**CITY OF SPOKANE**

**NOTICE**

**REGARDING CITY COUNCIL MEETINGS**

Notice is hereby given that, pursuant to Governor Jay Inslee's **Revised** 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in RCW 42.30.030 has been suspended until termination of the state of emergency pursuant to RCW 43.06.210, or until rescinded, whichever occurs first. Proclamations 20-28, et seq, were amended by the Washington State Legislature to recognize the extension of statutory waivers and suspensions therein until termination of the state of emergency pursuant to RCW 43.06.210 or until rescinded.

While all public meetings must continue to be held remotely, an option for an additional in-person meeting component is permitted consistent with the business meetings requirements contained in the Miscellaneous Venues guidance incorporated into Proclamation 20-25, et seq. At this time, the City Council has decided to continue its meetings with remote access only and to not include an in-person attendance component.

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 14, 2022.**

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 **2485 018 9050** for the 3:30 p.m. Briefing Session or **2481 080 7506** for the 6:00 p.m. Legislative Session when prompted; meeting password is **0320.**

**To participate in virtual public comment (including Open Forum):**
Sign up to give testimony on legislative items and during Open Forum at **https://forms.gle/Vd7n381x3seaL1NW6.** (If you are unable to access the form by clicking the hyperlink, please copy and paste the link address into your browser window.) 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 14, 2022, and will close at 6:00 p.m.** At 6:00 p.m., you will call in to the meeting using the information above or join by WebEx video using the information provided on the form. When it is your turn to testify, Council President will call your name. Instructions for participation are provided on the form when you sign up. 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.

**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!**

**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**

A. At each meeting, after the conclusion of the legislative agenda, the Council shall hold an open public comment period until 9:30 pm, which may be extended by motion.

B. At the beginning of the open forum session, staff will collect the sign-up sheet(s) and deliver them to the Chair. The order of the speakers and the appropriate time limits for the speakers will be determined at the discretion of the Chair. Each speaker shall be limited to no more than three minutes.

C. No action, other than a statement of Councilmembers' intent to address the matter in the future, points of order, or points of information will be taken by Council members during an 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 included on that week's current agenda or the next week's 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.

**Rule 2.7 SERVICE ANIMALS AT CITY COUNCIL MEETINGS**

A. For purposes of these Rules, only dogs that are individually trained to do work or perform tasks for a person with a disability are recognized as service animals. Dogs or other animals whose sole function is to provide comfort or emotional support do not qualify as service animals under these Rules. Service animals are permitted to accompany people with disabilities in City Council meetings, as well as all areas where members of the public are allowed to go.

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 2.15 PARTICIPATION OF MEMBERS OF THE PUBLIC IN COUNCIL MEETINGS**

A. Members of the public may address the Council regarding the following items on the Council's legislative agenda: first and final readings of regular and special budget ordinances, emergency ordinances, special consideration items, hearing items, and other items before the City Council requiring Council action, except those that are adjudicatory or solely 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. Council members must be recognized by the Chair for the purpose of obtaining the floor.

C. Each person speaking in a public Council meeting 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, shall refrain from remarks directed personally to any Council Member, 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's Policy Director 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 2.16 PUBLIC TESTIMONY REGARDING LEGISLATIVE AGENDA ITEMS – TIME LIMITS**

A. The City Council shall take public testimony on all matters included on its legislative agenda as described at Rule 2.16(A), with those exceptions stated in Rule 2.17(B). Public testimony shall be limited to the final Council action, except that public testimony shall be allowed at the first reading of ordinances. 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 solely 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 at the discretion of the Council President:

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 may 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 may be granted to the designated representative for each side, the proponents speaking first, the opponents speaking second.

2. In the event the party or parties representing one side of an issue has a designated representative and the other side does not, the Chair shall publicly ask the unrepresented side if they wish to designate one or more persons to utilize the time allotted for the designated representative. If no such designation is made, each person wishing to speak on behalf of the unrepresented side shall be granted three (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 thereto shall be in addition to the time allotted for any individual or designated representative's testimony.

# THE CITY OF SPOKANE

# ADVANCE COUNCIL AGENDA

## MEETING OF MONDAY, MARCH 14, 2022

**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 JONATHAN BINGLE**
**COUNCIL MEMBER MICHAEL CATHCART**
**COUNCIL MEMBER LORI KINNEAR**
**COUNCIL MEMBER KAREN STRATTON**
**COUNCIL MEMBER BETSY WILKERSON**
**COUNCIL MEMBER ZACK ZAPPONE**

**CITY COUNCIL CHAMBERS**
**CITY HALL**

**808 W. SPOKANE FALLS BLVD.**
**SPOKANE, WA 99201**

# LAND ACKNOWLEDGEMENT

We acknowledge that we are on the unceded land of the Spokane people. And that these lands were once the major trading center for the Spokanes as they shared this place and welcomed other area tribes through their relations, history, trade, and ceremony. We also want to acknowledge that the land holds the spirit of the place, through its knowledge, culture, and all the original peoples Since Time Immemorial.

As we take a moment to consider the impacts of colonization may we also acknowledge the strengths and resiliency of the Spokanes and their relatives. As we work together making decisions that benefit all, may we do so as one heart, one mind, and one spirit.

We are grateful to be on the shared lands of the Spokane people and ask for the support of their ancestors and all relations. We ask that you recognize these injustices that forever changed the lives of the Spokane people and all their relatives.

We agree to work together to stop all acts of continued injustices towards Native Americans and all our relatives. It is time for reconciliation. We must act upon the truths and take actions that will create restorative justice for all people.

Adopted by Spokane City Council on the 22nd day of March, 2021
*via Resolution 2021-0019*

# 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.**

# 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. Five-year Value Blankets with: | Approve All | |
| a. Consolidated Supply Co. (Spokane Valley, WA) for as-needed purchases of coiled pit setter meter boxes—estimated $600,000 annually (incl. tax), and | | OPR 2022-0161<br>BID 5576-22 |
| b. Core & Main (Spokane Valley, WA) for as-needed purchases of ductile iron service saddles—$80,000 (incl. tax). | | OPR 2022-0162<br>BID 5587-22 |
| (Council Sponsor: Council Member Kinnear)<br>Loren Searl | | |
| 2. Five-year Value Blanket with Spokane Tin & Sheet Iron Works, Inc. (Spokane) for as-needed purchases of sewer bends—estimated $225,000 (incl. tax). (Council Sponsor: Council Member Kinnear)<br>Raylene Gennett | Approve | OPR 2022-0163<br>BID 5584-22 |
| 3. Purchase of John Deere 8R 250 tractor from Pape Machinery (Spokane) for the Riverside Park Water Reclamation Facility using Sourcewell Contract 110719-JDC—$198,291.88. (Council Sponsor: Council | Approve | OPR 2022-0164 |

| | | | |
|---|---|---|---|
| | Member Wilkerson)<br>Richard Giddings | | |
| 4. | Value Blanket with GMCO (formerly Roadwise) for liquid deicer utilizing pricing on Washington State Contract No. 02714—up to $1,500,000. (Council Sponsor: Council Member Kinnear)<br>Clint Harris | Approve | OPR 2022-0165 |
| 5. | Purchase of traffic paint using approved Washington State Contract No. 02817, Spokane County Contract No. P10162, or Pierce County Contract No. SC-104806 via Interlocal Agreement OPR 1995-0065—up to $95,000. (Council Sponsor: Council Member Kinnear)<br>Clint Harris | Approve | OPR 2022-0166 |
| 6. | Value Blanket Renewal with Valmont Industries (Valley, NE) for traffic signal and luminaire standards—not to exceed $380,000. (Council Sponsor: Council Member Kinnear)<br>Clint Harris | Approve | OPR 2021-0078<br>ITB 5362-20 |
| 7. | Purchase of a new lime slaker with heaters for the Waste to Energy Facility from STT Storage & Transfer Technologies (Ontario, Canada)—$94,100 (plus tax). (Council Sponsor: Council Member Kinnear)<br>David Paine | Approve | OPR 2022-0167<br>RFQ 5558-22 |
| 8. | Contract Renewal 1 of 3 with Helfrich Brothers Boiler Works, Inc. (Lawrence, MA) for boilermaker services at the Waste to Energy Facility from April 1, 2022 through March 31, 2023—not to exceed $1,000,000 (incl. tax). (Council Sponsor: Council Member Kinnear)<br>David Paine | Approve | OPR 2020-0341<br>PW ITB 5238-20 |
| 9. | Contract Renewal 1 of 4 with Sulzer Pump Services, Inc. (Santa Fe Springs, CA) for service of the boiler feed water pumps at the Waste to Energy Facility from March 15, 2022 through March 14, 2023—not to exceed $100,000 (plus tax). (Council Sponsor: Council Member Kinnear)<br>David Paine | Approve | OPR 2021-0080<br>PW ITB 5368-21 |
| 10. | Contract with BrandSafway Services, LLC (Spokane Valley, WA) for scaffolding services at the Waste to Energy Facility from April 1, 2022 through March 31, 2023—not to exceed $700,000 (incl. tax). (Council Sponsor: Council Member Kinnear)<br>David Paine | Approve | OPR 2022-0168<br>PW ITB 5537-21 |
| 11. | Three-year Contract with Jacobs Engineering Group, Inc. (Spokane) for landfill groundwater monitoring, data analysis, and report writing services from March 10, 2022 through March 9, 2025—not to exceed $150,000 (incl. tax). (Council Sponsor: Council Member Kinnear)<br>David Paine | Approve | OPR 2022-0169<br>IRFQU 5563-22 |

| | | | |
|---|---|---|---|
| 12. | **Contract Amendment with Budinger & Associates, Inc. (Spokane) for geotechnical engineering on-call services from January 1, 2022 through December 31, 2022—additional $400,000. Total contract amount: $800,000. (Council Sponsor: Council President Beggs)**<br>**Dan Buller** | **Approve** | **OPR 2020-0839**<br>**ENG 2021061** |
| 13. | **Contract with Concourse Financial Group, Inc. (Birmingham, AL), parent company for Time Value Investment (TVI), for non-discretionary investment services from March 1, 2022 through February 28, 2025—annual flat rate fee of $65,000. (Deferred from February 28, 2022, Agenda) (Council Sponsor: Council Member Stratton)**<br>**Tonya Wallace** | **Approve** | **OPR 2022-0127** |
| 14. | **Acceptance of 2021 BJA Fiscal Year 2021 Edward Byrne Memorial Justice Assistance Grant (JAG)—$176,381 Revenue, of which $79,371 will be subawarded to Spokane County. (Relates to Special Budget Ordinance C36177 and Consent Agenda Item No. 15) (Council Sponsors: Council Members Kinnear and Cathcart)**<br>**Eric Olsen** | **Approve** | **OPR 2022-0170** |
| 15. | **Subrecipient Contract with Spokane County, as the City of Spokane is the fiscal agent over JAG21 Department of Justice award—$79,371. (Relates to Special Budget Ordinance C36177 and Consent Agenda Item No. 14) (Council Sponsors: Council Members Kinnear and Cathcart)**<br>**Eric Olsen** | **Approve** | **OPR 2022-0171** |
| 16. | **Contract with Friends of KSPS (Spokane) for distribution of PEG programming to Comcast for delivery of community and educational access programming from January 1, 2022 through December 31, 2022—$68,000. (Relates to Consent Agenda Item No. 17) (Council Sponsor: Council Member Wilkerson)**<br>**John Delay** | **Approve** | **OPR 2022-0172** |
| 17. | **Reimbursement Contract with Community-Minded Enterprises (CME) (Spokane) designating CME as Cable Manager, fulfilling Section 19 of the Comcast Cable Franchise, from January 1, 2022 through December 31, 2022—$70,000. (Relates to Consent Agenda Item No. 16) (Council Sponsor: Council Member Wilkerson)**<br>**John Delay** | **Approve** | **OPR 2022-0173** |
| 18. | **Contract Amendment with Robert Half International, Inc. (San Ramon, CA) to include executive administrative support for the Finance Department and** | **Approve** | **OPR 2021-0646** |

| | | | |
|---|---|---|---|
| | grant administration work for city-wide grants and the new American Rescue Plan Act Grant—$160,000. (Council Sponsor: Council Member Wilkerson)<br>Michelle Murray | | |
| 19. | Contract Renewal with Azteca Systems, LLC (Sandy, UT) for annual support and maintenance of Cityworks Asset Maintenance Management System from April 1, 2022 through March 31, 2023—$135,160 (incl. tax). (Council Sponsor: Council Member Cathcart)<br>Michael Sloon | Approve | OPR 2016-0235 |
| 20. | Contract Renewal 1 of 2 with Incapsulate, LLC (Washington D.C.) for the City's Customer Relationship Management System (CRM) annual software maintenance and support from May 1, 2022 through April 30, 2023—$113,118.94 (incl. tax). (Council Sponsor: Council Member Cathcart)<br>Michael Sloon | Approve | OPR 2019-0292<br>RFP 4481-18 |
| 21. | Contract Renewal with Carahsoft Technology Corporation (Reston, VA) for purchase of SalesForce CRM licenses in support of MySpokane's 311 Incapsulate CRM system from May 1, 2022 through April 30, 2023—$121,516.75 (incl. tax). (Council Sponsor: Council Member Cathcart)<br>Michael Sloon | Approve | OPR 2019-0293<br>RFP 4481-18 |
| 22. | Contract Renewal with Oracle America, Inc. (San Francisco, CA) for Oracle license support to include update subscription services and right-to-use Oracle licenses for the City's PeopleSoft Human Capital Management system and Utility Billing Oracle database from April 21, 2022 through April 20, 2023—$215,959,47 (incl. tax). (Council Sponsor: Council Member Cathcart)<br>Michael Sloon | Approve | OPR 2019-0314 |
| 23. | Contract Amendment with Stewart A. Estes and the law firm of Keating, Bucklin & McCormack, Inc., P.S. (Seattle, WA) for outside counsel services and advice in the legal matter Estate of David Novak, et. al. versus City of Spokane et. al.—$100,000. Total contract amount: $249,500. (Council Sponsor: Council Member Cathcart)<br>Michael Ormsby | Approve | OPR 2019-0750 |
| 24. | Additional reallocation grant award of ERA 1.0 funds to Goecko, Inc. d.b.a. Livestories (Spokane)—$234,629.26. The grant has a retroactive start date of March 1, 2021, and expires on September 30, 2022. (Council Sponsor: Council Member Wilkerson)<br>Jenn Cerecedes | Approve | OPR 2022-0174 |

| | | | |
|---|---|---|---|
| **25.** | **Report of the Mayor of pending:** | **Approve & Authorize Payments** | |
| | **a. Claims and payments of previously approved obligations, including those of Parks and Library, through _____, 2022, total $_____, with Parks and Library claims approved by their respective boards. Warrants excluding Parks and Library total $_____.** | | **CPR 2022-0002** |
| | **b. Payroll claims of previously approved obligations through_____, 2022: $_____.** | | **CPR 2022-0003** |
| **26.** | **City Council Meeting Minutes: _____, 2022.** | **Approve All** | **CPR 2022-0013** |

# EXECUTIVE SESSION

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

# CITY COUNCIL SESSION

**(May be held or reconvened following the 3:30 p.m. Administrative Session)**
**(Council Briefing Center)**

**This session may be held for the purpose of City Council meeting with Mayoral nominees to Boards and/or Commissions. The session is open to the public.**

# LEGISLATIVE SESSION

**(6:00 P.M.)**
**(Council Reconvenes in Council Chamber)**

**WORDS OF INSPIRATION**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL OF COUNCIL**

**ANNOUNCEMENTS**
**(Announcements regarding Changes to the City Council Agenda)**

# NO BOARDS AND COMMISSIONS APPOINTMENTS

## ADMINISTRATIVE REPORT

## COUNCIL COMMITTEE REPORTS

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

# LEGISLATIVE AGENDA

## SPECIAL BUDGET ORDINANCES

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

**Ordinances amending Ordinance No. C36161 passed by the City Council December 13, 2021, and entitled, "An Ordinance adopting the Annual Budget of the City of Spokane for 2022, making appropriations to the various funds of the City of Spokane government for the fiscal year ending December 31, 2022, and providing it shall take effect immediately upon passage," and declaring an emergency and appropriating funds in:**

**ORD C36177** **Public Safety & Judicial Grant Fund**
**1) Increase revenue by $176,381**
**A) $176,381 of the increased revenue is from the Department of Justice as part of the Edward Byrne Memorial Justice Assistance grant JAG21**
**2) Increase appropriations by $176,381**
**A) $97,010 is provided solely for the procurement of law enforcement equipment**
**B) $79,371 is provided solely for the subaward amount to Spokane County to be used for prosecution services and law enforcement equipment**

**(This action arises from the need to procure law enforcement equipment as well as subaward to our grant partners.) (Relates to Consent Agenda Item Nos. 14 and 15) (Council Sponsors: Council Members Kinnear and Cathcart)**
**Eric Olsen**

**ORD C36178** **General Fund**
**1) Decrease the appropriation for the Administrative Specialist position in the Finance Department by $50,000.**
**2) Increase the appropriation for contractual services by $50,000.**
**3) Decrease the appropriation for the Director of Grants, Contracts & Purchasing in the Grants Management Department by $60,000.**
**4) Increase the appropriation for contractual services by $60,000.**
**5) There is no change to the overall appropriation level in the General Fund.**

**and**

**Accounting Fund**
**1) Decrease the appropriation for an Accounting Clerk in the Accounting Department position by $15,000.**
**2) Increase the appropriation for contractual services by $15,000.**
**3)There is no change to the overall appropriation level in the Accounting Services Fund.**

**(This action arises from the need to transfer budget authority from personnel to non-personnel expenses to allow for temporary contractual staff support.) (Council Sponsors: Council Members Wilkerson and Cathcart)**
**Paul Ingiosi**

**ORD C36179** **CD/HS Operations Fund**
**1) Transfer one (1) Grants Analyst from the CD/HS Operations Fund to the Grants Management department in the General Fund.**
**A) Decrease salary and benefits appropriation for the Grants Analyst by $82,389 and transfer the FTE to the Grants Management department in the General Fund. This action reduces the number of Grants Analysts in the CD/HS Operations Fund from one to zero.**
**B) Increase the salary and benefit contra accounts in the CD/HS Operations Fund by a total of $82,389 for the position.**
**C) These adjustments offset for a net impact of $0 to the CD/HS Operations Fund.**

**and**

**General Fund**
**1) Transfer one (1) Grants Analyst from the CD/HS Operations Fund to the Grants Management department in the General Fund.**
**A) Increase the salary and benefits appropriation for one Grants Analyst by $82,389 and add the FTE to the Grants Management department in the General Fund. This action increases the number of Grants Analysts in the Grants Management department from one to two.**
**B) Decrease the salary and benefit contra accounts in the General Fund by a total of $82,389 for the position.**
**C) These adjustments offset for a net impact of $0 to the General Fund.**

**(This action arises from the need to transfer one position.) (Council Sponsors: Council Members Wilkerson and Bingle)**
**Tonya Wallace**

**ORD C36180** **General Fund**
**1) Add 10 Police Officer positions to the Spokane Police Department.**
**A)The 10 additional positions are to be used for temporary "hire-ahead" purposes as part of a three-year pilot project in the Spokane Police Department. Any costs associated with maintaining the "hire-ahead" positions will be covered from savings from retirements and separations.**

**B) There is no change to the overall appropriation level in the General Fund.**

**(This action arises from the need to mitigate the long lead time required to hire and onboard new police officers and maintain adequate staffing in the Spokane Police Department.) (Council Sponsors: Council President Beggs and Council Members Cathcart and Kinnear)**
**Jacqui MacConnell**

## NO EMERGENCY ORDINANCES

## RESOLUTION

**(Requires Four Affirmative, Recorded Roll Call Votes)**

**RES 2022-0026** **Updating methodology for the distribution of investment earnings in Spokane Investment Pool to participating funds not restricted by bond covenants, grant terms, contractual terms, or establishing ordinances. (Council Sponsors: Council Members Wilkerson and Cathcart)**
**Tonya Wallace**

## NO FINAL READING ORDINANCES

## FIRST READING ORDINANCE

**ORD C36181** **Relating to the executive and administrative organization of the City, amending Spokane Municipal Code sections 1.07.005, 3.01A.215 and 3.01A.315. (Council Sponsor: Council President Beggs)**
**Tonya Wallace**
**FURTHER ACTION DEFERRED**

---

## NO SPECIAL CONSIDERATIONS

---

## NO HEARINGS

---

**Motion to Approve Advance Agenda for March 14, 2022**
**(per Council Rule 2.1.2)**

---

# 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/Vd7n381x3seaL1NW6. The form will open at 5:00 p.m. on Monday, March 14, 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 14, 2022, Regular Legislative Session of the City Council will be held and is adjourned to March 21, 2022.**

# NOTES

| Agenda Sheet for City Council Meeting of: 03/14/2022 | | Date Rec'd | 2/22/2022 |
|---|---|---|---|
| | | Clerk's File # | OPR 2022-0161 |
| | | Renews # | |
| **Submitting Dept** | WATER & HYDROELECTRIC SERVICES | **Cross Ref #** | |
| **Contact Name/Phone** | LOREN SEARL 625-7851 | **Project #** | |
| **Contact E-Mail** | LSEARL@SPOKANECITY.ORG | **Bid #** | 5576-22 |
| **Agenda Item Type** | Purchase w/o Contract | **Requisition #** | VALUE BLANKET |
| **Agenda Item Name** | 4100 COILED PIT SETTER METER BOXES | | |

**Agenda Wording**

Five-year value blanket with Consolidated Supply Co. (Spokane Valley, WA) for as-needed purchases of these meter boxes. Annual spend estimated at $600,000.00 including tax. Total spend shall be based on the unit prices accepted and volume purchased.

**Summary (Background)**

Water & Hydroelectric Services requires these products for maintenance of and new installations to the City's existing water service system. This order allows the department to maintain a source for these products without having to maintain extensive on-site inventory. All items are purchased on an as-needed basis, with no minimum obligation. Award of bid #5576-22 is recommended to Consolidated Supply Co. as the low responsive, responsible bidder. The value blanket will have no renewal options.

Lease? NO Grant related? NO Public Works? NO

| **Fiscal Impact** | | **Budget Account** |
|---|---|---|
| Expense | $ 600,000.00 | # 4100-42440-94340-56595-99999 |
| Select | $ | # |
| Select | $ | # |
| Select | $ | # |

| **Approvals** | | **Council Notifications** | |
|---|---|---|---|
| **Dept Head** | SEARL, LOREN | **Study Session\Other** | PIES 2/28/2022 |
| **Division Director** | FEIST, MARLENE | **Council Sponsor** | CM KINNEAR |
| **Finance** | ALBIN-MOORE, ANGELA | **Distribution List** | |
| **Legal** | ODLE, MARI | sjohnson@spokanecity.org | |
| **For the Mayor** | ORMSBY, MICHAEL | | |
| **Additional Approvals** | | | |
| **Purchasing** | PRINCE, THEA | | |
| | | | |
| | | | |
| | | | |

# Committee Agenda Sheet
# Public Infrastructure, Environment, & Sustainability Committee

| | |
|---|---|
| **Submitting Department** | Water & Hydroelectric Services |
| **Contact Name & Phone** | Loren Searl – 509.625.7851 |
| **Contact Email** | lsearl@spokanecity.org |
| **Council Sponsor(s)** | Councilmember Kinnear |
| **Select Agenda Item Type** | ☒ Consent ☐ Discussion Time Requested: N/A |
| **Agenda Item Name** | Coiled Pit Setter Meter Boxes Value Blanket |
| **Summary (Background)** | The Water & Hydroelectric Services department requires these products for maintenance of and new installations to the City's existing water service system. Products are manufactured according to City specifications when needed. This order allows the department to maintain a source for these products without having to maintain extensive on-site inventory. All items are purchased on an as-needed basis, with no minimum obligation.<br><br>This procurement saves taxpayer dollars by leveraging volume discounts.<br><br>Bid #5576-22 was issued on 1/18/22 via the City's electronic bidding portal to more than 100 contacts. One bid was received by the closing deadline on 2/14/22. Award is recommended to Consolidated Supply Co. (Spokane Valley, WA) as the low responsive, responsible bidder.<br><br>This value blanket will be valid for a five-year term with no renewal options. Annual spend is estimated at $600,000 including sales tax; total compensation shall be based on the unit prices accepted and the volume purchased by the City. |
| **Proposed Council Action & Date:** | Consent Approval, 3/14/2022 |

**Fiscal Impact:**

Total Cost: Estimated $600,000.00 annually; actual expenditure dependent on as-needed usage

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

Funding Source ☒ One-time ☐ Recurring

Specify funding source: Water Warehouse budget in accordance with actual usage

Expense Occurrence ☒ One-time ☐ Recurring

Other budget impacts: None

**Operations Impacts**

What impacts would the proposal have on historically excluded communities? None

| |
|---|
| How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities? N/A |
| How will data be collected regarding the effectiveness of this program, policy, or product to ensure it is the right solution?<br><br>Expenses will be processed through the value blanket in the City's FMS system to track usage and support annual volume discount negotiations. Should usage drop off, the City retains the right to cancel the value blanket agreement as appropriate. |
| Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?<br><br>This procurement complies with City Purchasing polices and supports responsible expenditure of taxpayer dollars. |

**CITY OF SPOKANE**
**WATER & HYDROELECTRIC SERVICES**
914 E. North Foothills Drive
Spokane, Washington 99207
PHONE: 509.625.7800

# BID TABULATION

| | |
|---|---|
| Bid Number | 5576-22 |
| Description | Coiled Pit Setter Meter Boxes - Value Blanket |

| | Consolidated Supply Co. |
|---|---|
| Coiled Pit Setter 1" Single Meter Box, Qty. 500 | $ 462,830.00 |
| Coiled Pit Setter 3/4" Double Meter Box, Qty. 60 | $ 86,661.00 |
| Subtotal | $ 549,491.00 |
| Sales Tax (8.9%) | $ 49,454.19 |
| **Bid Total** | **$ 598,945.19** |

| | |
|---|---|
| Lead Time (Business Days ARO) | 150 |

*PLEASE NOTE THAT THIS TABULATION IS NOT AN INDICATION OF AWARD RECOMMENDATION. CRITERIA, IN ADDITION TO PRICE, ARE EVALUATED TO DETERMINE THE RESPONSIVE BID MEETING SPECIFICATIONS.*

| Agenda Sheet for City Council Meeting of: 03/14/2022 | | Date Rec'd | 2/9/2022 |
|---|---|---|---|
| | | Clerk's File # | OPR 2022-0162 |
| | | Renews # | |
| **Submitting Dept** | WATER & HYDROELECTRIC SERVICES | **Cross Ref #** | |
| **Contact Name/Phone** | LOREN SEARL 625-7851 | **Project #** | |
| **Contact E-Mail** | LSEARL@SPOKANECITY.ORG | **Bid #** | 5587-22 |
| **Agenda Item Type** | Purchase w/o Contract | **Requisition #** | VALUE BLANKET |
| **Agenda Item Name** | 4100 DUCTILE IRON SERVICE SADDLES VALUE BLANKET | | |

**Agenda Wording**

Value blanket with Core & Main (Spokane Valley, WA) for purchase of ductile iron service saddles on an as-needed basis.

**Summary (Background)**

The Water department requires these products in a range of sizes for new and maintenance projects. This order supports the competitive procurement of both import and domestic product according to project. Award is recommended to Core & Main as the low responsive, responsible bidder. This value blanket will be valid for a five-year term with no renewal options. Annual spend is estimated at $80,000 including tax; total expense shall be based on the unit prices accepted and the volume purchased.

Lease? NO Grant related? NO Public Works? NO

| **Fiscal Impact** | | **Budget Account** |
|---|---|---|
| Expense | **$** 80,000.00 | **#** 4100-42440-94340-56595-99999 |
| Select | **$** | **#** |
| Select | **$** | **#** |
| Select | **$** | **#** |

| **Approvals** | | **Council Notifications** | |
|---|---|---|---|
| **Dept Head** | SEARL, LOREN | **Study Session\Other** | PIES 2/28/22 |
| **Division Director** | FEIST, MARLENE | **Council Sponsor** | CM KINNEAR |
| **Finance** | ALBIN-MOORE, ANGELA | **Distribution List** | |
| **Legal** | ODLE, MARI | sjohnson@spokanecity.org | |
| **For the Mayor** | ORMSBY, MICHAEL | | |
| **Additional Approvals** | | | |
| **Purchasing** | PRINCE, THEA | | |
| | | | |
| | | | |
| | | | |

# Committee Agenda Sheet
# Public Infrastructure, Environment, & Sustainability Committee

| | |
|---|---|
| **Submitting Department** | Water & Hydroelectric Services |
| **Contact Name & Phone** | Loren Searl – 509.625.7851 |
| **Contact Email** | lsearl@spokanecity.org |
| **Council Sponsor(s)** | Councilmember Kinnear |
| **Select Agenda Item Type** | ☒ Consent ☐ Discussion Time Requested: N/A |
| **Agenda Item Name** | Ductile Iron Service Saddles Value Blanket |
| **Summary (Background)** | The Water department requires ductile iron service saddles in a range of sizes for a variety of new and maintenance projects. At times, these saddles must be certified domestic (American-Made) to comply with WSDOT specifications. This value blanket supports the competitive procurement of both import and domestic product according to project. All items are purchased on an as-needed basis, with no minimum obligation.<br><br>This procurement saves taxpayer dollars by leveraging volume discounts and reduces product lead times by satisfying competition requirements.<br><br>Request for Quotes #5587-22 was issued on 1/21/22 via the City's electronic bidding portal to more than 50 contacts. Two quotes were received by closing deadline on 2/4/22. Award is recommended to Core & Main (Spokane Valley, WA) as the low responsive, responsible bidder.<br><br>This value blanket will be valid for a five-year term with no renewal options. Annual spend is estimated at $80,000 including sales tax; total compensation shall be based on the unit prices accepted and the volume purchased by the City. |
| **Proposed Council Action & Date:** | Consent Approval, 3/14/22 |

**Fiscal Impact:**

Total Cost: Estimated $80,000.00 annually – actual expenditure dependent on as-needed usage

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

Funding Source ☒ One-time ☐ Recurring

Specify funding source: Water & Hydroelectric Services Warehouse Inventory budget

Expense Occurrence ☒ One-time ☐ Recurring

Other budget impacts: None

**Operations Impacts**

What impacts would the proposal have on historically excluded communities? None

| |
|---|
| How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities? N/A |
| How will data be collected regarding the effectiveness of this program, policy, or product to ensure it is the right solution?<br><br>Expenses will be processed through the value blanket in the City's FMS system to track usage and support annual volume discount negotiations. Should usage drop off, the City retains the right to cancel the value blanket agreement as appropriate. |
| Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?<br><br>This procurement complies with City Purchasing polices and supports responsible expenditure of taxpayer dollars. |

**CITY OF SPOKANE - WATER & HYDROELECTRIC SERVICES**
914 E. North Foothills Drive
Spokane, Washington 99201

# QUOTE TABULATION

| | |
|---|---|
| Quote Number | 5587-22 |
| Description | Ductile Iron Service Saddles - Value Blanket |

| | Consolidated Supply Co. | Core & Main |
|---|---|---|
| Product | | |
| City #S1319-04x01, 4" x 1" Qty. 1 | $ 85.24 | $ 85.25 |
| City #S1319-04x02, 4" x 2" Qty. 20 | $ 1,933.60 | $ 1,933.60 |
| City #S1319-06x01, 6" x 1" Qty. 120 | $ 11,408.40 | $ 11,160.00 |
| City #S1319-06x02, 6" x 2" Qty. 30 | $ 3,213.30 | $ 3,213.60 |
| City #S1319-08x01, 8" x 1" Qty. 300 | $ 35,811.00 | $ 35,034.00 |
| City #S1319-08x02, 8" x 2" Qty. 20 | $ 2,654.60 | $ 2,654.80 |
| City #S1319-10x01, 10" x 1" Qty. 1 | $ 140.10 | $ 140.10 |
| City #S1319-10x02, 10" x 2" Qty. 1 | $ 160.23 | $ 160.24 |
| City #S1319-12x01, 12" x 1" Qty. 60 | $ 9,745.80 | $ 9,746.40 |

| | | |
|---|---|---|
| City #S1319-12x02, 12" x 2"<br>Qty. 16 | $ 2,970.08 | $ 2,970.24 |
| City #S1319-16x02, 16" x 2"<br>Qty. 1 | $ 222.33 | $ 222.34 |
| City #S1319-18x02, 18" x 2"<br>Qty. 1 | $ 322.79 | $ 322.79 |
| City #S1319-20x02, 20" x 2"<br>Qty. 1 | $ 361.53 | $ 361.54 |
| City #S1319-24x02, 24" x 2"<br>Qty. 1 | $ 425.10 | $ 425.10 |
| City #S1319-30x02, 30" x 2"<br>Qty. 1 | $ 441.14 | $ 441.15 |
| Subtotal | $ 69,895.24 | $ 68,871.15 |
| Domestic Product | | |
| City #S1319-04x01-D, 4" x 1"<br>Qty. 1 | $ 85.24 | $ 121.67 |
| City #S1319-04x02-D, 4" x 2"<br>Qty. 1 | $ 96.68 | $ 132.84 |
| City #S1319-06x01-D, 6" x 1"<br>Qty. 1 | $ 95.07 | $ 131.27 |
| City #S1319-06x02-D, 6" x 2"<br>Qty. 1 | $ 107.11 | $ 143.05 |
| City #S1319-08x01-D, 8" x 1"<br>Qty. 1 | $ 119.37 | $ 154.35 |
| City #S1319-08x02-D, 8" x 2"<br>Qty. 1 | $ 132.73 | $ 168.11 |
| City #S1319-10x01-D, 10" x 1"<br>Qty. 1 | $ 140.10 | $ 175.32 |
| City #S1319-10x02-D, 10" x 2"<br>Qty. 1 | $ 160.23 | $ 195.02 |
| City #S1319-12x01-D, 12" x 1"<br>Qty. 1 | $ 162.43 | $ 197.17 |

| | | |
|---|---|---|
| City #S1319-12x02-D, 12" x 2" Qty. 1 | $ 185.63 | $ 219.86 |
| City #S1319-16x02-D, 16" x 2" Qty. 1 | $ 222.33 | $ 255.77 |
| City #S1319-18x02-D, 18" x 2" Qty. 1 | $ 322.79 | $ 354.04 |
| City #S1319-20x02-D, 20" x 2" Qty. 1 | $ 361.53 | $ 391.94 |
| City #S1319-24x02-D, 24" x 2" Qty. 1 | $ 425.10 | $ 454.12 |
| City #S1319-30x02-D, 30" x 2" Qty. 1 | $ 441.14 | $ 469.82 |
| Subtotal | $ 3,057.48 | $ 3,564.35 |
| | | |
| All Categories Subtotal | $ 72,952.72 | $ 72,435.50 |
| Sales Tax (9%) | $ 6,565.74 | $ 6,519.20 |
| **TOTAL** | **$ 79,518.46** | **$ 78,954.70** |

| | | |
|---|---|---|
| Product Lead Time<br>Business Days ARO | 15 | 45 |
| Domestic Product Lead Time<br>Business Days ARO | 30 | 45 |

*PLEASE NOTE THIS TABULATION IS NOT AN INDICATION OF AWARD RECOMMENDATION.*
*CRITERIA, IN ADDITION TO PRICE, ARE EVALUATED TO DETERMINE RESPONSIVE BID MEETING SPECIFICATIONS.*

| Agenda Sheet for City Council Meeting of: 03/14/2022 | | Date Rec'd | 2/15/2022 |
|---|---|---|---|
| | | Clerk's File # | OPR 2022-0163 |
| | | Renews # | |
| **Submitting Dept** | WASTEWATER MANAGEMENT | **Cross Ref #** | |
| **Contact Name/Phone** | RAYLENE GENNETT 625-7901 | **Project #** | |
| **Contact E-Mail** | RGENNETT@SPOKANECITY.ORG | **Bid #** | 5584-22 |
| **Agenda Item Type** | Purchase w/o Contract | **Requisition #** | VALUE BLANKET |
| **Agenda Item Name** | 4310 GALVANIZED TIN SEWER BENDS VALUE BLANKET | | |

**Agenda Wording**

Five year value blanket order with no renewal options with Spokane Tin & Sheet Iron Works, Inc. (Spokane, WA) for sewer bends to be purchased on an as-needed basis. Estimated spend is $225,000.00 including tax over the full value blanket term.

**Summary (Background)**

These products are required for maintenance of the City's sewer system. This order allows the department to maintain a source for these products without having to maintain extensive on-site inventory. RFQ #5584-22 was issued on 1/28/22 via the City's electronic bidding portal to more than 150 contacts. Two quotes were received. Award is recommended to Spokane Tin as the low responsive, responsible bidder. Total compensation shall be based on the unit prices accepted and the volume purchased.

Lease? NO Grant related? NO Public Works? NO

| **Fiscal Impact** | | **Budget Account** |
|---|---|---|
| Expense | $ 225,000.00 | # 4310-43117-35148-53210-99999 |
| Select | $ | # |
| Select | $ | # |
| Select | $ | # |

| **Approvals** | | **Council Notifications** | |
|---|---|---|---|
| **Dept Head** | GENNETT, RAYLENE | **Study Session\Other** | PIES 2/28/22 |
| **Division Director** | FEIST, MARLENE | **Council Sponsor** | CM KINNEAR |
| **Finance** | ALBIN-MOORE, ANGELA | **Distribution List** | |
| **Legal** | ODLE, MARI | sjohnson@spokanecity.org | |
| **For the Mayor** | ORMSBY, MICHAEL | Taxes & Licenses | |
| **Additional Approvals** | | | |
| **Purchasing** | PRINCE, THEA | | |
| | | | |
| | | | |
| | | | |

# Committee Agenda Sheet
# Public Infrastructure, Environment, & Sustainability Committee

| | |
|---|---|
| **Submitting Department** | Wastewater Maintenance |
| **Contact Name & Phone** | Mike Lowdon – 509.625.7909 |
| **Contact Email** | mlowdon@spokanecity.org |
| **Council Sponsor(s)** | Councilmember Kinnear |
| **Select Agenda Item Type** | ☒ Consent ☐ Discussion Time Requested: N/A |
| **Agenda Item Name** | Galvanized Tin Sewer Bends Value Blanket |
| **Summary (Background)** | The Wastewater Maintenance department requires these products for maintenance of the City's existing sewer system. Products are manufactured according to City Standard Plan when needed. This order allows the department to maintain a source for these products without having to maintain extensive on-site inventory. All items are purchased on an as-needed basis, with no minimum obligation.<br><br>This procurement saves taxpayer dollars by leveraging volume discounts and by permitting local pickup of these products to save on freight costs.<br><br>Request for Quotes #5584-22 was issued on 1/28/22 via the City's electronic bidding portal to more than 150 contacts. Two quotes were received by closing deadline on 2/4/22. Award is recommended to Spokane Tin and Sheet Iron Works, Inc. (Spokane, WA) as the low responsive, responsible bidder.<br><br>This value blanket will be valid for a five-year term with no renewal options. Total spend is estimated at $225,000 including sales tax; total compensation shall be based on the unit prices accepted and the volume purchased by the City. |
| **Proposed Council Action & Date:** | Consent Approval, 3/14/2022 |

**Fiscal Impact:**

Total Cost: Estimated $225,000.00 over five years; actual expenditure dependent on as-needed usage

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

Funding Source ☒ One-time ☐ Recurring

Specify funding source: Wastewater Maintenance Warehouse budget in accordance with actual usage

Expense Occurrence ☒ One-time ☐ Recurring

Other budget impacts: None

**Operations Impacts**

What impacts would the proposal have on historically excluded communities? None

| |
|---|
| How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities? N/A |
| How will data be collected regarding the effectiveness of this program, policy, or product to ensure it is the right solution?<br><br>Expenses will be processed through the value blanket in the City's FMS system to track usage and support annual volume discount negotiations. Should usage drop off, the City retains the right to cancel the value blanket agreement as appropriate. |
| Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?<br><br>This procurement complies with City Purchasing polices and supports responsible expenditure of taxpayer dollars. |

**CITY OF SPOKANE - WASTEWATER MAINTENANCE**
909 E. Sprague Avenue
Spokane, Washington 99202
PHONE: 509.625.7900

# QUOTE TABULATION

| | |
|---|---|
| Quote Number | 5584-22 |
| Description | Galvanized Tin Sewer Bends - Value Blanket |

| | Core & Main | Spokane Tin & Sheet Iron Works |
|---|---|---|
| **Product** | | |
| 12" Sewer Bend, Qty. 30 | $ 4,726.50 | $ 3,150.00 |
| 10" Sewer Bend, Qty. 20 | $ 2,576.00 | $ 1,505.00 |
| 8" Sewer Bend, Qty. 500 | $ 46,000.00 | $ 28,375.00 |
| 6" Sewer Bend, Qty. 55 | $ 4,680.50 | $ 2,805.00 |
| 4" Sewer Bend, Qty. 25 | $ 2,156.25 | $ 1,193.75 |
| *Product Subtotal* | *$ 60,139.25* | *$ 37,028.75* |
| **Delivery** | | |
| 12" Sewer Bend - Ground Freight, Qty. 30 | $ 4,726.50 | $ 3,210.00 |
| 10" Sewer Bend - Ground Freight, Qty. 20 | $ 2,576.00 | $ 1,545.00 |

| | | |
|---|---|---|
| 8" Sewer Bend - Ground Freight, Qty. 500 | $ 46,000.00 | $ 29,375.00 |
| 6" Sewer Bend - Ground Freight, Qty. 55 | $ 4,680.50 | $ 2,915.00 |
| 4" Sewer Bend - Ground Freight, Qty. 25 | $ 2,156.25 | $ 1,243.75 |
| *Delivery Subtotal* | *$ 60,139.25* | *$ 38,288.75* |
| All Charges Subtotal | $ 120,278.50 | $ 75,317.50 |
| Sales Tax (9%) | $ 10,825.07 | $ 6,778.58 |
| **Bid Total** | **$ 131,103.57** | **$ 82,096.08** |

| | | |
|---|---|---|
| Lead Time (Business Days ARO) | 180 | 5 |

*PLEASE NOTE THAT THIS TABULATION IS NOT AN INDICATION OF AWARD RECOMMENDATION.*
*CRITERIA, IN ADDITION TO PRICE, ARE EVALUATED TO DETERMINE THE RESPONSIVE BID MEETING SPECIFICATIONS.*

| Agenda Sheet for City Council Meeting of: 03/14/2022 | | Date Rec'd | 3/1/2022 |
|---|---|---|---|
| | | Clerk's File # | OPR 2022-0164 |
| | | Renews # | |
| **Submitting Dept** | FLEET SERVICES | **Cross Ref #** | |
| **Contact Name/Phone** | RICHARD GIDDINGS 6257706 | **Project #** | |
| **Contact E-Mail** | RGIDDINGS@SPOKANECITY.ORG | **Bid #** | |
| **Agenda Item Type** | Purchase w/o Contract | **Requisition #** | |
| **Agenda Item Name** | 5100-PURCHASE OF TRACTOR | | |

**Agenda Wording**

The Treatment Plant would like to purchase a JOHN DEERE 8R 250 Tractor from Pape Machinery in Spokane, WA using Sourcewell Contract 110719-JDC. Cost of the tractor is $198,291.88.

**Summary (Background)**

The Tractor will replace a unit that has reached the end of its economic life. We recommend approval for the purchase of a John Deere 8R 250 Tractor for the Treatment Plant. Funding for this is included in the Treatment Plant budget. See briefing paper for TCO.

Lease? NO Grant related? NO Public Works? NO

| **Fiscal Impact** | | **Budget Account** |
|---|---|---|
| Expense | $ 198,291.88 | # 4320-43290-94350-56405-99999 |
| Select | $ | # |
| Select | $ | # |
| Select | $ | # |

| **Approvals** | | **Council Notifications** | |
|---|---|---|---|
| **Dept Head** | GIDDINGS, RICHARD | **Study Session\Other** | February 28, 2022 |
| **Division Director** | WALLACE, TONYA | **Council Sponsor** | Betsy Wilkerson |
| **Finance** | ALBIN-MOORE, ANGELA | **Distribution List** | |
| **Legal** | ODLE, MARI | mmartinez | |
| **For the Mayor** | ORMSBY, MICHAEL | | |
| **Additional Approvals** | | | |
| **Purchasing** | | | |
| | | | |
| | | | |
| | | | |

# Committee Agenda Sheet
# Finance and Administration Committee
# February 28, 2022

| | |
|---|---|
| **Submitting Department** | FLEET SERVICES |
| **Contact Name & Phone** | MICAELA MARTINEZ, 509-449-0959 |
| **Contact Email** | MMARTINEZ@SPOKANECITY.ORG |
| **Council Sponsor(s)** | BETSY WILKERSON |
| **Select Agenda Item Type** | ☒ Consent ☐ Discussion Time Requested: |
| **Agenda Item Name** | PURCHASE OF A TRACTOR |
| **Summary (Background)** | The Treatment Plant would like to purchase a JOHN DEERE 8R 250 Tractor from Pape Machinery in Spokane, WA. Cost of the tractor is $198,291.88. The Tractor will replace a unit that has reached the end of its economic life. We recommend approval for the purchase of a John Deere 8R 250 Tractor for the Treatment Plant. Funding for this is included in the Treatment Plant budget.<br>TCO |

| Year | Make | Model | Capital Costs | Residual Value | Lifetime Maintenance | Lifetime Fuel Cost | Lifetime Usage Hours | Expected Life Years | TCO Lifetime | TCO/ Hour | TCO/Year |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 2022 | John Deere | 8R250 Tractor | $282,292 | $84,000 | $28,800 | $157,500 | 5000 | 10 | $384,592 | $76.92 | $38,459 |
| 2022 | Case | Magnum 250 | $283,965 | $84,000 | $28,800 | $157,500 | 5000 | 10 | $386,265 | $77.25 | $38,627 |

| | |
|---|---|
| **Proposed Council Action & Date:** | March 14, 2022, Approval |

**Fiscal Impact:**
Total Cost: $198,291.88.
Approved in current year budget? ☒ Yes ☐ No ☐ N/A

Funding Source ☒ One-time ☐ Recurring
Specify funding source:

Expense Occurrence ☒ One-time ☐ Recurring

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

**Operations Impacts**

What impacts would the proposal have on historically excluded communities?
n/a

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?
n/a

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?
The tractor that is being purchased is replacing a unit that has worked well for the department. The new tractor is expected to perform just as well if not better.

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?
n/a

JOHN DEERE

**Quotes are valid for 30 days from the creation date of the quote OR until the contract expires.**

## A Purchase Order or Letter of Intent is required for all orders.

To expedite the delivery of equipment, the below information must be included on your Purchase Order or Letter of Intent.

- ☐ Vendor: Deere & Company
  2000 John Deere Run
  Cary, NC 27513
- ☐ Signature
- ☐ Shipping address
- ☐ Billing address
- ☐ Billing email address

**For any questions, please contact:**

**Gary Dible**

Pape Machinery, Inc.
10010 S. State Route 904
Four Lakes, WA 99014

Tel: 509-483-2868
Fax: 509-489-7226
Email: gdible@papemachinery.com

**If information is not included, the Purchase Order or Letter of Intent will be returned.**

The John Deere Government Sales Team

**Quote Id:** 25994033

**ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):**
Deere & Company
2000 John Deere Run
Cary, NC 27513
FED ID: 36-2382580; DUNS#: 60-7690989

**ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:**
Pape Machinery, Inc.
10010 S. State Route 904
Four Lakes, WA 99014
509-483-2868
agfourlakes@papemachinery.com

Prepared For:

**CITY OF SPOKANE PURCHASING**

**Proposal For:**

**Delivering Dealer:**
Gary Dible

Pape Machinery, Inc.
10010 S. State Route 904
Four Lakes, WA 99014

agfourlakes@papemachinery.com

**Quote Prepared By:**
Gary Dible
gdible@papemachinery.com

Date: 29 January 2022

Offer Expires: 28 February 2022

**ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):**
Deere & Company
2000 John Deere Run
Cary, NC 27513
FED ID: 36-2382580; DUNS#: 60-7690989

**ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:**
Pape Machinery, Inc.
10010 S. State Route 904
Four Lakes, WA 99014
509-483-2868
agfourlakes@papemachinery.com

## Quote Summary

**Prepared For:**
CITY OF SPOKANE PURCHASING
808 W SPOKANE FALLS BLVD
SPOKANE, WA 99201
Business: 509-625-6400
mmartinez@spokanecity.org

**Delivering Dealer:**
**Pape Machinery, Inc.**
Gary Dible
10010 S. State Route 904
Four Lakes, WA 99014
Phone: 509-483-2868
gdible@papemachinery.com

*This sale is subject to Papé's Terms and Conditions of Sale effective on the date hereof, which are incorporated in full by this reference. The Terms and Conditions of Sale are available at www.pape.com/terms , and will also be sent by mail or e-mail to the purchaser upon request.*

**Quote ID:** 25994033
**Created On:** 29 January 2022
**Last Modified On:** 07 February 2022
**Expiration Date:** 28 February 2022

| Equipment Summary | Suggested List | Selling Price | | Qty | | Extended |
|---|---|---|---|---|---|---|
| JOHN DEERE 8R 250 Tractor | $ 369,463.00 | $ 280,791.88 | X | 1 | = | $ 280,791.88 |
| 1 Year Papé Machinery Connected Support Package - Machine Not Purchased With PowerGard | | $ 1,500.00 | X | 1 | = | $ 1,500.00 |
| JDLink - John Deere Operations Center Setup/Training/Orientation - 1 Year CSP | | $ 0.00 | | | | |
| In-Season Connected Support - 1Year CSP | | $ 0.00 | | | | |
| Service ADVISOR Remote, Expert Alerts, and Remote Programming - 1 Year CSP | | $ 0.00 | | | | |
| AMS Software Updates - 1 Year CSP | | $ 0.00 | | | | |
| JDLink / Ops Center Data Review - 1 Year CSP | | $ 0.00 | | | | |

**Contract:** Sourcewell Ag Tractors 110719-JDC (PG 1P CG 70)
**Price Effective Date:** January 28, 2022

**Sub Total** **$ 282,291.88**

**Equipment Total** **$ 282,291.88**

| Trade In Summary | Qty | Each | Extended |
|---|---|---|---|

**Salesperson : X** _____

**Accepted By : X** _____

**ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):**
Deere & Company
2000 John Deere Run
Cary, NC 27513
FED ID: 36-2382580; DUNS#: 60-7690989

**ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:**
Pape Machinery, Inc.
10010 S. State Route 904
Four Lakes, WA 99014
509-483-2868
agfourlakes@papemachinery.com

| | | | |
|---|---|---|---|
| 2012 JOHN DEERE 8235R - 1RW8235RPCP056221 | 1 | $ 84,000.00 | $ 84,000.00 |
| PayOff | | | $ 0.00 |
| Total Trade Allowance | | | $ 84,000.00 |
| **Trade In Total** | | | **$ 84,000.00** |

* Includes Fees and Non-contract items

| **Quote Summary** | |
|---|---|
| Equipment Total | $ 282,291.88 |
| Trade In | $ (84,000.00) |
| SubTotal | **$ 198,291.88** |
| Est. Service Agreement Tax | $ 0.00 |
| Total | $ 198,291.88 |
| Down Payment | (0.00) |
| Rental Applied | (0.00) |
| **Balance Due** | **$ 198,291.88** |

**Salesperson : X** _____

**Accepted By : X** _____

# Selling Equipment

**Quote Id:** 25994033 **Customer Name:** CITY OF SPOKANE PURCHASING

**ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):**
Deere & Company
2000 John Deere Run
Cary, NC 27513
FED ID: 36-2382580; DUNS#: 60-7690989

**ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:**
Pape Machinery, Inc.
10010 S. State Route 904
Four Lakes, WA 99014
509-483-2868
agfourlakes@papemachinery.com

## JOHN DEERE 8R 250 Tractor

**Hours:**
**Stock Number:**
**Contract:** Sourcewell Ag Tractors 110719-JDC (PG 1P CG 70)
**Price Effective Date:** January 28, 2022

**Suggested List ***
$ 369,463.00
**Selling Price ***
$ 280,791.88

* Price per item - includes Fees and Non-contract items

| Code | Description | Qty | List Price | Discount% | Discount Amount | Contract Price | Extended Contract Price |
|---|---|---|---|---|---|---|---|
| 8110RW | 8R 250 Tractor | 1 | $ 339,528.00 | 24.00 | $ 81,486.72 | $ 258,041.28 | $ 258,041.28 |
| | **Standard Options - Per Unit** | | | | | | |
| 183E | JDLink™ Modem | 1 | $ 0.00 | 24.00 | $ 0.00 | $ 0.00 | $ 0.00 |
| 185E | JDLink™ Connectivity | 1 | $ 0.00 | 24.00 | $ 0.00 | $ 0.00 | $ 0.00 |
| 0202 | United States | 1 | $ 1,900.00 | 24.00 | $ 456.00 | $ 1,444.00 | $ 1,444.00 |
| 0409 | English | 1 | $ 0.00 | 24.00 | $ 0.00 | $ 0.00 | $ 0.00 |
| 0557 | No Edition | 1 | $ 0.00 | 24.00 | $ 0.00 | $ 0.00 | $ 0.00 |
| 1490 | 16F/5R Speed PowerShift Transmission (PST) 40 km/h (25 mph) | 1 | $ -7,154.00 | 24.00 | $ -1,716.96 | $ -5,437.04 | $ -5,437.04 |
| 1950 | Less Application | 1 | $ 0.00 | 24.00 | $ 0.00 | $ 0.00 | $ 0.00 |
| 2022 | Premium Comfort & Convenience Package | 1 | $ 4,541.00 | 24.00 | $ 1,089.84 | $ 3,451.16 | $ 3,451.16 |
| 2171 | ActiveSeat™ II | 1 | $ 3,513.00 | 24.00 | $ 843.12 | $ 2,669.88 | $ 2,669.88 |
| 2701 | Right-hand Reverser Bump-Shift-Type Transmission Controls | 1 | $ 0.00 | 24.00 | $ 0.00 | $ 0.00 | $ 0.00 |
| 2901 | Less John Deere ActiveCommand™ Steering (ACS) | 1 | $ 0.00 | 24.00 | $ 0.00 | $ 0.00 | $ 0.00 |
| 3037 | John Deere PowerTech™ 9.0 L (549 cu. in.) 6 Cylinder Tier IV/Stage V Compliant Diesel Engine | 1 | $ 0.00 | 24.00 | $ 0.00 | $ 0.00 | $ 0.00 |
| 3260 | 227 L/min (60 gpm) Hydraulic Pump | 1 | $ 0.00 | 24.00 | $ 0.00 | $ 0.00 | $ 0.00 |

# Selling Equipment

**Quote Id:** 25994033 **Customer Name:** CITY OF SPOKANE PURCHASING

**ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):**
Deere & Company
2000 John Deere Run
Cary, NC 27513
FED ID: 36-2382580; DUNS#: 60-7690989

**ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:**
Pape Machinery, Inc.
10010 S. State Route 904
Four Lakes, WA 99014
509-483-2868
agfourlakes@papemachinery.com

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 3341 | Four Premium Rear Remote SCVs with Electrohydraulic (EH) Controls, Premium Couplers, and High Pressure Relief Levers | 1 | $ 0.00 | 24.00 | $ 0.00 | $ 0.00 | $ 0.00 |
| 3810 | 45 mm (1-3/4 in.) 1,000 rpm (20-Spline) PTO | 1 | $ 0.00 | 24.00 | $ 0.00 | $ 0.00 | $ 0.00 |
| 4027 | 6,894 kg (15,200 lb) Capacity 3-Point Hitch (Cat 3/3N) with Quik-Coupler and Sway Blocks | 1 | $ 0.00 | 24.00 | $ 0.00 | $ 0.00 | $ 0.00 |
| 4319 | Category 3 Adjustable Swinging Drawbar with 38 mm (1.5 in.) Pin | 1 | $ 0.00 | 24.00 | $ 0.00 | $ 0.00 | $ 0.00 |
| 5041 | 110 mm (4.33 in.) diameter by 3010 mm (118.5 in.) length with Double Taper Wheel Hubs | 1 | $ 340.00 | 24.00 | $ 81.60 | $ 258.40 | $ 258.40 |
| 5603 | 520/85R46 158A8 R1W Duals | 1 | $ 545.00 | 24.00 | $ 130.80 | $ 414.20 | $ 414.20 |
| 5999 | No Brand Preference | 1 | $ 0.00 | 24.00 | $ 0.00 | $ 0.00 | $ 0.00 |
| 6062 | ILS™ with hydraulic differential lock, fully-enclosed driveline and Group 48 Rear Tires | 1 | $ 21,073.00 | 24.00 | $ 5,057.52 | $ 16,015.48 | $ 16,015.48 |
| 6205 | 480/70R34 155A8 R1W | 1 | $ 2,349.00 | 24.00 | $ 563.76 | $ 1,785.24 | $ 1,785.24 |
| 7213 | Select Visibility Package | 1 | $ 0.00 | 24.00 | $ 0.00 | $ 0.00 | $ 0.00 |
| 8011 | Fenders, Pivoting Front - 620 mm (24.4 in.) Wide | 1 | $ 1,950.00 | 24.00 | $ 468.00 | $ 1,482.00 | $ 1,482.00 |
| 8020 | Fenders, Rear Extensions 2.55 m (100 in.) Width | 1 | $ 1,635.00 | 24.00 | $ 392.40 | $ 1,242.60 | $ 1,242.60 |
| 8288 | Foot Operated Speed Control | 1 | $ 434.00 | 24.00 | $ 104.16 | $ 329.84 | $ 329.84 |
| 8300 | Cold Weather Start Kit | 1 | $ 172.00 | 24.00 | $ 41.28 | $ 130.72 | $ 130.72 |
| 8306 | Fuel/Water Separator, Severe Duty | 1 | $ 701.00 | 24.00 | $ 168.24 | $ 532.76 | $ 532.76 |
| 8782 | Back-up Alarm | 1 | $ 318.00 | 24.00 | $ 76.32 | $ 241.68 | $ 241.68 |
| 8977 | One Pair 620 kg (1,367 lb) Weights | 1 | $ 3,543.00 | 24.00 | $ 850.32 | $ 2,692.68 | $ 2,692.68 |
| | **Standard Options Total** | | **$ 35,860.00** | | **$ 8,606.40** | **$ 27,253.60** | **$ 27,253.60** |
| | **Technology Options/Non-Contract/Open Market** | | | | | | |

# Selling Equipment

**Quote Id:** 25994033 **Customer Name:** CITY OF SPOKANE PURCHASING

**ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):**

Deere & Company
2000 John Deere Run
Cary, NC 27513
FED ID: 36-2382580; DUNS#: 60-7690989

**ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:**

Pape Machinery, Inc.
10010 S. State Route 904
Four Lakes, WA 99014
509-483-2868
agfourlakes@papemachinery.com

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 1880 | Less Receiver | 1 | $ -5,925.00 | 24.00 | $ -1,422.00 | $ -4,503.00 | $ -4,503.00 |
| 1911 | Gen 4 4600 CommandCenter™ with AutoTrac™ Activation | 1 | $ 0.00 | 24.00 | $ 0.00 | $ 0.00 | $ 0.00 |
| | **Technology Options Total** | | **$ -5,925.00** | | **$ -1,422.00** | **$ -4,503.00** | **$ -4,503.00** |
| | **Value Added Services** | | | | | | |
| | 1 Year Papé Machinery Connected Support Package - Machine Not Purchased With PowerGard | 1 | $ 1,500.00 | | | $ 1,500.00 | $ 1,500.00 |
| | **Value Added Services Total** | | **$ 1,500.00** | | | **$ 1,500.00** | **$ 1,500.00** |
| **Total Selling Price** | | | **$ 370,963.00** | | **$ 88,671.12** | **$ 282,291.88** | **$ 282,291.88** |

# Trade-in

**Quote Id:** 25994033 **Customer Name:** CITY OF SPOKANE PURCHASING

**ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):**

Deere & Company
2000 John Deere Run
Cary, NC 27513
FED ID: 36-2382580; DUNS#: 60-7690989

**2012 JOHN DEERE 8235R**

**SN# 1RW8235RPCP056221**

**Machine Details**

| Description | Net Trade Value |
|---|---|
| **2012 JOHN DEERE 8235R** | **$ 84,000.00** |
| **SN# 1RW8235RPCP056221** | |
| **Your Trade In Description** | |

| Additional Options | | |
|---|---|---|
| **Hour Meter Reading** | 4929 | |
| **Total** | | **$ 84,000.00** |

**Original Factory Build Codes**

| Code | Description |
|---|---|
| 1887 | **JDLINK ULT. PROMOTION** |
| 0409 | **ENGLISH OP MANUAL & LABELS** |
| 2059 | **CAB DELUXE COMMANDVIEW II** |
| 3240 | **63CC HYDRAULIC PUMP (44GPM)** |
| 8336 | **ENGINE 9L IT4 COMPLIANT** |
| 2660 | **DLX RADIO PKG** |
| 8288 | **FOOT SPEED CONTROL THROTTLE** |
| 8300 | **COLD WEATHER PKG 110V** |
| 5521 | **DUAL-520/85R42 157A8 R1** |
| 1821 | **7IN COLOR DISPLAY** |
| 1845 | **NO AT ACTIVATION** |
| 1834 | **NO ACS STEERING** |
| 0202 | **U.S.A. DESTINATION** |
| 1835 | **NO SF RECEIVER** |
| 6104 | **FRT-480/70R30 152A8****R1W** |
| 7200 | **STANDARD LIGHT PKG** |

# Trade-in

**Quote Id:** 25994033 **Customer Name:** CITY OF SPOKANE PURCHASING

**ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):**

Deere & Company
2000 John Deere Run
Cary, NC 27513
FED ID: 36-2382580; DUNS#: 60-7690989

| | |
|---|---|
| 5041 | **RR AX (110MM)118.5IN HD HUBS** |
| 1490 | **16F/4R PST (42KPH) 26MPH** |
| 4320 | **REG DRAWBAR CAT 3** |
| 3810 | **INDEPENDENT PTO-1000 RPM** |
| 3341 | **FOUR REMOTE CYLINDER CONTROL** |
| 4033 | **RS W/HITCH(CAT3/3N)13,800 LB** |
| 0500 | **0500 NO PACKAGE** |
| 5999 | **NO TIRE BRAND PREFERENCE** |
| 6040 | **1300 MFWD GRP 47** |

| Agenda Sheet for City Council Meeting of: 03/14/2022 | | Date Rec'd | 3/1/2022 |
|---|---|---|---|
| | | Clerk's File # | OPR 2022-0165 |
| | | Renews # | |
| **Submitting Dept** | STREETS | **Cross Ref #** | |
| **Contact Name/Phone** | CLINT HARRIS 625-7744 | **Project #** | |
| **Contact E-Mail** | CEHARRIS@SPOKANECITY.ORG | **Bid #** | WA STATE CONTRACT |
| **Agenda Item Type** | Purchase w/o Contract | **Requisition #** | RE20064 |
| **Agenda Item Name** | 1100-STREET DEPARTMENT LIQUID DEICER | | |

**Agenda Wording**

The Street Department is requesting renewal of an expiring Blanket Order for the purchase of up to $1.5 Million in liquid deicer

**Summary (Background)**

This material is used by the Street Department during the Winter months to address slick and hazardous road conditions on the City's roadways. This is a product vended and purchased via a WSDOT pricing contractor, currently GMCO (Formerly Roadwise) utilizing pricing on State Contract #02714

Lease? NO Grant related? NO Public Works? NO

| **Fiscal Impact** | | **Budget Account** |
|---|---|---|
| Expense | $ 1,500,000.00 | # 1100-21800-42660-53210-99999 |
| Select | $ | # |
| Select | $ | # |
| Select | $ | # |

| **Approvals** | | **Council Notifications** | |
|---|---|---|---|
| **Dept Head** | HARRIS, CLINT E. | **Study Session\Other** | PIES 2/28/22 |
| **Division Director** | FEIST, MARLENE | **Council Sponsor** | Lori Kinnear |
| **Finance** | ORLOB, KIMBERLY | **Distribution List** | |
| **Legal** | ODLE, MARI | ceharris@spokanecity.org | |
| **For the Mayor** | ORMSBY, MICHAEL | jwthomas@spokanecity.org | |
| **Additional Approvals** | | jklapp@spokanecity.org | |
| **Purchasing** | PRINCE, THEA | jdykes@spokanecity.org | |
| | | tprince@spokanecity.org | |
| | | tbrazington@spokanecity.org | |
| | | | |

# Committee Agenda Sheet
# PIES 2-28-2022

| | |
|---|---|
| **Submitting Department** | Streets |
| **Contact Name & Phone** | Clint Harris 625-7744 |
| **Contact Email** | ceharris@spokanecity.org |
| **Council Sponsor(s)** | Councilperson Kinnear |
| **Select Agenda Item Type** | ☒ Consent ☐ Discussion Time Requested: |
| **Agenda Item Name** | Street Department Liquid Deicer Purchasing Contract |
| **Summary (Background)** | The Street Department is requesting renewal of an expiring Blanket Order for the purchase of up to $1.5 Million in liquid deicer, the cost of which<br>Is funded within the 2022/2023 Street Operation and Maintenance Budget<br><br>This material is used by the Street Department during the Winter months to address slick and hazardous road conditions on the City's roadways. This is a product vended and purchased via a WSDOT pricing contractor, currently GMCO (Formerly Roadwise) utilizing pricing on State Contract #02714 |
| **Proposed Council Action & Date:** | Consent Item Approval, via committee at PIES 2/28/2022 and Council Agenda on 3/14/2022 |

**Fiscal Impact:**
Total Cost: 1.5 Million Annually
Approved in current year budget? ☒ Yes ☐ No ☐ N/A

Funding Source ☐ One-time ☒ Recurring
Specify funding source:

Expense Occurrence ☐ One-time ☒ Recurring

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

**Operations Impacts**

What impacts would the proposal have on historically excluded communities?
**Usage of liquid deicer is applied City-wide as needed to meet road conditions and does not disproportionally impact one demographic over another**

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?
**Usage of liquid deicer is applied as needed City-wide to meet road conditions and does not disproportionally impact one demographic over another**

| |
|---|
| How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?<br>**Constant and periodic (Annual/Seasonal) tracking is done to gauge efficiency and effectiveness of liquid deicer** |
| Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?<br>**The usage of liquid deicer supports a safe and accessible City for all users of the City's roadway system which is a benefit to many aspects of the city's mission and priorities.** |

| | |
|---|---|
| **Vendor:** | GMCO dba: Roadwise |
| **Product Offered:** | FreezGard CI Plus |
| **Order Information:** | D. Winebarger |
| | 509-487-9171 |
| | dwinebarger@roadwise-inc.com |
| | Pcard Accepted: No |
| | ORCPP Members: With Mileage |

| **Northwest Region** | **3 Day Delivery** | **7 Day Delivery** |
|---|---|---|
| Area 1 | $217.41 | $213.41 |
| Area 2 | $213.41 | $209.41 |
| Area 3 | $204.41 | $200.41 |
| Area 4 | $201.41 | $197.41 |
| Area 5 | $200.41 | $196.41 |
| **North Central Region** | | |
| Area 1 | | |
| Area 2 | | |
| Area 3 | | |
| **Olympic Region** | | |
| Area 1 | | |
| Area 2 | | |
| Area 3 | | |
| Area 4 | | |
| **Southwest Region** | | |
| Area 1 | $184.11 | $181.41 |
| Area 2 | $190.28 | $187.54 |
| Area 3 | $189.91 | $187.17 |
| Area 4 | $170.47 | $167.81 |
| **South Central Region** | | |
| Area 1 | | |
| Area 2 | | |
| Area 3 | | |
| Area 4 | | |
| **Eastern Region** | | |
| Area 1 | $175.53 | $171.58 |
| Area 2 | $175.53 | $171.58 |
| Area 3 | $177.38 | $174.58 |
| Area 4 | $177.38 | $174.58 |
| **City of Spokane** | | |
| Road Department | $175.50 | |
| Off-Site | $167.97 | |

| Agenda Sheet for City Council Meeting of: 03/14/2022 | | Date Rec'd | 3/1/2022 |
|---|---|---|---|
| | | Clerk's File # | OPR 2022-0166 |
| | | Renews # | |
| **Submitting Dept** | STREETS | **Cross Ref #** | |
| **Contact Name/Phone** | CLINT HARRIS 625-7744 | **Project #** | |
| **Contact E-Mail** | CEHARRIS@SPOKANECITY.ORG | **Bid #** | |
| **Agenda Item Type** | Purchase w/o Contract | **Requisition #** | VB |
| **Agenda Item Name** | 1100-STREET DEPARTMENT TRAFFIC PAINT | | |

**Agenda Wording**

The Street department is seeking approval for the purchase of traffic paint in an amount not to exceed $95,000.00.

**Summary (Background)**

The Street Department is requesting to use the approved Washington State contract (#02817), Spokane County Contract (P10162), or Pierce County contract (SC-104806) via Interlocal Agreement OPR #1995-0065, for purchasing traffic paint.

Lease? NO Grant related? NO Public Works? NO

| **Fiscal Impact** | | **Budget Account** |
|---|---|---|
| Expense | **$** $95,000.00 | **#** 1100-21400-42640-53210-99999 |
| Select | **$** | **#** |
| Select | **$** | **#** |
| Select | **$** | **#** |

| **Approvals** | | **Council Notifications** | |
|---|---|---|---|
| **Dept Head** | HARRIS, CLINT E. | **Study Session\Other** | PIES 2/28/22 |
| **Division Director** | FEIST, MARLENE | **Council Sponsor** | Lori Kinnear |
| **Finance** | ORLOB, KIMBERLY | **Distribution List** | |
| **Legal** | ODLE, MARI | ceharris@spokanecity.org | |
| **For the Mayor** | ORMSBY, MICHAEL | jklapp@spokanecity.org | |
| **Additional Approvals** | | jwthomas@spokanecity.org | |
| **Purchasing** | | meveland@spokanecity.org | |
| | | tprince@spokanecity.org | |
| | | rlynch@spokanecity.org | |
| | | tbrazington@spokanecity.org | |

# Committee Agenda Sheet
# [COMMITTEE]

| | |
|---|---|
| **Submitting Department** | Street Department |
| **Contact Name & Phone** | Clint Harris, 509-625-7744 |
| **Contact Email** | ceharris@spokanecity.org |
| **Council Sponsor(s)** | Councilperson Kinnear |
| **Select Agenda Item Type** | X Consent ☐ Discussion Time Requested: _____ |
| **Agenda Item Name** | Street Department Traffic Paint |
| **Summary (Background)** | The Street Department is requesting to use the approved Washington State contract (#02817), Spokane County Contract (P10162), or Pierce County contract (SC-104806) via Interlocal Agreement OPR #1995-0065, for purchasing traffic paint.<br><br>The Washington State contract was awarded to Ennis-Flint, Sherwin Williams and Ozark Materials. The current contract ends February 29th, 2024. The Spokane County Contract was awarded to Rodda Paint (manufactured by SWARCO). The original contract expired May 8, 2018, with up to four one-year extensions. This is the fourth extension. The Pierce County contract was awarded to Alpine Products Inc., Auburn, WA (manufactured by Ennis-Flint). The original contract expired March 13, 2018, with up to four one-year extensions. This is the fifth extension. |
| **Proposed Council Action & Date:** | Consent Item Approval, via committee at PIES 2/28/2022 and Council Agenda on 3/14/2022 |

**Fiscal Impact:** $95,000.00
Total Cost: $95,000.00
Approved in current year budget? ☐ Yes ☐ No ☐ N/A

Funding Source ☐ One-time ☐ Recurring
Specify funding source:

Expense Occurrence ☐ One-time ☐ Recurring

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

**Operations Impacts**

What impacts would the proposal have on historically excluded communities?
N/A

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?
N/A

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?
N/A

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

N/A

State of Washington
Contracts & Procurement Division
Department of Enterprise Services
P.O. Box 41411
Olympia, WA 98504-1411

Ennis-Flint, Inc.
4161 Piedmont Parkway, Ste 370
Greensboro, NC 27410

# THIRD AMENDMENT
# TO
# CONTRACT NO. 02817
# WATERBORNE TRAFFIC MARKING PAINT

This Third Amendment ("Amendment") to Contract No. 02817 is made and entered into by and between the State of Washington acting by and through the Department of Enterprise Services, a Washington State governmental agency ("State") and Ennis-Flint, Inc., a North Carolina corporation("Contractor") and is dated and effective as of December 1, 2021.

## RECITALS

A. State and Contractor (collectively the "Parties") entered into that certain Contract No. 02817 for waterborne traffic marking paint dated effective as of March 1, 2018 ("Contract").

B. The Parties previously amended the Contract as follows:

- Amendment 1, effective October 1, 2019 (price adjustment)
- Amendment 2, effective July 15, 2021 (prices for goods/services)

C. The amendment set forth herein is within the scope of the Contract.

D. The Parties now desire to amend the Contract as set forth herein.

## AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the Parties hereby agree to amend the Contract, as previously amended, as follows:

1. Exhibit B – Prices for Goods/Services is hereby amended by deleting the existing Exhibit B in its entirety and inserting the attached Exhibit B – Prices for Goods/Services.

2. NO CHANGE OTHER THAN AMENDMENT. Except as amended herein, the Contract is unaffected and remains in full force and effect.

3. INTEGRATED AGREEMENT; MODIFICATION. This Amendment constitutes the entire agreement and understanding of the Parties with respect to the subject matter and supersedes all prior negotiations and representations. In the event of any conflict between this Amendment and the Contract or any earlier amendment, this Amendment shall control and govern. This Amendment may not be modified except in writing signed by the Parties.

4. AUTHORITY. Each party to this Amendment, and each individual signing on behalf of each party, hereby represents and warrants to the other that it has full power and authority to enter into this Amendment and that its execution, delivery, and performance of this Amendment has been fully authorized and approved, and that no further approvals or consents are required to bind such party.

5. ELECTRONIC SIGNATURES. A signed copy of this Amendment or any other ancillary agreement transmitted by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Amendment or such other ancillary agreement for all purposes.

6. COUNTERPARTS. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original, and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this Amendment at different times and places by the parties shall not affect the validity thereof so long as all the parties hereto execute a counterpart of this Amendment.

EXECUTED AND EFFECTIVE as of the day and date first above written.

**ENNIS-FLINT, INC.,**
**A NORTH CAROLINA CORPORATION**

By: _____
Name: Kevin M. Cook
Title: Sales Director, Traffic Solutions USCA
Date: 12/21/2021

**STATE OF WASHINGTON**
**DEPARTMENT OF ENTERPRISE SERVICES**

By: Leslie Edwards
Name: Leslie Edwards
Title: Contracts Specialist
Date: 12/21/2021

# Exhibit B
## PRICES FOR GOODS/SERVICES

| Paint Type | Item | Description | Commodity Code | Delivery Qty | SS/Poly Tote (250/275 gal) | 55-Gal Drum | 5-Gal Pail | Description | Commodity Code | Delivery Qty | SS/Poly Tote (250/275 gal) | 55-Gal Drum | 5-Gal Pail |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Standard 1 | White | Ennis-Flint, Inc. Formula #: 983711 Resin (3427) | 630-66-68-605 | Truckload (>2,650) | $ 12.37 | $ 13.68 | $ 14.99 | Ennis-Flint, Inc. Formula #: 983711-B2 Resin (DT211) | 630-66-68-607 | Truckload (>2,650) | $ 12.50 | $ 13.81 | $ 15.12 |
| | | | | Less-Than-Truckload | $ 13.68 | $ 14.99 | $ 16.30 | | | Less-Than-Truckload | $ 13.81 | $ 15.12 | $ 16.44 |
| | Yellow | Ennis-Flint, Inc. Formula #: 983712 Resin (3427) | 636-66-68-606 | Truckload (>2,650) | $ 12.37 | $ 13.68 | $ 14.99 | Ennis-Flint, Inc. Formula #: 983712-B2 Resin (DT211) | 630-66-68-608 | Truckload (>2,650) | $ 12.50 | $ 13.81 | $ 15.12 |
| | | | | Less-Than-Truckload | $ 13.68 | $ 14.99 | $ 16.30 | | | Less-Than-Truckload | $ 13.81 | $ 15.12 | $ 16.44 |
| Standard 2 | White | Ennis-Flint, Inc. Formula #: 980201 Resin (5408) | 630-66-68-610 | Truckload (>2,650) | $ 22.96 | $ 24.27 | $ 25.58 | Ennis-Flint, Inc. Formula #: 980201-B2 Resin (XSR) | 630-66-68-612 | Truckload (>2,650) | $ 21.65 | $ 22.96 | $ 24.27 |
| | | | | Less-Than-Truckload | $ 24.27 | $ 25.58 | $ 26.89 | | | Less-Than-Truckload | $ 22.96 | $ 24.27 | $ 25.58 |
| | Yellow | Ennis-Flint, Inc. Formula #: 983712 Resin (5408) | 630-66-68-611 | Truckload (>2,650) | $ 22.61 | $ 23.92 | $ 25.23 | Ennis-Flint, Inc. Formula #: 983712-B2 Resin (XSR) | 630-66-68-613 | Truckload (>2,650) | $ 21.30 | $ 22.61 | $ 23.92 |
| | | | | Less-Than-Truckload | $ 23.92 | $ 25.23 | $ 26.54 | | | Less-Than-Truckload | $ 22.61 | $ 23.92 | $ 25.23 |
| Standard 3 | White | Ennis-Flint, Inc. Formula #: 984701 Resin (3427) | 630-66-68-616 | Truckload (>2,650) | $ 13.02 | $ 14.33 | $ 15.64 | Ennis-Flint, Inc. Formula #: 984701-B2 Resin (DT211) | 630-66-68-618 | Truckload (>2,650) | $ 13.15 | $ 14.46 | $ 15.77 |
| | | | | Less-Than-Truckload | $ 14.33 | $ 15.64 | $ 16.95 | | | Less-Than-Truckload | $ 14.46 | $ 15.77 | $ 17.08 |
| | Yellow | Ennis-Flint, Inc. Formula #: 984702 Resin (3427) | 630-66-68-617 | Truckload (>2,650) | $ 13.02 | $ 14.33 | $ 15.64 | Ennis-Flint, Inc. Formula #: 984702-B2 Resin (DT211) | 630-66-68-619 | Truckload (>2,650) | $ 13.15 | $ 14.46 | $ 15.77 |
| | | | | Less-Than-Truckload | $ 14.33 | $ 15.64 | $ 16.95 | | | Less-Than-Truckload | $ 14.46 | $ 15.77 | $ 17.08 |
| Standard 4 | White | Ennis-Flint, Inc. Formula #: 984421 Resin (HD21A) | 630-66-68-622 | Truckload (>2,650) | $ 15.09 | $ 16.40 | $ 17.71 | Ennis-Flint, Inc. Formula #: 984421-B2 Resin (HD21A) | 630-66-68-624 | Truckload (>2,650) | $ 12.83 | $ 14.14 | $ 15.45 |
| | | | | Less-Than-Truckload | $ 16.40 | $ 17.71 | $ 19.02 | | | Less-Than-Truckload | $ 14.14 | $ 15.45 | $ 16.76 |
| | Yellow | Ennis-Flint, Inc. Formula #: 984422 Resin (HD21A) | 630-66-68-623 | Truckload (>2,650) | $ 13.40 | $ 14.71 | $ 16.02 | Ennis-Flint, Inc. Formula #: 984422-B2 Resin (HD21A) | 630-66-68-625 | Truckload (>2,650) | $ 12.83 | $ 14.14 | $ 15.45 |
| | | | | Less-Than-Truckload | $ 14.71 | $ 16.02 | $ 17.33 | | | Less-Than-Truckload | $ 14.14 | $ 15.45 | $ 16.76 |
| Standard 5 | White | Ennis-Flint, Inc. Formula #: 985351 Resin (XSR) | 630-66-68-628 | Truckload (>2,650) | $ 14.31 | $ 15.62 | $ 16.93 | Ennis-Flint, Inc. Formula #: 985351-B2X Resin (DT211) | 630-66-68-630 | Truckload (>2,650) | $ 12.83 | $ 14.14 | $ 15.45 |
| | | | | Less-Than-Truckload | $ 15.62 | $ 16.93 | $ 18.24 | | | Less-Than-Truckload | $ 14.14 | $ 15.45 | $ 16.76 |
| | Yellow | Ennis-Flint, Inc. Formula #: 985352 Resin (XSR) | 630-66-68-629 | Truckload (>2,650) | $ 14.39 | $ 15.70 | $ 17.01 | Ennis-Flint, Inc. Formula #: 985352-B2X Resin (DT211) | 630-66-68-631 | Truckload (>2,650) | $ 12.83 | $ 14.14 | $ 15.45 |
| | | | | Less-Than-Truckload | $ 15.70 | $ 17.01 | $ 18.32 | | | Less-Than-Truckload | $ 14.14 | $ 15.45 | $ 16.76 |
| Standard 6 | White | Ennis-Flint, Inc. Formula #: 98351 Resin (XSR) | 630-66-68-634 | Truckload (>2,650) | $ 23.16 | $ 24.47 | $ 25.78 | | | | | | |
| | | | | Less-Than-Truckload | $ 24.47 | $ 25.78 | $ 27.09 | | | | | | |
| | Yellow | Ennis-Flint, Inc. Formula #: 98352 Resin (XSR) | 630-66-68-635 | Truckload (>2,650) | $ 23.24 | $ 24.55 | $ 25.86 | | | | | | |
| | | | | Less-Than-Truckload | $ 24.55 | $ 25.86 | $ 27.17 | | | | | | |

PHONE (509) 477-2301

Spokane County
WASHINGTON
Purchasing Department

FAX (509) 477-6627

# CHANGE ORDER 5

Spokane County Purchasing Department
1211 W. Gardner Ave., 2nd floor
Spokane, WA 99260

Resolution Number: 17-0396
Contract/Project Number: P10162
Date: 3/17/2021
Department: Public Works

Contract Title: Traffic Line Paint
Contractor: Rodda Paint

You are hereby directed to make the changes listed below in the subject contract.

Nature of the change:

Change order item 1: Renew contract for Term 3, from May 9, 2021 through Midnight, May 8, 2022.

Change order item 2: Temporary Price increase as follows:

Airport Fast Dry Waterborne Striping Type II (TT-P-1952E)
One Way – Disposable tote "All prices for disposable totes includes tote pickup and disposal by Rodda Paint"
1160 White - $12.54 per gallon
1166LF Yellow - $12.54 per gallon

Airport Fast Dry Waterborne Striping Type II (TT-P-1952E)
Returnable Tote
1160 White - $13.91
1166LF Yellow - $13.91

High Build Type III (TT-P-1952E)
One Way – Disposable tote "All prices for disposable totes includes tote pickup and disposal by Rodda Paint"
1110 White – $14.17 per gallon
1116LF Yellow - $14.17 per gallon

High Build Type III (TT-P-1952E)
Returnable Tote
1110 White – $15.54 per gallon
1116LF Yellow - $15.54 per gallon

The changes result in the following adjustment of the contract price and time:

| CONTRACT WORK | |
|---|---|
| Original Contract Award (less tax) | $291,150.00 |
| Previously Authorized Change Order(s) (less tax) | $28,719.90 |
| Contract price prior to this change order (less tax) | $304,909.90 |
| Contract price (increase) (~~decrease~~) resulting from this change order (less tax) | $51,200.10 |
| Contract price including this change order (less tax) | $356,110.00 |
| 8.9% Sales Tax = | $31,693.79 |
| Total Contract Value = | $387,803.79 |
| **CONTRACT TIME** | |
| Contract completion date prior to the change order | May 8, 2021 |
| Contract time (increase/decrease) resulting from this change order | 1 year |
| Contract completion date including this change order | May 8, 2022 |

| The above change(s) are approved and I certify that these change(s) are consistent within the original scope of work for this project and that sufficient funds have been budgeted for this change order. | The change(s) as set forth in this Change Order are accepted. |
|---|---|
| Public Works | Rodda Paint |
| Chad Coles P.E., County Engineer — Date 5/18/21 | signature — Date 5/18/2021 |

| Purchasing Department<br>The above change(s) have been reviewed. | |
|---|---|
| P10162 Contract Manager/Facilitator | Purchasing Manager |
| Terrie Roberts NIGP-CPP CPPB C.P.M. — Date | Tony Hall — Date |

ALPINE PRODUCTS INC

550 3RD ST. SW BLDG. C
AUBURN, WA 98001

# ESTIMATE

| DATE | INVOICE # |
|---|---|
| 2/1/2022 | 31476 |

| BILL TO |
|---|
| PIERCE COUNTY TRAFFIC<br>9200 122nd ST EAST<br>PUYALLUP, WA 98373<br>Steve Martin |

| P.O. NUMBER | TERMS | REP | F.O.B. | CHECK |
|---|---|---|---|---|
| Quote | Net 30 | JFC | | |

| QUANTITY | ITEM CODE | DESCRIPTION | PRICE EACH | Total |
|---|---|---|---|---|
| 3,000 | 6060-SA-SWB | (6060-SA-SWB) - RAPID DRY TRAFFIC LINE PAINT WHITE,ENNIS 6060-SA-SMB SPRING FORMULA | 11.92 | 35,760.00T |
| 3,000 | 6063-SA-SWB | (6063-SA-SWB) - RAPID DRY TRAFFIC LINE PAINT,YELLOW ENNIS 6063-SA-SMB SPRING/FALL FORMULA | 12.45 | 37,350.00T |
| 912 | AC-603360-50 LB | (AC-110) STATE CONTRACT GLASS BEADS, 50 LB BAG (AC-603360-50 LB)<br>2022 Bead Pricing per State Contract#02513 | 25.00 | 22,800.00T |
| | | Auburn in KC 1702 Sales Tax | 10.10% | 9,686.91 |

| | |
|---|---|
| **Total** | $105,596.91 |

ENNIS-FLINT
The Mark of Traffic Safety®

September 7th 2021

Dear Valued Customer,

As communicated earlier this year, the pavement marking industry continues to have challenges on many fronts. Raw material, labor, and logistics costs continue to accelerate and remain at all-time highs. Multiple raw material cost increases have jumped into high double-digit ranges. The security of supply also continues to be an area of concern. Many multinational companies remain in force majeure that dates back to February of 2021. We were hopeful that improvements to the supply chain would have occurred in the second half of 2021, however, that has not been the case.

Effective September 7, 2021, or as contracts allow, Ennis-Flint will increase prices on the following Product(s).

| | Percent increase effective 9/7/21 |
|---|---|
| Paint | 17.8% |
| Thermoplastic & HPS®-8 | 19.5% |
| Epoxy (HPS®-2, HPS®-3 and HPS®-4) | 26.0% |
| MMA products (HPS®-6, HPS®-7, and MMAX) | 7.5% |
| Preformed Thermoplastic | 6.0% |
| Stimsonite® 101 (Snow plowable iron castings) | 30.0% |
| All other RPMs | 10.0% |

Pricing for orders placed and accepted prior to September 7, 2021, as evidenced by an Order Acknowledgement, will remain the same. We understand supply of products to our customer base in 2021 has been not been to our prior standard. Considerable efforts are underway with suppliers and through PPG infrastructure to enhance our ability to meet critical customer requirements. We greatly appreciate the business placed with Ennis-Flint and remain focused to improve our supply chains in the future. We look forward to our continuing business relationship as we work through these extremely difficult times.

As always, your Regional Sales Manager is available to work with you or answer any questions you may have regarding these increases.

Respectfully,

Kevin M. Cook es

| Agenda Sheet for City Council Meeting of: 03/14/2022 | | Date Rec'd | 3/1/2022 |
|---|---|---|---|
| | | Clerk's File # | OPR 2021-0078 |
| | | Renews # | |
| **Submitting Dept** | STREETS | **Cross Ref #** | |
| **Contact Name/Phone** | CLINT HARRIS 625-7744 | **Project #** | |
| **Contact E-Mail** | CEHARRIS@SPOKANECITY.ORG | **Bid #** | ITB 5362-20 |
| **Agenda Item Type** | Contract Item | **Requisition #** | VB |
| **Agenda Item Name** | 1100-STREET DEPARTMENT TRAFFIC SIGNAL/LUMINAIRE STANDARDS | | |

**Agenda Wording**

Street Department is seeking the approval to renew a value blanket contract with Valmont Industries, for an amount not to exceed $380,000.00 to be used for the ordering of traffic signal and luminaire standards

**Summary (Background)**

Four more years of renewal remain on the contract, including the one being proposed here. Valmont Industries has been a reliable supplier of this material meeting delivery timelines laid out in the bid. The use of this value blanket provides an efficient and timely means of acquiring standards.

Lease? NO Grant related? NO Public Works? NO

| **Fiscal Impact** | | **Budget Account** |
|---|---|---|
| Expense | $ 380,000.00 | # Various |
| Select | $ | # |
| Select | $ | # |
| Select | $ | # |

| **Approvals** | | **Council Notifications** | |
|---|---|---|---|
| **Dept Head** | HARRIS, CLINT E. | **Study Session\Other** | PIES 2/28/22 |
| **Division Director** | FEIST, MARLENE | **Council Sponsor** | Lori Kinnear |
| **Finance** | ORLOB, KIMBERLY | **Distribution List** | |
| **Legal** | ODLE, MARI | ceharris@spokanecity.org | |
| **For the Mayor** | ORMSBY, MICHAEL | jklapp@spokanecity.org | |
| **Additional Approvals** | | jwthomas@spokanecity.org | |
| **Purchasing** | PRINCE, THEA | gokihara@spokanecity.org | |
| | | tbrazington@spokanecity.org | |
| | | Matthew.Burke@valmont.com | |
| | | tprince@spokanecity.org | |

# Committee Agenda Sheet
# [PIES]

| | |
|---|---|
| **Submitting Department** | Streets |
| **Contact Name & Phone** | Clint Harris – 509-625-7744 |
| **Contact Email** | ceharris@spokanecity.org |
| **Council Sponsor(s)** | Lori Kinnear |
| **Select Agenda Item Type** | X Consent ☐ Discussion Time Requested: _____ |
| **Agenda Item Name** | Value Blanket Renewal for Traffic Signal / Luminaire Standards |
| **Summary (Background)** | This value blanket provides a streamlined means of ordering signal standards for street projects and maintenance replacements where vehicles damage or knock down signal standards.<br><br>• *Four more years of renewal remain on the contract, including the one being proposed here.*<br>• *Valmont Industries has been a reliable supplier of this material meeting delivery timelines laid out in the bid.*<br>• *Allows the ordering of signal standard up to a cumulative amount of $380,000.00 including tax for 2/22-2/23.*<br>• *Signal Standards are paid for by project dollars or street Maintenance dollars already budgeted.* |
| **Proposed Council Action & Date:** | Consent approval for renewal, PIES 2/28/22 |

**Fiscal Impact:** $380,000.00
Total Cost: $380,000.00
Approved in current year budget? X Yes ☐ No ☐ N/A

Funding Source ☐ One-time X Recurring
Specify funding source:

Expense Occurrence ☐ One-time X Recurring

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

**Operations Impacts**

What impacts would the proposal have on historically excluded communities?
N/A

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?
N/A

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?
N/A

| |
|---|
| Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?<br>N/A |

**City of Spokane annual contract**
**Valmont 541055**

| | 2022 pricing | 2021 pricing | price increase |
|---|---|---|---|
| Type I-10 | $ 805 | $ 555 | 45.0% |
| Type II 20ft | $ 5,770 | $ 3,500 | 64.9% |
| Type II 25ft | $ 6,015 | $ 3,635 | 65.5% |
| Type II 30ft | $ 6,375 | $ 3,855 | 65.4% |
| Type II 35ft | $ 7,470 | $ 4,825 | 54.8% |
| Type II 40ft | $ 9,655 | $ 6,310 | 53.0% |
| Type II 45ft | $ 9,995 | $ 6,510 | 53.5% |
| Type II 50ft | $ 11,040 | $ 7,200 | 53.3% |
| Type II 55ft | $ 12,550 | $ 7,750 | 61.9% |
| Type III 20ft SMA, 20ft LMA | $ 7,150 | $ 4,480 | 59.6% |
| Type III 25ft SMA, 20ft LMA | $ 7,300 | $ 4,550 | 60.4% |
| Type III 30ft SMA, 20ft LMA | $ 7,660 | $ 4,700 | 63.0% |
| Type III 35ft SMA, 20ft LMA | $ 9,920 | $ 6,600 | 50.3% |
| Type III 40ft SMA, 20ft LMA | $ 10,950 | $ 7,205 | 52.0% |
| Type III 45ft SMA, 20ft LMA | $ 11,290 | $ 7,410 | 52.4% |
| Type III 50ft SMA, 20ft LMA | $ 12,345 | $ 8,100 | 52.4% |
| Type III 55ft SMA, 20ft LMA | $ 13,930 | $ 8,695 | 60.2% |
| Type III 60ft SMA, 20ft LMA | $ 14,225 | $ 9,085 | 56.6% |
| Type IV | $ 3,170 | $ 2,085 | 52.0% |
| DS32 | $ 2,535 | $ 1,760 | 44.0% |
| RTS | $ 2,090 | $ 1,010 | 106.9% |
| | **$ 172,240** | **$ 109,820** | **56.8%** |

valmont STRUCTURES

February 1, 2022

Thea Prince
Senior Procurement Specialist
City of Spokane
Emailed

RE: Updated Traffic Signal Pole Contract
Valmont Quote 541055

Dear Thea:
I must start out and apologize for the time it took to finally get this to you!!

I am offering documentation of some of biggest influences in the steel pole pricing. With the significant changes in various cost sectors, we have updated our current pricing to reflect current cost increases in the market.

I assume you have seen similar market challenges in other related commodities. Steel has increased dramatically over the last 18 months. In an effort to maintain transparency, we would like to provide an update on the continued market volatility and current business conditions affecting all of us. The following offers some insight to the *unprecedented* material increases and is intended to provide justification for the necessary increases.

Like many businesses during the Covid-19 pandemic, Valmont has experienced higher operating costs across our spectrum of businesses. Nearly all cost inputs: logistics, labor, finishes, raw materials, etc., have increased substantially in the past year. Commodity markets across the board have seen significant increase in late 2020 and have continued in 2021. Domestic steel mills have become well positioned to raise prices with little obstruction as they continue to pull back on supply and right-size capacity. Certainly as critical as escalating prices is the longer term tightening of material availability as steel mill capacity-utilization rates increase. Governmental influences, global supply chain disruptions, Covid-19 related labor shortages, wage increases and improved demand forecasts within the manufacturing and construction markets all indicate higher input costs will continue for the foreseeable future. *Please refer to the attached exhibits for some supporting details.*

Valmont is doing everything we can to manage the situation to the best of our ability. We continue to source materials as effectively as possible in an effort to minimize impact to our customer base by working *directly* with the steel mills. Valmont leverages our manufacturing expertise to reduce costs, limit waste, and deliver higher valued products to our customers. We feel these actions provide us the opportunity to pass on minimal cost increases.

I have attached a spreadsheet comparing old contract with the new pricing levels for each line item. Steel sources or size of the material could influence the percentage increase but overall the average was 56.8%.

North American Structures
Valmont Industries, Inc. | 7002 North 288th Street | PO Box 358 | Valley, NE 68064-0358 USA
402-359-2201 | 800-825-6668 Fax 402-359-6221 | valmontstructures.com

As I previously indicated we due to our slow response, we will offer another week using the older pricing. This means orders entered by February 18th will be honored with last year's unit price levels.

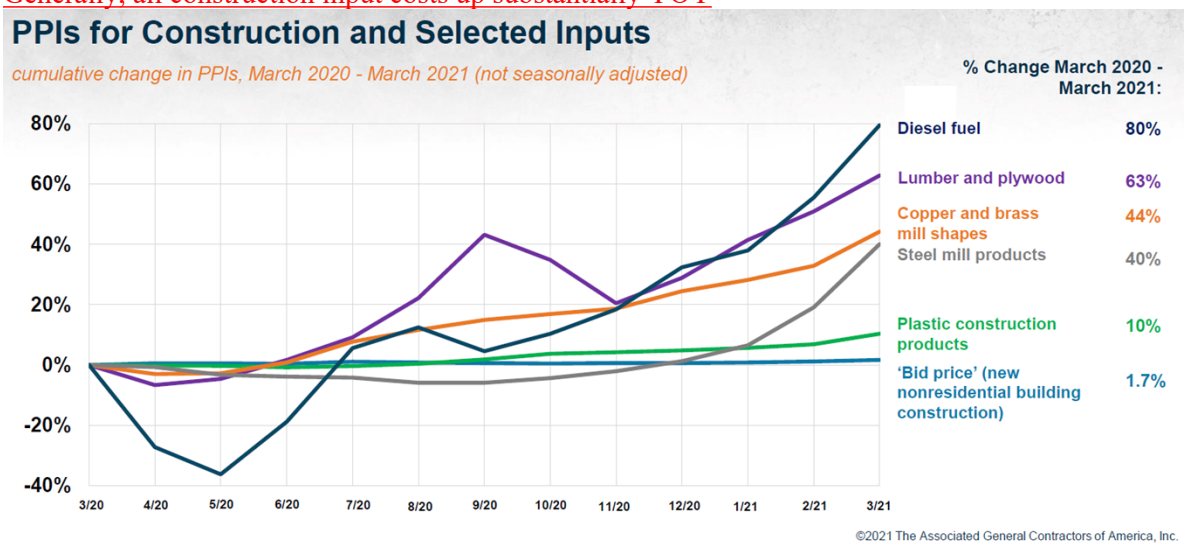
Valmont, again, thanks you for your historic business and partnership. We will continue to focus on providing you the high quality customer service, product quality and lead times that you have come to expect.

Sincerely,

**Matt**

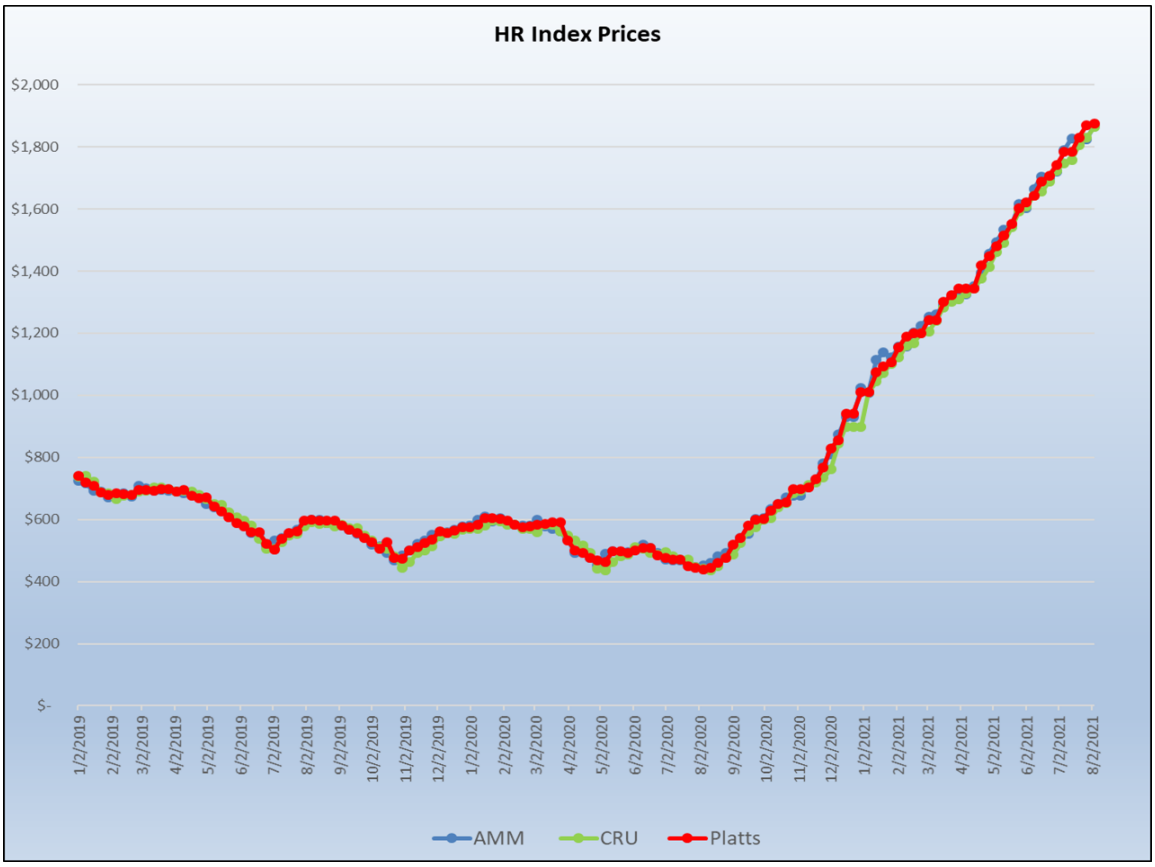
**Matthew Burke**
Regional Sales Manager
US Lighting & Traffic - North American Structures
Valmont Industries, Inc.

Generally, all construction input costs up substantially YOY

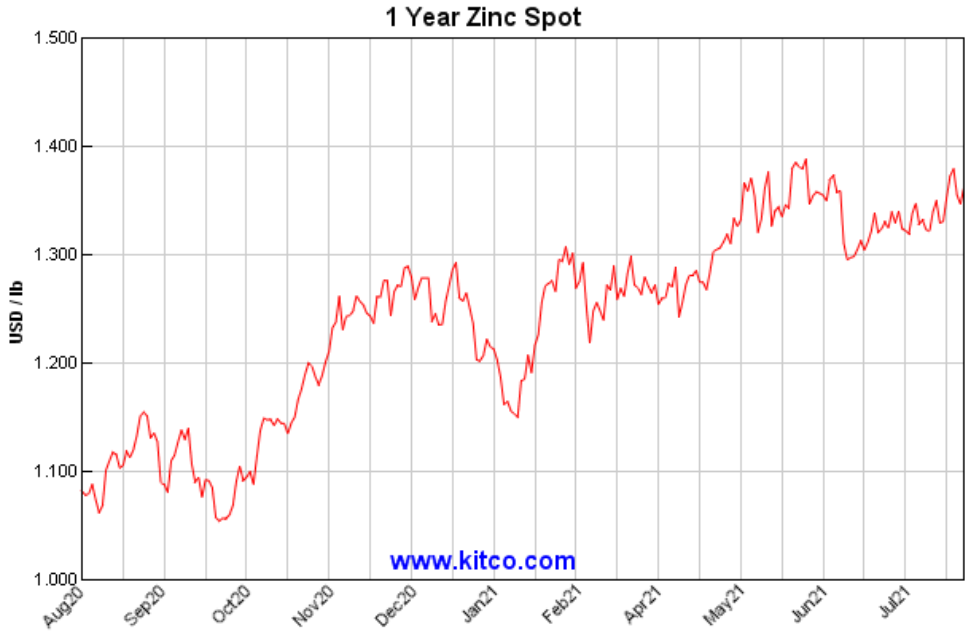



Other material commodity trends

Steel


HR Index Prices
$2,000
$1,800
$1,600
$1,400
$1,200
$1,000
$800
$600
$400
$200
$-
1/2/2019
2/2/2019
3/2/2019
4/2/2019
5/2/2019
6/2/2019
7/2/2019
8/2/2019
9/2/2019
10/2/2019
11/2/2019
12/2/2019
1/2/2020
2/2/2020
3/2/2020
4/2/2020
5/2/2020
6/2/2020
7/2/2020
8/2/2020
9/2/2020
10/2/2020
11/2/2020
12/2/2020
1/2/2021
2/2/2021
3/2/2021
4/2/2021
5/2/2021
6/2/2021
7/2/2021
8/2/2021
AMM
CRU
Platts

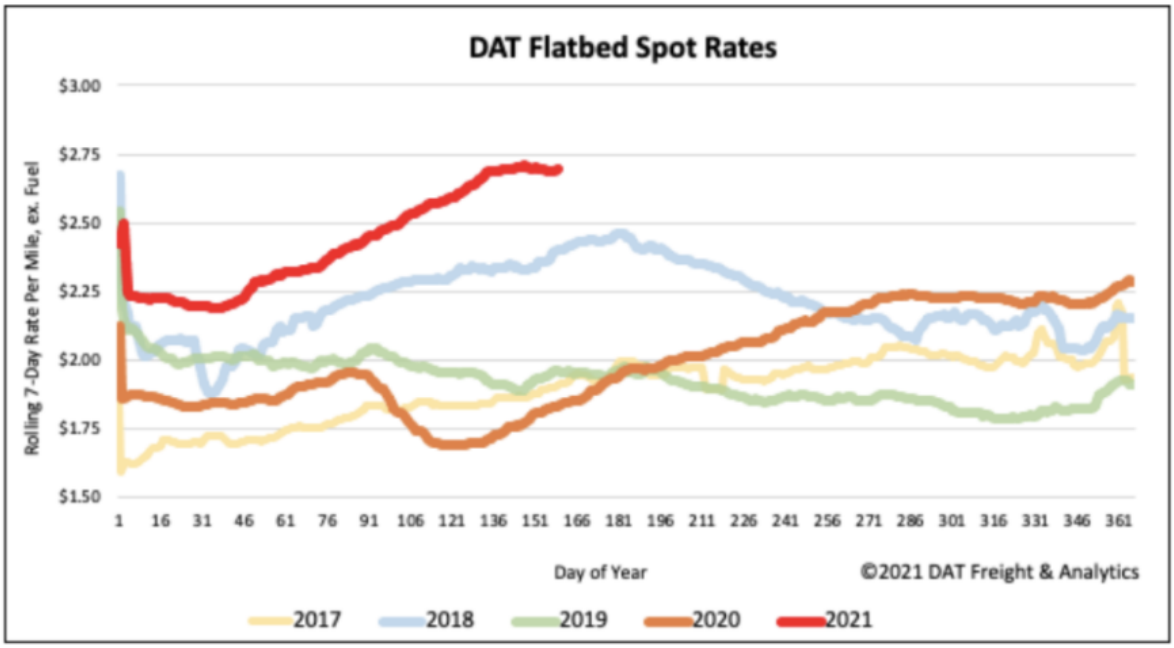
Zinc


1 Year Zinc Spot
USD / lb
1.500
1.400
1.300
1.200
1.100
1.000
www.kitco.com
Aug20
Sep20
Oct20
Nov20
Dec20
Jan21
Feb21
Apr21
May21
Jun21
Jul21

Copper

North American Structures
Valmont Industries, Inc. | 7002 North 288th Street | PO Box 358 | Valley, NE 68064-0358 USA
402-359-2201 | 800-825-6668 Fax 402-359-6221 | valmontstructures.com

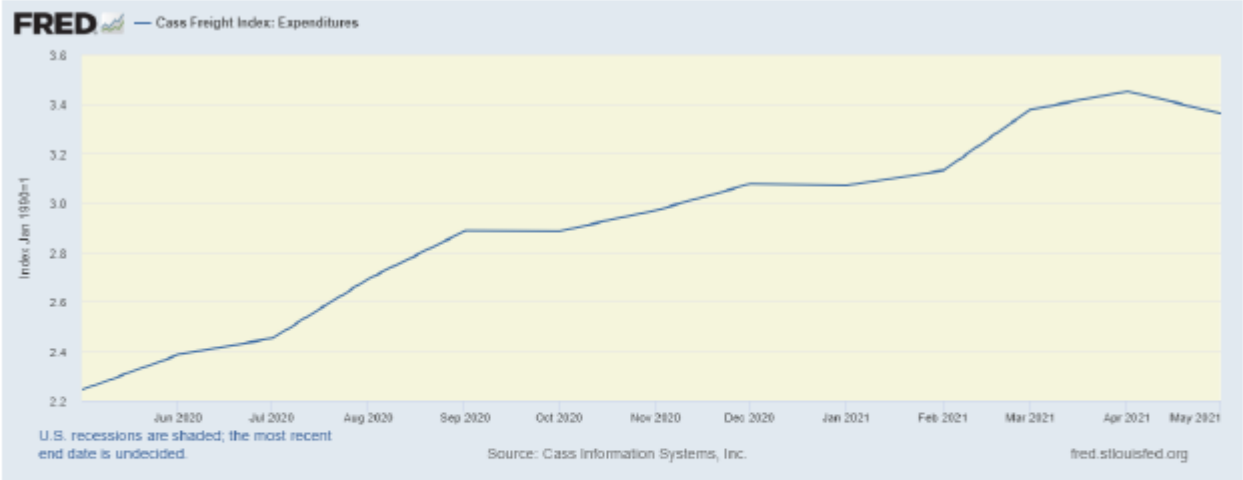
valmont STRUCTURES



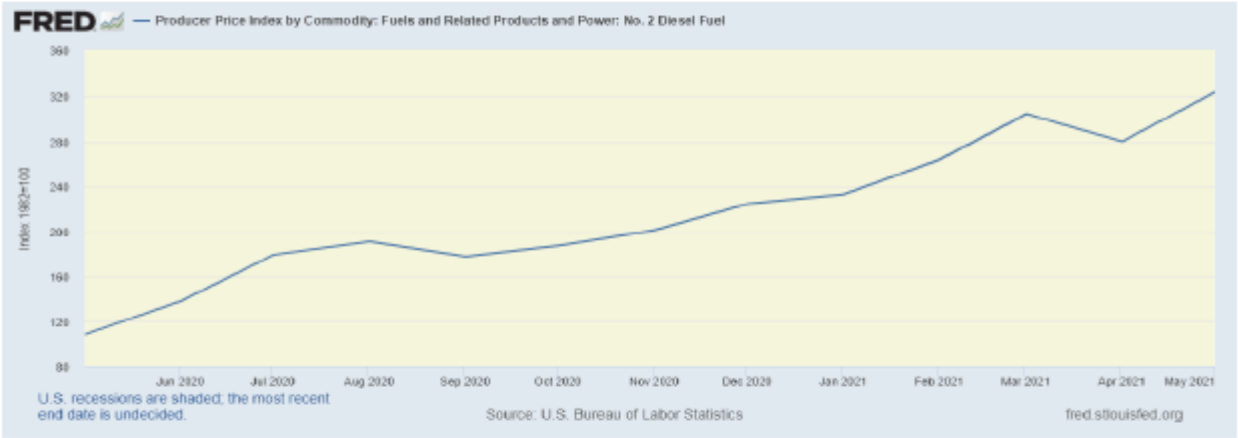

North American Structures
Valmont Industries, Inc. | 7002 North 288th Street | PO Box 358 | Valley, NE 68064-0358 USA
402-359-2201 | 800-825-6668 Fax 402-359-6221 | valmontstructures.com

valmont STRUCTURES

## Exhibit 3 - Freight / Fuel / Shipping / Warehousing




*Cass Information Systems, Inc., Cass Freight Index: Expenditures [FRGEXPUSM649NCIS], retrieved from FRED, Federal Reserve Bank of St. Louis; https://fred.stlouisfed.org/series/FRGEXPUSM649NCIS, July 7, 2021.*

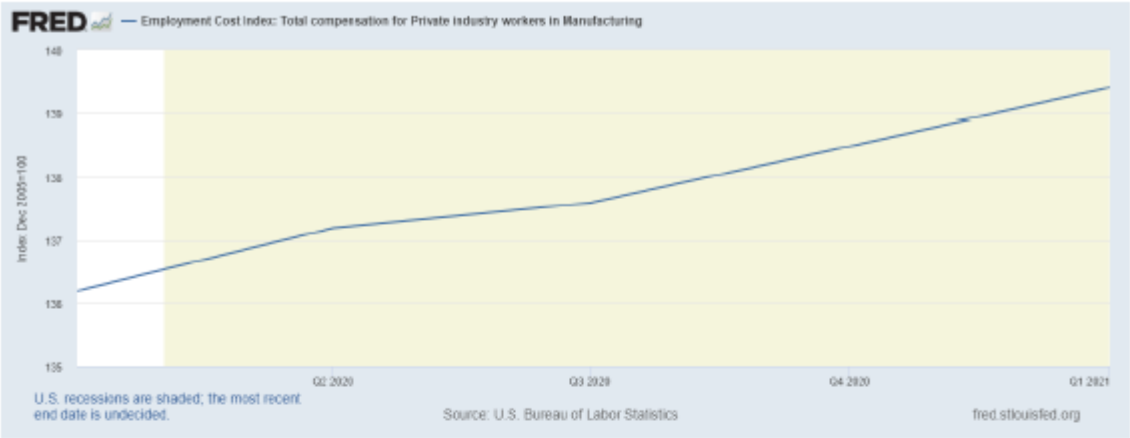



*U.S. Bureau of Labor Statistics, Producer Price Index by Commodity: Fuels and Related Products and Power: No. 2 Diesel Fuel [WPU057303], retrieved from FRED, Federal Reserve Bank of St. Louis; https://fred.stlouisfed.org/series/WPU057303, July 7, 2021.*

*U.S. Bureau of Labor Statistics, Producer Price Index by Industry: Delivery and Warehouse Industries [PCUADLVWRADLVWR], retrieved from FRED, Federal Reserve Bank of St. Louis; https://fred.stlouisfed.org/series/PCUADLVWRADLVWR, July 7, 2021.*

Labor

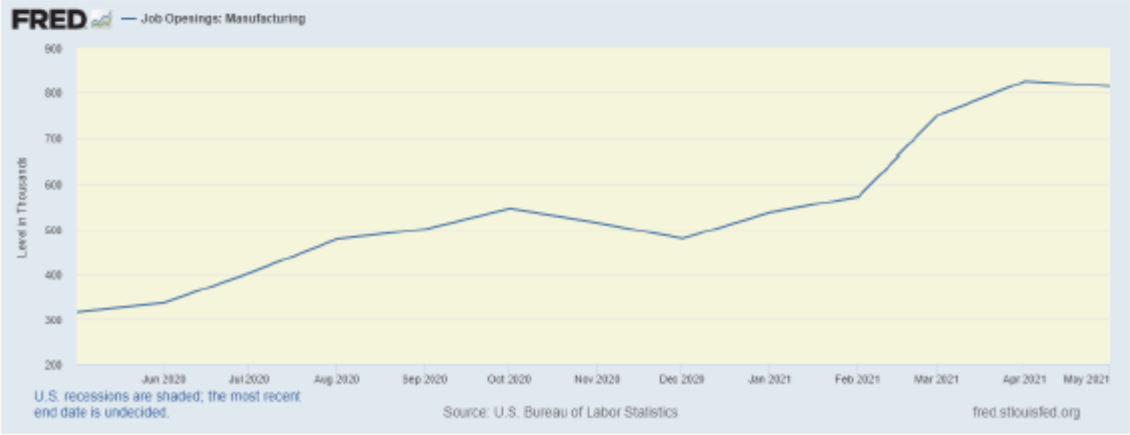
**Exhibit 4 – Labor Cost**




*U.S. Bureau of Labor Statistics, Employment Cost Index: Total compensation for Private industry workers in Manufacturing [CIU2013000000000I], retrieved from FRED, Federal Reserve Bank of St. Louis; 2021.*

C:\Users\crp0690\Downloads\fredgraph (4).png

*U.S. Bureau of Labor Statistics, Average Hourly Earnings of All Employees, Manufacturing [CES3000000003], retrieved from FRED, Federal Reserve Bank of St. Louis; https://fred.stlouisfed.org/series/CES3000000003, July 7, 2021.*




*U.S. Bureau of Labor Statistics, Job Openings: Manufacturing [JTS3000JOL], retrieved from FRED, Federal Reserve Bank of St. Louis; https://fred.stlouisfed.org/series/JTS3000JOL, July 7, 2021.*

| Agenda Sheet for City Council Meeting of: 03/14/2022 | | Date Rec'd | 2/28/2022 |
|---|---|---|---|
| | | Clerk's File # | OPR 2022-0167 |
| | | Renews # | |
| **Submitting Dept** | SOLID WASTE DISPOSAL | **Cross Ref #** | |
| **Contact Name/Phone** | DAVID PAINE 625-6878 | **Project #** | |
| **Contact E-Mail** | DPAINE@SPOKANECITY.ORG | **Bid #** | RFQ 5558-22 |
| **Agenda Item Type** | Purchase w/o Contract | **Requisition #** | RE 20059 |
| **Agenda Item Name** | 4490 LIME SLAKER PURCHASE FOR THE WTE | | |

**Agenda Wording**

Purchase of a new lime slaker with heaters for the Waste to Energy Facility from STT Storage & Transfer Technologies (Ontario, Canada) for a cost of $94,100.00 plus tax.

**Summary (Background)**

The Slaker is a key component of WTE's Emission Controls Process. This is where 3/8" pebble lime is slaked (mixed) with water to create a slurry that is injected into the Spray Dryer Absorber (SDA)to desulferize the flue gas. On Jan. 25, 2022, bidding closed on RFQ 5558-22 for the purchase of a new lime slaker with heaters and three responses were received; STT Storage & Transfer Technologies, who is the OEM, was chosen as they offered a like in kind replacement at the lowest cost.

Lease? NO Grant related? NO Public Works? NO

| **Fiscal Impact** | | **Budget Account** |
|---|---|---|
| Expense | **$** 94,100.00 | **#** 4490-44100-37148-53210-34002 |
| Select | **$** | **#** |
| Select | **$** | **#** |
| Select | **$** | **#** |

| **Approvals** | | **Council Notifications** | |
|---|---|---|---|
| **Dept Head** | AVERYT, CHRIS | **Study Session\Other** | 2/28/22 PIES |
| **Division Director** | FEIST, MARLENE | **Council Sponsor** | CM Kinnear |
| **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 | |
| | | | |
| | | | |
| | | | |

# Committee Agenda Sheet
# Public Infrastructure, Environment and Sustainability

| | |
|---|---|
| **Submitting Department** | Solid Waste Disposal |
| **Contact Name & Phone** | David Paine, 625-6878 |
| **Contact Email** | dpaine@spokanecity.org |
| **Council Sponsor(s)** | CM Lori Kinnear |
| **Select Agenda Item Type** | ☐ Consent ☐ Discussion Time Requested: _____ |
| **Agenda Item Name** | Purchase of Lime Slakers with Heaters for the WTE |
| **Summary (Background)** | The Slaker is a key component of WTE's Emission Controls Process. This is where 3/8" pebble lime is slaked (mixed) with water to create a slurry that is injected into our Spray Dryer Absorber's (SDA). This slurry is atomized and sprayed into the flu gas path (emissions path) where it is used in the desulfurization of the flu gas. This process causes the new inert compounds to fall out of the flu gas stream to joining the fly ash stream for removal. The fly ash is then mixed with the boiler bottom ash to maintain a PH range in the combined ash that will stabilize the ash for disposal at the dedicated ash monofil. The removal of these acid gas compounds and soil stabilization by this process is key to our compliance with established emission limits. The WTE has two such Slaking Systems that are sequenced weekly to run only one at a time. This allows for us to maintain the equipment while not hindering the operation and continue to operation with our Permit guidelines.<br><br>On Jan. 25, 2022, bidding closed on RFQ 5558-22 for the purchase of a new lime slaker with heaters and three responses were received; STT Storage & Transfer Technologies (Ontario, Canada) Chemco Systems (Monongahela, PA) and Technology International, Inc. (Lake Mary, FL). Of the three respondents, STT Storage & Transfer Technologies, who is the OEM, was chosen as they offered a like in kind replacement at the lowest cost. |
| **Proposed Council Action & Date:** | Committee consent to proceed on 2/28/22. |

**Fiscal Impact:**
Total Cost:
Approved in current year budget? ☒ Yes ☐ No ☐ N/A

Funding Source ☐ One-time ☒ Recurring
Specify funding source: 2022 SWD Budget

Expense Occurrence ☐ One-time ☒ Recurring

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

**Operations Impacts**

What impacts would the proposal have on historically excluded communities?

N/A

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

N/A

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

| Agenda Sheet for City Council Meeting of: 03/14/2022 | | Date Rec'd | 2/28/2022 |
|---|---|---|---|
| | | Clerk's File # | OPR 2020-0341 |
| | | Renews # | |
| **Submitting Dept** | SOLID WASTE DISPOSAL | **Cross Ref #** | |
| **Contact Name/Phone** | DAVID PAINE 625-6878 | **Project #** | |
| **Contact E-Mail** | DPAINE@SPOKANECITY.ORG | **Bid #** | PW ITB 5238-20 |
| **Agenda Item Type** | Contract Item | **Requisition #** | CR 23415 |
| **Agenda Item Name** | 4490 CONTRACT RENEWAL FOR BOILERMAKER SERVICES AT THE WTE | | |

**Agenda Wording**

Contract renewal 1 of 3 with Helfrich Brothers Boiler Works, Inc.(Lawrence, MA) for boilermaker services at the Waste to Energy Facility from April 1, 2022 through March 31, 2023 with a cost not to exceed $1,000,000.00 incl. tax.

**Summary (Background)**

Each year two scheduled outages are performed on the boilers at the WTE Facility in order to repair or replace worn components. On March 2, 2020 two responses were received for PW ITB 5238-20 for boilermaker services and Helfrich Brothers Boiler Works, Inc. was the low cost bidder. The initial contract award was from Apr. 1, 2020-Mar.31, 2022 with a cost not to exceed $3.1M and the possibility of three additional one-year renewals. This will be the first of those rewnewals.

Lease? NO Grant related? NO Public Works? YES

| **Fiscal Impact** | | **Budget Account** |
|---|---|---|
| Expense | $ 1,000,000.00 | # 4490-44100-37148-54803-34002 |
| Select | $ | # |
| Select | $ | # |
| Select | $ | # |

| **Approvals** | | **Council Notifications** | |
|---|---|---|---|
| **Dept Head** | AVERYT, CHRIS | **Study Session\Other** | 2/28/22 PIES |
| **Division Director** | FEIST, MARLENE | **Council Sponsor** | CM Kinnear |
| **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 | |
| | | DocuSign:Dennis Lincoln, COO, DLincoln@hbbwinc.com | |
| | | | |
| | | | |

# Committee Agenda Sheet
# Public Infrastructure, Environment and Sustainability

| | |
|---|---|
| **Submitting Department** | Solid Waste Disposal |
| **Contact Name & Phone** | David Paine, 625-6878 |
| **Contact Email** | dpaine@spokanecity.org |
| **Council Sponsor(s)** | CM Lori Kinnear |
| **Select Agenda Item Type** | ☐ Consent ☐ Discussion Time Requested: _____ |
| **Agenda Item Name** | Contract Renewal for Boilermaker Services at the WTE Facility |
| **Summary (Background)** | Each year, two scheduled outages on each of the two boilers at the Waste to Energy facility are performed in order to repair or replace worn components and at times, emergency services are required when failures occur in between outages. In addition, every three to four years a complete replacement of the pendants in the Superheater section of the boilers is necessary. Without these repairs and maintenance, the boilers would be unable to continue uninterrupted operation. Due to the unique and extensive nature of this type of repair work, utilization of boilermakers with proven and substantiated historical experience is required. On March 2, 2020 two responses were received for PW ITB 5238-20 for these services; New England Mechanical Overlay of Pittsfield, NH and Helfrich Brothers Boiler Works, Inc., of Lawrence, MA. Helfrich Brothers Boiler Works, Inc. was the lowest cost bidder.<br><br>The initial contract was for two years from April 1, 2020 through March 31, 2022 with the option to extend for three (3) additional one-year periods, and a cost not to exceed $3,100,000.00 for the two-year term. This will be the first of the three renewals from April 1, 2022 through March 31, 2023 with an additional cost not to exceed $1,000,000.00 including tax. |
| **Proposed Council Action & Date:** | Committee consent to proceed on 2/28/22 |

**Fiscal Impact:**
Total Cost: $1,000,000.00
Approved in current year budget? ☒ Yes ☐ No ☐ N/A

Funding Source ☐ One-time ☒ Recurring
Specify funding source: 2022 SWD Budget

Expense Occurrence ☐ One-time ☒ Recurring

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

**Operations Impacts**

What impacts would the proposal have on historically excluded communities?

N/A

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

N/A

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

Regular and proper maintenance to the WTE' Boiler's and ancillary equipment is necessary to maintain the safe and efficient operation of our Facility. These efforts ensure that we continue to be good environmental stewards, while supporting the goals of our City and Citizens within the guidelines of its Operating Permits.

City Clerk's No. 2020-0341

**City of Spokane**

**CONTRACT RENEWAL**
**1 OF 3**

**Title: BOILERMAKER SERVICES**

This Contract Renewal is made and entered into by and between the **CITY OF SPOKANE** as ("City"), a Washington municipal corporation, and **HELFRICH BROTHERS BOILER WORKS, INC.**, whose address is 39 Merrimack Street, Lawrence, MA 01843 , as "Contractor", individually hereafter referenced as a "party", and together as the "parties".

*WHEREAS, the Contractor agreed to provide Boilermaker Services for Scheduled Outages, Super Heater Pendant Replacements and Emergency Service; and*

*WHEREAS, the initial contract provided for three (3) additional one-year renewals, with this being the first of those renewals.*

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

**1. CONTRACT DOCUMENTS.**
The original Contract, dated March 16, 2020 and April 4, 2020, 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 TERM.**
This Contract Renewal shall become effective on April 1, 2022 and shall run through March 31, 2023.

**3. COMPENSATION.**
The City shall pay an estimated maximum annual cost not to exceed **ONE MILLION AND 00/100** (**$1,000,000.00**) in accordance with the attached 2022 Field Services Rates, 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.

**HELFRICH BROTHERS BOILER WORKS, 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 Agreement**:
Certificate of Debarment
2022 Field Services Rates

22-041

**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.

| | |
|---|---|
| _____<br>Name of Subrecipient / Contractor / Consultant (Type or Print) | _____<br>Program Title (Type or Print) |
| _____<br>Name of Certifying Official (Type or Print)<br>_____<br>Title of Certifying Official (Type or Print) | _____<br>Signature<br>_____<br>Date (Type or Print) |

HELFRICH
BROTHERS BOILER WORKS, INC.

## City of Spokane

# Field Services Time and Material Rates

Effective 3/31/22 thru 3/31/23

HOURLY RATES

| CLASSIFICATION | STRAIGHT | OVERTIME | DOUBLE TIME |
|---|---|---|---|
| Supervisor | $127.00 | $174.00 | $212.00 |
| Boilermaker | $108.00 | $157.00 | $194.00 |

### ADDITIONAL EXPENSES

- T&M jobs over $5,000.00 shall be subject to a 10% safety supply and material charge.
- All rentals shall be invoiced in accordance with the attached “rental fee schedule.”
- All shifts of (8) hours or more including travel shall be subject to a per diem of $110 per day per man.
- On Emergency calls, there shall be a minimum billing of (8) hours per individual at rate schedule described above.

EMERGENCY (24) HOUR SERVICE 978-683-7244

HELFRICH
BROTHERS BOILER WORKS, INC.

**City of Spokane**

# Field Services Rental Rates

Effective 3/31/22 thru 3/31/23

| Equipment Description | Fee | Unit |
|---|---|---|
| 4-Pack welding machine XMT | $100.00 | Shift |
| 4-Pack welding machine MPA | $150.00 | Shift |
| Power cart with cords and boxes | $150.00 | Shift |
| Semi-automatic overlay machines | $200.00 | Shift |
| End prep tools / wall saws | $110.00 | Shift |
| Rolling motor kit | $75.00 | Shift |
| Wallbangers (kit of 2) | $75.00 | Shift |
| Expanders | $25.00 | Shift |
| 2-way radio | $10.00 | Shift |
| Air compressor 175 - 195 CFM | $65.00 | Shift |
| Air compressor 350 - 450 CFM | $100.00 | Shift |
| Air compressor 1600 - 1800 CFM | $200.00 | Shift |
| Bull hose with all connections & whip check | $40.00 | Shift |
| Air dryer | $160.00 | Shift |
| 6K Variable reach lull | $130.00 | Shift |
| 5K Forklift | $90.00 | Shift |
| 1-5-ton line pull air tuggers | $110.00 | Shift |
| 1-5-ton air chain hoists | $110.00 | Shift |
| 1-5-ton beam trollies / clamps | $25.00 | Shift |
| 1-5-ton hand chain falls / lever action hoist | $25.00 | Shift |
| Break trailer | $1,750.00 | Week |
| Tool Trailer | $1,750.00 | Week |

The rental equipment listed above commonly used during boiler repair projects is not meant to be all inclusive. For specialty equipment and tooling, quotes will be furnished upon request. Light rigging equipment including chain falls, come alongs, straps, slings, shackles, as well as welding leads, air lines, argon lines, cutting torches, air manifolds, argon manifolds, grinders, carbon arc rigs, tig rigs, stingers, fall protection, carts, hand tools and other tooling are included in the trailer rental fees.

| Agenda Sheet for City Council Meeting of: 03/14/2022 | | Date Rec'd | 2/28/2022 |
|---|---|---|---|
| | | Clerk's File # | OPR 2021-0080 |
| | | Renews # | |
| **Submitting Dept** | SOLID WASTE DISPOSAL | **Cross Ref #** | |
| **Contact Name/Phone** | DAVID PAINE 625-6878 | **Project #** | |
| **Contact E-Mail** | DPAINE@SPOKANECITY.ORG | **Bid #** | PW ITB 5368-21 |
| **Agenda Item Type** | Contract Item | **Requisition #** | CR 23414 |
| **Agenda Item Name** | 4490 CONTRACT RENEWAL FOR SERVICE OF BOILER FEED WATER PUMPS AT THE WTE | | |

**Agenda Wording**

Contract renewal 1 of 4 with Sulzer Pump Services, Inc. (Santa Fe Springs, CA)for service of the boiler feed water pumps at the Waste to Energy Facility from Mar. 15, 2022 through Mar. 14, 2023 with a cost not to exceed $100,000.00 plus tax.

**Summary (Background)**

The Waste to Energy Facility utilizes Sulzer Pumps in its operation of the facility to supply water to the boilers to be converted into high pressure steam. On Dec. 31, 2020, bidding closed on PW ITB 5368-21 for on and off site repair of these pumps and Sulzer Pump Services, Inc. was the only respondent. They were awarded a one year contract with the option of four additional one-year renewals. This will be the first of those renewals.

Lease? NO Grant related? NO Public Works? YES

| **Fiscal Impact** | | **Budget Account** |
|---|---|---|
| Expense | $ 100,000.00 | # 4490-44100-37148-54803-34002 |
| Select | $ | # |
| Select | $ | # |
| Select | $ | # |

| **Approvals** | | **Council Notifications** | |
|---|---|---|---|
| **Dept Head** | AVERYT, CHRIS | **Study Session\Other** | 2/28/22 PIES |
| **Division Director** | FEIST, MARLENE | **Council Sponsor** | CM Kinnear |
| **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 | |
| | | DocuSign:Oliver Feather, Service Center Manager, oliver.feather@sulzer.com | |
| | | | |
| | | | |

# Committee Agenda Sheet
# Public Infrastructure, Environment and Sustainability

| | |
|---|---|
| **Submitting Department** | Solid Waste Disposal |
| **Contact Name & Phone** | David Paine, 625-6878 |
| **Contact Email** | dpaine@spokanecity.org |
| **Council Sponsor(s)** | CM Lori Kinnear |
| **Select Agenda Item Type** | ☐ Consent ☐ Discussion Time Requested: _____ |
| **Agenda Item Name** | Contract Renewal for On-Site and Off-site "As-Needed" Pump Repairs at the WTE. |
| **Summary (Background)** | The Waste to Energy Facility utilizes Sulzer Pumps in its operation of the facility to supply water to the boilers to be converted into high pressure steam. On December 31, 2020, bidding closed on PW ITB 5368-21 for on and off-site repairs of these pumps. Sulzer Pump Services, Inc. of Santa Fe Springs, CA, was the only response received.<br><br>The initial contract was for one (1) year with the possibility of four (4) additional one-year periods and spanned from March 15, 2021 to March 14, 2022 with an annual cost not to exceed $100,000.00 including tax. This will be the first of the four renewals allowed and run from March 15, 2022 through March 14, 2023 with an additional cost not to exceed $100,000.00 including tax. Rates will increase 5% for this renewal. |
| **Proposed Council Action & Date:** | Committee consent to proceed on 2/28/22 |

**Fiscal Impact:**
Total Cost: $100,000.00
Approved in current year budget? ☒ Yes ☐ No ☐ N/A

Funding Source ☐ One-time ☒ Recurring
Specify funding source: 2022 SWD Budget

Expense Occurrence ☐ One-time ☒ Recurring

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

**Operations Impacts**

What impacts would the proposal have on historically excluded communities?

N/A

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

N/A

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

Regular and proper maintenance to the WTE' Boiler's and ancillary equipment is necessary to maintain the safe and efficient operation of our Facility. These efforts ensure that we continue to be good environmental stewards, while supporting the goals of our City and Citizens within the guidelines of its Operating Permits.

City Clerk's No. 2021-0080

**City of Spokane**

**CONTRACT RENEWAL**
**1 OF 4**

**Title: ON-SITE AND OFF-SITE "AS NEEDED" SERVICE OF SULZER BOILER FEED WATER PUMPS**

This Contract Renewal is made and entered into by and between the **CITY OF SPOKANE** as ("City"), a Washington municipal corporation, and **SULZER PUMP SERVICES (US), INC.**, whose address is Los Angeles Service Center, 9856 Jordan Circle, Santa Fe Springs, California 90670 as ("Contractor"), individually hereafter referenced as a "party", and together as the "parties".

*WHEREAS, the Contractor agreed to provide On-Site And Off-Site "As Needed" Service of Sulzer Boiler Feed Water Pumps; and*

*WHEREAS, the Request for Proposal provided for four (4) additional one-year renewals, with this being the first of those renewals.*

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

**1. CONTRACT DOCUMENTS.**
The original Contract, dated February 11, 2021, 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 TERM.**
This Contract Renewal shall become effective on March 15, 2022 and shall run through March 14, 2023.

**3. COMPENSATION.**
The City shall pay an estimated maximum annual cost not to exceed **ONE HUNDRED THOUSAND AND 00/100** (**$100,000.00**) plus 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.

**SULZER PUMP SERVICES (US), 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 Agreement**:
Certificate of Debarment

22-043

**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.

| | |
|---|---|
| _____<br>Name of Subrecipient / Contractor / Consultant (Type or Print) | _____<br>Program Title (Type or Print) |
| _____<br>Name of Certifying Official (Type or Print)<br>_____<br>Title of Certifying Official (Type or Print) | _____<br>Signature<br>_____<br>Date (Type or Print) |

| Agenda Sheet for City Council Meeting of: 03/14/2022 | | Date Rec'd | 2/28/2022 |
|---|---|---|---|
| | | Clerk's File # | OPR 2022-0168 |
| | | Renews # | |
| **Submitting Dept** | SOLID WASTE DISPOSAL | **Cross Ref #** | |
| **Contact Name/Phone** | DAVID PAINE 625-6878 | **Project #** | |
| **Contact E-Mail** | DPAINE@SPOKANECITY.ORG | **Bid #** | PW ITB 5537-21 |
| **Agenda Item Type** | Contract Item | **Requisition #** | CR 23413 |
| **Agenda Item Name** | 4490 CONTRACT FOR SCAFFOLDING SERVICES AT THE WTE | | |

**Agenda Wording**

Contract with BrandSafway Services, LLC (Spokane Valley, WA) for scaffolding services at the Waste to Energy Facility from April 1, 2022 through March 31, 2023 with a total cost not to exceed $700,000.00 including taxes.

**Summary (Background)**

During scheduled and emergency outages at the WTE, scaffolding must be placed in the boilers to allow safe access for repairs. On Jan. 10, 2022 bidding closed on PW ITB 5537-21 for these scaffolding services and BrandSafway Services, LLC., of Spokane Valley, was the only bidder. The initial contract award will be for one year, from Apr. 1, 2022 through March 31, 2023, with the option of four (4) additional one-year renewals.

Lease? NO Grant related? NO Public Works? YES

| **Fiscal Impact** | | **Budget Account** |
|---|---|---|
| Expense | $ 700,000.00 | # 4490-44100-37148-54803-34002 |
| Select | $ | # |
| Select | $ | # |
| Select | $ | # |

| **Approvals** | | **Council Notifications** | |
|---|---|---|---|
| **Dept Head** | AVERYT, CHRIS | **Study Session\Other** | 2/28/22 PIES |
| **Division Director** | FEIST, MARLENE | **Council Sponsor** | CM Kinnear |
| **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 | |
| | | DocuSign: Jorge Torres, Branch Manager, Jtorres4@brandsafway.com | |
| | | | |
| | | | |

# Committee Agenda Sheet
# Public Infrastructure, Environment and Sustainability

| | |
|---|---|
| **Submitting Department** | Solid Waste Disposal |
| **Contact Name & Phone** | David Paine, 625-6878 |
| **Contact Email** | dpaine@spokanecity.org |
| **Council Sponsor(s)** | CM Lori Kinnear |
| **Select Agenda Item Type** | ☐ Consent ☐ Discussion Time Requested: _____ |
| **Agenda Item Name** | Contract For Scaffolding Services at the Waste to Energy Facility |
| **Summary (Background)** | During scheduled and emergency outages at the WTE, scaffolding must be placed in the boilers to allow safe access for repairs. On Jan. 10, 2022 bidding closed on PW ITB 5537-21 for these scaffolding services and BrandSafway Services, LLC., of Spokane Valley, was the only bidder. The initial contract award will be for one year, from Apr. 1, 2022 through March 31, 2023, with the option of four (4) additional one-year renewals. This is a time and materials contract with a cost not to exceed $700,000.00 including tax. |
| **Proposed Council Action & Date:** | Committee consent to proceed on 2/28/22. |

**Fiscal Impact:**
Total Cost: $500,000.00
Approved in current year budget? ☐ Yes ☐ No ☐ N/A

Funding Source ☐ One-time ☐ Recurring
Specify funding source: 2022 SWD Budget

Expense Occurrence ☐ One-time ☐ Recurring

| |
|---|
| Other budget impacts: (revenue generating, match requirements, etc.) |
| **Operations Impacts** |
| What impacts would the proposal have on historically excluded communities?<br><br>N/A |
| How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?<br><br>N/A |
| How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution? |
| Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?<br><br>Regular and proper maintenance to the WTE' Boiler's and ancillary equipment is necessary to maintain the safe and efficient operation of our Facility. These efforts ensure that we continue to be good environmental stewards, while supporting the goals of our City and Citizens within the guidelines of its Operating Permits. |

City Clerk's No. 2022-0168

**City of Spokane**

**PUBLIC WORKS CONTRACT**

Title: **SCAFFOLDING SERVICES FOR SCHEDULED OUTAGES AND EMERGENCY OUTAGES**

This Contract 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, building No. 3, Suite A, Spokane, Washington 99212 as ("Contractor"), individually hereafter referenced as a "party", and together as the "parties".

The parties agree as follows:

1. PERFORMANCE/SCOPE OF WORK. The Contractor will do all work, furnish all labor, materials, tools, construction equipment, transportation, supplies, supervision, organization and other items of work and costs necessary for the proper execution and completion of the work described in the specifications entitled **Scaffolding Services For Scheduled Outages And Emergency Outages**, selected via PW ITB 5537-21**.**

2. CONTRACT DOCUMENTS. The Contract Documents are this Contract, the Contractor's completed bid proposal form, the contract provisions, contract plans, standard specifications, standard plans, addenda, various certifications and affidavits, supplemental agreements, change orders and subsurface boring logs (if any), including Contractor's Response to ITB (Exhibit B). These contract documents are on file in the Solid Waste Department and are incorporated into this Contract by reference as if they were set forth at length. In the event of a conflict, or to resolve an ambiguity or dispute, federal and state requirements supersede this Contract, and this Contract supersedes the other contract documents.

3. TERM. The term of this Contract begins on April 1, 2022, and ends on March 31, 2023, unless amended by written agreement or terminated earlier under the provisions. The contract may be renewed four (4) additional one-year contract periods with the total contract period not to exceed five (5) years.

4. TERMINATION. Either party may terminate this Contract by ten (10) days written notice to the other party. In the event of such termination, the City shall pay the Contractor for all work previously authorized and performed prior to the termination date.

5. COMPENSATION/PAYMENT.

A. COMPENSATION. Total compensation for Contractor's services under this Contract shall be a maximum amount not to exceed **SEVEN HUNDRED**

**THOUSAND AND NO/100 DOLLARS ($700,000.00)**, including sales tax if applicable, unless modified by a written amendment to this Contract. This is the maximum amount to be paid under this Contract for the work described in Section 1 above, and shall not be exceeded without the prior written authorization of the City in the form of an executed amendment to this Contract.

B. PAYMENT. The Contractor will send its applications for payment to the Spokane Solid Waste Disposal, Administration Office, 2900 South Geiger Blvd., Spokane, Washington 99224. All invoices should include the City Clerk File No. "OPR XXXX-XXXX" and an approved L & I Intent to Pay Prevailing Wage number. The final invoice should include an approved Affidavit of Wages Paid number. Payment will not be made without this documentation included on the invoice. **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. Five percent (5%) of the Contract price may be retained by the City, in accord with RCW 60.28 for a minimum of forty five (45) days after final acceptance, as a trust fund for the protection and payment of: the claims of any person arising under the Contract; and the State with respect to taxes imposed pursuant to Titles 50, 51 and 82 RCW which may be due from the Contractor.

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

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

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

9. PUBLIC WORKS REQUIREMENTS. The Contractor and each subcontractor are required to fulfill the Department of Labor and Industries Public Works and Prevailing Wage Training Requirement under RCW 39.04.350. The contractor must verify responsibility criteria for each first tier subcontractor, and a subcontractor of any tier that hires other subcontractors must verify the responsibility criteria listed in RCW 39.04.350(1) for each of its subcontractors. Verification shall include that each subcontractor, at the time of subcontract execution, meets the responsibility criteria. This verification requirement, as well as responsibility criteria, must be

included in every public works contract and subcontract of every tier.

10. 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 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 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 Agreement, the Consultant shall furnish acceptable Certificates of Insurance (COI) to the City at the time it returns this signed Agreement. **The certificate shall specify the City of Spokane as "Additional Insured"** specifically for Contractor'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. The Consultant shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

11. 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 Agreement, 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 agreement.

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

13. SUBCONTRACTOR RESPONSIBILITY.

A. The Contractor shall include the language of this section in each of its first tier subcontracts, and shall require each of its subcontractors to include the same language of this section in each of their subcontracts, adjusting only as necessary the terms used for the contracting parties. Upon request of the City, the Contractor shall promptly provide documentation to the City demonstrating that the subcontractor meets the subcontractor responsibility criteria below. The requirements of this section apply to all subcontractors regardless of tier.

B. At the time of subcontract execution, the Contractor shall verify that each of its first tier subcontractors meets the following bidder responsibility criteria:

1. Have a current certificate of registration in compliance with chapter 18.27 RCW, which must have been in effect at the time of subcontract bid submittal;

2. Have a current Washington Unified Business Identifier (UBI) number;

3. If applicable, have:

    a. Have Industrial Insurance (workers' compensation) coverage for the subcontractor's employees working in Washington, as required in Title 51 RCW;

    b. A Washington Employment Security Department number, as required in Title 50 RCW;

    c. A Washington Department of Revenue state excise tax registration number, as required in Title 82 RCW;

    d. An electrical contractor license, if required by Chapter 19.28 RCW;

    e. An elevator contractor license, if required by Chapter 70.87 RCW.

4. Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).

C. On Public Works construction projects, as defined in RCW 39.04.010, with an estimated cost of six hundred thousand dollars ($600,000) or more, at least fifteen (15) percent of the labor hours on each project shall be performed by apprentices enrolled in a State-approved

apprenticeship program; and for each contract in the project fifteen (15) percent of the labor hours for each craft that has an available state-approved apprenticeship program for Spokane County and utilizes more than one hundred sixty (160) hours in each contract shall be performed by apprentices enrolled in a state-approved apprenticeship program.

1. Subcontracting Requirements. The utilization percentages for apprenticeship labor for Public Works construction contracts shall also apply to all subcontracts of one hundred thousand dollars ($100,000) or more within those contracts, and at least fifteen percent (15%) of the labor hours for each such subcontract shall be performed by apprentices in a state-approved apprenticeship program. For each craft that has an available apprenticeship program for Spokane county and performs more than one hundred sixty (160) hours on each project, fifteen (15) percent of the labor hours shall be performed by apprentices enrolled in a State-approved apprenticeship program

2. Each subcontractor which this chapter applies is required to execute a form, provided by the city, acknowledging that the requirements of Article X 07.06 SMC are applicable to the labor hours for the project.

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

15. EXECUTIVE ORDER 11246.

A. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Contractor will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include but not be limited to the following: employment upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

B. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

C. The Contractor will send each labor union, or representative of workers with which it has a collective bargaining contract or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the Contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

D. The Contractor will comply with all provisions of Executive Order No. 11246 of September

24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

E. The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

F. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations or orders, this Contract may be canceled, terminated or suspended in whole or in part, and the Contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

G. The Contractor will include the provisions of paragraphs A through G in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: PROVIDED, HOWEVER, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as the result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

16. 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.

17. LIQUIDATED DAMAGES. Liquidated damages shall be in accordance with the contract documents.

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

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

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

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

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

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

24. BUSINESS REGISTRATION REQUIREMENT. Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid annual business registration. The Contractor shall be responsible for contacting the State of Washington Business License Services at www.dor.wa.gov or 360-705-6741 to obtain a business registration. If the Contractor does not believe it is required to obtain a business registration, it may contact the City's Taxes and Licenses Division at (509) 625-6070 to request an exemption status determination.

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

26. MODIFICATIONS. The City may modify this Contract and order changes in the work whenever necessary or advisable. The Contractor will accept modifications when ordered in writing by the Director of Engineering Services, and the Contract time and compensation will be adjusted accordingly.

27. INTEGRATION. This Contract, 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.

28. 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, Contractor 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.

29. CLEAN AIR ACT. Contractor must comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 USC 7401-7671q) and the Federal Water Pollution Control Act as amended (33 USC 1251-1387). Violations will be reported.

31. KEY PERSONS. The Contractor shall not transfer or reassign any individual designated in this Contract as essential to the Work, nor shall those key persons, or employees of Contractor

identified as to be involved in the Project Work be replaced, removed or withdrawn from the Work without the express written consent of the City, which shall not be unreasonably withheld. If any such individual leaves the Contractor's employment, the Contractor shall present to the City one or more individuals with greater or equal qualifications as a replacement, subject to the City's approval, which shall not be unreasonably withheld. The City's approval does not release the Contractor from its obligations under this Contract.

**BRANDSAFWAY SERVICES, LLC**

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**:
Exhibit A - Certification Regarding Debarment
Exhibit B – Response to ITB 5537-21
Payment Bond
Performance Bond

**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.

| | |
|---|---|
| _____<br>Name of Subrecipient / Contractor / Consultant (Type or Print) | _____<br>Program Title (Type or Print) |
| _____<br>Name of Certifying Official (Type or Print)<br>_____<br>Title of Certifying Official (Type or Print) | _____<br>Signature<br>_____<br>Date (Type or Print) |

**EXHIBIT B**

# PAYMENT BOND

We, **BRANDSAFWAY SERVICES, LLC**, as principal, and _____, as surety, are held and firmly bound to the City of Spokane, Washington, in the sum of **SEVEN HUNDRED THOUSAND AND NO/100 DOLLARS ($700,000.00)**, including sales tax, for the payment of which, we bind ourselves and our legal representatives and successors, jointly and severally by this document.

The principal has entered into a contract with the City of Spokane, Washington, to do all work and furnish all materials for the Scaffolding Services For Scheduled Outages And Emergency Outages, selected via PW ITB 5537-21. If the principal shall:

A. pay all laborers, mechanics, subcontractors, material suppliers and all person(s) who shall supply such person or subcontractors; and pay all taxes and contributions, increases and penalties as authorized by law; and

B. comply with all applicable federal, state and local laws and regulations;

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

The Surety for value received agrees that no change, extension of time, alteration or addition to the terms of the Contract, the specifications accompanying the Contract, or to the work to be performed under the Contract shall in any way affect its obligation on this bond, except as provided herein, and waives notice of any change, extension of time, alteration or addition to the terms of the Contract or the work performed. The Surety agrees that modifications and changes to the terms and conditions of the Contract that increase the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this bond and notice to Surety is not required for such increased obligation. Any judgment obtained against the City, which relates to or is covered by the contract or this bond, shall be conclusive against the principal and the surety, as to the amount of damages, and their liability, if reasonable notice of the suit has been given.

SIGNED AND SEALED on _____.

**BRANDSAFWAY SERVICES, LLC**,

AS PRINCIPAL

By: _____
Title: _____

_____,
AS SURETY

By: _____
Its Attorney in Fact

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

STATE OF WASHINGTON )
) ss.
County of _____ )

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

DATED: _____

_____
Signature of Notary Public

My appointment expires _____

Approved as to form:

_____
Assistant City Attorney

# PERFORMANCE BOND

We, **BRANDSAFWAY SERVICES, LLC**, as principal, and _____, as Surety, are held and firmly bound to the City of Spokane, Washington, in the sum of **SEVEN HUNDRED THOUSAND AND NO/100 DOLLARS ($700,000.00)**, including sales tax, for the payment of which, we bind ourselves and our legal representatives and successors, jointly and severally by this document.

The principal has entered into a Contract with the City of Spokane, Washington, to do all the work and furnish all materials for the Scaffolding Services For Scheduled Outages And Emergency Outages, selected via PW ITB 5537-21. If the principal shall:

A. promptly and faithfully perform the Contract, and any contractual guaranty and indemnify and hold harmless the City from all loss, damage or claim which may result from any act or omission of the principal, its agents, employees, or subcontractors; and

B. comply with all applicable federal, state and local laws and regulations;

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

The Surety for value received agrees that no change, extension of time, alteration or addition to the terms of the Contract, the specifications accompanying the Contract, or to the work to be performed under the Contract shall in any way affect its obligation on this bond, except as provided herein, and waives notice of any change, extension of time, alteration or addition to the terms of the Contract or the work performed. The Surety agrees that modifications and changes to the terms and conditions of the Contract that increase the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this bond and notice to Surety is not required for such increased obligation. Any judgment obtained against the City, which relates to or is covered by the Contract or this bond, shall be conclusive against the principal and the Surety, not only as to the amount of damages, but also as to their liability, if reasonable notice of the suit has been given.

SIGNED AND SEALED on _____

**BRANDSAFWAY SERVICES, LLC ,**

AS PRINCIPAL

By: _____
Title: _____

_____,
AS SURETY

By: _____
Its Attorney in Fact

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

STATE OF WASHINGTON )
) ss.
County of _____ )

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

DATED on _____.

_____
Signature of Notary

My appointment expires _____

Approved as to form:

_____
Assistant City Attorney

| Agenda Sheet for City Council Meeting of: 03/14/2022 | | Date Rec'd | 2/28/2022 |
|---|---|---|---|
| | | Clerk's File # | OPR 2022-0169 |
| | | Renews # | |
| **Submitting Dept** | SOLID WASTE DISPOSAL | **Cross Ref #** | |
| **Contact Name/Phone** | DAVID PAINE 625-6878 | **Project #** | |
| **Contact E-Mail** | DPAINE@SPOKANECITY.ORG | **Bid #** | IRFQU 5563-22 |
| **Agenda Item Type** | Contract Item | **Requisition #** | CR 23412 |
| **Agenda Item Name** | 4490 CONTRACT FOR LANDFILL GROUNDWATER MONITORING | | |

**Agenda Wording**

Three year contract with Jacobs Engineering Group, Inc. (Spokane, WA) for landfill groundwater monitoring, data analysis and report writing services from Mar. 10, 2022 through Mar.9, 2025 with a total cost not to exceed $150,000.00 incl. tax.

**Summary (Background)**

The City's three 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. On Jan. 12, 2022 bidding closed on IRFQu 5563-22 for Groundwater Monitoring Data Analysis and Report Writing Services. Three responses were received and Jacobs Engineering was deemed the most qualified respondent. The resulting contract would be for three years, with the option of two additional one-year renewals.

Lease? NO Grant related? NO Public Works? NO

| **Fiscal Impact** | | **Budget Account** |
|---|---|---|
| Expense | $ 55,000.00 | # 4530-44800-53748-54201 |
| Expense | $ 57,000.00 | # 4530-44850-53748-54201 |
| Expense | $ 38,000.00 | # 4530-45600-53748-54201 |
| Select | $ | # |

| **Approvals** | | **Council Notifications** | |
|---|---|---|---|
| **Dept Head** | AVERYT, CHRIS | **Study Session\Other** | 2/28/22 PIES |
| **Division Director** | FEIST, MARLENE | **Council Sponsor** | CM Kinnear |
| **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 | |
| | | DocuSign: Josh.Lawson@jacobs.com | |
| | | | |
| | | | |

# Committee Agenda Sheet
# Public Infrastructure, Environment and Sustainability

| | |
|---|---|
| **Submitting Department** | Solid Waste Disposal |
| **Contact Name & Phone** | David Paine, 625-6878 |
| **Contact Email** | dpaine@spokanecity.org |
| **Council Sponsor(s)** | CM Lori Kinnear |
| **Select Agenda Item Type** | ☐ Consent ☐ Discussion Time Requested: _____ |
| **Agenda Item Name** | Contract Award For Groundwater Monitoring Data Analysis and Report Writing Services for the Northside and Southside Landfills. |
| **Summary (Background)** | 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.<br><br>On January 12, 2022 bidding closed on IRFQu 5563-22 for Groundwater Monitoring Data Analysis and Report Writing Services. Responses were received from Jacobs Engineering (Spokane, WA), Aspect Consulting (Seattle, WA) and Great West Engineering, Inc. (Spokane, WA). Jacobs Engineering was deemed the most qualified respondent. The resulting contract award would be for three years, with the option of two additional one-year renewals, and a total cost not to exceed $150,000.00 for the three-year term. |
| **Proposed Council Action & Date:** | Committee consent to proceed on 2/28/22. |

**Fiscal Impact:**
Total Cost: $150,000.00
Approved in current year budget? ☒ Yes ☐ No ☐ N/A

Funding Source ☐ One-time ☒ Recurring
Specify funding source: 2022 SWD Budget

Expense Occurrence ☐ One-time ☒ Recurring

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

**Operations Impacts**

What impacts would the proposal have on historically excluded communities?

N/A

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

N/A

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

Contract requires reports to be written as required in Department of Ecology rules and so should ensure that this is the "right solution". Any feedback from regulatory agencies would be promptly addressed.

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

This proposal ensures that regulatory requirements are met in a timely manner.

# City of Spokane

## CONSULTANT AGREEMENT

## Title: GROUNDWATER MONITORING DATA ANALYSIS AND REPORT WRITING SERVICES

This Consultant Agreement is made and entered into by and between the **CITY OF SPOKANE** as ("City"), a Washington municipal corporation, and **JACOBS ENGINEERING GROUP, INC.**, whose address is 999 West Riverside Avenue, Suite 400, Spokane, Washington 99201 as ("Consultant"), individually hereafter referenced as a "party", and together as the "parties".

*WHEREAS, the purpose of this Agreement is to provide GROUNDWATER MONITORING DATA ANALYSIS AND REPORT WRITING SERVICES and*

*WHEREAS, the Consultant was selected through IRFQu-5563-22.*

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

**1. TERM OF AGREEMENT.**
The term of this Agreement begins on March 10, 2022, and ends on March 9, 2025, unless amended by written agreement or terminated earlier under the provisions. This Agreement may be renewed by agreement of the parties not to exceed two (2) additional one (1) year contract periods.

**2. TIME OF BEGINNING AND COMPLETION.**
The Consultant shall begin the work outlined in the "Scope of Work" ("Work") on the beginning date, above. The City will acknowledge in writing when the Work is complete. Time limits established under this Agreement shall not be extended because of delays for which the Consultant is responsible, but may be extended by the City, in writing, for the City's convenience or conditions beyond the Consultant's control.

**3. SCOPE OF WORK.**
The General Scope of Work for this Agreement is described in Consultant's Proposal date February 4, 2022 attached as Exhibit B and made a part of this Agreement. In the event of a conflict or discrepancy in the contract documents, this City Agreement controls.

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

**4. COMPENSATION.**
Total compensation for Consultant's services under this Agreement shall not exceed **ONE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS ($150,000.00)**, excluding tax, if applicable, unless modified by a written amendment to this Agreement. This is the maximum amount to be paid under this Agreement for the work described in Section 3 above, and shall not be exceeded without the prior written authorization of the City in the form of an executed amendment to this Agreement.

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

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

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

incurred. Please note: payment for mileage for long distances traveled will not be more than an equivalent trip round-trip airfare of a common carrier for a coach or economy class ticket.

H. **Rental Car:** Rental car expenses will be reimbursed at the actual cost of the rental. Rental car receipts are required for all rental car expenses. The City will reimburse for a standard car of a mid-size class or less. The City will not reimburse for ancillary expenses charged to the car rental (e.g. GPS unit).

I. **Miscellaneous Travel** (e.g. parking, rental car gas, taxi, shuttle, toll fees, ferry fees, etc.): Miscellaneous travel expenses will be reimbursed at the actual cost incurred. Receipts are required for each expense of $10.00 or more.

J. **Miscellaneous other business expenses** (e.g. printing, photo development, binding): Other miscellaneous business expenses will be reimbursed at the actual cost incurred and may not include a markup. Receipts are required for all miscellaneous expenses that are billed.

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

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

A. Consultant shall pay and maintain in current status, all necessary licenses, fees, assessments, permit charges, etc. necessary to conduct the work included under this Agreement. It is the Consultant's sole responsibility to monitor and determine changes or the enactment of any subsequent requirements for said fees, assessments, or changes and to immediately comply.

B. Where required by state statute, ordinance or regulation, Consultant shall pay and maintain in current status all taxes necessary for performance. Consultant shall not charge the City for federal excise taxes. The City will furnish Consultant an exemption certificate where appropriate.

C. The Director of Finance and Administrative Services may withhold payment pending satisfactory resolution of unpaid taxes and fees due the City.

D. The cost of any permits, licenses, fees, etc. arising as a result of the projects included in this Agreement shall be included in the project budgets.

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

Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid annual business registration. The Consultant shall be responsible for contacting the State of Washington Business License Services at www.dor.wa.gov or 360-705-6741 to obtain a business registration. If the Contractor does not believe it is required to obtain a business registration, it may contact the City's Taxes and Licenses Division at (509) 625-6070 to request an exemption status determination.

**9. SOCIAL EQUITY REQUIREMENTS.**

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

one that self-identifies to be at least 51% owned by a woman and/or minority. Such firms do not have to be certified by the State of Washington.

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

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

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

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

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

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

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without forty-five (45) days written notice from the Consultant or its insurer(s) to the City. As evidence of the insurance coverage(s) required by this Agreement, the Consultant shall furnish acceptable Certificates Of Insurance (COI) to the City at the time it returns this signed Agreement. The certificate shall specify the City of Spokane as "Additional Insured" specifically for Consultant's services under this Agreement, as well as all of the parties

who are additional insureds, and include applicable policy endorsements, the forty-five (45) 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.

**12. 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.

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

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

**15. KEY PERSONS.**
The Consultant shall not transfer or reassign any individual designated in this Agreement as essential to the Work, nor shall those key persons, or employees of Consultant identified as to be involved in the Project Work be replaced, removed or withdrawn from the Work without the express written consent of the City, which shall not be unreasonably withheld. If any such

individual leaves the Consultant's employment, the Consultant shall present to the City one or more individuals with greater or equal qualifications as a replacement, subject to the City's approval, which shall not be unreasonably withheld. The City's approval does not release the Consultant from its obligations under this Agreement.

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

**17. CITY ETHICS CODE.**

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

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

**19. ERRORS AND OMISSIONS, CORRECTIONS.**
Consultant is responsible for professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by or on the behalf of the Consultant under this Agreement in the delivery of a final work product. The standard of care applicable to Consultant's services will be the degree of skill and diligence normally employed by professional engineers or Consultants performing the same or similar services at the time said services are performed. The Final Work Product is defined as a stamped, signed work product. Consultant, without additional compensation, shall correct or revise errors or mistakes in designs, drawings, specifications, and/or other consultant services immediately upon

notification by the City. The obligation provided for in this Section regarding acts or omissions resulting from this Agreement survives Agreement termination or expiration.

**20. INTELLECTUAL PROPERTY RIGHTS.**

A. Copyrights. The Consultant shall retain the copyright (including the right of reuse) to all materials and documents prepared by the Consultant for the Work, whether or not the Work is completed. The Consultant grants to the City a non-exclusive, irrevocable, unlimited, royalty-free license to use copy and distribute every document and all the materials prepared by the Consultant for the City under this Agreement. If requested by the City, a copy of all drawings, prints, plans, field notes, reports, documents, files, input materials, output materials, the media upon which they are located (including cards, tapes, discs, and other storage facilities), software program or packages (including source code or codes, object codes, upgrades, revisions, modifications, and any related materials) and/or any other related documents or materials developed solely for and paid for by the City to perform the Work, shall be promptly delivered to the City.

B. Patents: The Consultant assigns to the City all rights in any invention, improvement, or discovery, with all related information, including but not limited to designs, specifications, data, patent rights and findings developed with the performance of the Agreement or any subcontract. Notwithstanding the above, the Consultant does not convey to the City, nor does the City obtain, any right to any document or material utilized by the Consultant created or produced separate from the Agreement or was pre-existing material (not already owned by the City), provided that the Consultant has identified in writing such material as pre-existing prior to commencement of the Work. If pre-existing materials are incorporated in the work, the Consultant grants the City an irrevocable, non-exclusive right and/or license to use, execute, reproduce, display and transfer the pre-existing material, but only as an inseparable part of the work.

C. The City may make and retain copies of such documents for its information and reference with their use on the project. The Consultant does not represent or warrant that such documents are suitable for reuse by the City or others, on extensions of the project or on any other project, and the City releases the Consultant from liability for any unauthorized reuse of such documents.

**21. CONFIDENTIALITY.**

Notwithstanding anything to the contrary, City will maintain the confidentiality of Consultant's materials and information only to the extent that is legally allowed in the State of Washington. City is bound by the State Public Records Act, RCW Ch. 42.56. That law presumptively makes all records in the possession of the City public records which are freely available upon request by anyone. In the event that City gets a valid public records request for Consultant's materials or information and the City determines there are exemptions only the Consultant can assert, City will endeavor to give Consultant notice. Consultant will be required to go to Court to get an injunction preventing the release of the requested records. In the event that Consultant does not get a timely injunction preventing the release of the records, the City will comply with the Public Records Act and release the records.

**22. DISPUTES.**

Any dispute or misunderstanding that may arise under this Agreement, concerning the Consultant's performance, shall first be through negotiations, if possible, between the Consultant's Project Manager and the City's Project Manager. It shall be referred to the Director and the Consultant's senior executive(s). If such officials do not agree upon a decision within a reasonable period of time, either party may decline or discontinue such discussions and may then pursue the legal means to resolve such disputes, including but not limited to mediation, arbitration and/or alternative dispute resolution processes. Nothing in this dispute process shall

mitigate the rights of the City to terminate the Agreement. Notwithstanding all of the above, if the City believes in good faith that some portion of the Work has not been completed satisfactorily, the City may require the Consultant to correct such work prior to the City payment. The City will provide to the Consultant an explanation of the concern and the remedy that the City expects. The City may withhold from any payment otherwise due, an amount that the City in good faith finds to be under dispute, or if the Consultant provides no sufficient remedy, the City may retain the amount equal to the cost to the City for otherwise correcting or remedying the work not properly completed. Waiver of any of these rights is not deemed a future waiver of any such right or remedy available at law, contract or equity.

**23. TERMINATION.**

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

**24. EXPANSION FOR NEW WORK.**

This Agreement scope may be expanded for new work. Any expansion for New Work (work not specified within the original Scope of Work Section of this Agreement, and/or not specified in the original RFP as intended work for the Agreement) must comply with all the following limitations and requirements: (a) the New Work is not reasonable to solicit separately; (b) the New Work is for reasonable purpose; (c) the New Work was not reasonably known either the City or Consultant at time of contract or else was mentioned as a possibility in the solicitation (such as future phases of work, or a change in law); (d) the New Work is not significant enough to be reasonably regarded as an independent body of work; (e) the New Work would not have attracted a different field of competition; and (f) the change does not vary the essential identified or main purposes of the Agreement. The City may make exceptions for immaterial changes,

emergency or sole source conditions, or other situations required in City opinion. Certain changes are not New Work subject to these limitations, such as additional phases of Work anticipated at the time of solicitation, time extensions, Work Orders issued on an On-Call contract, and similar. New Work must be mutually agreed and issued by the City through written Addenda. New Work performed before an authorizing Amendment may not be eligible for payment.

**25. MISCELLANEOUS PROVISIONS.**

A. Amendments: No modification of this Agreement shall be effective unless in writing and signed by an authorized representative of each of the parties hereto.
B. Binding Agreement: This Agreement shall not be binding until signed by both parties. The provisions, covenants and conditions in this Agreement shall bind the parties, their legal heirs, representatives, successors and assigns.
C. Americans with Disabilities Act (ADA): Specific attention by the designer is required in association with the Americans with Disabilities Act (ADA) 42 U.S.C. 12101-12213 and 47 U.S.C. 225 and 611, its requirements, regulations, standards and guidelines, which were updated in 2010 and are effective and mandatory for all State and local government facilities and places of public accommodation for construction projects including alteration of existing facilities, as of March 15, 2012. The City advises that the requirements for accessibility under the ADA, may contain provisions that differ substantively from accessibility provisions in applicable State and City codes, and if the provisions of the ADA impose a greater or equal protection for the rights of individuals with disabilities or individuals associated with them than the adopted local codes, the ADA prevail unless approval for an exception is obtained by a formal documented process. Where local codes provide exceptions from accessibility requirements that differ from the ADA Standards; such exceptions may not be permitted for publicly owned facilities subject to Title II requirements unless the same exception exists in the Title II regulations. It is the responsibility of the designer to determine the code provisions.
D. The Consultant, at no expense to the City, shall comply with all laws of the United States and Washington, the Charter and ordinances of the City of Spokane; and rules, regulations, orders and directives of their administrative agencies and officers. Without limiting the generality of this paragraph, the Consultant shall comply with the requirements of this Section.
E. This Agreement shall be construed and interpreted under the laws of Washington. The venue of any action brought shall be in the Superior Court of Spokane County.
F. Remedies Cumulative: Rights under this Agreement are cumulative and nonexclusive of any other remedy of law or in equity.
G. Captions: The titles of sections or subsections are for convenience only and do not define or limit the contents.
H. Severability: If any term or provision is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected, and each term and provision shall be valid and enforceable to the fullest extent permitted by law.
I. Waiver: No covenant, term or condition or the breach shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition shall not be deemed a waiver of any preceding or succeeding breach of the same or any other covenant, term of condition. Neither the acceptance by the City of any performance by the Consultant after the time the same shall have become due nor payment to the Consultant for any portion of the Work shall constitute a waiver by the City of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by the City in writing.
J. Additional Provisions: This Agreement may be modified by additional terms and conditions (“Special Conditions”) which shall be attached to this Agreement as an Exhibit. The parties

agree that the Special Conditions shall supplement the terms and conditions of the Agreement, and in the event of ambiguity or conflict with the terms and conditions of the Agreement, these Special Conditions shall govern.

K. Entire Agreement: This document along with any exhibits and all attachments, and subsequently issued addenda, comprises the entire agreement between the City and the Consultant. If conflict occurs between contract documents and applicable laws, codes, ordinances or regulations, the most stringent or legally binding requirement shall govern and be considered a part of this contract to afford the City the maximum benefits.

L. Negotiated Agreement: The parties acknowledge this is a negotiated agreement, that they have had this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party's draftsmanship.

M. 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.

| **JACOBS ENGINEERING SPOKANE** | **CITY OF SPOKANE** |
|---|---|
| By_____ | By_____ |
| Signature Date | Signature Date |
| _____ | _____ |
| Type or Print Name | Type or Print Name |
| _____ | _____ |
| Title | Title |
| Attest: | Approved as to form: |
| _____ | _____ |
| City Clerk | Assistant City Attorney |

**Attachments**:
Exhibit A – Certificate Regarding Debarment
Exhibit B – Consultant's Proposal date February 4, 2022

22-054

**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.

| | |
|---|---|
| _____<br>Name of Subrecipient / Contractor / Consultant (Type or Print) | _____<br>Program Title (Type or Print) |
| _____<br>Name of Certifying Official (Type or Print)<br>_____<br>Title of Certifying Official (Type or Print) | _____<br>Signature<br>_____<br>Date (Type or Print) |

**EXHIBIT B**

# EXHIBIT B

Jacobs Engineering Spokane
999 West Riverside Ave
Suite 500
Spokane, Washington 99201
O +1 509 655-1912

Kelle Vigeland
Environmental Manager
City of Spokane Solid Waste Disposal
kvigeland@spokanecity.org

February 4, 2022

Subject: 2022 – 2024 Proposal for Groundwater Data Analysis and Reporting Assistance for the City of Spokane's Northside and Southside Landfills (RFQu 5563-22)

Dear Kelle,

Jacobs Engineering Group Inc., (Jacobs) is pleased to submit the enclosed proposal (Attachment A) to provide the City of Spokane (City) with groundwater monitoring data analysis and report writing services for 2022 through 2024 for the City's Northside and Southside Landfills per RFQ #5563-22).

This scope of work and fee request follows a similar approach for work performed since 2017 and includes assumptions regarding execution of the work. Jacobs assumes the work described in Attachment A will be conducted for groundwater monitoring programs in 2022, 2023, and 2024, that will be completed by April 1, 2025. The work is anticipated to commence in March 2022 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 during this initial three-year period. Please contact Mark Henry at (509) 655-1912 or Mark.Henry1@jacobs.com with any questions.

Regards,
Jacobs Engineering Group Inc.

Mark Henry
Project Manager

Email: Mark.Henry1@jacobs.com

Josh Lawson
Senior Manager of Projects

Email: Josh.Lawson@jacobs.com

COPYRIGHT 2022 BY JACOBS ENGINEERING GROUP, INC. • COMPANY CONFIDENTIAL

# 2022 - 2024 Groundwater Monitoring Data Analysis and Reporting Services for City of Spokane – Northside and Southside Landfills

| | |
|---|---|
| PREPARED FOR: | Kelle Vigeland/City of Spokane |
| PREPARED BY: | Mark Henry/Jacobs |
| DATE: | February 4, 2022 |
| APPROVED BY: | Josh Lawson/Jacobs |

## Introduction

This Scope of Work and Fee Estimate (SOW) describes groundwater reporting services by the City of Spokane (the City) per Request for Qualifications (RFQu #5563-22, December 2021). As requested, Jacobs is providing this SOW to perform data analysis and reporting services for an initial three years of monitoring, 2022 – 2024, under a new contract.

## Project Understanding

The City performs environmental groundwater monitoring at the Northside Landfill (NSLF) and the Southside Landfill (SSLF). The NSLF consists of two waste units, an active/open Municipal Solid Waste Cell (MSW Cell), operated under Washington Administrative Code (WAC) 173-351, and the Closed Refuse Unit (CRU) regulated under WAC 173-304. For the CRU, the Washington Department of Ecology (Ecology) provides regulatory oversight per the Minimal Functional Standards (MFS) of WAC Chapter 173-304 and the United States Environmental Protection Agency (EPA) provides regulatory oversight of the post-closure requirements, as detailed in the Record of Decision (ROD) (EPA 1989) and the Consent Decree (EPA 1991). Note that in late 2020, the EPA de-listed the NSLF CRU based on the CRU cover system's successful performance. The SSLF is currently in post-closure status, with routine quarterly groundwater monitoring and reporting regulated under WAC 173-304-490. This proposal supports the City's Groundwater Monitoring Program for three years of monitoring (2022 through 2024), with the option to extend for two additional one-year contract periods.

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 – MSW Cell**. The NSLF, including both the MSW Cell and the CRU (described below), is located at 7202 West Nine Mile Road, approximately five miles north of the City of Spokane. In accordance with the Groundwater Monitoring Plan for the City's MSW Cell at the NSLF, Amendment 1 (CH2M 2013[1]), five wells are sampled under the detection monitoring program analysis suite (Appendix I and II) on a quarterly frequency. Three additional wells are measured during sampling activities for water-levels only. Quarterly reports under WAC 173-

[1] Groundwater Monitoring Plan for the City of Spokane's Municipal Solid Waste Cell at the Northside Landfill, Amendment 1, October 2013, CH2MHill

COPYRIGHT 2022 BY JACOBS ENGINEERING GROUP, INC. • COMPANY CONFIDENTIAL

351 are due no later than 60 days following receipt of laboratory data for the respective sampling event. Annual reports are due to Ecology no later than April 1st annually.

- **Northside Landfill - CRU.** In accordance with the NSLF Groundwater Monitoring Plan (CH2M 2008[2]), the CRU groundwater monitoring is performed quarterly for six monitoring wells, with an additional six wells sampled annually (typically in the 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 MFS (WAC 173-304), in addition to post-closure requirements set forth by the ROD (EPA 1989) and Consent Decree (1991) with respect to the site's 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 to Ecology no later than March 1st annually.
- **Southside Landfill Closed Cell**. The SSLF is located at 2424 E. 65th Avenue, approximately 0.75 mile south of the City of Spokane. Post-closure groundwater monitoring began in 1988. The SSLF monitoring network consists of four groundwater monitoring wells, sampled quarterly. The groundwater analytical suite consists of 14 parameters, as outlined under WAC 173-304, and 10 additional parameters. In accordance with 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 agencies is required if a statistically significant increase (SSI) over the background is detected through statistical evaluations. The annual report summarizing the quarterly data evaluation findings is due to Ecology no later than March 1st annually

## Scope of Services

The services described in this SOW follow a similar approach and organization as performed by Jacobs annually from 2017 through 2021, and in accordance with RFQu 5563-22 requirements.

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

[2] Northside Landfill Groundwater Monitoring Plan, September 2008, CH2MHill

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 monitoring program 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 data from 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:

COPYRIGHT 2022 BY JACOBS ENGINEERING GROUP, INC. • COMPANY CONFIDENTIAL

    - 2022 through 2024 First, Second, and Third Quarter Groundwater Monitoring Reports for MSW Cell (3 separate quarterly reports).
    - 2022 through 2024 Combined Fourth Quarter and Annual Groundwater Monitoring Report for the MSW Cell.
- Jacobs performs technical evaluations to develop the respective quarterly Groundwater Monitoring 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, including assessment of any ion balance results which are outside WAC threshold levels
    - Develop trilinear diagrams with a 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 (WQS) 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 the 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 then notify the City within five working days of identifying an SSI over the background from the detection monitoring method. Jacobs submits this preliminary statistical data evaluation notification to the City via email with attached statistical summaries and supporting graphics. If necessary, the City then alerts 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 evaluating SSIs will satisfy WAC regulations and be performed in accordance with the agency-approved Groundwater Monitoring Plan, Amendment 1 (CH2M 2013)
- 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 <u>year-end annual report</u> 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) annually and the combined fourth quarter (Q4) and annual report annually for 2022 through 2024, 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 five days of Jacobs receipt of laboratory data provided by the City. Preliminary Assessments 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 and comment within 35 days of data receipt. 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 1st annually.

## Task 2 –Northside Landfill CRU 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).

### Task 2 Assumptions:

- The scope for Task 2 assumes that Jacobs will develop and provide professional stamp for the following Northside Landfill CRU reports:
  - First, Second, and Third Quarter Groundwater Monitoring Reports (three separate reports)
  - Combined Fourth Quarter and Annual Groundwater Monitoring Report

COPYRIGHT 2022 BY JACOBS ENGINEERING GROUP, INC. • COMPANY CONFIDENTIAL

- For the 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(s),
    - 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 five business days following receipt of the final EDD to identify SSIs over background from the detection monitoring method. If an SSI 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 in accordance with the regulations; Jacobs will not notify any agencies.
- Jacobs will develop year-end annual reports 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:

Annually for 2022 through 2024, Task 2 deliverables include four preliminary statistical evaluation summaries, three stand-alone quarterly reports (Q1, Q2, and Q3) and the combined fourth quarter (Q4) and annual report, as described below:

- Quarterly statistical summaries: Jacobs will perform statistical data evaluations within five business days following receipt of the final EDD from the City to identify SSIs over background from the detection monitoring method. If an SSI 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 in accordance with 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 and 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 1st annually.

## Task 3 –Southside Landfill Data Evaluation and Annual Reporting

Jacobs will perform statistical evaluations of quarterly groundwater monitoring results and develop the year-end annual reports for 2022 through 2024 for the SSLF. As described in the Project Understanding, reporting requirements for the SSLF CRU are guided by WAC 173-304-490.

### Task 3 Assumptions:

The scope for Task 3 assumes that Jacobs develops and provides professional stamp for the annual SSLF CRU Report. Note that no quarterly Groundwater Monitoring Reports are currently required for SSLF.

- Within five business days of the City providing a final EDD for quarterly monitoring results, Jacobs performs statistical evaluations to determine if an SSI over the background conditions has occurred in accordance with the approach, as described in the TM: *Using Sanitas to Implement Statistical Recommendations at NSLF and SSLF* (MacStat Consulting, 2007). If an SSI is identified, Jacobs notifies the City immediately via email with attached statistical summaries and supporting graphics. The City will contact agencies in accordance with regulations. Jacobs will not notify any agencies
- Jacobs will develop year-end annual reports (for 2022 through 2024) 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,

COPYRIGHT 2022 BY JACOBS ENGINEERING GROUP, INC. • COMPANY CONFIDENTIAL

  - 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 includes four preliminary statistical evaluation summaries and year-end annual reports annually, as described below:

- Quarterly statistical summaries Following receipt of each of the quarterly 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 five days of receipt of the finalized data from the City; Jacobs will not notify any agencies.
- Draft-final annual reports: 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 within 35 days of data receipt.
- Final annual reports: A final report will be stamped by a Jacobs professional geologist (or hydrogeologist) after adjudication of City comments. The Final annual report will be submitted via email to the City; hardcopy reports are not included in this proposal. The City will submit the final reports to the agencies by the due date of March 1st annually.

## 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. On-call services may include, but are not limited to:

- Support to the City regarding landfill regulations, operations, or miscellaneous groundwater-related issues
- Laboratory issues/troubleshooting/support
- Review/modification of field sampling procedures, such as the limited recharge conditions the City is currently experiencing with the NSLF MSW Cell monitoring program
- Within the context that the NSLF and SSLF are 30 years post-closure and the NSLF CRU has been de-listed from the EPA National Priorities Superfund List, Jacobs may assist the City in developing a systematic framework to evaluate the current monitoring programs and optimize their monitoring networks to reduce the frequency of required monitoring, wells to be sampled, or parameters to be analyzed for. We may also assist the City with technical discussions/negotiations during regulatory agency interactions.

Documentation of this work is incorporated into pertinent reports or communicated directly to the City if not report-related.

Jacobs assumes a ceiling budget of **$6,000 annually** 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 reporting deadlines to meet internal City review schedules and meet WAC reporting requirements. The City submits all final reports directly to the agencies. 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 develops the respective draft-final quarterly Reports for NSLF (CRU and MSW Cell) and submits these to the City for review and comment within 35 days of being provided the respective electronic groundwater data results from the City. Following this, Jacobs addresses comments and submits final Reports to the City within 14 days of receiving comments.

## Annual Summary Report Review Schedule and Submittal Deadlines

Per WAC 173-304 (applicable for NSLF CRU and SSLF), the annual Reports are due to agencies no later than March 1st each year. The MSW Cell annual Report is due to agencies by April 1st, per WAC 173-351-415. As such, our team develops and submits draft-final copies of annual Reports to the City for review within 35 days of receiving groundwater data results from the City, or 21 days prior to WAC due dates, whichever occurs sooner. After, Jacobs addresses comments from the City and submits the final annual Reports to City at least 10 days prior to their regulatory due date.

COPYRIGHT 2022 BY JACOBS ENGINEERING GROUP, INC. • COMPANY CONFIDENTIAL

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

2022-related work is anticipated to be primarily completed by Jacobs staff who have been performing the 2020 and 2021 reporting services work and will also incorporate and delegate to additional junior staff to provide a cost-effective product for the City.

Table 1 shows the assumed task labor hours, labor estimate, expense, and total fee estimate to perform the 2022-related services as outlined in this proposal of **$48,357**. 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 $6,000 annually). 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 2022-related work covered by this services contract. For 2023 and 2024-related reporting services, Jacobs has incorporated 3 percent annual escalation into our labor rates resulting in the following:

- 2023-related work, **$49,778**
- 2024-related work, **$51,271**

The three-year contract total cost for 2022 through 2024 reporting services is estimated to be **$149,406**, assuming no changes in scope, unless agreed upon and authorized by the City

Jacobs assumes that this work will be performed under 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, 2022, through March 31, 2025. Field services will be performed by Jacobs Project Management Co., a Jacobs affiliate.

## 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's request, Jacobs can support the City with these related follow-on services (if needed) via Task 4 On-call support or contract modification.

Table 1. 2022 Labor Hours and Fee Estimate

*2022 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 | 105 | $13,598 | $0 | $13,598 |
| Task 2: NSLF CRU – Data Evaluation and Reporting | 112 | $14,369 | $0 | $14,369 |
| Task 3: SSLF – Data Evaluation and Reporting | 65 | $8,342 | $0 | $8,342 |
| Task 4: On-Call Consulting [1] | - | $6,000 | $0 | $6,000 |
| Task 5: Project Admin & Management | 42 | $6,048 | $0 | $6,048 |
| *SUB TOTAL (Without Task 4 authorized):* | *324* | *$42,357* | *$0* | *$42,357* |
| **TOTALS:** | **355** | **$48,357** | **$0** | **$48,357** |

Note:
1 – 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 (for 2022 work and escalated at 3 percent annually for 2023 and 2024-related work), not to exceed the task maximum of $6,000. 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 2022 Per Diem Rates:

*Groundwater Monitoring Data Analysis and Reporting Assistance for City of Spokane*

| Labor Category: | Key Staff | 2022 Per Diem Rates: |
|---|---|---|
| Project Manager/Hydrogeologist | Mark Henry | $205 (see note) |
| Senior Review/Geochemistry | Robert Martin | $205 |
| Principle in Charge | Jay Dehner | $205 |
| Data Manager | Leslie Karlewicz | $155 |
| Project Delivery | Molly Paterson | $205 |
| Project Controls | Leslie McDermott | $165 |
| Assistant Project Manager | Andrew Tarnus-Raskin | $115 |
| Engineer 2 | Anna Iverson | $110 |
| Engineer 1 | Joey Velasquez | $105 |
| Project Assistant | Brianne Wineinger | $85 |

Notes:
Senior level staff Per Diem Rates capped at $205.

2023 and 2024-related labor rates will be escalated 3 percent annually based on these 2022 per diem rates

COPYRIGHT 2022 BY JACOBS ENGINEERING GROUP, INC. • COMPANY CONFIDENTIAL

| Agenda Sheet for City Council Meeting of: 03/14/2022 | | Date Rec'd | 2/15/2022 |
|---|---|---|---|
| | | Clerk's File # | OPR 2020-0839 |
| | | Renews # | |
| **Submitting Dept** | ENGINEERING SERVICES | **Cross Ref #** | |
| **Contact Name/Phone** | DAN BULLER 625-6391 | **Project #** | 2021061 |
| **Contact E-Mail** | DBULLER@SPOKANECITY.ORG | **Bid #** | |
| **Agenda Item Type** | Contract Item | **Requisition #** | |
| **Agenda Item Name** | 3700-GEOTECHNICAL ENGINEERING ON-CALL CONTRACT INCREASE | | |

**Agenda Wording**

Contract Amendment to increase contract cost to the Geotechnical Engineering On-Call Contract.

**Summary (Background)**

The on-call contract with Budinger is for two years ending December 31,2022, with an option to extend to a third year. The original contract amount of $400,000.00 have nearly been exhausted therefore Engineering Services request an additional $400,000.00 for a new contract total of $800,000.00.

Lease? NO Grant related? NO Public Works? YES

| **Fiscal Impact** | | **Budget Account** |
|---|---|---|
| Expense | $ 400,000.00 | # 0 |
| Select | $ | # |
| Select | $ | # |
| Select | $ | # |

| **Approvals** | | **Council Notifications** | |
|---|---|---|---|
| **Dept Head** | TWOHIG, KYLE | **Study Session\Other** | PIES 2/28/22 |
| **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** | | dbuller@spokanecity.org | |
| | | ddaniels@spokanecity.org | |
| | | jgraff@spokanecity.org | |
| | | | |

# Committee Agenda Sheet
# PIES

| | |
|---|---|
| **Submitting Department** | Public Works, Engineering |
| **Contact Name & Phone** | Dan Buller 625-6391 |
| **Contact Email** | dbuller@spokanecity.org |
| **Council Sponsor(s)** | Breean Beggs |
| **Select Agenda Item Type** | X Consent ☐ Discussion Time Requested: _____ |
| **Agenda Item Name** | Geotechnical engineering on-call contract cost increase |
| **Summary (Background)** | • The city has various on-call contracts for specialized engineering consultants, including geotechnical engineering.<br>• The on-call contract with Budinger is for two years ending 12-31-22, with an option to extend to a third year.<br>• The funds available within the original contract amount of $400,000 have nearly been exhausted.<br>• Funds expended under this project are reimbursed by various City public works projects originating both within and outside of Engineering Services. |
| **Proposed Council Action & Date:** | Engineering services requests permission to increase the total contract amount by $400,000 for a new contract total of $800,000. |

**Fiscal Impact:**
Total Cost:
Approved in current year budget? ☐ Yes ☐ No X N/A

Funding Source X One-time ☐ Recurring
Specify funding source: project funds (generally street or utility funds)

Expense Occurrence X One-time ☐ Recurring

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

**Operations Impacts**

What impacts would the proposal have on historically excluded communities?

Public Works services and projects are designed to serve all citizens and businesses. We strive to offer a consistent level of service to all, to distribute public investment throughout the community, and to respond to gaps in services identified in various City plans. We recognize the need to maintain affordability and predictability for utility customers. And we are committed to delivering work that is both financially and environmentally responsible. This item supports the operations of Public Works.

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

N/A – This contract supports multiple public works projects and should not impact racial, gender identity, national origin, income level, disability, sexual orientation or other existing disparity factors.

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

Public Works follows the City's established procurement and public works bidding regulations and policies to bring items forward, and then uses contract management best practices to ensure desired outcomes and regulatory compliance.

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

The projects which will use this on-call contract are consistent with our adopted six year programs as well as the annual budget and strategic initiative to advance street maintenance activities.

City Clerk's No. 2020-0839
Engineering Project No. 2021061

**City of Spokane**

**CONTRACT AMENDMENT**

Title: **2021-2022 GEOTECHNICAL ENGINEERING ON-CALL SERVICES**

This Contract Amendment is made and entered into by and between the **CITY OF SPOKANE** as ("City"), a Washington municipal corporation, and **BUDINGER & ASSOCIATES, INC.,** whose address is 1101 North Fancher Road, Spokane, Washington 99212 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 provide 2021-2022 Geotechnical Engineering On-Call Services for the City; and*

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

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

**1. CONTRACT DOCUMENTS.**
The Contract, dated December 29, 2020, any previous amendments, addendums and / or extensions / renewals thereto, are incorporated by reference into this document as though written in full and shall remain in full force and effect except as provided herein.

**2. EFFECTIVE DATE.**
This Contract Amendment shall become effective on January 1, 2022 and shall run through December 31, 2022.

**3. COMPENSATION.**
The City shall pay an additional amount not to exceed **FOUR HUNDRED THOUSAND AND NO/100 DOLLARS** (**$400,000.00**), and applicable sales tax, for everything furnished and done under this Contract Amendment. This is the maximum amount to be paid under this Amendment, 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 by having legally-binding representatives affix their signatures below.

**BUDINGER & ASSOCIATES, 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

22-019

| Agenda Sheet for City Council Meeting of: 02/28/2022 | | Date Rec'd | 2/15/2022 |
|---|---|---|---|
| | | Clerk's File # | OPR 2022-0127 |
| | | Renews # | |
| **Submitting Dept** | FINANCE, TREASURY & ADMIN | **Cross Ref #** | |
| **Contact Name/Phone** | TONYA WALLACE 625-6845 | **Project #** | |
| **Contact E-Mail** | TWALLACE@SPOKANECITY.ORG | **Bid #** | A&E MRSC ROSTER |
| **Agenda Item Type** | Contract Item | **Requisition #** | CR 23343 |
| **Agenda Item Name** | FINANCE - NON DISCRETIONARY INVESTMENT SERVICES | | |

**Agenda Wording**

The contract will be for non-discretionary investment services at an annual flat rate fee of $65,000 for the first 3 years. TVI is the only firm listed on the MRSC Roster offering the listed Investment Advisory services.

**Summary (Background)**

Concourse Financial Group, parent company for Time Value Investment or TVI, will assist the City with its primary investment pool. TVI will support updating the City's investment policy incorporating industries best practices including the priorities safety liquidity and yield. Specifically, TVI/Concourse Financial Group will assist the City in determining the appropriate risk parameters, maturity constraints and diversification to meet City's objectives.

Lease? NO Grant related? NO Public Works? NO

| **Fiscal Impact** | | **Budget Account** |
|---|---|---|
| Expense | $ 65,000.00 | # 0410-30400-14230-54202 |
| Select | $ | # |
| Select | $ | # |
| Select | $ | # |

| **Approvals** | | **Council Notifications** | |
|---|---|---|---|
| **Dept Head** | WALLACE, TONYA | **Study Session\Other** | Urban Experience - 2/14/22 |
| **Division Director** | WALLACE, TONYA | **Council Sponsor** | CP Karen Stratton |
| **Finance** | INGIOSI, PAUL | **Distribution List** | |
| **Legal** | ODLE, MARI | twallace@spokanecity.org | |
| **For the Mayor** | ORMSBY, MICHAEL | ddaniels@spokanecity.org | |
| **Additional Approvals** | | mmurray@spokanecity.org | |
| **Purchasing** | PRINCE, THEA | | |
| | | | |
| | | | |
| | | | |

# Committee Agenda Sheet
# Urban Development

| | |
|---|---|
| **Submitting Department** | Finance |
| **Contact Name & Phone** | Tonya Wallace 625-6845 |
| **Contact Email** | twallace@spokanecity.org |
| **Council Sponsor(s)** | Karen Stratton |
| **Select Agenda Item Type** | **X** Consent ☐ Discussion Time Requested: _____ |
| **Agenda Item Name** | True Value Investment Advisory Services Agreement |
| **Summary (Background)** | Concourse Financial Group, parent company for Time Value Investment or TVI, will assist the City with its primary investment pool. TVI will support updating the City's investment policy incorporating industries best practices including the priorities safety liquidity and yield. Specifically, TVI/Concourse Financial Group will assist the City in determining the appropriate risk parameters, maturity constraints and diversification to meet City's objectives.<br><br>TVI will work closely with the City and offers the following primary services:<br><br>• Continuous oversight of the investment portfolio.<br>• Assistance with 3rd party DVP safekeeping setup (if necessary).<br>• Investment purchase and sale recommendations for maturities and as need or opportunity arises.<br>• Best pricing execution on securities transactions. Multiple bids acquired whenever available.<br>• Regularly scheduled phone/Zoom meetings to discuss the portfolio (in person meetings as availability allows).<br>• Ensure portfolio remains in compliance with all state and city policies and regulations.<br>• Investment policy review and updating as appropriate.<br>• Monthly portfolio reporting (see "sample platinum" attached).<br>• GASB year-end reporting.<br>• Access to ongoing CPE educational opportunities and classes.<br>• Monthly market update newsletter and quarterly economic reports.<br><br>The contract will be for non-discretionary investment services at an annual flat rate fee of $65,000 for the first 3 years. TVI is the only firm listed on the MRSC Roster offering the listed Investment Advisory services. |
| **Proposed Council Action & Date:** | Approve contract with Concourse Financial Group for Investment Advisory Services on Feb. 28 |

**Fiscal Impact:**
Total Cost: $65,000 Per year
Approved in current year budget? ☒ Yes ☐ No ☐ N/A

Funding Source ☐ One-time ☒ Recurring
Specify funding source:

Expense Occurrence ☐ One-time ☒ Recurring

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

**Operations Impacts**

What impacts would the proposal have on historically excluded communities?

N/A

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

N/A

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

Staff capacity will be measured and redirected to other Treasury priorities.

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

This contract helps to ensure that staff is compliant with all Investment and Treasury policies.

City Clerk's No. 2022-0127

**City of Spokane**

**PERSONAL SERVICES AGREEMENT**

Title: **INVESTMENT ADVISORS**

This Agreement is made and entered into by and between the **CITY OF SPOKANE** as ("City"), a Washington municipal corporation, and **CONCOURSE FINANCIAL GROUP, INC.,** whose address is 2801 Highway 280 South, Birmingham Alabama 35223, as ("Company"), individually hereafter referenced as a "party", and together as the "parties".

*WHEREAS, the purpose of this Contract is to provide Investment Advisor Services to the City of Spokane; and*

*WHEREAS, Company was selected from the MRSC A&E Roster.*

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

**1. SCOPE OF SERVICES.**
Company shall provide Investment Advisor Services in accordance with its Non-Discretionary Investment Advisory Services Agreement attached hereto as Exhibit B. In the event of a conflict or discrepancy in the Agreement documents, this City Contract controls.

**2. TERM OF AGREEMENT.**
The term of this Agreement begins on March 1, 2022, and shall run through February 28, 2025, unless amended by written agreement or terminated earlier under the provisions. This Agreement may be renewed by agreement of the parties not to exceed two (2) additional one (1) year contract periods.

**3. COMPENSATION / PAYMENT.**
Total compensation for Company's services under this Agreement shall not exceed **SIXTY FIVE THOUSAND AND NO/100 DOLLARS ($65,000.00)**, including tax if applicable, unless modified by a written amendment to this Agreement. This is the maximum amount to be paid under this Agreement for the work described in Section 3 above, and shall not be exceeded without the prior written authorization of the City in the form of an executed amendment to this Agreement.

Company shall submit its applications for payment to City of Spokane Finance Department, Fourth Floor, City Hall, 808 West Spokane Falls Boulevard, Spokane, Washington 99201-3317. Spokane, Washington 99201. Payment will be made 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 pay that portion of the invoice not in dispute. In that event, the parties shall immediately make every effort to settle the disputed amount.

**4. 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 Agreement. It is 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 Agreement shall be included in the project budgets.

**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. Company shall be responsible for contacting the State of Washington Business License Services at www.dor.wa.gov or 360-705-6741 to obtain a business registration. If 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.

**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. 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.

**7. INDEMNIFICATION.**

Company 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 Company's negligence or willful misconduct under this Agreement, including attorneys' fees and litigation costs; provided that nothing herein shall require a Company 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 Company'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 Company, its agents or employees. Company specifically assumes liability and agrees to defend, indemnify, and hold the City harmless for actions brought by Company's own employees against the City and, solely for the purpose of this indemnification and defense, Company specifically waives any immunity under the Washington State industrial insurance law, or Title 51 RCW. Company 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, Company 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 Company'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.

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 Company or its insurer(s) to the City. As evidence of the insurance coverage(s) required by this Agreement, Company 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 Company'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. Company shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

**9. DEBARMENT AND SUSPENSION.**
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.

**10. AUDIT.**
Company and its sub-Company shall maintain for a minimum of three (3) years following final payment all records related to its performance of the Agreement. Company and its sub-consultants 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.**
Company 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 Company shall incorporate by reference this Agreement, except as otherwise provided.

Company shall ensure that all subcontractor comply with the obligations and requirements of the subcontract. The City's consent to any assignment or subcontract does not release Company 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 ten (10) days written notice to the other party. In the event of such termination, the City shall pay Company for all work previously authorized and performed prior to the termination date.

**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 Companies 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 Company shall be safeguarded by Company. Company shall make such data, documents and files available to the City upon the City's request. If the City's use of Company's records or data is not related to this project, it shall be without liability or legal exposure to 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 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. 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, Company 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 Company after the time the same shall have become due nor payment to 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 Agreement**: This document along with any exhibits and all attachments, and subsequently issued addenda, comprises the entire agreement between the City and Company. 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.

| **CONCOURSE FINANCIAL GROUP, INC.** | **CITY OF SPOKANE** |
|---|---|
| By_____ | By_____ |
| Signature Date | 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 - Non-Discretionary Investment Advisory Services Agreement
22-039

**EXHIBIT A**

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

1. The undersigned (i.e., signatory for the Subrecipient / Company / 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 Company 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 Company is unable to certify to any of the statements in this contract, such Company 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.

| | |
|---|---|
| _____<br>Name of Subrecipient / Company / Consultant (Type or Print) | _____<br>Program Title (Type or Print) |
| _____<br>Name of Certifying Official (Type or Print)<br>_____<br>Title of Certifying Official (Type or Print) | _____<br>Signature<br>_____<br>Date (Type or Print) |

**EXHIBIT B**

CONCOURSE
FINANCIAL GROUP

## Investment Advisors

# Non-Discretionary Investment Advisory Services Agreement

---

**THIS NON-DISCRETIONARY INVESTMENT ADVISORY SERVICES AGREEMENT** ("Agreement") is between Concourse Financial Group, Inc., an Alabama corporation doing investment advisory business as Investment Advisors ("Advisor"), and City of Spokane ("Client"). The non-discretionary advisory services ("Non-Discretionary Investment Advisory Services") provided by Advisor under this Agreement shall be furnished by the investment advisor representative of Advisor named in the "Signatures" section of this Agreement ("Representative"), unless Client and Advisor agree otherwise.

Advisor is registered with the Securities and Exchange Commission as an investment advisor, and is registered or exempt from registration under all applicable state laws regarding investment advisor registration. Advisor provides investment advisor services for its clients. Client wishes to retain Advisor to provide Client with Non-Discretionary Investment Advisory Services under the terms set forth below:

**Section 1 – Non-Discretionary Investment Advisory Services**. Based upon information furnished to Advisor by Client, Advisor shall provide Client with such Non-Discretionary Investment Advisory Services as may be agreed upon by Advisor and Client and further detailed in Schedule A. The foregoing notwithstanding, Advisor shall not, and shall not be required to, take any action or render any advice with respect to legal action or proceedings (including bankruptcy proceedings) with respect to securities.

**Section 2 – Client Information.** Client agrees to consult with Advisor and to provide Advisor with all information relevant to the Non-Discretionary Investment Advisory Services to be provided by Advisor. Client understands that Advisor shall depend on the accuracy, timeliness and completeness of such information in providing the Non-Discretionary Investment Advisory Services. Client represents and agrees that the information provided by Client will be, to the best of Client's knowledge, substantially accurate and complete.

**Section 3 – Risk of Investment.** Client recognizes that there is no assurance as to the accuracy or timeliness of the Non-Discretionary Investment Advisory Services provided hereunder, and that any market losses resulting from such services are a risk assumed by Client. Client further acknowledges that the past performance of Advisor is not a guarantee of future results, which may prove to be better or worse than past results. Advisor has not and does not promise, represent or guarantee that Advisor's services will result in a profit to Client, will yield a stated level of returns or will result in achievement of Client's financial or investment objectives. Advisor may rely on information furnished to it which it reasonably believes to be accurate and reliable. Advisor shall have no liability for Client's failure to inform

Advisor in a timely manner of any material change in Client's financial circumstances, investment or financial needs or objectives, or risk tolerance.

**Section 4 – Fees.** Client shall pay Advisor a Non-Discretionary Investment Advisory Services Fee for the provision of the Non-Discretionary Investment Advisory Services in accordance with fee table listed in Schedule A. The Non-Discretionary Investment Advisory Services Fee shall be a flat fee agreed upon at contract commencement. The Non-Discretionary Investment Advisory Services Fee shall paid to the order of Concourse Financial Group, Inc.

**Section 5 – Ongoing Review.** Except as otherwise explicitly set forth in Schedule A, Advisor makes no commitment to initiate a review or update of any Non-Discretionary Investment Advisory Services previously provided hereunder, or to monitor Client's progress toward achieving Client's financial objectives.

**Section 6 – No Legal, Tax or Accounting Advice.** Nothing in this Agreement shall require Advisor or Representative to provide legal, tax or accounting advice. Client is responsible for consulting, and is encouraged to consult legal, tax and accounting advisors of Client's choosing.

**Section 7 – Relationship of the Parties.** Client acknowledges that Advisor is a registered investment advisory firm and Representative is an investment advisory representative of Advisor. As such, Representative shall receive, and other individuals affiliated with Advisor may receive, a portion of the compensation paid by Client to Advisor under this Agreement.

**Section 8 – Confidentiality; Disclosure to Advisors.** The information about Client in Advisor's possession or control that arises pursuant to the terms of this Agreement shall be treated as confidential, as set forth in Advisor's privacy policy (a copy of which has been provided to Client). Notwithstanding the foregoing, Client hereby grants Advisor and Representative the authority to discuss, disclose and communicate any or all information received from Client or related to this Agreement to such third-party service providers as Client may designate.

**Section 9 – Term and Termination.** Notwithstanding Section11 below, the term of this Agreement shall commence on the date last signed below by a party this Agreement, and shall remain effective until either party elects to terminate it. This Agreement may be terminated by Client upon thirty (30) days' written notice to Advisor in accordance with Section 13 below. The Advisor may terminate the agreement with ninety (90) days' written notice to the Client.

**Section 10 – Effective Date; Amendment and Assignment.** This Agreement shall not become effective unless approved in writing by an authorized signatory of Advisor. No modification or amendment to this Agreement shall be effective unless made in writing and signed by Client and Advisor. This Agreement may not be assigned by either party without the written consent of the other party.

**Section 11 – Applicable Law; Interpretation.** This Agreement shall be interpreted and construed in accordance with the laws of the state in which Client executed this Agreement (without giving effect to such state's conflict of laws principles) and in a manner consistent with the securities laws, including

Investment Advisors Act of 1940 and the rules and regulations thereunder. The headings in this Agreement are for convenience of reference only, and shall not be considered in the interpretation hereof. This Agreement (including all Schedules and attachments hereto) constitutes the complete agreement of the parties with respect to the subject matter hereof.

**Section 12 – Arbitration. (a) THIS AGREEMENT CONTAINS A DISPUTE ARBITRATION CLAUSE. BY SIGNING AN ARBITRATION AGREEMENT THE PARTIES AGREE AS FOLLOWS:**

**(b) <u>Arbitration Disclosure</u>**

1. **ALL PARTIES TO THIS AGREEMENT ARE GIVING UP THE RIGHT TO SUE EACH OTHER IN COURT, INCLUDING THE RIGHT TO A TRIAL BY JURY, EXCEPT AS PROVIDED BY THE RULES OF THE ARBITRATION FORUM IN WHICH A CLAIM IS FILED.**

2. **ARBITRATION AWARDS ARE GENERALLY FINAL AND BINDING; A PARTY'S ABILITY TO HAVE A COURT REVERSE OR MODIFY AN ARBITRATION AWARD IS VERY LIMITED.**

3. **THE ABILITY OF THE PARTIES TO OBTAIN DOCUMENTS, WITNESS STATEMENTS AND OTHER DISCOVERY IS GENERALLY MORE LIMITED IN ARBITRATION THAN IN COURT PROCEEDINGS.**

4. **THE ARBITRATORS DO NOT HAVE TO EXPLAIN THE REASON(S) FOR THEIR AWARD UNLESS, IN AN ELIGIBLE CASE, A JOINT REQUEST FOR AN EXPLAINED DECISION HAS BEEN SUBMITTED BY ALL PARTIES TO THE PANEL AT LEAST 20 DAYS PRIOR TO THE FIRST SCHEDULED HEARING DATE.**

5. **THE PANEL OF ARBITRATORS MAY INCLUDE A MINORITY OF ARBITRATORS WHO WERE OR ARE AFFILIATED WITH THE SECURITIES INDUSTRY.**

6. **THE RULES OF SOME ARBITRATION FORUMS MAY IMPOSE TIME LIMITS FOR BRINGING A CLAIM IN ARBITRATION. IN SOME CASES, A CLAIM THAT IS INELIGIBLE FOR ARBITRATION MAY BE BROUGHT IN COURT.**

7. **THE RULES OF THE ARBITRATION FORUM IN WHICH THE CLAIM IS FILED, AND ANY AMENDMENTS THERETO, SHALL BE INCORPORATED INTO THIS AGREEMENT.**

(c) <u>Arbitration Agreement</u>

ANY CONTROVERSY BETWEEN CLIENT, ADVISOR AND REPRESENTATIVE ARISING OUT OF ANY BUSINESS CONDUCTED BY OR BETWEEN THE PARTIES OR THIS AGREEMENT SHALL BE SUBMITTED TO ARBITRATION CONDUCTED BEFORE THE NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC., AND IN ACCORDANCE WITH ITS RULES. IF FINRA ARBITRATION IS NOT AVAILABLE AND ENFORCEABLE FOR ANY REASON, THE ARBITRATION SHALL BE

CONDUCTED UNDER THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION (OR, IF SUCH RULES DO NOT EXIST, PURSUANT TO SUCH SUCCESSOR OR SIMILAR RULES AS ADVISOR SHALL STIPULATE). ARBITRATION MUST BE COMMENCED BY SERVICE UPON THE OTHER PARTY OF A WRITTEN DEMAND FOR ARBITRATION OR A WRITTEN NOTICE OF INTENTION TO ARBITRATE.

NO PERSON SHALL BRING A PUTATIVE OR CERTIFIED CLASS ACTION TO ARBITRATION, NOR SEEK TO ENFORCE ANY PREDISPUTE ARBITRATION AGREEMENT AGAINST ANY PERSON WHO HAS INITIATED IN COURT A PUTATIVE CLASS ACTION, OR WHO IS A MEMBER OF A PUTATIVE CLASS ACTION; OR WHO IS A MEMBER OF A PUTATIVE CLASS ACTION WHO HAS NOT OPTED OUT OF THE CLASS WITH RESPECT TO ANY CLAIMS ENCOMPASSED BY THE PUTATIVE CLASS ACTION UNTIL: (i) THE CLASS CERTIFICATION IS DENIED; (ii) THE CLASS ACTION IS DECERTIFIED; OR (iii) THE CUSTOMER IS EXCLUDED FROM THE CLASS BY THE COURT. SUCH FORBEARANCE TO ENFORCE AN AGREEMENT TO ARBITRATE SHALL NOT CONSTITUTE A WAIVER OF ANY RIGHTS UNDER THIS AGREEMENT EXCEPT TO THE EXTENT STATED HEREIN.

THE TERMS OF THIS SECTION 12 REGARDING ARBITRATION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

**Section 13 – Address for Notices.** All notices under this Agreement (including, without limitation, notices of termination under Section 10) shall be deemed properly given if delivered by hand, faxed, mailed by U.S. mail (first class, certified or registered), or delivered to a nationally-recognized express delivery service, and addressed to a party at the address set forth in the "Signatures" section of this Agreement (or to such other address as such party may provide by written notice as described herein).

**Section 14 – Municipal Advisor Exemption.** Client acknowledges that Advisor is *not* acting as a "municipal advisor" as that term is defined in Section 15B of the Securities Exchange Act and the rules promulgated thereunder (the "Municipal Advisor Rules"). Client further acknowledges that Advisor is acting under an exemption from registration as a municipal advisor for SEC-registered investment advisors.

**Section 15 – Receipt of Information and Agreement.** Client acknowledges that Client has received (1) a copy of Advisor's Form ADV Part 2A; (2) Form ADV Part 2B; and (3) a copy of this Agreement, as signed by Client and Representative. Client has read and understands this Agreement. Client has had the opportunity to review this Agreement with advisors of Client's choosing, and has either done so or has decided not to have this Agreement reviewed. **Client agrees that disputes under this Agreement shall be resolved by binding arbitration, as provided in Section 12 entitled, "Arbitration".**

**SIGNATURES ON FOLLOWING PAGE**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

| | |
|---|---|
| _____ | **CONCOURSE FINANCIAL GROUP, INC.** |
| Client Name | 2801 Highway 280 South, Birmingham AL 35223 |
| _____ | _____ |
| By | By |
| _____ | _____ |
| Name | Name |
| _____ | _____ |
| Title | Title |
| _____ | _____ |
| Date | Date |

Client Address (Street or P.O. Box, City, State, Zip Code)

| | |
|---|---|
| _____ | _____ |
| Investment Advisor Representative Signature | Rep Number |

_____

Investment Advisor Representative Address (Street or P.O. Box, City, State, Zip Code)

**SCHEDULE A**

**A. Scope of Services**

Advisor will provide the following non-discretionary advisory services to Client:

1. **Review of investment policy.**

   Concourse Financial Group will assist the public entity in either updating or creating an investment policy incorporating industries best practices including the priorities safety liquidity and yield. Specifically, TVI/Concourse Financial Group will assist the client in determining the appropriate risk parameters, maturity constraints and diversification to meet the client's objectives.

2. **Establishment of investment strategy and corresponding benchmarks.**

   Concourse Financial Group will work closely with the public entity to develop investment strategies that fall within the risk parameters of the investment policy and the client's objectives. A benchmark will be established as an appropriate gauge of the portfolio's performance.

3. **Analysis of weighted average maturity and duration measures.**

   Through current economic, market and yield curve analysis, Concourse Financial Group will advise the client regarding the appropriate weighted average maturity for the portfolio. The preferred effective duration measures will also be determined in an effort to manage the volatility of the portfolio's market value in a changing interest rate environment.

4. **Identify securities for purchase that comply with Client's investment policy.**

   Concourse Financial Group has broad visibility of the typical legal securities that are currently available and will select those securities that comply with the entity's investment policy. These will be recommended to the client when appropriate.

5. **At the Client's direction, purchase securities on behalf of Client.**

   With the client's approval, Concourse Financial Group will purchase securities on the client's behalf. After the client has approved the purchase of the recommended security, Concourse Financial Group will purchase the security and provide a confirmation to the client. Concourse Financial Group will monitor the delivery of the security to the client's US Bank Safekeeping account.

6. **Provide professional bond reporting.**

TVI/CFG is able to provide proprietary "Platinum" bond reporting to our investment advisory clientele. This reporting tracks important portfolio metrics like yield-to-maturity, duration, and asset allocation. PLEASE NOTE: Unless custodial services are provided by US Bank Safekeeping, which our reporting is linked directly to, portfolio reporting will be on a best-efforts basis.

**B. Fee Table**

Advisor will charge a flat fee as described below:

**$65,000 per year (flat fee), billed quarterly in arrears**

**This amount will not increase for at least three years, after which time TVI/CFG may reevaluate and modify fees with permission of the client.**

| Agenda Sheet for City Council Meeting of: 03/14/2022 | | Date Rec'd | 3/1/2022 |
|---|---|---|---|
| | | Clerk's File # | OPR 2022-0170 |
| | | Renews # | |
| **Submitting Dept** | POLICE | **Cross Ref #** | |
| **Contact Name/Phone** | ERIC OLSEN 835-4505 | **Project #** | |
| **Contact E-Mail** | EOLSEN@SPOKANEPOLICE.ORG | **Bid #** | |
| **Agenda Item Type** | Contract Item | **Requisition #** | |
| **Agenda Item Name** | 1620 - JAG21 GRANT ACCEPTANCE | | |

**Agenda Wording**

Acceptance of 2021 BJA FY21 Edward Byrne Memorial Justice Assistance Grant(JAG) in the amount of $176,381

**Summary (Background)**

In August, 2021, the City of Spokane Police Department filed a joint grant application along with Spokane County. The application was successfully approved and grant funds awarded. Total award - $176,381 of which $79,371 will be subawarded to Spokane County. Grant ID#15PBJA-21-GG-01968-JAGX CFDA#16.738 Project award period 10/01/2020 - 09/30/2024

Lease? NO Grant related? YES Public Works? NO

| Fiscal Impact | | Budget Account |
|---|---|---|
| Revenue | $ 176,381 | # 1620-91796-99999-33116-99999 |
| Expense | $ 97,010 | # 1620-91796-21250-VARIOUS |
| Expense | $ 79,371 | # 1620-91796-21250-54201-99999 |
| Select | $ | # |

| Approvals | | Council Notifications | |
|---|---|---|---|
| Dept Head | OLSEN, ERIC | Study Session\Other | PSCHC Meeting 01/10/22 |
| Division Director | OLSEN, ERIC | Council Sponsor | KINNEAR/CATHCART |
| Finance | SCHMITT, KEVIN | **Distribution List** | |
| Legal | PICCOLO, MIKE | SPDFINANCE@SPOKANECITY.ORG | |
| For the Mayor | ORMSBY, MICHAEL | jhammond | |
| **Additional Approvals** | | eolsen | |
| Purchasing | | | |
| GRANTS, CONTRACTS & PURCHASING | MURRAY, MICHELLE | | |
| | | | |
| | | | |

## Award Letter

October 14, 2021

Dear SALLY STOPHER,

On behalf of Attorney General Merrick B. Garland, it is my pleasure to inform you the Office of Justice Programs (OJP) has approved the application submitted by SPOKANE, CITY OF for an award under the funding opportunity entitled 2021 BJA FY 21 Edward Byrne Memorial Justice Assistance Grant (JAG) Program - Local Solicitation. The approved award amount is $176,381.

Review the Award Instrument below carefully and familiarize yourself with all conditions and requirements before accepting your award. The Award Instrument includes the Award Offer (Award Information, Project Information, Financial Information, and Award Conditions) and Award Acceptance.

Please note that award requirements include not only the conditions and limitations set forth in the Award Offer, but also compliance with assurances and certifications that relate to conduct during the period of performance for the award. These requirements encompass financial, administrative, and programmatic matters, as well as other important matters (e.g., specific restrictions on use of funds). Therefore, all key staff should receive the award conditions, the assurances and certifications, and the application as approved by OJP, so that they understand the award requirements. Information on all pertinent award requirements also must be provided to any subrecipient of the award.

Should you accept the award and then fail to comply with an award requirement, DOJ will pursue appropriate remedies for non-compliance, which may include termination of the award and/or a requirement to repay award funds.

To accept the award, the Authorized Representative(s) must accept all parts of the Award Offer in the Justice Grants System (JustGrants), including by executing the required declaration and certification, within 45 days from the award date.

Congratulations, and we look forward to working with you.

Maureen Henneberg
Deputy Assistant Attorney General

**Office for Civil Rights Notice for All Recipients**

The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice

(DOJ) has been delegated the responsibility for ensuring that recipients of federal financial assistance from the OJP, the Office of Community Oriented Policing Services (COPS), and the Office on Violence Against Women (OVW) are not engaged in discrimination prohibited by law. Several federal civil rights laws, such as Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973, require recipients of federal financial assistance to give assurances that they will comply with those laws. Taken together, these civil rights laws prohibit recipients of federal financial assistance from DOJ from discriminating in services and employment because of race, color, national origin, religion, disability, sex, and, for grants authorized under the Violence Against Women Act, sexual orientation and gender identity. Recipients are also prohibited from discriminating in services because of age. For a complete review of these civil rights laws and nondiscrimination requirements, in connection with DOJ awards, see https://ojp.gov/funding/Explore/LegalOverview/CivilRightsRequirements.htm.

Under the delegation of authority, the OCR investigates allegations of discrimination against recipients from individuals, entities, or groups. In addition, the OCR conducts limited compliance reviews and audits based on regulatory criteria. These reviews and audits permit the OCR to evaluate whether recipients of financial assistance from the Department are providing services in a nondiscriminatory manner to their service population or have employment practices that meet equal-opportunity standards.

If you are a recipient of grant awards under the Omnibus Crime Control and Safe Streets Act or the Juvenile Justice and Delinquency Prevention Act and your agency is part of a criminal justice system, there are two additional obligations that may apply in connection with the awards: (1) complying with the regulation relating to Equal Employment Opportunity Programs (EEOPs); and (2) submitting findings of discrimination to OCR. For additional information regarding the EEOP requirement, see 28 CFR Part 42, subpart E, and for additional information regarding requirements when there is an adverse finding, see 28 C.F.R. §§ 42.204(c), .205(c)(5).

The OCR is available to help you and your organization meet the civil rights requirements that are associated with DOJ grant funding. If you would like the OCR to assist you in fulfilling your organization's civil rights or nondiscrimination responsibilities as a recipient of federal financial assistance, please do not hesitate to contact the OCR at askOCR@ojp.usdoj.gov.

## Memorandum Regarding NEPA

NEPA Letter Type

OJP - Ongoing NEPA Compliance Incorporated into Further Developmental Stages

NEPA Letter

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

The specified activities requiring environmental analysis are:

a. New construction;

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

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

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

NEPA Coordinator

| First Name | Middle Name | Last Name |
|---|---|---|
| Orbin | —— | Terry |

## Award Information

**This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.**

### Recipient Information

**Recipient Name**
SPOKANE, CITY OF

**DUNS Number**
115528189

**Street 1**
808 W SPOKANE FALLS BLVD

**Street 2**
——

**City**
SPOKANE

**State/U.S. Territory**
Washington

**Zip/Postal Code**
99201

**Country**
United States

**County/Parish**
——

**Province**
——

## Award Details

**Federal Award Date**
10/14/21

**Award Type**
Initial

**Award Number**
15PBJA-21-GG-01968-JAGX

**Supplement Number**
00

**Federal Award Amount**
$176,381.00

**Funding Instrument Type**
Grant

| Assistance Listing Number | Assistance Listings Program Title |
|---|---|
| 16.738 | |

| Statutory Authority |
|---|
| Title I of Pub. L. No. 90-351 (generally codified at 34 U.S.C. 10151-10726), including subpart 1 of part E (codified at 34 U.S.C. 10151-10158); see also 28 U.S.C. 530C(a). |

☑

*I have read and understand the information presented in this section of the Federal Award Instrument.*

## Project Information

**This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.**

**Solicitation Title**

2021 BJA FY 21 Edward Byrne Memorial Justice Assistance Grant (JAG) Program - Local Solicitation

**Awarding Agency**

OJP

**Program Office**

BJA

**Application Number**

GRANT13428147

**Grant Manager Name**

Jeffrey Felten-Green

**Phone Number**

202-514-8874

**E-mail Address**

Jeffrey.S.Felten-Green@ojp.usdoj.gov

**Project Title**

JAG FY 2021 – Spokane County and City of Spokane Enhancement and Expansion of Law Enforcement and Prosecution Programs

**Performance Period Start Date**

10/01/2020

**Performance Period End Date**

09/30/2024

**Budget Period Start Date**

10/01/2020

**Budget Period End Date**

09/30/2024

**Project Description**

The Edward Byrne Memorial Justice Assistance Grant (JAG) Program allows states and units of local government, including tribes, to support a broad range of activities to prevent and control crime based on their own state and local needs and conditions. Grant funds can be used for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and information systems for criminal justice, including for any one or more of the following program areas: 1) law enforcement programs; 2) prosecution and court programs; 3) prevention and

education programs; 4) corrections and community corrections programs; 5) drug treatment and enforcement programs; 6) planning, evaluation, and technology improvement programs; and 7) crime victim and witness programs (other than compensation) and 8) mental health programs and related law enforcement and corrections programs, including behavioral programs and crisis intervention teams.

This JAG award will be used to support criminal justice initiatives that fall under one or more of the allowable program areas above. Funded programs or initiatives may include multijurisdictional drug and gang task forces, crime prevention and domestic violence programs, courts, corrections, treatment, justice information sharing initiatives, or other programs aimed at reducing crime and/or enhancing public/officer safety.

☑

*I have read and understand the information presented in this section of the Federal Award Instrument.*

## Financial Information

**This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.**

☑

*I have read and understand the information presented in this section of the Federal Award Instrument.*

## Award Conditions

**This award is offered subject to the conditions or limitations set forth in the Award**

**Information, Project Information, Financial Information, and Award Conditions.**

1

Applicability of Part 200 Uniform Requirements

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") apply to this FY 2021 award from OJP.

The Part 200 Uniform Requirements were first adopted by DOJ on December 26, 2014. If this FY 2021 award supplements funds previously awarded by OJP under the same award number (e.g., funds awarded during or before December 2014), the Part 200 Uniform Requirements apply with respect to all funds under that award number (regardless of the award date, and regardless of whether derived from the initial award or a supplemental award) that are obligated on or after the acceptance date of this FY 2021 award.

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

Record retention and access: Records pertinent to the award that the recipient (and any subrecipient ("subgrantee") at any tier) must retain -- typically for a period of 3 years from the date of submission of the final expenditure report (SF 425), unless a different retention period applies -- and to which the recipient (and any subrecipient ("subgrantee") at any tier) must provide access, include performance measurement information, in addition to the financial records, supporting documents, statistical records, and other pertinent records indicated at 2 C.F.R. 200.333.

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

2

Requirement to report actual or imminent breach of personally identifiable information (PII)

The recipient (and any "subrecipient" 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 200.1) 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 recipient's breach procedures must include a requirement to report actual or imminent breach of PII to an OJP Program Manager no later than 24 hours after an occurrence of an actual breach, or the detection of an imminent breach.

3

Required training for Grant Award Administrator and Financial Manager

The Grant Award Administrator and all Financial Managers for this award must have successfully completed an "OJP financial management and grant administration training" by

120 days after the date of the recipient's acceptance of the award. Successful completion of such a training on or after January 1, 2019, will satisfy this condition.

In the event that either the Grant Award Administrator or a Financial Manager for this award changes during the period of performance, the new Grant Award Administrator or Financial Manager must have successfully completed an "OJP financial management and grant administration training" by 120 calendar days after the date the Entity Administrator enters updated Grant Award Administrator or Financial Manager information in JustGrants. Successful completion of such a training on or after January 1, 2019, will satisfy this condition.

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

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

**4**

Safe policing and law enforcement subrecipients

If this award is a discretionary award, the recipient agrees that it will not make any subawards to State, local, college, or university law enforcement agencies unless such agencies have been certified by an approved independent credentialing body or have started the certification process. To become certified, law enforcement agencies must meet two mandatory conditions: (1) the agency’s use of force policies adhere to all applicable federal, state, and local laws; and (2) the agency’s use of force policies prohibit chokeholds except in situations where use of deadly force is allowed by law. For detailed information on this certification requirement, see https://cops.usdoj.gov/SafePolicingEO.

**5**

Effect of failure to address audit issues

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

**6**

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

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

Limited Exceptions. In certain special circumstances, the U.S. Department of Justice ("DOJ")

may determine that it will not enforce, or enforce only in part, one or more requirements otherwise applicable to the award. Any such exceptions regarding enforcement, including any such exceptions made during the period of performance, are (or will be during the period of performance) set out through the Office of Justice Programs ("OJP") webpage entitled "Legal Notices: Special circumstances as to particular award conditions" (ojp.gov/funding/Explore/LegalNotices-AwardReqts.htm), and incorporated by reference into the award.

By signing and accepting this award on behalf of the recipient, the authorized recipient official accepts all material requirements of the award, and specifically adopts, as if personally executed by the authorized recipient official, all assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance.

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

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

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

**7**

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

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 38 (as may be applicable from time to time), specifically including any applicable requirements regarding written notice to program beneficiaries and prospective program beneficiaries.

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

The text of 28 C.F.R. Part 38 is available via the Electronic Code of Federal Regulations (currently accessible at https://www.ecfr.gov/cgi-bin/ECFR?page=browse), by browsing to Title 28-Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.

**8**

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

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

**9**

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

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

**10**

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

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

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

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

**11**

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

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

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

## 12

Requirement for data on performance and effectiveness under the award

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

## 13

Requirements related to "de minimis" indirect cost rate

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

## 14

Determination of suitability to interact with participating minors

SCOPE. This condition applies to this award if it is indicated -- in the application for the award (as approved by DOJ)(or in the application for any subaward, at any tier), the DOJ funding announcement (solicitation), or an associated federal statute -- that a purpose of some or all of the activities to be carried out under the award (whether by the recipient, or a subrecipient at any tier) is to benefit a set of individuals under 18 years of age.

The recipient, and any subrecipient at any tier, must make determinations of suitability before certain individuals may interact with participating minors. This requirement applies regardless of an individual's employment status.

The details of this requirement are posted on the OJP web site at https://ojp.gov/funding/Explore/Interact-Minors.htm (Award condition: Determination of suitability required, in advance, for certain individuals who may interact with participating minors), and are incorporated by reference here.

## 15

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

If the recipient is designated "high risk" by a federal grant-making agency outside of DOJ, currently or at any time during the course of the period of performance under this award, the recipient must disclose that fact and certain related information to OJP by email at OJP.ComplianceReporting@ojp.usdoj.gov. For purposes of this disclosure, high risk includes any status under which a federal awarding agency provides additional oversight due to the recipient's past performance, or other programmatic or financial concerns with the recipient. The recipient's disclosure must include the following: 1. The federal awarding agency that

currently designates the recipient high risk, 2. The date the recipient was designated high risk, 3. The high-risk point of contact at that federal awarding agency (name, phone number, and email address), and 4. The reasons for the high-risk status, as set out by the federal awarding agency.

## 16

Compliance with DOJ Grants Financial Guide

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

## 17

Encouragement of policies to ban text messaging while driving

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

## 18

Compliance with general appropriations-law restrictions on the use of federal funds (FY 2021)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions, including from various "general provisions" in the Consolidated Appropriations Act, 2021, are set out at https://ojp.gov/funding/Explore/FY21AppropriationsRestrictions.htm, and are incorporated by reference here.

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

## 19

Potential imposition of additional requirements

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

20

Employment eligibility verification for hiring under the award

1. The recipient (and any subrecipient at any tier) must--

A. Ensure that, as part of the hiring process for any position within the United States that is or will be funded (in whole or in part) with award funds, the recipient (or any subrecipient) properly verifies the employment eligibility of the individual who is being hired, consistent with the provisions of 8 U.S.C. 1324a(a)(1).

B. Notify all persons associated with the recipient (or any subrecipient) who are or will be involved in activities under this award of both--

(1) this award requirement for verification of employment eligibility, and

(2) the associated provisions in 8 U.S.C. 1324a(a)(1) that, generally speaking, make it unlawful, in the United States, to hire (or recruit for employment) certain aliens.

C. Provide training (to the extent necessary) to those persons required by this condition to be notified of the award requirement for employment eligibility verification and of the associated provisions of 8 U.S.C. 1324a(a)(1).

D. As part of the recordkeeping for the award (including pursuant to the Part 200 Uniform Requirements), maintain records of all employment eligibility verifications pertinent to compliance with this award condition in accordance with Form I-9 record retention requirements, as well as records of all pertinent notifications and trainings.

2. Monitoring

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

3. 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 designed to ensure compliance with this condition.

4. Rules of construction

A. Staff involved in the hiring process

For purposes of this condition, persons "who are or will be involved in activities under this award" specifically includes (without limitation) any and all recipient (or any subrecipient) officials or other staff who are or will be involved in the hiring process with respect to a position that is or will be funded (in whole or in part) with award funds.

B. Employment eligibility confirmation with E-Verify

For purposes of satisfying the requirement of this condition regarding verification of employment eligibility, the recipient (or any subrecipient) may choose to participate in, and use, E-Verify (www.e-verify.gov), provided an appropriate person authorized to act on behalf of the recipient (or subrecipient) uses E-Verify (and follows the proper E-Verify procedures,

including in the event of a "Tentative Nonconfirmation" or a "Final Nonconfirmation") to confirm employment eligibility for each hiring for a position in the United States that is or will be funded (in whole or in part) with award funds.

C. "United States" specifically includes the District of Columbia, Puerto Rico, Guam, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.

D. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, or any person or other entity, to violate any federal law, including any applicable civil rights or nondiscrimination law.

E. Nothing in this condition, including in paragraph 4.B., shall be understood to relieve any recipient, any subrecipient at any tier, or any person or other entity, of any obligation otherwise imposed by law, including 8 U.S.C. 1324a(a)(1).

Questions about E-Verify should be directed to DHS. For more information about E-Verify visit the E-Verify website (https://www.e-verify.gov/) or email E-Verify at E-Verify@dhs.gov. E-Verify employer agents can email E-Verify at E-VerifyEmployerAgent@dhs.gov.

Questions about the meaning or scope of this condition should be directed to OJP, before award acceptance.

## 21

Restrictions and certifications regarding non-disclosure agreements and related matters

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

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

1. In accepting this award, the recipient--

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

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

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

procurement contracts, or both--

a. it represents that--

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

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

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

**22**

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

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

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

**23**

OJP Training Guiding Principles

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

**24**

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

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

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

## 25

Requirements related to System for Award Management and Universal Identifier Requirements

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

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

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

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

## 26

Restrictions on "lobbying"

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

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

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

## 27

Specific post-award approval required to use a noncompetitive approach in any procurement contract that would exceed $250,000

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements to obtain specific advance approval to use a noncompetitive approach in any procurement contract that would exceed the Simplified Acquisition Threshold (currently, $250,000). This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a procurement "contract" (and therefore does not consider a subaward).

The details of the requirement for advance approval to use a noncompetitive approach in a procurement contract under an OJP award are posted on the OJP web site at https://ojp.gov/funding/Explore/NoncompetitiveProcurement.htm (Award condition: Specific post-award approval required to use a noncompetitive approach in a procurement contract (if contract would exceed $250,000)), and are incorporated by reference here.

## 28

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

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

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

## 29

Requirement to report potentially duplicative funding

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

project-scope Grant Award Modification (GAM) to eliminate any inappropriate duplication of funding.

**30**

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

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

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by--(1) online submission accessible via the OIG webpage at https://oig.justice.gov/hotline/contact-grants.htm (select "Submit Report Online"); (2) mail directed to: U.S. Department of Justice, Office of the Inspector General, Investigations Division, ATTN: Grantee Reporting, 950 Pennsylvania Ave., NW, Washington, DC 20530; and/or (3) by facsimile directed to the DOJ OIG Investigations Division (Attn: Grantee Reporting) at (202) 616-9881 (fax).

Additional information is available from the DOJ OIG website at https://oig.justice.gov/hotline.

**31**

FFATA reporting: Subawards and executive compensation

The recipient must comply with applicable requirements to report first-tier subawards ("subgrants") of $30,000 or more and, in certain circumstances, to report the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients (first-tier "subgrantees") of award funds. The details of recipient obligations, which derive from the Federal Funding Accountability and Transparency Act of 2006 (FFATA), are posted on the OJP web site at https://ojp.gov/funding/Explore/FFATA.htm (Award condition: Reporting Subawards and Executive Compensation), and are incorporated by reference here.

This condition, including its reporting requirement, does not apply to-- (1) an award of less than $30,000, or (2) an award made to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

**32**

Cooperating with OJP Monitoring

The recipient agrees to cooperate with OJP monitoring of this award pursuant to OJP's guidelines, protocols, and procedures, and to cooperate with OJP (including the grant manager for this award and the Office of Chief Financial Officer (OCFO)) requests related to such monitoring, including requests related to desk reviews and/or site visits. The recipient agrees to provide to OJP all documentation necessary for OJP to complete its monitoring tasks, including documentation related to any subawards made under this award. Further, the recipient agrees to abide by reasonable deadlines set by OJP for providing the requested

documents. Failure to cooperate with OJP's monitoring activities may result in actions that affect the recipient's DOJ awards, including, but not limited to: withholdings and/or other restrictions on the recipient's access to award funds; referral to the DOJ OIG for audit review; designation of the recipient as a DOJ High Risk grantee; or termination of an award(s).

**33**

Required monitoring of subawards

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

**34**

Use of program income

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

**35**

Justice Information Sharing

Information sharing projects funded under this award must comply with DOJ's Global Justice Information Sharing Initiative (Global) guidelines. The recipient (and any subrecipient 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. The recipient (and any subrecipient 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.

**36**

Avoidance of duplication of networks

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

**37**

Compliance with 28 C.F.R. Part 23

With respect to any information technology system funded or supported by funds under this award, the recipient (and any subrecipient at any tier) must comply with 28 C.F.R. Part 23, Criminal Intelligence Systems Operating Policies, if OJP determines this regulation to be applicable. Should OJP determine 28 C.F.R. Part 23 to be applicable, OJP may, at its discretion, perform audits of the system, as per the regulation. Should any violation of 28 C.F.R. Part 23 occur, the recipient may be fined as per 34 U.S.C. 10231(c)-(d). The recipient may not satisfy such a fine with federal funds.

**38**

Protection of human research subjects

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

**39**

Confidentiality of data

The recipient (and any subrecipient at any tier) must comply with all confidentiality requirements of 34 U.S.C. 10231 and 28 C.F.R. Part 22 that are applicable to collection, use, and revelation of data or information. The recipient further agrees, as a condition of award approval, to submit a Privacy Certificate that is in accord with requirements of 28 C.F.R. Part 22 and, in particular, 28 C.F.R. 22.23.

**40**

Law enforcement task forces - required training

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

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

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

**41**

Justification of consultant rate

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

**42**

"Methods of Administration" - monitoring compliance with civil rights laws and nondiscrimination provisions

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with applicable federal civil rights laws and nondiscrimination provisions. Within 90 days of the date of award acceptance, the recipient must submit to OJP's Office for Civil Rights (at CivilRightsMOA@usdoj.gov) written Methods of Administration ("MOA") for subrecipient monitoring with respect to civil rights requirements. In addition, upon request by OJP (or by another authorized federal agency), the recipient must make associated documentation available for review.

The details of the recipient's obligations related to Methods of Administration are posted on the OJP web site at https://ojp.gov/funding/Explore/StateMethodsAdmin-FY2017update.htm (Award condition: "Methods of Administration" - Requirements applicable to States (FY 2017 Update)), and are incorporated by reference here.

**43**

The recipient understands that, in accepting this award, the Authorized Representative declares and certifies, among other things, that he or she possesses the requisite legal authority to accept the award on behalf of the recipient entity and, in so doing, accepts (or adopts) all material requirements that relate to conduct throughout the period of performance under this award. The recipient further understands, and agrees, that it will not assign anyone to the role of Authorized Representative during the period of performance under the award without first ensuring that the individual has the requisite legal authority.

**44**

Compliance with National Environmental Policy Act and related statutes

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

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

a. New construction;

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

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

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

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

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

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

**45**

Establishment of trust fund

If award funds are being drawn down in advance, the recipient (or a subrecipient, with respect to a subaward) is required to establish a trust fund account. Recipients (and subrecipients) 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 recipient also agrees to obligate the award funds in the trust fund (including any interest earned) during the period of performance for the award and expend within 90 days thereafter. Any unobligated or unexpended funds, including interest earned, must be returned to OJP at the time of closeout.

**46**

All State and Local JAG recipients must submit quarterly Federal Financial Reports (SF-425). Additionally, State JAG and Local JAG Category Two ($25K or more) must submit semi-annual performance reports through JustGrants and Local JAG Category One (Less than $25K) must submit annual performance reports through JustGrants. Consistent with the Department's responsibilities under the Government Performance and Results Act (GPRA) and the GPRA

Modernization Act of 2010, the recipient must provide data that measure the results of its work. The recipient must submit quarterly performance metrics reports through BJA's Performance Measurement Tool (PMT) website (www.bjaperformancetools.org). For more detailed information on reporting and other JAG requirements, refer to the JAG reporting requirements webpage. Failure to submit required JAG reports by established deadlines may result in the freezing of grant funds and future High Risk designation.

**47**

Required data on law enforcement agency training

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

**48**

Expenditures prohibited without waiver

No funds under this award 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.

**49**

Authorization to obligate (federal) award funds to reimburse certain project costs incurred on or after October 1, 2020

The recipient may obligate (federal) award funds only after the recipient makes a valid acceptance of the award. As of the first day of the period of performance for the award (October 1, 2020), however, the recipient may choose to incur project costs using non-federal funds, but any such project costs are incurred at the recipient's risk until, at a minimum-- (1) the recipient makes a valid acceptance of the award, and (2) all applicable withholding conditions are removed by OJP (via an Award Condition Modification (ACM)). (A withholding condition is a condition in the award document that precludes the recipient from obligating, expending, or drawing down all or a portion of the award funds until the condition is removed.)

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

**50**

If award funds are used for DNA testing of evidentiary materials, any resulting eligible DNA profiles must be uploaded to the Combined DNA Index System ("CODIS," the DNA database

operated by the FBI) by a government DNA laboratory with access to CODIS. No profiles generated under this award may be entered or uploaded into any non-governmental DNA database without prior express written approval from BJA. Award funds may not be used for the purchase of DNA equipment and supplies unless the resulting DNA profiles may be accepted for entry into CODIS. Booking agencies should work with their state CODIS agency to ensure all requirements are met for participation in Rapid DNA (see National Rapid DNA Booking Operational Procedures Manual).

Load More

☑

*I have read and understand the information presented in this section of the Federal Award Instrument.*

## Award Acceptance

**Declaration and Certification to the U.S. Department of Justice as to Acceptance**

By checking the declaration and certification box below, I--

A. Declare to the U.S. Department of Justice (DOJ), under penalty of perjury, that I have authority to make this declaration and certification on behalf of the applicant.

B. Certify to DOJ, under penalty of perjury, on behalf of myself and the applicant, to the best of my knowledge and belief, that the following are true as of the date of this award acceptance: (1) I have conducted or there was conducted (including by applicant's legal counsel as appropriate and made available to me) a diligent review of all terms and conditions of, and all supporting materials submitted in connection with, this award, including any assurances and certifications (including anything submitted in connection therewith by a person on behalf of the applicant before, after, or at the time of the application submission and any materials that accompany this acceptance and certification); and (2) I have the legal authority to accept this award on behalf of the applicant.

C. Accept this award on behalf of the applicant.

D. Declare the following to DOJ, under penalty of perjury, on behalf of myself and the applicant: (1) I understand that, in taking (or not taking) any action pursuant to this declaration and certification, DOJ will rely upon this declaration and certification as a material representation; and (2) I understand that any materially false, fictitious, or fraudulent information or statement in this declaration and certification (or concealment or omission of a material fact as to either) 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 subject me and the applicant to civil

penalties and administrative remedies under the federal False Claims Act (including under 31 U.S.C. §§ 3729-3730 and/or §§ 3801-3812) or otherwise.

**Agency Approval**

| Title of Approving Official | Name of Approving Official | Signed Date And Time |
|---|---|---|
| Deputy Assistant Attorney General | Maureen Henneberg | 9/16/21 3:31 PM |

## Authorized Representative

☑ Declaration and Certification

**Entity Acceptance**

Title of Authorized Entity Official

Accounting Manager

Name of Authorized Entity Official

Kevin Schmitt

Signed Date And Time

12/6/2021 5:21 PM

# Briefing Paper
# Public Safety & Community Health Committee

| | |
|---|---|
| **Division & Department:** | Spokane Police Department |
| **Subject:** | Acceptance & subaward of Dept of Justice JAG21 grant |
| **Date:** | 01/10/2022 |
| **Contact (email & phone):** | Jennifer Hammond jhammond@spokanepolice.org 625-4056 |
| **City Council Sponsor:** | Councilmembers Kinnear & Cathcart |
| **Executive Sponsor:** | Justin Lundgren |
| **Committee(s) Impacted:** | Public Safety Community Health Committee |
| **Type of Agenda item:** | ☒ Consent ☐ Discussion ☐ Strategic Initiative |
| **Alignment**: (link agenda item to guiding document – i.e., Master Plan, Budget , Comp Plan, Policy, Charter, Strategic Plan) | |
| **Strategic Initiative:** | |
| **Deadline:** | |
| **Outcome:** (deliverables, delivery duties, milestones to meet) | Acceptance of Edward Byrne Memorial Justice Assistance Grant - JAG21 grant award and approval to subaward $79,371 to Spokane County. |

Background/History: In August, 2021, the City of Spokane Police Department filed a joint grant application along with Spokane County. The application was successfully approved and grant funds awarded.

Executive Summary:

- Total award amount - $176,381
- City share - $97,010 County share - $79,371
- Grant period 10/01/20 through 09/30/2024
- City award funds to be used for law enforcement equipment
- Subaward contract to County to be used for prosecution services and law enforcement equipment

Budget Impact:

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

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

If new, specify funding source: Dept. of Justice JAG21 grant

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:

| Agenda Sheet for City Council Meeting of: 03/14/2022 | | Date Rec'd | 3/1/2022 |
|---|---|---|---|
| | | Clerk's File # | OPR 2022-0171 |
| | | Renews # | |
| **Submitting Dept** | POLICE | **Cross Ref #** | |
| **Contact Name/Phone** | ERIC OLSEN 835-4505 | **Project #** | |
| **Contact E-Mail** | EOLSEN@SPOKANEPOLICE.ORG | **Bid #** | |
| **Agenda Item Type** | Contract Item | **Requisition #** | SBO |
| **Agenda Item Name** | 1620 - JAG21 GRANT SUBAWARD | | |

**Agenda Wording**

Approval of a subrecipient contract to Spokane County, as the City of Spokane is the fiscal agent over JAG21 Dept. of Justice award.

**Summary (Background)**

In August, 2021, the City of Spokane Police Department filed a joint grant application along with Spokane County. The application was successfully approved and grant funds awarded and the City of Spokane was assigned as the grant fiscal agent. Spokane County will receive a total of $79,371; further split between the Sheriffs Office and Prosecutors Office.

Lease? NO Grant related? YES Public Works? NO

| Fiscal Impact | | Budget Account |
|---|---|---|
| Expense | $ 79,371 | # 1620-91796-21250-54201-99999 |
| Select | $ | # |
| Select | $ | # |
| Select | $ | # |

| Approvals | | Council Notifications | |
|---|---|---|---|
| Dept Head | OLSEN, ERIC | Study Session\Other | PSCHC Meeting 01/10/22 |
| Division Director | OLSEN, ERIC | Council Sponsor | KINNEAR/CATHCART |
| Finance | SCHMITT, KEVIN | Distribution List | |
| Legal | | SPDFINANCE@SPOKANECITY.ORG | |
| For the Mayor | ORMSBY, MICHAEL | | |
| Additional Approvals | | | |
| Purchasing | | | |
| GRANTS, CONTRACTS & PURCHASING | MURRAY, MICHELLE | | |
| | | | |
| | | | |

# AGREEMENT BETWEEN SPOKANE COUNTY AND CITY OF SPOKANE POLICE DEPARTMENT IN CONJUNCTION WITH FY21 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE (JAG) GRANT

| | | |
|---|---|---|
| **1. Grantee**<br>SPOKANE COUNTY<br>1116 W. Broadway<br>Spokane, WA 99260 | **2.Contract Amount**<br>**$79,371** | **3. Tax ID#**<br>91-6001370<br>**4. DUNS#**<br>**010205078** |

| | |
|---|---|
| **5. Grantee Representative**<br>Erika McCowan<br>Office of Financial Assistance<br>1116 W. Broadway<br>Spokane, WA 99260<br>(509) 477-7273<br>emccowan@spokanecounty.org | **6. City's Representative**<br>Jennifer Hammond<br>Spokane Police Department<br>1100 W. Mallon<br>Spokane, WA 99260<br>(509) 625-4056<br>jhammond@spokanepolice.org |

| | | | |
|---|---|---|---|
| **7. Grantor ID #** | **8. Original Grant ID#**<br>**15PBJA-21-GG-01968-JAGX** | **9. Start Date**<br>10/1/2020 | **10. End Date**<br>9/30/2024 |

**11. Funding Source:**
☒ Federal ☐ State ☐ Other

| | | |
|---|---|---|
| **12. Federal Funds (as applicable)** | **CFDA #**<br>16.738 | **Federal Agency:**<br>U.S. Department of Justice |

| | |
|---|---|
| **13. Contractor Selection Process: (check all that apply or qualify)**<br>☐ Sole Source<br>☐ A/E Services<br>☐ Competitive Bidding<br>☒ Pre-approved by Funder | **14. Contractor Type: (check all that apply)**<br>☐ Private Organization/Individual<br>☒ Public Organization/ Individual<br>☐ Vendor<br>☒ Subrecipient<br>☒ Non – Profit ☐ For-Profit |

**15. Grant Purpose: To support local law enforcement efforts to prevent or reduce crime and violence.**

**16. CITY and the GRANTEE, as identified above, 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 .**

| **FOR THE CITY:** | **FOR GRANTEE:** |
|---|---|
| Signature Date | Signature Date |
| Name | Name |
| Title | Title |

**(FACE SHEET)**

## GENERAL TERMS AND CONDITIONS

**SECTION NO. 1: SERVICES**

GRANTEE 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**

CITY shall reimburse GRANTEE 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". Grantee'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 CITY's representative designated hereinafter. Requests for reimbursement by GRANTEE shall be made on or before the 20th of each month for the previous month's expenditures. In conjunction with each reimbursement request, GRANTEE shall certify that services to be performed under this AGREEMENT do not duplicate any services to be charged against any other grant, subgrant, or other funding source. Requests for reimbursement should not be submitted more than monthly. December's reimbursement request must be received no later than January 10th to be allowable under grant. Reimbursement voucher is provided and required for requests for payment. Final request for reimbursement for all expenses is October 30, 2024.

Requests for reimbursement shall be submitted electronically to:

**Spokane Police Department**
**Attn: Kevin Schmitt**
**Accounting Manager**
**1100 W. Mallon Ave**
**Spokane, WA 99260**
**kschmitt@spokanecity.org**

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

**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 CITY 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 GRANTEE.

No agent, employee, servant or otherwise of GRANTEE shall be deemed to be an employee, agent, servant, or otherwise of the CITY for any purpose, and the employees of GRANTEE are not entitled to any of the benefits that the CITY provides for CITY employees. GRANTEE 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 County, 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));

D. Office of Management and Budget Circulars – 2 CFR Parts 200;

E. 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

F. 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. GRANTEE shall procure audit services based on the following guidelines.
2. The GRANTEE shall maintain its records and accounts so as to facilitate the audit requirement and shall ensure that Subcontractors also maintain auditable records.
3. The GRANTEE is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subcontractors.
4. The CITY reserves the right to recover from the GRANTEE 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 GRANTEE must respond to the CITY 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. GRANTEE 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 GRANTEE 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 GRANTEE in accordance with 2 CFR Part 200.

3. The GRANTEE shall include the above audit requirements in any subcontracts.

4. In any case, the GRANTEE's financial records must be available for review by the CITY and the Department of Justice.

C. Documentation Requirements

1. GRANTEE must send a copy of the audit report described above no later than sixty (60) days after the completion of the audit to the CITY representative identified in Section No. 5 COMPENSATION.

2. In addition to sending a copy of the audit, when applicable, GRANTEE must include:

a. Corrective action plan for audit findings within three (3) months of the audit being received by the CITY.

b. Copy of the Management Letter.

**<u>SECTION NO. 8:</u> REPORTING REQUIREMENTS**

A. The GRANTEE will use the BJA Performance Metric (PMT) at 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 OJP/DOJ. The GRANTEE 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 GRANTEE 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 GRANTEE shall also comply with the Federal Funding Accountability and Transparency Act (FFATA) and related OMB Guidance consistent with Public Law 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 CITY 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 GRANTEE 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 GRANTEE will receive payment under the provisions of this AGREEMENT.

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

During the performance of this AGREEMENT, the GRANTEE shall comply with all federal, state, and local nondiscrimination laws, regulations and policies. In the event of the GRANTEE'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 GRANTEE 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 GRANTEE, the GRANTEE 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 CITY.

The GRANTEE 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 GRANTEE is required to ensure compliance with this requirement.

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

The GRANTEE 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)

GRANTEE 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 GRANTEE 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 GRANTEE 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 CITY indicating that it is not required to develop an EEOP.

If the GRANTEE is required to develop an EEOP but not required to submit the EEOP to the OCR, the GRANTEE will submit a certification to the OCR and the CITY certifying that it has an EEOP on file which meets the applicable requirements. If the GRANTEE 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 CITY. 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 GRANTEE currently has other active awards of federal funds, or if GRANTEE receives any other award of federal funds during the period of performance for this award, GRANTEE 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, GRANTEE 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 applicant is required to ensure compliance with this requirement by any program partner or participant receiving funding under this grant.

## SECTION NO. 18: INDEMNIFICATION

The CITY shall protect, defend, indemnify, and hold harmless the GRANTEE, 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 GRANTEE 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 GRANTEE. 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 GRANTEE agrees to 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 GRANTEE 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 and GRANTEE agree that its obligations under this section extend to any claim, demand and/or cause of action brought by, or on behalf of, any CITY or GRANTEE employees or agents while performing work authorized under this AGREEMENT. For this purpose, the CITY and GRANTEE, 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 GRANTEE or the CITY 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**

GRANTEE shall furnish and maintain all insurance as required herein and comply with all limits, terms and conditions stipulated therein, at its expense, for the duration of the AGREEMENT. The following is a list of the required AGREEMENT coverage requirements:

A. GENERAL LIABILITY INSURANCE: GRANTEE shall have Commercial General Liability with limits of $1,000,000.00 per occurrence, which includes general aggregate, products, completed operation, personal injury, fire damage and $5,000.00 medical expense.

B. ADDITIONAL INSURED ENDORSEMENT: General Liability Insurance must state that CITY, it's officers, agents and employees, and any other entity specifically required by the provisions of this AGREEMENT will be specifically named additional insured(s) for all coverage provided by this policy of insurance and shall be fully and completely protected by this policy from all claims. Language such as the following should be used: "The City of Spokane Police Department, its' officers, agents and employees are named as an additional insured with respect to the 2021 JAG Agreement between the CITY and Spokane County."

C. WORKERS COMPENSATION: If GRANTEE has employees, it shall show proof of Worker's Compensation coverage by providing its State Industrial Account Identification Number. Provision of this number will be the GRANTEE's assurance that coverage is in effect.

D. PROFESSIONAL LIABILITY INSURANCE: GRANTEE shall provide errors & omissions coverage in the form of Professional liability insurance coverage in the minimum amount of $1,000,000.00.

Any exclusion of the AGREEMENT's insurance coverage requirements must be pre-approved by the Spokane CITY Risk Management Department. Services under this AGREEMENT shall not commence until evidence of all required insurance and bonding is provided to the CITY. GRANTEE's insurer shall have a minimum A.M. Best's rating of A-VII and shall be licensed to do business in the State of Washington. Evidence of such insurance shall consist of a completed copy of the certificate of insurance, signed by the insurance agent for GRANTEE and returned to the Spokane City Risk Manager. The insurance policy or policies will not be canceled, materially changed or altered without forty-five (45) days prior notice submitted to the CITY. The policy shall be endorsed and the certificate shall reflect that the CITY is named as an additional insured on the GRANTEE's general liability policy with respect to activities under the AGREEMENT. The policy shall provide and the certificate shall reflect that the insurance afforded applies separately to each insured against whom claim is made or suit is brought except with respect to the limits of the company's liability.

The policy shall be endorsed and the certificate shall reflect that the insurance afforded therein shall be primary insurance and any insurance or self-insurance carried by the CITY shall be excess and not contributory insurance to that provided by the GRANTEE.

GRANTEE shall not commence providing services until a Certificate of Insurance, meeting the requirements set forth herein, has been approved by the Spokane CITY Risk Management Department. Said proof of insurance should be mailed to the Risk Management Department: "Attention Agreement Between Spokane County and City of Spokane Police Department in Conjunction With FY21 Edward Byrne Memorial Justice Assistance (JAG) Grant". Upon request, GRANTEE shall forward to the Risk Management Department the original policy, or endorsement obtained.

Failure of GRANTEE to fully comply with the insurance requirements set forth herein, during the term of the AGREEMENT, shall be considered a material breach of contract and cause for immediate termination of the AGREEMENT at the CITY's discretion.

Providing coverage in the above amounts shall not be construed to relieve the GRANTEE from liability in excess of such amounts.

The GRANTEE shall comply with all applicable provisions of Title 51 RCW Industrial Insurance. If the GRANTEE fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, the CITY may collect from the GRANTEE the full amount payable to the Industrial Insurance Accident Fund. The CITY may deduct the amount owed by the GRANTEE to the accident fund from the amount payable to the GRANTEE by the CITY under this AGREEMENT, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the GRANTEE.

## SECTION NO. 20: MAINTENANCE OF RECORDS

The GRANTEE 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.

GRANTEE 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 CITY, personnel duly authorized by the CITY, 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 3 years beyond resolution.

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

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

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

"Termination for Cause" shall be deemed a "Termination for Convenience" when CITY determines that the GRANTEE did not fail to comply with the terms of the AGREEMENT or when CITY determines the failure was not caused by the GRANTEE's actions or negligence. If the AGREEMENT is terminated for cause, the GRANTEE 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, CITY 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 CITY 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 CITY, the GRANTEE 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 CITY all of the rights, title, and interest of the GRANTEE under the orders and subcontracts so terminated, in which case CITY 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 GRANTEE to settle such claims must have the prior written approval of CITY; and

D. Preserve and transfer any materials, AGREEMENT deliverables and/or CITY property in the GRANTEES' possession as directed by CITY.

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

The rights and remedies of CITY 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 GRANTEE fails to perform this AGREEMENT in accordance with state laws, federal laws, and/or the provisions of this AGREEMENT, CITY reserves the right to recapture funds in an amount to compensate CITY for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the GRANTEE of funds under this recapture provision shall occur within the time period specified by CITY. In the alternative, CITY 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 CITY and GRANTEE 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 CITY and the GRANTEE 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: CITY REPRESENTATIVE**

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

**SECTION NO. 26: WAIVER**

No officer, employee, agent or otherwise of the CITY 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 CITY to enforce at any time any of the provisions of this AGREEMENT, or to require at any time performance by GRANTEE 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 CITY 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 CITY or GRANTEE 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 GRANTEE shall provide access to data generated under this AGREEMENT to the CITY, 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 GRANTEE's reports, including computer models and the methodology for those models.

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

The GRANTEE shall submit to the CITY, 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 GRANTEE's or government's expense, shall contain the following statements:

> "This project was supported by Grant No. **15PBJA-21-GG-01968-JAGX** 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. GRANTEE 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 GRANTEE to execute the same.

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

No officer or employee of the GRANTEE, 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 GRANTEE without prior written consent of CITY.

**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 GRANTEE is a "State," a local government, or a "public" institution of higher education:

1. The GRANTEE may not obligate AGREEMENT funds if, at the time of the obligation, the "program or activity" of the GRANTEE (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 GRANTEE may not obligate award funds to reimburse itself if, at the time it incurs such costs, the program or activity of the GRANTEE (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 GRANTEE shall be considered, for all purposes, to be a material representation by the GRANTEE to OJP that, as of the date the GRANTEE requests the drawdown, the GRANTEE 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 GRANTEE must promptly notify the CITY (in writing) if the GRANTEE, from its requisite monitoring of compliance with award conditions or otherwise, has credible evidence that indicates that the funded program or activity of the GRANTEE, 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 CITY, 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 CITY or DOJ to the contrary, based upon a finding by the CITY or DOJ of compelling circumstances (e.g., a small amount of AGREEMENT funds obligated by the GRANTEE at the time of a subcontractor's minor and transitory non-compliance, which was unknown to the GRANTEE 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 CITY or DOJ will give great weight to evidence submitted by the GRANTEE 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.

## <u>SECTION NO. 40:</u> CERTIFICATION REGARDING DEBARMENT, SUSPENSION OR INELIGIBILITY AND VOLUNTARY EXCLUSION – PRIMARY AND LOWER TIER COVERED TRANSACTION

A. The GRANTEE, 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 GRANTEE is unable to certify to any of the statements in this AGREEMENT, the GRANTEE shall attach an explanation to this AGREEMENT.

C. The GRANTEE 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 CITY.

D. The GRANTEE 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 CITY 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 GRANTEE by CITY that is designated as "confidential" by CITY;
2. All material produced by the GRANTEE that is designated as "confidential" by CITY; and
3. All personal information in the possession of the GRANTEE that may not be disclosed under state or federal law. "Personal information" includes but is not limited to information related to a person's name, health, finances, education, business, use of government services, addresses, telephone numbers, social security number, driver's license number and other identifying numbers, and "Protected Health Information" under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).

The GRANTEE shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The GRANTEE 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 GRANTEE 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 CITY or as may be required by law. The GRANTEE shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the GRANTEE shall provide CITY with its policies and procedures on confidentiality. CITY may require changes to such policies and procedures as they apply to this Grant whenever CITY reasonably determines that changes are necessary to prevent unauthorized disclosures. The GRANTEE shall make the changes within the time period specified by CITY. Upon request, the GRANTEE shall immediately return to CITY any Confidential Information that CITY reasonably determines has not been adequately protected by the GRANTEE against unauthorized disclosure.

B. Unauthorized Use or Disclosure. The GRANTEE shall notify CITY within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

## SECTION NO. 42: CONFLICT OF INTEREST

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the CITY may, in its sole discretion, by written notice to the GRANTEE terminate this AGREEMENT if it is found after due notice and examination by the CITY that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the GRANTEE 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 GRANTEE 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 CITY that a conflict of interest exists, the GRANTEE may be disqualified from further consideration for the award of a contract.

In the event this AGREEMENT is terminated as provided above, the CITY shall be entitled to pursue the same remedies against the GRANTEE as it could pursue in the event of a breach of the AGREEMENT by the GRANTEE. The rights and remedies of the CITY 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 CITY 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 CITY. CITY 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 GRANTEE hereby irrevocably assigns all right, title, and interest in all Materials, including all intellectual property rights, moral rights, and rights of publicity to CITY 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 GRANTEE hereby grants to CITY 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 GRANTEE warrants and represents that the GRANTEE has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to CITY.

The GRANTEE shall exert all reasonable effort to advise CITY, 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 GRANTEE shall provide CITY with prompt written notice of each notice or claim of infringement received by the GRANTEE with respect to any Materials delivered under this Grant. CITY shall have the right to modify or remove any restrictive markings placed upon the Materials by the GRANTEE.

The GRANTEE 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.htm.

## 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 GRANTEE 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 or 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 by the CITY for this AGREEMENT is withdrawn, reduced, or limited in any way after the effective date of this AGREEMENT, and prior to normal completion, CITY 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 GRANTEE 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 GRANTEE 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 GRANTEE'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 GRANTEE, 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.

**<u>SECTION NO. 51:</u> 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 GRANTEE 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 GRANTEE'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.

**<u>SECTION NO. 52:</u> 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 GRANTEE 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 GRANTEE'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 GRANTEE; 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.

**<u>SECTION NO. 53:</u> 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 GRANTEE 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 GRANTEE'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 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; and

D. Attachment “B”-Budget.

E. Attachment “C”-SUBSEQUENT EVENTS-COVID 19-MEMO M-20-15 & M-20-17.

## SECTION NO. 55: POLITICAL ACTIVITIES

Political activity of GRANTEE 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

A GRANTEE which is 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 GRANTEE'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 GRANTEE, 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. GRANTEE's selection or rejection;
    b. The basis for the cost or price; and
    c. Justification for lack of competitive bids if offers are not obtained.
    d. a system for Grant administrator to ensure GRANTEE conformance with terms, conditions and specifications of this AGREEMENT, and to ensure adequate and timely follow-up of all purchases.

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

## 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 CITY or OJP taking appropriate action with respect to the GRANTEE and the agreement. Among other things, the CITY may withhold funds, disallow costs, or suspend or terminate this AGREEMENT. The CITY 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 GRANTEE 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 GRANTEE 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 GRANTEE, consistent with regular document retention requirements, and must be made available to the CITY 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 GRANTEE 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 GRANTEE must disclose that fact and certain related information to the CITY and DOJ by email at EMCCOWAN@spokanecity.org and 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 GRANTEE's past performance, or other programmatic or financial concerns with the GRANTEE. The GRANTEE'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 GRANTEE, 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 GRANTEE's breach procedures must include a requirement to report actual or imminent breach of PII to the CITY'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 GRANTEE shall provide right of access to its facilities to the CITY, 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 CITY premises, the GRANTEE, 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 "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**

GRANTEE shall seek and whenever appropriate will receive approval from the CITY for all subcontracts under this AGREEMENT. All subcontractors employed or used by GRANTEE 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. GRANTEE shall notify the CITY'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 GRANTEE, 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 GRANTEE (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 GRANTEE 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 GRANTEE staff, all payments accrued on account of payroll taxes, unemployment contributions, the GRANTEE income or gross receipts, any other taxes, insurance or expenses for the GRANTEE or its staff shall be the sole responsibility of the GRANTEE.

## ATTACHMENT "A"

## SCOPE OF WORK

The AGREEMENT is to clearly identify the roles and responsibilities of the GRANTEE as they relate to the FY21 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, 2020 and terminates September 30, 2024. 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 GRANTEE 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 Spokane City Police Dept. to prevent and reduce crime and violence in the City of Spokane and Spokane County.
3. Subject to all administrative and financial requirements under Award Number 15PBJA-21-GG-01968-JAGX 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 29th of the month following the end of each quarter. In addition to the quarterly reports, semi-annual reports must be timely filed within the JustGrants System website. These reports are considered to be timely filed if submitted no later than the 29th 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 GRANTEE'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 JustGrants (in the case of a new FPOC). Successful completion of such a training on or after January 1, 2019, will satisfy this condition.

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 GRANTEE fails to comply with this condition. Failure to comply also may lead OJP to impose additional appropriate conditions on this award.

## ATTACHMENT "B"

## BUDGET

| Funding Category | Computation | Amount |
|---|---|---|
| **SPOKANE COUNTY PROSECUTOR'S OFFICE** | | |
| • Salaries & Benefits-Legal Secretary | | $39,685.50 |
| • 61.22% of Wages - $64,823 | | |
| **SPOKANE COUNTY SHERIFF'S OFFICE** | | |
| • Tactical Equipment | | |
| • Protech Intruder G2 LED Shields | | 16,350.00 |
| • FLIR T540 Thermal Camera | | 16,350.00 |
| • Honor Guard rifles-Ruger Mini | | 6,985.50 |
| **Total Budget** | | **$79,371** |

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 CITY'S representative listed on the face sheet to this AGREEMENT. Any amendments to the budget must be made in writing and approved by the CITY'S representative listed on the face sheet to this AGREEMENT.

**The GRANTEE shall obligate all grant funds prior to June 30, 2024.** 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 CITY.

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, GRANTEE 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 GRANTEE 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 CITY
## INVOICE VOUCHER

| Subrecipient Number | Award Number | Award Name |
|---|---|---|
| | | |

**AGENCY NAME**

Spokane City
Spokane Police Dept.
1100 W. Mallon
Spokane, WA 99260

**CLAIMANT (Warrant is to be payable to)**

Spokane County
Office of Financial Assistance
Grants & Contracts Specialist
1116 W Broadway
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.*

BY _____
(SIGN IN INK)

_____ _____
(TITLE) (DATE)

| FEDERAL I.D. NO. OR SOCIAL SECURITY NO. (For reporting Personal Services Contract Payments to I.R.S. | RECEIVED BY | DATE RECEIVED |
|---|---|---|
| | | |

| DATE | DESCRIPTION | AMOUNT BILLED |
|---|---|---|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

## ATTACHMENT "C"

### STATEMENT OF ASSURANCES

The GRANTEE:

1. GRANTEE 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 GRANTEE 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. GRANTEE 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. GRANTEE 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 GRANTEE 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. GRANTEE 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. GRANTEE 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 GRANTEE or subrecipient would or might fall within the scope of an appropriations-law restriction, GRANTEE 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 JustGrants, 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 JustGrants System to document changes.

14. Agrees to comply with DOJ's Global Justice Information Sharing Initiative guidelines. The GRANTEE 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. The GRANTEE 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). 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 GRANTEE 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).

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 GRANTEE agrees to provide to OJP all documentation necessary to complete monitoring tasks, including documentation related to the GRANTEE's AGREEMENT. Further the GRANTEE 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 GRANTEE's DOJ awards, including, but not limited to: withholdings and/or other restrictions on the GRANTEE'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 GRANTEE 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 GRANTEE 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 Grantee 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 GRANTEE or individuals defined as employees of the GRANTEE. Details of GRANTEE'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

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.prf.

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 a 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. GRANTEE 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 GRANTEE (or subgrantee, with respect to a subaward) is required to establish a trust fund account. The GRANTEE (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 GRANTEE 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:**

| | |
|---|---|
| | _____ |
| | VALID THROUGH |
| _____ | _____ |
| SIGNATURE | DATE |
| _____ | _____ |
| PRINTED NAME OF SIGNATURE | TITLE |

## ATTACHMENT "D"

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

| NAME | | Doing business as (DBA) | |
|---|---|---|---|
| ADDRESS | Applicable Procurement or Solicitation #, if any: | WA Uniform Business Identifier (UBI) | Federal Employer Tax Identification #: |
| **This certification is submitted as part of a request to contract.** | | | |

### 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

| | |
|---|---|
| **Subrecipient Agency**: | **Date Completed**: |
| **Grant and Year**: | **Agreement Number**: |

**Completed by**: _____ _____ _____

*Name* *Title* *Telephone*

| | | | | |
|---|---|---|---|---|
| **STEP 1** | | | | |
| Is your grant agreement less than $25,000? | YES ☐ | STOP, no further analysis needed, GO to Step 6 | NO ☐ | GO to Step 2 |
| **STEP 2** | | | | |
| In your preceding fiscal year, did your organization receive 80% or more of its annual gross revenues from federal funding? | YES ☐ | GO to STEP 3 | NO ☐ | STOP, no further analysis needed, GO to Step 6 |
| **STEP 3** | | | | |
| In your preceding fiscal year, did your organization receive $25,000,000 or more in federal funding? | YES ☐ | GO to STEP 4 | NO ☐ | STOP, no further analysis needed, GO to Step 6 |
| **STEP 4** | | | | |
| Does the public have access to information about the total compensation* of senior executives in your organization? | YES ☐ | STOP, no further analysis needed, GO to step 6 | NO ☐ | GO to STEP 5 |

| | |
|---|---|
| **STEP 5** | |
| 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: $ |

**STEP 6**

If your organization does not meet these criteria, specifically identify below **each** criteria that is not met for your organization: For Example: "Our organization received less than $25,000."

**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, 2020 through September 30, 2024**

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

The foregoing is not intended, and shall not be understood by the agency making this 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 GRANTEE:

   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 GRANTEE 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 GRANTEE'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

   B. 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 GRANTEE 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 GRANTEE 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 GRANTEE's Existing Program or Activities: For any GRANTEE or its subcontractors existing programs or activities that will be funded by this AGREEMENT, the GRANTEE, upon specific request from the CITY 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 GRANTEE 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 GRANTEE agrees to contact the CITY'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) _____

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)
- Losses arising from uncollected accounts
- Contributions to a contingency reserve
- Contributions or donations
- Entertainment
- Fines and penalties
- Interest and other financial costs
- 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)

The undersigned agrees to the above requirements.

Certificate Valid Through (max of 2 years) _____

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.*

□ Less than fifty employees. □ Indian Tribe □ Medical Institution.
□ Nonprofit Organization □ Educational Institution □ 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

GRANTEE 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.

GRANTEE 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 GRANTEE) the unique entity identifier required for SAM registration.

The details of GRANTEE'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.

# Spokane CITY Office of Financial Assistance

## Compliance Checklist

| *A. FEDERALLY-MANDATED ACTIVITIES: EQUAL OPPORTUNITY PROGRAM* | | | | | |
|---|---|---|---|---|---|
| 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 | ☐ | ☐ | ☐ | |
| b. | Recipient agency is an educational institution | ☐ | ☐ | ☐ | |
| c. | Recipient agency is an Indian Tribe | ☐ | ☐ | ☐ | |
| d. | Recipient agency is a medical institution | ☐ | ☐ | ☐ | |
| e. | Recipient agency is a non-profit organization | ☐ | ☐ | ☐ | |
| f. | Recipient agency's award is less than $25,000 | ☐ | ☐ | ☐ | |
| | **Totally Exempt?** Is any complete exemption factor above (1a. thru 1f.) a "Yes"? In comments enter "EEOP Total Exemption" or " EEOP Required" | ☐ | ☐ | ☐ | |
| 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 | ☐ | ☐ | ☐ | |
| | **Not Totally Exempt:** | | | | |
| 3. | If the award is for $500,000 or more, EEOP submission made to the USDOJ Office of Civil Rights | ☐ | ☐ | ☐ | |
| 4. | Was the EEOP submitted to DOJ | ☐ | ☐ | ☐ | |
| 5. | Approval and Expiration dates | | | | Effective Date: Expiration Date: |
| 6. | EEOP is available for review | ☐ | ☐ | ☐ | |
| 7. | If the award is for less than $500,000 EEOP Certification Form has been submitted to DOJ? | ☐ | ☐ | ☐ | |
| 8. | EEOP has been formulated and signed into effect within the past two (2) years | ☐ | ☐ | ☐ | |
| | **Generic Civil Rights Compliance (Non-EEOP):** | | | | |
| 9. | How does the agency notify **program participants** and **beneficiaries** 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.)? | | | | ☐ Job Announcements ☐ Web Site<br>☐ Posters<br>☐ Other (specify): |
| 10. | How does the agency notify **employees** 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.) | | | | ☐ Job Announcement ☐ Orientation Training<br>☐ Web Site ☐ Refresher Training<br>☐ Posters ☐ Employee Handbook<br>☐ Other (specify): |

# Spokane CITY Office of Financial Assistance

## Compliance Checklist

| | | Yes | No | N/A | Comments |
|---|---|---|---|---|---|
| 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 | ☐ | ☐ | | |
| 12. | **Grievance Procedures – Notification – Training - Point of Contact** | | | | |
| 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 | ☐ | ☐ | | ☐ Policy & Procedures ☐ Web Site or Intranet<br>☐ Employee Handbook<br>☐ Collective Bargaining Agreement<br>☐ Other (specify): |
| b. | Designated a person to coordinate compliance with the prohibitions against disability discrimination contained in 28 CFR Part 42, Subpart G (Who). | ☐ | ☐ | | Designee's Title: |
| c. | Notified participants, beneficiaries, employees, applicants, and others that the agency does not discriminate on the basis of disability (How). | ☐ | ☐ | | ☐ Job Announcement ☐ Orientation Training<br>☐ Web Site ☐ Refresher Training<br>☐ Posters ☐ Employee Handbook<br>☐ Other (specify): |
| d. | Does the agency conduct any training for its employees on the requirements under federal civil rights laws - Explain | ☐ | ☐ | | ☐ Orientation Training ☐ Supervisor's Training<br>☐ Refresher Training (type):<br>☐ Other (specify): |
| | **Limited English Proficiency** | | | | Jurisdiction in general / Law Enforcement |
| 13. | Steps has the agency taken to provide meaningful access to its programs and activities to persons who have limited English proficiency (LEP) | ☐ | ☐ | | ☐ Assessed LEP population & critical services ☐<br>☐ Hiring LEP language proficient speakers ☐<br>☐ Training personnel in LEP languages ☐<br>☐ Coordinating for LEP speakers in advance ☐<br>☐ LEP speakers called upon contact ☐<br>☐ Language Line used ☐<br>☐ Corresponding common phrase (crib) sheets ☐ |
| 14. | Limited English Proficiency (LEP) – Written policy on providing language access to services (*Not a requirement, a question*) | ☐ | ☐ | | ☐ Jurisdiction in general ☐ Law Enforcement |
| | | Yes | No | N/A | Comments |

# Spokane CITY Office of Financial Assistance

## Compliance Checklist

| | | | | | |
|---|---|---|---|---|---|
| 15. | **Education Program or Activity** operated by the agency, has the agency taken the following actions: | | | | |
| 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? | ☐ | ☐ | ☐ | |
| b. | Designated a person to coordinate compliance with the prohibitions against sex discrimination contained in 28 CFR Part 54? (Who) | ☐ | ☐ | ☐ | Designee's Title: |
| 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? | ☐ | ☐ | ☐ | |
| 16. | **Religious Activities,** if conducted as part of its program or services: | | | | |
| a. | Provide services to everyone regardless of religion or religious belief | ☐ | ☐ | ☐ | |
| 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 | ☐ | ☐ | ☐ | |
| c. | Ensure that participation in religious activities is voluntary for beneficiaries of federally funded programs | ☐ | ☐ | ☐ | |
| **17.** | **Finding/Rulings** | | | | |
| **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 | ☐ | ☐ | ☐ | |
| **b.** | Was DOJ (or Task Force Lead agency) and USDOJ Office of Civil Rights promptly notified of any finding? | ☐ | ☐ | ☐ | |
| **c.** | Corrective action, as negotiated or directed, been implemented? | ☐ | ☐ | ☐ | |
| 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 | ☐ | ☐ | ☐ | |
| ***B. DRUG-FREE WORKPLACE*** | | Yes | No | N/A | Comments |
| **19.** | Does the agency have a Drug-Free Workplace policy in place? | ☐ | ☐ | ☐ | |
| **20.** | Who administers the Drug-Free Workplace Program? | | | | Office or Position Title: |
| | | Yes | No | N/A | Comments |

## Spokane CITY Office of Financial Assistance

## Compliance Checklist

| | | | | | |
|---|---|---|---|---|---|
| **21.** | Do the provisions include:<br>• Counseling • Rehabilitation • Employee Assistance | ☐ | ☐ | ☐ | |
| **22.** | Do violations result in:<br>• Termination • Penalties • Rehabilitation | ☐ | ☐ | ☐ | |
| **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? | ☐ | ☐ | ☐ | |
| **24.** | Was DOJ (or Task Force lead agency) notified promptly (within 5 days, BJA within 10 days of the conviction)? | ☐ | ☐ | ☐ | |
| **25.** | Was appropriate personnel action taken within 30 days? | ☐ | ☐ | ☐ | |
| ***C. CONFLICT OF INTEREST*** | | | | | |
| **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?<br>(Limit response to project's personnel, supervisors and policy chain) | ☐ | ☐ | ☐ | |
| **27.** | Was DOJ (or Task Force lead agency) notified promptly (within 30 days; if actively investigated, after conclusion of the investigation)? | | | ☐ | |
| **28.** | Describe the allegation or finding | | | ☐ | |

Certification: The undersigned certifies that the above is a true representation of the Civil Rights and other issues covered by this checklist for _____ (responding City, CITY, or Tribal jurisdiction):

| | | | |
|---|---|---|---|
| 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.

# Briefing Paper
# Public Safety & Community Health Committee

| | |
|---|---|
| **Division & Department:** | Spokane Police Department |
| **Subject:** | Acceptance & subaward of Dept of Justice JAG21 grant |
| **Date:** | 01/10/2022 |
| **Contact (email & phone):** | Jennifer Hammond jhammond@spokanepolice.org 625-4056 |
| **City Council Sponsor:** | Councilmembers Kinnear & Cathcart |
| **Executive Sponsor:** | Justin Lundgren |
| **Committee(s) Impacted:** | Public Safety Community Health Committee |
| **Type of Agenda item:** | ☒ Consent ☐ Discussion ☐ Strategic Initiative |
| **Alignment**: (link agenda item to guiding document – i.e., Master Plan, Budget , Comp Plan, Policy, Charter, Strategic Plan) | |
| **Strategic Initiative:** | |
| **Deadline:** | |
| **Outcome:** (deliverables, delivery duties, milestones to meet) | Acceptance of Edward Byrne Memorial Justice Assistance Grant - JAG21 grant award and approval to subaward $79,371 to Spokane County. |

Background/History: In August, 2021, the City of Spokane Police Department filed a joint grant application along with Spokane County. The application was successfully approved and grant funds awarded.

Executive Summary:

- Total award amount - $176,381
- City share - $97,010 County share - $79,371
- Grant period 10/01/20 through 09/30/2024
- City award funds to be used for law enforcement equipment
- Subaward contract to County to be used for prosecution services and law enforcement equipment

Budget Impact:

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

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

If new, specify funding source: Dept. of Justice JAG21 grant

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:

| Agenda Sheet for City Council Meeting of: 03/14/2022 | | Date Rec'd | 3/2/2022 |
|---|---|---|---|
| | | Clerk's File # | OPR 2022-0172 |
| | | Renews # | |
| **Submitting Dept** | COMMUNICATIONS & MARKETING | **Cross Ref #** | ORD35970 |
| **Contact Name/Phone** | JOHN DELAY 6355 | **Project #** | |
| **Contact E-Mail** | JDELAY@SPOKANECITY.ORG | **Bid #** | |
| **Agenda Item Type** | Contract Item | **Requisition #** | |
| **Agenda Item Name** | 1940 CME CABLE CHANNEL AGREEMENT WITH KSPS | | |

**Agenda Wording**

The City of Spokane contracts with KSPS to distribute PEG programming to Comcast for delivery of community and educational access programming.

**Summary (Background)**

The City of Spokane designates KSPS as the administrator of C.A.B.L.E. PEG funds under Section 19 of the City's Cable Franchise. KSPS prioritizes the Capital Equipment needs of the C.A.B.L.E then relays those requests on to the City for funding. KSPS distributes Educational and Community Access Programming from is broadcast facility.

Lease? NO Grant related? YES Public Works? NO

| **Fiscal Impact** | | **Budget Account** |
|---|---|---|
| Expense | $ 68,000.00 | # 1940-37330-18900-54201 |
| Select | $ | # |
| Select | $ | # |
| Select | $ | # |

| **Approvals** | | **Council Notifications** | |
|---|---|---|---|
| **Dept Head** | DELAY, JOHN | **Study Session\Other** | 2/28/22 Finance Committee |
| **Division Director** | CODDINGTON, BRIAN | **Council Sponsor** | CM Wilkerson |
| **Finance** | MURRAY, MICHELLE | **Distribution List** | |
| **Legal** | ODLE, MARI | ywang@spokanecity.org | |
| **For the Mayor** | ORMSBY, MICHAEL | jdelay@spokanecity.org | |
| **Additional Approvals** | | laga@spookanecity.org | |
| **Purchasing** | | gstokes@ksps.org | |
| **GRANTS, CONTRACTS & PURCHASING** | MURRAY, MICHELLE | | |
| | | | |
| | | | |

# Committee Agenda Sheet
# Finance Committee

| | |
|---|---|
| **Submitting Department** | Communications/PEG Funds |
| **Contact Name & Phone** | John Delay 6355 |
| **Contact Email** | jdelay@spokanecity.org |
| **Council Sponsor(s)** | Wilkerson |
| **Select Agenda Item Type** | ☒ Consent ☐ Discussion Time Requested: |
| **Agenda Item Name** | CME Cable Channel Agreement with KSPS |
| **Summary (Background)** | The City of Spokane designates KSPS as the administrator of C.A.B.L.E. PEG funds under Section 19 of the City's Cable Franchise. KSPS prioritizes the Capital Equipment needs of the C.A.B.L.E then relays those requests on to the City for funding. KSPS distributes Educational and Community Access Programming from is broadcast facility. |
| **Proposed Council Action & Date:** | Approval of this contract to fulfill Comcast Cable Franchise Requirements under section 19 "Community Programming". |

**Fiscal Impact:**
Total Cost:
Approved in current year budget? ☒ Yes ☐ No ☐ N/A

Funding Source ☒ One-time ☐ Recurring
Specify funding source:

Expense Occurrence ☒ One-time ☐ Recurring

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

**Operations Impacts**

What impacts would the proposal have on historically excluded communities?

As part of the Franchise, the City Contracts with KSPS to distribute PEG programming to Comcast for delivery of the community and educational access programming.

| |
|---|
| How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?<br><br>The recently adopted cable franchise requires Comcast Cable to provide educational access programming to be carried on the basic cable tier which is the most affordable tier of cable television. |
| How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?<br>N/A |
| Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?<br><br>This reimbursement contract fulfills Section 19 of the Comcast Cable Franchise adopted in the fall of 2021 in regard to Educational programming. |

City Clerk's No.2022-0172
Cross Reference No. ORD C35970

# City of Spokane

## PEG C.A.B.L.E. CHANNEL DISTRIBUTION

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 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. 2022 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-EIGHT THOUSAND AND NO/100 DOLLARS ($68,000.00)** for capital expenditures for the calendar year 2022. 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. 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, 2022, and expires December 31, 2022; 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: City Administrator, 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 www.dor.wa.gov or 360-705-6741 to obtain a business registration. If the Contractor does not believe it is required to obtain a business registration, it may contact the City's Taxes and Licenses Division at (509) 625-6070 to request an exemption status determination.

**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** | **CITY OF SPOKANE** |
|---|---|
| By_____ | By_____ |
| Signature Date | 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 Ordinance C35970

22-003

**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.

| | |
|---|---|
| _____<br>Name of Subrecipient / Contractor / Consultant (Type or Print) | _____<br>Program Title (Type or Print) |
| _____<br>Name of Certifying Official (Type or Print)<br>_____<br>Title of Certifying Official (Type or Print) | _____<br>Signature<br>_____<br>Date (Type or Print) |

| Agenda Sheet for City Council Meeting of: 11/09/2020 | | Date Rec'd | 10/29/2020 |
|---|---|---|---|
| | | Clerk's File # | ORD C35970 |
| | | Renews # | |
| **Submitting Dept** | COMMUNICATIONS | Cross Ref # | |
| **Contact Name/Phone** | MARLENE FEIST X6505 | Project # | |
| **Contact E-Mail** | MFEIST@SPOKANECITY.ORG | Bid # | |
| **Agenda Item Type** | First Reading Ordinance | Requisition # | |
| **Agenda Item Name** | 0330-CABLE TELEVISION FRANCHISE WITH COMCAST | | |

**Agenda Wording**

Granting a non-exclusive Franchise Agreement to Comcast Cable Communications Mgmt., LLC, to use public rights-of-way and other public places in the City of Spokane for the purpose of providing cable TV services with a variety of terms & conditions.

**Summary (Background)**

Comcast has provided cable television services in the City for some time. The last franchise with the company was entered into in 2005 and continued through November 2017; it had been administratively extended while negotiations continued. Comcast and the City have completed negotiations and present this 10-year non-exclusive cable franchise for approval. The goal is to ensure that our City has modern systems capable of serving future needs of our citizens & businesses.

| **Fiscal Impact** | Grant related? NO | **Budget Account** |
|---|---|---|
| | Public Works? NO | |
| Select | $ | # |
| Select | $ | # |
| Select | $ | # |
| Select | $ | # |

| **Approvals** | | **Council Notifications** | |
|---|---|---|---|
| **Dept Head** | DELAY, JOHN | **Study Session\Other** | PIES 7/27/2020 & |
| **Division Director** | CODDINGTON, BRIAN | **Council Sponsor** | Breean Beggs |
| **Finance** | HUGHES, MICHELLE | **Distribution List** | |
| **Legal** | PICCOLO, MIKE | mfeist@spokanecity.org | |
| **For the Mayor** | ORMSBY, MICHAEL | jdelay@spokanecity.org | |
| **Additional Approvals** | | tszamblen@spokanecity.org | |
| **Purchasing** | | terry_davis@comcast.com | |
| | | steven_holmes@cable.comcast.com | |
| | | brian.grogan@lawmoss.com | |
| | | | |

FIRST READING OF THE ABOVE ORDINANCE HELD ON
11/9/2020
AND FURTHER ACTION WAS DEFERRED
CITY CLERK

PASSED BY SPOKANE CITY COUNCIL:
12/14/2020
CITY CLERK

# Briefing Paper
# Public Infrastructure, Environment & Sustainability (PIES)

| | |
|---|---|
| **Division & Department:** | Communications Department |
| **Subject:** | Updated Cable Franchise with Comcast |
| **Date:** | 10/26/2020 |
| **Contact (email & phone):** | Marlene Feist; mfeist@spokanecity.org; (509) 625-6505 |
| **City Council Sponsor:** | Breean Beggs |
| **Executive Sponsor:** | Marlene Feist, PW Director of Strategic Development |
| **Committee(s) Impacted:** | PIES, Urban Experience, Finance |
| **Type of Agenda item:** | ■ Consent ☐ Discussion ☐ Strategic Initiative |
| **Alignment**: (link agenda item to guiding document – i.e., Master Plan, Budget , Comp Plan, Policy, Charter, Strategic Plan) | This franchise meets goals around technology availability and economic development. |
| **Strategic Initiative:** | Sustainable Resources |
| **Deadline:** | November anticipated approval of franchise |
| **Outcome:** (deliverables, delivery duties, milestones to meet) | Approval of an updated cable franchise with provider Comcast. |

Background/History:

Comcast has operated in the City of Spokane for some time. The last franchise with the company was entered into in 2005 and continued through November 2017. The franchise has been extended while negotiations for a new franchise proceeded. Comcast had been our only cable provider for some time, but this is a non-exclusive franchise for such services. TDS Metrocom received a cable franchise earlier this year, which will provide citizens with additional choice.

Executive Summary:

The City's Legal and Communications departments have been meeting with representatives of Comcast to negotiate an updated cable franchise. Comcast's previous franchise with the City was approved in November 2005 and expired in November 2017; terms of the franchise were extended while negotiations for a new franchise have continued. The terms are consistent with those in the franchise of the City's new cable entrant, TDS Metrocom.

With this, and other cable television franchises, the City is working to ensure that our City has modern systems capable of serving the future needs and interests of our citizens and businesses. The City wants to ensure the availability of community programming, maintain our public right of way, and provide broad access to services.

Here are the highlights:

- Franchise Term Length: 10 years
- Franchise Fee: 5 percent
- Utility Tax: 6 percent
- PEG Channels: 6 channels (2 High-Definition and 4 Standard Definition Channels); CityCable 5 maintains the same location: Channel 5 in standard definition and Channel 325 in HD.
- PEG Financial Support: 0.7% of gross revenues for PEG Capital costs. These fees support capital expenses associated with the City's government-access channels as well as Community Minded TV and Education Access channels.
- Technology: As a legacy system that already serves the entire City, Comcast will maintain a hybrid fiber coaxial, fiber-to-the-node system architecture, capable of delivering high-quality

digital signals that meet or exceed FCC requirements.

- Service area: Comcast's service area already includes the entire City, and annexed areas shall be provided service within 12 months of notification of the annexation.
- Other: Comcast will comply with the City's pavement cut policy and similar policies and will comply with the customer service and related standards found in SMC 10.27.

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:

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:

EXHIBIT B

# CABLE COMMUNICATIONS FRANCHISE

# BY AND BETWEEN

# CITY OF SPOKANE, WASHINGTON

# AND

# COMCAST CABLE

# COMMUNICATIONS MANAGEMENT, LLC

**October 8, 2020**

## TABLE OF CONTENTS

SECTION 1. PURPOSE AND INTENT. ..... 1
SECTION 2. TITLE. ..... 2
SECTION 3. DEFINITIONS. ..... 2
SECTION 4. GRANT OF AUTHORITY. ..... 7
SECTION 5. AUTHORITY NOT EXCLUSIVE. ..... 7
SECTION 7. CONDITIONS OF SALE. ..... 9
SECTION 8. PREVIOUS RIGHTS ABANDONED. ..... 9
SECTION 9. AGREEMENT, ACCEPTANCE, AND INCORPORATION OF SMC 10.27A. ..... 9
SECTION 10. [RESERVED]. ..... 10
SECTION 11. TIME IS OF THE ESSENCE TO THIS AGREEMENT. ..... 10
SECTION 12. TAXES. ..... 10
SECTION 13. FRANCHISE AGREEMENT. ..... 10
SECTION 14. RENEWAL. ..... 11
SECTION 15. CABLE SYSTEM SPECIFICATIONS AND OVERSIGHT. ..... 11
SECTION 16. CABLE SERVICE. ..... 12
SECTION 17. PROGRAMMING. ..... 13
SECTION 18. RATES. ..... 14
SECTION 19. ACCESS AND LOCAL PROGRAMMING. ..... 15
SECTION 20. PARENTAL CONTROL. ..... 19
SECTION 21. TRANSFER OF RIGHTS. ..... 19
SECTION 22. LETTER OF CREDIT; PERFORMANCE SECURITY FOR OBLIGATIONS. ..... 20
SECTION 23. PROCEDURE FOR DRAWING ON PERFORMANCE SECURITY. ..... 20
SECTION 24. ENFORCEMENT. ..... 21
SECTION 25. LIQUIDATED DAMAGES. ..... 22
SECTION 26. HEARINGS. ..... 24
SECTION 27. REVOCATION. ..... 25
SECTION 28. INSURANCE, BONDS, INDEMNITY. ..... 27
SECTION 29. REPORTS. ..... 28
SECTION 30. PAYMENT OF FEES AND COSTS. ..... 30
SECTION 31. SERVICE OF NOTICE. ..... 31
SECTION 32. SUCCESSORS AND ASSIGNS. ..... 31

**SECTION 33. CUSTOMER SERVICE STANDARDS. ..... 31**
**SECTION 34. REMEDIES CUMULATIVE. ..... 32**
**SECTION 35. MISCELLANEOUS PROVISIONS. ..... 32**
**SECTION 36. APPLICABLE LAW. ..... 33**
**EXHIBIT A FREE SERVICE TO PUBLIC BUILDINGS ..... A-1**

CABLE COMMUNICATIONS FRANCHISE ORDINANCE NO. C35970

An Ordinance renewing a non-exclusive Franchise Agreement to Comcast Cable Communications Management, LLC, including any prior transfers to this entity, a corporation organized under the laws of the State of Washington, to occupy and use the public rights-of-way and, upon approval, other public places in the City of Spokane, for the purpose of providing Cable Service to the public, for a term of ten (10) years, subject to regulation by federal, state and local authority and specifying other limitations, terms and conditions governing the exercise of said Franchise Agreement.

THE CITY OF SPOKANE DOES ORDAIN:

## SECTION 1.
## PURPOSE AND INTENT.

This Franchise Agreement is by and between the City of Spokane, a Washington municipal corporation ("City"), and Comcast Cable Communications Management, LLC ("Franchisee").

WHEREAS, the City, pursuant to Chapter 10.27A of the Municipal Code of the City of Spokane, Washington (hereinafter "SMC 10.27A"), is authorized to grant one or more non-exclusive revocable Franchise Agreements to construct, maintain and operate a Cable System within the City; and,

WHEREAS, pursuant to SMC 10.27A and in accordance with Section 626 of the Cable Communications Policy Act of 1984, Franchisee has requested renewal of its Cable Communications Franchise Agreement, and after negotiations with Franchisee, the City has determined that it is in the best interest of the City and its residents to renew the Franchise Agreement with Franchisee; and,

WHEREAS, the City has, following required and reasonable notice, conducted a full public hearing, affording all persons concerned with the analysis and consideration of the technical ability, financial condition, legal qualifications and general character of the Franchisee; and,

WHEREAS, the City, after such consideration, analysis and deliberation, has approved and found sufficient the technical ability, financial condition, legal qualification and character of said Franchisee; and,

WHEREAS, the City has determined that it is in the best interests of and consistent with the health, safety and welfare of the citizens of the City to renew the Franchise Agreement to the Franchisee to operate a Cable System within the confines of the City and on the terms and conditions hereinafter set forth; and,

WHEREAS, the Franchisee has agreed to be bound by the conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the renewal of the franchise pursuant to this Franchise Agreement, the Franchisee hereby promises to comply with the provisions of this Franchise Agreement and SMC 10.27A. In consideration of the Franchisee's promises, the City hereby grants a franchise as hereinafter set forth:

SECTION 2.
TITLE.

THIS AGREEMENT may be referred to as the "City of Spokane, Washington/Comcast Cable Communications Management, LLC Cable Communications Franchise Agreement."

SECTION 3.
DEFINITIONS.

For the purpose of this Franchise Agreement the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is mandatory and the word "may" is permissive. Words not defined shall be given their common and ordinary meanings.

(A) "Access Channel" shall mean any Channel set aside for Non-commercial public use, educational use, or governmental use without a Channel usage charge.

(B) "Access User" shall mean any Person entitled to make use of an Access Channel consistent with the intended purpose of the Channel. [Cross reference SMC 10.27A.510]

(C) "Basic Cable Service" shall mean any Service Tier which includes the retransmission of local television broadcast signals.

(D) "Cable Act" shall mean the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 et seq., as amended by the Cable Television Consumer Protection and Competition Act of 1992, as further amended by the Telecommunications Act of 1996, as further amended from time to time.

(E) "Cable Service" or "Service" shall mean (A) the one-way transmission to Subscribers of (i) Video Programming or (ii) Other Programming Service, and (B) Subscriber interaction, if any, which is required for the selection or use of such Video Programming or Other Programming Service.

(F) "Cable System" or "System" shall mean a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes Video Programming and which is provided to multiple Subscribers within a community, but such term shall not include:

(1) a facility that serves only to retransmit the television signals of one (1) or more television broadcast stations;

(2) a facility that serves only Subscribers without using any Public Right of Way;

(3) a facility of a common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. § 201 et seq., except that such facility shall be considered

a Cable System (other than for purposes of 47 U.S.C. § 541(c)) to the extent such facility is used in the transmission of Video Programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services;

(4) an open video system that complies with 47 U.S.C. § 573; or

(5) any facilities of any electric utility used solely for operating its electric utility system.

(G) "Channel" shall mean bandwidth in the electromagnetic spectrum capable of carrying a television channel (as television channel is defined by FCC regulation).

(H) "City" shall mean the City of Spokane, Washington. For purposes of enforcement of any provision, "City" further means the City Administrator or their designee except where otherwise specified.

(I) "Complaint" shall mean a Subscriber written contact (via U.S. mail, email or other electronic means) with the City to express a grievance or dissatisfaction concerning Cable Service. Complaints do not include matters not within the scope of this Franchise Agreement or Ch. 10.27A SMC.

(J) "Converter" shall mean an electronic tuning device which converts transmitted signals to a frequency which permits their reception on a television receiver.

(K) "Council" shall mean the legislative body of the City of Spokane, Washington.

(L) "FCC" shall mean the Federal Communications Commission or any legally appointed or designated agent or successor.

(M) "Franchise Agreement" or "Franchise" shall mean the nonexclusive right and authority to construct, maintain, and operate a Cable System through use of Public Rights of Way in the City pursuant to a contractual agreement approved by the City Council and executed by the City and Franchisee.

(N) "Franchise Area" shall mean the entire geographic area within the City as it is now constituted or may in the future be constituted. [Cross reference SMC 10.27A.720]

(O) "Franchisee" shall mean Comcast Cable Communications Management, LLC, including any lawful successor, transferee or assignee of the original Franchisee.

(P) "Franchise Fee" means consideration paid by Franchisee for the privilege to operate a Cable System in the Franchise Area as set forth in Section 4, in accordance with Section 622 of the Cable Act and federal law.

(Q) "GAAP" means Generally Accepted Accounting Principles.

(R) "Gross Revenues" means all amounts derived by the Franchisee and/or an affiliate from the operation of Franchisee's Cable System to provide Cable Services within the Franchise Area. Gross Revenues include, by way of illustration and not limitation:

(1) Fees for Cable Services, regardless of whether such Cable Services are provided to residential or commercial Subscribers, including revenues derived from the provision of all Cable Services (including but not limited to pay or premium Cable Services, digital Cable Services, pay-per-view, pay-per-event, audio channels and video-on-demand Cable Services);

(2) Installation, disconnection, reconnection, downgrade, upgrade, maintenance, repair, or similar charges associated with Subscriber Cable Service;

(3) Fees paid to Franchisee for Channels designated for commercial/leased access use, which shall be allocated on a pro rata basis using total Cable Service Subscribers within the Franchise Area;

(4) Converter, remote control, and other Cable Service equipment rentals, leases, or sales (but not revenues from equipment used exclusively for the provision of services that are not Cable Service);

(5) Advertising Revenues as defined herein;

(6) Fees including, but not limited to: (1) late fees, convenience fees and administrative fees which shall be allocated in accordance with GAAP; and (2) Franchise fees;

(7) Commissions from home shopping channels and other Cable Service revenue sharing arrangements which shall be allocated on a pro rata basis using total Cable Service Subscribers within the Franchise Area.

(8) "Advertising Revenues" shall mean amounts derived from sales of advertising that are made available to Franchisee's Cable System Subscribers within the Franchise Area and shall be allocated on a pro rata basis using total Cable Service Subscribers reached by the advertising. Additionally, Franchisee agrees that Gross Revenues subject to Franchise Fees shall include all commissions, representative fees, affiliated entity fees, or rebates paid to National Cable Communications and Comcast Spotlight or their successors associated with sales of advertising on the Cable System within the City allocated according to this paragraph using total Cable Service Subscribers reached by the advertising.

(9) "Gross Revenues" shall not include:

a) Actual Cable Services bad debt write-offs, except any portion which is subsequently collected which shall be allocated on a pro rata basis using Cable Services revenue as a percentage of total Franchisee revenues within the Franchise Area;

b) Any taxes and/or fees on services furnished by Franchisee imposed on Subscribers by any municipality, state or other governmental unit, provided that the Franchise Fee and the FCC user fee shall not be regarded as such a tax or fee;

c) Public, Educational and Governmental (PEG) Fees collected by Franchisee from Subscribers;

d) Contra expenses including but not limited to launch fees and marketing co-op fees to the extent consistent with GAAP; and

e) Unaffiliated third-party advertising sales agency fees or commissions which are reflected as a deduction from revenues to the extent consistent with GAAP.

(10) To the extent revenues are derived by Franchisee for the provision of a discounted bundle of services which includes Cable Services and non-Cable Services, Franchisee shall calculate revenues to be included in Gross Revenues using a methodology that allocates revenue on a pro rata basis when comparing the bundled service price and its components to the sum of the published rate card prices for such components. Except as required by specific federal, state or local law, it is expressly understood that equipment may be subject to inclusion in the bundled price at full rate card value. This calculation shall be applied to every bundled service package containing Cable Service from which Franchisee derives revenues in the Franchise Area. The City reserves its right to review and to challenge Franchisee's calculations.

(11) Franchisee reserves the right to change the allocation methodologies set forth in this definition to meet standards mandated by the Financial Accounting Standards Board ("FASB"), Emerging Issues Task Force ("EITF") and/or the U.S. Securities and Exchange Commission ("SEC"). City acknowledges and agrees that Franchisee shall calculate Gross Revenues in a manner consistent with GAAP where applicable; however, the City reserves its right to challenge Franchisee's calculation of Gross Revenues, including Franchisee's interpretation of GAAP and Franchisee's interpretation of FASB, EITF and SEC directives. Franchisee agrees to explain and document the source of any change it deems required by FASB, EITF and SEC on the first quarterly payment statement implementing the change. Upon the City's written request and subject to Franchisee's reasonable confidentiality requirements, Franchisee shall provide additional detail, explanation and/or reference to source materials.

(12) The City acknowledges that Franchisee shall maintain its books and records in accordance with "GAAP."

(S) "Installation" shall mean the process necessary to connect the Cable System at the Subscriber's premises.

(T) "Non-commercial" shall mean, in the context of Access Channels that products and services are not sold via the Access Channel. The term will not be interpreted to prohibit an Access Channel operator or programmer from independently (i.e. not in the context of any televised programming) soliciting and receiving financial support to produce and transmit Video Programming on an Access Channel, or from acknowledging a contribution, in the manner of the corporation for public broadcasting. An Access Channel operator or programmer may cablecast informational programming regarding City events, projects and attractions of interest to residents so long as the format for such programming is consistent with the purposes for which PEG resources may be used.

(U) "Normal Business Hours" shall mean those hours during which most similar businesses in City are open to serve customers. In all cases, "Normal Business Hours" must include some evening hours, at least one (1) night per week and/or some weekend hours.

(V) "Normal Operating Conditions" shall mean those Service conditions which are within the control of Franchisee. Those conditions which are not within the control of a Franchisee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of Franchisee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the Cable System. [Cross reference SMC 10.27A.700]

(W) "Other Programming Service" shall mean information that a cable operator makes available to all Subscribers generally.

(X) "PEG" shall mean public, educational and governmental.

(Y) "Person" shall mean an individual or legal entity, such as a corporation or partnership.

(Z) "Public Right of Way" or "Public Rights of Way" shall mean the surface of and the space above and below any public street, road, highway, path, sidewalk, alley, court, or easement now or hereafter dedicated and opened by the City for the purpose of public travel or public utilities. Use of skywalks may be subject to additional regulatory requirements consistent with the Spokane Municipal Code. In the case of any grant of authority or permission by the City to a cable operator however, this term shall not exceed the scope of the City's interests or power to extend such grant.

(AA) "Section 621 Order" means the Third Report and Order in MB Docket No. 05-311 adopted by the FCC on August 1, 2019.

(BB) "Service Tier" shall mean a specific set of Cable Services which are made available as a group for purchase by Subscribers, at a separate rate for the group.

(CC) "Standard Installation" shall mean those that are located up to one hundred twenty-five (125) feet from the existing distribution system. Franchisee shall comply

with applicable FCC regulations regarding commercial Installations as may now or hereafter arise.

(DD) "Subscriber" shall mean a member of the general public who receives broadcast programming distributed by a Cable System and does not further distribute it.

(EE) "Video Programming" shall mean programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

(FF) "Wireline MVPD" means any entity, including the City, that utilizes the Public Right of Way to install cable or fiber and is engaged in the business of making available for purchase, by Subscribers, multiple Channels of Video Programming in the City, which could also include the City. For purposes of this Franchise, the term "Wireline MVPD" shall not be limited to entities defined by the FCC as "multichannel video programming distributors" and shall include entities that provide multiple Channels of Video Programming via open video systems, as defined by the FCC, but it is the intent of the Franchisee and the City that the term Wireline MVPD shall not include small cell providers, unless the City has the legal authority under applicable state and federal law to regulate or to impose cable franchise obligations upon such small cell providers.

## SECTION 4.
## GRANT OF AUTHORITY.

(A) There is hereby granted by the City to the Franchisee, for a period of ten (10) years from and after the effective date set forth at the end of this Franchise, the right and privilege to have, acquire, construct, reconstruct, use, operate, own and maintain a Cable System for the Franchise Area, subject to the terms and provisions of Section 9(C) herein, and to the conditions and restrictions as hereinafter provided. No privilege or power of eminent domain is bestowed by this grant of authority.

(B) Consistent with the provisions of City ordinances and the Cable Act, the City hereby grants to Franchisee the authority to construct a Cable System in the City's Public Rights of Way.

## SECTION 5.
## AUTHORITY NOT EXCLUSIVE.

(A) The grant of authority for use of the City's Public Rights of Way, as conferred in Section 4 hereof, is not exclusive and does not establish priority for use over other franchise holders, permit holders and the City's own use of public property. Nothing in this Franchise Agreement shall affect the right of the City to grant to any other Person a similar franchise or right to occupy and use the Public Rights of Way or any part thereof for the erection, Installation, construction, reconstruction, operation, maintenance, dismantling, testing, repair or use of a Cable System within the City. Additionally, the Franchisee shall respect the rights and property of the City and other authorized users of Public Rights of Way. Disputes between the Franchisee and other parties over the use, pursuant to this Franchise Agreement, of the Public Rights of Way shall be submitted to the City Engineer for resolution.

## SECTION 6
## COMPETITIVE EQUITY.

(A) The City reserves the right to grant additional franchises or similar authorizations to provide Video Programming services via Cable Systems or other Wireline MVPDs. The City intends to treat Wireline MVPDs in a nondiscriminatory manner to the extent permissible under applicable state and federal law. If, following the effective date of this Franchise, the City grants such an additional franchise or authorization to a Wireline MVPD and Franchisee believes the City has done so on terms materially more favorable than the obligations under this Franchise, then the provisions of this Section 6 will apply.

(B) As part of this Franchise, the City and Franchisee have mutually agreed upon the following terms as a condition of granting the Franchise, which terms may place the Franchisee at a significant competitive disadvantage if not required of a Wireline MVPD: the obligation to pay to the City a Franchise Fee consistent with Section 30 of this Franchise, Gross Revenues as provided for and defined in this Franchise, and the obligation to comply with the requirements in this Franchise regarding PEG funding, PEG Access Channels, records and reports, security instruments, audits, dispute resolution, remedies, notice and opportunity to cure, and customer service obligations (hereinafter "Material Obligations"). The City and Franchisee further agree that this provision shall not require a word for word identical franchise or authorization for competitive equity so long as the regulatory and financial burdens on each entity are materially equivalent.

(C) Within one (1) year of the adoption of a Wireline MVPD franchise or similar authorization, Franchisee must notify the City in writing of the Material Obligations in this Franchise that exceed the Material Obligations of the wireline competitor's franchise or similar authorization. The City and Franchisee agree that they will use best efforts in good faith to negotiate Franchisee's proposed Franchise modifications, and that such negotiation will proceed and conclude within a ninety (90) day time period, unless that time period is reduced or extended by mutual agreement of the parties. If the City and Franchisee reach agreement on the Franchise modifications pursuant to such negotiations, then the City shall amend this Franchise to include the modifications. If the City and Franchisee fail to reach agreement in such negotiations, Franchisee may, at its option, elect to replace this Franchise by opting into the franchise or other similar lawful authorization that the City grants to another Wireline MVPD (with the understanding that Franchisee may use its current system design and technology infrastructure to meet any requirements of the new franchise), so as to insure that the regulatory and financial burdens on each entity are equivalent. If Franchisee so elects, the City shall immediately commence proceedings to replace this Franchise with the franchise issued to the other Wireline MVPD. Notwithstanding anything contained in this section to the contrary, the City shall not be obligated to amend or replace this Franchise unless the new entrant makes Cable Services or similar downstream video programming service available for purchase by Subscribers or customers under its franchise agreement with or similar authorization from the City.

(D) In the event the City disputes that the Material Obligations are different, Franchisee may bring an action in federal or state court for a determination as to whether the Material Obligations are different and as to what franchise amendments would be necessary to remedy the disparity. Alternatively, Franchisee may notify the City that it elects to immediately commence the renewal process under 47 U.S.C. § 546 and to have the remaining term of this Franchise shortened to not more than thirty (30) months.

(E) Nothing in this Section 6 is intended to alter the rights or obligations of either party under applicable federal or state law, and it shall only apply to the extent permitted under state and federal law. In no event will the City be required to refund or to offset against future amounts due the value of benefits already received.

(F) To the extent the City has legal authority to grant a franchise or similar authorization to a wireless provider of Cable Service, the competitive equity rights provided by this section shall apply with respect to Material Obligations imposed in such franchise or other similar agreement. In the event of a dispute regarding the City's legal authority, Franchisee shall have the burden to demonstrate that such authority exists.

## SECTION 7.
## CONDITIONS OF SALE.

If a renewal of this Franchise Agreement is denied or the Franchise Agreement is lawfully terminated, and the City lawfully acquires ownership of the Cable System or by its actions lawfully effects a transfer of ownership of the Cable System to another Person, any such acquisition or transfer shall be at a price determined pursuant to the provisions of 47 USC §547.

## SECTION 8.
## PREVIOUS RIGHTS ABANDONED.

This Franchise Agreement is in lieu of any and all other contractual rights, privileges, powers, immunities, and authorities owned, possessed, controlled, or exercisable by Franchisee or any successor pertaining to the construction, operation, modification or maintenance of a Cable System in the City. The acceptance of this Franchise Agreement shall operate as between Franchisee and the City as an abandonment of any and all such contractual rights, privileges, powers, immunities, and authorities within the City. All construction, operation, modification, and maintenance by the Franchisee of any Cable System in the City to provide Cable Service shall be under this Franchise Agreement and not under any other contractual right, privilege, power, immunity, or authority.

## SECTION 9.
## AGREEMENT, ACCEPTANCE, AND INCORPORATION OF SMC 10.27A.

(A) Franchisee acknowledges and accepts the right of the City to grant Franchisee this Franchise under current state, federal and local law. Franchisee agrees it shall not now nor at any time hereafter challenge this right, including in any state or federal court, provided that Franchisee reserves its right to seek changes in state, federal or local law governing the right of City to grant this Franchise and to challenge the City's right to grant this Franchise based on changes in current state, federal or local law that take effect

subsequent to the effective date of this Franchise Agreement. This section shall not be interpreted to prevent Franchisee from engaging in state, federal, or local lobbying efforts, either independently or as part of a consortium, on matters of interest to the Franchisee or the industry.

(B) Franchisee's rights hereunder are subject to the lawful and reasonable exercise of the City's police power consistent with state, federal or local law. It is understood that the City may at any time enact any ordinance of general applicability which may impact the Franchisee in its operation of the Cable System, provided that such ordinance constitutes a proper exercise of the City's police power, consistent with state, federal or local law.

(C) Franchisee acknowledges as of the time of acceptance of this Franchise Agreement that it has reviewed the Spokane City Charter relating to franchises and the use of the Public Right of Way and Ch. SMC 10.27A and accepts them as lawful exercises of City regulatory powers over the Public Right of Way. The parties acknowledge that the City may modify its regulatory policies throughout the term of this Franchise Agreement. Franchisee agrees to comply with such lawful policies except when there is a conflict with Franchisee's rights negotiated hereunder. Franchisee reserves any rights it may have to challenge such policies whether arising in contract or at law. The City reserves all defenses to such challenge, whether arising in contract or law.

## SECTION 10.
## [RESERVED].

## SECTION 11.
## TIME IS OF THE ESSENCE TO THIS AGREEMENT.

Whenever this Franchise Agreement shall set forth any time for an act to be performed by or on behalf of the Franchisee, related to a material Franchise requirement, such time shall be deemed of the essence. Any failure of the City to promptly enforce the time for an act to be performed in the past shall not be deemed a waiver of the City's right to require timely performance in the future.

## SECTION 12.
## TAXES.

Nothing contained in this Franchise Agreement shall be construed to except the Franchisee from any tax, liability or assessment authorized by law or from provisions of Titles 4 and 8 of the Spokane Municipal Code.

## SECTION 13.
## FRANCHISE AGREEMENT.

This Franchise Agreement is a contract between the City and the Franchisee, binding upon both parties. It is the intent of the parties that this shall be subject to amendment by mutual agreement from time to time to allow the Franchisee to innovate and implement new services

and developments, or to agree to any terms allowed by law and for which each party agrees to bargain in good faith with the other party, upon the initiation of any proposed amendment.

## SECTION 14.
## RENEWAL.

Any renewal of this Franchise Agreement shall be governed by and comply with the provisions of the Cable Act (47 U.S.C. § 546), as amended.

## SECTION 15.
## CABLE SYSTEM SPECIFICATIONS AND OVERSIGHT.

(A) The Franchisee shall maintain its Cable System as a hybrid fiber coaxial, fiber-to-the-node system architecture, with fiber-optic cable deployed from the headend to the node and coaxial cable deployed from the node to Subscribers homes. During the term of this Franchise, the Franchisee's Cable System shall be capable of providing a minimum of one hundred twenty (120) Channels of Video Programming to its Subscribers in the Franchise Area. Active and passive devices are capable of delivering high-quality digital video signals meeting or exceeding FCC technical quality standards. Cable System nodes are designed for future segmentation as necessary to maximize shared bandwidth. During the term of this Franchise Agreement, the Franchisee agrees to maintain the Cable System in a manner consistent with these specifications or better.

(B) All Franchisee activity in the Public Right of Way, and other public places where applicable, must be in accord with the Standard Specifications (WSDOT 2004, as amended or current equivalent) applicable to civil works in the Public Right of Way, including any generally applicable Supplemental Specifications as now or hereafter approved by the City Engineer and any other state and local regulations. All such construction, Installation and maintenance must also comply with the National Electrical Safety Code, the Washington State Electrical Construction Code, the National Electrical Code as adopted by the City and good and accepted industry practices.

[Note: at the time of adoption of this section, the generally approved Standard Specifications is that edition published by the Washington State Department of Transportation (WSDOT), "Standard Specifications for Road, Bridge and Municipal Construction, 2016, M 41-10", as amended].

(C) The Franchisee shall comply with all applicable technical standards of the FCC as published in 47 C.F.R. Part 76, Subpart K, as may be amended from time to time. The City shall have, upon written request, the right to review tests and records required to be performed pursuant to the FCC's rules.

(D) The City shall have the right to regulate and inspect the construction, operation and maintenance of the Cable System in the Public Rights of Way. Upon reasonable prior written notice and in the presence of the Franchisee's employee, the City may review the Cable System's technical performance as necessary to monitor the Franchisee's compliance with the provisions of this Franchise Agreement. All equipment testing under a technical performance review shall be conducted by the Franchisee.

[Cross reference SMC 10.27A.600 - 10.27A.680 regarding construction standards which are also applicable.]

SECTION 16.
CABLE SERVICE.

(A) Subject to the density considerations listed below, except in areas reserved for public travel or utility access not yet opened and accepted by the City as Public Right of Way that the Franchisee is specifically and lawfully prohibited from deploying its Cable System by the owner/developer, the Franchisee shall provide Cable Service throughout the entire City. Consistent with SMC 10.27A.720, areas subsequently annexed shall be provided with Cable Service within twelve (12) months of the time of the City notifying Franchisee of the annexation.

(B) Access to Cable Service shall not be denied to any group of potential cable Subscribers because of the income of the potential cable Subscribers or the area in which such group resides to the extent required by state and federal law. All residents requesting Cable Service and living within a Standard Installation of one hundred twenty-five (125) feet shall have the cable installed at no more than the prevailing published Installation rate. In the event a request is made for Cable Service and the residence is more than a Standard Installation of one hundred twenty-five (125) feet, such Installation will be provided at Franchisee's published rate for Standard Installations.

(C) The City and Franchisee acknowledge that the Franchisee currently provides, without charge, one (1) outlet, one (1) Converter, if necessary, and Digital Starter Service programming (including the PEG Channels) to the public buildings listed in Exhibit A, attached hereto ("Complimentary Service"). Subject to Section 35(D) of this Franchise Agreement, Franchisee shall continue to provide service to the City as set forth in this Section 16(C). However, the City shall have the right to request the disconnection of the other franchised cable operator and require Franchisee to meet the free service obligation provided the City maintains a fair distribution of service to public buildings between all franchised cable operators in the City.

(1) If the drop line to such building exceeds a Standard Installation drop one hundred twenty-five (125) feet, the Franchisee will accommodate the drop up to three hundred (300) feet if the City or other agency provides the necessary attachment point for aerial service or conduit pathway for underground service. If the necessary pathway is not provided the City or other agency agrees to pay the incremental cost of such drop in excess of one hundred twenty-five (125) feet or the necessary distribution line extension of the Cable System, including the cost of such excess labor and materials. The recipient of the service will secure any necessary right of entry.

(2) The Complimentary Service will not be used for commercial purposes, and the outlets will not be located in areas open to the public excepting one (1) outlet to be located in a public lobby in City Hall that will be used by the public for viewing Council meeting broadcasts. The City will take reasonable precautions to

prevent any use of the Franchisee's Cable System in any manner that results in inappropriate use, loss or damage to the Cable System. Franchisee hereby reserves all rights it may have under the law to seek payment from City for liability or claims arising out of the provision and use of the Complimentary Service required by this section.

(3) If additional outlets of Complimentary Service are provided to such buildings, the building occupant will pay the usual Installation fees, if any.

(D) Franchisee shall extend the System to any portion of the City after the date of the Franchise Agreement, when dwellings can be served by extension of the System past dwellings equivalent to a density of seven (7) dwellings per one-quarter (1/4) mile of cable contiguous to the System. Franchisee may petition the City for a waiver of this requirement, such waiver to be granted (1) for good cause shown, or (2) where Franchisee's System penetration level (defined as the percentage obtained by dividing (x) the number of Franchisee's Subscribers, by (y) the total number of dwelling units in the Franchise Area) drops below thirty-five percent (35%). The City shall not require Franchisee to extend Service to any dwelling that is already receiving Service from a competing provider. Such extension shall be at Franchisee's cost. In areas not meeting the requirements of seven (7) or more dwellings per one-quarter (1/4) mile, for mandatory extension of Service, Franchisee shall provide, upon the request of any potential Subscribers desiring Service, an estimate of the costs required to extend Service to such Subscribers. Franchisee shall then extend Service upon request and upon payment of an amount equal to the reasonable value of actual time and materials to be incurred by Franchisee for such extension. Any Subscriber drop not exceeding a Standard Installation drop of one hundred twenty-five (125) feet will be free of charge to the Subscriber other than normal Installation fees. For drops in excess of one hundred twenty-five (125) feet, Franchisee may assess an amount equal to time and materials. This provision has been negotiated taking into consideration the unique features of residential property in the City, including the size of lots, historical layout of developments and other factors.

## SECTION 17.
## PROGRAMMING.

(A) All final programming decisions remain the discretion of Franchisee in accordance with this Franchise Agreement, provided that Franchisee notifies City and Subscribers in writing thirty (30) days prior to any Channel additions, deletions, or realignments, and further subject to Franchisee's signal carriage obligations hereunder and pursuant to 47 U.S.C. §§ 531-536, and further subject to City's rights pursuant to 47 U.S.C. § 545.

(B) Franchisee will provide at least the following initial broad categories of programming to the extent such categories are reasonably available:

(1) Educational programming;
(2) News, weather and information;

(3) Sports;
(4) General entertainment including movies;
(5) Children, family oriented;
(6) Arts, culture and performing arts;
(7) Foreign language programming; and
(8) Science/documentary.

(C) The Franchisee shall offer to all Subscribers a diversity of Video Programming services and it will not eliminate any broad categories of programming without first obtaining the written approval of the City, such approval not to be unreasonably withheld.

(1) Franchisee shall notify in writing the City, or its designee, of its intent to eliminate any broad category of programming noted in subsection (A). The City, or its designee, shall make a determination on such request not later than sixty (60) days after receipt of the request by Franchisee. In the event that the City makes an adverse determination, such determination shall be in writing, along with a concise statement of the reasons therefore. In the event the City fails to make a determination within sixty (60) days after receipt of a request from Franchisee, Franchisee shall have the right to make the deletion contained in its written request. [Cross reference SMC 10.27A.905.]

## SECTION 18.
## RATES.

(A) Throughout the term of this Franchise Agreement and upon request, the Franchisee shall provide annually an updated rate card to the City that details applicable rates and charges for Cable Services provided under this Franchise Agreement. This does not require the Franchisee to file rates and charges under temporary reductions or waivers of rates and charges in conjunction with promotional campaigns.

(B) Franchisee shall provide a minimum of thirty (30) days' written notice to the City and each Subscriber before changing any rates and charges. Franchisee shall not be required to provide prior notice of any rate changes as a result of a regulatory fee, franchise fee or other fees, tax, assessment or charge of any kind imposed by the City or any other governmental entity on the transaction between the Franchisee and the Subscriber. Notice shall not be required in cases where the Franchisee adds additional Channels to any tier, provided there is no concurrent rate change.

(C) City may regulate rates for the provision of Cable Service provided over the System in accordance with applicable federal law, in particular 47 C.F.R. Part 76 subpart N. In the event the City chooses to regulate rates it shall, in accordance with 47 C.F.R. § 76.910, obtain certification from the FCC, if applicable. The City shall follow all applicable FCC rate regulations and shall ensure that appropriate personnel are in place to administer such regulations. City reserves the right to regulate rates for any future Cable Services to the maximum extent allowed by law.

## SECTION 19.
## ACCESS AND LOCAL PROGRAMMING.

(A) Access Channels.

(1) Commencing on the effective date of this Franchise Agreement, Franchisee shall continue to make available eight (8) full-time activated Access Channels for Non-commercial use.

(2) The City may designate entities to be responsible for administering use of the PEG Access Channels. Such entities shall be responsible for the utilization, programming and scheduling of the Access Channels designated for PEG use and public use respectively.

(3) The Franchisee shall provide the PEG Access Channels as part of the Cable Service provided to any Subscriber, at no additional charge, and so that the PEG Access Channels are viewable by the Subscriber without the need for additional equipment beyond that required to receive the Basic Cable Service Tier. If Channels are selected through a menu system, the PEG Access Channels shall be displayed as prominently as commercial programming choices offered by Franchisee.

(4) At such time as all other Basic Service Channels (or its equivalent tier) excluding PEG Access Channels, are carried in HD, the SD PEG Access Channels will also be carried by Franchisee in HD, at which time the SD PEG Access Channels will be discontinued and the maximum number of PEG Access Channels shall be four (4) HD Channels, subject to Section 19(A)(7).

(5) Within six (6) months of the effective date of this Franchise, and upon completion of the Fire Training Channel connection set forth below, Franchisee shall reclaim two (2) SD Access Channels for one (1) HD Access Channel simulcast. The two (2) SD Access Channels to be reclaimed shall be the Fire Training Channel and another Access Channel selected by the City in City's sole discretion.

(6) No sooner than twelve (12) months of the effective date of this Franchise, Franchisee shall reclaim two (2) additional SD Access Channels which will result in the City retaining a total of four (4) SD Access Channels and two (2) additional simulcast SD/HD Access Channels.

(7) Within six (6) months of the effective date of this Franchise, Franchisee shall either: 1) construct a dedicated two-way connection between the Fire Training Center and City Hall, to replace the SD Fire Training Center Access Channel, the cost estimated to be Twenty Thousand and No/100 Dollars ($20,000) shall be paid for out of the City's PEG Fee; or 2) the City shall assume responsibility for the construction of the connection and Franchisee shall cooperate, the City's construction cost may be paid for out of the PEG Fee so long as consistent with applicable federal law.

(8) City shall be responsible for all programming requirements on the PEG Access Channels, including but not limited to scheduling, playback, training, staffing, copyright clearances, and production equipment owned and controlled by the City, including maintenance and repair of such production equipment.

(B) Regional Channel. The City shall have the right to use one (1) of the existing PEG Access Channels as a regional Channel if desired by the City. Franchisee shall cooperate with City to accommodate such regional Channel.

(C) PEG Access Channel Location. Franchisee shall make commercially reasonable efforts to maintain one (1) of the PEG Access Channels as Channel 5 (SD) and Channel 325 (HD) on the Franchisee's Channel lineup. Franchisee shall make commercially reasonable efforts to maintain one (1) additional PEG Access Channel as Channel 14 (SD) and Channel 326 (HD) on the Franchisee's Channel lineup, or otherwise maintain adjacent positions to each other in the channel lineup.

(1) Franchisee shall make commercially reasonable efforts to minimize Channel location movements for PEG Access Channels, and shall make reasonable commercial efforts to locate Access Channels in a manner that is easily accessible to Subscribers. For new HD Access Channels that are provided pursuant to this Franchise, Franchisee shall make reasonable commercial efforts to assign the Access Channels a number near the other HD local broadcast stations if such channel positions are not already taken, or if that is not possible, near HD news/public affairs programming channels if such channel positions are not already taken, or if not possible, as reasonably close as available channel numbering will allow.

(D) PEG Access Channel Quality.

(1) With respect to signal quality, Franchisee shall not be required to carry an Access Channel in a higher quality format than that of the Channel signal delivered to Franchisee, but Franchisee shall distribute the Channel signal without material degradation. There shall be no restriction on Franchisee's technology used to deploy and deliver SD or HD signals so long as the requirements of the Franchise are otherwise met. Franchisee may implement HD carriage of PEG Access Channels in any manner (including selection of compression, utilization of IP, and other processing characteristics) that produces a signal quality for the Subscriber that is reasonably comparable and functionally equivalent to similar commercial HD Channels carried on the Cable System. Franchisee agrees that in no event will the PEG Access Channels be transmitted in a manner different than other commercial Channels offered by Franchisee on the basic service tier.

(2) In the event the City believes and provides evidence that Franchisee has failed to meet this standard, the City will notify Franchisee of such concern, and Franchisee will respond to any complaints in a timely manner. Disputes under this section shall be addressed through the Franchise enforcement procedures set forth in Section 24. Upon reasonable written request by the City or any authorized

access provider (but not a user of the community Access Channel), Franchisee shall verify that Access Channel signal delivery to Subscribers is consistent with the requirements of this section.

(E) The City shall implement and enforce policy directives and terms of use requirements that all users of public access facilities and public Access Channel(s) assume complete responsibility for the content of programming prepared at public access facilities and/or cablecasts on the public Access Channel(s). The parties agree that clearance for use of copyrighted material shall be the sole responsibility of the access user. The City shall require that all public access users indemnify and hold the Franchisee and the City of Spokane harmless from all liability of any kind whatsoever, including the costs of legal defense arising from the use of facilities, channel(s) or access time by the user.

(F) PEG Fee.

(1) Within sixty (60) days after the effective date of this Franchise Agreement, the Franchisee shall collect and remit to the City zero point seven percent (0.7%) of Gross Revenues (the "PEG Fee") to be used for PEG access capital costs in accordance with applicable federal law. The PEG Fee shall be remitted quarterly to the City in the same manner and at the same time as the Franchise Fee.

(2) The PEG Fee is not intended to represent part of the Franchise Fee and are intended to fall within one (1) or more of the exceptions in 47 U.S.C. § 542. The PEG Fee may be categorized, itemized, and passed through to Subscribers as permissible, in accordance with federal law. So long as the PEG Fee is used by the City as permitted by applicable federal law, and this Franchise, Franchisee agrees that it will not offset or reduce its payment of past, present or future Franchise Fees required as a result of its obligation to remit the PEG Fee, unless otherwise mandated by Applicable Law.

(3) Within ninety (90) days and upon request, the City shall provide the Franchisee with documentation showing expenditures for PEG capital use of the previous year's PEG Fee funding and showing the budgeted use of the current year's PEG funding. In the event the City cannot demonstrate that PEG funding was used or budgeted for PEG capital needs, Franchisee's PEG funding obligations going forward shall be reduced by an equivalent amount.

(4) Any PEG Fees owing pursuant to this Franchise Agreement which remain unpaid more than twenty-five (25) days after the date the payment is due shall be delinquent and shall thereafter accrue interest at twelve percent (12%) per annum.

(5) All PEG Access Channels shall be provided as a part of Franchisee's Basic Cable Service or its equivalent. Franchisee shall make every reasonable effort to coordinate the cablecasting of PEG access programming on the Cable System on the same Channel designations as such programming is currently

cablecast within the City. In no event shall any PEG Access Channel reallocations be made prior to ninety (90) days' written notice to the City by Franchisee, except for circumstances beyond Franchisee's reasonable control.

(G) Guide Selection. Franchisee agrees that if it utilizes a visual interface under its control on its Cable System for all Channels, the PEG Access Channels shall be treated in a non-discriminatory fashion so that Subscribers will have ready access to PEG Access Channels. To the extent the configuration of the Cable System allows for detailed program listings to be included on the digital channel guide, Franchisee will make available to City the ability to place PEG Access Channel programming information on the interactive Channel guide via the electronic programming guide ("EPG") vendor ("EPG provider") that Franchisee utilizes to provide the guide service. Franchisee will be responsible for providing the designations and instructions necessary for the PEG Access Channels to appear on the EPG. All costs and operational requirements for the EPG provider shall be the responsibility of the City. Franchisee is not responsible for operations of the EPG provider. Franchisee shall, to the maximum extent possible, make available to the City any price discounts Franchisee may have in place with third party vendors that offer such programming guide services. The cost of this guide service may be funded in any manner consistent with federal law.

(H) PEG Access Programming Connectivity.

(1) Under Section 19(k) of the 2005 franchise between City and Franchisee, Franchisee agreed to construct and maintain two-way connections. Franchisee was permitted to recoup all of its construction and maintenance costs ($250,000) from the City's PEG Fee over the term of the 2005 franchise. Currently Franchisee is providing the City with nine (9) complimentary two-way connections to facilitate the live playback of PEG programming in the City. The City has agreed as part of this renewal to reduce the number of two-way connections down to just two (2) remaining connections to facilitate PEG origination over the next Franchise term. The City and Franchisee acknowledge that the Franchisee currently provides and maintains, free of charge to the City, the existing two-way connections located at: 1) the KSPS Facility, located at 3911 South Regal Street; and 2) the City Hall via City Water Works Building on Hamilton & North Foothills. These connections enable the transmission of PEG Access programming over the Cable System. Franchisee shall maintain the two (2) above-referenced connections for the term of this Franchise, without additional charge (with no recurring, monthly costs or offsets) except that Franchisee may, if permitted by federal law, invoice the City for any actual repair or maintenance costs. Such actual repair or maintenance costs shall be estimated to the City in advance when possible, and shall be documented and invoiced to the City by Franchisee for payment.

(2) If the City desires to add new connection points over the term of this Franchise Agreement in addition to the above list, upon (one hundred twenty (120) days written request of the City, and written approval by the City of

Franchisee's construction charges, the Franchisee will construct the new two-way connection, as proposed by the City.

(3) Failure to comply with the provisions of this section shall constitute a material breach of this Franchise Agreement.

SECTION 20.
PARENTAL CONTROL.

(A) Franchisee shall provide Subscriber controlled lockout capability at a reasonable charge to Subscribers upon their request.

(B) As to any program which is transmitted on a Channel offered on a, per Channel, or per program basis, Franchisee shall block entirely the audio and video portion of such program from reception by any Subscriber who so requests. Scrambling of the signal shall not be sufficient to comply with this provision.

SECTION 21.
TRANSFER OF RIGHTS.

(A) Any unauthorized transfer in violation of SMC 10.27A.395 shall be deemed a material breach in default of this Franchise Agreement, and shall subject the Franchisee to all penalties and remedies prescribed in this Franchise Agreement and SMC 10.27A and to all other remedies, legal and equitable; which are available to the City, including, but not limited to:

(1) The immediate entry of an order by a court of competent jurisdiction (i) enjoining Franchisee, its officers, agents, employees and all others acting in concert with them, from transferring or assigning or otherwise disposing of any interest in the Cable System, (ii) appointing a receiver, acceptable to the City, who shall forthwith assume the management of the Cable System in accordance with the terms and conditions of this Franchise Agreement, and (iii) requiring all subscription fees, Installation fees and all other fees payable to Franchisee to be paid into an escrow account which shall be subject to release to Franchisee only on order of the Court.

(2) The immediate termination of this Franchise Agreement and acceleration of all the obligations and rights thereunder, including, but not limited to those described in Section 27 of this Franchise Agreement.

(B) Franchisee shall notify the City Clerk in writing of any occurrence which constitutes a transfer not in accordance with the provisions of SMC 10.27A.395 or this Franchise Agreement.

(C) Franchisee shall notify the City Attorney in writing of the entry of any judgment against Franchisee which would negatively affect the continued operation of this Cable System within seventy-two (72) hours of the occurrence of such event.

## SECTION 22.
## LETTER OF CREDIT; PERFORMANCE SECURITY FOR OBLIGATIONS.

(A) In accordance with SMC 10.27.330, Franchisee shall maintain security, hereafter referenced as "Performance Security" as follows: Franchisee, based upon its past performance, shall secure and maintain a performance bond in the amount of One Hundred Thousand and No/100 Dollars ($100,000.00). If at any time thereafter, Franchisee does not continue to maintain a fully compliant rating (no claim against the performance bond which has been sustained following all applicable appeals), the City may require the performance bond to be replaced by a letter of credit sufficient to cover one hundred fifty percent (150%) of draws as reasonable estimated by the City, but not less than One Hundred Thousand and No/100 Dollars ($100,000.00), upon sixty (60) days written notice to Franchisee. Upon petition by Franchisee and sufficient showing of adequacy, the City may permit an escrow deposit or combination escrow deposit and letter of credit.

(B) If this Franchise Agreement is transferred for reasons requiring consent of the City, the Performance Security requirement may be modified as required by the City, up to the amount set in SMC 10.27A.330.

(C) Failure to deposit said Performance Security or the failure to maintain the Performance Security, in the full amount required herein, in effect during the entire term of this Franchise Agreement, and of any renewal or extension thereof, shall constitute a material breach of this Franchise Agreement.

(D) The City reserves the right to impose additional construction bond requirements upon the Franchisee, pursuant to the generally applicable terms and provisions of the Spokane' Municipal Code, regarding Franchisee's construction in the Public Right of Way.

## SECTION 23.
## PROCEDURE FOR DRAWING ON PERFORMANCE SECURITY.

(A) Except as provided in Section 30 with respect to delinquent Franchise Fee and PEG Fee payments, the conditions applicable to the City's right to draw on the Performance Security are stated in Sections 23-26. The procedure for drawing on the Performance Security shall be as follows:

(1) If the Franchisee fails to make timely payment to the City of any amount due under this Franchise Agreement other than Franchise Fee or PEG Fee payments and taxes, the City shall have the right to draw on the Performance Security following seven (7) days advance written notice to Franchisee, including the notice information required in Section 24(A), unless the amount due is received within such seven (7) day period. Franchisee may request a hearing on this decision as provided in Section 26, but this does not delay the City's right to draw upon the Performance Security up to the amount of nonpayment, plus applicable

interest and penalties, following the initial seven (7) day notice period. [Cross reference SMC 10.27A.310]

(2) If the Franchisee fails to take timely action as requested by the City with respect to its facilities in the Public Rights of Way which might expose the City to loss or liability, the City shall have the right to draw on the Performance Security an amount reasonably sufficient to prevent or offset the loss or liability, first giving twenty (20) days advance written notice to Franchisee, including the notice information required in Section 24(A). If no Franchisee response is received within twenty (20) day period or if Franchisee has not already cured, the City may proceed to draw on the Performance Security. If a written Franchisee response is received within such period, the City shall then wait at least ten (10) days before making any draw on the Performance Security. Franchisee may request a hearing on this decision as provided in Section 26, but this does not delay the City's right to draw upon the Performance Security. This does not limit the City's rights to take any actions necessary in case of emergencies or the right of either party to seek injunctive relief in a proper case.

(3) The time periods for lawful withdrawal referenced in Section 23(A) (1) and (2) above, may be extended by City in writing in City's discretion. For any other reason besides Section 23(A) (1) and (2) above, Franchisee may request a hearing under Section 26 prior to a City draw on Performance Security. This limitation expires upon expiration of the time to request the hearing, or if one is requested, it expires thirty (30) days after the municipal hearings process is concluded, whether or not further court review is requested. This shall not limit the right of Franchisee to seek injunctive relief in appropriate cases with respect to said draw.

(B) Upon drawing funds from the Performance Security, the City shall give written notice thereof the Franchisee. Not later than thirty (30) days after the mailing or delivery of notice from City to Franchisee indicating a draw, Franchisee must restore the Performance Security to its full required amount.

(C) The collection by City of any damages, monies or penalties from the Performance Security shall not affect any other right or remedy available to City, nor shall any act, or failure to act, by City pursuant to the Performance Security be deemed a waiver of any right of City pursuant to this Franchise Agreement, except as provided with respect to liquidated damages or as provided in Section 23.

## SECTION 24.
## ENFORCEMENT.

(A) This section does not apply to revocation of the Franchise Agreement. Whenever the City seeks to enforce the Franchise Agreement, it shall first provide written notice to the Franchisee of the nature of the problem and requested action, together with any applicable time frame for response. Any time limits here or elsewhere in the Franchise Agreement may be modified by written stipulation of the City and Franchisee, except

time limits relating to revocation of this Franchise Agreement or where otherwise required by law must be approved by the City Council.

(B) Except in case of urgency or public need relating to management of the Public Right of Way as reasonably determined by the City, the Franchisee has thirty (30) days from receipt of such notice to respond in writing to the official sending the notice:

(1) contesting it; or

(2) accepting it and agreeing to cure as requested within time limits specified; or

(3) requesting additional time or other modifications. In such event, Franchisee shall promptly take all reasonable steps to cure the default, keeping the official informed as to the steps to be taken and a projected completion date.

(C) If the official is not satisfied with the response, they shall notify the Franchisee in writing. Franchisee may thereafter request a hearing thereafter as provided in Section 26(C).

(D) Code Violations. Franchisee agrees the City may elect to enforce any provision of the Spokane Municipal Code without regard to this Franchise Agreement.

## SECTION 25.
## LIQUIDATED DAMAGES.

(A) Because Franchisee's failure to comply with the provisions of this Franchise Agreement will result in damage to the City and because it will be impractical to determine the actual amount of such damages, the City and Franchisee hereby agree upon and specify certain amounts set forth hereafter in this section which represent both parties' best estimate of the damages.

(B) The City shall specify any damages subject to this section and shall include such information in the notice sent to Franchisee required under Section 24(A). Such a notice may provide for damages sustained prior to the notice where so provided, and subsequent thereto pending compliance by Franchisee.

(C) To the extent that the City elects to assess liquidated damages as provided in this section and such liquidated damages have been paid, the parties agree that this shall be the City s sole and exclusive damage remedy in lieu of actual damages; provided, that this shall not limit the right of the City to seek equitable or other relief as reserved in Section 26(C).

(D) Unless otherwise provided, liquidated damages do not accrue after the timely filing of a request for hearing by Franchisee until the time of a decision from the hearing. Nothing in this section prevents the parties from settling any dispute relating to liquidated damages by mutual stipulation.

(E) Franchisee may cure the breach or violation within the time specified to petition for review to the City's satisfaction, whereupon no liquidated damages are assessed.

(F) After fulfilling the procedure required under Section 24, Franchisee has thirty (30) days to pay such amounts. If not paid thereafter, liquidated damages shall be immediately payable from the Performance Security, without further notice, upon demand by the City and a statement that the provisions of this section have been fulfilled. Franchisee may seek review of any assessment of liquidated damages under Section 26.

(G) Schedule of Liquidated Damages. Liquidated damages are set as follows. All amounts accrue per day but not beyond the number of days to exceed the amount of Ten Thousand and No/100 Dollars ($10,000) per twelve (12) month period unless specifically provided. Nothing requires the City to assess liquidated damages, acting in its sole discretion, but such non-assessment does not operate as waiver or estoppel upon the City.

(1) For failure to provide Cable Service as promised in Section 16 of this Franchise Agreement, Five Hundred and No/100 Dollars ($500) per day,

(2) For failure to provide data, documents, reports and information as required by this Franchise Agreement, Fifty and No/100 Dollars ($50) per day per each separate violation.

(3) For failure to conduct tests as required by this Franchise Agreement, Fifty and No/100 Dollars ($50) per day.

(4) For failure to comply with PEG Access requirements outlined in Section 19, One Hundred Fifty and No/100 Dollars ($150) per day.

(5) For failure to answer Subscriber telephone calls in accordance with the standards in SMC 10.27A.700(B)(1) of the Spokane Municipal Code, as incorporated by reference in Section 33(A) of this Franchise Agreement, in any calendar quarter where Franchisee fails to meet the applicable standard and performs at eighty percent (80%) or above, Franchisee shall pay the City Five Hundred and No/100 Dollars ($500); in any calendar quarter where Franchisee fails to meet the applicable standard and perform at less than eighty percent (80%) but at least seventy percent (70%), Franchisee shall pay the City Two Thousand Five Hundred and No/100 Dollars ($2,500); in any calendar quarter where Franchisee fails to meet the applicable standard and performs at less than seventy percent (70%), the Franchisee shall pay the City Five Thousand and No/100 Dollars ($5,000). NOTE: Franchisee will be deemed to have complied with the applicable telephone call answering and wait time standards whenever a Subscriber call is connected to an automated answering system within thirty (30) seconds after the call first rings and the Subscriber is transferred to a customer service representative within thirty (30) seconds after the Subscriber makes an automated or voice request to be so transferred.

(6) For any violation of the any other customer service standard, One Hundred and No/100 Dollars ($100) per day per violation, not to exceed One Thousand and No/100 Dollars ($1,000) for any single violation.

(7) Failure to maintain insurance or Performance Security as required in this Franchise Agreement Five Hundred and No/100 Dollars ($500) per day. NOTE: for this item, there is no cure privilege, no abeyance pending any hearing, or forgiveness of liquidated damages because of absence of prior violation or breach. There is further no limitation on cumulative liquidated damages for this item.

(8) Failure to indemnify the City as required in Section 25: Five Hundred and No/100 Dollars ($500) per day. NOTE: this assessment is for delay only and does not excuse any other actual damages for failure to indemnify.

(9) Failure to pay liquidated damages lawfully assessed under this Franchise Agreement, where the same have not been otherwise recovered from the Performance Security: one percent (1%) of the unpaid amount per month. There is no cumulative limitation on the amount of this item, no right of cure beyond any extended prior to the assessment of liquidated damages and no abeyance pending any hearings or appeal process beyond that as may have been previously extended at the time such liquidated damages were initially assessed.

(10) For all other violations of the Franchise Agreement for which actual damages may not be ascertainable: One Hundred and No/100 Dollars ($100) per day for each violation.

(11) Where Franchisee has three (3) or more of the same violation or breach events (an "event" may involve multiple customers, but is discrete in time or circumstances) within any twelve (12) month period, all applicable damages amounts are doubled.

## SECTION 26.
## HEARINGS.

Except for revocation matters, which are dealt with in Section 27, Franchisee may request a hearing as follows:

(A) Franchisee files a written request within fourteen (14) days of receipt of a decision it wants reviewed with the City Administrator. The request does not stay the effect of the decision or obligation to comply or exercise of any remedy available to the City except as otherwise provided. The City Administrator may conduct the hearing or appoint an alternate hearings officer, who shall not be the person issuing the order or such person's subordinate. For matters exceeding Twenty-five Thousand and No/100 Dollars ($25,000) reasonably estimated value in controversy as determined by the City Administrator, the Franchisee may file a request that the City Hearings Examiner conduct the hearing. A reasonable filing fee may be set by the Hearings Examiner or generally applicable ordinances. If not otherwise provided, the filing fee is One Hundred and No/100 Dollars ($100).

(B) The hearing may be informal and shall be conducted within twenty (20) days, with at least ten (10) days prior notice to both sides. The official conducting the hearing is responsible to keep a record of any materials submitted and shall record the hearing by video or audio tape, for matters involving Twenty-five Thousand and No/100 Dollars ($25,000) reasonable estimated value amount in controversy. A written decision shall be issued within ten (10) days. Either party may appeal the decision to a court of competent jurisdiction in Spokane County within thirty (30) days.

(C) Except where otherwise provided, at the conclusion of the City hearings process, if Franchisee remains in default, it shall correct said default in fifteen (15) days or as otherwise ordered by the City. In the event the Franchisee does not cure within such time to the City's reasonable satisfaction, the City may draw from the Performance Security any liquidated damages or penalties resulting from Franchisee's default if not already done or await the conclusion of the judicial process. Nothing herein limits the City's right to seek any other relief as provided in Section 26.

(1) If liquidated damages have not been assessed and paid, seek any other legal or equitable relief as provided by contract or at law and/or

(2) await the conclusion of any judicial review process.

(3) In the case of a default of a material provision of this Franchise Agreement, nothing herein limits the City's right to seek to revoke this Franchise Agreement in accordance with Section 27 and/or assert such default as a basis for non-renewal or non-extension of the Franchise Agreement.

(4) Where Franchisee seeks judicial review and ultimately prevails, any money judgment against the City shall be paid or may thereafter be offset by Franchisee, in Franchisee's discretion, against further Franchise Fee payments due to the City. In such event, Franchisee shall notify the City at least sixty (60) days prior to apply the offset.

## SECTION 27.
## REVOCATION.

(A) The City may revoke this Franchise Agreement and rescind all rights and privileges associated with this Franchise Agreement in the following circumstances:

(1) Franchisee fails to perform any material obligation under this Franchise Agreement; or

(2) Franchisee attempts to evade any material provision of this Franchise Agreement or practices any fraud or deceit upon the City or Subscribers.

(B) Prior to revocation of the Franchise Agreement, the City shall give written notice to the Franchisee of its intent to revoke the Franchise Agreement, setting forth the exact nature of the noncompliance. The Franchisee shall have thirty (30) days from such notice to object in writing and to state its reasons for such objection and provide any

explanation. In the event the City has not received a timely and satisfactory response from the Franchisee, it may then seek a revocation of the Franchise Agreement by the City Council in accordance with this section.

(C) Any proceeding regarding revocation shall be conducted by the City Council and open to the public. The Franchisee shall be afforded at least forty-five (45) days prior written notice of such proceeding.

(1) At such proceeding, the Franchisee and City staff shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce evidence. Franchisee may request or the City may refer the matter to be heard by the City's hearing examiner. A complete verbatim record and transcript or video tape shall be made of such proceeding and the cost shall be shared equally between the parties. The City shall maintain a record of such proceeding consistent with its record retention policies. Nothing herein prohibits Franchisee from paying to create a written transcript of the proceeding. The City Council shall hear any Persons interested in the revocation, and shall allow the Franchisee, in particular, an opportunity to state its position on the matter reserving the right to set reasonable time limits or refer extended presentations to the City hearing examiner.

(2) Within ninety (90) days after the hearing, the City Council shall determine whether to revoke the Franchise Agreement; or if the breach at issue is capable of being cured by the Franchisee, it shall direct the Franchisee to take appropriate remedial action within the time and in the manner and on the terms and conditions that are reasonable under the circumstances, as determined in City's sole discretion. If the City Council determines that the Franchise Agreement is to be revoked, the City Council shall issue a written decision and shall transmit a copy of the decision to the Franchisee. The Franchisee shall be bound by the City Council's decision to revoke the Franchise Agreement unless it appeals the decision to a court of competent jurisdiction within thirty (30) days of the date of the decision. Upon timely appeal, the effect of revocation is stayed pending final judicial resolution, but this shall not affect accrual of penalties or the right of the City to take any other enforcement action, including curing the default at Franchisee's expense and liability, also subject to judicial review.

(3) The Franchisee shall be entitled to such relief as the court may deem appropriate.

(D) The Council may in its sole discretion take any lawful action that it deems appropriate to enforce the City's rights under the Franchise Agreement in lieu of revocation.

## SECTION 28.
## INSURANCE, BONDS, INDEMNITY.

(A) Upon the granting of this Franchise Agreement and following simultaneously with the filing of the acceptance of this Franchise Agreement and at all times during the term of this Franchise Agreement, the Franchisee shall obtain, pay all premiums for, and deliver to the City, written evidence of payment of premiums for and a certificate of insurance, naming the City as an additional insured, with a company licensed to do business in the State of Washington with a rating by A.M. Best and Co. of not less than "A" or equivalent, for the following:

(1) A comprehensive commercial or general liability insurance policy or policies, issued by an insurance carrier licensed to do business in the State of Washington. Said policy or policies shall pay on behalf of and defend the City, its officials, boards, commissions, agents or employees from any and all claims by any Person whatsoever (including the costs, defense costs, attorneys' fees and interest arising therefrom) on account of personal injury, bodily injury or death of a Person or Persons or damages to property occasioned by the operations of the Franchisee under this Franchise Agreement, or alleged to have been so caused or occurred, with a minimum combined single limit of One Million and No/100 Dollars ($1,000,000) per occurrence and Five Million and No/100 Dollars ($5,000,000) in the annual aggregate.

(2) A comprehensive automobile liability insurance policy or policies, issued by an insurance carrier licensed to do business in the State of Washington. Said policy or policies shall pay on behalf of and defend the City, its officials, boards, commissions, agents or employees from any and all claims by any Person whatsoever (including the costs, defense costs, attorneys' fees and interest arising therefrom) for bodily injury and property damage occasioned by any vehicle operation of the Franchisee, or alleged to have been so caused or occurred, with a minimum liability of One Million and No/100 Dollars ($1,000,000) per Person and Five Million and No/100 Dollars ($5,000,000) in any one (1) accident or occurrence.

(B) If the Franchisee undertakes any construction with regard to the Cable System, the cost of which exceeds Five Hundred Thousand and No/100 Dollars ($500,000), the Franchisee shall maintain a construction bond in accordance with SMC 10.27A.320(B).

(C) Not less than thirty (30) days prior to its expiration, Franchisee shall deliver to City, a substitute, renewal or replacement policy or bond conforming to the provisions of this Franchise Agreement and SMC 10.27A.320.

(D) The Franchisee shall, at its sole cost and expense, indemnify and hold harmless the City, its officials, boards, commissions, agents and employees against any and all third party claims, suits, causes of action, proceedings, and judgments for damage arising out of the construction, reconstruction, use, operation, ownership and maintenance of the Cable System under this Franchise Agreement, except that no such requirement shall

apply where such claims, suits, causes of actions, proceedings, and judgments for damage are occasioned by the active negligence, gross negligence or intentional acts of the City or its officials, boards, commissions, agents and employees while acting on behalf of the City. These damages shall include, but not be limited to, penalties arising out of copyright infringements and damages arising out of any failure by the Franchisee to secure consents from the owners, authorized distributors or licensees of programs to be delivered by the Franchisee's Cable System whether or not any act or omission complained of is authorized, allowed, or prohibited by this Franchise Agreement. Indemnified expenses shall include, but not be limited to, all out-of-pocket expenses, such as costs and attorneys' fees, and shall also include the reasonable value of any services rendered by the City Attorney, Assistant City Attorneys or any outside consultants employed by the City. Franchisee shall not be required to provide indemnification to City for programming cablecast over the PEG Access Channels administered by City. The City shall give the Franchisee timely written notice of any claim or of the commencement of any action, suit or other proceeding covered by the indemnity in this section, but failure to give notice is not a defense to the indemnification obligations except to the extent of actual prejudice. In the event any such claim arises, the City or any other indemnified party shall tender the defense thereof to the Franchisee and the Franchisee shall have the obligation and duty to defend, through services of competent counsel satisfactory to the City, settle or compromise any claims arising thereunder. If the City determines that it is necessary for it to employ separate counsel, the costs for such separate counsel shall be the responsibility of the City.

(E) Failure to comply with the provisions this section shall constitute a material breach of this Franchise Agreement.

(F) Franchisee waives immunity under Title 51 RCW to the extent necessary to fulfill its indemnity obligation. This provision has been specifically negotiated.

## SECTION 29.
## REPORTS.

(A) The City has the right to inspect books and records of Franchisee, which are reasonably necessary to monitor the Franchisee's compliance with the provision of Cable Services under this Franchise Agreement. Within five (5) days of receiving written notice from the City to inspect the Franchisee's books and records under this provision, the Franchisee shall within ten (10) business days or a mutually agreeable date and time, accommodate the City's request at the Franchisee's business office in the City, during Normal Business Hours, and without unreasonably interfering with the Franchisee's business operations. All such documents pertaining to financial matters shall be preserved and maintained in accordance with Franchisee's standard record retention policy except for financial records which are governed by Section 30(D) hereof.

(B) Proprietary and Confidential Information. The City has the right to request a copy of the books and records that are not identified as proprietary or confidential as described under this paragraph. The City shall have a right to inspect within the City, but the Franchisee shall not be required to release information that it reasonably deems to be

proprietary or confidential in nature provided that this shall not prevent the release of such proprietary or confidential documents for purposes of any enforcement proceeding where appropriate legal steps are available to address Franchisee's concerns regarding confidentiality. The City agrees not to oppose any request for confidentiality.

(C) In the event the Franchisee asserts that certain information is proprietary or confidential in nature, the Franchisee shall identify generally the information which it deems propriety and confidential and the reasons for its confidentiality in writing to the City. Each page of such information provided will be clearly marked as "proprietary and confidential." The City agrees to treat any information disclosed by the Franchisee as confidential and only to disclose it to those employees, representatives, and agents of the City that have a need to know in order to enforce this Franchise Agreement and who agree to maintain the confidentiality of all such information. The City shall not retain information designated as proprietary or confidential by Franchisee for a period of time any longer than necessary to complete its review and any resulting enforcement proceeding therefrom. The City shall certify to Franchisee the destruction of such records.

(D) The Franchisee shall not be required to provide customer information in violation of Section 631 of the Cable Act or any other applicable federal or state privacy law. For purposes of this section, the terms "proprietary or confidential" include, but are not limited to, information relating to the Cable System design, customer lists, marketing plans, financial information unrelated to the calculation of Franchise Fees or rates pursuant to FCC rules, or other information that is reasonably determined by the Franchisee to be competitively sensitive. In the event that the City receives a request under a state "sunshine," public records or similar law for the disclosure of information the Franchisee has designated as confidential, trade secret or proprietary, the City shall notify Franchisee of such request and Franchisee shall have ten (10) business days to file a lawsuit in Spokane County seeking injunctive or other relief should Franchisee choose to oppose such request.

(E) Franchisee shall provide the quarterly customer service report required in SMC 10.27A.410(A). Such reporting requirement may be relieved by the City Administrator in his sole discretion.

(F) File for Public Inspection. Throughout the term of this Franchise Agreement, the Franchisee shall maintain a file available for public inspection in the manner required pursuant to the FCC's rules and regulations.

(G) Complaint File and Reports. Franchisee will keep an accurate and comprehensive file of all Complaints and Franchisee's actions in response to those Complaints in a manner consistent with the privacy rights of Subscribers. Upon thirty (30) days written request, Franchisee will provide a report to the City that contains total number and summary of all Complaints received by category, length of time taken to resolve and action taken to provide resolution.

(H) Route Map. In lieu of SMC 10.27A.410(E) and upon 30 (thirty) days written request, the Franchisee shall only provide a route map that depicts, based upon information available, the general location of the Cable System facilities placed in the Public Rights of Way. The route map shall identify Cable System facilities as aerial or underground and is not required to depict cable types, number of cables, electronic equipment, and drop service lines to individual Subscribers. The Franchisee shall also provide in an electronic format generally compatible with the City's electronic mapping system aerial/underground facilities and the centerline road reference to allow City to add this information to City's GIS program.

## SECTION 30.
## PAYMENT OF FEES AND COSTS.

(A) From and after the effective date of this Franchise Agreement and throughout the full term of this Franchise Agreement, the Franchisee shall pay to the City five percent (5%) of its annual Gross Revenues in the City, pursuant to 47 U.S.C. § 542. Payment shall be due by forty-five (45) days after the end of each calendar month.

(B) No acceptance by the City of any payment from Franchisee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of payment be construed as a release of any claim the City may have for further or additional sums payable under the provisions of this Franchise Agreement. All amounts paid shall be subject to auditing and recomputation by the City.

(C) Franchisee acknowledges and agrees that the Franchise Fees payable by Franchisee to City pursuant to this Franchise Agreement as well as capital support provided by Franchisee for PEG access equipment and facilities are authorized under the Cable Act and shall not be deemed to be in the nature of a federal, state or local tax.

(D) Any Franchise Fee payments owing pursuant to this Franchise Agreement which remain unpaid more than twenty-five (25) days after the date the payment is due shall be delinquent and shall thereafter accrue interest at twelve percent (12%) per annum.

(E) Franchise Fees Subject to Audit. Upon reasonable prior written notice, during Normal Business Hours, at a location agreed upon with the Franchisee, the City shall have the right to inspect the Franchisee's financial records used to calculate the City's Franchise Fees. The City shall provide to the Franchisee a final report setting forth the City's findings in detail, including any and all substantiating documentation. In the event of an alleged underpayment, the Franchisee shall have thirty (30) days from the receipt of the report to provide the City with a written response agreeing to or refuting the results of the audit, including any substantiating documentation. Franchisee shall review and the City shall be entitled to review Franchisee's historical financial records used to calculate the City's Franchise Fees consistent with the currently applicable state statute of limitations.

(F) Failure to comply with this section shall constitute a material breach of the Franchise Agreement.

## SECTION 31.
## SERVICE OF NOTICE.

(A) All notices required to be given in writing under this Franchise Agreement shall be sent via registered or certified mail or shall be deemed to be given when delivered personally to any officer of Franchisee or City Administrator forty-eight (48) hours after it is deposited in the United States mail in a sealed envelope, postage prepaid thereon, addressed to the party to whom notice is being given, as follows:

If to City: City Administrator
City of Spokane
5th Floor Municipal Building
W 808 Spokane Falls Boulevard
Spokane WA 99201-3333

If to Franchisee:
General Manager
Comcast Cable Communications Management, LLC
1717 East Buckeye Avenue
Spokane, Washington 99207

Non-binding Courtesy Copy: Government Affairs Department
Comcast Cable Communications Management, LLC
15815 25th Avenue W
Lynnwood, Washington 98087

Franchisee shall maintain within the City, throughout the term of this Franchise Agreement, an address for service of notice by mail. Such addresses may be changed by either party upon notice to the other party given as provided in this section.

## SECTION 32.
## SUCCESSORS AND ASSIGNS.

Subject to the requirements contained in this Franchise Agreement, this Franchise Agreement shall be binding on any successors or assigns of Franchisee.

## SECTION 33.
## CUSTOMER SERVICE STANDARDS.

(A) Customer Service Standards. Franchisee shall satisfy the consumer protection and service standards as outlined in SMC 10.27A.700 during the term of this Franchise Agreement. The City hereby further adopts the customer service standards set forth in Part 76, §76.309 of the FCC's rules and regulations, as amended. The Franchisee shall comply in all respects with SMC 10.27A.700 and the customer service requirements established by the FCC.

(B) Subscriber Bills. Subscriber bills shall be designed in such a way as to present the information contained therein clearly and comprehensibly to Subscribers, and in a way

that (1) is not misleading and (2) does not omit material information. Notwithstanding anything to the contrary, the Franchisee may, in its sole discretion, consolidate costs on Subscriber bills as may otherwise be permitted by Section 622(c) of the Cable Act (47 U.S.C. §542(c)).

(C) Privacy Protection. The Franchisee shall comply with all applicable federal privacy laws pertaining to Cable Services, including Section 631 of the Cable Act and regulations adopted pursuant thereto. The City reserves any right it may have to impose subscriber privacy standards if the Franchisee is no longer subject to federal requirements concerning subscriber privacy.

## SECTION 34.
## REMEDIES CUMULATIVE.

The rights and remedies reserved to the City by this Franchise Agreement are cumulative and shall be in addition to, and not in derogation of, any other rights or remedies which the City may have with the respective subject matter of this Franchise Agreement. A waiver of rights or remedies shall not affect any other rights or times.

## SECTION 35.
## MISCELLANEOUS PROVISIONS.

(A) Force Majeure. The Franchisee shall not be held in default under, or in noncompliance with, the provisions of this Franchise Agreement due to acts of God or impossibility of performance as recognized in the common law of the State of Washington, to the extent and for such period as such conditions persist. For purposes of enforcement of SMC 10.27A.700, conditions outside of Normal Operating Conditions are a basis to excuse Franchisee's performance, but only to the extent and for such period as such conditions persist. Conditions outside Normal Operating Conditions may also excuse other franchise obligations where they effectively render performance infeasible or impossible, to the extent and for such period as such conditions persist, but this does not apply as to conditions within the Franchisee's reasonable control.

(B) Severability. If any section, subsection, sentence, clause, phrase, or other portion of this Franchise Agreement is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

(C) No Third-Party Beneficiaries. Nothing in this Franchise Agreement is or was intended to confer third-party beneficiary status on any member of the public to enforce the terms of this Franchise Agreement.

(D) In-Kind Cable-Related Contributions.

(1) To the extent lawful under federal law, the Franchisee may, if Franchisee so chooses, provide the City with a written list of "in-kind cable-related contributions" (as that term is defined by the FCC in the Section 621 Order) that

the Franchise Agreement requires Franchisee to provide (including but not limited to the Complimentary Service requirements in Section 16(C) and any PEG Transport required by Section 19(H)). Within ninety (90) days of receiving the aforementioned list, the City will notify the Franchisee whether, with respect to each identified in-kind cable-related contribution, the Franchisee is relieved, or temporarily relieved, of its obligations or is required to comply, subject either to the Franchisee taking an offset to the Franchise Fee payments payable under Section 30(A) as may be permitted by the Section 621 Order or to the Franchisee and the City agreeing to a separately identified charge payable by the City to the Franchisee.

(2) In the event the Section 621 Order is stayed or overturned in whole or in part by action of the FCC or through judicial review, the City and the Franchisee will meet promptly to discuss what impact such action has on the provision of the in-kind cable-related contributions to which this section applies. If allowed by subsequent state and federal law, the City may require Franchisee to provide Complimentary Service to the sites set forth in Exhibit A and PEG transport as provided in Section 19(H) for the remaining Franchise term at no charge. Nothing herein waives the City's right to enforce Franchisee's compliance with all lawful obligations contained in this Franchise Agreement.

(E) Contract: State and Federal Law. This Franchise Agreement has been reviewed by both the City and Franchisee and each party agrees that the document is valid under applicable state and federal law and each party agrees to be bound by its provisions subject to Section 35 (B) herein. Subject to this protection both parties reserve any rights, substantive or procedural, they may have under federal or state law.

SECTION 36.
APPLICABLE LAW.

This Franchise Agreement shall be construed in accordance with and governed by the laws of the State of Washington, except where preempted by federal law. Venue for any court proceedings under this Franchise Agreement shall be in Spokane County. This does not apply to FCC hearings.

PASSED by the City Council on December 14, 2020

Council President

Attest:

City Clerk

Mayor

Approved as to form:

~~Assistant~~ Attorney

12/22/2020

Date



3364943v14

~~December 8, 2020~~ 44 January 21, 2021
EFFECTIVE DATE 1/11/2021

---

ACCEPTED: This Franchise Agreement is accepted, and we agree to be bound by its terms and conditions.

COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC

Date: 12/11 _____, 2020

By: _____

Its: VP

SWORN TO BEFORE ME this

11 day of December, 2020

_____
NOTARY PUBLIC

JEAN-PIERRE NEWSOME
Notary Public
State of Washington
License Number 115566
My Commission Expires
September 09, 2023



3364943v13

## EXHIBIT A

### Free Service to Public Buildings

| | NAME | ADDRESS |
|---|---|---|
| 1. | City Hall | 808 W Spokane Falls Blvd |
| 2. | Cops West | 1901 W Boone Ave |
| 3. | COPS, Neva-Wood | 4705 N Addison St |
| 4. | Community Access Center | 104 W 3rd St., Suite B |
| 5. | 4 separate PEG playback locations – all at City Hall | 808 W Spokane Falls Blvd |

| Agenda Sheet for City Council Meeting of: 03/14/2022 | | Date Rec'd | 3/2/2022 |
|---|---|---|---|
| | | Clerk's File # | OPR 2022-0173 |
| | | Renews # | |
| **Submitting Dept** | COMMUNICATIONS & MARKETING | **Cross Ref #** | ORD C35970 |
| **Contact Name/Phone** | JOHN DELAY 6355 | **Project #** | |
| **Contact E-Mail** | JDELAY@SPOKANECITY.ORG | **Bid #** | |
| **Agenda Item Type** | Contract Item | **Requisition #** | |
| **Agenda Item Name** | 1940 CME CABLE CHANNEL AGREEMENT WITH KSPS FOR REIMBURSEMENT | | |

**Agenda Wording**

As part of the Franchise, the City Contracts with KSPS to distribute PEG programming to Comcast for delivery of the community and educational access programming. This reimbursement contract fulfills Section 19 of the Comcast Cable Franchise.

**Summary (Background)**

The City of Spokane designates KSPS as the administrator of C.A.B.L.E. PEG funds under Section 19 of the City's Cable Franchise. KSPS prioritizes the Capital Equipment needs of the C.A.B.L.E then relays those requests on to the City for funding. KSPS distributes Educational and Community Access Programming from is broadcast facility.

Lease? NO Grant related? NO Public Works? NO

| **Fiscal Impact** | | **Budget Account** |
|---|---|---|
| Expense | $ 70,000.00 | # 1940-37330-18900-54201 |
| Select | $ | # |
| Select | $ | # |
| Select | $ | # |

| **Approvals** | | **Council Notifications** | |
|---|---|---|---|
| **Dept Head** | DELAY, JOHN | **Study Session\Other** | 2/28/22 Finance Committee |
| **Division Director** | FEIST, MARLENE | **Council Sponsor** | CM Wilkerson |
| **Finance** | MURRAY, MICHELLE | **Distribution List** | |
| **Legal** | PICCOLO, MIKE | ywang@spokanecity.org | |
| **For the Mayor** | ORMSBY, MICHAEL | jdelay@spokanecity.org | |
| **Additional Approvals** | | laga@spokanecity.org | |
| **Purchasing** | | nancyb@community-minded.org | |
| | | | |
| | | | |
| | | | |

# Committee Agenda Sheet
# Finance Committee

| | |
|---|---|
| **Submitting Department** | Communications/PEG Funds |
| **Contact Name & Phone** | John Delay 6355 |
| **Contact Email** | jdelay@spokanecity.org |
| **Council Sponsor(s)** | Wilkerson |
| **Select Agenda Item Type** | ☒ Consent ☐ Discussion Time Requested: |
| **Agenda Item Name** | CME Cable Channel Agreement with KSPS |
| **Summary (Background)** | The City of Spokane designates KSPS as the administrator of C.A.B.L.E. PEG funds under Section 19 of the City's Cable Franchise. KSPS prioritizes the Capital Equipment needs of the C.A.B.L.E then relays those requests on to the City for funding. KSPS distributes Educational and Community Access Programming from is broadcast facility. |
| **Proposed Council Action & Date:** | Approval of this contract to fulfill Comcast Cable Franchise Requirements under section 19 "Community Programming". |

**Fiscal Impact:**
Total Cost:
Approved in current year budget? ☒ Yes ☐ No ☐ N/A

Funding Source ☒ One-time ☐ Recurring
Specify funding source:

Expense Occurrence ☒ One-time ☐ Recurring

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

**Operations Impacts**

What impacts would the proposal have on historically excluded communities?

As part of the Franchise, the City Contracts with KSPS to distribute PEG programming to Comcast for delivery of the community and educational access programming.

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

| |
|---|
| The recently adopted cable franchise requires Comcast Cable to provide educational access programming to be carried on the basic cable tier which is the most affordable tier of cable television. |
| How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?<br>N/A |
| Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?<br><br>This reimbursement contract fulfills Section 19 of the Comcast Cable Franchise adopted in the fall of 2021 in regard to Educational programming. |

City Clerk's No. 2022-0173

# AGREEMENT DESIGNATING CME AS CABLE CHANNEL MANAGER

This AGREEMENT DESIGNATING Community-Minded Enterprises as community cable channel manager ("Agreement") is between the CITY OF SPOKANE ("City"), a Washington State municipal corporation, and COMMUNITY-MINDED ENTERPRISES, whose address is Attention: Nancy Rust, Director of Finance and Operations, Community-Minded Enterprises, 2001 North Division Street, Suite 130, Spokane, Washington 99207 ("CME"), a Not for Profit Corporation organized under the laws of the State of Washington.

WHEREAS, the City of Spokane has obtained certain channel resources and capital financing as a result of a Franchise renewal with the local Cable Operator, Comcast of Pennsylvania/Washington/West Virginia, LP, ("Comcast"); and

WHEREAS, the Franchise documents include the Franchise Ordinance itself and Ch. 10.27A SMC. For convenience, Section 19 of the Franchise Ordinance affecting such aforementioned channel resources is attached hereto as **Exhibit B** and incorporated herein; and

WHEREAS, CME has operated and received capital grants for 10 years.

The parties agree as follows:

1. DESIGNATION OF CME AS CHANNEL MANAGER. The City designates CME as Channel Manager of the channel reserved in Section 19 of the Comcast Franchise. This designation terminates if the Comcast Franchise Agreement terminates or expires. The designation is in the nature of a quit-claim 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. FUTURE FUNDING. The parties understand that it may be difficult for CME to submit its long term capital needs for future years. The City likewise cannot commit to approval of PEG Grant support absent a specific grant proposal. Nonetheless, for long range planning purposes, it is the intent of the City to consider continuation of PEG funding to CME in the future at a minimum level of 25%-30% of the PEG funds, subject to additional security requirements, which would be anticipated to be similar to those in this Agreement. This planning objective is a non-binding goal and may be greater or lesser, as the City's or CME's needs may require.

3. 2022 CAPITAL FUNDING. Subject to applicable Franchise requirements as provided in the cable franchise between the City and the Comcast cable company for PEG Fee source expenditures, the City agrees to pay CME from the "PEG Fee" resource identified in Section 19 of the franchise, a grant up to SEVENTY THOUSAND, NO/100 DOLLARS ($70,000.00) for capital expenditures for the calendar year.

4. CME ACCEPTANCE. CME accepts the City's designation as Channel Manager and all responsibilities, express and implied in connection therewith. CME agrees to manage and operate the channel for programming of community interest consistent with this Agreement and its Proposal, reserving editorial content control to CME. To the extent as may be required by law, CME agrees to develop viewpoint neutral community access rules for its users. It is not the purpose or intent of this or any other provision of this Agreement to create a public forum or open microphone for the channel. CME is an independent contractor for all purposes of this Agreement and not an agent or employee of the City in any respect.

5. SOLE RESPONSIBILITY. Except as provided in Section 5, CME is solely and separately responsible for all channel operations, equipment financing, budget, management and programming. Nothing in this Agreement limits CME's ability to seek protection from programmers or others as between itself and third parties.

6. COMCAST/FRANCHISE REQUIREMENTS.

   a. CME is responsible to meet any reasonable signal quality or technical requirements of Comcast. In case of dispute, the City reserves the right to determine the issue, consistent with the Franchise and this Agreement. CME understands Comcast's reservation in paragraph C of Comcast's side letter of September 30, 2005 regarding possible channel relocation, which is a part of the Franchise documents.

   b. CME understands subparagraph 19 of **Exhibit B** provides for the City and Franchisee (Comcast) to mutually agree upon an implementation and enforcement of policy directive and terms of use requirements.

   c. Consistent with subparagraph 19, CME guarantees that all users of any channel resources or channel facilities, obtained pursuant to this Agreement will assume responsibility for the content of programming prepared at such channel facilities and/or cablecasts on the subject channel. Clearance for use of copyrighted material shall be the sole responsibility of CME and/or the access user. CME promises to implement any use requirements required by the City and Comcast

related to the protection of copyrighted material. CME will likewise require that all CME programmers/channel users indemnify and hold Comcast and the City harmless from all loss or liability, including the costs of legal defense from programming or use of facilities, channel(s) or access time by the user.

d. CME understands and agrees that in default of any user meeting its obligations hereunder and as specified in Franchise, that CME is jointly and severally responsible to protect the City from any claims or losses, including, but not limited to copyright violation claims.

e. Failure to comply with the provisions of this section shall constitute a material breach of this Agreement.

f. CME shall accommodate Comcast's reasonable needs for use of parental control devises. The City reserves the right to determine any disputes.

7. ANNUAL REPORT. CME shall present verbally and in writing an annual report to the City Council on its yearly activities, on the second Monday in September of each year. A courtesy copy of the written report shall also be sent to Comcast, the City Clerk's Office, the Cable Advisory Board, and to the Spokane Public Library, Main Branch. The report shall include the following information:

a. A financial report of all channel operations and expenditures and liabilities.

b. A summary of all programming, including hours presented, weekly programming schedules (may be summarized).

c. A discussion of how CME has implemented the purpose and conditions of this Agreement and its Proposal to present community-minded programming and report on Performance Milestones at least quarterly.

d. Plans for the coming year.

e. A capital budget request, if desired, which has previously been reviewed by Comcast for Franchise compliance as set forth in **Exhibit B**, paragraph J(4) or any other City grant source;

f. Proof of compliance with all Comcast/Franchise requirements above mentioned, including:

i. Confirmation that CME meets Comcast's reasonable signal quality or technical requirements and a statement that there are no pending disputes regarding the same.

ii. A current copy of CME's policies and use requirements, and a showing of approval by City staff and Comcast per Section 19, consistent with this Agreement.

iii. Documentation, by user agreement or other appropriate means, that all users of any channel resources or channel facilities assume responsibility for the content of programming presented and promise to indemnify and hold Comcast and the City harmless from loss or liability, including the costs of legal defense.

iv. A report on any copyright complaints or problems and documentation that appropriate clearance for use of copyrighted material has been obtained, including implementation of any use requirements related to the protection of copyrighted material.

v. Acknowledgment that CME is jointly and severally responsible to protect the City from any loss or liability, including, but not limited to copyright violation claims.

8. TERM/NOTICES.

a. The Agreement takes effect January 1, 2022, and expires December 31, 2022; 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 ninety (90) 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: City Administrator, 808 W. Spokane Falls Boulevard, Spokane, Washington 99201.

ii. To CME: Attention: Nancy Rust, Director of Finance and Operations, Community-Minded Enterprises, 2001 North Division Street, Suite 130, Spokane, Washington 99207.

9. INDEMNIFICATION. CME agrees to fully defend, indemnify and hold harmless the City, its officers, agents, and employees, from and against all claims for loss, damage, liability, cost or expense arising out of the actions or inactions or negligent conduct of CME, its officers, employees and subcontractors in connection with the performance of the Agreement, except to the extent of those claims arise from the negligence of the City, its officers and employees. CME waives immunity under Title 51 RCW to the extent necessary to protect the City's interests under this indemnification and agrees that this provision has been specifically negotiated.

10. INSURANCE. During the term of the Agreement, CME shall maintain in force at its own expense, the following insurance:

a. Workers' 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 or Stop Gap Insurance in the amount of $500,000;

b. General Liability Insurance on an occurrence basis with a combined single limit, of not less than $500,000 each occurrence for bodily injury7 and property damage. It shall include contractual liability coverage for the indemnity provided under this Agreement. It shall provide that the City, its officers, employees and agents are additional insureds with respect to CME's obligations under the Agreement; and

c. Automobile Liability Insurance with a combined single limit, or the equivalent, of not less than $500,000 each accident for bodily injury and property damage, including coverage for owned, hired or non-owned vehicles.

d. 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.

e. As evidence of the insurance coverages required by this agreement, CME shall furnish acceptable insurance certificates to the City Risk Manager at the time CME returns the signed Agreement. The certificate shall specify 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. Insuring

companies or entities and proof of compliance are subject to City Risk Manager acceptance. If requested, complete copies of insurance policies shall be provided to the City Risk Manager. CME shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance. With the consent of CME, Risk Manager is authorized to make reasonable adjustments in the requirements of this section, consistent with the need. Any approved Risk Manager changes must be in writing.

11. BUSINESS LICENSE 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 business license. CME shall be responsible for contacting the City's Taxes and Licenses Department at (509) 625-6070, to obtain a business license, or an exemption status determination.

12. AUDIT / RECORDS. CME and its subcontractors shall maintain for a minimum of three years following final payment all records related to its performance of the Agreement. CME and its subcontractors shall provide access to authorized City representatives, including the City Auditor, 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.

13. NONDISCRIMINATION. No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Agreement because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation, national origin, the presence of any sensory, mental or physical disability, or use of a service animal by a disabled person.

14. ANTI-KICKBACK; COMPLIANCE WITH LAWS. 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. CME agrees to comply with all applicable federal, state, and local laws and regulations as its sole and separate obligation.

15. NO SEPARATE ENTITY; ASSIGNMENTS; AMENDMENTS. No separate legal entity, partnership or joint venture is created by this Agreement. This Agreement is binding on the parties and their heirs, successors, and assigns. Neither party may assign, transfer or subcontract its interest, in

whole or in part, without the other party's prior written consent. This Agreement may be amended at any time by mutual written agreement.

16. OWNERSHIP OF INTELLECTUAL PROPERTY. The City and CME hereby acknowledge that this Agreement shall not constitute a "work made for hire agreement" as that term is defined under the Copyright Act, 17. U.S.C § 101 *et seq.* Additionally, the City expressly acknowledges and agrees that CME shall own all right, title, and interest in and to all intellectual property created or obtained by CME during the time it operates as Channel Manager. Nothing contained in this Agreement shall restrict CME from licensing, sublicensing, assigning, or otherwise disposing of CME's Intellectual Property Rights. "Intellectual Property Rights" means all intellectual property rights throughout the universe, whether existing under statute or at common law or equity, now or hereafter in force or recognized, including but not limited to: (i) copyrights, trade secrets, trademarks, patents, inventions, designs, logos and trade dress, "moral rights," mask works, publicity rights, privacy rights and any other intellectual property and proprietary rights; and (ii) any application or right to apply for any of the rights referred to in clause (i), and any and all renewals, extensions and restorations thereof.

17. NO THIRD PARTY BENEFICIARIES. Except to the extent that this Agreement recognizes and confirms certain rights of Comcast under the Comcast Franchise Agreement, this Agreement is solely between the City and CME, and there are no third party beneficiaries to this Agreement.

18. ENTIRE AGREEMENT / SEVERABILITY. This is the entire Agreement. In the event any provision of this Agreement should become invalid, the rest of the Agreement shall remain in full force and effect.

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

Dated: _____

CITY OF SPOKANE

By: _____
Mayor

Attest: _____
City Clerk

Approved as to form:

_____
Assistant City Attorney

Dated: _____

Signed: _____
for COMMUNITY-MINDED ENTERPRISES

Federal Tax ID No. _____

City of Spokane Business License No.

_____

Title: _____

ATTACHMENTS:

Exhibit A – Certification Regarding Debarment
Exhibit B – Comcast Franchise Ordinance

22-014

**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.

| | |
|---|---|
| Name of Subrecipient / Contractor / Consultant (Type or Print) | Program Title (Type or Print) |
| Name of Certifying Official (Type or Print)<br>.<br>Title of Certifying Official (Type or Print) | Signature<br>Date (Type or Print) |

**EXHIBIT B**

| Agenda Sheet for City Council Meeting of: 11/09/2020 | | Date Rec'd | 10/29/2020 |
|---|---|---|---|
| | | Clerk's File # | ORD C35970 |
| | | Renews # | |
| **Submitting Dept** | COMMUNICATIONS | Cross Ref # | |
| **Contact Name/Phone** | MARLENE FEIST X6505 | Project # | |
| **Contact E-Mail** | MFEIST@SPOKANECITY.ORG | Bid # | |
| **Agenda Item Type** | First Reading Ordinance | Requisition # | |
| **Agenda Item Name** | 0330-CABLE TELEVISION FRANCHISE WITH COMCAST | | |

**Agenda Wording**

Granting a non-exclusive Franchise Agreement to Comcast Cable Communications Mgmt., LLC, to use public rights-of-way and other public places in the City of Spokane for the purpose of providing cable TV services with a variety of terms & conditions.

**Summary (Background)**

Comcast has provided cable television services in the City for some time. The last franchise with the company was entered into in 2005 and continued through November 2017; it had been administratively extended while negotiations continued. Comcast and the City have completed negotiations and present this 10-year non-exclusive cable franchise for approval. The goal is to ensure that our City has modern systems capable of serving future needs of our citizens & businesses.

| **Fiscal Impact** | Grant related? NO | **Budget Account** |
|---|---|---|
| | Public Works? NO | |
| Select | $ | # |
| Select | $ | # |
| Select | $ | # |
| Select | $ | # |

| **Approvals** | | **Council Notifications** | |
|---|---|---|---|
| **Dept Head** | DELAY, JOHN | **Study Session\Other** | PIES 7/27/2020 & |
| **Division Director** | CODDINGTON, BRIAN | **Council Sponsor** | Breean Beggs |
| **Finance** | HUGHES, MICHELLE | **Distribution List** | |
| **Legal** | PICCOLO, MIKE | mfeist@spokanecity.org | |
| **For the Mayor** | ORMSBY, MICHAEL | jdelay@spokanecity.org | |
| **Additional Approvals** | | tszamblen@spokanecity.org | |
| **Purchasing** | | terry_davis@comcast.com | |
| | | steven_holmes@cable.comcast.com | |
| | | brian.grogan@lawmoss.com | |
| | | | |

FIRST READING OF THE ABOVE ORDINANCE HELD ON
11/9/2020
AND FURTHER ACTION WAS DEFERRED
CITY CLERK

PASSED BY SPOKANE CITY COUNCIL:
12/14/2020
CITY CLERK

# Briefing Paper
# Public Infrastructure, Environment & Sustainability (PIES)

| | |
|---|---|
| **Division & Department:** | Communications Department |
| **Subject:** | Updated Cable Franchise with Comcast |
| **Date:** | 10/26/2020 |
| **Contact (email & phone):** | Marlene Feist; mfeist@spokanecity.org; (509) 625-6505 |
| **City Council Sponsor:** | Breean Beggs |
| **Executive Sponsor:** | Marlene Feist, PW Director of Strategic Development |
| **Committee(s) Impacted:** | PIES, Urban Experience, Finance |
| **Type of Agenda item:** | ■ Consent ☐ Discussion ☐ Strategic Initiative |
| **Alignment**: (link agenda item to guiding document – i.e., Master Plan, Budget , Comp Plan, Policy, Charter, Strategic Plan) | This franchise meets goals around technology availability and economic development. |
| **Strategic Initiative:** | Sustainable Resources |
| **Deadline:** | November anticipated approval of franchise |
| **Outcome:** (deliverables, delivery duties, milestones to meet) | Approval of an updated cable franchise with provider Comcast. |

Background/History:

Comcast has operated in the City of Spokane for some time. The last franchise with the company was entered into in 2005 and continued through November 2017. The franchise has been extended while negotiations for a new franchise proceeded. Comcast had been our only cable provider for some time, but this is a non-exclusive franchise for such services. TDS Metrocom received a cable franchise earlier this year, which will provide citizens with additional choice.

Executive Summary:

The City's Legal and Communications departments have been meeting with representatives of Comcast to negotiate an updated cable franchise. Comcast's previous franchise with the City was approved in November 2005 and expired in November 2017; terms of the franchise were extended while negotiations for a new franchise have continued. The terms are consistent with those in the franchise of the City's new cable entrant, TDS Metrocom.

With this, and other cable television franchises, the City is working to ensure that our City has modern systems capable of serving the future needs and interests of our citizens and businesses. The City wants to ensure the availability of community programming, maintain our public right of way, and provide broad access to services.

Here are the highlights:

- Franchise Term Length: 10 years
- Franchise Fee: 5 percent
- Utility Tax: 6 percent
- PEG Channels: 6 channels (2 High-Definition and 4 Standard Definition Channels); CityCable 5 maintains the same location: Channel 5 in standard definition and Channel 325 in HD.
- PEG Financial Support: 0.7% of gross revenues for PEG Capital costs. These fees support capital expenses associated with the City's government-access channels as well as Community Minded TV and Education Access channels.
- Technology: As a legacy system that already serves the entire City, Comcast will maintain a hybrid fiber coaxial, fiber-to-the-node system architecture, capable of delivering high-quality

digital signals that meet or exceed FCC requirements.

- Service area: Comcast's service area already includes the entire City, and annexed areas shall be provided service within 12 months of notification of the annexation.
- Other: Comcast will comply with the City's pavement cut policy and similar policies and will comply with the customer service and related standards found in SMC 10.27.

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:

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:

# CABLE COMMUNICATIONS FRANCHISE

# BY AND BETWEEN

# CITY OF SPOKANE, WASHINGTON

# AND

# COMCAST CABLE

# COMMUNICATIONS MANAGEMENT, LLC

**October 8, 2020**

## TABLE OF CONTENTS

SECTION 1. PURPOSE AND INTENT. ..... 1
SECTION 2. TITLE. ..... 2
SECTION 3. DEFINITIONS. ..... 2
SECTION 4. GRANT OF AUTHORITY. ..... 7
SECTION 5. AUTHORITY NOT EXCLUSIVE. ..... 7
SECTION 7. CONDITIONS OF SALE. ..... 9
SECTION 8. PREVIOUS RIGHTS ABANDONED. ..... 9
SECTION 9. AGREEMENT, ACCEPTANCE, AND INCORPORATION OF SMC 10.27A. ..... 9
SECTION 10. [RESERVED]. ..... 10
SECTION 11. TIME IS OF THE ESSENCE TO THIS AGREEMENT. ..... 10
SECTION 12. TAXES. ..... 10
SECTION 13. FRANCHISE AGREEMENT. ..... 10
SECTION 14. RENEWAL. ..... 11
SECTION 15. CABLE SYSTEM SPECIFICATIONS AND OVERSIGHT. ..... 11
SECTION 16. CABLE SERVICE. ..... 12
SECTION 17. PROGRAMMING. ..... 13
SECTION 18. RATES. ..... 14
SECTION 19. ACCESS AND LOCAL PROGRAMMING. ..... 15
SECTION 20. PARENTAL CONTROL. ..... 19
SECTION 21. TRANSFER OF RIGHTS. ..... 19
SECTION 22. LETTER OF CREDIT; PERFORMANCE SECURITY FOR OBLIGATIONS. ..... 20
SECTION 23. PROCEDURE FOR DRAWING ON PERFORMANCE SECURITY. ..... 20
SECTION 24. ENFORCEMENT. ..... 21
SECTION 25. LIQUIDATED DAMAGES. ..... 22
SECTION 26. HEARINGS. ..... 24
SECTION 27. REVOCATION. ..... 25
SECTION 28. INSURANCE, BONDS, INDEMNITY. ..... 27
SECTION 29. REPORTS. ..... 28
SECTION 30. PAYMENT OF FEES AND COSTS. ..... 30
SECTION 31. SERVICE OF NOTICE. ..... 31
SECTION 32. SUCCESSORS AND ASSIGNS. ..... 31

**SECTION 33. CUSTOMER SERVICE STANDARDS. ..... 31**
**SECTION 34. REMEDIES CUMULATIVE. ..... 32**
**SECTION 35. MISCELLANEOUS PROVISIONS. ..... 32**
**SECTION 36. APPLICABLE LAW. ..... 33**
**EXHIBIT A FREE SERVICE TO PUBLIC BUILDINGS ..... A-1**

CABLE COMMUNICATIONS FRANCHISE ORDINANCE NO. C35970

An Ordinance renewing a non-exclusive Franchise Agreement to Comcast Cable Communications Management, LLC, including any prior transfers to this entity, a corporation organized under the laws of the State of Washington, to occupy and use the public rights-of-way and, upon approval, other public places in the City of Spokane, for the purpose of providing Cable Service to the public, for a term of ten (10) years, subject to regulation by federal, state and local authority and specifying other limitations, terms and conditions governing the exercise of said Franchise Agreement.

THE CITY OF SPOKANE DOES ORDAIN:

## SECTION 1.
## PURPOSE AND INTENT.

This Franchise Agreement is by and between the City of Spokane, a Washington municipal corporation ("City"), and Comcast Cable Communications Management, LLC ("Franchisee").

WHEREAS, the City, pursuant to Chapter 10.27A of the Municipal Code of the City of Spokane, Washington (hereinafter "SMC 10.27A"), is authorized to grant one or more non-exclusive revocable Franchise Agreements to construct, maintain and operate a Cable System within the City; and,

WHEREAS, pursuant to SMC 10.27A and in accordance with Section 626 of the Cable Communications Policy Act of 1984, Franchisee has requested renewal of its Cable Communications Franchise Agreement, and after negotiations with Franchisee, the City has determined that it is in the best interest of the City and its residents to renew the Franchise Agreement with Franchisee; and,

WHEREAS, the City has, following required and reasonable notice, conducted a full public hearing, affording all persons concerned with the analysis and consideration of the technical ability, financial condition, legal qualifications and general character of the Franchisee; and,

WHEREAS, the City, after such consideration, analysis and deliberation, has approved and found sufficient the technical ability, financial condition, legal qualification and character of said Franchisee; and,

WHEREAS, the City has determined that it is in the best interests of and consistent with the health, safety and welfare of the citizens of the City to renew the Franchise Agreement to the Franchisee to operate a Cable System within the confines of the City and on the terms and conditions hereinafter set forth; and,

WHEREAS, the Franchisee has agreed to be bound by the conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the renewal of the franchise pursuant to this Franchise Agreement, the Franchisee hereby promises to comply with the provisions of this Franchise Agreement and SMC 10.27A. In consideration of the Franchisee's promises, the City hereby grants a franchise as hereinafter set forth:

SECTION 2.
TITLE.

THIS AGREEMENT may be referred to as the "City of Spokane, Washington/Comcast Cable Communications Management, LLC Cable Communications Franchise Agreement."

SECTION 3.
DEFINITIONS.

For the purpose of this Franchise Agreement the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is mandatory and the word "may" is permissive. Words not defined shall be given their common and ordinary meanings.

(A) "Access Channel" shall mean any Channel set aside for Non-commercial public use, educational use, or governmental use without a Channel usage charge.

(B) "Access User" shall mean any Person entitled to make use of an Access Channel consistent with the intended purpose of the Channel. [Cross reference SMC 10.27A.510]

(C) "Basic Cable Service" shall mean any Service Tier which includes the retransmission of local television broadcast signals.

(D) "Cable Act" shall mean the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 et seq., as amended by the Cable Television Consumer Protection and Competition Act of 1992, as further amended by the Telecommunications Act of 1996, as further amended from time to time.

(E) "Cable Service" or "Service" shall mean (A) the one-way transmission to Subscribers of (i) Video Programming or (ii) Other Programming Service, and (B) Subscriber interaction, if any, which is required for the selection or use of such Video Programming or Other Programming Service.

(F) "Cable System" or "System" shall mean a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes Video Programming and which is provided to multiple Subscribers within a community, but such term shall not include:

(1) a facility that serves only to retransmit the television signals of one (1) or more television broadcast stations;

(2) a facility that serves only Subscribers without using any Public Right of Way;

(3) a facility of a common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. § 201 et seq., except that such facility shall be considered

a Cable System (other than for purposes of 47 U.S.C. § 541(c)) to the extent such facility is used in the transmission of Video Programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services;

(4) an open video system that complies with 47 U.S.C. § 573; or

(5) any facilities of any electric utility used solely for operating its electric utility system.

(G) "Channel" shall mean bandwidth in the electromagnetic spectrum capable of carrying a television channel (as television channel is defined by FCC regulation).

(H) "City" shall mean the City of Spokane, Washington. For purposes of enforcement of any provision, "City" further means the City Administrator or their designee except where otherwise specified.

(I) "Complaint" shall mean a Subscriber written contact (via U.S. mail, email or other electronic means) with the City to express a grievance or dissatisfaction concerning Cable Service. Complaints do not include matters not within the scope of this Franchise Agreement or Ch. 10.27A SMC.

(J) "Converter" shall mean an electronic tuning device which converts transmitted signals to a frequency which permits their reception on a television receiver.

(K) "Council" shall mean the legislative body of the City of Spokane, Washington.

(L) "FCC" shall mean the Federal Communications Commission or any legally appointed or designated agent or successor.

(M) "Franchise Agreement" or "Franchise" shall mean the nonexclusive right and authority to construct, maintain, and operate a Cable System through use of Public Rights of Way in the City pursuant to a contractual agreement approved by the City Council and executed by the City and Franchisee.

(N) "Franchise Area" shall mean the entire geographic area within the City as it is now constituted or may in the future be constituted. [Cross reference SMC 10.27A.720]

(O) "Franchisee" shall mean Comcast Cable Communications Management, LLC, including any lawful successor, transferee or assignee of the original Franchisee.

(P) "Franchise Fee" means consideration paid by Franchisee for the privilege to operate a Cable System in the Franchise Area as set forth in Section 4, in accordance with Section 622 of the Cable Act and federal law.

(Q) "GAAP" means Generally Accepted Accounting Principles.

(R) "Gross Revenues" means all amounts derived by the Franchisee and/or an affiliate from the operation of Franchisee's Cable System to provide Cable Services within the Franchise Area. Gross Revenues include, by way of illustration and not limitation:

(1) Fees for Cable Services, regardless of whether such Cable Services are provided to residential or commercial Subscribers, including revenues derived from the provision of all Cable Services (including but not limited to pay or premium Cable Services, digital Cable Services, pay-per-view, pay-per-event, audio channels and video-on-demand Cable Services);

(2) Installation, disconnection, reconnection, downgrade, upgrade, maintenance, repair, or similar charges associated with Subscriber Cable Service;

(3) Fees paid to Franchisee for Channels designated for commercial/leased access use, which shall be allocated on a pro rata basis using total Cable Service Subscribers within the Franchise Area;

(4) Converter, remote control, and other Cable Service equipment rentals, leases, or sales (but not revenues from equipment used exclusively for the provision of services that are not Cable Service);

(5) Advertising Revenues as defined herein;

(6) Fees including, but not limited to: (1) late fees, convenience fees and administrative fees which shall be allocated in accordance with GAAP; and (2) Franchise fees;

(7) Commissions from home shopping channels and other Cable Service revenue sharing arrangements which shall be allocated on a pro rata basis using total Cable Service Subscribers within the Franchise Area.

(8) "Advertising Revenues" shall mean amounts derived from sales of advertising that are made available to Franchisee's Cable System Subscribers within the Franchise Area and shall be allocated on a pro rata basis using total Cable Service Subscribers reached by the advertising. Additionally, Franchisee agrees that Gross Revenues subject to Franchise Fees shall include all commissions, representative fees, affiliated entity fees, or rebates paid to National Cable Communications and Comcast Spotlight or their successors associated with sales of advertising on the Cable System within the City allocated according to this paragraph using total Cable Service Subscribers reached by the advertising.

(9) "Gross Revenues" shall not include:

a) Actual Cable Services bad debt write-offs, except any portion which is subsequently collected which shall be allocated on a pro rata basis using Cable Services revenue as a percentage of total Franchisee revenues within the Franchise Area;

b) Any taxes and/or fees on services furnished by Franchisee imposed on Subscribers by any municipality, state or other governmental unit, provided that the Franchise Fee and the FCC user fee shall not be regarded as such a tax or fee;

c) Public, Educational and Governmental (PEG) Fees collected by Franchisee from Subscribers;

d) Contra expenses including but not limited to launch fees and marketing co-op fees to the extent consistent with GAAP; and

e) Unaffiliated third-party advertising sales agency fees or commissions which are reflected as a deduction from revenues to the extent consistent with GAAP.

(10) To the extent revenues are derived by Franchisee for the provision of a discounted bundle of services which includes Cable Services and non-Cable Services, Franchisee shall calculate revenues to be included in Gross Revenues using a methodology that allocates revenue on a pro rata basis when comparing the bundled service price and its components to the sum of the published rate card prices for such components. Except as required by specific federal, state or local law, it is expressly understood that equipment may be subject to inclusion in the bundled price at full rate card value. This calculation shall be applied to every bundled service package containing Cable Service from which Franchisee derives revenues in the Franchise Area. The City reserves its right to review and to challenge Franchisee's calculations.

(11) Franchisee reserves the right to change the allocation methodologies set forth in this definition to meet standards mandated by the Financial Accounting Standards Board ("FASB"), Emerging Issues Task Force ("EITF") and/or the U.S. Securities and Exchange Commission ("SEC"). City acknowledges and agrees that Franchisee shall calculate Gross Revenues in a manner consistent with GAAP where applicable; however, the City reserves its right to challenge Franchisee's calculation of Gross Revenues, including Franchisee's interpretation of GAAP and Franchisee's interpretation of FASB, EITF and SEC directives. Franchisee agrees to explain and document the source of any change it deems required by FASB, EITF and SEC on the first quarterly payment statement implementing the change. Upon the City's written request and subject to Franchisee's reasonable confidentiality requirements, Franchisee shall provide additional detail, explanation and/or reference to source materials.

(12) The City acknowledges that Franchisee shall maintain its books and records in accordance with "GAAP."

(S) "Installation" shall mean the process necessary to connect the Cable System at the Subscriber's premises.

(T) "Non-commercial" shall mean, in the context of Access Channels that products and services are not sold via the Access Channel. The term will not be interpreted to prohibit an Access Channel operator or programmer from independently (i.e. not in the context of any televised programming) soliciting and receiving financial support to produce and transmit Video Programming on an Access Channel, or from acknowledging a contribution, in the manner of the corporation for public broadcasting. An Access Channel operator or programmer may cablecast informational programming regarding City events, projects and attractions of interest to residents so long as the format for such programming is consistent with the purposes for which PEG resources may be used.

(U) "Normal Business Hours" shall mean those hours during which most similar businesses in City are open to serve customers. In all cases, "Normal Business Hours" must include some evening hours, at least one (1) night per week and/or some weekend hours.

(V) "Normal Operating Conditions" shall mean those Service conditions which are within the control of Franchisee. Those conditions which are not within the control of a Franchisee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of Franchisee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the Cable System. [Cross reference SMC 10.27A.700]

(W) "Other Programming Service" shall mean information that a cable operator makes available to all Subscribers generally.

(X) "PEG" shall mean public, educational and governmental.

(Y) "Person" shall mean an individual or legal entity, such as a corporation or partnership.

(Z) "Public Right of Way" or "Public Rights of Way" shall mean the surface of and the space above and below any public street, road, highway, path, sidewalk, alley, court, or easement now or hereafter dedicated and opened by the City for the purpose of public travel or public utilities. Use of skywalks may be subject to additional regulatory requirements consistent with the Spokane Municipal Code. In the case of any grant of authority or permission by the City to a cable operator however, this term shall not exceed the scope of the City's interests or power to extend such grant.

(AA) "Section 621 Order" means the Third Report and Order in MB Docket No. 05-311 adopted by the FCC on August 1, 2019.

(BB) "Service Tier" shall mean a specific set of Cable Services which are made available as a group for purchase by Subscribers, at a separate rate for the group.

(CC) "Standard Installation" shall mean those that are located up to one hundred twenty-five (125) feet from the existing distribution system. Franchisee shall comply

with applicable FCC regulations regarding commercial Installations as may now or hereafter arise.

(DD) "Subscriber" shall mean a member of the general public who receives broadcast programming distributed by a Cable System and does not further distribute it.

(EE) "Video Programming" shall mean programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

(FF) "Wireline MVPD" means any entity, including the City, that utilizes the Public Right of Way to install cable or fiber and is engaged in the business of making available for purchase, by Subscribers, multiple Channels of Video Programming in the City, which could also include the City. For purposes of this Franchise, the term "Wireline MVPD" shall not be limited to entities defined by the FCC as "multichannel video programming distributors" and shall include entities that provide multiple Channels of Video Programming via open video systems, as defined by the FCC, but it is the intent of the Franchisee and the City that the term Wireline MVPD shall not include small cell providers, unless the City has the legal authority under applicable state and federal law to regulate or to impose cable franchise obligations upon such small cell providers.

## SECTION 4.
## GRANT OF AUTHORITY.

(A) There is hereby granted by the City to the Franchisee, for a period of ten (10) years from and after the effective date set forth at the end of this Franchise, the right and privilege to have, acquire, construct, reconstruct, use, operate, own and maintain a Cable System for the Franchise Area, subject to the terms and provisions of Section 9(C) herein, and to the conditions and restrictions as hereinafter provided. No privilege or power of eminent domain is bestowed by this grant of authority.

(B) Consistent with the provisions of City ordinances and the Cable Act, the City hereby grants to Franchisee the authority to construct a Cable System in the City's Public Rights of Way.

## SECTION 5.
## AUTHORITY NOT EXCLUSIVE.

(A) The grant of authority for use of the City's Public Rights of Way, as conferred in Section 4 hereof, is not exclusive and does not establish priority for use over other franchise holders, permit holders and the City's own use of public property. Nothing in this Franchise Agreement shall affect the right of the City to grant to any other Person a similar franchise or right to occupy and use the Public Rights of Way or any part thereof for the erection, Installation, construction, reconstruction, operation, maintenance, dismantling, testing, repair or use of a Cable System within the City. Additionally, the Franchisee shall respect the rights and property of the City and other authorized users of Public Rights of Way. Disputes between the Franchisee and other parties over the use, pursuant to this Franchise Agreement, of the Public Rights of Way shall be submitted to the City Engineer for resolution.

## SECTION 6
## COMPETITIVE EQUITY.

(A) The City reserves the right to grant additional franchises or similar authorizations to provide Video Programming services via Cable Systems or other Wireline MVPDs. The City intends to treat Wireline MVPDs in a nondiscriminatory manner to the extent permissible under applicable state and federal law. If, following the effective date of this Franchise, the City grants such an additional franchise or authorization to a Wireline MVPD and Franchisee believes the City has done so on terms materially more favorable than the obligations under this Franchise, then the provisions of this Section 6 will apply.

(B) As part of this Franchise, the City and Franchisee have mutually agreed upon the following terms as a condition of granting the Franchise, which terms may place the Franchisee at a significant competitive disadvantage if not required of a Wireline MVPD: the obligation to pay to the City a Franchise Fee consistent with Section 30 of this Franchise, Gross Revenues as provided for and defined in this Franchise, and the obligation to comply with the requirements in this Franchise regarding PEG funding, PEG Access Channels, records and reports, security instruments, audits, dispute resolution, remedies, notice and opportunity to cure, and customer service obligations (hereinafter "Material Obligations"). The City and Franchisee further agree that this provision shall not require a word for word identical franchise or authorization for competitive equity so long as the regulatory and financial burdens on each entity are materially equivalent.

(C) Within one (1) year of the adoption of a Wireline MVPD franchise or similar authorization, Franchisee must notify the City in writing of the Material Obligations in this Franchise that exceed the Material Obligations of the wireline competitor's franchise or similar authorization. The City and Franchisee agree that they will use best efforts in good faith to negotiate Franchisee's proposed Franchise modifications, and that such negotiation will proceed and conclude within a ninety (90) day time period, unless that time period is reduced or extended by mutual agreement of the parties. If the City and Franchisee reach agreement on the Franchise modifications pursuant to such negotiations, then the City shall amend this Franchise to include the modifications. If the City and Franchisee fail to reach agreement in such negotiations, Franchisee may, at its option, elect to replace this Franchise by opting into the franchise or other similar lawful authorization that the City grants to another Wireline MVPD (with the understanding that Franchisee may use its current system design and technology infrastructure to meet any requirements of the new franchise), so as to insure that the regulatory and financial burdens on each entity are equivalent. If Franchisee so elects, the City shall immediately commence proceedings to replace this Franchise with the franchise issued to the other Wireline MVPD. Notwithstanding anything contained in this section to the contrary, the City shall not be obligated to amend or replace this Franchise unless the new entrant makes Cable Services or similar downstream video programming service available for purchase by Subscribers or customers under its franchise agreement with or similar authorization from the City.

(D) In the event the City disputes that the Material Obligations are different, Franchisee may bring an action in federal or state court for a determination as to whether the Material Obligations are different and as to what franchise amendments would be necessary to remedy the disparity. Alternatively, Franchisee may notify the City that it elects to immediately commence the renewal process under 47 U.S.C. § 546 and to have the remaining term of this Franchise shortened to not more than thirty (30) months.

(E) Nothing in this Section 6 is intended to alter the rights or obligations of either party under applicable federal or state law, and it shall only apply to the extent permitted under state and federal law. In no event will the City be required to refund or to offset against future amounts due the value of benefits already received.

(F) To the extent the City has legal authority to grant a franchise or similar authorization to a wireless provider of Cable Service, the competitive equity rights provided by this section shall apply with respect to Material Obligations imposed in such franchise or other similar agreement. In the event of a dispute regarding the City's legal authority, Franchisee shall have the burden to demonstrate that such authority exists.

## SECTION 7.
## CONDITIONS OF SALE.

If a renewal of this Franchise Agreement is denied or the Franchise Agreement is lawfully terminated, and the City lawfully acquires ownership of the Cable System or by its actions lawfully effects a transfer of ownership of the Cable System to another Person, any such acquisition or transfer shall be at a price determined pursuant to the provisions of 47 USC §547.

## SECTION 8.
## PREVIOUS RIGHTS ABANDONED.

This Franchise Agreement is in lieu of any and all other contractual rights, privileges, powers, immunities, and authorities owned, possessed, controlled, or exercisable by Franchisee or any successor pertaining to the construction, operation, modification or maintenance of a Cable System in the City. The acceptance of this Franchise Agreement shall operate as between Franchisee and the City as an abandonment of any and all such contractual rights, privileges, powers, immunities, and authorities within the City. All construction, operation, modification, and maintenance by the Franchisee of any Cable System in the City to provide Cable Service shall be under this Franchise Agreement and not under any other contractual right, privilege, power, immunity, or authority.

## SECTION 9.
## AGREEMENT, ACCEPTANCE, AND INCORPORATION OF SMC 10.27A.

(A) Franchisee acknowledges and accepts the right of the City to grant Franchisee this Franchise under current state, federal and local law. Franchisee agrees it shall not now nor at any time hereafter challenge this right, including in any state or federal court, provided that Franchisee reserves its right to seek changes in state, federal or local law governing the right of City to grant this Franchise and to challenge the City's right to grant this Franchise based on changes in current state, federal or local law that take effect

subsequent to the effective date of this Franchise Agreement. This section shall not be interpreted to prevent Franchisee from engaging in state, federal, or local lobbying efforts, either independently or as part of a consortium, on matters of interest to the Franchisee or the industry.

(B) Franchisee's rights hereunder are subject to the lawful and reasonable exercise of the City's police power consistent with state, federal or local law. It is understood that the City may at any time enact any ordinance of general applicability which may impact the Franchisee in its operation of the Cable System, provided that such ordinance constitutes a proper exercise of the City's police power, consistent with state, federal or local law.

(C) Franchisee acknowledges as of the time of acceptance of this Franchise Agreement that it has reviewed the Spokane City Charter relating to franchises and the use of the Public Right of Way and Ch. SMC 10.27A and accepts them as lawful exercises of City regulatory powers over the Public Right of Way. The parties acknowledge that the City may modify its regulatory policies throughout the term of this Franchise Agreement. Franchisee agrees to comply with such lawful policies except when there is a conflict with Franchisee's rights negotiated hereunder. Franchisee reserves any rights it may have to challenge such policies whether arising in contract or at law. The City reserves all defenses to such challenge, whether arising in contract or law.

## SECTION 10.
## [RESERVED].

## SECTION 11.
## TIME IS OF THE ESSENCE TO THIS AGREEMENT.

Whenever this Franchise Agreement shall set forth any time for an act to be performed by or on behalf of the Franchisee, related to a material Franchise requirement, such time shall be deemed of the essence. Any failure of the City to promptly enforce the time for an act to be performed in the past shall not be deemed a waiver of the City's right to require timely performance in the future.

## SECTION 12.
## TAXES.

Nothing contained in this Franchise Agreement shall be construed to except the Franchisee from any tax, liability or assessment authorized by law or from provisions of Titles 4 and 8 of the Spokane Municipal Code.

## SECTION 13.
## FRANCHISE AGREEMENT.

This Franchise Agreement is a contract between the City and the Franchisee, binding upon both parties. It is the intent of the parties that this shall be subject to amendment by mutual agreement from time to time to allow the Franchisee to innovate and implement new services

and developments, or to agree to any terms allowed by law and for which each party agrees to bargain in good faith with the other party, upon the initiation of any proposed amendment.

## SECTION 14.
## RENEWAL.

Any renewal of this Franchise Agreement shall be governed by and comply with the provisions of the Cable Act (47 U.S.C. § 546), as amended.

## SECTION 15.
## CABLE SYSTEM SPECIFICATIONS AND OVERSIGHT.

(A) The Franchisee shall maintain its Cable System as a hybrid fiber coaxial, fiber-to-the-node system architecture, with fiber-optic cable deployed from the headend to the node and coaxial cable deployed from the node to Subscribers homes. During the term of this Franchise, the Franchisee's Cable System shall be capable of providing a minimum of one hundred twenty (120) Channels of Video Programming to its Subscribers in the Franchise Area. Active and passive devices are capable of delivering high-quality digital video signals meeting or exceeding FCC technical quality standards. Cable System nodes are designed for future segmentation as necessary to maximize shared bandwidth. During the term of this Franchise Agreement, the Franchisee agrees to maintain the Cable System in a manner consistent with these specifications or better.

(B) All Franchisee activity in the Public Right of Way, and other public places where applicable, must be in accord with the Standard Specifications (WSDOT 2004, as amended or current equivalent) applicable to civil works in the Public Right of Way, including any generally applicable Supplemental Specifications as now or hereafter approved by the City Engineer and any other state and local regulations. All such construction, Installation and maintenance must also comply with the National Electrical Safety Code, the Washington State Electrical Construction Code, the National Electrical Code as adopted by the City and good and accepted industry practices.

[Note: at the time of adoption of this section, the generally approved Standard Specifications is that edition published by the Washington State Department of Transportation (WSDOT), "Standard Specifications for Road, Bridge and Municipal Construction, 2016, M 41-10", as amended].

(C) The Franchisee shall comply with all applicable technical standards of the FCC as published in 47 C.F.R. Part 76, Subpart K, as may be amended from time to time. The City shall have, upon written request, the right to review tests and records required to be performed pursuant to the FCC's rules.

(D) The City shall have the right to regulate and inspect the construction, operation and maintenance of the Cable System in the Public Rights of Way. Upon reasonable prior written notice and in the presence of the Franchisee's employee, the City may review the Cable System's technical performance as necessary to monitor the Franchisee's compliance with the provisions of this Franchise Agreement. All equipment testing under a technical performance review shall be conducted by the Franchisee.

[Cross reference SMC 10.27A.600 - 10.27A.680 regarding construction standards which are also applicable.]

SECTION 16.
CABLE SERVICE.

(A) Subject to the density considerations listed below, except in areas reserved for public travel or utility access not yet opened and accepted by the City as Public Right of Way that the Franchisee is specifically and lawfully prohibited from deploying its Cable System by the owner/developer, the Franchisee shall provide Cable Service throughout the entire City. Consistent with SMC 10.27A.720, areas subsequently annexed shall be provided with Cable Service within twelve (12) months of the time of the City notifying Franchisee of the annexation.

(B) Access to Cable Service shall not be denied to any group of potential cable Subscribers because of the income of the potential cable Subscribers or the area in which such group resides to the extent required by state and federal law. All residents requesting Cable Service and living within a Standard Installation of one hundred twenty-five (125) feet shall have the cable installed at no more than the prevailing published Installation rate. In the event a request is made for Cable Service and the residence is more than a Standard Installation of one hundred twenty-five (125) feet, such Installation will be provided at Franchisee's published rate for Standard Installations.

(C) The City and Franchisee acknowledge that the Franchisee currently provides, without charge, one (1) outlet, one (1) Converter, if necessary, and Digital Starter Service programming (including the PEG Channels) to the public buildings listed in Exhibit A, attached hereto ("Complimentary Service"). Subject to Section 35(D) of this Franchise Agreement, Franchisee shall continue to provide service to the City as set forth in this Section 16(C). However, the City shall have the right to request the disconnection of the other franchised cable operator and require Franchisee to meet the free service obligation provided the City maintains a fair distribution of service to public buildings between all franchised cable operators in the City.

(1) If the drop line to such building exceeds a Standard Installation drop one hundred twenty-five (125) feet, the Franchisee will accommodate the drop up to three hundred (300) feet if the City or other agency provides the necessary attachment point for aerial service or conduit pathway for underground service. If the necessary pathway is not provided the City or other agency agrees to pay the incremental cost of such drop in excess of one hundred twenty-five (125) feet or the necessary distribution line extension of the Cable System, including the cost of such excess labor and materials. The recipient of the service will secure any necessary right of entry.

(2) The Complimentary Service will not be used for commercial purposes, and the outlets will not be located in areas open to the public excepting one (1) outlet to be located in a public lobby in City Hall that will be used by the public for viewing Council meeting broadcasts. The City will take reasonable precautions to

prevent any use of the Franchisee's Cable System in any manner that results in inappropriate use, loss or damage to the Cable System. Franchisee hereby reserves all rights it may have under the law to seek payment from City for liability or claims arising out of the provision and use of the Complimentary Service required by this section.

(3) If additional outlets of Complimentary Service are provided to such buildings, the building occupant will pay the usual Installation fees, if any.

(D) Franchisee shall extend the System to any portion of the City after the date of the Franchise Agreement, when dwellings can be served by extension of the System past dwellings equivalent to a density of seven (7) dwellings per one-quarter (1/4) mile of cable contiguous to the System. Franchisee may petition the City for a waiver of this requirement, such waiver to be granted (1) for good cause shown, or (2) where Franchisee's System penetration level (defined as the percentage obtained by dividing (x) the number of Franchisee's Subscribers, by (y) the total number of dwelling units in the Franchise Area) drops below thirty-five percent (35%). The City shall not require Franchisee to extend Service to any dwelling that is already receiving Service from a competing provider. Such extension shall be at Franchisee's cost. In areas not meeting the requirements of seven (7) or more dwellings per one-quarter (1/4) mile, for mandatory extension of Service, Franchisee shall provide, upon the request of any potential Subscribers desiring Service, an estimate of the costs required to extend Service to such Subscribers. Franchisee shall then extend Service upon request and upon payment of an amount equal to the reasonable value of actual time and materials to be incurred by Franchisee for such extension. Any Subscriber drop not exceeding a Standard Installation drop of one hundred twenty-five (125) feet will be free of charge to the Subscriber other than normal Installation fees. For drops in excess of one hundred twenty-five (125) feet, Franchisee may assess an amount equal to time and materials. This provision has been negotiated taking into consideration the unique features of residential property in the City, including the size of lots, historical layout of developments and other factors.

## SECTION 17.
## PROGRAMMING.

(A) All final programming decisions remain the discretion of Franchisee in accordance with this Franchise Agreement, provided that Franchisee notifies City and Subscribers in writing thirty (30) days prior to any Channel additions, deletions, or realignments, and further subject to Franchisee's signal carriage obligations hereunder and pursuant to 47 U.S.C. §§ 531-536, and further subject to City's rights pursuant to 47 U.S.C. § 545.

(B) Franchisee will provide at least the following initial broad categories of programming to the extent such categories are reasonably available:

(1) Educational programming;
(2) News, weather and information;

(3) Sports;
(4) General entertainment including movies;
(5) Children, family oriented;
(6) Arts, culture and performing arts;
(7) Foreign language programming; and
(8) Science/documentary.

(C) The Franchisee shall offer to all Subscribers a diversity of Video Programming services and it will not eliminate any broad categories of programming without first obtaining the written approval of the City, such approval not to be unreasonably withheld.

(1) Franchisee shall notify in writing the City, or its designee, of its intent to eliminate any broad category of programming noted in subsection (A). The City, or its designee, shall make a determination on such request not later than sixty (60) days after receipt of the request by Franchisee. In the event that the City makes an adverse determination, such determination shall be in writing, along with a concise statement of the reasons therefore. In the event the City fails to make a determination within sixty (60) days after receipt of a request from Franchisee, Franchisee shall have the right to make the deletion contained in its written request. [Cross reference SMC 10.27A.905.]

## SECTION 18.
## RATES.

(A) Throughout the term of this Franchise Agreement and upon request, the Franchisee shall provide annually an updated rate card to the City that details applicable rates and charges for Cable Services provided under this Franchise Agreement. This does not require the Franchisee to file rates and charges under temporary reductions or waivers of rates and charges in conjunction with promotional campaigns.

(B) Franchisee shall provide a minimum of thirty (30) days' written notice to the City and each Subscriber before changing any rates and charges. Franchisee shall not be required to provide prior notice of any rate changes as a result of a regulatory fee, franchise fee or other fees, tax, assessment or charge of any kind imposed by the City or any other governmental entity on the transaction between the Franchisee and the Subscriber. Notice shall not be required in cases where the Franchisee adds additional Channels to any tier, provided there is no concurrent rate change.

(C) City may regulate rates for the provision of Cable Service provided over the System in accordance with applicable federal law, in particular 47 C.F.R. Part 76 subpart N. In the event the City chooses to regulate rates it shall, in accordance with 47 C.F.R. § 76.910, obtain certification from the FCC, if applicable. The City shall follow all applicable FCC rate regulations and shall ensure that appropriate personnel are in place to administer such regulations. City reserves the right to regulate rates for any future Cable Services to the maximum extent allowed by law.

## SECTION 19.
## ACCESS AND LOCAL PROGRAMMING.

(A) Access Channels.

(1) Commencing on the effective date of this Franchise Agreement, Franchisee shall continue to make available eight (8) full-time activated Access Channels for Non-commercial use.

(2) The City may designate entities to be responsible for administering use of the PEG Access Channels. Such entities shall be responsible for the utilization, programming and scheduling of the Access Channels designated for PEG use and public use respectively.

(3) The Franchisee shall provide the PEG Access Channels as part of the Cable Service provided to any Subscriber, at no additional charge, and so that the PEG Access Channels are viewable by the Subscriber without the need for additional equipment beyond that required to receive the Basic Cable Service Tier. If Channels are selected through a menu system, the PEG Access Channels shall be displayed as prominently as commercial programming choices offered by Franchisee.

(4) At such time as all other Basic Service Channels (or its equivalent tier) excluding PEG Access Channels, are carried in HD, the SD PEG Access Channels will also be carried by Franchisee in HD, at which time the SD PEG Access Channels will be discontinued and the maximum number of PEG Access Channels shall be four (4) HD Channels, subject to Section 19(A)(7).

(5) Within six (6) months of the effective date of this Franchise, and upon completion of the Fire Training Channel connection set forth below, Franchisee shall reclaim two (2) SD Access Channels for one (1) HD Access Channel simulcast. The two (2) SD Access Channels to be reclaimed shall be the Fire Training Channel and another Access Channel selected by the City in City's sole discretion.

(6) No sooner than twelve (12) months of the effective date of this Franchise, Franchisee shall reclaim two (2) additional SD Access Channels which will result in the City retaining a total of four (4) SD Access Channels and two (2) additional simulcast SD/HD Access Channels.

(7) Within six (6) months of the effective date of this Franchise, Franchisee shall either: 1) construct a dedicated two-way connection between the Fire Training Center and City Hall, to replace the SD Fire Training Center Access Channel, the cost estimated to be Twenty Thousand and No/100 Dollars ($20,000) shall be paid for out of the City's PEG Fee; or 2) the City shall assume responsibility for the construction of the connection and Franchisee shall cooperate, the City's construction cost may be paid for out of the PEG Fee so long as consistent with applicable federal law.

(8) City shall be responsible for all programming requirements on the PEG Access Channels, including but not limited to scheduling, playback, training, staffing, copyright clearances, and production equipment owned and controlled by the City, including maintenance and repair of such production equipment.

(B) Regional Channel. The City shall have the right to use one (1) of the existing PEG Access Channels as a regional Channel if desired by the City. Franchisee shall cooperate with City to accommodate such regional Channel.

(C) PEG Access Channel Location. Franchisee shall make commercially reasonable efforts to maintain one (1) of the PEG Access Channels as Channel 5 (SD) and Channel 325 (HD) on the Franchisee's Channel lineup. Franchisee shall make commercially reasonable efforts to maintain one (1) additional PEG Access Channel as Channel 14 (SD) and Channel 326 (HD) on the Franchisee's Channel lineup, or otherwise maintain adjacent positions to each other in the channel lineup.

(1) Franchisee shall make commercially reasonable efforts to minimize Channel location movements for PEG Access Channels, and shall make reasonable commercial efforts to locate Access Channels in a manner that is easily accessible to Subscribers. For new HD Access Channels that are provided pursuant to this Franchise, Franchisee shall make reasonable commercial efforts to assign the Access Channels a number near the other HD local broadcast stations if such channel positions are not already taken, or if that is not possible, near HD news/public affairs programming channels if such channel positions are not already taken, or if not possible, as reasonably close as available channel numbering will allow.

(D) PEG Access Channel Quality.

(1) With respect to signal quality, Franchisee shall not be required to carry an Access Channel in a higher quality format than that of the Channel signal delivered to Franchisee, but Franchisee shall distribute the Channel signal without material degradation. There shall be no restriction on Franchisee's technology used to deploy and deliver SD or HD signals so long as the requirements of the Franchise are otherwise met. Franchisee may implement HD carriage of PEG Access Channels in any manner (including selection of compression, utilization of IP, and other processing characteristics) that produces a signal quality for the Subscriber that is reasonably comparable and functionally equivalent to similar commercial HD Channels carried on the Cable System. Franchisee agrees that in no event will the PEG Access Channels be transmitted in a manner different than other commercial Channels offered by Franchisee on the basic service tier.

(2) In the event the City believes and provides evidence that Franchisee has failed to meet this standard, the City will notify Franchisee of such concern, and Franchisee will respond to any complaints in a timely manner. Disputes under this section shall be addressed through the Franchise enforcement procedures set forth in Section 24. Upon reasonable written request by the City or any authorized

access provider (but not a user of the community Access Channel), Franchisee shall verify that Access Channel signal delivery to Subscribers is consistent with the requirements of this section.

(E) The City shall implement and enforce policy directives and terms of use requirements that all users of public access facilities and public Access Channel(s) assume complete responsibility for the content of programming prepared at public access facilities and/or cablecasts on the public Access Channel(s). The parties agree that clearance for use of copyrighted material shall be the sole responsibility of the access user. The City shall require that all public access users indemnify and hold the Franchisee and the City of Spokane harmless from all liability of any kind whatsoever, including the costs of legal defense arising from the use of facilities, channel(s) or access time by the user.

(F) PEG Fee.

(1) Within sixty (60) days after the effective date of this Franchise Agreement, the Franchisee shall collect and remit to the City zero point seven percent (0.7%) of Gross Revenues (the "PEG Fee") to be used for PEG access capital costs in accordance with applicable federal law. The PEG Fee shall be remitted quarterly to the City in the same manner and at the same time as the Franchise Fee.

(2) The PEG Fee is not intended to represent part of the Franchise Fee and are intended to fall within one (1) or more of the exceptions in 47 U.S.C. § 542. The PEG Fee may be categorized, itemized, and passed through to Subscribers as permissible, in accordance with federal law. So long as the PEG Fee is used by the City as permitted by applicable federal law, and this Franchise, Franchisee agrees that it will not offset or reduce its payment of past, present or future Franchise Fees required as a result of its obligation to remit the PEG Fee, unless otherwise mandated by Applicable Law.

(3) Within ninety (90) days and upon request, the City shall provide the Franchisee with documentation showing expenditures for PEG capital use of the previous year's PEG Fee funding and showing the budgeted use of the current year's PEG funding. In the event the City cannot demonstrate that PEG funding was used or budgeted for PEG capital needs, Franchisee's PEG funding obligations going forward shall be reduced by an equivalent amount.

(4) Any PEG Fees owing pursuant to this Franchise Agreement which remain unpaid more than twenty-five (25) days after the date the payment is due shall be delinquent and shall thereafter accrue interest at twelve percent (12%) per annum.

(5) All PEG Access Channels shall be provided as a part of Franchisee's Basic Cable Service or its equivalent. Franchisee shall make every reasonable effort to coordinate the cablecasting of PEG access programming on the Cable System on the same Channel designations as such programming is currently

cablecast within the City. In no event shall any PEG Access Channel reallocations be made prior to ninety (90) days' written notice to the City by Franchisee, except for circumstances beyond Franchisee's reasonable control.

(G) Guide Selection. Franchisee agrees that if it utilizes a visual interface under its control on its Cable System for all Channels, the PEG Access Channels shall be treated in a non-discriminatory fashion so that Subscribers will have ready access to PEG Access Channels. To the extent the configuration of the Cable System allows for detailed program listings to be included on the digital channel guide, Franchisee will make available to City the ability to place PEG Access Channel programming information on the interactive Channel guide via the electronic programming guide ("EPG") vendor ("EPG provider") that Franchisee utilizes to provide the guide service. Franchisee will be responsible for providing the designations and instructions necessary for the PEG Access Channels to appear on the EPG. All costs and operational requirements for the EPG provider shall be the responsibility of the City. Franchisee is not responsible for operations of the EPG provider. Franchisee shall, to the maximum extent possible, make available to the City any price discounts Franchisee may have in place with third party vendors that offer such programming guide services. The cost of this guide service may be funded in any manner consistent with federal law.

(H) PEG Access Programming Connectivity.

(1) Under Section 19(k) of the 2005 franchise between City and Franchisee, Franchisee agreed to construct and maintain two-way connections. Franchisee was permitted to recoup all of its construction and maintenance costs ($250,000) from the City's PEG Fee over the term of the 2005 franchise. Currently Franchisee is providing the City with nine (9) complimentary two-way connections to facilitate the live playback of PEG programming in the City. The City has agreed as part of this renewal to reduce the number of two-way connections down to just two (2) remaining connections to facilitate PEG origination over the next Franchise term. The City and Franchisee acknowledge that the Franchisee currently provides and maintains, free of charge to the City, the existing two-way connections located at: 1) the KSPS Facility, located at 3911 South Regal Street; and 2) the City Hall via City Water Works Building on Hamilton & North Foothills. These connections enable the transmission of PEG Access programming over the Cable System. Franchisee shall maintain the two (2) above-referenced connections for the term of this Franchise, without additional charge (with no recurring, monthly costs or offsets) except that Franchisee may, if permitted by federal law, invoice the City for any actual repair or maintenance costs. Such actual repair or maintenance costs shall be estimated to the City in advance when possible, and shall be documented and invoiced to the City by Franchisee for payment.

(2) If the City desires to add new connection points over the term of this Franchise Agreement in addition to the above list, upon (one hundred twenty (120) days written request of the City, and written approval by the City of

Franchisee's construction charges, the Franchisee will construct the new two-way connection, as proposed by the City.

(3) Failure to comply with the provisions of this section shall constitute a material breach of this Franchise Agreement.

SECTION 20.
PARENTAL CONTROL.

(A) Franchisee shall provide Subscriber controlled lockout capability at a reasonable charge to Subscribers upon their request.

(B) As to any program which is transmitted on a Channel offered on a, per Channel, or per program basis, Franchisee shall block entirely the audio and video portion of such program from reception by any Subscriber who so requests. Scrambling of the signal shall not be sufficient to comply with this provision.

SECTION 21.
TRANSFER OF RIGHTS.

(A) Any unauthorized transfer in violation of SMC 10.27A.395 shall be deemed a material breach in default of this Franchise Agreement, and shall subject the Franchisee to all penalties and remedies prescribed in this Franchise Agreement and SMC 10.27A and to all other remedies, legal and equitable; which are available to the City, including, but not limited to:

(1) The immediate entry of an order by a court of competent jurisdiction (i) enjoining Franchisee, its officers, agents, employees and all others acting in concert with them, from transferring or assigning or otherwise disposing of any interest in the Cable System, (ii) appointing a receiver, acceptable to the City, who shall forthwith assume the management of the Cable System in accordance with the terms and conditions of this Franchise Agreement, and (iii) requiring all subscription fees, Installation fees and all other fees payable to Franchisee to be paid into an escrow account which shall be subject to release to Franchisee only on order of the Court.

(2) The immediate termination of this Franchise Agreement and acceleration of all the obligations and rights thereunder, including, but not limited to those described in Section 27 of this Franchise Agreement.

(B) Franchisee shall notify the City Clerk in writing of any occurrence which constitutes a transfer not in accordance with the provisions of SMC 10.27A.395 or this Franchise Agreement.

(C) Franchisee shall notify the City Attorney in writing of the entry of any judgment against Franchisee which would negatively affect the continued operation of this Cable System within seventy-two (72) hours of the occurrence of such event.

## SECTION 22.
## LETTER OF CREDIT; PERFORMANCE SECURITY FOR OBLIGATIONS.

(A) In accordance with SMC 10.27.330, Franchisee shall maintain security, hereafter referenced as "Performance Security" as follows: Franchisee, based upon its past performance, shall secure and maintain a performance bond in the amount of One Hundred Thousand and No/100 Dollars ($100,000.00). If at any time thereafter, Franchisee does not continue to maintain a fully compliant rating (no claim against the performance bond which has been sustained following all applicable appeals), the City may require the performance bond to be replaced by a letter of credit sufficient to cover one hundred fifty percent (150%) of draws as reasonable estimated by the City, but not less than One Hundred Thousand and No/100 Dollars ($100,000.00), upon sixty (60) days written notice to Franchisee. Upon petition by Franchisee and sufficient showing of adequacy, the City may permit an escrow deposit or combination escrow deposit and letter of credit.

(B) If this Franchise Agreement is transferred for reasons requiring consent of the City, the Performance Security requirement may be modified as required by the City, up to the amount set in SMC 10.27A.330.

(C) Failure to deposit said Performance Security or the failure to maintain the Performance Security, in the full amount required herein, in effect during the entire term of this Franchise Agreement, and of any renewal or extension thereof, shall constitute a material breach of this Franchise Agreement.

(D) The City reserves the right to impose additional construction bond requirements upon the Franchisee, pursuant to the generally applicable terms and provisions of the Spokane' Municipal Code, regarding Franchisee's construction in the Public Right of Way.

## SECTION 23.
## PROCEDURE FOR DRAWING ON PERFORMANCE SECURITY.

(A) Except as provided in Section 30 with respect to delinquent Franchise Fee and PEG Fee payments, the conditions applicable to the City's right to draw on the Performance Security are stated in Sections 23-26. The procedure for drawing on the Performance Security shall be as follows:

(1) If the Franchisee fails to make timely payment to the City of any amount due under this Franchise Agreement other than Franchise Fee or PEG Fee payments and taxes, the City shall have the right to draw on the Performance Security following seven (7) days advance written notice to Franchisee, including the notice information required in Section 24(A), unless the amount due is received within such seven (7) day period. Franchisee may request a hearing on this decision as provided in Section 26, but this does not delay the City's right to draw upon the Performance Security up to the amount of nonpayment, plus applicable

interest and penalties, following the initial seven (7) day notice period. [Cross reference SMC 10.27A.310]

(2) If the Franchisee fails to take timely action as requested by the City with respect to its facilities in the Public Rights of Way which might expose the City to loss or liability, the City shall have the right to draw on the Performance Security an amount reasonably sufficient to prevent or offset the loss or liability, first giving twenty (20) days advance written notice to Franchisee, including the notice information required in Section 24(A). If no Franchisee response is received within twenty (20) day period or if Franchisee has not already cured, the City may proceed to draw on the Performance Security. If a written Franchisee response is received within such period, the City shall then wait at least ten (10) days before making any draw on the Performance Security. Franchisee may request a hearing on this decision as provided in Section 26, but this does not delay the City's right to draw upon the Performance Security. This does not limit the City's rights to take any actions necessary in case of emergencies or the right of either party to seek injunctive relief in a proper case.

(3) The time periods for lawful withdrawal referenced in Section 23(A) (1) and (2) above, may be extended by City in writing in City's discretion. For any other reason besides Section 23(A) (1) and (2) above, Franchisee may request a hearing under Section 26 prior to a City draw on Performance Security. This limitation expires upon expiration of the time to request the hearing, or if one is requested, it expires thirty (30) days after the municipal hearings process is concluded, whether or not further court review is requested. This shall not limit the right of Franchisee to seek injunctive relief in appropriate cases with respect to said draw.

(B) Upon drawing funds from the Performance Security, the City shall give written notice thereof the Franchisee. Not later than thirty (30) days after the mailing or delivery of notice from City to Franchisee indicating a draw, Franchisee must restore the Performance Security to its full required amount.

(C) The collection by City of any damages, monies or penalties from the Performance Security shall not affect any other right or remedy available to City, nor shall any act, or failure to act, by City pursuant to the Performance Security be deemed a waiver of any right of City pursuant to this Franchise Agreement, except as provided with respect to liquidated damages or as provided in Section 23.

## SECTION 24.
## ENFORCEMENT.

(A) This section does not apply to revocation of the Franchise Agreement. Whenever the City seeks to enforce the Franchise Agreement, it shall first provide written notice to the Franchisee of the nature of the problem and requested action, together with any applicable time frame for response. Any time limits here or elsewhere in the Franchise Agreement may be modified by written stipulation of the City and Franchisee, except

time limits relating to revocation of this Franchise Agreement or where otherwise required by law must be approved by the City Council.

(B) Except in case of urgency or public need relating to management of the Public Right of Way as reasonably determined by the City, the Franchisee has thirty (30) days from receipt of such notice to respond in writing to the official sending the notice:

(1) contesting it; or

(2) accepting it and agreeing to cure as requested within time limits specified; or

(3) requesting additional time or other modifications. In such event, Franchisee shall promptly take all reasonable steps to cure the default, keeping the official informed as to the steps to be taken and a projected completion date.

(C) If the official is not satisfied with the response, they shall notify the Franchisee in writing. Franchisee may thereafter request a hearing thereafter as provided in Section 26(C).

(D) Code Violations. Franchisee agrees the City may elect to enforce any provision of the Spokane Municipal Code without regard to this Franchise Agreement.

## SECTION 25.
## LIQUIDATED DAMAGES.

(A) Because Franchisee's failure to comply with the provisions of this Franchise Agreement will result in damage to the City and because it will be impractical to determine the actual amount of such damages, the City and Franchisee hereby agree upon and specify certain amounts set forth hereafter in this section which represent both parties' best estimate of the damages.

(B) The City shall specify any damages subject to this section and shall include such information in the notice sent to Franchisee required under Section 24(A). Such a notice may provide for damages sustained prior to the notice where so provided, and subsequent thereto pending compliance by Franchisee.

(C) To the extent that the City elects to assess liquidated damages as provided in this section and such liquidated damages have been paid, the parties agree that this shall be the City s sole and exclusive damage remedy in lieu of actual damages; provided, that this shall not limit the right of the City to seek equitable or other relief as reserved in Section 26(C).

(D) Unless otherwise provided, liquidated damages do not accrue after the timely filing of a request for hearing by Franchisee until the time of a decision from the hearing. Nothing in this section prevents the parties from settling any dispute relating to liquidated damages by mutual stipulation.

(E) Franchisee may cure the breach or violation within the time specified to petition for review to the City's satisfaction, whereupon no liquidated damages are assessed.

(F) After fulfilling the procedure required under Section 24, Franchisee has thirty (30) days to pay such amounts. If not paid thereafter, liquidated damages shall be immediately payable from the Performance Security, without further notice, upon demand by the City and a statement that the provisions of this section have been fulfilled. Franchisee may seek review of any assessment of liquidated damages under Section 26.

(G) Schedule of Liquidated Damages. Liquidated damages are set as follows. All amounts accrue per day but not beyond the number of days to exceed the amount of Ten Thousand and No/100 Dollars ($10,000) per twelve (12) month period unless specifically provided. Nothing requires the City to assess liquidated damages, acting in its sole discretion, but such non-assessment does not operate as waiver or estoppel upon the City.

(1) For failure to provide Cable Service as promised in Section 16 of this Franchise Agreement, Five Hundred and No/100 Dollars ($500) per day,

(2) For failure to provide data, documents, reports and information as required by this Franchise Agreement, Fifty and No/100 Dollars ($50) per day per each separate violation.

(3) For failure to conduct tests as required by this Franchise Agreement, Fifty and No/100 Dollars ($50) per day.

(4) For failure to comply with PEG Access requirements outlined in Section 19, One Hundred Fifty and No/100 Dollars ($150) per day.

(5) For failure to answer Subscriber telephone calls in accordance with the standards in SMC 10.27A.700(B)(1) of the Spokane Municipal Code, as incorporated by reference in Section 33(A) of this Franchise Agreement, in any calendar quarter where Franchisee fails to meet the applicable standard and performs at eighty percent (80%) or above, Franchisee shall pay the City Five Hundred and No/100 Dollars ($500); in any calendar quarter where Franchisee fails to meet the applicable standard and perform at less than eighty percent (80%) but at least seventy percent (70%), Franchisee shall pay the City Two Thousand Five Hundred and No/100 Dollars ($2,500); in any calendar quarter where Franchisee fails to meet the applicable standard and performs at less than seventy percent (70%), the Franchisee shall pay the City Five Thousand and No/100 Dollars ($5,000). NOTE: Franchisee will be deemed to have complied with the applicable telephone call answering and wait time standards whenever a Subscriber call is connected to an automated answering system within thirty (30) seconds after the call first rings and the Subscriber is transferred to a customer service representative within thirty (30) seconds after the Subscriber makes an automated or voice request to be so transferred.

(6) For any violation of the any other customer service standard, One Hundred and No/100 Dollars ($100) per day per violation, not to exceed One Thousand and No/100 Dollars ($1,000) for any single violation.

(7) Failure to maintain insurance or Performance Security as required in this Franchise Agreement Five Hundred and No/100 Dollars ($500) per day. NOTE: for this item, there is no cure privilege, no abeyance pending any hearing, or forgiveness of liquidated damages because of absence of prior violation or breach. There is further no limitation on cumulative liquidated damages for this item.

(8) Failure to indemnify the City as required in Section 25: Five Hundred and No/100 Dollars ($500) per day. NOTE: this assessment is for delay only and does not excuse any other actual damages for failure to indemnify.

(9) Failure to pay liquidated damages lawfully assessed under this Franchise Agreement, where the same have not been otherwise recovered from the Performance Security: one percent (1%) of the unpaid amount per month. There is no cumulative limitation on the amount of this item, no right of cure beyond any extended prior to the assessment of liquidated damages and no abeyance pending any hearings or appeal process beyond that as may have been previously extended at the time such liquidated damages were initially assessed.

(10) For all other violations of the Franchise Agreement for which actual damages may not be ascertainable: One Hundred and No/100 Dollars ($100) per day for each violation.

(11) Where Franchisee has three (3) or more of the same violation or breach events (an "event" may involve multiple customers, but is discrete in time or circumstances) within any twelve (12) month period, all applicable damages amounts are doubled.

## SECTION 26.
## HEARINGS.

Except for revocation matters, which are dealt with in Section 27, Franchisee may request a hearing as follows:

(A) Franchisee files a written request within fourteen (14) days of receipt of a decision it wants reviewed with the City Administrator. The request does not stay the effect of the decision or obligation to comply or exercise of any remedy available to the City except as otherwise provided. The City Administrator may conduct the hearing or appoint an alternate hearings officer, who shall not be the person issuing the order or such person's subordinate. For matters exceeding Twenty-five Thousand and No/100 Dollars ($25,000) reasonably estimated value in controversy as determined by the City Administrator, the Franchisee may file a request that the City Hearings Examiner conduct the hearing. A reasonable filing fee may be set by the Hearings Examiner or generally applicable ordinances. If not otherwise provided, the filing fee is One Hundred and No/100 Dollars ($100).

(B) The hearing may be informal and shall be conducted within twenty (20) days, with at least ten (10) days prior notice to both sides. The official conducting the hearing is responsible to keep a record of any materials submitted and shall record the hearing by video or audio tape, for matters involving Twenty-five Thousand and No/100 Dollars ($25,000) reasonable estimated value amount in controversy. A written decision shall be issued within ten (10) days. Either party may appeal the decision to a court of competent jurisdiction in Spokane County within thirty (30) days.

(C) Except where otherwise provided, at the conclusion of the City hearings process, if Franchisee remains in default, it shall correct said default in fifteen (15) days or as otherwise ordered by the City. In the event the Franchisee does not cure within such time to the City's reasonable satisfaction, the City may draw from the Performance Security any liquidated damages or penalties resulting from Franchisee's default if not already done or await the conclusion of the judicial process. Nothing herein limits the City's right to seek any other relief as provided in Section 26.

(1) If liquidated damages have not been assessed and paid, seek any other legal or equitable relief as provided by contract or at law and/or

(2) await the conclusion of any judicial review process.

(3) In the case of a default of a material provision of this Franchise Agreement, nothing herein limits the City's right to seek to revoke this Franchise Agreement in accordance with Section 27 and/or assert such default as a basis for non-renewal or non-extension of the Franchise Agreement.

(4) Where Franchisee seeks judicial review and ultimately prevails, any money judgment against the City shall be paid or may thereafter be offset by Franchisee, in Franchisee's discretion, against further Franchise Fee payments due to the City. In such event, Franchisee shall notify the City at least sixty (60) days prior to apply the offset.

## SECTION 27.
## REVOCATION.

(A) The City may revoke this Franchise Agreement and rescind all rights and privileges associated with this Franchise Agreement in the following circumstances:

(1) Franchisee fails to perform any material obligation under this Franchise Agreement; or

(2) Franchisee attempts to evade any material provision of this Franchise Agreement or practices any fraud or deceit upon the City or Subscribers.

(B) Prior to revocation of the Franchise Agreement, the City shall give written notice to the Franchisee of its intent to revoke the Franchise Agreement, setting forth the exact nature of the noncompliance. The Franchisee shall have thirty (30) days from such notice to object in writing and to state its reasons for such objection and provide any

explanation. In the event the City has not received a timely and satisfactory response from the Franchisee, it may then seek a revocation of the Franchise Agreement by the City Council in accordance with this section.

(C) Any proceeding regarding revocation shall be conducted by the City Council and open to the public. The Franchisee shall be afforded at least forty-five (45) days prior written notice of such proceeding.

(1) At such proceeding, the Franchisee and City staff shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce evidence. Franchisee may request or the City may refer the matter to be heard by the City's hearing examiner. A complete verbatim record and transcript or video tape shall be made of such proceeding and the cost shall be shared equally between the parties. The City shall maintain a record of such proceeding consistent with its record retention policies. Nothing herein prohibits Franchisee from paying to create a written transcript of the proceeding. The City Council shall hear any Persons interested in the revocation, and shall allow the Franchisee, in particular, an opportunity to state its position on the matter reserving the right to set reasonable time limits or refer extended presentations to the City hearing examiner.

(2) Within ninety (90) days after the hearing, the City Council shall determine whether to revoke the Franchise Agreement; or if the breach at issue is capable of being cured by the Franchisee, it shall direct the Franchisee to take appropriate remedial action within the time and in the manner and on the terms and conditions that are reasonable under the circumstances, as determined in City's sole discretion. If the City Council determines that the Franchise Agreement is to be revoked, the City Council shall issue a written decision and shall transmit a copy of the decision to the Franchisee. The Franchisee shall be bound by the City Council's decision to revoke the Franchise Agreement unless it appeals the decision to a court of competent jurisdiction within thirty (30) days of the date of the decision. Upon timely appeal, the effect of revocation is stayed pending final judicial resolution, but this shall not affect accrual of penalties or the right of the City to take any other enforcement action, including curing the default at Franchisee's expense and liability, also subject to judicial review.

(3) The Franchisee shall be entitled to such relief as the court may deem appropriate.

(D) The Council may in its sole discretion take any lawful action that it deems appropriate to enforce the City's rights under the Franchise Agreement in lieu of revocation.

## SECTION 28.
## INSURANCE, BONDS, INDEMNITY.

(A) Upon the granting of this Franchise Agreement and following simultaneously with the filing of the acceptance of this Franchise Agreement and at all times during the term of this Franchise Agreement, the Franchisee shall obtain, pay all premiums for, and deliver to the City, written evidence of payment of premiums for and a certificate of insurance, naming the City as an additional insured, with a company licensed to do business in the State of Washington with a rating by A.M. Best and Co. of not less than "A" or equivalent, for the following:

(1) A comprehensive commercial or general liability insurance policy or policies, issued by an insurance carrier licensed to do business in the State of Washington. Said policy or policies shall pay on behalf of and defend the City, its officials, boards, commissions, agents or employees from any and all claims by any Person whatsoever (including the costs, defense costs, attorneys' fees and interest arising therefrom) on account of personal injury, bodily injury or death of a Person or Persons or damages to property occasioned by the operations of the Franchisee under this Franchise Agreement, or alleged to have been so caused or occurred, with a minimum combined single limit of One Million and No/100 Dollars ($1,000,000) per occurrence and Five Million and No/100 Dollars ($5,000,000) in the annual aggregate.

(2) A comprehensive automobile liability insurance policy or policies, issued by an insurance carrier licensed to do business in the State of Washington. Said policy or policies shall pay on behalf of and defend the City, its officials, boards, commissions, agents or employees from any and all claims by any Person whatsoever (including the costs, defense costs, attorneys' fees and interest arising therefrom) for bodily injury and property damage occasioned by any vehicle operation of the Franchisee, or alleged to have been so caused or occurred, with a minimum liability of One Million and No/100 Dollars ($1,000,000) per Person and Five Million and No/100 Dollars ($5,000,000) in any one (1) accident or occurrence.

(B) If the Franchisee undertakes any construction with regard to the Cable System, the cost of which exceeds Five Hundred Thousand and No/100 Dollars ($500,000), the Franchisee shall maintain a construction bond in accordance with SMC 10.27A.320(B).

(C) Not less than thirty (30) days prior to its expiration, Franchisee shall deliver to City, a substitute, renewal or replacement policy or bond conforming to the provisions of this Franchise Agreement and SMC 10.27A.320.

(D) The Franchisee shall, at its sole cost and expense, indemnify and hold harmless the City, its officials, boards, commissions, agents and employees against any and all third party claims, suits, causes of action, proceedings, and judgments for damage arising out of the construction, reconstruction, use, operation, ownership and maintenance of the Cable System under this Franchise Agreement, except that no such requirement shall

apply where such claims, suits, causes of actions, proceedings, and judgments for damage are occasioned by the active negligence, gross negligence or intentional acts of the City or its officials, boards, commissions, agents and employees while acting on behalf of the City. These damages shall include, but not be limited to, penalties arising out of copyright infringements and damages arising out of any failure by the Franchisee to secure consents from the owners, authorized distributors or licensees of programs to be delivered by the Franchisee's Cable System whether or not any act or omission complained of is authorized, allowed, or prohibited by this Franchise Agreement. Indemnified expenses shall include, but not be limited to, all out-of-pocket expenses, such as costs and attorneys' fees, and shall also include the reasonable value of any services rendered by the City Attorney, Assistant City Attorneys or any outside consultants employed by the City. Franchisee shall not be required to provide indemnification to City for programming cablecast over the PEG Access Channels administered by City. The City shall give the Franchisee timely written notice of any claim or of the commencement of any action, suit or other proceeding covered by the indemnity in this section, but failure to give notice is not a defense to the indemnification obligations except to the extent of actual prejudice. In the event any such claim arises, the City or any other indemnified party shall tender the defense thereof to the Franchisee and the Franchisee shall have the obligation and duty to defend, through services of competent counsel satisfactory to the City, settle or compromise any claims arising thereunder. If the City determines that it is necessary for it to employ separate counsel, the costs for such separate counsel shall be the responsibility of the City.

(E) Failure to comply with the provisions this section shall constitute a material breach of this Franchise Agreement.

(F) Franchisee waives immunity under Title 51 RCW to the extent necessary to fulfill its indemnity obligation. This provision has been specifically negotiated.

## SECTION 29.
## REPORTS.

(A) The City has the right to inspect books and records of Franchisee, which are reasonably necessary to monitor the Franchisee's compliance with the provision of Cable Services under this Franchise Agreement. Within five (5) days of receiving written notice from the City to inspect the Franchisee's books and records under this provision, the Franchisee shall within ten (10) business days or a mutually agreeable date and time, accommodate the City's request at the Franchisee's business office in the City, during Normal Business Hours, and without unreasonably interfering with the Franchisee's business operations. All such documents pertaining to financial matters shall be preserved and maintained in accordance with Franchisee's standard record retention policy except for financial records which are governed by Section 30(D) hereof.

(B) Proprietary and Confidential Information. The City has the right to request a copy of the books and records that are not identified as proprietary or confidential as described under this paragraph. The City shall have a right to inspect within the City, but the Franchisee shall not be required to release information that it reasonably deems to be

proprietary or confidential in nature provided that this shall not prevent the release of such proprietary or confidential documents for purposes of any enforcement proceeding where appropriate legal steps are available to address Franchisee's concerns regarding confidentiality. The City agrees not to oppose any request for confidentiality.

(C) In the event the Franchisee asserts that certain information is proprietary or confidential in nature, the Franchisee shall identify generally the information which it deems propriety and confidential and the reasons for its confidentiality in writing to the City. Each page of such information provided will be clearly marked as "proprietary and confidential." The City agrees to treat any information disclosed by the Franchisee as confidential and only to disclose it to those employees, representatives, and agents of the City that have a need to know in order to enforce this Franchise Agreement and who agree to maintain the confidentiality of all such information. The City shall not retain information designated as proprietary or confidential by Franchisee for a period of time any longer than necessary to complete its review and any resulting enforcement proceeding therefrom. The City shall certify to Franchisee the destruction of such records.

(D) The Franchisee shall not be required to provide customer information in violation of Section 631 of the Cable Act or any other applicable federal or state privacy law. For purposes of this section, the terms "proprietary or confidential" include, but are not limited to, information relating to the Cable System design, customer lists, marketing plans, financial information unrelated to the calculation of Franchise Fees or rates pursuant to FCC rules, or other information that is reasonably determined by the Franchisee to be competitively sensitive. In the event that the City receives a request under a state "sunshine," public records or similar law for the disclosure of information the Franchisee has designated as confidential, trade secret or proprietary, the City shall notify Franchisee of such request and Franchisee shall have ten (10) business days to file a lawsuit in Spokane County seeking injunctive or other relief should Franchisee choose to oppose such request.

(E) Franchisee shall provide the quarterly customer service report required in SMC 10.27A.410(A). Such reporting requirement may be relieved by the City Administrator in his sole discretion.

(F) File for Public Inspection. Throughout the term of this Franchise Agreement, the Franchisee shall maintain a file available for public inspection in the manner required pursuant to the FCC's rules and regulations.

(G) Complaint File and Reports. Franchisee will keep an accurate and comprehensive file of all Complaints and Franchisee's actions in response to those Complaints in a manner consistent with the privacy rights of Subscribers. Upon thirty (30) days written request, Franchisee will provide a report to the City that contains total number and summary of all Complaints received by category, length of time taken to resolve and action taken to provide resolution.

(H) Route Map. In lieu of SMC 10.27A.410(E) and upon 30 (thirty) days written request, the Franchisee shall only provide a route map that depicts, based upon information available, the general location of the Cable System facilities placed in the Public Rights of Way. The route map shall identify Cable System facilities as aerial or underground and is not required to depict cable types, number of cables, electronic equipment, and drop service lines to individual Subscribers. The Franchisee shall also provide in an electronic format generally compatible with the City's electronic mapping system aerial/underground facilities and the centerline road reference to allow City to add this information to City's GIS program.

## SECTION 30.
## PAYMENT OF FEES AND COSTS.

(A) From and after the effective date of this Franchise Agreement and throughout the full term of this Franchise Agreement, the Franchisee shall pay to the City five percent (5%) of its annual Gross Revenues in the City, pursuant to 47 U.S.C. § 542. Payment shall be due by forty-five (45) days after the end of each calendar month.

(B) No acceptance by the City of any payment from Franchisee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of payment be construed as a release of any claim the City may have for further or additional sums payable under the provisions of this Franchise Agreement. All amounts paid shall be subject to auditing and recomputation by the City.

(C) Franchisee acknowledges and agrees that the Franchise Fees payable by Franchisee to City pursuant to this Franchise Agreement as well as capital support provided by Franchisee for PEG access equipment and facilities are authorized under the Cable Act and shall not be deemed to be in the nature of a federal, state or local tax.

(D) Any Franchise Fee payments owing pursuant to this Franchise Agreement which remain unpaid more than twenty-five (25) days after the date the payment is due shall be delinquent and shall thereafter accrue interest at twelve percent (12%) per annum.

(E) Franchise Fees Subject to Audit. Upon reasonable prior written notice, during Normal Business Hours, at a location agreed upon with the Franchisee, the City shall have the right to inspect the Franchisee's financial records used to calculate the City's Franchise Fees. The City shall provide to the Franchisee a final report setting forth the City's findings in detail, including any and all substantiating documentation. In the event of an alleged underpayment, the Franchisee shall have thirty (30) days from the receipt of the report to provide the City with a written response agreeing to or refuting the results of the audit, including any substantiating documentation. Franchisee shall review and the City shall be entitled to review Franchisee's historical financial records used to calculate the City's Franchise Fees consistent with the currently applicable state statute of limitations.

(F) Failure to comply with this section shall constitute a material breach of the Franchise Agreement.

## SECTION 31.
## SERVICE OF NOTICE.

(A) All notices required to be given in writing under this Franchise Agreement shall be sent via registered or certified mail or shall be deemed to be given when delivered personally to any officer of Franchisee or City Administrator forty-eight (48) hours after it is deposited in the United States mail in a sealed envelope, postage prepaid thereon, addressed to the party to whom notice is being given, as follows:

If to City: City Administrator
City of Spokane
5th Floor Municipal Building
W 808 Spokane Falls Boulevard
Spokane WA 99201-3333

If to Franchisee:
General Manager
Comcast Cable Communications Management, LLC
1717 East Buckeye Avenue
Spokane, Washington 99207

Non-binding Courtesy Copy: Government Affairs Department
Comcast Cable Communications Management, LLC
15815 25th Avenue W
Lynnwood, Washington 98087

Franchisee shall maintain within the City, throughout the term of this Franchise Agreement, an address for service of notice by mail. Such addresses may be changed by either party upon notice to the other party given as provided in this section.

## SECTION 32.
## SUCCESSORS AND ASSIGNS.

Subject to the requirements contained in this Franchise Agreement, this Franchise Agreement shall be binding on any successors or assigns of Franchisee.

## SECTION 33.
## CUSTOMER SERVICE STANDARDS.

(A) Customer Service Standards. Franchisee shall satisfy the consumer protection and service standards as outlined in SMC 10.27A.700 during the term of this Franchise Agreement. The City hereby further adopts the customer service standards set forth in Part 76, §76.309 of the FCC's rules and regulations, as amended. The Franchisee shall comply in all respects with SMC 10.27A.700 and the customer service requirements established by the FCC.

(B) Subscriber Bills. Subscriber bills shall be designed in such a way as to present the information contained therein clearly and comprehensibly to Subscribers, and in a way

that (1) is not misleading and (2) does not omit material information. Notwithstanding anything to the contrary, the Franchisee may, in its sole discretion, consolidate costs on Subscriber bills as may otherwise be permitted by Section 622(c) of the Cable Act (47 U.S.C. §542(c)).

(C) Privacy Protection. The Franchisee shall comply with all applicable federal privacy laws pertaining to Cable Services, including Section 631 of the Cable Act and regulations adopted pursuant thereto. The City reserves any right it may have to impose subscriber privacy standards if the Franchisee is no longer subject to federal requirements concerning subscriber privacy.

## SECTION 34.
## REMEDIES CUMULATIVE.

The rights and remedies reserved to the City by this Franchise Agreement are cumulative and shall be in addition to, and not in derogation of, any other rights or remedies which the City may have with the respective subject matter of this Franchise Agreement. A waiver of rights or remedies shall not affect any other rights or times.

## SECTION 35.
## MISCELLANEOUS PROVISIONS.

(A) Force Majeure. The Franchisee shall not be held in default under, or in noncompliance with, the provisions of this Franchise Agreement due to acts of God or impossibility of performance as recognized in the common law of the State of Washington, to the extent and for such period as such conditions persist. For purposes of enforcement of SMC 10.27A.700, conditions outside of Normal Operating Conditions are a basis to excuse Franchisee's performance, but only to the extent and for such period as such conditions persist. Conditions outside Normal Operating Conditions may also excuse other franchise obligations where they effectively render performance infeasible or impossible, to the extent and for such period as such conditions persist, but this does not apply as to conditions within the Franchisee's reasonable control.

(B) Severability. If any section, subsection, sentence, clause, phrase, or other portion of this Franchise Agreement is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

(C) No Third-Party Beneficiaries. Nothing in this Franchise Agreement is or was intended to confer third-party beneficiary status on any member of the public to enforce the terms of this Franchise Agreement.

(D) In-Kind Cable-Related Contributions.

(1) To the extent lawful under federal law, the Franchisee may, if Franchisee so chooses, provide the City with a written list of "in-kind cable-related contributions" (as that term is defined by the FCC in the Section 621 Order) that

the Franchise Agreement requires Franchisee to provide (including but not limited to the Complimentary Service requirements in Section 16(C) and any PEG Transport required by Section 19(H)). Within ninety (90) days of receiving the aforementioned list, the City will notify the Franchisee whether, with respect to each identified in-kind cable-related contribution, the Franchisee is relieved, or temporarily relieved, of its obligations or is required to comply, subject either to the Franchisee taking an offset to the Franchise Fee payments payable under Section 30(A) as may be permitted by the Section 621 Order or to the Franchisee and the City agreeing to a separately identified charge payable by the City to the Franchisee.

(2) In the event the Section 621 Order is stayed or overturned in whole or in part by action of the FCC or through judicial review, the City and the Franchisee will meet promptly to discuss what impact such action has on the provision of the in-kind cable-related contributions to which this section applies. If allowed by subsequent state and federal law, the City may require Franchisee to provide Complimentary Service to the sites set forth in Exhibit A and PEG transport as provided in Section 19(H) for the remaining Franchise term at no charge. Nothing herein waives the City's right to enforce Franchisee's compliance with all lawful obligations contained in this Franchise Agreement.

(E) Contract: State and Federal Law. This Franchise Agreement has been reviewed by both the City and Franchisee and each party agrees that the document is valid under applicable state and federal law and each party agrees to be bound by its provisions subject to Section 35 (B) herein. Subject to this protection both parties reserve any rights, substantive or procedural, they may have under federal or state law.

SECTION 36.
APPLICABLE LAW.

This Franchise Agreement shall be construed in accordance with and governed by the laws of the State of Washington, except where preempted by federal law. Venue for any court proceedings under this Franchise Agreement shall be in Spokane County. This does not apply to FCC hearings.

PASSED by the City Council on December 14, 2020

Council President

Attest:

City Clerk

Mayor

Approved as to form:

~~Assistant~~ Attorney

12/22/2020

Date



3364943v14

~~December 8, 2020~~ 44 January 21, 2021
EFFECTIVE DATE 1/11/2021

---

ACCEPTED: This Franchise Agreement is accepted, and we agree to be bound by its terms and conditions.

COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC

Date: 12/11 _____, 2020

By: _____

Its: VP

SWORN TO BEFORE ME this

11 day of December, 2020

_____
NOTARY PUBLIC

JEAN-PIERRE NEWSOME
Notary Public
State of Washington
License Number 115566
My Commission Expires
September 09, 2023



3364943v13

## EXHIBIT A

### Free Service to Public Buildings

| | NAME | ADDRESS |
|---|---|---|
| 1. | City Hall | 808 W Spokane Falls Blvd |
| 2. | Cops West | 1901 W Boone Ave |
| 3. | COPS, Neva-Wood | 4705 N Addison St |
| 4. | Community Access Center | 104 W 3rd St., Suite B |
| 5. | 4 separate PEG playback locations – all at City Hall | 808 W Spokane Falls Blvd |

15815 25th Ave W
Lynnwood, WA 98087

COMCAST

December 10, 2020

Honorable Nadine Woodward
Mayor
City of Spokane, WA

The purpose of this letter agreement is to memorialize a current commitment by Comcast Cable Communications Management, LLC ("Comcast") in regard to the City of Spokane, Washington (the "City") that is in addition to the renewal franchise agreement to be adopted by ordinance (hereinafter, "the Franchise").

Low-Income Discount: Comcast currently offers a discount to those individuals who are low-income (according to applicable federal guidelines) and either permanently disabled or 65 years of age or older and who are the legal owners or tenants of the dwelling unit. Such discounts consist of thirty percent (30%) off of basic service or the basic service portion of digital service packages when not discounted by inclusion in other promotional or programming package rates at which time the promotional or programming package rate applies. The City acknowledges that discounted services reflect a voluntary initiative on the part of Comcast and is not a requirement of the Franchise. Subject to applicable law, should Comcast elect to discontinue the low-income discount, Comcast shall first provide the City with ninety (90) days' prior notice. Comcast further agrees it will maintain the above described low income discount program in Spokane so long as Comcast voluntarily continues such program in other jurisdiction in the State of Washington.

The above commitments to provide the low-income discount are binding upon Comcast and its successors and assigns.

Sincerely,

Comcast Cable Communications Management, LLC

By: Stan Nyh

Its: VP

Date: 12/11/2020

City of Spokane, Washington
Acknowledged and agreed to this 5 day of January, 2021.

By: Nadine Woodward

Its: Mayor

15815 25th Ave W
Lynnwood, WA 98087

COMCAST

December 10, 2020

Honorable Nadine Woodward
Mayor
City of Spokane, WA

The purpose of this letter agreement is to memorialize a current commitment by Comcast Cable Communications Management, LLC ("Comcast") in regard to the City of Spokane, Washington (the "City") that is in addition to the renewal franchise agreement to be adopted by ordinance (hereinafter, "the Franchise").

Low-Income Discount: Comcast currently offers a discount to those individuals who are low-income (according to applicable federal guidelines) and either permanently disabled or 65 years of age or older and who are the legal owners or tenants of the dwelling unit. Such discounts consist of thirty percent (30%) off of basic service or the basic service portion of digital service packages when not discounted by inclusion in other promotional or programming package rates at which time the promotional or programming package rate applies. The City acknowledges that discounted services reflect a voluntary initiative on the part of Comcast and is not a requirement of the Franchise. Subject to applicable law, should Comcast elect to discontinue the low-income discount, Comcast shall first provide the City with ninety (90) days' prior notice. Comcast further agrees it will maintain the above described low income discount program in Spokane so long as Comcast voluntarily continues such program in other jurisdiction in the State of Washington.

The above commitments to provide the low-income discount are binding upon Comcast and its successors and assigns.

Sincerely,

Comcast Cable Communications Management, LLC

By: Stan Nyh

Its: VP

Date: 12/11/2020

City of Spokane, Washington
Acknowledged and agreed to this 5 day of January, 2021.

By: Nadine Woodward

Its: Mayor

| Agenda Sheet for City Council Meeting of: 03/14/2022 | | Date Rec'd | 3/1/2022 |
|---|---|---|---|
| | | Clerk's File # | OPR 2021-0646 |
| | | Renews # | |
| **Submitting Dept** | FINANCE, TREASURY & ADMIN | **Cross Ref #** | |
| **Contact Name/Phone** | MICHELLE MURRAY 625-6320 | **Project #** | |
| **Contact E-Mail** | MMURRAY@SPOKANECITY.ORG | **Bid #** | |
| **Agenda Item Type** | Contract Item | **Requisition #** | |
| **Agenda Item Name** | 5600 AMENDMENT TO ROBERT HALF CONTRACT FOR CONTRACTED PROFESSIONAL SERVICES | | |

**Agenda Wording**

The Accounting Dept would like to amend the contract to include Executive Admin support for the Finance Dept and Grant Administration work for Citywide Grants and the new ARPA Grant.

**Summary (Background)**

Extending and funding this contract will give the City access to resources to temporarily fill a need due to a staffing shortage and during a time that the City has no active lists to hire for the classified positions. Civil service is currently working on getting a recruitment in place for 2 Grants Analysts and for the vacant Exec Admin Assistant position

Lease? NO Grant related? YES Public Works? NO

| **Fiscal Impact** | | **Budget Account** |
|---|---|---|
| Expense | **$** 50,000.00 | **#** 0410-34100-14230-54201-99999 |
| Expense | **$** 50,000.00 | **#** 1425-88156-14230-54201-97306 |
| Expense | **$** 60,000.00 | **#** 0430-30210-14600-54201-99999 |
| Select | **$** | **#** |

| **Approvals** | | **Council Notifications** | |
|---|---|---|---|
| **Dept Head** | MURRAY, MICHELLE | **Study Session\Other** | 2/28/22 Finance Committee |
| **Division Director** | WALLACE, TONYA | **Council Sponsor** | CM Wilkerson |
| **Finance** | MURRAY, MICHELLE | **Distribution List** | |
| **Legal** | ODLE, MARI | mmuray@spokanecity.org | |
| **For the Mayor** | ORMSBY, MICHAEL | twallace@spokanecity.org | |
| **Additional Approvals** | | laga@spokanecity.org | |
| **Purchasing** | | | |
| **GRANTS, CONTRACTS & PURCHASING** | MURRAY, MICHELLE | | |
| | | | |

# Committee Agenda Sheet
# Finance

| | |
|---|---|
| **Submitting Department** | Accounting Department |
| **Contact Name & Phone** | Michelle Murray |
| **Contact Email** | mmurray@spokanecity.org |
| **Council Sponsor(s)** | Betsy Wilkerson |
| **Select Agenda Item Type** | ☐ Consent ☒ Discussion Time Requested: |
| **Agenda Item Name** | Amendment to Robert Half Contract for contracted professional Services |
| **Summary (Background)** | The Accounting Department has an existing contract with Robert Half for contractual services for accounting help during a staffing shortage.<br><br>The Accounting Department would like to amend the contract to include Executive Administration support for the Finance Department and Grant Administration work for Citywide Grants and the new ARPA Grant. This will give the City access to resources to temporarily fill a need due to a staffing shortage and during a time that the City has no active lists to hire for the classified positions. Civil service is currently working on getting a recruitment in place for 2 Grants Analyst positions and for the vacant Executive Administration Assistant positions in the City. |
| **Proposed Council Action & Date:** | Approve contract amendment for $160,000<br>March 14, 2022 |

**Fiscal Impact:**
Total Cost: $160,000 $50,000 from Finance, $60,000 from Grants & $50,000 from ARPA Administration
Approved in current year budget? ☒ Yes ☐ No ☐ N/A
Funding Source ☒ One-time ☐ Recurring
Specify funding source:

SBO from Salary savings and previous SBO for ARPA administration

Expense Occurrence ☒ One-time ☐ Recurring

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

**Operations Impacts**

What impacts would the proposal have on historically excluded communities? N/A

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities? N/A

| |
|---|
| How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution? N/A |
| Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others? N/A |

City Clerk's No. 2021-0646

**City of Spokane**

**CONTRACT AMENDMENT/EXTENSION**

Title: **ACCOUNTING SUPPORT TEMPORARY EMPLOYEES**

This Contract Amendment / Extension is made and entered into by and between the **CITY OF SPOKANE** as ("City"), a Washington municipal corporation, and **ROBERT HALF INTERNATIONAL, INC.**, whose address is 2613 Camino Ramon #3, San Ramon, California 94583, as ("Company"), individually hereafter referenced as a "party", and together as the "parties".

*WHEREAS, the parties entered into a Contract wherein the Company agreed to provide Temporary Employees for Clerical and Accounting Support; and*

*WHEREAS, the scope of work in the original contract has changed, 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 October 7, 2021, 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 run through December 31, 2022.

**3. ADDITIONAL WORK.**
The Scope of Work in the original Contract is revised to include Executive Administration support for the Finance Department and Grant Administration work for Citywide Grants and the new ARPA Grant.

**4. COMPENSATION.**
The City shall pay an additional amount not to exceed **ONE HUNDRED SIXTY THOUSAND AND NO/100 DOLLARS** (**$160,000.00**), and applicable sales 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.

**ROBERT HALF INTERNATIONAL, 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

22-0049

DocuSign Envelope ID: A62E391A-9149-4B72-91C2-EBD011EF66A7

Attachment A

**Robert Half International, Inc.**

Temporary Staffing, Direct-Hire and Other Employer Services

Contract No. TS06-21

**FORM D2 - PRICING PAGE #2.1**

| Code | Occupation Description | Pricing Range | | Mark-Up % | Total | Total |
|---|---|---|---|---|---|---|
| | | Low | High | Please Use a Whole Number as the % (MU). Example 25% = 1.25 | Low | High |
| | **Accounting:** | | | | | |
| A01 | Accountant I | $20.30 | $31.90 | 1.70 | $34.51 | $54.23 |
| A02 | Accountant II | $30.00 | $49.00 | 1.70 | $51.00 | $83.30 |
| A03 | Financial Analyst I | $21.00 | $32.50 | 1.70 | $35.70 | $55.25 |
| A04 | Financial Analyst II | $33.00 | $52.80 | 1.86 | $61.38 | $98.21 |
| A05 | Payroll Clerk | $17.00 | $25.00 | 1.70 | $28.90 | $42.50 |
| A06 | Cost Accounting Specialist | $22.00 | $44.00 | 1.70 | $37.40 | $74.80 |
| A07 | CPA | $25.00 | $50.00 | 1.70 | $42.50 | $85.00 |
| A08 | Financial / Business Analyst | $22.00 | $49.50 | 1.86 | $40.92 | $92.07 |
| A09 | Controller | $35.20 | $60.00 | 1.86 | $65.47 | $111.60 |
| A10 | Auditor I | $19.80 | $30.80 | 1.70 | $33.66 | $52.36 |
| A11 | Auditor II | $29.00 | $48.00 | 1.70 | $49.30 | $81.60 |
| | **Administrative Support and Clerical:** | | | | | |
| B01 | Accounting Clerk I | $12.00 | $18.00 | 1.70 | $20.40 | $30.60 |
| B02 | Accounting Clerk II | $18.00 | $21.00 | 1.70 | $30.60 | $35.70 |
| B03 | Accounting Clerk III | $21.00 | $24.00 | 1.70 | $35.70 | $40.80 |
| B04 | Administrative Assistant | $13.00 | $19.00 | 1.65 | $21.45 | $31.35 |
| B05 | Call Center Representative | $15.00 | $26.00 | 1.65 | $24.75 | $42.90 |
| B06 | Copy Machine Operator | $12.00 | $15.00 | 1.65 | $19.80 | $24.75 |
| B08 | Customer Service Representative I | $15.00 | $18.00 | 1.65 | $24.75 | $29.70 |
| B09 | Customer Service Representative II | $18.00 | $22.00 | 1.65 | $29.70 | $36.30 |
| B10 | Customer Service Representative III | $22.00 | $27.00 | 1.65 | $36.30 | $44.55 |
| B11 | Data Entry Operator I | $12.00 | $16.00 | 1.65 | $19.80 | $26.40 |
| B12 | Data Entry Operator II | $16.00 | $20.00 | 1.65 | $26.40 | $33.00 |
| B13 | Document Preparation Clerk | $12.00 | $18.00 | 1.65 | $19.80 | $29.70 |
| B14 | Executive Assistant | $19.00 | $29.00 | 1.65 | $31.35 | $47.85 |
| B15 | General Clerk I | $12.00 | $15.00 | 1.65 | $19.80 | $24.75 |
| B16 | General Clerk II | $15.00 | $20.00 | 1.65 | $24.75 | $33.00 |
| B17 | General Clerk III | $20.00 | $24.00 | 1.65 | $33.00 | $39.60 |
| B18 | Legal Secretary I | $18.00 | $24.00 | 1.70 | $30.60 | $40.80 |
| B19 | Legal Secretary II | $24.00 | $31.00 | 1.70 | $40.80 | $52.70 |
| B20 | Mail Room Clerk | $12.00 | $15.00 | 1.65 | $19.80 | $24.75 |
| B22 | Personnel Assistant (Employment) I | $12.00 | $15.00 | 1.65 | $19.80 | $24.75 |
| B23 | Personnel Assistant (Employment) II | $15.00 | $18.00 | 1.65 | $24.75 | $29.70 |
| B24 | Personnel Assistant (Employment) III | $18.00 | $22.00 | 1.65 | $29.70 | $36.30 |
| B25 | Production Control Clerk | $15.00 | $25.00 | 1.65 | $24.75 | $41.25 |
| B26 | Secretary I | $12.00 | $15.00 | 1.65 | $19.80 | $24.75 |
| B27 | Secretary II | $15.00 | $18.00 | 1.65 | $24.75 | $29.70 |
| B28 | Secretary III | $18.00 | $25.00 | 1.65 | $29.70 | $41.25 |
| B30 | Receptionist/Switchboard Operator | $12.00 | $18.00 | 1.65 | $19.80 | $29.70 |
| B31 | Records Management Clerk | $15.00 | $25.00 | 1.65 | $24.75 | $41.25 |
| B35 | Word Processor I | $12.00 | $15.00 | 1.65 | $19.80 | $24.75 |
| B36 | Word Processor II | $15.00 | $18.00 | 1.65 | $24.75 | $29.70 |
| B37 | Word Processor III | $18.00 | $22.00 | 1.65 | $29.70 | $36.30 |

DocuSign Envelope ID: A62E391A-9149-4B72-91C2-EBD011EF66A7

| | | | | | | |
|---|---|---|---|---|---|---|
| **General Services and Materials Handling Support :** | | | | | | |
| D13 | Shipping / Receiving Clerk | $12.00 | $18.00 | 1.65 | $19.80 | $29.70 |
| **Health:** | | | | | | |
| E04 | Claims Processor | $15.00 | $24.50 | 1.65 | $24.75 | $40.43 |
| E05 | Claims Processor (Senior) | $19.00 | $30.00 | 1.65 | $31.35 | $49.50 |
| E11 | Eligibility / Insurance Verifier | $13.00 | $22.00 | 1.65 | $21.45 | $36.30 |
| E12 | Eligibility Referral Coordinator | $13.00 | $22.00 | 1.65 | $21.45 | $36.30 |
| E14 | Insurance Coordinator | $15.00 | $24.50 | 1.65 | $24.75 | $40.43 |
| E20 | Medical Record Clerk | $13.00 | $19.00 | 1.65 | $21.45 | $31.35 |
| **Information Technology:** | | | | | | |
| F01 | Application Developer | $40.00 | $75.00 | 1.70 | $68.00 | $127.50 |
| F02 | Application Support Analyst | $30.00 | $60.00 | 1.70 | $51.00 | $102.00 |
| F03 | Applications Engineer | $40.00 | $75.00 | 1.70 | $68.00 | $127.50 |
| F04 | Computer Operator I | $18.00 | $27.00 | 1.70 | $30.60 | $45.90 |
| F05 | Computer Operator II | $25.00 | $34.00 | 1.70 | $42.50 | $57.80 |
| F06 | Computer Operator III | $32.00 | $39.00 | 1.70 | $54.40 | $66.30 |
| F07 | Computer Operator IV | $40.00 | $49.00 | 1.70 | $68.00 | $83.30 |
| F08 | Computer Operator V | $48.00 | $60.00 | 1.70 | $81.60 | $102.00 |
| F09 | Computer Programmer I | $33.00 | $49.50 | 1.70 | $56.10 | $84.15 |
| F10 | Computer Programmer II | $50.00 | $60.50 | 1.70 | $85.00 | $102.85 |
| F11 | Computer Programmer III | $61.00 | $77.00 | 1.70 | $103.70 | $130.90 |
| F12 | Computer Programmer IV | $78.00 | $93.50 | 1.70 | $132.60 | $158.95 |
| F13 | Computer Systems Analyst I | $30.00 | $40.00 | 1.70 | $51.00 | $68.00 |
| F14 | Computer Systems Analyst II | $40.00 | $50.00 | 1.70 | $68.00 | $85.00 |
| F15 | Computer Systems Analyst III | $50.00 | $77.00 | 1.70 | $85.00 | $130.90 |
| F16 | Customer Support Administrator | $17.00 | $35.00 | 1.70 | $28.90 | $59.50 |
| F17 | Customer Support Specialist | $15.00 | $20.00 | 1.70 | $25.50 | $34.00 |
| F18 | Database Administrator | $38.50 | $70.00 | 1.70 | $65.45 | $119.00 |
| F19 | Data Center Support Specialist | $35.00 | $70.00 | 1.70 | $59.50 | $119.00 |
| F20 | Desktop Support Manager | $35.00 | $55.00 | 1.70 | $59.50 | $93.50 |
| F21 | Desktop Support Specialist | $18.00 | $26.00 | 1.70 | $30.60 | $44.20 |
| F22 | Developer | $35.00 | $70.00 | 1.70 | $59.50 | $119.00 |
| F23 | Director of Technology | $40.00 | $95.00 | 1.70 | $68.00 | $161.50 |
| F24 | Front End Web Designer | $45.00 | $55.00 | 1.77 | $79.65 | $97.35 |
| F25 | GIS (Geographic Info. Systems) Tech. I | $33.00 | $55.00 | 1.70 | $56.10 | $93.50 |
| F26 | GIS (Geographic Info. Systems) Tech. II | $44.00 | $66.00 | 1.70 | $74.80 | $112.20 |
| F27 | Help Desk Specialist | $15.00 | $20.00 | 1.70 | $25.50 | $34.00 |
| F28 | Help Desk Technician | $15.00 | $25.00 | 1.70 | $25.50 | $42.50 |
| F29 | Information Systems Project Manager | $35.00 | $60.00 | 1.70 | $59.50 | $102.00 |
| F30 | Information Technology Coordinator | $20.00 | $35.00 | 1.70 | $34.00 | $59.50 |
| F31 | Information Technology Director | $40.00 | $95.00 | 1.70 | $68.00 | $161.50 |
| F32 | Information Technology Manager | $33.00 | $68.00 | 1.70 | $56.10 | $115.60 |
| F33 | IT Support Manager | $33.00 | $50.00 | 1.70 | $56.10 | $85.00 |
| F34 | IT Support Specialist | $18.00 | $30.00 | 1.70 | $30.60 | $51.00 |
| F35 | IT Systems Administrator | $35.00 | $50.00 | 1.70 | $59.50 | $85.00 |
| F36 | Java Developer | $40.00 | $75.00 | 1.70 | $68.00 | $127.50 |
| F37 | Management Information Systems Director | $40.00 | $80.00 | 1.70 | $68.00 | $136.00 |
| F38 | Network/Communications Support Clerk | $22.00 | $38.50 | 1.70 | $37.40 | $65.45 |
| F39 | Network Systems Administrator | $35.00 | $50.00 | 1.70 | $59.50 | $85.00 |
| F40 | Peripheral Equipment Operator | $18.00 | $30.00 | 1.70 | $30.60 | $51.00 |
| F41 | Senior Database Administrator | $30.00 | $65.00 | 1.70 | $51.00 | $110.50 |
| F42 | Senior Network System Administrator | $45.00 | $90.00 | 1.70 | $76.50 | $153.00 |
| F43 | Senior Programmer | $40.00 | $75.00 | 1.70 | $68.00 | $127.50 |
| F44 | Senior Programmer Analyst | $25.00 | $40.00 | 1.70 | $42.50 | $68.00 |
| F45 | Senior Security Specialist | $40.00 | $90.00 | 1.70 | $68.00 | $153.00 |

DocuSign Envelope ID: A62E391A-9149-4B72-91C2-EBD011EF66A7

| | | | | | | |
|---|---|---|---|---|---|---|
| F46 | Senior Support Specialist | $28.00 | $40.00 | 1.70 | $47.60 | $68.00 |
| F47 | Senior System Administrator | $40.00 | $75.00 | 1.70 | $68.00 | $127.50 |
| F48 | Senior System Analyst | $30.00 | $65.00 | 1.70 | $51.00 | $110.50 |
| F49 | Senior Web Administrator | $35.00 | $55.00 | 1.70 | $59.50 | $93.50 |
| F50 | Senior Web Developer | $40.00 | $70.00 | 1.70 | $68.00 | $119.00 |
| F51 | Software Developer | $45.00 | $75.00 | 1.70 | $76.50 | $127.50 |
| F52 | Software Quality Assurance Analyst | $35.00 | $55.00 | 1.70 | $59.50 | $93.50 |
| F53 | Support Specialist | $18.00 | $28.00 | 1.70 | $30.60 | $47.60 |
| F54 | Systems Administrator | $30.00 | $45.00 | 1.70 | $51.00 | $76.50 |
| F55 | Systems Analyst | $20.00 | $35.00 | 1.70 | $34.00 | $59.50 |
| F56 | Systems Designer | $30.00 | $55.00 | 1.70 | $51.00 | $93.50 |
| F57 | System Support Specialist | $18.00 | $28.00 | 1.70 | $30.60 | $47.60 |
| F58 | Technical Operations Officer | $40.00 | $80.00 | 1.70 | $68.00 | $136.00 |
| F59 | Technical Support Specialist | $18.00 | $28.00 | 1.70 | $30.60 | $47.60 |
| F60 | Technical Specialist | $20.00 | $32.00 | 1.70 | $34.00 | $54.40 |
| F61 | Telecommunications Specialist | $18.00 | $32.00 | 1.70 | $30.60 | $54.40 |
| F62 | Web Administrator | $32.00 | $45.00 | 1.70 | $54.40 | $76.50 |
| F63 | Web Developer | $35.00 | $55.00 | 1.70 | $59.50 | $93.50 |
| F64 | Web Master | $35.00 | $55.00 | 1.70 | $59.50 | $93.50 |
| **Procurement:** | | | | | | |
| G04 | Purchasing Manager | $33.00 | $77.00 | 1.86 | $61.38 | $143.22 |
| **Professional:** | | | | | | |
| H01 | Attorney | $30.00 | $50.00 | 1.78 | $53.40 | $89.00 |
| H04 | Contract Administrator | $18.00 | $27.00 | 1.70 | $30.60 | $45.90 |
| H05 | Contract Specialist | $25.00 | $30.00 | 1.70 | $42.50 | $51.00 |
| H08 | Compliance Manager | $32.00 | $44.00 | 1.70 | $54.40 | $74.80 |
| H09 | Contract Administrator | $18.00 | $27.00 | 1.70 | $30.60 | $45.90 |
| H10 | Contract Manager | $30.00 | $40.00 | 1.70 | $51.00 | $68.00 |
| H11 | Executive Consultant | $45.00 | $80.00 | 1.86 | $83.70 | $148.80 |
| H14 | Grant Administrator | $22.00 | $35.00 | 1.70 | $37.40 | $59.50 |
| H16 | Human Resources Coordinatior | $18.00 | $27.00 | 1.70 | $30.60 | $45.90 |
| H17 | Human Resources Manager | $27.50 | $49.50 | 1.86 | $51.15 | $92.07 |
| H18 | Human Resources Specialist | $22.00 | $38.00 | 1.70 | $37.40 | $64.60 |
| H27 | Marketing Specialist | $20.00 | $24.00 | 1.77 | $35.40 | $42.48 |
| H28 | Paralegal/Legal Assistant I | $16.00 | $20.00 | 1.70 | $27.20 | $34.00 |
| H29 | Paralegal/Legal Assistant II | $20.00 | $24.00 | 1.70 | $34.00 | $40.80 |
| H30 | Paralegal/Legal Assistant III | $28.00 | $34.00 | 1.70 | $47.60 | $57.80 |
| H31 | Paralegal/Legal Assistant IV | $36.00 | $49.00 | 1.70 | $61.20 | $83.30 |
| H33 | Presentation Designer | $28.00 | $35.00 | 1.77 | $49.56 | $61.95 |
| H34 | Principle Consultant | $38.00 | $70.00 | 1.86 | $70.68 | $130.20 |
| H35 | Proofreader | $28.00 | $32.00 | 1.77 | $49.56 | $56.64 |
| H40 | Senior Writer | $25.00 | $40.00 | 1.77 | $44.25 | $70.80 |
| H41 | Social Media Manager | $28.00 | $35.00 | 1.77 | $49.56 | $61.95 |
| H43 | Website Designer | $30.00 | $38.00 | 1.77 | $53.10 | $67.26 |
| **Miscellaneous:** | | | | | | |
| J02 | Desk Clerk | $12.00 | $16.00 | 1.65 | $19.80 | $26.40 |

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 9/22/2021

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

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

**PRODUCER**
Arthur J. Gallagher & Co.
Insurance Brokers of CA, Inc. License #0726293
505 N. Brand Boulevard, Suite 600
Glendale CA 91203

**CONTACT NAME:** Robert Half Certificates
**PHONE (A/C, No, Ext):** 818-539-1463 **FAX (A/C, No):** 818-539-1801
**E-MAIL ADDRESS:** roberthalf_certificates@ajg.com

| INSURER(S) AFFORDING COVERAGE | NAIC # |
|---|---|
| INSURER A : Federal Insurance Company | 20281 |
| INSURER B : Safety National Casualty Corporation | 15105 |
| INSURER C : | |
| INSURER D : | |
| INSURER E : | |
| INSURER F : | |

**INSURED** ROBEHAL-03
Robert Half International Inc
2613 Camino Ramon
San Ramon, CA 94583

**COVERAGES** **CERTIFICATE NUMBER:** 753411553 **REVISION NUMBER:**

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

| INSR LTR | TYPE OF INSURANCE | ADDL INSD | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS | |
|---|---|---|---|---|---|---|---|---|
| A | X **COMMERCIAL GENERAL LIABILITY** | | | 3579-66-87 | 6/1/2021 | 6/1/2022 | EACH OCCURRENCE | $ 2,000,000 |
| | [ ] CLAIMS-MADE [X] OCCUR | | | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) | $ 2,000,000 |
| | X Stop Gap Em.Liab | | | | | | MED EXP (Any one person) | $ 10,000 |
| | X in OH, WA, WY,ND | | | | | | PERSONAL & ADV INJURY | $ 2,000,000 |
| | GEN'L AGGREGATE LIMIT APPLIES PER: | | | | | | GENERAL AGGREGATE | $ 2,000,000 |
| | X POLICY [ ] PRO-JECT [ ] LOC | | | | | | PRODUCTS - COMP/OP AGG | $ 2,000,000 |
| | OTHER: | | | | | | Employer Liability | $ 1,000,000 |
| A | **AUTOMOBILE LIABILITY** | | | 7323-32-17 | 6/1/2021 | 6/1/2022 | COMBINED SINGLE LIMIT (Ea accident) | $ 1,000,000 |
| | X ANY AUTO | | | | | | BODILY INJURY (Per person) | $ |
| | [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS | | | | | | BODILY INJURY (Per accident) | $ |
| | [ ] HIRED AUTOS ONLY [ ] NON-OWNED AUTOS ONLY | | | | | | PROPERTY DAMAGE (Per accident) | $ |
| | | | | | | | Comp/Coll.Ded: | $ 1,000/$1,000 |
| A | X **UMBRELLA LIAB** [X] OCCUR | | | 7921-71-07 | 6/1/2021 | 6/1/2022 | EACH OCCURRENCE | $ 5,000,000 |
| | **EXCESS LIAB** [ ] CLAIMS-MADE | | | | | | AGGREGATE | $ 5,000,000 |
| | DED [X] RETENTION $ 0 | | | | | | | $ |
| B | **WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** Y / N | N / A | | See Attached Supplemental | 6/1/2021 | 6/1/2022 | X PER STATUTE [ ] OTH-ER | |
| | ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? N **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below | | | | | | E.L. EACH ACCIDENT | $ 1,000,000 |
| | | | | | | | E.L. DISEASE - EA EMPLOYEE | $ 1,000,000 |
| | | | | | | | E.L. DISEASE - POLICY LIMIT | $ 1,000,000 |

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)**
Named Insured includes the following: Accountemps, Office Team, Robert Half Finance & Accounting, Robert Half Technology, Robert Half Management Resources, Robert Half Legal, and The Creative Group which are direct subsidiaries of the parent company: Robert Half International 2613 Camino Ramon; San Ramon CA 94583 Evidence of Insurance Only.

**CERTIFICATE HOLDER**

City of Spokane
808 W. Spokane Falls Blvd.
Spokane WA 99201-3343

**CANCELLATION**

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

**AUTHORIZED REPRESENTATIVE**
Lary Campbell

**© 1988-2015 ACORD CORPORATION. All rights reserved.**

**2021-2022 RHI Workers Compensation Policy Numbers**

| Policy# | States | Eff. Date | Exp. Date | Issuing Company | NAIC # |
|---|---|---|---|---|---|
| **Robert Half International Inc./Protiviti Inc./Protiviti Government Services, Inc.** | | | | | |
| LDS4064812 | AOS: AL, AR, AZ, CA, CO, CT, DC, DE, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MA, MD, ME, MI, MN, MO, MS, MT, NC, ND, NE, NH, NJ, NM, NV, NY, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, VT, WV, WY | 6/1/2021 | 6/1/2022 | Safety National Casualty Corp | 15105 |
| PS 4064813 | WI | 6/1/2021 | 6/1/2022 | Safety National Casualty Corp | 15105 |

| Agenda Sheet for City Council Meeting of: 03/14/2022 | | Date Rec'd | 3/1/2022 |
|---|---|---|---|
| | | Clerk's File # | OPR 2016-0235 |
| | | Renews # | |
| **Submitting Dept** | INNOVATION & TECHNOLOGY SERVICES | **Cross Ref #** | RES 2018-0017 |
| **Contact Name/Phone** | MICHAEL SLOON 625-6468 | **Project #** | |
| **Contact E-Mail** | MSLOON@SPOKANECITY.ORG | **Bid #** | |
| **Agenda Item Type** | Contract Item | **Requisition #** | CR# 23418 |
| **Agenda Item Name** | 5300 AZTECA CITYWORKS ANNUAL SUPPORT | | |

**Agenda Wording**

Contract with Azteca Systems, LLC who was deemed a Sole Source provider for continued Annual Support and Maintenance of Cityworks Asset Maintenance Management. Contract term April 1, 2022 through March 31, 2023. Contract amount is $135,160.00 w/ tax.

**Summary (Background)**

Cityworks is a powerful, flexible and affordable GIS-Centric Asset Maintenance Management System. Cityworks is currently utilized by the City's Water and Wastewater departments. In addition, Cityworks is currently being implemented to the Street and Parks & Recreation departments. The 2021 contract amount was $135,036.00. There is a slight increase for 2022 due to an increase in WA sales tax.

Lease? NO Grant related? NO Public Works? NO

| **Fiscal Impact** | | **Budget Account** |
|---|---|---|
| Expense | $ 135,160.00 | # 5300-73300-18850-54820-99999 |
| Select | $ | # |
| Select | $ | # |
| Select | $ | # |

| **Approvals** | | **Council Notifications** | |
|---|---|---|---|
| **Dept Head** | SLOON, MICHAEL | **Study Session\Other** | Finance Committee 2/28/22 |
| **Division Director** | SLOON, MICHAEL | **Council Sponsor** | CM Michael Cathcart |
| **Finance** | BUSTOS, KIM | **Distribution List** | |
| **Legal** | ODLE, MARI | Accounting - ywang@spokanecity.org | |
| **For the Mayor** | ORMSBY, MICHAEL | Contract Accounting - ddaniels@spokanecity.org | |
| **Additional Approvals** | | Legal - modle@spokanecity.org | |
| **Purchasing** | PRINCE, THEA | Purchasing - cwahl@spokanecity.org | |
| | | IT - itadmin@spokanecity.org | |
| | | Tax & Licenses | |
| | | Signee: Brian Haslam - bhaslam@cityworks.com; cc: dduffin@cityworks.com | |

# Committee Agenda Sheet
# Finance & Administration Committee

| | |
|---|---|
| **Submitting Department** | Innovation and Technology Services Division |
| **Contact Name & Phone** | Michael Sloon, 625-6468 |
| **Contact Email** | msloon@spokanecity.org |
| **Council Sponsor(s)** | CM Michael Cathcart |
| **Select Agenda Item Type** | ☒Consent ☐Discussion Time Requested: 2/28/2022 |
| **Agenda Item Name** | Cityworks by Azteca Systems, LLC Annual Software Maintenance and Support |
| **Summary (Background)** | Cityworks is a powerful, flexible and affordable GIS-Centric Asset Maintenance Management System. Cityworks is currently utilized by the City's Water and Wastewater departments. In addition, Cityworks is currently being implemented to the Street and Parks & Recreation departments. The 2021 contract amount was $135,036.00. There is a slight increase for 2022 due to an increase in WA sales tax. |
| **Proposed Council Action & Date:** | Pass Council on 3/14/2022 |

**Fiscal Impact:**
Total Cost: $135,160.00
Approved in current year budget? ☒Yes ☐No ☐N/A

Funding Source ☐One-time ☒Recurring – Annual

Specify funding source: 5300-733000-18850-54820

Expense Occurrence ☐One-time ☒Recurring - Annual

Other budget impacts: NA

**Operations Impacts**

What impacts would the proposal have on historically excluded communities?

Not applicable – annual software maintenance

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

Not applicable – annual software maintenance

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

Not applicable – annual software maintenance

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

This service aligns with the Sustainable Resources strategic initiative based on sound financial objectives, and quality customer service in our asset management system.

**City of Spokane**

**CONTRACT RENEWAL**

**Title: ANNUAL SOFTWARE SUPPORT AND UPDATES FOR CITYWORKS SYSTEM**

This Contract Renewal is made and entered into by and between the **City of Spokane** as ("City"), a Washington municipal corporation, and **AZTECA SYSTEMS, LLC,** whose address is 11075 South State Street, Suite 24, Sandy, Utah 84070, as ("Company"), individually hereafter referenced as a "party", and together as the "parties".

*WHEREAS, the parties entered into a Contract wherein the Company agreed to provide ANNUAL CITYWORKS SOFTWARE, UPDATES AND SUPPORT, which enables Public Works and Utilities to inventory assets, issue and track service requests & work orders, As well as manage overall customer needs for the City; and*

*WHEREAS, the original Contract needs to be formally renewed by this written Contract Renewal document.*

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

**1. CONTRACT DOCUMENTS.**
The original Contract dated April 23, 2018, any subsequent 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. In the event of a conflict or discrepancy in the Agreement documents, this City's documents control.

**2. EFFECTIVE TERM.**
This Contract Renewal shall become effective on April 1, 2022, and run through March 31, 2023.

**3. COMPENSATION.**
The City shall pay an estimated maximum annual cost not to exceed **ONE HUNDRED THIRTY-FIVE THOUSAND ONE HUNDRED SIXTY AND NO/100** (**$135,160.00)**, including tax, for everything furnished and done under this Contract Renewal in accordance with the attached Cityworks Quote dated November 8, 2021. 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 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.

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.

| **AZTECA SYSTEMS, LLC** | **CITY OF SPOKANE** |
|---|---|
| By_____ | By_____ |
| Signature Date | 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**:
Attachment A - Certificate of Debarment
Azteca Systems, LLC (Cityworks) November 8, 2021 Pricing Quotation

21-007

**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.

| | |
|---|---|
| _____<br>Name of Subrecipient / Contractor / Consultant (Type or Print) | _____<br>Program Title (Type or Print) |
| _____<br>Name of Certifying Official (Type or Print)<br>_____<br>Title of Certifying Official (Type or Print) | _____<br>Signature<br>_____<br>Date (Type or Print) |

Azteca Systems, LLC - Cityworks
11075 S State St, Suite 24 | Sandy, UT 84070
801-523-2751 | Fax # 801-523-3734

Quote Number Q-12599-1
Created Date 11/8/2021

## Contact Information

| | | | |
|---|---|---|---|
| Contact Name: | Peggy Lund | Prepared By Name: | Jenn Miya |
| Customer: | Spokane (WA), City of | Prepared By Phone: | (801) 872-9528 |
| Contact Address: | 808 W Spokane Falls Blvd<br>Spokane, WA<br>99201 | Prepared By Email: | jmiya@cityworks.com |

## Quote Lines

| Product Name | Quantity | Net Unit Price |
|---|---|---|
| ELA - Server AMS STANDARD | 1.00 | USD 105,000.00 |
| Pavement Management | 1.00 | Included |
| CCTV Interface for PACP | 1.00 | Included |
| Respond for AMS | 1.00 | Included |
| Mobile Native Apps (iOS/Android) | 1.00 | Included |
| Storeroom | 1.00 | Included |
| Equipment Checkout | 1.00 | Included |
| Contracts | 1.00 | Included |
| Cityworks for Excel for AMS | 1.00 | Included |
| Cityworks Analytics for AMS | 1.00 | Included |
| eURL | 1.00 | Included |
| Workload for AMS | 1.00 | Included |
| Web Hooks for AMS | 1.00 | Included |
| Work Order API Extended License | 1.00 | USD 19,000.00 |
| | **TOTAL:** | USD 124,000.00 |

**Maintenance Start Date:** 4/1/2022 **Maintenance End Date:** 3/31/2023

Quote Notes:

### Terms and Conditions

Payment Terms
Payment due within 30 days

All quotations are valid for ninety-days (90) from the date above, unless otherwise stated in this quotation form. All prices quoted are in USD, unless specifically provided otherwise, above. These prices and terms are valid only for items purchased for use and delivery for the Customers listed above.

Unless otherwise referenced, this quotation is for the Cityworks software products referenced above only. Pricing for implementation services (installation, configuration, training, etc.), or other software applications is provided separately and upon request.

The procurement, installation and administration of the Esri software or any other third-party software utilized in conjunction with Cityworks will be the responsibility of the Customer.

The procurement, installation and administration of the RDBMS utilized in conjunction with Cityworks will be the responsibility of the Customer. Currently, Cityworks supports Oracle and SQL Server. The procurement, installation and administration of the infrastructure (hardware and networking) utilized in conjunction with Cityworks will be the responsibility of the Customer.

This quotation and the pricing information herein is confidential and proprietary and may not be copied or released other than for the express purpose of the current system Software and Product selection and purchase. This information may not be given to outside parties or used for any other purpose without written consent from Azteca Systems, LLC or unless otherwise specifically permitted by law. If a “public access” or similar request is made, Customer, shall notify Azteca Systems, prior to any disclosure.

Software Licensing
All Azteca Systems software offered in this quotation are commercial off-the-shelf (COTS) software developed at private expense, and is subject to the terms and conditions of the signed “Cityworks Software License and Maintenance Agreement” ("Agreement") and any and all addendums or amendments thereto. A fully executed copy of the Agreement and any addendum(s) is required before delivery and installation and usage of the software is subject to the terms of the current license agreement.

The terms and conditions of the executed Cityworks Software License Agreement apply to this Quote unless otherwise specifically stated herein. Any additional or conflicting terms set forth in any purchase orders, invoices, or other standard form documents exchanged during the ordering process, other than product descriptions, quantities, pricing, and dates are void and of no effect.

Delivery method is by way of download through Azteca Systems, LLC. customer support web portal.

Taxes
Prices quoted do not include any applicable state, sales, local, or use taxes unless so stated. In preparing your budget and/or Purchase Order, please allow for any applicable taxes, including, sales, state, local or use taxes as necessary. Azteca Systems reserves the right to collect any applicable sales, use or other taxes tax assessed by or as required by law. Azteca Systems reserves the right to add any applicable tax to the invoice, unless proof with the order is shown that your organization or entity is tax exempt or if it pays any applicable tax directly.

International Customers
These items are controlled by the U.S. government and authorized for export only to the country of ultimate destination for use by the ultimate consignee or end-user(s) herein identified. They may not be resold, transferred, or otherwise disposed of, to any other country or to any person other than the authorized ultimate consignee or end-user(s), either in their original form or after being incorporated into other items, without first obtaining approval from the U.S. government or as otherwise authorized by U.S. law and regulations.

Your signature indicates your acceptance of this Quote, and that you have read and accepted the Terms and Conditions set forth above.

Peggy Lund
Accepted by:

Supervisor Info Sys Analyst
Title

01 / 14 / 2022
Date

Washington State Department of Revenue

Business Lookup

## License Information:

New search Back to results

**Entity name:** AZTECA SYSTEMS, LLC

**Business name:** AZTECA SYSTEMS, LLC

**Entity type:** Limited Liability Company

**UBI #:** 604-060-266

**Business ID:** 001

**Location ID:** 0001

**Location:** Active

**Location address:** 11075 S STATE ST
STE 24
SANDY UT 84070-5128

**Mailing address:** 11075 S STATE ST
STE 24
SANDY UT 84070-5128

**Excise tax and reseller permit status:** Click here

**Secretary of State status:** Click here

## Endorsements

| Endorsements held at this loc | License # | Count | Details | Status | Expiration dat | First issuance |
|---|---|---|---|---|---|---|
| Bellingham General Business | 063840 | | | Active | | Aug-13-2018 |
| Burien General Business - Non-Resident | 12399 | | | Active | Dec-31-2022 | Feb-07-2017 |
| Spokane General Business - Non-Resident | | | | Active | Dec-31-2022 | Jul-02-2018 |

| Governing people | Title |
| --- | --- |
| AZTECA SYSTEMS MIDCO, LLC | |

The Business Lookup information is updated nightly. Search date and time: 1/5/2022 1:04:18 PM

**Contact us**

How are we doing?
**Take our survey!**

Don't see what you expected?
**Check if your browser is supported**

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 12/07/2021

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

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

**PRODUCER**
Marsh Risk & Insurance Services
1735 Technology Drive, Suite 790
San Jose, CA 95110

CN102488216-STND-GAWUE-21- Azteca

**INSURED**
Trimble Inc.
Azteca Systems, LLC
11075 South State #24
Sandy, UT 84070

**CONTACT NAME:** Petronella Massey
**PHONE (A/C, No, Ext):** 408 467 5614 **FAX (A/C, No):** 408 467 5699
**E-MAIL ADDRESS:** petronella.massey@marsh.com

| INSURER(S) AFFORDING COVERAGE | NAIC # |
|---|---|
| **INSURER A :** Federal Insurance Company | 20281 |
| **INSURER B :** American Casualty Company of Reading, PA | 20427 |
| **INSURER C :** Lloyd's Of London | |
| **INSURER D :** N/A | N/A |
| **INSURER E :** Transportation Insurance Co | 20494 |
| **INSURER F :** | |

**COVERAGES** **CERTIFICATE NUMBER:** SEA-003701804-04 **REVISION NUMBER:** 3

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

| INSR LTR | TYPE OF INSURANCE | ADDL INSD | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS | |
|---|---|---|---|---|---|---|---|---|
| A | X **COMMERCIAL GENERAL LIABILITY** | | | 35323540 | 12/01/2021 | 12/01/2022 | EACH OCCURRENCE | $ 1,000,000 |
| | CLAIMS-MADE X OCCUR | | | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) | $ 1,000,000 |
| | | | | | | | MED EXP (Any one person) | $ 10,000 |
| | | | | | | | PERSONAL & ADV INJURY | $ 1,000,000 |
| | GEN'L AGGREGATE LIMIT APPLIES PER: | | | | | | GENERAL AGGREGATE | $ 2,000,000 |
| | X POLICY PRO-JECT LOC | | | | | | PRODUCTS - COMP/OP AGG | $ 2,000,000 |
| | OTHER: | | | | | | | $ |
| A | **AUTOMOBILE LIABILITY** | | | 73257020 | 12/01/2021 | 12/01/2022 | COMBINED SINGLE LIMIT (Ea accident) | $ 1,000,000 |
| | X ANY AUTO | | | | | | BODILY INJURY (Per person) | $ 1,000,000 |
| | OWNED AUTOS ONLY / SCHEDULED AUTOS | | | | | | BODILY INJURY (Per accident) | $ 1,000,000 |
| | X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY | | | | | | PROPERTY DAMAGE (Per accident) | $ 1,000,000 |
| | | | | | | | COMP/COLL DED | $ 1,000 |
| A | X **UMBRELLA LIAB** X OCCUR | | | 79724719 | 12/01/2021 | 12/01/2022 | EACH OCCURRENCE | $ 5,000,000 |
| | **EXCESS LIAB** CLAIMS-MADE | | | | | | AGGREGATE | $ 5,000,000 |
| | DED RETENTION $ | | | | | | | $ |
| B | **WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** | | | WC7 11636746 (AOS); Ded: $250K | 12/01/2021 | 12/01/2022 | X PER STATUTE OTH-ER | |
| B | ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N N | N / A | | WC7 11636763 (CA) | 12/01/2021 | 12/01/2022 | E.L. EACH ACCIDENT | $ 1,000,000 |
| E | **(Mandatory in NH)** | | | WC7 11892854 (RETRO) | 12/01/2021 | 12/01/2022 | E.L. DISEASE - EA EMPLOYEE | $ 1,000,000 |
| E | If yes, describe under DESCRIPTION OF OPERATIONS below | | | GAP7011892868 (STOP GAP) | 12/01/2021 | 12/01/2022 | E.L. DISEASE - POLICY LIMIT | $ 1,000,000 |
| C | Technology Errors & Omissions | | | W101C7211601 | 12/01/2021 | 12/01/2022 | Limit | 5,000,000 |
| | | | | | | | Retention | 2,500,000 |

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)**
City of Spokane is additional insured with respect to general liability and auto liability as required by written contract. General liability is primary and non-contributory as required by written contract. Waiver of subrogation as required by written contract.

**CERTIFICATE HOLDER**

City of Spokane - Wastewater Maintenance
Attn: Samantha Johnson
909 E. Sprague Avenue
Spokane, WA 99202

**CANCELLATION**

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

**AUTHORIZED REPRESENTATIVE**

*Marsh Risk & Insurance Services*

**© 1988-2016 ACORD CORPORATION. All rights reserved.**

| Agenda Sheet for City Council Meeting of: 03/14/2022 | | Date Rec'd | 3/1/2022 |
|---|---|---|---|
| | | Clerk's File # | OPR 2019-0292 |
| | | Renews # | 1 OF 2 |
| **Submitting Dept** | INNOVATION & TECHNOLOGY SERVICES | **Cross Ref #** | |
| **Contact Name/Phone** | MICHAEL SLOON 625-6468 | **Project #** | |
| **Contact E-Mail** | MSLOON@SPOKANECITY.ORG | **Bid #** | RFP-4481-18 |
| **Agenda Item Type** | Contract Item | **Requisition #** | CR# 23420 |
| **Agenda Item Name** | 5300 INCAPSULATE CRM 2022 MAINTENANCE & SUPPORT | | |

**Agenda Wording**

Contract renewal with Incapsulate, LLC for our Customer Relationship Management System (CRM) Annual Software Maintenance and Support. Contract term May 1, 2022 - April 30, 2023 for a total amount of $113,118.94 including tax. 1st of 2 renewal options

**Summary (Background)**

Incapsulate supports the City's CRM 311 System. The Customer Relationship Management (CRM) system is the application used to track citizen engagement, through multiple entities, including My Spokane-311 and the Mayor's office. Incapsulate was selected from a formal RFP process in 2019. The 2021 contracted amount was $109,734.10 including tax.

Lease? NO Grant related? NO Public Works? NO

| **Fiscal Impact** | | **Budget Account** |
|---|---|---|
| Expense | $ 113,118.94 | # 5300-73300-18850-54820 |
| Select | $ | # |
| Select | $ | # |
| Select | $ | # |

| **Approvals** | | **Council Notifications** | |
|---|---|---|---|
| **Dept Head** | SLOON, MICHAEL | **Study Session\Other** | Finance Committee 2/28/22 |
| **Division Director** | SLOON, MICHAEL | **Council Sponsor** | CM Michael Cathcart |
| **Finance** | BUSTOS, KIM | **Distribution List** | |
| **Legal** | ODLE, MARI | Accounting - ywang@spokanecity.org | |
| **For the Mayor** | ORMSBY, MICHAEL | Contract Accounting - ddaniels@spokanecity.org | |
| **Additional Approvals** | | Legal - modle@spokanecity.org | |
| **Purchasing** | PRINCE, THEA | Purchasing - cwahl@spokanecity.org | |
| | | IT - itadmin@spokanecity.org | |
| | | Tax & Licenses | |
| | | Jonathan Light - jlight@incapsulate.com | |

# Committee Agenda Sheet
# Finance & Administration Committee

| | |
|---|---|
| **Submitting Department** | Innovation and Technology Services Division |
| **Contact Name & Phone** | Michael Sloon, 625-6468 |
| **Contact Email** | msloon@spokanecity.org |
| **Council Sponsor(s)** | CM Michael Cathcart |
| **Select Agenda Item Type** | ☒Consent ☐Discussion Time Requested: 2/28/2022 |
| **Agenda Item Name** | Customer Relationship Management System (CRM) Annual Software Maintenance and Support |
| **Summary (Background)** | Incapsulate supports the City's CRM 311 system. The CRM 311 system is utilized by various City Departments. Incapsulate was selected from a formal RFP process in 2019. The 2021 contracted amount was $109,734.10 with tax. |
| **Proposed Council Action & Date:** | Pass Council on 3/14/2022 |

**Fiscal Impact:**
Total Cost: $113,118.94
Approved in current year budget? ☒Yes ☐No ☐N/A

Funding Source ☐One-time ☒Recurring – Annual

Specify funding source: 5300-733000-18850-54820

Expense Occurrence ☐One-time ☒Recurring - Annual

Other budget impacts: NA

**Operations Impacts**

What impacts would the proposal have on historically excluded communities?

Not applicable – annual software maintenance

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

Not applicable – annual software maintenance

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

Not applicable – annual software maintenance

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

This service aligns with the Sustainable Resources strategic initiative based on sound financial objectives, and quality customer service in our CRM 311 system.

City Clerk's No. 2019-0292

**City of Spokane**

**CONTRACT RENEWAL**
**1 of 2**

**Title: CUSTOMER RELATIONSHIP MANAGEMENT REPLACEMENT**

This Contract Renewal is made and entered into by and between the **CITY OF SPOKANE** as ("City"), a Washington municipal corporation, and **INCAPSULATE, LLC** whose address is 1620 L Street, Third Floor, Suite D, Washington DC 20036 as ("Company"), individually hereafter referenced as a "party", and together as the "parties".

*WHEREAS, the parties entered into a Contract wherein the Company agreed to provide Implementation, Conversion, Integration, Training and Hosting Services for a new Customer Relationship Management System, and*

*WHEREAS, the initial contract provided for two (2) additional one (1) year renewals, with this being the first of those renewals.*

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

**1. CONTRACT DOCUMENTS.**
The original Contract, dated April 26, 2019, 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 May 1, 2022 and shall run through April 30, 2023.

**3. COMPENSATION.**
The City shall pay an additional amount not to exceed **ONE HUNDRED THIRTEEN THOUSAND ONE HUNDRED EIGHTEEN AND 94/100 DOLLARS** (**$113,118.94**), including 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.

| **INCAPSULATE, LLC** | **CITY OF SPOKANE** |
|---|---|
| By_____ | By_____ |
| Signature Date | 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**:

Attachment A – Certification Regarding Debarment

22-0292

**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.

| | |
|---|---|
| _____<br>Name of Subrecipient / Contractor / Consultant (Type or Print) | _____<br>Program Title (Type or Print) |
| _____<br>Name of Certifying Official (Type or Print)<br>_____<br>Title of Certifying Official (Type or Print) | _____<br>Signature<br>_____<br>Date (Type or Print) |

Washington State Department of Revenue

Business Lookup

## License Information:

New search Back to results

**Entity name:** INCAPSULATE, LLC

**Business name:** INCAPSULATE, LLC

**Entity type:** Limited Liability Company

**UBI #:** 604-407-883

**Business ID:** 001

**Location ID:** 0001

**Location:** Active

**Location address:** 1620 L ST NW
STE 300D
WASHINGTON DC 20036-5653

**Mailing address:** 1620 L ST NW
STE 300D
WASHINGTON DC 20036-5653

**Excise tax and reseller permit status:** Click here

**Secretary of State status:** Click here

## Endorsements

| Endorsements held at this l | License # | Count | Details | Status | Expiration da | First issuance |
|---|---|---|---|---|---|---|
| Spokane General Business - Non-Resident | | | | Active | Mar-31-2022 | Mar-19-2019 |

| Governing people | Title |
| --- | --- |
| BATISH, SONALI | Member |

The Business Lookup information is updated nightly. Search date and time: 5/3/2021 1:33:10 PM

**Contact us**

How are we doing?
**Take our survey!**

Don't see what you expected?
**Check if your browser is supported**

INCAPSU-01 MWILLIAMS

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 1/5/2022

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

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

PRODUCER
Howard Insurance Agency, Inc.
6900 Wisconsin Ave Fifth Floor
Chevy Chase, MD 20815

CONTACT NAME:
PHONE (A/C, No, Ext): (301) 652-2500 FAX (A/C, No): (301) 652-2530
E-MAIL ADDRESS: INFO@HOWARD-INSURANCE.COM

| INSURER(S) AFFORDING COVERAGE | NAIC # |
|---|---|
| INSURER A : Valley Forge Insurance Company | 20508 |
| INSURER B : Continental Casualty Company | 20443 |
| INSURER C : Chubb National Insurance Company | 10052 |
| INSURER D : Hudson Excess Insurance Company | |
| INSURER E : | |
| INSURER F : | |

INSURED
Incapsulate, LLC
1620 L St. NW, 3rd Floor Suite D
Washington, DC 20036

**COVERAGES** **CERTIFICATE NUMBER:** **REVISION NUMBER:**

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

| INSR LTR | TYPE OF INSURANCE | ADDL INSD | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS | |
|---|---|---|---|---|---|---|---|---|
| A | X COMMERCIAL GENERAL LIABILITY | | | | | | EACH OCCURRENCE | $ 1,000,000 |
| | CLAIMS-MADE / X OCCUR | X | | 6021752270 | 12/31/2021 | 12/31/2022 | DAMAGE TO RENTED PREMISES (Ea occurrence) | $ 1,000,000 |
| | | | | | | | MED EXP (Any one person) | $ 10,000 |
| | | | | | | | PERSONAL & ADV INJURY | $ 1,000,000 |
| | GEN'L AGGREGATE LIMIT APPLIES PER: | | | | | | GENERAL AGGREGATE | $ 2,000,000 |
| | X POLICY / PRO-JECT / LOC | | | | | | PRODUCTS - COMP/OP AGG | $ 2,000,000 |
| | OTHER: | | | | | | Contractual Lia | $ Included |
| A | AUTOMOBILE LIABILITY | | | | | | COMBINED SINGLE LIMIT (Ea accident) | $ 1,000,000 |
| | ANY AUTO | | | 6021752270 | 12/31/2021 | 12/31/2022 | BODILY INJURY (Per person) | $ |
| | OWNED AUTOS ONLY / SCHEDULED AUTOS | | | | | | BODILY INJURY (Per accident) | $ |
| | X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY | | | | | | PROPERTY DAMAGE (Per accident) | $ |
| | | | | | | | | $ |
| B | X UMBRELLA LIAB / X OCCUR | | | | | | EACH OCCURRENCE | $ 10,000,000 |
| | EXCESS LIAB / CLAIMS-MADE | | | 6045362792 | 12/31/2021 | 12/31/2022 | AGGREGATE | $ 10,000,000 |
| | DED / X RETENTION $ 10,000 | | | | | | | $ |
| C | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY | | | | | | X PER STATUTE / OTH-ER | |
| | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y / N | N / A | | 71800543 | 12/31/2021 | 12/31/2022 | E.L. EACH ACCIDENT | $ 1,000,000 |
| | If yes, describe under DESCRIPTION OF OPERATIONS below | | | | | | E.L. DISEASE - EA EMPLOYEE | $ 1,000,000 |
| | | | | | | | E.L. DISEASE - POLICY LIMIT | $ 1,000,000 |
| A | Prof/Tech E&O | | | 6021752270 | 12/31/2021 | 12/31/2022 | Ea Claim Limit | 5,000,000 |
| D | Data Breach/Cyber | | | 2-CIA-DC-17-S0105142-00 | 1/1/2022 | 1/1/2023 | Ea Claim Limit | 2,000,000 |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
City of Spokane, its officers and employees are Additional Insured under General Liability coverage in regards to work performed by Named Insured.
**Additional Insured status is contingent upon written agreement between Additional Insured and Named Insured requiring such status. ** Insurance Company will Endeavor to give 30 days written notice of Cancellation

**CERTIFICATE HOLDER**

City of Spokane
1620 L Street, 3rd Floor
Suite D
Washington, DC 20036

**CANCELLATION**

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

AUTHORIZED REPRESENTATIVE


© 1988-2015 ACORD CORPORATION. All rights reserved.
The ACORD name and logo are registered marks of ACORD

| Agenda Sheet for City Council Meeting of: 03/14/2022 | | Date Rec'd | 3/1/2022 |
|---|---|---|---|
| | | Clerk's File # | OPR 2019-0293 |
| | | Renews # | |
| **Submitting Dept** | INNOVATION & TECHNOLOGY | **Cross Ref #** | |
| **Contact Name/Phone** | MICHAEL 625-6468 | **Project #** | |
| **Contact E-Mail** | MSLOON@SPOKANECITY.ORG | **Bid #** | RFP 4481-18 |
| **Agenda Item Type** | Contract Item | **Requisition #** | CR# 23434 |
| **Agenda Item Name** | 5300 CARAHSOFT 2022 SALESFORCE LICENSES | | |

**Agenda Wording**

Contract with Carahsoft Technology Corp. for the purchase of SalesForce CRM licenses in support of MySpokane's 311 Incapsulate CRM system. This is a 1yr contract starting May 1, 2022 - April 30, 2023. Contract amount is $121,516.75 including tax.

**Summary (Background)**

The Customer Relationship Management (CRM) system is the application used to track citizen engagement, through multiple city entities, including My Spokane-311, Utility Billing, Mayor's Office, Solid Waste Management, City Council and Streets Departments. Carahsoft supplies the SalesForce licensing in support of the City's Customer Relationship Management (CRM). SalesForce was selected and implemented in 2019. 2021 contracted amount was $115,870.58 including tax.

Lease? NO Grant related? NO Public Works? NO

| **Fiscal Impact** | | **Budget Account** |
|---|---|---|
| Expense | $ 117,823.55 | # 5300-73300-18850-54820 |
| Expense | $ 3,693.20 | # 5700-53801-57200-53104 |
| Select | $ | # |
| Select | $ | # |

| **Approvals** | | **Council Notifications** | |
|---|---|---|---|
| **Dept Head** | SLOON, MICHAEL | **Study Session\Other** | Finance Committee |
| **Division Director** | SLOON, MICHAEL | **Council Sponsor** | CM Michael Cathcart |
| **Finance** | | **Distribution List** | |
| **Legal** | ODLE, MARI | Accounting - ywang@spokanecity.org | |
| **For the Mayor** | | Contract Accounting - ddaniels@spokanecity.org | |
| **Additional Approvals** | | Legal - modle@spokanecity.org | |
| **Purchasing** | WAHL, CONNIE | Purchasing - cwahl@spokanecity.org | |
| | | IT - itadmin@spokanecity.org | |
| | | Tax & Licenses | |
| | | Kristina.smith@carahsoft.com | |

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

**Agenda Wording**

**Summary (Background)**

The difference from 2021 to 2022 is the addition of Three (3) Salesforce licenses.

| Fiscal Impact | | Budget Account |
|---|---|---|
| Select | $ | # |
| Select | $ | # |

**Distribution List**

| | |
|---|---|
| | |
| | |
| | |
| | |

# Committee Agenda Sheet
# FINANCE & ADMINISTRATION

| | |
|---|---|
| **Submitting Department** | Innovation and Technology Services Division |
| **Contact Name & Phone** | Michael Sloon, 625-6468 |
| **Contact Email** | msloon@spokanecity.org |
| **Council Sponsor(s)** | CM Michael Cathcart |
| **Select Agenda Item Type** | ☒Consent ☐Discussion Time Requested: 2/28/2022 |
| **Agenda Item Name** | Continuation for SalesForce Licenses Ongoing annual maintenance and support of the City's CRM system. |
| **Summary (Background)** | The Customer Relationship Management (CRM) system is the application used to track citizen engagement, through multiple city entities, including My Spokane-311, Utility Billing, Mayor's Office, Solid Waste Management, City Council and Streets Departments. Carahsoft supplies the SalesForce licensing in support of the City's Customer Relationship Management (CRM). SalesForce was selected and implemented in 2019. 2021 contracted amount was $115,870.58 including tax. The difference from 2021 to 2022 is the addition of one Salesforce license. 2022 contract term is 5/1/22 – 4/30/23. |
| **Proposed Council Action & Date:** | Pass Council on 3/14/2022 |

**Fiscal Impact:**
Total Cost: $117,823.55
Approved in current year budget? ☒Yes ☐No ☐N/A

Funding Source ☐One-time ☒Recurring - Annual

Specify funding source: 5300-73300-18850-54820

Expense Occurrence ☐One-time ☒Recurring - Annual

Other budget impacts:

**Operations Impacts**

What impacts would the proposal have on historically excluded communities?

Not applicable – annual software maintenance

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

Not applicable – annual software maintenance

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

Not applicable – annual software maintenance

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

This service aligns with the Sustainable Resources strategic initiative based on sound financial objectives, and quality customer service in our 311 CRM system.

City Clerk's No. 2019-0293

**City of Spokane**

# CONTRACT RENEWAL

**Title: PURCHASE AND CONTRACT FOR ANNUAL SUPPORT OF SALESFORCE CRM LICENSES**

This Contract Renewal is made and entered into by and between the **CITY OF SPOKANE** as ("City"), a Washington municipal corporation, and **CARAHSOFT TECHNOLOGY CORPORATION** whose address is 1860 Michael Faraday Drive, Suite 100, Reston, Virginia 20190 as ("Company"), individually hereafter referenced as a "party", and together as the "parties".

*WHEREAS, the parties entered into a Contract wherein the Company agreed to provide Purchase and Contract for Annual Support of Salesforce CRM Licenses for the City; and*

*WHEREAS, the original Contract needs to be formally renewed by this written Contract Renewal document; and*

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

**1. CONTRACT DOCUMENTS.**
The original Contract, dated April 26, 2019, 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 May 1, 2022 and end on April 30, 2023.

**3. COMPENSATION.**
The City shall pay an estimated maximum annual cost not to exceed **ONE HUNDRED TWENTY-ONE THOUSAND FIVE HUNDRED SIXTEEN AND 75/100** (**$121,516.75**), including tax, in accordance with Company's Quote No. 32638039, 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 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.

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.

| **CARAHSOFT TECHNOLOGY CORP.** | **CITY OF SPOKANE** |
|---|---|
| By_____ | By_____ |
| Signature Date | 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 of Debarment
Exhibit B – Carahsoft Technology Corp. Quote No. 32638039

22-038

**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.

| | |
|---|---|
| _____<br>Name of Subrecipient / Contractor / Consultant (Type or Print) | _____<br>Program Title (Type or Print) |
| _____<br>Name of Certifying Official (Type or Print)<br>_____<br>Title of Certifying Official (Type or Print) | _____<br>Signature<br>_____<br>Date (Type or Print) |

**EXHIBIT B**

# GOVERNMENT PRICE QUOTATION

## SALESFORCE.COM GOVERNMENT at CARAHSOFT

CARAHSOFT TECHNOLOGY CORP.
11493 SUNSET HILLS ROAD | SUITE 100 | RESTON, VIRGINIA 20190
PHONE (703) 871-8500 | FAX (703) 871-8505 | TOLL FREE (888) 662-2724
www.carahsoft.com | sales@carahsoft.com

**TO:** Carlos Plascencia
Assistant Procurement Specialist
City of Spokane
808 West Spokane Falls Boulevard
7th Floor City Hall
Spokane, WA 99201 USA

**EMAIL:** cplascencia@spokanecity.org

**PHONE:** (509) 625-6399

**FROM:** Kristian Gaddis
Carahsoft Technology Corp.
11493 Sunset Hills Road
Suite 100
Reston, Virginia 20190

**EMAIL:** Kristian.Gaddis@carahsoft.com

**PHONE:** (571) 662-3423 **FAX:** (703) 871-8505

**TERMS:** FTIN: 52-2189693
Shipping Point: FOB Destination
Remit To: Same as Above
Payment Terms: Net 30 (On Approved Credit)
Cage Code: 1P3C5
DUNS No: 088365767
Credit Cards: VISA/MasterCard/AMEX
Sales Tax May Apply

| | |
|---|---|
| **QUOTE NO:** | 32638039 |
| **QUOTE DATE:** | 01/28/2022 |
| **QUOTE EXPIRES:** | 04/25/2022 |
| **RFQ NO:** | |
| **SHIPPING:** | ESD |
| **TOTAL PRICE:** | $111,483.26 |
| **WA Tax** | $10,033.49 |
| **TOTAL QUOTE:** | $121,516.75 |

| LINE NO. | PART NO. | DESCRIPTION | QUOTE PRICE | | QTY | EXTENDED PRICE |
|---|---|---|---|---|---|---|
| 1 | 121-0092 | Service Cloud Enterprise Edition<br>Start Date: 05/01/2022<br>End Date: 04/30/2023 | $1,694.12 | OM | 52 | $88,094.24 |
| 2 | 121-0130 | Customer Community - Logins<br>Start Date: 05/01/2022<br>End Date: 04/30/2023 | $8.98 | OM | 1001 | $8,988.98 |
| 3 | 121-0094 | Knowledge<br>Start Date: 05/01/2022<br>End Date: 04/30/2023 | $847.06 | OM | 2 | $1,694.12 |
| 4 | 121-0225 | Heroku - 1 Dyno Unit<br>Start Date: 05/01/2022<br>End Date: 04/30/2023 | $508.24 | OM | 5 | $2,541.20 |
| 5 | 205-0043 | Live Agent<br>Start Date: 05/01/2022<br>End Date: 04/30/2023 | $847.06 | OM | 12 | $10,164.72 |
| | | **SUBTOTAL:** | | | | $111,483.26 |

| | |
|---|---|
| **TOTAL PRICE:** | **$111,483.26** |
| **WA Tax:** | **$10,033.49** |
| **TOTAL QUOTE:** | **$121,516.75** |

# GOVERNMENT PRICE QUOTATION

## SALESFORCE.COM GOVERNMENT at CARAHSOFT

CARAHSOFT TECHNOLOGY CORP.
11493 SUNSET HILLS ROAD | SUITE 100 | RESTON, VIRGINIA 20190
PHONE (703) 871-8500 | FAX (703) 871-8505 | TOLL FREE (888) 662-2724
www.carahsoft.com | sales@carahsoft.com

| LINE NO. | PART NO. | DESCRIPTION | QUOTE PRICE | QTY | EXTENDED PRICE |
|---|---|---|---|---|---|

****Carahsoft Quote #32638039 must be included on the PO****

**Heroku - 1 Dyno**
**Each Heroku - 1 Dyno Unit (Per Month) subscription includes 750 Dyno hours per month. Customer understands that the above limitation is contractual in nature (i.e., this limitation is not enforced in the Services as a technical matter) and therefore agrees to strictly review its Users' use of such subscriptions and enforce such limitation. SFDC may review Customer's use of such subscriptions at any time through the Services. If in any calendar month, Customer exceeds its permitted number of Dyno hours, SFDC reserves the right to charge Customer list price for as many additional Heroku - 1 Dyno Unit (Per Month) needed to cover all Dyno hours consumed in excess of the permitted number of Dyno hours. Such additional fees will be charged to Customer monthly in arrears via the billing or payment method specified above.**
**Customer must reference Quote number on Purchase Order.**

**Should Customer purchase via Reseller all terms of Carahsoft Quote must be incorporated in Reseller quote and Customer Purchase Order to Reseller.**

**Any increase in subscription and support pricing will be in accordance with SFDC's pricing and policies in effect at the time of the renewal or as otherwise agreed to by the parties.**

**Licensee agrees that any order for Salesforce.com will be governed by the terms and conditions of the Carahsoft Salesforce Service Terms, copies of which are found at https://carah.io/SFDC-TOU and all Schedules referenced by the Service Terms are made a part hereof. Licensee acknowledges it has had the opportunity to review the Agreement, prior to executing an order.**

**All current standard Government Cloud Premier+ Support customers will migrate to the Government Cloud Plus infrastructure as Government Cloud Premier+ Support is going end of life. The following terms shall apply: http://www.carahsoft.com/government-cloud-terms. A list of currently available FedRAMP/IL4 Authorized Salesforce products can be found here: https://help.salesforce.com/articleView?id=000270080&language=en_US&type=1**

**Product Terms Directory: http://carah.io/Product-Terms-Directory**
**Help & Training: http://carah.io/Help**

Washington State Department of Revenue

Business Lookup

## License Information:

New search Back to results

**Entity name:** CARAHSOFT TECHNOLOGY CORPORATION

**Business name:** CARAHSOFT CORPORATION

**Entity type:** Profit Corporation

**UBI #:** 603-056-551

**Business ID:** 001

**Location ID:** 0002

**Location:** Active

**Location address:** 113 TAZEWELL AVE
CAPE CHARLES VA 23310-3129

**Mailing address:** 11493 SUNSET HILLS RD
STE 100
RESTON VA 20190-5230

**Excise tax and reseller permit status:** Click here

**Secretary of State status:** Click here

## Endorsements

| Endorsements held at this loc | License # | Count | Details | Status | Expiration dat | First issuance |
|---|---|---|---|---|---|---|
| Spokane General Business - Non-Resident | | | | Active | Oct-31-2022 | Jun-26-2018 |

| Governing people | Title |
| --- | --- |
| ABOD, CRAIG P | |
| LORD, ELLEN | |
| MOORE, ROBERT | |
| SZCZEPANEK, JILLIAN | |

The Business Lookup information is updated nightly. Search date and time: 1/4/2022 10:19:13 AM

**Contact us**

How are we doing?
**Take our survey!**

Don't see what you expected?
**Check if your browser is supported**

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 05/05/2021

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

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

**PRODUCER**
Automatic Data Processing Insurance Agency, Inc.

1 Adp Boulevard
Roseland NJ 07068

**CONTACT NAME:** Automatic Data Processing Insurance Agency, Inc.
**PHONE (A/C, No, Ext):** 1-800-524-7024 **FAX (A/C, No):**
**E-MAIL ADDRESS:**

| INSURER(S) AFFORDING COVERAGE | NAIC # |
|---|---|
| INSURER A : Rated by Multiple Companies | |
| INSURER B : | |
| INSURER C : | |
| INSURER D : | |
| INSURER E : | |
| INSURER F : | |

**INSURED**
Carahsoft Technology Corp

11493 Sunset Hills Rd Ste 100

Reston VA 201905230

**COVERAGES** **CERTIFICATE NUMBER:** 1951671 **REVISION NUMBER:**

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

| INSR LTR | TYPE OF INSURANCE | ADDL INSD | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS | |
|---|---|---|---|---|---|---|---|---|
| | **COMMERCIAL GENERAL LIABILITY** | | | | | | EACH OCCURRENCE | $ |
| | CLAIMS-MADE / OCCUR | | | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) | $ |
| | | | | | | | MED EXP (Any one person) | $ |
| | | | | | | | PERSONAL & ADV INJURY | $ |
| | GEN'L AGGREGATE LIMIT APPLIES PER: | | | | | | GENERAL AGGREGATE | $ |
| | POLICY / PRO-JECT / LOC | | | | | | PRODUCTS - COMP/OP AGG | $ |
| | OTHER: | | | | | | | $ |
| | **AUTOMOBILE LIABILITY** | | | | | | COMBINED SINGLE LIMIT (Ea accident) | $ |
| | ANY AUTO | | | | | | BODILY INJURY (Per person) | $ |
| | OWNED AUTOS ONLY / SCHEDULED AUTOS | | | | | | BODILY INJURY (Per accident) | $ |
| | HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY | | | | | | PROPERTY DAMAGE (Per accident) | $ |
| | | | | | | | | $ |
| | **UMBRELLA LIAB** / OCCUR | | | | | | EACH OCCURRENCE | $ |
| | **EXCESS LIAB** / CLAIMS-MADE | | | | | | AGGREGATE | $ |
| | DED / RETENTION $ | | | | | | | $ |
| A | **WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** Y / N<br>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y<br>**(Mandatory in NH)**<br>If yes, describe under DESCRIPTION OF OPERATIONS below | N / A | Y | 76WEGZJ6798 | 04/19/2021 | 04/19/2022 | X PER STATUTE / OTH-ER | |
| | | | | | | | E.L. EACH ACCIDENT | $ 1,000,000 |
| | | | | | | | E.L. DISEASE - EA EMPLOYEE | $ 1,000,000 |
| | | | | | | | E.L. DISEASE - POLICY LIMIT | $ 1,000,000 |

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

This certificate has a blanket Waiver of Subrogation for the following state(s) :NY,TX
Job Locations: , TX

**CERTIFICATE HOLDER**

City of Spokane
808 W Spokane Falls Blvd,
7th Floor, City Hall,
Spokane, WA 99201

**CANCELLATION**

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

**AUTHORIZED REPRESENTATIVE**

**© 1988-2015 ACORD CORPORATION. All rights reserved.**

| Agenda Sheet for City Council Meeting of: 03/14/2022 | | Date Rec'd | 3/1/2022 |
|---|---|---|---|
| | | Clerk's File # | OPR 2019-0314 |
| | | Renews # | |
| **Submitting Dept** | INNOVATION & TECHNOLOGY SERVICES | **Cross Ref #** | RES 2019-0032 |
| **Contact Name/Phone** | MICHAEL SLOON 625-6468 | **Project #** | |
| **Contact E-Mail** | MSLOON@SPOKANECITY.ORG | **Bid #** | |
| **Agenda Item Type** | Contract Item | **Requisition #** | CR# 23424 |
| **Agenda Item Name** | 5300 ORACLE 2022 LICENSES AND SUPPORT | | |

**Agenda Wording**

Contract with Oracle America, Inc for Oracle license support to include Update Subscription Services and Right to use Oracle licenses for the City of Spokane. This is a 1yr contract from 4/21/22 - 4/20/23 for $215,959.47 including taxes.

**Summary (Background)**

Oracle America, Inc supports the City's PeopleSoft Human Capital Management (HCM) System and Utility Billing Oracle database, which is utilized by various City Departments. Oracle Software was selected and implemented in 2009 for the City of Spokane's PeopleSoft Benefits, Payroll and Time & Labor software. Oracle Software is the only supplier of PeopleSoft licensing. 2021 contracted amount was $207,462.82. The increase is 4% per Oracle's annual inflationary adjustment rate.

Lease? NO Grant related? NO Public Works? NO

| **Fiscal Impact** | | **Budget Account** |
|---|---|---|
| Expense | $ 215,959.47 | # 5300-73300-18850-54820 |
| Select | $ | # |
| Select | $ | # |
| Select | $ | # |

| **Approvals** | | **Council Notifications** | |
|---|---|---|---|
| **Dept Head** | SLOON, MICHAEL | **Study Session\Other** | Finance Committee 2/28/22 |
| **Division Director** | SLOON, MICHAEL | **Council Sponsor** | CM Michael Cathcart |
| **Finance** | BUSTOS, KIM | **Distribution List** | |
| **Legal** | ODLE, MARI | Accounting - ywang@spokanecity.org | |
| **For the Mayor** | ORMSBY, MICHAEL | Contract Accounting - ddaniels@spokanecity.org | |
| **Additional Approvals** | | Legal - modle@spokanecity.org | |
| **Purchasing** | PRINCE, THEA | Purchasing - cwahl@spokanecity.org | |
| | | IT - itadmin@spokanecity.org | |
| | | Tax & Licenses | |
| | | Oracle - Sue.miller@oracle.com | |

# Committee Agenda Sheet
# Finance & Administration Committee

| | |
|---|---|
| **Submitting Department** | Innovation and Technology Services Division |
| **Contact Name & Phone** | Michael Sloon, 625-6468 |
| **Contact Email** | msloon@spokanecity.org |
| **Council Sponsor(s)** | CM Michael Cathcart |
| **Select Agenda Item Type** | ☒Consent ☐Discussion Time Requested: 2/28/2022 |
| **Agenda Item Name** | Oracle's PeopleSoft and Database Annual Software Maintenance and Support |
| **Summary (Background)** | Oracle America, Inc supports the City's PeopleSoft Human Capital Management (HCM) System and Utility Billing Oracle database, which is utilized by various City Departments. Oracle Software was selected and implemented in 2009 for the City of Spokane's PeopleSoft Benefits, Payroll and Time & Labor software. Oracle Software is the only supplier of PeopleSoft licensing. 2021 contracted amount was $207,462.82. The increase is 4% per Oracle's annual inflationary adjustment rate. Term is April 21, 2022 – April 20, 2023. |
| **Proposed Council Action & Date:** | Pass Council on 3/14/2022 |

**Fiscal Impact:**
Total Cost: $215,959.47 including taxes
Approved in current year budget? ☒Yes ☐No ☐N/A

Funding Source ☐One-time ☒Recurring – Annual

Specify funding source: 5300-73300-18850-54820

Expense Occurrence ☐One-time ☒Recurring – Annual

Other budget impacts: NA

**Operations Impacts**

What impacts would the proposal have on historically excluded communities?

Not applicable – annual software maintenance

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

Not applicable – annual software maintenance

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

Not applicable – annual software maintenance

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

This service aligns with the Sustainable Resources strategic initiative based on sound financial objectives, and quality customer service in our Human Capital management system and Utility Billing Database.

28-Jan-22

peggy lund
CITY OF SPOKANE
808 W Spokane Falls Blvd
Spokane
WA 99201
United States

Dear peggy lund

The technical support services provided under support service number 4656540 will expire, or have expired, on 20-Apr-22. Please find attached an ordering document for the renewal of these technical support services. If applicable, the attached ordering document may include technical support services that you have requested to order that are in addition to the technical support services that you are renewing.

To prevent interruption to and/ or termination of technical support services, please complete your order for the renewal of technical support services, identified in the ordering document, by issuing a form of payment acceptable to Oracle in accordance with the Order Processing Details section of the ordering document on or before 22-Mar-22.

Have a question? Call 1-888-545-4577, Chat on Store, or Request Assistance.

ORACLE

## GENERAL INFORMATION

| OFFER EXPIRATION | | ORACLE: Oracle America, Inc. | |
|---|---|---|---|
| **Support Service Number:** | 4656540 | **Oracle Contact Information:**<br>Oracle Premier Support Renewal Center | |
| **Offer Expires:** | 20-Apr-22 | **Call:**<br>**Chat:**<br>**Request Assistance:** | 1-888-545-4577<br>Chat on Store<br>Click to Request Assistance |
| **CUSTOMER:** CITY OF SPOKANE | | | |
| **CUSTOMER QUOTE TO** | | **CUSTOMER BILL TO** | |
| **Account Contact:** | peggy lund | **Account Contact:** | City of Spokane Attn. IT Admin |
| **Account Name:** | CITY OF SPOKANE | **Account Name:** | CITY OF SPOKANE |
| **Address:** | 808 W Spokane Falls Blvd<br>Spokane<br>WA 99201<br>United States | **Address:** | INFORMATION TECHNOLOGY<br>CITY OF SPOKANE<br>7TH FLOOR - CITY HALL<br>808 W SPOKANE FALLS BLVD<br>SPOKANE<br>WA 99201<br>United States |
| **Telephone:** | 509 6256954 | **Telephone:** | 509-6256200 |
| **Fax:** | | **Fax:** | |
| **E-mail:** | klund@spokanecity.org | **E-mail:** | itadmin@spokanecity.org |

"You" and "Your" as referenced in this ordering document refers to the Customer identified in the table above.

Oracle may provide certain notices about technical support services via e-mail. Accordingly, please verify and update the Customer Quote To and Customer Bill To information in the above table to help ensure that You receive such communications from Oracle. If changes are required to the Customer Quote To and Customer Bill To information, please e-mail or fax the updated information, with Your support service number 4656540, to Your Oracle Support Sales Representative identified in the table above.

## SERVICE DETAILS

| Program Technical Support Services | | | | | | | |
|---|---|---|---|---|---|---|---|
| **Service Level: Software Update License & Support** | | | | | | | |
| **Product Description** | **CSI #** | **Qty** | **License Metric** | **License Level / Type** | **Start Date** | **End Date** | **Price** |
| Oracle Database Enterprise Edition - Processor Perpetual | 3863575 | 4 | | FULL USE | 21-Apr-22 | 20-Apr-23 | 41,921.09 |
| Expansion - Reported Budget Perpetual | 17569302 | 482 | | FULL USE | 21-Apr-22 | 20-Apr-23 | 0.00 |
| PeopleSoft Enterprise Benefits Administration - Enterprise Employee Perpetual | 17569302 | 3000 | | FULL USE | 21-Apr-22 | 20-Apr-23 | 14,973.47 |
| PeopleSoft Enterprise ePerformance - Enterprise Employee Perpetual | 17569302 | 3000 | | FULL USE | 21-Apr-22 | 20-Apr-23 | 18,496.65 |
| PeopleSoft Enterprise HCM Portal Pack - Enterprise Employee Perpetual | 17569302 | 3000 | | FULL USE | 21-Apr-22 | 20-Apr-23 | 2,113.90 |
| PeopleSoft Enterprise Human Resources - Enterprise Employee Perpetual | 17569302 | 3000 | | FULL USE | 21-Apr-22 | 20-Apr-23 | 32,589.34 |
| PeopleSoft Enterprise Payroll - Enterprise Employee Perpetual | 17569302 | 3000 | | FULL USE | 21-Apr-22 | 20-Apr-23 | 39,635.68 |
| PeopleSoft Enterprise Pension Administration - Enterprise Employee Perpetual | 17569302 | 3000 | | FULL USE | 21-Apr-22 | 20-Apr-23 | 14,973.47 |
| PeopleSoft Enterprise Recruiting Solutions - Enterprise Employee Perpetual | 17569302 | 3000 | | FULL USE | 21-Apr-22 | 20-Apr-23 | 13,211.89 |
| PeopleSoft Enterprise Time and Labor - Enterprise Employee Perpetual | 17569302 | 3000 | | FULL USE | 21-Apr-22 | 20-Apr-23 | 19,377.44 |
| Micro Focus Visual COBOL for Windows for 2 Named Users (Mfr is Microfocus; Third Party Program) | 17660375 | 1 | | FULL USE | 21-Apr-22 | 20-Apr-23 | 835.02 |

**Program Technical Support Fees: USD 198,127.95**

**Total Price: USD 198,127.95**

Plus applicable tax

Please note the following:

- If You have questions regarding the Service Details section of this ordering document, or believe that corrections are required, please contact Your Oracle Support Sales Representative identified

on the first page of this ordering document.

- Please review Oracle's technical support policies, including the Lifetime Support Policy, before entering into this ordering document. Under Oracle's Lifetime Support Policy, the support level for an Oracle product, if applicable, may change during the term of the services purchased under this ordering document. If extended support is offered, an additional fee will be charged for such support if ordered. If You would like to purchase extended support please contact Your Oracle Support Sales Representative identified on the first page of this ordering document.
- If Oracle accepts Your order, the start date set forth in the Service Details table above shall serve as the commencement date of the technical support services and the technical support services ordered under this ordering document will be provided through the end date specified in the table for the applicable programs and/ or hardware.
- If any of the fields listed in the Service Details table above are blank, then such fields do not apply for the applicable programs and/or hardware for which You are purchasing technical support services.

## TECHNICAL SUPPORT SERVICES TERMS

If the Customer and the Customer Quote To name identified in the General Information table above are not the same, CITY OF SPOKANE represents that Customer has authorized CITY OF SPOKANE to execute this ordering document on Customer's behalf and to bind Customer to the terms described herein. CITY OF SPOKANE agrees that the services ordered are for the sole benefit of Customer and shall only be used by Customer. CITY OF SPOKANE agrees to advise Customer of the terms of this ordering document as well as any communications received from Oracle regarding the services.

If the Customer and the Customer Bill To name identified in the General Information table above are not the same, Customer agrees that: a) Customer has the ultimate responsibility for payments under this ordering document; and, b) any failure of CITY OF SPOKANE to make timely payment per the terms of this ordering document shall be deemed a breach by Customer and, in addition to any other remedies available to Oracle, Oracle may terminate Customer's technical support service under this ordering document.

Technical support is provided under Oracle's technical support policies in effect at the time the services are provided. The technical support policies are subject to change at Oracle's discretion; however, Oracle will not materially reduce the level of services provided for supported programs and/or hardware during the period for which technical support has been ordered. You should review the technical support policies prior to entering into this ordering document. The current version of the technical support policies may be accessed at http://www.oracle.com/us/support/policies/index.html.

Please execute and return to Your Oracle Support Sales Representative a copy of the attached Oracle Public Sector Technical Support Services Agreement (the "agreement"). You agree that the technical support services acquired under this ordering document will be governed by the terms and conditions of the agreement. Oracle acknowledges that You may have acquired such programs and/or hardware under a separate agreement with another company ("separate agreement"). Oracle's requirement that You sign the attached agreement is for purposes of governing the technical support services only and is not in any way superseding the rights granted for the programs and/or hardware set forth in the order in which the programs and/or hardware were acquired.

This ordering document incorporates the agreement by reference. In the event of inconsistencies between the terms contained in this ordering document and the agreement, this ordering document shall take precedence.

## ORDER PROCESSING DETAILS

Your order is subject to Oracle's acceptance. Your order is deemed to be placed when You provide Oracle with details for payment (e.g., Your purchase order or a credit card confirmation for the order as detailed below) or an executed Oracle Financing contract. Once placed, Your order shall be nonrefundable, except as provided in the agreement.

Technical Support fees are invoiced Quarterly in Arrears. All fees payable to Oracle are due within 30 NET from date of invoice.

Oracle will issue an invoice to You upon receipt of a purchase order or a form of payment acceptable to Oracle. You agree to pay any sales, value-added or other similar taxes imposed by applicable law, except for taxes based on Oracle's income. Regardless of the form of payment:

- Unless you are an U.S. federal government entity, Oracle's invoice includes applicable sales tax, GST, or VAT (collectively referred to as "tax"). If CITY OF SPOKANE is a tax exempt organization and is not an U.S. federal government entity, a copy of CITY OF SPOKANE's tax exemption certificate must be submitted with CITY OF SPOKANE's purchase order or credit card.

## PAYMENT DETAILS

**Purchase Order**
If You are submitting a purchase order for the payment of the renewal of the technical support services on this renewal order, the purchase order must be in a non-editable format (e.g., PDF) and include the following information:

- Support Service Number: 4656540
- Total Price: USD 198,127.95 (excluding applicable tax)
- Local Tax, if applicable

In issuing a purchase order, CITY OF SPOKANE agrees that the terms of this renewal order and the agreement supersede the terms in the purchase order or any other non-Oracle document, and no terms included in any such purchase order or other non-Oracle document will apply to the technical support services renewed under this renewal order.

Please contact Oracle per the General Information section above to issue Your purchase order.

**Credit Card**
If You wish to use a credit card to pay for the renewal of the technical support services on this renewal order, please contact Oracle per the General Information section above. Please note that Oracle is unable to process credit card transactions of USD $100,000 or greater or transactions that are not in USD.

**Check**
If You are submitting a check for the payment of the renewal of the technical support services on this renewal order, the check must include the following information:

- Support Service Number: 4656540

- Total Price: USD 198,127.95 (excluding applicable tax)
- Local Tax, if applicable

In issuing a check, CITY OF SPOKANE agrees that only the terms of this renewal order and the agreement shall apply to the technical support services renewed under this renewal order. No terms attached or submitted with the check will apply.

Checks for technical support services renewed under this renewal order should be sent to:

**AK, AZ, CA, HI, ID, NV, OR, UT, WA:**

Oracle America, Inc
PO Box 44471
San Francisco, CA 94144-4471

**All Other States:**

Oracle America, Inc
PO Box 203448
Dallas, TX 75320-3448

This ordering document shall become binding upon execution by You and acceptance by Oracle.

**CITY OF SPOKANE**

_____
**Authorized Signature**

_____
**Name**

_____
**Title**

_____
**Signature Date**

Washington State Department of Revenue

Business Lookup

## License Information:

New search Back to results

**Entity name:** ORACLE AMERICA, INC.

**Business name:** ORACLE AMERICA, INC.

**Entity type:** Profit Corporation

**UBI #:** 601-091-507

**Business ID:** 001

**Location ID:** 0002

**Location:** Active

**Location address:** 411 108TH AVE NE
STE 900
BELLEVUE WA 98004-8419

**Mailing address:** PO BOX 5200
BELMONT CA 94002-5200

**Excise tax and reseller permit status:** Click here

**Secretary of State status:** Click here

## Endorsements

| Endorsements held at this locati | License # | Count | Details | Status | Expiration date | First issuance d |
|---|---|---|---|---|---|---|
| Aberdeen General Business - Non-Resident | 21117 | | | Active | | Mar-01-2000 |
| Bellingham General Business | 021260 | | | Active | | Feb-10-1997 |
| Bremerton General Business - Non-Resident | 25945 | | | Active | Sep-30-2022 | Jan-01-2007 |
| Burien General Business - Non-Resident | 07575 | | | Active | Sep-30-2022 | Mar-23-2009 |
| Longview General Business - Non-Resident | 585176 | | | Active | Sep-30-2022 | Sep-15-2010 |
| Olympia General Business - Non-Resident | 1947 | | | Active | Sep-30-2022 | Sep-27-2010 |
| Spokane General Business - Non-Resident | T12068092BUS | | | Active | Sep-30-2022 | Oct-15-2012 |

## Governing People *May include governing people not registered with Secretary of State*

| Governing people | Title |
|---|---|
| CATZ, SAFRA | |
| DALEY, DORIAN | |
| HIGGINS, BRIAN S | |
| HILBRICH, GREGORY | |

## Registered Trade Names

| Registered trade names | Status | First issued |
|---|---|---|
| ORACLE AMERICA, INC. | Active | Nov-12-2010 |

View Additional Locations

The Business Lookup information is updated nightly. Search date and time: 1/27/2022 3:31:22 PM

**Contact us**

How are we doing?
**Take our survey!**

Don't see what you expected?
**Check if your browser is supported**

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 08/02/2021

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

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

**PRODUCER**
MARSH RISK & INSURANCE SERVICES
FOUR EMBARCADERO CENTER, SUITE 1100
CALIFORNIA LICENSE NO. 0437153
SAN FRANCISCO, CA 94111

CN101765515-STND.-GAW-21-22 349

**CONTACT NAME:**
**PHONE (A/C, No, Ext):** **FAX (A/C, No):**
**E-MAIL ADDRESS:**

| INSURER(S) AFFORDING COVERAGE | NAIC # |
|---|---|
| INSURER A : National Union Fire Ins Co Pittsburgh PA | 19445 |
| INSURER B : Safety National Casualty Corp. | 15105 |
| INSURER C : | |
| INSURER D : | |
| INSURER E : | |
| INSURER F : | |

**INSURED**
ORACLE CORPORATION ORACLE AMERICA, INC
2300 ORACLE WAY
Austin, TX 78741

**COVERAGES** **CERTIFICATE NUMBER:** SEA-003280847-65 **REVISION NUMBER:**

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

| INSR LTR | TYPE OF INSURANCE | ADDL INSD | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS | |
|---|---|---|---|---|---|---|---|---|
| A | X COMMERCIAL GENERAL LIABILITY | | | GL1728969 | 08/01/2021 | 08/01/2022 | EACH OCCURRENCE | $ 1,000,000 |
| | CLAIMS-MADE X OCCUR | | | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) | $ 1,000,000 |
| | | | | | | | MED EXP (Any one person) | $ 25,000 |
| | | | | | | | PERSONAL & ADV INJURY | $ 1,000,000 |
| | GEN'L AGGREGATE LIMIT APPLIES PER: | | | | | | GENERAL AGGREGATE | $ 2,000,000 |
| | X POLICY PRO-JECT LOC | | | | | | PRODUCTS - COMP/OP AGG | $ 2,000,000 |
| | OTHER: | | | | | | | $ |
| A | AUTOMOBILE LIABILITY | | | CA4594403 (AOS) | 08/01/2021 | 08/01/2022 | COMBINED SINGLE LIMIT (Ea accident) | $ 1,000,000 |
| A | X ANY AUTO | | | CA4594402 (MA) | 08/01/2021 | 08/01/2022 | BODILY INJURY (Per person) | $ |
| | OWNED AUTOS ONLY / SCHEDULED AUTOS | | | | | | BODILY INJURY (Per accident) | $ |
| | HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY | | | | | | PROPERTY DAMAGE (Per accident) | $ |
| | | | | | | | | $ |
| | UMBRELLA LIAB / OCCUR | | | | | | EACH OCCURRENCE | $ |
| | EXCESS LIAB / CLAIMS-MADE | | | | | | AGGREGATE | $ |
| | DED / RETENTION $ | | | | | | | $ |
| B | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY | | | LDM0500082 (AOS) | 04/01/2021 | 04/01/2022 | X PER STATUTE / OTH-ER | |
| B | ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N: N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below | N / A | | PS0500081 (WI) | 04/01/2021 | 04/01/2022 | E.L. EACH ACCIDENT | $ 1,000,000 |
| | | | | | | | E.L. DISEASE - EA EMPLOYEE | $ 1,000,000 |
| | | | | | | | E.L. DISEASE - POLICY LIMIT | $ 1,000,000 |

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

**CERTIFICATE HOLDER**

CITY OF SPOKANE
ATTN: JOAN HAMILTON, OPERATIONS MANAGER
808 W. SPOKANE FALLS BLVD.
SPOKANE, WA 99201-3344

**CANCELLATION**

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

**AUTHORIZED REPRESENTATIVE**

*Marsh Risk & Insurance Services*

**© 1988-2016 ACORD CORPORATION. All rights reserved.**

| Agenda Sheet for City Council Meeting of: 03/14/2022 | | Date Rec'd | 3/1/2022 |
|---|---|---|---|
| | | Clerk's File # | OPR 2019-0750 |
| | | Renews # | |
| **Submitting Dept** | CITY ATTORNEY | **Cross Ref #** | |
| **Contact Name/Phone** | MICHAEL ORMSBY 6287 | **Project #** | |
| **Contact E-Mail** | MORMSBY@SPOKANECITY.ORG | **Bid #** | |
| **Agenda Item Type** | Contract Item | **Requisition #** | PAID BY CLAIMS |
| **Agenda Item Name** | 0500 OUTSIDE COUNSEL CONTRACT AMENDMENT | | |

**Agenda Wording**

An amendment to contract with Stewart A. Estes and the law firm of Keating Bucklin & McCormack Inc., P.S. for outside counsel services and advice in the legal matter Estate of David Novak, et. al. v. City of Spokane, et. al.

**Summary (Background)**

This amendment will increase the contract by $100,000 for a total contract amount of $249,500.

Lease? NO Grant related? NO Public Works? NO

| **Fiscal Impact** | | **Budget Account** |
|---|---|---|
| Expense | $ 100,000 | # 5800-78100-14780-54601 |
| Select | $ | # |
| Select | $ | # |
| Select | $ | # |

| **Approvals** | | **Council Notifications** | |
|---|---|---|---|
| **Dept Head** | PICCOLO, MIKE | **Study Session\Other** | 2/28/22 Finance Committee |
| **Division Director** | | **Council Sponsor** | Council Member Michael Cathcart |
| **Finance** | BUSTOS, KIM | **Distribution List** | |
| **Legal** | PICCOLO, MIKE | sestes@kbmlawyers.com | |
| **For the Mayor** | ORMSBY, MICHAEL | mormsby@spokanecity.org | |
| **Additional Approvals** | | nodle@spokanecity.org | |
| **Purchasing** | | tstrothman@spokanecity.org | |
| | | sdhansen@spokanecity.org | |
| | | James.Scott@davies-group.com | |
| | | rkokot@spokanecity.org | |

City Clerk's No. OPR 2019-0750

**City of Spokane**

**OUTSIDE COUNSEL CONTRACT AMENDMENT**

This Contract Amendment is made and entered into by and between the **City of Spokane** as ("City"), a Washington municipal corporation, and **KEATING, BUCKLIN & MCCORMACK, INC., P.S.**, whose address is 800 Fifth Avenue, Suite 4141, Seattle, Washington 98104-3175, as ("Firm"), individually hereafter referenced as a "party", and together as the "parties".

*WHEREAS, the parties entered into a Contract wherein the Firm agreed to act as OUTSIDE SPECIAL COUNSEL providing legal services and advice to the City regarding the matter of THE ESTATE OF DAVID NOVAK, ET. AL. v. CITY OF SPOKANE, ET. AL., and*

*WHEREAS, additional funds are necessary, thus the original Contract needs to be formally Amended by this written document; and*

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

**1. CONTRACT DOCUMENTS.**
The Contract, attested by the City Clerk on September 6, 2019, any previous amendments, addendums and / or extensions / renewals thereto, are incorporated by reference into this document as though written in full and shall remain in full force and effect except as provided herein.

**2. EFFECTIVE DATE.**
This Contract Amendment shall become effective on January 1, 2022.

**3. COMPENSATION.**
The City shall pay an additional amount not to exceed **ONE HUNDRED THOUSAND AND NO/100 DOLLARS** (**$100,000.00**) for everything furnished and done under this Contract Amendment. The total amount under the original contract, all previous amendments and this Amendment is **TWO HUNDRED FORTY-NINE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS ($249,500.00).**

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

**KEATING, BUCKLIN & MCCORMACK, INC., P.S.**

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

22-048

| Agenda Sheet for City Council Meeting of: 03/14/2022 | | Date Rec'd | 3/2/2022 |
|---|---|---|---|
| | | Clerk's File # | OPR 2022-0174 |
| | | Renews # | |
| **Submitting Dept** | NEIGHBORHOOD, HOUSING & HUMAN SERVICES | **Cross Ref #** | OPR 2021-0272 |
| **Contact Name/Phone** | JENN CERECEDES 6055 | **Project #** | |
| **Contact E-Mail** | JCERECEDES@SPOKANECITY.ORG | **Bid #** | |
| **Agenda Item Type** | Contract Item | **Requisition #** | |
| **Agenda Item Name** | 1680 - TREASURY EMERGENCY RENTAL ASSISTANCE 1.0 REALLOCATION RECOMMENDATION | | |

**Agenda Wording**

CHHS is requesting permission to award the additional reallocation award of $234,629.26 in ERA 1.0 funds to Geocko, Inc. dba LiveStories. The grant has a retroactive start date of March 1, 2021, and the grant expires on September 30, 2022.

**Summary (Background)**

The Treasury ERA is part of The U.S. Department of Treasury's response to the COVID-19 disaster. On October 15, 2021, Treasury announced it would begin accepting requests from Grantees for reallocated funds. The ERA1 statute required reallocated funds would only be available to Grantees that had obligated at least 65% of their own initial ERA1 allocations. Treasury indicated these additional funds must be obligated by September 30, 2022.

Lease? NO Grant related? YES Public Works? NO

| **Fiscal Impact** | | **Budget Account** |
|---|---|---|
| Expense | $ 234,629.26 | # 1760-95596-51010-54201-99999 |
| Select | $ | # |
| Select | $ | # |
| Select | $ | # |

| **Approvals** | | **Council Notifications** | |
|---|---|---|---|
| **Dept Head** | CORTRIGHT, CARLY | **Study Session\Other** | 2/28 Finance |
| **Division Director** | FINCH, ERIC | **Council Sponsor** | CM Wilkerson |
| **Finance** | MURRAY, MICHELLE | **Distribution List** | |
| **Legal** | PICCOLO, MIKE | kclifton@spokanecity.org | |
| **For the Mayor** | ORMSBY, MICHAEL | jcerecedes@spokanecity.org | |
| **Additional Approvals** | | | |
| **Purchasing** | | | |
| **GRANTS, CONTRACTS & PURCHASING** | MURRAY, MICHELLE | | |
| | | | |
| | | | |

# Committee Agenda Sheet
# Finance & Admin Committee

| | |
|---|---|
| **Submitting Department** | Neighborhood, Housing, and Human Services Division – Community, Housing, and Human Services Department |
| **Contact Name & Phone** | Jenn Cerecedes, 509-625-6055 |
| **Contact Email** | jcerecedes@spokanecity.org |
| **Council Sponsor(s)** | CM Wilkerson |
| **Select Agenda Item Type** | ☒ Consent ☐ Discussion Time Requested: 5 minutes |
| **Agenda Item Name** | Treasury Emergency Rental Assistance 1.0 Reallocation Subgrant Recommendation |
| **Summary (Background)** | The Treasury ERA is part of The U.S. Department of Treasury's response to the COVID-19 disaster, making available $25 billion in funds intended to prevent evictions that would contribute to the spread of the virus by paying rental arrears, current due rent, future rent, and utilities and home energy costs.<br><br>On October 15, 2021, Treasury announced it would begin accepting requests from Grantees for reallocated funds. The ERA1 statute required reallocated funds would only be available to Grantees that had obligated at least 65% of their own initial ERA1 allocations. Treasury indicated these additional funds must be obligated by September 30, 2022. |
| **Proposed Council Action & Date:** | CHHS is requesting permission to award the additional reallocation award of $234,629.26 in ERA 1.0 funds to geocko, inc. dba LiveStories. The grant has a retroactive start date of March 1, 2021, and the grant expires on September 30, 2022. |

**Fiscal Impact:**
Total Cost: N/A
Approved in current year budget? ☐ Yes ☒ No ☐ N/A
Funding Source ☒ One-time ☐ Recurring
Specify funding source: U.S. Department of Treasury
Expense Occurrence ☐ One-time ☐ Recurring
Other budget impacts: (revenue generating, match requirements, etc.) N/A

**Operations Impacts**

What impacts would the proposal have on historically excluded communities?

Households must meet the three federally required initial screening criteria:

- Income at or below 80% of Area Median Income (AMI).
- Experiencing a financial hardship directly or indirectly due to the COVID-19 outbreak that threatens the household's ability to pay the costs of the rental property when due.
- At risk of experiencing homelessness or housing instability.

The following households must be prioritized:

- Income at or below 50% AMI.
- Households with one or more individuals who are unemployed and have been unemployed for 90 days before application date.

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

Data is collected monthly by partners on forms provided by Treasury. Monthly and Quarterly reporting will continue to be required on the additional reallocation award dollars.

The percentage of head of households provided rent assistance must at least equal the proportion to the population living in poverty in the county for each of the following groups:

- People of Color (includes Black or African American, American Indian and Alaska Native, Native Hawaiian or other Pacific Islander, Hispanic/Latinx, Asian, Other/Multi-Racial)
- Black or African American
- American Indian and Alaska Native
- Hispanic/Latinx

Additional performance targets include:

- Ten percent of households served must be young adults age 18-25.
- Ten percent of financial assistance must be utility assistance.

How will data be collected regarding the effectiveness of this program, policy, or product to ensure it is the right solution?

The City of Spokane had obligated nearly 100% of its ERA1 award at the time of the reallocation announcement, and subsequently applied for additional ERA1 funds on 11/12/21. CHHS was notified on 12/30/21 that The City of Spokane was awarded an additional $234,629.26 in ERA1 funds. Since the CHHS RFP Evaluation & Review Committee sub-awarded the initial ERA1 funds, the additional funds were again referred to the Committee for their subaward review and recommendation.

The Review Committee met on January 25, 2022, to assess performance and capacity of the three ERA1 funded agencies. After evaluation of capacity and examination of the sub-awardee's ability to distribute the full reallocation award quickly, it was recommended the full award of $234,629.26 be distributed to LiveStories. Their recommendation was approved by the CHHS Board on February 2, 2022.

Treasury is continuing to allow for 10% of the award for administrative fees. The City of Spokane will not be withholding any of the funds for City of Spokane admin costs.

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

2020-2025 Strategic Plan to End Homelessness; Greater Spokane Comprehensive Emergency Management Plan

OMB Approved No.:1505-0266
Expiration date: 04/30/2022

**EMERGENCY RENTAL ASSISTANCE PROGRAM**
**U.S. DEPARTMENT OF THE TREASURY**

**Request for Reallocated Funds**

The undersigned entity (the "ERA Grantee") received its full allocation of funds for the delivery of emergency rental assistance ("ERA") in accordance with section 501 of division N of the Consolidated Appropriations Act, 2021 (the "Act"). The ERA Grantee hereby requests an additional $ 11,189,010.00 of ERA funds from any amounts the U.S. Department of the Treasury ("Treasury") makes available for reallocation under section 501(d) of the Act.

Treasury has published guidance, available on its website, setting forth the procedures for the reallocation of ERA funds under the Act. In accordance with the guidance, the ERA Grantee hereby certifies that:

1. it has obligated at least 65% of its total ERA award funds under the Act (the "ERA1 Award") as of the date below; and
2. its jurisdiction has a demonstrated need for the ERA funds requested above and the capacity to use those funds pursuant to applicable requirements by September 30, 2022.

The ERA Grantee acknowledges that any funds remaining from its ERA1 Award must be obligated by September 30, 2022, and such funds not obligated or expended at that time must be returned to Treasury as part of the award closeout process pursuant to 2 C.F.R. 200.344(d). As permitted by the Act, the ERA Grantee hereby requests that Treasury extend the deadline for obligating any reallocated funds received pursuant to this request to December 29, 2022.

| **[ERA GRANTEE]** | |
|---|---|
| By: Eric S Finch<br>Eric S Finch (Jan 19, 2022 09:45 PST)<br>[*Official's Name*] Eric Finch<br>[*Official's Title*] Division Director | Date: January 19, 2022 |

PAPERWORK REDUCTION ACT NOTICE: The information collected will be used for the U.S. Government to determine the reallocation of emergency rental assistance funds. The estimated burden associated with this collection of information is 75 minutes per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.
PRIVACY ACT STATEMENT
AUTHORITY: Solicitation of this information is authorized by section 501 of division N of the Consolidated Appropriations Act, 2021 (the "Act")
PURPOSE: The Act requires Treasury to allocate funds to eligible grantees for the delivery of emergency rental assistance to eligible households. Eligible grantees include State, Local governments, U.S. Territories, Tribes, or Tribally Designated Housing Entities (TDHEs), as applicable, and the Department of Hawaiian Home Lands. Treasury maintains contact information for authorized representatives and contact persons of the ERA grantees for the purpose of communicating with ERA grantees regarding the administration of their award under the Act.

ROUTINE USES: The information you furnish may be shared in accordance with the routine uses outlined in the Treasury's system of records notice, Treasury .017 – Correspondence and Contact Information, which can be found at 81 FR 78266 (Nov. 7, 2016).

DISCLOSURE: Disclosure of this information is voluntary. However, grantees/recipients that do not disclose contact information will be unable to communicate with Treasury on issues related to their obligations under the Act which may affect the status of their award.

**EXHIBIT A**
**Obligation Report**

Treasury has published guidance, available on its website, setting forth the procedures for the reallocation of ERA funds under the Act. As described in the guidance, Treasury considers ERA funds to be obligated if (i) the funds have actually been spent providing financial assistance and housing stability services for eligible households; (ii) the funds are needed to pay for assistance promised in a commitment letter issued to induce a landlord to enter a rental agreement with an eligible household under Treasury's ERA FAQ #35; or (iii) subject to certain conditions, the grantee has, as part of the grantee's ERA program administration, entered into a binding agreement or funding commitment requiring the grantee to disburse the funds to a third party for eligible purposes. In addition, Treasury will consider 10% of each grantee's total award amount as having been obligated for administrative costs regardless of the grantee's actual expenditures, commitments, or obligations.

**Please provide information on this Exhibit A only regarding the ERA Grantee's use of funds from the ERA1 Award authorized by the Act – not regarding its use of funds under an ERA award authorized by the American Rescue Plan Act of 2021 ("ERA2").**

Consistent with Treasury's reallocation guidance, the undersigned hereby represents and certifies to Treasury that:

As of 11/29/2021 [*insert date*], the ERA Grantee has obligated its ERA1 Award funds as follows:

| | |
|---|---|
| Enter 10% of total ERA1 Award amount for administrative costs: | $586,473.90 |
| Enter total of all other amounts obligated by ERA Grantee as of the date hereof: | $6,109,063.00 |
| **Total amount obligated:** | $6,695,536.90 |

**EXHIBIT B**
**Evidence of Demonstrated Need**

To receive reallocated ERA funds, an ERA grantee must confirm there is a demonstrated need for the assistance within its jurisdiction. In support of its request, the ERA Grantee must submit the following monthly projections.

**These projections should include expenditures and activities under both section 501 of the Act ("ERA1") and section 3201 of the American Rescue Plan Act of 2021 ("ERA2"). When projecting the amount of assistance to be provided to eligible households, assume the funds requested in the opening paragraph of this form will be available beginning February 1, 2022.**

| February 2022 | |
|---|---|
| Number of unique households that will be assisted | 420 |
| Amount of assistance to eligible households expended | $ 2,552,703.00 |
| Number of applications submitted | 780 |

| March 2022 | |
|---|---|
| Number of unique households that will be assisted | 420 |
| Amount of assistance to eligible households expended | $ 2,552,703.00 |
| Number of applications submitted | 780 |

| April 2022 | |
|---|---|
| Number of unique households that will be assisted | 420 |
| Amount of assistance to eligible households expended | $ 2,552,703.00 |
| Number of applications submitted | 780 |

| May 2022 | |
|---|---|
| Number of unique households that will be assisted | 420 |
| Amount of assistance to eligible households expended | $ 2,555,703.00 |
| Number of applications submitted | 780 |

# 1505-0266-Request-for-Additiona-Reallocated-Funds

Final Audit Report 2022-01-19

| | |
|---|---|
| Created: | 2022-01-19 |
| By: | Kelsey Martin (kmartin@spokanecity.org) |
| Status: | Signed |
| Transaction ID: | CBJCHBCAABAA2aTFAjuzEe7e2ahfDwZWakFpg16u2Zyb |

## "1505-0266-Request-for-Additiona-Reallocated-Funds" History

Document created by Kelsey Martin (kmartin@spokanecity.org)
2022-01-19 - 5:43:03 PM GMT- IP address: 73.11.138.37

Document emailed to Eric S Finch (efinch@spokanecity.org) for signature
2022-01-19 - 5:43:47 PM GMT

Email viewed by Eric S Finch (efinch@spokanecity.org)
2022-01-19 - 5:44:35 PM GMT- IP address: 198.1.39.252

Document e-signed by Eric S Finch (efinch@spokanecity.org)
Signature Date: 2022-01-19 - 5:45:20 PM GMT - Time Source: server- IP address: 198.1.39.252

Agreement completed.
2022-01-19 - 5:45:20 PM GMT

Adobe Sign

**From:** EmergencyRentalAssistance@treasury.gov
**To:** Woodward, Nadine
**Cc:** Martin, Kelsey
**Subject:** Subject: ERA1 Request for Reallocated Funds Notice
**Date:** Thursday, December 30, 2021 2:10:46 PM

---

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

Dear ERA1 Recipient:

The U.S. Department of the Treasury ("Treasury") issued Reallocation Guidance for the Emergency Rental Assistance (ERA1) program under the Consolidated Appropriations Act, 2021, on October 4, 2021. A Request for Reallocated Funds was submitted by your jurisdiction.

The amount of reallocated funds requested by eligible grantees was far greater than the funding available to distribute. However, Treasury approved the City of Spokane request in the following amount: **$234,629.26**.

Treasury anticipates distributing funds in the coming weeks. You will receive a separate communication regarding how to receive the funds.

If you choose not to accept this funding, please contact us as soon as possible at emergencyrentalassistance@treasury.gov with "ERA-2101060153"- Declining Reallocated Funds" in the subject line.

If you have any questions regarding this letter or ERA1 reallocation, please contact us at emergencyrentalassistance@treasury.gov, including your ERA1 grantee number.

Sincerely,
Emergency Housing Team
U.S. Department of the Treasury

| Agenda Sheet for City Council Meeting of: 03/14/2022 | | Date Rec'd | 3/1/2022 |
|---|---|---|---|
| | | Clerk's File # | ORD C36177 |
| | | Renews # | |
| **Submitting Dept** | POLICE | **Cross Ref #** | |
| **Contact Name/Phone** | ERIC OLSEN 835-4505 | **Project #** | |
| **Contact E-Mail** | EOLSEN@SPOKANEPOLICE.ORG | **Bid #** | |
| **Agenda Item Type** | Special Budget Ordinance | **Requisition #** | |
| **Agenda Item Name** | 1620 - JAG21 GRANT AWARD SBO | | |

**Agenda Wording**

Special Budget Ordinance to provide budget appropriation and expected revenue from Dept. of Justice JAG21 grant award.

**Summary (Background)**

In August, 2021, the City of Spokane Police Department filed a joint grant application along with Spokane County. The application was successfully approved and grant funds awarded. Total award - $176,381 of which $79,371 will be subawarded to Spokane County. Grant ID#15PBJA-21-GG-01968-JAGX CFDA#16.738 Project award period 10/01/2020 - 09/30/2024

Lease? NO Grant related? YES Public Works? NO

| **Fiscal Impact** | | **Budget Account** |
|---|---|---|
| Revenue | $ 176,381 | # 1620-91796-99999-33116-99999 |
| Expense | $ 97,010 | # 1620-91796-21250-VARIOUS |
| Expense | $ 79,371 | # 1620-91796-21250-54201 |
| Select | $ | # |

| **Approvals** | | **Council Notifications** | |
|---|---|---|---|
| **Dept Head** | OLSEN, ERIC | **Study Session\Other** | Finance 02/28/2022 |
| **Division Director** | OLSEN, ERIC | **Council Sponsor** | KINNEAR/CATHCART |
| **Finance** | SCHMITT, KEVIN | **Distribution List** | |
| **Legal** | PICCOLO, MIKE | SPDFINANCE@SPOKANECITY.ORG | |
| **For the Mayor** | ORMSBY, MICHAEL | | |
| **Additional Approvals** | | | |
| **Purchasing** | | | |
| **MANAGEMENT & BUDGET** | INGIOSI, PAUL | | |
| **GRANTS, CONTRACTS & PURCHASING** | MURRAY, MICHELLE | | |
| | | | |

# Committee Agenda Sheet
# Finance & Administration Committee

| | |
|---|---|
| **Submitting Department** | Spokane Police Department |
| **Contact Name & Phone** | Major Eric Olsen 835-4505 |
| **Contact Email** | eolsen@spokanepolice.org |
| **Council Sponsor(s)** | Councilmembers Cathcart & Kinnear |
| **Select Agenda Item Type** | ☒ Consent ☐ Discussion Time Requested: |
| **Agenda Item Name** | SBO for JAG21 Grant award |
| **Summary (Background)** | In August, 2021, the City of Spokane Police Department filed a joint grant application along with Spokane County. The application was successfully approved and grant funds awarded.<br><br>• Total award amount - $176,381<br>• City share - $97,010 County share - $79,371<br>• Grant period 10/01/20 through 09/30/2024<br>• City award funds to be used for law enforcement equipment<br>• Subaward contract to County to be used for prosecution services and law enforcement equipment<br><br>A special budget ordinance is needed to appropriate the awarded amount to SPD's grants budget. |
| **Proposed Council Action & Date:** | SBO approval – March 14th |

**Fiscal Impact:**
Total Cost:
Approved in current year budget? ☐ Yes ☒ No ☐ N/A

Funding Source ☒ One-time ☐ Recurring
Specify funding source: Dept. of Justice JAG21 grant

Expense Occurrence ☒ One-time ☐ Recurring

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

**Operations Impacts**

What impacts would the proposal have on historically excluded communities?

Not applicable

| |
|---|
| How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?<br><br>Not applicable |
| How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?<br><br>Not applicable |
| Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?<br><br>Not applicable |

ORDINANCE NO C36177

An ordinance amending Ordinance No. C-36161, passed by the City Council December 13, 2021, and entitled, “An ordinance adopting the Annual Budget of the City of Spokane for 2022, making appropriations to the various funds of the City of Spokane government for the fiscal year ending December 31, 2022, and providing it shall take effect immediately upon passage,” and declaring an emergency.

WHEREAS, subsequent to the adoption of the 2022 budget Ordinance No. C-36161, as above entitled, and which passed the City Council December 13, 2021, it is necessary to make changes in the appropriations of the Public Safety & Judicial Grant fund, which changes could not have been anticipated or known at the time of making such budget ordinance; and

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

The City of Spokane does ordain:

Section 1. That in the budget of the Public Safety & Judicial Grant fund, and the budget annexed thereto with reference to the Fund, the following changes be made:

1) Increase revenue by $176,381
A) $176,381 of the increased revenue is from the Department of Justice as part of the Edward Byrne Memorial Justice Assistance grant JAG21

2) Increase appropriations by $176,381
A) $97,010 is provided solely for the procurement of law enforcement equipment
B) $79,371 is provided solely for the subaward amount to Spokane County to be used for prosecution services and law enforcement equipment

Section 2. It is, therefore, by the City Council declared that an urgency and emergency exists for making the changes set forth herein, such urgency and emergency arising from the need to procure law enforcement equipment as well as subaward to our grant partners, and because of such need, an urgency and emergency exists for the passage of this ordinance, and also, because the same makes an appropriation, it shall take effect and be in force immediately upon its passage.

Passed the City Council _____

_____
Council President

Attest:_____
City Clerk

Approved as to form:_____
Assistant City Attorney

_____ _____
Mayor Date

_____
Effective Date

| Agenda Sheet for City Council Meeting of: 03/14/2022 | | Date Rec'd | 3/1/2022 |
|---|---|---|---|
| | | Clerk's File # | ORD C36178 |
| | | Renews # | |
| **Submitting Dept** | FINANCE, TREASURY & ADMIN | **Cross Ref #** | |
| **Contact Name/Phone** | PAUL INGIOSI 509-625-6061 | **Project #** | |
| **Contact E-Mail** | PINGIOSI@SPOKANECITY.ORG | **Bid #** | |
| **Agenda Item Type** | Special Budget Ordinance | **Requisition #** | |
| **Agenda Item Name** | 0410 - PERSONNEL SAVINGS SBO | | |

**Agenda Wording**

An ordinance transferring budgeted personnel expenses to non-personnel expenses.

**Summary (Background)**

City code permits intrafund budget transfers of budgeted personnel expenses to non-personnel expenses only when approved by an ordinance passed by the vote of one more than the majority of all members of the City Council (SMC 07.09.010(A)(4)). Due to vacancies in the Finance, Grants Management, and Accounting departments, there is a need to transfer salary savings from the vacant positions to contractual services to allow for temporary contractual staff support in the respective departments.

Lease? NO Grant related? NO Public Works? NO

| Fiscal Impact | | Budget Account |
|---|---|---|
| Neutral | $ 50,000 | # 0410-34100-14230-5XXXX |
| Neutral | $ 60,000 | # 0430-30210-14600-5XXXX |
| Neutral | $ 15,000 | # 5600-76200-14230-5XXXX |
| Select | $ | # |

| Approvals | | Council Notifications | |
|---|---|---|---|
| **Dept Head** | MURRAY, MICHELLE | **Study Session\Other** | Finance Committee - 2/28/22 |
| **Division Director** | WALLACE, TONYA | **Council Sponsor** | CM Wilkerson / CM Cathcart |
| **Finance** | MURRAY, MICHELLE | **Distribution List** | |
| **Legal** | PICCOLO, MIKE | twallace@spokanecity.org | |
| **For the Mayor** | ORMSBY, MICHAEL | mmurray@spokanecity.org | |
| **Additional Approvals** | | baweber@spokanecity.org | |
| **Purchasing** | | | |
| **MANAGEMENT & BUDGET** | INGIOSI, PAUL | | |
| | | | |
| | | | |

# Committee Agenda Sheet
# Finance and Administration Committee

| | |
|---|---|
| **Submitting Department** | Finance |
| **Contact Name & Phone** | Paul Ingiosi – 509-625-6061 |
| **Contact Email** | pingiosi@spokanecity.org |
| **Council Sponsor(s)** | Council Member Wilkerson / Council Member Cathcart |
| **Select Agenda Item Type** | ☐ Consent ■ Discussion Time Requested: _5 minutes_____ |
| **Agenda Item Name** | SBO – Salary Savings to Contractual Services |
| **Summary (Background)** | Background<br>City code permits intrafund budget transfers of budgeted personnel expenses to non-personnel expenses only when approved by an ordinance passed by the vote of one more than the majority of all members of the City Council (SMC 07.09.010(A)(4)).<br><br>Summary<br>Due to vacancies in the Finance, Grants Management, and Accounting departments, there is a need to transfer salary savings from the vacant positions to contractual services to allow for temporary contractual staff support in the respective departments.<br><br>The vacancies are:<br>• Finance – Administrative Specialist<br>• Grants Management – Director of Grants, Contracts & Purchasing<br>• Accounting – Accounting Clerk |
| **Proposed Council Action & Date:** | SBO – March 14, 2022 |

**Fiscal Impact:**
Total Cost: TBD
Approved in current year budget? ☐ Yes ☐ No ■ N/A

Funding Source ■ One-time ☐ Recurring
Specify funding source: Various funds

Expense Occurrence ■ One-time ☐ Recurring

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

**Operations Impacts**

What impacts would the proposal have on historically excluded communities?

n/a

How will data be collected, analyzed, and reported concerning the effect of the program/policy by

| |
|---|
| racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?<br><br>n/a |
| How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?<br><br>n/a |
| Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?<br><br>n/a |

ORDINANCE NO C36178

An ordinance amending Ordinance No. C-36161, passed by the City Council December 13, 2021, and entitled, “An ordinance adopting the Annual Budget of the City of Spokane for 2022, making appropriations to the various funds of the City of Spokane government for the fiscal year ending December 31, 2022, and providing it shall take effect immediately upon passage,” and declaring an emergency.

WHEREAS, subsequent to the adoption of the 2022 budget Ordinance No. C-36161, as above entitled, and which passed the City Council December 13, 2021, it is necessary to make changes in the appropriations of various funds, which changes could not have been anticipated or known at the time of making such budget ordinance; and

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

The City of Spokane does ordain:

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

1) Decrease the appropriation for the Administrative Specialist position in the Finance Department by $50,000.
2) Increase the appropriation for contractual services by $50,000.

3) Decrease the appropriation for the Director of Grants, Contracts & Purchasing in the Grants Management Department by $60,000.
4) Increase the appropriation for contractual services by $60,000.

5) There is no change to the overall appropriation level in the General Fund.

Section 2. That in the budget of the Accounting Fund, and the budget annexed thereto with reference to the Accounting Fund, the following changes be made:

1) Decrease the appropriation for an Accounting Clerk in the Accounting Department position by $15,000.
2) Increase the appropriation for contractual services by $15,000.
3) There is no change to the overall appropriation level in the Accounting Services Fund.

Section 3. It is, therefore, by the City Council declared that an urgency and emergency exists for making the changes set forth herein, such urgency and emergency arising from the need transfer budget authority from personnel to non-personnel expenses to allow for temporary contractual staff support, and because of such need, an urgency and emergency exists for the passage of this ordinance, and also, because the same makes an appropriation, it shall take effect and be in force immediately upon its passage.

Passed the City Council _____

_____
Council President

Attest:_____
City Clerk

Approved as to form:_____
Assistant City Attorney

_____ _____

Mayor

Date

_____

Effective Date

| Agenda Sheet for City Council Meeting of: 03/14/2022 | | Date Rec'd | 3/1/2022 |
|---|---|---|---|
| | | Clerk's File # | ORD C36179 |
| | | Renews # | |
| **Submitting Dept** | FINANCE, TREASURY & ADMIN | **Cross Ref #** | |
| **Contact Name/Phone** | TONYA WALLACE 509-625-6845 | **Project #** | |
| **Contact E-Mail** | TWALLACE@SPOKANECITY.ORG | **Bid #** | |
| **Agenda Item Type** | Special Budget Ordinance | **Requisition #** | |
| **Agenda Item Name** | 0430 - SBO TO MOVE POSITION FROM CHHS TO GRANTS | | |

**Agenda Wording**

An ordinance to move a vacant position from the Community, Housing & Human Services department to the Grants Management department.

**Summary (Background)**

A vacant Grants Analyst position will be moved from the Community, Housing & Human Services department to the Grants Management department to centralize and streamline the grants management process for the City of Spokane.

Lease? NO Grant related? YES Public Works? NO

| Fiscal Impact | | Budget Account |
|---|---|---|
| Neutral | $ 82,389 | # 1680-30210-65430-5XXXX |
| Neutral | $ 82,389 | # 0430-30210-14600-5XXXX |
| Select | $ | # |
| Select | $ | # |

| Approvals | | Council Notifications | |
|---|---|---|---|
| **Dept Head** | MURRAY, MICHELLE | **Study Session\Other** | Finance Committee - 2/28/22 |
| **Division Director** | WALLACE, TONYA | **Council Sponsor** | CM Wilkerson / CM Bingle |
| **Finance** | MURRAY, MICHELLE | **Distribution List** | |
| **Legal** | PICCOLO, MIKE | baweber@spokanecity.org | |
| **For the Mayor** | ORMSBY, MICHAEL | budget@spokanecity.org | |
| **Additional Approvals** | | | |
| **Purchasing** | | | |
| **MANAGEMENT & BUDGET** | INGIOSI, PAUL | | |
| **GRANTS, CONTRACTS &** | MURRAY, MICHELLE | | |

| | | |
|---|---|---|
| **PURCHASING** | | |
| | | |

# Committee Agenda Sheet
# Finance and Administration Committee

| | |
|---|---|
| **Submitting Department** | Finance |
| **Contact Name & Phone** | Tonya Wallace 509-625-6845 |
| **Contact Email** | twallace@spokanecity.org |
| **Council Sponsor(s)** | Council Member Wilkerson / Council Member Bingle |
| **Select Agenda Item Type** | ☐ Consent ☒ Discussion Time Requested: 5 minutes |
| **Agenda Item Name** | SBO – Position from CD/HS Operations to Grants Management |
| **Summary (Background)** | Currently, there is one Grants Analyst position in the CHHS Operations department.<br><br>The purpose of this SBO is to centralize and streamline the grants management process for the City of Spokane. The Grants Analyst position will be moved from CHHS to the Grants Management department. This position will continue to dedicate time to managing CHHS grants, but will do so as part of a central grants management team that serves all grants for the City of Spokane.<br><br>Centralizing grants management operations allows the City to standardize the grants management process for all departments and serves to protect the City from the "brain drain" that occurs when employees leave. Keeping the City's grants management personnel in separate departments makes it difficult to properly and accurately cover the work until a replacement is found. This position will join one Grants Analyst that is already part of the Grants Management department (currently vacant). Having a dedicated team with knowledge and understanding of all of the City's grants will ensure the grants management function continues uninterrupted through changes in the workforce. |
| **Proposed Council Action & Date:** | SBO – March 7, 2022 |

**Fiscal Impact:**
Total Cost: **$0**
Approved in current year budget? ☒ Yes ☐ No ☐ N/A

Funding Source ☐ One-time ☒ Recurring
Specify funding source: Grants/Special Revenue Funds

Expense Occurrence ☐ One-time ☒ Recurring

Other budget impacts: (revenue generating, match requirements, etc.) None

**Operations Impacts**

What impacts would the proposal have on historically excluded communities?

n/a

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

| |
|---|
| n/a |
| How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?<br><br>n/a |
| Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?<br><br>Creating a centralized grants management team will improve the City's ability to facilitate current and future plans that utilize grant funding. |

ORDINANCE NO C36179

An ordinance amending Ordinance No. C-36161, passed by the City Council December 13, 2021, and entitled, “An ordinance adopting the Annual Budget of the City of Spokane for 2022, making appropriations to the various funds of the City of Spokane government for the fiscal year ending December 31, 2022, and providing it shall take effect immediately upon passage,” and declaring an emergency.

WHEREAS, subsequent to the adoption of the 2022 budget Ordinance No. C-36161, as above entitled, and which passed the City Council December 13, 2021, it is necessary to make changes in the appropriations of the General Fund and the CD/HS Operations Fund, which changes could not have been anticipated or known at the time of making such budget ordinance; and

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

The City of Spokane does ordain:

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

1) Transfer one (1) Grants Analyst from the CD/HS Operations Fund to the Grants Management department in the General Fund.
   A) Decrease salary and benefits appropriation for the Grants Analyst by $82,389 and transfer the FTE to the Grants Management department in the General Fund. This action reduces the number of Grants Analysts in the CD/HS Operations Fund from one to zero.
   B) Increase the salary and benefit contra accounts in the CD/HS Operations Fund by a total of $82,389 for the position.
   C) These adjustments offset for a net impact of $0 to the CD/HS Operations Fund.

Section 2. That in the budget of the General Fund, and the budget annexed thereto with reference to the General Fund, the following changes be made:

1) Transfer one (1) Grants Analyst from the CD/HS Operations Fund to the Grants Management department in the General Fund.
   A) Increase the salary and benefits appropriation for one Grants Analyst by $82,389 and add the FTE to the Grants Management department in the General Fund. This action increases the number of Grants Analysts in the Grants Management department from one to two.
   B) Decrease the salary and benefit contra accounts in the General Fund by a total of $82,389 for the position.
   C) These adjustments offset for a net impact of $0 to the General Fund.

Section 3. It is, therefore, by the City Council declared that an urgency and emergency exists for making the changes set forth herein, such urgency and emergency arising from the need to transfer one position, and because of such need, an urgency and emergency exists for the passage of this ordinance, and also, because the same makes an appropriation, it shall take effect and be in force immediately upon its passage.

Passed the City Council _____

_____
Council President

Attest:_____
City Clerk

Approved as to form:_____
Assistant City Attorney

_____ _____

Mayor Date

_____

Effective Date

| Agenda Sheet for City Council Meeting of: 03/14/2022 | | Date Rec'd | 3/1/2022 |
|---|---|---|---|
| | | Clerk's File # | ORD C36180 |
| | | Renews # | |
| **Submitting Dept** | POLICE | **Cross Ref #** | |
| **Contact Name/Phone** | JACQUI MACCONNELL 509-625-4109 | **Project #** | |
| **Contact E-Mail** | JMACCONNELL@SPOKANEPOLICE.ORG | **Bid #** | |
| **Agenda Item Type** | Special Budget Ordinance | **Requisition #** | |
| **Agenda Item Name** | 0680 - SPOKANE POLICE DEPARTMENT HIRE-AHEAD SBO | | |

**Agenda Wording**

An ordinance authorizing the Spokane Police Department to "hire-ahead" up to 10 police officer positions.

**Summary (Background)**

The Spokane Police Department (SPD) requests 10 "hire-ahead" commissioned positions for a three-year pilot period from 2022 through 2024. The positions would allow SPD to process applicants faster for anticipated vacancies and streamline the onboarding of new officers.

Lease? NO Grant related? NO Public Works? NO

| Fiscal Impact | | Budget Account |
|---|---|---|
| Select | $ | # |
| Select | $ | # |
| Select | $ | # |
| Select | $ | # |

| Approvals | | Council Notifications | |
|---|---|---|---|
| Dept Head | MACCONNELL, JACQUI | Study Session\Other | Finance Committee - 2/28/22 |
| Division Director | LUNDGREN, JUSTIN | Council Sponsor | CM Cathcart / CM Kinnear / CP Beggs |
| Finance | SCHMITT, KEVIN | **Distribution List** | |
| Legal | PICCOLO, MIKE | twallace@spokanecity.org | |
| For the Mayor | ORMSBY, MICHAEL | baweber@spokanecity.org | |
| **Additional Approvals** | | kschmitt@spokanecity.org | |
| Purchasing | | jclundgren@spokanepolice.org | |
| MANAGEMENT & BUDGET | INGIOSI, PAUL | budget@spokanecity.org | |
| | | | |
| | | | |

# Committee Agenda Sheet
# Finance and Administration Committee

| | |
|---|---|
| **Submitting Department** | Police Department |
| **Contact Name & Phone** | Jacqui MacConnell, 625-4109 |
| **Contact Email** | jmacconnell@spokanepolice.org |
| **Council Sponsor(s)** | Councilmember Cathcart & Councilmember Kinnear |
| **Select Agenda Item Type** | ☐ ■ |
| **Agenda Item Name** | SBO – Spokane Police Department Hire-Ahead FTEs |
| **Summary (Background)** | The police department requests 10 "hire ahead" FTE commissioned positions for a pilot period of three years, 2022-2024. This would allow the police department to process applicants for anticipated vacancies.<br><br>Each time an officer resigns or retires, it creates a vacancy in the organization for several months until a replacement is available. Each vacancy depletes the department's ability to function at full capacity and results in an increased potential for overtime to maintain staffing levels.<br><br>The process to become a police officer, from the time one takes the Public Safety Test to when they are hired, can take six months to a year. The background investigation alone takes approximately two months. Officers are unable to be considered "staffing" for up to 1 year from the date of their hire.<br><br>The SPD will utilize these positions as a strategy to streamline the onboarding of new police officers to proactively address anticipated departures.<br><br>Once fully implemented, the hire-ahead positions will functionally reduce the time between the departure of one officer and his or her replacement with a new fully-trained officer. This will result in improved service to the community and sustain a more stable staffing level across the department. |
| **Proposed Council Action & Date:** | SBO – March 14, 2022 |

**Fiscal Impact:**

Total Cost: Initially, during 2022, these would be zero-budget positions.

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

Funding Source ☐ One-time ☐ Recurring

Specify funding source:

Expense Occurrence ☐ One-time ☐ Recurring

| |
|---|
| Other budget impacts: (revenue generating, match requirements, etc.) |
| **Operations Impacts** |
| What impacts would the proposal have on historically excluded communities?<br><br>n/a |
| How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?<br><br>n/a |
| How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?<br><br>n/a |
| Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?<br><br>n/a |

ORDINANCE NO C36180

An ordinance amending Ordinance No. C-36161, passed by the City Council December 13, 2021, and entitled, “An ordinance adopting the Annual Budget of the City of Spokane for 2022, making appropriations to the various funds of the City of Spokane government for the fiscal year ending December 31, 2022, and providing it shall take effect immediately upon passage,” and declaring an emergency.

WHEREAS, subsequent to the adoption of the 2022 budget Ordinance No. C-36161, as above entitled, and which passed the City Council December 13, 2021, it is necessary to make changes in the appropriations of the General Fund, which changes could not have been anticipated or known at the time of making such budget ordinance; and

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

The City of Spokane does ordain:

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

1) Add 10 Police Officer positions to the Spokane Police Department.

A) The 10 additional positions are to be used for temporary “hire-ahead” purposes as part of a three-year pilot project in the Spokane Police Department. Any costs associated with maintaining the “hire-ahead” positions will be covered from savings from retirements and separations.

B) There is no change to the overall appropriation level in the General Fund.

Section 2. It is, therefore, by the City Council declared that an urgency and emergency exists for making the changes set forth herein, such urgency and emergency arising from the need to mitigate the long lead time required to hire and onboard new police officers and maintain adequate staffing in the Spokane Police Department, and because of such need, an urgency and emergency exists for the passage of this ordinance, and also, because the same makes an appropriation, it shall take effect and be in force immediately upon its passage.

Passed the City Council _____

_____
Council President

Attest:_____
City Clerk

Approved as to form:_____
Assistant City Attorney

_____ _____
Mayor Date

_____
Effective Date

| Agenda Sheet for City Council Meeting of: 03/14/2022 | | Date Rec'd | 3/2/2022 |
|---|---|---|---|
| | | Clerk's File # | RES 2022-0026 |
| | | Renews # | |
| **Submitting Dept** | FINANCE, TREASURY & ADMIN | **Cross Ref #** | |
| **Contact Name/Phone** | TONYA WALLACE 6845 | **Project #** | |
| **Contact E-Mail** | TWALLACE@SPOKANECITY.ORG | **Bid #** | |
| **Agenda Item Type** | Resolutions | **Requisition #** | |
| **Agenda Item Name** | 0410 INVESTMENT ALLOCATION METHODOLOGY | | |

**Agenda Wording**

Update methodology for the distribution of investment earnings in Spokane Investment Pool to participating funds not restricted by bond covenants, grant terms, contractual terms, or establishing ordinances.

**Summary (Background)**

Distributions of investment earnings will be based on a proportionate share of earnings for such funds that held an average book value of more than $2,500,000 in the prior year. This update replaces the guaranteed minimum earnings allocation and streamlines administrative workload.

Lease? NO Grant related? NO Public Works? NO

| Fiscal Impact | | Budget Account |
|---|---|---|
| Select | $ | # |
| Select | $ | # |
| Select | $ | # |
| Select | $ | # |

| Approvals | | Council Notifications | |
|---|---|---|---|
| Dept Head | MURRAY, MICHELLE | Study Session\Other | Finance 2/28/22 |
| Division Director | WALLACE, TONYA | Council Sponsor | Betsy Wilkerson; Michael Cathcart |
| Finance | MURRAY, MICHELLE | **Distribution List** | |
| Legal | PICCOLO, MIKE | twallace@spokanecity.org | |
| For the Mayor | ORMSBY, MICHAEL | baweber@spokanecity.org | |
| **Additional Approvals** | | | |
| Purchasing | | | |
| ACCOUNTING - LEASE | MURRAY, MICHELLE | | |
| | | | |
| | | | |

# Committee Agenda Sheet
# Finance & Administration

| | |
|---|---|
| **Submitting Department** | Finance, Treasury and Administration – Treasury Services |
| **Contact Name & Phone** | Tonya Wallace 509-844-4456 |
| **Contact Email** | twallace@spokanecity.org |
| **Council Sponsor(s)** | Betsy Wilkerson |
| **Select Agenda Item Type** | ☒ Consent ☐ Discussion Time Requested: _____ |
| **Agenda Item Name** | Investment Allocation Methodology |
| **Summary (Background)** | Update methodology for the distribution of investment earnings in Spokane Investment Pool to participating funds not restricted by bond covenants, grant terms, contractual terms, or establishing ordnances.<br><br>Distributions of investment earnings will be based on a proportionate share of earnings for such funds that held an average book value of more than $2,500,000 in the prior year. This update replaces the guaranteed minimum earnings allocation and streamlines administrative workload. |
| **Proposed Council Action & Date:** | Approve amendments to resolution ____<br>TBA |

**Fiscal Impact:**
Total Cost: $0
Approved in current year budget? ☐ Yes ☐ No ☒ N/A

Funding Source ☐ One-time ☐ Recurring
Specify funding source:

Expense Occurrence ☐ One-time ☐ Recurring

Other budget impacts: City funds having held less than $2.5M in average book value from the prior year would see a reduction of $48,040 previously budgeted in their departments

**Operations Impacts:** N/A

What impacts would the proposal have on historically excluded communities?

N/A

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

N/A

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

| |
|---|
| N/A |
| Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?<br><br>N/A |

RESOLUTION NO 2022-0026

CONCERNING DISTRIBUTION OF INVESTMENT REVENUES OF MONEYS DEPOSITED IN THE SPOKANE INVESTMENT POOL

WHEREAS, The City of Spokane has provided for the establishment of various separate funds for the deposit of moneys in the conduct of its business; and

WHEREAS, RCW 35.39.030 provides for the authority of the City to invest any portion of its moneys deposited in inactive funds or in other funds in excess of current needs; and

WHEREAS, RCW 35.39.032 provides that no investments may be made without the approval of the City's legislative authority, expressed by ordinance, and this has been done; and

WHEREAS, RCW 35.39.034 provides that moneys from individual funds may, unless otherwise restricted by law, be commingled within one common investment portfolio for investment, and

WHEREAS City investment activity was aggregated citywide in the city's Spokane Investment Pool (SIP) effective September 30, 2007; and

WHEREAS, The SIP is managed by the City's Chief Financial Officer or his or her designee; and

WHEREAS, prior to the creation of the SIP, the City's investable funds outside of the General Fund were generally invested at the direction of the individual departments in the State of Washington's Local Government Investment Pool (LGIP) and/or other short term investments; and

WHEREAS, RCW 35.39.034 provides that the governing body of a city may determine by ordinance or resolution that, unless otherwise restricted by law, income derived from citywide investments may be apportioned to the General Fund subject to certain restrictions pertaining to moneys derived from various types of indebtedness or grant-related activity; and

WHEREAS, is the desire of the City Council to apportion a reasonable level of investment income to the originating funds consistent with investment practices followed prior to the creation of the SIP;

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

1. That effective January 1, 2022, SIP Investment earnings shall be apportioned to participating funds monthly based on average invested balances.

2. The funds restricted by bond covenants, grant terms, contractual terms or establishing ordnances shall be allocated investment earnings at a rate equal to the full interest earned for a given month. Realized and Unrealized gains and losses, and amortization of Premium and Discount shall be apportioned to such funds on a basis not to exceed quarterly.

3. City funds otherwise not restricted by bond covenants, grant terms, contractual terms or establishing ordnances, and maintain an average book value greater than $2,500,000 based on the previous year balances, shall receive a proportionate share of all monthly investment earnings based on average invested balance. The remaining investment earnings balance or deficit, if any, will be deposited into or withdrawn from the General Fund.

BE IT ALSO RESOLVED that a one-time allocation adjustment will be performed in the year 2022 to amend current practice and ensure consistency with this resolution.

ADOPTED by City Council on this_____day of_____2022.

_____
City Clerk

Approved as to form:

_____
Assistant City Attorney

| Agenda Sheet for City Council Meeting of: 03/14/2022 | | Date Rec'd | 3/2/2022 |
|---|---|---|---|
| | | Clerk's File # | ORD C36181 |
| | | Renews # | |
| **Submitting Dept** | FINANCE, TREASURY & ADMIN | **Cross Ref #** | |
| **Contact Name/Phone** | TONYA WALLACE 6845 | **Project #** | |
| **Contact E-Mail** | TWALLACE@SPOKANECITY.ORG | **Bid #** | |
| **Agenda Item Type** | First Reading Ordinance | **Requisition #** | |
| **Agenda Item Name** | 0410 - DIVISION ORGANIZATION AMENDMENT | | |

**Agenda Wording**

During 2015/2016, the City created a department housing both procurement and grant accounting functions and appointed a department director that gained expertise in these separate functional areas.

**Summary (Background)**

These functions are unique enough that they are commonly separate and distinct financial disciplines. As such, the Administration respectfully requests amending SMC so that the "Grants, Contracts and Purchasing Department" is described as the "Contracts and Purchasing Department" that focuses solely on procurement activities. Additionally, the CHHS grant, accounting, and financial reporting functions would be serviced by the Accounting Department.

Lease? NO Grant related? NO Public Works? NO

| Fiscal Impact | | Budget Account |
|---|---|---|
| Select | $ | # |
| Select | $ | # |
| Select | $ | # |
| Select | $ | # |

| Approvals | | Council Notifications | |
|---|---|---|---|
| Dept Head | MURRAY, MICHELLE | Study Session\Other | Finance 2/28/22 |
| Division Director | WALLACE, TONYA | Council Sponsor | Breean Beggs; Betsy Wilkerson |
| Finance | MURRAY, MICHELLE | Distribution List | |
| Legal | PICCOLO, MIKE | twallace@spokanecity.org | |
| For the Mayor | ORMSBY, MICHAEL | | |
| Additional Approvals | | | |
| Purchasing | | | |
| | | | |
| | | | |
| | | | |

# Committee Agenda Sheet
# Finance & Administration

| | |
|---|---|
| **Submitting Department** | Finance, Treasury and Administration Division |
| **Contact Name & Phone** | Tonya Wallace 509-844-4456 |
| **Contact Email** | twallace@spokanecity.org |
| **Council Sponsor(s)** | Breean Beggs |
| **Select Agenda Item Type** | ☐ Consent ☒ Discussion Time Requested: 5 minutes |
| **Agenda Item Name** | Division organization amendment |
| **Summary (Background)** | During 2015/2016, the City created a department housing both procurement and grant accounting functions and appointed a department director that gained expertise in these separate functional areas. These functions are unique enough that they are commonly separate and distinct financial disciplines.<br><br>As such, the Administration respectfully requests amending SMC so that the "Grants, Contracts and Purchasing Department" is described as the "Contracts and Purchasing Department" that focuses solely on procurement activities. Additionally, the CHHS grant, accounting, and financial reporting functions would be serviced by the Accounting Department. The Accounting Department currently administers non-CHHS grants and financial reporting; therefore, this is a natural and cohesive fit. The move of the CHHS accounting/grant administration function to the Accounting Department will also provide broader staffing capacity and standardized and consistent oversight. |
| **Proposed Council Action & Date:** | March 14, 2022 |

**Fiscal Impact:** N/A
Total Cost:
Approved in current year budget? ☐ Yes ☐ No ☐ N/A

Funding Source ☐ One-time ☐ Recurring
Specify funding source:

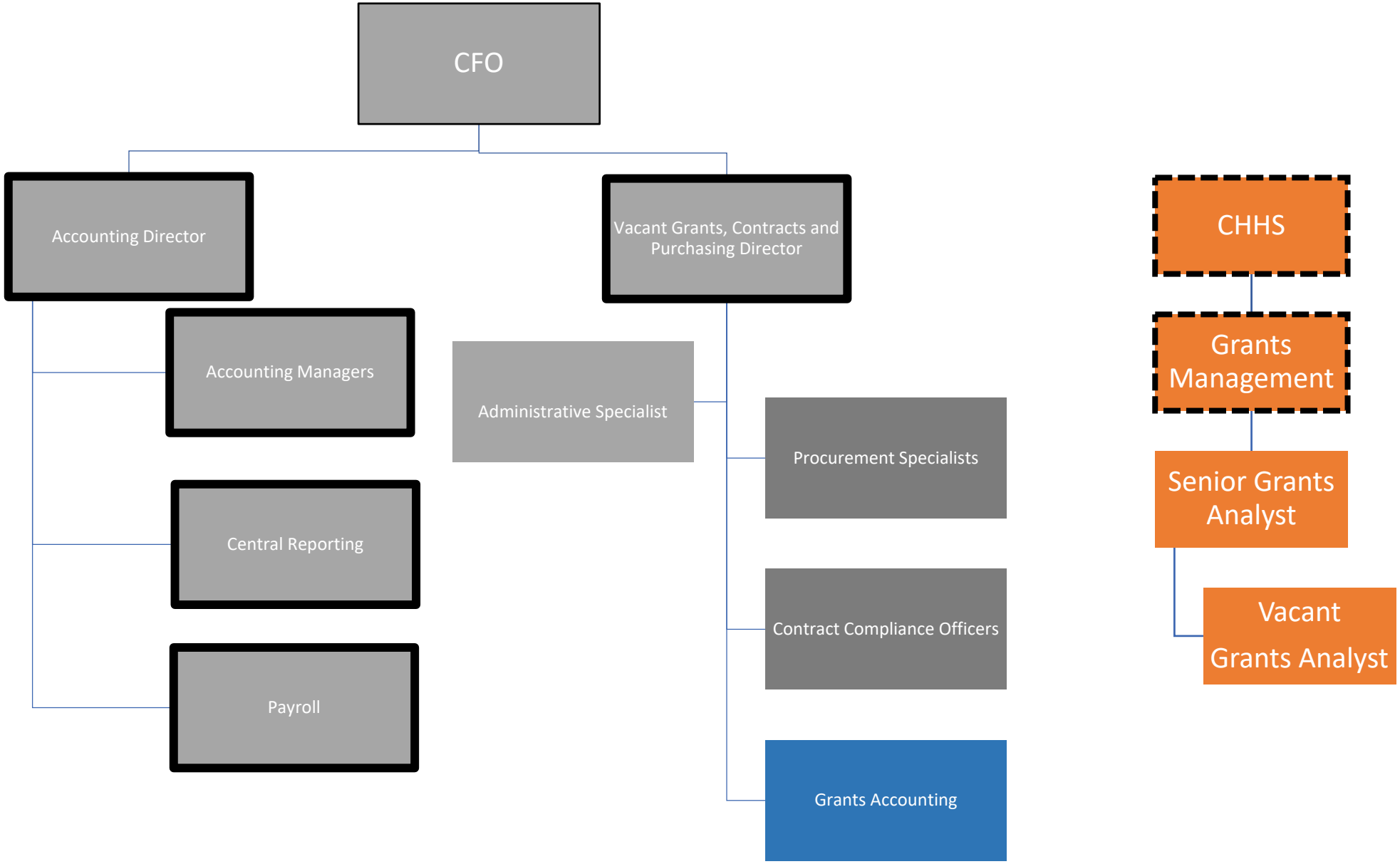
Expense Occurrence ☐ One-time ☐ Recurring

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

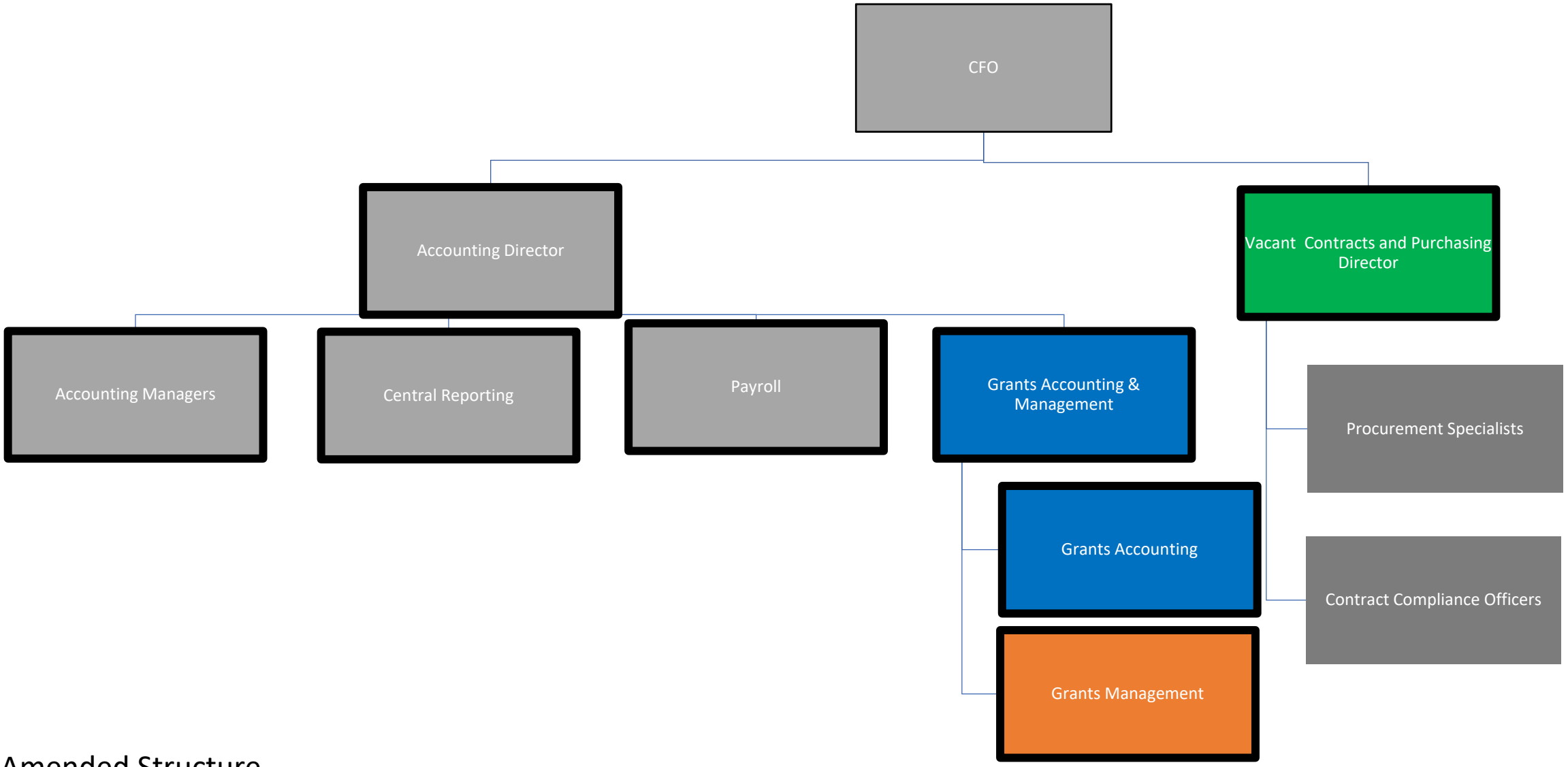
**Operations Impacts**

What impacts would the proposal have on historically excluded communities?

| |
|---|
| N/A |
| How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?<br><br>N/A |
| How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?<br><br>N/A |
| Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?<br><br>This aligns with the F&A Division Strategic Plan. |




Current Structure




Amended Structure

**ORDINANCE C36181**

An ordinance relating to the executive and administrative organization of the City; amending SMC sections 1.07.005, 3.01A.215 and 3.01A.315.

The City of Spokane does ordain:

Section 1. That SMC section 1.07.005 is amended to read as follows:

## 1.07.005 Definitions

A. "Agency" means the City of Spokane ((~~Contract and Business Standards Compliance Office~~)) internal auditor within the City's Department of ((~~Grants Management and Financial Assistance~~)) _____ or its delegate.

Section 2. That SMC section 3.01A.215 is amended to read as follows:

### 3.01A.215 Accounting

The Accounting Department is a financial administrative department responsible for preparing financial statements, maintaining the general ledger, paying bills, billing customers, payroll, inventory management, disseminating and monitoring financial policies and internal controls, financial analysis, ((~~and~~)) administration of some joint governmental agencies, receipt and technical review of grant applications and the close out of grants and financial assistance awards. The department is managed by the Accounting Director, who also serves on the City Investment Board.

Section 3. That SMC section 3.01A.315 is amended to read as follows:

### 3.01A.315 ((~~Grants~~)) Contracts((~~,~~)) and Purchasing Department

A. The ((~~Grants,~~)) Contracts((~~,~~)) and Purchasing Department is a financial administrative department responsible for the administration and operational support to program managers including ((~~receipt and technical review of grant application,~~)) contract engagement and compliance monitoring, relative performance and financial tracking, and budget review ((, ~~and the close out of grants and financial assistance awards~~)). Additionally, the department is responsible for the procurement of public works, goods and services by competitive bid, quote or proposal; processing purchase orders and contracts; managing inventories; and the disposal of surplus property.

B. The department director shall act as the Chief Compliance & Procurement Officer for all City activities involving purchasing ((~~, grants,)) and other Federal/State funding.

**PASSED** by the City Council on _____.

_____
Council President

Attest:

_____
City Clerk

_____
Mayor

Approved as to form:

_____
Assistant City Attorney

_____
Date

_____
Effective Date