained service technicians perform the mechanical maintenances according to the equipment's age, size, and run-time to ensure proper system operation and efficiency. This level of service results in fewer equipment failures, increased equipment life, and maximum energy savings.

DIVCO's Standard Preventive Maintenance plan is not to be compared with a mere *economy-type* "Inspection & Filter Change Service". Economy services do not allow a service technician adequate time to ensure proper operation and efficiency of the mechanical systems. Those service plans end up costing the consumer more dollars toward troubleshooting and repairs.

### **HVAC Equipment Spring / Fall Services**

Spring / Fall Services include checking for unusual noises, vibration, or corrosion, securing panels and reporting any leaks. Additionally, your service technician will check unit control panels for damaged wiring and verify proper operation of all components. He will inspect heat exchangers, motor starters and contactors; inspect and adjust blower motors, belts, sheaves, evaporator coils, air filters, and condensate drains. DIVCO will inspect and adjust condenser fan motors, blades, speed controls, and condenser coils. Economizer dampers and controls will be checked for proper operation. Economizer linkages will be lubricated.

### **HVAC Equipment Mid-Summer / Mid-Winter Services**

Mid-Summer / Mid-Winter Services provide a test and inspection service which *verifies equipment operation during peak season operation*. This service ensures system efficiency and can prevent / eliminate a situation which may develop into a catastrophic failure if left unnoticed until the next scheduled service for that particular seasonal component.

### **Filter Service**

DIVCO shall furnish and install quality air filter media. This service will be performed as required, during the scheduled service, for the applicable items on the *equipment list*. If changing environmental conditions or experience indicates that the filter-changing schedule needs to be adjusted, it will be modified by mutual consent. Your program offers 4 filter change(s) per unit, per year.

**Condenser Coil Cleaning Service**

Condenser coil cleaning will be accomplished annually during the cooling season. This will help prolong the condenser life and add to increase efficiency during the cooling season. If changing environmental conditions or experience indicates that the above condenser coil-cleaning schedule needs to be adjusted, it will be modified by mutual consent.

Your program offers 1 coil cleaning per unit, per year.

**Evaporator Coil Cleaning Service**

A thorough preventive maintenance program typically incorporates the frequent exchange of quality MERV 8 pleated filters. In doing so, the “evaporative” (or indoor) coil will seldom need to be cleaned. Substandard filters, missing or loose filter door panels, or delayed filter change frequency will enable the evaporative coil to become dirty, plugged and/or contaminated with mold or mildew. As these conditions are not predictive, this service is not included as part of this scheduled service agreement.

If it is ever determined that the evaporator coils require cleaning, your DIVCO service technician will seek your approval to perform this service as an additional “Time & Material” billable item. By performing the evaporative coil cleaning, the equipment will be able to provide a cleaner / fresher supply of airflow. This will also help prolong the evaporator life and add to the peak operational efficiencies during the cooling season.

## 24-Hour Emergency Service Response Time

Response to service calls will be based on the type and nature of services required. If it is for a critical system failure, DIVCO will respond in four hours or less\*. If it is determined not to be critical in nature, service will be provided at a mutually agreed upon time.

\*Under extreme weather conditions, response times may be extended.

## Time & Material HVAC Services

**HVAC Services:** Labor for all service calls, above and beyond the scope of scheduled services within this agreement, will be billed at the Preferred Time & Material Service rate, M-F 8am – 5pm. After hours, weekends and holidays will be billed at the time & one-half rate. Call our dispatch center at 509-534-7225.

**Truck Charges:** *Time and Material* service calls will also include standard *Truck Charge* or mileage fee.

## Equipment List

<b>Waste to Energy Mechanical Equipment/Service</b>	<b>Size / Type</b>	<b>Quantity</b>	<b>Visits</b>	<b>Make / Model</b>	<b>Serial</b>	<b>Location</b>
Package Unit	3 Ton	1	4	Solaire J36H2-A00XPXXXE	309K193680641-02	Hazardous Waste Break Trailer
Filters 1" Pleated Merv 8	16x30x1	1	4			
Coil Cleaning - Condenser	3 Ton	1	1			

## Special Provisions

1. If a notice is given by either party to terminate this service agreement and the billing cycle does not correspond with the service schedule, DIVCO will be paid in full for all services rendered up to the time of cancellation. In turn, DIVCO will refund any pre-paid fees for services not yet performed.

## Safety Protocol Provisions

1. DIVCO will perform all work within the appropriate safety guidelines as directed by all Federal, State, City & DIVCO guidelines. These protocols include Fall Protection, Lock-Out Tag-Out, PPE Equipment, Work Site Safety Plans, etc.

2. The customer agrees to provide adequate access to all equipment and components as identified on the "Equipment List". Any equipment requiring extraordinary means of access will be the customer's responsibility to provide such OSHA-approved access (i.e. Fall restraint tie-off, scaffolding, scissor lifts, snorkel lifts, fixed roof access ladders, rappelling equipment, etc.)

Note: If safety protocol improvements are not made for any item on the equipment list requiring such improvements, that equipment will be removed from the service schedule until satisfactory improvements are made.

## Prevailing Wage Provisions

1. In the state of Washington, any publicly funded facility; or, any privately owned facility which leases/rents 50% or more of a facility to a government entity; falls under "Public Work" and is subject to "Prevailing Wages". (RCW39.04.260)

2. If any agency of the state, or any county, municipality, or subdivision created by its laws shall knowingly fail to comply with the provisions of RCW 39.12.040 as now or hereafter amended, such agency of the state, or county, municipality, or political subdivision created by its laws, shall be liable to all workers, laborers, or mechanics to the full extent and for the full amount of wages due, pursuant to the prevailing wage requirements of RCW.39.12.020. (RCW 39.12.042)

3. For all facilities falling under "Public Work" laws, DIVCO will provide "Prevailing Wage" provisions to those service technicians assigned to the facility. **City of Spokane** must state if this service agreement involves "Public Work".

## Pricing

**Proposal #2021-046**

	Scheduled Service Options	Quarterly Billing	Annual Price	Select with Initials
1	Original Agreement #20146140	\$4,839.00	\$19,356.00	
2	Add: Solair Quarterly PM & Filter Services, Annual Condenser Coil Clean	<b>\$98.00</b>	<b>\$392.00</b>	
3	<b>Annual Total – All PM Services</b>	<b>\$4,937.00</b>	<b>\$19,748.00</b>	

**City of Spokane** agrees to pay DIVCO the additional annual amount of: **\$392.00** dollars, to the existing annual agreement amount of **\$19,356.00**, for a new annual amount of **\$19,748.00**. This amount will be billed in quarterly installments of **\$4,937.00**. This amount does not reflect any applicable taxes. Applicable taxes will be added to the invoice sent to you by DIVCO. DIVCO must be presented with either a tax-exempt certificate or a re-sale certificate if taxes are not to be applied\*. DIVCO Guarantees the price stated in this agreement for ninety (90) days from the proposal date.

**Pre-Approved Time & Material Repair Limit:** No\_\_\_\_ Yes\_\_\_\_ \$\_\_\_\_\_ Initials\_\_\_\_

**City of Spokane** must state if this service agreement involves "Public Work".  
Yes\_\_\_\_ No\_\_\_\_ (Please Initial)

Accepted by:

X\_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

City of Spokane

2900 S. Geiger Blvd

Spokane, WA 99224-5400

*Jere Sullivan*

**Name:** Jere Sullivan

**Title:** HVAC Maint. Service Consultant

**Date:** February 3, 2021

DIVCO Incorporated

715 N. Madelia

Spokane, WA 99202

***We look forward to doing business with you! Thank you for your prompt response.***



### **DIVCO Terms and Conditions of Sale**

By accepting this proposal, Purchaser agrees to be bound by the following terms and conditions unless otherwise indicated herein:

#### **General Provisions**

- 1.1 Unless stated otherwise, the services provided under this agreement shall be provided during DIVCO' normal working hours, Monday through Friday inclusive, excluding holidays.
- 1.2 Client shall provide reasonable means of access to the equipment being serviced. Cost of man lift to access unit heaters is not included. DIVCO shall not be responsible for any removal, replacement or refurbishing of the building structure, if required to gain access to the equipment. DIVCO shall be permitted to control and/or operate all equipment necessary to perform the services herein described as arranged with the Client's representative.
- 1.3 This agreement, when accepted in writing by the Client and approved by a DIVCO representative, shall constitute the entire agreement between the two parties.
- 1.4 Either party may terminate this agreement at any time during the original term, or any extended term, by giving the other party 30 days notice of its intention.

#### **Charges**

- 2.1 For services not covered by this agreement but performed by DIVCO upon the Client's authorization, the Client agrees to pay DIVCO upon presentation of itemized invoice(s), at DIVCO' prevailing rates.
- 2.2 If an emergency service is requested by the Client and inspection does not reveal any defect for which DIVCO is liable under this agreement, the Client will be charged at DIVCO' prevailing rates.
- 2.3 The annual rate is subject to adjustment annually on each anniversary date to reflect increases in labor, material and other costs.
- 2.4 Customer will promptly pay invoices within ten (10) days of receipts. Should payment become thirty (30) days or more delinquent, DIVCO may stop all work under this agreement without notice and/or cancel this agreement, and the agreement amount shall become due and payable immediately upon demand. DIVCO will assess a late charge in the amount of 1 1/2 percent per month after thirty (30) days from the invoice date. Customer agrees to pay on demand the amount of all expenses reasonably incurred by DIVCO in efforts to collect the indebtedness in the event that this agreement is referred to an attorney. Customer agrees to pay a reasonable attorney's fee, including fees incurred in both trial and appellate courts or fees incurred without suit, and all court costs and costs of public officials. In the event legal remedy is necessary, venue shall be in Spokane County, Washington.

#### **Limitations of Liability**

- 3.1 DIVCO shall not be liable for any loss, delay, injury or damage that may be caused by circumstances beyond its control including, but not restricted to acts of God, war, civil commotion, acts of government, fire, theft, corrosion, floods, water damage, lightening, freeze-ups, strikes, lockouts, difference with workmen, riots, explosions, quarantine restrictions, delays in transportation, shortage of vehicles, fuel, labor or materials, or malicious mischief. **IN NO EVENT SHALL DIVCO BE LIABLE FOR BUSINESS INTERRUPTION LOSSES OR CONSEQUENTIAL OR SPECULATIVE DAMAGES**, but this sentence shall not relieve DIVCO of liability for damage to property or injury to persons resulting from accidents caused directly by the negligence of DIVCO in performance or failure of performance of its obligations under this agreement.
- 3.2 DIVCO shall not be required to make safety tests, install new devices, or make modifications to any equipment beyond the scope of the original contract in order to comply with recommendations or directives of insurance companies, governmental bodies or for other reasons.
- 3.3 DIVCO shall not be required to make replacements or repairs necessitated by reason of negligence, abuse or misuse, or by reason of any other cause beyond its control except ordinary wear and tear.
- 3.4 This agreement pre-supposes that all equipment is in satisfactory working condition. A cost estimate will be furnished for any equipment found in need of repair, upon initial inspection or initial seasonal start-up, with a written estimate stating the cost of repairs. Should repairs not be authorized within 30 days, the equipment will be eliminated from coverage and the agreement price shall be adjusted accordingly.
- 3.5 This agreement pre-supposes no substance regarded as hazardous by EPA is utilized in the system. If in servicing the system, DIVCO discovers the use of hazardous material, the Client will be responsible to remove, or have removed, any such substance and to replace it with a non-hazardous substitute. The Client will incur the cost of removal and substitution.
- 3.6 The amount of any present or future sales, use, occupancy, excise, or other federal, state or local tax which DIVCO hereafter shall be obligated legally to pay, either on its own behalf or on the behalf of the Client or otherwise, with respect to the services and material covered by this agreement, shall be paid by the Client.
- 3.7 If the equipment or software included under this agreement is altered, modified, or changed by a party other than DIVCO, this agreement shall be modified to incorporate such changes and the agreement price shall be adjusted accordingly or DIVCO may terminate the agreement.

3.8 Following 12 months of service or any time thereafter, if individual item(s) cannot, in DIVCO' opinion, be properly repaired on-site, due to excessive wear or deterioration, DIVCO may withdraw the items(s) from coverage upon ninety (90) days prior written notice.

3.9 This agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Washington.

3.10 Customer shall permit only DIVCO' personnel or agent to perform the work included in the scope of this agreement. Should anyone other than DIVCO' personnel perform such work, DIVCO may, at its option, cancel the agreement or eliminate the involved item of equipment from inclusion in this Agreement.

3.11 In the event the system is altered, modified, changed or moved, by a party other than DIVCO, DIVCO reserves the right to terminate or negotiate the Agreement based on the condition of the system after the changes have been made.

3.12 DIVCO will not be required to move, replace or alter any part of the building structure in the performance of this Agreement.

3.13 This agreement does not include responsibility for design of the systems, obsolesces, safety test, repair or replacement caused by weather, electrical power failure, low voltage, burned out main or branch fuses, low water pressure, vandalism, misuse or abuse of the systems, negligence of others (including customer), failure of customer to properly operate the systems, requirements of the governmental, regulatory, or insurance agencies, or other causes beyond DIVCO' control.

#### **Extra Charges**

4.1 If a trouble call is made at the Customers request and inspection indicates a condition which is not covered under this agreement, DIVCO may charge customer at the rate than in effect for such services.

#### **Non-Maintainable Equipment**

5.1 The annual rate assumes the equipment covered under this Agreement is in maintainable condition. If, at the time of seasonal start-up or on the first inspection, repairs or replacements are required, such charges will be submitted for customer's approval. If customer does not authorize such repairs or replacements, DIVCO may either remove the equipment from its scope of responsibility, and adjust the annual rate accordingly, or cancel the agreement.

5.2 This Agreement applies only to the maintainable portions of the system(s). Under full coverage agreements, DIVCO will not be responsible for the repair or replacement of non-maintainable and/or non-moving parts of the heating, ventilation and air conditioning systems. Examples of such non-covered items are dampers, ductwork, cabinets, heat exchangers, boiler tubes, boiler sections, boiler refractory, chimney, breeching, refrigerant piping, refrigerant leaks, refrigeration evaporators, refrigeration condensers, condensate drain pans and lines, water coils, steam coils, steam traps, pneumatic air lines, fan housings, main power service and electrical wiring, valve bodies or other structural parts.

#### **Facilities Management Programs Limitations – If Applicable**

6.1 All computerized maintenance monitoring and computerized energy management equipment provided by DIVCO will remain the property of DIVCO. Should this program be terminated, DIVCO reserves the right to remove this equipment.

6.2 The monitoring service is not to imply or obligate any direct liability or contingent liability for damages caused by alarms not received or handled improperly. This service is not a U.L. certified alarm center. Lines are checked at least monthly for connection.

6.3 Customer is responsible for all phone line installation, line costs, and usage charges incurred.

#### **EXECUTIVE ORDER 11246 – Affirmative Action for Minorities and Women**

During the performance of this contract, the Contractor agrees to comply with any applicable requirements of Executive Order 11246 (as amended by EO 11375, 12486, et al) and its implementing regulations at 41 CFR 60-1, 2, 3 and 4, prohibiting discrimination based on race, gender, ethnicity, national origin or religion and requiring affirmative action and EEO reporting to promote equal opportunity. The relevant sections required by 41 CFR 60-1.4 are hereby incorporated by reference

#### **AFFIRMATIVE ACTION FOR VIETNAM ERA & OTHER VETERANS**

Applicable to all nonexempt contracts and purchase orders of at least \$100,000 a year.

**This contractor and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.**

#### **AFFIRMATIVE ACTION FOR PERSONS WITH DISABILITIES**

Applicable to all non-exempt contracts and purchase orders of at least \$10,000 a year

**This contractor and subcontractor shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.**

**Executive Order 13496** of January 30, 2009 may require our suppliers and subcontractors to post notices of employee union rights, and notify their contractors of same. 29CFR Part 471, Appendix A to Subpart A is hereby incorporate by reference.

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

03/01/2021

**Date Rec'd**

2/17/2021

**Clerk's File #**

OPR 2017-0140

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

SOLID WASTE DISPOSAL

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

CHRIS AVERYT 625-6540

**Project #****Contact E-Mail**

CAVERYT@SPOKANECITY.ORG

**Bid #**

RFQ 4304-16

**Agenda Item Type**

Contract Item

**Requisition #**

CR 22371

**Agenda Item Name**

4490 CONTRACT EXTENSION FOR LANDFILL GROUNDWATER MONITORING

**Agenda Wording**

Contract extension #4 of 4 with CH2M Hill Engineers, Inc. (Spokane, WA) for groundwater monitoring and report writing services for the Northside and Southside Landfills from Mar. 10, 2021-Mar. 9, 2022 for an additional cost not to exceed \$49,000.00.

**Summary (Background)**

The City's landfills each have unique groundwater monitoring plans as required by Chapter 18.220 RCW, WAC 173-351-400(2)(f), WAC 173-304 and the associated solid waste permits. The City issued RFQ 4304-16 for Groundwater Monitoring Data Analysis and Report Writing Services in 2017. CH2M Hill Engineers, Inc. was deemed the most qualified respondent, and was awarded the contract for these services for \$64,221.00, with four (4) possible one (1) year extensions. This will be the last extension.

Lease? NO

Grant related? NO

Public Works? NO

**Fiscal Impact****Budget Account**

Expense \$ 17,890.68

# 4530-44800-53748-54201

Expense \$ 19,293.66

# 4530-44850-53748-54201

Expense \$ 11,815.66

# 4530-45600-53748-54201

Select \$

#

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

AVERYT, CHRIS

**Study Session\Other**

PIES 2/22/21

**Division Director**

SIMMONS, SCOTT M.

**Council Sponsor**

CP Begs

**Finance**

ALBIN-MOORE, ANGELA

**Distribution List****Legal**

ODLE, MARI

mdorgan@spokanecity.org

**For the Mayor**

ORMSBY, MICHAEL

jsalstrom@spokanecity.org

**Additional Approvals**

tprince@spokanecity.org

**Purchasing**

PRINCE, THEA

rrinderle@spokanecity.org

caveryt@spokanecity.org

DocuSign to: Patrick.Kalita@jacobs.com

Reuben.Greer@jacobs.com

## Briefing Paper

### Public Infrastructure, Environment and Sustainability Committee

<b>Division &amp; Department:</b>	Public Works Division; Solid Waste Disposal
<b>Subject:</b>	Extension of Contract for Groundwater Monitoring and Reporting at the Northside and Southside Landfills
<b>Date:</b>	February 22, 2021
<b>Contact (email &amp; phone):</b>	Chris Averyt, caveryt@spokanecity.org, Ext. 6540
<b>City Council Sponsor:</b>	Breean Beggs, City Council President
<b>Executive Sponsor:</b>	Scott Simmons, Public Works Director
<b>Committee(s) Impacted:</b>	Public Infrastructure, Environment and Sustainability 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>	Sustainable Resources-Sustainable Practices
<b>Deadline:</b>	
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	Council approval for groundwater monitoring and reporting to continue in 2020.
<b>Background/History:</b> The City's Northside Landfill Open Municipal Solid Waste (MSW) Cell, the Northside Landfill Closed Cell, and the Southside Landfill Closed Cell each have unique groundwater monitoring plans as required by Chapter 18.220 RCW, WAC 173-351-400(2)(f), WAC 173-304 and the associated solid waste permits. The City issued Request for Qualifications #4304-16 for Groundwater Monitoring Data Analysis and Report Writing Services in 2017. Responses were received from three firms, of which CH2M was deemed the most qualified respondent, and a contract was awarded for these services for \$64,221.00, with four (4) possible one (1) year extensions. This is the last of those extensions in the amount of \$49,000.00.	
<b>Executive Summary:</b> <ul style="list-style-type: none"> <li>Extension #4 of 4 with cost to contract as specified in RFQ #4304-16.</li> <li>Extension term is March 10, 2021 to March 9, 2022.</li> <li>Data management and report writing services to include quarterly and annual reports for 2021.</li> <li>The cost of the contract for this extension is \$49,000.00</li> <li>Reporting is required for compliance with solid waste permits.</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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A If new, specify funding source: Other budget impacts: (revenue generating, match requirements, etc.)	
<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:	



**City of Spokane**

**CONTRACT EXTENSION 4 of 4  
WITH COST**

Title: **GROUNDWATER MONITORING DATA  
ANALYSIS AND REPORTS**

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 **CH2M HILL ENGINEERS, INC.**, whose address is 999 West Riverside Avenue, Suite 500, Spokane, Washington 99201 as ("Consultant"), Individually hereafter referenced as a "party", and together as the "parties".

*WHEREAS, the parties entered into a Contract wherein the Consultant agreed to perform Groundwater Monitoring Data Analysis and Report Writing for both the Northside and Southside Landfills; and*

*WHEREAS, the initial contract provided for 4 additional one-year extensions, with this being the 4th of those extensions.*

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

**1. CONTRACT DOCUMENTS.**

The Contract, dated March 3, 2017, 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 March 10, 2021.

**3. EXTENSION.**

The contract documents are hereby extended and shall run through March 9, 2022.

**4. COMPENSATION.**

The City shall pay an additional amount not to exceed **FORTY-NINE THOUSAND AND NO/100 DOLLARS (\$49,000.00)** for everything furnished and done under this Contract Extension in accordance with CH2M Hill's February 5, 2020 Proposal.

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.

**CH2M HILL ENGINEERS, INC.**

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

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

\_\_\_\_\_  
Title

Attest:

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

**CITY OF SPOKANE**

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

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

\_\_\_\_\_  
Title

Approved as to form:

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

**Attachments that are part of this Contract Extension:**

February 5, 2020 Proposal from CH2M Hill

U2021-014

Kelle Vigeland  
Environmental Manager  
City of Spokane Solid Waste Disposal  
Waste to Energy Facility  
2900 South Geiger Blvd  
Spokane, WA 99224-5400  
[kvigeland@spokanecity.org](mailto:kvigeland@spokanecity.org)

February 1, 2021

Subject: 2021 Proposal for Groundwater Data Analysis and Reporting Assistance for the City of Spokane's Northside and Southside Landfill

Dear Kelle,

CH2M HILL Engineers, Inc. (Jacobs), is pleased to submit the enclosed proposal (Attachment A) to provide the City with continued groundwater monitoring data analysis and report writing services for 2021 for the City's Northside and Southside Landfills. At your request, this work is follow-on to the reporting services Jacobs has provided to the City since 2017 under the Request for Qualifications (RFQ #4304-16). This proposal and scope of work and fee request follows the approach performed since 2017 and includes similar assumptions regarding execution of the work. Jacobs assumes the work described in Attachment A will be conducted over a 13-month duration under a City contract similar to that agreed upon for 2020. The work is anticipated to commence in late February 2021 upon a signed agreement executed between Jacobs and the City.

Jacobs appreciates the continued opportunity to assist the City with groundwater data analysis and reporting services for the Northside and Southside Landfills for 2021. Please contact Reuben Greer at (509) 847-8819 or [reuben.greer@jacobs.com](mailto:reuben.greer@jacobs.com) with any questions.

Regards,  
CH2M HILL Engineers, Inc.



Reuben Greer  
Project Manager

Email: [Reuben.Greer@jacobs.com](mailto:Reuben.Greer@jacobs.com)



Patrick Kalita  
Senior Manager of Projects

Email: [Patrick.Kalita@jacobs.com](mailto:Patrick.Kalita@jacobs.com)

# 2021 Groundwater Monitoring Data Analysis and Reporting Services for City of Spokane – Northside and Southside Landfills

PREPARED FOR: Kelle Vigeland/City of Spokane  
PREPARED BY: Reuben Greer/Jacobs  
DATE: February 1, 2021  
APPROVED BY: Patrick Kalita/Jacobs

## Introduction

This Scope of Work and Fee Estimate (SOW) describes groundwater reporting services as requested by the City of Spokane (the City). The City issued a Request for Qualifications (RFQ #4304-16) in November 2016 to help select a qualified consulting firm to perform the required Groundwater Monitoring Data Analysis and Report Writing Services as needed under the respective Washington Administrative Code (WAC) 173-304-490 and WAC 173-351-415 regulations. CH2M HILL Engineers, Inc. (Jacobs), and the City entered into a four-year contract agreement on February 14, 2017 for Jacobs to assist the City with the required WAC reporting services (*2017 Groundwater Monitoring Data Analysis and Report Writing Services for the City of Spokane – Northside and Southside Landfills* (CH2M, 2017)). As requested by the City, Jacobs is providing this SOW to continue data analysis and reporting services for 2021.

## Project Understanding

The City operates and performs environmental groundwater monitoring at their Northside Landfill (NSLF) the Southside Landfill (SSLF). The Northside Landfill consists of two waste units, an active/open Municipal Solid Waste Cell (MSW Cell), which is operated under WAC 173-351, and the Closed Refuse Unit regulated under WAC 173-304. For the Closed Refuse Unit, Ecology provides regulatory oversight per the Minimal Functional Standards of Chapter 173-304 of WAC, and the United States Environmental Protection Agency (EPA) provides regulatory oversight of the post-closure requirements as detailed in the *Record of Decision* (EPA 1989) and the *Consent Decree* (EPA 1991). Note, the EPA informed the City in late 2020 that they initiated de-listing of the NSLF CRU. The Southside Landfill is currently in post-closure status, and routine quarterly groundwater monitoring and reporting is regulated under WAC 173-304-490.

A description of the monitoring networks, monitoring frequency and reporting requirements in accordance with WAC regulations and the landfill-specific groundwater monitoring plans is listed below:

- **Northside Landfill – Municipal Solid Waste Cell (MSW Cell).** The Northside Landfill, which includes both the MSW Cell and the Closed Refuse Unit (described below), is located at 7202 West Nine Mile Road, approximately 5 miles north of the City of Spokane. In accordance with the *Groundwater Monitoring Plan for the City of Spokane’s Municipal Solid Waste Cell . the Northside Landfill, Amendment 1* (CH2M 2013), five (5) wells are sampled under the detection monitoring program analysis suite (Appendix I and II) on a quarterly frequency. Three (3) additional wells are measured during sampling activities for water-levels only. Quarterly reports under WAC 173-351 are due no later than 60 days following receipt of laboratory data for the respective sampling event; annual reports are due no later than April 1.



- **Northside Landfill - Closed Refuse Unit (CRU).** In accordance with the *Northside Landfill Groundwater Monitoring Plan* (CH2M 2008), the Closed Refuse Unit (CRU) groundwater monitoring is performed quarterly for six (6) monitoring wells, with an additional six (6) wells sampled annually (typically second quarter). The sampling program is designed to meet the NSLF CRU post-closure requirements set forth in the agency-approved monitoring plan. As described in the monitoring plan, the CRU sampling approach varies by quarter to cover routine quarterly requirements of Minimal Functional Standards (WAC 173-304), in addition to post-closure requirements set forth by the *Record of Decision (ROD)* (EPA 1989) and *Consent Decree* (1991) with respect to monitoring plume extent, general monitoring, and target compound list. Quarterly reports for the CRU are due no later than 60 days following receipt of laboratory data; annual reports are due no later than March 1.
- **Southside Landfill Closed Cell.** The Southside Landfill is located at 2424 E. 65<sup>th</sup> Avenue, approximately 0.75 mile south of the City of Spokane. Post-closure groundwater monitoring began in 1988. The Southside Landfill monitoring network consists of four (4) groundwater monitoring wells which are sampled quarterly. The groundwater analytical suite consists of 14 parameters as outlined under WAC 173-304, and ten (10) additional parameters. In accordance with the WAC 173-304 regulations, the City is required to sample groundwater quarterly and determine groundwater flow rate and elevation annually (summarized in the annual report). Quarterly notification to the agencies is required if a statistically significant increase over background is detected through statistical evaluations. The annual report summarizing the quarterly data evaluation findings is due no later than March 1.

## Scope of Services

The services described in this SOW follow a similar approach and organization as performed by Jacobs on an annual basis since 2017.

The groundwater data analysis and report writing services in this proposal include the following tasks:

- Task 1: Northside Landfill MSW Cell.
- Task 2: Northside Landfill Closed Refuse Unit.
- Task 3: Southside Landfill Closed Cell.
- Task 4: Optional On-Call Services.
- Task 5: Project Management.

### **Tasks 1, 2, and 3 General Assumptions:**

- City staff will perform all groundwater collection and related field activities in accordance with the respective Groundwater Monitoring Plans for each landfill. Jacobs will not perform any groundwater monitoring, or other field services.
- All laboratory analysis and data quality evaluations of laboratory data will be performed by the City. The City will contract directly with an accredited laboratory certified by Ecology in the State of Washington. The testing laboratory will perform analyses in accordance with test methods and procedures prescribed in the respective *Groundwater Monitoring Plans for each landfill*. Jacobs assumes normal turn-around-time of samples (typically 3 to 4 weeks) to meet the objectives of detection monitoring and the annual WAC deadlines.
- The City will forward all related laboratory reports in PDF and electronic data deliverable (EDD) form with supporting documentation for each landfill site to Jacobs for review and upload into Jacobs existing master database. The City will ensure laboratory reports include all the appropriate field and laboratory quality control data needed to perform data quality reviews as required.

- Jacobs has created ‘*master databases*’ in Microsoft Access for each of the three landfill programs and will upload the event-specific EDD data packages to populate the master database following receipt of the 2021 data for each event. The City will provide Jacobs all data in City’s possession relating to reporting services as described in this scope of work; Jacobs will reasonably rely upon the accuracy, timeliness, and completeness of the information provided by the City.
- Jacobs assumes continued use of the *Sanitas* (statistical software program) licensed to and owned by the City, which enables Jacobs access to the software to perform the required statistical analyses for City facilities. Jacobs assumes use of *Sanitas* version 9.6 (or equivalent).
- Reporting efforts assume that coordination with City regarding exchange of lab reports, supporting tables and figures, supporting information for appendices, project database, and general miscellaneous questions can be performed via email or phone exchange, and that site visits to landfills or meetings with regulators will not be needed, and is not included in this SOW.
- For each report submittal under WAC 173-351 (i.e. MSW Cell), a cover sheet (checklist required by Ecology) will be signed and submitted with the report.
- The City will upload quarterly data to Ecology’s Environmental Information Management (EIM) database; Jacobs will not be responsible for uploading data into the EIM database and no budget allocation is provided for such.
- The City will submit all final reports to the agencies within the required reporting deadlines (described under Project Delivery Section below). Budget allocations for hardcopy reports are not included in this proposal, but these services may be added at City request.

Details and key assumptions specific to each task are provided below.

## Task 1 – Northside Landfill MSW Cell Data Evaluation and Reporting

Jacobs will develop the quarterly and annual groundwater monitoring reports for the NSLF MSW Cell, in accordance with WAC 173-351-415. Groundwater monitoring and reporting guidance for the NSLF MSW Cell are described in the *Groundwater Monitoring Plan for the City of Spokane’s Municipal Solid Waste Cell at the Northside Landfill, Amendment 1* (CH2M 2013).

The key assumptions and deliverables for Task 1 reporting services are provided below:

### Task 1 Assumptions:

- The scope for Task 1 assumes that Jacobs will develop and provide professional stamp (geologist or hydrogeologist) for the following Northside Landfill MSW Cell reports:
  - 2021 First, Second, and Third Quarter Groundwater Monitoring Reports for MSW Cell (3 separate quarterly reports).
  - 2021 Combined Fourth Quarter and Annual Groundwater Monitoring Report for MSW Cell.
- Jacobs will perform technical evaluations to develop the respective quarterly reports as follows (per the WAC 173-351-415 requirements and the approved *Groundwater Monitoring Plan*):
  - Compile static groundwater level/elevation readings, groundwater elevation and flow direction maps, including hydraulic gradient and groundwater flow velocity,
  - Prepare groundwater elevation hydrographs and provide discussion on any apparent changes from historic levels,
  - Evaluate data quality and calculate cation-anion balance and relative percent difference of field duplicate; include an assessment of any ion balance results which are outside WAC threshold levels,

- Develop trilinear diagrams with brief discussion of general characteristics of the ion distribution,
- Tabulate groundwater quality data and identify any concentrations above project-specific criteria and the criteria in WAC 173-200, *Water Quality Standards for Groundwater in the State of Washington*,
- Tabulate leachate results,
- Prepare statistical evaluations and summaries, including descriptive statistics, trend evaluation via Mann-Kendall Method, and detection monitoring tests via Control Chart method,
- Develop report text and conclusions with an emphasis on the objectives of detection groundwater monitoring and the required report elements (listed above).
- Jacobs will notify the City within 14 days of identifying a statistically significant increase (SSI) over background from the detection monitoring method. Jacobs will submit the notification to the City via email with attached statistical summaries and supporting graphics. The City will alert the agencies of any identified SSIs in accordance with the notification requirements under WAC 173-351-430, *Detection Monitoring*. Jacobs will not submit data nor provide SSI notifications directly to any agencies.
- Jacobs statistical analysis for evaluation of SSIs will satisfy WAC regulations and be performed in accordance with the agency-approved *Groundwater Monitoring Plan, Amendment 1* (CH2M 2013).
- Jacobs will develop the year-end annual report as per Chapter 173-351-415 WAC and the approved *Groundwater Monitoring Plan* and will include the following:
  - Summary of year-end data quality review (including cation-anion balances, field duplicates, and any data quality issues or rejected data as-needed),
  - Summary of groundwater elevations, groundwater flow direction, and groundwater flow velocity for the year,
  - Summary of geochemical evaluations and noteworthy findings for the year,
  - Summary of statistical results including trend evaluation results and any statistically significant increases (i.e., exceedances from Control Chart method) for the year.
- Jacobs will provide electronic draft reports for the City to review. Jacobs will address City comments and provide a final, stamped report. Final MSW Cell quarterly and annual reports will be submitted to the City as described below in the Project Delivery Schedule section.

### Task 1 Deliverables:

Task 1 deliverables will include four (4) preliminary statistical evaluation summaries, three (3) stand-alone quarterly reports (Q1, Q2, and Q3 for 2021) and the combined fourth quarter (Q4) annual report for 2021, as described below:

- Jacobs will provide the City a preliminary assessment notification for the quarterly groundwater sampling results to identify any SSI, or the lack thereof. Preliminary assessments will be due to the City within 14 days of Jacobs receipt of laboratory data provided by the City. Preliminary Assessment will be submitted to the City via email with attached statistical summaries and supporting graphics for City review. The City will follow-up with the agencies in accordance with the notification requirements under WAC 173-351-430, *Detection Monitoring* (within 30 days of receipt of analytical data); Jacobs will not notify any agencies.
- Draft-final quarterly and annual reports: Jacobs will submit draft-final versions of quarterly and annual groundwater reports to the City for review & comment. Draft-final reports will be submitted in PDF form (full document) and in WORD (text only) format to facilitate the City's review process.

- Final quarterly and annual reports: Upon the City's review and incorporation of comments, final versions of the quarterly and annual summary reports will be stamped by a Jacobs professional geologist (or hydrogeologist) and submitted to City via email in electronic PDF form accompanied with the regulatory-required cover sheet (checklist). The finalized Annual MSW Cell report is due to the regulators by April 1.

Note that the 2021 combined fourth quarter/annual report will be submitted to the City to support the required quarterly or annual report deadlines: Quarterly reports are due to the agencies no later than 60 days from receipt of laboratory data; the annual report is due to the agencies no later than April 1.

## Task 2 –Northside Landfill Closed Refuse Unit Data Evaluation and Reporting

Jacobs will develop the required quarterly and annual groundwater monitoring reports for the NSLF CRU. As described above, reporting requirements for the Closed Refuse Unit are under WAC 173-304, and in accordance with the post-closure requirements set forth in the *ROD and Consent Decree*. Groundwater monitoring and reporting guidance for the NSLF CRU is described in the *Northside Landfill Groundwater Monitoring Plan* (CH2M 2008).

The key assumptions and deliverables for Task 2 reporting services are provided below:

### Task 2 Assumptions:

- The scope for Task 2 assumes that Jacobs will develop and provide professional stamp for the following Northside Landfill Closed Cell reports:
  - 2021 First, Second, and Third Quarter Groundwater Monitoring Reports for CRU (three separate reports)
  - 2021 Combined Fourth Quarter and Annual Groundwater Monitoring Report for the CRU
- For the 2021 quarterly and annual reports, the statistical analysis approach will satisfy WAC requirements and follow the procedures established by the City's statistical consultant as described by Dr. Kirk Cameron in the *Technical Memo: Using Sanitas to Implement Statistical Recommendations at NSLF and SSLF* (MacStat Consulting, 2007).
- Jacobs will perform technical evaluations to develop the respective quarterly reports as follows (per the Chapter 173-304 WAC requirements and the approved *Groundwater Monitoring Plan*):
  - Compile static groundwater level/elevation readings, groundwater elevation and flow direction maps, including hydraulic gradient and groundwater flow velocity,
  - Prepare groundwater elevation hydrographs and provide discussion on any apparent changes from historic levels,
  - Evaluate data quality via review of City-performed data quality evaluations of laboratory analytical QC reports (such as lab control sample, lab control sample duplicate, matrix spike/matrix spike duplicate, method blank, and field duplicate results),
  - Review data quality and calculate cation-anion balance and relative percent difference of field duplicate,
  - Develop trilinear diagrams with brief discussion of general characteristics of the ion distribution,
  - Tabulate groundwater quality data and identify any concentrations above project-specific criteria and the groundwater criteria in Chapter 173-200 WAC, *Water Quality Standards for Groundwater in the State of Washington*,

- Prepare statistical evaluations and summaries, including descriptive statistics, trend evaluation via Mann-Kendall Method, and detection monitoring tests to assess for change of condition over background,
- Develop report text and conclusions with an emphasis on required report elements (listed above).
- To satisfy notification requirements, Jacobs will perform statistical data evaluations within 7 business days following receipt of the final EDD to identify statistically significant increases over background from the detection monitoring method. If a statistically significant increase is identified, Jacobs will notify the City immediately via email with attached statistical summaries and supporting graphics. The City will follow-up with the agencies within the 7-day notification schedule in accordance with the regulations; Jacobs will not notify any agencies.
- Jacobs will develop the year-end annual report as follows (per WAC 173-304 and the approved *Groundwater Monitoring Plan*):
  - Summary of groundwater elevations, groundwater flow direction, and groundwater flow velocity for the year,
  - Summary of geochemical evaluations and any groundwater concentrations above project-specific and criteria in Chapter 173-200 WAC, *Water Quality Standards for Groundwater in the State of Washington*
  - Summary of statistical results including descriptive statistics, trend evaluation results, and any statistically significant increases over background.
- Jacobs will provide electronic client-review copies for the City to review. Jacobs will address comments from City and submit a final stamped report to the City as described below in the Project Delivery Schedule section.

## Task 2 Deliverables:

Task 2 deliverables will include four (4) preliminary statistical evaluation summaries, three (3) stand-alone quarterly reports (Q1, Q2, and Q3 for 2021) and the combined fourth quarter (Q4) annual report for 2021, as described below:

- Quarterly statistical summaries for 2021: Jacobs will perform statistical data evaluations within seven (7) business days following receipt of the final EDD from the City to identify statistically significant increases over background from the detection monitoring method. If a statistically significant increase is identified, Jacobs will notify the City immediately via email with attached statistical summaries and supporting graphics. The City will follow-up with the agencies within the 7-day notification schedule in accordance with the regulations; Jacobs will not notify any agencies.
- Draft-final quarterly and annual reports: Draft quarterly and annual reports will be submitted to the City for review & comment within 35 days of receiving the EDDs from the City. Draft-final reports will be submitted in PDF form (full document) and in WORD (text only) format to facilitate the City's review process.
- Final quarterly and annual reports: Upon the City's review and incorporation of comments, final versions of the quarterly and annual summary reports will be stamped by a Jacobs professional geologist (or hydrogeologist) and submitted to the City via email in electronic PDF form. The finalized Annual NSLF CRU report is due to the regulators by March 1.

### Task 3 –Southside Landfill Data Evaluation and Annual Reporting

Jacobs will perform statistical evaluations of quarterly groundwater monitoring results and develop the 2021 year-end annual report for the Southside Landfill. As described in the Project Understanding, reporting requirements for the Southside Landfill Closed Cell are guided by WAC 173-304-490.

The key assumptions and deliverables for Task 3 reporting services are provided below:

#### Task 3 Assumptions:

- The scope for Task 3 assumes that Jacobs will develop and provide professional stamp for the following Southside Landfill Closed Cell reports:

- 2021 Annual Groundwater Monitoring Report for Southside Landfill

Note: No quarterly groundwater monitoring results are required for Southside Landfill.

- Following receipt of 2021 quarterly data from the City, Jacobs will perform statistical evaluations to determine if a SSI over background conditions has occurred in accordance with the approach as described in the *Technical Memo: Using Sanitas to Implement Statistical Recommendations at NSLF and SSLF* (MacStat Consulting, 2007).
- Jacobs will perform and submit the quarterly statistical data evaluations within seven (7) business days to the City following receipt of the final EDD to identify any SSIs over background from the detection monitoring method. If a SSI is identified, Jacobs will notify the City immediately via email with attached statistical summaries and supporting graphics. The City will contact the agencies within the 7-day notification schedule in accordance with the regulations; Jacobs will not notify any agencies.
- Jacobs will develop the year-end annual report from the data obtained during quarterly sampling as follows (per WAC 173-304):
  - Summary of year-end data quality review, including a review of the laboratory analytical reports and associated QC checks (such as lab control sample, lab control sample duplicate, matrix spike/matrix spike duplicate, method blank, and field duplicate results).
  - Summary of groundwater elevations, groundwater flow direction, and groundwater flow velocity for the year,
  - Summary of geochemical evaluations and any groundwater concentrations above criteria in WAC 173-200, *Water Quality Standards for Groundwater in the State of Washington*,
  - Summary of quarterly statistical evaluation results including descriptive statistics, trend evaluation results, and any statistically significant increases over background.
- Upon completion of the draft-final annual reports, Jacobs will submit an electronic client-review copy for City review. Jacobs will address comments and provide a final stamped report to the City (refer to the Project Delivery Schedule section for assumptions on review process and deadlines for report submittals).

#### Task 3 Deliverables:

Task 3 will include four (4) preliminary statistical evaluation summaries and the 2021 year-end annual reports, as described below:

- Quarterly statistical summaries for 2021: Following receipt of each of the quarterly 2021 groundwater laboratory data results from the City, Jacobs will evaluate to identify potential SSI's. Statistical summaries will include tabulated results (in excel) and statistical output from Sanitas which will include descriptive statistics, trends, and detection monitoring tests. A succinct summary of the

evaluation with the supportive statistical data will be submitted to the City via email within 7 days of receipt of the finalized data from the City; Jacobs will not notify any agencies.

- The draft-final 2021 annual report: Jacobs will provide a draft-final annual report for the City review as outlined in scoping assumptions above. Draft-final reports will be submitted in PDF (in full, including text, tables, figures, and appendixes) and in WORD (text only) format to facilitate City's review process.
- The final 2021 annual report: A final report will be stamped by a Jacobs professional geologist (or hydrogeologist) after adjudication of City comments. The Final 2021 annual report will be submitted via email to the City; no hardcopy reports are not included in this proposal. The City will submit the final reports to the agencies within the required reporting deadlines (described under Project Delivery Section below).

## Task 4 – On-Call Consulting Services

Task 4 is dedicated for on-call (contingency) support services to be authorized at the direction and approval of the City. No formal tasks or deliverables are planned at this time for Task 4. On-call services may include, but are not limited to, support to the City regarding landfill regulations, operations, miscellaneous groundwater-related issues, laboratory issues/troubleshooting/support, and other related regulatory and consulting support.

Jacobs assumes that email documentation submitted by the City's Project Manager is sufficient to proceed with on-call consulting and mentoring services. Jacobs assumes a ceiling budget of **\$4,000** for optional Task 4 services.

Task 4 services will not include any sub-contracting, field services, or the procurement of equipment or services. The assumed budgets for Task 4 will not be exceeded unless formally approved by City via signed contract modification and budget adjustment.

## Task 5 – Project Administration and Project Management

Task 5 services include project administration and management activities, which include project setup, tracking project costs, team coordination, and preparing routine invoices with monthly progress summaries. The monthly progress summaries will document any potential issues or scoping items which may lead to a work modification (change to assumed work approach without impact to approved budgets) or change order (change in scope which will require budget increase and prompt contract addendum).

### Task 5 Assumptions:

- Labor for task 5 includes allocations for project setup, team coordination, developing monthly invoices and progress summaries, and general project management activities.

### Task 5 Deliverables:

- Monthly invoices and progress summary summaries.

## Project Delivery Schedule

The project delivery schedule is driven by the respective quarterly and annual submittal deadlines outlined in the WAC. Application of the WAC due dates as it applies to the review process and final submittals for quarterly and annual reports is outlined below. The City will submit all final reports directly to the agencies.



## Quarterly Report Review Schedule and Submittal Deadlines

Per WAC 173-351-415, quarterly reports are due to the agencies no later than 60 days following receipt of the respective quarterly data. Jacobs will develop the respective draft-final quarterly reports for Northside Landfill (CRU and MSW Cell) and submit to the City for their review and comment within thirty-five (35) days of being provided the respective electronic groundwater data results from the City. Jacobs will address comments and submit final reports to City within 14 days of receiving comments from City.

## Annual Summary Report Review Schedule and Submittal Deadlines

Per WAC 173-304 (applicable for NSLF CRU and SSLF), the annual reports are due to the agencies no later than March 1. The MSW Cell annual report is due to the agencies by April 1 per WAC 173-351-415. Jacobs will develop and submit draft-final copies of annual reports to the City for their review within (8) weeks (60 days) of receiving groundwater data results from the City, or 30 days prior to WAC due dates, whichever occurs sooner. Jacobs will address comments from the City and submit the final annual reports to City within 14 days of receipt of City comments.

## Fee Estimate

Table 1 shows the assumed task labor hours, labor estimate, expense, and total fee estimate. The total requested fee to perform the services as outlined in this proposal is **\$49,933**. As described in the scope, Task 4 is contingency support and would only be utilized at the request and at the approval of the City (with ceiling budget of \$4,000). Labor will be billed out monthly as work is performed and summarized in the monthly progress reports and in the monthly invoices submitted to the City. Labor and expenses will not exceed the estimated costs that are provided in Table 1 unless prior written authorization is received from the City. Table 2 shows labor categories, key staff, and labor rates that will be effective for the duration of this 2021 services contract.

Jacobs assumes that this work will be performed under the terms and conditions of a City contracting agreement that will be mutually agreed to and executed between Jacobs and the City. The work in this proposal assumes a project period of performance executed from approximately March 1, 2021 to March 30, 2022, (approximate 13-month duration).

## Limitations

Jacobs' scope and related level of effort assume development of routine groundwater monitoring reports in support of the detection monitoring requirements under Chapter 173-304 and Chapter 173-351 of the WAC. Jacobs' scope of services does not cover any potential work related to groundwater concentrations which may be identified from the statistical analysis procedure(s) as *statistically significant increases over background* that may require regulatory coordination, re-sampling, re-analysis, assessment monitoring, and potential corrective action. At the City request, Jacobs can support the City with these related follow-on services (if needed) via contract modification.



**Table 1. Labor Hours and Fee Estimate***2021 Groundwater Monitoring Data Analysis and Reporting Assistance for City of Spokane*

Task Description	Labor (hrs.)	Labor (\$)	Expenses (\$)	Total (\$)
Task 1: NSLF MSW Cell – Data Evaluation and Reporting	110	\$14,275	\$0	\$14,275
Task 2: NSLF CRU – Data Evaluation and Reporting	122	\$15,678	\$0	\$15,678
Task 3: SSLF – Data Evaluation and Reporting	63	\$8,200	\$0	\$8,200
Task 4: On-Call Consulting <sup>1</sup>	-	\$4,000	\$0	\$4,000
Task 5: Project Admin & Management	48	<del>\$7,780</del>	\$0	\$5,790 <del>\$7,780</del>
<i>SUB TOTAL (Without Task 4 authorized):</i>	356	\$45,933	\$0	\$45,933
<b>TOTALS:</b>	<b>356</b>	<b>\$49,933</b>	<b>\$0</b>	\$47,943 <b>\$49,933</b>

**Note:**

<sup>1</sup> – No hours are budgeted for Task 4. If needed as part of approved Task 4 on-call services, labor will be charged at the rates shown in Table 2, not to exceed the task maximum of \$4,000. Any expenses will be billed at direct cost with a 10% markup. No field activities or sub-contracting are assumed for Task 4. No travel or field equipment expenses are assumed as part of Task 4 budget.

**Table 2. Labor Categories, Staff, and 2021 Per Diem Rates:***2021 Groundwater Monitoring Data Analysis and Reporting Assistance for City of Spokane*

Labor Category:	Key Staff	2021 Per Diem Rates:
Senior Project Hydrogeologist	Mark Henry	\$195 (see note)
Project Manager	Reuben Greer	\$155
Staff Consultant 2/Data Manager	Leslie Karlewicz	\$145
Engineer 1	Anna Iverson	\$110
Project Assistant	Brianne Wineinger	\$80

**Note:**

Senior Project Hydrogeologist Labor Category Per Diem Rate capped at \$195.

**From:** [Vigeland, Kelle](#)  
**To:** [Dorgan, Michelle](#); [Averyt, Chris](#)  
**Subject:** FW: 4th Option Year Fee/Rates Sought OPR 2017-0140 (RE: 2020 City of Spokane 3rd Opt Yr Groundwater Monitoring Data Analysis and Report Writing)  
**Date:** Friday, February 05, 2021 7:34:24 AM

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Hopefully not too late – I asked Reuben about the increase in project Management and his reply is below. They will lower proposal to \$47,943.

OK? Do we need something more formal from him? I would think because contract is just a lump sum, his email would be enough?

Thanks, Kelle

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**From:** Greer, Reuben/SPK <Reuben.Greer@jacobs.com>  
**Sent:** Thursday, February 4, 2021 5:42 PM  
**To:** Vigeland, Kelle <kvigeland@spokanecity.org>  
**Subject:** RE: 4th Option Year Fee/Rates Sought OPR 2017-0140 (RE: 2020 City of Spokane 3rd Opt Yr Groundwater Monitoring Data Analysis and Report Writing)

**[CAUTION - EXTERNAL EMAIL - Verify Sender]**

Hi Kelle,

Regarding the PM charges, there are additional internal charges related to project reviews that were included for the 2021 proposal. I spoke with my Portfolio Manager about your comments and we can strike those hours out of the proposal so you are not charged for them.

With those changes above, the new PM task would be: 48 hours/\$5,790, and would change the PO amount to \$47,943

Let me know if you wish for me to submit a revised proposal, or if want just an internal change where those funds are moved to the On-call task as contingency? Or if another process would be faster for processing the proposal change.

As for the 2020 reporting PO, I expect to have the SSLF report to you either Friday (if I can get internal review completed), followed by the MSW Cell Annual report early next week. Upon finalization, the final invoice would be cut to by end of February.

Let me know your thoughts on the SOW.

Thanks,  
Reuben

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**From:** Vigeland, Kelle <[kvigeland@spokanecity.org](mailto:kvigeland@spokanecity.org)>

**Sent:** Wednesday, February 3, 2021 4:15 PM

**To:** Greer, Reuben/SPK <[Reuben.Greer@jacobs.com](mailto:Reuben.Greer@jacobs.com)>

**Subject:** [EXTERNAL] RE: 4th Option Year Fee/Rates Sought OPR 2017-0140 (RE: 2020 City of Spokane 3rd Opt Yr Groundwater Monitoring Data Analysis and Report Writing

Reuben – We are going to do the contract for \$49k, so will only have a budget for about \$3000 for on-call services.

I was a bit surprised to see that Project Management/Admin jumped from \$5400 to \$7780. Seems like a big change.

Also, we have had some difficulty with invoices for this contract coming in well after the end of the contract and having invoice dates spanning two contracts – last year's final invoice was pretty good but the year before was late and the dates spanned two contract terms which spilled into the 2020 contract that is just ending. We were able to adjust somewhat but in the future it will be important to submit the final invoice more quickly and have the invoice dates match up to the contract dates (i.e., from last invoice through March 9, 2021).

Thanks, Kelle

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**From:** Greer, Reuben/SPK <[Reuben.Greer@jacobs.com](mailto:Reuben.Greer@jacobs.com)>

**Sent:** Wednesday, February 3, 2021 11:04 AM

**To:** Rinderle, Rick <[rrinderle@spokanecity.org](mailto:rrinderle@spokanecity.org)>

**Cc:** Vigeland, Kelle <[kvigeland@spokanecity.org](mailto:kvigeland@spokanecity.org)>; Averyt, Chris <[caveryt@spokanecity.org](mailto:caveryt@spokanecity.org)>; Dorgan, Michelle <[mdorgan@spokanecity.org](mailto:mdorgan@spokanecity.org)>

**Subject:** RE: 4th Option Year Fee/Rates Sought OPR 2017-0140 (RE: 2020 City of Spokane 3rd Opt Yr Groundwater Monitoring Data Analysis and Report Writing

**[CAUTION - EXTERNAL EMAIL - Verify Sender]**

Rick,

Please find the attached Proposal and SOW for 2021 Spokane Landfill Groundwater Reporting Services. Please reach out to me with any questions or needed clarifications regarding the proposal.

Regards,

**Reuben Greer** | **Jacobs** | Project Manager – Federal & Environmental Solutions  
509.847.8819 M  
999 W. Riverside Ave., Suite 500, Spokane, WA 99201  
[reuben.greer@jacobs.com](mailto:reuben.greer@jacobs.com) | [www.jacobs.com](http://www.jacobs.com)

\*Please note, I will be working from home until further notice.

I will not be able to receive any mail or shipments from the office.

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OFFICE OF THE CITY CLERK  
808 W. SPOKANE FALLS BLVD.  
SPOKANE, WASHINGTON 99201-3342  
509.625.6350

February 1, 2021

City Clerk File No.:  
OPR 2021-0032

COUNCIL ACTION MEMORANDUM

RE: LOW BID FOR CENTENNIAL TRAIL – SUMMIT BLVD. (ENG 2017080) (Deferred from January 25, 2021, Agenda)

During its 3:30 p.m. Administrative Session held Monday, February 1, 2021, upon review of the February 1 Current Agenda, the following action was taken:

**Motion** by Council Member Burke, seconded by Council Member Cathcart, **to defer** to February 8, 2021, the Low Bid for Centennial Trail – Summit Blvd.; **carried unanimously (Council Members Kinnear and Wilkerson absent).**

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Terri L. Pfister, MMC  
Spokane City Clerk



OFFICE OF THE CITY CLERK  
808 W. SPOKANE FALLS BLVD.  
SPOKANE, WASHINGTON 99201-3342  
509.625.6350

January 25, 2021

City Clerk File No.:  
OPR 2021-0032

COUNCIL ACTION MEMORANDUM

RE: LOW BID FOR CENTENNIAL TRAIL – SUMMIT BLVD. (ENG 2017080)

During its 3:30 p.m. Administrative Session held Monday, January 25, 2021, upon review of the January 25 Current Agenda, the following action was taken:

**Motion** by Council Member Mumm, seconded by Council Member Wilkerson, **to defer** to February 1, 2021, the Low Bid for Centennial Trail – Summit Blvd.; **carried unanimously.**

---

Terri L. Pfister, MMC  
Spokane City Clerk

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

02/22/2021

**Date Rec'd**

2/17/2021

**Clerk's File #**

OPR 2021-0032

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

ENGINEERING SERVICES

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

DAN BULLER 625-6391

**Project #**

2017080

**Contact E-Mail**

DBULLER@SPOKANECITY.ORG

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

Contract Item

**Requisition #****Agenda Item Name**

0370 – LOW BID AWARD – TO BE DETERMINED

**Agenda Wording**

Low Bid of Halme Construction (Spokane, WA) for Centennial Trail - Summit Blvd.- \$1,954,325.97 (plus tax). An administrative reserve of \$195,432.60 (plus tax), which is 10% of the contract price (plus tax), will be set aside.

**Summary (Background)**

On January 11, 2021 bids were opened for the above project. The low bid was from Halme Construction in the amount of \$1,954,325.97 plus tax, which is \$342,881.53 or 15% below the Engineer's Estimate. Six other bids were received as follows: DW Excavating, Inc. - \$2,006,365.50, William Winkler Co -\$2,046,444.35, Graham Contracting, LTD. - \$2,316,488.50, LaRiviere Inc - \$2,338,133.25, Red Diamond Construction Inc. - \$2,533,966.80, NNAC Inc - \$2,877,940.00.

Lease? NO

Grant related? NO

Public Works? YES

**Fiscal Impact****Budget Account**

Select \$

#

Select \$

#

Select \$

#

Select \$

#

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

TWOHIG, KYLE

**Study Session\Other**

PIES 01/04/21

**Division Director**

FEIST, MARLENE

**Council Sponsor**

Beggs

**Finance**

ORLOB, KIMBERLY

**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

aduffey@spokanecity.org

## Briefing Paper

### Public Safety & Health

<b>Division &amp; Department:</b>	Public Works, Engineering
<b>Subject:</b>	Centennial Trail Summit Blvd
<b>Date:</b>	1-4-21
<b>Contact (email &amp; phone):</b>	Dan Buller (dbuller@spokanecity.org 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)	This project is in the 6 year street plan.
<b>Strategic Initiative:</b>	Innovative Infrastructure
<b>Deadline:</b>	
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	Approval of construction contract

**Background/History:**

- The Centennial Trail has various gaps through the city where the trail consists of nothing more than signs alongside the street. As funding is acquired, these gaps are filled with a dedicated paved trail, separated from the adjacent street where possible. The proposed project fills one such gap. See attached exhibit for precise location.
- The need to address the gap is the subject of this briefing paper was first formally identified in the 2009 Master Bike Plan and added to the 6 year street plan in 2018.
- Due to opposition to this project on the part of number of area residents, this project has gone through the following additional non-standard processes:
  - a second NEPA review which was conducted and ultimately approved by both WSDOT and FHWA,
  - a formal review by the City's Design Review Board (even though such review was not required by City code) – the recommendations of DRB were incorporated into the project, and
  - an appeal of the project by a number of area residents to the City's hearing examiner, an appeal that was denied by the hearing examiner on all counts.
- This project was briefed in detail at PIES by Kyle Twohig on 1-27-20 and again on 6-22-20.

**Executive Summary:**

- The City has now completed all required and extra steps and addressed all required processes and appeals and this project is therefore now advertising for bids.
- Construction is planned for 2021.
- The project is mostly federal grant funded.

**Budget Impact:**

Approved in current year budget?    ☒ Yes    ☐ No    ☐ N/A

Annual/Reoccurring expenditure?    ☐ Yes    ☒ No    ☐ N/A

If new, specify funding source:

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:







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

03/01/2021

Date Rec'd

2/18/2021

Clerk's File #

CPR 2006-0042

Renews #Submitting Dept

MAYOR

Cross Ref #Contact Name/Phone

TESSA DELBRIDGE 625-6716

Project #Contact E-Mail

TDELBRIDGE@SPOKANECITY.ORG

Bid #Agenda Item TypeBoards and Commissions  
AppointmentsRequisition #Agenda Item Name

0520 REAPPOINTMENTS TO ETHICS COMMISSION

Agenda Wording

Reappointment of Kenneth Hall and Sarah O'Hare to a three year term on the Ethics Commission from 01/01/2021 to 12/31/2023

Summary (Background)

Reappointment of Kenneth Hall and Sarah O'Hare to a three year term on the Ethics Commission from 01/01/2021 to 12/31/2023

Lease? NO

Grant related? NO

Public Works? NO

Fiscal ImpactBudget Account

Select \$

#

Select \$

#

Select \$

#

Select \$

#

ApprovalsCouncil NotificationsDept Head

COTE, BRANDY

Study Session\OtherDivision DirectorCouncil SponsorFinanceDistribution ListLegal

tdelbridge@spokanecity.org

For the Mayor

COTE, BRANDY

sfaggiano@spokanecity.org

Additional ApprovalsPurchasing

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

03/01/2021

**Date Rec'd**

2/17/2021

**Clerk's File #**

CPR 2012-0033

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

MAYOR

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

TESSA DELBRIDGE 625-6716

**Project #****Contact E-Mail**

TDELBRIDGE@SPOKANECITY.ORG

**Bid #****Agenda Item Type**Boards and Commissions  
Appointments**Requisition #****Agenda Item Name**

0520 CHHS BOARD APPOINTMENTS

**Agenda Wording**

Appointment of Kathryn Alexander to a three-year term of 01/01/2021 - 12/31/2023 on the Community, Housing, and Human Services Board as the Community Assembly representative.

**Summary (Background)**

Appointment of Kathryn Alexander to a three-year term of 01/01/2021 - 12/31/2023 on the Community, Housing, and Human Services Board as the Community Assembly representative.

Lease? NO

Grant related? NO

Public Works? NO

**Fiscal Impact****Budget Account**

Select \$

#

Select \$

#

Select \$

#

Select \$

#

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

COTE, BRANDY

**Study Session\Other****Division Director****Council Sponsor****Finance****Distribution List****Legal**

tdelbridge@spokanecity.org

**For the Mayor**

ORMSBY, MICHAEL

tsigler@spokanecity.org

**Additional Approvals****Purchasing**

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

03/01/2021

<u>Date Rec'd</u>	2/18/2021
<u>Clerk's File #</u>	RES 2021-0013
<u>Renews #</u>	
<u>Cross Ref #</u>	
<u>Project #</u>	
<u>Bid #</u>	
<u>Requisition #</u>	

<u>Submitting Dept</u>	DSC, CODE ENFORCEMENT & PARKING SERVICES
<u>Contact Name/Phone</u>	ELDON BROWN X6305
<u>Contact E-Mail</u>	EBROWN@SPOKANECITY.ORG
<u>Agenda Item Type</u>	Resolutions
<u>Agenda Item Name</u>	4700 – VACATING ALLEY BETWEEN COLUMBIA AVE AND JOSEPH AVE

**Agenda Wording**

Resolution setting hearing before the City Council for March 22 for the vacation of the alley between Columbia Avenue and Joseph Avenue, from the east line of Julia Street to the west line of Myrtle Street, as requested by Dan Cantu.

**Summary (Background)**

A petition was submitted representing 100% of the abutting property. Staff requests that City Council set a public hearing on the vacation petition.

Lease? NO	Grant related? NO	Public Works? NO
<u>Fiscal Impact</u>		<u>Budget Account</u>
Neutral \$		#
Select \$		#
Select \$		#
Select \$		#
<u>Approvals</u>	<u>Council Notifications</u>	
<u>Dept Head</u>	BECKER, KRIS	<u>Study Session\Other</u> UE 02-08-2021
<u>Division Director</u>	BECKER, KRIS	<u>Council Sponsor</u> CM Cathcart
<u>Finance</u>	ORLOB, KIMBERLY	<u>Distribution List</u>
<u>Legal</u>	RICHMAN, JAMES	edjohnson@spokanecity.org
<u>For the Mayor</u>	ORMSBY, MICHAEL	ebrown@spokanecity.org
<u>Additional Approvals</u>		kbecker@spokanecity.org
<u>Purchasing</u>		mvanderkamp@spokanecity.org

# **R E S O L U T I O N**

WHEREAS, on January 4, 2021, the Spokane City Council received a petition for the vacation of the alley between Columbia Avenue and Joseph Avenue, from the east line of Julia Street to the west line of Myrtle Street, in the City of Spokane from owners having an interest in real estate abutting the above right-of-way; and

WHEREAS, it was determined that the petition was signed by the owners of more than two-thirds of the property abutting the alley between Columbia Avenue and Joseph Avenue, from the east line of Julia Street to the west line of Myrtle Street, in the City of Spokane; and

WHEREAS, the City Council desires to set a time and date through this resolution to hold a public hearing on the petition to vacate the above property in the City of Spokane;

NOW, THEREFORE,

The City Council does hereby resolve the following:

That hearing on the petition to vacate the alley between Columbia Avenue and Joseph Avenue, from the east line of Julia Street to the west line of Myrtle Street, in the City of Spokane will be held in front of the City Council at 6:00 P.M. or as soon thereafter as possible on April 5, 2021, and the City Clerk of the City of Spokane is instructed to proceed with all proper notice according to State law.

ADOPTED by the Spokane City Council, this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

---

City Clerk

Approved as to form:

---

Assistant City Attorney

**P2100212VACA**

E Columbia Ave

N Julia St

E Joseph Ave


N Myrtle St

0 30 60 90  
Feet



**Right-of-way Description:**  
The alley between Columbia Ave  
and Joseph Ave, from the east line  
of Julia St. to the west line of Myrtle St.

**Legend**

 Proposed Vacation

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

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

03/01/2021

**Date Rec'd**

2/17/2021

**Clerk's File #**

RES 2021-0014

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

WASTEWATER MANAGEMENT

**Contact Name/Phone**

MIKE CANNON 625-4642

**Contact E-Mail**

MCANNON@SPOKANECITY.ORG

**Agenda Item Type**

Resolutions

**Agenda Item Name**

4320 - SOLE SOURCE RESOLUTION WITH NALCO CHEMICAL COMPANY

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

VALUE BLANKET

**Agenda Wording**

Sole source resolution to purchase proprietary chemicals, supplies and parts from Nalco Chemical Company for Riverside Park Water Reclamation Facility. The resolution is for April 1st, 2021 through March 31st, 2026.

**Summary (Background)**

The Riverside Park Water Reclamation Facility has used chemicals, chemical storage, telemetric monitoring and dosing services and equipment provided by Nalco since 1990, utilizing their trained personnel to safely transfer hazardous and incompatible chemicals to specially designed containment.

Lease? NO

Grant related? NO

Public Works? NO

**Fiscal Impact****Budget Account**

Expense \$ 332,000.00

# 4320.43106.35148.53203

Select \$

#

Select \$

#

Select \$

#

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

COSTER, MICHAEL

**Study Session\Other**

PIES 2/22 at 1:15

**Division Director**

SIMMONS, SCOTT M.

**Council Sponsor**

Breean Beggs

**Finance**

ALBIN-MOORE, ANGELA

**Distribution List****Legal**

SCHOEDEL, ELIZABETH

hbarnhart@spokanecity.org

**For the Mayor**

ORMSBY, MICHAEL

kkeck@spokanecity.org

**Additional Approvals**

mhughes@spokanecity.org

**Purchasing**

PRINCE, THEA

Tax &amp; Licenses

hbarnhart@spokanecity.org

tprince@spokanecity.org



**Continuation of Wording, Summary, Budget, and Distribution**

**Agenda Wording**

**Summary (Background)**

The Nalco chemical feed and monitoring software is an integral part of the facility's HVAC and digester heating control system, and Nalco provides unlimited support from their local tech. Funding for this purchase is provided in the Wastewater Management, RPWRF's budget, and revenue is derived from sewer rates. To change vendors, there would be a significant cost to replace all of the equipment and parts to be compatible with another system. Another vendor would have to create a completely functional stand-alone chemical support system; of which, none of the existing and integrated Nalco equipment could be utilized with another vendor's chemicals or software. Both systems would have to operate in parallel for a considerable period of time before a transition could occur, exposing RPWRF to substantial operational and regulatory risk as well as expense.

**Fiscal Impact**

Select      \$

Select      \$

**Budget Account**

#

#

**Distribution List**




# Briefing Paper

## Public Infrastructure, Environment, and Sustainability

<b>Division &amp; Department:</b>	Public Works and Utilities
<b>Subject:</b>	Sole source resolution to purchase proprietary chemicals, supplies and parts from Nalco Chemical Company for Riverside Park Water Reclamation Facility.
<b>Date:</b>	2/22/2021
<b>Contact (email &amp; phone):</b>	Mike Cannon, Assistant Plant Manager 625-4642 mcannon@spokanecity.org
<b>City Council Sponsor:</b>	Breean Beggs
<b>Executive Sponsor:</b>	
<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>	
<b>Strategic Initiative:</b>	Innovative Infrastructure – Affordable Utility Rates
<b>Deadline:</b>	
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	Council approval for sole source resolution for a cost over 5 years of \$332,000.00, plus applicable taxes.
<b>Background/History:</b> The Riverside Park Water Reclamation Facility has used chemicals, chemical storage, telemetric monitoring and dosing services and equipment provided by Nalco since 1990, utilizing their trained personnel to safely transfer hazardous and incompatible chemicals to specially designed containment. The Nalco chemical feed and monitoring software is an integral part of the facility's HVAC and digester heating control system, and Nalco provides unlimited support from their local technical representative.  The resolution is tentatively scheduled to begin on April 1 <sup>st</sup> . 2021 and to end on March 31 <sup>st</sup> . 2026.	
<b>Executive Summary:</b> Funding for this purchase is provided in the Wastewater Management, RPWRF's budget, and revenue is derived from sewer rates. To change vendors, there would be a significant cost to replace all of the equipment and parts to be compatible with another system. Another vendor would have to create a completely functional stand-alone chemical support system; of which, none of the existing and integrated Nalco equipment could be utilized with another vendor's chemicals or software. Both systems would have to operate in parallel for a considerable period of time before a transition could occur, exposing RPWRF to substantial operational and regulatory risk as well as expense.	
<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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A If new, specify funding source: Department 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:	



## RESOLUTION 2021-0014

A RESOLUTION declaring Nalco Chemical Company a sole source provider of conditioning chemicals (and associated equipment) for use in the high pressure boilers and steam system at the Riverside Park Water Reclamation Facility (RPWRF) and authorizing the purchase of conditioning chemicals (and associated equipment) from Nalco Chemical Company for \$332,800.00 plus tax and shipping without public bidding for a five (5) year term.

WHEREAS, RPWRF has used high pressure boilers and affiliated steam system from Nalco conditioning chemicals (and associated equipment) since 1990 and was selected at that time because of their status as “low bidder”; and

WHEREAS, these aforementioned conditioning chemicals are proprietary, extremely dangerous at full concentration, and absolutely essential to preserve RPWRF’s very costly high pressure boiler and affiliated steam system’s mechanical integrity; and

WHEREAS, the successful, safe, and regulatory compliant operation of RPWRF’s heating and process systems depend upon reliable and efficient high pressure steam produced by its boilers. The continued mechanical integrity of such systems requires the continual use of several conditioning chemicals provided by Nalco Chemical Company; and

WHEREAS, as RPWRF’s use of high pressure steam has expanded, the use of such conditioning chemicals has incrementally increased as well; and

WHEREAS, Nalco Chemical Company also delivers these extremely reactive and dangerous chemicals to RPWRF, where their trained personnel transfer the chemicals into specially designed tanks provided by Nalco, so City staff are not subjected to a potential exposure; and

WHEREAS, Nalco also provides chemical feed metering systems, monitoring software, confirmatory boiler water testing, and unlimited technical support, additionally, the Nalco chemical control feed system is completely integrated into the facility’s boiler and high pressure steam systems; and

WHEREAS, another vendor would have to create a completely functional stand-alone chemical support system; of which, none of the existing and integrated Nalco equipment could be utilized with another vendor’s chemicals or software. Both systems would have to operate in parallel for a considerable period of time before a transition could occur, exposing RPWRF to substantial operational risk as well as represent a marked increase in expense.

WHEREAS the cost of purchase with Nalco Chemical Company conditioning chemicals (and associated equipment) exceeds the 2021 public bid limit of \$50,000 for the purchase of goods: -- Now, Therefore,

BE IT RESOLVED by the City Council for the City of Spokane that it hereby declares Nalco Chemical Company provider of conditioning chemicals (and associated equipment) a sole source purchase; and

BE IT FURTHER RESOLVED that the City Council authorizes the purchase of conditioning chemicals (and associated equipment) for use in the high pressure boilers and steam system at the Riverside Park Water Reclamation Facility (RPWRF) from Nalco Chemical Company for \$332,800.00 plus tax and shipping without public bidding for a five (5) year term.

ADOPTED BY THE CITY COUNCIL ON \_\_\_\_\_

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

Approved as to form:

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

16-415b

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

02/22/2021

**Date Rec'd**

2/10/2021

**Clerk's File #**

ORD C36013

**Renews #****Cross Ref #**

ORD C31697

**Submitting Dept**DSC, CODE ENFORCEMENT &  
PARKING SERVICES**Contact Name/Phone**

ELDON BROWN 6305

**Project #****Contact E-Mail**

EBROWN@SPOKANECITY.ORG

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

First Reading Ordinance

**Requisition #****Agenda Item Name**

4700 – RELEASING PORTIONS OF EASEMENT AT 3028 N MADELIA

**Agenda Wording**

Amending Ordinance C-31697 to release unnecessary portions of easements that encumber property.

**Summary (Background)**

The property owner of 3028 N Madelia would like to build on the site encumbered by easements for Comcast, and Avista, and the City that were retained as part of vacation ordinance C-31697. Comcast and Avista are supportive of the easement release. A portion of the easement is to be retained to protect a City of Spokane storm main.

Lease? NO

Grant related? NO

Public Works? NO

**Fiscal Impact****Budget Account**

Neutral \$

#

Select \$

#

Select \$

#

Select \$

#

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

BECKER, KRIS

**Study Session\Other**

UE 12-14-2020

**Division Director**

BECKER, KRIS

**Council Sponsor**

Cp Michael Cathcart

**Finance**

ORLOB, KIMBERLY

**Distribution List****Legal**

RICHMAN, JAMES

edjohnson@spokanecity.org

**For the Mayor**

ORMSBY, MICHAEL

ebrown@spokanecity.org

**Additional Approvals**

kbecker@spokanecity.org

**Purchasing**

jwest@spokanecity.org

City of Spokane  
Planning & Development Services  
808 West Spokane Falls Blvd.  
Spokane, WA 99201-3343  
(509) 625-6700

## ORDINANCE NO. C-36013

An ordinance amending Ordinance C-31697 that vacated Madelia Street from the north line of Fairview Avenue to Euclid Avenue except North Foothills Drive and the alley between Madelia Street and Pittsburg Street from Fairview Avenue to Euclid Avenue except North Foothills Drive

WHEREAS, a petition for the vacation of Madelia Street from the north line of Fairview Avenue to Euclid Avenue except North Foothills Drive and the alley between Madelia Street and Pittsburg Street from Fairview Avenue to Euclid Avenue except North Foothills Drive has been filed with the City Clerk representing 100% of the abutting property owners, and a hearing has been held on this petition before the City Council as provided by RCW 35.79; and

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

The City of Spokane does ordain:

Section 1. That Madelia Street from the north line of Fairview Avenue to Euclid Avenue except North Foothills Drive and the alley between Madelia Street and Pittsburg Street from Fairview Avenue to Euclid Avenue except North Foothills Drive is hereby vacated.

Section 2. An easement is reserved and retained over and through **the following area for the City of Spokane for the operation and maintenance of an existing storm sewer line.**

**Commencing at the southwest corner of Lot 5, Block 6, Avondale Addition to Spokane Falls, as per plat thereof recorded in volume "A" of Plats, Page 96, thence S89°55'42"E a distance of 164.08 feet to the TRUE POINT OF BEGINNING for this description; thence S89°55'42"E a distance of 13.55 feet, thence N32°40'01"E a distance of 33.71 feet, thence S48°13'28"W a distance of 42.56 feet to the TRUE POINT OF BEGINNING.**

**~~((the entire vacated area for the utility services of Washington Water Power Company,~~**

~~Cox Cable TV of Spokane and the City of Spokane to protect existing and future utilities, and no structures of other obstructions shall be erected or placed within the easement area without the prior written approval of the Director of Construction Services.))~~

Section 3. Adequate emergency vehicle access be maintained to existing and future buildings.

Section 4. This ordinance shall take effect and be in force thirty days after its passing.

Passed the City Council \_\_\_\_\_

\_\_\_\_\_  
Council President

Attest: \_\_\_\_\_  
City Clerk

Approved as to Form:

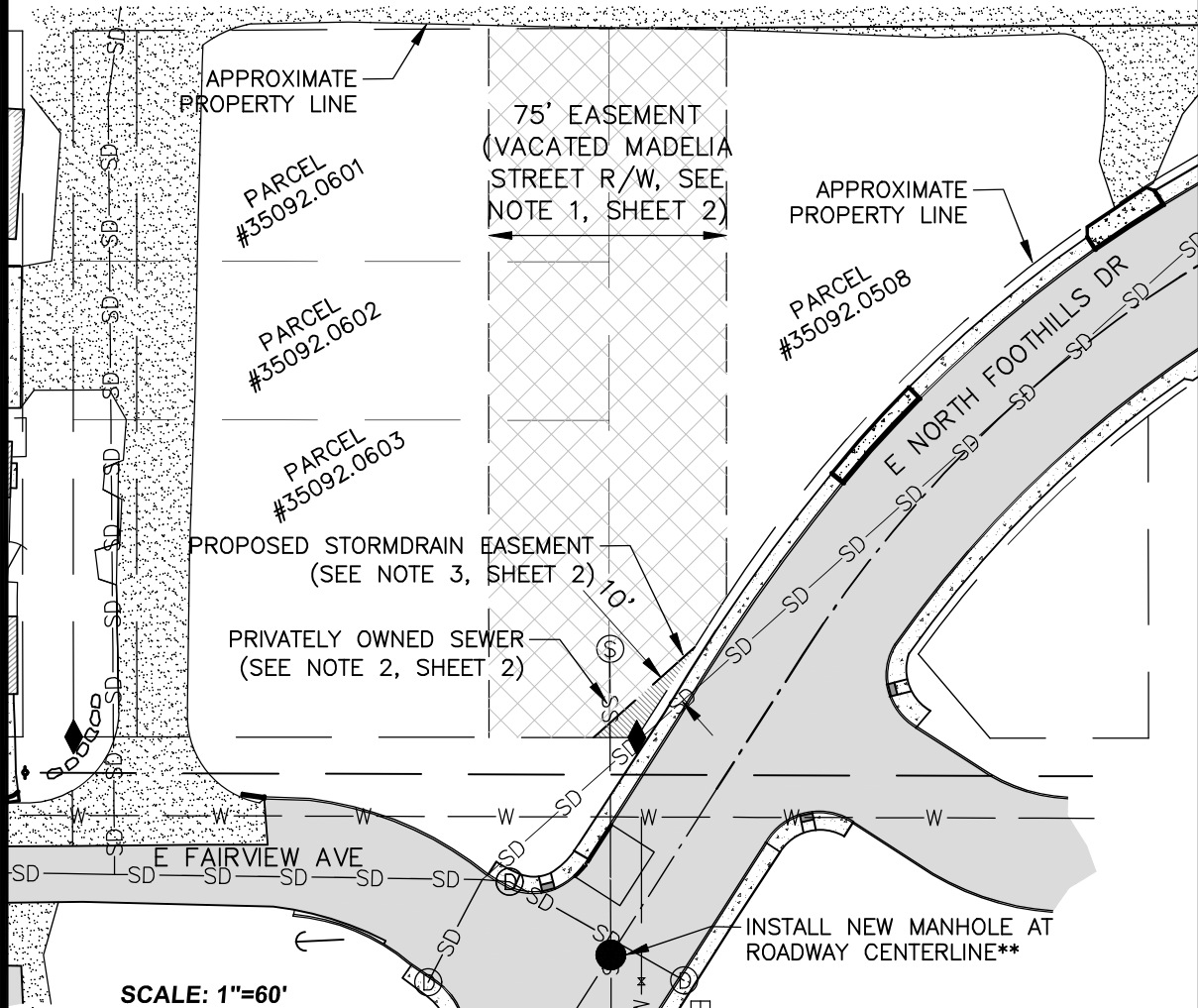
\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
Mayor

Date: \_\_\_\_\_

Effective Date: \_\_\_\_\_

**SECTION 9, TOWNSHIP 25 NORTH, RANGE 43 EAST, W.M  
CITY OF SPOKANE,  
SPOKANE COUNTY, WASHINGTON**



SCALE: 1"=60'



**SHEET TITLE:**  
**EASEMENT ELIMINATION EXHIBIT**

**PROJECT NAME:**  
**MADelia STREET EASEMENT ELIMINATION**



McCanna ENGINEERING  
9401 E APPLEWAY BLVD  
SPOKANE VALLEY, WA 99206  
(509) 954-6604  
bo@mccannaengineering.com

**PROJ. NO.:** 2019-33

**SCALE:** 1"=60'

**DATE:** 1/8/2021

**DRAWN BY:** SMF

**CHECKED BY:** BDM

**SHEET NO.**

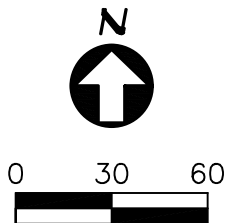
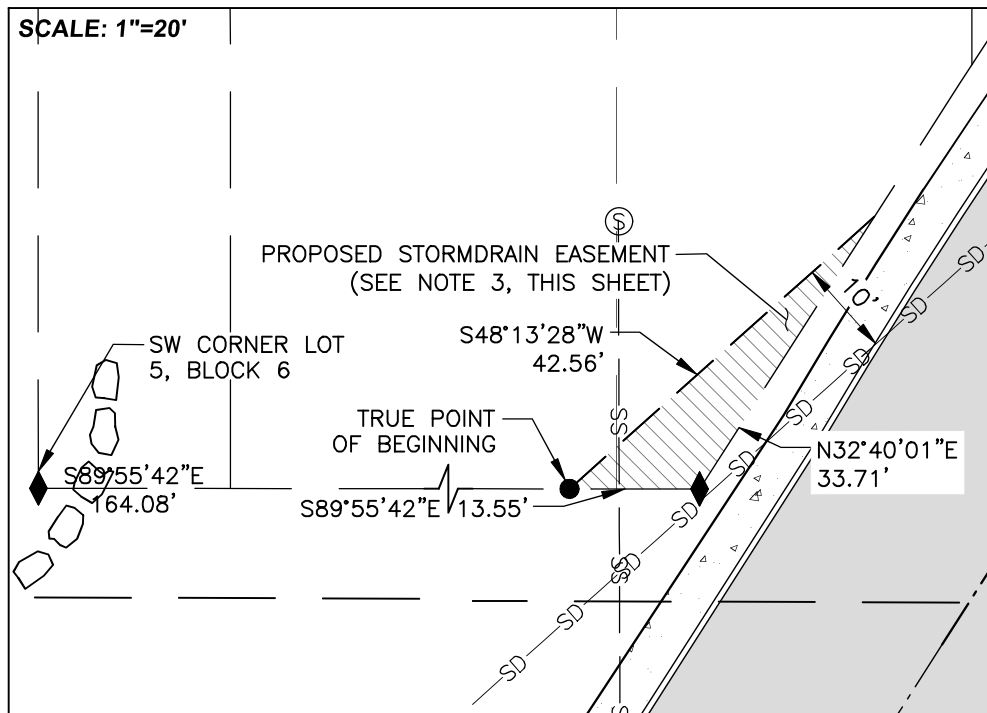
**1 OF 2**



**EASEMENT ELIMINATION AREA**

NOTES:

1. EXISTING 75' WIDE EASEMENT PER ORDINANCE NO. C31697:  
"AN EASEMENT IS RESERVED AND RETAINED OVER AND THROUGH THE ENTIRE VACATED AREA FOR THE UTILITY SERVICES OF WASHINGTON WATER POWER COMPANY, COX CABLE TV OF SPOKANE AND THE CITY OF SPOKANE TO PROTECT EXISTING AND FUTURE UTILITIES, AND NO STRUCTURES OR OTHER OBSTRUCTIONS SHALL BE ERECTED OR PLACED WITHIN THE EASEMENT AREA WITHOUT THE PRIOR WRITTEN APPROVAL OF THE DIRECTOR OF CONSTRUCTION SERVICES."
2. A NEW MANHOLE INSTALLED AT ROADWAY CENTERLINE, EXISTING ON-SITE SEWER BECOMES PRIVATELY OWNED AND MAINTAINED.
3. PROPOSED STORM DRAIN EASEMENT FOR ACCESS AND MAINTENANCE BY THE CITY OF SPOKANE EXTENDING 10-FEET NORTH OF THE EXISTING STORM DRAIN LINE.



**SHEET TITLE:**  
**EASEMENT ELIMINATION EXHIBIT**

**PROJECT NAME:**  
**MADelia STREET EASEMENT ELIMINATION**



McCanna ENGINEERING  
9401 E APPLEWAY BLVD  
SPOKANE VALLEY, WA 99206  
(509) 954-6604  
bo@mccannaengineering.com

**PROJ. NO.:** 2019-33

**SCALE:** 1"=20'

**DATE:** 1/8/2021

**DRAWN BY:** SMF

**CHECKED BY:** BDM

**SHEET NO.**

**2 of 2**



**PROPOSED STORM DRAIN EASEMENT**



OFFICE OF THE CITY CLERK  
808 W. SPOKANE FALLS BLVD.  
SPOKANE, WASHINGTON 99201-3342  
509.625.6350

November 23, 2020


City Clerk File No.:  
ORD C35924

COUNCIL ACTION MEMORANDUM

RE: FINAL READING ORDINANCE C35924—YELLOWSTONE PIPELINE  
COMPANY FRANCHISE (Deferred from November 2, 2020, Advance Agenda)

During its 3:30 p.m. Briefing Session held virtually Monday, November 23, 2020, upon review of the above-referenced item on the November 30, 2020, Advance Agenda, the Spokane City Council took the following action:

**Motion** by Council Member Kinnear, seconded by Council Member Cathcart, **to defer** to January 25, 2021, Final Reading Ordinance C35924—Granting Yellowstone Pipeline Company, a corporation, chartered in the State of Delaware, the nonexclusive right, privilege, authority, and franchise to construct, operate, maintain, remove, replace, and repair existing pipeline facilities together with equipment and appurtenances thereto, for the transportation of petroleum products and byproducts in the public right-of way within and through the City of Spokane, Spokane County, WA—**carried unanimously.**

  
Terri L. Pfister, MMC  
Spokane City Clerk





OFFICE OF THE CITY CLERK  
808 W. SPOKANE FALLS BLVD.  
SPOKANE, WASHINGTON 99201-3342  
509.625.6350

October 26, 2020

City Clerk File No.:  
ORD C35924

COUNCIL ACTION MEMORANDUM

RE: FINAL READING ORDINANCE C35924—YELLOWSTONE PIPELINE  
COMPANY FRANCHISE

During its 3:30 p.m. Briefing Session held virtually Monday, October 26, 2020, upon review of the November 2, 2020, Advance Agenda, the following action was taken:

**Motion** by Council Member Mumm, seconded by Council Member Stratton, **to defer** Final Reading Ordinance C35924—granting Yellowstone Pipe Line Company, a corporation, chartered in the State of Delaware, the nonexclusive right, privilege, authority, and franchise to construct, operate, maintain, remove, replace, and repair existing pipeline facilities together with equipment and appurtenances thereto, for the transportation of petroleum products and byproducts in the public right-of-way within and through the City of Spokane—to November 30, 2020; **carried unanimously.**

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Terri L. Pfister, MMC  
Spokane City Clerk



OFFICE OF THE CITY CLERK  
808 W. SPOKANE FALLS BLVD.  
SPOKANE, WASHINGTON 99201-3342  
509.625.6350

October 5, 2020

City Clerk File No.:  
ORD C35924

COUNCIL ACTION MEMORANDUM

RE: FINAL READING ORDINANCE C35924—YELLOWSTONE PIPELINE  
COMPANY FRANCHISE

During its 3:30 p.m. Briefing Session held virtually Monday, October 5, 2020, upon review of the October 12, 2020, Advance Agenda, and after Council discussion, the following action was taken:

**Motion** by Council Member Cathcart, seconded by Council Member Stratton, **to defer** Final Reading Ordinance C35924—granting Yellowstone Pipe Line Company, a corporation, chartered in the State of Delaware, the nonexclusive right, privilege, authority, and franchise to construct, operate, maintain, remove, replace, and repair existing pipeline facilities together with equipment and appurtenances thereto, for the transportation of petroleum products and byproducts in the public right-of-way within and through the City of Spokane, Spokane County, WA—to November 2, 2020; **carried unanimously (Council Member Kinnear absent).**

Terri L. Pfister, MMC  
Spokane City Clerk



OFFICE OF THE CITY CLERK  
808 W. SPOKANE FALLS BLVD.  
SPOKANE, WASHINGTON 99201-3342  
509.625.6350

September 21, 2020

City Clerk File No.:  
ORD C35924

COUNCIL ACTION MEMORANDUM

RE: FINAL READING ORDINANCE C35924—YELLOWSTONE PIPELINE  
COMPANY FRANCHISE

During its 3:30 p.m. Administrative Session held virtually Monday, September 21, 2020, upon review of the September 21 Current Agenda, the Spokane City Council took the following action:

**Motion** by Council Member Kinnear, seconded by Council Members Cathcart and Stratton, **to defer** Final Reading Ordinance C35924—granting Yellowstone Pipe Line Company, a corporation, Chartered in the State of Delaware, the nonexclusive right, privilege, authority and franchise to construct, operate, maintain, remove, replace, and repair existing pipeline facilities, together with equipment and appurtenances thereto, for the transportation of petroleum products and byproducts in the public right-of-way within and through the City of Spokane, Spokane County, WA—for three weeks (to October 12, 2020); **carried unanimously.**

Terri L. Pfister, MMC  
Spokane City Clerk

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

08/17/2020

**Date Rec'd**

8/5/2020

**Clerk's File #**

ORD C35924

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

CITY ATTORNEY

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

TIM 6225

**Project #****Contact E-Mail**

TSZAMBELAN@SPOKANECITY.ORG

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

First Reading Ordinance

**Requisition #****Agenda Item Name**

0500 YELLOWSTONE PIPELINE FRANCHISE

**Agenda Wording**

Ordinance granting Yellowstone Pipeline Company, a Delaware corp., the nonexclusive right, privilege, authority & franchise to construct, operate, maintain, remove, replace, and repair existing pipeline facilities, together w/ equipment

**Summary (Background)**

Summary/ Background: The City and Yellowstone Pipeline (YPL) have been involved in petroleum franchise renewal negotiations over the past 15 years. The excessive length of the negotiations was due to a Federal legal appeals, corporate reorganization and addressing safety compliance and environmental concerns. There was an independent safety compliance audit conducted by Southwest Research Institute on YPL's integrity management program. The report found YPL to be in compliance.

**Fiscal Impact**

Grant related? NO

**Budget Account**

Public Works? NO

Revenue \$ 25,000 Annually

# 0020-88100-99999-32191-30028

Select \$

#

Select \$

#

Select \$

#

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

PICCOLO, MIKE

**Study Session\Other**

Finance - 10/21/19

**Division Director****Council Sponsor**

Michael Cathcart

**Finance**

BUSTOS, KIM

**Distribution List****Legal**

PICCOLO, MIKE

jsakamoto@spokanecity.org

**For the Mayor**

ORMSBY, MICHAEL

sburns@spokanecity.org

**Additional Approvals**

Jimmy.R.Greene@p66.com

**Purchasing**

richard.kuhling@painehamblen.com

kbustos@spokanecity.org

budget@spokanecity.org

## **Ordinance C35924**

AN ORDINANCE GRANTING YELLOWSTONE PIPE LINE COMPANY, A CORPORATION, CHARTERED IN THE STATE OF DELAWARE, THE NONEXCLUSIVE RIGHT, PRIVILEGE, AUTHORITY AND FRANCHISE TO CONSTRUCT, OPERATE, MAINTAIN, REMOVE, REPLACE, AND REPAIR EXISTING PIPELINE FACILITIES, TOGETHER WITH EQUIPMENT AND APPURTENANCES THERETO, FOR THE TRANSPORTATION OF PETROLEUM PRODUCTS AND BYPRODUCTS IN THE PUBLIC RIGHT-OF-WAY WITHIN AND THROUGH THE CITY OF SPOKANE, SPOKANE COUNTY, WA.

WHEREAS, Yellowstone Pipe Line Company (hereinafter "Grantee") has applied for a nonexclusive Franchise to operate and maintain a Petroleum pipeline and related Facilities within and through the City of Spokane (hereinafter the "City"), together referred to as the "Parties" and, each individually referred to as a "Party" and,

WHEREAS, the Spokane City charter and Washington State statutes authorize the City to grant nonexclusive Franchises by ordinance;

NOW, THEREFORE, THE CITY OF SPOKANE DOES ORDAIN AS FOLLOWS:

### **Section I. Definitions of Franchise Terms.**

For the purposes of this Franchise and all exhibits attached hereto, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Words not specifically defined in this section shall be given their common and ordinary meaning.

1.1 Aquifer shall mean the Spokane-Rathdrum aquifer, a federally designated “sole source” aquifer that serves as the City of Spokane’s sole source of drinking water.

1.2 Baseline Assessment shall mean a Facility assessment task required by Jurisdictional Agency pipeline safety regulations, as developed for the Grantee’s Facilities within the Franchise Area.

1.3 City’s Representative shall mean the person designated by the Mayor to administer this Franchise for the City. The City’s Representative interprets and applies all Franchise provisions on behalf of the City and issues Written enforcement orders pursuant thereto, but may not waive any Franchise term.

1.4 Construct or Construction shall mean the Grantee's actions removing, replacing, and repairing existing pipeline(s) and/or Facilities and may include, but is not limited to, digging and/or excavating for the purposes of removing, replacing, and repairing existing pipeline(s) and/or Facilities.

1.5 Control Center shall mean the headquarters of the Grantee's pipeline monitoring system that maintains twenty-four (24) hour surveillance of the Grantee's Facilities within the Franchise Area and responds to Emergency Incidents using electronic controls to activate pipeline shut-off valves to prevent the release of Petroleum Products.

1.6 Effective Date shall mean the date designated herein, after passage, approval and legal publication of this Ordinance, as required by City Charter, and acceptance by Grantee, upon which the rights, duties and obligations shall come into effect and the date from which the time requirement for any notice, extension and/or renewal will be measured.

1.7 Emergency Incident shall mean a circumstance involving a release of Petroleum Products from the Grantee's Facilities within the Franchise Area that, at the time of discovery,

requires immediate response to protect persons or property from substantial injury or damage to the public health and safety, including damage to the environment or the Aquifer.

1.8 Environmental Laws shall include all federal and state statutes and regulations applicable to the Operation Maintenance and Construction of the Grantees facilities including but not limited to the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et. Seq.; the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601 et. Seq.; the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; the Federal Water Pollution control Act, 33 U.S.C. § 1257 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Toxic Substance Control Act, 15 U.S.C. § 2601 et seq.; the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. § 136 et seq.; the Occupational Safety and Health Act, 29 U.S.C. § 651 et seq.; the Washington Hazardous Waste Management Act, Chapter 70A.300 RCW; and the Washington Model Toxics Control Act, Chapter 70A.305 RCW, and all other applicable federal, state or local statutes, codes, regulations, or ordinances.

1.9 Emergency Incident Response Plan shall mean a Written plan, as required by Jurisdictional Agencies, for an immediate response by the Grantee to an Emergency Incident to prevent damage to persons or property.

1.10 Facilities shall mean the Grantee's pipeline system, lines, valves, mains, and appurtenances used to transport or distribute Petroleum Product(s) within the Franchise Area. Facilities include any existing pipeline as of the date of this Agreement as well as any components which may be modified, constructed, or improved consistent with the terms of this Agreement.

1.11 Franchise shall mean this Franchise ordinance and any amendments, exhibits, or appendices to this Franchise.

1.12 Franchise Area shall mean that area within the Public Right-of-Way, and certain designated public property, within the jurisdictional boundaries of the City, including any areas annexed hereafter, during the terms of this Franchise, where Grantee has installed its existing Facilities or any new Facilities approved by the City under the provisions of this Franchise.

1.13 Hazardous Substance shall mean any hazardous, toxic, or dangerous substance, material, waste, pollutant, or contaminant as defined by federal or state Environmental Laws and the applicable regulations of Jurisdictional Agencies, specifically including Petroleum and Petroleum Products and their by-products, residue, and remainder.

1.14 High Consequence Area shall mean an area, as defined in the Code of Federal Regulations, over which Grantee's Facilities are located; and specifically including the area over the Aquifer within the Franchise Area.

1.15 Improvement or Improve shall mean change to the Facilities or installation of new Facilities.

1.16 Jurisdictional Agency or Agencies shall mean any federal, state or local agency with regulatory authority over the Facilities and Operations of the Grantee within the Franchise Area, acting now, or hereafter, to the extent of its lawful scope of authority.

1.17 Maintenance or Maintain shall mean examining, testing, inspecting, repairing, maintaining, and replacing the existing pipeline(s) and/or Facilities or any part thereof as required and necessary for safe Operation within the Franchise Area.

1.18 Operate or Operations shall mean the use by the Grantee of Facilities for the transportation, distribution, and handling of Petroleum Products or Petroleum by-products within and through the Franchise Area.



1.19 Pipeline Corridor shall mean the pipeline pathway through the Franchise Area which the Facilities of the Grantee are located, including any Public Rights-of-Way, designated public property, and/or other easement over and through private property, (as more specifically described in Exhibit "A" and in Section 2.1 (b)).

1.20 Petroleum or Petroleum Products shall include any and all types of liquid Petroleum, Petroleum by-products and liquid Petroleum Products including but not limited to gasoline, diesel fuel, and aviation jet fuel, all limited as consistent with the design specifications of Grantee's Facilities, as specified by the regulations of Jurisdictional Agencies.

1.21 Premises shall mean that portion of the Public Right-of-Way, or other Public Property, upon which Grantee's Facilities are now, or hereafter, Operated or Improved.

1.22 Procedures Manual shall mean an Operation, Maintenance, or Emergency Incident Response Procedures Manual prepared by the Grantee for the operation of Facilities as required by the regulations of Jurisdictional Agencies.

1.23 Public Project shall mean those City Improvement Projects required to be constructed in, near, under, or over the Public Right-of-Way, or on Public Property, in the Franchise Area by any City department or other local, state, or federal governmental agency, or for the benefit of the public. Public Projects do not include private development activities or projects primarily for the benefit of private persons or corporations.

1.24 Public Needs shall mean the City's need for use of the Public Right-of-Way including: public travel, emergency vehicle access, public utilities, traffic signalization, street lighting, street trees, shrubbery, and other similar public uses.

1.25 Public Property shall mean the present and/or future property owned or leased by the City within the present and/or future corporate limits, or jurisdictional boundaries of the City that the City has designated for the Grantee's Facilities.

1.26 Rights-of-Way shall mean the surface and the space above and below all streets, roadways, highways, avenues, courts, lanes, alleys, sidewalks or utility easements, and similar areas as laid out, platted, dedicated, acquired or improved and maintained within the present jurisdictional boundaries of the City and as such corporate limits may be hereafter extended.

1.27 Third party Audit shall mean an audit of reports and plans filed by the Grantee with Jurisdictional Agencies as required by federal regulations and environmental laws, such audit shall be performed by a pipeline consultant that is independent of both the Grantee and the City and does not have any clients from either Party.

1.28 Wellhead Influence Zone shall mean any area in the vicinity of and up-gradient from any public water supply well which now exists and/or may be constructed in the future. The City's Wellhead Influence zones currently in the vicinity of Grantee's Facilities are outlined in Exhibit "B".

1.29 Writing or Written shall mean hard copy or where approved by the City Representative, any other suitable permanent electronic information transmission and storage media.

## **Section 2. Grant of Franchise Authority.**

### **2.1 Purpose of Franchise.**

(a) The City hereby grants to Grantee, a corporation organized and existing under and by virtue of the laws of the State of Delaware, and which is authorized to transact business within the State of Washington, this non-exclusive Franchise to Construct, Operate, Maintain and Improve its existing Facilities as a liquid Petroleum Product transport system within the Franchise Area.

(b) The purpose of this Franchise is to establish the conditions relating to the Grantee's use of the Franchise Area.

(c) Within 14 days following acceptance of this Franchise, Grantee shall file with the City a Pipeline Corridor Map, in a format acceptable to the City's Representative, to be attached as Exhibit "A" to this Franchise. Exhibit "A" shall depict the Pipeline Corridor information, as specified in Section 1.19, and the location of all Facilities along the Pipeline Corridor within the Franchise Area. This Pipeline Corridor Map shall be maintained and updated at all times by Grantee to reflect any changes in Grantee's Facilities and such changes shall be filed with the City Clerk on a yearly basis. Any changes in the route of the Pipeline Corridor of Grantee's facilities shall be filed with the City within 14 days of the changes.

## 2.2 Scope of Franchise.

(a) Existing Facilities. This Franchise is granted subject to the police powers, land use authority, and franchise authority of the City and is conditioned upon the terms and conditions contained herein and the Grantee's compliance with all applicable Environmental Laws and the regulations of Jurisdictional Agencies.

(b) New Facilities. No new Facilities shall be installed by Grantee in the Public Right-of-Way, or across Public Property, within the Franchise Area without the express Written consent of the City. Any replacement of existing Facilities (other than routine replacement of minor components or appurtenances) or minor pipeline installations (less than 1000 feet within any 12-month period) in the Public Right-of-Way or Public property must be approved by the City's Representative in Writing, whose approval will not be unreasonably withheld, unless such changes are required in an emergency to protect the environmental or public safety. The City Representative or other Jurisdictional Agencies must approve all actions on Public Property. Major installations

(1000 feet or more) of new Facilities in the Franchise Area must be approved by Resolution of the City Council.

(c) Facilities located Outside Public Right-of-Way. This Franchise grants permission only for the use of the Public Right-of-Way; in any areas outside the Public Right-of-Way, Grantee is responsible to make separate arrangements with the City Representative for the use of Public Property as a right-of-way for Facilities; all such arrangements must be in Writing. The City Representative cannot grant interests in land or approve contract modifications.

(d) Facilities on Park Property. This Franchise does not in any way expand or diminish the rights of either the City or the Grantee with respect to any previous authorization granted by the Spokane City Park Board for any portions of Grantee's Facilities located on City Park property.

(e) This Franchise authorizes no new above ground installations in the Franchise Area except as expressly approved in Writing by the City Representative.

### 2.3 Franchise is Non-Exclusive.

(a) The City specifically reserves all rights to control the Public Right-of-Way and its other Public Property, including, without limitation, the right to grant additional Franchises, easements, licenses and permits to others. The City is not responsible to defend Grantee's franchise interests against any other right-of-way user(s) or adverse claimant(s) now or hereafter arising, but accepts and acknowledges its intent, as stated herein, to grant this Franchise to Grantee and not to revoke or impair such grant except as provided herein or otherwise as authorized by law. To this end, the City further agrees to avoid granting any other Franchise, license, easement, or permit that would violate the standards set for location of utilities in the Public Right-of-Way where the same would unreasonably interfere with Grantee's permitted use of the Public Right-of-Way or Public

Property for the Operation and Maintenance of its Facilities within the Franchise Area. This agreement does not create any right of action for damages or other relief on the part of the Grantee relating to this Franchise or the value thereof.

(b) This Franchise shall in no manner prohibit the City or limit its power to perform Public Projects or other work upon its Public Rights-of-Way, or on any Public Properties, or make any necessary changes, relocations, repairs, maintenance, or improvement thereto. Nor shall it prevent the City from using any of the Public Rights-of Way or any Public Properties, or any part of them, as the City may deem necessary, from time to time, including the dedication, establishment, maintenance and improvement of new rights-of-way or other Public Properties of every type and description.

2.4 Franchise Conditioned on Grantee's Compliance. This Franchise is conditioned upon Grantee's full compliance with the terms and conditions contained herein and with all Environmental Laws and regulatory programs of Jurisdictional Agencies that currently exist or may hereafter be enacted applicable to the Operation, Maintenance, Construction or Improvement of Grantee's Facilities within the Franchise Area.

2.5 Franchise Does Not Create Liability for City. By granting this Franchise, the City is not assuming any risks or liabilities arising from Grantee's Operation, Maintenance, Construction or Improvement of Facilities within the Franchise Area under the authority of this Ordinance; any and all such risks or liabilities shall be solely and separately borne by Grantee. Grantee agrees and covenants to, at its sole cost and expense, take all necessary and prudent steps to protect, support, and keep safe from harm, its Facilities within the Franchise Area, or any part thereof, when necessary to protect the public health and safety. The Parties understand and agree that the City is not responsible for errors or omissions in information provided to the Grantee by the City.

2.6 Franchise is Not Warranty of Title. This Franchise is intended to convey only a limited right and interest in the use of the Premises within the Public Right-of-Way and on other Public Property. This Franchise is not a warranty of the City's title or interest in the Premises in the Public Rights-of-Way or any other Public Property; and therefore, none of the Franchise rights granted herein shall affect the City's jurisdiction over its property, streets or Public Rights-of-Way or any other Public Property.

2.7 Vacation of Public Right-of-Way; Retention of Easement.

(a) This Franchise grant remains subject to the City's power to vacate or release any City interest in the Public Right-of-Way, or other Public Property under the City's ownership or control, without such action creating any obligation of payment to Grantee of any consideration for loss of Franchise use.

(b) In the event of the vacation of a Public Right-of-Way, or any portion thereof, by the City under the provisions of RCW Chapter 35.79, Grantee may participate in the street vacation process to protect its interests and may request the City to reserve an easement for Grantee in the Premises within the Public Right-of-Way area which is proposed to be vacated.

(c) Grantee accepts full responsibility for all reasonable, documented City costs, including staff time, in dealing with Grantee's request to retain an easement for its Facilities in a vacated street including making payment for the value of any easements granted or reserved.

2.8 Franchise Grants No Rights in Other Public Property. This Franchise does not and shall not convey any right to Grantee to install its Facilities on, under, over, across, or to otherwise use City owned or leased Public Properties of any kind, either within or outside the Premises along the Pipeline Corridor, without the express separate Written authorization of the City.

2.9 Municipal Powers Not Affected by Franchise. Authority granted under the terms of this Franchise to Grantee to maintain its Facilities in the Public Right-of-Way within the Franchise Area remains at all times subject to the requirements of, and the exercise of, the City's tax and police powers.

**Section 3. Term and Renewal or Extension of Franchise.**

3.1 Term of Franchise. Each of the provisions of this Franchise shall become effective upon the Effective Date as set forth in Section 19.12, and shall remain in effect for twenty-five (25) years from the Effective Date.

3.2 Failure to Renew Franchise. If the Parties fail to formally, mutually renew this Franchise prior to the expiration of either the Franchise term, or any previously agreed extension; then this Franchise may be extended on a year-to-year basis (or such term as the Parties may mutually agree in Writing) until a renewed Franchise is executed, not to exceed two (2) years from the date of expiration. If the Parties are thereafter not able to agree on a new Franchise, this Franchise will terminate. Either Party may give written notice to the other Party at least one hundred eighty (180) days in advance of the expiration of the initial Franchise term (or the expiration of any previously-agreed extension) of its intent not to renew the Franchise.

3.3 At any time not more than three (3) years or less than one hundred eighty (180) days prior to the expiration of this Franchise, either Party may request an extension of the Franchise for an additional ten (10) year renewal period.

**Section 4. Assignment and Transfer of Franchise.**

4.1 No Transfer of Franchise without City Consent. Except in cases involving sales of equity or other beneficial interests in Grantee, this Franchise shall not be sold, assigned, transferred, leased or otherwise disposed of by the Grantee, either in whole or in part, either by voluntary or

involuntary sale, merger or consolidation; nor shall title to the Franchise, either legal or equitable, or any right, interest or property therein pass to, or vest in, any other person or entity, without the prior Written consent of the City Council as provided in Paragraph 4.2, acting by ordinance or resolution, which consent shall not be unreasonably withheld. Such consent shall not be deemed to waive any rights of the City to subsequently enforce non-compliance issues relating to this Franchise that existed at or before the time of the City's consent.

#### 4.2 Requirements of City Approval of Transfer of Franchise.

(a) No transfer, including any assignment, sale or lease of the Franchise shall be approved by the City unless the assignee or transferee demonstrates to the satisfaction of the City that it has the legal, technical, financial, and industry experience and qualifications to carry on the activities of the Grantee under the requirements of this Franchise Ordinance.

(b) The City has the right to conduct an expeditious investigation to satisfy itself of the proposed assignee's qualifications to perform all requirements of the Franchise. All reasonable expenses incurred by the City in conducting such investigation shall be paid by Grantee.

(c) Prior to the City's consideration of a request by Grantee to consent to a Franchise assignment, the proposed assignee must file with the City a Written promise to unconditionally accept all terms of the Franchise, effective upon assignment of the Franchise.

(d) Any transfer or assignment, sale or lease of this Franchise without the prior Written Consent of the City shall be void and result in the termination or revocation of the Franchise.

(e) No assignment, including any sale or lease of this Franchise granted by the City shall be effective until the assignee or lessee shall have filed in the office of the City Clerk an instrument, duly executed, reciting the fact of the sale or lease, accepting the terms of this Franchise, and agreeing to perform all the conditions required of the Grantee. The assignee or lessee shall file a



bond in such amount and with such conditions as the City Council may require which bond shall run to the City as obligee, with sureties satisfactory to the City Council, and shall obligate said Party, to discharge all obligations and liabilities imposed upon the Grantee by the Franchise.

4.3 City Failure to Enforce Franchise No Bar to Future Enforcement. The City is under no obligation to undertake any investigation of the Grantee's state of compliance with Franchise obligations at the time of any assignment, and the failure of the City to insist on full compliance with any Franchise obligations prior to the transfer of the Franchise does not waive any right of the City to insist on full compliance by the assignee with all Franchise obligations thereafter.

## **Section 5. Compliance with State and Federal Laws.**

### **5.1 Compliance with State and Federal Law a Material Term of Franchise.**

(a) Grantee's compliance with the requirements of all valid and applicable Environmental Laws and the regulations or regulatory orders of any Jurisdictional Agency applicable to the Maintenance, Operation, Construction and Improvement of its Facilities within the Franchise Area is a material term of this Franchise. This obligation shall include compliance by the Grantee with all applicable laws, rules, and regulations existing at the Effective Date of this Franchise, including, but not limited to, Title 49 Code of Federal Regulation, Part 195 Transportation of Hazardous Liquids, and any laws or regulations that may subsequently be enacted by any governmental entity with jurisdiction over Grantee and/or the Facilities.

(b) Grantee stipulates that the Aquifer is a "High Consequence Area" and an "unusually sensitive area" as defined in applicable regulations of Jurisdictional Agencies. Grantee agrees to maintain full compliance with applicable Environmental Laws and the requirements of all applicable regulations of Jurisdictional Agencies regarding High Consequence Areas.

## **Section 6. Construction and Maintenance of Facilities.**

6.1 Application. This Section 6 shall apply to Construction, Maintenance or Improvement of Facilities performed by Grantee in the Franchise Area.

6.2 Permits Required for Construction and Maintenance Work.

(a) Except in the event of an Emergency Incident, Grantee shall first obtain all required and applicable permits from the City to Construct, Maintain, or Improve Grantee's Facilities within the Franchise Area. Such work shall only commence upon the issuance of all required permits by the City, which permits shall not be unreasonably withheld or delayed after submission of a complete application in compliance with applicable City codes.

(b) In the event of an Emergency Incident, requiring immediate action by the Grantee for the protection of the pipeline(s) or Facilities, the City's property, or the property, life, health, or safety of any individual, the Grantee may take action immediately to correct the dangerous condition without first obtaining any required permit(s) so long as:

(1) Grantee informs the City Representative as soon as possible of the nature and extent of the Emergency Incident and the work to be performed prior to commencing the work if such notification is practical, or, where notification is not practical, the Grantee shall notify the City not later than the next business day, and

(2) Grantee shall, promptly thereafter, obtain any necessary permits for the Emergency work from the City or other Jurisdictional Agency as applicable and comply with any mitigation requirements or other conditions in the after-the-fact permit.

6.3 Construction and Maintenance Work to Comply with Plans. Except in the case of an emergency, prior to commencing any Construction and/or Maintenance work in the Franchise Area, the Grantee shall first file with the Grantor such detailed plans, specifications and profiles of the intended work as may be required by the Grantor. Grantor may require such additional information, plans and/or specifications as are in Grantor's opinion necessary to protect the public health and

safety during the Construction and/or Maintenance work and for the remaining term of this Franchise.

6.4 Conduct of Construction, Maintenance and/or Improvement of Facilities.

(a) Any work done by Grantee, in the Public Right-of-Way or on Public Property including work done at the Grantee's direction, or on its behalf, by contractors or subcontractors shall be conducted in such a manner as to avoid damage or interference with other utilities, drains, or other structures, and shall not unreasonably interfere with public travel, park uses, or other municipal uses and the free use of adjoining property, and so as to provide for the safety of persons and property. The Grantee's Construction, Maintenance, and/or Improvements shall be in compliance with all Environmental Laws and applicable regulations of Jurisdictional Agencies.

(b) Grantee agrees to avoid damage or interference with public utilities, drains or other structures in or near the Public Right-of-Way as well as unnecessary damage to the Public Right-of-Way or Public Properties, and to comply with the City's most current Pavement Cut Policy for Utility Trenches, in the performance of any Maintenance, Construction, and/or Improvement work on its Facilities in the Public Right-of-Way or on Public Property. Grantee is fully responsible to pay for any damage or interference with such structures, in accordance with the indemnification provision of Section 14.1.

(c) All asphalt patches in the Public Right-of-Way installed by Grantee over its Facilities shall be continuously maintained by Grantee until the affected Public Right-of-Way area is repaved.

(d) Grantee agrees that Public Needs or Public Projects have first priority in the use of the Public Right-of-Way or on other Public Property.

6.5 Components of Facilities to Meet Regulatory Standards. All pipe and any other fixtures or components used in the Construction, Maintenance and/or Improvement of Grantee's Facilities within the Franchise Area shall comply with all Environmental Laws and applicable regulations of Jurisdictional Agencies.

6.6 Notice to be Given Prior to Construction and Maintenance.

(a) Except in the event of an Emergency Incident, Grantee shall provide the City Representative Written notice at least ten (10) calendar days prior to any Construction, Maintenance and/or Improvement, or other substantial activity, other than routine inspections and Maintenance, by Grantee, its agents, employees or contractors on Grantee's Facilities in the Public Right-of-Way or on Public Properties within the Franchise Area. Grantee shall comply with City ordinances respecting obtaining Right-of-Way obstruction or access permits to comply with this provision.

(b) Grantee shall provide reasonable notice to those owners or other persons in control of property abutting the Premises in the Franchise Area when the Maintenance, Construction and/or Improvement of Grantee's Facilities will affect access to, or otherwise impact, the property of such other persons and shall coordinate this effort to notify with the City's Representative.

6.7 City's Right to Condition Permits. Unless such condition or requirement is in conflict with Environmental Laws or the applicable regulations of Jurisdictional Agencies, the City may condition the granting of any permit, or other approval that is required under this Franchise, in any manner reasonably necessary for the safe use and management of the Public Right-of-Way and/or other Public Property including, but not limited to, requirements of bonding, maintaining proper distance from other utilities, protecting the continuity of pedestrian and vehicular traffic and protecting any improvements on Rights-of-Way and/or other Public Property, private facilities and public safety.

6.8 Grantee to Restore Premises.

(a) Whenever necessary, after performing Construction, Maintenance or Improvement work on any of Grantee's Facilities within the Franchise Area, the Grantee shall, without delay, and at Grantee's sole expense, remove all debris and restore the Premises within the Public Right-of-Way, and/or on other Public Property, to as good or better condition as it was before the Construction, Maintenance and/or Improvement work began, and in full compliance with the City's current Policies for construction work in the Public Right-of-Way or on Public Property.

(b) Grantee shall replace any property corner monuments, survey or reference hubs that were disturbed or destroyed during Grantee's Construction, Maintenance or Improvement work in the Premises covered by this Franchise. Such restoration shall be done in a manner consistent with Environmental Laws and the applicable regulations of Jurisdictional Agencies and under the supervision of the City Representative and to the City's reasonable satisfaction.

6.9 One Number Location Service. Grantee shall continuously be a member of the State of Washington "One-Call" Locator Service as provided under RCW Chapter 19.122, as now adopted or hereafter amended, and shall comply with all such applicable rules and regulations in performing Construction, Maintenance or Improvement work on its Facilities within the Franchise Area.

6.10 Markers to Locate Facilities. Grantee shall place and maintain line markers for all existing and new Facilities within the Franchise Area pursuant to the applicable regulations of Jurisdictional Agencies within and along the Pipeline Corridor. If other "industry best practices" for line marking are developed as a method of alerting excavators to the presence of the pipeline, Grantee agrees to employ such new practices. The Grantee agrees to perform all Construction, Maintenance and/or Improvement work in compliance with revised industry standards in effect at the time of such work. During Construction, Maintenance and/or Improvement work, markers demarcating the

location of Grantee's Facilities shall be placed on the surface of the Premises at least every one hundred (100) yards or as otherwise requested by the City so as to provide clear warning of the presence of the Grantee's Facilities but in a manner that does not interfere with public travel or other public uses of the Premises.

6.11 Grantee to Fix Pipeline Location. When the City or third Parties are engaged in Construction work in the Premises along the Pipeline Corridor as depicted in Exhibit "A" or within fifty (50) feet of the Premises, Grantee shall promptly respond to requests to locate the precise position of its Facilities. Grantee shall bear any costs associated with locating and marking its Facilities for a Public Project, and may recover costs for non-Public Projects as provided in Section 8.3.

6.12 As-Built Drawings of Facilities.

(a) Upon acceptance of this Franchise by Grantee, Grantee shall provide the City with detailed as-built design drawings showing the size, depth, and location of all pipes, valves, gauges, and all other components of its Facilities within the Franchise Area at no cost to the City. It is understood that the location of the Facilities shall be verified by excavating the Premises if exact alignment is required. The information shall be provided in hard copy or electronic format acceptable to the City's Representative.

(b) Within thirty (30) days of completing any Construction, Maintenance and/or Improvement work, installation of new Facilities, or any other substantial activity in the Public Right-of-Way or on Public Property within the Franchise Area, the Grantee shall provide the City with updated and corrected as-built drawings and a survey showing the location, depth and other characteristics of its new Facilities within the Franchise Area in like manner as with (a) above. Grantee shall confirm that as-builts previously provided to the City are still accurate.

(c) The City agrees to make its best efforts to honor any reasonable request by Grantee that information provided by Grantee, including but not limited to, Grantees drawings, maps, or any proprietary information be protected as confidential under the following conditions:

(1) Grantee must make all requests for confidentiality in Writing and identify in advance all information it desires to be protected and submit such information to the City separately and never commingled with public information. Each page of such information, in hard or soft copy, must be indelibly marked "PRIVATE/CONFIDENTIALITY RIGHTS RESERVED BY YELLOWSTONE PIPE LINE COMPANY".

(2) If the City receives a Public Records request under RCW Chapter 42.56, (State Public Records Act) for such information so marked, it shall make every reasonable effort to protect confidentiality by notifying Grantee of the request. If the City is aware of any potential exemptions or exceptions to its disclosure obligations under the State Public Records law, it shall assert them, but no liability shall accrue to the City for any failure or oversight in doing so, each Party's obligation being limited to representing its own legal interests. Grantee must thereafter take immediate steps if it so desires to initiate litigation in Spokane County Superior Court to protect any confidentiality it wishes, or the City shall have no further obligation to protect the confidentiality request.

(3) Grantee recognizes that, as provided by RCW 42.56.060, the City is immune from any suit if it releases any public records, as defined by law, in a good faith attempt to comply with its obligations under the State Public Records Act.

6.13 City Has No Obligation to Certify Sufficiency of Plans. Nothing in this Franchise shall be deemed to impose any duty or obligation upon the City to determine the adequacy or sufficiency of Grantee's plans and designs for its Facilities or to ascertain whether Grantee's proposed

or actual construction, testing, maintenance, repairs, replacement or removal work is adequate, or sufficient, or in conformance with the plans and specifications reviewed by the City, Environmental Laws or the applicable regulations of any Jurisdictional Agency.

6.14 Grantee Responsible for Construction Area.

(a) Grantee shall be solely and completely responsible for its workplace safety and safe working practices on its job sites within the Franchise Area, including safety of all persons and property during the performance of any Construction, Maintenance and/or Improvement work, as required by Environmental Laws or the applicable regulations of Jurisdictional Agencies.

(b) In the event of a claim brought against Grantee by any person arising from Grantee's Construction, Maintenance and/or Improvement work on its Facilities within the Franchise Area or Grantee's occupation or use of the Public Right-of-Way and/or other Public Property under the terms of this Franchise Ordinance, Grantee is responsible for the prompt and fair resolution thereof, and shall not avoid this duty on the basis that any Construction, Maintenance, and/or Improvement activities undertaken by Grantee were being performed by an independent contractor, reserving always Grantee's rights to fully pursue subrogation claims not otherwise inconsistent with the requirements of this Franchise Ordinance including its right to pursue indemnification from a contractor.

**Section 7. Operations, Maintenance, Inspection, Testing.**

7.1 Grantee shall Operate, Maintain, inspect and test its Facilities in the Franchise Area in full compliance with Environmental Laws and the applicable regulations of Jurisdictional Agencies as now enacted, or hereafter amended. Grantee represents that it has completed its Baseline Assessment, Integrity Management Plan, Encroachment Management Plan, Emergency Incident



Response Plan, and all other reports and plans for all of its Facilities over the Aquifer within the Franchise Area, as required by the applicable regulations of Jurisdictional Agencies.

Grantee agrees to maintain such items fully updated in strict compliance with the applicable requirements of all Jurisdictional Agencies.

## 7.2 Reports, Tests, Inspections.

(a) Grantee agrees to test and inspect its Facilities within the Franchise Area in full compliance with Environmental laws and the applicable requirements of Jurisdictional Agencies and best management practices and industry standards.

(b) Grantee further agrees to assist the City in obtaining from Jurisdictional Agencies copies of any test or inspection results, documents or reports required to be submitted to or reviewed by Jurisdictional Agencies or otherwise in accord with best management practices and industry standards. These documents may include a Baseline Assessment report, a Pipeline Integrity Management Plan, and Encroachment Management Plan, and an Emergency Incident Response Plan (see also Section 9.1), or any reports or studies submitted or required to be submitted to any Jurisdictional Agencies.

## 7.3 Grantee's Notice to City of Testing of Facilities.

(a) The Grantee shall notify the City Representative in writing of any in-ground pipeline hydro test or other internal inspection conducted on the Grantee's Facilities within the Franchise Area at least ten (10) business days prior to said testing, except in an Emergency Incident, in which case, the Grantee agrees to notify the City as soon as is practicable under the circumstances, but no later than one business day after completion of any in-ground pipeline hydro test or other internal inspection following any Emergency Incident or discovery of any anomaly in the Grantees Facilities.

(b) Federal regulations (*e.g.*, 49 C.F.R. sec. 195.56) require that Grantee file a written report of a safety-related condition in Grantee's pipelines within five working days of determining that such a condition exists. Within five working days of filing such a report, Grantee will notify the City that a report has been made. Upon request from the City, Grantee shall furnish a copy of the report made to the Jurisdictional Agencies if allowed by law and, if not, reasonably assist the City in attempting to obtain such information from the Jurisdictional Agencies. In addition, upon request from the City, Grantee will provide any inspection findings by Jurisdictional Agencies regarding Grantee's pipelines in the Franchise Area.

7.4 Technical Information Regarding Grantee's Facilities. The Grantee shall provide to the City, upon Written request by the City's Representative, such information as may be needed to administer this Franchise; including, but not limited to, standard pipeline alignment data, for Public Project planning and Emergency Incident Response requirements, as presented to the Jurisdictional Agencies, including as-built drawings showing the approximate location of all Grantee Facilities within the Franchise Area. Grantee conducts robust Jurisdictional Agency-required evaluation of the pipeline and appurtenances in the Franchise Area on a five-year cycle, in addition to all of the inspection, maintenance, and operational requirements Grantee implements under its own integrity management programs. In each year following the five-year cycle evaluation, Grantee will meet with City to discuss the results of the evaluation and corrective action, if any, arising from the evaluation.

7.5 Independent Consultant. Whereas, if the City retains an Independent Pipeline Consultant ("Consultant") agreeable to Grantee, whose agreement will not be unreasonably withheld, to perform an independent evaluation of the Pipeline and/or Facilities of Grantee or Third

Party Audit of the Baseline Assessment and Plans described in Paragraph 7.1, which would be performed at City's expense, and the Consultant recommends that Grantee make modifications or additions to Grantee's Pipeline and/or Facilities, or to its Baseline Assessment or Plans. Grantee agrees to consider such recommendations in good faith provided that the recommendations are reasonably consistent with industry best practices and applicable regulations of Jurisdictional Agencies. If Grantee declines to follow the Consultant's recommendations, Grantee shall provide a Written report to the City explaining its reasoning for not following the recommendations. Parties agree to comply with the Dispute Resolution provisions of Section 13 contained herein to resolve any dispute over whether to follow consultant's recommendations.

**Section 8.     Encroachment Management.**

8.1     Requirements of Encroachment Management Plan. The Grantee's Encroachment Management Plan shall be developed in full compliance with all Environmental Laws and applicable regulations of Jurisdictional Agencies and all valid federal, state, and local requirements regarding encroachment management and damage prevention, including the State of Washington "one-call" locator service law (RCW 19.122).

Grantee shall maintain a Written program to prevent damage to its Facilities from excavation activities, as required by the Environmental Laws and applicable regulations of Jurisdictional Agencies.

8.2     Inspections of surface conditions.     Grantee shall also conduct regular inspections of the surface conditions on or adjacent to the Pipeline Corridor, as required by the Environmental Laws and the applicable regulations of Jurisdictional Agencies.

8.3     Encroachment Response Procedure.

(a) Upon specific notification to Grantee of any planned construction activity which may involve excavation within twenty-five (25) feet of the Pipeline Corridor, or any other activity that may abnormally load its Facilities in the Franchise Area, by either the City or any third party, Grantee shall immediately mark the precise location of its Facilities before the construction or other activity commences.

(b) Grantee shall provide a representative at its expense for Public Projects to inspect the construction or other activity when it commences, and periodically inspect the Premises thereafter to ensure that Grantee's Facilities are not damaged by the construction or other activity. Grantee shall also do this where needed for non-Public Projects, and may charge a reasonable fee, to be collected by Grantee from the private party requesting the work

(c) Nothing herein shall affect the Grantee's obligation to comply with the requirements of Washington's Underground "one call" locate statute, RCW Chapter 19.122, as now adopted or hereafter amended.

#### 8.4 Verification of Pipeline Location.

(a) Upon the City's request, in connection with the design or construction of any Public Project, Grantee will verify the exact location (lateral and vertical) of its underground Facilities on the Premises within the Pipeline Corridor by excavating (pot holing) at no expense to the City. The request shall specify a reasonable response time in consideration of the nature of the request and difficulty to Grantee of providing such assistance. In the event Grantee performs such excavation, Grantee agrees to restore the disturbed Premises to the same or better condition as existed immediately prior to the excavation. Potholing may be required for non-Public Projects, at a reasonable cost of Grantee, to be collected by Grantee from the private party requesting the work.

(b) Because precise damages are difficult to ascertain, for failure to respond within a specified response time, Grantee agrees to pay liquidated damages as provided in Section 12.1, except no liquidated damages apply before a ten (10) day period has elapsed without a satisfactory response.

8.5 Inspection of Third Party Excavation. If the Grantee becomes aware that a third party has conducted any excavation or other significant work that may have affected its Facilities, the Grantee shall conduct such inspections and/or testing of Facilities as is necessary to determine that;

(a) No direct or indirect damage was done to the Grantee's Facilities by the excavation and,

(b) The construction work or other activity did not abnormally load the Grantee's Facilities and,

(c) The Construction work or other activity did not impair the effectiveness of the Grantee's cathodic protection system. Grantee is responsible to coordinate with other persons with facilities in the vicinity of its Facilities so as to avoid adverse impacts of cathodic protection.

## **Section 9. Leaks, Spills, Ruptures, and Emergency Response.**

### **9.1 Grantee Shall Have Remote Monitoring System.**

(a) Grantee shall maintain in place, at all times that Grantee's Facilities are located within the Franchise Area, a system for monitoring pressures and flows within its Pipeline and/or Facilities, from a Remote Control Center. The remote monitoring must be able to accurately detect pipeline leaks, spills or ruptures, as required by Environmental Laws and the applicable regulations of Jurisdictional Agencies.

(b) Grantee's Emergency Incident Response Plan shall designate Grantee's local emergency response officials and a direct 24-hour emergency telephone number for the Control

Center operator, who shall be capable of immediate shutdown of Grantee's Facilities in the Franchise Area by use of a satellite controlled switch or other similar remote technology. Grantee shall, after being notified of an Emergency Incident, cooperate with the City Representative and make every effort to respond as soon as possible to limit damage from the Emergency Incident and protect the public's health, safety, and welfare.

CURRENT CONTROL CENTER 24 HOUR PHONE NUMBER: 877-267-2290

Grantee shall keep the City Representative and City Fire Marshall updated in Writing of any changes to this contact information.

(c) The Grantee warrants that, throughout the term of this Franchise, it will make periodic updates to its Emergency Incident Response Plan in full compliance with Environmental Laws and the applicable requirements of Jurisdictional Agencies.

(d) The Parties agree to meet annually to review the Emergency Incident Response Plan and Incident Response procedures as required by Environmental Laws and the applicable regulations of Jurisdictional Agencies. Grantee shall coordinate this meeting with the City, other local public safety agencies and other interested parties.

(e) The Grantee will, at all times, have available or have access to, sufficient Emergency Incident Response equipment and materials within the Franchise Area to properly and completely respond to any spill, leak, rupture or other release of Petroleum Products or Hazardous Substances from the Grantee's Facilities, in accordance with Environmental Laws and applicable regulations of Jurisdictional Agencies or otherwise in accordance with best management practices and industry standards.

9.2 Grantee Responsible for Costs of Clean-Up. Except to the extent an Emergency Incident is shown to be proximately caused by the negligence of the City<sup>[GJR(1)]</sup>, <sup>[GJR(2)]</sup> Grantee shall

be solely responsible for all reasonable and necessary costs incurred by City, County, local or State agencies in responding to any spill, leak, rupture or other release of Petroleum Products from its facilities that are required by Environmental Laws, including, but not limited to, detection and removal of contaminants from surface or subsurface soil or water, including sources of vapor intrusion and actual remediation costs All such costs shall be considered extraordinary costs that shall not be born by the City and shall not be considered administrative expenses of the City. Nothing in this section shall limit Grantee's rights or causes of action against any third party who may be responsible for such leak, spill, rupture, or other release of Petroleum Products or hazardous substances from Grantees Facilities.

9.3 Notice of Leak, Spill or Rupture From Grantee's Facilities.

(a) In areas outside the City's Wellhead Influence Zone, Grantee shall notify the City in Writing within one (1) business day of its observation or detection of, any uncontained leak, spill, rupture or other release of Petroleum Products from its Facilities within the Franchise Area requiring notification to Jurisdictional Agencies.

(b) In areas inside the City's Wellhead Influence Zone, the City shall receive telephonic notification immediately after the Emergency Incident is discovered and/or reported to Jurisdictional Agencies.

(c) If requested by the City Representative in Writing, Grantee shall follow-up this notice within thirty (30) days with a Written report of the Emergency Incident, including, but not limited to, the date, time, amount, location, response, and remediation of the leak, spill, rupture or other release of Petroleum Products as submitted to Jurisdictional Agencies.

9.4 City May Investigate Any Leaks From Grantee's Facilities.

(a) In the event of a leak of Petroleum Products from Grantee's Facilities, if the City's Representative has a reasonable basis to be concerned about the safety or security of Grantee's Operations or Facilities in any location which might impact the Aquifer, or the Well Head Influence zone, or endanger its citizens, or its property, including public water supply facilities within the Franchise Area, the City's Representative may seek an investigation by Jurisdictional Agencies, or request assurances or additional information from Grantee regarding its Facilities or Operations in the Franchise Area, including a third party evaluation pursuant to Section 7.5, as deemed necessary by the City's Representative. Any costs incurred by the City in seeking such an investigation, following a leak event, including employment of an expert consultant shall be considered as a recoverable administrative cost.

(b) Supplementing other provisions, in the event of a leak, spill or rupture comprising an Emergency Incident in the Franchise Area where the cause is not reasonably apparent, Grantee shall take immediate steps to fully cooperate with all Jurisdictional Agency investigations, giving the City reasonable assurances and confirmation of these actions. All results of any non-privileged investigation shall be disclosed to the City Representative. The City may view all pertinent records and reports thereof. The City has the right to satisfy itself of the due diligence of such investigation. If the City reasonably deems the public water supply or the safety and security of its Wellhead Influence Zone area are in jeopardy, the City may demand that the occurrence be investigated by an independent pipeline consultant selected by City. Grantee shall be solely responsible for paying all of the reasonable costs and expenses incurred in investigating the occurrence and reporting any findings to Jurisdictional Agencies, up to a maximum amount of fifty thousand dollars (\$50,000) per incident for incidents up to ten barrels product loss and a maximum of \$100,000 for incidents over ten barrels involving a spill, leak, or rupture. Grantee shall meet and



confer with the independent consultant following the consultant's investigation to address whether any modifications or additions to Grantee's Facilities may be warranted. In cases where Jurisdictional Agencies do perform an investigation, Grantee shall provide a copy of the results of any investigation within ten (10) days of receipt of such report.

(c) If the independent pipeline consultant recommends that Grantee make modifications or additions to Grantee's Facilities, Grantee covenants to consider said recommendations in good faith. If Grantee declines to follow the consultant's recommendations, Grantee shall provide a Written report within 90 days to the City explaining its reasoning for not following said recommendations. The Parties agree to comply with the Dispute Resolution provisions of Section 13 contained herein to resolve any dispute over whether to follow the consultant's recommendations.

#### 9.5 Emergency Flow Restricting Devices in Facilities – Remote Control.

(a) Grantee has installed Emergency Flow Restricting Devices (EFRD) in its Facilities within the Franchise Area in the locations shown in Exhibit "C". All Emergency Flow Restricting Devices for Grantee's Facilities shall be remotely controlled from the Control Center and shall be capable of being instantly activated by Grantee.

(b) Emergency Flow Restriction Devices - Location. Grantee currently has EFRDs on either side of the Spokane River capable of manual and remote operation through its Control Center and in the vicinity of the City's Parkwater Well station near Felts Field municipal airport. These EFRDs shall continue to be maintained by Grantee during the term of the Franchise or so long as Grantee operates Facilities within the Franchise Area.

(c) Grantee shall maintain adequate 24-hour emergency staffing immediately accessible by the City Fire Chief or the City Representative to activate said EFRDs in the case of an Emergency Incident involving Grantee's Facilities.

9.6 Responsibility of Grantee to Take Precautions to Avoid Leak, Spill, or Rupture. It remains the sole and separate responsibility of the Grantee, under the authority of this Franchise, to take adequate precautions to avoid Leaks, Spills or Ruptures that might result in the release of Petroleum Products from its Facilities, as required by all Environmental Laws and applicable regulations of Jurisdictional Agencies, including, but not limited to, compliance with the requirements of RCW Chapter 19.122 (One Call System).

**Section 10. Required Relocation of Facilities for Public Project.**

10.1 Public Project.

(a) In the event that the City undertakes or approves the construction of any Public Project including by not limited to: changes to the grade or location of any water, sewer or storm drainage line, street or sidewalk, or undertakes any other Public Project and as a result, the City determines that the public health, safety, welfare, necessity, and/or convenience reasonably requires changes to, or the relocation of, the Grantee's Facilities in the Public Right-of-Way or on Public Property, then the Grantee shall make such changes or relocations as required herein at the Grantee's sole cost, expense and risk.

(b) The City shall provide written notice to Grantee at least 180 days prior to commencement of any Public Project which requires relocation of Grantee's pipeline and/or Facilities.

(c) In the event the Grantee relocates or otherwise modifies its facilities at the direction of the City to accommodate a City Public Project, and the City thereafter abandons and

does not complete the Public Project, the Grantee may invoke the Dispute Resolution Section Procedures and seek reimbursement for the reasonable and necessary costs incurred by the Grantee for the relocation or modification that it would not have otherwise incurred.

#### 10.2 Relocation of Facilities by Grantee.

(a) Prior to commencing construction on a Public Project affecting Grantee's Facilities, the City shall provide Grantee with copies of pertinent portions of the plans and specifications for the Public Project; and, upon request, Grantee shall, at its sole cost and expense, determine and identify for the City Representative the exact location of its Facilities potentially affected by the Public Project. Grantee shall promptly relocate such Facilities at Grantee's sole cost and expense to accommodate a Public Project if reasonably requested to do so by City; and shall similarly relocate its Facilities for any other projects at the request of the City, but in such case, Grantee may recover its reasonable expenses from persons other than the City responsible for the relocation request.

(b) The City shall work cooperatively with the Grantee in determining a viable and practical route within which Grantee may relocate its Facilities, in order to minimize costs to the Grantee while meeting the requirements of the City's Public Project, and will, to the extent possible, provide an alternative Public Right-of-Way or Public Property for the relocation.

(c) Grantee shall complete relocation of its Facilities so as to accommodate the requirements of the Public Project at least ten (10) calendar days prior to commencement of such Project or at such other time as the Parties may agree in Writing.

(d) The Parties agree that the City's exact damages, because of delays by the Grantee, in compliance with this section are difficult to precisely quantify. If the City or its contractor is delayed at any time in the progress of the work on the Public Project by an act or neglect of the

Grantee, or those acting for, or on behalf of, the Grantee, then Grantee agrees to pay the City liquidated damages as provided in Section 12.1. The requirement for payment of Liquidated Damages does not apply if the delays were caused by the acts of the City.

10.3 Alternative Plan to Avoid Relocation of Facilities. Grantee may, after receipt of Written notice requesting a relocation of its Facilities, submit to the City Representative Written alternatives to the relocation of Grantee's Facilities within forty five (45) calendar days of receiving the plans and specifications for the Public Project. The City shall evaluate the alternatives and advise Grantee in Writing if one or more of the alternatives are suitable to accommodate the requirements of the Public Project. The City Representative shall give each alternative proposed by Grantee full and fair consideration but retains full discretion and final authority to decide whether to utilize its original plan or an alternative proposed by Grantee.

10.4 Requested Relocation within 5 Years. If any portion of the Grantee's pipeline and/or Facilities that has been required by the City to be relocated under the provisions of this section is subsequently required to be relocated again within five (5) years of the original relocation, the City will bear the actual and reasonable cost of the subsequent relocation during the five (5) year period.

## **Section 11. Removal of Grantee's Facilities - Abandonment in Place.**

### **11.1 Permanent Cessation of Use of Facilities.**

(a) In the event of Grantee's permanent cessation of use or abandonment of its Facilities, or any portion thereof, within the Franchised Area, the Grantee shall (except as may be permitted by Section 11.2), within one hundred and eighty days (180) after the abandonment or permanent cessation of use, remove its Pipelines and/or Facilities or any portion thereof, from the Public Right-of-Way or Public Property at Grantee's sole cost and expense.

(b) A presumption of Grantee's abandonment or permanent cessation of use of Facilities arises after twelve months substantial non-use by Grantee of its Facilities as to that part of the Franchise Area concerned.

(c) In the event of the removal of all or a portion of its Facilities, Grantee shall restore the Franchised Area as nearly as possible to as good or better condition as it was in before the installation of the Grantee's Pipelines and/or Facilities, in compliance with the City's current Pavement Cut Policies.

(d) Such property restoration shall be done at the Company's sole cost and expense and to the City's Representative's satisfaction. Grantee shall be responsible for the payment of any costs of any environmental review required by for the removal of any Pipelines and/or Facilities from the Premises within the Franchise area.

(e) If the Grantee fails to remove or secure the Pipelines and/or Facilities and fails to restore the Premises, or fails to take such other mutually agreed upon action, the City may, after reasonable notice to the Grantee, remove the Facilities, restore the Premises, or take such other action as is reasonably necessary at the Grantee's expense, and the City shall not be liable therefore. This remedy shall not be deemed to be exclusive and shall not prevent the City from seeking a judicial order directing that the Facilities be removed.

#### 11.2 Alternatives to Grantee's Removal of Facilities from Public Right-of-Way.

(a) Upon abandonment or permanent cessation of Facilities, and with the Written consent of the City's Representative, as an alternative to Grantee's removal of the Facilities the Grantee may secure its underground Facilities within the Franchise Area or on other Public Property, rendering them safe and harmless, removing all Petroleum Products from the Facilities, purging vapors, displacing the contents of the pipeline with an appropriate inert material, and sealing Facility

ends with a suitable end closure, all in compliance with Environmental Laws and the applicable regulations of Jurisdictional Agencies.

(b) Provided that portions of the Grantee's Facilities which are above ground shall be removed at Grantee's sole expense, except where approved, in Writing, by the City's Representative.

(c) For permission for Grantee to abandon all, or substantially all, of the Grantee's Facilities within the Franchise Area, the City's consent must be expressed by a Resolution of the City Council, upon such additional conditions as may be prescribed therein.

11.3 Grantee's Abandonment of Facilities – Requirement of Bond. The City's permission for Grantee's partial or complete abandonment of Facilities in place on the Premises within the Franchise Area may be conditioned upon Grantee's posting of a bond, in a form and with a surety subject to the City's reasonable approval, or other security approved by the City to cover any estimated future risks and reasonable likely costs to the City in dealing with Grantee's Facilities as abandoned on the Premises in the Public Right-of-Way or on other Public Property, including prevention or remediation of any environmental damage.

11.4 Requirements of this Section Survives Franchise Termination. The Parties expressly agree that the requirements of Section 11 shall survive the expiration, revocation, or termination of this Franchise.

## **Section 12. Violations, Remedies and Termination.**

12.1 City's Remedies for Violations. The Grantee shall be in compliance with the terms of this Franchise at all times. In addition to any rights set forth elsewhere in this Franchise, or other rights it may possess at law or equity, the City reserves the right to apply any of the following

remedies, alone or in combination, in the event Grantee violates any material provision of this Franchise.

(a) Liquidated Damages for Delay. The Parties agree that damages for delay in compliance with the requirements of this Franchise are difficult to ascertain and determine. If Grantee fails or refuses to comply with any condition of this Franchise, or any of its terms or provisions, the damages suffered by the City as a result may include, without limitation, increased costs of administration and other damages difficult to measure; therefore, City and the Grantee agree that liquidated damages of \$1,000 Dollars (One thousand dollars) per day, per incident or other measure of violation, may be assessed from the first day that the City notifies the Grantee of the occurrence of the violation or incident, so long as Grantee remains non-compliant. These liquidated damages represent both Parties' best estimate of the damages likely to result from such compliance delays and do not include compensation for municipal property damage, damage to the City facilities, water supply or other public resources or properties and other losses, nor for liability risks as typically protected by insurance. Grantee may invoke the Dispute Resolution provisions as provided in Section 13 of this Franchise in connection with imposition of damages by the City under this section, but this shall not stay the continued accrual of such damages.

(b) Termination of Franchise. The City may also terminate this Franchise if Grantee materially breaches or otherwise fails to perform, comply with, or otherwise observe any of the material terms and conditions of this Franchise, or fails to maintain all required licenses and approvals from Jurisdictional Agencies, and fails to cure any such breach or default within thirty (30) calendar days of City's Representative providing Grantee Written notice thereof.

(c) The above cited remedies are cumulative and not exclusive, and, the exercise of one remedy shall not prevent the exercise of another or any rights of the City at law or equity.

12.2 Termination of Franchise Requires Vote of City Council. This Franchise shall not be terminated except upon a majority vote of the full membership of the City Council, after reasonable notice to Grantee and an opportunity to be heard, provided that if exigent circumstances necessitate immediate termination, the hearing may be held as soon as possible after notice to Grantee of the termination by the City Representative. The Council may refer any portion of a dispute involving a potential termination of the Franchise to the City Hearings Examiner for hearing and recommendation.

12.3 Grantee's Termination of Franchise.

Grantee may terminate this Franchise upon 30-days' written notice to City.

12.4 Grantee's Obligations Upon Termination of Franchise.

(a) In the event of termination of this Franchise, Grantee shall immediately discontinue Operation of its Facilities in the Franchise Area unless doing so creates an appreciable risk to human health, safety, or the environment, in which case Grantee shall discontinue Operations of its Facilities in the Franchise Area as quickly as it is able to do so without threatening human health, safety, or the environment, in accordance with a schedule approved by Jurisdictional Agencies.

(b) Once the Grantee's rights to Operate in the Franchise Area have terminated, Grantee shall comply with the Franchise provisions regarding removal and/or abandonment of Facilities.

(c) Either Party may invoke the Dispute Resolution provisions set forth in Section 13 of this Franchise, as it deems necessary with regard to termination. Alternatively, the City may elect to seek relief directly in Superior Court, in which case the Dispute Resolution requirements of Section 13 shall not be applicable.



12.5 Termination of this Franchise Shall Not Release Either Party From Liability.

(a) Termination of the Franchise shall not release either Party from any obligation with respect to any matter occurring prior to such termination, nor shall such termination release Grantee from any obligation to remove or secure Grantee's Facilities on the Premises within the Franchise Area and to restore the Premises within the Franchise Area, including, but not limited to, Grantee's compliance with the terms of this Franchise regarding removal and/or abandonment of its Facilities, in accordance with Environmental Laws and the applicable regulations of Jurisdictional Agencies.

(b) The City's failure to exercise a particular remedy at any time shall not waive the City's right to terminate, assess penalties, or assert any other remedy at law or equity for any future breach or default by Grantee.

12.6 Covenants in Franchise Enforceable in Court. The Parties acknowledge that the covenants set forth herein are essential to this Franchise, and, but for the mutual agreements of the Parties to comply with such covenants, the Parties would not have entered into this Franchise. The Parties further acknowledge that they may not have an adequate remedy at law if the other Party violates such covenant; therefore, the Parties shall have the right, in addition to any other rights they may have, to obtain injunctive relief in Spokane County Superior Court to restrain any breach or threatened breach of Franchise terms, or to specifically enforce any of the covenants contained herein should the other Party fail to perform them.

**Section 13. Dispute Resolution.**

13.1 Resolution of Disputes by Franchise Administrators. In the event of a dispute between City and Grantee arising by reason of this Franchise, or any obligation hereunder, the dispute shall first be referred to the operational officers or representatives designated by the City and the Grantee

to have oversight over the administration of this Franchise. Said officers or representatives shall meet within thirty (30) calendar days of either Party's request for a meeting, and the Parties shall make a good faith effort to attempt to achieve a resolution of the dispute.

13.2 Resolution of Disputes by Mediation. In the event that the Parties are unable to resolve a dispute under the procedure set forth in Section 13.1, then the Parties hereby agree that the matter shall be referred to mediation. The Parties shall mutually agree upon a mediator to assist them in resolving their differences. If the Parties are unable to agree upon a mediator, the Parties shall jointly obtain a list of seven (7) mediators from a reputable dispute resolution organization and alternately strike mediators from that list until one remains. Any expenses incidental to mediation shall be borne equally by the Parties. If the dispute involves a matter previously mediated, the mediation process need not be repeated.

13.3 Judicial Remedy. If the Parties fail to achieve a resolution of the dispute through mediation, either Party may then pursue any available judicial remedies by filing an action in Spokane County Superior Court; provided that, if the Party seeking judicial redress does not substantially prevail in the judicial action, it shall pay the other Party's reasonable legal fees and costs incurred in the judicial action.

13.4 Grantee may continue to Operate Facilities within the Franchise Area during the Dispute Resolution Process, but this shall not affect either Party's right to seek injunctive relief to protect their interests in a court of competent jurisdiction in Spokane County.

#### **Section 14. Indemnification.**

14.1 General Indemnification. Except for environmental matters, which are covered by a separate indemnification, the Grantee shall indemnify, defend, and hold harmless the City, its agents, officers, elected officials, or employees from any and all liability, loss, damage, cost, expense, and

claim of any kind whether at law or in equity, including reasonable attorneys' and experts' fees incurred by the City in defense thereof, arising out of, or related to, directly or indirectly, the installation, Construction, Operation, use, location, testing, repair, Maintenance, Improvement, removal, or abandonment of Grantee's Facilities on the Premises within the Public Right-of-Way or on other Public Property within the Franchise Area under the authority of this Franchise, or from the existence of Grantee's Facilities in the Franchise Area, or from any leak, spill, rupture or other release of the Petroleum Products contained in, transferred through, or released from said Facilities, including the reasonable costs of assessing any such damages and any liability for costs of investigation, abatement, correction, cleanup, fines, penalties or other damages arising under any Environmental Laws or the applicable regulations of Jurisdictional Agencies. If any administrative or judicial action is brought against the City by reason of the rights granted to Grantee for the Construction, Maintenance, Operation or Improvement of its Facilities within the Franchise Area under the terms of this Franchise Ordinance, Grantee shall defend the City, its agents, officers, elected officials, or employees at the Grantee's sole cost and expense. This general indemnification does not apply to the extent that any matters are shown to be proximately caused by the City's negligence or willful misconduct.

#### 14.2 Environmental Indemnification.

(a) Grantee shall indemnify, defend and hold harmless the City, its agents, officers, elected officials or employees from and against any and all liability, loss, damage, expense, actions or claims, either at law or in equity, for environmental damages arising out of, or related to, directly or indirectly, the installation, Construction, Operation, use, location, testing, repair Maintenance, Improvement, removal, or abandonment of Grantee's Facilities in the Public Right-of-Way or on other Public Property within the Franchise Area under the authority of this Franchise,

including, but not limited to, costs and reasonable attorneys' and experts' fees incurred by City in defense thereof, arising directly or indirectly from:

(1) Grantee's breach of any Environmental Laws or the regulations of Jurisdictional Agencies applicable to the Grantee's Facilities; or

(2) Any release of Petroleum Products or other Hazardous Substances from the Grantee's Facilities within the Franchise Area; or

(3) Any other incident arising from Grantee's activities related to the rights granted under this Franchise including actions by Grantee, or its agents, contractors or subcontractors.

(b) This indemnity includes but is not limited to:

(1) Liability for any Governmental Agency's costs of removal of, or remedial action for, a leak, spill, rupture or release of Petroleum Products or other Hazardous Substances from Grantee's Facilities;

(2) Damages to natural resources caused by a leak, spill, rupture or other release of Petroleum Products or other hazardous substances from Grantee's Facilities, including the reasonable costs of assessing such damages;

(3) Liability for any other person's costs, including the City's (except for those excluded because they were not proximately caused by the City's negligence or willful misconduct as set forth in subsection (c), below), of responding to any leak, spill, rupture or other release of Petroleum Products or other Hazardous Substances from Grantee's Facilities;

(4) Liability for any costs of investigation, abatement, correction, cleanup, fines, penalties, or other damages arising under any Environmental Laws or the applicable regulations of Jurisdictional Agencies; and

(5) Liability for personal injury, property damage, or economic loss from the acts or omissions of the Grantee related to the City's grant of this Franchise or Grantee's Operation, Maintenance, Construction or Improvement of the Facilities arising under any statutory or common-law theory.

(c) This environmental indemnification does not apply to the extent that any matters are shown to be proximately caused by the City's negligence or willful misconduct.

14.3 Indemnity Obligations Survive Termination. The indemnity provisions contained herein shall survive the expiration, revocation, or termination of this Franchise and shall continue for as long as the Grantee's Facilities shall remain in, or on, the Premises within the Franchise Area or until the Parties execute a new Franchise which modifies or terminates these indemnity provisions.

## **Section 15. Insurance and Bond Requirements.**

### **15.1 Insurance Requirement.**

(a) During this Franchise, Grantee shall procure and maintain, at its sole cost and expense, from carriers with an AM Best's Financial Strength Rating of at least A- commercial general liability insurance, including sudden and accidental pollution in the minimum amount of One Hundred Million Dollars (\$100,000,000) for each occurrence and in the annual aggregate, in a form reasonably acceptable to the City. Insurance coverage shall include, but is not limited to, all defense costs. Grantee and City agree that, every five years following the effective date of this Franchise, either party may request in writing that both parties meet to discuss the continuing appropriateness of the Insurance Requirement and whether new circumstances merit an adjustment of the Insurance Requirement. The parties agree to meet and discuss this matter in good faith, but neither party is obligated to agree to an adjustment of the Insurance Requirement.

(b) Grantee is permitted to self-insure a portion of the total amount of insurance

required in Section 15.1(a), above, in an amount up to and including Twenty-five Million Dollars (\$25,000,000). In lieu of a policy of insurance, a portion or the entire amount of coverage above Grantee's self-insured portion may, at Grantee's option, be met by one or more Guarantees from Grantee's ownership interests, substantially in the form as the template Guaranty attached as Exhibit B. The Grantee shall notify the City of change of ownership of any of the Guarantees or insolvency of any Guarantee.

15.2 Grantee to Provide Proof of Insurance. Upon request, Grantee shall provide evidence of the coverage required in Section 15.1 in a form reasonably acceptable to City. Further, any policies of insurance procured and maintained by Grantee to satisfy the requirements in Section 15.1 shall, to the extent of Grantee's indemnification obligations herein of Grantor, show Grantor as an additional insured, provide a waiver of subrogation in favor of Grantor, and respond as primary to any insurance carried by Grantor. Further, such policies shall contain a provision that the policy shall not be canceled without a minimum of thirty (30) days prior Written notice to the City or otherwise is allowed under the terms and conditions of the policy.

15.3 Grantee is permitted to procure insurance from more than one carrier to meet the insurance obligations specified in Section 15.1(a), above. Insurance carriers are not required to be "admitted" in the State of Washington.

15.4 Bond and Insurance Requirements Survive Termination. The insurance and bond provisions contained herein shall be negotiated at the expiration, revocation, or termination of this Franchise and shall continue for as long as the Grantee's Facilities shall remain in, or on, the Premises within the Franchise Area or until the Parties execute a new Franchise Agreement which modifies or terminates these indemnity, insurance, and bond provisions.

**Section 16. Receivership or Foreclosure of Grantee.**

16.1 Notice to City – Bankruptcy. Grantee shall immediately notify the City in Writing if Grantee:

(a) files a voluntary petition in bankruptcy, a voluntary petition to reorganize its business, or a voluntary petition to effect a plan or other arrangement with creditors; or

(b) files an answer admitting the jurisdiction of the Bankruptcy Court and the material allegations of an involuntary petition filed pursuant to the Bankruptcy Code, as amended; or

(c) is adjudicated bankrupt, makes an assignment for the benefit of creditors, or applies for, or consents to, the appointment of any receiver or trustee of all or any part of its property including all or any parts of its business operations or Facilities within or affecting the Franchise Area.

16.2 Notice to City -- Foreclosure. Upon the foreclosure or other judicial sale of all, or a substantial part of, Grantee's business operations or Facilities within or affecting the Franchise Area, or upon the termination of any lease covering all, or a substantial part of, the Facilities within or affecting the Franchise Area, Grantee shall notify the City Representative of such fact.

16.3 City's Right to Terminate Franchise Upon Appointment of Receiver. The City shall have the right to cancel this Franchise one hundred twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of a Grantee, whether in receivership, reorganization, bankruptcy, or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred twenty (120) days, or unless:

(a) Within one hundred twenty (120) days after the election or appointment, such receiver or trustee shall have fully complied with all of the provisions of this Franchise and remedied any existing violations and/or defaults; and

(b) Within said one hundred twenty (120) days, such receiver or trustee shall have executed an agreement, duly approved by the court having jurisdiction, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this Franchise granted to the Grantee except where expressly prohibited by applicable provisions of State or Federal law.

16.4 City's Right to Seek Injunctive Relief. Nothing in this Section shall limit the ability of the City to seek emergency or injunctive relief against Grantee if it deems the City water supply, Wellhead or Aquifer to be in significant danger or jeopardy. Such action shall not be an election of remedies but shall preserve all other remedies in addition, at contract, law, or equity.

#### **Section 17. Annual Franchise Fee and Costs.**

17.1 Franchise Fee. In consideration for granting this Franchise to Grantee and for the use of the Premises within the Franchise Area, there is hereby established an annual Franchise Fee equal to Twenty- five Thousand Dollars/year (\$25,000).

The annual Franchise Fee shall remain constant for the first five (5) years of this Franchise and shall then subsequently be increased every year by the national Consumer Price Index for Urban Consumers (CPI-U) as published in January of that year, or at a rate of 1.5%, whichever is greater.

17.2 Fee Payment in Installments. The first installment shall be paid at the time Grantee accepts this Franchise and shall cover the next twelve (12) months. Each succeeding installment shall cover the next twelve (12) month period and shall be paid not later than the anniversary date of the Effective Date of this Franchise.

17.3 Interest on Late Payments. Interest shall accrue on any late payment of the Franchise Fee at the rate of twelve percent (12%) per annum. Such interest shall be in addition to any applicable and customary penalties for late payment. Any partial payment shall first be applied to any applicable and customary penalties, then interest, and then to principal.



17.4 The Franchise Fee set forth above, does not include standard and customary payments associated with the City's administrative expenses incurred in reviewing, licensing, permitting, or granting any other approvals necessary for the Grantee to Operate, Maintain, Construct or Improve its Facilities, or for any inspection or enforcement costs thereunder (i.e. customary permitting fees). Additionally, the foregoing annual fee does not include any generally applicable taxes that the City may legally levy.

**Section 18. Legal Relations; Charter Requirements.**

18.1 No Relationship Created by Grant of Franchise. Nothing contained in this Franchise shall be construed to create an association, trust, partnership, agency relationship, or joint venture between the City and Grantee, or to impose a trust, partnership, or agency duty, obligation or liability on, or with regard to, either Party. Each Party shall be individually and severally liable for its own duties, obligations, and liabilities under this Franchise.

18.2 No Warranty by City. The Grantee accepts any privileges granted hereunder by the terms of this Franchise for the installation of its Facilities on the Premises within the Public Right-of-Way and on other Public Property within the Franchise Area in an "as is" condition. Grantee stipulates and agrees that the City has never made any representations, or any implied or express warranties or guarantees as to the suitability, security, or safety of the Premises for Grantee's location of its Facilities or any representations as to possible hazards or dangers arising from other uses of the Premises by the City, the general public, or other utilities. As between the City and the Grantee, the Grantee shall remain solely and separately liable for the operation, testing, Maintenance, Construction, Improvement, replacement, and/or repair of the Facilities or other activities permitted hereunder.

18.3 Workers' Compensation Immunity Waiver. Grantee waives immunity under Title 51 RCW in any cases involving the City and affirms that the City and Grantee have specifically negotiated this provision, to the extent it may apply.

18.4 Franchise Creates No Duty on City. This Franchise shall not create any duty of the City or any of its officials, elected officials, employees or agents and no liability shall arise from any action or failure to act by the City or any of its officials, elected officials, employees or agents in the exercise of powers reserved to the City. Further, this ordinance is not intended to acknowledge, create, imply or expand any duty or liability of the City with respect to any function in the exercise of its police power or for any other purpose. Any duty that may nonetheless be deemed to be created in the City shall be deemed a duty to the general public and not to any specific party, group or entity.

18.5 Supplementing and not by way of limitation of other provisions, the City reserves all rights under its City Charter and as allowed by applicable provisions of Federal and State law, including expressly those conditions stated in Sections 106, 107 and 108, of the City Charter as applicable.

18.6 Grantee may not issue any capital stock on account of the Franchise or the value thereof and shall have no right to receive any return on account of the Franchise or its value.

18.7 As applicable, the Franchise and all things constructed thereunder shall be subject to common use by any other grantee or assignee of any other franchise, whenever there shall be necessity therefor, upon payment or tender of compensation for such use. The question of necessity, compensation and all other questions relating thereto, shall be judicial questions, but no judicial proceeding shall suspend or postpone such use if the person or corporation desiring such common use shall deposit in the court such sums as the court, in a preliminary hearing may determine.

**Section 19: Miscellaneous.**

19.1 Interpretation and Venue. This Franchise shall be governed by, and construed in accordance with the laws of the State of Washington and the Parties agree that in any action, except for actions based on Federal questions, that jurisdiction and venue shall lie exclusively in the Superior Court of Spokane County, Washington. For any Federal judicial action involving the rights granted under this Franchise, venue shall lie in the United States District Court for the Eastern District of Washington.

19.2 Amendment or Modification of Franchise. In the event that a court of competent jurisdiction declares a material provision of this Franchise to be invalid, illegal or unenforceable, the Parties shall negotiate in good faith and agree, to the maximum extent practicable in light of such determination, to make such amendments or modifications to the Franchise as are appropriate actions so as to give effect to the intentions of the Parties as reflected herein. If severance from this Franchise of the particular provision(s) determined to be invalid, illegal or unenforceable will fundamentally impair the value of this Franchise, either Party may bring an action in the Spokane County Superior Court to reform or reconstitute the Franchise so as to recapture the original intent of said particular provision(s). All other provisions of the Franchise shall remain in effect at all times during which negotiations or a judicial action remains pending.

19.3 Time is of the Essence. Whenever this Franchise sets forth a time for any act to be performed, such time shall be deemed to be of the essence, and any failure to perform within the allotted time may be considered a material violation of the requirement of this Franchise. Where no specific time is specified, performance shall be made in a reasonable time, and for such performance, time is also of the essence.

19.4 Effect of Force Majeure. In the event that Grantee is prevented or delayed in the performance of any of its obligations under this Franchise by reason(s) beyond the reasonable control of Grantee, performance shall be excused during and to the extent of such Force Majeure occurrence. Upon removal or termination of the Force Majeure occurrence the Grantee shall promptly perform the affected obligations in an orderly and expedited manner under this Franchise or procure a substitute for such obligation or performance that is reasonably satisfactory to City. Grantee shall not be excused by mere economic hardship, or by the misfeasance or malfeasance of its directors, officers, or employees or any other conditions that might have been reasonably foreseen or avoided, with the exercise of reasonable care and diligence.

19.5 Section Headings.

(a) The Section headings in this Franchise are for convenience only, and do not purport to and shall not be deemed to define, limit, or extend the scope or intent of the Section to which they pertain.

(b) This Franchise is expressly subject to the terms of the Spokane City Charter and Article XI thereof.

19.6 No Third Party Liability. By entering into this Franchise, the Parties expressly do not intend to create any obligation or liability, or promise any performance to any third Party, nor have the Parties created for any third Party any right to enforce this Franchise.

19.7 Successors and Assignees Bound by Franchise. This Franchise and all the provisions shall be binding upon and inure to the benefit of the respective successors and permitted assignees of the Parties.

19.8 Notice Requirements. Whenever this Franchise calls for notice to or notification by any Party, the same (unless otherwise specifically provided) shall be in Writing and directed to the recipient at

the address set forth in this Section, unless written notice of change of address is provided to the other Party. If the date for making any payment or performing any act is a legal holiday, payment may be made or the act performed on the next succeeding business day which is not a legal holiday.

Notices shall be directed to the Parties as follows:

To the City:

Representative  
808 W. Spokane Falls Blvd.  
Spokane, WA 99201

To the Grantee:

Real Estate Services  
PO Box 7500  
Bartlesville, OK

Copy to:

Office of the City Attorney  
5<sup>th</sup> Floor City Hall  
808 W. Spokane Falls Blvd.  
Spokane, WA 99201-3326

19.9 Authority of Parties to Execute Franchise. The Parties each represent and warrant that they have full authority to enter into and to perform this Franchise, that they are not in default or violation of any permit, license, or similar requirement necessary to carry out the terms hereof, and that no further approval, permit, license, certification, or action by a Jurisdictional Agency is required to execute and perform this Franchise, except such as may be routinely required and obtained in the ordinary course of business.

19.10 Franchise Supersedes All Previous Agreements. This Franchise and the attachments hereto represent the entire understanding and agreement between the Parties with respect to the subject matter and it supersedes all prior oral negotiations between the Parties. This Franchise can be amended, supplemented, modified, or changed only by an agreement in writing which makes specific reference to the Franchise or the appropriate attachment and which is signed by both Parties. No waiver of any provision of this Franchise shall be effective unless reduced to writing and signed by the Party granting the waiver. All previous franchise agreements between the Parties pertaining to

Grantee's Construction, Maintenance, Improvement or Operation of its Facilities within the Franchise Area are hereby superseded.

19.11 Purpose of Franchise; Acceptance of Franchise.

(a) The purpose of this Franchise is to grant Grantee the right to Operate, Maintain, Construct and Improve its Facilities in the Franchise Area and to assure the City protection against liability or loss in connection with Grantee's enjoyment of the Franchise, including loss or damage to the public water supply, City Wellhead area or Aquifer contamination. This Franchise shall be liberally construed to accomplish these purposes.

(b) Grantee shall, within thirty (30) days after passage of this Ordinance, file with the City Clerk, its unconditional Written acceptance of all the terms and conditions of this Franchise. If Grantee shall fail to so file its Written acceptance within such period, then the rights and privileges granted hereunder shall be deemed forfeited.

19.12 Effective Date. The Effective Date of this Franchise shall be the 1<sup>st</sup> day of \_\_\_\_\_, 2020, after passage, approval and legal publication of this Ordinance as provided by law, and provided it has been duly accepted by Grantee as herein above provided. On that date, the rights, duties and obligations shall come into effect and the date from which the time requirement for any notice, extension and/or renewal will be measured. The City has made no effort to verify that Grantee compliance, and waives no existing deficiencies at the time of Franchise approval.

**PASSED** by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2020

\_\_\_\_\_  
Council President

Attest:

Approved as to Form

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

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Effective Date

## **UNCONDITIONAL ACCEPTANCE BY GRANTEE**

I, the undersigned official of Yellowstone Pipe Line Company, am authorized to bind Yellowstone Pipe Line Company and to unconditionally accept the terms and conditions of the foregoing Franchise (Ordinance No. C-\_\_\_\_\_), which are hereby accepted by Yellowstone Pipe Line Company this \_\_\_\_ day of \_\_\_\_\_, 2020.

Yellowstone Pipe Line Company

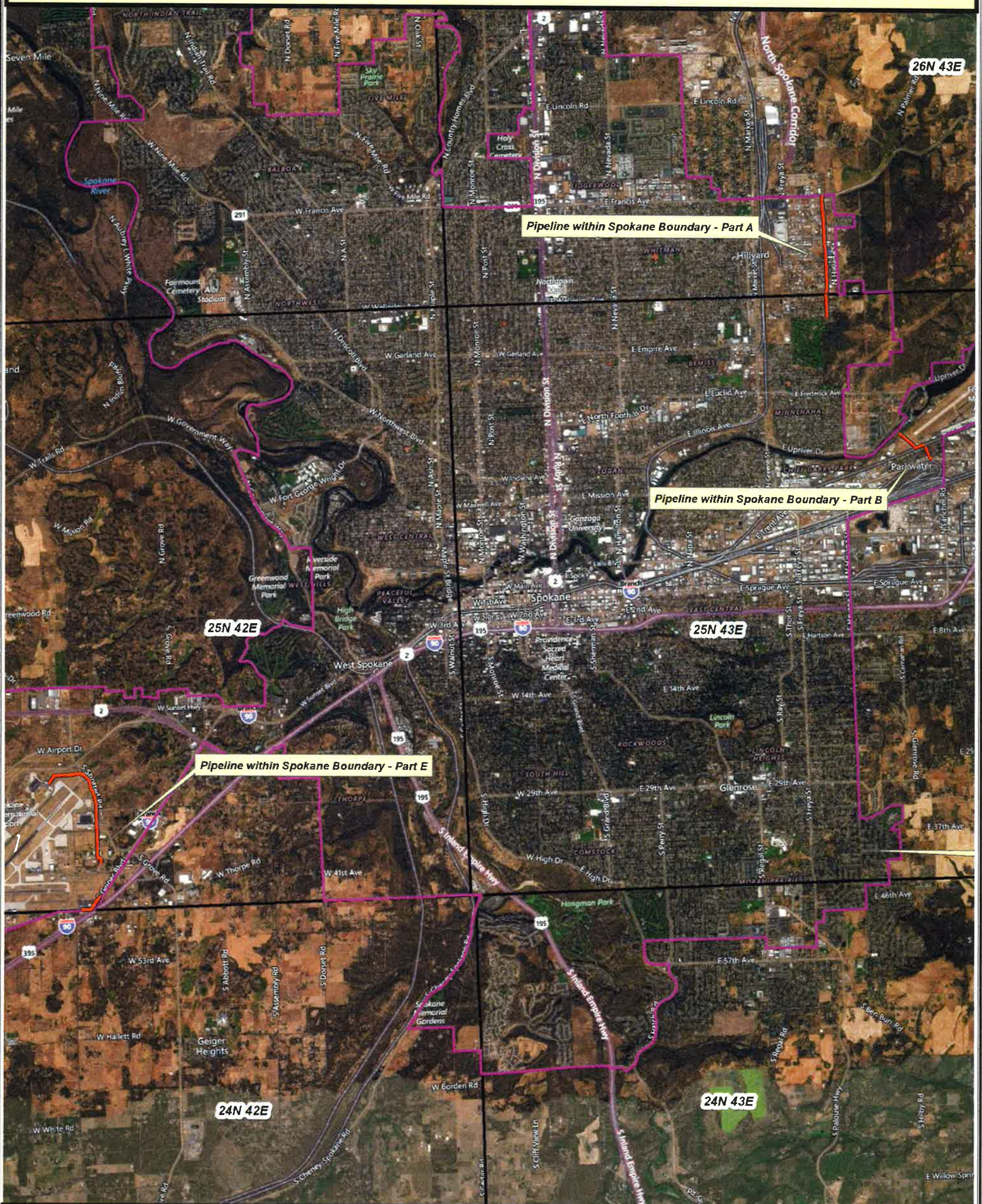
By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



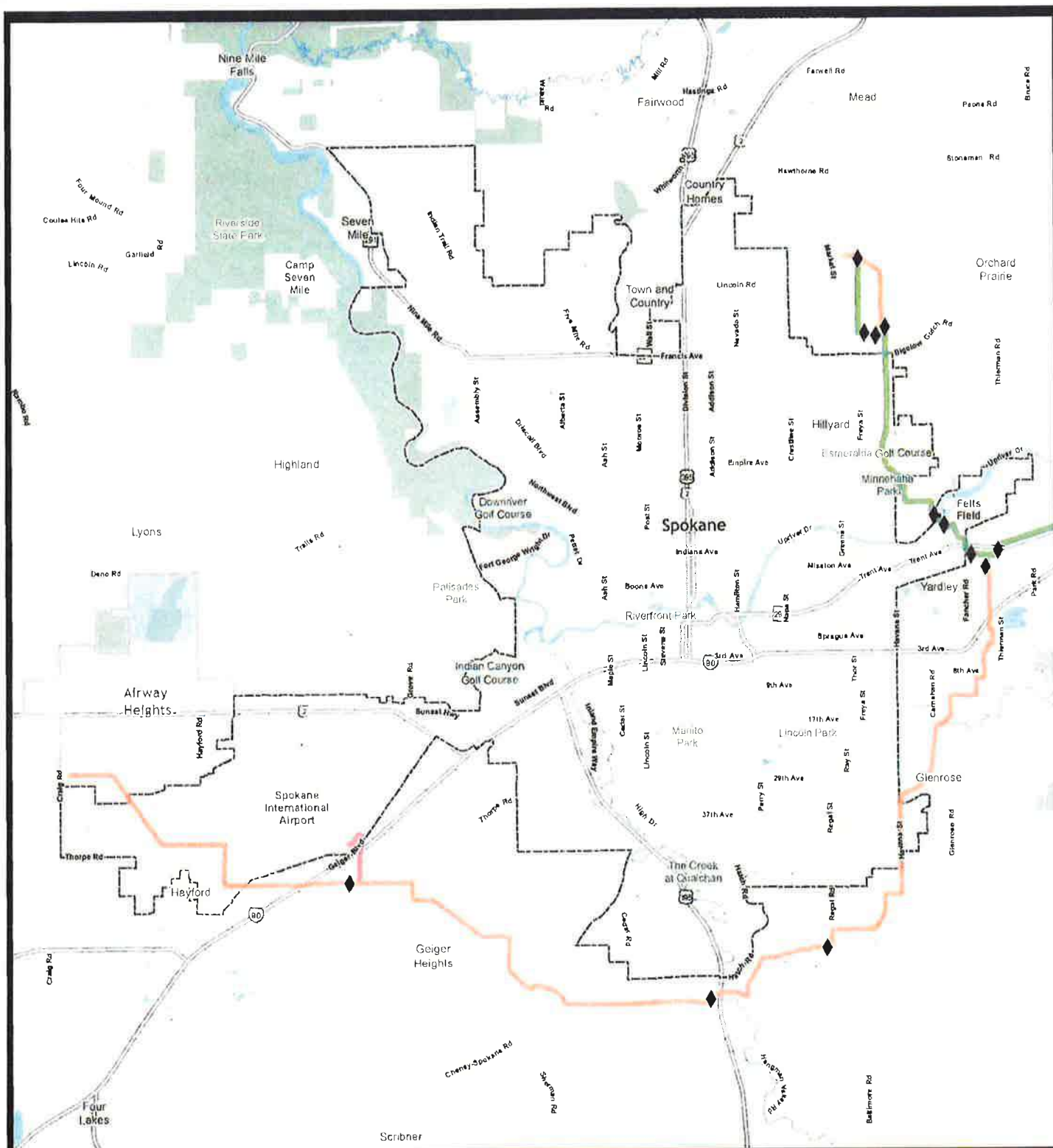
Tract_Num	Property_T	Owner	Line_typ	Distance	Pipe_Lengt	Descr
A-3	Part A	City of Spokane	Pipeline to be covered by City Franchise	76.60 Rds	1263.92	Florida Ave. - 76.60 Rods
A-5	Part A	City of Spokane	Pipeline to be covered by City Franchise	319.69 Rds	5274.9	Florida Ave. - 319.69 Rods
B-03	Part B	City of Spokane	Pipeline to be covered by City Franchise	3.91 Rds	64.494	Trent Avenue - 3.91 Rods
B-04	Part B	City of Spokane	Pipeline to be covered by City Franchise	5.92 Rds	97.75	Koren St. & Parkwater Ave. - 5.92 Rods
B-05	Part B	City of Spokane	Pipeline to be covered by City Franchise	38.72 Rds	638.821	Koren Street - 38.72 Rods
B-07	Part B	City of Spokane	Pipeline to be covered by City Franchise	35.62 Rds	587.71	Rutter Avenue - 35.62 Rods
B-08	Part B	City of Spokane	Pipeline to be covered by City Franchise	54.98 Rds	907.17	Spokane Airport (Felts Field) - 54.98 Rods
B-09	Part B	City of Spokane	Pipeline to be covered by City Franchise	13.21 Rds	217.99	Waterw orks St to SE ROW Upriver Dr - 13.21 Rods
Ea-2	Part E	City of Spokane	Pipeline to be covered by City Franchise	68.69 Rds	1133.320807	6" Geiger Jct to Geiger St - 68.69 Rods
Eb-1	Part E	City of Spokane	Pipeline to be covered by City Franchise	82.48 Rds	1360.869644	3" Geiger St to Spokane Airport
Eb-3	Part E	City of Spokane	Pipeline to be covered by City Franchise	442.15 Rds	7295.444648	3" Geiger St to Spokane Airport - 442.15 Rods



**Exhibit A to Ordinance C-35924**  
**Franchise Agreement for Yellowstone Pipe Line Company**

— YPL Segments Subject to City of Spokane Franchise Agreement  
— SpokaneMunicipalBndy





# Exhibit C Emergency Flow Reduction Valves

- ### Legend
- ◆ EMERGENCY FLOW REDUCTION VALVES
  - YELLOWSTONE 10"
  - YELLOWSTONE 8"
  - YELLOWSTONE 6"



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 or relationships to property lines, section lines, etc.

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

03/01/2021

**Date Rec'd**

2/18/2021

**Clerk's File #**

OPR 2021-0135

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

HUMAN RESOURCES

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

AMBER RICHARDS 6383

**Project #****Contact E-Mail**

ARICHARDS@SPOKANECITY.ORG

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

Contract Item

**Requisition #****Agenda Item Name**

0620 GUILD CONTRACT

**Agenda Wording**

2017-2021 Police Guild Tentative Agreement

**Summary (Background)**

The labor agreement between the City of Spokane and the Spokane Police Guild expired on December 31, 2016. The parties have been negotiating on a successor contract since August 2017. In 2020, a new round of negotiations led to this tentative agreement. Members of the Police Guild will vote on the TA by early March and Guild leadership recommends approval. The contract results in a average total cost of compensation of approximately 3.5% annually and makes significant additions to the section covering independent oversight. The total costs will be paid out of both the 2021 operating budget and General Fund unappropriated reserves previously set aside.

Lease? NO

Grant related? NO

Public Works? NO

**Fiscal Impact****Budget Account**

Expense \$ 9,500,000

# 0680-XXXXX-XXXXX-XXXXX

Select \$

#

Select \$

#

Select \$

#

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

RICHARDS, AMBER

**Study Session\Other**

Finance 2/22

**Division Director**

RICHARDS, AMBER

**Council Sponsor**CP Beggs, CM  
Cathart, CM Kinnear,**Finance**

HUGHES, MICHELLE

**Distribution List**

CM Mumm, CM

**Legal**

ODLE, MARI

Wilkerson

**For the Mayor**

ORMSBY, MICHAEL

**Additional Approvals****Purchasing**

**BRIEFING PAPER**  
**City of Spokane**  
**Tentative Agreement on Police Guild Contract**  
**2017-2021**

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**Subject**

Tentative Agreement (TA) for 5-year contract with Police Guild (2017-2021)

**Background**

The labor agreement between the City of Spokane and the Spokane Police Guild expired on December 31, 2016. The parties first entered into negotiations on a successor contract in August 2017. The City met five times with the Police Guild through January 2018 before jointly filing for mediation through PERC, who facilitated negotiations between the Guild and City throughout 2019. In 2020, the Police Guild, City Administration, and City Council collaborated further, leading to this TA before the City Council.

Members of the Police Guild will vote on the TA by early March and Guild leadership recommends approval.

**Discussion**

The proposed TA provides for the average total cost of compensation (TCC) increase of approximately **3.5% annually**. Details by year are below.

The contract also makes significant additions to the section covering independent oversight. Notably, the contract:

- Extends the authority of the ombudsperson to the assistant ombudsperson, including the ability to participate in internal affairs interviews, request further investigation, recommend mediation, make the determination that an investigation is thorough and objective, review and provide input on internal affairs case summaries, and attend review board meetings for uses of force, collisions, and deadly force
- Expands ombudsperson access to body camera footage
- Provides that the ombudsperson may appeal the classification of a complaint and type of investigation selected by the police chief
- Clarifies that all complaints may be independently investigated by the ombudsperson
- Establishes that the ombudsperson may request further investigation of major complaints and request that the police ombudsperson commission direct further investigation by the ombudsperson or a third-party independent investigator
- Adds the authority for the ombudsperson to issue a closing report after the completion of a full department investigation, chief's determination, and/or a third-party investigation that may opine on what happened

The total cost of the contract, estimated to be \$9.5 million, will be paid for out of both the 2021 operating budget approved by the City Council in December and General Fund unappropriated reserves. Compensation for 2021 is within the 2021 budgeted amount the City Council approved in December and will be paid out of the current operating budget. Retroactive pay for years 2017

through 2020 will come from reserve funds that have been set aside from previous year's budgets in anticipation of a contract agreement.

## **Details**

*TA's by year:*

### 2017

1. 2.25% COLA
2. Article 1 – Recognition: include exclusion of “Directors” from the bargaining unit.
3. Article 5 – Grievance Procedure/Permanent Umpire: Housekeeping
4. Article 11 – Wages: Incorporate 2013 Supplemental Agreement for Special Events Supervisor and Coordinator Specialty Pay (3%); Incorporate 2016 Supplemental Agreement for Major Crimes Unit and Dignitary Protection Team Specialty Pay (2%); Incorporate 2016 Supplemental Agreement for Field Training Officer Specialty Pay (3%); Eliminate Meth Team Specialty Pay (4%)

### 2018

1. 3% COLA

### 2019

1. 3% COLA
2. Article 16 – Leaves of Absence: New Section J for “Paid Family Medical Leave (PFML)” is added. Section J states: Eligible employees are covered by Washington’s Family and Medical Leave Program, RCW 50A.04. Eligibility for leave and benefits, which begins January 1, 2020 is established by Washington law and is therefore independent of this Agreement. Premiums for benefits are established by law. The City will pay the entire premium. Premium collection began January 1, 2019.

### 2020

1. 3% COLA

### 2021

1. 2.5% COLA
2. Article 10 – Contract Personnel: Section B Park Rangers is added. Section B outlines the agreement for the City to use limited commission Park Rangers to enforce identified laws and infractions within all City Parks.
3. Article 23 – Deferred Compensation: the City will establish a Health Reimbursement/Retirement Account for each member, with a \$75 monthly contribution. The current \$50/month VEBA contribution will cease at this time.
4. Article 27 – Civilian Review: Multiple changes, which include:
  - a. “Office of the Police Ombudsman (OPO)” is defined to include the OPO, Assistant OPO and full-time/regular part-time employees.
  - b. OPO Assistant granted authority previously vested exclusively with Ombuds to include, inter alia: participation in IA interviews, ability to request further investigation, ability to recommend mediation, ability to make the “thorough and objective” determination after an investigation, ability to review and provide input on IA case summaries.
  - c. The OPO is granted access to all information in possession of the Police Department that is relevant to the complaint. This is expanded to include body camera footage, IA Pro and Blue Team, and allows Ombuds and Assistant Ombuds to attend meetings of

Use of Force Review Board, Collision Review Board and Deadly Force Review Board as non-participating observer.

- d. Expands authority of OPO to review all complaints and not just those that may result in a suspension or termination.
- e. Adds language that the Ombuds and Assistant Ombuds may appeal the classification of the complaint and type of investigation selected by the Police Chief; however, the Police Chief's decision is final.
- f. Adds language providing that all complaints may be independently investigated by the Ombuds or Assistant Ombuds if the Police Department elects not to investigate the complaint.
- g. Adds language allowing the Ombuds and Assistant Ombuds the ability to request further investigation be performed of a minor complaint. Police Chief's determination of need for further investigation or supplemental investigation of minor complaint is final. The Ombuds and Assistant Ombuds also may request further investigation of major complaint. If the Chief declines, Ombuds and Assistant Ombuds may submit request to OPOC and OPOC may direct further investigation by department, OPO or third party independent investigation.
- h. New language is added to provide that where the Department has investigated the complaint, the Department will prepare a case summary. The Ombuds and Assistant Ombuds may provide input into the case summary, although the decision as to the final version of the case summary lies with the Department. OPO also may publish a policy and procedure report that identifies recommended policy and procedure changes.
- i. New language is added to provide the OPO or OPOC to prepare a closing report. The closing report may include the OPO's perspective of the factual information obtained as a result of the IA investigation. Prior to releasing the closing report, the Police Guild will be provided a copy for review in consideration of potential contract violations. The Police Guild has ten (10) business days to disclose any potential contract violations in writing to the Mayor with a copy to the OPO and OPOC. The OPO or OPOC has ten (10) days to respond to the Guild's grievance. If the grievance is not resolved within thirty (30) days, the Guild may requested Expedited Arbitration.
- j. New language is added to provide an enforcement mechanism in the event the OPO or OPO violate their authority.

#### Action

Approve TA at March 1, 2021 meeting.

**AGREEMENT**

**between**

**CITY OF SPOKANE**

**and**

**SPOKANE POLICE GUILD**

**(2017-2021)**

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## **PREAMBLE**

This Agreement entered into by the City of Spokane, Washington, hereinafter referred to as the City and the Spokane Police Guild, hereinafter referred to as the Guild, has as its purpose the promotion of harmonious relations between the City and the Guild and the establishment of an equitable and peaceful procedure for the resolution of differences.

## **EMBODIMENT**

The parties acknowledge that during the negotiations which preceded this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement, each voluntarily and unqualifiedly waive the right, and each agree that the other shall not be obligated to bargain collectively with respect to any known subject or matter not specifically referred to or covered in this Agreement.

## **LABOR MANAGEMENT MEETINGS**

It is mutually agreed that the City Management and the Police Guild shall work together individually and collectively to provide the public with efficient and courteous service, to encourage good attendance of employees and to promote a climate of labor relations that will aid in achieving a high level of efficiency in the Spokane Police Department.

## **ARTICLE 1 – RECOGNITION**

The City recognizes the Guild as the sole and exclusive bargaining agent for the purpose of establishing salaries, wages, hours, and other conditions of employment for all of its commissioned police employees with the exception of the Chief of Police, Assistant Police Chiefs, Majors, Directors, Captains, and Lieutenants.

## **ARTICLE 2 - CONDITIONS AND DURATION OF AGREEMENT – TERMINATION**

This Agreement shall be in effect as of the first day of January 2017 and shall remain in full force and effect through the thirty-first day of December 2021.

This Agreement shall remain in full force and be effective during the period of negotiations and until notice of termination of this Agreement is provided to the other party in the manner set forth in the following paragraph. In the event that either party desires to terminate this Agreement, written notice must be given to the other party not less than thirty (30) days prior to the desired termination date, which date shall not be before the expiration of this contract.

## **ARTICLE 3 - EMPLOYER RESPONSIBILITIES**

Management Rights - The Guild recognizes the City's rights concerned with efficient management and operation of the department are exclusively that of the City Police Department Administration unless otherwise provided through the terms of this Agreement or by operation of RCW 41.56. In addition, management has the right to assign work within the bargaining unit and to determine the number of personnel to be assigned at any time and to perform all of the functions not otherwise expressly limited by this Agreement or applicable law.

The Guild recognizes that an area of responsibility must be reserved to management if it is to function effectively. In recognition of this principle, it is agreed that the following responsibilities are not subject to collective bargaining and are management responsibilities of the City. Unless specifically modified by sections in this Agreement, management retains the exclusive right to:

1. Determine the management of the organization, and the selection, retention, and promotion for occupations not within the scope of this Agreement.
2. Direct employees of the bargaining unit in the performance of their official duties.
3. To hire, assign, transfer and evaluate employees in positions in the bargaining unit; provided that disciplinary transfers must be for just cause; and to suspend, demote, discharge, or take other disciplinary action against such employees for just cause.

4. To determine the methods, means and equipment by which departmental operations are to be conducted, provided that this section shall not extend to assigning work outside of the bargaining unit.

5. To take whatever actions may be necessary to carry out police functions in emergency situations.

6. To determine the necessity of overtime and the amount thereof, provided that the City shall pay for all time worked.

7. To maintain efficiency of government operations entrusted to management.

8. To assign employees to specific jobs, determine job content and/or duties and to consolidate jobs within the bargaining unit.

9. To lay off employees in accordance with current Civil Service Rules.

The above listing of specific management rights is not intended nor shall be considered restrictive or, act as a waiver of any rights of the City not listed herein. Such inherent management responsibilities are not subject to arbitration and shall remain exclusively with the City except as they may be shared with the Guild by specific provisions of the Agreement.

#### **ARTICLE 4 – CHECKOFF**

The City agrees to deduct the Guild membership initiation fee, assessments, and, once each month, Guild dues from the pay of those employees who individually request in writing that such deduction be made. The type of deduction cards to be used shall be certified to the City by the Treasurer of the Guild.

#### **ARTICLE 5 - GRIEVANCE PROCEDURE - PERMANENT UMPIRE**

##### **Section A - Grievance Procedure Steps**

1. Any grievance or dispute which may arise between parties concerning the application, meaning, or interpretation of this Agreement, shall be settled in the manner prescribed by this grievance procedure.

2. A "Grievance" is defined as a claim or dispute by an employee, group of employees, or authorized Guild representatives concerning the interpretation or application of the provisions of this

Agreement. Nothing in this procedure shall prohibit an employee from discussing a complaint directly with his supervisor or department head without representation by the Guild as provided by State Law.

3. Should a subject for claim or dispute arise, there shall be no stoppage of work by employees, but an earnest effort shall be made to settle such claims or disputes promptly and in the manner hereinafter outlined. Prior to initiating a written grievance, an employee shall attempt to resolve the matter with his/her supervisor, or in their absence, with the next person in the chain of command.

#### **Step 1**

A grievance may be presented to the Police Chief or designee by a Guild Executive Board Officer or designee within twenty-eight (28) calendar days of the alleged occurrence, in writing, setting forth:

- a. The nature of the grievance;
- b. A statement of the facts upon which the grievance is based;
- c. The provisions of the Agreement allegedly violated, and;
- d. A statement of the relief desired.

#### **Step 2**

The Police Chief or designee shall attempt to settle the grievance within twenty-one (21) calendar days after it has been presented.

#### **Step 3**

If the grievance is not settled by the Police Chief within the time allowed, it may be presented to the City Administrator, with a copy to the Human Resources Department, by a Guild Executive Board Officer or designee within twenty-one (21) calendar days of the Police Chief's response or the expiration of the time limit in step 2.

#### **Step 4**

The City Administrator shall have twenty-one (21) calendar days to review the grievance. If the City Administrator does not respond or otherwise settle the grievance within the twenty-one day period,

the grievance may be advanced to step 5 within twenty-one (21) days of the Step 3 response or, if not received within the allotted time period, the date the response was due.

#### **Step 5**

If the grievance is not settled at Step 4, the dispute will be referred to the negotiating committee of both parties. The two committees shall meet within fourteen (14) calendar days to consider the dispute. At that meeting, all pertinent facts and information will be reviewed in an effort to resolve the matter through conciliation. If no satisfactory solution is reached in this step, the matter may be submitted to arbitration within twenty-eight (28) calendar days of the conciliation meeting.

#### **Section B - Arbitration**

The parties shall attempt to select an arbitrator by mutual agreement. If the parties have been unable to select an arbitrator within ten (10) days, the Arbitrator shall be selected from a list of names of seven arbitrators obtained from the Federal Mediation and Conciliation Service, using the alternate strike method within ten days of receipt of the list. Once both parties have had three strikes, the remaining arbitrator on the list shall hear the case. The arbitrator shall conduct the arbitration within six months of the appointment unless otherwise agreed by the parties. The decision of the arbitrator shall be final and binding on the parties.

1. The Arbitrator shall make his/her own rules of procedure. The Arbitrator shall have no authority to amend, alter, or modify this Agreement or its terms and shall limit his/her decision solely to the interpretation and application of this Agreement.
2. Each grievance or dispute will be submitted separately except when the City and the Police Guild mutually agree to have more than one grievance or dispute submitted to the Arbitrator.
3. The City and the Police Guild shall bear the expense of the Arbitrator and related stenographic expenses on an equal basis.
4. Each party shall bear the costs of their own attorney(s) unless the City either fails to abide by an Arbitration award thereby requiring the Guild to seek judicial enforcement or appeals the same into the courts. In such an event, this provision shall have no force and effect retroactive to the initiation of the grievance procedure.

5. The decision of the Arbitrator shall be issued within thirty (30) days of the close of the hearing and scheduled receipt of any post-hearing briefs.

### **Section C - Time Limits**

Time limits may be extended by mutual written agreement. Except as otherwise provided herein, if the City fails to comply with any of the above time limits, the matter will be settled in favor of the Guild's last requested remedy. If the aggrieved/Guild fails to comply with any of the above time limits, the grievance is dropped and the City's position sustained. While forfeiture under this clause will finally resolve the matter in dispute, it will not establish a precedent between the parties on issues of contractual interpretation. There shall be no interruption of work while grievances are being resolved.

## **ARTICLE 6 - CITY SECURITY**

### **Section A**

The Guild and the Police Officers agree that during the life of this Agreement they will not cause, encourage, participate in, or support any strike against management or any slowdown or other interruption of or interference with the normal work routine of any law enforcement activities or agencies.

### **Section B**

Violation of any provision of this Article by the Guild shall be cause for the City terminating this Agreement upon the giving of written notice to this effect to the President of the Guild in addition to whatever other remedies may be available to the City at law or in equity.

### **Section C**

Violation of any of the provisions of this Article by any Police Officer shall be cause for the immediate discharge of that officer. Except as otherwise provided by law, no Police Officer shall receive any portion of his or her salary while engaging in activity in violation of this Article.

### **Section D**

In the event of a strike, work stoppage, or interference with the operation of the Police Department, the President of the Guild shall within twenty-four (24) hours publicly disavow such strike or work stoppage



and request the employees return to work and attempt to bring about prompt resumption of normal operation. Such request shall be made in writing with a copy of such written request supplied to the City. The Guild shall notify the City within twenty-four (24) hours after the commencement of such work interruption as to the measures taken to comply with the provisions of this Article.

#### **Section E**

In the event the provisions of this Article are not complied with, the City may proceed directly to court in order to obtain any and all possible judicial relief, as well as pursuing whatever remedies are available under this Agreement.

#### **Section F**

The City agrees that there shall be no lockout of Police Department employees under any circumstances.

### **ARTICLE 7 – HOLIDAYS**

#### **Section A**

The following holidays shall be recognized by permanent employees on the days established by the City for that holiday, except that patrol employees shall observe the actual holiday on New Years, Independence Day, and Christmas Day.

1. New Year's Day
2. Memorial Day
3. Independence Day
4. Labor Day
5. Thanksgiving Day
6. Friday after Thanksgiving Day
7. Christmas Day
8. Forty hours of Floating Holidays

9. Any day that is designated as a legal holiday by the State Legislature or by a state official who has been granted legal authority to declare such a holiday.

The floating holidays shall be taken at a time mutually agreeable by the employee and the Police Chief within the policy established for this holiday and may be utilized by the hour.

When a holiday falls on an employee's regular day off, the employee will receive compensatory time or pay for that day. An employee on approved paid leave shall be eligible for holiday pay. When a holiday falls during an employee's regular vacation period, that day will not be charged against the employee's vacation. The manner of compensation will be determined by the Chief of Police.

Those members of the bargaining unit who are normally scheduled to work four ten hour shifts per week but are released from work on a normally scheduled work day in observance of any of the eight specifically designated holidays, will be granted 10 hours of holiday pay. In such situations, an eight (8) hour employee shall receive eight (8) hours of holiday pay. Such holiday pay shall not be charged against any other source of paid leave other than the specific holiday that is observed.

#### **Section B - Work on a Non-Floating Holiday**

When an employee takes the day off or is considered non-essential for the holiday, he/she will be paid eight (8), ten (10) or ten and sixty seven hundredths (10.67) hours for the day depending on the employees' work schedule.

When an employee works on any of the holidays listed above, he/she shall be paid eight (8), ten (10) or ten and sixty seven hundredths (10.67) hours of holiday pay depending on the work schedule the employee is assigned to. All employees who work on a designated holiday shall be paid an additional one and one-half (1 ½) times their current regular rate of pay for all hours worked on the holiday. The employee has the option of taking pay or comp for the time worked on the holiday, as provided in Article 9, section C.

Any hours worked that are in excess of the normal shift period will be considered overtime and will be paid at two and one-half (2 ½) times their current regular rate of pay for all overtime hours worked on a holiday. The employee has the option of taking pay or comp for overtime worked on a holiday. The holiday pay (straight time) portion will not be available as compensatory time.

## **ARTICLE 8 - COURT TIME**

### **Section A**

When an officer is required to appear in court outside the regular duty hours, they shall be paid a minimum of two (2) hours, except where such appearance is an extension of the regularly scheduled shift. If an officer is required to appear on the officer's day off or while on vacation, the officer shall be paid a minimum of four (4) hours at the time and one half (1 ½ ) rate.

Court is defined as any court of law or administrative hearing where the officer is required to appear, including pretrial conferences with the attorneys representing the prosecution in a criminal case or the City in a civil suit.

Employees who have been served a subpoena shall appear in court unless notified otherwise by the prosecutor or a court official. Prosecutors and court officials cannot authorize stand-by pay. If the need to appear cannot be clarified once the subpoena has been served, employees should respond and be available to testify.

If the officer failed to clear with the court, prior to vacation, the above would not apply as vacation court pay.

When an employee is required to provide telephonic testimony on a day off or outside regular duty hours, they shall be paid a minimum of one (1) hour at the rate of time and one-half (1 ½) for the time they are required to be available and to give testimony. This provision applies to administrative hearings and court proceedings in which the employee has been subpoenaed.

### **Section B**

The above provision shall not apply when the court time starts during the employee's regular work shift and extends beyond the end of the shift. When the court time commences on the employee's regular shift and extends beyond the work shift, time and one-half (1½) shall be paid for the number of hours beyond the regular shift.

## **Section C**

Employees shall have the option of selecting court time pay or compensatory time off.

## **ARTICLE 9 – OVERTIME**

### **Section A - Miscellaneous**

**Temporary Schedule Adjustment** – It is understood that employees in unique assignments such as the Special Investigative Unit, the Targeted Crimes Unit, the Patrol Anti-Crime Team, the Neighborhood Resource Officer Unit, and the Traffic Unit will be expected to temporarily flex their schedules.

With forty-eight (48) hours notice employees assigned to the Chronic Offender Unit, Special Investigative Unit and the Targeted Crimes Unit may be required to temporarily adjust their work shift by up to four (4) hours.

With seven (7) calendar days notice, employees assigned to the Patrol Anti-Crime Team, the Neighborhood Resource Officer Unit, the Traffic Unit, and the Support Services Division may be required to temporarily adjust their work shift by up to four (4) hours. Mandatory schedule adjustments shall not exceed four (4) adjustments within a calendar month. If the required notification is not given as stated above all work done outside of the regularly scheduled shift will be compensated and one and one-half (1 1/2) times the regular hourly rate of pay.

**Availability of Special Overtime Assignments** – Guild members may volunteer for an overtime assignment on their regularly scheduled days off, or outside their regularly scheduled shift consistent with the collective bargaining agreement.

Guild members who wish to volunteer for an overtime assignment that overlaps with their regularly scheduled hours of work may do so only under the following conditions:

Subject to this article and mutual agreement of the parties, Guild members may flex their work hours to avoid an overlap between their hours of work and the voluntary overtime assignment; or

Guild members may request the ability to switch a regularly scheduled work shift for a regularly scheduled day off. Both shifts must be within the same calendar pay period, and for a sister patrol team (if

the Guild member is in patrol) during the same work hours as the Guild member's regularly scheduled work hours. All such trade requests must be pre-approved by the Guild member's sergeant, the sergeant supervising the sister patrol team involved in the trade, and the Guild member's lieutenant. The respective team sergeants and lieutenant may approve/deny requests based upon various operational factors, including the following: appropriate staffing levels, efficient use of department resources, and Guild members' fatigue. The lieutenant may approve a different make-up day than requested if it is in the best interest of the Department. Trade requests will not be approved if they result in additional overtime. Once approved, the make-up day will be considered the Guild members' regularly scheduled duty day for all purposes. Approval for trade requests may be cancelled due to an emergency. If a conflict develops between Guild members on the same team who have requested to switch shifts for same overtime opportunity, department seniority shall prevail.

**Mutual Schedule Adjustment** – An employee or the Employer may request a temporary schedule adjustment. Upon request a work shift may start by up to four (4) hours earlier or four (4) hours later than normally scheduled. The request may be initiated by either the employee or the Employer and must be mutually agreed upon.

**Unscheduled Overtime** - When employees are required to return to work outside their normal duty hours and a minimum of 48 hours notice is not given, they will receive a minimum of four (4) hours pay at one and one-half times the employee's regular rate of pay. For those hours worked over four (4), they would be paid at the employee's time and one-half (1 1/2) rate until the overtime overlaps the employee's regular work shift. This section shall not apply to shift extensions at the end of the work shift.

**Exception** - If an employee is required to return to duty to complete work which is incomplete through the fault of the officer--necessary reports, citations, affidavits, etc.--no call back will be paid. Overtime at one and one-half times the employee's regular rate of pay will be paid for actual hours worked.

### **Section B - Overtime Rate**

All overtime other than call-back time shall be compensated at the rate of one and one half (1 ½ ) times the regular hourly rate of pay.

### **Section C - Compensatory Time Off**

At the employee's request, and with the approval of the Chief of Police, a renewable bank of up to 80 hours of compensatory time off may be accumulated at the rate of time and one half for all overtime hours worked. Accrual over 80 hours will be paid as overtime. Employees shall be allowed to carry over their compensatory time off into the following year. On November 1<sup>st</sup> of each year employees may elect to cash out up to a maximum of 96 hours of accrued compensatory time, floating holiday, and or vacation time. The City will pay for the cashed out time at the officer's straight time regular rate of pay, and shall make the payment with the second payment of November. All compensatory time in excess of forty (40) hours accrual must be cashed out first. Either party may reopen the compensatory time provisions of this Agreement if there is a change in legal interpretation of the FLSA related to the accrual or use of compensatory time. Any such reopening shall proceed in accordance with Article 18.

In regulating the use of comp time, supervisors will use the following guidelines, which have been agreed by the parties in order to ensure compliance with the FLSA. The parties therefore agree it is unduly disruptive to the operation of the police department if employees:

1. give less than five days written notice of their desire to use compensatory time off, provided that less notice may be given with the mutual agreement of the employee and their supervisor;
2. request the use of compensatory time on any recognized holiday as set forth in this bargaining agreement or on Christmas Eve or New Years Eve, when the granting of such time off would require the City to bring in another employee to cover the shift; or
3. request the use of compensatory time during any special event (Bloomsday, Lilac Parade, Neighbor days, etc)

The above list is not intended to be all inclusive of situations that are unduly disruptive, but rather is intended to give the parties guidance concerning the unduly disruptive provisions of the FLSA.

#### **Section D - On Call**

Any employee required by a supervisor to remain on-call for a weekend or fixed period of time shall be compensated at the following rate:

1. 1.5 hours of pay at the regular rate of pay for each 8 hours that the employee is required to remain on call.
2. 2.5 hours of pay at the regular rate for each 8 hours that the employee is required to remain on-call during any holiday.
3. If unscheduled call-out occurs during any 8-hour period that the employee is required to remain on-call, the unscheduled overtime provisions of Article 9 shall apply in addition to the on-call pay for that period of time.

### **ARTICLE 10 - CONTRACT PERSONNEL**

#### **Section A – Other Law Enforcement Agencies**

The City and the Guild mutually agree that circumstances arise from time to time that call for the presence of more law enforcement personnel that are regularly on duty at that time. In order to meet the law enforcement needs of these circumstances, the City and the Guild agree that the City has the right to contract with other law enforcement agencies to supply law enforcement personnel and equipment.

In the event the City elects to so contract with other law enforcement agencies and sufficient time exists for proper planning, the City will first allow Guild members, not on regular duty during the time of need, to volunteer for the assignment. If the need is not filled by the volunteers, then the City may elect to implement contracts with other law enforcement agencies.

In an emergency or in the event the need for personnel is not filled by volunteers from the Guild, it is understood the City retains the right to require Guild members to report for duty under the terms and conditions of the general contract between the City and the Spokane Guild as amended.

State law (e.g. 10.93 RCW, Mutual Aid Peace Officers Powers) and provisions of the individual contracts with agencies supplying personnel shall govern the relationship between the City of Spokane, those

agencies, and their personnel. No rights, duties, or provisions of the contract between the Guild and the City shall apply to those agencies.

### **Section B - Park Rangers**

The City may issue a limited commission to and assign non-bargaining unit employees employed by the City as Park Rangers the authority to investigate and issue civil infractions and criminal citations to individuals believed to be in violation of only the following crimes and infractions listed in the Spokane Municipal Code, within a City Park:

Public Parks - Prohibited Acts	Infraction	10.10.040
Littering \$113 \$1035 Lit Material [Cigarettes]	Infraction	10.08.010
Open/Consume Alcohol In A Public Place	Infraction	10.08.200
Open Possession/Consumption of Marijuana	Infraction	10.15.220
No Helmet Law - Non-Motorized	Infraction	10.17.030
Liquor In A Public Park	Misdemeanor	10.10.040
Second Degree Criminal Trespass	Misdemeanor	10.12.050
Third Degree Malicious Mischief	Misdemeanor	10.12.025
Lewd Conduct	Misdemeanor	10.06.020
Urinating in Public	Misdemeanor	10.06.015
Disorderly Conduct	Misdemeanor	10.10.020
Graffiti Vandalism	Misdemeanor	10.10.070
Third Degree Theft	Misdemeanor	10.05.100
Making a False Statement to a Public Servant; False Reporting	Misdemeanor	10.07.020A
Disorderly Conduct	Misdemeanor	10.10.020
Minor in Possession of Alcohol (MIP)	Misdemeanor	10.08.210A1
Unauthorized Camping on Public Property	Misdemeanor	12.02.1010
Injury to Tree on Public Property	Infraction	12.02.1004
Unlawful Burning on Public Property	Infraction	12.02.1006
Unlawful Disposal of Litter on Public Property	Infraction	12.02.1008

Park Ranger's shall request the assistance of the Spokane Police Department anytime they encounter an enforcement situation where they anticipate resistance or for violations that are outside of their limited commission to investigate and issue civil infractions and criminal citations to individuals believed to be in violation of the crimes and infractions listed in paragraph 1 above, within a City Park.

The City will not make reference to the transfer of bargaining unit work to non-bargaining unit City employees in any proceeding between the parties, including any interest arbitration proceeding, any PERC



proceeding or any litigation, except that the City may make reference to the transfer of bargaining unit work to non-bargaining unit City employees in a proceeding to enforce the terms of Art. 10, Section B.

## **ARTICLE 11 – WAGES**

Upon approval by the Guild and the City Council of the tentative agreement agreed upon by the Guild Negotiating Committee and the City Negotiating Committee, the agreement shall be made a part of the City Employees Pay Plan and administered in accordance with the City Employees Pay Plan Rules.

Effective January 1, 2017, wages of all classifications covered by the Guild will be increased by 2.25%. Such wage increase(s) shall be retroactive to January 1, 2017 for all individuals who worked any time after January 1, 2017, for all time worked.

Effective January 1, 2018, wages of all classifications covered by the Guild will be increased by 3%. Such wage increase shall be retroactive to January 1, 2018 for all individuals who worked any time after January 1, 2018 for all time worked.

Effective January 1, 2019, wages of all classifications covered by the Guild will be increased by 3%. Such wage increase shall be retroactive to January 1, 2019 for all individuals who worked any time after January 1, 2019 for all time worked.

Effective January 1, 2020, wages of all classifications covered by the Guild will be increased by 3%. Such wage increase shall be retroactive to January 1, 2020 for all individuals who worked any time after January 1, 2020, for all time worked.

Effective January 1, 2021, wages of all classifications covered by the Guild will be increased by 2.5%. Such wage increase shall be retroactive to January 1, 2021 for all individuals who worked any time after January 1, 2021, for all time worked.

### **Service Advancement**

All police officers with five (5) or more years of service as commissioned officers in the department will be moved to 902 – Senior Police Officer, Range 29 at their respective longevity levels. This movement will be described as a “Service Advancement” and will be on a qualifying basis with no probationary period.

Henceforth, when a police officer reaches five (5) years of commissioned service with the department, they will be entitled to advance to Senior Police Officer at the beginning of the next quarter.

When they reach five (5) years longevity as a police officer, they will have their normal longevity increase during the affected pay period. At the beginning of the next quarter, they will advance to Senior Police Officer. In the interim, they will be paid out of grade at the Senior Police Officer pay range, five (5) year longevity level.

Lateral police officers will advance at a different rate than entry-level police officers. No later than completion of three (3) years of service in the department, their Service Advancement will occur. They will advance to Senior Police Officer at the entry level of Range 29 at the beginning of the next quarter, being paid out of grade until the paperwork is completed. They will remain at the entry level until they have completed five (5) years longevity in the department. At that time, they will progress through the normal longevity increase process in the Senior Police Officer pay range.

The quarterly changes are to be initiated by the department who will be keeping track of the next group of employees eligible for the Service Advancement. The parties will work with the Spokane Civil Service Commission to ensure a smooth transition.

### **Acting Sergeant**

Patrol Corporals when filling a vacant Sergeant position for four (4) hours or more shall receive an additional three (3%) percent of Corporal base pay for that shift.

### **Specialty Pay**

When assigned, employees will be paid the following monthly pay in addition to their normal compensation based on the top step of the officers pay:

Hostage Negotiator	3%
S.W.A.T Team	3%
K-9 Handlers	3%
Field Training Officers	3%
Motorcycle Officer	3%
Tactical Team	3%

Bomb Squad	6%
Major Crime Detective	2%
Dignitary Protection	2%
Special Events Supervisor and Coordinator	3%
Assistant Range Master	3% (if a rank below Sergeant is assigned)

An additional \$30.00 per month will be paid if an officer is assigned to a second specialty; provided however that an additional 3% will be paid to an FTO if the FTO is assigned to a second specialty. The Chief of Police must approve any multiple specialty assignment. Any overtime required to complete the duties associated with being a FTO will be pre-authorized by the Sergeant in charge of the FTO and paid in accord with contract provisions.

### **Longevity**

<b><u>Years of Service</u></b>	<b><u>Percent</u></b>
After 5 Years	2%
After 10 Years	4%
After 15 Years	6%
After 20 Years	8%
After 25 Years	10%
After 30 Years	12% (effective January 1, 2015)

### **Education**

Effective May 1, 2014, any employee who has earned a degree shall receive additional compensation as follows:

<b><u>Degree</u></b>	<b><u>Percent</u></b>
AA or AS	.5%
BA or BS	1%

Effective January 1, 2015, any employee who has earned a degree shall receive additional compensation as follows:

<u>Degree</u>	<u>Percent</u>
AA or AS	1%
BA or BS	2%

### **Shift Premium**

When a member is assigned a shift, the City agrees to pay the following monthly amounts based on the top step of the Senior Police Officer:

Second Shift	0.75%
Third Shift	1.5%
Fourth Shift	2.25%

### **Extra Duty Wages**

Extra duty employment is defined as work that is voluntarily performed for a separate and independent employer from the City. Extra duty pay and procedures shall be subject to renegotiation between the parties and recorded in a Memorandum of Understanding. The parties agree to meet during the month of July each year of the life of this agreement to determine the wages for extra duty employment for the following year.

### **Basic Law Enforcement Training (BLET)**

- A. Members instructing at the BLET and Reserve BLET sessions will be paid the then current hourly rate for instructors at the Burien, Washington WSCJTA.
- B. Members who instruct during BLET sessions will be given first consideration for other instruction opportunities sponsored by the department. Instruction outside BLET sessions will follow current contract provisions with the overtime rate applying when applicable. BLET instructors gain more experience in classroom settings and will therefore be in higher demand as instructors in other

than BLET training sponsored by the department.

For purposes of pay rates, FLSA requires that any member who works over 171 hours in a 28 day work period will be paid at their regular rate at time and one half for each hour over the 171 hour threshold. These are for hours worked not hours paid (physically on duty, not including discretionary paid time off). The current 10/40 patrol schedule has established 13 individual 28 day work periods in each calendar year that can be used to identify any work period under consideration.

## **ARTICLE 12 – VACATION**

Vacation shall accrue on a bi-weekly basis as follows:

<b><u>Years of Service</u></b>	<b><u>Bi-Weekly</u></b>	<b><u>Hours of Vacation</u></b>
At the beginning of the 1 <sup>st</sup> year through completion of the 4 <sup>th</sup> year	5.69 hours	148 hours
At the beginning of the 5 <sup>th</sup> year through completion of the 10 <sup>th</sup> year	7.23 hours	188 hours
At the beginning of the 11 <sup>th</sup> year through completion of the 17 <sup>th</sup> year	8.76 hours	228 hours
At the beginning of the 18 <sup>th</sup> year and over	10.30 hours	268 hours

On December 31 of any year, the City may reduce the above-referenced accrual rates to their 2010 levels by permanently increasing all pay steps by 2.5% across the board.

Maximum accrual will not exceed two times the annual allowance plus forty (40) hours. Maximum vacation cash-out at retirement is the same as the maximum accrual. Annual vacation bids will be granted on the basis of department seniority, within work unit/team.

With the approval of their supervisor, and after completion of six (6) months of service employees may use vacation up to and including the amount accrued. Employees will be allowed to take vacation in hourly increments.

An employee shall not be credited with any vacation leave in a particular pay period unless that employee has been in a paid status for eighty percent (80%) or more of the hours in that pay period.

For the purposes of application, maximum accrual and maximum carryover are interchangeable terms.

If the Employer cancels vacation once vacation has been approved and the affected employee has incurred non-refundable expenses in planning for the same, the employee shall be reimbursed by the City for those expenses. Any employee called back to duty by the City for any reason once the vacation has begun shall be reimbursed for required round trip transportation costs involved in returning for duty if the employee is out of the area.

### **ARTICLE 13 – UNIFORMS**

New hires will be furnished with uniforms as provided below. Existing employees shall have their uniform and equipment allotment maintained in accordance with this list. Said uniforms shall remain the property of the City. The City reserves the right to make changes in the color, material, and quality of the uniforms it provides, provided that it issues the full complement of uniform items enumerated below.

The City shall provide contract uniform cleaning, on the basis of a maximum of eight (8) items per two calendar week period (non-cumulative) per officer; provided that jumpsuits are to be laundered at home by the employee and not submitted for cleaning at City expense. Motorcycle Officers shall, during the months of May through September, be entitled to have ten items cleaned during a two calendar week period (non-cumulative) per officer. Plain-clothes employees may substitute eight items of business attire in lieu of uniform items. Business dress attire may include dress shirts/blouses, slacks, sport coats, suits, ties, dresses and/or skirts. Additional items in excess of the eight (8) items per two calendar week per officer will be at the expense of the individual. Casual sports wear such as polo shirts and cotton twill pants are not covered under this agreement.

The following items shall be provided by the Department to all new hires and/or replaced to all sworn personnel should the item be deemed by the employee's supervisor to no longer be in a serviceable condition.

3 pairs of trousers (1 pair for det. & special units)

3 winter shirts (1 winter shirt for det. & special units)

2 winter jumpsuits

3 summer shirts (1 summer shirt for det. & special units)

2 summer jumpsuits

3 white shirts if required (motors, bike unit, etc.)

1 Uniform Tie

1 water resistant coat

1 badge

1 service weapon with 3 magazines

1 duty belt with 4 keepers

1 holster

1 set of handcuffs with case and key

1 OC 10 canister and holder

1 approved baton and holder

1 department radio and holder

1 rubber glove holder

1 protective vest

1 flashlight and holder

The City shall continue to provide special items to units with special requirements (motors, bike patrol, etc.). These special items will remain the property of the City. Probationary officers will receive one (1) uniform (summer/winter) at the time of hire and two (2) more upon completion of the Academy.

The items listed are the approved quartermaster issue items or replacement items. There are other items that are deemed approved and optional items that the employee is authorized to wear. Refer to applicable department uniform policy.

## **ARTICLE 14 - SPECIAL EQUIPMENT**

The City shall provide motorcycle helmets, handcuffs, leather and all other items that are presently being furnished. These special items shall remain the property of the City. When the employer mandates a

change in equipment, the employer shall provide the initial issue, unless the employee is allowed to continue using the obsolete article until no longer serviceable.

The City may utilize in car and/or body cameras in providing police services to the citizens of Spokane. The parties recognize that there are many working condition issues that will need to be resolved related to utilization of the cameras. Without limitation, these include the extent to which video from the cameras may be used in discipline, and potential limitations on access to and use of the video. The City and Guild agree that these issues will be resolved pursuant to bargaining, consistent with RCW 41.56. In the event the parties are unable to reach agreement, either party may require that the parties jointly request the assistance of Mediator Jamie Siegel from the PERC. The City will not utilize videos from the cameras for disciplinary purposes until bargaining has been completed.

## **ARTICLE 15 - REPAIR OR REPLACEMENT OF PERSONAL PROPERTY**

The City agrees to repair or replace items of personal property damaged or lost while in the line of duty as specified in the guidelines established by the Guild and the City. The specific guidelines established by the Guild and the City to determine claims and the procedure for filing claims shall be posted.

## **ARTICLE 16 - LEAVES OF ABSENCE**

The normal procedure for processing requests for leave of absence shall follow those procedures generally set forth by the Civil Service Rules and Charter of the Civil Service Commission. In addition, however, the following items are made by a part of the agreement:

### **Section A - Family Emergency Leave (LEOFF I and LEOFF II)**

1. In the event of a serious sickness in the employee's family of any spouse, parent, child, brother, sister, grandparent, father-in-law, mother-in-law, brother-in-law, sister-in-law, or grandchild, the employee may on request be granted up to three (3) days leave of absence with full pay to make household adjustments and arrange for medical service. In unusual situations, a LEOFF I officer may



request a short extension of this leave. If any question arises, the President of the Guild and the Chief of Police, or their designee, will negotiate the matter and their decision will be final.

2. In the event of a natural disaster, fire, or event creating an emergency beyond the employee's control, the employee may on request be granted up to three (3) days leave of absence with full pay to make household adjustments or to make temporary arrangements to resolve the problem. If any question arises, the President of the Police Guild and the Chief of Police, or their designees, will negotiate the matter and their decision will be final.

### **Section B – Family Leave**

The Federal Family and Medical Leave Act requires employers to provide up to a total of twelve (12) weeks (480-hours) of unpaid leave during any 12 month period for eligible employees at the time of birth or adoption of a child or at the time of a serious health condition affecting the employee or family member. Additionally, employees shall be allowed to use any accumulated leave to continue pay during a lawful period of family leave; provided that, no more than 80 hours of sick leave may be used for maternity/paternity leave issues not related to a serious health condition or a period of temporary disability.

If any question arises regarding the interpretation of this article, the President of the Guild and the Chief of Police, or their designees, will negotiate the matter and their decision will be final.

### **Section C-Washington Paid Family Leave**

The Washington State Paid Family and Medical Leave (PFML) law (RCW 50A), establishes a program administered through the Washington Employment Security Department (ESD) to provide paid leave benefits to eligible employees who need leave for certain family and medical reasons. For the period ending December 31, 2020, premiums will total four-tenths of one percent (.4%) of employees' wages (unless otherwise adjusted by the State). The City will pay the full cost of the .4 percent of employees' wages.

### **Section D - Funeral Leave (LEOFF I and LEOFF II)**

In the event of a death in the family of any employee--spouse, parents, children, brother, sister, grandparents, father-in-law, mother-in-law, brother-in-law, sister-in-law, or grandchildren, the employee may on request be granted up to three (3) days leave of absence with full pay to make household adjustments or

to attend funeral services. If any question arises, the President of the Guild and the Chief of Police, or their designees, will negotiate the matter and their decision will be final.

#### **Section E - Illness Leave (LEOFF II)**

1. **Accrual** - Cumulative illness leave with pay shall accrue to each new Police Officer at the rate of six (6) hours for each bi-weekly pay period. An employee shall not be credited with any illness leave in a particular pay period unless that employee has been in a pay status for eighty (80) percent or more of the hours in that pay period.
2. **Use of Illness Leave** - Illness leave may be used after six (6) months of continuous service by the employee when that employee is incapable of reporting to duty due to an illness or injury to that employee.
3. **Waiver of Six Months Waiting Period** - The six months waiting period may be waived if the employee is hospitalized. An employee shall be required to furnish evidence supporting the need for the use of illness leave when such evidence is requested by the employee's supervisor.
4. **Duplication of Illness Leave & Industrial Insurance** - When an employee uses illness leave that is duplicated by Industrial Insurance Compensation, the total amount of compensation paid by Industrial Insurance must be turned in to the Personnel Department. The employee's illness leave account shall then be credited by the amount of compensation returned.
5. **Sick Leave Buy Back** - Through February 20, 2014, LEOFF II employees retiring from service in the Spokane Police Department will be allowed to cash in unused sick leave at a ratio of forty percent (40%). The maximum allowed for buy out will be three hundred and eighty-four (384) hours of pay, which is 40% of 960 hours. Effective February 21, 2014, the cash out ratio will be sixty percent (60%), resulting in a maximum buy out of five hundred and seventy-six (576) hours of pay, which is 60% of 960 hours. If possible, all such amounts will be placed into a tax deferred account.

#### **Section F - Disability Leave (LEOFF II Officers Only)**

When an employee becomes entitled to coverage under RCW 51.32.090 due to a temporary total disability, the City shall compensate the employee for the difference between his Worker's Compensation

entitlement and the employee's regular net salary for a period not to exceed six (6) months or the termination of the Workers' Compensation payments, whichever comes first. To accomplish this, the City shall pay the employee his/her regular net salary for said period in lieu of any time-loss payments or disability leave supplement payments to which the employee would otherwise be entitled. In no event will the City pay for more than a total of six (6) months for any particular temporary total disability. If an employee is returned to work on a conditional basis and the disability reoccurs, any additional payments under this section shall be limited to the remaining, unused portion of the original six (6) months.

#### **Section G - Application for Leave**

Any request for leave of absence shall be submitted in writing by the employee to his immediate supervisor. The request shall state the reason the leave of absence is being requested and the length of time off the employee desires. Authorization of a leave of absence shall be furnished to the employee by his immediate supervisor and it shall be in writing, provided that approval of such authorization shall reside in the Police Chief or designee and the Human Resources Department. Any request for a leave of absence shall be answered promptly. Requests for immediate leave (for example, family sickness or death) shall be answered before the end of the shift on which the request is submitted. Other requests for leave shall be answered within ten (10) days.

#### **Section H – Maternity Leave**

Maternity leave is defined as a temporary medical disability due to pregnancy and/or childbirth or complications resulting from childbirth and will be administered in compliance with state and federal laws and regulations for granting maternity leave. An employee who is on an authorized maternity leave shall first use accrued illness leave to maintain paid status while on maternity leave. "Authorized maternity leave" means maternity leave granted pursuant to a medical certification provided by the employee to the office of the Chief of Police.

#### **Section I – Active Duty Call Up**

1. Members ordered to active military duty by the President of the United States or the Governor of the State of Washington are entitled to pay and benefits as outlined in Paragraph B and

C of this section. This leave is separate from any leave required by State or Federal law for training for any branch of the United States Reserve Forces or the National Guard.

2. Commencing on the first day of active duty and ending on the last day of active duty, each member's military pay will be supplemented by an amount necessary to equal what the member's pay would be if they were not on active duty. However, in no event may the combined pay exceed their regular City pay. All other employee benefits will continue as if the member had not been called to active duty.

3. Whether and to what extent a member called to active duty is covered by City sponsored medical, dental, life and long-term disability insurance is governed by the terms of the collective bargaining agreement and insurance contracts.

#### **Section J - Care for Minor Children**

Employees may use accrued leave (vacation, etc.) to care for a minor child under the age of 18 that requires treatment or supervision. Additionally, LEOFF II members may use accrued sick leave in addition to other leaves available to them.

##### **Limits on Leave for Minor Children**

1. Sick leave must be previously accrued.

2. The leave must be used to care for the employees child under the age of 18; and

3. The child must have a health condition that requires treatment or supervision. Employees may be required to provide documentation from a physician that a child has a health condition.

4. A LEOFF II officer may use sick leave to stay home and supervise children under the age of 16 if the officer's spouse is so ill that he/she is unable to care for the children. Employees may be required to provide documentation from a physician verifying the spouse's health condition. Since the parties recognize that sick leave abuse is misconduct, the City retains the right to reopen this section if the City perceives an abuse problem.

## **ARTICLE 17 - GENERAL PROVISIONS**

### **Section A - Pledge Against Discrimination**

The City and the Police Guild are mutually committed to a workplace free from discrimination. Any claim of unlawful discrimination must be processed privately by the employee to the appropriate local, state or federal agency or through the courts and shall not be subject to the grievance procedure. Employees believing they may have been discriminated against should comply with City policies concerning the notification to the City. All references to employees in the Agreement designate both sexes and wherever the male gender is used it shall be construed to include male and female employees.

### **Section B - Guild Bulletin Board**

The City agrees to allow suitable bulletin boards in convenient places in each work area to be used by the Guild. The Guild shall limit its posting of notices and bulletins to such bulletin boards.

### **Section C - Guild Activities on City's Time and Premises**

The City agrees that during working hours, on the employer's premises, or elsewhere, and without loss of pay, Guild officials shall be allowed to:

1. Post Guild notices and distribute Guild literature.
2. Attend meetings with the approval of the Police Chief or designee and solicit Guild membership without hindering normal operations.
3. Transmit communications authorized by the local Guild or its officers to the City or its representative.
4. Consult with the City, his representative, local Guild officers, or other Guild representatives concerning the enforcement of this Agreement.

### **Section D - Guild Business - Paid Leaves**

Upon the approval of the Chief of Police and the City Administrator, two (2) Guild officials, and such Guild legislative officials as agreed upon by the Guild, the Chief of Police, and the City Administrator shall be allowed the required time without loss of pay to attend official Guild conferences, Guild legislative

conventions, and state or national conferences, not to exceed five (5) days, each official, for each conference or convention. If any section of this Agreement is determined to be unlawful as a result of a final decision of the Washington courts or is rendered unlawful by an action of the Legislature, either party may reopen that section for renegotiation.

## **Section E - Seniority**

### **1) Definitions**

**Department Seniority** - The total length of unbroken service within the Police Department.

**Job Classification Seniority** - Based on the date of appointment to that classification and shall apply throughout the department.

**Non-Supervisory Personnel** - All personnel below the rank of Sergeant.

**Bureaus** - There are two bureaus in the Police Department structure, which are: Operations Bureau and Investigations Bureau

**Transfer** - The reassignment from one bureau to another.

### **2) Shifts**

a. The Chief of Police retains the exclusive right to determine the starting time of the work shifts and the number of shifts in a work day; provided that in the event the shift starting times are reset during the year by the Chief, sufficient notice will be given to the Guild to allow for a re-bid process as set forth under "Annual Bid for Shift". A re-bid shall not be required for seasonal shift changes of less than two hours. This section shall be interpreted as a waiver of the Guild's right to bargain changes in the starting times of work shifts in accordance with its terms but it shall not be considered a waiver of the Guild's right to require the Employer to bargain over changes in the length of the work shifts. Examples: 5/8, 4/10, 10/40's etc.

b. Shift assignment within a bureau will be based on job classification seniority; provided, however, if the total police experience level of Police Officers and PFC's/Senior Police Officers on any shift falls below 4.5 years, the Chief of Police shall have the right to assign personnel to raise the level to a minimum of 4.5 years. The experience level shall be determined by adding together the

years of experience (rounded to the nearest year) of Police Officers and PFC's/Senior Police Officers assigned to the shift, divided by the number of Police Officers and PFC's/Senior Police Officers so assigned. Assignment in this case shall first be a call for volunteers. In the event insufficient volunteers come forward, then personnel will be selected starting with the Police Officer or PFC/Senior Police Officer with the least seniority of 4.5 years or over not assigned to the shift needing the higher experience and proceeding upward temporarily until such time as the 4.5 year level is attained.

Probationary officers will not be counted into shift staffing until they have completed at least their ninth (9th) month of service.

c. Each K-9 Officer will work a 4/10 hour work schedule. Each K-9 Officer will check into and out of service at their residence. One and one-half (1 ½) hour each work day will be allowed for maintenance, care, and training. Officers will log on for a minimum of 8.5 hours each workday. When a member is using vacation, compensatory time, floating holidays, or sick leave, and in care of the Department's K-9 it shall be shown as 1.5 hours worked and 8.5 hours of leave. When the K-9 is not in the care of the officer, then use of any type of leave will be shown as 10 hours of leave used.

#### **Section F - Seniority Lists**

Each bureau shall have its seniority lists according to department seniority and job classification seniority. The member with the least department and job classification seniority shall be placed at the bottom of that respective seniority list.

The established seniority lists of the Spokane Police Department shall be brought up to date January 1st of each year, and a copy of this list will be delivered to the Guild ten (10) days prior to the effective date of this contract. Any objection to these lists shall be made during this ten (10) day period to the Executive Board of the Guild.

#### **Section G - Annual Bid for Shifts**

Prior to the first of each calendar year, in sufficient time for the development of the first mark-up of the year, non-supervisory personnel shall submit in writing to their immediate supervisor a bid for shift

assignment. Shift assignment within a bureau shall be based on job classification seniority; except Police Officer, Police Officer First Class and Senior Police Officer shift assignment will be based on departmental seniority.

1. **Patrol Supervisor Shift Assignment** - By December 1st of each year, sergeants shall submit to their immediate supervisor a written request for patrol shift assignment for the following year. Seniority shall be given primary but not exclusive consideration in assigning such shifts. The City may make shift assignments without regard to seniority for reasonable cause.

Reassignments shall only be made when a vacancy exists or the City has reasonable cause to make a change. When a vacancy exists and the most senior sergeant's request is unable to be granted, the bureau commander, upon request, shall explain the reasons to the employee concerned in writing.

2. **Mid-Year Shift Assignment** - When a vacancy within a bureau in a non-supervisory job classification position occurs on a shift during the calendar year, assignment to that shift will be based on job classification seniority. Police Officer, Police Officer First Class and Senior Police Officer shift assignment will be based on departmental seniority.

Vacancy means a position available in the total complement of personnel assigned and not to a particular job assignment. Exceptions may be made for reasonable cause.

Short-term exceptions for extreme hardship, not to exceed sixty (60) days, may be made when mutually agreed upon by the Chief of Police and the Guild President.

## **Section H - Transfers**

In determining transfers of non-supervisory personnel, seniority shall be the determining factor. Exceptions may be made for reasonable cause.

## **Section I - Special Assignments**

Management has the right to assign a member to a special assignment without regard to seniority. Special assignments include the following assignments and any other assignments mutually agreed to in writing:



1. Probationary Officer (newly hired)
2. Special Investigative Unit
3. K-9 Officer
4. Traffic Unit
5. Neighborhood Resource Officer
6. Field Training Officer
7. Special Weapons & Tactics Officer
8. Hostage Negotiator
9. Bomb Squad
10. Tactical Team
11. Dignitary Protection Team
12. Assistant Range Master (Current Sergeant FTE will not be eliminated but may be moved to meet department needs)
13. Patrol Anti-Crime Team
14. Chronic Offender Unit
15. Community Outreach
16. Domestic Violence Unit
17. TARU
18. FTO Coordinator
19. PIO
20. Other assignments as agreed to by the Police Guild President and the Office of the Chief.

For those special assignments where more than one (1) person is assigned and more than one (1) shift is involved, shift assignment will be by seniority as per the annual shift bid process. Any person so attached will not displace any other person regularly assigned to the bureau.

When an employee is assigned or removed from a special assignment, a letter of notice will be sent

from the Unit Commander notifying the employee of their official change of status. This form will serve as formal notice for payroll to begin or suspend specialty pay.

#### **Section J - VEBA Medical Savings Trust**

The City will contribute to the employees' deferred compensation accounts in accordance with specific provisions in Article 23 in lieu of contributing to a VEBA Account.

#### **Section K - Duplication of Benefits**

Should Legislature improve or add new benefits to LEOFF II members that duplicate benefits provided by the City, the legislative benefits shall prevail. At such time that this should occur, the City will discontinue the duplicated benefits to the members. Members shall receive the greater of the benefits provided by the City and legislative action but shall not receive benefits from the City that are duplicated by legislative action.

#### **Section L - LEOFF II Light Duty**

If an employee is disabled from performing his/her regular duties, but is released by his/her physician for light duty, the following procedures shall apply;

##### **Non-duty related temporary disability**

1. The employee shall provide the Office of the Chief with the physician's release in which the physical limitations of the employee shall be stated.
2. When work is available, the Chief of Police shall offer the employee the opportunity to perform work, which is within the employee's ability to perform within the department.
3. The light duty assignment shall continue for such period of time as there is a need for the duty or until the employee is released by the physician for full-duty but not to exceed six months (cumulative).
4. The Chief of Police shall have the right to have an independent medical examination of the employee conducted to determine the extent of the employee's disability.
5. The employee shall suffer no loss of wages or benefits during the light duty assignment. This provision shall apply only to temporarily disabled LEOFF II employees.

6. If any question arises as to the application of this section, the President of the Guild and the Chief of Police, or their designee, will negotiate the matter and their decision will be final.

Duty related temporary disability

This section (L) shall not apply to LEOFF II employees covered by worker compensation. The employer reserves all rights it has under the law to administer such claims, including requiring light duty, consistent with state law. The parties are bound by state, federal and applicable laws/regulations with respect to permanently disabled employees.

**ARTICLE 18 – SUPPLEMENTAL AGREEMENTS**

The parties recognize that circumstances change from time to time during the term of labor agreements that give rise to a need discuss changes in hours or working conditions (including the scope of bargaining unit work). In order to provide a convenient forum to discuss these issues, the parties agree to the following procedure.

This Agreement may be amended within the scope of this Article provided both parties concur. Supplemental agreements may be completed through negotiations between the parties at any time during the life of this Agreement. A joint committee comprised of the negotiating teams of the two parties will meet upon the request of either party to discuss proposals related to work hours or changes in working conditions, including the scope of bargaining unit work. Should either party desire to negotiate a matter of this kind, it shall notify the other party in writing of its desire to negotiate. Supplemental agreements thus completed will be signed by the Guild President or designee and the Mayor or designee.

Should either party, having been notified of the proposed supplemental language, not respond by requesting a meeting of the joint committee within thirty (30) days, the proposed language shall be considered acceptable and shall be forwarded to the other party for signature. Supplemental agreements thus completed shall become a part of this Agreement.

The City reserves the right to implement changes that are not mandatory subjects of bargaining, or

those which have otherwise been reserved to the City by the express terms of this Agreement.

## **ARTICLE 19 - SAVING CLAUSE**

If any section of this Agreement is declared invalid or unconstitutional for any reason, such declaration of invalidity or unconstitutionality shall not affect the other sections or portions thereof which shall be valid.

## **ARTICLE 20 - JURY DUTY**

City Employees shall be encouraged to serve jury duty at times when they are called. Employees so called and asked to serve during working hours will suffer no loss of pay. Employees called during the working day, or excused during the day, shall report immediately by phone to the shift supervisor for instructions as to whether to report for work during the remainder of the work date.

## **ARTICLE 21 – MISCELLANEOUS**

### **Section A - Negotiations**

Police Guild members selected to negotiate with the City shall be paid for their time during negotiations if those meetings are held during the regular scheduled duty hours.

### **Section B - Mileage Allowance**

The City agrees to pay the rate established by City policy to all Guild employees who use their personal vehicles to conduct approved City business.

### **Section C - Tuition Reimbursement**

The City agrees to reimburse the employee for 100 percent of the tuition fee for any approved job related course upon satisfactory completion of the said course up to the applicable tuition level established at Washington State University. In order to qualify for tuition reimbursement, the course must be approved by the Police Chief or designee and the Human Resources Department before the course is taken. The cost for

books, laboratory and other related expenses shall not be paid by the City. Satisfactory completion of any course shall mean a grade of "C" or better.

For all courses that are approved for reimbursement after February 21, 2014, the employee must refund the City for tuition reimbursement under the following circumstances:

1. The employee voluntarily leaves City employment within two years after receiving tuition reimbursement; and
2. The course(s) for which the City reimbursed tuition was completed during the two years prior to the effective date of the voluntary separation. The course(s) shall be considered completed on the date the employee submitted his or her grade to the City for purposes of demonstrating satisfactory completion.

There shall be an exception to this requirement in the event extenuating circumstances require the employee to terminate employment with the City (e.g., employee quits in order to move and take care of sick parent). The employee's requests shall be reviewed for approval by the Police Chief or designee and the Human Resources Department and such approval shall not be unreasonably denied.

#### **Section D - Joint Committee**

The Chief of Police (or designee) and the President of the Guild (or designee) will meet for the purpose of developing recommendations for the Civil Service Commission concerning the sources, structure, and general components of promotional examinations within the bargaining unit. In the event that the joint recommendations are rejected by the Civil Service Commission, either party may reopen this section of the Agreement for the limited purpose of negotiating the possible implementation of the recommended changes in the promotional process.

#### **Section E – SWAT Team**

1. Each SWAT team member will receive two hours per week during duty hours for physical fitness training. The training will occur at the beginning or end of a work shift and must be done at the Public Safety Building. Training time will be pre-approved by the member's unit supervisor.

SWAT team members will submit a signature card to the unit supervisor for approval. The unit

supervisor will forward the signature card to the SWAT Training Coordinator and it will be entered into a training log. The training log will be submitted quarterly to the Office of the Chief.

2. The training time will be scheduled by mutual agreement between the officer and their supervisor. The training may be denied where shift staffing levels or work of the department so requires.

3. Training time may not be carried over if not used during a given week.

4. No overtime will be permitted to complete shift or assigned duties, or for working out if the officer continues to work out following the end of their shift. All other time that an officer may spend working out (unless specifically ordered to work out by the responsible supervisor), including time immediately before or after their shift, is not compensable.

5. Officers will be subject to call at all times while they are being compensated for working out (physical fitness training).

6. The Guild and the City agree that they will work together to minimize the operational impact on the department of the physical fitness release time.

7. The parties recognize the importance of having some balance in shift assignments for SWAT team members. Should the shift selection process result in an imbalance, the City may reassign SWAT team members, by seniority, to restore such balance.

#### **Section F – On Duty Physical Fitness Training**

1. Each employee assigned to uniformed field assignment may use two hours per week during duty hours for physical fitness training. The training will occur at the beginning or end of a work shift and must be done at the Public Safety Building. Employees assigned to all other assignments will be allowed to convert lunch breaks (30 minutes) and the two daily rest periods (15 minutes each) for physical training. Detectives only may leave the Public Safety Building to jog as long as they carry their pagers or cell phones for emergency contact.

2. The training time will be scheduled by mutual agreement between the employee and their supervisor. The training may be denied where shift staffing levels or work of the department so requires, however, reasonable requests for physical fitness training shall not be denied.
3. Training time may not be carried over if not used during a given week.
4. No overtime will be permitted to complete shift or assigned duties or for working out if the employee continues to work out following the end of their shift. All other times that an employee may spend working out, including time immediately before or after their shift, is not compensable.
5. Employees will be subject to call at all times while they are being compensated for working out (physical fitness training).
6. The Guild and the City agree that they will work together to minimize the operational impact on the department of the physical fitness release time.

#### **Section G – Leave Sharing**

Occasionally Guild employees suffer from a severe or extraordinary illness or sustain an injury, or have an immediate family member suffering from a severe or extraordinary illness or injury and exhaust their leave balances. Often co-workers who have substantial leave balances wish to donate some of their leave to those employees. Leave sharing is the mechanism to accommodate both groups.

This agreement will permit employees of the Police Guild to donate vacation time, illness leave and/or compensatory time to a co-worker, who is suffering from, or has an immediate family member suffering from, a severe or extraordinary non-job-related illness, injury, or other impairment, is out of vacation time, illness leave, compensatory time, floating holidays, and personal leave (if applicable) and who will imminently go on leave without pay or terminate City employment.

1. Eligibility to Receive Shared Leave
  - a. The employee must not be receiving time-loss payments as a result of an on-the-job injury or illness.
  - b. The employee's position must be one in which vacation and illness leave can be accrued and used.

- c. All Police Guild employees may receive leave under this program if the employee suffers from a severe or extraordinary non-job-related illness, injury, or impairment which has caused, or is likely to cause, the employee to go on leave without pay or which may cause the employee to be terminated from City employment.
  - d. An employee may also receive leave under this program if an immediate family member of the employee suffers from a severe or extraordinary illness or injury.
  - e. Requests to receive the leave-sharing benefit shall be submitted to a committee composed of one person from Human Resources, one person from the Police Department and one person representing the Police Guild. The decision of the committee shall be final; however, if the decision of the committee is to deny the request, the requester has the right to petition the committee for reconsideration. The decision of the committee shall not be subject to the grievance procedure.
  - f. An employee must have exhausted his/her illness leave, vacation time, compensatory time, floating holidays, and personal leave (if applicable) before receiving shared leave.
  - g. An employee receiving the leave sharing benefit must have abided by the City's policies respecting illness leave. It is the responsibility of the supervisor to ensure that the employee has not abused illness leave before submitting the request.
  - h. For the purpose of this policy, immediate family is defined as spouse, child, parents, or other more distant relative living in the home of the employee.
2. Lifetime Maximums
- a. Employees receiving the leave-sharing benefit shall receive not more than a total of one hundred and twenty (120) days (960 hours) of such leave every ten (10) years of his/her employment with the City of Spokane, provided, however, the received leave after the first one hundred and twenty (120) days may only be direct donations of accrued leave from other Guild members.
  - b. The employee's position must be one in which vacation and illness leave can be accrued and used.



- c. The employee must not be receiving time-loss payments as a result of an on-the-job injury or illness.

### 3. Leave Transference Process

- a. An employee wishing to receive shared leave shall submit a written request to the Human Resources Director and attach a detailed statement from his/her physician verifying the severe or extraordinary nature of the condition and expected duration of time off from work. A Guild representative or other person may submit the request on behalf of the employee.
- b. After receiving the request, a committee composed of one person from Human Resources, one person from the department and one person from the Police Guild will review the request and if approved, the Human Resources Department will notify the Police Chief, or designee, who will communicate the employee's eligibility for leave-sharing to the other employees in the department.
- c. If the employee does not supply adequate documentation from his/her physician, the Human Resources Department will contact the employee or Guild representative and require additional information be supplied. A decision will not be rendered until adequate documentation is supplied.
- d. The decision of the committee shall be final; however, if the decision of the committee is to deny the request, the requester has the right to petition the committee for reconsideration. The decision of the committee shall not be subject to the grievance procedure.
- e. There shall be no retroactive applications of donated leave.

### 4. Donating Leave

- a. Guild members wishing to donate leave shall send the Leave-Sharing Donation form to the Payroll Division for processing.
- b. All donated leave shall be in full days. A day shall be considered eight (8) hours regardless of whether the employee is on a flex schedule or compressed workweek. No differentiation will be made between the salary level of the donor and the recipient.

- c. An employee may donate a total of ten (10) days of vacation time, illness leave, or compensatory time, or any combination that does not exceed ten (10) days, in any calendar year. All donations shall be entered as illness leave in the recipient's account.
- d. Donations of vacation time or illness leave may not bring the donor's balances below thirteen (13) days each.
- e. All donations of leave shall be strictly voluntary and confidential and shall be done on the Leave-Sharing Donation form. The donor shall designate the recipient.
- f. No employee shall be coerced, threatened, intimidated, or financially induced into donating leave.
- g. Once leave has been donated, it becomes the recipient's leave regardless of any changes in his/her employment status, subject to the maximum stated in section 5(d) below.
- h. If the employee receiving the leave sharing donations passes away before using all donated hours, the employee's beneficiary will receive a maximum payout of up to ten (10) days in accordance with the City policy on payouts. The remaining hours will be deleted from the system.

#### 5. Leave-Sharing Bank

- a. The employees of the Police Guild will have access to the leave-sharing bank. All donations shall be made by completing the Leave-Sharing Donation form. All donations will be applied to the recipient's illness leave bank.
- b. Except as provided in section 5(f) below, the total of any one employee's donations to the bank may not exceed ten (10) days in any calendar year. Donating to the bank shall not affect an employee's right to donate up to ten (10) days to an individual(s).
- c. Only employees who have been approved to receive shared leave and who have exhausted their recipient-specific leave may, with the approval of the committee that approved their leave-sharing request, draw leave from the leave sharing bank with up-to-date supporting documentation from

their physician. The amount of leave drawn from the bank shall be the lesser of: (i) the amount needed to cover the balance of their illness; (ii) the amount needed to make up their lifetime maximum of one hundred and twenty (120) days; (iii) half the number of days in the leave sharing bank; or (iv) thirty (30) days.

- d. Employees who have been approved to receive shared leave and receive more recipient-specific leave than they need may keep up to ten (10) days of the excess. Donated leave above ten (10) excess days shall be transferred to the leave-sharing bank. Employees may not keep any part of the excess leave that would put them over their one hundred and twenty (120) day lifetime maximum.
- e. Police Guild members who have more than nine hundred and sixty (960) hours of sick leave, have surplus compensatory time, or have vacation time they are on the verge of forfeiting may donate their surplus leave to the bank in units of a day.
- f. Police Guild employees who terminate with five (5) or more years of service may donate all accrued illness leave hours in excess of nine hundred and sixty (960) hours to the leave-sharing bank. Employees who retire from City employment may donate all accrued illness leave hours in excess of nine hundred and sixty (960) hours to the leave-sharing bank.

#### 6. Administration

- a. The Human Resources Department shall administer the leave-sharing program.

### **Section H – Swing Shift Parking**

Swing shift officers will have twenty spaces provided on or near the Spokane County campus. The cost of the monthly parking will be the same as the Spokane County parking committee established rate for parking (currently \$10), using permits issued by the County. Employees using these spots are expected to comply with the County's requirements, and will be responsible for any tickets or fines. Failure to pay the fee or otherwise comply may result in loss of the permit.

## **ARTICLE 22 - SALARY COMPUTATIONS**

### **Section A - Regular Hourly Rate**

Regular rate of pay shall mean base salary together with any shift differential pay, longevity, specialty pay, educational or other incentive pays.

### **Section B - Pay Periods and Pay Checks**

Pay periods shall be established on a bi-weekly basis. Pay checks shall be issued on a bi-weekly basis on alternate Fridays. Employees who do not work on Friday and those employees working the Thursday evening shift shall have their pay checks distributed, whenever possible, on the Thursday before pay day.

## **ARTICLE 23 - DEFERRED COMPENSATION**

### **Section A - Deferred comp.**

The City agrees to make a qualified deferred compensation plan available to Guild represented employees.

The City shall contribute 2.2% of each employee's base pay including longevity and education, regardless of whether that employee makes his/her own contribution. Employees may also make contributions to his or her own account. If an employee makes contributions to his/her account, the City shall make matching contributions of 4% of the employee's base monthly pay including longevity and education, in addition to the 2.2%.

### **Section B – Health reimbursement agreement/account.**

In addition to the foregoing, the City will establish and maintain a qualified health reimbursement agreement/account for each Guild represented employee as soon as reasonably possible after ratification of the Agreement. The employer shall contribute \$75 per month to the employee's qualified, health reimbursement agreement/account. The agreement/account shall be portable after termination and usable in retirement.

### **Section C - VEBA Alternative.**

The City will contribute \$50.00 per employee per month to the employee's deferred compensation account without requiring a match in lieu of a VEBA contribution. Upon ratification, the City will contribute \$75.00 per employee per month to the employee's deferred compensation account without requiring a match in lieu of a VEBA contribution until the health reimbursement account referred to in Section B above is established. As soon as the HRA is established and contributions to the HRA begin, the VEBA contribution will cease. At no time will the City be required to contribute both to the HRA and VEBA.

## **ARTICLE 24 – DISCIPLINE**

### **Section A - General**

Both parties recognize that Police Officers have certain rights and responsibilities. Some of these rights and responsibilities are included in the departmental policy manual, under the title Complaint and Disciplinary Procedures.

Both parties agree that the carrying out of departmental Policy and Procedures is exclusively the province of the Chief of Police.

An employee shall be allowed to inspect his/her personnel file with the exception of materials that are exempt from disclosure pursuant to Washington law and may obtain a copy of such file at any reasonable time. The employee may request removal of material which he/she believes erroneous or irrelevant. This request will be reviewed by the Chief of Police. If the employee does not agree with the Chief's decision, he/she may prepare a statement of dissent which will be placed in the file. Employees may request that written reprimands be expunged from personnel files after a minimum period of three years if there is no reoccurrence of similar misconduct for which the employee was disciplined during that period. Employees may request that records of serious discipline be expunged from personnel files after a minimum period of five years if there is no recurrence of similar misconduct for which the employee was disciplined during that period. Requests for the expungement of disciplinary references in personnel files, pursuant to this section,

shall not be unreasonably denied. Nothing in this section shall be construed as requiring the City to destroy any employment records necessary to the City's case if it is engaged in litigation in any way related to that employee's employment at the time those records would otherwise be destroyed.

### **Section B - Forms of Discipline**

The following disciplinary procedures apply to Guild members who are permanent employees, that is, have completed their probationary period. The City will continue to administer disciplinary actions in accordance with the "Just Cause" concept. Disciplinary actions may include, but are not limited to, the following actions: oral reprimand, written reprimand, denial of promotion, demotion, suspension, and discharge for cause.

### **Section C - Right of Appeal**

Permanent employees (completed probation) shall have the right to take up discipline as a grievance, as set forth in Article 5 or as an appeal through the Civil Service Rules and Regulations, but the employee is limited to one or the other.

### **Section D(1) - Probationary Periods**

Probationary periods upon initial appointment shall not exceed eighteen (18) months for entry level and twelve (12) months for laterals and may not be extended without the written agreement of the Guild. During an employee's initial probationary period, he/she may be discharged by the employer at-will and such discharge shall not be subject to the grievance procedure. Probationary periods upon promotion shall not exceed six months and shall not be extended without the written agreement of the Guild. During a promotional probationary period, an employee may be reverted to his/her former classification and such reversion shall not be subject to the grievance procedure.

### **Section D(2) - Right of Petition**

Any probationary Guild employee who reverted or discharged pursuant to section D(1) above shall have the opportunity, upon request, for hearing with the Chief of Police or his designated representative. However, this opportunity shall not be subject to the grievance procedure. The Guild may provide representation at this hearing.

## **Section E - Police Officer Rights in Discipline**

It is agreed that the Employer has the right to discipline, suspend, or discharge any employee for just cause. The City must meet the just cause requirements for disciplining employees for off-duty conduct. Examples of off-duty conduct that may be subject to discipline include: 1) the off-duty misconduct materially effects the employer's business operation; or 2) the conduct is inconsistent with the office that the police officer holds.

1. In an effort to ensure that investigations are conducted in a manner which is conducive to good order and discipline, bargaining unit employees shall be entitled to the following protections which shall hereafter be termed as the "Police Officers' Rights in Discipline". Every employee who becomes the subject of an internal investigation shall be afforded the rights contained in the rest of this Section. This Section shall not apply to routine supervisory inquiries.
2. Every employee who becomes the subject of a formal internal investigation shall be advised at the time of their interview that he/she is accused of:
  - a. Committing a criminal offense; and/or
  - b. Conduct that would be grounds for termination, suspension, or other disciplinary actions.
  - c. Of their right to Guild representation
3. Any employee who becomes the subject of a criminal investigation shall, prior to their interview, be notified that he/she is the subject of a criminal investigation and, further, that he/she is under no obligation to answer any questions or to remain in an interview setting involuntarily, except as provided herein. So long as the matter remains a criminal investigation, the remainder of this article shall not apply until or unless the Department determines to compel the subject employee to answer questions. A criminal investigation as used herein shall be interpreted as any investigation which could result in the filing of a criminal charge against the officer. In any non-criminal investigation, the balance of this article shall apply.

4. Any interview shall take place at the Spokane Police Department, except when impractical. The employee shall be advised of his/her right to and allowed that Guild representation to the extent required by law. If the employee is a suspect, they shall be given a general overview of the factual allegations in writing before the interview commences
5. The interview of any employee shall be at a reasonable hour, when the employee is on duty, unless the exigency of the interview dictates otherwise. If the employee is suspected of misconduct, the interview generally shall be conducted in person, except that for limited follow-up questions or where there are other unusual situations, questioning may be telephonic so long as a Guild representative is given the opportunity to participate in the call.
6. The employee or Employer may request that an internal investigation interview be recorded, either mechanically or by a stenographer. There can be no "off the record" questions. Upon request, the employee under internal investigation shall be provided an exact copy of any written statement he/she has signed or of a verbatim transcript of any interview if one is created.
7. Interviewing shall be completed within a reasonable time and, in all internal investigation interviews, the employee shall be afforded such intermissions as he/she shall reasonably request for personal necessities, meals, telephone calls and rest periods.
8. All interviewing shall be limited in scope to activities, circumstances, or events which pertain to an employee's conduct or fitness to hold office.
9. The employee will not be threatened with dismissal or other disciplinary punishment as a guise to attempt to obtain his/her resignation, nor shall he/she be subject to abusive or offensive language or intimidation in any other manner. No promises or rewards shall be made as an inducement for the accused officer to answer questions.
10. No employee shall be required to unwillingly submit to a polygraph test, nor will employees be required to answer questions without a direct order to do so.
11. Internal Investigation Files - Employees and/or their Guild Representative (if representing the employee) shall have access to complete copies of completed Internal Investigation files at any



reasonable time once a Loudermill hearing has been scheduled, or after discipline has been imposed if no Loudermill hearing is held. Internal investigation files that do not result in an adverse finding shall not, in any way, be notated in that employee's personnel file and shall not be considered in determining the level of discipline which is appropriate.

12. Administrative investigations must be completed within 180 days of the matter coming to the attention of the Department (Assistant Chief or above). In the event the Office of the Chief believes an extension beyond 180 days is necessary, and the City can show that it has acted with due diligence and the investigation could not be reasonably be completed due to factors beyond the control of the City (including, but not limited to, for example, extended illness or other unavailability of a critical witness (i.e. - the complainant, the officer being investigated), or necessary delays in the processing of forensic evidence by other agencies) the Chief must contact the Guild prior to the expiration of the 180 days seeking to extend the time period. Any request for extension based on the unavailability of witnesses shall include a showing that the witness is expected to become available in a reasonable period of time. A request for extension based upon the above criteria will not be unreasonably denied. The period of investigation may also be extended by mutual agreement between the Guild President and the Chief.

The 180 day period shall be suspended when a complaint involving alleged criminal conduct is being reviewed by a prosecuting authority or is being prosecuted at the city, state or federal level, or if the alleged conduct occurred in another jurisdiction and is being criminally investigated or prosecuted in that jurisdiction. In cases of an officer involved fatal incident, the 180 day period will commence when the completed criminal file is provided to the Prosecuting Attorney, and will only be tolled in the event criminal charges are filed.

In the event an outside agency conducts a criminal investigation of a matter within the jurisdiction of the City, and the Department receives the completed criminal file with less than sixty (60) days remaining for the administrative investigation, the Department will have up to an additional

sixty (60) days to complete its administrative investigation; in no event, shall the investigation last more than 240 days.

Compliance with this provision is required if findings are to be entered or discipline is to be imposed. Issuance of a Loudermill notice of intent to discipline will constitute conclusion of the administrative investigation for purposes of this section.

Nothing in this article prohibits the City from disciplining (provided just cause exists) an officer convicted of a crime, or laying off an employee pursuant to Civil Service Rule IX, Section 6 (d).

## **ARTICLE 25 - DRUG TESTING**

### **Section A**

Reporting to work under the influence of alcohol and/or illegal drugs, or the use, sale, or possession by an employee of illegal drugs is strictly prohibited and will result in disciplinary action (unless otherwise required by law), including immediate termination. For the purpose of this policy, substances that require a prescription or other written approval from a licensed physician or dentist for their use shall also be included when used other than as prescribed. Each employee must advise the Employer if they are using prescription or other over-the-counter drugs they know or reasonably should know may impair their ability to perform job functions and/or operate machinery such as automobiles. Under appropriate circumstances the Employer may request the employee provide written medical authorization to perform various essential job functions from a physician while using such drugs.

Any voluntary request by an employee for assistance with his/her own alcohol abuse problem will remain confidential and shall not be used as the basis for any disciplinary action provided that the request for assistance is initiated prior to being identified as impaired through the procedures herein.

The parties recognize the essential purpose of any law enforcement agency is to enforce the criminal laws. Moreover, the parties recognize the courts have held it would substantially impair law enforcement agencies if they were required to employ individuals within their ranks who have violated the very laws said

agencies are charged with enforcing. Therefore, the Employer reserves the right to refuse to employ or continue the employment of individuals who are or have been engaged in serious criminal conduct, whether drug related or not.

### **Section B**

Where a supervisory employee of the City has a reasonable suspicion to believe an employee is under the influence of alcohol or illegal drugs or is abusing the use of prescription or over-the-counter drugs, or is using illegal drugs, the employee in question will be ordered to immediately submit to discovery testing. Such tests include breath tests, urinalysis and blood screens to identify any involvement with alcohol or such drugs. An employee who refuses to submit to discovery testing shall be conclusively presumed to be under the influence of alcohol or an illegal drug for the purpose of administering this Article and therefore will be subject to discipline, including immediate discharge.

### **Section C**

For the purpose of administering this Article the following definition of terms is provided:

1. Reasonable Suspicion - Reasonable suspicion is based on objective facts and reasonable inferences from those facts, that discovery testing will produce evidence of a violation of this policy.
2. Under the Influence – In determining whether an employee is under the influence or using illegal drugs, the following cutoff levels shall be used for the initial screening of specimens to determine whether they are negative for these drugs or classes of drugs:

	Nanograms per milliliter (ng/ml)
	Test Level
Amphetamines .....	1000
Barbiturates .....	300
Benzodiazepines .....	300
Cannabinoids .....	100

Cocaine metabolites .....	300
Methadone .....	300
Methaqualone .....	300
Opiates (Codeine) .....	300
Opiates (Morphine) .....	300
Phencyclidine (PCP) .....	25
Propoxyphene .....	300
Level of the positive result for alcohol.....	0.04 blood alcohol

3. Illegal Drugs - All forms of narcotics, depressants, stimulants, hallucinogens, and cannabis, which sale, purchase, transfer, or unauthorized use or possession is prohibited or restricted by law.
4. Over-the-Counter Drugs - Are those drugs which are generally available without a prescription and are limited to those drugs which are capable of impairing the judgment of an employee to safely perform the employee's duties.
5. Prescription Drugs - All drugs which are used in the course of medical treatment and have been prescribed and authorized for use by a licensed practitioner/physician or dentist.

#### **Section D**

If an employee is required to submit to a drug test, the following procedure shall be followed:

1. The employee shall be given notice of an opportunity to confer with a Guild representative if one is readily available.
2. The employee shall be given an opportunity to explain the reasons for the employee's condition, such as reaction to a prescribed drug, fatigue, exposure to toxic substances, or any other reasons known to employee, to the test administrator. The Guild representative may be present during this discussion.
3. The Employer may request urine and/or blood samples.

4. Urine and blood samples shall be collected at a local laboratory, hospital or medical facility. The Employer shall transport the employee to the collection site. The Employer and/or Guild representative may be allowed to accompany the employee to the collection site and observe the bottling and sealing of the specimen. The employee shall not be observed by the Employer when the urine specimen is given.

5. All specimen containers, vials, and bags used to transport the specimen, shall be sealed to safeguard their integrity, (upon request in the presence of the Employer, employee and Guild representative) and proper chain-of-custody procedures shall be followed.

6. The collection and testing of the samples shall be performed only at Occupational Medicine Associates or at another laboratory mutually agreed to by the parties. The results of such tests shall be made available to the Employer and the Guild.

7. If a specimen tests positive in an immunoassay screen test, the results must be confirmed by a gas chromatography/mass spectrometry tests. The specimen must show positive results at/within the following limits on the GC/MS (gas chromatography/mass spectrometry) confirmatory test to be considered positive.

If immunoassay is specific for free morphine the initial test level is 25 ng/ml.

Confirmatory Test

Marijuana metabolites	15 ng/ml
Cocaine metabolites	150 ng/ml

Opiates:

Morphine	300 ng/ml
Codeine	300 ng/ml
Phencyclidine	25 ng/ml

Amphetamines:

Amphetamine	500 ng/ml
Methamphetamine	500 ng/ml

8. At the employee's or the Guild's option, a sample of the specimen may be requisitioned and sent to a laboratory chosen by the Guild for testing. The cost of this test will be paid by the Guild or the employee. Failure to exercise this option may not be considered as evidence in arbitration or other proceeding concerning the drug test or its consequences. The results of this second test shall be provided to the City.

9. The employee (and the Guild, upon approval of the employee) shall be informed of the results of all tests, and provided with all documentation regarding the tests as soon as the test results are available. Such disclosure shall be in conformance with the Americans with Disabilities Act.

### **Section E**

The parties shall designate a Medical Review Officer (MRO) to review all confirmed positive test results and communicate those results to the Employer. The MRO shall have the responsibility to determine when an individual has failed a drug test in accordance with the standards enumerated herein. The MRO shall retain all records of all positive tests for at least five years and records of all negative tests for at least one year.

### **Section F**

If the results of the drug test are positive, and support a conclusion that the employee used an illegal drug, abused the use of a prescription or over-the-counter drug, or reported to work while under the influence of alcohol, the employee will be subject to discipline, including immediate discharge, unless otherwise required by law.

## **ARTICLE 26 – HEALTH AND WELFARE**

### **Section A - Insurance**

1. **Family Dental Insurance** - The City agrees to provide the current Premier Dental Insurance plan at no cost to the employee, including orthodontia at a 50% benefit level, through April 30, 2014. Effective May 1,

2014, the City agrees to provide the PPO Dental Insurance plan at no cost to the employee, including orthodontia at a 50% benefit level.

2. **Family Medical Insurance (LEOFF I)** - The City will pay for employee medical coverage as is required by law and will pay for 90% of dependent coverage and the employee will be responsible for 10% of the dependent premium. Medical plans offered will be City Plan III and Group Health. Prescription drugs under City Plan III shall be subject to the following co-pays: generic medications \$10.00, all other medications \$20.00. Group Health participants shall be required to pay the following co-pays: generic medications \$10.00, all other medications \$30.00. All other medical benefits will be maintained at current levels. The City program for domestic partner benefits is available for bargaining unit employees.

3. **Family Medical Insurance (LEOFF II)** - Police Officers hired after September 30, 1977, and their dependents, shall be covered under a City sponsored plan for non-duty related medical care.

Through April 30, 2014, medical plans offered will be City Plan III and Group Health I, with employees paying \$105/month toward coverage of the employee and his/her dependents in the employee's selected medical plan and the City paying the balance of the monthly premium.

Effective May 1, 2014, medical plan options will be City Plan III, City Plan IV, Group Health I, and Group Health II. Employee contributions for City Plan III and Group Health I will increase by \$15/month to \$120/month. Employee contributions for City Plan IV and Group Health II will be \$105/month.

Effective January 1, 2015, employee contributions for City Plan III and Group Health I will increase by \$15/month to \$135/month. Employee contributions for City Plan IV and Group Health II will remain \$105/month.

Prescription drugs under City Plan III shall be subject to the following co-pays: generic medications \$10.00, all other medications \$20.00. City Plan IV and Group Health participants shall be subject to the following co-pays: generic medications \$10.00, all other medications \$30.00. All other medical benefits will be maintained at current levels. The City program for domestic partner benefits will be made available for bargaining unit employees.

4. **Retiree Medical** – The Guild has agreed to work with the City on redesigning the current medical plans and creating a Retirees Medical Plan. The Guild has indicated that it would work towards development of a retirees plan similar to the current Plan III with the costs assumed in total by the retiree. The Guild would also like to develop a plan where contributions could be made by existing employees prior to retirement to help offset the costs. The Guild has also requested that employees who have retired since January 2002 be allowed to access the retirees plan. The parties have agreed that they will work in concert during 2004 with a goal to implement the plan in 2005. The goal date may be extended by the parties.

5. **Life Insurance**

- (a) For Police Officers: The City shall provide \$10,000 life insurance coverage to be paid in full by the City.
- (b) For Dependents: The City shall make a life insurance plan available at the employee's option and expense.
- (c) Bomb Squad and Swat Team Members will be provided 1½ times their annual salary in life insurance coverage to a maximum of \$60,000. K-9 Handlers and Hostage Negotiators will be provided \$50,000 in life insurance coverage.

6. **Long-Term Disability Insurance** - The City shall make payroll deduction available for Guild members to purchase the group disability insurance plan, which the Guild sponsors. LEOFF II employees shall be required to purchase this insurance as a condition of employment. The City shall contribute \$30.50 per month, as wages, for LEOFF II officers.

7. **Vision Care** - The City agrees to provide vision care coverage for LEOFF II employees at the same level as LEOFF I in a manner determined by the City.

8. **Health Plan Redesign**. The Guild will participate in City Health plan redesign discussions along with other employee groups provided that this section shall not be construed as either a reopener on employee benefits or as evidence that the Guild agrees to change any health care provision of this agreement by their participation.



## **ARTICLE 27 - CIVILIAN REVIEW**

The Office of Police Ombudsman (OPO) will provide a professional presence to help ensure a quality investigation in real time, and visible, independent oversight to reassure the public. The City and the Guild acknowledge that on June 16, 2014 with the ratification of the 2012-2016 collective bargaining agreement the parties agreed that the OPO and the Police Ombudsman Commission as set forth in Article 27 complied with and satisfied all of the requirements of the City Charter in effect on March 1, 2013.

(a) The Office of Police Ombudsman (OPO) means the Ombudsman, Deputy Ombudsman, and all other regular full-time employees and regular part-time employees of the Office of Police Ombudsman who have signed a confidentiality agreement under the terms of this Article and completed CJIS certification.

(b) "OPO Independent Investigation" (Independent Investigation) means any investigative activity authorized by and conducted in accordance with this Article by the Ombudsman, or Deputy Ombudsman, or third party. Investigative activity may include: interviews of witnesses, review of police reports, review of body camera footage, review of IA or criminal investigative transcripts, audio or video recordings, visitation of a location, as provided for in this Article.

(c) The OPO will be notified of and the Ombudsman and/or Deputy Ombudsman will have the option of actively monitoring all police department IA investigations as provided for herein.

(d) The OPO may receive complaints from any complaining party, including, without limitation, citizens or employees of the police department.

(e) Upon receiving a complaint, the OPO will advise the complainant of the options available to resolve the complaint. These options include referral of the complaint to IA with the potential for a disciplinary investigation monitored by the OPO, mediation services, and/or independent investigation by the OPO where authorized by and in accordance with the provisions of this Article.

1. The OPO will only refer complaints to IA for conduct that occurred within one calendar year and will inform the complainant that the OPO cannot guarantee that IA will investigate a complaint or that the OPO has sufficient resources to conduct an independent

investigation where authorized by and in accordance with this Article.

(f) The Ombudsman or Deputy Ombudsman may conduct a preliminary investigation regarding the complaint for the purpose of determining whether to forward the complaint to IA.

1. The preliminary investigation shall include, as appropriate, interviewing the complainant and interviewing any other person who the complainant asserts was subject to the improper use of force or improper/inappropriate interaction with an officer. If after this interview(s) the Ombudsman and/or Deputy Ombudsman is unable to determine whether the matter should be forwarded to IA, the Ombudsman and/or Deputy Ombudsman may conduct such additional interviews as are reasonably necessary to determine whether to forward the case to IA. If a complainant or witness refuses to have his or her interview recorded, he or she shall be asked to write out his or her complaint. All interviews will be conducted by the Ombudsman and/or Deputy Ombudsman. The Office of the Ombudsman may conduct the initial intake of the complainant. The complainant will be asked to prepare a written statement or taped oral narrative concerning the matter, allowing the Ombudsman and/or Deputy Ombudsman to subsequently determine whether an actual interview should be conducted. Officers will not be interviewed as part of the preliminary investigation, unless the complainant is an officer. If the complainant is an officer, the OPO may request an interview from the complainant officer as part of the preliminary investigation.

2. The Ombudsman and /or Deputy Ombudsman will promptly be given access to all documentation in possession of the Police Department that is relevant to the stated complaint and necessary for determining whether or not to forward the complaint to IA, including access to IA Pro and Blue Team for all information related to the stated complaint. Any and all video that is downloaded and provided to OPO and/or the Police Ombudsman Commission for any purpose authorized by Article 27 shall be uniquely marked by the Police Department, prior to being provided, in order to prevent the copying and/or distribution of such video for a purpose that is not authorized by Article 27. The Ombudsman and/or

Deputy Ombudsman may assign the retrieval, indexing, and search of such documentation to the OPO.

(g) If the OPO determines a complaint alleges potentially criminal conduct by an officer, the case shall be immediately forwarded to Internal Affairs.

If the Ombudsman or Deputy Ombudsman determines that the complaint should not be forwarded to IA, the OPO may publish a closing report, which states the allegations of the complaint and the basis for the Ombudsman's or Deputy Ombudsman's determination that the complaint did not need to be forwarded to IA. Neither this closing report nor the preliminary investigation shall be used for discipline or other tangible adverse employment action against a bargaining unit member, including but not limited to decisions regarding defense and indemnification of an officer. The closing report and any part of the preliminary investigation that is released shall not reveal the names of the officers involved. For each complaint where the Ombudsman or Deputy Ombudsman determines that the complaint does not need to be forwarded to IA, the OPO shall forward to IA its determination as well as the name of any complainant and/or witnesses and the details of the alleged complaint.

If the Ombudsman or Deputy Ombudsman determines that the complaint should be forwarded to IA, the OPO will forward the complaint and any preliminary investigation to IA within ten business days of the initial interview or review of the written statement or taped oral narrative concerning the matter, unless the time is extended by mutual agreement of the Ombudsman or Deputy Ombudsman and the Guild, for processing and, when appropriate, investigation. The OPO will not act upon complaints concerning events that occurred more than one year prior to the filing of a complaint. The OPO will not conduct separate disciplinary investigations, but the Ombudsman and Deputy Ombudsman may participate in interviews and request that further investigation be completed, as provided herein and be given access to all documentation in the possession of the Police Department that is relevant to the stated complaint and necessary for determining the internal investigation was timely, thorough and objective, including access to IA Pro and Blue Team for all information related to the stated complaint. Any and all video that is downloaded and provided to the

OPO and/or the Police Ombudsman Commission for any purpose authorized by Article 27 shall be uniquely marked by the Police Department, prior to being provided, in order to prevent the copying and/or distribution of such video for a purpose not authorized by Article 27. The Ombudsman and/or Deputy Ombudsman may assign the retrieval, indexing, and search of such documentation to the OPO.

(h) In addition to complaints received by the OPO, Internal Affairs will provide: (a) access to all complaints received by IA to the OPO, and, (b) notice of criminal investigations of officers that Internal Investigations is aware of within ten business days of receiving the complaint. Once the case is closed, the OPO will return all case file materials to IA for retention but will have subsequent access to closed cases.

(i) The OPO will have the opportunity to make a recommendation for mediation to the Chief of Police, at any time prior to a determination that the investigation was timely, thorough and objective. The OPO retains sole discretion whether or not to offer mediation based on available resources and the goals of the OPO.

1. In the event the Department, the complainant and the officer all agree to mediation, that process will be utilized rather than sending the matter on for investigation. Unless agreed upon by the participants (the Department, complaint, officer and mediator), the provisions of RCW 7.07 shall be applicable to a mediation conducted under this Article and all evidence, statements, communications or agreements made in mediation shall be confidential and may not be used by the City or any other party in any criminal or disciplinary process against any member or in promotional consideration or as the basis as any other adverse employment action, except that a summary of the mediation without identification of the names of the participants may be disclosed in an OPO closing report. The OPO shall publish a closing report at the end of any mediation services provided, including any agreements reached between the parties.

2. Assuming the officer participates in good faith during the mediation process, the officer will not be subject to discipline and no disciplinary finding will be entered against the

officer. Good faith means that the officer listens and considers the issues raised by the complainant, and acts and responds appropriately. Agreement with either the complainant or the mediator is not a requirement of good faith. In the event an agreement to mediate is reached and the complainant thereafter refuses to participate, the officer will be considered to have participated in good faith.

(j) Once any complaint is received by the Internal Affairs unit (including those forwarded to IA from the OPO), it shall be submitted to the chain of command for review per existing policy. The Chief or her/his designee will determine whether or not the complaint will be investigated, and if it will be investigated, what type of investigation including an IA Investigation, an Inquiry, a Shift Level investigation, or other type of investigation. IA will notify the OPO in writing of the determination as to whether or not the complaint will be investigated by the Department; the notification shall state either no investigation or the type of investigation that will be used for the investigation. When the OPO is notified that no departmental investigation shall occur, the OPO shall have ten business days to advise IA in writing that the OPO believes an investigation should occur and the basis for such belief; if no such notice is received it shall be understood that the OPO agrees with the department's decision not to investigate. When either the Chief or her/his designee determines that the allegations warrant an investigation, such investigation shall be approved, and IA will initiate the investigative process. For those investigations not performed by IA such as a Shift Level investigation, IA will direct another Police Department member to do the investigation.

If the Ombudsman or Deputy Ombudsman disagree with the classification of the complaint as an investigation other than an IA Investigation, the Ombudsman may appeal the classification to the Chief of Police. The Chief of Police shall make the final determination on the classification.

When the Department initiates an investigation, the OPO will have the opportunity to participate in that investigative process as follows:

1. Internal Affairs or the Police Department member conducting the investigation for those other than IA investigations will notify the OPO of all administrative interviews on all investigations. The Ombudsman or Deputy Ombudsman will promptly be given access to all

documentation in the possession of the Police Department that is relevant to the stated complaint and necessary for determining whether the internal investigation was timely, thorough and objective, including access to IA Pro and Blue Team for all information related to the stated complaint. Any and all video that is downloaded and provided to the OPO and/or the Police Ombudsman Commission for any purpose authorized by Article 27 shall be uniquely marked by the Police Department, prior to being provided, in order to prevent the copying and/or distribution of such video for a purpose not authorized by Article 27. The Ombudsman and/or Deputy Ombudsman may assign the retrieval, indexing, and search of such documentation to the OPO.

The Ombudsman and/or Deputy Ombudsman may attend and observe interviews, in person or by telephone, and will be given the opportunity to ask questions during the interview after the completion of questioning by the Department. The Ombudsman or Deputy Ombudsman will not participate in criminal investigations of Department employees but will be notified when the criminal case is concluded.

2. Upon completion or suspension without completion of investigations, IA will forward a complete copy of the case file to the OPO for review. When the OPO is notified that an investigation is suspended, the OPO shall have ten business days to advise IA in writing that the OPO believes the investigation should not be suspended and the basis for such belief; if no such notice is received it shall be understood that the OPO agrees with the decision to suspend the investigation. If an investigation is completed, the Ombudsman or Deputy Ombudsman will review the case file and determine whether the investigation was timely, thorough and objective, prior to a chain of command review.

3. As a part of the review process of completed or suspended investigations, the Ombudsman and/or Deputy Ombudsman may conclude that further investigation is needed on issues deemed material to the outcome. The OPO will notify IA of the suggested further investigation in such cases. The Ombudsman's and/or Deputy Ombudsman's suggestions

and rationale for further investigation will be provided to IA in writing. The Ombudsman and/or Deputy Ombudsman and assigned investigator(s) will discuss the suggested further investigation and attempt to reach an agreement. If there is no agreement between the assigned investigator(s) and the Ombudsman and/or Deputy Ombudsman regarding the necessity, practicality or materiality of the requested further investigation, the OPO will notify the Chief (or designee) in writing of the Ombudsman's or Deputy Ombudsman's suggestions and rationale for further investigation. The written request of the Ombudsman or Deputy Ombudsman shall specifically list the additional investigative steps that the Ombudsman or Deputy Ombudsman is requesting be taken. The Chief (or designee) will determine whether further investigation will be undertaken by IA. The Chief (or designee) will provide his/her determination in writing.

4. Where the complaint giving rise to the investigation, whether made to the Department or the OPO, is a complaint of a serious matter (complaints that could lead to suspension, demotion, or discharge) involving allegations that an employee either improperly used force or improperly/inappropriately interacted with citizens, if the Ombudsman and/or Deputy Ombudsman is not satisfied with the determination of the Chief concerning an investigation referenced in this section, the Ombudsman and/or Deputy Ombudsman may present a request for further investigation to the Police Ombudsman Commission, which shall specifically list the additional investigative steps that the Ombudsman or Deputy Ombudsman is requesting be taken. The Ombudsman or Deputy Ombudsman will promptly provide the Police Ombudsman Commission all documentation in the possession of the OPO that is relevant to evaluate the Ombudsman's and/or Deputy Ombudsman's request. The OPO will also prepare a log reflecting the documentation provided to the Police Ombudsman Commission. The log will be retained by the OPO and a copy will promptly be provided to IA. The Police Ombudsman Commission shall return all documentation received from the OPO to the

OPO, after making its final determination.

The decision of the Police Ombudsman Commission will be final and be based upon the Ombudsman's or Deputy Ombudsman's written request and the Chief's (or designee's) written response, and other information received from the OPO relevant to evaluate the OPO's request. Once the matter has been referred to and resolved by the Police Ombudsman Commission, an Independent Investigation referenced in this section will be completed consistent with the decision of the Police Ombudsman Commission on the OPO's request. The Independent Investigation shall be limited to the additional investigative steps that were in the Ombudsman or Deputy Ombudsman's written request. The Police Ombudsman Commission may direct the Ombudsman or Deputy Ombudsman or a third-party investigator to undertake an Independent Investigation to complete the further investigation requested by the Ombudsman or Deputy Ombudsman referenced in this section; however, no such investigation may commence until the Chief has made a final, written discipline determination in the matter. If the Police Ombudsman Commission contracts for a third-party to do the Independent Investigation, it shall be conducted by someone with knowledge and experience in conducting a fair and objective law-enforcement investigation and who has no conflict of interest. The Ombudsman or Deputy Ombudsman or third-party investigator may request, but not require, participation by police officers in the investigation. Once the Ombudsman or Deputy Ombudsman or third-party investigator has completed the OPO requested investigation, the Commission may publish a closing report of the results of the investigation of the OPO or third-party investigation, so long as the closing report does not identify specific members of the Department and does not in any way comment on officer discipline (or lack thereof). The closing report may be authored by the investigator (OPO or third-party), OPOC or a combination thereof. The closing report will identify the author(s). There shall only be one closing report for an Independent Investigation. The closing report may include the allegation made in the complaint, a



summary of the investigative steps taken by the Ombudsman or Deputy Ombudsman or third-party investigator, and any policy and practice recommendations; however, the report will not determine whether there has been a violation of the law or policy or recommend discipline. The closing report of the Independent Investigation also may include the OPO or OPOC's perspective of the factual information that was obtained as a result of the investigation. Any closing report from an Independent Investigation shall clearly state that the information expressed within the report is the perspective of the OPO and/or OPOC, that the OPO and/or OPOC do not speak for the City on the matter, and that the report is not an official determination of what occurred.

The further investigation and/or the Police Ombudsman Commission's closing report may not be used by the City as a basis to open or re-open complaints against any bargaining unit employees, including those assigned to IA, or to reconsider any decision(s) previously made concerning discipline. No discipline of or other tangible adverse employment actions against bargaining unit employees, including but not limited to decisions regarding defense and indemnification of an officer, may result from the OPO or third-party investigation.

The request from the OPO for IA to do further investigation, the process of review and decision making on that request, or the requirement to do further investigation do not suspend the 180 day requirement of Article 24.

5. After completion of the further investigation by IA referenced in paragraph (j)3 above, or the conclusion (by IA or the Commission) that no further investigation by IA will be undertaken, the Ombudsman or Deputy Ombudsman will then certify whether or not, in the opinion of the Ombudsman or Deputy Ombudsman, the internal investigation was timely, thorough and objective. This determination will be made within ten business days. Once the certification determination is made in writing, the OPO will not be involved further in the disciplinary process in that case.

6. Where the complaint giving rise to the investigation, whether made to the

Department of the OPO, is not a complaint of a serious matter (complaints that could lead to suspension, demotion, or discharge) involving allegations that the employee either improperly used force or improperly/inappropriately interacted with citizens, and if the Ombudsman or Deputy Ombudsman requests further investigation, then the determination of the Chief on the request shall be final.

(k) As set forth in paragraph j above, the OPO will be notified if the Chief or designee determines that any complaint received by the Internal Affairs unit (including those forwarded to IA from the OPO) will not be investigated by written notice referenced in paragraph j above. If IA notifies the OPO in writing that there shall be no investigation of a complaint received by the Internal Affairs unit (including those forwarded to IA from the OPO) where the complaint giving rise to the investigation whether made to the Department or the OPO is a complaint of a serious matter (complaints that could lead to suspension, demotion or discharge) involving allegations that an employee either improperly used force or improperly/inappropriately interacted with citizens then the OPO may conduct an OPO Independent Investigation into that complaint. The Ombudsman or Deputy Ombudsman may request, but not require, participation by police officers in the investigation. The OPO may publish a report of the results of the investigation of a complaint referenced in this section, so long as the report does not identify specific members of the Department and does not in any way comment on officer discipline (or lack thereof). The closing report of the Independent Investigation may include the OPO's perspective of the factual information that was obtained as a result of the investigation. Any closing report from an independent investigation shall clearly state that the information expressed within the report is the perspective of the OPO, that the OPO does not speak for the City on the matter, and the report is not an official determination of what occurred. Any released investigation of a complaint referenced in this section will not identify specific members of the Department. The Ombudsman's or Deputy Ombudsman's investigation and/or OPO's closing report of a complaint referenced in this section may not be used by the City as a basis to open complaints against any bargaining unit employee(s), including those assigned to IA, or to reconsider any decision(s) previously made concerning discipline. No discipline or other tangible adverse employment actions against bargaining unit employees, including but not limited to

decisions regarding defense and indemnification of an officer, may result from the Ombudsman or Deputy Ombudsman investigation.

The request from the Ombudsman or Deputy Ombudsman for IA to do an investigation of a complaint referenced in this section, the process of review and decision making on that request, or the requirement to do an investigation do not suspend the 180 day requirement of Article 24.

(l) All disciplinary decisions will be made by the Chief (or designee).

(m) The OPO will be provided a copy of any letter or other notification to an officer informing them of actual discipline imposed as a result of an internal affairs investigation or any Notice of Finding in the event that the complaint is not sustained.

(n) The OPO will be notified by IA within ten business days of case closure or suspension of all IA Investigations. The OPO, in addition to the Department's written Notice of Finding letter to the complainant, may send a letter to the complainant. The letter may summarize the investigative process and the Department's case findings.

(o) Any complaining party who is not satisfied with the findings of the Department concerning their complaint may contact the Office of Police Ombudsman to discuss the matter further. However, unless persuasive and probative new information is provided, the investigation will remain closed. In accordance with established arbitral case law, employees may not be disciplined twice for the same incident. In the event the investigation is re-opened and discipline imposed, the appropriate burden of establishing compliance with this section rests with the City in any subsequent challenge to the discipline.

(p) Once the Ombudsman and/or Deputy Ombudsman has made a certification decision and the Chief has made a final determination on the case, the OPO may publish a closing report that summarizes the complaint, the IA or Departmental Investigation, which the OPO had the opportunity to be involved in, and the Department's findings, and any recommendations of the Ombudsman and/or Deputy Ombudsman for changes in departmental policies to improve the quality of police practices, training, and investigations. This closing report may include the OPO's perspective of the factual information that was obtained as a result of the IA investigation. Any closing report from an IA investigation shall clearly state that the information

expressed within the report is the perspective of the OPO, that the OPO does not speak for the City on the matter, and the report is not an official determination of what occurred. Prior to making any policy recommendations, the closing report will include the current policy practice, policy, and/or training as applicable and shall expressly state that the policy recommendations that follow reflect the OPO's opinion on modifications that may assist the Department in reducing the likelihood of harm in the future; they do not reflect an opinion on individual job performance under the current policy, practice, or training. The closing report will not disclose the names of officers or witnesses. The OPO's closing report shall not be used in disciplinary proceedings or other tangible adverse employment actions against bargaining unit employees, including but not limited to decisions regarding defense and indemnification of an officer.

(q) Once the Ombudsman or Deputy Ombudsman has made a certification decision and the Chief has made a final determination on the case, IA may publish a case summary. The case summary may include an incident synopsis, summary of the complaint, summary of the investigation, and an analysis and conclusion. The case summary will not disclose the names of officers or witnesses. Prior to IA publishing the case summary, IA will send the case summary to the OPO. The Ombudsman and/or Deputy Ombudsman will review the case summary and respond to IA with any input within ten business days from the receipt of the case summary. IA and the Ombudsman and/or Deputy Ombudsman will collaborate on the input received from the Ombudsman and/or Deputy Ombudsman. IA will make the final determination if IA and the Ombudsman and/or Deputy Ombudsman do not agree on the case summary after collaborating.

(r) In addition to the investigative process, the OPO will have unimpeded access to all complaint and investigative files from IA Investigations for auditing and reporting purposes. The OPO and Police Ombudsman Commission shall not retain investigative materials and/or files beyond one year after a certification decision, for any purpose, and will return the same to Internal Affairs for safekeeping. At all times and including, without limitation, issuing written reports, the OPO will not release the name(s) of employees or other individuals involved in incidents or investigations nor any other personally identifying information. The OPO may make statistical observations regarding the disciplinary results of sustained internal investigations, but shall not take issue with discipline imposed by the Chief of Police in specific cases.

(s) The OPO may recommend policies and procedures for the review and/or audit of the complaint resolution process, and review and recommend changes in departmental policies to improve the quality of police investigations and practices. The OPO may publish a policy and procedure report that identifies the OPO's recommended policy and procedure changes. The OPO's recommendations will be related to departmental procedure, policies, training, or related issues. The policy and procedure report is a tool for the OPO to provide recommendations for future changes, additions, or modifications to policies, training, or procedures. Any policy report should identify the current policy or practice that the OPO is recommending changing. The OPO will not make recommendations concerning discipline for specific cases or officers. Nothing herein shall be construed as a waiver of the Guild's right to require the City to engage in collective bargaining as authorized by law.

(t) No report authorized under this Article, including closing reports and policy and procedure reports shall comment on discipline of an officer(s). This prohibition includes a prohibition on writing in a report whether the OPO or OPOC agrees with or differs with the Chief's findings, whether the officer acted properly, whether the officer's actions were acceptable, or whether the officer's actions were in compliance with training or policy. Additionally, no report will criticize an officer or witness or include a statement on the OPO or OPOC's opinion on the veracity or credibility of an officer or witness.

(u) Prior to the release of any closing report by the OPO or OPOC, the Guild will be provided with a copy of the closing report to review for potential contract violations prior to the report's public release. Any alleged contract violations must be disclosed in writing to the Mayor with a copy to the OPO and OPOC within ten business days of receiving the closing report ("OPO closing report Grievance"). If an OPO closing report Grievance is not timely filed, the closing report may be released.

(v) The OPO closing report Grievance must include the information required in Article 5, Step 1. The grievance filing will include the specific sentences of the closing report that allegedly violate the Agreement, an explanation of how those sentences violate specific sections of the Agreement, and proposed modifications to comply with the Agreement. The Mayor and/or designee will request a written response by the OPO or OPOC as applicable within ten business days of receiving the OPO closing report Grievance. In

lieu of or in addition to a written response, the Mayor and/or designee will offer to facilitate a meeting between the OPO and/or OPOC, City and Guild as appropriate to resolve the OPO closing report Grievance. If the OPO closing report Grievance is not resolved within 30 calendar days of the date of the filing of the OPO closing report Grievance, the Guild may request Expedited Arbitration. The Arbitrator will conduct an arbitration within twenty-one (21) calendar days of the Guild's request for Expedited Arbitration, and issue a bench decision. The decision will be final and binding upon the parties. The Arbitrator shall have no authority to amend, alter, or modify this Agreement or its terms and shall limit his/her decision solely to whether the closing report violates the Agreement. The time limits for Expedited Arbitration may be extended upon mutual agreement of the parties. Requests to extend the time limits will not be unreasonably denied.

(w) A committee of five (5) members (Committee) will be formed that will recommend three (3) candidates for the OPO position to the Police Ombudsman Commission (one of which must be selected). The Committee shall be composed of one member appointed by the Spokane Police Officers Guild; one member appointed by the Lieutenants and Captains Association; one member appointed by the President of the City Council; one member appointed by the Mayor; and a fifth member selected by the other four members.

(x) The Ombudsman or Deputy Ombudsman may attend meetings of the Use of Force Review Board (UFRB), Collision Review Board (CRB), and Deadly Force Review Board (DFRB) as a participating observer. Based upon such participation, may recommend policies and procedures for the review and/or audit of the operation of the UFRB and/or CRB and/or DFRB and recommended changes in departmental policies to improve the quality of such reviews. The OPO may publish a policy and procedure report that identifies the OPO's recommended policy and procedure changes. The OPO's recommendations will be related to departmental procedure, policies, training, or related issues. The OPO will not make recommendations concerning discipline for specific cases or officers. Nothing herein shall be construed as a waiver of the Guilds right to require the City to engage in collective bargaining as authorized by law.

(y) In addition to whatever job requirements may be established by the City, which shall be the same for the Ombudsman and Deputy Ombudsman, one of the minimum job requirements for the Ombudsman or Deputy Ombudsman will be to have a history that includes the establishment of a reputation

for even-handedness in dealing with both complainants and the regulated parties. The City also agrees that compliance with the confidentiality provisions of this agreement will be a condition of employment for all employees of the OPO, including the Ombudsman or Deputy Ombudsman. Inadvertent, de minimis disclosures shall not be considered a violation of this section. A disclosure which is more than an inadvertent, de minimis disclosure shall result in discipline as outlined in Section 4.32.100 of the Spokane Municipal Code (effective date of March 26, 2014), which may include the removal of the person(s) making the disclosure from the OPO. The City also agrees that acting within the authority given to the OPO by the City including under the Spokane Municipal Code and this Agreement will be a condition of employment. The City will require that each individual member within the OPO sign a statement confirming that she/he will only act within the authority she/he received from the City including from the Spokane Municipal Code and this Agreement. Knowingly or negligently acting outside of their legal authority will be considered a failure to perform the duties of the office and/or negligence in the performance of the duties and may result in appropriate discipline up to and including removal of the person(s) from the OPO in accordance with the Spokane Municipal Code (effective date of March 26, 2014).

(z) Allegations that the OPO has intentionally knowingly or negligently exceeded his/her authority as defined by the Spokane Municipal Code and this Agreement shall be resolved using the OPO Grievance and Expedited Arbitration. A grievance alleging a violation must be presented to the Mayor within 28 calendar days of the occurrence and include the information provided for in Step 1 of the grievance procedure. The Mayor and/or designee will request a written response by the OPO or OPOC as applicable within ten business days of receiving the OPO Grievance. In lieu of or in addition to a written response, the Mayor and/or designee will offer to facilitate a meeting between the OPO and/or OPOC, City and Guild as appropriate to resolve the OPO Grievance. If the OPO Grievance is not resolved within 30 calendar days of the date of the filing of the OPO Grievance, the Guild may request Expedited Arbitration. The Arbitrator will conduct an arbitration within twenty-one (21) calendar days of the Guild's request for Expedited Arbitration, and issue a bench decision. The decision will be final and binding upon the parties. The Arbitrator shall have no authority to amend, alter, or modify this Agreement or its terms and shall limit his/her decision solely to

whether the OPO or OPOC have violated the Agreement. The time limits for Expedited Arbitration may be extended upon mutual agreement of the parties. Requests to extend the time limits will not be unreasonably denied.

(aa) Except where a different grievance procedure is specifically provided for, alleged violations of Article 27 are subject to the grievance and arbitration provisions of the bargaining agreement. In the event the Guild believes a candidate recommended by the Committee for Ombudsman or Deputy Ombudsman does not meet the minimum job requirement established in Section (v) above, the Guild must within three (3) days of the recommendation present information to the Police Ombudsman Commission about their concern. If that person is ultimately selected by the Police Ombudsman Commission, the Guild may file a grievance within five (5) days of the appointment and an expedited arbitration process will be utilized to resolve the matter. The Arbitrator will conduct an arbitration within twenty-one (21) days, and issue a bench decision. The decision will be final and binding upon the parties. Upon the filing of a grievance, the appointment shall be held in abeyance pending completion of the arbitration.

(bb) The City will require that each member of the Police Ombudsman Commission sign a confidentiality statement confirming as a condition of service that they will not release the name(s) of employees or other individuals involved in incidents or investigations, nor any other personally identifying information. Inadvertent, de minimis disclosures shall not be considered a violation of this section. A disclosure which is more than an inadvertent, de minimis disclosure may result in the removal by the City Council of the person(s) making the disclosure from the Police Ombudsman Commission.

(cc) The City will require that each member of the Police Ombudsman Commission sign a statement confirming as a condition of service that she/he will only act within the authority she/he received from the City, including from the Spokane Municipal Code and this Agreement. Acting outside of their authority may result in the removal by the City Council of the person(s) from the Police Ombudsman Commission.

(dd) In addition to whatever job requirements may be established by the City, one of the minimum job requirements for the members of the Police Ombudsman Commission will be to have a history that



includes the establishment of a reputation for even-handedness in dealing with both complainants and the regulated parties.

(ee) Nothing herein shall be construed as a waiver of the Guilds right to require the City to engage in collective bargaining as authorized by law.

## **ARTICLE 28 – SALARY SAVINGS PLAN**

The parties agree to adopt the Guild Salary Savings Plan under the following terms:

### **A. Eligibility and Payment Terms**

	<b>Minimum Age</b>	<b>Age + Years of Service</b>	<b>Monthly Payment</b>	<b>Duration</b>
<b>LEOFF II</b>	53	78	\$500	8 years (96 months)
<b>LEOFF I</b>	53	78	\$300	5 years (60 months)

The monthly payment will be made into an HRA account. The individual accounts are subject to deduction for administration costs. The HRA will be an inheritable asset, if allowed by law.

### **B. Limits and Deadlines**

	<b>2010</b>	<b>Subsequent years</b>
<b>Number eligible</b>	10	10
<b>Deadline to apply for the incentive</b>	March 1, 2010	Dec. 31 of the prior year
<b>Deadline to retire</b>	August 30, 2010	Between January 1 and June 30

Employees must complete and turn in an application form by the above deadline in order to be eligible for the incentive. Applicants must meet retirement eligibility requirements under their LEOFF pension plan.

If the City receives applications from more than 10 employees in one year, the incentive will be given

to the eligible employees highest on the seniority list. If an employee does not receive the benefit based on seniority, that employee may be eligible for the incentive in future years.

**C. Disqualifications**

The intent of this program is for service retirements only. Employees who are receiving L&I or long term disability or are on medical layoff/retirement are disqualified from the incentive. If at any time during the incentive payment term the recipient of the incentive begins receiving L&I or long term disability, incentive payments under this program will cease.

Employees who have already applied and been approved for the City's Voluntary Retirement Incentive Program (VRIP) are disqualified from the incentive. Under no circumstance can an employee receive benefits from both the VRIP and the incentive program outlined by this Salary Savings Plan.

If an employee applies for the incentive but does not retire by the established deadline, the employee will not be eligible for the incentive in that year or any future year. If an employee is approved for the benefit but does not retire, then the next eligible applicant on the seniority list will receive the incentive.

**D. COLA**

The agreed monthly payment amounts will not be subject to any cost of living adjustment.

**E. Discontinuance/Reinstatement of Plan**

The City has the right to discontinue this incentive plan at any time. The City has provided notice that the program will be discontinued following 2013 retirements.

The City has the right to reinstate the plan on January 1 of any year.

If at any point the incentive is modified or discontinued, employees who have already been approved to receive the incentive will continue to receive payments under the terms that were in place at the time that they were approved for the incentive.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2021.

FOR THE CITY OF SPOKANE:

\_\_\_\_\_  
Nadine Woodward  
Mayor

\_\_\_\_\_  
Scott Simmons  
Interim City Administrator

\_\_\_\_\_  
Craig Meidl  
Police Chief

\_\_\_\_\_  
Justin Lundgren  
Assistant Police Chief

\_\_\_\_\_  
Amber Richards  
Human Resources Director

\_\_\_\_\_  
Meghann Steinolfson  
Labor Relations Manager

Approved as to form:

\_\_\_\_\_  
Mike Ormsby  
City Attorney

FOR THE SPOKANE POLICE GUILD:

\_\_\_\_\_  
Kristopher Honaker  
President

\_\_\_\_\_  
David Dunkin  
Vice-President

\_\_\_\_\_  
Timothy Schwering  
Vice-President

\_\_\_\_\_  
Ty Snider  
Secretary

\_\_\_\_\_  
Ben Greer  
Treasurer

Attest:

\_\_\_\_\_  
Terri Pfister  
City Clerk