

## CITY OF SPOKANE



### NOTICE

#### REGARDING CITY COUNCIL MEETINGS

**Notice is hereby given that City Council will resume in-person meetings beginning Monday, March 14, 2022.** City Council's standing committee meetings, Briefing Sessions, Legislative Sessions and study sessions will be held in City Council Chambers – Lower Level of City Hall, 808 W. Spokane Falls Blvd.

City Council Members, City staff, presenters and members of the public will still have the option to participate virtually via WebEx during all meetings, with the exception of Executive Sessions which are closed to the public. Call in information for the March 21, 2022, meetings is below. All meetings will continue to be streamed live on Channel 5 and online at <https://my.spokanecity.org/citycable5/live> and <https://www.facebook.com/spokanecitycouncil>.

#### **WebEx call in information for the week of March 21, 2022:**

1:15 p.m. Committee Meeting: 1-408-418-9388; access code: 2491 952 4023; password: 0320

3:30 p.m. Briefing Session: 1-408-418-9388; access code: 2485 018 9050; password: 0320

6:00 p.m. Legislative Session: 1-408-418-9388; access code: 2483 412 4437; password: 0320

Thursday Study Session: 1-408-418-9388; access code: 2480 676 7327; password: 0320

#### **To participate in public comment (including Open Forum):**

Testimony sign up is open from 5:00-6:00 p.m. on Monday, March 21, 2022. You must sign up by 6:00 p.m. to be called on to testify. Sign up forms will be available outside of Council Chambers for in-person attendees.

Those wishing to give testimony virtually can sign up between 5:00-6:00 p.m. 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.) 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 21, 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 LORI KINNEAR**

**COUNCIL MEMBER BETSY WILKERSON**

**COUNCIL MEMBER MICHAEL CATHCART**

**COUNCIL MEMBER KAREN STRATTON**

**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. There will be an opportunity for the expression of public views during the Open Forum at the beginning and the conclusion of the Legislative Agenda on any issue relating to City affairs but not relating to the Current or Advance Agendas, pending hearing items, or initiatives or referenda in a pending election.

### 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 print his or her name and address on the sheet provided at the entrance and verbally identify themselves by name, city of residence 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 from the Office of the City Clerk during regular business hours (8 a.m. - 5 p.m.). The Agenda may also be accessed on the City website at [my.spokanecity.org](http://my.spokanecity.org). Agenda items are available for public review in the Office of the City Clerk during regular business hours.

**AMERICANS WITH DISABILITIES ACT (ADA) INFORMATION:** The City of Spokane is committed to providing equal access to its facilities, programs and services for persons with disabilities. The Spokane City Council Chamber in the lower level of Spokane City Hall, 808 W. Spokane Falls Blvd., is wheelchair accessible and also is equipped with an infrared assistive listening system for persons with hearing loss. Headsets may be checked out (upon presentation of picture I.D.) at the City Cable 5 Production Booth located on the First Floor of the Municipal Building, directly above the Chase Gallery or through the meeting organizer. Individuals requesting reasonable accommodations or further information may call, write, or email Human Resources at 509.625.6383, 808 W. Spokane Falls Blvd, Spokane, WA, 99201; or [msteinolfson@spokanecity.org](mailto:msteinolfson@spokanecity.org). Persons who are deaf or hard of hearing may contact Human Resources through the Washington Relay Service at 7-1-1. Please contact us forty-eight (48) hours before the meeting date.

If you have questions, please call the Agenda Hotline at 625-6350.

# BRIEFING SESSION

(3:30 p.m.)

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

Roll Call of Council

Council Reports

Staff Reports

Committee Reports

Advance Agenda Review

Current Agenda Review

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## ADMINISTRATIVE SESSION

### CONSENT AGENDA

#### REPORTS, CONTRACTS AND CLAIMS

#### RECOMMENDATION

- |    |  |         |               |
|----|--|---------|---------------|
| 1. | 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 March 14, 2022, Agenda) (Council Sponsor: Council Member Stratton)<br><b>Tonya Wallace</b> | Approve | OPR 2022-0127 |
| 2. | Purchase of Loomis Armored Car Services (Spokane) under Washington State Department of Enterprise Services Contract No. 08115 for armored car services, smart safes and courier services effective January 1, 2022 through December 31, 2022—\$54,000. (Council Sponsor: Council Member Wilkerson)<br><b>Conner Thorne</b>                         | Approve | OPR 2022-0197 |
| 3. | Memorandum Of Understanding with the Spokane County Public Defender's Office to exchange conflict of interest cases, including felony conflict cases sent  | Approve | OPR 2022-0198 |

to the City—\$72,000 Annual Revenue. (Council Sponsor: Council President Beggs)

**Bridget Condon**

- |      |  |                                    |               |
|------|--|------------------------------------|---------------|
| 4.   | First Amendment to the Developer Agreement with The Falls, LLC to include \$200,000 in wastewater utility funds, in exchange for specific placement of sewer infrastructure that benefits the City overall—Total contract amount: \$500,000. (Council Sponsor: Council President Beggs)                                      | Approve                            | OPR 2020-0012 |
| <br> |  |                                    |               |
| 5.   | Contract with Truepoint Solutions, LLC (Incline Village, NV), selected via Federal Contract GSA-35F-025BA, for professional services in support of Accela enhancements for the Planning Department from March 1, 2022 through February 28, 2023—not to exceed \$100,000 annually. (Council Sponsor: Council Member Cathcart) | Approve                            | OPR 2022-0199 |
| <br> |  |                                    |               |
| 6.   | Report of the Mayor of pending 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 \$_____.                                      | Approve &<br>Authorize<br>Payments | CPR 2022-0002 |
| <br> |  |                                    |               |
| 7.   | City Council Meeting Minutes: _____, 2022.   | Approve<br>All                     | CPR 2022-0013 |

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## EXECUTIVE SESSION

(Closed Session of Council)

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

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## CITY COUNCIL SESSION

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

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

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## LEGISLATIVE SESSION

(6:00 P.M.)

(Council Reconvenes in Council Chambers)

WORDS OF INSPIRATION

PLEDGE OF ALLEGIANCE

ROLL CALL OF COUNCIL

ANNOUNCEMENTS

(Announcements regarding Changes to the City Council Agenda)

## BOARDS AND COMMISSIONS APPOINTMENTS

(Includes Announcements of Boards and Commissions Vacancies)

### APPOINTMENTS

### RECOMMENDATION

Salary Review Commission: One Appointment

Approve

CPR 2007-0040

Council Districting Board: Three Appointments

Approve

CPR 2002-0029

## ADMINISTRATIVE REPORT

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## COUNCIL COMMITTEE REPORTS

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

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## LEGISLATIVE AGENDA

### SPECIAL BUDGET ORDINANCE

(Requires Five Affirmative, Recorded Roll Call Votes)

Ordinance C36182 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:

Combined Communications Center Fund

- 1) Decrease salary and benefits by \$340,287 and remove three Firefighter Dispatcher positions (from 9 to 6 positions).
- 2) Increase operating transfer out to Fire/EMS fund by \$340,287.
- 3) There is no net change to the Combined Communications Center Fund appropriation.

and

**Fire/EMS Fund**

1) Increase revenue by \$340,287.

A) \$340,287 of the increased revenue is from a transfer in from the Combined Communications Center Fund.

2) Increase expenditures by \$340,287.

A) Increase salary and benefits by \$340,287 and add three Firefighter positions (from 94 to 97 positions).

(This action arises from no longer needing the temporary reclassification of three firefighter positions to firefighter dispatch positions.) (Council Sponsors: Council President Beggs and Council Member Kinnear)

**Jay Atwood**

## **NO EMERGENCY ORDINANCES**

### **RESOLUTIONS & FINAL READING ORDINANCE**

(Require 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. (Deferred from March 14, 2022, Agenda) (Council Sponsors: Council Members Wilkerson and Cathcart)  
**Tonya Wallace**
- RES 2022-0027** Joint Resolution with Spokane County in the matter of authorizing the Spokane Airport Board to execute Purchase and Sale Agreement with West Plains Development, LLC for property located on a portion of Spokane County Assessor Tax Parcel No. 25285.9011, comprising of approximately 20.441 acres of land at Spokane International Airport. (Council Sponsor: Council President Beggs)  
**Larry Krauter**
- RES 2022-0028** Regarding applications to amend the City's Comprehensive Plan and Setting the Annual Comprehensive Plan Amendment Work Program for 2022. (Council Sponsor: Council Member Kinnear)  
**Kara Mowery Frashefski**
- RES 2022-0029** Declaring Spokane Treatment and Recovery Services (STARS) a sole source provider for transportation of intoxicated individuals in the downtown corridor to the STARS sobering facility and authorizing the City to enter into a five-year contract—not to exceed \$109,000 annually, with an annual CPI increase between one and four percent, not incl. tax, if applicable. (Council Sponsors: Council Members Kinnear and Cathcart)  
**Mike Lopez**
- 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**

## **NO FIRST READING ORDINANCES**

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## **NO SPECIAL CONSIDERATIONS**

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## **NO HEARINGS**

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**Motion to Approve Advance Agenda for March 21, 2022**  
(per Council Rule 2.1.2)

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## **OPEN FORUM**

At each meeting after the conclusion of the legislative agenda, the Council shall hold an open public comment period until 9:30 p.m., which may be extended by motion. Each speaker is limited to no more than three minutes. In order to participate in Open Forum, you must sign up by 6:00 p.m. A sign-up form will be available on the day of the meeting from 5:00-6:00 p.m. outside of Council Chambers for in-person attendees. Those wishing to comment virtually can sign up between 5:00-6:00 p.m. 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.) Instructions for virtual 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.

## **ADJOURNMENT**

The March 21, 2022, Regular Legislative Session of the City Council is adjourned to March 28, 2022.

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## **NOTES**

**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 &amp; 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

<b>Submitting Department</b>	Finance
<b>Contact Name &amp; Phone</b>	Tonya Wallace 625-6845
<b>Contact Email</b>	<a href="mailto:twallace@spokanecity.org">twallace@spokanecity.org</a>
<b>Council Sponsor(s)</b>	Karen Stratton
<b>Select Agenda Item Type</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion      Time Requested: _____
<b>Agenda Item Name</b>	True Value Investment Advisory Services Agreement
<b>Summary (Background)</b>	<p>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.</p> <p>TVI will work closely with the City and offers the following primary services:</p> <ul style="list-style-type: none"> <li>• Continuous oversight of the investment portfolio.</li> <li>• Assistance with 3<sup>rd</sup> party DVP safekeeping setup (if necessary).</li> <li>• Investment purchase and sale recommendations for maturities and as need or opportunity arises.</li> <li>• Best pricing execution on securities transactions. Multiple bids acquired whenever available.</li> <li>• Regularly scheduled phone/Zoom meetings to discuss the portfolio (in person meetings as availability allows).</li> <li>• Ensure portfolio remains in compliance with all state and city policies and regulations.</li> <li>• Investment policy review and updating as appropriate.</li> <li>• Monthly portfolio reporting (see "sample platinum" attached).</li> <li>• GASB year-end reporting.</li> <li>• Access to ongoing CPE educational opportunities and classes.</li> <li>• Monthly market update newsletter and quarterly economic reports.</li> </ul> <p>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.</p>
<b>Proposed Council Action &amp; Date:</b>	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 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](http://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 or 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 \_\_\_\_\_  
Signature Date

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

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

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Attest:

Approved as to form:

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

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

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

Exhibit A – Certificate Regarding Debarment

Exhibit B - 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.

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



## EXHIBIT B



## Investment Advisors

### Non-Discretionary Investment Advisory Services Agreement

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**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 be 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 Section 11 below, the term of this Agreement shall commence on the date last signed below by a party to 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) Arbitration Disclosure**

- 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) Arbitration Agreement**

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.

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Client Name

**CONCOURSE FINANCIAL GROUP, INC.**

2801 Highway 280 South, Birmingham AL 35223

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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:**

03/21/2022

**Date Rec'd**

3/8/2022

**Clerk's File #**

OPR 2022-0197

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

FINANCE, TREASURY &amp; ADMIN

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

CONNER THORNE 509-625-6091

**Project #****Contact E-Mail**

WTHORNE@SPOKANECITY.ORG

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

Contract Item

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

#0410 ARMORED CAR SERVICE CONTRACT RENEWAL

**Agenda Wording**

The City of Spokane has an interlocal agreement with the Washington State Department of Economic Services allowing the City to purchase or acquire goods and services under the contracts entered into by DES that permit such use.

**Summary (Background)**

The City seeks to purchase Loomis Armored Car Services under the Washington State Department of Enterprise Services Contract #08115. Contract #08115 terms and conditions are incorporated into the work order agreement by reference. All obligations owed to the State by Loomis under Contract #08115 are also owed to the City. Loomis will provide the following services effective 1/01/2022\*: Armored Car Services Smart Safes Courier Services \*Previous contract expired 12/31/2021

Lease? NO

Grant related? NO

Public Works? NO

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

Expense \$ 54,000

# Various

Select \$

#

Select \$

#

Select \$

#

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

WALLACE, TONYA

**Study Session\Other**

2/28/22 Finance Committee

**Division Director**

WALLACE, TONYA

**Council Sponsor**

CM Wilkerson

**Finance**

MURRAY, MICHELLE

**Distribution List****Legal**

ODLE, MARI

wthorne@spokanecity.org

**For the Mayor**

ORMSBY, MICHAEL

twallace@spokanecity.org

**Additional Approvals**

mmurray@spokanecity.org

**Purchasing**

baweber@spokanecity.org

rrobertson@spokanecity.org

dan.rushing@us.loomis.com

## Committee Agenda Sheet

### Finance & Administration

<b>Submitting Department</b>	Finance, Treasury and Administration – Treasury Services
<b>Contact Name &amp; Phone</b>	Conner Thorne 625-6091
<b>Contact Email</b>	<a href="mailto:wthorne@spokanecity.org">wthorne@spokanecity.org</a>
<b>Council Sponsor(s)</b>	Betsy Wilkerson
<b>Select Agenda Item Type</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion         Time Requested: _____
<b>Agenda Item Name</b>	Armored Car Service Contract Renewal
<b>Summary (Background)</b>	<p>The City of Spokane has an interlocal agreement with the Washington State Department of Economic Services allowing the City to purchase or acquire goods and services under the contracts entered into by Department of Enterprise Services that permit such use. The City of Spokane seeks to purchase Loomis Armored Car Services under the Washington State Department of Enterprise Services Contract #08115. Contract #08115 terms and conditions are incorporated into the work order agreement by reference. All obligations owed to the State by Loomis under Contract #08115 are also owed to the City of Spokane.</p> <p>Loomis will provide the following services effective Jan 1, 2022*:</p> <ul style="list-style-type: none"> <li>Armored Car Services</li> <li>Smart Safes</li> <li>Courier Services</li> </ul> <p>*Previous contract expired 12/31/2021</p>
<b>Proposed Council Action &amp; Date:</b>	Approve renewal of Armored Car Service contract March 14, 2022
<b>Fiscal Impact:</b> Total Cost: \$54,000 Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A  Funding Source <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring Specify funding source:  Expense Occurrence <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring  Other budget impacts: (revenue generating, match requirements, etc.)	
<b>Operations Impacts:</b> 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?

This contract helps to ensure the City is compliant with its cash handling procedures.

**Master Contract 08115**  
**Armored Car and Courier Services**

Between:

**Loomis Armored US, LLC**  
And  
**Washington State Department of Enterprise Services**

Effective May 23, 2016

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# **1 CONTRACT FORMATION**

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## **1.1 PARTIES**

This Master Contract ("Contract") is entered into by and between the Washington State Department of Enterprise Services, an agency of Washington state government (hereinafter "DES"), and Loomis Armored US, LLC (hereinafter "Contractor" licensed to conduct business in the state of Washington, (hereinafter "Contractor") for the purpose of providing Armored Car Services and Smart Safes.

## **1.2 RECITALS**

The state of Washington, acting by and through DES issued Invitation for Bid (IFB) number 08115 dated January 7, 2016 (Exhibit A) for the purpose of establishing a Master Contract which would enable Contractor to provide services for Armored and Unarmored Car Services in accordance with its authority under [RCW Chapter 39.26](#).

DES evaluated all properly submitted Responses to the above-referenced IFB and has identified Contractor as an Apparent Successful Bidder for Category 1 Armored Car Services and Category 3 Smart Safes.

DES has determined that entering into a Contract with Contractor will meet the state of Washington's needs and will be in its best interest.

NOW THEREFORE, DES awards to Contractor this Master Contract, the terms and conditions of which shall govern Contractor's competition for and provisioning of Armored Car Services and Smart Safes in all Washington State Counties except San Juan County.

This Master Contract neither financially binds the State nor otherwise obligates the State to purchase any products or Services hereunder. Nor does the Contract prevent the State from purchasing the same or similar products or Services from other sources, provided that, all legal acquisition requirements are satisfied.

IN CONSIDERATION of the mutual promises as hereinafter set forth, the parties agree as follows:

## **1.3 CONTRACT TERM**

The initial term of the Contract is one (1) year from effective date, with the option to extend for additional term(s) or portions thereof. Extensions will be exercised at the sole discretion of DES and upon written mutual agreement. The total Contract term, including the initial term and all extensions, will not exceed eight (8) years unless circumstances require a special extension. DES reserves the right to extend with all or some of the Contractors.

## **1.4 MANDATORY SERVICE REQUIREMENTS**

The Contractor shall furnish the necessary personnel, equipment, material and/or services and otherwise do all things necessary for or incidental to the performance of work set forth in the Mandatory Service Requirements, [Exhibit B](#).

## **1.5 SPECIAL TERMS AND CONDITIONS**

The Contractor shall furnish the necessary personnel, equipment, material and/or services and otherwise do all things necessary for or incidental to the performance of work set forth [Exhibit C](#) Special Terms and Conditions.

## **1.6 PRICING**

The contract prices reflected in Exhibit D are the maximum prices the contractor may charge.

## **1.7 SECTION HEADINGS, INCORPORATED DOCUMENTS AND ORDER OF PRECEDENCE**

The headings used herein are inserted for convenience only and shall not control or affect the meaning or construction of any of the sections.

Each of the documents listed below is, by this reference, incorporated into this Master Contract as though fully set forth herein:

- a. Appendix B Price Sheet
- b. Appendix C-Mandatory Service Requirements
- c. Appendix E- Special Terms and Conditions
- d. Appendix F-Bidder Profile
- e. IFB No. 08115
- f. Contractor's Response to the IFB No. 08115
- g. All Contractor or manufacturer publications, written materials and schedules, charts, diagrams, tables, descriptions, other written representations and any other supporting materials Contractor made available to DES or Purchaser and used to affect the sale of Services to Purchaser.
- h. Award letter (if any)

In the event of a conflict in such terms, or between the terms and any applicable statute or rule, the inconsistency will be resolved by giving precedence in the following order:

- a. Applicable federal and state of Washington statutes and regulations
- b. Mutually agreed written amendments to the resulting Contract
- c. The Contract, including all documents incorporated in the subsection immediately above.

## **1.8 CONFLICT AND CONFORMITY**

Conflict: To the extent possible, the terms of the contract must be read consistently.

Conformity: If any provision of the contract violates any federal or state of Washington statute or rule of law, it is considered modified to conform to that statute or rule of law.

## **1.9 AUTHORITY TO BIND**

The signatories to this Contract represent that they have the authority to bind their respective organizations to this Contract.

## **1.10 COUNTERPARTS**

This Contract may be executed in counterparts or in duplicate originals. Each counterpart or each duplicate will be deemed an original copy of this Contract signed by each party, for all purposes.

## **1.11 CHANGES**

DES reserves the right to modify the resulting Contract (including but not limited to adding or deleting products/services) by mutual agreement between DES and the Contractor. Alterations to any of the terms, conditions or requirements of this Contract will only be effective upon written issuance of a mutually-agreed Contract amendment by DES. Changes to point-of-contact information may be updated without the issuance of a mutually accepted Contract amendment.

## **1.12 PRICE ADJUSTMENTS**

Firm and fixed period: Pricing will remain firm and fixed for one year from date of award of the contract.

Price protection: The contract prices are the maximum prices the contractor may charge.

If lower pricing for similar quantities becomes effective for the contractor, purchasers must be given immediate benefit of such lower pricing. The contractor may also offer volume and promotional discounts.

Price increases: The contractor may propose price increases on an annual basis by written notice to the Contract Administrator. Price increases are to be on a pass-through basis only and must not produce a higher profit margin for the contractor than that established by original contract pricing. Requests must include supporting documentation such as price increases at the manufacturer's level and/or other documentation of cost increases.

Consideration of price increases will be at the sole discretion of the Contract Administrator. If a price increase is approved in part or in full, the resulting new contract pricing will be implemented through a contract amendment.

Contract extensions and price adjustments: Contractors may not make contract extensions contingent on price adjustments.

## **1.13 MISCELLANEOUS EXPENSES**

Expenses related to day-to-day Contract performance (including but not limited to travel, lodging, meals, and incidentals) will not be reimbursed to the Contractor. However, DES recognizes that there may be occasions when the purchaser requires the bidder to travel. In such cases the purchaser must provide written pre-approval of such expenses on a case-by-case basis. Any such reimbursement will be at rates not to exceed the guidelines for state employees published by the Washington State Office of Financial Management set forth in the [Washington State Administrative & Accounting Manual](#), and not to exceed expenses actually incurred.



## 2 STANDARD DEFINITIONS

This section contains definitions of terms commonly used in solicitations conducted by the State of Washington, Department of Enterprise Services. Additional definitions may also be found in [Chapter 39.26 RCW](#). All terms contained herein will be read consistently with those definitions.

<b>Agency</b>	State of Washington institutions, the offices of the elective state officers, the Supreme Court, the court of appeals, the administrative and other departments of state government, and the offices of all appointive officers of the state. "Agency" does not include the legislature but does include colleges, community colleges and universities who choose to participate in state Contract(s).
<b>Amendment</b>	<p>A change to a legal document.</p> <p>Solicitation: For the purposes of a solicitation document, an amendment shall be a unilateral change issued by DES, at its sole discretion.</p> <p>Contract: An agreement between the parties to change the Contract after it is fully signed by both parties. Such agreement shall be memorialized in a written document describing the agreed-upon change including any terms and conditions required to support such change. An Order Document shall not constitute an amendment to a Contract.</p>
<b>Authorized representative</b>	An individual designated by the bidder or Contractor to act on its behalf and with the authority to legally bind the bidder or Contractor.
<b>Authorized signatory</b>	An individual with the authority to legally bind the bidder or Contractor concerning the terms and conditions set forth in solicitation, response and Contract documents.
<b>Business days</b>	Monday through Friday, 8 a.m. to 5 p.m., Pacific Time, except for holidays observed by the State of Washington.
<b>Calendar days</b>	Consecutive days of the year including weekends and holidays, each of which commence at 12:00:01 a.m. and end at Midnight, Pacific Time. When "days" are not specified, Calendar Days shall prevail.
<b>Contract</b>	An agreement, or mutual assent, between two or more competent parties with the elements of the agreement being offer, acceptance, and consideration.
<b>Contract administrator</b>	The individual authorized by DES who is responsible for administration of a Contract.
<b>Contractor</b>	Individual, company, corporation, firm, or combination thereof with whom DES develops a Contract for the procurement of materials, supplies, services, and/or equipment. It shall also include any Subcontractor retained

	by Contractor as permitted under the terms of the Contract.
<b>Department of Enterprise Services (DES)</b>	An agency serving state government and the citizens of Washington.
<b>Estimated useful life</b>	The estimated time from the date of acquisition to the date of replacement or disposal, determined in any reasonable manner.
<b>Inspection</b>	An examination of delivered material, supplies, services, and/or equipment prior to Acceptance aimed at forming a judgment as to whether such delivered items are what was ordered, were properly delivered and ready for Acceptance. Inspection may include a high level visual examination or a more thorough detailed examination as is customary to the type of purchase, as set forth in the solicitation document and/or as agreed between the parties. Inspection shall be acknowledged by an authorized signature of the purchaser.
<b>Lead time/After Receipt Of Order (ARO)</b>	The period of time between when the Contractor receives the order and the purchaser receives the materials, supplies, equipment, or services order.
<b>Lifecycle cost</b>	The total cost of an item to the state over its Estimated Useful Life, including costs of selection, acquisition, operation, maintenance, and where applicable, disposal, as far as these costs can reasonably be determined, minus the salvage value at the end of its estimated useful life.
<b>Contracts, Purchasing and Risk Management (CPRM)</b>	A unit of the Contracts and Legal Services Division of DES authorized under Chapter 39.26 RCW to develop and administer Contracts for goods and services on behalf of state agencies, colleges and universities, nonprofit organizations and local governments.
<b>Order document</b>	A written communication, submitted by a purchaser to the Contractor, which details the specific requirements of the purchaser within the scope of the Contract, such as delivery date, size, color, capacity, etc. An order document may include, but is not limited to field orders, purchase orders, work order or other writings as may be designated by the parties hereto. No additional or alternate terms and conditions on such written communication shall apply unless authorized by the Contract and expressly agreed between the purchaser and the Contractor.
<b>Original Equipment Manufacturer (OEM)</b>	A supply management term for the purchase of parts and material directly from the manufacturer of the equipment or from an authorized reseller. For example, Ford automotive replacement parts would be purchased from an authorized Ford reseller.
<b>Procurement Coordinator</b>	The individual authorized by DES who is responsible for conducting a specific solicitation.

<b>Product</b>	Materials, supplies, services, and/or equipment provided under the terms and conditions of this Contract.
<b>Purchaser</b>	The authorized user of the Contract, as identified in the solicitation, who may or actually does make purchases of material, supplies, services, and/or equipment under the resulting Contract.
<b>State</b>	The State of Washington acting by and through DES.
<b>State Contract</b>	<p>The written document memorializing the agreement between the successful bidder and DES for materials, supplies, services, and/or equipment, administered by the Master Contracts and Consulting Unit on behalf of the State of Washington.</p> <p>“State Contract” does not include the following:</p> <ul style="list-style-type: none"> <li>– Colleges and universities that choose to purchase under <a href="#">RCW 28B.10.029</a></li> <li>– Purchases made in accordance with state purchasing policy;</li> <li>– Purchases made pursuant to authority granted or delegated under <a href="#">RCW 39.26</a></li> <li>– Purchases authorized as an emergency purchase under <a href="#">RCW 39.26</a>; or</li> <li>– Purchases made pursuant to other statutes granting the agency authority to independently conduct purchases of materials, supplies, services, or equipment.</li> </ul>
<b>Subcontractor</b>	A person or business that is, or will be, providing or performing an essential aspect of the Contract under the direction and responsibility of the Contractor and with the agreement of DES.
<b>Term Contract</b>	A state Contract that extends beyond a single purchase and may be available to multiple purchasers.
<b>Vendor</b>	A provider of materials, supplies, services, and/or equipment.
<b>Washington’s Electronic Business Solution (WEBS)</b>	The vendor registration and bidder notification system maintained by the Washington State Department of Enterprise Services located at: <a href="http://www.ga.wa.gov/webs">www.ga.wa.gov/webs</a> .

### **3 STANDARD TERMS & CONDITIONS**

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#### **3.1 CONTRACT MODIFICATIONS**

DES reserves the right to modify the resulting Contract (including but not limited to adding or deleting products, services, or delivery locations) by mutual agreement between DES and the Contractor, so long as such modification is substantially within the scope of the original Contract. Such modifications will be memorialized in a signed written document describing the agreed upon change including any terms and conditions required to support such change.

#### **3.2 CONTRACT ADMINISTRATION**

DES will appoint a single point of contact that will be the Contract Administrator for this Contract and will provide Contract oversight. The Contract Administrator will be the principal contact for the Contractor for business activities under this Contract. DES will notify Contractor, in writing, when there is a new Contract Administrator assigned to this Contract.

#### **3.3 CONTRACTOR SUPERVISION AND COORDINATION**

Contractor shall:

- a. Competently and efficiently supervise and coordinate the implementation and completion of all Contract requirements specified herein.
- b. Identify the Contractor's Authorized Representative, who will be the principal point of contact for DES concerning Contractor's performance under this Contract.
- c. Immediately notify the Contract Administrator in writing of any change to the designated Authorized Representative assigned to this Contract.
- d. Be bound by all written communications given to or received from the Contractor's Authorized Representative.

Violation of any provision of this section may be considered a material breach establishing grounds for Contract termination.

#### **3.4 POST-AWARD CONFERENCE**

The Contractor may be required to attend a post-award conference scheduled by the Procurement Coordinator and/or the Contract administrator to discuss Contract performance requirements. The time and place of this conference will be scheduled following Contract award.

#### **3.5 CONTRACT MANAGEMENT**

Upon award this Contract, the Contractor shall:

- a. Review the impact of the award and take the necessary steps needed to ensure that Contractual obligations will be fulfilled.
- b. Promote and market the use of this Contract to all authorized Contract purchasers.
- c. Ensure that those who endeavor to utilize this Contract are authorized purchasers under this Contract.
- d. At no additional charge, assist purchasers in making the most cost effective, value based purchases which may include, but is not limited to:

- Having representatives available to provide information regarding products and services, including visiting the purchaser site if needed, and providing purchaser with materials/supplies/equipment recommendations.
- Providing purchasers with a detailed list of Contract items including current Contract pricing and part numbers.

The Contractor shall designate a customer service representative who will be responsible for addressing purchaser issues including, but not limited to:

- Logging requests for service, ensuring repairs are completed in a timely manner, dispatching service technicians and processing warranty claim documentation.
- Providing purchasers with regular and timely status updates in the event of a delay in repair or order fulfillment.
- Acting as the lead and liaison between the manufacturer and purchaser in resolving warranty claims for Contract items purchased.

### **3.6 CHANGES**

Alterations to any of the terms, conditions, or requirements of this Contract shall only be effective upon written issuance of a mutually agreed Contract amendment by DES. However, changes to point of contact information may be updated without the issuance of a mutually agreed Contract amendment.

### **3.7 STATEWIDE PAYEE DESK**

Contractors must register with the Statewide Payee Desk, maintained by DES, in order to be paid for Contract sales. Washington state agencies cannot make payments to a Contractor until it is registered. Registration materials are available here: [Receiving Payment from the State](#).

### **3.8 MANAGEMENT FEE**

Contractor will pay a management fee of 0.74 percent to DES on all state Contract sales/purchase price for work orders. The purchase price is defined as total invoice price less sales tax.

The management fee must be rolled into the Contractor's current pricing; the fee must not be shown as a separate line item on an invoice unless specifically requested and approved by DES.

How to determine the fee:  $\text{Total sales} \times .0074 = \text{management fee}$ .

DES may increase, reduce or eliminate the management fee, and reserves the right to negotiate Contract pricing with the Contractor when adjustment of the management fee might justify an increase in pricing. Written notifications of the management fee by DES become effective for new purchases or new change orders to existing purchases 30 calendar days after notification unless DES grants additional time.

The state reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced and all management fees have been paid. Failure to accurately report total net sales, to submit a timely usage report, or remit timely payment of the management fee, may be cause for Contract termination, the charging of interest or penalties, or the exercise of other remedies provided by law.

The management fee does not include or supersede fee terms owed to other entities such as the NASPO Valuepoint Purchasing Group or governmental entities other than the state of Washington.

DES will invoice the Contractor every quarter based on sales reported by Contractor. Contractors are not to remit payment until they receive an invoice from DES.

Management fee payment must reference the Contract number, work request number (if applicable), the year and quarter for which the management fee is being remitted, and the Contractor's name as it is known to DES, if not already included on the face of the check.

### **3.9 CONTRACT SALES REPORT**

The management fee will be based on total Contract sales, which must be reported quarterly by the Contractor in the [Contract Sales Reporting System](#). DES will provide a login password and a required vendor number.

"Zero" sales: Contractor is required to report "zero" sales even if no sales occurred during the reporting period.

The report shall identify:

- A. Purchasers who have been invoiced for work orders awarded through this Contract;
- B. Amounts invoiced for each purchaser during the reporting period

Reports must be submitted electronically within thirty (30) days after the end of the calendar quarter, i.e., no later than April 30, July 31, October 31 and January 31.

A further description of the sales reporting requirement and the management fee based upon it can be found in sections 3.8 and 3.9 of Appendix, [Master Contract Terms and Conditions](#).

### **3.10 OTHER REQUIRED REPORTS**

DES may require the Contractor to provide a detailed annual Contract sales history report. This report, if requested, will include at a minimum, but is not limited to: product description, part number or other product identifier, per unit quantities sold, and Contract price. This report must be provided to DES in an electronic format that can be read by MS Excel. Unless the solicitation specifies otherwise, all other required reports will be designed and approved by the parties by mutual agreement.

### **3.11 COMMON VENDOR-REGISTRATION AND BID-NOTIFICATION SYSTEM**

Contractor shall be registered in Washington's Electronic Business Solution (WEBS), the state's common vendor registration and bid notification system ([www.ga.wa.gov/webs](http://www.ga.wa.gov/webs)). Contractors already registered need not re-register. It is the sole responsibility of Contractor to properly register and maintain an accurate vendor profile.

### **3.12 CONTRACTOR QUALIFICATIONS AND REQUIREMENTS**

DES reserves the right to require receipt of proof of compliance with any of the requirements in this section within 10 calendar days from the date of request, and to terminate this Contract as a material breach for noncompliance with any requirement of this paragraph. Contractor shall maintain compliance with these requirements throughout the life of this Contract.

#### **a. Qualified and established business**

Prior to performance, or prior to that time if required by DES, law or regulation, Contractor must be an established business with all required licenses, fees, bonding, facilities, equipment, and trained personnel necessary to meet all requirements and perform the work as specified in the solicitation.

#### **b. Authorized Service Provider and Product Reseller certifications**

Upon request, Contractor must provide evidence of its status as an authorized service provider or product reseller. Contractor shall maintain its authorized service provider or product reseller status for the initial term and any extensions of the resulting Contract. If this status is discontinued, this Contract may be terminated.

**c. Personnel substitutions**

If at Contract award or any time thereafter, any named individual specifically identified in the response to work on this engagement is not available, DES reserves the right to approve or reject any personnel substitutions.

**d. Use of Subcontractors**

Prior to performance, Contractor shall identify all Subcontractors who will perform services in fulfillment of Contract requirements. Additionally Contractor may be required to identify contact information as well as federal tax identification number (TIN), and anticipated dollar value of each subcontract.

DES reserves the right to approve or reject any and all Subcontractors that identified by the Contractor. Any Subcontractors not listed in the bidder's response, who are engaged by the Contractor, must be pre-approved, in writing, by DES.

Contractor agrees to be responsible for all actions of any Subcontractors in the performance of this Contract. The Contractor shall be responsible to ensure that all requirements of the Contract shall flow down to any and all Subcontractors. In no event shall the existence of a subcontract operate to release or reduce the liability of Contractor to the state for any breach in the performance of the Contractor's duties.

**e. Assignment**

Contractor shall not assign or otherwise transfer its obligations or any claim arising under this Contract without the prior written consent of DES. Such consent will not be unreasonably withheld. Contractor shall provide a minimum of 30 calendar days advance notification of intent to assign or otherwise transfer its obligations under this Contract. Violation of this provision may be considered a material breach and be grounds for Contract termination. Assignment or transfer of Contract shall not relieve the Contractor from its responsibilities and obligations under the Contract.

**f. Contractor authority and infringement**

Under this Contract, Contractor is authorized to sell only those materials, supplies, services and/or equipment as stated herein and allowed for by the Contract provisions. Contractor shall not misrepresent to purchasers that they have the Contract authority to sell any other materials, supplies, services and/or equipment. Further, Contractor may not intentionally infringe on other established state Contracts.

**g. Hours of labor**

In compliance with RCW [49.28](#), Contractor agrees that no worker, laborer, or mechanic in the employ of the Contractor or Subcontractor shall be permitted or required to work more than eight (8) hours in any one calendar day, or forty (40) hours in any one calendar week. However, in cases of extraordinary emergency such as danger to life or property, the hours of work may be extended but in such cases the rate of pay for time employed in excess of the above shall be at the prevailing overtime rate of pay. Except, Contracts will not require the payment of overtime rates for the first two hours worked in excess of eight (8) hours

per day when the employer has obtained the employee's agreement (as defined in WAC [296-127-022](#)) to work a four-day, ten-hour work week.

**h. Materials and workmanship**

The Contractor is required to furnish all materials, supplies, equipment and/or services necessary to perform Contractual requirements. Materials, supplies, equipment and/or services used in the performance of this Contract shall conform to all applicable federal, state, and local codes, regulations and requirements for such equipment, specifications contained herein, and the normal uses for which intended. Materials, supplies, and equipment shall be manufactured in accordance with the best commercial practices and standards for this type of materials, supplies, and equipment.

**i. Intentionally Omitted.**

**a. Site security:**

While on purchaser's premises, Contractor, its agents, employees, or Subcontractors shall conform in all respects with physical, fire, or other security regulations.

**3.13 TREATMENT OF ASSETS**

Title to all property furnished by DES and/or purchaser shall remain with DES and/or purchaser, as applicable. Any property of DES and/or purchaser furnished to the Contractor shall, unless otherwise provided herein or approved by DES and/or purchaser, be used only for the performance of this Contract.

The Contractor shall be responsible for damages as a result of any loss or damage to property of DES and/or purchaser which results from the negligence of the Contractor or which results from the failure on the part of the Contractor to maintain, administer and protect that property in a reasonable manner and to the extent practicable in all instances.

If any DES and/or purchaser property is lost, destroyed, or damaged, the Contractor shall immediately notify DES and/or purchaser and shall take all reasonable steps to protect the property from further damage.

The Contractor shall surrender to DES and/or purchaser all property of DES and/or purchaser prior to settlement upon completion, termination, or cancellation of this Contract.

Title to all property furnished by the Contractor, the cost for which the Contractor is entitled to be reimbursed as a direct item of cost under this Contract, shall pass to and vests in the purchaser upon delivery of such property by the Contractor and Acceptance by the purchaser. Title to other property, the cost of which is reimbursable to the Contractor under this Contract, shall pass to and vest in the purchaser upon (i) issuance for use of such property in the performance of this Contract, or (ii) commencement of use of such property in the performance of this Contract, or (iii) reimbursement of the cost thereof by the purchaser in whole or in part, whichever first occurs.

All reference to the Contractor under this clause shall also include Contractor's employees, agents or Subcontractors.

**3.14 STANDARD OF QUALITY/CONSISTENCY OVER TERM OF CONTRACT**

If, in the sole judgment of DES or the purchaser, any product is determined not to be equal, the purchaser may take any or all of the following actions:



- a. The Product may be returned at Contractor's expense and the purchaser reimbursed for any payments.
- b. The Contract may be terminated without any liability to the state of Washington or purchaser.

### 3.15 PAYMENT

**a. Advance payment prohibited:**

No advance payment shall be made for the products and Services furnished by Contractor under this Contract.

Notwithstanding the above, maintenance payments, if any, may be made on a quarterly basis at the beginning of each quarter.

**b. Payment:**

Payment is the sole responsibility of, and will be made by, the purchaser.

Under [Chapter 39.76 RCW](#) , if purchaser fails to make timely payment(s), Contractor may invoice for 1 percent per month on the amount overdue or a minimum of \$1. Payment will not be considered late if a check or warrant is mailed within the time specified. If no terms are specified otherwise in the solicitation, net 30 days will automatically apply.

Payment(s) made in accordance with Contract terms shall fully compensate the Contractor for all risk, loss, damages or expense of whatever nature and acceptance of payment shall constitute a waiver of all claims submitted by Contractor.

Payment for materials, supplies and/or equipment received and for services rendered shall be made by purchaser and be redeemable in U.S. dollars. Unless otherwise specified, the purchaser's sole responsibility shall be to issue this payment. Any bank or transaction fees or similar costs associated with currency exchange procedures or the use of purchasing/credit cards shall be fully assumed by the Contractor.

Note: when the state has been overcharged or otherwise reimbursed, the purchaser may elect to have either direct payments or written credit memos issued. If the Contractor fails to make timely payment(s) or issuance of credit memos, the purchaser may impose a 1% per month on the amount overdue 30 days after notice to the Contractor.

**c. Invoicing and discounts**

Contractor must provide a properly completed invoice to purchaser. All invoices are to be delivered to the address indicated in the purchase order.

Each invoice must be identified by the associated Contract number; the Contractor's statewide vendor registration number assigned by the Washington State Office of Financial Management (OFM), the applicable purchaser's order number, and must be in U.S. dollars. Statewide vendor registration numbers may be accessed here:

<http://www.des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/VL.aspx>. Invoices must be prominently annotated by the Contractor with all applicable prompt payment and/or volume discount(s) and shipping charges unless otherwise specified in the solicitation.

Invoices for payment will accurately reflect all discounts due the purchaser. Invoices will not be processed for payment, nor will the period of prompt payment discount commence, until receipt of a properly completed invoice denominated in U.S. dollars and until all

invoiced items are received and satisfactory performance of Contractor has been accepted by the purchaser. If an adjustment in payment is necessary due to damage or dispute, any prompt payment discount period shall commence on the date final approval for payment is authorized.

### **3.16 TAXES, FEES AND LICENSES**

#### **a. Taxes**

Where required by statute or regulation, the Contractor shall pay for and maintain in current status all taxes that are necessary for Contract performance. Unless otherwise indicated, the purchaser agrees to pay State of Washington taxes on all applicable materials, supplies, services and/or equipment purchased. No charge by the Contractor shall be made for federal excise taxes and the purchaser agrees to furnish Contractor with an exemption certificate where appropriate.

#### **b. Collection of retail sales and use taxes**

In general, Contractors engaged in retail sales activities within the State of Washington are required to collect and remit sales tax to Department of Revenue (DOR). In general, out-of-state Contractors must collect and remit "use tax" to Department of Revenue if the activity carried on by the seller in the State of Washington is significantly associated with Contractor's ability to establish or maintain a market for its products in Washington. Examples of such activity include where the Contractor either directly or by an agent or other representative:

- Maintains an in-state office, distribution house, sales house, warehouse, service enterprise, or any other in-state place of business;
- Maintains an in-state inventory or stock of goods for sale;
- Regularly solicits orders from purchasers located within the State of Washington via sales representatives entering the State of Washington;
- Sends other staff into the State of Washington (e.g. product safety engineers, etc.) to interact with purchasers in an attempt to establish or maintain market(s); or
- Other factors identified in [WAC 458-20](#).

#### **c. Department of Revenue registration for out-of-state Contractors**

Out-of-state Contractors meeting any of the above criteria must register and establish an account with the Department of Revenue. Refer to [WAC 458-20-193](#), and call the Department of Revenue at 800-647-7706 for additional information. When out-of-state Contractors are not required to collect and remit "use tax," purchasers located in the State of Washington are responsible for paying this tax, if applicable, directly to the Department of Revenue.

#### **d. Fees/Licenses**

After award of Contract, and prior to commencing performance under the Contract, the Contractor shall pay for and maintain in a current status any licenses, fees, assessments, permit charges, etc., which are necessary for Contract performance. It is the Contractor's sole responsibility to maintain licenses and to monitor and determine any changes or the enactment of any subsequent regulations for said fees, assessments, or charges and to

immediately comply with said changes or regulations during the entire term of this Contract.

**e. Customs/Brokerage Fees**

Contractor shall take all necessary actions, including, but not limited to, paying all customs, duties, brokerage, and/or import fees, to ensure that materials, supplies, and/or equipment purchased under the Contract are expedited through customs. Failure to do so may subject Contractor to liquidated damages as identified herein and/or to other remedies available by law or Contract. Neither DES nor the purchaser will incur additional costs related to Contractor's payment of such fees.

**f. Taxes on invoice**

Contractor shall calculate and enter the appropriate state and local sales tax on all invoices. Tax is to be computed on new items after deduction of any trade-in in accordance with [WAC 458-20-247](#).

**g. Minority and Women's Business Enterprise (MWBE) participation**

Annually, the state may request that Contractor provide information of MWBE participation in this Contract through its certification as MWBE or that of its subcontractors and by providing a high-level account of amounts paid.

**h. Overpayments to Contractor**

Contractor shall refund to purchaser the full amount of any erroneous payment or overpayment under this Contract within 30 days' written notice. If Contractor fails to make timely refund, purchaser may charge Contractor 1 percent per month on the amount due, until paid in full.

**i. Audits**

The state reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced. Repetitive instances of incorrect invoicing may be considered complete cause for Contract termination.

### **3.17 QUALITY ASSURANCE**

**a. Right of inspection**

Contractor shall provide right of access to its facilities to DES, or any of DES's officers, or to any other authorized agent or official of the State of Washington or the federal government, with advanced notice and as agreed upon by Contractor, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Contract.

**b. Contractor commitments, warranties and representations**

Any written commitment by Contractor within the scope of this Contract shall be binding upon Contractor. Failure of Contractor to fulfill such a commitment may constitute breach and shall render Contractor liable for damages under the terms of this Contract. For purposes of this section, a commitment by Contractor includes: (i) Prices, discounts, and options committed to remain in force over a specified period of time; and (ii) any warranty or representation made by Contractor in its bid or contained in any Contractor or manufacturer publications, written materials, schedules, charts, diagrams, tables,

descriptions, other written representations, and any other communication medium accompanying or referred to in its bid or used to effect the sale to purchaser.

**c. Warranties**

Contractor warrants that all materials, supplies, services and/or equipment provided under this Contract shall be fit for the purpose(s) for which intended, for merchantability, and shall conform to the requirements and specifications herein. Acceptance of any materials, supplies, service and/or equipment, and inspection incidental thereto, by the purchaser shall not alter or affect the obligations of the Contractor or the rights of the purchaser.

**d. Cost of remedy**

Cost of remedying defects: All defects, indirect and consequential costs of correcting, removing or replacing any or all of the defective materials or equipment will be charged against the Contractor.

**3.18 INFORMATION AND COMMUNICATIONS**

**a. Advertising**

Contractor shall not publish or use any information concerning this Contract in any format or media for advertising or publicity without prior written consent from DES.

**b. Retention of records**

The Contractor shall maintain all books, records, documents, data and other evidence relating to this Contract and the provision of materials, supplies, services and/or equipment 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 Contract. Contractor 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 Contract, shall be subject at all reasonable times to inspection, review, or audit by DES, personnel duly authorized by DES, the Washington State Auditor's Office, 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 final resolution of all litigation, claims, or audit findings involving the records.

**c. Proprietary or confidential information**

To the extent consistent with [Chapter 42.56 RCW](#), the Public Disclosure Act, DES shall maintain the confidentiality of Contractor's information marked confidential or proprietary. If a request is made to view Contractor's proprietary information, DES will notify Contractor of the request and of the date that the records will be released to the requester unless Contractor obtains a court order enjoining that disclosure. If Contractor fails to obtain the court order enjoining disclosure, DES will release the requested information on the date specified.

The state's sole responsibility shall be limited to maintaining the above data in a secure area and to notify Contractor of any request(s) for disclosure for so long as DES retains Contractor's information in DES records. Failure to so label such materials or failure to timely respond after notice of request for public disclosure has been given shall be deemed a waiver by Contractor of any claim that such materials are exempt from disclosure.

**d. Non-endorsement and publicity**

Neither DES nor the purchasers are endorsing the Contractor's products or Services, nor suggesting that they are the best or only solution to their needs. Contractor agrees to make no reference to DES, any purchaser or the State of Washington in any literature, promotional material, brochures, sales presentation or the like, regardless of method of distribution, without the prior review and express written consent of DES.

**3.19 GENERAL TERMS AND CONDITIONS****a. Governing law and venue**

This Contract shall be construed and interpreted in accordance with the laws of the State of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

**b. Severability**

Severability: If any provision of this Contract or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Contract that can be given effect without the invalid provision, and to this end the provisions of this Contract are declared to be severable.

**c. Survivorship**

All transactions executed for products and Services provided pursuant to the authority of this Contract shall be bound by all of the terms, conditions, Prices and Price discounts set forth herein, notwithstanding the expiration of the initial term of this Contract or any extension thereof. Further, the terms, conditions and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Contract shall so survive. In addition, the terms of the sections titled Overpayments to Contractor; Ownership/Rights in Data; Contractor's Commitments, Warranties and Representations; Protection of purchaser's Confidential Information; Section Headings, Publicity; Retention of Records; Patent and Copyright Indemnification; Contractor's Proprietary Information; Disputes; and Limitation of Liability shall survive the termination of this Contract.

**d. Independent status of Contractor**

In the performance of this Contract, the parties will be acting in their individual, corporate or governmental capacities and not as agents, employees, partners, joint ventures, or associates of one another. The parties intend that an independent Contractor relationship will be created by this Contract. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever. Contractor shall not make any claim of right, privilege or benefit which would accrue to an employee under [Chapter 41.06 RCW](#), or [Title 51 RCW](#).

**e. Gifts and gratuities**

Contractor shall comply with all state laws regarding gifts and gratuities, including but not limited to: [RCW 39.26](#), [RCW 42.52.150](#), [RCW 42.52.160](#), and [RCW 42.52.170](#) under which it is unlawful for any person to directly or indirectly offer, give or accept gifts, gratuities, loans, trips, favors, special discounts, services, or anything of economic value in conjunction with state business or Contract activities.

Under [RCW 39.26](#) and the Ethics in Public Service Law, [Chapter 42.52 RCW](#), state officers and employees are prohibited from receiving, accepting, taking or seeking gifts (except as permitted by [RCW 42.52.150](#)) if the officer or employee participates in Contractual matters relating to the purchase of goods or services.

**f. Immunity and hold harmless**

To the fullest extent permitted by law, each party shall indemnify, defend and hold harmless state, agencies of state and all officials, agents and employees of state (the "Indemnified Parties"), from and against all claims for bodily injury, death or damage to property arising out of or resulting from a negligent or wrongful act or omission on the part of the indemnifying party or a material breach of this Contract by the indemnifying party. Contractor's obligation to indemnify, defend, and hold harmless includes any claim by Contractor's agents, employees, representatives, or any Subcontractor or its employees.

Contractor waives its immunity under Title 51 to the extent it is required to indemnify, defend and hold harmless state and its agencies, officials, agents or employees.

**g. Personal liability**

It is agreed by and between the parties hereto that in no event shall any official, officer, employee or agent of the State of Washington when executing their official duties in good faith, be in any way personally liable or responsible for any agreement herein contained whether expressed or implied, nor for any statement or representation made herein or in any connection with this agreement.

### **3.20 INSURANCE**

The following are general insurance provisions for the State of Washington. Additional requirements specific to a good/service may be detailed elsewhere in a solicitation or its appendices.

**a. General requirements**

Contractor shall, at its own expense, obtain and keep in force insurance as follows until completion of the Contract. Upon request, Contractor shall furnish evidence in the form of a certificate of insurance satisfactory to the State of Washington that insurance, in the following kinds and minimum amounts, has been secured. Failure to provide proof of insurance, as required, will result in Contract cancellation.

Contractor shall include all Subcontractors as insureds under all required insurance policies, or shall furnish separate Certificates of Insurance and endorsements for each Subcontractor. Subcontractor(s) must comply fully with all insurance requirements stated herein. Failure of Subcontractor(s) to comply with insurance requirements does not limit Contractor's liability or responsibility.

All insurance provided in compliance with this Contract shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the state.

**b. Specific requirements**

Employer's Liability (Stop Gap): The Contractor will at all times comply with all applicable workers' compensation, occupational disease, and occupational health and safety laws, statutes, and regulations to the full extent applicable and will maintain Employers Liability insurance with a limit of no less than \$1,000,000.00. The State of Washington will not be

held responsible in any way for claims filed by the Contractor or their employees for services performed under the terms of this Contract.

**Commercial General Liability Insurance:** The Contractor shall at all times during the term of this Contract, carry and maintain commercial general liability insurance and if necessary, commercial umbrella insurance for bodily injury and property damage arising out of services provided under this Contract. This insurance shall cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns, or servants.

The insurance shall also cover bodily injury, including disease, illness and death, and property damage arising out of the Contractor's premises/operations, independent Contractors, products/completed operations, personal injury and advertising injury, and Contractual liability (including the tort liability of another assumed in a business Contract), and contain separation of insured's (cross liability) conditions.

Contractor waives all rights against the State of Washington for the recovery of damages to the extent they are covered by general liability or umbrella insurance.

The limits of liability insurance shall not be less than as follows:

General aggregate limits (other than products-completed operations)	\$2 million
Products-completed operations aggregate	\$2 million
Personal and advertising injury aggregate	\$1 million
Each occurrence (applies to all of the above)	\$1 million
Medical expense limit (any one person)	\$5,000

**c. Business Auto Policy (BAP)**

In the event that services delivered pursuant to this Contract involve the use of vehicles, or the transportation of clients, automobile liability insurance shall be required. The coverage provided shall protect against claims for bodily injury, including illness, disease, and death; and property damage caused by an occurrence arising out of or in consequence of the performance of this service by the Contractor, Subcontractor, or anyone employed by either.

Contractor shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a combined single limit not less than \$1,000,000 per occurrence. The business auto liability shall include Hired and Non-Owned coverage.

Contractor waives all rights against the State of Washington for the recovery of damages to the extent they are covered by business auto liability or commercial umbrella liability insurance.

**d. Additional insurance provisions**

All above insurance policies shall include, but not be limited to, the following provisions:

**Additional insured:**

The State of Washington and all authorized purchasers shall be listed as an additional insured on all general liability and auto insurance policies. All policies shall be primary over any other valid and collectable insurance.

**Notice of policy cancellation/Non-renewal:**

For insurers subject to [Chapter 48.18 RCW](#) (admitted and regulated by the Washington State Insurance Commissioner) a written notice shall be given to the director of purchasing or designee by Contractor 45 calendar days prior to cancellation or any material change to the policy as it relates to this Contract. Written notice shall include the affected Contract reference number.

**e. Surplus lines**

For insurers subject to [Chapter 48.15 RCW](#) (Surplus Lines) a written notice shall be given to the director of purchasing or designee 20 calendar days prior to cancellation or any material change to the policy(ies) as it relates to this Contract. Written notice shall include the affected Contract reference number.

**Cancellation for non-payment of premium:**

If cancellation on any policy is due to non-payment of premium, a written notice shall be given the director of purchasing or designee by Contractor 10 calendar days prior to cancellation. Written notice shall include the affected Contract reference number.

**Identification:**

Policies and certificates of insurance shall include the affected Contract reference number.

**f. Insurance carrier rating**

The insurance required above shall be issued by an insurance company authorized to do business within the State of Washington. Insurance is to be placed with a carrier that has a rating of A- Class VII or better in the most recently published edition of Best's Reports. Any exception must be reviewed and approved by the Risk Manager for the State of Washington, by submitting a copy of the Contract and evidence of insurance before Contract commencement. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with [Chapter 48.15 RCW](#) and [Chapter 284-15 WAC](#) .

**g. Excess coverage**

The limits of all insurance required to be provided by the Contractor shall be no less than the minimum amounts specified. However, coverage in the amounts of these minimum limits shall not be construed to relieve the Contractor from liability in excess of such limits.

**3.21 INDUSTRIAL INSURANCE COVERAGE**

The Contractor shall comply with the provisions of [Title 51 RCW](#) Industrial Insurance. If the Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, DES may terminate this Contract. This provision does not waive any of the Washington State Department of Labor and Industries (L&I) rights to collect from the Contractor.



### 3.22 NONDISCRIMINATION

During the performance of this Contract, the Contractor shall comply with all applicable federal and state nondiscrimination laws, regulations and policies, including, but not limited to, Title VII of the Civil Rights Act, 42 U.S.C. section 12101 et. seq.; the Americans with Disabilities Act (ADA); and, [Chapter 49.60 RCW](#), Discrimination – Human Rights Commission.

### 3.23 OSHA AND WISHA REQUIREMENTS

Contractor agrees to comply with conditions of the federal Occupational Safety and Health Administration (OSHA) and, if manufactured or stored in the State of Washington, the Washington Industrial Safety and Health Act (WISHA) and the standards and regulations issued thereunder, and certifies that all items furnished and purchased will conform to and comply with said laws, standards and regulations. Contractor further agrees to indemnify and hold harmless DES and purchaser from all damages assessed against purchaser as a result of Contractor's failure to comply with those laws, standards and regulations, and for the failure of the items furnished under the Contract to so comply.

### 3.24 ANTITRUST

The state maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, the Contractor hereby assigns to the State of Washington any and all of the Contractor's claims for such price fixing or overcharges which arise under federal or state antitrust laws, relating to the materials, supplies, services and/or equipment purchased under this Contract.

### 3.25 WAIVER

Failure or delay of DES or purchaser to insist upon the strict performance of any term or condition of the Contract or to exercise any right or remedy provided in the Contract or by law; or DES's or purchaser's acceptance of or payment for materials, supplies, services and/or equipment, shall not release the Contractor from any responsibilities or obligations imposed by this Contract or by law, and shall not be deemed a waiver of any right of DES or purchaser to insist upon the strict performance of the entire agreement by the Contractor. In the event of any claim for breach of Contract against the Contractor, no provision of this Contract shall be construed, expressly or by implication, as a waiver by DES or purchaser of any existing or future right and/or remedy available by law.

### 3.26 DISPUTES AND REMEDIES

#### a. Problem resolution and disputes

Problems arising out of the performance of this Contract shall be resolved in a timely manner at the lowest possible level with authority to resolve such problem. If a problem persists and cannot be resolved, it may be escalated within each organization.

In the event a bona fide dispute concerning a question of fact arises between DES or the purchaser and Contractor and it cannot be resolved between the parties through the normal problem escalation processes, either party may initiate the dispute resolution procedure provided herein.. The dispute shall be handled by a Dispute Resolution Panel in the following manner. Each party to this Contract shall appoint one member to the Panel. These two appointed members shall jointly appoint an additional member. The Dispute Resolution Panel shall review the facts, Contract terms and applicable statutes and rules and make a determination of the dispute as quickly as reasonably possible. The determination of the Dispute Resolution Panel shall be final and binding on the parties

hereto. DES and/or purchaser and Contractor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this Contract that are not affected by the dispute.

In the event a bona fide dispute concerning a question of fact arises between DES or the purchaser and Contractor and it cannot be resolved between the parties through the normal escalation processes, either party may initiate the dispute resolution procedure provided herein.

The initiating party shall reduce its description of the dispute to writing and deliver it to the responding party. The responding party shall respond in writing within three business days. The initiating party shall have three business days to review the bid. If after this review a resolution cannot be reached, both parties shall have three business days to negotiate in good faith to resolve the dispute.

If the dispute cannot be resolved after three business days, a Dispute Resolution Panel may be requested in writing by either party who shall also identify the first panel member. Within three business days of receiving the request, the other party will designate a panel member. Those two panel members will appoint a third individual to the Dispute Resolution Panel within the next three business days.

The Dispute Resolution Panel will review the written descriptions of the dispute, gather additional information as needed, and render a decision on the dispute in the shortest practical time.

Each party shall bear the cost for its panel member and share equally the cost of the third panel member.

Both parties agree to be bound by the determination of the Dispute Resolution Panel.

Both parties agree to exercise good faith in dispute resolution and to settle disputes prior to using a Dispute Resolution Panel whenever possible.

DES, the purchaser and Contractor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this Contract that are not affected by the dispute.

If the subject of the dispute is the amount due and payable by purchaser for materials, supplies, services and/or equipment being provided by Contractor, Contractor shall continue providing materials, supplies, services and/or equipment pending resolution of the dispute provided purchaser pays Contractor the amount purchaser, in good faith, believes is due and payable, and places in escrow the difference between such amount and the amount Contractor, in good faith, believes is due and payable.

**b. Administrative suspension**

When it is in the best interest of the state, DES may at any time, and without cause, suspend the Contract or any portion thereof for a period of not more than 30 calendar days per event by written notice from DES to the Contractor's Representative. Contractor shall resume performance on the next business day following the 30th day of suspension unless an earlier resumption date is specified in the notice of suspension. If no resumption date was specified in the notice of suspension, the Contractor can be demanded and required to resume performance within the 30-day suspension period by DES providing the Contractor's Representative with written notice of such demand.

**c. Force majeure**

The term “force majeure” means an occurrence that is beyond the control of the party affected and could not have been avoided by exercising reasonable diligence. Force majeure shall include acts of war, riots, strikes, fire, floods, windstorms, epidemics or other similar occurrences.

**Exceptions:** Except for payment of sums due, neither party shall be liable to the other or deemed in breach under this Contract if, and to the extent that, such party's performance of this Contract is prevented by reason of force majeure.

**Notification:** If either party is delayed by force majeure, said party shall provide written notification within 48 hours. The notification shall provide evidence of the force majeure to the satisfaction of the other party. Such delay shall cease as soon as practicable and written notification of same shall likewise be provided. So far as consistent with the Rights Reserved below, the time of completion shall be extended by Contract amendment for a period of time equal to the time that the results or effects of such delay prevented the delayed party from performing in accordance with this Contract.

**Rights reserved:** DES reserves the right to authorize an amendment to this Contract, terminate the Contract, and/or purchase materials, supplies, equipment and/or services from the best available source during the time of force majeure, and Contractor shall have no recourse against the state.

**d. Alternative dispute resolution fees and costs**

In the event that the parties engage in arbitration, mediation or any other alternative dispute resolution forum to resolve a dispute in lieu of litigation, both parties shall share equally in the cost of the alternative dispute resolution method, including cost of mediator or arbitrator. In addition, each party shall be responsible for its own attorneys' fees incurred as a result of the alternative dispute resolution method.

**e. Non-exclusive remedies**

The remedies provided for in this Contract shall not be exclusive but are in addition to all other remedies available under law.

**3.27 LIQUIDATED DAMAGES**

**a. Limitation of liability**

The parties agree that neither Contractor, DES nor purchaser shall be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages except a claim related to bodily injury or death, or a claim or demand based on patent, copyright, or other intellectual property right infringement, in which case liability shall be as set forth elsewhere in this Contract. This section does not modify any sections regarding liquidated damages or any other conditions as are elsewhere agreed to herein between the parties. The damages specified in the sections titled Termination for Default and Retention of Records are not consequential, incidental, indirect, or special damages as that term is used in this section.

The Contractor, DES and purchaser are not liable for damages arising from causes beyond their reasonable control and without their fault or negligence. Such causes may include, but are not restricted to, acts of the public enemy, acts of a governmental body other than DES or the purchaser acting in either its sovereign or Contractual capacity, war, explosions,

fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the delays must be beyond the reasonable control and without fault or negligence of the Contractor, DES or the purchaser, or their respective Subcontractors.

If delays are caused by a Subcontractor without its fault or negligence, Contractor shall not be liable for damages for such delays, unless the services to be performed were obtainable on comparable terms from other sources in sufficient time to permit Contractor to meet its required performance schedule.

Neither party shall be liable for personal injury to the other party or damage to the other party's property except personal injury or damage to property proximately caused by such party's respective fault or negligence.

**b. Federal funding**

In the event that a federally funded acquisition results from this procurement, the Contractor may be required to provide additional information (free of charge) at the request of DES or purchaser. Further, the Contractor may be subject to those federal requirements specific to the commodity.

**c. Federal restrictions on lobbying**

Contractor certifies that under the requirements of Lobbying Disclosure Act, 2 U.S.C., Section 1601 et seq., no federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal Contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal Contract, grant, loan, or cooperative agreement.

**3.28 DEBARMENT AND SUSPENSION**

Respondent certifies, by submitting this bid or proposal, that neither it nor its affiliates presently are debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this procurement/Contract by any government agency. Respondent also agrees to notify DES if its debarment status changes during the bid process or after receiving notice of Contract award, if any. If respondent cannot certify this statement, attach a written explanation to the bid response for review.

**3.29 CONTRACT TERMINATION**

**a. Material breach**

A Contractor may be terminated for cause by DES, at the sole discretion of DES, for failing to perform a Contractual requirement or for a material breach of any term or condition. Material breach of a term or condition of the Contract may include but is not limited to:

- Contractor failure to perform services or deliver materials, supplies, or equipment by the date required or by an alternate date as mutually agreed in a written amendment to the Contract;
- Contractor failure to carry out any warranty or fails to perform or comply with any mandatory provision of the Contract;

- Contractor becomes insolvent or in an unsound financial condition so as to endanger performance hereunder;
- Contractor becomes the subject of any proceeding under any law relating to bankruptcy, insolvency or reorganization, or relief from creditors and/or debtors that endangers the Contractor's proper performance hereunder;
- Appointment of any receiver, trustee, or similar official for Contractor or any of the Contractor's property and such appointment endangers the Contractor's proper performance hereunder;
- A determination that the Contractor is in violation of federal, state, or local laws or regulations and that such determination renders the Contractor unable to perform any aspect of the Contract.

**b. Opportunity to cure**

In the event that Contractor fails to perform a Contractual requirement or materially breaches any term or condition, DES may issue a written cure notice. The Contractor may have a period of time in which to cure. DES is not required to allow the Contractor to cure defects if the opportunity for cure is not feasible as determined solely within the discretion of DES. Time allowed for cure shall not diminish or eliminate Contractor's liability for liquidated or other damages, or otherwise affect any other remedies available against Contractor under the Contract or by law.

If the breach remains after Contractor has been provided the opportunity to cure, DES may do any one or more of the following:

- Exercise any remedy provided by law;
- Terminate this Contract and any related Contracts or portions thereof;
- Procure replacements and impose damages as set forth elsewhere in this Contract;
- Impose actual or liquidated damages;
- Suspend or bar Contractor from receiving future solicitations or other opportunities;
- Require Contractor to reimburse the state for any loss or additional expense incurred as a result of default or failure to satisfactorily perform the terms of the Contract.

**c. Termination for cause**

In the event DES, in its sole discretion, determines that the Contractor has failed to comply with the conditions of this Contract in a timely manner or is in material breach, DES has the right to suspend or terminate this Contract, in part or in whole. DES shall notify the Contractor in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days or as otherwise specified by DES, or if such corrective action is deemed by DES to be insufficient, the Contract may be terminated. DES reserves the right to suspend all or part of the Contract, withhold further payments, or prohibit the Contractor from incurring additional obligations of funds during investigation of the alleged breach and pending corrective action by the Contractor or a decision by DES to terminate the Contract.

In the event of termination, DES shall have the right to procure for all purchasers any replacement materials, supplies, services and/or equipment that are the subject of this Contract on the open market. In addition, the Contractor shall be liable for damages as

authorized by law including, but not limited to, any price difference between the original Contract and the replacement or cover Contract and all administrative costs directly related to the replacement Contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.

If it is determined that: (1) the Contractor was not in material breach; or (2) failure to perform was outside of Contractor's or its Subcontractor's control, fault or negligence, the termination shall be deemed to be a "termination for convenience." The rights and remedies of DES and/or the purchaser provided in this Contract are not exclusive and are in addition to any other rights and remedies provided by law.

**d. Termination for convenience**

Except as otherwise provided in this Contract, DES, at the sole discretion of DES, may terminate this Contract, in whole or in part by giving 60 calendar days or other appropriate time period written notice beginning on the second day after mailing to the Contractor. If this Contract is so terminated, purchasers shall be liable only for payment required under this Contract for properly authorized services rendered, or materials, supplies and/or equipment delivered to and accepted by the purchaser prior to the effective date of Contract termination. Neither DES nor the purchaser shall have any other obligation whatsoever to the Contractor for such termination. This Termination for Convenience clause may be invoked by DES when it is in the best interest of the State of Washington.

**e. Termination for withdrawal of authority**

In the event that DES and/or purchaser's authority to perform any of its duties is withdrawn, reduced, or limited in any way after the commencement of this Contract and prior to normal completion, DES may terminate this Contract, in whole or in part, by seven calendar days written notice, or other appropriate time period, to Contractor.

**f. Termination for non-allocation of funds**

If funds are not allocated to purchaser(s) to continue this Contract in any future period, DES may terminate this Contract with seven calendar days written notice, or other appropriate time period, to Contractor, or work with Contractor to arrive at a mutually acceptable resolution of the situation. Purchaser will not be obligated to pay any further charges for materials, supplies, services and/or equipment including the net remainder of agreed-to consecutive periodic payments remaining unpaid beyond the end of the then-current period. DES and/or purchaser agree to notify Contractor in writing of such non-allocation at the earliest possible time.

No penalty shall accrue to the purchaser in the event this section shall be exercised. This section shall not be construed to permit DES to terminate this Contract in order to acquire similar materials, supplies, services and/or equipment from a third party.

**g. Termination for conflict of interest**

DES may terminate this Contract by written notice to Contractor if it is determined, after due notice and examination, that any party to this Contract has violated [Chapter 42.52 RCW](#), Ethics in Public Service, or any other laws regarding ethics in public acquisitions and procurement and performance of Contracts. In the event this Contract is so terminated, DES and/or purchaser shall be entitled to pursue the same remedies against Contractor as it could pursue in the event that the Contractor breaches this Contract.

**h. Termination by mutual agreement**

DES and the Contractor may terminate this Contract in whole or in part, at any time, by mutual agreement.

**i. Termination procedure**

In addition to the procedures set forth below, if DES terminates this Contract, Contractor shall follow any procedures DES specifies in the termination notice.

Upon termination of this Contract and in addition to any other rights provided in this Contract, DES may require the Contractor to deliver to the purchaser any property specifically produced or acquired for the performance of such part of this Contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

The purchaser shall pay to the Contractor the agreed upon price, if separately stated, for completed work and service(s) Accepted by the purchaser, and the amount agreed upon by the Contractor and the purchaser for (i) completed materials, supplies, services rendered and/or equipment for which no separate price is stated, (ii) partially completed materials, supplies, services rendered and/or equipment, (iii) other materials, supplies, services rendered and/or equipment which are Accepted by the purchaser, and (iv) the protection and preservation of property, unless the termination is for cause, in which case DES and the purchaser shall determine the extent of the liability of the purchaser. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this Contract. The purchaser may withhold from any amounts due the Contractor such sum as DES and purchaser determine to be necessary to protect the purchaser against potential loss or liability.

The rights and remedies of DES and/or the purchaser provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

After receipt of a termination notice, and except as otherwise expressly directed in writing by DES, the Contractor shall:

- Stop all work, order fulfillment, shipments, and deliveries under the Contract on the date, and to the extent specified, in the notice;
- Place no further orders or Subcontracts for materials, services, supplies, equipment and/or facilities in relation to the Contract except as is necessary to complete or fulfill such portion of the Contract that is not terminated;
- Complete or fulfill such portion of the Contract that is not terminated in compliance with all Contractual requirements;
- Assign to the purchaser, in the manner, at the times, and to the extent directed by DES on behalf of the purchaser, all of the rights, title, and interest of the Contractor under the orders and Subcontracts so terminated, in which case the purchaser has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and Subcontracts.
- Settle all outstanding liabilities and all claims arising out of such termination of orders and Subcontracts, with the approval or ratification of DES and/or the purchaser to the extent DES and/or the purchaser may require, which approval or ratification shall be final for all the purposes of this clause;

- Transfer title to the purchaser and deliver in the manner, at the times, and to the extent directed by DES on behalf of the purchaser any property which, if the Contract had been completed, would have been required to be furnished to the purchaser;
- Take such action as may be necessary, or as DES and/or the purchaser may direct, for the protection and preservation of the property related to this Contract which is in the possession of the Contractor and in which DES and/or the purchaser has or may acquire an interest.

#### 4 COUNTERPARTS

This Contract may be executed in counterparts, in a single original, or duplicate originals. As applicable, each counterpart or each duplicate shall be deemed an original copy of this Contract signed by each party, for all purposes.








##### 4.1 SIGNATURE

***In Witness Whereof***, the parties hereto, having read this Contract in its entirety, including all attachments, do agree in each and every particular and have thus set their hands hereunto.

<b>APPROVED (DES)</b> WA State Department of Enterprise Services (See the Legal Notices subsection for address)	<b>APPROVED (CONTRACTOR)</b> Loomis Armored US, LLC (See the Legal Notices subsection for address)
Signature	Signature
Print or Type Name _____ Date _____	Print or Type Name _____ Date _____
Title	Title
<b>MANAGEMENT APPROVAL (DES)</b> WA State Department of Enterprise Services (See the Legal Notices subsection for address)	<div style="text-align: center;"> <b>SIGNATURE PAGE</b>             Loomis-signed.pdf       </div>
Signature	
Print or Type Name _____ Date _____	
Title	



## 5 EXHIBITS

Exhibit A – IFB 08115	 08115b.doc	 08115a1.doc	 08115a2.doc
Exhibit B – Mandatory Service Requirements	 ExhibitB MSR Loomis.doc		
Exhibit C – Special Terms and Conditions	 Exhibit C Loomis.doc		
Exhibit D – Pricing	 Exhibit D Pricing Loomis.pdf	 Exhibit D Pricing Loomis.xls	

**Master Contract 08115**  
**Armored Car and Courier Services**

Between:

**Loomis Armored US, LLC**

And

**Washington State Department of Enterprise Services**

Effective May 23, 2016

Amended May 1, 2017

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## **1 CONTRACT FORMATION**

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### **1.1 PARTIES**

This Master Contract ("Contract") is entered into by and between the Washington State Department of Enterprise Services, an agency of Washington state government (hereinafter "DES"), and Loomis Armored US, LLC (hereinafter "Contractor" licensed to conduct business in the state of Washington, (hereinafter "Contractor") for the purpose of providing Armored Car Services and Smart Safes.

### **1.2 RECITALS**

The state of Washington, acting by and through DES issued Invitation for Bid (IFB) number 08115 dated January 7, 2016 (Exhibit A) for the purpose of establishing a Master Contract which would enable Contractor to provide services for Armored and Unarmored Car Services in accordance with its authority under [RCW Chapter 39.26](#).

DES evaluated all properly submitted Responses to the above-referenced IFB and has identified Contractor as an Apparent Successful Bidder for Category 1 Armored Car Services and Category 3 Smart Safes.

DES has determined that entering into a Contract with Contractor will meet the state of Washington's needs and will be in its best interest.

NOW THEREFORE, DES awards to Contractor this Master Contract, the terms and conditions of which shall govern Contractor's competition for and provisioning of Armored Car Services in all Washington State Counties except San Juan County. Any Smart Safe Agreement must be on the Contractor's SafePoint Agreement due to the uniqueness of its services. The terms of the SafePoint Agreement will prevail.

This Master Contract neither financially binds the State nor otherwise obligates the State to purchase any products or Services hereunder. Nor does the Contract prevent the State from purchasing the same or similar products or Services from other sources, provided that, all legal acquisition requirements are satisfied.

IN CONSIDERATION of the mutual promises as hereinafter set forth, the parties agree as follows:

### **1.3 CONTRACT TERM**

The initial term of the Contract is one (1) year from effective date, with the option to extend for additional term(s) or portions thereof. Extensions will be exercised at the sole discretion of DES and upon written mutual agreement. The total Contract term, including the initial term and all extensions, will not exceed eight (8) years unless circumstances require a special extension. DES reserves the right to extend with all or some of the Contractors.

### **1.4 MANDATORY SERVICE REQUIREMENTS**

The Contractor shall furnish the necessary personnel, equipment, material and/or services and otherwise do all things necessary for or incidental to the performance of work set forth in the Mandatory Service Requirements, [Exhibit B](#).

### **1.5 SPECIAL TERMS AND CONDITIONS**

The Contractor shall furnish the necessary personnel, equipment, material and/or services and otherwise do all things necessary for or incidental to the performance of work set forth [Exhibit C](#) Special Terms and Conditions.

Non-Permitted Purchasers: The parties agree that no Purchasers who receive marijuana-related funds (Non-Permitted Purchasers) shall be added to this Contract.

## **1.6 PRICING**

The contract prices reflected in Exhibit D are the maximum prices the contractor may charge.

## **1.7 SECTION HEADINGS, INCORPORATED DOCUMENTS AND ORDER OF PRECEDENCE**

The headings used herein are inserted for convenience only and shall not control or affect the meaning or construction of any of the sections.

Each of the documents listed below is, by this reference, incorporated into this Master Contract as though fully set forth herein:

- a. Appendix B Price Sheet
- b. Appendix C-Mandatory Service Requirements
- c. Appendix E- Special Terms and Conditions
- d. Appendix F-Bidder Profile
- e. IFB No. 08115
- f. Contractor's Response to the IFB No. 08115
- g. All Contractor or manufacturer publications, written materials and schedules, charts, diagrams, tables, descriptions, other written representations and any other supporting materials Contractor made available to DES or Purchaser and used to affect the sale of Services to Purchaser.
- h. Award letter (if any)

In the event of a conflict in such terms, or between the terms and any applicable statute or rule, the inconsistency will be resolved by giving precedence in the following order:

- a. Applicable federal and state of Washington statutes and regulations
- b. Mutually agreed written amendments to the resulting Contract
- c. The Contract, including all documents incorporated in the subsection immediately above.

## **1.8 CONFLICT AND CONFORMITY**

Conflict: To the extent possible, the terms of the contract must be read consistently.

Conformity: If any provision of the contract violates any federal or state of Washington statute or rule of law, it is considered modified to conform to that statute or rule of law.

## **1.9 AUTHORITY TO BIND**

The signatories to this Contract represent that they have the authority to bind their respective organizations to this Contract.

## **1.10 COUNTERPARTS**

This Contract may be executed in counterparts or in duplicate originals. Each counterpart or each duplicate will be deemed an original copy of this Contract signed by each party, for all purposes.

## **1.11 CHANGES**

DES reserves the right to modify the resulting Contract (including but not limited to adding or deleting products/services) by mutual agreement between DES and the Contractor. Alterations to any of the terms, conditions or requirements of this Contract will only be effective upon written issuance of a mutually-agreed Contract amendment by DES. Changes to point-of-contact information may be updated without the issuance of a mutually accepted Contract amendment.

## **1.12 PRICE ADJUSTMENTS**

Firm and fixed period: Pricing will remain firm and fixed for one year from date of award of the contract.

Price protection: The contract prices are the maximum prices the contractor may charge.

If lower pricing for similar quantities becomes effective for the contractor, purchasers must be given immediate benefit of such lower pricing. The contractor may also offer volume and promotional discounts.

Price increases: The contractor may propose price increases on an annual basis by written notice to the Contract Administrator. Price increases are to be on a pass-through basis only and must not produce a higher profit margin for the contractor than that established by original contract pricing. Requests must include supporting documentation such as price increases at the manufacturer's level and/or other documentation of cost increases.

Consideration of price increases will be at the sole discretion of the Contract Administrator. If a price increase is approved in part or in full, the resulting new contract pricing will be implemented through a contract amendment.

Contract extensions and price adjustments: Contractors may not make contract extensions contingent on price adjustments.

## **1.13 MISCELLANEOUS EXPENSES**

Expenses related to day-to-day Contract performance (including but not limited to travel, lodging, meals, and incidentals) will not be reimbursed to the Contractor. However, DES recognizes that there may be occasions when the purchaser requires the bidder to travel. In such cases the purchaser must provide written pre-approval of such expenses on a case-by-case basis. Any such reimbursement will be at rates not to exceed the guidelines for state employees published by the Washington State Office of Financial Management set forth in the [Washington State Administrative & Accounting Manual](#), and not to exceed expenses actually incurred.

## 2 STANDARD DEFINITIONS

This section contains definitions of terms commonly used in solicitations conducted by the State of Washington, Department of Enterprise Services. Additional definitions may also be found in [Chapter 39.26 RCW](#). All terms contained herein will be read consistently with those definitions.

<b>Agency</b>	State of Washington institutions, the offices of the elective state officers, the Supreme Court, the court of appeals, the administrative and other departments of state government, and the offices of all appointive officers of the state. "Agency" does not include the legislature but does include colleges, community colleges and universities who choose to participate in state Contract(s).
<b>Amendment</b>	<p>A change to a legal document.</p> <p>Solicitation: For the purposes of a solicitation document, an amendment shall be a unilateral change issued by DES, at its sole discretion.</p> <p>Contract: An agreement between the parties to change the Contract after it is fully signed by both parties. Such agreement shall be memorialized in a written document describing the agreed-upon change including any terms and conditions required to support such change. An Order Document shall not constitute an amendment to a Contract.</p>
<b>Authorized representative</b>	An individual designated by the bidder or Contractor to act on its behalf and with the authority to legally bind the bidder or Contractor.
<b>Authorized signatory</b>	An individual with the authority to legally bind the bidder or Contractor concerning the terms and conditions set forth in solicitation, response and Contract documents.
<b>Business days</b>	Monday through Friday, 8 a.m. to 5 p.m., Pacific Time, except for holidays observed by the State of Washington.
<b>Calendar days</b>	Consecutive days of the year including weekends and holidays, each of which commence at 12:00:01 a.m. and end at Midnight, Pacific Time. When "days" are not specified, Calendar Days shall prevail.
<b>Contract</b>	An agreement, or mutual assent, between two or more competent parties with the elements of the agreement being offer, acceptance, and consideration.
<b>Contract administrator</b>	The individual authorized by DES who is responsible for administration of a Contract.
<b>Contractor</b>	Individual, company, corporation, firm, or combination thereof with whom DES develops a Contract for the procurement of materials, supplies, services, and/or equipment. It shall also include any Subcontractor retained

	by Contractor as permitted under the terms of the Contract.
<b>Department of Enterprise Services (DES)</b>	An agency serving state government and the citizens of Washington.
<b>Estimated useful life</b>	The estimated time from the date of acquisition to the date of replacement or disposal, determined in any reasonable manner.
<b>Inspection</b>	An examination of delivered material, supplies, services, and/or equipment prior to Acceptance aimed at forming a judgment as to whether such delivered items are what was ordered, were properly delivered and ready for Acceptance. Inspection may include a high level visual examination or a more thorough detailed examination as is customary to the type of purchase, as set forth in the solicitation document and/or as agreed between the parties. Inspection shall be acknowledged by an authorized signature of the purchaser.
<b>Lead time/After Receipt Of Order (ARO)</b>	The period of time between when the Contractor receives the order and the purchaser receives the materials, supplies, equipment, or services order.
<b>Lifecycle cost</b>	The total cost of an item to the state over its Estimated Useful Life, including costs of selection, acquisition, operation, maintenance, and where applicable, disposal, as far as these costs can reasonably be determined, minus the salvage value at the end of its estimated useful life.
<b>Contracts, Purchasing and Risk Management (CPRM)</b>	A unit of the Contracts and Legal Services Division of DES authorized under Chapter 39.26 RCW to develop and administer Contracts for goods and services on behalf of state agencies, colleges and universities, nonprofit organizations and local governments.
<b>Order document</b>	A written communication, submitted by a purchaser to the Contractor, which details the specific requirements of the purchaser within the scope of the Contract, such as delivery date, size, color, capacity, etc. An order document must be agreed to and signed by both parties and may include, but is not limited to field orders, purchase orders, work order or other writings as may be designated by the parties hereto. Additional or alternate terms and conditions are allowed as agreed upon by the Purchaser and Contractor.
<b>Original Equipment Manufacturer (OEM)</b>	A supply management term for the purchase of parts and material directly from the manufacturer of the equipment or from an authorized reseller. For example, Ford automotive replacement parts would be purchased from an authorized Ford reseller.
<b>Procurement Coordinator</b>	The individual authorized by DES who is responsible for conducting a specific solicitation.



<b>Product</b>	Materials, supplies, services, and/or equipment provided under the terms and conditions of this Contract.
<b>Purchaser</b>	The authorized user of the Contract, as identified in the solicitation, who may or actually does make purchases of material, supplies, services, and/or equipment under the resulting Contract.
<b>State</b>	The State of Washington acting by and through DES.
<b>State Contract</b>	<p>The written document memorializing the agreement between the successful bidder and DES for materials, supplies, services, and/or equipment, administered by the Master Contracts and Consulting Unit on behalf of the State of Washington.</p> <p>“State Contract” does not include the following:</p> <ul style="list-style-type: none"> <li>– Colleges and universities that choose to purchase under <a href="#">RCW 28B.10.029</a></li> <li>– Purchases made in accordance with state purchasing policy;</li> <li>– Purchases made pursuant to authority granted or delegated under <a href="#">RCW 39.26</a></li> <li>– Purchases authorized as an emergency purchase under <a href="#">RCW 39.26</a>; or</li> <li>– Purchases made pursuant to other statutes granting the agency authority to independently conduct purchases of materials, supplies, services, or equipment.</li> </ul>
<b>Subcontractor</b>	A person or business that is, or will be, providing or performing an essential aspect of the Contract under the direction and responsibility of the Contractor and with the agreement of DES.
<b>Term Contract</b>	A state Contract that extends beyond a single purchase and may be available to multiple purchasers.
<b>Vendor</b>	A provider of materials, supplies, services, and/or equipment.
<b>Washington’s Electronic Business Solution (WEBS)</b>	The vendor registration and bidder notification system maintained by the Washington State Department of Enterprise Services located at: <a href="http://www.ga.wa.gov/webs">www.ga.wa.gov/webs</a> .

### **3 STANDARD TERMS & CONDITIONS**

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#### **3.1 CONTRACT MODIFICATIONS**

DES reserves the right to modify the resulting Contract (including but not limited to adding or deleting products, services, or delivery locations) by mutual agreement between DES and the Contractor, so long as such modification is substantially within the scope of the original Contract. Such modifications will be memorialized in a signed written document describing the agreed upon change including any terms and conditions required to support such change.

#### **3.2 CONTRACT ADMINISTRATION**

DES will appoint a single point of contact that will be the Contract Administrator for this Contract and will provide Contract oversight. The Contract Administrator will be the principal contact for the Contractor for business activities under this Contract. DES will notify Contractor, in writing, when there is a new Contract Administrator assigned to this Contract.

#### **3.3 CONTRACTOR SUPERVISION AND COORDINATION**

Contractor shall:

- a. Competently and efficiently supervise and coordinate the implementation and completion of all Contract requirements specified herein.
- b. Identify the Contractor's Authorized Representative, who will be the principal point of contact for DES concerning Contractor's performance under this Contract.
- c. Immediately notify the Contract Administrator in writing of any change to the designated Authorized Representative assigned to this Contract.
- d. Be bound by all written communications given to or received from the Contractor's Authorized Representative.

Violation of any provision of this section may be considered a material breach establishing grounds for Contract termination.

#### **3.4 POST-AWARD CONFERENCE**

The Contractor may be required to attend a post-award conference scheduled by the Procurement Coordinator and/or the Contract administrator to discuss Contract performance requirements. The time and place of this conference will be scheduled following Contract award.

#### **3.5 CONTRACT MANAGEMENT**

Upon award this Contract, the Contractor shall:

- a. Review the impact of the award and take the necessary steps needed to ensure that Contractual obligations will be fulfilled.
- b. Promote and market the use of this Contract to all authorized Contract purchasers.
- c. Ensure that those who endeavor to utilize this Contract are authorized purchasers under this Contract.
- d. At no additional charge, assist purchasers in making the most cost effective, value based purchases which may include, but is not limited to:

- Having representatives available to provide information regarding products and services, including visiting the purchaser site if needed, and providing purchaser with materials/supplies/equipment recommendations.
- Providing purchasers with a detailed list of Contract items including current Contract pricing and part numbers.

The Contractor shall designate a customer service representative who will be responsible for addressing purchaser issues including, but not limited to:

- Logging requests for service, ensuring repairs are completed in a timely manner, dispatching service technicians and processing warranty claim documentation.
- Providing purchasers with regular and timely status updates in the event of a delay in repair or order fulfillment.
- Acting as the lead and liaison between the manufacturer and purchaser in resolving warranty claims for Contract items purchased.

### **3.6 CHANGES**

Alterations to any of the terms, conditions, or requirements of this Contract shall only be effective upon written issuance of a mutually agreed Contract amendment by DES. However, changes to point of contact information may be updated without the issuance of a mutually agreed Contract amendment.

### **3.7 STATEWIDE PAYEE DESK**

Contractors must register with the Statewide Payee Desk, maintained by DES, in order to be paid for Contract sales. Washington state agencies cannot make payments to a Contractor until it is registered. Registration materials are available here: [Receiving Payment from the State](#).

### **3.8 MANAGEMENT FEE**

Contractor will pay a management fee of 0.74 percent to DES on all state Contract sales/purchase price for work orders. The purchase price is defined as total invoice price less sales tax.

The management fee must be rolled into the Contractor's current pricing; the fee must not be shown as a separate line item on an invoice unless specifically requested and approved by DES.

How to determine the fee:  $\text{Total sales} \times .0074 = \text{management fee}$ .

DES may increase, reduce or eliminate the management fee, and reserves the right to negotiate Contract pricing with the Contractor when adjustment of the management fee might justify an increase in pricing. Written notifications of the management fee by DES become effective for new purchases or new change orders to existing purchases 30 calendar days after notification unless DES grants additional time.

The state reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced and all management fees have been paid. Failure to accurately report total net sales, to submit a timely usage report, or remit timely payment of the management fee, may be cause for Contract termination, the charging of interest or penalties, or the exercise of other remedies provided by law.

The management fee does not include or supersede fee terms owed to other entities such as the NASPO Valuepoint Purchasing Group or governmental entities other than the state of Washington.

DES will invoice the Contractor every quarter based on sales reported by Contractor. Contractors are not to remit payment until they receive an invoice from DES.

Management fee payment must reference the Contract number, work request number (if applicable), the year and quarter for which the management fee is being remitted, and the Contractor's name as it is known to DES, if not already included on the face of the check.

### **3.9 CONTRACT SALES REPORT**

The management fee will be based on total Contract sales, which must be reported quarterly by the Contractor in the [Contract Sales Reporting System](#). DES will provide a login password and a required vendor number.

"Zero" sales: Contractor is required to report "zero" sales even if no sales occurred during the reporting period.

The report shall identify:

- A. Purchasers who have been invoiced for work orders awarded through this Contract;
- B. Amounts invoiced for each purchaser during the reporting period

Reports must be submitted electronically within thirty (30) days after the end of the calendar quarter, i.e., no later than April 30, July 31, October 31 and January 31.

A further description of the sales reporting requirement and the management fee based upon it can be found in sections 3.8 and 3.9 of Appendix, [Master Contract Terms and Conditions](#).

### **3.10 OTHER REQUIRED REPORTS**

DES may require the Contractor to provide a detailed annual Contract sales history report. This report, if requested, will include at a minimum, but is not limited to: product description, part number or other product identifier, per unit quantities sold, and Contract price. This report must be provided to DES in an electronic format that can be read by MS Excel. Unless the solicitation specifies otherwise, all other required reports will be designed and approved by the parties by mutual agreement.

### **3.11 COMMON VENDOR-REGISTRATION AND BID-NOTIFICATION SYSTEM**

Contractor shall be registered in Washington's Electronic Business Solution (WEBS), the state's common vendor registration and bid notification system ([www.ga.wa.gov/webs](http://www.ga.wa.gov/webs)). Contractors already registered need not re-register. It is the sole responsibility of Contractor to properly register and maintain an accurate vendor profile.

### **3.12 CONTRACTOR QUALIFICATIONS AND REQUIREMENTS**

DES reserves the right to require receipt of proof of compliance with any of the requirements in this section within 10 calendar days from the date of request, and to terminate this Contract as a material breach for noncompliance with any requirement of this paragraph. Contractor shall maintain compliance with these requirements throughout the life of this Contract.

#### **a. Qualified and established business**

Prior to performance, or prior to that time if required by DES, law or regulation, Contractor must be an established business with all required licenses, fees, bonding, facilities, equipment, and trained personnel necessary to meet all requirements and perform the work as specified in the solicitation.

#### **b. Authorized Service Provider and Product Reseller certifications**

Upon request, Contractor must provide evidence of its status as an authorized service provider or product reseller. Contractor shall maintain its authorized service provider or product reseller status for the initial term and any extensions of the resulting Contract. If this status is discontinued, this Contract may be terminated.

**c. Personnel substitutions**

If at Contract award or any time thereafter, any named individual specifically identified in the response to work on this engagement is not available, DES reserves the right to approve or reject any personnel substitutions.

**d. Use of Subcontractors**

Prior to performance, Contractor shall identify all Subcontractors who will perform services in fulfillment of Contract requirements. Additionally Contractor may be required to identify contact information as well as federal tax identification number (TIN), and anticipated dollar value of each subcontract.

DES reserves the right to approve or reject any and all Subcontractors that identified by the Contractor. Any Subcontractors not listed in the bidder's response, who are engaged by the Contractor, must be pre-approved, in writing, by DES.

Contractor agrees to be responsible for all actions of any Subcontractors in the performance of this Contract. The Contractor shall be responsible to ensure that all requirements of the Contract shall flow down to any and all Subcontractors. In no event shall the existence of a subcontract operate to release or reduce the liability of Contractor to the state for any breach in the performance of the Contractor's duties.

**e. Assignment**

Contractor shall not assign or otherwise transfer its obligations or any claim arising under this Contract without the prior written consent of DES. Such consent will not be unreasonably withheld. Contractor shall provide a minimum of 30 calendar days advance notification of intent to assign or otherwise transfer its obligations under this Contract. Violation of this provision may be considered a material breach and be grounds for Contract termination. Assignment or transfer of Contract shall not relieve the Contractor from its responsibilities and obligations under the Contract.

**f. Contractor authority and infringement**

Under this Contract, Contractor is authorized to sell only those materials, supplies, services and/or equipment as stated herein and allowed for by the Contract provisions. Contractor shall not misrepresent to purchasers that they have the Contract authority to sell any other materials, supplies, services and/or equipment. Further, Contractor may not intentionally infringe on other established state Contracts.

**g. Hours of labor**

In compliance with RCW [49.28](#), Contractor agrees that no worker, laborer, or mechanic in the employ of the Contractor or Subcontractor shall be permitted or required to work more than eight (8) hours in any one calendar day, or forty (40) hours in any one calendar week. However, in cases of extraordinary emergency such as danger to life or property, the hours of work may be extended but in such cases the rate of pay for time employed in excess of the above shall be at the prevailing overtime rate of pay. Except, Contracts will not require the payment of overtime rates for the first two hours worked in excess of eight (8) hours

per day when the employer has obtained the employee's agreement (as defined in WAC [296-127-022](#)) to work a four-day, ten-hour work week.

**h. Materials and workmanship**

The Contractor is required to furnish all materials, supplies, equipment and/or services necessary to perform Contractual requirements. Materials, supplies, equipment and/or services used in the performance of this Contract shall conform to all applicable federal, state, and local codes, regulations and requirements for such equipment, specifications contained herein, and the normal uses for which intended. Materials, supplies, and equipment shall be manufactured in accordance with the best commercial practices and standards for this type of materials, supplies, and equipment.

**i. Intentionally Omitted.**

**a. Site security:**

While on purchaser's premises, Contractor, its agents, employees, or Subcontractors shall conform in all respects with physical, fire, or other security regulations.

**3.13 TREATMENT OF ASSETS**

Title to all property furnished by DES and/or purchaser shall remain with DES and/or purchaser, as applicable. Any property of DES and/or purchaser furnished to the Contractor shall, unless otherwise provided herein or approved by DES and/or purchaser, be used only for the performance of this Contract.

The Contractor shall be responsible for damages as a result of any loss or damage to property of DES and/or purchaser which results from the negligence of the Contractor or which results from the failure on the part of the Contractor to maintain, administer and protect that property in a reasonable manner and to the extent practicable in all instances.

If any DES and/or purchaser property is lost, destroyed, or damaged, the Contractor shall immediately notify DES and/or purchaser and shall take all reasonable steps to protect the property from further damage.

The Contractor shall surrender to DES and/or purchaser all property of DES and/or purchaser prior to settlement upon completion, termination, or cancellation of this Contract.

Title to all property furnished by the Contractor, the cost for which the Contractor is entitled to be reimbursed as a direct item of cost under this Contract, shall pass to and vests in the purchaser upon delivery of such property by the Contractor and Acceptance by the purchaser. Title to other property, the cost of which is reimbursable to the Contractor under this Contract, shall pass to and vest in the purchaser upon (i) issuance for use of such property in the performance of this Contract, or (ii) commencement of use of such property in the performance of this Contract, or (iii) reimbursement of the cost thereof by the purchaser in whole or in part, whichever first occurs.

All reference to the Contractor under this clause shall also include Contractor's employees, agents or Subcontractors.

**3.14 STANDARD OF QUALITY/CONSISTENCY OVER TERM OF CONTRACT**

If, in the sole judgment of DES or the purchaser, any product is determined not to be equal, the purchaser may take any or all of the following actions:

- a. The Product may be returned at Contractor's expense and the purchaser reimbursed for any payments.
- b. The Contract may be terminated without any liability to the state of Washington or purchaser.

### 3.15 PAYMENT

**a. Advance payment prohibited:**

No advance payment shall be made for the products and Services furnished by Contractor under this Contract.

Notwithstanding the above, maintenance payments, if any, may be made on a quarterly basis at the beginning of each quarter.

**b. Payment:**

Payment is the sole responsibility of, and will be made by, the purchaser.

Under [Chapter 39.76 RCW](#) , if purchaser fails to make timely payment(s), Contractor may invoice for 1 percent per month on the amount overdue or a minimum of \$1. Payment will not be considered late if a check or warrant is mailed within the time specified. If no terms are specified otherwise in the solicitation, net 30 days will automatically apply.

Payment(s) made in accordance with Contract terms shall fully compensate the Contractor for all risk, loss, damages or expense of whatever nature and acceptance of payment shall constitute a waiver of all claims submitted by Contractor.

Payment for materials, supplies and/or equipment received and for services rendered shall be made by purchaser and be redeemable in U.S. dollars. Unless otherwise specified, the purchaser's sole responsibility shall be to issue this payment. Any bank or transaction fees or similar costs associated with currency exchange procedures or the use of purchasing/credit cards shall be fully assumed by the Contractor.

Note: when the state has been overcharged or otherwise reimbursed, the purchaser may elect to have either direct payments or written credit memos issued. If the Contractor fails to make timely payment(s) or issuance of credit memos, the purchaser may impose a 1% per month on the amount overdue 30 days after notice to the Contractor.

**c. Invoicing and discounts**

Contractor must provide a properly completed invoice to purchaser. All invoices are to be delivered to the address indicated in the purchase order.

Each invoice must be identified by the associated Contract number; the Contractor's statewide vendor registration number assigned by the Washington State Office of Financial Management (OFM), the applicable purchaser's order number, and must be in U.S. dollars. Statewide vendor registration numbers may be accessed here:

<http://www.des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/VL.aspx>. Invoices must be prominently annotated by the Contractor with all applicable prompt payment and/or volume discount(s) and shipping charges unless otherwise specified in the solicitation.

Invoices for payment will accurately reflect all discounts due the purchaser. Invoices will not be processed for payment, nor will the period of prompt payment discount commence, until receipt of a properly completed invoice denominated in U.S. dollars and until all

invoiced items are received and satisfactory performance of Contractor has been accepted by the purchaser. If an adjustment in payment is necessary due to damage or dispute, any prompt payment discount period shall commence on the date final approval for payment is authorized.

### **3.16 TAXES, FEES AND LICENSES**

#### **a. Taxes**

Where required by statute or regulation, the Contractor shall pay for and maintain in current status all taxes that are necessary for Contract performance. Unless otherwise indicated, the purchaser agrees to pay State of Washington taxes on all applicable materials, supplies, services and/or equipment purchased. No charge by the Contractor shall be made for federal excise taxes and the purchaser agrees to furnish Contractor with an exemption certificate where appropriate.

#### **b. Collection of retail sales and use taxes**

In general, Contractors engaged in retail sales activities within the State of Washington are required to collect and remit sales tax to Department of Revenue (DOR). In general, out-of-state Contractors must collect and remit "use tax" to Department of Revenue if the activity carried on by the seller in the State of Washington is significantly associated with Contractor's ability to establish or maintain a market for its products in Washington. Examples of such activity include where the Contractor either directly or by an agent or other representative:

- Maintains an in-state office, distribution house, sales house, warehouse, service enterprise, or any other in-state place of business;
- Maintains an in-state inventory or stock of goods for sale;
- Regularly solicits orders from purchasers located within the State of Washington via sales representatives entering the State of Washington;
- Sends other staff into the State of Washington (e.g. product safety engineers, etc.) to interact with purchasers in an attempt to establish or maintain market(s); or
- Other factors identified in [WAC 458-20](#).

#### **c. Department of Revenue registration for out-of-state Contractors**

Out-of-state Contractors meeting any of the above criteria must register and establish an account with the Department of Revenue. Refer to [WAC 458-20-193](#), and call the Department of Revenue at 800-647-7706 for additional information. When out-of-state Contractors are not required to collect and remit "use tax," purchasers located in the State of Washington are responsible for paying this tax, if applicable, directly to the Department of Revenue.

#### **d. Fees/Licenses**

After award of Contract, and prior to commencing performance under the Contract, the Contractor shall pay for and maintain in a current status any licenses, fees, assessments, permit charges, etc., which are necessary for Contract performance. It is the Contractor's sole responsibility to maintain licenses and to monitor and determine any changes or the enactment of any subsequent regulations for said fees, assessments, or charges and to



immediately comply with said changes or regulations during the entire term of this Contract.

**e. Customs/Brokerage Fees**

Contractor shall take all necessary actions, including, but not limited to, paying all customs, duties, brokerage, and/or import fees, to ensure that materials, supplies, and/or equipment purchased under the Contract are expedited through customs. Failure to do so may subject Contractor to liquidated damages as identified herein and/or to other remedies available by law or Contract. Neither DES nor the purchaser will incur additional costs related to Contractor's payment of such fees.

**f. Taxes on invoice**

Contractor shall calculate and enter the appropriate state and local sales tax on all invoices. Tax is to be computed on new items after deduction of any trade-in in accordance with [WAC 458-20-247](#).

**g. Minority and Women's Business Enterprise (MWBE) participation**

Annually, the state may request that Contractor provide information of MWBE participation in this Contract through its certification as MWBE or that of its subcontractors and by providing a high-level account of amounts paid.

**h. Overpayments to Contractor**

Contractor shall refund to purchaser the full amount of any erroneous payment or overpayment under this Contract within 30 days' written notice. If Contractor fails to make timely refund, purchaser may charge Contractor 1 percent per month on the amount due, until paid in full.

**i. Audits**

The state reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced. Repetitive instances of incorrect invoicing may be considered complete cause for Contract termination.

**3.17 QUALITY ASSURANCE**

**a. Right of inspection**

Contractor shall provide right of access to its facilities to DES, or any of DES's officers, or to any other authorized agent or official of the State of Washington or the federal government, with advanced notice and as agreed upon by Contractor, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Contract.

**b. Contractor commitments, warranties and representations**

Any written commitment by Contractor within the scope of this Contract shall be binding upon Contractor. Failure of Contractor to fulfill such a commitment may constitute breach and shall render Contractor liable for damages under the terms of this Contract. For purposes of this section, a commitment by Contractor includes: (i) Prices, discounts, and options committed to remain in force over a specified period of time; and (ii) any warranty or representation made by Contractor in its bid or contained in any Contractor or manufacturer publications, written materials, schedules, charts, diagrams, tables,

descriptions, other written representations, and any other communication medium accompanying or referred to in its bid or used to effect the sale to purchaser.

**c. Warranties**

Contractor warrants that all materials, supplies, services and/or equipment provided under this Contract shall be fit for the purpose(s) for which intended, for merchantability, and shall conform to the requirements and specifications herein. Acceptance of any materials, supplies, service and/or equipment, and inspection incidental thereto, by the purchaser shall not alter or affect the obligations of the Contractor or the rights of the purchaser.

**d. Cost of remedy**

Cost of remedying defects: All defects, indirect and consequential costs of correcting, removing or replacing any or all of the defective materials or equipment will be charged against the Contractor.

### **3.18 INFORMATION AND COMMUNICATIONS**

**a. Advertising**

Contractor shall not publish or use any information concerning this Contract in any format or media for advertising or publicity without prior written consent from DES.

**b. Retention of records**

The Contractor shall maintain all books, records, documents, data and other evidence relating to this Contract and the provision of materials, supplies, services and/or equipment 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 Contract. Contractor 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 Contract, shall be subject at all reasonable times to inspection, review, or audit by DES, personnel duly authorized by DES, the Washington State Auditor's Office, 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 final resolution of all litigation, claims, or audit findings involving the records.

**c. Proprietary or confidential information**

To the extent consistent with [Chapter 42.56 RCW](#), the Public Disclosure Act, DES shall maintain the confidentiality of Contractor's information marked confidential or proprietary. If a request is made to view Contractor's proprietary information, DES will notify Contractor of the request and of the date that the records will be released to the requester unless Contractor obtains a court order enjoining that disclosure. If Contractor fails to obtain the court order enjoining disclosure, DES will release the requested information on the date specified.

The state's sole responsibility shall be limited to maintaining the above data in a secure area and to notify Contractor of any request(s) for disclosure for so long as DES retains Contractor's information in DES records. Failure to so label such materials or failure to timely respond after notice of request for public disclosure has been given shall be deemed a waiver by Contractor of any claim that such materials are exempt from disclosure.

**d. Non-endorsement and publicity**

Neither DES nor the purchasers are endorsing the Contractor's products or Services, nor suggesting that they are the best or only solution to their needs. Contractor agrees to make no reference to DES, any purchaser or the State of Washington in any literature, promotional material, brochures, sales presentation or the like, regardless of method of distribution, without the prior review and express written consent of DES.

**3.19 GENERAL TERMS AND CONDITIONS****a. Governing law and venue**

This Contract shall be construed and interpreted in accordance with the laws of the State of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

**b. Severability**

Severability: If any provision of this Contract or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Contract that can be given effect without the invalid provision, and to this end the provisions of this Contract are declared to be severable.

**c. Survivorship**

All transactions executed for products and Services provided pursuant to the authority of this Contract shall be bound by all of the terms, conditions, Prices and Price discounts set forth herein, notwithstanding the expiration of the initial term of this Contract or any extension thereof. Further, the terms, conditions and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Contract shall so survive. In addition, the terms of the sections titled Overpayments to Contractor; Ownership/Rights in Data; Contractor's Commitments, Warranties and Representations; Protection of purchaser's Confidential Information; Section Headings, Publicity; Retention of Records; Patent and Copyright Indemnification; Contractor's Proprietary Information; Disputes; and Limitation of Liability shall survive the termination of this Contract.

**d. Independent status of Contractor**

In the performance of this Contract, the parties will be acting in their individual, corporate or governmental capacities and not as agents, employees, partners, joint ventures, or associates of one another. The parties intend that an independent Contractor relationship will be created by this Contract. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever. Contractor shall not make any claim of right, privilege or benefit which would accrue to an employee under [Chapter 41.06 RCW](#), or [Title 51 RCW](#).

**e. Gifts and gratuities**

Contractor shall comply with all state laws regarding gifts and gratuities, including but not limited to: [RCW 39.26](#), [RCW 42.52.150](#), [RCW 42.52.160](#), and [RCW 42.52.170](#) under which it is unlawful for any person to directly or indirectly offer, give or accept gifts, gratuities, loans, trips, favors, special discounts, services, or anything of economic value in conjunction with state business or Contract activities.

Under [RCW 39.26](#) and the Ethics in Public Service Law, [Chapter 42.52 RCW](#), state officers and employees are prohibited from receiving, accepting, taking or seeking gifts (except as permitted by [RCW 42.52.150](#)) if the officer or employee participates in Contractual matters relating to the purchase of goods or services.

**f. Immunity and hold harmless**

To the fullest extent permitted by law, each party shall indemnify, defend and hold harmless state, agencies of state and all officials, agents and employees of state (the "Indemnified Parties"), from and against all claims for bodily injury, death or damage to property arising out of or resulting from a negligent or wrongful act or omission on the part of the indemnifying party or a material breach of this Contract by the indemnifying party. Contractor's obligation to indemnify, defend, and hold harmless includes any claim by Contractor's agents, employees, representatives, or any Subcontractor or its employees.

Contractor waives its immunity under Title 51 to the extent it is required to indemnify, defend and hold harmless state and its agencies, officials, agents or employees.

**g. Personal liability**

It is agreed by and between the parties hereto that in no event shall any official, officer, employee or agent of the State of Washington when executing their official duties in good faith, be in any way personally liable or responsible for any agreement herein contained whether expressed or implied, nor for any statement or representation made herein or in any connection with this agreement.

**h. Liability**

Contractor agrees to assume the liability for any loss, according to the terms of this Contract, of the security sealed container(s) from the time Contractor signs for, and receives, physical custody of the sealed container(s) and responsibility terminates when the Purchaser or its designated consignee takes physical possession of the sealed container(s) and signs Contractor's receipt. If it is impossible to complete the delivery, Contractor shall be responsible for any loss until the sealed container(s) is returned to the Purchaser or its designated agent and a signed receipt obtained. While the sealed container(s) is stored in the Purchaser's premises, Contractor does not assume liability for any loss. If the Purchaser conceals or misrepresents any material factor or circumstance.

Under no circumstance will either party be liable to the other party for lost profits or for any indirect, incidental, consequential, special, punitive or exemplary damages; such as, but not limited to, loss of revenue, loss of interest, lost data, data transmission error or anticipated profits or lost business.

The sole liability of the Contractor in the event of loss for whatever cause except as hereinafter limited, shall be payment to the Purchaser of the declared Liability Coverage per shipment amount not to exceed \$250,000 per shipment.

**Claims:** It is understood that the Purchaser agrees to notify the Contractor, in writing, via certified mail, of any claim for loss in any event within forty-five (45) days after the pick-up by Contractor of the securely sealed container of property in connection with which the claim is asserted and unless such notice shall have been given, such claim shall be deemed waived.

**Container Value Limitation:** Purchaser acknowledges and agrees that the maximum value which Contractor will transport in any individual container will not exceed two

hundred fifty thousand dollars (\$250,000). If the total value of a shipment which Purchaser seeks to tender to Contractor exceeds to hundred fifty thousand dollars \$250,000), such shipment must be broken down into separate shipment containers of two hundred fifty thousand dollars (\$250,000) or less.

### **3.20 INSURANCE**

The following are general insurance provisions for the State of Washington. Additional requirements specific to a good/service may be detailed elsewhere in a solicitation or its appendices.

#### **a. General requirements**

Contractor shall, at its own expense, obtain and keep in force insurance as follows until completion of the Contract. Upon request, Contractor shall furnish evidence in the form of a certificate of insurance satisfactory to the State of Washington that insurance, in the following kinds and minimum amounts, has been secured. Failure to provide proof of insurance, as required, will result in Contract cancellation.

Contractor shall include all Subcontractors as insureds under all required insurance policies, or shall furnish separate Certificates of Insurance and endorsements for each Subcontractor. Subcontractor(s) must comply fully with all insurance requirements stated herein. Failure of Subcontractor(s) to comply with insurance requirements does not limit Contractor's liability or responsibility.

All insurance provided in compliance with this Contract shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the state.

#### **b. Specific requirements**

Employer's Liability (Stop Gap): The Contractor will at all times comply with all applicable workers' compensation, occupational disease, and occupational health and safety laws, statutes, and regulations to the full extent applicable and will maintain Employers Liability insurance with a limit of no less than \$1,000,000.00. The State of Washington will not be held responsible in any way for claims filed by the Contractor or their employees for services performed under the terms of this Contract.

Commercial General Liability Insurance: The Contractor shall at all times during the term of this Contract, carry and maintain commercial general liability insurance and if necessary, commercial umbrella insurance for bodily injury and property damage arising out of services provided under this Contract. This insurance shall cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns, or servants.

The insurance shall also cover bodily injury, including disease, illness and death, and property damage arising out of the Contractor's premises/operations, independent Contractors, products/completed operations, personal injury and advertising injury, and Contractual liability (including the tort liability of another assumed in a business Contract), and contain separation of insured's (cross liability) conditions.

Contractor waives all rights against the State of Washington for the recovery of damages to the extent they are covered by general liability or umbrella insurance.

The limits of liability insurance shall not be less than as follows:

General aggregate limits (other than products-completed operations)	\$2 million
Products-completed operations aggregate	\$2 million
Personal and advertising injury aggregate	\$1 million
Each occurrence (applies to all of the above)	\$1 million
Medical expense limit (any one person)	\$5,000

**c. Business Auto Policy (BAP)**

In the event that services delivered pursuant to this Contract involve the use of vehicles, or the transportation of clients, automobile liability insurance shall be required. The coverage provided shall protect against claims for bodily injury, including illness, disease, and death; and property damage caused by an occurrence arising out of or in consequence of the performance of this service by the Contractor, Subcontractor, or anyone employed by either.

Contractor shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a combined single limit not less than \$1,000,000 per occurrence. The business auto liability shall include Hired and Non-Owned coverage.

Contractor waives all rights against the State of Washington for the recovery of damages to the extent they are covered by business auto liability or commercial umbrella liability insurance.

**d. Additional insurance provisions**

All above insurance policies shall include, but not be limited to, the following provisions:

**Additional insured:**

The State of Washington and all authorized purchasers shall be listed as an additional insured on all general liability and auto insurance policies. All policies shall be primary over any other valid and collectable insurance.

**Notice of policy cancellation/Non-renewal:**

For insurers subject to [Chapter 48.18 RCW](#) (admitted and regulated by the Washington State Insurance Commissioner) a written notice shall be given to the director of purchasing or designee by Contractor 45 calendar days prior to cancellation or any material change to the policy as it relates to this Contract. Written notice shall include the affected Contract reference number.

**e. Surplus lines**

For insurers subject to [Chapter 48.15 RCW](#) (Surplus Lines) a written notice shall be given to the director of purchasing or designee 20 calendar days prior to cancellation or any material change to the policy(ies) as it relates to this Contract. Written notice shall include the affected Contract reference number.

**Cancellation for non-payment of premium:**

If cancellation on any policy is due to non-payment of premium, a written notice shall be given the director of purchasing or designee by Contractor 10 calendar days prior to cancellation. Written notice shall include the affected Contract reference number.

**Identification:**

Policies and certificates of insurance shall include the affected Contract reference number.

**f. Insurance carrier rating**

The insurance required above shall be issued by an insurance company authorized to do business within the State of Washington. Insurance is to be placed with a carrier that has a rating of A- Class VII or better in the most recently published edition of Best's Reports. Any exception must be reviewed and approved by the Risk Manager for the State of Washington, by submitting a copy of the Contract and evidence of insurance before Contract commencement. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with [Chapter 48.15 RCW](#) and [Chapter 284-15 WAC](#) .

**g. Excess coverage**

The limits of all insurance required to be provided by the Contractor shall be no less than the minimum amounts specified. However, coverage in the amounts of these minimum limits shall not be construed to relieve the Contractor from liability in excess of such limits.

**3.21 INDUSTRIAL INSURANCE COVERAGE**

The Contractor shall comply with the provisions of [Title 51 RCW](#) Industrial Insurance. If the Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, DES may terminate this Contract. This provision does not waive any of the Washington State Department of Labor and Industries (L&I) rights to collect from the Contractor.

**3.22 NONDISCRIMINATION**

During the performance of this Contract, the Contractor shall comply with all applicable federal and state nondiscrimination laws, regulations and policies, including, but not limited to, Title VII of the Civil Rights Act, 42 U.S.C. section 12101 et. seq.; the Americans with Disabilities Act (ADA); and, [Chapter 49.60 RCW](#), Discrimination – Human Rights Commission.

**3.23 OSHA AND WISHA REQUIREMENTS**

Contractor agrees to comply with conditions of the federal Occupational Safety and Health Administration (OSHA) and, if manufactured or stored in the State of Washington, the Washington Industrial Safety and Health Act (WISHA) and the standards and regulations issued thereunder, and certifies that all items furnished and purchased will conform to and comply with said laws, standards and regulations. Contractor further agrees to indemnify and hold harmless DES and purchaser from all damages assessed against purchaser as a result of Contractor's failure to comply with those laws, standards and regulations, and for the failure of the items furnished under the Contract to so comply.

**3.24 ANTITRUST**

The state maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, the Contractor hereby assigns to the State of Washington any and all of the Contractor's claims for such price fixing or overcharges which arise under federal or

state antitrust laws, relating to the materials, supplies, services and/or equipment purchased under this Contract.

### **3.25 WAIVER**

Failure or delay of DES or purchaser to insist upon the strict performance of any term or condition of the Contract or to exercise any right or remedy provided in the Contract or by law; or DES's or purchaser's acceptance of or payment for materials, supplies, services and/or equipment, shall not release the Contractor from any responsibilities or obligations imposed by this Contract or by law, and shall not be deemed a waiver of any right of DES or purchaser to insist upon the strict performance of the entire agreement by the Contractor. In the event of any claim for breach of Contract against the Contractor, no provision of this Contract shall be construed, expressly or by implication, as a waiver by DES or purchaser of any existing or future right and/or remedy available by law.

### **3.26 DISPUTES AND REMEDIES**

#### **a. Problem resolution and disputes**

Problems arising out of the performance of this Contract shall be resolved in a timely manner at the lowest possible level with authority to resolve such problem. If a problem persists and cannot be resolved, it may be escalated within each organization.

In the event a bona fide dispute concerning a question of fact arises between DES or the purchaser and Contractor and it cannot be resolved between the parties through the normal problem escalation processes, either party may initiate the dispute resolution procedure provided herein.. The dispute shall be handled by a Dispute Resolution Panel in the following manner. Each party to this Contract shall appoint one member to the Panel. These two appointed members shall jointly appoint an additional member. The Dispute Resolution Panel shall review the facts, Contract terms and applicable statutes and rules and make a determination of the dispute as quickly as reasonably possible. The determination of the Dispute Resolution Panel shall be final and binding on the parties hereto. DES and/or purchaser and Contractor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this Contract that are not affected by the dispute.

In the event a bona fide dispute concerning a question of fact arises between DES or the purchaser and Contractor and it cannot be resolved between the parties through the normal escalation processes, either party may initiate the dispute resolution procedure provided herein.

The initiating party shall reduce its description of the dispute to writing and deliver it to the responding party. The responding party shall respond in writing within three business days. The initiating party shall have three business days to review the bid. If after this review a resolution cannot be reached, both parties shall have three business days to negotiate in good faith to resolve the dispute.

If the dispute cannot be resolved after three business days, a Dispute Resolution Panel may be requested in writing by either party who shall also identify the first panel member. Within three business days of receiving the request, the other party will designate a panel member. Those two panel members will appoint a third individual to the Dispute Resolution Panel within the next three business days.



The Dispute Resolution Panel will review the written descriptions of the dispute, gather additional information as needed, and render a decision on the dispute in the shortest practical time.

Each party shall bear the cost for its panel member and share equally the cost of the third panel member.

Both parties agree to be bound by the determination of the Dispute Resolution Panel.

Both parties agree to exercise good faith in dispute resolution and to settle disputes prior to using a Dispute Resolution Panel whenever possible.

DES, the purchaser and Contractor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this Contract that are not affected by the dispute.

If the subject of the dispute is the amount due and payable by purchaser for materials, supplies, services and/or equipment being provided by Contractor, Contractor shall continue providing materials, supplies, services and/or equipment pending resolution of the dispute provided purchaser pays Contractor the amount purchaser, in good faith, believes is due and payable, and places in escrow the difference between such amount and the amount Contractor, in good faith, believes is due and payable.

**b. Administrative suspension**

When it in the best interest of the state, DES may at any time, and without cause, suspend the Contract or any portion thereof for a period of not more than 30 calendar days per event by written notice from DES to the Contractor's Representative. Contractor shall resume performance on the next business day following the 30th day of suspension unless an earlier resumption date is specified in the notice of suspension. If no resumption date was specified in the notice of suspension, the Contractor can be demanded and required to resume performance within the 30-day suspension period by DES providing the Contractor's Representative with written notice of such demand.

**c. Force majeure**

The term "force majeure" means an occurrence that is beyond the control of the party affected and could not have been avoided by exercising reasonable diligence. Force majeure shall include acts of war, riots, strikes, fire, floods, windstorms, epidemics or other similar occurrences.

**Exceptions:** Except for payment of sums due, neither party shall be liable to the other or deemed in breach under this Contract if, and to the extent that, such party's performance of this Contract is prevented by reason of force majeure.

**Notification:** If either party is delayed by force majeure, said party shall provide written notification within 48 hours. The notification shall provide evidence of the force majeure to the satisfaction of the other party. Such delay shall cease as soon as practicable and written notification of same shall likewise be provided. So far as consistent with the Rights Reserved below, the time of completion shall be extended by Contract amendment for a period of time equal to the time that the results or effects of such delay prevented the delayed party from performing in accordance with this Contract.

**Rights reserved:** DES reserves the right to authorize an amendment to this Contract, terminate the Contract, and/or purchase materials, supplies, equipment and/or services

from the best available source during the time of force majeure, and Contractor shall have no recourse against the state.

**d. Alternative dispute resolution fees and costs**

In the event that the parties engage in arbitration, mediation or any other alternative dispute resolution forum to resolve a dispute in lieu of litigation, both parties shall share equally in the cost of the alternative dispute resolution method, including cost of mediator or arbitrator. In addition, each party shall be responsible for its own attorneys' fees incurred as a result of the alternative dispute resolution method.

**e. Non-exclusive remedies**

The remedies provided for in this Contract shall not be exclusive but are in addition to all other remedies available under law.

### **3.27 LIQUIDATED DAMAGES**

**a. Limitation of liability**

The parties agree that neither Contractor, DES nor purchaser shall be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages except a claim related to bodily injury or death, or a claim or demand based on patent, copyright, or other intellectual property right infringement, in which case liability shall be as set forth elsewhere in this Contract. This section does not modify any sections regarding liquidated damages or any other conditions as are elsewhere agreed to herein between the parties. The damages specified in the sections titled Termination for Default and Retention of Records are not consequential, incidental, indirect, or special damages as that term is used in this section.

The Contractor, DES and purchaser are not liable for damages arising from causes beyond their reasonable control and without their fault or negligence. Such causes may include, but are not restricted to, acts of the public enemy, acts of a governmental body other than DES or the purchaser acting in either its sovereign or Contractual capacity, war, explosions, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the delays must be beyond the reasonable control and without fault or negligence of the Contractor, DES or the purchaser, or their respective Subcontractors.

If delays are caused by a Subcontractor without its fault or negligence, Contractor shall not be liable for damages for such delays, unless the services to be performed were obtainable on comparable terms from other sources in sufficient time to permit Contractor to meet its required performance schedule.

Neither party shall be liable for personal injury to the other party or damage to the other party's property except personal injury or damage to property proximately caused by such party's respective fault or negligence.

**b. Federal funding**

In the event that a federally funded acquisition results from this procurement, the Contractor may be required to provide additional information (free of charge) at the request of DES or purchaser. Further, the Contractor may be subject to those federal requirements specific to the commodity.

**c. Federal restrictions on lobbying**

Contractor certifies that under the requirements of Lobbying Disclosure Act, 2 U.S.C., Section 1601 et seq., no federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal Contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal Contract, grant, loan, or cooperative agreement.

### **3.28 DEBARMENT AND SUSPENSION**

Respondent certifies, by submitting this bid or proposal, that neither it nor its affiliates presently are debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this procurement/Contract by any government agency. Respondent also agrees to notify DES if its debarment status changes during the bid process or after receiving notice of Contract award, if any. If respondent cannot certify this statement, attach a written explanation to the bid response for review.

### **3.29 CONTRACT TERMINATION**

#### **a. Material breach**

A Contractor may be terminated for cause by DES, at the sole discretion of DES, for failing to perform a Contractual requirement or for a material breach of any term or condition.

Material breach of a term or condition of the Contract may include but is not limited to:

- Contractor failure to perform services or deliver materials, supplies, or equipment by the date required or by an alternate date as mutually agreed in a written amendment to the Contract;
- Contractor failure to carry out any warranty or fails to perform or comply with any mandatory provision of the Contract;
- Contractor becomes insolvent or in an unsound financial condition so as to endanger performance hereunder;
- Contractor becomes the subject of any proceeding under any law relating to bankruptcy, insolvency or reorganization, or relief from creditors and/or debtors that endangers the Contractor's proper performance hereunder;
- Appointment of any receiver, trustee, or similar official for Contractor or any of the Contractor's property and such appointment endangers the Contractor's proper performance hereunder;
- A determination that the Contractor is in violation of federal, state, or local laws or regulations and that such determination renders the Contractor unable to perform any aspect of the Contract.

#### **b. Opportunity to cure**

In the event that Contractor fails to perform a Contractual requirement or materially breaches any term or condition, DES may issue a written cure notice. The Contractor may have a period of time in which to cure. DES is not required to allow the Contractor to cure defects if the opportunity for cure is not feasible as determined solely within the discretion of DES. Time allowed for cure shall not diminish or eliminate Contractor's liability for

liquidated or other damages, or otherwise affect any other remedies available against Contractor under the Contract or by law.

If the breach remains after Contractor has been provided the opportunity to cure, DES may do any one or more of the following:

- Exercise any remedy provided by law;
- Terminate this Contract and any related Contracts or portions thereof;
- Procure replacements and impose damages as set forth elsewhere in this Contract;
- Impose actual or liquidated damages;
- Suspend or bar Contractor from receiving future solicitations or other opportunities;
- Require Contractor to reimburse the state for any loss or additional expense incurred as a result of default or failure to satisfactorily perform the terms of the Contract.

**c. Termination for cause**

In the event DES, in its sole discretion, determines that the Contractor has failed to comply with the conditions of this Contract in a timely manner or is in material breach, DES has the right to suspend or terminate this Contract, in part or in whole. DES shall notify the Contractor in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days or as otherwise specified by DES, or if such corrective action is deemed by DES to be insufficient, the Contract may be terminated. DES reserves the right to suspend all or part of the Contract, withhold further payments, or prohibit the Contractor from incurring additional obligations of funds during investigation of the alleged breach and pending corrective action by the Contractor or a decision by DES to terminate the Contract.

In the event of termination, DES shall have the right to procure for all purchasers any replacement materials, supplies, services and/or equipment that are the subject of this Contract on the open market. In addition, the Contractor shall be liable for damages as authorized by law including, but not limited to, any price difference between the original Contract and the replacement or cover Contract and all administrative costs directly related to the replacement Contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.

If it is determined that: (1) the Contractor was not in material breach; or (2) failure to perform was outside of Contractor's or its Subcontractor's control, fault or negligence, the termination shall be deemed to be a "termination for convenience." The rights and remedies of DES and/or the purchaser provided in this Contract are not exclusive and are in addition to any other rights and remedies provided by law.

**d. Termination for convenience**

Except as otherwise provided in this Contract, DES, at the sole discretion of DES, may terminate this Contract, in whole or in part by giving 60 calendar days or other appropriate time period written notice beginning on the second day after mailing to the Contractor. If this Contract is so terminated, purchasers shall be liable only for payment required under this Contract for properly authorized services rendered, or materials, supplies and/or equipment delivered to and accepted by the purchaser prior to the effective date of Contract termination. Neither DES nor the purchaser shall have any other obligation

whatsoever to the Contractor for such termination. This Termination for Convenience clause may be invoked by DES when it is in the best interest of the State of Washington.

**e. Termination for withdrawal of authority**

In the event that DES and/or purchaser's authority to perform any of its duties is withdrawn, reduced, or limited in any way after the commencement of this Contract and prior to normal completion, DES may terminate this Contract, in whole or in part, by seven calendar days written notice, or other appropriate time period, to Contractor.

**f. Termination for non-allocation of funds**

If funds are not allocated to purchaser(s) to continue this Contract in any future period, DES may terminate this Contract with seven calendar days written notice, or other appropriate time period, to Contractor, or work with Contractor to arrive at a mutually acceptable resolution of the situation. Purchaser will not be obligated to pay any further charges for materials, supplies, services and/or equipment including the net remainder of agreed-to consecutive periodic payments remaining unpaid beyond the end of the then-current period. DES and/or purchaser agree to notify Contractor in writing of such non-allocation at the earliest possible time.

No penalty shall accrue to the purchaser in the event this section shall be exercised. This section shall not be construed to permit DES to terminate this Contract in order to acquire similar materials, supplies, services and/or equipment from a third party.

**g. Termination for conflict of interest**

DES may terminate this Contract by written notice to Contractor if it is determined, after due notice and examination, that any party to this Contract has violated [Chapter 42.52 RCW](#), Ethics in Public Service, or any other laws regarding ethics in public acquisitions and procurement and performance of Contracts. In the event this Contract is so terminated, DES and/or purchaser shall be entitled to pursue the same remedies against Contractor as it could pursue in the event that the Contractor breaches this Contract.

**h. Termination by mutual agreement**

DES and the Contractor may terminate this Contract in whole or in part, at any time, by mutual agreement.

**i. Termination procedure**

In addition to the procedures set forth below, if DES terminates this Contract, Contractor shall follow any procedures DES specifies in the termination notice.

Upon termination of this Contract and in addition to any other rights provided in this Contract, DES may require the Contractor to deliver to the purchaser any property specifically produced or acquired for the performance of such part of this Contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

The purchaser shall pay to the Contractor the agreed upon price, if separately stated, for completed work and service(s) Accepted by the purchaser, and the amount agreed upon by the Contractor and the purchaser for (i) completed materials, supplies, services rendered and/or equipment for which no separate price is stated, (ii) partially completed materials, supplies, services rendered and/or equipment, (iii) other materials, supplies, services rendered and/or equipment which are Accepted by the purchaser, and (iv) the

protection and preservation of property, unless the termination is for cause, in which case DES and the purchaser shall determine the extent of the liability of the purchaser. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this Contract. The purchaser may withhold from any amounts due the Contractor such sum as DES and purchaser determine to be necessary to protect the purchaser against potential loss or liability.

The rights and remedies of DES and/or the purchaser provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

After receipt of a termination notice, and except as otherwise expressly directed in writing by DES, the Contractor shall:

- Stop all work, order fulfillment, shipments, and deliveries under the Contract on the date, and to the extent specified, in the notice;
- Place no further orders or Subcontracts for materials, services, supplies, equipment and/or facilities in relation to the Contract except as is necessary to complete or fulfill such portion of the Contract that is not terminated;
- Complete or fulfill such portion of the Contract that is not terminated in compliance with all Contractual requirements;
- Assign to the purchaser, in the manner, at the times, and to the extent directed by DES on behalf of the purchaser, all of the rights, title, and interest of the Contractor under the orders and Subcontracts so terminated, in which case the purchaser has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and Subcontracts.
- Settle all outstanding liabilities and all claims arising out of such termination of orders and Subcontracts, with the approval or ratification of DES and/or the purchaser to the extent DES and/or the purchaser may require, which approval or ratification shall be final for all the purposes of this clause;
- Transfer title to the purchaser and deliver in the manner, at the times, and to the extent directed by DES on behalf of the purchaser any property which, if the Contract had been completed, would have been required to be furnished to the purchaser;
- Take such action as may be necessary, or as DES and/or the purchaser may direct, for the protection and preservation of the property related to this Contract which is in the possession of the Contractor and in which DES and/or the purchaser has or may acquire an interest.

## Exhibit B - Mandatory Service Requirements

Contract 08115 – Armored Car and Courier Services

Description
<b><u>CATEGORY 1 – ARMORED CAR SERVICES</u></b>
1. The single, primary account representative will be <a href="#">Brad Ernster</a> , (206) 802-0412
2. As a main point of contact, state contract customers should contact <a href="#">Brad Ernster</a> , (206) 802-0412 or <a href="#">Roxanne Frye</a> , (253)475-4225.
3. Loomis will automatically credit the customer for any missed stops. Loomis will notify the customer as soon as it is logistically possible of any missed stop.
4. Contractor must notify customers via phone, or provide an acceptable tracking method, to indicate when they will have late pickups.
5. The contractor agrees to furnish, at all times, the most expeditious and efficient service possible within the timeframes established and as mutually agreed to in the Service Agreement (work order).
6. The contractor must be able to provide service 365 days a year except Thanksgiving, Christmas and New Year's Day. Pickup must be made the next banking day following the holiday.
7. The customer must notify and coordinate with Loomis concerning any special holiday service requests.
8. The contractor must possess a private security company license as described in <a href="#">RCW 18.170.060</a> . This license must be kept current through the entire contract term.
9. The contractor must provide licensed, armed, security guards for services performed under this contract. These employees shall remain licensed as described in <a href="#">RCW 18.170</a> through the contract term.
10. Contractor shall maintain Armored Car "All-Risk" Transit and Storage Insurance, or comparable insurance, covering coin, currency and checks unable to be identified on a dollar for dollar, face value replacement basis at no less than \$50,000 per occurrence.
11. Contractor shall maintain reconstruction of Checks Insurance, or comparable insurance, at no less than \$25,000 per occurrence. This insurance shall provide funds for check reconstruction, including stop payment fees, postage, labor, and any other reasonable costs in reconstructing checks.
12. The contractor is responsible for providing distinctive and appropriate uniforms and ensuring the guards are neat and clean in appearance. A photo identification issued from the contractor shall be worn at all times.
13. The contractor's vehicles shall all have valid vehicle registrations, insurance and permits. Vehicles used shall be clearly marked with the company name. Vehicles must be properly armored and equipped for armored car service. Vehicles such as non-armored automobiles, vans, and light truck shall not be used.

## Invitation for Bid 08115 – Armored Car and Courier Services

Description
14. <b>Open-window</b> pick-ups can be provided any time during normal business hours. As agreed upon between Loomis and the Purchaser. The contractor shall notify the Purchaser of an estimated time of pick up.
15. <b>Restricted-window/Closed-window</b> pick-ups shall be made within a two-hour window of the time established with the customer. If running more than 30 minutes late for a restricted window pick-up, the contractor must notify the customer in advance of estimated pick-up time. Contractor must notify customer as soon as logically possible of any delay. If the delay is caused by Loomis, the customer will be charged the open window price. If the delay is outside of Loomis's control, the closed window rate will still apply.
16. The contractor must deposit the funds the next banking day after funds are received unless otherwise instructed, via written communication, by the customer. If a pickup is made on a bank holiday the funds must be vaulted then deposited the next available banking day. Same day deposits are not included in the service price and will have to be negotiated at the time of requested services.
17. Contractor will notify the customer as soon as possible of any missed deliveries and automatically credit the customer's account.
18. Security bags are available for purchase by contacting your account representative for additional information.
19. The duration of stop times shall be 10 minutes or less, unless otherwise negotiated with purchaser. This time shall commence when the authorized representative leaves the vehicle and returns to the vehicle. Contractor may charge \$2.50/minute for additional time spent in the establishment over 10 minutes. Before the charge is applied, the contractor shall notify the purchaser of the potential charge and allow them to cooperate with the 10-minute time. If the customer states in writing that the 10-minute time frame will not be met, the contractor may be allowed to apply the additional time charge. The customer may at any time request that the fee no longer be charged and resume services using the 10-minute allotted time frame. No charges are allowed if the 10-minute stop time is exceeded due to fault or failure of the contractor.
20. The contractor shall provide deposit upon request. A consignment log will be left on the customer's premises.
21. The contractor shall be responsible for providing proof of deposit upon request. A consignment log will be left on the customer's premises.
22. The contractor must be able to provide change service as requested by the customer. These orders shall be picked up as needed, and returned to the customer on the next scheduled service day. If an error is made by the contractor customers must notify the contractor as soon as possible. If notified before 1pm of a misdirected change order, Loomis will make every attempt to ensure same day delivery. If notified after 1pm contractor will contact the customer to reschedule the stop.
23. There is a 7 item limit to the number of items picked up.
24. The contractor shall be responsible for all reasonable investigative fees associated with allegations of theft or loss when the contractor is found to be at fault.



<b>CATEGORY 3 – SMART SAFES</b>	
1.	The single, primary account representative will be <a href="#">Brad Ernster</a> , (206) 802-0412
2.	As a main point of contact, state contract customers should contact <a href="#">Brad Ernster</a> , (206) 802-0412 or <a href="#">Roxanne Frye</a> , (253)475-4225.
3.	Loomis will automatically credit the customer for any missed stops. Loomis will notify the customer as soon as it is logistically possible of any missed stop.
4.	Contractor must notify customers via phone, or provide an acceptable tracking method, to indicate when they will have late pickups.
5.	The contractor agrees to furnish, at all times, the most expeditious and efficient service possible within the timeframes established and agreed to in the Service Agreement (work order).
6.	The contractor will remove the currency from the smart safe cassette and seal in a tamper evident bag.
7.	The contractor must provide a list of required site preparations at the first request of a Smart Safe. Specifications include, but are not limited to: <ul style="list-style-type: none"> <li>- Dimensions</li> <li>- Weight</li> <li>- Power Supply needs</li> <li>- Video surveillance requirements</li> <li>- Optional Features</li> <li>- Sample Reports</li> </ul>
8.	All fees and costs charged to the agency must be broken out in specific detail on any and all contracts.
9.	The contractor must provide a sample detailed invoice of all costs and fees charged to the agency regarding armored car service and Smart Safe use.
10.	Dimensional specifications, Hardware and Software features can be provided on demand for all Smart Safe models.
11.	The safe and solution are owned by Loomis.
12.	Contractor will provide the bank with the information needed to provide provisional credit to the customer.

## **Exhibit C – Special Terms & Conditions**

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Contract 08115 – Armored Car and Courier Services

### **1 CONTRACT EXPECTATIONS**

#### **1.1 Service**

Upon award of this contract, the contractor shall:

1. Review the impact of the award and take the necessary steps needed to ensure that contractual obligations will be fulfilled.
2. Promote and market the use of this contract to all authorized contract purchasers.
3. Ensure that those who use this contract are authorized purchasers under this contract.
4. At no additional charge, assist purchasers in the following manner to make the most cost effective, value based, purchases including, but not limited to:
  - a. Visiting the purchaser site and providing purchaser with materials/supplies/equipment recommendations.
  - b. Providing purchasers with a detailed list of contract items including current contract pricing and part numbers.
5. The contractor shall designate a customer service representative who will be responsible for addressing purchaser issues including, but not limited to:
  - a. Logging requests for service, ensuring repairs are completed in a timely manner, dispatching service technicians, and processing warranty claim documentation.
  - b. Providing purchasers with regular and timely status updates in the event of an order or repair fulfillment delay.
6. Acting as the lead and liaison between the manufacturer and purchaser in resolving warranty claims for contract items purchased.

#### **1.2 Cost of remedy**

Cost of remedying defects: All defects, indirect and consequential costs of correcting, removing or replacing any or all of the defective materials or equipment will be charged against the contractor.

#### **1.3 Site security**

While on purchaser's premises, contractor, its agents, employees, or subcontractors shall conform in all respects with physical, fire, or other security regulations.

#### **1.4 Pick-up and delivery**

Pick-up and delivery must be made during purchaser's normal work hours and within time frames either (1) required in the solicitation, or (2), if requested in the solicitation, proposed by contractor in its bid or proposal and subsequently accepted by DES or (3) as otherwise mutually agreed in writing between the purchaser and contractor at the time of order placement. Failure to comply with agreed-upon delivery times may subject contractor to liquidated or other damages. The purchaser may refuse shipment when delivered after normal working hours. The contractor shall

verify specific working hours of individual purchasers and instruct carrier(s) to deliver accordingly. The acceptance by the purchaser of late performance, with or without objection or reservation by the purchaser, shall not waive the right to claim damage for such breach, nor preclude DES or purchaser from pursuing any other remedy provided herein, including termination, nor shall such acceptance of late performance constitute a waiver of the requirements for the timely performance of any obligation remaining to be performed by contractor.

All deliveries are to be made to the applicable delivery location as indicated in the order document. When applicable, the contractor shall take all necessary actions to safeguard items during inclement weather. In no case shall the contractor initiate performance prior to receipt of written or verbal authorization from authorized purchasers. Expenses incurred otherwise shall be borne solely by the contractor.

### **1.5 Contractor commitments, warranties and representations**

Any written commitment by contractor within the scope of this contract shall be binding upon contractor. Failure of contractor to fulfill such a commitment may constitute breach and shall render contractor liable for damages under the terms of this contract. For purposes of this section, a commitment by contractor includes: (i) Prices, discounts, and options committed to remain in force over a specified period of time; and (ii) any warranty or representation made by contractor in its Response or contained in any contractor or manufacturer publications, written materials, schedules, charts, diagrams, tables, descriptions, other written representations, and any other communication medium accompanying or referred to in its Response or used to effect the sale to purchaser.

### **1.6 Service agreement**

All services shall be performed pursuant to the terms of this contract and may be documented in a Service Agreement established between purchaser and contractor.

The service agreement may:

- Reference this contract number 08115
- Identify Open Window or Restricted Window schedules
- List the service schedule
- Designate deposit requirements
- List service locations
- Specify compensation and payment
- List any agency-specific requirements
- Provide signature block for both parties

The terms and conditions of any service agreement cannot conflict with the terms and conditions of this contract. In the event of any conflict, the contract shall prevail.

### **1.7 Commencement of work**

No work shall be performed by contractor until a service agreement or other applicable agreement is executed by contractor and purchaser and is received by contractor.

## **2 SERVICE-SPECIFIC INSURANCE REQUIREMENT (ARMORED CAR)**

The Contractor shall maintain Armored Car "All-Risk" Transit and Storage Insurance, or comparable insurance, covering coin, currency, and checks unable to be identified on a dollar for dollar, face value replacement basis at no less than \$50,000.00 per occurrence.

The contractor shall maintain reconstruction of Checks insurance, or other comparable insurance, at no less than \$25,000.00 per occurrence. This insurance shall provide funds for check reconstruction including stop payment fees, postage, labor, and any other reasonable costs reconstructing checks.

Upon discovery of a claim for loss under this Contract, Purchaser shall maintain and preserve all evidence. Within ten (10) days after discovery of any loss, but in no more than sixty (60) days after delivery to Contractor of the funds in connection with such claim is asserted, Purchaser shall give notice of claim in writing to Contractor. If the Purchaser fails to comply with these conditions, Purchaser agrees that all claims against Contractor relating to the lost items are deemed to be waived and released.

It is understood and agreed that Contractor shall not be responsible for any loss or damage caused by warlike action, civil disorders, or any governmental seizure or by atomic weapons, nuclear reaction or radiation or radioactive contamination whether controlled or uncontrolled, whether such loss be direct or indirect, proximate or remote.

<b>State of Washington</b> Contracts, Procurement, & Risk Management Division Department of Enterprise Services P.O. Box 41411 Olympia, WA 98504-1411	<b>CONTRACT AMENDMENT</b>	
	Contract No.:	08115
Loomis Armored US, LLC 3716 South G Street Tacoma, WA 98418	Amendment No.:	1
	Effective Date:	July 1, 2017

**FIRST AMENDMENT**  
**TO**  
**CONTRACT NO. 08115**  
**ARMORED CAR AND COURIER SERVICES**

This First Amendment ("Amendment") to Contract No. 08115 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 Loomis Armored US, LLC, a Texas Limited Liability Corporation ("Contractor") and is effective as of July 1, 2017.

**RECITALS**

- A. State and Contractor (collectively the "Parties") entered into that certain Contract No. 08115 dated effective as of May 23, 2016 ("Contract").
- B. The Parties intend to amend the Contract to extend the Contract term.
- C. The Parties intend to amend the Contract to change pricing.
- D. The Parties intend to amend the Contract to adjust the applicable Vendor Management Fee (VMF) for Contract purchases made on or after July 1, 2017. Contract purchases made prior to July 1, 2017 will be subject to the existing VMF and Contract purchases occurring on or after July 1, 2017 will be subject to the VMF set forth in this amendment.
- E. The amendment set forth herein is within the scope of the Contract.
- F. 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. CONTRACT TERMS. Sections 1.2 Recitals, Section 1.5 Special Terms and Conditions, Section 2 Standard Definitions, and Section 3.19(h) Liability is hereby amended as reflected in the amended contract attached as Exhibit A dated May 1, 2017.
2. TERM. The Contract term is amended to extend the term such that it shall terminate May 22, 2018 unless otherwise extended.
3. PRICING. The Contract pricing is amended to reflect a 2% increase in monthly fees, which includes the additional .76% management fee. Base rates will not exceed the following amounts:

	Open Window	Closed Window
1 day per week	\$79.40	\$145.35
2 days per week	\$158.79	\$290.70
3 days per week	\$238.19	\$436.05
4 days per week	\$317.59	\$581.40
5 days per week	\$406.16	\$726.75

A 6% wage fee, which will be reflected as a separate line item, is also allowed. Increases will be effective July 1, 2017.

4. VENDOR MANAGEMENT FEE. Section 3.8 of the Contract is hereby amended by deleting the existing Section in its entirety and inserting the following in lieu thereof:

Section 3.8 - VENDOR MANAGEMENT FEE. Contractor shall pay to Enterprise Services a vendor management fee ("VMF") of 1.50 percent on the purchase price for all Contract sales (the purchase price is the total invoice price less applicable sales tax).

- (a) The sum owed by Contractor to Enterprise Services as a result of the VMF is calculated as follows:

Amount owed to Enterprise Services = Total Contract sales  
invoiced (not including sales tax) x .0150.

- (b) The VMF must be rolled into Contractor's current pricing. The VMF must not be shown as a separate line item on any invoice unless specifically requested and approved by Enterprise Services.
- (c) Enterprise Services will invoice Contractor quarterly based on Contract sales reported by Contractor. Contractor shall not remit payment until it receives an invoice from Enterprise Services. Contractor's VMF payment to Enterprise Services must reference this Contract number, work request number (if applicable), the year and quarter for which the VMF is being remitted, and the Contractor's name as set forth in this Contract, if not already included on the face of the check.



- (d) Failure to accurately report total net sales, to submit a timely usage report, or remit timely payment of the VMF, may be cause for Master Contract termination or the exercise of other remedies provided by law.
  - (e) Enterprise Services reserves the right, upon thirty (30) days advance written notice, to increase, reduce, or eliminate the VMF for subsequent purchases, and reserves the right to renegotiate Contract pricing with Contractor when any subsequent adjustment of the VMF might justify a change in pricing.
- 5. NO CHANGE OTHER THAN AMENDMENT. Except as amended herein, the Contract is unaffected and remains in full force and effect.
- 6. 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.
- 7. 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.
- 8. 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.
- 9. 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.

**LOOMIS ARMORED US, LLC**  
**A TEXAS LIMITED LIABILITY COMPANY**

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

By: *Sarah Kattapong*

By: *Melanie Williams*

Name: *Sarah Kattapong*

Name: Melanie Williams

Title: *VP Fin. & Acctg.*

Title: Contracts Specialist

Date: *5-18-2017*

Date: 5/18/17

**EXHIBIT A AMENDED CONTRACT**



08115cA1Loomis.do  
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**Master Contract 08115**  
**Armored Car and Courier Services**

Between:

**Loomis Armored US, LLC**

And

**Washington State Department of Enterprise Services**

Effective May 23, 2016

Amended May 1, 2017

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## 1 CONTRACT FORMATION

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### 1.1 PARTIES

This Master Contract ("Contract") is entered into by and between the Washington State Department of Enterprise Services, an agency of Washington state government (hereinafter "DES"), and Loomis Armored US, LLC (hereinafter "Contractor" licensed to conduct business in the state of Washington, (hereinafter "Contractor") for the purpose of providing Armored Car Services and Smart Safes.

### 1.2 RECITALS

The state of Washington, acting by and through DES issued Invitation for Bid (IFB) number 08115 dated January 7, 2016 (Exhibit A) for the purpose of establishing a Master Contract which would enable Contractor to provide services for Armored and Unarmored Car Services in accordance with its authority under [RCW Chapter 39.26](#).

DES evaluated all properly submitted Responses to the above-referenced IFB and has identified Contractor as an Apparent Successful Bidder for Category 1 Armored Car Services and Category 3 Smart Safes.

DES has determined that entering into a Contract with Contractor will meet the state of Washington's needs and will be in its best interest.

**NOW THEREFORE, DES awards to Contractor this Master Contract, the terms and conditions of which shall govern Contractor's competition for and provisioning of Armored Car Services in all Washington State Counties except San Juan County. Any Smart Safe Agreement must be on the Contractor's SafePoint Agreement due to the uniqueness of its services. The terms of the SafePoint Agreement will prevail.**

This Master Contract neither financially binds the State nor otherwise obligates the State to purchase any products or Services hereunder. Nor does the Contract prevent the State from purchasing the same or similar products or Services from other sources, provided that, all legal acquisition requirements are satisfied.

IN CONSIDERATION of the mutual promises as hereinafter set forth, the parties agree as follows:

### 1.3 CONTRACT TERM

The initial term of the Contract is one (1) year from effective date, with the option to extend for additional term(s) or portions thereof. Extensions will be exercised at the sole discretion of DES and upon written mutual agreement. The total Contract term, including the initial term and all extensions, will not exceed eight (8) years unless circumstances require a special extension. DES reserves the right to extend with all or some of the Contractors.

### 1.4 MANDATORY SERVICE REQUIREMENTS

The Contractor shall furnish the necessary personnel, equipment, material and/or services and otherwise do all things necessary for or incidental to the performance of work set forth in the Mandatory Service Requirements, [Exhibit B](#).

### 1.5 SPECIAL TERMS AND CONDITIONS

The Contractor shall furnish the necessary personnel, equipment, material and/or services and otherwise do all things necessary for or incidental to the performance of work set forth [Exhibit C](#) Special Terms and Conditions.

**Non-Permitted Purchasers: The parties agree that no Purchasers who receive marijuana-related funds (Non-Permitted Purchasers) shall be added to this Contract.**

## **1.6 PRICING**

The contract prices reflected in Exhibit D are the maximum prices the contractor may charge.

## **1.7 SECTION HEADINGS, INCORPORATED DOCUMENTS AND ORDER OF PRECEDENCE**

The headings used herein are inserted for convenience only and shall not control or affect the meaning or construction of any of the sections.

Each of the documents listed below is, by this reference, incorporated into this Master Contract as though fully set forth herein:

- a. Appendix B Price Sheet
- b. Appendix C-Mandatory Service Requirements
- c. Appendix E- Special Terms and Conditions
- d. Appendix F-Bidder Profile
- e. IFB No. 08115
- f. Contractor's Response to the IFB No. 08115
- g. All Contractor or manufacturer publications, written materials and schedules, charts, diagrams, tables, descriptions, other written representations and any other supporting materials Contractor made available to DES or Purchaser and used to affect the sale of Services to Purchaser.
- h. Award letter (if any)

In the event of a conflict in such terms, or between the terms and any applicable statute or rule, the inconsistency will be resolved by giving precedence in the following order:

- a. Applicable federal and state of Washington statutes and regulations
- b. Mutually agreed written amendments to the resulting Contract
- c. The Contract, including all documents incorporated in the subsection immediately above.

## **1.8 CONFLICT AND CONFORMITY**

Conflict: To the extent possible, the terms of the contract must be read consistently.

Conformity: If any provision of the contract violates any federal or state of Washington statute or rule of law, it is considered modified to conform to that statute or rule of law.

## **1.9 AUTHORITY TO BIND**

The signatories to this Contract represent that they have the authority to bind their respective organizations to this Contract.

## **1.10 COUNTERPARTS**

This Contract may be executed in counterparts or in duplicate originals. Each counterpart or each duplicate will be deemed an original copy of this Contract signed by each party, for all purposes.

## **1.11 CHANGES**

DES reserves the right to modify the resulting Contract (including but not limited to adding or deleting products/services) by mutual agreement between DES and the Contractor. Alterations to any of the terms, conditions or requirements of this Contract will only be effective upon written issuance of a mutually-agreed Contract amendment by DES. Changes to point-of-contact information may be updated without the issuance of a mutually accepted Contract amendment.





## 1.12 PRICE ADJUSTMENTS

Firm and fixed period: Pricing will remain firm and fixed for one year from date of award of the contract.

Price protection: The contract prices are the maximum prices the contractor may charge.

If lower pricing for similar quantities becomes effective for the contractor, purchasers must be given immediate benefit of such lower pricing. The contractor may also offer volume and promotional discounts.

Price increases: The contractor may propose price increases on an annual basis by written notice to the Contract Administrator. Price increases are to be on a pass-through basis only and must not produce a higher profit margin for the contractor than that established by original contract pricing. Requests must include supporting documentation such as price increases at the manufacturer's level and/or other documentation of cost increases.

Consideration of price increases will be at the sole discretion of the Contract Administrator. If a price increase is approved in part or in full, the resulting new contract pricing will be implemented through a contract amendment.

Contract extensions and price adjustments: Contractors may not make contract extensions contingent on price adjustments.

## 1.13 MISCELLANEOUS EXPENSES

Expenses related to day-to-day Contract performance (including but not limited to travel, lodging, meals, and incidentals) will not be reimbursed to the Contractor. However, DES recognizes that there may be occasions when the purchaser requires the bidder to travel. In such cases the purchaser must provide written pre-approval of such expenses on a case-by-case basis. Any such reimbursement will be at rates not to exceed the guidelines for state employees published by the Washington State Office of Financial Management set forth in the [Washington State Administrative & Accounting Manual](#), and not to exceed expenses actually incurred.

## 2 STANDARD DEFINITIONS

This section contains definitions of terms commonly used in solicitations conducted by the State of Washington, Department of Enterprise Services. Additional definitions may also be found in [Chapter 39.26 RCW](#). All terms contained herein will be read consistently with those definitions.

<b>Agency</b>	State of Washington institutions, the offices of the elective state officers, the Supreme Court, the court of appeals, the administrative and other departments of state government, and the offices of all appointive officers of the state. "Agency" does not include the legislature but does include colleges, community colleges and universities who choose to participate in state Contract(s).
<b>Amendment</b>	<p>A change to a legal document.</p> <p>Solicitation: For the purposes of a solicitation document, an amendment shall be a unilateral change issued by DES, at its sole discretion.</p> <p>Contract: An agreement between the parties to change the Contract after it is fully signed by both parties. Such agreement shall be memorialized in a written document describing the agreed-upon change including any terms and conditions required to support such change. An Order Document shall not constitute an amendment to a Contract.</p>
<b>Authorized representative</b>	An individual designated by the bidder or Contractor to act on its behalf and with the authority to legally bind the bidder or Contractor.
<b>Authorized signatory</b>	An individual with the authority to legally bind the bidder or Contractor concerning the terms and conditions set forth in solicitation, response and Contract documents.
<b>Business days</b>	Monday through Friday, 8 a.m. to 5 p.m., Pacific Time, except for holidays observed by the State of Washington.
<b>Calendar days</b>	Consecutive days of the year including weekends and holidays, each of which commence at 12:00:01 a.m. and end at Midnight, Pacific Time. When "days" are not specified, Calendar Days shall prevail.
<b>Contract</b>	An agreement, or mutual assent, between two or more competent parties with the elements of the agreement being offer, acceptance, and consideration.
<b>Contract administrator</b>	The individual authorized by DES who is responsible for administration of a Contract.
<b>Contractor</b>	Individual, company, corporation, firm, or combination thereof with whom DES develops a Contract for the procurement of materials, supplies, services, and/or equipment. It shall also include any Subcontractor retained



	by Contractor as permitted under the terms of the Contract.
<b>Department of Enterprise Services (DES)</b>	An agency serving state government and the citizens of Washington.
<b>Estimated useful life</b>	The estimated time from the date of acquisition to the date of replacement or disposal, determined in any reasonable manner.
<b>Inspection</b>	An examination of delivered material, supplies, services, and/or equipment prior to Acceptance aimed at forming a judgment as to whether such delivered items are what was ordered, were properly delivered and ready for Acceptance. Inspection may include a high level visual examination or a more thorough detailed examination as is customary to the type of purchase, as set forth in the solicitation document and/or as agreed between the parties. Inspection shall be acknowledged by an authorized signature of the purchaser.
<b>Lead time/After Receipt Of Order (ARO)</b>	The period of time between when the Contractor receives the order and the purchaser receives the materials, supplies, equipment, or services order.
<b>Lifecycle cost</b>	The total cost of an item to the state over its Estimated Useful Life, including costs of selection, acquisition, operation, maintenance, and where applicable, disposal, as far as these costs can reasonably be determined, minus the salvage value at the end of its estimated useful life.
<b>Contracts, Purchasing and Risk Management (CPRM)</b>	A unit of the Contracts and Legal Services Division of DES authorized under Chapter 39.26 RCW to develop and administer Contracts for goods and services on behalf of state agencies, colleges and universities, nonprofit organizations and local governments.
<b>Order document</b>	A written communication, submitted by a purchaser to the Contractor, which details the specific requirements of the purchaser within the scope of the Contract, such as delivery date, size, color, capacity, etc. <b>An order document must be agreed to and signed by both parties and</b> may include, but is not limited to field orders, purchase orders, work order or other writings as may be designated by the parties hereto. <b>Additional or alternate terms and conditions are allowed as agreed upon by the Purchaser and Contractor.</b>
<b>Original Equipment Manufacturer (OEM)</b>	A supply management term for the purchase of parts and material directly from the manufacturer of the equipment or from an authorized reseller. For example, Ford automotive replacement parts would be purchased from an authorized Ford reseller.
<b>Procurement Coordinator</b>	The individual authorized by DES who is responsible for conducting a specific solicitation.



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### 3 STANDARD TERMS & CONDITIONS

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#### 3.1 CONTRACT MODIFICATIONS

DES reserves the right to modify the resulting Contract (including but not limited to adding or deleting products, services, or delivery locations) by mutual agreement between DES and the Contractor, so long as such modification is substantially within the scope of the original Contract. Such modifications will be memorialized in a signed written document describing the agreed upon change including any terms and conditions required to support such change.

#### 3.2 CONTRACT ADMINISTRATION

DES will appoint a single point of contact that will be the Contract Administrator for this Contract and will provide Contract oversight. The Contract Administrator will be the principal contact for the Contractor for business activities under this Contract. DES will notify Contractor, in writing, when there is a new Contract Administrator assigned to this Contract.

#### 3.3 CONTRACTOR SUPERVISION AND COORDINATION

Contractor shall:

- a. Competently and efficiently supervise and coordinate the implementation and completion of all Contract requirements specified herein.
- b. Identify the Contractor's Authorized Representative, who will be the principal point of contact for DES concerning Contractor's performance under this Contract.
- c. Immediately notify the Contract Administrator in writing of any change to the designated Authorized Representative assigned to this Contract.
- d. Be bound by all written communications given to or received from the Contractor's Authorized Representative.

Violation of any provision of this section may be considered a material breach establishing grounds for Contract termination.

#### 3.4 POST-AWARD CONFERENCE

The Contractor may be required to attend a post-award conference scheduled by the Procurement Coordinator and/or the Contract administrator to discuss Contract performance requirements. The time and place of this conference will be scheduled following Contract award.

#### 3.5 CONTRACT MANAGEMENT

Upon award this Contract, the Contractor shall:

- a. Review the impact of the award and take the necessary steps needed to ensure that Contractual obligations will be fulfilled.
- b. Promote and market the use of this Contract to all authorized Contract purchasers.
- c. Ensure that those who endeavor to utilize this Contract are authorized purchasers under this Contract.
- d. At no additional charge, assist purchasers in making the most cost effective, value based purchases which may include, but is not limited to:



- Having representatives available to provide information regarding products and services, including visiting the purchaser site if needed, and providing purchaser with materials/supplies/equipment recommendations.
- Providing purchasers with a detailed list of Contract items including current Contract pricing and part numbers.

The Contractor shall designate a customer service representative who will be responsible for addressing purchaser issues including, but not limited to:

- Logging requests for service, ensuring repairs are completed in a timely manner, dispatching service technicians and processing warranty claim documentation.
- Providing purchasers with regular and timely status updates in the event of a delay in repair or order fulfillment.
- Acting as the lead and liaison between the manufacturer and purchaser in resolving warranty claims for Contract items purchased.

### 3.6 CHANGES

Alterations to any of the terms, conditions, or requirements of this Contract shall only be effective upon written issuance of a mutually agreed Contract amendment by DES. However, changes to point of contact information may be updated without the issuance of a mutually agreed Contract amendment.

### 3.7 STATEWIDE PAYEE DESK

Contractors must register with the Statewide Payee Desk, maintained by DES, in order to be paid for Contract sales. Washington state agencies cannot make payments to a Contractor until it is registered. Registration materials are available here: [Receiving Payment from the State](#).

### 3.8 MANAGEMENT FEE

Contractor will pay a management fee of 0.74 percent to DES on all state Contract sales/purchase price for work orders. The purchase price is defined as total invoice price less sales tax.

The management fee must be rolled into the Contractor's current pricing; the fee must not be shown as a separate line item on an invoice unless specifically requested and approved by DES.

How to determine the fee:  $\text{Total sales} \times .0074 = \text{management fee}$ .

DES may increase, reduce or eliminate the management fee, and reserves the right to negotiate Contract pricing with the Contractor when adjustment of the management fee might justify an increase in pricing. Written notifications of the management fee by DES become effective for new purchases or new change orders to existing purchases 30 calendar days after notification unless DES grants additional time.

The state reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced and all management fees have been paid. Failure to accurately report total net sales, to submit a timely usage report, or remit timely payment of the management fee, may be cause for Contract termination, the charging of interest or penalties, or the exercise of other remedies provided by law.

The management fee does not include or supersede fee terms owed to other entities such as the NASPO Valuepoint Purchasing Group or governmental entities other than the state of Washington.





DES will invoice the Contractor every quarter based on sales reported by Contractor. Contractors are not to remit payment until they receive an invoice from DES.

Management fee payment must reference the Contract number, work request number (if applicable), the year and quarter for which the management fee is being remitted, and the Contractor's name as it is known to DES, if not already included on the face of the check.

### **3.9 CONTRACT SALES REPORT**

The management fee will be based on total Contract sales, which must be reported quarterly by the Contractor in the [Contract Sales Reporting System](#). DES will provide a login password and a required vendor number.

"Zero" sales: Contractor is required to report "zero" sales even if no sales occurred during the reporting period.

The report shall identify:

- A. Purchasers who have been invoiced for work orders awarded through this Contract;
- B. Amounts invoiced for each purchaser during the reporting period

Reports must be submitted electronically within thirty (30) days after the end of the calendar quarter, i.e., no later than April 30, July 31, October 31 and January 31.

A further description of the sales reporting requirement and the management fee based upon it can be found in sections 3.8 and 3.9 of Appendix, [Master Contract Terms and Conditions](#).

### **3.10 OTHER REQUIRED REPORTS**

DES may require the Contractor to provide a detailed annual Contract sales history report. This report, if requested, will include at a minimum, but is not limited to: product description, part number or other product identifier, per unit quantities sold, and Contract price. This report must be provided to DES in an electronic format that can be read by MS Excel. Unless the solicitation specifies otherwise, all other required reports will be designed and approved by the parties by mutual agreement.

### **3.11 COMMON VENDOR-REGISTRATION AND BID-NOTIFICATION SYSTEM**

Contractor shall be registered in Washington's Electronic Business Solution (WEBS), the state's common vendor registration and bid notification system ([www.ga.wa.gov/webs](http://www.ga.wa.gov/webs)). Contractors already registered need not re-register. It is the sole responsibility of Contractor to properly register and maintain an accurate vendor profile.

### **3.12 CONTRACTOR QUALIFICATIONS AND REQUIREMENTS**

DES reserves the right to require receipt of proof of compliance with any of the requirements in this section within 10 calendar days from the date of request, and to terminate this Contract as a material breach for noncompliance with any requirement of this paragraph. Contractor shall maintain compliance with these requirements throughout the life of this Contract.

#### **a. Qualified and established business**

Prior to performance, or prior to that time if required by DES, law or regulation, Contractor must be an established business with all required licenses, fees, bonding, facilities, equipment, and trained personnel necessary to meet all requirements and perform the work as specified in the solicitation.

#### **b. Authorized Service Provider and Product Reseller certifications**

Upon request, Contractor must provide evidence of its status as an authorized service provider or product reseller. Contractor shall maintain its authorized service provider or product reseller status for the initial term and any extensions of the resulting Contract. If this status is discontinued, this Contract may be terminated.

**c. Personnel substitutions**

If at Contract award or any time thereafter, any named individual specifically identified in the response to work on this engagement is not available, DES reserves the right to approve or reject any personnel substitutions.

**d. Use of Subcontractors**

Prior to performance, Contractor shall identify all Subcontractors who will perform services in fulfillment of Contract requirements. Additionally Contractor may be required to identify contact information as well as federal tax identification number (TIN), and anticipated dollar value of each subcontract.

DES reserves the right to approve or reject any and all Subcontractors that identified by the Contractor. Any Subcontractors not listed in the bidder's response, who are engaged by the Contractor, must be pre-approved, in writing, by DES.

Contractor agrees to be responsible for all actions of any Subcontractors in the performance of this Contract. The Contractor shall be responsible to ensure that all requirements of the Contract shall flow down to any and all Subcontractors. In no event shall the existence of a subcontract operate to release or reduce the liability of Contractor to the state for any breach in the performance of the Contractor's duties.

**e. Assignment**

Contractor shall not assign or otherwise transfer its obligations or any claim arising under this Contract without the prior written consent of DES. Such consent will not be unreasonably withheld. Contractor shall provide a minimum of 30 calendar days advance notification of intent to assign or otherwise transfer its obligations under this Contract. Violation of this provision may be considered a material breach and be grounds for Contract termination. Assignment or transfer of Contract shall not relieve the Contractor from its responsibilities and obligations under the Contract.

**f. Contractor authority and infringement**

Under this Contract, Contractor is authorized to sell only those materials, supplies, services and/or equipment as stated herein and allowed for by the Contract provisions. Contractor shall not misrepresent to purchasers that they have the Contract authority to sell any other materials, supplies, services and/or equipment. Further, Contractor may not intentionally infringe on other established state Contracts.

**g. Hours of labor**

In compliance with RCW 49.28, Contractor agrees that no worker, laborer, or mechanic in the employ of the Contractor or Subcontractor shall be permitted or required to work more than eight (8) hours in any one calendar day, or forty (40) hours in any one calendar week. However, in cases of extraordinary emergency such as danger to life or property, the hours of work may be extended but in such cases the rate of pay for time employed in excess of the above shall be at the prevailing overtime rate of pay. Except, Contracts will not require the payment of overtime rates for the first two hours worked in excess of eight (8) hours



per day when the employer has obtained the employee's agreement (as defined in WAC [296-127-022](#)) to work a four-day, ten-hour work week.

**h. Materials and workmanship**

The Contractor is required to furnish all materials, supplies, equipment and/or services necessary to perform Contractual requirements. Materials, supplies, equipment and/or services used in the performance of this Contract shall conform to all applicable federal, state, and local codes, regulations and requirements for such equipment, specifications contained herein, and the normal uses for which intended. Materials, supplies, and equipment shall be manufactured in accordance with the best commercial practices and standards for this type of materials, supplies, and equipment.

**i. Intentionally Omitted.**

**a. Site security:**

While on purchaser's premises, Contractor, its agents, employees, or Subcontractors shall conform in all respects with physical, fire, or other security regulations.

**3.13 TREATMENT OF ASSETS**

Title to all property furnished by DES and/or purchaser shall remain with DES and/or purchaser, as applicable. Any property of DES and/or purchaser furnished to the Contractor shall, unless otherwise provided herein or approved by DES and/or purchaser, be used only for the performance of this Contract.

The Contractor shall be responsible for damages as a result of any loss or damage to property of DES and/or purchaser which results from the negligence of the Contractor or which results from the failure on the part of the Contractor to maintain, administer and protect that property in a reasonable manner and to the extent practicable in all instances.

If any DES and/or purchaser property is lost, destroyed, or damaged, the Contractor shall immediately notify DES and/or purchaser and shall take all reasonable steps to protect the property from further damage.

The Contractor shall surrender to DES and/or purchaser all property of DES and/or purchaser prior to settlement upon completion, termination, or cancellation of this Contract.

Title to all property furnished by the Contractor, the cost for which the Contractor is entitled to be reimbursed as a direct item of cost under this Contract, shall pass to and vests in the purchaser upon delivery of such property by the Contractor and Acceptance by the purchaser. Title to other property, the cost of which is reimbursable to the Contractor under this Contract, shall pass to and vest in the purchaser upon (i) issuance for use of such property in the performance of this Contract, or (ii) commencement of use of such property in the performance of this Contract, or (iii) reimbursement of the cost thereof by the purchaser in whole or in part, whichever first occurs.

All reference to the Contractor under this clause shall also include Contractor's employees, agents or Subcontractors.

**3.14 STANDARD OF QUALITY/CONSISTENCY OVER TERM OF CONTRACT**

If, in the sole judgment of DES or the purchaser, any product is determined not to be equal, the purchaser may take any or all of the following actions:





- a. The Product may be returned at Contractor's expense and the purchaser reimbursed for any payments.
- b. The Contract may be terminated without any liability to the state of Washington or purchaser.

### 3.15 PAYMENT

**a. Advance payment prohibited:**

No advance payment shall be made for the products and Services furnished by Contractor under this Contract.

Notwithstanding the above, maintenance payments, if any, may be made on a quarterly basis at the beginning of each quarter.

**b. Payment:**

Payment is the sole responsibility of, and will be made by, the purchaser.

Under [Chapter 39.76 RCW](#) , if purchaser fails to make timely payment(s), Contractor may invoice for 1 percent per month on the amount overdue or a minimum of \$1. Payment will not be considered late if a check or warrant is mailed within the time specified. If no terms are specified otherwise in the solicitation, net 30 days will automatically apply.

Payment(s) made in accordance with Contract terms shall fully compensate the Contractor for all risk, loss, damages or expense of whatever nature and acceptance of payment shall constitute a waiver of all claims submitted by Contractor.

Payment for materials, supplies and/or equipment received and for services rendered shall be made by purchaser and be redeemable in U.S. dollars. Unless otherwise specified, the purchaser's sole responsibility shall be to issue this payment. Any bank or transaction fees or similar costs associated with currency exchange procedures or the use of purchasing/credit cards shall be fully assumed by the Contractor.

Note: when the state has been overcharged or otherwise reimbursed, the purchaser may elect to have either direct payments or written credit memos issued. If the Contractor fails to make timely payment(s) or issuance of credit memos, the purchaser may impose a 1% per month on the amount overdue 30 days after notice to the Contractor.

**c. Invoicing and discounts**

Contractor must provide a properly completed invoice to purchaser. All invoices are to be delivered to the address indicated in the purchase order.

Each invoice must be identified by the associated Contract number; the Contractor's statewide vendor registration number assigned by the Washington State Office of Financial Management (OFM), the applicable purchaser's order number, and must be in U.S. dollars. Statewide vendor registration numbers may be accessed here:

<http://www.des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/VL.aspx>. Invoices must be prominently annotated by the Contractor with all applicable prompt payment and/or volume discount(s) and shipping charges unless otherwise specified in the solicitation.

Invoices for payment will accurately reflect all discounts due the purchaser. Invoices will not be processed for payment, nor will the period of prompt payment discount commence, until receipt of a properly completed invoice denominated in U.S. dollars and until all



invoiced items are received and satisfactory performance of Contractor has been accepted by the purchaser. If an adjustment in payment is necessary due to damage or dispute, any prompt payment discount period shall commence on the date final approval for payment is authorized.

### **3.16 TAXES, FEES AND LICENSES**

#### **a. Taxes**

Where required by statute or regulation, the Contractor shall pay for and maintain in current status all taxes that are necessary for Contract performance. Unless otherwise indicated, the purchaser agrees to pay State of Washington taxes on all applicable materials, supplies, services and/or equipment purchased. No charge by the Contractor shall be made for federal excise taxes and the purchaser agrees to furnish Contractor with an exemption certificate where appropriate.

#### **b. Collection of retail sales and use taxes**

In general, Contractors engaged in retail sales activities within the State of Washington are required to collect and remit sales tax to Department of Revenue (DOR). In general, out-of-state Contractors must collect and remit "use tax" to Department of Revenue if the activity carried on by the seller in the State of Washington is significantly associated with Contractor's ability to establish or maintain a market for its products in Washington. Examples of such activity include where the Contractor either directly or by an agent or other representative:

- Maintains an in-state office, distribution house, sales house, warehouse, service enterprise, or any other in-state place of business;
- Maintains an in-state inventory or stock of goods for sale;
- Regularly solicits orders from purchasers located within the State of Washington via sales representatives entering the State of Washington;
- Sends other staff into the State of Washington (e.g. product safety engineers, etc.) to interact with purchasers in an attempt to establish or maintain market(s); or
- Other factors identified in [WAC 458-20](#).

#### **c. Department of Revenue registration for out-of-state Contractors**

Out-of-state Contractors meeting any of the above criteria must register and establish an account with the Department of Revenue. Refer to [WAC 458-20-193](#), and call the Department of Revenue at 800-647-7706 for additional information. When out-of-state Contractors are not required to collect and remit "use tax," purchasers located in the State of Washington are responsible for paying this tax, if applicable, directly to the Department of Revenue.

#### **d. Fees/Licenses**

After award of Contract, and prior to commencing performance under the Contract, the Contractor shall pay for and maintain in a current status any licenses, fees, assessments, permit charges, etc., which are necessary for Contract performance. It is the Contractor's sole responsibility to maintain licenses and to monitor and determine any changes or the enactment of any subsequent regulations for said fees, assessments, or charges and to



immediately comply with said changes or regulations during the entire term of this Contract.

**e. Customs/Brokerage Fees**

Contractor shall take all necessary actions, including, but not limited to, paying all customs, duties, brokerage, and/or import fees, to ensure that materials, supplies, and/or equipment purchased under the Contract are expedited through customs. Failure to do so may subject Contractor to liquidated damages as identified herein and/or to other remedies available by law or Contract. Neither DES nor the purchaser will incur additional costs related to Contractor's payment of such fees.

**f. Taxes on invoice**

Contractor shall calculate and enter the appropriate state and local sales tax on all invoices. Tax is to be computed on new items after deduction of any trade-in in accordance with [WAC 458-20-247](#).

**g. Minority and Women's Business Enterprise (MWBE) participation**

Annually, the state may request that Contractor provide information of MWBE participation in this Contract through its certification as MWBE or that of its subcontractors and by providing a high-level account of amounts paid.

**h. Overpayments to Contractor**

Contractor shall refund to purchaser the full amount of any erroneous payment or overpayment under this Contract within 30 days' written notice. If Contractor fails to make timely refund, purchaser may charge Contractor 1 percent per month on the amount due, until paid in full.

**i. Audits**

The state reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced. Repetitive instances of incorrect invoicing may be considered complete cause for Contract termination.

**3.17 QUALITY ASSURANCE**

**a. Right of inspection**

Contractor shall provide right of access to its facilities to DES, or any of DES's officers, or to any other authorized agent or official of the State of Washington or the federal government, with advanced notice and as agreed upon by Contractor, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Contract.

**b. Contractor commitments, warranties and representations**

Any written commitment by Contractor within the scope of this Contract shall be binding upon Contractor. Failure of Contractor to fulfill such a commitment may constitute breach and shall render Contractor liable for damages under the terms of this Contract. For purposes of this section, a commitment by Contractor includes: (i) Prices, discounts, and options committed to remain in force over a specified period of time; and (ii) any warranty or representation made by Contractor in its bid or contained in any Contractor or manufacturer publications, written materials, schedules, charts, diagrams, tables,





descriptions, other written representations, and any other communication medium accompanying or referred to in its bid or used to effect the sale to purchaser.

**c. Warranties**

Contractor warrants that all materials, supplies, services and/or equipment provided under this Contract shall be fit for the purpose(s) for which intended, for merchantability, and shall conform to the requirements and specifications herein. Acceptance of any materials, supplies, service and/or equipment, and inspection incidental thereto, by the purchaser shall not alter or affect the obligations of the Contractor or the rights of the purchaser.

**d. Cost of remedy**

Cost of remedying defects: All defects, indirect and consequential costs of correcting, removing or replacing any or all of the defective materials or equipment will be charged against the Contractor.

**3.18 INFORMATION AND COMMUNICATIONS**

**a. Advertising**

Contractor shall not publish or use any information concerning this Contract in any format or media for advertising or publicity without prior written consent from DES.

**b. Retention of records**

The Contractor shall maintain all books, records, documents, data and other evidence relating to this Contract and the provision of materials, supplies, services and/or equipment 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 Contract. Contractor 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 Contract, shall be subject at all reasonable times to inspection, review, or audit by DES, personnel duly authorized by DES, the Washington State Auditor's Office, 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 final resolution of all litigation, claims, or audit findings involving the records.

**c. Proprietary or confidential information**

To the extent consistent with [Chapter 42.56 RCW](#), the Public Disclosure Act, DES shall maintain the confidentiality of Contractor's information marked confidential or proprietary. If a request is made to view Contractor's proprietary information, DES will notify Contractor of the request and of the date that the records will be released to the requester unless Contractor obtains a court order enjoining that disclosure. If Contractor fails to obtain the court order enjoining disclosure, DES will release the requested information on the date specified.

The state's sole responsibility shall be limited to maintaining the above data in a secure area and to notify Contractor of any request(s) for disclosure for so long as DES retains Contractor's information in DES records. Failure to so label such materials or failure to timely respond after notice of request for public disclosure has been given shall be deemed a waiver by Contractor of any claim that such materials are exempt from disclosure.

**d. Non-endorsement and publicity**

Neither DES nor the purchasers are endorsing the Contractor's products or Services, nor suggesting that they are the best or only solution to their needs. Contractor agrees to make no reference to DES, any purchaser or the State of Washington in any literature, promotional material, brochures, sales presentation or the like, regardless of method of distribution, without the prior review and express written consent of DES.

**3.19 GENERAL TERMS AND CONDITIONS**

**a. Governing law and venue**

This Contract shall be construed and interpreted in accordance with the laws of the State of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

**b. Severability**

Severability: If any provision of this Contract or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Contract that can be given effect without the invalid provision, and to this end the provisions of this Contract are declared to be severable.

**c. Survivorship**

All transactions executed for products and Services provided pursuant to the authority of this Contract shall be bound by all of the terms, conditions, Prices and Price discounts set forth herein, notwithstanding the expiration of the initial term of this Contract or any extension thereof. Further, the terms, conditions and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Contract shall so survive. In addition, the terms of the sections titled Overpayments to Contractor; Ownership/Rights in Data; Contractor's Commitments, Warranties and Representations; Protection of purchaser's Confidential Information; Section Headings, Publicity; Retention of Records; Patent and Copyright Indemnification; Contractor's Proprietary Information; Disputes; and Limitation of Liability shall survive the termination of this Contract.

**d. Independent status of Contractor**

In the performance of this Contract, the parties will be acting in their individual, corporate or governmental capacities and not as agents, employees, partners, joint ventures, or associates of one another. The parties intend that an independent Contractor relationship will be created by this Contract. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever. Contractor shall not make any claim of right, privilege or benefit which would accrue to an employee under [Chapter 41.06 RCW](#), or [Title 51 RCW](#).

**e. Gifts and gratuities**

Contractor shall comply with all state laws regarding gifts and gratuities, including but not limited to: [RCW 39.26](#), [RCW 42.52.150](#), [RCW 42.52.160](#), and [RCW 42.52.170](#) under which it is unlawful for any person to directly or indirectly offer, give or accept gifts, gratuities, loans, trips, favors, special discounts, services, or anything of economic value in conjunction with state business or Contract activities.



Under [RCW 39.26](#) and the Ethics in Public Service Law, [Chapter 42.52 RCW](#), state officers and employees are prohibited from receiving, accepting, taking or seeking gifts (except as permitted by [RCW 42.52.150](#)) if the officer or employee participates in Contractual matters relating to the purchase of goods or services.

**f. Immunity and hold harmless**

To the fullest extent permitted by law, each party shall indemnify, defend and hold harmless state, agencies of state and all officials, agents and employees of state (the "Indemnified Parties"), from and against all claims for bodily injury, death or damage to property arising out of or resulting from a negligent or wrongful act or omission on the part of the indemnifying party or a material breach of this Contract by the indemnifying party. Contractor's obligation to indemnify, defend, and hold harmless includes any claim by Contractor's agents, employees, representatives, or any Subcontractor or its employees.

Contractor waives its immunity under Title 51 to the extent it is required to indemnify, defend and hold harmless state and its agencies, officials, agents or employees.

**g. Personal liability**

It is agreed by and between the parties hereto that in no event shall any official, officer, employee or agent of the State of Washington when executing their official duties in good faith, be in any way personally liable or responsible for any agreement herein contained whether expressed or implied, nor for any statement or representation made herein or in any connection with this agreement.

**h. Liability**

Contractor agrees to assume the liability for any loss, according to the terms of this Contract, of the security sealed container(s) from the time Contractor signs for, and receives, physical custody of the sealed container(s) and responsibility terminates when the Purchaser or its designated consignee takes physical possession of the sealed container(s) and signs Contractor's receipt. If it is impossible to complete the delivery, Contractor shall be responsible for any loss until the sealed container(s) is returned to the Purchaser or its designated agent and a signed receipt obtained. While the sealed container(s) is stored in the Purchaser's premises, Contractor does not assume liability for any loss. If the Purchaser conceals or misrepresents any material factor or circumstance.

Under no circumstance will either party be liable to the other party for lost profits or for any indirect, incidental, consequential, special, punitive or exemplary damages; such as, but not limited to, loss of revenue, loss of interest, lost data, data transmission error or anticipated profits or lost business.

The sole liability of the Contractor in the event of loss for whatever cause except as hereinafter limited, shall be payment to the Purchaser of the declared Liability Coverage per shipment amount not to exceed \$250,000 per shipment.

**Claims:** It is understood that the Purchaser agrees to notify the Contractor, in writing, via certified mail, of any claim for loss in any event within forty-five (45) days after the pick-up by Contractor of the securely sealed container of property in connection with which the claim is asserted and unless such notice shall have been given, such claim shall be deemed waived.

**Container Value Limitation:** Purchaser acknowledges and agrees that the maximum value which Contractor will transport in any individual container will not exceed two



hundred fifty thousand dollars (\$250,000). If the total value of a shipment which Purchaser seeks to tender to Contractor exceeds to hundred fifty thousand dollars (\$250,000), such shipment must be broken down into separate shipment containers of two hundred fifty thousand dollars (\$250,000) or less.

### 3.20 INSURANCE

The following are general insurance provisions for the State of Washington. Additional requirements specific to a good/service may be detailed elsewhere in a solicitation or its appendices.

#### a. General requirements

Contractor shall, at its own expense, obtain and keep in force insurance as follows until completion of the Contract. Upon request, Contractor shall furnish evidence in the form of a certificate of insurance satisfactory to the State of Washington that insurance, in the following kinds and minimum amounts, has been secured. Failure to provide proof of insurance, as required, will result in Contract cancellation.

Contractor shall include all Subcontractors as insureds under all required insurance policies, or shall furnish separate Certificates of Insurance and endorsements for each Subcontractor. Subcontractor(s) must comply fully with all insurance requirements stated herein. Failure of Subcontractor(s) to comply with insurance requirements does not limit Contractor's liability or responsibility.

All insurance provided in compliance with this Contract shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the state.

#### b. Specific requirements

Employer's Liability (Stop Gap): The Contractor will at all times comply with all applicable workers' compensation, occupational disease, and occupational health and safety laws, statutes, and regulations to the full extent applicable and will maintain Employers Liability insurance with a limit of no less than \$1,000,000.00. The State of Washington will not be held responsible in any way for claims filed by the Contractor or their employees for services performed under the terms of this Contract.

Commercial General Liability Insurance: The Contractor shall at all times during the term of this Contract, carry and maintain commercial general liability insurance and if necessary, commercial umbrella insurance for bodily injury and property damage arising out of services provided under this Contract. This insurance shall cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns, or servants.

The insurance shall also cover bodily injury, including disease, illness and death, and property damage arising out of the Contractor's premises/operations, independent Contractors, products/completed operations, personal injury and advertising injury, and Contractual liability (including the tort liability of another assumed in a business Contract), and contain separation of insured's (cross liability) conditions.

Contractor waives all rights against the State of Washington for the recovery of damages to the extent they are covered by general liability or umbrella insurance.

The limits of liability insurance shall not be less than as follows:



General aggregate limits (other than products-completed operations)	\$2 million
Products-completed operations aggregate	\$2 million
Personal and advertising injury aggregate	\$1 million
Each occurrence (applies to all of the above)	\$1 million
Medical expense limit (any one person)	\$5,000

**c. Business Auto Policy (BAP)**

In the event that services delivered pursuant to this Contract involve the use of vehicles, or the transportation of clients, automobile liability insurance shall be required. The coverage provided shall protect against claims for bodily injury, including illness, disease, and death; and property damage caused by an occurrence arising out of or in consequence of the performance of this service by the Contractor, Subcontractor, or anyone employed by either.

Contractor shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a combined single limit not less than \$1,000,000 per occurrence. The business auto liability shall include Hired and Non-Owned coverage.

Contractor waives all rights against the State of Washington for the recovery of damages to the extent they are covered by business auto liability or commercial umbrella liability insurance.

**d. Additional insurance provisions**

All above insurance policies shall include, but not be limited to, the following provisions:

**Additional insured:**

The State of Washington and all authorized purchasers shall be listed as an additional insured on all general liability and auto insurance policies. All policies shall be primary over any other valid and collectable insurance.

**Notice of policy cancellation/Non-renewal:**

For insurers subject to [Chapter 48.18 RCW](#) (admitted and regulated by the Washington State Insurance Commissioner) a written notice shall be given to the director of purchasing or designee by Contractor 45 calendar days prior to cancellation or any material change to the policy as it relates to this Contract. Written notice shall include the affected Contract reference number.

**e. Surplus lines**

For insurers subject to [Chapter 48.15 RCW](#) (Surplus Lines) a written notice shall be given to the director of purchasing or designee 20 calendar days prior to cancellation or any material change to the policy(ies) as it relates to this Contract. Written notice shall include the affected Contract reference number.

**Cancellation for non-payment of premium:**



If cancellation on any policy is due to non-payment of premium, a written notice shall be given the director of purchasing or designee by Contractor 10 calendar days prior to cancellation. Written notice shall include the affected Contract reference number.

**Identification:**

Policies and certificates of insurance shall include the affected Contract reference number.

**f. Insurance carrier rating**

The insurance required above shall be issued by an insurance company authorized to do business within the State of Washington. Insurance is to be placed with a carrier that has a rating of A- Class VII or better in the most recently published edition of Best's Reports. Any exception must be reviewed and approved by the Risk Manager for the State of Washington, by submitting a copy of the Contract and evidence of insurance before Contract commencement. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with [Chapter 48.15 RCW](#) and [Chapter 284-15 WAC](#).

**g. Excess coverage**

The limits of all insurance required to be provided by the Contractor shall be no less than the minimum amounts specified. However, coverage in the amounts of these minimum limits shall not be construed to relieve the Contractor from liability in excess of such limits.

**3.21 INDUSTRIAL INSURANCE COVERAGE**

The Contractor shall comply with the provisions of [Title 51 RCW](#) Industrial Insurance. If the Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, DES may terminate this Contract. This provision does not waive any of the Washington State Department of Labor and Industries (L&I) rights to collect from the Contractor.

**3.22 NONDISCRIMINATION**

During the performance of this Contract, the Contractor shall comply with all applicable federal and state nondiscrimination laws, regulations and policies, including, but not limited to, Title VII of the Civil Rights Act, 42 U.S.C. section 12101 et. seq.; the Americans with Disabilities Act (ADA); and, [Chapter 49.60 RCW](#), Discrimination – Human Rights Commission.

**3.23 OSHA AND WISHA REQUIREMENTS**

Contractor agrees to comply with conditions of the federal Occupational Safety and Health Administration (OSHA) and, if manufactured or stored in the State of Washington, the Washington Industrial Safety and Health Act (WISHA) and the standards and regulations issued thereunder, and certifies that all items furnished and purchased will conform to and comply with said laws, standards and regulations. Contractor further agrees to indemnify and hold harmless DES and purchaser from all damages assessed against purchaser as a result of Contractor's failure to comply with those laws, standards and regulations, and for the failure of the items furnished under the Contract to so comply.

**3.24 ANTITRUST**

The state maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, the Contractor hereby assigns to the State of Washington any and all of the Contractor's claims for such price fixing or overcharges which arise under federal or



state antitrust laws, relating to the materials, supplies, services and/or equipment purchased under this Contract.

### 3.25 WAIVER

Failure or delay of DES or purchaser to insist upon the strict performance of any term or condition of the Contract or to exercise any right or remedy provided in the Contract or by law; or DES's or purchaser's acceptance of or payment for materials, supplies, services and/or equipment, shall not release the Contractor from any responsibilities or obligations imposed by this Contract or by law, and shall not be deemed a waiver of any right of DES or purchaser to insist upon the strict performance of the entire agreement by the Contractor. In the event of any claim for breach of Contract against the Contractor, no provision of this Contract shall be construed, expressly or by implication, as a waiver by DES or purchaser of any existing or future right and/or remedy available by law.

### 3.26 DISPUTES AND REMEDIES

#### a. Problem resolution and disputes

Problems arising out of the performance of this Contract shall be resolved in a timely manner at the lowest possible level with authority to resolve such problem. If a problem persists and cannot be resolved, it may be escalated within each organization.

In the event a bona fide dispute concerning a question of fact arises between DES or the purchaser and Contractor and it cannot be resolved between the parties through the normal problem escalation processes, either party may initiate the dispute resolution procedure provided herein.. The dispute shall be handled by a Dispute Resolution Panel in the following manner. Each party to this Contract shall appoint one member to the Panel. These two appointed members shall jointly appoint an additional member. The Dispute Resolution Panel shall review the facts, Contract terms and applicable statutes and rules and make a determination of the dispute as quickly as reasonably possible. The determination of the Dispute Resolution Panel shall be final and binding on the parties hereto. DES and/or purchaser and Contractor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this Contract that are not affected by the dispute.

In the event a bona fide dispute concerning a question of fact arises between DES or the purchaser and Contractor and it cannot be resolved between the parties through the normal escalation processes, either party may initiate the dispute resolution procedure provided herein.

The initiating party shall reduce its description of the dispute to writing and deliver it to the responding party. The responding party shall respond in writing within three business days. The initiating party shall have three business days to review the bid. If after this review a resolution cannot be reached, both parties shall have three business days to negotiate in good faith to resolve the dispute.

If the dispute cannot be resolved after three business days, a Dispute Resolution Panel may be requested in writing by either party who shall also identify the first panel member. Within three business days of receiving the request, the other party will designate a panel member. Those two panel members will appoint a third individual to the Dispute Resolution Panel within the next three business days.

The Dispute Resolution Panel will review the written descriptions of the dispute, gather additional information as needed, and render a decision on the dispute in the shortest practical time.

Each party shall bear the cost for its panel member and share equally the cost of the third panel member.

Both parties agree to be bound by the determination of the Dispute Resolution Panel.

Both parties agree to exercise good faith in dispute resolution and to settle disputes prior to using a Dispute Resolution Panel whenever possible.

DES, the purchaser and Contractor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this Contract that are not affected by the dispute.

If the subject of the dispute is the amount due and payable by purchaser for materials, supplies, services and/or equipment being provided by Contractor, Contractor shall continue providing materials, supplies, services and/or equipment pending resolution of the dispute provided purchaser pays Contractor the amount purchaser, in good faith, believes is due and payable, and places in escrow the difference between such amount and the amount Contractor, in good faith, believes is due and payable.

**b. Administrative suspension**

When it in the best interest of the state, DES may at any time, and without cause, suspend the Contract or any portion thereof for a period of not more than 30 calendar days per event by written notice from DES to the Contractor's Representative. Contractor shall resume performance on the next business day following the 30th day of suspension unless an earlier resumption date is specified in the notice of suspension. If no resumption date was specified in the notice of suspension, the Contractor can be demanded and required to resume performance within the 30-day suspension period by DES providing the Contractor's Representative with written notice of such demand.

**c. Force majeure**

The term "force majeure" means an occurrence that is beyond the control of the party affected and could not have been avoided by exercising reasonable diligence. Force majeure shall include acts of war, riots, strikes, fire, floods, windstorms, epidemics or other similar occurrences.

**Exceptions:** Except for payment of sums due, neither party shall be liable to the other or deemed in breach under this Contract if, and to the extent that, such party's performance of this Contract is prevented by reason of force majeure.

**Notification:** If either party is delayed by force majeure, said party shall provide written notification within 48 hours. The notification shall provide evidence of the force majeure to the satisfaction of the other party. Such delay shall cease as soon as practicable and written notification of same shall likewise be provided. So far as consistent with the Rights Reserved below, the time of completion shall be extended by Contract amendment for a period of time equal to the time that the results or effects of such delay prevented the delayed party from performing in accordance with this Contract.

**Rights reserved:** DES reserves the right to authorize an amendment to this Contract, terminate the Contract, and/or purchase materials, supplies, equipment and/or services





from the best available source during the time of force majeure, and Contractor shall have no recourse against the state.

**d. Alternative dispute resolution fees and costs**

In the event that the parties engage in arbitration, mediation or any other alternative dispute resolution forum to resolve a dispute in lieu of litigation, both parties shall share equally in the cost of the alternative dispute resolution method, including cost of mediator or arbitrator. In addition, each party shall be responsible for its own attorneys' fees incurred as a result of the alternative dispute resolution method.

**e. Non-exclusive remedies**

The remedies provided for in this Contract shall not be exclusive but are in addition to all other remedies available under law.

**3.27 LIQUIDATED DAMAGES**

**a. Limitation of liability**

The parties agree that neither Contractor, DES nor purchaser shall be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages except a claim related to bodily injury or death, or a claim or demand based on patent, copyright, or other intellectual property right infringement, in which case liability shall be as set forth elsewhere in this Contract. This section does not modify any sections regarding liquidated damages or any other conditions as are elsewhere agreed to herein between the parties. The damages specified in the sections titled Termination for Default and Retention of Records are not consequential, incidental, indirect, or special damages as that term is used in this section.

The Contractor, DES and purchaser are not liable for damages arising from causes beyond their reasonable control and without their fault or negligence. Such causes may include, but are not restricted to, acts of the public enemy, acts of a governmental body other than DES or the purchaser acting in either its sovereign or Contractual capacity, war, explosions, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the delays must be beyond the reasonable control and without fault or negligence of the Contractor, DES or the purchaser, or their respective Subcontractors.

If delays are caused by a Subcontractor without its fault or negligence, Contractor shall not be liable for damages for such delays, unless the services to be performed were obtainable on comparable terms from other sources in sufficient time to permit Contractor to meet its required performance schedule.

Neither party shall be liable for personal injury to the other party or damage to the other party's property except personal injury or damage to property proximately caused by such party's respective fault or negligence.

**b. Federal funding**

In the event that a federally funded acquisition results from this procurement, the Contractor may be required to provide additional information (free of charge) at the request of DES or purchaser. Further, the Contractor may be subject to those federal requirements specific to the commodity.

**c. Federal restrictions on lobbying**



Contractor certifies that under the requirements of Lobbying Disclosure Act, 2 U.S.C., Section 1601 et seq., no federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal Contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal Contract, grant, loan, or cooperative agreement.

### 3.28 DEBARMENT AND SUSPENSION

Respondent certifies, by submitting this bid or proposal, that neither it nor its affiliates presently are debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this procurement/Contract by any government agency. Respondent also agrees to notify DES if its debarment status changes during the bid process or after receiving notice of Contract award, if any. If respondent cannot certify this statement, attach a written explanation to the bid response for review.

### 3.29 CONTRACT TERMINATION

#### a. Material breach

A Contractor may be terminated for cause by DES, at the sole discretion of DES, for failing to perform a Contractual requirement or for a material breach of any term or condition. Material breach of a term or condition of the Contract may include but is not limited to:

- Contractor failure to perform services or deliver materials, supplies, or equipment by the date required or by an alternate date as mutually agreed in a written amendment to the Contract;
- Contractor failure to carry out any warranty or fails to perform or comply with any mandatory provision of the Contract;
- Contractor becomes insolvent or in an unsound financial condition so as to endanger performance hereunder;
- Contractor becomes the subject of any proceeding under any law relating to bankruptcy, insolvency or reorganization, or relief from creditors and/or debtors that endangers the Contractor's proper performance hereunder;
- Appointment of any receiver, trustee, or similar official for Contractor or any of the Contractor's property and such appointment endangers the Contractor's proper performance hereunder;
- A determination that the Contractor is in violation of federal, state, or local laws or regulations and that such determination renders the Contractor unable to perform any aspect of the Contract.

#### b. Opportunity to cure

In the event that Contractor fails to perform a Contractual requirement or materially breaches any term or condition, DES may issue a written cure notice. The Contractor may have a period of time in which to cure. DES is not required to allow the Contractor to cure defects if the opportunity for cure is not feasible as determined solely within the discretion of DES. Time allowed for cure shall not diminish or eliminate Contractor's liability for

liquidated or other damages, or otherwise affect any other remedies available against Contractor under the Contract or by law.

If the breach remains after Contractor has been provided the opportunity to cure, DES may do any one or more of the following:

- Exercise any remedy provided by law;
- Terminate this Contract and any related Contracts or portions thereof;
- Procure replacements and impose damages as set forth elsewhere in this Contract;
- Impose actual or liquidated damages;
- Suspend or bar Contractor from receiving future solicitations or other opportunities;
- Require Contractor to reimburse the state for any loss or additional expense incurred as a result of default or failure to satisfactorily perform the terms of the Contract.

**c. Termination for cause**

In the event DES, in its sole discretion, determines that the Contractor has failed to comply with the conditions of this Contract in a timely manner or is in material breach, DES has the right to suspend or terminate this Contract, in part or in whole. DES shall notify the Contractor in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days or as otherwise specified by DES, or if such corrective action is deemed by DES to be insufficient, the Contract may be terminated. DES reserves the right to suspend all or part of the Contract, withhold further payments, or prohibit the Contractor from incurring additional obligations of funds during investigation of the alleged breach and pending corrective action by the Contractor or a decision by DES to terminate the Contract.

In the event of termination, DES shall have the right to procure for all purchasers any replacement materials, supplies, services and/or equipment that are the subject of this Contract on the open market. In addition, the Contractor shall be liable for damages as authorized by law including, but not limited to, any price difference between the original Contract and the replacement or cover Contract and all administrative costs directly related to the replacement Contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.

If it is determined that: (1) the Contractor was not in material breach; or (2) failure to perform was outside of Contractor's or its Subcontractor's control, fault or negligence, the termination shall be deemed to be a "termination for convenience." The rights and remedies of DES and/or the purchaser provided in this Contract are not exclusive and are in addition to any other rights and remedies provided by law.

**d. Termination for convenience**

Except as otherwise provided in this Contract, DES, at the sole discretion of DES, may terminate this Contract, in whole or in part by giving 60 calendar days or other appropriate time period written notice beginning on the second day after mailing to the Contractor. If this Contract is so terminated, purchasers shall be liable only for payment required under this Contract for properly authorized services rendered, or materials, supplies and/or equipment delivered to and accepted by the purchaser prior to the effective date of Contract termination. Neither DES nor the purchaser shall have any other obligation





whatsoever to the Contractor for such termination. This Termination for Convenience clause may be invoked by DES when it is in the best interest of the State of Washington.

**e. Termination for withdrawal of authority**

In the event that DES and/or purchaser's authority to perform any of its duties is withdrawn, reduced, or limited in any way after the commencement of this Contract and prior to normal completion, DES may terminate this Contract, in whole or in part, by seven calendar days written notice, or other appropriate time period, to Contractor.

**f. Termination for non-allocation of funds**

If funds are not allocated to purchaser(s) to continue this Contract in any future period, DES may terminate this Contract with seven calendar days written notice, or other appropriate time period, to Contractor, or work with Contractor to arrive at a mutually acceptable resolution of the situation. Purchaser will not be obligated to pay any further charges for materials, supplies, services and/or equipment including the net remainder of agreed-to consecutive periodic payments remaining unpaid beyond the end of the then-current period. DES and/or purchaser agree to notify Contractor in writing of such non-allocation at the earliest possible time.

No penalty shall accrue to the purchaser in the event this section shall be exercised. This section shall not be construed to permit DES to terminate this Contract in order to acquire similar materials, supplies, services and/or equipment from a third party.

**g. Termination for conflict of interest**

DES may terminate this Contract by written notice to Contractor if it is determined, after due notice and examination, that any party to this Contract has violated [Chapter 42.52 RCW](#), Ethics in Public Service, or any other laws regarding ethics in public acquisitions and procurement and performance of Contracts. In the event this Contract is so terminated, DES and/or purchaser shall be entitled to pursue the same remedies against Contractor as it could pursue in the event that the Contractor breaches this Contract.

**h. Termination by mutual agreement**

DES and the Contractor may terminate this Contract in whole or in part, at any time, by mutual agreement.

**i. Termination procedure**

In addition to the procedures set forth below, if DES terminates this Contract, Contractor shall follow any procedures DES specifies in the termination notice.

Upon termination of this Contract and in addition to any other rights provided in this Contract, DES may require the Contractor to deliver to the purchaser any property specifically produced or acquired for the performance of such part of this Contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

The purchaser shall pay to the Contractor the agreed upon price, if separately stated, for completed work and service(s) Accepted by the purchaser, and the amount agreed upon by the Contractor and the purchaser for (i) completed materials, supplies, services rendered and/or equipment for which no separate price is stated, (ii) partially completed materials, supplies, services rendered and/or equipment, (iii) other materials, supplies, services rendered and/or equipment which are Accepted by the purchaser, and (iv) the



protection and preservation of property, unless the termination is for cause, in which case DES and the purchaser shall determine the extent of the liability of the purchaser. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this Contract. The purchaser may withhold from any amounts due the Contractor such sum as DES and purchaser determine to be necessary to protect the purchaser against potential loss or liability.

The rights and remedies of DES and/or the purchaser provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

After receipt of a termination notice, and except as otherwise expressly directed in writing by DES, the Contractor shall:

- Stop all work, order fulfillment, shipments, and deliveries under the Contract on the date, and to the extent specified, in the notice;
- Place no further orders or Subcontracts for materials, services, supplies, equipment and/or facilities in relation to the Contract except as is necessary to complete or fulfill such portion of the Contract that is not terminated;
- Complete or fulfill such portion of the Contract that is not terminated in compliance with all Contractual requirements;
- Assign to the purchaser, in the manner, at the times, and to the extent directed by DES on behalf of the purchaser, all of the rights, title, and interest of the Contractor under the orders and Subcontracts so terminated, in which case the purchaser has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and Subcontracts.
- Settle all outstanding liabilities and all claims arising out of such termination of orders and Subcontracts, with the approval or ratification of DES and/or the purchaser to the extent DES and/or the purchaser may require, which approval or ratification shall be final for all the purposes of this clause;
- Transfer title to the purchaser and deliver in the manner, at the times, and to the extent directed by DES on behalf of the purchaser any property which, if the Contract had been completed, would have been required to be furnished to the purchaser;
- Take such action as may be necessary, or as DES and/or the purchaser may direct, for the protection and preservation of the property related to this Contract which is in the possession of the Contractor and in which DES and/or the purchaser has or may acquire an interest.



<b>State of Washington</b> Contracts, Procurement, & Risk Management Division Department of Enterprise Services P.O. Box 41411 Olympia, WA 98504-1411	<b>CONTRACT AMENDMENT</b>	
	Contract No.:	08115
Loomis Armored US, LLC 3716 South G Street Tacoma, WA 98418	Amendment No.:	2
	Effective Date:	July 21, 2017

**SECOND AMENDMENT**  
**TO**  
**CONTRACT NO. 08115**  
**ARMORED CAR AND COURIER SERVICES**

This Second Amendment ("Amendment") to Contract No. 08115 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 Loomis Armored US, LLC, a Texas Limited Liability Corporation ("Contractor") and is effective as of July 21, 2017.

**RECITALS**

- A. State and Contractor (collectively the "Parties") entered into that certain Contract No. 08115 dated effective as of May 23, 2016 ("Contract").
- B. The Parties previously amended the Contract one (1) time on July 1, 2017 (Extension, Management Fee Increase and Price Increase).
- 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. **PRICING.** The Contract pricing is amended to reflect a .76% management fee. Base rates will not exceed the following amounts:

Additional Fees (Armored Car)	
Holiday Service	\$95.72
Per Minute	\$2.52
Additional Trip	\$35.27



Monthly Smart Safe Pricing: (1x week pickup)	Island, King, Skagit, Whatcom, Snohomish	All Other Counties	Additional Fees	
Standard Dual Cartridge (2500 notes) Single Feed Validation	\$473.76	\$433.18	Research	\$75.57/hr.
			Storage/Handling*	\$277.09/mo.
XL Dual Cartridge (4500 notes) Single Feed Validation	\$504.44	\$463.96	Tubvend Option	\$61.31/safe
			Fuel	1% of mo. fee
Standard Dual Cartridge (2500 notes) BULK Feed Validation	\$534.39	\$493.99	Insurance	5% of monthly fee
			Bags/log books	Free
XL Dual Cartridge (4500 notes) BULK Feed Validation	\$565.08	\$524.74	Special Requests	\$151.14/hr
			Or as negotiated	

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.

**LOOMIS ARMORED US, LLC**  
**A TEXAS LIMITED LIABILITY COMPANY**

By:   
Name: Sarah Kattapong  
Title: VP Finance & Acctg.  
Date: 7-18-2017

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

By: Melanie Williams  
Name: Melanie Williams  
Title: Contracts Specialist  
Date: 7/19/17





State of Washington Contracts, Procurement, & Risk Management Division Department of Enterprise Services P.O. Box 41411 Olympia, WA 98504-1411	<b>CONTRACT AMENDMENT</b>	
	Contract No.:	08115
	Amendment No.:	4
	Effective Date:	May 23, 2018
Loomis Armored US, LLC 3716 South G Street Tacoma, WA 98418		

**FOURTH AMENDMENT**  
**TO**  
**CONTRACT No. 08115**  
**ARMORED CAR AND COURIER SERVICES**

This Fourth Amendment ("Amendment") to Contract No. 08115 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 Loomis Armored US, a Texas Limited Liability Corporation ("Contractor") and is dated as of May 23, 2018.

**RECITALS**

- A. State and Contractor (collectively the "Parties") entered into that certain Contract No. 08115 for armored car and courier services dated effective as of May 23, 2016 ("Contract").
- B. The Parties previously amended the Contract three times:
  - a. Amendment 1 effective July 1, 2017 (VMF and extension)
  - b. Amendment 2 effective July 21, 2017 (price adjustment)
  - c. Amendment 3 effective September 1, 2017 (price adjustment)
- 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. **TERM.** The contract term is amended such that it shall terminate May 23, 2019 unless otherwise extended.
- 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.

**LOOMIS ARMORED US, LLC,  
A TEXAS LIMITED LIABILITY CORPORATION**

**STATE OF WASHINGTON  
DEPARTMENT OF ENTERPRISE SERVICES**

By: DAN RUSHING  
Name: [Signature]  
Title: VICE PRESIDENT  
Date: 5-17-18

By: Melanie Williams  
Name: Melanie Williams  
Title: Contracts Specialist  
Date: 05/17/18

<b>State of Washington</b> Contracts, Procurement, & Risk Management Division Department of Enterprise Services P.O. Box 41411 Olympia, WA 98504-1411	<b>CONTRACT AMENDMENT</b>	
	Contract No.:	08115
Loomis Armored US, LLC 3716 South G Street Tacoma, WA 98418	Amendment No.:	3
	Effective Date:	September 1, 2017

**THIRD AMENDMENT**  
**TO**  
**CONTRACT NO. 08115**  
**ARMORED CAR AND COURIER SERVICES**

This Third Amendment ("Amendment") to Contract No. 08115 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 Loomis Armored US, LLC, a Texas Limited Liability Corporation ("Contractor") and is effective as of July 1, 2017.

**RECITALS**

- A. State and Contractor (collectively the "Parties") entered into that certain Contract No. 08115 dated effective as of May 23, 2016 ("Contract").
- B. The Parties previously amended the contract: Amendment 1 effective July 1, 2017 (price change) and Amendment 2 effective July 21, 2017 (price change).
- 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. **PRICING.** The Contract pricing is amended to reflect the 6% wage fee as a part of the base price, previously allowed as a separate line item. Base rates will not exceed the following amounts:


	Open Window	Closed Window
1 day per week	\$84.16	\$154.07
2 days per week	\$168.32	\$308.14

3 days per week	\$252.45	\$462.21
4 days per week	\$336.65	\$616.28
5 days per week	\$430.53	\$770.36

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.

**LOOMIS ARMORED US, LLC**  
**A TEXAS LIMITED LIABILITY COMPANY**

By:   
Name: Patrick Otero  
Title: SVP Admin.  
Date: 9-5-2017

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

By: Melanie Williams  
Name: Melanie Williams  
Title: Contracts Specialist  
Date: 09/06/07



State of Washington Contracts & Procurement Division Department of Enterprise Services P.O. Box 41411 Olympia, WA 98504-1411	<b>CONTRACT AMENDMENT</b>	
	Contract No.:	08115
	Amendment No.:	5
	Effective Date:	September 1, 2018
Loomis Armored US, LLC 3716 South G Street Tacoma, WA 98418		

**FIFTH AMENDMENT  
TO  
CONTRACT NO. 08115  
ARMORED CAR AND COURIER SERVICES**

This Fifth Amendment ("Amendment") to Contract No. 08115 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 Loomis Armored US, LLC, a Texas Limited Liability Company ("Contractor") and is dated as of September 1, 2018.

**RECITALS**

- A. State and Contractor (collectively the "Parties") entered into that certain Contract No. 08115 for armored car and courier services dated effective as of May 23, 2016 ("Contract").
- B. The Parties previously amended the Contract four times:
  - a. Amendment 1 effective July 1, 2017 (VMF and extension)
  - b. Amendment 2 effective July 21, 2017 (price adjustment)
  - c. Amendment 3 effective September 1, 2017 (price adjustment)
  - d. Amendment 4 effective May 23, 2018 (extending term)
- 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:

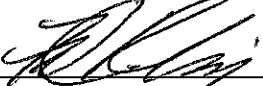
- 1. **PRICING.** The Contract pricing is amended to reflect a 4.97% increase. Base prices shall not exceed:

	Open Window	Closed Window
1 day per week	\$88.34	\$161.73
2 days per week	\$176.69	\$323.52
3 days per week	\$265.03	\$485.18
4 days per week	\$353.38	\$646.91
5 days per week	\$451.93	\$808.65
Holiday Service	\$95.72	
Over Minute	\$2.65	

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.

**LOOMIS ARMORED US, LLC,  
A TEXAS LIMITED LIABILITY COMPANY**

By:   
Name: DAN RUSHING  
Title: VICE PRESIDENT  
Date: 8-1-18

**STATE OF WASHINGTON  
DEPARTMENT OF ENTERPRISE SERVICES**

By: Melanie Williams  
Name: Melanie Williams  
Title: Contracts Specialist  
Date: 08/01/18

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

Loomis Armored US, LLC  
3716 South G Street  
Tacoma, WA 98418

**SIXTH AMENDMENT  
TO  
CONTRACT NO. 08115  
ARMORED CAR AND COURIER SERVICES**

This Sixth Amendment ("Amendment") to Contract No. 08115 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 Loomis Armored US, LLC, a Texas Limited Liability Company ("Contractor") and is dated as of May 22, 2019.

**RECITALS**

- A. State and Contractor (collectively the "Parties") entered into that certain Contract No. 08115 for Armored Car and Courier Services dated effective as of May 23, 2016 ("Contract").
- B. The Parties previously amended the Contract five (5) times:
  - Amendment 1 effective July 1, 2017 (VMF and extension)
  - Amendment 2 effective July 21, 2017 (price adjustment)
  - Amendment 3 effective September 1, 2017 (price adjustment)
  - Amendment 4 effective May 23, 2018 (extending term)
  - Amendment 5 effective September 1, 2018 (price adjustment)
- 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. **TERM.** The contract is amended to extend the term sixty (60) months, ending May 22, 2024, which is the max term of contract.
- 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.

LOOMIS ARMORED US, LLC  
A TEXAS LIMITED LIABILITY COMPANY

By:   
Name: DAN RUSHING  
Title: VICE PRESIDENT  
Date: 4-26-19

STATE OF WASHINGTON  
DEPARTMENT OF ENTERPRISE SERVICES

By:   
Name: Leslie Edwards  
Title: Contract Specialist  
Date: 4-29-19

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

Loomis Armored US, LLC  
3716 South G Street  
Tacoma, WA 98418

**SEVENTH AMENDMENT  
TO  
CONTRACT NO. 08115  
ARMORED CAR AND COURIER SERVICES**

This Seventh Amendment ("Amendment") to Contract No. 08115 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 Loomis Armored US, LLC, a Texas Limited Liability Company ("Contractor") and is dated and effective as of January 1, 2022.

**RECITALS**

- A. State and Contractor (collectively the "Parties") entered into that certain Contract No. 08115 for Armored Car and Courier Services dated effective as of May 23, 2016 ("Contract").
- B. The Parties previously amended the Contract six (6) times.
  - Amendment 1 effective July 1, 2017 (VMF and extension)
  - Amendment 2 effective July 21, 2017 (price adjustment)
  - Amendment 3 effective September 1, 2017 (price adjustment)
  - Amendment 4 effective May 23, 2018 (extending term)
  - Amendment 5 effective September 1, 2018 (price adjustment)
  - Amendment 6 effective May 22, 2019 (extending term)
- 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. **PRICING.** The Contract pricing is amended to reflect a 28.78% increase. Base prices shall be:



MONTHLY RATES			Additional Fees	
Counties: All except San Juan	Open Window	Closed Window		
1 day per week	\$113.76	\$208.28	Holiday Service	\$123.27
2 days per week	\$227.54	\$416.63	Per Minute (over 10 mins.)	\$3.41
3 days per week	\$341.31	\$624.81	Excess Insurance	\$2.09/\$1,000
4 days per week	\$455.08	\$833.09	Additional Trip (on route with 24 hours notice)	\$45.42
5 days per week	\$582.00	\$1,041.38		
Monthly Smart Safe Pricing: (1x week pickup)	Island, King, Skagit, Whatcom, Snohomish	All Other Counties	Additional Fees	
Standard Dual Cartridge (2500 notes)  Single Feed Validation	\$610.11	\$557.85	Research	\$97.32/hr.
			Storage/Handling*	\$356.84/mo.
XL Dual Cartridge (4500 notes)  Single Feed Validation	\$649.62	\$597.49	Tubvend Option	\$79.34/safe
			Fuel	1% of mo. fee
Standard Dual Cartridge (2500 notes)  BULK Feed Validation	\$688.19	\$636.16	Insurance	5% of monthly fee
			Bags/log books	Free
XL Dual Cartridge (4500 notes)  BULK Feed Validation	\$727.71	\$675.76	Special Requests	\$194.64/hr
			Or as negotiated	
Safe Point is an all-inclusive solution. Monthly fee includes the safe, armored transport, cash verification, end user reports and data collection, warranty, shipping, installation, training, change funds. Monthly invoice will show one price plus fuel and insurance. <b>*Storage and handling fees only apply if the initial safe installation takes longer than expected because of modifications needed to the customer's location.</b>				

2. **FUTURE ECONOMIC PRICE ADJUSTMENTS.** Beginning twelve (12) months after the effective date of this Master Contract Amendment and for every annual anniversary thereafter, Contractor may request an annual price adjustment. Requests for price adjustments must be made in writing and be received at least thirty (30) days prior to the adjustment date. In the event Contractor fails to timely request a price adjustment, Enterprise Services, at its sole discretion, may allow an untimely adjustment; Provided, however, that such adjustment will not be effective for any time prior to Enterprise Services' price adjustment. Price adjustments will be made in accordance with the percentage change in the United States Department of Labor, Bureau of Labor and Statistics (BLS) Produce Price Indices (PPI), based on the table below:


Description	Index Number	Weighting
BLS: Avg hourly earnings of all employees, security and armored car services	Employment and Earnings Table B-8b - Avg hourly earnings of all employees, security and armored car services.	55%
PPI Commodity data for Fuels and related products and power-No. 2 diesel fuel, not seasonally adjusted	WPU057303	25%
Overhead	Contractor Provided Data	20%

3. **NO CHANGE OTHER THAN AMENDMENT.** Except as amended herein, the Contract is unaffected and remains in full force and effect.
4. **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..
5. **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.
6. **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.
7. **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.

**LOOMIS ARMORED US, LLC,  
A TEXAS LIMITED LIABILITY COMPANY**

By:   
Name: DAN RUSHING  
Title: VICE PRESIDENT  
Date: 12-16-21

**STATE OF WASHINGTON  
DEPARTMENT OF ENTERPRISE SERVICES**

By:   
Name: Clayton Long  
Title: Contracts Specialist 3  
Date: December 15, 2021

## Contract 08115 Armored Car and Courier Service

### Exhibit B - Pricing and Ordering

**Contractor:** [Loomis Armored LLC](#) – Category 1 Armored Car and Category 3 Smart Safe

#### Vendor Contact Information

	<b>Loomis Armored LLC</b>		
<b>Ordering Contact</b>	Brad Ernster		
Title	Contract Administrator		
Address	3716 South "G" Street		
City	Tacoma		
State	WA	ZIP Code	98418
Phone	(206) 802-0412		
Email	<a href="mailto:Brad.ernster@us.loomis.com">Brad.ernster@us.loomis.com</a>		
Deposit Bags	State Agencies that have deposits to the states' accounts may order free bags by emailing this form to <a href="mailto:recon@tre.wa.gov">recon@tre.wa.gov</a> <a href="http://www.tre.wa.gov/documents/cashManagement/Supply%20Order-Memo.doc">http://www.tre.wa.gov/documents/cashManagement/Supply%20Order-Memo.doc</a>		

MONTHLY RATES			Additional Fees	
Counties: All except San Juan	Open Window	Closed Window		
1 day per week	\$113.76	\$208.28	Holiday Service	\$123.27
2 days per week	\$227.54	\$416.63	Per Minute (over 10 mins.)	\$3.41
3 days per week	\$341.31	\$624.81	Excess Insurance	\$2.09/\$1,000
4 days per week	\$455.08	\$833.09	Additional Trip (on route with 24 hours notice)	\$45.42
5 days per week	\$582.00	\$1,041.38		

Monthly Smart Safe Pricing: (1x week pickup)	Island, King, Skagit, Whatcom, Snohomish	All Other Counties	Additional Fees	
Standard Dual Cartridge (2500 notes) Single Feed Validation	\$610.11	\$557.85	Research	\$97.32/hr.
			Storage/Handling*	\$356.84/mo.
XL Dual Cartridge (4500 notes) Single Feed Validation	\$649.62	\$597.49	Tubvend Option	\$79.34/safe
			Fuel	1% of mo. fee
Standard Dual Cartridge (2500 notes) BULK Feed Validation	\$688.19	\$636.16	Insurance	5% of monthly fee
			Bags/log books	Free

**Contract 08115 Armored Car and Courier Services**  
Pricing and Ordering

XL Dual Cartridge (4500 notes) BULK Feed Validation	\$727.71	\$675.76		
			Special Requests	\$194.64/hr
			Or as negotiated	
Safe Point is an all-inclusive solution. Monthly fee includes the safe, armored transport, cash verification, end user reports and data collection, warranty, shipping, installation, training, change funds. Monthly invoice will show one price plus fuel and insurance. <b>*Storage and handling fees only apply if the initial safe installation takes longer than expected because of modifications needed to the customer's location.</b>				



## City of Spokane

### Contract #08115 Armored Car Services: Work Request

This Work Request is issued under Contract #08115 with the Department of Enterprise Services.

Work Request Number:	22-600	01/01/2022
Category of Service: Armored Car Services	Services are provided for the City of Spokane which is located in Spokane County as outlined in Exhibit A, Contract #08115 and Exhibit B, 2022 Pricing and Ordering.	Number of pickups per week: See below
<b>Expected Work Period</b> Work period is projected from:		January 1, 2022 – December 31, 2022

Jobsite Location: Various locations in the City of Spokane.

Contact is: [treasuryaccounting@spokanecity.org](mailto:treasuryaccounting@spokanecity.org) (509) 625-6030

LOCATION	ADDRESS	FREQUENCY PER WEEK
City Hall	City Hall, 1st Floor	Monday- Friday
City Hall Parking	City Hall, Lower Level	Monday - Friday
Municipal Court	1100 W. Mallon Ave.	Monday- Friday
Municipal Court Parking	1100 W. Mallon Ave.	Monday- Friday
Police Records	1100 W. Mallon Ave.	Monday- Friday
Police Evidence Room	4010 E. Alki	On Call
Waste To Energy - Geiger	2900 S. Geiger	Monday- Sunday (daily)

**NOTE: Locations and frequency per week may be added, deleted, or changed as needed.**

#### Scope of Work/Services Required:

*The City of Spokane has an interlocal agreement with the Washington State Department of Economic Services allowing the City to purchase or acquire goods and services under the contracts entered into by DES that permit such use. The City of Spokane seeks to purchase Loomis Armored Car Services under the Washington State Department of Enterprise Services Contract #08115. Contract #08115 is attached hereto and all terms and conditions are incorporated into this work order by reference. All obligations owed to the State by Loomis under Contract #08115 are also owed to the City of Spokane.*

#### Invoice Address and Account Payable Contact:

City of Spokane  
Treasury Department  
808 W Spokane Falls Blvd  
Spokane WA 99201

[treasuryaccounting@spokanecity.org](mailto:treasuryaccounting@spokanecity.org)  
(509) 625-6030

Banking: Where are deposits and change order delivered or picked up from  
US Bank Spokane Cash Vault

**Projected Budget (if applicable):**

Agency (Project Manager): \_\_\_\_\_ Deputy Treasurer \_\_\_\_\_ Date: 01/01/2022

Phone: (509) 625-6030

Email: [treasuryaccounting@spokaneconomy.org](mailto:treasuryaccounting@spokaneconomy.org)

Fax: N/A

Exhibit A- Contract #08115 with the Department of Enterprise Services

Exhibit B – Washington State Contract 2022 Pricing and Ordering

**LOOMIS ARMORED US**

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



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
02/08/2022

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).

<b>PRODUCER</b> Marsh USA Inc 2929 Allen Parkway, Suite 2500 Houston, TX 77019		<b>CONTACT NAME:</b>	
		<b>PHONE (A/C, No, Ext):</b>	<b>FAX (A/C, No):</b>
		<b>E-MAIL ADDRESS:</b>	
CN102019889-LOOMI-CARGO-20-      Evid    1M      No      No		<b>INSURER(S) AFFORDING COVERAGE</b>	
<b>INSURED</b> Loomis Armored US, LLC 2500 CityWest Blvd, Ste 2300 Houston, TX 77042		<b>INSURER A:</b> (See Attached)	
		<b>INSURER B:</b>	
		<b>INSURER C:</b>	
		<b>INSURER D:</b>	
		<b>INSURER E:</b>	
		<b>INSURER F:</b>	

## COVERAGES

CERTIFICATE NUMBER:

HOU-003887033-01

REVISION NUMBER: 5

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>COMMERCIAL GENERAL LIABILITY</b>						EACH OCCURRENCE \$
	<input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence) \$
							MED EXP (Any one person) \$
							PERSONAL & ADV INJURY \$
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE \$
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						PRODUCTS - COMP/OP AGG \$
	OTHER:						\$
	<b>AUTOMOBILE LIABILITY</b>						COMBINED SINGLE LIMIT (Ea accident) \$
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$
	<input type="checkbox"/> OWNED AUTOS ONLY						BODILY INJURY (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS ONLY						PROPERTY DAMAGE (Per accident) \$
	<input type="checkbox"/> SCHEDULED AUTOS						\$
	<input type="checkbox"/> NON-OWNED AUTOS ONLY						
	<b>UMBRELLA LIAB</b>						EACH OCCURRENCE \$
	<input type="checkbox"/> OCCUR						AGGREGATE \$
	<b>EXCESS LIAB</b>						\$
	<input type="checkbox"/> CLAIMS-MADE						
	DED RETENTION \$						
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>						PER STATUTE OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	N/A				E.L. EACH ACCIDENT \$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$
A	Cargo			See Attached	01/01/2020	01/01/2023	Limit: 1,000,000

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

Evidence of Insurance Only

## CERTIFICATE HOLDER

## CANCELLATION

City of Spokane  
1100 W Mallon Ave  
Spokane, WA 99260

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 USA Inc.*

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# **ADDITIONAL REMARKS SCHEDULE**

 Page **2** of **3**

<b>AGENCY</b> Marsh USA Inc		<b>NAMED INSURED</b> Loomis Armored US, LLC 2500 CityWest Blvd, Ste 2300 Houston, TX 77042
<b>POLICY NUMBER</b>		
<b>CARRIER</b>	<b>NAIC CODE</b>	
<b>EFFECTIVE DATE:</b>		

**ADDITIONAL REMARKS**
**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,**
**FORM NUMBER:** 25 **FORM TITLE:** Certificate of Liability Insurance

Primary CIT & Terrorism:  
 100% XL Specialty Insurance Company  
 Policy No. FINST1700086

1st Excess CIT & Terrorism:  
 100% Lloyd's Underwriters  
 Policy No. FINST2000021

The (CIT policy numbers as attached) placement was made by Marsh Ltd. (UK). Marsh USA Inc. has only acted in the role of a consultant to the client with respect to this placement, which is indicated here for your convenience.

**REMARKS (SPECIAL CONDITIONS):**
**GEOGRAPHICAL LIMITS:**

Within and between the United States of America and/or Dominion of Canada and/or Puerto Rico and/or other places in the world.

**SUBJECT MATTER INSURED (PROPERTY):**

Including but not limited to: money, currency, coins, banknotes, debit and credit card sales, Federal Reserve notes, funds held in account by a financial institution, postage and revenue stamps, savings stamps, food stamps, coin tokens, telephone cards, bouillon, precious metals of all kinds and in any form and articles made there from, jewelry, watches, necklaces, bracelets, gems, precious and semi-precious stones, bonds, securities, evidence of debts, debentures, scrips, certificates, receipts, warrants, rights, transfers, coupons, drafts, trading stamps and coupons, bills of exchange, acceptance notes, cheques, withdrawal orders, money orders, travelers' cheques, letters of credit, bills of lading, abstracts of title, insurance policies, deeds, mortgages upon real estate and/or upon chattels and upon interest therein, and assignments or such policies, mortgages and instruments and all other negotiable and non-negotiable valuable papers and documents, electro-magnetic tapes and/or computer software and components, fine arts, mobile phones and any other items of any nature whatsoever.

**COVERING:**

This insurance shall indemnify the Assured in respect of their legal liability arising under statute and/or contract and/or common law and/or otherwise for physical loss or physical destruction of or physical damage to property as defined elsewhere herein.

**EXCLUSIONS**

Notwithstanding anything herein to the contrary, (except where included in the Institute War Clauses) this policy does not cover:

**WAR & CIVIL WAR**

1. Loss or damage caused by or resulting from war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolutions, insurrection, military or usurped power or confiscation to or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority.

**RADIOACTIVE CONTAMINATION, CHEMICAL, BIOLOGICAL, BIOCHEMICAL AND ELECTROMAGNETIC WEAPONS**

This clause shall be paramount and shall override anything contained in this insurance inconsistent therewith.

In no case shall this insurance cover loss, damage, liability or expense directly or indirectly caused by or contributed to by or arising from:

2.1 ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel.

2.2 the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof.

2.3 any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter.

AGENCY CUSTOMER ID: CN102019889

LOC #: Dallas

**ADDITIONAL REMARKS SCHEDULE**Page 3 of 3

<b>AGENCY</b> Marsh USA Inc		<b>NAMED INSURED</b> Loomis Armored US, LLC 2500 CityWest Blvd, Ste 2300 Houston, TX 77042	
<b>POLICY NUMBER</b>		<b>EFFECTIVE DATE:</b>	
<b>CARRIER</b>	<b>NAIC CODE</b>		

**ADDITIONAL REMARKS****THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,****FORM NUMBER:** 25 **FORM TITLE:** Certificate of Liability Insurance

2.4 the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter. The exclusion in this sub"clause does not extend to radioactive isotopes, other than nuclear fuel, when such isotopes are being prepared, carried, stored, or used for commercial , agricultural, medical, scientific or other similar peaceful purposes.

2.5 any chemical, biological, bio-chemical, or electromagnetic weapon.

It is agreed for the avoidance of doubt that the foregoing clause shall not apply where the proximate cause of Loss is theft. This exclusion shall not apply where the use or operation, of any weapon as described in 12.5 above facilitates the theft, robbery, burglary, hold-up, or other criminal taking of Property.

It is agreed for the avoidance of doubt that the foregoing clause shall not apply where the proximate cause of loss is theft.

**DISHONEST OR FRAUDULENT ACTS OF DIRECTORS**

3 This policy does not cover Loss resulting directly from any dishonest or fraudulent act(s) or dishonest or fraudulent omission(s) of Board Directors of Loomis AB except in the event of any such dishonest or fraudulent act(s) or dishonest or fraudulent omission(s) such Board Director is performing acts coming within the scope of the usual duties of an Employee of the Assured .

**SANCTION LIMITATION AND EXCLUSION CLAUSE**

4 Insurers shall not be deemed to provide cover and Insurers shall not be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose Insurers to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
02/08/2022

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<b>PRODUCER</b> Marsh USA, Inc. 4400 Comerica Bank Tower 1717 Main Street Dallas, TX 75201-7357		<b>CONTACT NAME:</b> <b>PHONE (A/C, No, Ext):</b> <b>E-MAIL ADDRESS:</b>		<b>FAX (A/C, No):</b>
CN102019889-STND-AW-22-23	Evid	ALWC	No	No
<b>INSURED</b> Loomis Armored US, LLC 2500 CityWest Blvd, Ste 2300 Houston, TX 77042		<b>INSURER(S) AFFORDING COVERAGE</b>		
		<b>INSURER A:</b> Arch Insurance Company		NAIC # 11150
		<b>INSURER B:</b> Arch Indemnity Insurance Company		30830
		<b>INSURER C:</b>		
		<b>INSURER D:</b>		
		<b>INSURER E:</b>		
		<b>INSURER F:</b>		

## COVERAGES

CERTIFICATE NUMBER:

HOU-003887034-01

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
	<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
A	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			41CAB1034202 (AOS) 41CAB1034302 (MA)	01/01/2022 01/01/2022	01/01/2023 01/01/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
A B	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A If yes, describe under DESCRIPTION OF OPERATIONS below			41WCI1034002 (AOS) 44WCI1034102	01/01/2022 01/01/2022	01/01/2023 01/01/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER 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)  
Evidence of Insurance Only

## CERTIFICATE HOLDER

## CANCELLATION

City of Spokane 1100 W Mallon Ave Spokane, WA 99260	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  <i>Marsh USA Inc.</i>
---	--

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# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
02/08/2022

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<b>PRODUCER</b> Marsh USA, Inc. 4400 Comerica Bank Tower 1717 Main Street Dallas, TX 75201-7357		<b>CONTACT NAME:</b> <b>PHONE (A/C, No, Ext):</b> <b>E-MAIL ADDRESS:</b>		<b>FAX (A/C, No):</b>
CN102019889-STND-G-22-23	Evid	GL	No	No
<b>INSURED</b> Loomis Armored US, LLC 2500 CityWest Blvd, Ste 2300 Houston, TX 77042		<b>INSURER(S) AFFORDING COVERAGE</b>		
		<b>INSURER A : AXA XL</b>		<b>NAIC #</b> 24554
		<b>INSURER B :</b>		
		<b>INSURER C :</b>		
		<b>INSURER D :</b>		
		<b>INSURER E :</b>		
		<b>INSURER F :</b>		

**COVERAGES**      **CERTIFICATE NUMBER:** HOU-003887035-01      **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	<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			US00095082L122A	01/01/2022	01/01/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 1,000,000 PRODUCTS - COMP/OP AGG \$ 1,000,000
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y <input checked="" type="checkbox"/> N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

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

## CERTIFICATE HOLDER

City of Spokane  
1100 W Mallon Ave  
Spokane, WA 99260

## 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 USA Inc.*

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## &lt; Business Lookup

## License Information:

[New search](#) [Back to results](#)**Entity name:** LOOMIS ARMORED US, LLC**Business name:** LOOMIS, FARGO & CO.**Entity type:** Limited Liability Company**UBI #:** 578-078-890**Business ID:** 001**Location ID:** 0003**Location:** Active**Location address:** 806 E 2ND AVE  
SPOKANE WA 99202-2248**Mailing address:** 2500 CITYWEST BLVD  
STE 2300  
HOUSTON TX 77042-9000**Excise tax and reseller permit status:** [Click here](#)**Secretary of State status:** [Click here](#)

## Endorsements

Endorsements held at this license	License #	Count	Details	Status	Expiration date	First issuance
Spokane General Business	T12023658BL			Active	Dec-31-2022	Oct-15-2012

Governing People May include governing people not registered with Secretary of State

Governing people	Title
LARREA, ARITZ	
OTERO, PATRICK	



# Registered Trade Names

Registered trade names	Status	First issued
LOOMIS	Active	May-23-2019

[View Additional Locations](#)

The Business Lookup information is updated nightly. Search date and time:  
2/21/2022 4:09:34 PM

## Contact us

How are we doing?  
**Take our survey!**

Don't see what you expected?  
**Check if your browser is supported**



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

03/21/2022

**Date Rec'd**

3/8/2022

**Clerk's File #**

OPR 2022-0198

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

PUBLIC DEFENDER

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

BRIDGET CONDON 835-5979

**Project #****Contact E-Mail**

BCONDON@SPOKANECITY.ORG

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

Contract Item

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

0700 - MOU FOR EXCHANGE ON CONFLICT CASES

**Agenda Wording**

MOU with Spokane County Public Defenders Office to exchange conflict of interest cases. Spokane County will also send felony conflict cases to City at an annual amount of \$72,000.00.

**Summary (Background)**

In recognition that conflict of interest cases arise in each office, and each office has limited resources to hire outside counsel, it has been agreed to exchange theses cases between offices.

Lease? NO

Grant related? NO

Public Works? NO

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

Revenue \$ 72,000.00

# 0700-14100-99999-33772-99999

Select \$

#

Select \$

#

Select \$

#

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

CONDON, BRIDGET

**Study Session\Other**

3/7/22 Public Safety

**Division Director****Council Sponsor**

CP Beggs

**Finance**

BUSTOS, KIM

**Distribution List****Legal**

ODLE, MARI

bcondon@spokanecity.org

**For the Mayor**

ORMSBY, MICHAEL

cgaylord@spokanecity.org

**Additional Approvals**

rkokot@spokanecity.org

**Purchasing**

laga@spokanecity.org

## Committee Agenda Sheet

### PUBLIC SAFETY AND COMMUNITY HEALTH

<b>Submitting Department</b>	City Public Defender's Office
<b>Contact Name &amp; Phone</b>	Bridget Condon 509-835-5979
<b>Contact Email</b>	bcondon@spokanecity.org
<b>Council Sponsor(s)</b>	B. Beggs
<b>Select Agenda Item Type</b>	<input type="checkbox"/> Consent <input checked="" type="checkbox"/> Discussion    Time Requested: 10 minutes
<b>Agenda Item Name</b>	County Conflict Contract
<b>Summary (Background)</b>	<p>The City Pd's office and the County Pd's office have a long history of trading misdemeanor conflict files so that neither office is required to pay for a conflict attorney. This arrangement started to include some lower-level Class C felony work in 2018, to be done by the City Public Defender's Office, to balance out the workload between the offices.</p> <p>In 2019, we accepted a felony conflict contract in addition to our misdemeanor conflict files that we continue to just trade between the offices. This contract has a maximum pay out from the County office to the City of Spokane of \$72,000. For the year of 2021, the county did not bill the city for any of the conflicts.</p> <p>We are asking the City Council to approve this contract.</p>

<b>Proposed Council Action &amp; Date:</b>	March 7, 2022
<b>Fiscal Impact:</b> Total Cost: Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A  Funding Source <input type="checkbox"/> One-time <input type="checkbox"/> Recurring Specify funding source:  Expense Occurrence <input type="checkbox"/> One-time <input type="checkbox"/> Recurring  Other budget impacts: (revenue generating, match requirements, etc.) Generates revenue upto \$72,000	
<b>Operations Impacts</b>	
What impacts would the proposal have on historically excluded communities?  This supports defense of indigent felony clients who are unable to afford an attorney. In addition, Mr. Raymon is a season trial attorney, assuring the clients they will have the highest level of defenses possible during the pendency of their cases.	
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 of Spokane**  
**MEMORANDUM OF UNDERSTANDING**  
**2022 CONFLICT AGREEMENT**  
**BETWEEN**  
**CITY OF SPOKANE**  
**OFFICE OF THE PUBLIC DEFENDER AND**  
**SPOKANE COUNTY PUBLIC DEFENDER'S OFFICE**

THIS MEMORANDUM OF UNDERSTANDING is between the CITY OF SPOKANE OFFICE OF THE PUBLIC DEFENDER, located at 824 North Monroe Street, Spokane, Washington 99201, as "City", and the SPOKANE COUNTY PUBLIC DEFENDER'S OFFICE, located at 1033 West Gardner, Spokane, Washington 99260-0280, as "County".

WHEREAS, the City, by Bridget Condon, Acting Public Defender, and the County, by Colin Charbonneau, are each charged with the responsibility of providing effective and competent representation to all indigent defendants appointed to them who are charged with aailable offense in their respective jurisdictions; and

WHEREAS, in recognition of the fact that conflict of interest cases arise that cannot be represented within the respective offices, and each office having limited resources to contract with private counsel for indigent conflict cases; and

WHEREAS, the Washington State Supreme Court has promulgated changes to Court Rules relating to public defender standards for cases filed in Courts of Limited Jurisdiction requiring the filing of quarterly certifications of compliance in the courts in which the public defender is handling cases; and

WHEREAS, on or about September 1, 2013, the Supreme Court's rule changes required each public defender handling cases in Courts of Limited Jurisdiction to not carry an excessive caseload and effective January 1, 2015, required misdemeanor caseloads of less than 400 cases per attorney per year,

Now, Therefore,

The City and County agree to exchange conflict cases under the terms and conditions as set forth below.

1. Whether there is a conflict in a particular case in the respective office shall be determined on a City case by Bridget Condon, the City Public Defender, and on a County case by Colin Charbonneau, the County Public Defender, whom shall each assign the case to the other office with proper notice. Conflict cases are to be assigned on the basis that affords the greatest client



continuity.

2. This memorandum may be amended by written agreement of the parties to add compensation if the case exchanges are not equitable. Bridget Condon and Colin Charbonneau may also negotiate payment of extraordinary expenses on the conflict case, such as investigator costs.

3. Conflict Exchange Formula.

- A. Cases shall be exchanged one-for-one for misdemeanor and gross misdemeanor cases in the trial court, one-for-one for appeals to superior court from a court of limited jurisdiction, and three-for-one, in an exchange of misdemeanors or gross misdemeanors for a Class "C" felony, or TWO HUNDRED AND NO/100 DOLLARS (\$200.00) per case in the event the case exchange cannot be made equitable by year end.
- B. The term "case" shall mean those charges arising from the same incident. A felony case will constitute all counts Class "C" or below, including attendant misdemeanors or gross misdemeanors.
- C. The City does not represent clients on infractions, as these are civil matters. Any cases assigned by the County to the City shall not include the infractions.
- D. If there is an uneven exchange of RALJ appeals during the year between the offices, each RALJ appeal shall be counted as one RALJ appeal in exchange for three misdemeanors or gross misdemeanors.
- E. A case that goes to warrant during representation in the receiving office shall not constitute a new case if the client is re-arrested or otherwise contacts the receiving office and the case is reopened and docketed for adjudication. Should the client subject to such a bench-warrant-and-rearrest be then also charged with additional unrelated offenses, new charges arising from an additional incident would be counted an additional case handled by the receiving office. Both offices acknowledge that when a conflict case has been transferred to the receiving office and thereafter goes to bench warrant, the client's rearrest thereafter will first be known to the *sending* office and on that office's first appearance docket. Both offices agree to inform the receiving office as soon as possible when such clients have been arrested.
- F. A case upon which a show cause has been filed shall constitute a new case.
- G. Colin Charbonneau or Bridget Condon for their respective offices may request that a particular case be considered as two or more case equivalents if it requires an extraordinary number of hours to complete.
- H. The County Public Defender may send up to six felony conflict cases per month to the City Public Defender's Office for representation, and for this work the County shall pay the City Public Defender's office according to the following schedule:

From January 1, 2022 thru December 31, 2022 the following shall apply:

Class C felonies to be paid at a total of \$1,200 per case;

Class B felonies to be paid at a total of \$1,400 per case; and

Class A felonies to be paid above \$1400 on a case by cases basis upon agreement of the parties.

With those funds, the City Public Defender agrees to provide an attorney and any and all necessary investigative work relating to those cases. It is the understanding of the parties that some of the money can be spent on office equipment or supplies necessary to fulfill this contract. The County shall provide access, at no cost, to documents in the Superior Court, whether through Odyssey or Web-Xtender, or other program, through two licenses, one for the attorney's use and one for the support person's use.

4. Each office shall have the right to decline a particular case assignment if there is not proper time to prepare a defense, or any other valid reason. Bridget Condon and Colin Charbonneau will resolve any disputes on this issue.
5. During the period of representation, the City assumes the responsibility for professional liability and any claims while the City is handling a County case under the terms of this memorandum. During the period of representation, the County assumes the responsibility for professional liability and any claims while the County is handling a City case under the terms of this memorandum.
6. Each office shall be responsible for keeping track of details regarding cases sent and received and for using and keeping the form designated for that purpose. It is understood that, for proper evaluation of the fairness and effectiveness of this arrangement, each office will keep records for its own use relating to the reason for sending the case out on conflict. Colin Charbonneau and Bridget Condon will review and exchange the conflicts statistics on a quarterly basis to determine if there are equivalent case numbers sent and received.
7. Each office shall be responsible for keeping track of per attorney annual caseloads on a quarterly basis and to reassign the conflict cases among the attorneys in that office to stay within the annual caseload limits. Each office shall be responsible for preparing, signing and filing, each quarter, each attorney's certification as to compliance with the Supreme Court's Standards for Public Defense in the appropriate court(s).
8. This memorandum is effective January 1, 2022 through December 31, 2022, unless terminated earlier. Either party may terminate this memorandum upon ten (10) days written notice to the other party. Files in process shall be handled competently and effectively through ultimate disposition by the receiving office. Final disposition shall include the time up and through the entry of an order that terminates probation of a defendant.
9. Bridget Condon will represent or supervise the representation of clients assigned to the City on felony cases. Colin Charbonneau will represent or supervise the representation of clients by the Assistant County Public Defenders assigned to the County by the City.
10. A case that constitutes a conflict for one of the offices may also constitute a conflict in the other office. If that is the case, Bridget Condon or Colin Charbonneau for their respective office is responsible to notify the other of the conflict and return the file so that the sending office can obtain alternate counsel. There is no further obligation on the part of the receiving office. Cases thus returned will not be counted in the exchange.

11. For trial court conflict cases, the sending office shall provide the current address and telephone/message phone number for the client whose case is transferred, together with non-work product discovery. The sending office is responsible for providing police reports, 911 tapes, CAD RMS (if any), JIS, Court Justware, SCOMIS, etc., or criminal history records to the receiving office. The sending office is responsible for filing a notice of assignment in the court file. The receiving office is required to file and serve a notice of appearance or substitution of counsel. This filing constitutes acceptance of the case.

12. For appeal conflict cases, the sending office shall provide the current address and telephone/message phone number for the client whose case is transferred. Trial counsel is obligated to prepare and file all required paperwork to perfect the appeal including but not limited to the filing of (1) the notice of appearance or substitution of counsel, (2) in forma pauper is for the waiver of the filing fee, (3) order of indigency, and (4) statement of arrangements. It shall be the obligation of the sending office to order and pay for transcription of the record.

13. The attorney in the receiving office shall attempt contact with the client within forty-eight (48) hours or two (2) business days of his/her actual notice of case assignment.

14. Both offices employ Rule 9 Legal Interns to represent clients. It is agreed that a Rule 9 can represent on these cases under supervision of their supervising attorney so long as the supervision is in compliance with Admission to Practice Rule 9.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Nadine Woodward  
Mayor, City of Spokane

Dated: \_\_\_\_\_

\_\_\_\_\_  
Colin Charbonneau, County Public Defender  
Spokane County Public Defender's Office

Attest:

Approved as to form:

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

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

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

03/21/2022

**Date Rec'd**

3/9/2022

**Clerk's File #**

OPR 2020-0012

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

PUBLIC WORKS

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

MARLENE FEIST 625-6505

**Project #****Contact E-Mail**

MFEIST@SPOKANECITY.ORG

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

Contract Item

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

5200-AMENDMENT WITH THE FALLS TOWER

**Agenda Wording**

First Amendment to the Developer Agreement with The Falls, LLC to include \$200,000 in wastewater utility funds, in exchange for specific placement of sewer infrastructure that benefits the City overall.

**Summary (Background)**

The City entered into a developer agreement with The Falls, LLC, in February 2020. That agreement provided for a number of things, including \$300,000 from the Projects of Citywide Significance to support power utility infrastructure changes. The City would like to amend the agreement to include \$200,000 in wastewater utility funds, in exchange for specific placement of sewer infrastructure that benefits the City overall.

Lease? NO

Grant related? NO

Public Works? YES

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

Expense \$ 200,000.00

# 4310-30210-35141-54201-99999

Select \$

#

Select \$

#

Select \$

#

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

FEIST, MARLENE

**Study Session\Other**

PIES 2/28/22

**Division Director**

FEIST, MARLENE

**Council Sponsor**

CM Kinnear

**Finance**

ALBIN-MOORE, ANGELA

**Distribution List****Legal**

ODLE, MARI

Theresa@lstoneproperties.com

**For the Mayor**

ORMSBY, MICHAEL

eraea@spokanecity.org

**Additional Approvals**

mfeist@spokanecity.org

**Purchasing**

kemiller@spokanecity.org

aalbinmoore@spokanecity.org

eschoedel@spokanecity.org

mnilsson@spokanecity.org



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

**Agenda Wording**

**Summary (Background)**

**Fiscal Impact**

Select \$

Select \$

**Budget Account**

#

#

**Distribution List**

ebrown@spokanecity.org

## Committee Agenda Sheet

### Public Infrastructure Environment Sustainability (PIES)

<b>Submitting Department</b>	Public Works Division & Wastewater Department
<b>Contact Name &amp; Phone</b>	Marlene Feist (509) 625-6505
<b>Contact Email</b>	<a href="mailto:mfeist@spokanecity.org">mfeist@spokanecity.org</a>
<b>Council Sponsor(s)</b>	Lori Kinnear
<b>Select Agenda Item Type</b>	<input type="checkbox"/> <input checked="" type="checkbox"/>
<b>Agenda Item Name</b>	Falls Tower Developer Agreement Amendment
<b>Summary (Background)</b>	<p>The City entered into a developer agreement with The Falls, LLC, in February 2020. That agreement provided for a number of things, including \$300,000 from the Projects of Citywide Significance to support power utility infrastructure changes. The City would like to amend the agreement to include \$200,000 in wastewater utility funds, in exchange for specific placement of sewer infrastructure that benefits the City overall.</p> <p>The Wastewater Utility funds will support Public Improvements that will benefit the City.</p> <ul style="list-style-type: none"> <li>• The sewer improvements for the project will be realigned and relocated from the river edge into the public right-of-way via Lincoln and Broadway.</li> <li>• The relocated sewer will open up the potential to develop additional properties on the west side of Lincoln from Summit Boulevard to Broadway and create improved economic activity for the City.</li> <li>• The properties along this section of Lincoln are primarily dirt parking lots, greatly underutilized sites considering their proximity to downtown, Riverfront Park, and Kendall Yards.</li> <li>• The new location also provides for greater protection for the Spokane River.</li> </ul> <p>We initially talked about this amendment at PIES in in August 2021, but the developer was considering their options. So, we are returning to this ask now.</p>
<b>Proposed Council Action &amp; Date:</b>	
<b>Fiscal Impact:</b> Total Cost: Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A  Funding Source <input checked="" type="checkbox"/> One-time <input type="checkbox"/> Recurring Specify funding source:  Expense Occurrence <input checked="" type="checkbox"/> One-time <input type="checkbox"/> Recurring  Other budget impacts: (revenue generating, match requirements, etc.)	
<b>Operations Impacts</b>	
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 is a public works investment in sewer infrastructure that will make underutilized sites near the core of the City more developable for housing or other needs and protect the Spokane River 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?

This amendment requires the developer to use follow public works bidding regulations and policies. The developer has worked with the City to extend the sewer in a way that provides public benefit.

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 project is consistent with our adopted six year programs as well as the annual budget and strategic initiatives.



FIRST AMENDMENT OF  
DEVELOPMENT AGREEMENT

---

THIS FIRST AMENDMENT OF DEVELOPMENT AGREEMENT (“**Amendment**”) is entered into this \_\_\_\_ day of March 2022, by and among City of Spokane, a municipal corporation of the State of Washington (the “**City**”), and The Falls, LLC, a Washington limited liability company (the “**Developer**”), collectively referred to hereinafter as the “**Parties**.”

Whereas, the Parties previously entered into a Development Agreement, dated February 17, 2020 (the "Agreement"); and

Whereas, the Parties now wish to amend the Agreement to provide for additional Public Improvements that will benefit the City utility by supporting potential additional development; and

Whereas, the new utility improvements include the design and construction of the realignment and relocation of the sewer main to serve the public right-of-way through Lincoln and Broadway; and

Whereas, the relocated sewer will open up potential to develop additional properties on the west side of Lincoln from Summit Boulevard to Broadway and create improved economic activity for the City; and

Whereas, these properties are primarily dirt parking lots, greatly underutilized sites considering their proximity to downtown, Riverfront Park, and Kendall Yards; and

Whereas, the new location also provides for greater protection for the Spokane River; and

Whereas, the City has spent \$350 million on projects that improve the health of the Spokane River; relocation of the sewer away from the River helps to ensure that the system will not overflow to the River;

NOW, THEREFORE, the Parties agree as follows:

1. CONTRACT DOCUMENTS. The Agreement and any previous amendments 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 for elsewhere in this Amendment.
2. AMENDMENTS. Paragraph 4 of the Agreement, Public Improvements, is amended to read as follows:

Public Improvements. The Project will include the following public improvements within the public right-of-way (the “Improvements” or “Public Improvements”):

of water, sewer, fire, power, streetscape improvements, street trees and connections to the Centennial Trail, as well as connections to Riverfront Park. Additional Improvements will be design and construction for relocation and realignment of the sewer main into the Post Street right-of-way, consistent with the attached sewer plan "A".

Paragraph 6 of the Agreement, City Payment to Developer, is amended to read as follows:

City Payment to Developer. In consideration of the significant public benefits anticipated to result from Developer's construction of the Project, subject to the terms and conditions of this agreement, and following Developer's completion of the Project, including the Public Improvements, the City shall pay Developer an amount not to exceed FIVE HUNDRED THOUSAND Dollars (\$500,000.00) ~~((three hundred thousand Dollars \$300,000))~~. Broken down as follows: Original agreement not to exceed \$300,000 from Projects of Citywide Significance funding, additional amount not to exceed \$200,000 for sewer construction funded by the wastewater department. The actual payment amount for the additional amount will be based upon the costs shown in Developer's invoices submitted to the City. The City will make payments to Developer, within sixty (60) days after the receipt of Developer's application for payment, subject to the City's approval of the ~~((completed))~~Public Improvements as substantially complete in accord with City standards, and subject to compliance with the terms of this agreement. Without limiting any of the foregoing, Developer's application for payment shall be subject to review by the City's Engineering Services Department for the purpose of confirming reasonable prices for materials, equipment rentals and labor.

ALL OTHER TERMS AND CONDITIONS REMAIN IN FULL FORCE AND EFFECT.

In witness whereof, the City and Developer have signed this Amendment effective as of the date first hereinabove written.

CITY OF SPOKANE

By: \_\_\_\_\_

Its: \_\_\_\_\_

Attest:

Approved as to form:

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

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

DEVELOPER:

The Falls, LLC

By: \_\_\_\_\_

Its: \_\_\_\_\_

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

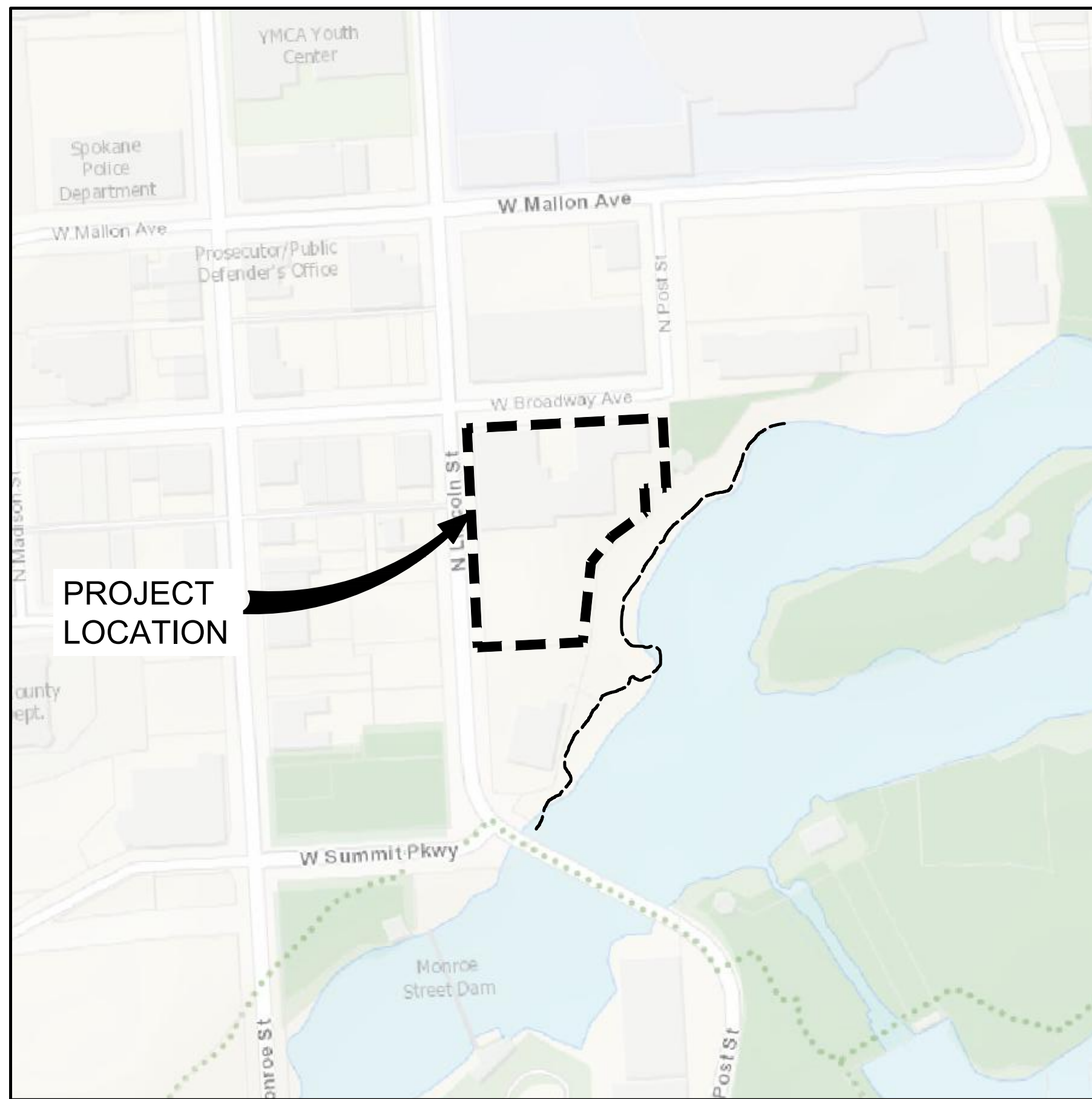


# THE FALLS

## PUBLIC SANITARY SEWER REALIGNMENT

### N. LINCOLN STREET TO W. BROADWAY AVENUE

### SPOKANE, WASHINGTON



VICINITY MAP  
N.T.S.



PROJECT MAP  
N.T.S.



SHEET LIST TABLE	
SHEET NO.	SHEET TITLE
SS-01	COVER SHEET
SS-02	DEMOLITION AND OVERALL SEWER PLAN
SS-03	N. LINCOLN STREET SEWER
SS-04	W. BROADWAY AVENUE SEWER
SS-05	SANITARY SEWER DETAILS
SS-06	SANITARY SEWER DETAILS

**EDCI**  
**ENGINEERS**  
707 W. 2ND AVENUE  
SPOKANE, WASHINGTON 99201  
PHONE: (509) 455-4448 • FAX: (509) 455-7492  
WEBSITE: www.edci-engineers.com

**CIVIL / STRUCTURAL**  
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DATE BY PROJ DESCRIPTION DATE BY PROJ E.F.N. U.S.N. FROM TO COUNCIL ACCEPT DATE FROM TO ORD. NO. DATE FILE NO. GEN NO. GP32395-174 NAVD88 DATUM

DATE	BY	PROJ	DESCRIPTION	DATE	BY	PROJ	E.F.N.	U.S.N.	FROM	TO	COUNCIL ACCEPT DATE	FROM	TO	ORD. NO.	DATE	FILE NO.	GEN NO.
			REVISIONS														

AS BUILT

GRADE ORDINANCE LIST

NAV088 = (OLD CMB ELEV.) - (13.13) AS OF JANUARY, 2000 USE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAV088)	
BENCH MARK LOCATION NEAR THE SOUTHERLY END OF THE GORE AREA AT THE INTERSECTION OF NORTH RIVER DRIVE AND SR 002/395	
NAV088 ELEV. 1886.27	
GEN NO. GP32395-174	
NAV088 DATUM	

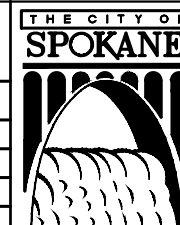
**FOR PERMIT**  
THESE DRAWINGS ARE SUFFICIENTLY COMPLETE FOR SUBMISSION TO THE JURISDICTION HAVING AUTHORITY FOR PERMIT. THE CONTRACTOR SHALL NOT USE THESE DRAWINGS FOR CONSTRUCTION UNTIL THE CONTRACTOR RECEIVES WRITTEN APPROVAL FOR USE IN CONSTRUCTION BY THE JURISDICTION HAVING AUTHORITY AND DCI ENGINEERS.

#### CONTRACTOR NOTE

ALL EXISTING UTILITIES SHOWN ON PLANS ARE TO BE VERIFIED HORIZONTALLY AND VERTICALLY PRIOR TO ANY CONSTRUCTION. ALL EXISTING FEATURES INCLUDING BURIED UTILITIES ARE SHOWN AS INDICATED ON RECORD MAPS AND SURVEYS FURNISHED BY OTHERS. WE ASSUME NO LIABILITY FOR THE ACCURACY OF THOSE RECORDS AND SURVEYS. CONTACT THE UTILITY OWNER/AGENCY FOR THE FINAL LOCATION OF EXISTING UTILITIES IN AREAS CRITICAL TO CONSTRUCTION.

#### FOR PERMIT

THESE DRAWINGS ARE SUFFICIENTLY COMPLETE FOR SUBMISSION TO THE JURISDICTION HAVING AUTHORITY FOR PERMIT. THE CONTRACTOR SHALL NOT USE THESE DRAWINGS FOR CONSTRUCTION UNTIL THE CONTRACTOR RECEIVES WRITTEN APPROVAL FOR USE IN CONSTRUCTION BY THE JURISDICTION HAVING AUTHORITY AND DCI ENGINEERS.



CITY OF SPOKANE, WASHINGTON  
DEPARTMENT OF ENGINEERING SERVICES  
808 WEST SPOKANE FALLS BLVD.  
SPOKANE, WASHINGTON 99201-3343  
(509) 625-6300

#### GENERAL NOTES:

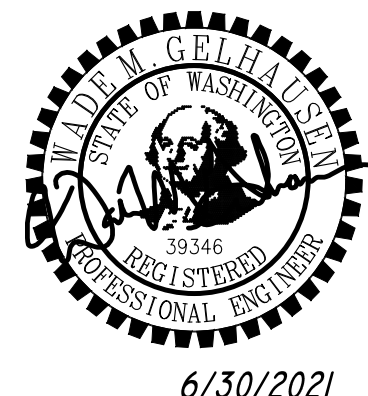
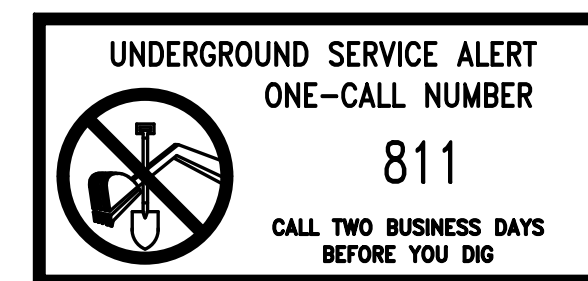
- ALL WORK SHALL BE IN ACCORDANCE WITH THE CURRENT AND APPLICABLE REGULATIONS, SPECIFICATIONS, CODES, AND REQUIREMENTS OF CITY OF SPOKANE AND THE WSDOT STANDARD SPECIFICATIONS.
- THE CONTRACTOR SHALL PERFORM ALL WORK NECESSARY TO COMPLETE THIS PROJECT IN ACCORDANCE WITH THE PLANS INCLUDING SUCH INCIDENTALS AS MAY BE NECESSARY TO MEET APPLICABLE AGENCY REQUIREMENTS AND AS NECESSARY TO PROVIDE A COMPLETED PROJECT.
- THE CONTRACTOR SHALL OBTAIN ALL REQUIRED PERMITS AND LICENSES PRIOR TO COMMENCING WORK ON THIS PROJECT.
- THE CONTRACTOR SHALL KEEP A COPY OF ALL REQUIRED PERMITS AND AN APPROVED SET OF PLANS WITH ALL APPROVED REVISIONS ON THE PROJECT SITE AT ALL TIMES.
- THE EXISTING AND APPROXIMATE LOCATION OF KNOWN UNDERGROUND UTILITIES OR STRUCTURES SHOWN ON THESE DRAWINGS WERE DETERMINED BY A SEARCH OF AVAILABLE PUBLIC RECORDS AND AS-BUILTS. THE LOCATIONS AND DEPTHS OF THESE UTILITIES ARE FROM THESE RECORDS AND ARE SHOWN FOR THE CONVENIENCE OF THE CONTRACTOR. NO RESPONSIBILITY IS ASSUMED BY EITHER THE OWNER OR THE ENGINEER FOR ACCURACY OR COMPLETENESS OF THESE LOCATIONS OR DEPTHS.
- CONTRACTOR SHALL COORDINATE THE PROTECTION, REMOVAL AND/OR RELOCATION OF FRANCHISE UTILITIES WITH THE APPROPRIATE PURVEYOR.
- THE CONTRACTOR SHALL PROTECT AND MAINTAIN ALL EXISTING UTILITIES ON THIS SITE AND IN ADJACENT STREETS. ANY DAMAGE TO EXISTING UTILITIES, WHETHER SHOWN OR NOT ON THIS DRAWING, SHALL BE REPAIRED / REPLACED AT THE CONTRACTOR'S EXPENSE AND TO THE SATISFACTION OF THE UTILITY OWNER. EXISTING SURFACE FEATURES AND FENCING DAMAGED BY CONTRACTOR SHALL BE REPLACED IN KIND TO THE SATISFACTION OF THE UTILITY OWNER.
- THE CONTRACTOR SHALL HAVE ALL EXISTING UTILITIES LOCATED PRIOR TO STARTING ANY WORK.
- PRIOR TO STARTING ANY WORK, CONTRACTOR TO CALL FOR FIELD LOCATE OF EXISTING CITY OF SPOKANE 100 PR COMMUNICATION TRUNK LINE. EXISTING LOCATION SHOWN IS APPROXIMATE.
- THE CONTRACTOR SHALL NOTIFY ALL COMPANIES AND AGENCIES WITH UNDERGROUND FACILITIES IN THE PROJECT AREA 24 HOURS BEFORE COMMENCING CONSTRUCTION IN THEIR VICINITY.
- THE CONTRACTOR SHALL POTHOLE EXISTING UTILITY LOCATIONS PRIOR TO CONSTRUCTION. CONTACT ENGINEER IF CONFLICT EXISTS. UTILITY LOCATIONS SHOWN ARE APPROXIMATE. LOCATIONS OF UTILITIES SHOWN IN PROFILE ARE FOR REFERENCE ONLY AND HAVE ASSUMED ELEVATIONS. ADDITIONAL UTILITIES MAY EXIST.
- ALL EXISTING SITE CONDITIONS AND ELEVATIONS SHOWN ON THESE DRAWINGS ARE FROM A TOPOGRAPHIC SURVEY. THE CONTRACTOR SHALL VISIT THE SITE AND VERIFY ALL EXISTING CONDITIONS AND ELEVATIONS. CONTRACTOR SHALL CONFIRM BENCHMARK LOCATION AND ELEVATION WITH SURVEYOR.
- PROPERTY AND RIGHT-OF-WAY LINES SHOWN ARE FOR REFERENCE ONLY. THESE PLANS ARE NOT MEANT TO SERVE BOUNDARY SURVEY PURPOSES.
- FOR ADDITIONAL EXISTING INFORMATION AND SURVEY DATA, REFER TO THE PARAMETRIX TOPOGRAPHIC SURVEY DATED OCTOBER 12, 2018.
- THE GEOTECHNICAL EXPLORATION AND ANALYSIS REPORT CONDUCTED BY BUDINGER & ASSOCIATES (PROJECT S17225) DATED AUGUST 16, 2017 CONFIRMED UNDOCUMENTED FILL AND DEBRIS IN BORINGS. ALL ENCOUNTERED UNDOCUMENTED FILL AND DEBRIS DURING EXCAVATION MUST BE REMOVED AND REPLACED WITH SUITABLE MATERIAL IN ACCORDANCE WITH THE 2018 WSDOT STANDARD SPECIFICATIONS UNLESS OTHERWISE NOTED.
- ANY ALTERATION OR VARIANCE FROM THESE PLANS, EXCEPT MINOR FIELD ADJUSTMENTS NEEDED TO MEET EXISTING FIELD CONDITIONS, SHALL BE APPROVED BY THE ENGINEER AND APPLICABLE REGULATORY AGENCY REPRESENTATIVE.
- ANY CONSTRUCTION OBSERVATION BY CITY OF SPOKANE, OR THE ENGINEER, SHALL NOT, IN ANY WAY, RELIEVE THE CONTRACTOR FROM ANY OBLIGATION TO PERFORM THE WORK IN STRICT COMPLIANCE WITH THE APPLICABLE CODES AND REGULATORY AGENCY REQUIREMENTS.
- APPROVED EROSION CONTROL MEASURES SHALL BE IMPLEMENTED PRIOR TO STARTING CONSTRUCTION ACTIVITIES. THE CONTRACTOR SHALL PROVIDE ALL MATERIAL, EQUIPMENT, AND PERSONNEL NECESSARY TO MAINTAIN SUCH EROSION PROTECTION MEASURES. ANY DAMAGE CAUSED BY EROSION SHALL BE CORRECTED BY THE CONTRACTOR AT ONCE.
- DEMOLITION WORK SHALL INCLUDE REMOVAL OF ALL STUMPS AND VEGETATION DEBRIS. CONFORMANCE WITH ALL REGULATIONS AND PERMITTING REQUIREMENTS FOR SUCH WORK SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR.
- IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO LOCATE AND COORDINATE THE REMOVAL AND/OR ABANDONMENT OF EXISTING UTILITIES OR PROPER FILLING OF THE UTILITIES (VAULTS, LINES, ETC.) IF THEY ARE TO REMAIN.
- ALL TRAFFIC CONTROL SHALL BE PERFORMED IN ACCORDANCE WITH SECTION 1-10 OF THE CITY OF SPOKANE GENERAL SPECIAL PROVISIONS. THE CONTRACTOR SHALL SUPPLY ENGINEER WITH A TRAFFIC CONTROL PLAN.
- THE CONTRACTOR SHALL MAINTAIN AND COORDINATE ACCESS TO ALL AFFECTED PROPERTIES.
- ALL PAVEMENT CUTS IN THE PUBLIC RIGHT-OF-WAY MUST BE IN ACCORDANCE WITH THE REGIONAL PAVEMENT CUT POLICY.
- CONTRACTOR SHALL REMOVE AND LEGALLY DISPOSE OF MATERIALS OFF SITE.
- A PRE-CONSTRUCTION CONFERENCE WITH CONTRACTOR, ENGINEER, OWNER, AND GOVERNING JURISDICTION IS REQUIRED PRIOR TO STARTING THIS PROJECT.

#### SANITARY SEWER:

- IN GENERAL, THE LATEST VERSION OF THE CITY OF SPOKANE DESIGN STANDARDS, THE CITY OF SPOKANE GENERAL SPECIAL PROVISIONS (COS GSP), AND THE WSDOT STANDARD SPECIFICATIONS SHALL GOVERN CONSTRUCTION AND DESIGN OF SANITARY SEWER FACILITIES.
- ALL SANITARY SEWER PIPE 15-INCH AND SMALLER SHALL BE PVC PIPE CONFORMING TO ASTM D-3034 (SDR 35) INSTALLED IN ACCORDANCE WITH ASTM D-2321, UNLESS OTHERWISE NOTED.
- ALL SANITARY SEWER PIPE SHOWN AS DUCTILE IRON PIPE SHALL BE CLASS 52, CEMENT MORTAR LINED DUCTILE IRON PIPE CONFORMING TO ASTM 536, ANSI A 21.51 (AWWA C151), AND ANSI A 21-11 (AWWA C111) WITH TYTON JOINTS.
- MAINTAIN MINIMUM 10 FOOT HORIZONTAL CLEAR DISTANCE BETWEEN WATER AND SANITARY SEWER LINES EXCEPT AT CROSSINGS OR AS OTHERWISE APPROVED BY THE ENGINEER. VERTICAL SEPARATION SHALL BE A MINIMUM OF 18 INCHES CLEAR DISTANCE WHERE WATER LINES CROSS OVER SANITARY SEWER LINES.
- TESTING AND INSPECTION OF ALL NEW CONSTRUCTION SHALL BE PER CITY OF SPOKANE STANDARDS.
- ALL SANITARY SEWER LINES SHALL BE INSTALLED IN ACCORDANCE WITH CITY OF SPOKANE STANDARDS.
- CONTRACTOR TO VERIFY INVERT ELEVATIONS OF EXISTING STRUCTURES PRIOR TO COMMENCING WORK AND NOTIFY THE ENGINEER OF APPARENT DISCREPANCIES WITH INFORMATION SHOWN ON THE PLANS.
- EXISTING MANHOLES TO BE ABANDONED PER SECTION 7-05.3 (2) OF THE WSDOT STANDARD SPECIFICATIONS AND COS GSP.
- EXISTING SEWER LINES TO BE ABANDONED SHALL BE ABANDONED PER SECTION 7-08.3(4) OF THE WSDOT STD. SPECIFICATIONS.
- CONNECTIONS TO EXISTING MANHOLES SHALL BE PER SECTION 7-05.3(3) OF THE WSDOT STD. SPECIFICATIONS.
- EXISTING SEWER LINE TO REMAIN INTACT AND OPERATIONAL UNTIL PROPOSED REALIGNED SEWER IS COMPLETE, OPERATIONAL, AND ACCEPTED FOR SERVICE.

#### SANITARY SEWER CONSTRUCTION SEQUENCING:

- VERIFY ALL ELEVATIONS AT CONNECTIONS TO EXISTING SEWERS AND UTILITY CROSSINGS.
- CONSTRUCT PERMANENT LINCOLN ST SEWER FROM EX SSMH 101 TO SSMH 102.
- CONSTRUCT TEMPORARY ON-SITE SEWER FROM SSMH 102 TO SSMH TEMPORARY-2.
- CONNECT TO EXISTING SEWER AT SSMH TEMPORARY-2.
- ABANDON/REMOVE EXISTING SEWER BETWEEN EX SSMH 101 AND SSMH TEMPORARY-2.
- CONSTRUCT PERMANENT ON-SITE SEWER FROM SSMH 102 TO SSMH 105. COORDINATE WITH BUILDING CONSTRUCTION FOR SEWER THROUGH GARAGE.
- CONSTRUCT PERMANENT BROADWAY AVE SEWER FROM SSMH 105 TO EX SSMH 106.
- ABANDON EXISTING SEWER FROM EX SSMH 106 TO SSMH TEMPORARY-2.
- ABANDON TEMPORARY SEWER FROM SSMH TEMPORARY-2 TO SSMH 103.

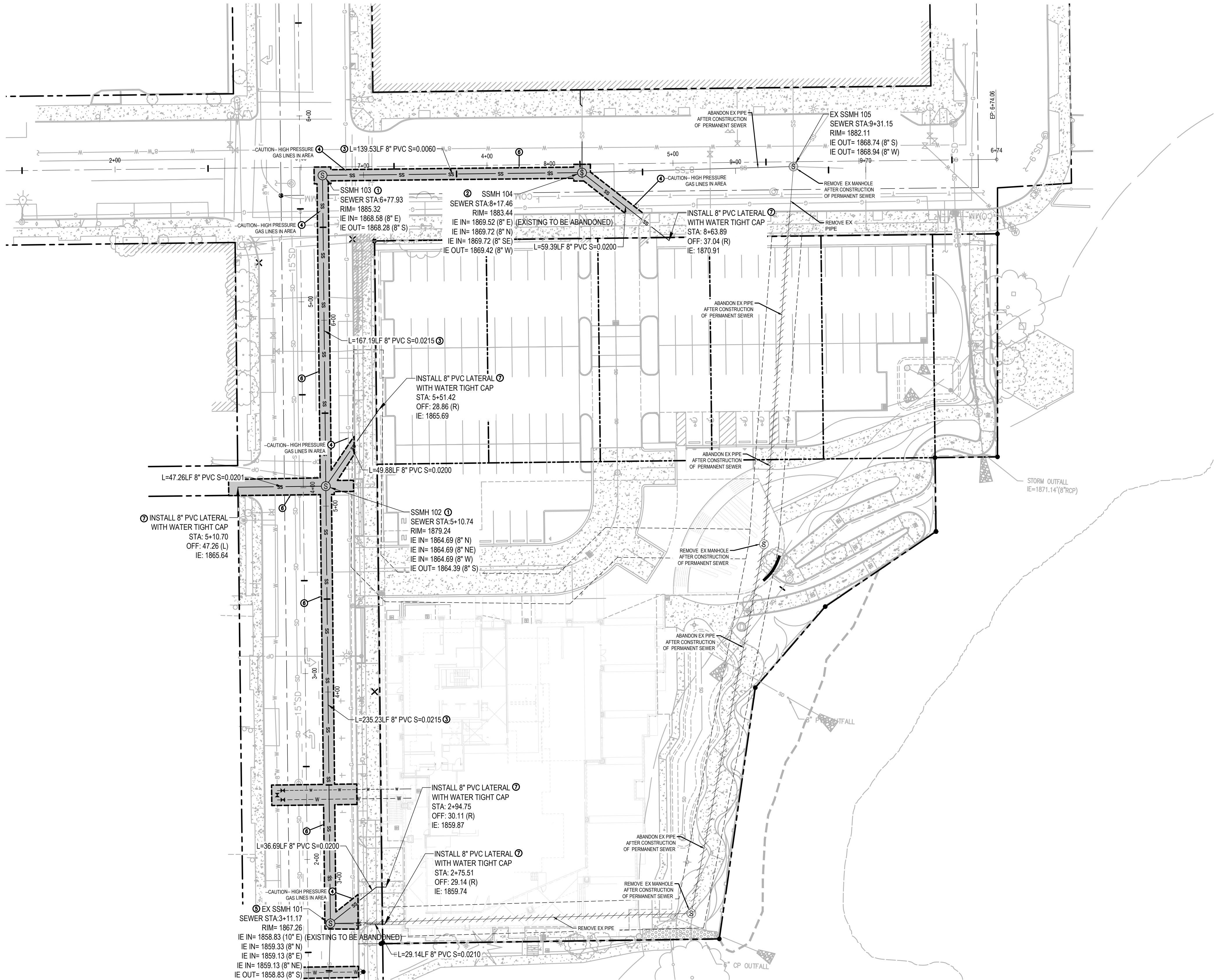


SS-01  
1 of 6

PROJECT NAME: THE FALLS		TYPE OF IMPROVEMENT: SEWER	
SEGMENT LIMITS: COVER SHEET		CITY PROJECT NUMBER: 2019190	CITY PLAN NUMBER: BROAD V(1)3
PROJECT LIMITS: N. LINCOLN ST. to W. BROADWAY AVE.		DATE: 18-25-43	USN: 18-25-43

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OVERALL SEWER AND EXISTING SEWER DEMOLITION PLAN



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DATE	BY	PROJ.	DESCRIPTION	DATE	BY	PROJ.	E.F.N.	U.S.N.	FROM	TO	COUNCIL ACCEPT DATE	FROM	TO	ORD. NO.	DATE	FILE NO.
REVISIONS																
AS BUILT																

NAVDB8 = (OLD CSM ELEV.) - (13.13)	AS OF JANUARY, 2000 USE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVDB8)
BENCH MARK LOCATION NEAR THE SOUTHERLY END OF THE GORE AREA AT THE INTERSECTION OF NORTH RIVER DRIVE AND SR 002/395	CURRENT CITY/COUNTY DESIGN STANDARDS ADOPTED FEB.1995
NAVDB8 ELEV. 1886.27	BY SSS DATES 6/28/2021
CEM NO. GP22395-174	REVISIONS: ---
NAVDB8 DATUM	CHECKED: ---
BAR IS ONE INCH ON ORIGINAL DRAWING. IF NOT ONE INCH ON THIS SHEET, ADJUST SCALES ACCORDINGLY	APPROVED: ---
HORIZONTAL PLAN/PROFILE 1" = 20'	DATE
VERTICAL PROFILE ONLY 1" = 5'	DATE



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DEPARTMENT OF ENGINEERING SERVICES  
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SPOKANE, WASHINGTON 99201-3343  
(509) 625-6300

SANITARY SEWER CONSTRUCTION NOTES:

- CONSTRUCT 48" MANHOLE PER C.O.S. STD. PLAN Z-101.
- RECHANNEL EXISTING 48" MANHOLE PER C.O.S. STD. PLAN Z-117. SEE  
DETAIL SHEET SS-05. ABANDON EXISTING PIPE EAST.
- CONSTRUCT 8" SDR35 SANITARY SEWER MAIN PER CITY OF SPOKANE  
STANDARDS. CONTRACTOR MAY SUBSTITUTE SDR35 PVC WITH DUCTILE  
IRON PIPE MEETING CITY OF SPOKANE STANDARDS IF DESIRED.
- CAUTION-- HIGH PRESSURE GAS LINES IN AREA.  
CONTRACTOR TO POTHOLE EXISTING LINES AND VERIFY LOCATION PRIOR  
TO CONSTRUCTION. COORDINATE WITH AVISTA UTILITIES.
- REMOVE AND REPLACE EXISTING 48" MANHOLE PER C.O.S. STD. PLAN  
Z-101. SEE DETAIL SHEET SS-05. ABANDON EXISTING PIPE EAST.
- CONSTRUCT NEW HMA TRENCH PATCH, ABOVE PIPE ZONE, PER C.O.S.  
STD. PLAN B-18D. STREET CUTTING AND PATCHING SHALL BE COMPLETED  
PER THE SPOKANE REGIONAL PAVEMENT CUT POLICY.
- CONSTRUCT SANITARY SEWER SIDE SERVICE STUB BEYOND PROPERTY LINE  
AND INSTALL WATER TIGHT CAP PER C.O.S. STANDARDS.

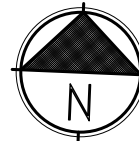
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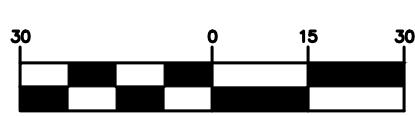
MANHOLE SCHEDULE			
NO./ TYPE	STATION	RIM ELEV	IE
EX SSMH 101	3+11.17	1867.3	1858.83(8" S)
			1858.83(10" E)
			1859.33(8" N)
			1859.13(8" E)
			1859.13(8" NE)
SSMH 102	5+10.74	1879.2	1864.39(8" S)
SSMH 103	6+77.93	1885.3	1864.69(8" N)
			1864.69(8" NE)
			1864.69(8" W)
SSMH 104	8+17.46	1883.4	1869.52(8" E)
			1869.42(8" W)
			1869.72(8" N)
			1869.72(8" SE)
			1869.72(8" S)

(EXISTING TO BE ABANDONED)

(EXISTING TO BE ABANDONED)



GRAPHIC SCALE



( IN FEET )  
1 inch = 30 ft.



6/30/2021

SS-02  
2 of 6



CONTRACTOR NOTE

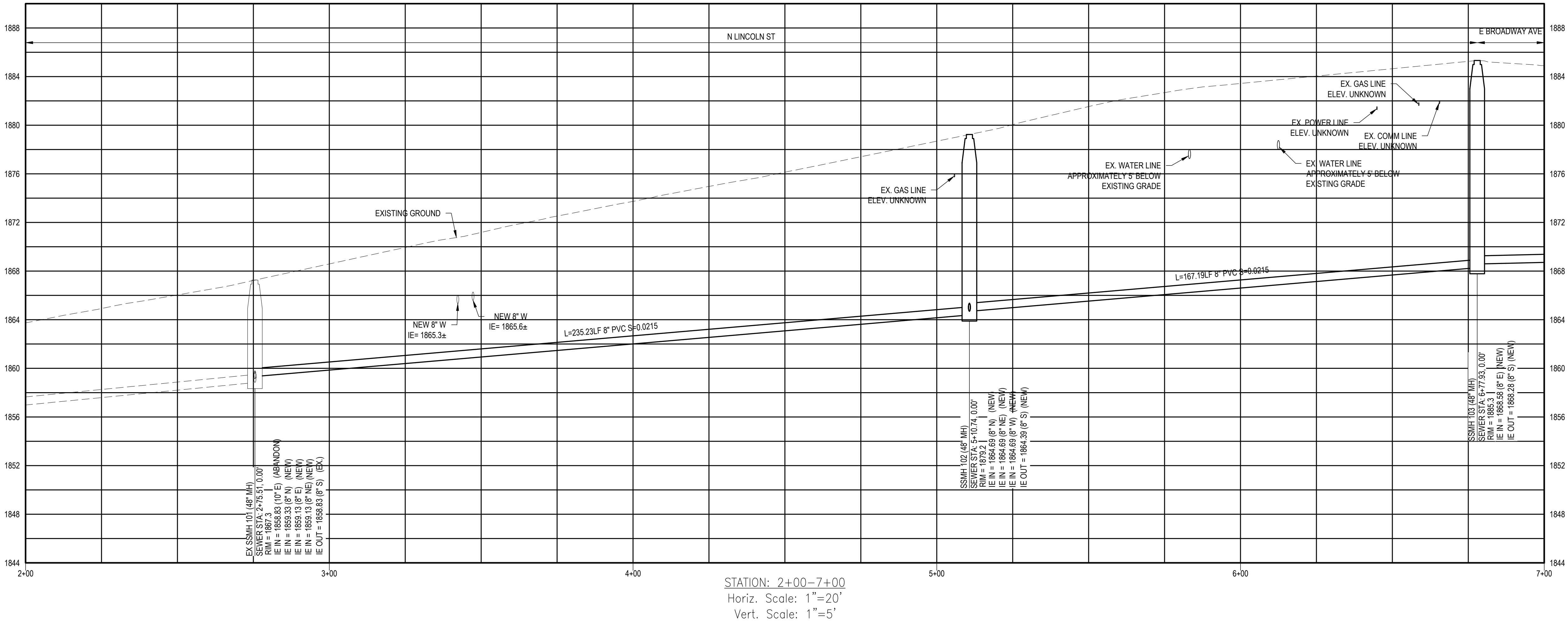
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HORIZONTALLY AND VERTICALLY PRIOR TO ANY CONSTRUCTION.  
ALL EXISTING FEATURES INCLUDING BURIED UTILITIES ARE SHOWN  
AS INDICATED ON RECORD MAPS AND SURVEYS FURNISHED BY  
OTHERS. WE ASSUME NO LIABILITY FOR THE ACCURACY OF THOSE  
RECORDS AND SURVEYS. CONTACT THE UTILITY OWNER/AGENCY  
FOR THE FINAL LOCATION OF EXISTING UTILITIES IN AREAS  
CRITICAL TO CONSTRUCTION.

FOR PERMIT

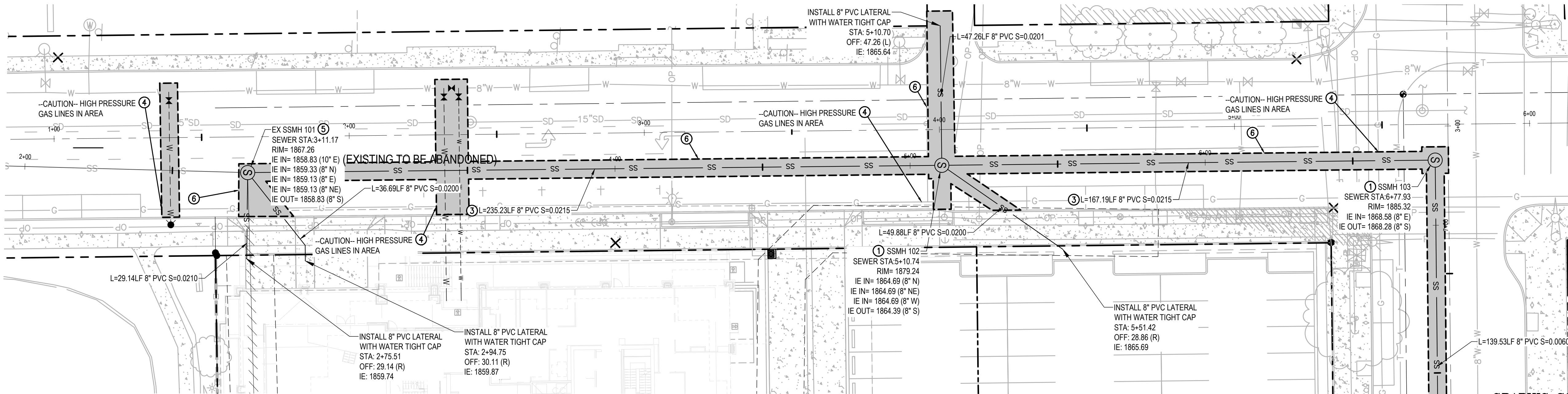
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THE JURISDICTION HAVING AUTHORITY FOR PERMIT. THE CONTRACTOR  
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CONTRACTOR RECEIVES WRITTEN APPROVAL FOR USE IN CONSTRUCTION  
BY THE JURISDICTION HAVING AUTHORITY AND DCI ENGINEERS.

PROJECT NAME: <b>THE FALLS</b>	
SEGMENT LIMITS: <b>DEMOLITION AND OVERALL SEWER PLAN</b>	TYPE OF IMPROVEMENT: <b>SANITARY</b>
PROJECT LIMITS: <b>N. LINCOLN ST. to W. BROADWAY AVE.</b>	CITY PROJECT NUMBER <b>2019190</b>
	CITY PLAN NUMBER <b>BROAD V(1)3</b>
	DATE <b>18-25-43</b>

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- SANITARY SEWER CONSTRUCTION NOTES:**
1. CONSTRUCT 48" MANHOLE PER C.O.S. STD. PLAN Z-101.
  2. RECHANNEL EXISTING 48" MANHOLE PER C.O.S. STD. PLAN Z-117. SEE DETAIL SHEET SS-05. ABANDON EXISTING PIPE EAST.
  3. CONSTRUCT 8" SDR35 SANITARY SEWER MAIN PER CITY OF SPOKANE STANDARDS. CONTRACTOR MAY SUBSTITUTE SDR35 PVC WITH DUCTILE IRON PIPE MEETING CITY OF SPOKANE STANDARDS IF DESIRED.
  4. CAUTION-- HIGH PRESSURE GAS LINES IN AREA. CONTRACTOR TO FOTHOLE EXISTING LINES AND VERIFY LOCATION PRIOR TO CONSTRUCTION. COORDINATE WITH AVISTA UTILITIES.
  5. REMOVE AND REPLACE EXISTING 48" MANHOLE PER C.O.S. STD. PLAN Z-101. SEE DETAIL SHEET SS-05. ABANDON EXISTING PIPE EAST.
  6. CONSTRUCT NEW HMA TRENCH PATCH, ABOVE PIPE ZONE, PER C.O.S. STD. PLAN B-180. STREET CUTTING AND PATCHING SHALL BE COMPLETED PER THE SPOKANE REGIONAL PAVEMENT CUT POLICY.
  7. CONSTRUCT SANITARY SEWER SIDE SERVICE STUB BEYOND PROPERTY LINE AND INSTALL WATER TIGHT CAP PER C.O.S. STANDARDS.



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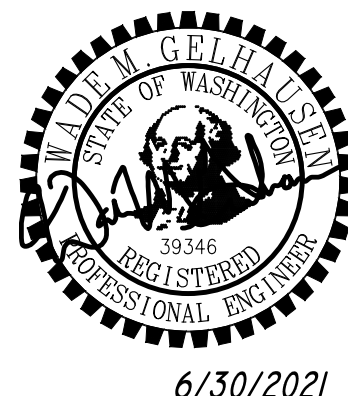
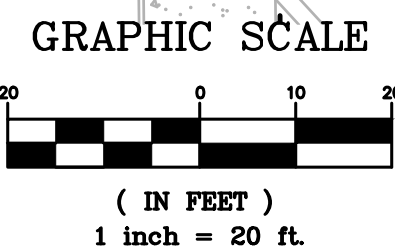
**N. LINCOLN STREET  
SANITARY SEWER DESIGN  
PROFILE AND PLAN VIEWS**

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SS-03  
3 of 6

DATE	BY	PROJ.	DESCRIPTION	DATE	BY	PROJ.	E.F.N.	U.S.N.	FROM	TO	COUNCIL ACCEPT DATE	FROM	TO	ORD. NO.	DATE	FILE NO.
REVISIONS																
AS BUILT																
GRADE ORDINANCE LIST																

NAVDB8 = (OLD CEM ELEV.) - (13.13)	AS OF JANUARY, 2000 USE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVDB8)
BENCH MARK LOCATION NEAR THE SOUTHERLY END OF THE GORE AREA AT THE INTERSECTION OF NORTH RIVER DRIVE AND SR 002395	CURRENT CITY/COUNTY DESIGN STANDARDS ADOPTED FEB.1995
NAVDB8 ELEV. 1886.27	BY SSS 8/28/21
CEM NO. GP32395-174	REVISIONS: ---
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VERTICAL PROFILE ONLY 1" = 5'	

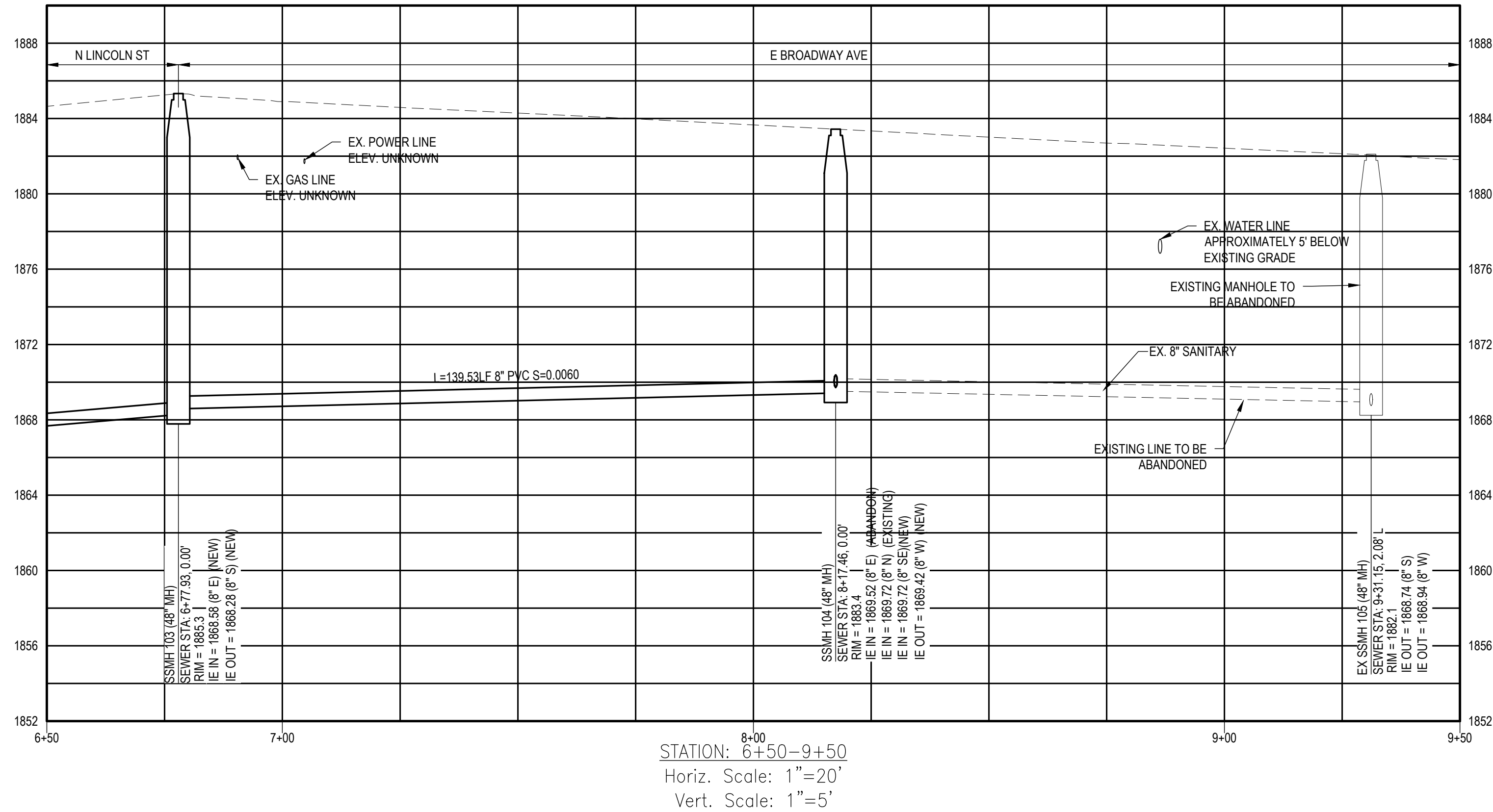


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DEPARTMENT OF ENGINEERING SERVICES  
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SPOKANE, WASHINGTON 99201-3343  
(509) 625-6300

PROJECT NAME: <b>THE FALLS</b>	TYPE OF IMPROVEMENT: <b>SANITARY</b>
SEGMENT LIMITS: <b>N. LINCOLN STREET SEWER</b>	CITY PROJECT NUMBER <b>2019190</b>
PROJECT LIMITS: <b>N. LINCOLN ST. to W. BROADWAY AVE.</b>	CITY PLAN NUMBER <b>BROAD V(1)3</b>
	DATE: 18-25-23

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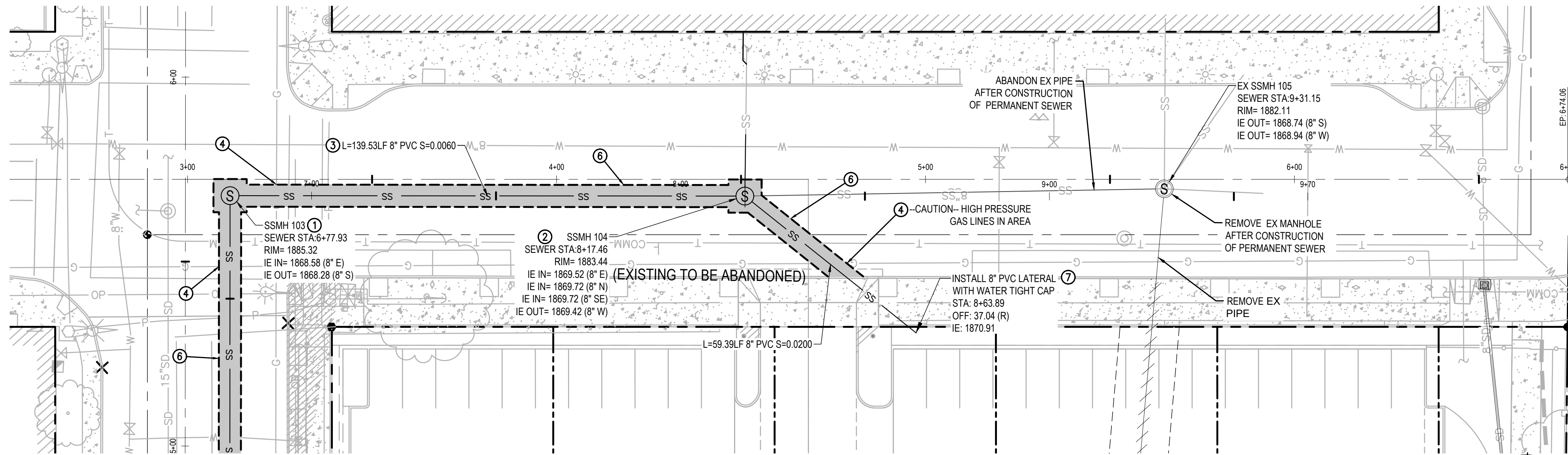


**SANITARY SEWER CONSTRUCTION NOTES:**

- 1) CONSTRUCT 48" MANHOLE PER C.O.S. STD. PLAN Z-101.
- 2) RECHANNEL EXISTING 48" MANHOLE PER C.O.S. STD. PLAN Z-117. SEE DETAIL SHEET SS-05. ABANDON EXISTING PIPE EAST.
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- 4) --CAUTION-- HIGH PRESSURE GAS LINES IN AREA. CONTRACTOR TO POTHOLE EXISTING LINES AND VERIFY LOCATION PRIOR TO CONSTRUCTION. COORDINATE WITH AVISTA UTILITIES.
- 5) REMOVE AND REPLACE EXISTING 48" MANHOLE PER C.O.S. STD. PLAN Z-101. SEE DETAIL SHEET SS-05. ABANDON EXISTING PIPE EAST.
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- 7) CONSTRUCT SANITARY SEWER SIDE SERVICE STUB BEYOND PROPERTY LINE AND INSTALL WATER TIGHT CAP PER C.O.S. STANDARDS.

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**W. BROADWAY SANITARY SEWER DESIGN  
PROFILE AND PLAN VIEWS**



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REVISIONS												AS BUILT				
												GRADE ORDINANCE LIST				

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BENCH MARK LOCATION NEAR THE SOUTHERLY END OF THE GORE AREA AT THE INTERSECTION OF NORTH RIVER DRIVE AND SR 002/395	CURRENT CITY/COUNTY DESIGN STANDARDS ADOPTED FEB.1995
NAVDB8 ELEV. 1888.27	BY SSS DATES 8/28/21
CBM NO. GP22395-174	CHECKED: ---
NAVDB8 DATUM	APPROVED: ---

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SCALES ACCORDINGLY

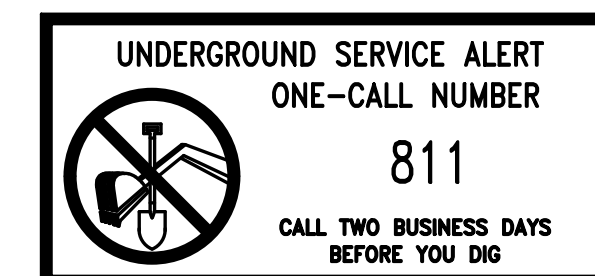
HORIZONTAL  
PLAN/PROFILE 1" = 20'  
VERTICAL  
PROFILE ONLY 1" = 5'

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**CONTRACTOR NOTE**

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SS-04  
4 of 6

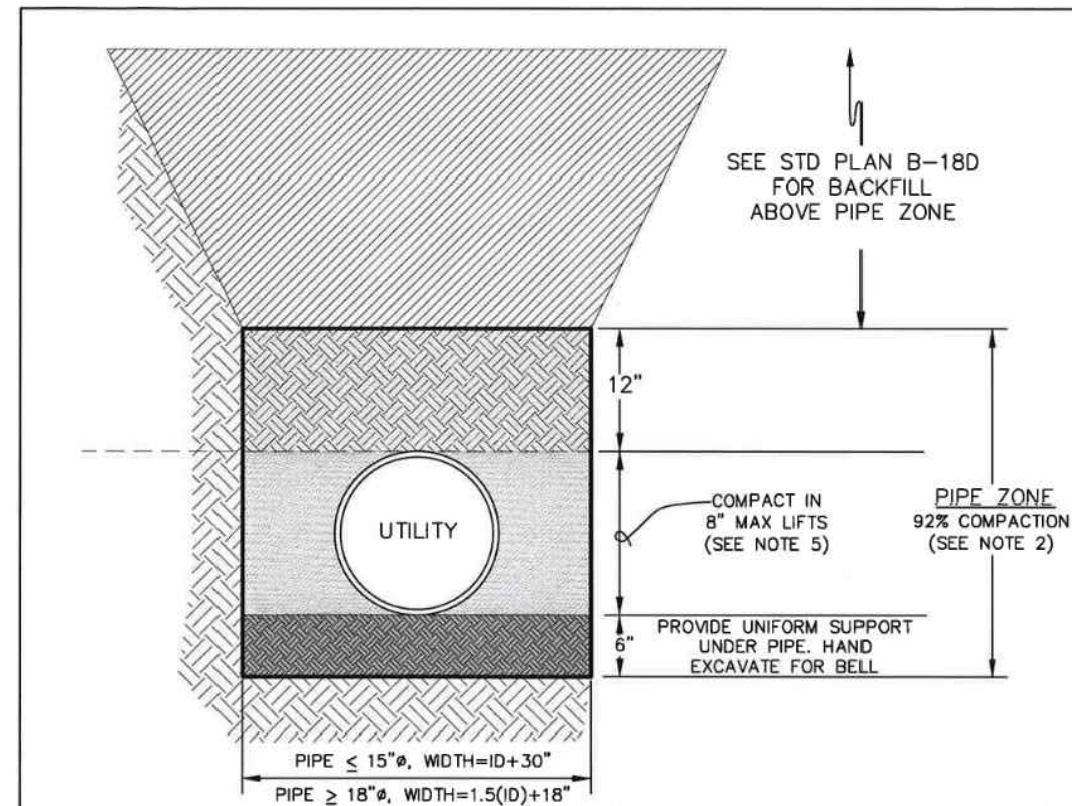
6/30/2021

PROJECT NAME:	THE FALLS	
SEGMENT LIMITS:	W. BROADWAY AVENUE SEWER	
TYPE OF IMPROVEMENT:	SANITARY	
CITY PROJECT NUMBER	2019190	CITY PLAN NUMBER
PROJECT LIMITS:	N. LINCOLN ST. to W. BROADWAY AVE.	
DATE	8/28/21	DATE
BY	SSS	BY
CHECKED	---	CHECKED
APPROVED	---	APPROVED

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[Back to Section B - TOC](#)



- NOTES:
1. ALL MATERIAL IN PIPE ZONE INCLUDING 6" BENEATH THE PIPE SHALL CONFORM TO SEC 9-03.12(3) FOR SAND OR NATIVE MATERIAL EXCEPT AS FOLLOWS:
    - a) IF ROCK OR GROUND WATER IS PRESENT, PIPE ZONE MATERIAL SHALL BE CSTC PER SEC 9-03.9(3).
    - b) FOR RIGID SEWERS, PIPE ZONE MATERIAL ABOVE THE SPRING LINE MAY EITHER BE PER SEC 9-03.12(3), SAND OR NATIVE, OR 9-03.14(1), GRAVEL BORROW, EXCEPT THAT MAX MATERIAL SIZE SHALL BE 1-IN PER 1-FT OF PIPE DIAMETER UP TO A 2" MAX.
  2. COMPACTION METHODS IN PIPE ZONE SHALL BE PER SECTION 7-09.3(9).
  3. REFER TO 7-08.3(1)C FOR ADDITIONAL REQUIREMENTS.
  4. WHERE TRENCH EXCAVATION IS PAID SEPARATELY, PAYMENT LIMITS SHALL BE PER SEC 2-09.4.
  5. BEDDING TO BE INSTALLED PER SECTION 7-09.3(9). A LIFT LAYER UP TO A MAXIMUM OF 18 INCHES MAY BE APPROVED BY THE ENGINEER.

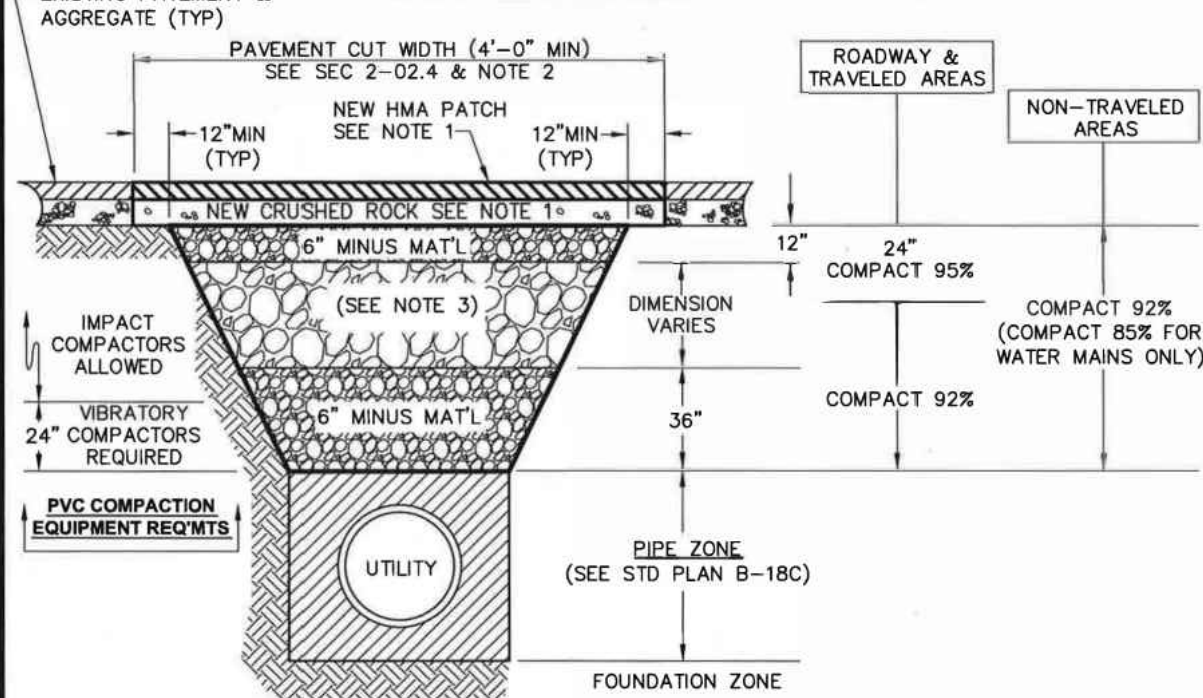
APPROVED BY: ADOPTEE: 02/1996  
ENGINEERING SERVICES CITY OF SPOKANE, WASHINGTON  
CITY ENGINEER: DANIEL ALBERT BAKER, P.E.  
REVISOR: 02/2017  
SUPERSEDES: 09/2010  
CHECKED BY: JAG  
SCALE: NTS  
DWG/REV. BY: SRM/MEM

UTILITY TRENCH BACKFILL  
PIPE ZONE  
ENGINEERING SERVICES  
CITY OF SPOKANE, WASHINGTON  
STANDARD  
PLAN No.  
B-18C

UTILITY TRENCH BACKFILL

SCALE : NTS

### BACKFILL FOR UTILITY TRENCHES



- NOTES:
1. REPLACE HOT MIX ASPHALT (HMA) PAVEMENT & CRUSHED ROCK PER STD PLANS W-102, W-108, & W-109.
  2. SEE CITY OF SPOKANE (COS) PAVEMENT CUT POLICY IN THE COS DESIGN STDS, APPENDIX "F" FOR ADD'L REQ'TS.
  3. WATER LINES REQUIRE 6" MINUS MAT'L FOR THE ENTIRE BACKFILL. 12" MINUS MAT'L MAY BE USED FOR OTHER UTILITIES.
  4. COMPACTION ABOVE THE PIPE ZONE SHALL BE MEASURED PER SEC 2-03.3(14)D. FOR ROADWAY & TRAVELED AREAS COMPACT TOP 2-FT IN 4" MAX LIFTS. COMPACT BELOW TOP 2-FT TO TOP OF PIPE ZONE IN 6" MAX LIFTS. FOR NON-TRAVELED AREAS COMPACT IN 8" MAX LIFTS. ENGINEER MAY WAIVER THE 92% COMPACTION TO A LESSER VALUE FOR GRASS SWALES OR OTHER PLANTING AREAS.
  5. FOR DEVIATION FROM LIFT THICKNESS, SEE SEC 7-08.3(3) FOR SEWER/STORM & SEC 7-09.3(11) FOR WATER UTILITIES.
  6. TRENCH EXCAVATION MATERIALS SHALL BE USED FOR BACKFILL IF MATERIALS MEET GRADATION REQ'TS ABOVE, IMPORTED BACKFILL SHALL MEET THE REQ'TS OF SEC 9-03.14(1), GRAVEL BORROW.
  7. CONTROLLED DENSITY FILL (CDF) PER SEC 2-09.3(9)E, MAY BE USED IN LIEU OF NATIVE BACKFILL WHERE IT IS NOT PRACTICAL TO COMPACT BACKFILL TO THE REQ'D DENSITY. SUCH USE SHALL BE PRE-APPROVED BY THE ENGINEER. SEE STD PLAN B-18E FOR CDF BACKFILL REQ'TS.

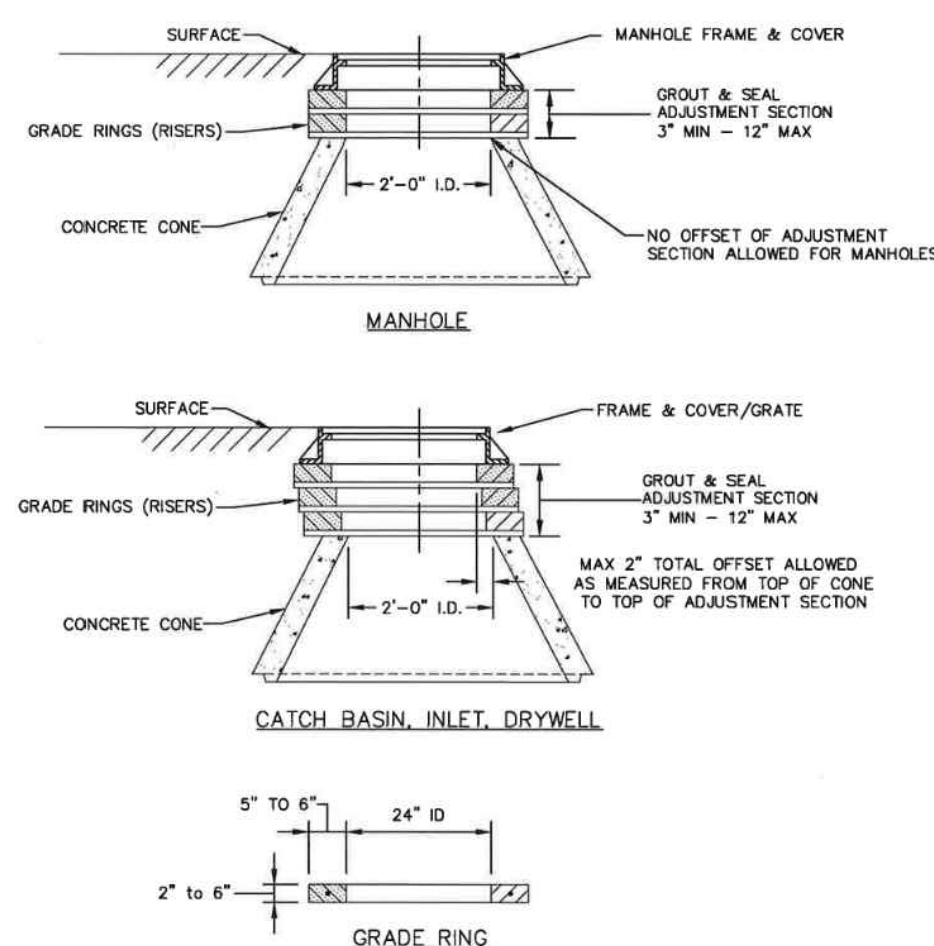
APPROVED BY: ADOPTEE: 2/1990  
ENGINEERING SERVICES CITY OF SPOKANE, WASHINGTON  
CITY ENGINEER: GARY S. NELSON, P.E.  
REVISOR: 4/2012  
SUPERSEDES: 9/2010  
CHECKED BY: JAG  
SCALE: NTS  
DWG/REV. BY: SRM/MEM

UTILITY TRENCH BACKFILL  
ABOVE PIPE ZONE  
ENGINEERING SERVICES  
CITY OF SPOKANE, WASHINGTON  
STANDARD  
PLAN No.  
B-18D

UTILITY TRENCH BACKFILL

SCALE : NTS

[Back to Section B - TOC](#)



- NOTES:
1. ADJUSTMENT SECTION SHALL BE CONSTRUCTED WITH PRE-FABRICATED REINFORCED CONCRETE GRADE RINGS (RISERS) CONFORMING TO ASTM C478 AND SHALL BE GROUTED IN PLACE.
  2. GRADE RINGS SHALL BE A CONTINUOUS LOOP OF REINFORCED CONCRETE AND SHALL BE FLAT. GRADE RINGS SHALL BE A UNIFORM DIMENSION THROUGHOUT ITS CROSS SECTION.
  3. GRADE RINGS REINFORCEMENT SHALL BE A MINIMUM OF ONE FULL HOOP OF STEEL REINFORCING OF MINIMUM YIELD STRESS  $f_y = 60$  KSI.
  4. IN ADDITION TO THE GRADE RINGS, IF NECESSARY FOR PROPER FINAL ADJUSTMENT HEIGHT OF LESS THAN 2" MEASURES OF PRE-FABRICATED CERAMIC OR CONCRETE BRICK AS APPROVED BY THE ENGINEER MAY BE USED AND SHALL BE GROUTED IN PLACE.
  5. ADJUSTMENT SECTION SHALL BE SEALED PER SECTION 7-05.

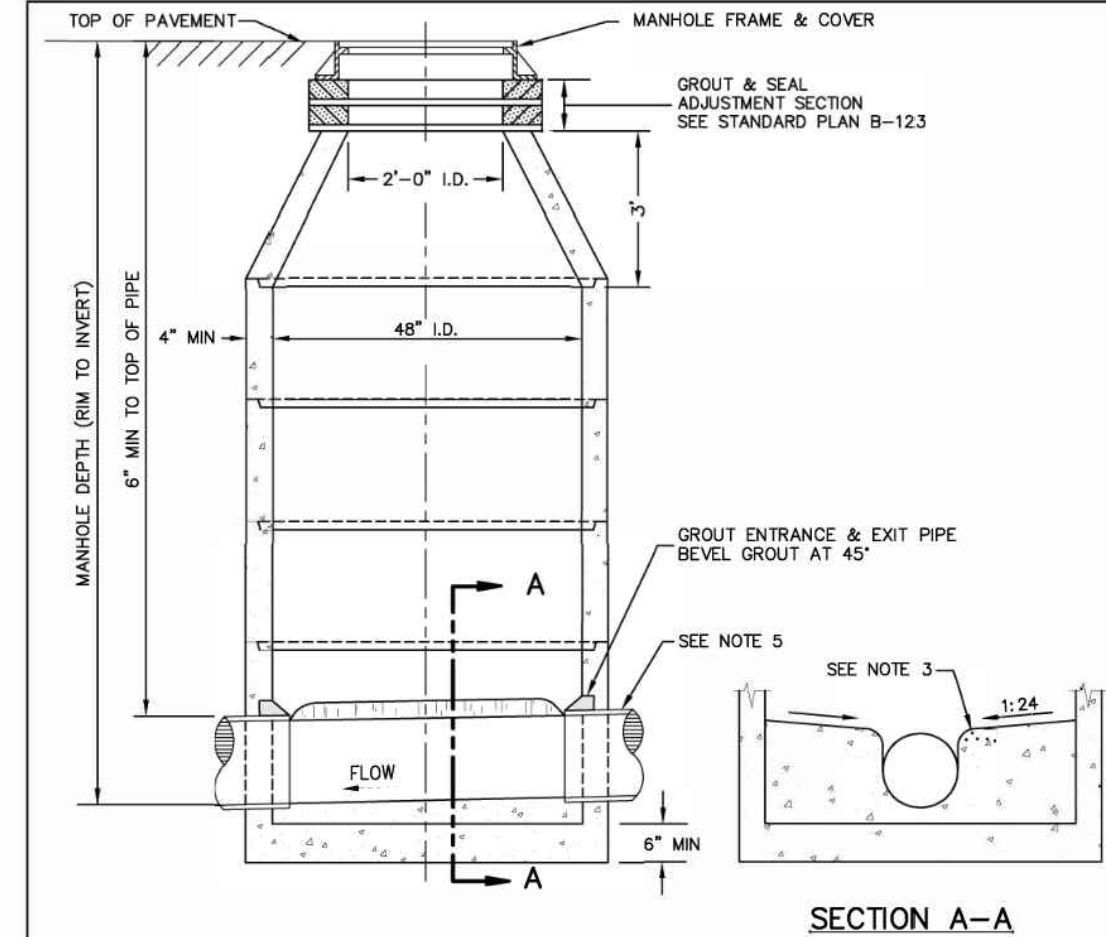
APPROVED BY: ADOPTEE: 1/2017  
ENGINEERING SERVICES CITY OF SPOKANE, WASHINGTON  
CITY ENGINEER: DANIEL ALBERT BAKER, P.E.  
REVISOR: 1/2017  
SUPERSEDES: 01/2017  
CHECKED BY: JAG  
SCALE: NTS  
DWG/REV. BY: SRM/MEM

ADJUSTMENT SECTION  
GRADE RINGS (RISERS)  
ENGINEERING SERVICES  
CITY OF SPOKANE, WASHINGTON  
STANDARD  
PLAN No.  
B-123

ADJUSTMENT SECTION

SCALE : NTS

[Back to Section Z - TOC](#)



- NOTES:
1. SEE STANDARD PLANS B-112/B-112A FOR MANHOLE FRAME & COVER, AND B-122 FOR BASE & FOUNDATION.
  2. MANHOLE STEPS ARE REQUIRED, SEE Z-109.
  3. FORM SHED & SMOOTH CONTINUOUS CHANNEL WITH COMMERCIAL GRADE CONCRETE.
  4. MANHOLES EXCEEDING A 20 FT DEPTH SHALL HAVE BARREL SECTIONS WITH MINIMUM 54" DIAMETER, SEE Z-102.
  5. MAX PIPE DIA = 24". ANGULAR RUNS EXCEEDING 45° OR ADDITIONAL JUNCTIONS MAY REQUIRE LARGER MANHOLE. DESIGN VERIFICATION IS REQUIRED.
  6. SEE STANDARD PLAN B-123 FOR ADJUSTMENT SECTION REQUIREMENTS.

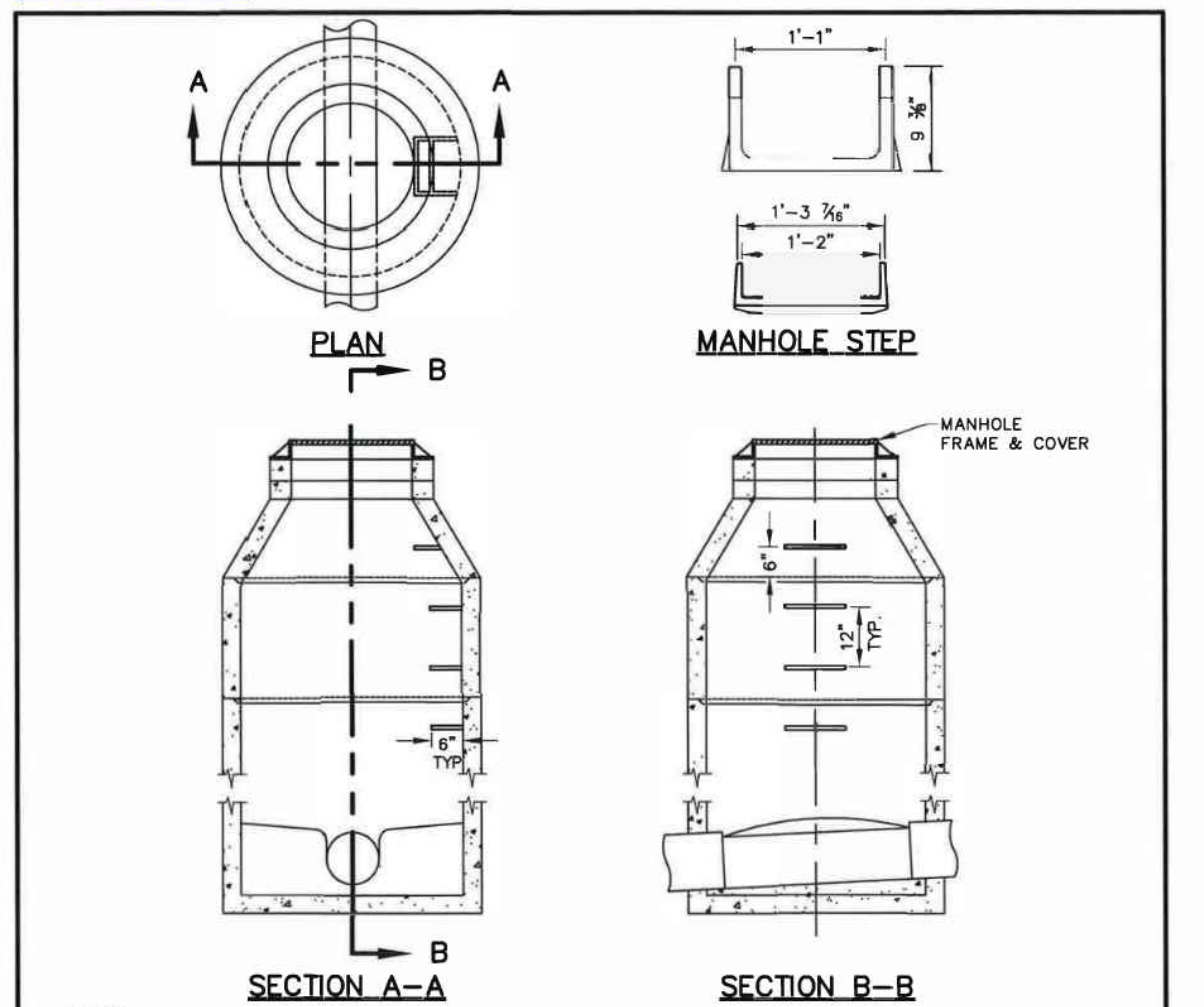
APPROVED BY: ADOPTEE: 02/1996  
ENGINEERING SERVICES CITY OF SPOKANE, WASHINGTON  
CITY ENGINEER: DANIEL ALBERT BAKER, P.E.  
REVISOR: 04/2018  
SUPERSEDES: 01/2017  
CHECKED BY: JAG  
SCALE: NTS  
DWG/REV. BY: SRM/MEM

MANHOLE - 48"  
ENGINEERING SERVICES  
CITY OF SPOKANE, WASHINGTON  
STANDARD  
PLAN No.  
Z-101

MANHOLE - 48"

SCALE : NTS

[Back to Section Z - TOC](#)



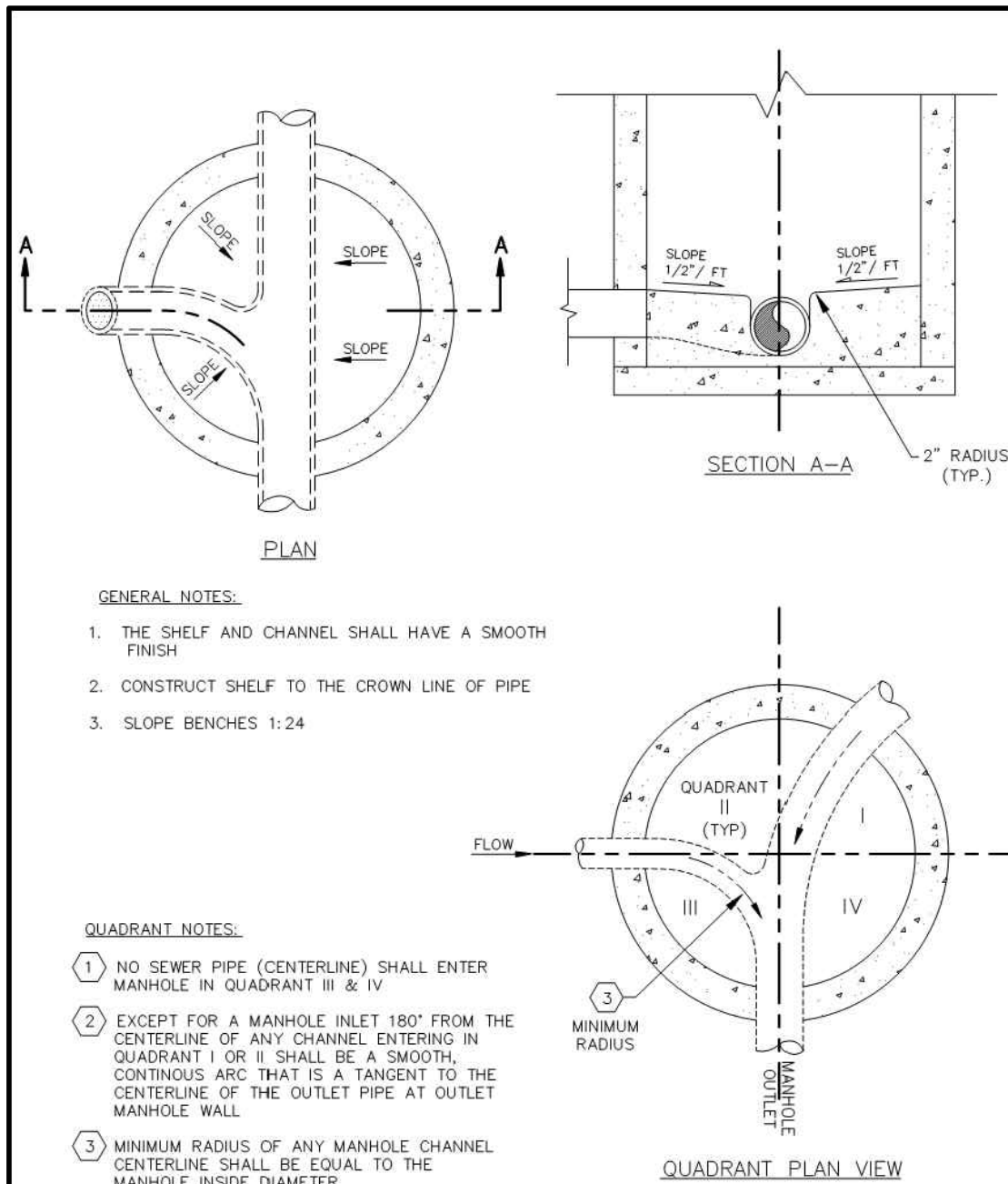
- NOTES:
1. MANHOLE STEPS SHALL BE GROUTED INTO THE PRECAST CONCRETE WALL. STEPS SHALL BE UNIFORMLY SPACED AT 12" O.C. VERTICALLY, LEVELLED HORIZONTALLY, & ALIGNED ABOVE THE MANHOLE'S C/L.
  2. MANHOLES W/ OUT REDUCING SLABS SHALL HAVE THE STEPS LOCATED ABOVE THE SHED, MANHOLES WITH REDUCING SLABS SHALL HAVE THE STEPS CENTERED BELOW THE SLAB ACCESS HOLE & THE UPSTREAM PIPE.
  3. MANHOLE STEPS SHALL BE POLYPROPYLENE W/ANTI-SLIP TREAD DESIGN & TWO REFLECTORS PER STEP.

APPROVED BY: ADOPTEE: 02/1996  
ENGINEERING SERVICES CITY OF SPOKANE, WASHINGTON  
CITY ENGINEER: GARY S. NELSON, P.E.  
REVISOR: 04/2012  
SUPERSEDES: 09/2010  
CHECKED BY: JAG  
SCALE: NTS  
DWG/REV. BY: SRM/MEM

MANHOLE STEP DETAILS  
ENGINEERING SERVICES  
CITY OF SPOKANE, WASHINGTON  
STANDARD  
PLAN No.  
Z-109

MANHOLE STEP DETAILS

SCALE : NTS



- GENERAL NOTES:
1. THE SHELF AND CHANNEL SHALL HAVE A SMOOTH FINISH.
  2. CONSTRUCT SHELF TO THE CROWN LINE OF PIPE.
  3. SLOPE BENCHES 1:24

- QUADRANT NOTES:
- ① NO SEWER PIPE (CENTERLINE) SHALL ENTER MANHOLE IN QUADRANT II & IV
  - ② EXCEPT FOR A MANHOLE INLET 180° FROM THE CENTERLINE OF ANY CHANNEL ENTERING IN QUADRANT I OR II SHALL BE A SMOOTH CONTINUOUS ARC THAT IS TANGENT TO THE CENTERLINE OF THE OUTLET PIPE AT OUTLET MANHOLE WALL
  - ③ MINIMUM RADIUS OF ANY MANHOLE CHANNEL CENTERLINE SHALL BE EQUAL TO THE MANHOLE INSIDE DIAMETER

APPROVED BY: ADOPTEE: 02/2019  
ENGINEERING SERVICES CITY OF SPOKANE, WASHINGTON  
CITY ENGINEER: GARY S. NELSON, P.E.  
REVISOR: 02/2019  
SUPERSEDES: 01/2017  
CHECKED BY: JAG  
SCALE: NTS  
DWG/REV. BY: SRM/MEM

MANHOLE CHANNEL DETAIL - TYPICAL  
ENGINEERING SERVICES  
CITY OF SPOKANE, WASHINGTON  
STANDARD  
PLAN No.  
Z-117

MANHOLE CHANNEL DETAIL

SCALE : NTS

### FOR PERMIT

THESE DRAWINGS ARE SUFFICIENTLY COMPLETE FOR SUBMISSION TO THE JURISDICTION HAVING AUTHORITY FOR PERMIT. THE CONTRACTOR SHALL NOT USE THESE DRAWINGS FOR CONSTRUCTION UNTIL THE CONTRACTOR RECEIVES WRITTEN APPROVAL FOR USE IN CONSTRUCTION BY THE JURISDICTION HAVING AUTHORITY AND DCI ENGINEERS.

### CONTRACTOR NOTE

ALL EXISTING UTILITIES SHOWN ON PLANS ARE TO BE VERIFIED HORIZONTALLY AND VERTICALLY PRIOR TO ANY CONSTRUCTION. ALL EXISTING FEATURES INCLUDING BURIED UTILITIES ARE SHOWN AS INDICATED ON RECORD MAPS AND SURVEYS FURNISHED BY OTHERS. WE ASSUME NO LIABILITY FOR THE ACCURACY OF THOSE RECORDS AND SURVEYS. CONTACT THE UTILITY OWNER/AGENCY FOR THE FINAL LOCATION OF EXISTING UTILITIES IN AREAS CRITICAL TO CONSTRUCTION.



SS-05  
5 of 6

6/30/2021

PROJECT NAME: THE FALLS		TYPE OF IMPROVEMENT: SEWER	
SEGMENT LIMITS: SANITARY SEWER DETAILS		CITY PROJECT NUMBER: 2019190	CITY PLAN NUMBER: BROAD V(1)3
PROJECT LIMITS:		FROM: 95+05	TO: 18-25-43

CALL BEFORE YOU DIG 456-8000

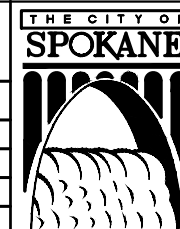
**DCI**  
**ENGINEERS**  
707 W. 2ND AVENUE  
SPOKANE, WASHINGTON 99201  
PHONE: (509) 455-4448 • FAX: (509) 455-7492  
WEBSITE: www.dci-engineers.com

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DATE BY PROJ DESCRIPTION DATE BY PROJ E.F.N. U.S.N. FROM TO COUNCIL ACCEPT DATE GRADE ORDINANCE LIST

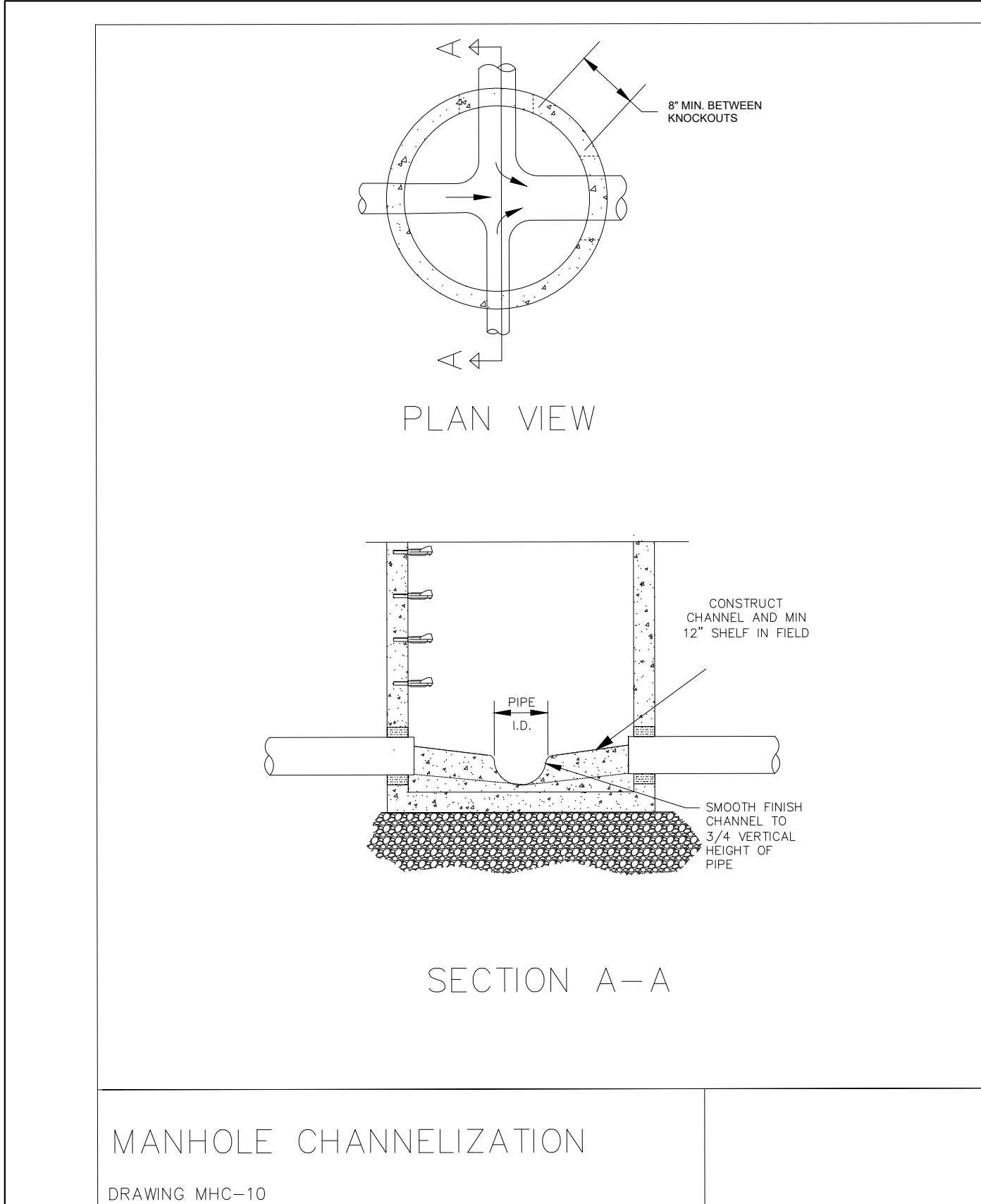
DATE	BY	PROJ	DESCRIPTION	DATE	BY	PROJ	E.F.N.	U.S.N.	FROM	TO	COUNCIL ACCEPT DATE	GRADE ORDINANCE LIST

NAVDB8 = (OLD CSM ELEV.) - (13.13)	AS OF JANUARY, 2000 USE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVDB8)
BENCH MARK LOCATION: NEAR THE SOUTHERLY END OF THE GORE AREA AT THE INTERSECTION OF NORTH RIVER DRIVE AND SR 002/395	CURRENT CITY/COUNTY DESIGN STANDARDS ADOPTED FEB.1995
NAVDB8 ELEV. 1886.27	BY: SSS DATES: 6/28/21
BAR IS ONE INCH ON ORIGINAL DRAWING	CHECKED: ---
IF NOT ONE INCH ON THIS SHEET, ADJUST SCALES ACCORDINGLY	APPROVED: ---
SCALE	



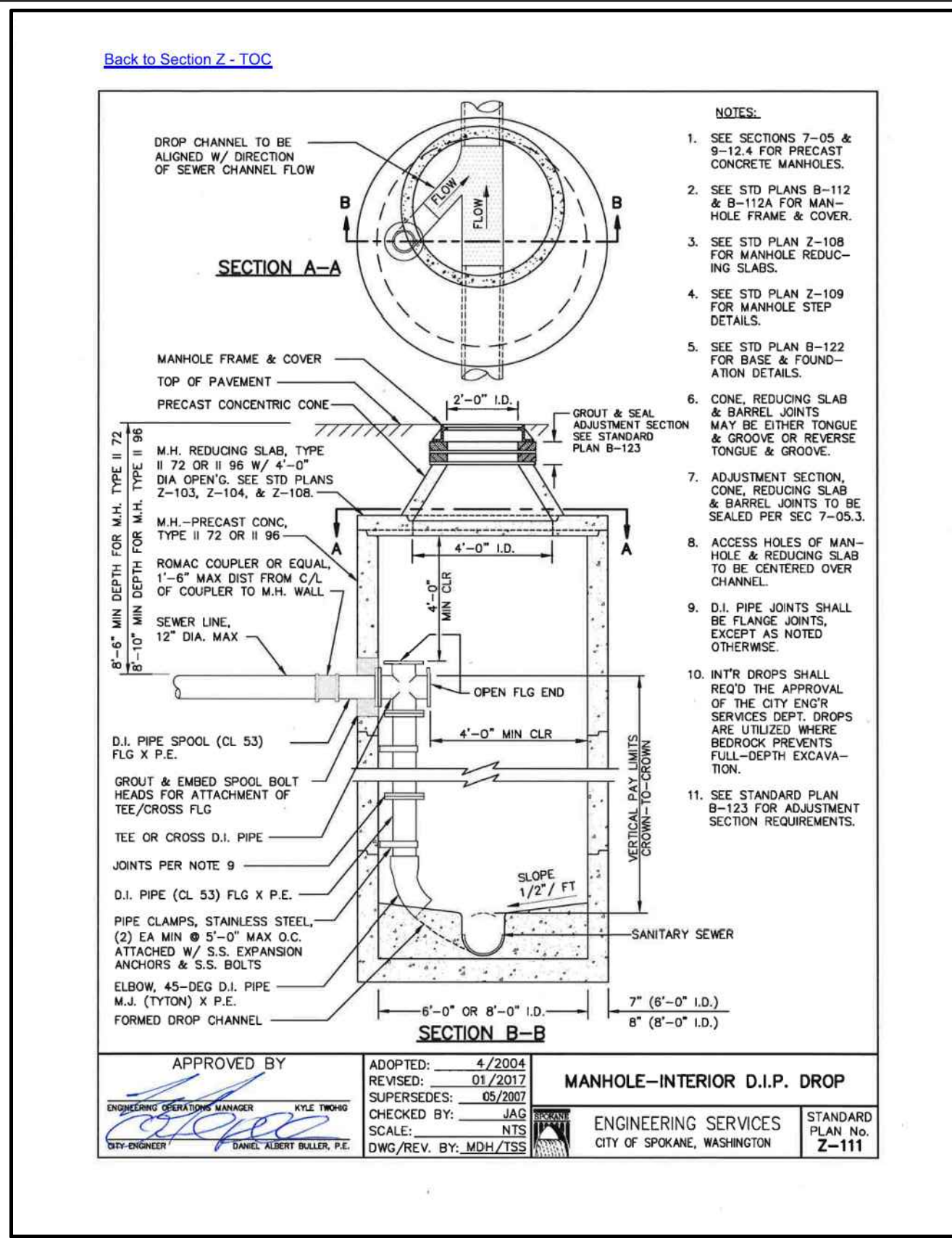
CITY OF SPOKANE, WASHINGTON  
DEPARTMENT OF ENGINEERING SERVICES  
808 WEST SPOKANE FALLS BLVD.  
SPOKANE, WASHINGTON 99201-3343  
(509) 625-6300





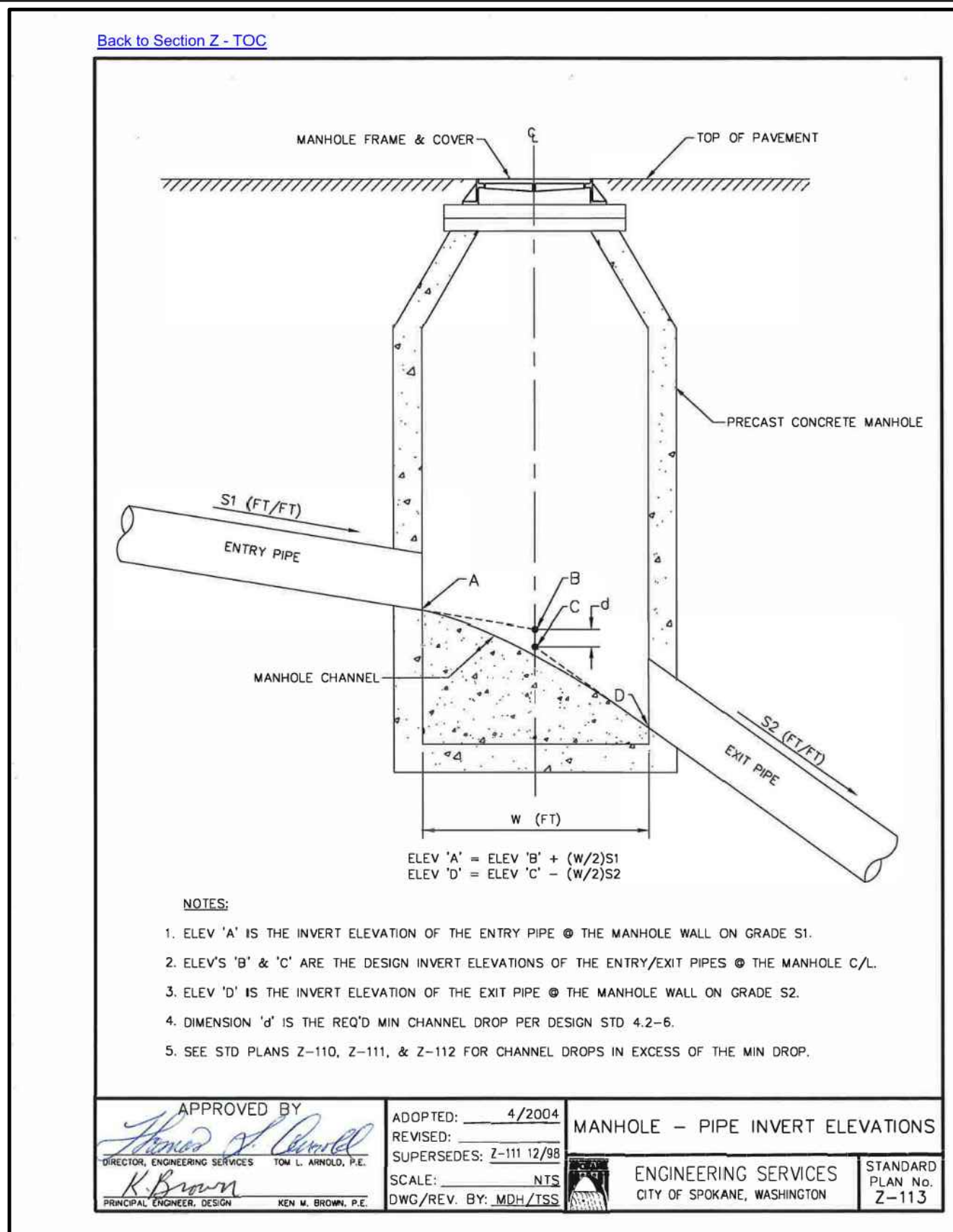
MANHOLE CHANNELIZATION

SCALE : NTS



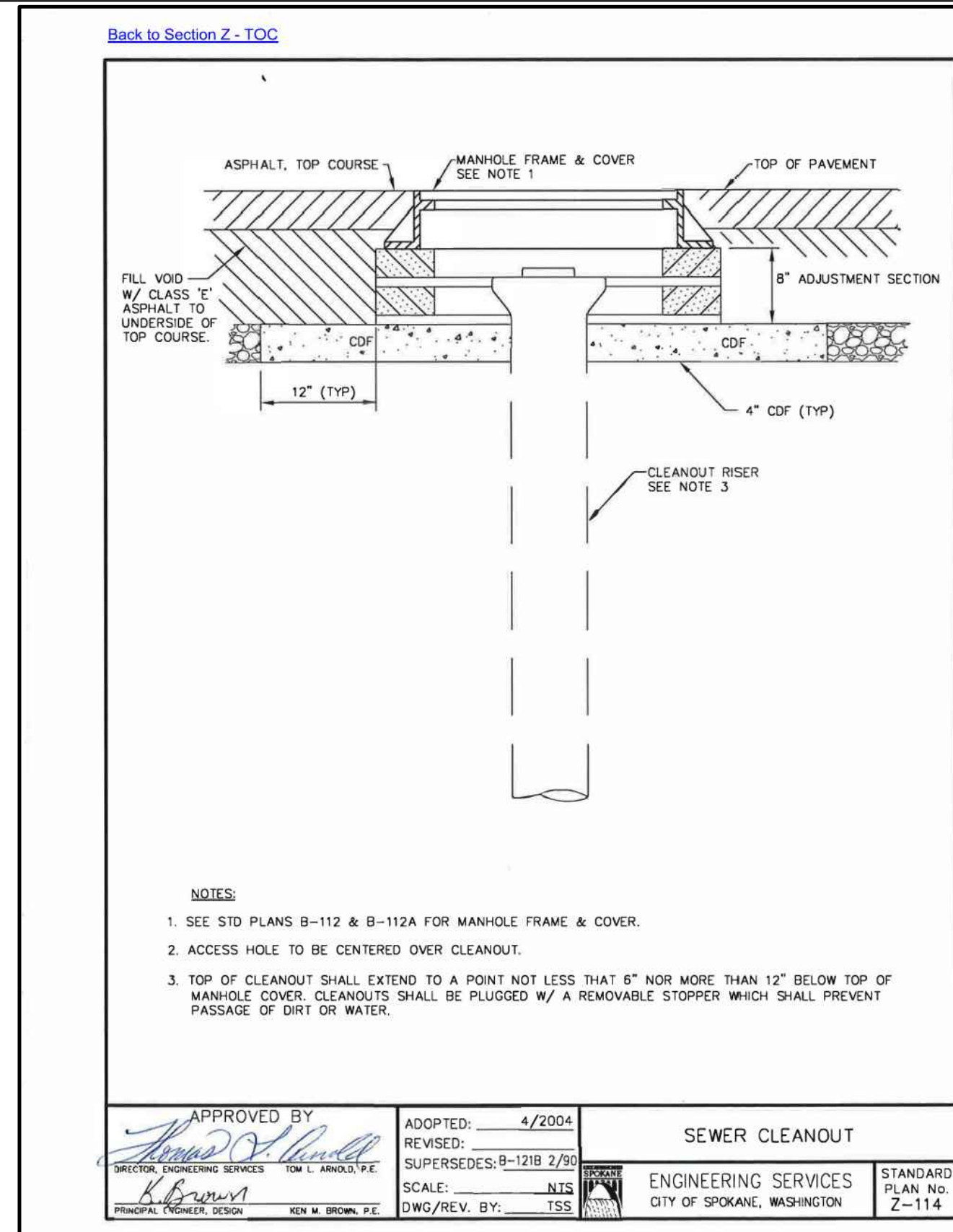
MANHOLE-INTERIOR D.I.P. DROP

SCALE : NTS



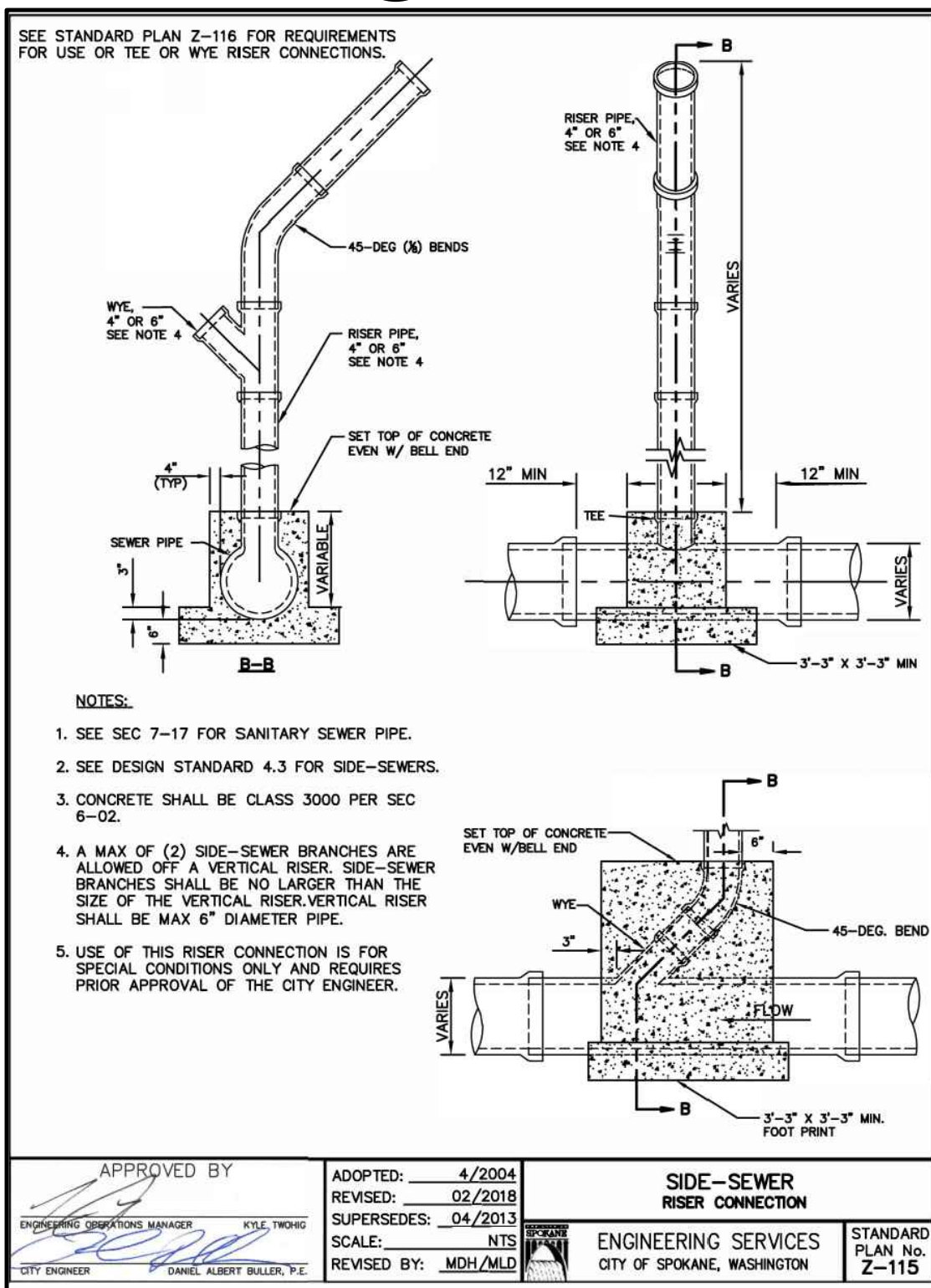
MANHOLE - PIPE INVERT ELEVATIONS

SCALE : NTS



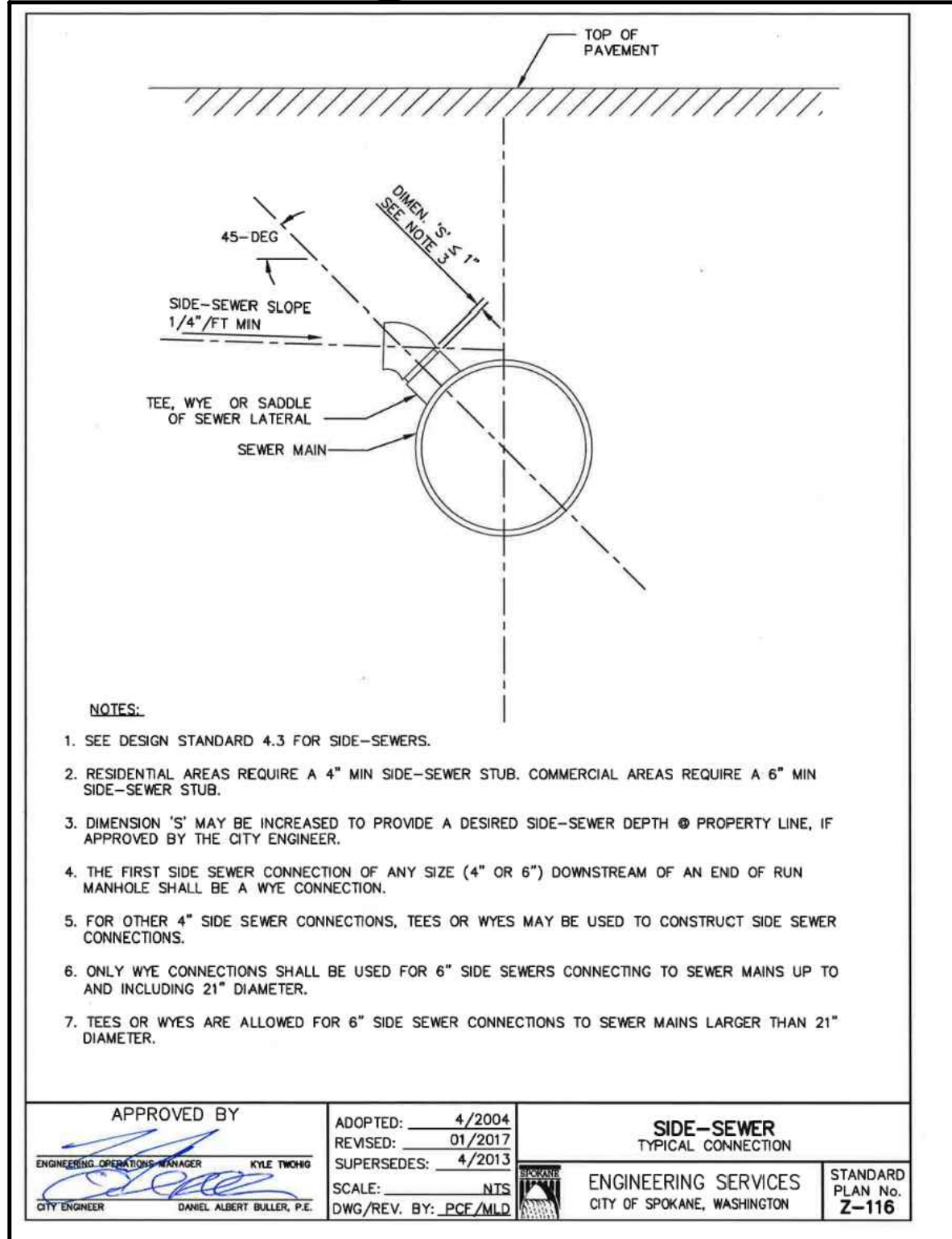
SEWER CLEANOUT

SCALE : NTS



SIDE SEWER RISER CONNECTION

SCALE : NTS



SIDE SEWER TYPICAL CONNECTION

SCALE : NTS

**EDCI**  
**ENGINEERS**  
707 W. 2ND AVENUE  
SPOKANE, WASHINGTON 99201  
PHONE: (509) 455-4448 • FAX: (509) 455-7492  
WEBSITE: www.edci-engineers.com  
CIVIL / STRUCTURAL

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DATE	BY	PROJ	DESCRIPTION	DATE	BY	PROJ	E.F.N. / U.S.N.	FROM	TO	COUNCIL	FROM	TO	ORD. NO.	DATE	FILE NO.
REVISIONS											AS BUILT				
											GRADE ORDINANCE LIST				

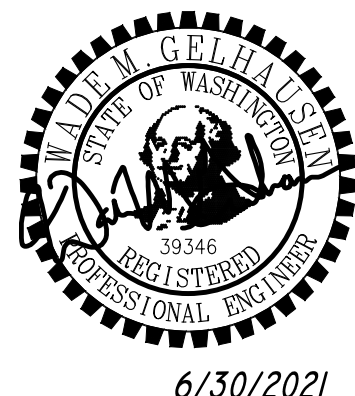
NAVDB8 = (OLD DBM ELEV.) - (13.13)	AS OF JANUARY, 2000 USE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVDB8)
BENCH MARK LOCATION: SOUTHERLY END OF THE GORE AREA AT THE INTERSECTION OF NORTH RIVER DRIVE AND SR 002/395	CURRENT CITY/COUNTY DESIGN STANDARDS ADOPTED FEB.1995
NAVDB8 ELEV. 1886.27	BY SSS
DATE 6/28/21	DRAWN
REVISED: ---	CHECKED: ---
APPROVED: ---	DATE: ---

**FOR PERMIT**

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**CONTRACTOR NOTE**

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SS-06  
6 of 6

PROJECT NAME: <b>THE FALLS</b>		TYPE OF IMPROVEMENT: <b>SEWER</b>	
SEGMENT LIMITS: <b>SANITARY SEWER DETAILS</b>		CITY PROJECT NUMBER <b>2019190</b>	CITY PLAN NUMBER <b>BROAD V(1)3</b>
PROJECT LIMITS:		FROM: 35+06	TO: 35+43

CALL BEFORE YOU DIG 456-8000



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

03/21/2022

**Date Rec'd**

3/8/2022

**Clerk's File #**

OPR 2022-0199

**Renews #****Cross Ref #****Submitting Dept**INNOVATION & TECHNOLOGY  
SERVICES**Contact Name/Phone**

MICHAEL SLOON 625-6468

**Project #****Contact E-Mail**

MSLOON@SPOKANECITY.ORG

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

Contract Item

**Requisition #**

CR 23461

**Agenda Item Name**

5300 TRUEPOINT PROFESSIONAL SERVICES

**Agenda Wording**

Contract with Truepoint Solutions, LLC for Professional Services. Company was selected via Federal Contract GSA-35F025BA. Contract term beginning March 1, 2022 through February 28, 2023 and shall not exceed \$100,000.00 annually.

**Summary (Background)**

Truepoint provides Professional Services in support of Accela enhancements for the Planning Departments. These enhancements provide robust and flexible tools for delivering permit based services and solutions throughout the City. Truepoint will provide Professional Services on an as-needed basis.

Lease? NO

Grant related? NO

Public Works? NO

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

Expense \$ 25,000

# 2023 Funds

Expense \$ 75,000

# 4700-30210-24100-54201-99999

Select \$

#

Select \$

#

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

SLOON, MICHAEL

**Study Session\Other**3/7/2022 Public Safety &  
Community Health  
Committee**Division Director**

SLOON, MICHAEL

**Council Sponsor**

CM Michael Cathcart

**Finance**

ORLOB, KIMBERLY

**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**

Purchasing - cwahl@spokanecity.org

IT - itadmin@spokanecity.org

Tax &amp; Licenses

Kent Johnson - kjohnson@truepointsolutions.com

## Committee Agenda Sheet

### Public Safety and Community Health Committee

<b>Submitting Department</b>	Innovation and Technology Services Division
<b>Contact Name &amp; Phone</b>	Michael Sloon, 625-6468
<b>Contact Email</b>	<a href="mailto:msloon@spokanecity.org">msloon@spokanecity.org</a>
<b>Council Sponsor(s)</b>	Michael Cathcart
<b>Select Agenda Item Type</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion      Time Requested: March 7 <sup>th</sup> , 2022
<b>Agenda Item Name</b>	Contract with TruePoint Solutions, LLC for Accela Software Professional Services and Support.
<b>Summary (Background)</b>	TruePoint provides professional services in support of Accela enhancements for the Planning Departments. These enhancements provide robust and flexible tools for delivering permit based services and solutions throughout the City. Contract term beginning March 1, 2022 through February 28, 2023, and shall not exceed \$100,000.00. Company was selected via Federal Contract Number: GSA-35F-025BA.
<b>Proposed Council Action &amp; Date:</b>	Pass Council on March 21 <sup>st</sup> , 2022.
<b>Fiscal Impact:</b> Total Cost: \$100,000.00 Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A  Funding Source <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring – Annual  Specify funding source: Myspokane  Expense Occurrence <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring - Annual  Other budget impacts: NA	
<b>Operations Impacts</b>	
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 professional services support	
How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?	
Not applicable – annual professional services support	
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 permitting management system.	



**City of Spokane**

**CONTRACT**

Title: **PROFESSIONAL SERVICES**

THIS CONTRACT is between the **CITY OF SPOKANE**, a Washington State municipal corporation, as ("City"), and **TRUEPOINT SOLUTIONS, LLC**, whose address is 774 Mays Boulevard, No. 10-377, Incline Village, Nevada 89451, as ("Company"), individually hereafter referenced as a "party", and together as the "parties".

The parties agree as follows:

1. **PERFORMANCE**. The Company will provide Professional Services on an as-needed basis. Company has been selected through Federal Contract No. GS-35F-025BA, attached as Exhibit B. In the event of a discrepancy between the documents this City Contract controls.
2. **CONTRACT TERMS**. The Contract shall begin March 1, 2022, and run through February 28, 2023, unless amended by written agreement or terminated earlier under the provisions. This Contract may be renewed by agreement of the parties not to exceed four (4) additional one (1) year contract periods.
3. **COMPENSATION**. Total compensation under this as-needed Contract shall not exceed **ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00)**, including tax for everything furnished and done under this Contract, payable as follows:

SIN	SERVICE	PRICE OFFERED TO GSA (including IFF)
132 51	Business Analyst	\$ 143.58
132 51	Project Manager	\$ 157.93
132 51	Trainer	\$ 157.93
132 51	Web Consultant	\$ 157.93

This is the maximum amount to be paid under this Contract 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 Contract.

4. **PAYMENT**. The Company shall send its application for payment to Innovation and Technology Services Division, Administration Office, Seventh Floor, City Hall, 808 West Spokane Falls Boulevard, Spokane, Washington 99201. **Payment will be made via direct deposit/ACH** within thirty (30) days after receipt of the Contractor's application except as provided by state law.

5. COMPLIANCE WITH LAWS. Each party shall comply with all applicable federal, state, and local laws and regulations.
6. ASSIGNMENTS. This Contract 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.
7. AMENDMENTS. This Contract may be amended at any time by mutual written agreement.
8. 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 this Contract.
9. TERMINATION. Either party may terminate this Contract by thirty (30) days written notice to the other party. In the event of such termination, the City shall pay the Company for all work previously authorized and performed prior to the termination date.
10. INSURANCE. During the term of the Agreement, the Company shall maintain in force at its own expense, the following insurance coverages:
  - 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
  - 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 the Company's General Liability insurance policy must be a *minimum* of \$1,000,000, in order to meet the insurance coverages required under this Contract;
  - 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 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 sixty (60) days written notice from the Company or its insurer(s) to the City. As evidence of the insurance coverage(s) required by this Agreement, the 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 sixty (60) day cancellation clause, and the deduction or retention level. The Company shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

11. INDEMNIFICATION. The 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 the 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 the 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 the Company, its agents or employees. The Company specifically assumes liability and agrees to defend, indemnify, and hold the City harmless for actions brought by the Company's own employees against the City and, solely for the purpose of this indemnification and defense, the Company specifically waives any immunity under the Washington State industrial insurance law, or Title 51 RCW. The 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.

12. 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.

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

14. STANDARD OF PERFORMANCE. The silence or omission in the Contract regarding any detail required for the proper performance of the work, means that the Company shall perform the best general practice.

15. 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 Company 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 Company.

16. 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 Company shall be responsible for contacting the State of Washington Business License Services at [www.dor.wa.gov](http://www.dor.wa.gov) or 360-705-6741 to obtain a business registration. If the Company does not believe it is required to obtain a business registration, it may contact the City's Taxes and Licenses Division at (509) 625-6070 to request an exemption status determination.

17. AUDIT / RECORDS. The Company 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 Company 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.

18. CONFIDENTIALITY/PUBLIC RECORDS. Notwithstanding anything to the contrary, City will maintain the confidentiality of Company'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 Company's materials or information and the City determines there are exemptions only the Company can assert, City will endeavor to give Company notice. Company, at its own expense, will be required to go to Court to get an injunction preventing the release of the requested records. In the event that Company 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.

19. 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.

**TRUEPOINT SOLUTIONS, LLC**

**CITY OF SPOKANE**

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

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

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

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Attest:

Approved as to form:

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

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

Attachments that are part of this Agreement:  
Exhibit A – Certificate Regarding Debarment  
Exhibit B - Washington State Contract No. GS-35F-025BA

22-035a

**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.

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

## EXHIBIT B

AUTHORIZED  
INFORMATION TECHNOLOGY SCHEDULE PRICELIST  
GENERAL PURPOSE COMMERCIAL INFORMATION TECHNOLOGY  
EQUIPMENT, SOFTWARE AND SERVICES

**SPECIAL ITEM NUMBER 54151S - INFORMATION TECHNOLOGY (IT) PROFESSIONAL SERVICES**

FSC/PSC Class D302 IT AND TELECOM- SYSTEMS DEVELOPMENT

FSC/PSC Class D306 IT AND TELECOM- SYSTEMS ANALYSIS

FSC/PSC Class D307 IT AND TELECOM- IT STRATEGY AND ARCHITECTURE

FSC/PSC Class D308 IT AND TELECOM- PROGRAMMING

FSC/PSC Class D311 IT AND TELECOM- DATA CONVERSION



TruePoint Solutions, LLC  
3262 Penryn Road, 100-B  
Loomis, CA. 95650  
916-259-1293 ph  
916-256-1975 fax  
[www.truepointsolutions.com](http://www.truepointsolutions.com)  
[kjohnson@truepointsolutions.com](mailto:kjohnson@truepointsolutions.com)

Contract Number: GS-35F-025BA  
Period Covered by Contract: October 11, 2013 to October 10, 2023

General Services Administration  
Federal Acquisition Service

Pricelist current through Modification # A826, dated 11/26/2020.

**Products and ordering information in this Authorized FSS Information Technology Schedule Pricelist are also available on the GSA Advantage! System. Agencies can browse GSA Advantage! by accessing the Federal Acquisition Service's Home Page via the Internet at <http://www.fss.gsa.gov/>**

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## INFORMATION FOR ORDERING ACTIVITIES APPLICABLE TO ALL SPECIAL ITEM NUMBERS

### **SPECIAL NOTICE TO AGENCIES: Small Business Participation**

SBA strongly supports the participation of small business concerns in the Federal Acquisition Service. To enhance Small Business Participation SBA policy allows agencies to include in their procurement base and goals, the dollar value of orders expected to be placed against the Federal Supply Schedules, and to report accomplishments against these goals.

For orders exceeding the micropurchase threshold, FAR 8.404 requires agencies to consider the catalogs/pricelists of at least three schedule contractors or consider reasonably available information by using the GSA Advantage!™ on-line shopping service ([www.gsaadvantage.gov](http://www.gsaadvantage.gov)). The catalogs/pricelists, GSA Advantage!™ and the Federal Acquisition Service Home Page ([www.fss.gsa.gov](http://www.fss.gsa.gov)) contain information on a broad array of products and services offered by small business concerns.

This information should be used as a tool to assist ordering activities in meeting or exceeding established small business goals. It should also be used as a tool to assist in including small, small disadvantaged, and women-owned small businesses among those considered when selecting pricelists for a best value determination.

For orders exceeding the micropurchase threshold, customers are to give preference to small business concerns when two or more items at the same delivered price will satisfy their requirement.

### **1. GEOGRAPHIC SCOPE OF CONTRACT:**

*Domestic delivery* is delivery within the 48 contiguous states, Alaska, Hawaii, Puerto Rico, Washington, DC, and U.S. Territories. Domestic delivery also includes a port or consolidation point, within the aforementioned areas, for orders received from overseas activities.

*Overseas delivery* is delivery to points outside of the 48 contiguous states, Washington, DC, Alaska, Hawaii, Puerto Rico, and U.S. Territories.

Offerors are requested to check one of the following boxes:

- ☐ The Geographic Scope of Contract will be domestic and overseas delivery.
- ☐ The Geographic Scope of Contract will be overseas delivery only.
- ☒ The Geographic Scope of Contract will be domestic delivery only.

---

### **2. CONTRACTOR'S ORDERING ADDRESS AND PAYMENT INFORMATION:**

TruePoint Solutions  
3262 Penryn Road, 100B  
Loomis, CA. 95650

Contractor must accept the credit card for payments equal to or less than the micro-purchase for oral or written orders under this contract. The Contractor and the ordering agency may agree to use the credit card for dollar amounts over the micro-purchase threshold (See GSAR 552.232-79 Payment by Credit Card). In addition, bank account information for wire transfer payments will be shown on the invoice.

The following telephone number(s) can be used by ordering activities to obtain technical and/or ordering assistance:

T: 916 -259-1293  
F: 916-256-1975

### 3. LIABILITY FOR INJURY OR DAMAGE

The Contractor shall not be liable for any injury to ordering activity personnel or damage to ordering activity property arising from the use of equipment maintained by the Contractor, unless such injury or damage is due to the fault or negligence of the Contractor.

### 4. STATISTICAL DATA FOR GOVERNMENT ORDERING OFFICE COMPLETION OF STANDARD FORM 279:

Block 9: G. Order/Modification Under Federal Schedule

Block 16: Data Universal Numbering System (DUNS) Number: 836971718:

Type of Contractor – B

- A. Small Disadvantaged Business
- B. Other Small Business
- C. Large Business
- G. Other Nonprofit Organization
- L. Foreign Contractor

Block 31: Woman-Owned Small Business - NO

Block 36: Contractor's Taxpayer Identification Number (TIN): 20-1664808

4a. CAGE Code: 6DAPO

Contractor has registered with the Central Contractor Registration Database.

### 5. FOB DESTINATION

### 6. DELIVERY SCHEDULE

a. TIME OF DELIVERY: The Contractor shall deliver to destination within the number of calendar days after receipt of order (ARO), as set forth below:

SPECIAL ITEM NUMBER

DELIVERY TIME (Days ARO)

54151S

\_\_\_\_\_Days **TBD @ Task Order Level**

b. URGENT REQUIREMENTS: When the Federal Supply Schedule contract delivery period does not meet the bona fide urgent delivery requirements of an ordering activity, ordering activities are encouraged, if time permits, to contact the Contractor for the purpose of obtaining accelerated delivery. The Contractor shall reply to the inquiry within 3 workdays after receipt. (Telephonic replies shall be confirmed by the Contractor in writing.) If the Contractor offers an accelerated delivery time acceptable to the ordering activity, any order(s) placed pursuant to the agreed upon accelerated delivery time frame shall be delivered within this shorter delivery time and in accordance with all other terms and conditions of the contract.

7. **DISCOUNTS:** Prices shown are NET Prices; Basic Discounts have been deducted.

- a. Prompt Payment: Net 30 Days from receipt of invoice or date of acceptance
- b. Quantity none
- c. Dollar Volume : For a Single order over \$250 k gets an additional 3%
- d. Government Educational Institutions same
- e. Other none

**8. TRADE AGREEMENTS ACT OF 1979, as amended:**

All items are U.S. made end products, designated country end products, Caribbean Basin country end products, Canadian end products, or Mexican end products as defined in the Trade Agreements Act of 1979, as amended.

**9. STATEMENT CONCERNING AVAILABILITY OF EXPORT PACKING:**

**10. Small Requirements:** The minimum dollar value of orders to be issued is \$100.00.

**11. MAXIMUM ORDER (All dollar amounts are exclusive of any discount for prompt payment.)**

- a. The Maximum Order value for the following Special Item Numbers (SINs) is \$500,000:  
Special Item Number 54151S - Information Technology Professional Services

**12. ORDERING PROCEDURES FOR FEDERAL SUPPLY SCHEDULE CONTRACTS**

Ordering activities shall use the ordering procedures of Federal Acquisition Regulation (FAR) 8.405 when placing an order or establishing a BPA for supplies or services. These procedures apply to all schedules.

- a. FAR 8.405-1 Ordering procedures for supplies, and services not requiring a statement of work.
- b. FAR 8.405-2 Ordering procedures for services requiring a statement of work.

**13. FEDERAL INFORMATION TECHNOLOGY/TELECOMMUNICATION STANDARDS**

**REQUIREMENTS:** ordering activities acquiring products from this Schedule must comply with the provisions of the Federal Standards Program, as appropriate (reference: NIST Federal Standards Index). Inquiries to determine whether or not specific products listed herein comply with Federal Information Processing Standards (FIPS) or Federal Telecommunication Standards (FED-STDS), which are cited by ordering activities, shall be responded to promptly by the Contractor.

**13.1 FEDERAL INFORMATION PROCESSING STANDARDS PUBLICATIONS (FIPS PUBS):**

Information Technology products under this Schedule that do not conform to Federal Information Processing Standards (FIPS) should not be acquired unless a waiver has been granted in accordance with the applicable "FIPS Publication." Federal Information Processing Standards Publications (FIPS PUBS) are issued by the U.S. Department of Commerce, National Institute of Standards and Technology (NIST), pursuant to National Security Act. Information concerning their availability and applicability should be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161. FIPS PUBS include voluntary standards when these are adopted for Federal use. Individual orders for FIPS PUBS should be referred to the NTIS Sales Office, and orders for subscription service should be referred to the NTIS Subscription Officer, both at the above address, or telephone number (703) 487-4650.

**13.2 FEDERAL TELECOMMUNICATION STANDARDS (FED-STDS):** Telecommunication products under this Schedule that do not conform to Federal Telecommunication Standards (FED-STDS) should not be acquired unless a waiver has been granted in accordance with the applicable "FED-STD." Federal

Telecommunication Standards are issued by the U.S. Department of Commerce, National Institute of Standards and Technology (NIST), pursuant to National Security Act. Ordering information and information concerning the availability of FED-STDS should be obtained from the GSA, Federal Acquisition Service, Specification Section, 470 East L'Enfant Plaza, Suite 8100, SW, Washington, DC 20407, telephone number (202)619-8925. Please include a self-addressed mailing label when requesting information by mail. Information concerning their applicability can be obtained by writing or calling the U.S. Department of Commerce, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone number (301)975-2833.

#### **14. CONTRACTOR TASKS / SPECIAL REQUIREMENTS (C-FSS-370) (NOV 2003)**

- (a) Security Clearances: The Contractor may be required to obtain/possess varying levels of security clearances in the performance of orders issued under this contract. All costs associated with obtaining/possessing such security clearances should be factored into the price offered under the Multiple Award Schedule.
- (b) Travel: The Contractor may be required to travel in performance of orders issued under this contract. Allowable travel and per diem charges are governed by Pub .L. 99-234 and FAR Part 31, and are reimbursable by the ordering agency or can be priced as a fixed price item on orders placed under the Multiple Award Schedule. Travel in performance of a task order will only be reimbursable to the extent authorized by the ordering agency. The Industrial Funding Fee does NOT apply to travel and per diem charges.
- (c) Certifications, Licenses and Accreditations: As a commercial practice, the Contractor may be required to obtain/possess any variety of certifications, licenses and accreditations for specific FSC/service code classifications offered. All costs associated with obtaining/ possessing such certifications, licenses and accreditations should be factored into the price offered under the Multiple Award Schedule program.
- (d) Insurance: As a commercial practice, the Contractor may be required to obtain/possess insurance coverage for specific FSC/service code classifications offered. All costs associated with obtaining/possessing such insurance should be factored into the price offered under the Multiple Award Schedule program.
- (e) Personnel: The Contractor may be required to provide key personnel, resumes or skill category descriptions in the performance of orders issued under this contract. Ordering activities may require agency approval of additions or replacements to key personnel.
- (f) Organizational Conflicts of Interest: Where there may be an organizational conflict of interest as determined by the ordering agency, the Contractor's participation in such order may be restricted in accordance with FAR Part 9.5.
- (g) Documentation/Standards: The Contractor may be requested to provide products or services in accordance with rules, regulations, OMB orders, standards and documentation as specified by the agency's order.
- (h) Data/Deliverable Requirements: Any required data/deliverables at the ordering level will be as specified or negotiated in the agency's order.
- (i) Government-Furnished Property: As specified by the agency's order, the Government may provide property, equipment, materials, or resources as necessary.
- (j) Availability of Funds: Many Government agencies' operating funds are appropriated for a specific fiscal year. Funds may not be presently available for any orders placed under the contract or any option year. The Government's obligation on orders placed under this contract is contingent upon the availability of appropriated funds from which payment for ordering purposes can be made. No legal liability on the part of the Government for any payment may arise until funds are available to the ordering Contracting Officer.

- (k) Overtime: For professional services, the labor rates in the Schedule should not vary by virtue of the Contractor having worked overtime. For services applicable to the Service Contract Act (as identified in the Schedule), the labor rates in the Schedule will vary as governed by labor laws (usually assessed a time and a half of the labor rate).

**15. CONTRACT ADMINISTRATION FOR ORDERING ACTIVITIES:** Any ordering activity, with respect to any one or more delivery orders placed by it under this contract, may exercise the same rights of termination as might the GSA Contracting Officer under provisions of FAR 52.212-4, paragraphs (l) Termination for the ordering activity's convenience, and (m) Termination for Cause (See 52.212-4)

**16. GSA ADVANTAGE!**

GSA Advantage! is an on-line, interactive electronic information and ordering system that provides on-line access to vendors' schedule prices with ordering information. GSA Advantage! will allow the user to perform various searches across all contracts including, but not limited to:

- (1) Manufacturer;
- (2) Manufacturer's Part Number; and
- (3) Product categories.

Agencies can browse GSA Advantage! by accessing the Internet World Wide Web utilizing a browser (ex.: Netscape). The Internet address is <http://www.gsaadvantage.gov>

**17. PURCHASE OF OPEN MARKET ITEMS**

NOTE: Open Market Items are also known as incidental items, noncontract items, non-Schedule items, and items not on a Federal Supply Schedule contract. ODCs (Other Direct Costs) are not part of this contract and should be treated as open market purchases. Ordering Activities procuring open market items must follow FAR 8.402(f).

For administrative convenience, an ordering activity contracting officer may add items not on the Federal Supply Multiple Award Schedule (MAS) -- referred to as open market items -- to a Federal Supply Schedule blanket purchase agreement (BPA) or an individual task or delivery order, **only if-**

- (1) All applicable acquisition regulations pertaining to the purchase of the items not on the Federal Supply Schedule have been followed (e.g., publicizing (Part 5), competition requirements (Part 6), acquisition of commercial items (Part 12), contracting methods (Parts 13, 14, and 15), and small business programs (Part 19));
- (2) The ordering activity contracting officer has determined the price for the items not on the Federal Supply Schedule is fair and reasonable;
- (3) The items are clearly labeled on the order as items not on the Federal Supply Schedule; and
- (4) All clauses applicable to items not on the Federal Supply Schedule are included in the order.

**18. CONTRACTOR COMMITMENTS, WARRANTIES AND REPRESENTATIONS**

a. For the purpose of this contract, commitments, warranties and representations include, in addition to those agreed to for the entire schedule contract:

- (1) Time of delivery/installation quotations for individual orders;
- (2) Technical representations and/or warranties of products concerning performance, total system performance and/or configuration, physical, design and/or functional characteristics and capabilities of a

product/equipment/ service/software package submitted in response to requirements which result in orders under this schedule contract.

(3) Any representations and/or warranties concerning the products made in any literature, description, drawings and/or specifications furnished by the Contractor.

b. The above is not intended to encompass items not currently covered by the GSA Schedule contract.

## **19. OVERSEAS ACTIVITIES**

The terms and conditions of this contract shall apply to all orders for installation, maintenance and repair of equipment in areas listed in the pricelist outside the 48 contiguous states and the District of Columbia, except as indicated below:

NOT OFFERED

---

Upon request of the Contractor, the ordering activity may provide the Contractor with logistics support, as available, in accordance with all applicable ordering activity regulations. Such ordering activity support will be provided on a reimbursable basis and will only be provided to the Contractor's technical personnel whose services are exclusively required for the fulfillment of the terms and conditions of this contract.

## **20. BLANKET PURCHASE AGREEMENTS (BPAs)**

The use of BPAs under any schedule contract to fill repetitive needs for supplies or services is allowable. BPAs may be established with one or more schedule contractors. The number of BPAs to be established is within the discretion of the ordering activity establishing the BPA and should be based on a strategy that is expected to maximize the effectiveness of the BPA(s). Ordering activities shall follow FAR 8.405-3 when creating and implementing BPA(s).

## **21. CONTRACTOR TEAM ARRANGEMENTS**

Contractors participating in contractor team arrangements must abide by all terms and conditions of their respective contracts. This includes compliance with Clauses 552.238-74, Industrial Funding Fee and Sales Reporting, i.e., each contractor (team member) must report sales and remit the IFF for all products and services provided under its individual contract.

## **22. INSTALLATION, DEINSTALLATION, REINSTALLATION**

The Davis-Bacon Act (40 U.S.C. 276a-276a-7) provides that contracts in excess of \$2,000 to which the United States or the District of Columbia is a party for construction, alteration, or repair (including painting and decorating) of public buildings or public works with the United States, shall contain a clause that no laborer or mechanic employed directly upon the site of the work shall receive less than the prevailing wage rates as determined by the Secretary of Labor. The requirements of the Davis-Bacon Act do not apply if the construction work is incidental to the furnishing of supplies, equipment, or services. For example, the requirements do not apply to simple installation or alteration of a public building or public work that is incidental to furnishing supplies or equipment under a supply contract. However, if the construction, alteration or repair is segregable and exceeds \$2,000, then the requirements of the Davis-Bacon Act applies.

The ordering activity issuing the task order against this contract will be responsible for proper administration and enforcement of the Federal labor standards covered by the Davis-Bacon Act. The proper Davis-Bacon wage determination will be issued by the ordering activity at the time a request for quotations is made for applicable construction classified installation, deinstallation, and reinstallation services under SIN 132-8 or 132-9.

## **23. SECTION 508 COMPLIANCE.**

I certify that in accordance with 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), FAR 39.2, and the Architectural and Transportation Barriers Compliance Board Electronic and Information Technology (EIT)



Accessibility Standards (36 CFR 1194) General Services Administration (GSA), that all IT hardware/software/services are 508 compliant:

Yes X

No \_\_\_\_\_

The offeror is required to submit with its offer a designated area on its website that outlines the Voluntary Product Accessibility Template (VPAT) or equivalent qualification, which ultimately becomes the Government Product Accessibility Template (GPAT). Section 508 compliance information on the supplies and services in this contract are available at the following website address (URL): \_\_\_\_\_

The EIT standard can be found at: [www.Section508.gov/](http://www.Section508.gov/).

#### **24. PRIME CONTRACTOR ORDERING FROM FEDERAL SUPPLY SCHEDULES.**

Prime Contractors (on cost reimbursement contracts) placing orders under Federal Supply Schedules, on behalf of an ordering activity, shall follow the terms of the applicable schedule and authorization and include with each order –

(a) A copy of the authorization from the ordering activity with whom the contractor has the prime contract (unless a copy was previously furnished to the Federal Supply Schedule contractor); and

(b) The following statement:

This order is placed under written authorization from \_\_\_\_\_ dated \_\_\_\_\_. In the event of any inconsistency between the terms and conditions of this order and those of your Federal Supply Schedule contract, the latter will govern.

#### **25. INSURANCE—WORK ON A GOVERNMENT INSTALLATION (JAN 1997)(FAR 52.228-5)**

(a) The Contractor shall, at its own expense, provide and maintain during the entire performance of this contract, at least the kinds and minimum amounts of insurance required in the Schedule or elsewhere in the contract.

(b) Before commencing work under this contract, the Contractor shall notify the Contracting Officer in writing that the required insurance has been obtained. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the Government's interest shall not be effective—

(1) For such period as the laws of the State in which this contract is to be performed prescribe; or

(2) Until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer, whichever period is longer.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in subcontracts under this contract that require work on a Government installation and shall require subcontractors to provide and maintain the insurance required in the Schedule or elsewhere in the contract. The Contractor shall maintain a copy of all subcontractors' proofs of required insurance, and shall make copies available to the Contracting Officer upon request.

#### **26. SOFTWARE INTEROPERABILITY.**

Offerors are encouraged to identify within their software items any component interfaces that support open standard interoperability. An item's interface may be identified as interoperable on the basis of participation in a Government agency-sponsored program or in an independent organization program. Interfaces may be identified by reference to an interface registered in the component registry located at <http://www.core.gov>.

**27. ADVANCE PAYMENTS**

A payment under this contract to provide a service or deliver an article for the United States Government may not be more than the value of the service already provided or the article already delivered. Advance or pre-payment is not authorized or allowed under this contract. (31 U.S.C. 3324)

<b>TERMS AND CONDITIONS APPLICABLE TO INFORMATION TECHNOLOGY (IT) PROFESSIONAL SERVICES (SPECIAL ITEM NUMBER 54151S)</b>
--

**1. SCOPE**

- a. The prices, terms and conditions stated under Special Item Number 54151S Information Technology Professional Services apply exclusively to IT Professional Services within the scope of this Information Technology Schedule.
- b. The Contractor shall provide services at the Contractor's facility and/or at the ordering activity location, as agreed to by the Contractor and the ordering activity.

**2. PERFORMANCE INCENTIVES I-FSS-60 Performance Incentives (April 2000)**

- a. Performance incentives may be agreed upon between the Contractor and the ordering activity on individual fixed price orders or Blanket Purchase Agreements under this contract.
- b. The ordering activity must establish a maximum performance incentive price for these services and/or total solutions on individual orders or Blanket Purchase Agreements.
- c. Incentives should be designed to relate results achieved by the contractor to specified targets. To the maximum extent practicable, ordering activities shall consider establishing incentives where performance is critical to the ordering activity's mission and incentives are likely to motivate the contractor. Incentives shall be based on objectively measurable tasks.

**3. ORDER**

- a. Agencies may use written orders, EDI orders, blanket purchase agreements, individual purchase orders, or task orders for ordering services under this contract. Blanket Purchase Agreements shall not extend beyond the end of the contract period; all services and delivery shall be made and the contract terms and conditions shall continue in effect until the completion of the order. Orders for tasks which extend beyond the fiscal year for which funds are available shall include FAR 52.232-19 (Deviation – May 2003) Availability of Funds for the Next Fiscal Year. The purchase order shall specify the availability of funds and the period for which funds are available.
- b. All task orders are subject to the terms and conditions of the contract. In the event of conflict between a task order and the contract, the contract will take precedence.

**4. PERFORMANCE OF SERVICES**

- a. The Contractor shall commence performance of services on the date agreed to by the Contractor and the ordering activity.
- b. The Contractor agrees to render services only during normal working hours, unless otherwise agreed to by the Contractor and the ordering activity.
- c. The ordering activity should include the criteria for satisfactory completion for each task in the Statement of Work or Delivery Order. Services shall be completed in a good and workmanlike manner.
- d. Any Contractor travel required in the performance of IT Services must comply with the Federal Travel Regulation or Joint Travel Regulations, as applicable, in effect on the date(s) the travel is performed. Established Federal Government per diem rates will apply to all Contractor travel. Contractors cannot use GSA city pair contracts.

## **5. STOP-WORK ORDER (FAR 52.242-15) (AUG 1989)**

(a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either-

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.

(b) If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if-

(1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and

(2) The Contractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided, that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the claim submitted at any time before final payment under this contract.

(c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

## **6. INSPECTION OF SERVICES**

The Inspection of Services-Fixed Price (AUG 1996) (Deviation 1 – May 2003) clause at FAR 52.246-4 applies to firm-fixed price orders placed under this contract. The Inspection-Time-and-Materials and Labor-Hour (May 2001) (Deviation 1 – May 2003) clause at FAR 52.246-6 applies to time-and-materials and labor-hour orders placed under this contract.

## **7. RESPONSIBILITIES OF THE CONTRACTOR**

The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City, or otherwise) covering work of this character. If the end product of a task order is software, then FAR 52.227-14 (Deviation – Dec 2007) Rights in Data – General, may apply.

## **8. RESPONSIBILITIES OF THE ORDERING ACTIVITY**

Subject to security regulations, the ordering activity shall permit Contractor access to all facilities necessary to perform the requisite IT Professional Services.

## **9. INDEPENDENT CONTRACTOR**

All IT Professional Services performed by the Contractor under the terms of this contract shall be as an independent Contractor, and not as an agent or employee of the ordering activity.

## **10. ORGANIZATIONAL CONFLICTS OF INTEREST**

### **a. Definitions.**

“Contractor” means the person, firm, unincorporated association, joint venture, partnership, or corporation that is a party to this contract.

“Contractor and its affiliates” and “Contractor or its affiliates” refers to the Contractor, its chief executives, directors, officers, subsidiaries, affiliates, subcontractors at any tier, and consultants and any joint venture involving the Contractor, any entity into or with which the Contractor subsequently merges or affiliates, or any other successor or assignee of the Contractor.

An “Organizational conflict of interest” exists when the nature of the work to be performed under a proposed ordering activity contract, without some restriction on ordering activities by the Contractor and its affiliates, may either (i) result in an unfair competitive advantage to the Contractor or its affiliates or (ii) impair the Contractor’s or its affiliates’ objectivity in performing contract work.

b. To avoid an organizational or financial conflict of interest and to avoid prejudicing the best interests of the ordering activity, ordering activities may place restrictions on the Contractors, its affiliates, chief executives, directors, subsidiaries and subcontractors at any tier when placing orders against schedule contracts. Such restrictions shall be consistent with FAR 9.505 and shall be designed to avoid, neutralize, or mitigate organizational conflicts of interest that might otherwise exist in situations related to individual orders placed against the schedule contract. Examples of situations, which may require restrictions, are provided at FAR 9.508.

## **11. INVOICES**

The Contractor, upon completion of the work ordered, shall submit invoices for IT Professional services. Progress payments may be authorized by the ordering activity on individual orders if appropriate. Progress payments shall be based upon completion of defined milestones or interim products. Invoices shall be submitted monthly for recurring services performed during the preceding month.

## **12. PAYMENTS**

For firm-fixed price orders the ordering activity shall pay the Contractor, upon submission of proper invoices or vouchers, the prices stipulated in this contract for service rendered and accepted. Progress payments shall be made only when authorized by the order. For time-and-materials orders, the Payments under Time-and-Materials and Labor-Hour Contracts at FAR 52.212-4 (OCT 2008) (ALTERNATE I – OCT 2008) (DEVIATION I – FEB 2007) applies to time-and-materials orders placed under this contract. For labor-hour orders, the Payment under Time-and-Materials and Labor-Hour Contracts at FAR 52.212-4 (OCT 2008) (ALTERNATE I – OCT 2008) (DEVIATION I – FEB 2007) applies to labor-hour orders placed under this contract. 52.216-31(Feb 2007) Time-and-Materials/Labor-Hour Proposal Requirements—Commercial Item Acquisition As prescribed in 16.601(e)(3), insert the following provision:

(a) The Government contemplates award of a Time-and-Materials or Labor-Hour type of contract resulting from this solicitation.

(b) The offeror must specify fixed hourly rates in its offer that include wages, overhead, general and administrative expenses, and profit. The offeror must specify whether the fixed hourly rate for each labor category applies to labor performed by—

- (1) The offeror;
- (2) Subcontractors; and/or
- (3) Divisions, subsidiaries, or affiliates of the offeror under a common control.

### 13. RESUMES

Resumes shall be provided to the GSA Contracting Officer or the user ordering activity upon request.

### 14. INCIDENTAL SUPPORT COSTS

Incidental support costs are available outside the scope of this contract. The costs will be negotiated separately with the ordering activity in accordance with the guidelines set forth in the FAR.

### 15. APPROVAL OF SUBCONTRACTS

The ordering activity may require that the Contractor receive, from the ordering activity's Contracting Officer, written consent before placing any subcontract for furnishing any of the work called for in a task order.

### 16. DESCRIPTION OF IT PROFESSIONAL SERVICES AND PRICING

- a. The Contractor shall provide a description of each type of IT Service offered under Special Item Numbers 54151S IT Professional Services should be presented in the same manner as the Contractor sells to its commercial and other ordering activity customers. If the Contractor is proposing hourly rates, a description of all corresponding commercial job titles (labor categories) for those individuals who will perform the service should be provided.
- b. Pricing for all IT Professional Services shall be in accordance with the Contractor's customary commercial practices; e.g., hourly rates, monthly rates, term rates, and/or fixed prices.

SIN	SERVICE	PRICE OFFERED TO GSA (including IFF)
132 51	Business Analyst	\$ 143.58
132 51	Implementation Consultant I	\$ 134.01
132 51	Project Manager	\$ 157.93
132 51	Report Dev Consultant	\$ 134.01
132 51	Technical Consultant	\$ 134.01
132 51	Trainer	\$ 157.93
132 51	Web Consultant	\$ 157.93



Service	Brief Description	Yrs of Experience	Min Education Requirements
Project Manager	Heads entire scope of project and serves as the TruePoint point of contact for the agency. Prepares regular status reports to summarize progress of the project.	7yrs	Bachelor's of Science
Report Development Consultant	Responsible for creating customized reports. Provides services to extend your system's reporting functions and performance or migrate your technology to the latest platform and benefits. Our Reporting Consultants work closely with each client to plan, build, and test reports.	4yrs	Bachelor's of Science
Implementation Consultant I	Configure, test, and implement software to track government activities. Conduct training for users and administrators of the system. Design reports to meet customer specifications.	5yrs	Bachelor's of Science
Business Analyst	Responsible for business process analysis and reengineering efforts, as well as requirements collection and documentation.	8yrs	Bachelor's of Science
Technical Consultant	Responsible for data conversion during implementation process, ensuring that data integrity is maintained throughout.	6yrs	Bachelor's of Science
Web Consultant	Assist customers with developing and designing a customized public access portal to provide citizen access to the Accela database.	5yrs	Bachelor's of Science

Trainer	The Trainer provides administrative training, core team setup training and end user training to Agency staff.	5yrs	Bachelor's of Science
---------	---	------	-----------------------

## **USA COMMITMENT TO PROMOTE SMALL BUSINESS PARTICIPATION PROCUREMENT PROGRAMS**

### **PREAMBLE**

TruePoint Solutions, LLC provides commercial products and services to ordering activities. We are committed to promoting participation of small, small disadvantaged and women-owned small businesses in our contracts. We pledge to provide opportunities to the small business community through reselling opportunities, mentor-protégé programs, joint ventures, teaming arrangements, and subcontracting.

### **COMMITMENT**

To actively seek and partner with small businesses.

To identify, qualify, mentor and develop small, small disadvantaged and women-owned small businesses by purchasing from these businesses whenever practical.

To develop and promote company policy initiatives that demonstrate our support for awarding contracts and subcontracts to small business concerns.

To undertake significant efforts to determine the potential of small, small disadvantaged and women-owned small business to supply products and services to our company.

To insure procurement opportunities are designed to permit the maximum possible participation of small, small disadvantaged, and women-owned small businesses.

To attend business opportunity workshops, minority business enterprise seminars, trade fairs, procurement conferences, etc., to identify and increase small businesses with whom to partner.

To publicize in our marketing publications our interest in meeting small businesses that may be interested in subcontracting opportunities.

We signify our commitment to work in partnership with small, small disadvantaged and women-owned small businesses to promote and increase their participation in ordering activity contracts. To accelerate potential opportunities please contact

**Kent Johnson** [kjohnson@truepointsolutions.com](mailto:kjohnson@truepointsolutions.com) 916-259-1293 ph 916-256-1975 fax

**916-607-4490 cell**

BEST VALUE  
BLANKET PURCHASE AGREEMENT  
FEDERAL SUPPLY SCHEDULE

(Insert Customer Name)

In the spirit of the Federal Acquisition Streamlining Act (ordering activity) and (Contractor) enter into a cooperative agreement to further reduce the administrative costs of acquiring commercial items from the General Services Administration (GSA) Federal Supply Schedule Contract(s)\_\_\_\_\_.

Federal Supply Schedule contract BPAs eliminate contracting and open market costs such as: search for sources; the development of technical documents, solicitations and the evaluation of offers. Teaming Arrangements are permitted with Federal Supply Schedule Contractors in accordance with Federal Acquisition Regulation (FAR) 9.6.

This BPA will further decrease costs, reduce paperwork, and save time by eliminating the need for repetitive, individual purchases from the schedule contract. The end result is to create a purchasing mechanism for the ordering activity that works better and costs less.

Signatures

\_\_\_\_\_  
Ordering Activity

\_\_\_\_\_  
Date

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Date

BPA NUMBER\_\_\_\_\_

**(CUSTOMER NAME)**  
**BLANKET PURCHASE AGREEMENT**

Pursuant to GSA Federal Supply Schedule Contract Number(s)\_\_\_\_\_, Blanket Purchase Agreements, the Contractor agrees to the following terms of a Blanket Purchase Agreement (BPA) EXCLUSIVELY WITH (ordering activity):

- (1) The following contract items can be ordered under this BPA. All orders placed against this BPA are subject to the terms and conditions of the contract, except as noted below:

MODEL NUMBER/PART NUMBER	*SPECIAL BPA DISCOUNT/PRICE
_____	_____
_____	_____
_____	_____

- (2) Delivery:

DESTINATION	DELIVERY SCHEDULES / DATES
_____	_____
_____	_____
_____	_____

- (3) The ordering activity estimates, but does not guarantee, that the volume of purchases through this agreement will be .

- (4) This BPA does not obligate any funds.

- (5) This BPA expires on \_\_\_\_\_ or at the end of the contract period, whichever is earlier.

- (6) The following office(s) is hereby authorized to place orders under this BPA:

OFFICE	POINT OF CONTACT
_____	_____
_____	_____
_____	_____

- (7) Orders will be placed against this BPA via Electronic Data Interchange (EDI), FAX, or paper.

- (8) Unless otherwise agreed to, all deliveries under this BPA must be accompanied by delivery tickets or sales slips that must contain the following information as a minimum:

- (a) Name of Contractor;
- (b) Contract Number;
- (c) BPA Number;

- (d) Model Number or National Stock Number (NSN);
- (e) Purchase Order Number;
- (f) Date of Purchase;
- (g) Quantity, Unit Price, and Extension of Each Item (unit prices and extensions need not be shown when incompatible with the use of automated systems; provided, that the invoice is itemized to show the information); and
- (h) Date of Shipment.

(9) The requirements of a proper invoice are specified in the Federal Supply Schedule contract. Invoices will be submitted to the address specified within the purchase order transmission issued against this BPA.

(10) The terms and conditions included in this BPA apply to all purchases made pursuant to it. In the event of an inconsistency between the provisions of this BPA and the Contractor's invoice, the provisions of this BPA will take precedence.

\*\*\*\*\*



### **BASIC GUIDELINES FOR USING “CONTRACTOR TEAM ARRANGEMENTS”**

Federal Supply Schedule Contractors may use “Contractor Team Arrangements” (see FAR 9.6) to provide solutions when responding to a ordering activity requirements.

These Team Arrangements can be included under a Blanket Purchase Agreement (BPA). BPAs are permitted under all Federal Supply Schedule contracts.

Orders under a Team Arrangement are subject to terms and conditions of the Federal Supply Schedule Contract.

Participation in a Team Arrangement is limited to Federal Supply Schedule Contractors.

Customers should refer to FAR 9.6 for specific details on Team Arrangements.

Here is a general outline on how it works:

- The customer identifies their requirements.
- Federal Supply Schedule Contractors may individually meet the customer's needs, or-
- Federal Supply Schedule Contractors may individually submit a Schedules “Team Solution” to meet the customer's requirement.
- Customers make a best value selection.

## &lt; Business Lookup

## License Information:

[New search](#) [Back to results](#)

**Entity name:** TRUEPOINT SOLUTIONS, LLC

**Business name:** TRUEPOINT SOLUTIONS, LLC

**Entity type:** [Limited Liability Company](#)

**UBI #:** 603-125-641

**Business ID:** 001

**Location ID:** 0001

**Location:** Active

**Location address:** 774 MAYS BLVD STE 10-377  
INCLINE VILLAGE NV 89451-9669

**Mailing address:** 774 MAYS BLVD STE 10377  
INCLINE VILLAGE NV 89451-7621

**Excise tax and reseller permit status:** [Click here](#)

**Secretary of State status:** [Click here](#)

## Endorsements

Endorsements held at this location	License #	Count	Details	Status	Expiration date	First issuance date
<a href="#">Spokane General Business - Non-Resident</a>				Active	Nov-30-2022	Sep-26-2014

Governing People May include governing people not registered with Secretary of State

Governing people	Title
TRUEPOINT SOLUTIONS	
TRUEPOINT SOLUTIONS LLC,	

The Business Lookup information is updated nightly. Search date and time: 2/4/2022 8:56:12 AM



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**Take our survey!**

Don't see what you expected?

**Check if your browser is supported**





TRUEPOI-01

LSTEVENS

## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

1/26/2022

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 License # 0603247 George Petersen Insurance Agency, Inc. PO Box 6675 Auburn, CA 95604	CONTACT NAME: PHONE (A/C, No, Ext): (530) 823-3733 FAX (A/C, No): (530) 823-3640 E-MAIL ADDRESS: info@gpins.com
INSURED TruePoint Solutions LLC Kent Johnson 3262 Penryn Rd, Ste. 100-B Loomis, CA 95650	INSURER(S) AFFORDING COVERAGE INSURER A: Sentinel Insurance Company Ltd INSURER B: Houston Casualty Company INSURER C: INSURER D: INSURER E: INSURER F:
	NAIC # 11000 42374

## 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 SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:		57-SBA-AX4262	2/1/2022	2/1/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY		57-SBA-AX4262	2/1/2022	2/1/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000		57-SBA-AX4262	2/1/2022	2/1/2023	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y / N <input type="checkbox"/> N/A				PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
B	Cyber Liability		H21NGP207164-00	4/4/2021	4/4/2022	Claims Made \$ 3,000,000
A	Errors & Omissions		57-SBA-AX4262	2/1/2022	2/1/2023	1M Each Glitch/AGG \$ 2,000,000

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

RE: Proof of Coverage

## CERTIFICATE HOLDER

## CANCELLATION

City of Spokane, Information Technology  
Joan Hamilton, Operations Management  
808 W. Spokane Falls Blvd., 7th Floor  
Spokane, WA 99201-3344

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

AUTHORIZED REPRESENTATIVE

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

03/21/2022

**Date Rec'd**

3/3/2022

**Clerk's File #**

CPR 2007-0040

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

MAYOR

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

TESSA DELBRIDGE 625-6716

**Project #****Contact E-Mail**

TDELBRIDGE@SPOKANECITY.ORG

**Bid #****Agenda Item Type**Boards and Commissions  
Appointments**Requisition #****Agenda Item Name**

0520 APPOINTMENT TO SALARY REVIEW COMMISSION

**Agenda Wording**

Appoint Lee Taylor to serve a two-year term on the Salary Review Commission to expire on December 31, 2023

**Summary (Background)**

Appoint Lee Taylor to serve a two-year term on the Salary Review Commission to expire on December 31, 2023

Lease? NO

Grant related? NO

Public Works? NO

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

Select \$

#

Select \$

#

Select \$

#

Select \$

#

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

COTE, BRANDY

**Study Session\Other****Division Director****Council Sponsor****Finance****Distribution List****Legal**

tdelbridge@spokanecity.org

**For the Mayor**

ORMSBY, MICHAEL

msteinolfson@spokanecity.org

**Additional Approvals****Purchasing**

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

03/21/2022

**Date Rec'd**

3/3/2022

**Clerk's File #**

CPR 2002-0029

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

MAYOR

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

TESSA DELBRIDGE 625-6716

**Project #****Contact E-Mail**

TDELBRIDGE@SPOKANECITY.ORG

**Bid #****Agenda Item Type**Boards and Commissions  
Appointments**Requisition #****Agenda Item Name**

0520 APPOINTMENTS TO COUNCIL DISTRICTING BOARD

**Agenda Wording**

Appoint Jennifer Thomas, Heather Beebe-Stevens and Richard Friedlander to serve on the Council Districting Board for one term expiring on November 30, 2022

**Summary (Background)**

Appoint Jennifer Thomas (District 1), Heather Beebe-Stevens (District 2) and Richard Friedlander (District 3) to serve on the Council Districting Board for one term expiring on November 30, 2022

Lease? NO

Grant related? NO

Public Works? NO

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

Select \$

#

Select \$

#

Select \$

#

Select \$

#

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

COTE, BRANDY

**Study Session\Other****Division Director****Council Sponsor****Finance****Distribution List****Legal**

tdelbridge@spokanecity.org

**For the Mayor**

ORMSBY, MICHAEL

bcote@spokanecity.org

**Additional Approvals****Purchasing**



# Agenda Sheet for City Council Meeting of: 03/21/2022

<b>Date Rec'd</b>	3/9/2022
<b>Clerk's File #</b>	ORD C36182
<b>Renews #</b>	
<b>Cross Ref #</b>	
<b>Project #</b>	
<b>Bid #</b>	
<b>Requisition #</b>	

<b>Submitting Dept</b>	FIRE
<b>Contact Name/Phone</b>	JAY ATWOOD 625-7005
<b>Contact E-Mail</b>	JATWOOD@SPOKANECITY.ORG
<b>Agenda Item Type</b>	Special Budget Ordinance
<b>Agenda Item Name</b>	1630 - SBO TO MOVE FF DISPATCHERS BACK TO OPERATIONS

## **Agenda Wording**

A special budget ordinance to reclassify the Firefighter Dispatcher positions from Fire Dispatch back to Fire/EM fund.

## **Summary (Background)**

In January, 2021, the City and Local 29 signed a Supplemental Agreement 2021-3 that authorized the temporary reassignment and reclassification of three firefighter positions to fire dispatch positions for a period of 12 months. The temporary reclassification was approved and carried out under ORD C36021. The temporary reassignment period expired February 5th, 2022 and 3 FF Dispatcher positions will be reclassified back to Firefighters under the Fire/EMS Operations fund.

Lease? NO	Grant related? NO	Public Works? NO
<b>Fiscal Impact</b>	<b>Budget Account</b>	
Expense \$ 340,287	# 1630-35210-97117-80101	
Revenue \$ 340,287	# 1630-35210-28200-09240	
Expense \$ 340,287	# 1970-35121-22200-09310	
Revenue \$ 340,287	# 1970-35121-99999-397XX	

<b>Approvals</b>		<b>Council Notifications</b>	
<b>Dept Head</b>	SCHAEFFER, BRIAN	<b>Study Session\Other</b>	PSCHC Meeting 03/07/22
<b>Division Director</b>	SCHAEFFER, BRIAN	<b>Council Sponsor</b>	KINNEAR/BEGGS
<b>Finance</b>	SCHMITT, KEVIN	<b>Distribution List</b>	
<b>Legal</b>	PICCOLO, MIKE	jatwood	
<b>For the Mayor</b>	ORMSBY, MICHAEL	sraymon	
<b>Additional Approvals</b>		kschmitt	
<b>Purchasing</b>		bschaeffer	
<b>MANAGEMENT &amp; BUDGET</b>	INGIOSI, PAUL		



## Committee Agenda Sheet

### Public Safety & Community Health

<b>Submitting Department</b>	Spokane Fire Department
<b>Contact Name &amp; Phone</b>	Jay Atwood 625-7005
<b>Contact Email</b>	jatwood@spokanecity.org
<b>Council Sponsor(s)</b>	Councilmember Kinnear & Council President Beggs
<b>Select Agenda Item Type</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion    Time Requested: _____
<b>Agenda Item Name</b>	SBO to move FF Dispatchers to proper fund
<b>Summary (Background)</b>	<p>In January, 2021, the City and Local 29 signed a Supplemental Agreement 2021-3 that authorized the temporary reassignment and reclassification of three firefighter positions to fire dispatch positions for a period of 12 months.</p> <p>The temporary reclassification was approved and carried out under ORD C36021.</p> <p>The temporary reassignment period expired February 5<sup>th</sup>, 2022. A special budget ordinance is needed to reclassify the Firefighter Dispatcher positions (in the the 1630 Fund) back to firefighter positions as well as move them to SFD's Fire/EMS fund.</p>
<b>Proposed Council Action &amp; Date:</b>	Approval of SBO – March 14 <sup>th</sup>
<b>Fiscal Impact:</b> Total Cost: Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A  Funding Source <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring Specify funding source: Fire/EMS Budget  Expense Occurrence <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring  Other budget impacts: (revenue generating, match requirements, etc.)	
<b>Operations Impacts</b>	
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?

The movement of these positions back into fire operations from dispatch will aid in reducing the overtime burden currently being experienced by the SFD, and helps address budgetary concerns brought forward by both the legislative and executive branches of government.

ORDINANCE NO C36182

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 Combined Communications Center Fund, and the budget annexed thereto with reference to the Combined Communications Center Fund, the following changes be made:

- 1) Decrease salary and benefits by \$340,287 and remove three Firefighter Dispatcher positions (from 9 to 6 positions).
- 2) Increase operating transfer out to Fire/EMS fund by \$340,287.
- 3) There is no net change to the Combined Communications Center Fund appropriation.

Section 2. That in the budget of the Fire/EMS Fund, and the budget annexed thereto with reference to the Fire/EMS Fund, the following changes be made:

- 1) Increase revenue by \$340,287.
  - A) \$340,287 of the increased revenue is from a transfer in from the Combined Communications Center Fund.
- 2) Increase expenditures by \$340,287.
  - A) Increase salary and benefits by \$340,287 and add three Firefighter positions (from 94 to 97 positions).

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 no longer needing the temporary reclassification of three firefighter positions to firefighter dispatch positions, 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 #****Cross Ref #****Project #****Bid #****Requisition #****Submitting Dept**

FINANCE, TREASURY &amp; ADMIN

**Contact Name/Phone**

TONYA WALLACE 6845

**Contact E-Mail**

TWALLACE@SPOKANECITY.ORG

**Agenda Item Type**

Resolutions

**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

<b>Submitting Department</b>	Finance, Treasury and Administration – Treasury Services
<b>Contact Name &amp; Phone</b>	Tonya Wallace 509-844-4456
<b>Contact Email</b>	<a href="mailto:twallace@spokanecity.org">twallace@spokanecity.org</a>
<b>Council Sponsor(s)</b>	Betsy Wilkerson
<b>Select Agenda Item Type</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion         Time Requested: _____
<b>Agenda Item Name</b>	Investment Allocation Methodology
<b>Summary (Background)</b>	<p>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.</p> <p>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.</p>
<b>Proposed Council Action &amp; Date:</b>	Approve amendments to resolution ____ TBA
<b>Fiscal Impact:</b> Total Cost: \$0 Approved in current year budget? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A  Funding Source <input type="checkbox"/> One-time <input type="checkbox"/> Recurring Specify funding source:  Expense Occurrence <input type="checkbox"/> One-time <input type="checkbox"/> 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	
<b>Operations Impacts: N/A</b>	
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



## 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 ordinances 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 ordinances, 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:**

03/21/2022

**Date Rec'd**

3/3/2022

**Clerk's File #**

RES 2022-0027

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

AIRPORTS

**Contact Name/Phone**

LARRY 455-6419

**Contact E-Mail**

LKRAUTER@SPOKANEAIRPORTS.NET

**Agenda Item Type**

Resolutions

**Agenda Item Name**

SPOKANE AIRPORT - WEST PLAINS DEVELOPMENT PURCHASE AND SALE

**Cross Ref #****Project #****Bid #****Requisition #****Agenda Wording**

Joint Resolution with Spokane County in the matter of authorizing the Spokane Airport Board to execute Purchase and Sale Agreement with West Plains Development, L.L.C for property located on a portion of Spokane County Assessor Tax Parcel

**Summary (Background)**

Pursuant to Paragraph 8(b) of the Spokane International Airport Joint Operation Agreement, Spokane County and the City of Spokane must by joint action approve the acquisition, sale, transfer or disposal of real property and right of first refusal.

Lease? NO

Grant related? NO

Public Works? NO

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

Select \$

#

Select \$

#

Select \$

#

Select \$

#

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

KRAUTER, LARRY

**Study Session\Other**

03/07/2022 Public Safety

**Division Director****Council Sponsor**

Council President Beggs

**Finance**

WALLACE, TONYA

**Distribution List****Legal**

PICCOLO, MIKE

lkrauter@spokaneairports.net

**For the Mayor**

ORMSBY, MICHAEL

twoodward@spokaneairports.net

**Additional Approvals**

kfukai@spokaneairports.net

**Purchasing**



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

**Agenda Wording**

No. 25285.9011, comprising of approximately 20.441 acres of land at Spokane International Airport.

**Summary (Background)**

**Fiscal Impact**

Select      \$

Select      \$

**Budget Account**

#

#

**Distribution List**


City Resolution No: RES 2022-0027  
County Resolution No. \_\_\_\_\_

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF SPOKANE COUNTY, WASHINGTON  
AND  
THE SPOKANE CITY COUNCIL OF SPOKANE, WASHINGTON**

IN THE MATTER OF AUTHORIZING	)	
THE AIRPORT BOARD TO	)	JOINT RESOLUTION
SELL PROPERTY IDENTIFIED AS	)	
A PORTION OF SPOKANE COUNTY	)	
ASSESSOR PARCEL 25285.9011	)	

WHEREAS, pursuant to Chapter 14.08 RCW, Spokane County ("County"), by and through its Board of County Commissioners, and the City of Spokane ("City"), by and through its City Council, entered into an agreement dated October 7, 2019 (City of Spokane City Clerk File # RES 2019-0086, Spokane County Resolution No. 19-1338) to provide for the joint operation of Spokane International Airport, Felts Field Airport and Spokane International Airport Business Park ("Agreement"); and

WHEREAS, pursuant to Paragraph 8(b) of the Agreement, the County and City must by joint action approve the acquisition, sale, transfer or disposal of real property; and

WHEREAS, the Airport Board has recommended to the County and City the sale of a portion of Spokane County Assessor Tax Parcel 25285.9011, comprised of approximately 20.441 acres of land located generally at the south side of U.S. Highway 2, east of South Spotted Road in the City ("Property"), as described in that certain Real Property Purchase and Sale Agreements and Escrow Instructions, dated as of November 12, 2021, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference; and

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Spokane County, Washington and by the City Council of the City of Spokane:

1. That the Airport Board is authorized to sell the Property, on the terms and conditions set forth in Exhibit A; and
2. That the Chief Executive Officer of the Airport Board be and is hereby authorized to prepare and execute any documents on behalf of Spokane County and City of Spokane to sell the Property.

ADOPTED by the Spokane City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Terri L. Pfister, City Clerk

Approved as to form:

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

ADOPTED by the Board of County Commissioners of Spokane County, Washington this \_\_\_\_\_  
day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Mary L. Kuney, Chair

ATTEST:

\_\_\_\_\_  
Josh Kerns, Vice-Chair

\_\_\_\_\_  
Ginna Vasquez  
Clerk of the Board

\_\_\_\_\_  
Al French, Commissioner

**EXHIBIT A**

REAL PROPERTY PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS,  
DATED AS OF NOVEMBER 12, 2021,  
BY AND BETWEEN SPOKANE AIRPORT AND WEST PLAINS DEVELOPMENT, L.L.C.



## **REAL PROPERTY PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS**

THIS REAL PROPERTY PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS ("Agreement") is made as of the 12th day of November, 2021 (the "Effective Date"), by and between the SPOKANE AIRPORT, by and through its Airport Board ("Airport Board"), created pursuant to the provisions of Section 14.08.200 of the Revised Code of Washington, a joint operation of the City of Spokane and County of Spokane, municipal corporations of the State of Washington ("Seller"), and WEST PLAINS DEVELOPMENT, L.L.C., a Washington limited liability company ("Buyer"). Seller and Buyer may be referred to collectively as the "Parties" and individually as a "Party" in this Agreement.

A. Seller is the owner of fee simple title to tax parcel 25285.9011 consisting of approximately 590.06 acres located generally at the south side of U.S. Highway 2, east of South Spotted Road in the city of Spokane ("City"), Spokane County ("County"), Washington ("State"), as more particularly bounded and legally described on Exhibit A-1 attached hereto (the "Seller Property").

B. Buyer desires to acquire a portion of the Seller Property consisting of approximately 20.441 acres located generally at the south side of U.S. Highway 2, east of South Spotted Road, north of West Airport Drive in the City, County, State, generally depicted on Exhibit A-2 attached hereto (the "Real Property" and together with those items described in Recitals C through F, collectively hereinafter referred to as the "Property"), and all right, title and interest of Seller, if any, in and to the land lying within any street or roadway adjoining the Real Property or any vacated street or alley adjoining the Real Property, together with:

C. All improvements owned by Seller, if any, on the Real Property;

D. All mineral rights, air and water rights, and rights and easements appurtenant to the Real Property owned by Seller, if any;

E. All licenses, permits, land use designations, approvals, various waivers or consents applicable to the Real Property (collectively, the "Permits"), to the extent transferable and held by Seller, issued or subject to the laws of the United States, the State, County, or City, other authority, department, commission, board, bureau, agency, unit, or instrumentality, (collectively "Governmental Authorities"); and

F. Certain surveys, soil and substrata studies, environmental reports, and other plans, diagrams, or studies, if any, with respect to the Real Property.

NOW, THEREFORE, Seller desires to sell and Buyer desires to purchase the Property upon the terms and conditions set forth in this Agreement, as follows:

1. Sale of Property. Seller agrees to sell and convey the Property to Buyer, and Buyer agrees to purchase and accept the Property from Seller, upon the terms and conditions set forth in this Agreement. As used in this Agreement, "Business Day" means any day other than: (i) a Saturday, (ii) a Sunday, or (iii) days on which branches of national banks located in the County are closed.

2. Earnest Money. Within three (3) Business Days after the Effective Date, Buyer shall deposit with SPOKANE COUNTY TITLE, 1010 North Normandie, Suite 100, Spokane, WA 99201 (Attn: Keith Newell) ("Escrow Agent" or "Title Company") the sum of Forty Thousand Dollars (\$40,000.00) in Current Funds (as hereinafter defined) as earnest money (the "Earnest Money"), to be applied for the account of Buyer as a credit against the Purchase Price (as defined in Section 3). Upon the

expiration of the Review Period (as defined in Section 4.1), the Earnest Money shall be nonrefundable to Buyer, except as otherwise set forth in this Agreement. Upon receipt, Escrow Agent, at the option of Buyer, may deposit the Earnest Money in an interest-bearing account in order to accrue interest earned on the Earnest Money for the account of Buyer. Any interest earned on the Earnest Money will be part of the Earnest Money under this Agreement. When Escrow Agent disburses the Earnest Money as provided in this Agreement, any and all interest that has accrued thereon shall be disbursed to the Party entitled to the Earnest Money. Escrow Agent shall hold and disburse the Earnest Money in accordance with the terms of this Agreement. At Closing (defined in Section 6.1), Escrow Agent shall apply the Earnest Money toward the Purchase Price.

3. Purchase Price. The purchase price for the Property will be the product of Ninety-Three Thousand Two Hundred Eighteen and 40/100 Dollars (\$93,218.40) per acre (i.e. \$2.14/square foot) multiplied by the actual number of acres of the Real Property as shown on the Final Long Plat (as defined herein) (the "Purchase Price"), together with Buyer's share of closing costs and prorations, as set forth in this Agreement. The Purchase Price will be paid as follows at Closing: (i) the Earnest Money will be credited toward the Purchase Price; and (ii) the remainder of the Purchase Price will be paid in Current Funds. As used in this Agreement, "Current Funds" means wire transfers, certified funds, or cashier's checks in a form acceptable to Escrow Agent that would permit Escrow Agent to immediately disburse such funds. The foregoing Purchase Price assumes that the Real Property will consist of approximately 890,410 square feet and that Buyer will pay a purchase price equal to the total number of square feet multiplied by \$2.14 per square foot. If the actual square feet of Real Property, as shown on the Final Long Plat (as herein defined) is greater or less than 890,410 square feet, the Purchase Price will be increased or decreased to equal the actual number of square feet, multiplied by the foregoing per square foot price.

#### 4. Due Diligence Inspections and Title Review.

4.1 Review Period. As used in this Agreement, the term "Review Period" means that period of time commencing on the Effective Date and expiring at 5:00 p.m. local time in the County the date that is one hundred twenty (120) days after the Effective Date, or upon earlier termination of this Agreement.

4.2 Review of Title. Within ten (10) days after the Effective Date, Seller shall cause the Title Company to deliver a commitment for the Title Policy (as defined in Section 6.3(b)) to the Parties. The commitment must be accompanied by legible copies of all documents referred to in Schedule B of the commitment (the commitment and documents are collectively referred to in this Agreement as the "Title Report").

(a) Objections. Buyer shall review the Title Report and may, prior to the expiration of the Review Period, provide Seller and Title Company with written notice of the title exceptions that are acceptable or objectionable to Buyer, in Buyer's discretion (each such objectionable matter or exception considered a "Disapproved Matter"). If Buyer timely notifies Seller and Title Company of any Disapproved Matter(s) prior to expiration of the Review Period, Seller may, within five (5) days following Seller's receipt of Buyer's written notice of Disapproved Matter(s), notify Buyer and Escrow Agent that: (i) Seller will remove or correct such Disapproved Matter as of or before Closing, or (ii) Seller will not remove any or certain Disapproved Matter(s). If Seller does not respond within such period, Seller will be deemed to have elected option (ii) above. If Seller elects, within its discretion, or is deemed to have elected not to eliminate those objections with reference to such Disapproved Matter(s), in form and substance acceptable to Buyer, in Buyer's discretion, Buyer may, within five (5) days of receipt of such Seller's response to Buyer's written notice, either: (y) terminate this Agreement by delivery of written notice to Seller and Escrow Agent, or (z) give written notice to Seller

and Escrow Agent, agreeing to accept title to the Property subject to such Disapproved Matters, in which case such Disapproved Matters shall be Permitted Exceptions (as defined in Section 4.2(c), below), and if Buyer fails to elect either option (y) or (z) above, Buyer will be deemed to have elected option (z).

(b) Supplements; Amendments. If the Title Company issues a supplement or amendment to the Title Report showing additional title exceptions which were not contained in the initial Title Report (each, an "Amended Report"), Buyer will have three (3) days from the date of receipt of each Amended Report, and a copy of each document referred to in the Amended Report that was not contained in the initial Title Report, in which to give notice of its acceptance of or objection to any additional title exceptions except if said supplements or amendments are a result of Buyer's actions, in which case Buyer shall not be entitled to object to such additional title exceptions. If Buyer provides Seller with notice of the basis of objection to the status of Seller's title as shown in the Amended Report, Seller will have the option, but not the obligation, to: (i) eliminate Buyer's objections, (ii) obtain title insurance endorsements regarding such objections, or (iii) cure any objectionable matter within three (3) days after receipt of such written notice, in each case, in form and substance acceptable to Buyer. If, prior to the expiration of the three (3) day period, Seller does not cure such objections, Buyer will have the option to terminate this Agreement within one (1) Business Day after expiration of such three (3) day period by giving written notice of termination to Seller and Escrow Agent, and if Buyer does not elect to terminate the Agreement within such one (1) Business Day period, Buyer will be deemed to have agreed to accept title subject to such objections, in which case such additional title exceptions shall be Permitted Exceptions. If Seller's three (3) day cure period would expire after the scheduled Closing Date (as defined in Section 6.1, below), the Closing Date will be extended until the expiration of the time periods set forth in this Section.

(c) Failure to Provide Written Acceptance. Any item that Buyer accepts in writing or is deemed to have accepted pursuant to the terms of this Agreement will be a "Permitted Exception." The term "Permitted Exceptions" also includes and Buyer may not disapprove or object to the following: all zoning ordinances and regulations and any other laws, ordinances, or governmental regulations and restrictions regulating the use, occupancy or enjoyment of the Property; such state of facts as would be disclosed by a survey or physical inspection of the Real Property (unless Buyer obtains a survey); the lien of taxes and assessments not yet delinquent; any exclusions from coverage set forth in the jacket of the Title Policy; the Avigation Easement (as defined below); or any exceptions caused by Buyer or Buyer's Agents. Notwithstanding the foregoing, Buyer will not be required to disapprove or object to, and Seller covenants to remove as an encumbrance against title to the Property on or prior to the Closing, any deeds of trust, monetary liens, or monetary encumbrances (except for real property taxes and assessments not yet due) created by Seller. If Buyer does not provide written acceptance of an exception to title as disclosed by the Title Report or an Amended Report within the applicable time period, Buyer will be deemed to have accepted such matter. If this Agreement is terminated due to Seller's failure to eliminate or cure any of Buyer's objections under this Section 4.2, the Escrow Agent shall immediately disburse to Buyer all Earnest Money, together with any documents or instruments that Buyer has deposited with the Escrow Agent, and neither Party will have any further obligation to the other, except those obligations that expressly survive the termination of this Agreement.

4.3 Survey. At any time through the Closing Date, Buyer, at its expense, may obtain a current or updated survey of the Property (the "Survey").

4.4 Review of Diligence Materials. Seller shall, no later than five (5) Business Days after the Effective Date, provide Buyer (or make available for Buyer's inspection) copies of the following items that relate to the Property (to the extent the same are in Seller's possession or control): that certain Land Lease Agreement ("SFD Lease") with the City of Spokane, a municipal corporation, by and through its Fire Department, for the use and occupancy of a portion of the Real Property, generally consisting of approximately 1.014 acres located east of South Spotted Road and north of West Tech Park Drive ("SFD Lease Parcel"); existing environmental assessment reports; surveys; utility bills for the most recent month and past six (6) months, if any; valuation notices and any other fees, dues, and taxes applicable to the Property for the past year; and copies of any pending or threatened Claims (as defined in Section 4.5(b)) relating to the Property, and any governmental notices regarding uncured violations of laws or regulations (collectively, the "Current Diligence Materials"). In the event that the sale of the Property fails to close for any reason, all Current Diligence Materials provided to Buyer by Seller shall be returned to Seller promptly upon request and the contents of all Current Diligence Materials shall thereafter be treated by Buyer as confidential information of Seller and shall not be disclosed to any third parties (except as may be required by law or upon court order) without the prior consent of Seller, which consent may be withheld in Seller's sole and absolute discretion. Any Current Diligence Materials provided by Seller to Buyer under this Agreement are provided as an accommodation to Buyer, and Buyer acknowledges and agrees that Seller makes no representations or warranties whatsoever with regard to the contents, completeness or accuracy of any such Current Diligence Materials.

4.5 Physical Inspections; Entry on Property.

(a) Physical Inspections. Buyer and its agents, representatives, employees or subcontractors ("Buyer's Agents") will have the right, from time to time prior to the Closing, to enter upon the Property to examine the same and the condition thereof and to conduct such surveys and to make such engineering and other inspections, tests and studies as Buyer determines to be reasonably necessary, all at Buyer's sole cost and expense. As part of Buyer's physical inspection, Buyer may, in its discretion and its sole cost and expense, obtain a current ASTM Phase I environmental site assessment (the "Phase I") for the Property, performed by an environmental consultant (the "Environmental Consultant") acceptable to and for the benefit of and reliance on by Buyer. If the Phase I recommends that a Phase II environmental site assessment (the "Phase II") be prepared or Buyer determines that a Phase II is necessary and desirable, then Buyer may, in its discretion, elect to perform a Phase II by giving written notice to Seller. Seller shall have the right to be present at any or all inspections. Buyer shall promptly provide Seller copies of the Phase I and Phase II, and any other conclusions, assessments, or reviews provided to Buyer by the Environmental Consultant. Neither Buyer nor Buyer's Agents may contact any governmental official or representative regarding hazardous materials on or the environmental condition of the Property without Seller's prior written consent thereto, which consent shall not be unreasonably withheld, conditioned, or delayed. In addition, if Seller consents to any such governmental contacts, Seller shall be entitled to receive at least five (5) days prior written notice of the intended contact and to have a representative present when any Buyer's Agent has any such contact with any governmental official or representative.

(b) Entry on Property. Up to and through the Closing Date, if this Agreement has not been terminated, Buyer and Buyer's Agents will have the right (upon at least twenty-four (24) hours prior written notice to Seller) to enter the Property to conduct such surveys, inspections, investigations and/or studies with respect to the Property as permitted by Section 4.5(a) of this Agreement, at Buyer's sole cost and

expense. Prior to and as a condition of any entry onto the Property by Buyer's Agents, Buyer shall cause such agent to execute and deliver to Seller an unconditional release and indemnity agreement in the form attached hereto as Exhibit E. Buyer shall also indemnify, defend and hold Seller and the Property free and harmless from and against any and all debts, duties, obligations, liabilities, liens, suits, claims, demands, causes of actions, damages, losses, costs and expenses (including, without limitation, reasonable legal expenses and attorneys' fees with respect to the same or to enforce the foregoing) (collectively, "Claims") incurred by reason of or in connection with such entry or such surveys, inspections, investigations and/or studies, *provided*, however, that Buyer's indemnification obligation will not extend to any Claims or liabilities arising out of the discovery of any preexisting conditions of the Property or diminution of value to the Property attributable to any such discovery; and *further provided* that under no circumstances shall Seller be able to recover exemplary, punitive, indirect, consequential or special damages. Buyer agrees to repair any and all damages caused to the Property due to Buyer's or Buyer's Agents entry thereon and otherwise to restore the Property to the Property's original condition before such entry. The obligations of Buyer under this Section 4.5 will survive Closing or earlier termination of this Agreement.

(c) No Liens or Interference. Buyer shall not permit, and shall indemnify, defend and hold harmless Seller for, from and against any and all Claims incurred by reason of or in connection with, any construction, mechanics or materialmen's liens or any other liens that attach to the Property or any portion thereof by reason of the performance of any work or the purchase of any materials by Buyer or Buyer's Agents in connection with Buyer's inspection of the Property. The provisions of this Section will survive Closing or other termination of this Agreement.

4.6 Right to Terminate Before Expiration of Review Period. Notwithstanding anything contained within this Agreement to the contrary, Seller acknowledges and understands that Buyer may, prior to the expiration of the Review Period, notify Seller in writing that Buyer elects to terminate this Agreement as a result of any matter or no matter as determined by Buyer, in Buyer's sole discretion. Seller acknowledges that Buyer has the right to so terminate this Agreement, regardless of whether Seller would be willing or able to cure any such matter to which Buyer has objected. If Buyer elects, in its sole discretion, to proceed with this transaction, Buyer shall send a written approval notice to Seller and Escrow Agent on or before expiration of the Review Period ("Approval Notice"). If Buyer fails to send an Approval Notice to Seller and Escrow Agent by the expiration of the Review Period, Buyer will be deemed to have elected to terminate this Agreement. Buyer may also terminate this Agreement by sending written notice of termination to Seller on or before expiration of the Review Period. If this Agreement is terminated as provided in this Section 4.6, the Earnest Money will be refunded to Buyer, and the Parties will have no further rights or obligations to each other, except for those rights and obligations that expressly survive the termination of this Agreement. After the Approval Notice is sent by Buyer or upon expiration of the Review Period, the Earnest Money will be nonrefundable to Buyer, except as otherwise expressly provided in this Agreement.

#### 4.7 Long Plat Process.

(a) Preliminary Long Plat. As of the Effective Date, the Parties acknowledge and agree the depiction attached on Exhibit A-2 constitutes the approved site plan ("Approved Site Plan") for the segregation of Seller Property to include at a minimum (a) no less than two (2) separate and distinct parcels, consisting of (i) approximately 6.276 acres of the land north of W. Tech Park Drive (including the SFD Lease Parcel, together the "North Parcel") (ii) approximately 14.165 acres of land south of W. Tech Park Drive

(“South Parcel”) and (b) and at least one (1) separate and distinct tract, consisting of that portion of the remainder of Seller Property as the two hundred (200) foot wide West Tech Park Drive right-of-way aisle, and including South Tech Park Court (collectively, the “Tech Park Drive Tract”). Following the Effective Date and not later than forty-five (45) days thereafter, Seller shall, at Seller’s sole cost and expense, prepare and submit to Buyer for Buyer’s approval a preliminary long plat to create the new legally conveyable tax parcels (consisting of not less than the North Parcel and the South Parcel) and adjusting the existing boundaries of the Seller Property to coincide with those depicted in the Approved Site Plan (the “Preliminary Long Plat”). Following Buyer’s receipt of the Preliminary Long Plat and not later than sixty (60) days from the Effective Date, the Parties shall in good faith, using commercially reasonable efforts finalize the Preliminary Long Plat. Once approved by Buyer, the Preliminary Long Plat will constitute the “Approved Preliminary Long Plat”.

(b) Submission of Approved Preliminary Long Plat. Once the Approved Preliminary Long Plat is obtained, Seller shall take all actions necessary to cause the Approved Preliminary Long Plat to be finalized and approved by all applicable Governmental Authorities and thereafter recorded in the official records of the County (“Final Long Plat”), with no Unanticipated Approval Conditions other than those approved by Buyer in writing (the “Subdivision Contingency”). Buyer shall reasonably cooperate (at no cost to Buyer) with Seller and take all actions reasonably necessary to assist Seller in Seller’s efforts to complete the Final Long Plat, including, without limitation, executing such applications and any other documents necessary or convenient with respect to the Final Long Plat. Seller shall promptly provide to Buyer a copy of all written communications with any Governmental Authority concerning the Approved Preliminary Long Plat and Final Long Plat, and shall afford Buyer the opportunity to participate in any and all telephonic and in-person meetings and hearings relating thereto, if permissible and reasonably practical. If, as a condition to its approval of the Final Long Plat, any Governmental Authority requires any material modifications to the metes and bounds of the Real Property from those shown within the Approved Preliminary Long Plat or otherwise requires the Real Property to be subject to any material covenants, conditions, restrictions, exactions, off-site improvement obligations, fees in lieu, or impact fees that are not contemplated in the Approved Preliminary Long Plat or this Agreement (each, an “Unanticipated Approval Condition”), Seller shall promptly notify Buyer and afford Buyer the opportunity to discuss the same with Seller and such Governmental Authority. If Buyer, after discussing an Unanticipated Approval Condition with Seller and such Governmental Authority, determines, in its reasonable discretion, that (I) the applicable Governmental Authority is unwilling to approve the Final Long Plat without the Unanticipated Approval Condition and (II) such Unanticipated Approval Condition will have a material and adverse impact on Buyer’s proposed development, Buyer may terminate this Agreement by delivering written notice to Seller and Escrow Agent and neither Party will have any further obligation to the other, except those obligations that expressly survive the termination of this Agreement.

(c) Long Plat Costs and Fees. Seller shall be solely responsible for all costs, fees, and expenses associated with the preparation, submission, and administration of the Preliminary Long Plat and the satisfaction of the conditions to approval of the Final Long Plat. In the event this Agreement is terminated under this Section 4.7, neither Party will have any further obligation to the other, except those obligations that expressly survive the termination of this Agreement. This Section 4.7(c) shall survive Closing or the earlier termination of this Agreement.

(d) Property to Be Acquired at Closing. At Closing, Buyer must purchase the Property (consisting of not less than the North Parcel and the South Parcel), in accordance with all the terms and conditions of this Agreement, including, without limitation, the Purchase Price set forth in Section 3 hereof.

4.8 Access Easement. Buyer and Seller agree the pedestrian and vehicular and utility access easement agreement attached hereto as Exhibit F ("Access Easement"), will be recorded against the Tech Park Drive Tract for the benefit of the Property (including both North Parcel and South Parcel) on the Closing Date unless the Parties mutually agree to record the Access Easement post-Closing. Buyer shall be responsible for all recording fees associated with recording the Access Easement. For the avoidance of doubt, the Parties shall use commercially reasonable efforts to determine and agree upon the magnitude of the easement area(s) that the Access Easement will encumber, which determination will be made in conjunction with obtaining municipal permit approvals and applying engineering standards commensurate with the proposed use of the Property (the "Access Easement Contingency"). Buyer may, in Buyer's sole and absolute discretion, terminate this Agreement by delivering written notice to Seller and Escrow Agent, in which case Escrow Agent shall immediately disburse the Earnest Money to Buyer, and in such event, neither Party shall have any further obligation to the other, except those obligations that expressly survive the termination of this Agreement. If Buyer elects not to terminate this Agreement in accordance with this Section or affirmatively waives the Access Easement Contingency prior to the Closing, the transactions contemplated by this Agreement will close in accordance with the terms contained herein.

5. Conditions Precedent.

5.1 Buyer's Conditions Precedent. Buyer's obligation to close under this Agreement shall be subject to and conditioned upon the fulfillment of each and all of the following conditions precedent:

(a) Seller must have properly terminated the SFD Lease as of or prior to the Closing Date, and Seller shall provide Buyer with notice evidencing the same ("SFD Lease Termination Notice");

(b) All of the documents required to be delivered by Seller to Buyer at Closing pursuant to the terms and conditions hereof shall have been delivered;

(c) Each of the representations of Seller set forth in Section 7 shall be true in all material respects as of the Closing Date;

(d) Title Company is irrevocably committed to issue, upon the condition of the payment of the applicable premium, the Title Policy, subject only to the Permitted Exceptions applicable to the Real Property;

(e) The Subdivision Contingency shall have been satisfied in accordance with Section 4.7;

(f) Seller shall have satisfied the Approval Conditions (as defined below) and delivered written confirmation thereof to Buyer; and

(g) The Access Easement Contingency shall have been satisfied in accordance with Section 4.8.



If any of the foregoing conditions are not satisfied (or waived in writing by Buyer) on or before the Closing, then Buyer shall have the right to terminate this Agreement by delivering written notice to Seller and, in the event of such termination, all rights and obligations of the Parties hereunder (other than those obligations that expressly survive the termination of this Agreement) will cease and the Earnest Money shall be promptly refunded to Buyer; *provided however*, that if any of the foregoing conditions are not satisfied (or waived in writing by Buyer) on or before the Closing due to any default by Seller hereunder, then Buyer, in its discretion, and by delivering written notice to Seller, may elect to pursue any of the remedies available to Buyer pursuant to Section 13. In the event Buyer elects to terminate this Agreement pursuant to Section 13, all obligations of Seller and Buyer under this Agreement (other than those that expressly survive the termination of this Agreement and the rights and remedies arising out of any breach of such surviving obligations) shall cease.

5.2 Seller's Conditions Precedent. Seller's obligation to close under this Agreement shall be subject to and conditioned upon the fulfillment of each and all of the following conditions precedent:

- (a) All of the documents and funds required to be delivered by Buyer to Seller at Closing pursuant to the terms and conditions hereof shall have been delivered;
- (b) Each of the representations of Buyer set forth in Section 8 shall be true in all material respects as of the Closing Date;
- (c) The Subdivision Contingency shall have been satisfied in accordance with Section 4.7;
- (d) Seller's receipt of written approval of the transaction contemplated by this Agreement from the board of directors of Seller's Airport Board, the City of Spokane, and County of Spokane, acting through the City Council of Spokane, and the Spokane County Board of Commissioners, respectively; and
- (e) Seller's receipt of written approval from the Federal Aviation Administration ("FAA") for release and/or disposal of the Real Property by Seller that formally authorizes the release and/or disposal and removal of the Real Property as airport dedicated real property pursuant to Section 163 of the FAA Reauthorization Act of 2018.

If any of the conditions delineated in Sections 5.2(a), 5.2(b) or 5.2(c) are not satisfied (or waived in writing by Seller) on or before the Closing, then Seller shall have the right to terminate this Agreement by delivering written notice to Buyer and, in the event of such termination, all rights and obligations of the Parties hereunder (other than those obligations that expressly survive the termination of this Agreement) will cease and the Earnest Money shall be promptly disbursed to Seller as liquidated damages. Seller shall use commercially reasonable efforts to cause the conditions set forth in Section 5.2(d) and Section 5.2(e) (the "Approval Conditions") to be satisfied (which Seller affirmatively cannot waive whether orally or in writing) on or before Closing.

## 6. Closing.

6.1 Closing Date. The closing ("Closing") of the purchase and sale transaction contemplated in this Agreement will occur ("Closing Date") on the earlier of (i) thirty (30) days following the expiration of the Review Period, or (ii) provided that the Approval Conditions have

been satisfied, and the satisfaction or waiver of all contingencies under this Agreement, on such earlier date as mutually agreed to by the Parties. Notwithstanding anything herein to the contrary, if Closing has not occurred by April 6, 2022 due to the failure of the Approval Conditions, *provided, however*, that Seller's failure to satisfy the Approval Conditions shall not be considered a Seller Default, then either Party may, in its sole discretion and at any time thereafter, elect to terminate this Agreement by delivering written notice to the other Party and, in the event of such termination (a) all rights and obligations of the Parties hereunder (other than those obligations that expressly survive the termination of this Agreement) will cease, and (b) the Earnest Money shall be promptly refunded to Buyer.

6.2 Location. Closing will occur at the offices of the Escrow Agent, or at such other place as may be agreed to by the Parties in writing.

6.3 Closing Costs and Prorations.

(a) Closing Fees. At Closing, Buyer and Seller will each pay one-half (1/2) of any escrow fees and closing fees. Seller shall be solely responsible for any state or local transfer taxes, real estate excise tax or any similar taxes or fees attributable to the sale transaction contemplated in this Agreement, if applicable to Seller. Seller shall be solely responsible for all recording fees associated with recording the Avigation Easement. Buyer shall be responsible for all recording fees associated with recording the Deed. Any other fees and costs will be paid by, or shared by, Buyer and Seller in accordance with local custom in Spokane County, Washington.

(b) Title Policy; Survey. Seller shall pay the equivalent premium of an ALTA standard owner's title policy for the Property, and Buyer shall pay the additional premium necessary for any ALTA extended or other policy Buyer elects to acquire (the "Title Policy"). Buyer shall also pay premium of any and all endorsements to the Title Policy unless provided by Seller to remove a Disapproved Matter, in which case, Seller shall be responsible for the cost of such endorsements. The cost of any Survey of the Real Property obtained by Buyer will be borne by Buyer.

(c) Taxes and Fees. Real estate taxes for the year of Closing shall be the sole responsibility of Buyer. Buyer acknowledges that Seller does not pay real estate taxes and, as such, Buyer is free to seek a refund for that portion of time in which real estate taxes may have otherwise been required to be paid in order to close the transaction contemplated by this Agreement. Annual municipal or special district assessments (on the basis of the actual fiscal tax years for which such taxes are assessed), lienable water and sewer rentals, license, or permit and inspection fees, if any, will be apportioned as of the Closing Date between Buyer and Seller. If, on the day prior to the Closing Date, real estate taxes have been imposed upon the Real Property for the real estate tax year in which Closing occurs such taxes shall be paid by Buyer at the time of Closing.

(d) Utility Readings. Seller shall use commercially reasonable efforts to obtain readings of the utility meters on the Property (if any) to a date no sooner than two (2) Business Days prior to the Closing Date. At or prior to Closing, Seller shall pay all charges based upon such meter readings. However, if after reasonable efforts Seller is unable to obtain readings of any meters prior to Closing, Closing will be completed without such readings and upon the obtaining of such readings after Closing, Seller shall promptly pay the pre-Closing charges as reasonably determined by Seller and Buyer based upon post-Closing readings.

(e) Attorney Fees. Each Party shall pay its own attorney fees incurred with respect to this transaction.

(f) Preliminary Closing Statement. Seller and Buyer shall cooperate with Escrow Agent to prepare a preliminary closing statement (the "Closing Statement") on the basis of the real estate taxes and other sources of income and expenses for the Property on or prior to the Closing Date. All apportionments and prorations provided for in this Section 6.3 to be made as of the Closing Date will be made, on a per diem basis, as of 11:59 p.m. on the day prior to the Closing Date, such that Buyer will be deemed the owner of the Property as of the Closing Date. The preliminary Closing Statement and the apportionments and/or prorations reflected therein will be based upon actual figures to the extent available. If any of the apportionments and/or prorations cannot be calculated accurately based on actual figures on the Closing Date, then they will be calculated based on Seller's and Buyer's good faith estimates thereof, subject to reconciliation as provided in the following Section 6.3(g).

(g) Post-Closing Reconciliation. If there is an error on the preliminary Closing Statement or, if after the actual figures are available as to any items that were estimated on the preliminary Closing Statement, it is determined that any actual proration or apportionment varies from the amount thereof reflected on the preliminary Closing Statement, the proration or apportionment will be adjusted based on the actual figures as soon as feasible, but not later than sixty (60) days after the Closing Date. Either Party owing the other Party a sum of money based on such subsequent proration(s) shall promptly pay said sum to the other Party.

(h) Other Costs and Survival. All other costs not addressed within this Section 6.3 will be paid in accordance with the custom followed in Spokane County, Washington. The provisions of this Section 6.3 will survive Closing for a period of six (6) months.

#### 6.4 Deliveries at Closing.

(a) Deliveries by Seller. At Closing, Seller shall execute and deliver (or cause to be executed and delivered) all documents and take all other actions reasonably necessary to effect the Closing, including, without limitation:

(1) As provided in Section 5.1(a), an original duly executed SFD Lease Termination Notice.

(2) An original duly executed and acknowledged bargain and sale deed (the "Deed"), in the form attached to this Agreement as Exhibit B.

(3) As provided in Section 4.8, a counterpart original duly executed and acknowledged Access Easement, unless otherwise agreed to by the Parties.

(4) A counterpart original duly executed and completed real estate excise tax affidavit ("REETA").

(5) A non-foreign affidavit for purposes of compliance with Section 1445(b)(2) of the Internal Revenue Code of 1986 (and the regulations adopted thereunder), as amended (the "Code").

(6) Copies of all current property tax bills and tax notices pertaining to the Real Property, if any.

(7) Such documentation as Escrow Agent may reasonably require, or may otherwise be required to close the escrow and consummate the purchase of the Property in accordance with the terms of this Agreement.

(b) Deliveries by Buyer. On the Closing Date, Buyer shall execute and deliver all documents, or cause to be executed and delivered all documents, and take such other action that may be reasonably necessary to effect and complete the Closing, including, without limitation:

(1) The amounts required under Section 3 and Section 6.3 in Current Funds.

(2) A duly executed and completed REETA.

(3) An original duly executed and acknowledged avigation easement ("Avigation Easement") encumbering the Real Property, in the form attached to this Agreement as Exhibit C, but only if the Title Report Buyer obtains with respect to the Real Property does not disclose the existence of a satisfactory avigation easement, as determined by Seller in its sole and absolute discretion.

(4) A counterpart original duly executed and acknowledged Access Easement, unless otherwise agreed to by the Parties.

(5) Such documentation as Escrow Agent may reasonably require, or may otherwise be required to close the escrow and consummate the purchase of the Property in accordance with the terms of this Agreement.

(c) Actions of Escrow Agent. When Buyer and Seller have delivered the items described above, the Escrow Agent shall:

(1) Prepare the Closing Statement and obtain signed copies from Seller and Buyer.

(2) Record the Deed, Access Easement (if applicable), and the Avigation Easement (if applicable), in that order.

(3) Deliver the balance of the Purchase Price in Current Funds to Seller, net of Seller's costs, fees, and prorations.

(4) Issue and deliver the Title Policy to Buyer.

(5) Deliver the above referenced documents to the applicable Party.

7. Representations and Warranties of Seller. Seller makes the representations and warranties set forth in this Section 7. Buyer expressly understands and agrees that the phrase "to Seller's knowledge" as used in this Section 7 means the actual present knowledge of Lawrence J. Krauter, acting solely in his capacity as the Chief Executive Officer of Seller, and shall not be construed to refer to the knowledge of any other partner, officer, director, agent, employee or representative of Seller, or any affiliate or parent of Seller. Such individual shall not have any personal liability or liability whatsoever

with respect to any matters set forth in this Agreement or any of Seller's representations and/or warranties herein being or becoming untrue, inaccurate or incomplete. Each representation and warranty: (i) is true in all material respects as of the Effective Date; (ii) will be true in all material respects on the Closing Date; and (iii) will survive Closing for a period of one (1) year.

7.1 Authority/Binding Agreement. This Agreement and all exhibits and documents to be delivered by Seller pursuant to this Agreement have been duly executed and delivered by Seller and constitute the valid and binding obligations of Seller. Subject to obtaining the approvals described in Sections 5.2(d) and 5.2(e), Seller has the legal right, power and authority to enter into this Agreement and to consummate the transactions contemplated hereby, and the execution, delivery and performance of this Agreement have been duly authorized and no other action by Seller is requisite to the valid and binding execution, delivery and performance of this Agreement. The execution, delivery, and performance of this Agreement will not conflict with or constitute a breach or default under (i) the organizational documents of Seller; (ii) any material instrument, contract, or other agreement to which Seller is a party which affects the Property; or (iii) any statute or any regulation, order, judgment, or decree of any court or Governmental Authority.

7.2 Condemnation. Seller has not received from any Governmental Authority having the power of eminent domain any written notice of any condemnation of the Property or any part thereof.

7.3 Pending Litigation. Seller has received no written notice of any pending litigation initiated against Seller or the Property which would materially affect the Property after Closing.

7.4 Governmental Compliance. Seller has not received from any Governmental Authority written notice of any material violation of any building, fire or health code or any other statute applicable to the Property which will not be cured prior to Closing.

7.5 Non-Foreign Person. Seller is not a "foreign person" as defined in § 1445 of the Code and any related regulations.

7.6 Environmental Matters. To Seller's knowledge, and except as may otherwise be disclosed in the Current Diligence Materials: (a) the Property is free from Hazardous Substances; (b) the soil, surface water and ground water of, under, on or around the Property are free from Hazardous Substances; (c) the Property has never been used for or in connection with the manufacture, refinement, treatment, storage, generation, transport or hauling of any Hazardous Substances, nor has the Property been used for or in connection with the disposal of any Hazardous Substances; and (d) the Property is now and during Seller's ownership, has been in compliance with all Environmental Laws. As used in this Agreement, the term "Hazardous Substance" means any material, waste, substance, pollutant, or contaminant which may or could pose a risk of injury or threat to health or the environment, including, without limitation: (i) those substances included within the definitions of "hazardous substance", "hazardous waste", "hazardous material", "toxic substance", "solid waste", or "pollutant or contaminant" in or otherwise regulated by, any Environmental Law; (ii) those substances listed in the United States Department of Transportation Hazardous Materials Table (49 C.F.R. 17.101, including appendices and amendments thereto), or by the Environmental Protection Agency (or any successor agency) as hazardous substances (40 C.F.R. Part 302 and amendments thereto); (iii) such other substances, materials, or wastes which are or become regulated or classified as hazardous or toxic under any Environmental Law; and (iv) any material, waste, or substance which is (A) petroleum or refined petroleum products; (B) radon; (C) polychlorinated biphenyls; (D) flammable explosives; or (E) radioactive materials. As used in this Agreement, the term

“Environmental Law” means any federal, state or local law, statute, ordinance, or regulation pertaining to health, industrial hygiene, or environmental conditions, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601, *et seq.*; the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901, *et seq.*; the Toxic Substances Control Act of 1976, 15 U.S.C. § 2601, *et seq.*; the Superfund Amendments and Reauthorization Act of 1986, Title III, 42 U.S.C. § 1101, *et seq.*; the Clean Air Act, 41 U.S.C. § 7401, *et seq.*; the Federal Water Pollution Control Act, 33 U.S.C. § 1251, *et seq.*; The Safe Drinking Water Act, 41 U.S.C. § 300f, *et seq.*; the Solid Waste Disposal Act, 42 U.S.C. § 3251, *et seq.*; and any other federal, state or local law, statute, ordinance, or regulation now in effect or hereinafter enacted which pertains to health, industrial hygiene, or the regulation or protection of the environment, including without limitation, ambient air, soil, groundwater, surface water, or land use.

8. Buyer’s Representations and Warranties. In consideration of Seller entering into this Agreement and as an inducement to Seller to sell the Property to Buyer, Buyer makes the representations and warranties set forth in this Section 8. Each representation and warranty: (i) is true in all respects as of the Effective Date; (ii) will be true in all respects on the Closing Date; and (iii) will survive Closing for a period of one (1) year.

8.1 Power and Authority. Buyer has the legal right, power and authority to enter into this Agreement and to consummate the transaction contemplated in this Agreement, including, but not limited to, executing and delivering (or causing the execution and delivery of) the Buyer’s deliverables as provided in Section 6.4(b) of this Agreement. Buyer’s execution, delivery and performance of this Agreement have been duly authorized.

8.2 Bankruptcy or Insolvency. There are no attachments, executions, assignments for the benefit of creditors or voluntary or involuntary proceedings in bankruptcy pending against or contemplated by Buyer, and no such actions have been threatened.

8.3 Anti-Terrorism. All funds to be used by Buyer as payment of the Purchase Price at Closing are from sources operating under, and in compliance with, all federal, state and local statutes and regulations and are free of all liens and claims of lien. Neither Buyer, nor any of its directors, members, managers or other owners is a “Prohibited Person” or “Specifically Designated National and Blocked Person” under Anti-Terrorism Laws. As used in this Agreement, the term “Anti-Terrorism Laws” means any and all present and future judicial decisions, statutes, rulings, rules, regulations, permits, certificates, orders and ordinances of any Governmental Authority relating to terrorism or money laundering including, without limiting the generality of the foregoing, the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Pub. L. No. 107-56); the Trading with the Enemy Act (50 U.S.C.A. App. 1 *et seq.*); the International Emergency Economic Powers Act (50 U.S.C.A. § 1701-06); Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (relating to “Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism”) and the United States Treasury Department’s Office of Foreign Assets Control list of “Specifically Designated National and Blocked Persons” (as published from time to time in various mediums).


9. “AS IS” Sale; Release & Waiver.


9.1 “AS IS” Purchase.

(A) SUBJECT TO SELLER’S REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN SECTION 7, AND ACKNOWLEDGING THE PRIOR

USE OF THE PROPERTY AND BUYER'S OPPORTUNITY TO INSPECT THE PROPERTY, BUYER AGREES TO PURCHASE THE PROPERTY "AS IS", "WHERE IS", WITH ALL FAULTS AND CONDITIONS THEREON. ANY WRITTEN OR ORAL INFORMATION, REPORTS, STATEMENTS, DOCUMENTS OR RECORDS CONCERNING THE PROPERTY ("DISCLOSURES") PROVIDED OR MADE AVAILABLE TO BUYER, ITS AGENTS OR CONSTITUENTS BY SELLER, SELLER'S AGENTS, EMPLOYEES OR THIRD PARTIES REPRESENTING OR PURPORTING TO REPRESENT SELLER, SHALL NOT BE REPRESENTATIONS OR WARRANTIES, UNLESS SPECIFICALLY SET FORTH IN SECTION 7 OF THIS AGREEMENT. IN PURCHASING THE PROPERTY OR TAKING OTHER ACTION HEREUNDER, BUYER HAS NOT AND SHALL NOT RELY ON ANY SUCH DISCLOSURES, BUT RATHER, BUYER SHALL RELY ONLY ON BUYER'S OWN INSPECTION OF THE PROPERTY. BUYER ACKNOWLEDGES THAT THE PURCHASE PRICE REFLECTS AND TAKES INTO ACCOUNT THAT THE PROPERTY IS BEING SOLD "AS IS".

(B) BUYER ACKNOWLEDGES AND AGREES THAT EXCEPT AS EXPRESSLY SET FORTH IN SECTION 7 OF THIS AGREEMENT SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO THE PROPERTY INCLUDING, WITHOUT LIMITATION, (A) THE NATURE, QUALITY OR PHYSICAL CONDITION OF THE PROPERTY, (B) THE WATER, SOIL AND GEOLOGY OF THE PROPERTY, (C) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH BUYER MAY CONDUCT THEREON, (D) THE COMPLIANCE OF OR BY THE PROPERTY OR THE OPERATION THEREOF WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY GOVERNMENTAL AUTHORITY OR BODY HAVING JURISDICTION THEREOVER, (E) THE FITNESS OF THE PROPERTY FOR A PARTICULAR PURPOSE, (F) THE MARKETABILITY OF THE PROPERTY OR THE ABILITY TO LEASE OR SELL THE PROPERTY, (G) THE STATUS OR CONDITION OF ENTITLEMENTS PERTAINING TO THE PROPERTY, (H) DEFICIENCY OF ANY DRAINAGE ON THE REAL PROPERTY, (I) THE FACT THAT ALL OR A PORTION OF THE PROPERTY MAY BE LOCATED ON OR NEAR AN EARTHQUAKE FAULT LINE, AND (J) ANY MATTER REGARDING TERMITES OR WASTES, AS DEFINED BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY REGULATIONS AT 40 C.F.R., OR ANY HAZARDOUS SUBSTANCES, AS HEREINABOVE DEFINED. BUYER FURTHER ACKNOWLEDGES AND AGREES THAT SELLER, UNLESS OTHERWISE REQUIRED BY LAW, IS UNDER NO DUTY TO MAKE ANY AFFIRMATIVE DISCLOSURES REGARDING ANY MATTER WHICH MAY BE KNOWN TO SELLER.

Seller's Initials: 

Buyer's Initials: 

9.2 Release. Subject to the covenants, representations and warranties of Seller contained in this Agreement, effective as of Closing, Buyer on behalf of itself and its shareholders, members, investors or partners of each of them and any permitted assignees of



Buyer hereunder and its successors and assigns (collectively, the “Buyer Affiliated Parties”) waives its right to recover from, and forever releases and discharges, Seller and its affiliates, property manager, partners, trustees, beneficiaries, owners, members, managers, officers, employees and agents and representatives, and its respective heirs, successors, personal representatives and assigns from any and all Claims, whether direct or indirect, known or unknown, suspected or unsuspected, foreseen or unforeseen, that may arise on account of or in any way be connected with: (i) the physical condition of the Property, including, without limitation, all seismic elements; the condition, valuation, or utility of the Property; title and survey matters with respect to the Property; and the environmental condition of the Property and the presence of any Hazardous Substance on, under or about the Property; and (ii) any law or regulation applicable to the Property, including, without limitation, any Environmental Laws and any other federal, state or local law.

In this connection and to the extent permitted by law, Buyer hereby agrees, realizes and acknowledges that factual matters now unknown to Buyer may have given or may hereafter give rise to causes of action, claims, demands, debts, controversies, damages, costs, losses and expenses which are presently unknown, unanticipated and unsuspected, and Buyer further agrees that it waives (and by Closing this transaction will be deemed to have waived) any and all objections and complaints concerning the physical characteristics and any existing conditions of the Property, and that the waivers and releases herein have been negotiated and agreed upon in light of that realization and that Buyer nevertheless hereby intends to release, discharge and acquit Seller from any such unknown causes of action, claims, demands, debts, controversies, damages, costs, losses and expenses. The releases set forth in this Section shall become effective upon the Closing. Buyer further hereby assumes the risk of changes in applicable laws, including any relevant Environmental Laws and regulations relating to past, present and future environmental conditions on the Property and the risk that adverse physical characteristics and conditions, including, without limitation, the presence of Hazardous Substances or other contaminants, may not have been revealed by its investigation.

9.3 Waiver of Right to Receive Seller Disclosure Statement and Waiver of Right to Rescind. PURSUANT TO RCW 64.06, AS AMENDED BY CHAPTER 64, LAWS OF 2010, WITH RESPECT TO THE REAL PROPERTY, BUYER HEREBY WAIVES ITS RIGHT TO RECEIVE THE SELLER DISCLOSURE STATEMENT REFERRED TO THEREIN. THIS WAIVER DOES NOT EXTEND TO THE SECTION OF THE DISCLOSURE STATEMENT ENTITLED “ENVIRONMENTAL”. Buyer is hereby provided with the “Environmental” section of the Seller Disclosure Statement attached hereto as Exhibit D. Buyer further agrees that any information discovered by Buyer concerning the Real Property prior to Closing shall not obligate Seller to prepare and deliver to Buyer a revised or updated Seller Disclosure Statement. Buyer hereby waives any right to receive an updated or revised Seller Disclosure Statement, regardless of the source of any new information. Buyer further warrants that it is a sophisticated buyer who is familiar with the ownership of real estate similar to the Real Property and Buyer has or will have adequate opportunity to complete such independent inspections of the Property it deems necessary, and will acquire the Real Property solely on the basis of and in reliance upon such examinations and not on any information provided in any Seller Disclosure Statement or otherwise provided or to be provided by Seller (other than as expressly provided in this Agreement or in the Deed). BUYER HEREBY WAIVES, TO THE FULLEST EXTENT PERMISSIBLE BY LAW, THE RIGHT TO RESCIND THIS AGREEMENT PURSUANT TO ANY PROVISION OF RCW 64.06, AS AMENDED BY CHAPTER 64, LAWS OF 2010. IT IS THE INTENT OF BUYER THAT ANY SELLER DISCLOSURE STATEMENT PROVIDED BY SELLER WILL NOT BE RELIED UPON BY BUYER, AND SHALL GIVE BUYER NO RIGHTS WITH RESPECT TO SELLER UNDER THIS AGREEMENT. THIS WAIVER OF THE RIGHT TO RESCIND APPLIES TO THE SELLER DISCLOSURE STATEMENT

PROVIDED TO BUYER DURING THE REVIEW PERIOD AND APPLIES PROSPECTIVELY TO ANY UPDATED OR REVISED SELLER DISCLOSURE STATEMENTS THAT MAY BE PROVIDED BY SELLER TO BUYER.

10. Covenants.

10.1 Covenants of Seller.

(a) Normal Operations. Until the Closing Date, Seller shall (i) continue to operate the Property in substantially the same manner as in the past and will perform all necessary maintenance to the Property as its ordinary course of business dictates; and (ii) not modify or alter the Property without the prior written consent of Buyer. From and after the Effective Date, Seller shall not enter into any contracts or commitments relating to the Property without the prior written consent of Buyer (in Buyer's reasonable discretion) if any such contracts or commitments would extend beyond the Closing Date. From and after the Effective Date, Seller shall not encumber the Property with any liens, encumbrances or other instruments creating a cloud on title or securing a monetary obligation with the Property.


(b) Insurance. Until the Closing Date, Seller shall maintain substantially the same liability, casualty, and all other insurance on the Property as is in effect as of the Effective Date.


10.2 Post-Closing Construction Covenant of Buyer. Buyer acknowledges and agrees that Buyer must adhere to the requirements of 14 CFR Part 77, submitting FAA Form 7460-1 and receiving FAA's positive determination, prior to constructing any facility or feature on the Property.

11. Condemnation. Risk of loss resulting from any condemnation or eminent domain proceeding that is commenced or has been threatened before the Closing, and risk of loss to the Property due to fire, flood, or any other cause before Closing, will remain with Seller. If before Closing the Property (or any portion thereof) is subjected to a threat of condemnation or becomes the subject of any proceedings, judicial, administrative, or otherwise, with respect to the taking by eminent domain or condemnation, then Seller shall promptly provide written notice thereof to Buyer and Buyer may terminate this Agreement by written notice to Seller sent within fifteen (15) days after Seller informs Buyer in writing that the Property has been taken, in which event the Earnest Money will be returned to Buyer, and neither Party will have any further obligation to the other, except those obligations that expressly survive the termination of this Agreement. If the Closing Date is within the fifteen (15) day period, then Closing will be extended to the next Business Day following the end of the fifteen (15) day period. If no such election is made by Buyer, (i) this Agreement will remain in full force and effect, (ii) the purchase of the Property, less any interest taken by eminent domain, will be effected with no further adjustment, and (iii) upon Closing, Seller shall assign to Buyer all of the right, title, and interest of Seller in and to any awards that have been or may thereafter be made for such taking.

12. Default by Buyer; Liquidated Damages. BUYER WILL BE IN DEFAULT UNDER THIS AGREEMENT IF (I) ANY OF BUYER'S REPRESENTATIONS OR WARRANTIES ARE FALSE, (II) BUYER FAILS TO PERFORM ALL OF ITS OBLIGATIONS UNDER SECTION 6.4(b) ON OR BEFORE THE CLOSING DATE, OR (III) BUYER FAILS TO PERFORM ANY OF ITS OTHER OBLIGATIONS UNDER THIS AGREEMENT WITHIN THREE (3) BUSINESS DAYS AFTER RECEIPT OF WRITTEN NOTICE FROM SELLER OF SUCH FAILURE. IN THE EVENT OF ANY DEFAULT BY BUYER UNDER THIS AGREEMENT, SELLER WILL BE RELIEVED OF ANY OBLIGATION TO SELL THE PROPERTY TO BUYER, SELLER WILL NOT HAVE ANY RIGHT

TO SEEK OR OBTAIN SPECIFIC ENFORCEMENT OF THIS AGREEMENT, AND, AS SELLER'S SOLE AND EXCLUSIVE REMEDY AT LAW OR IN EQUITY FOR SUCH DEFAULT, THE EARNST MONEY WILL BE RELEASED TO AND RETAINED BY SELLER AS LIQUIDATED DAMAGES. BUYER AND SELLER AGREE THAT IT WOULD BE IMPRACTICAL AND EXTREMELY DIFFICULT TO FIX THE ACTUAL DAMAGES THAT SELLER MIGHT SUFFER IN THE EVENT OF BUYER'S DEFAULT HEREUNDER. BUYER AND SELLER AGREE THAT THE AMOUNT OF LIQUIDATED DAMAGES PROVIDED FOR IN THIS SECTION IS A FAIR AND REASONABLE ESTIMATE OF SUCH DAMAGES. THE FOREGOING PROVISION SHALL IN NO WAY LIMIT OR IMPAIR SELLER'S RIGHT OR ABILITY TO RECOVER FROM BUYER ATTORNEY'S FEES TO WHICH SELLER MAY OTHERWISE BE ENTITLED UNDER THIS AGREEMENT OR ANY SUMS WHICH MAY BECOME DUE TO SELLER BASED UPON ANY INDEMNITY PROVIDED BY SELLER PURSUANT TO THE TERMS OF THIS AGREEMENT.

Seller's Initials: 

Buyer's Initials: 

13. Default by Seller; Remedies. Seller will be in default under this Agreement if (i) Seller fails to perform all of its obligations under Section 6.4(a) on or before the Closing Date, or (ii) Seller fails to perform any of its obligations under this Agreement within three (3) Business Days after Buyer provides Seller with notice of such failure (a "Seller Default"). Upon a Seller Default, Buyer may, as its sole and exclusive remedy for such Seller Default, either: (y) terminate this Agreement in its entirety by delivery of notice of termination to Seller, whereupon the Earnest Money shall be immediately returned to Buyer or (z) continue this Agreement pending Buyer's action for specific performance hereunder provided appropriate proceedings are commenced by Buyer within forty-five (45) days following Seller's Default and thereafter prosecuted with diligence. Buyer agrees that under no circumstances shall Buyer file a *lis pendens* action against the Property unless Buyer is seeking option (z) above.

Anything in this Agreement to the contrary notwithstanding, with respect to all matters affecting title to the Real Property, Buyer acknowledges and agrees that it is relying upon the Title Policy. If Buyer has a claim under the Title Policy and the subject matter of that claim also constitutes a breach of any warranty made by Seller in this Agreement or the Deed, Buyer agrees that it will look first to its Title Policy for recovery on such claim, and Buyer shall not assert any claim against Seller for a breach of a representation, warranty or covenant with respect to such claim unless and until Buyer has pursued its remedies against the Title Company to a final judgment and has not been made whole. The time period for bringing a claim against Seller for a breach of a representation or warranty relating to title to the Real Property will be tolled during the pendency of any action by Buyer against Title Company.

14. Brokerage. Seller and Buyer have not engaged a broker in connection with this Agreement. Seller and Buyer hereby agree to indemnify, defend and hold each other harmless from and against any and all Claims arising out of any claim for commissions, fees, or other similar compensation or charges relating to the transaction contemplated in this Agreement, or the consummation thereof, which may be made by any third party as the result of the acts of Seller or Buyer or their respective representatives. The obligations of the Parties under this Section 14 will survive Closing.

15. Miscellaneous.

15.1 Attorneys' Fees. Should any Party hereto bring any action against any other Party related in any way to this Agreement, the substantially prevailing party shall be awarded its or their reasonable attorneys' fees and costs incurred for prosecution, defense, consultation, or advice in connection with such action.

15.2 Escrow Agent. The Escrow Agent hereby accepts its designation as the Escrow Agent under this Agreement and agrees to hold and disburse the Earnest Money as provided in this Agreement. The provisions of this Agreement will constitute joint instructions to the Escrow Agent to consummate the purchase in accordance with the terms and provisions of this Agreement; *provided, however*, that the Parties shall execute such additional escrow instructions, not inconsistent with the provisions of this Agreement, as may be deemed reasonably necessary to carry out the intentions of the Parties as expressed in this Agreement. The provisions of this Section 15.2 will survive the Closing or termination of this Agreement.

15.3 Notices. All notices required or permitted under this Agreement must be in writing and will be deemed to have been properly given (i) upon delivery, if delivered in person, (ii) upon delivery, if sent by electronic mail, provided that such notice is also promptly thereafter delivered in accordance with another permissible method of delivery, (iii) one (1) Business Day after having been deposited for overnight delivery with any reputable overnight courier service, or (iv) three (3) Business Days after having been deposited in any post office or mail depository regularly maintained by the U.S. Postal Service and sent by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to Seller: Spokane International Airport  
c/o Airport Board  
Attn: Lawrence J. Krauter  
9000 West Airport Drive, Suite 204  
Spokane, WA 99224  
Email: lkrauter@spokaneairports.net

with a copy to: Lukins & Annis, P.S.  
717 W. Sprague, Suite 1600  
Spokane, WA 99201  
Attn: Tyler J. Black, Esq.  
Email: tblack@lukins.com

If to Buyer: West Plains Development, L.L.C.  
Attn: Thomas B. Tilford  
5308 S. Saint Andrews Lane  
Spokane, WA 99223  
Email: ttilford@gmail.com

with a copy to: Lukins & Annis, P.S.  
717 W. Sprague, Suite 1600  
Spokane, WA 99201  
Attn: Tyler J. Black, Esq.  
Email: tblack@lukins.com

If to Escrow Agent: Spokane County Title  
1010 N. Normandie, Suite 100  
Spokane, WA 99201  
Attn: Keith Newell  
Email: keith@spokanetitle.com

15.4 Survival. Unless expressly provided otherwise in this Agreement, the representations and warranties of Seller contained in this Agreement will survive Closing for a

period of one (1) year (the “Survival Period”). Seller shall not be liable to Buyer by reason of a breach of any of Seller’s representations or warranties unless the Buyer notifies the Seller of such breach (the “Warranty Notice”) prior to the expiration of the Survival Period, and gives the Seller an opportunity to cure any such breach within a reasonable period of time after delivery of the Warranty Notice. Any proceeding with respect to Seller’s alleged breach of any representation or warranty must be commenced within the Survival Period, and if not commenced within such time period, Buyer will be deemed to have waived its Claims for such breach or default. Seller’s aggregate liability to Buyer by reason of a breach of one or more of Seller’s representations or warranties shall not exceed One Hundred Twenty Five Thousand Dollars (\$125,000). Seller’s liability will be limited to actual damages and will not include consequential, special, punitive or incidental damages.

15.5 Governing Law/Venue. The laws of the State of Washington govern the enforcement, and interpretation of this Agreement. The venue for any action related to this Agreement will be in Spokane County, Washington.

15.6 Integration; Modification; Waiver. This Agreement, the recitals to this Agreement, exhibits, and closing documents pursuant to this Agreement are hereby incorporated into this Agreement and, together with the Agreement, constitute the complete and final expression of the agreement of the Parties relating to the Property. There are no oral promises, conditions, representations, understandings, interpretations or terms of any kind as conditions or inducements to the execution hereof or in effect between the Parties. This Agreement cannot be modified, or any of the terms hereof waived, except by an instrument in writing (referring specifically to this Agreement) executed by the Party against whom enforcement of the modification or waiver is sought.

15.7 Counterpart Execution. This Agreement may be executed in several counterparts and transmitted via facsimile or other electronic transmission, each of which will be fully effective as an original and all of which together will constitute one and the same instrument.

15.8 Headings; Construction. The headings used throughout this Agreement have been inserted for convenience and reference only and do not constitute matters to be construed in interpreting this Agreement. Words of any gender used in this Agreement will be construed to include any other gender, and words in the singular number will be construed to include the plural, and vice versa, unless the context requires otherwise. The words “herein,” “hereof,” “hereunder,” and other similar compounds of the word “here” when used in this Agreement refer to the entire Agreement and not to any particular provision or section. The terms “includes,” “including,” or “include” as used herein shall be interpreted as being non-exclusive and shall be read to mean, respectively, “includes without limitation,” “including, without limitation” and “include without limitation.”

15.9 Deadlines and Dates. Any deadline, unless otherwise set forth in this Agreement, will expire at 5:00 p.m., Pacific Time. Should any deadline or date in this Agreement fall on a day other than a Business Day, such deadline or date will be extended until 5:00 p.m., Pacific Time, on the next Business Day.

15.10 Severability. If for any reason any provision of this Agreement is determined by a tribunal of competent jurisdiction to be legally invalid or unenforceable, the validity of the remainder of the Agreement will not be affected and such provision will be deemed modified to the minimum extent necessary to make such provision consistent with applicable law and, in its modified form, such provision will then be enforceable and enforced.

15.11 Time of the Essence. Time is of the essence of this Agreement and of the obligations of the Parties to purchase and sell the Property, it being acknowledged and agreed by and between the Parties that any delay in effecting the Closing pursuant to this Agreement may result in loss or damage to the Party in full compliance with its obligations hereunder.

15.12 Invalid Provisions. If any one or more of the provisions of this Agreement, or the applicability of any such provision to a specific situation, is held invalid or unenforceable, such provision will be modified to the minimum extent necessary to make it or its application valid and enforceable, and the validity and enforceability of all other provisions of this Agreement and all other applications of any such provision will not be affected thereby.

15.13 Binding Effect. This Agreement is binding upon and inures to the benefit of Seller and Buyer, and their respective successors and permitted assigns.

15.14 Further Acts. In addition to the acts recited in this Agreement to be performed by Seller and Buyer, Seller and Buyer agree to perform or cause to be performed at the Closing or after the Closing any and all such further acts as may be reasonably necessary to consummate the transactions contemplated in this Agreement.

15.15 Assignment. Buyer shall not assign this Agreement without Seller's prior written consent, which consent may be withheld in Seller's sole and absolute discretion; *provided, however*, that Buyer shall have the right to assign its rights under this Agreement without first obtaining Seller's consent if such assignment is to a special purpose entity in which Buyer or its principals hold an ownership interest or control. No such assignment shall release Buyer from any of its obligations under this Agreement. Any assignment made in violation of this Section shall be void.

15.16 Other Parties. The relationship of the Parties hereto is solely that of Seller and Buyer with respect to the Property and no joint venture or other partnership exists between the Parties hereto. Neither Party has any fiduciary relationship hereunder to the other. The provisions of this Agreement are not intended to benefit any third parties.

15.17 1031 Exchange. Buyer may purchase the Property and Seller may sell the Property by completing one or more Code §1031 tax-deferred exchange(s). Each Party agrees to cooperate with the other in effecting such an exchange; *provided, however*, the cooperating Party will not incur any additional liability or financial obligations as a consequence of any such exchange.

15.18 Sole Discretion. If a Party is given the right to exercise its sole or absolute discretion, neither the other Party nor any third party (including, without limitation, an arbitrator) will have the right to challenge said exercise, whether reasonable or unreasonable, on any grounds whatsoever.

15.19 Confidentiality. Seller and Buyer agree that there will be no press or other publicity release or communication to any third party concerning the transaction contemplated in this Agreement without the prior written consent of the other. Notwithstanding the foregoing, prior to Closing, either Party shall have the right to disclose information with respect to the Property to its officers, directors, members, partners, employees, attorneys, accountants, environmental auditors, engineers, current and potential lenders, investors, insurers and permitted assignees under this Agreement and other consultants to the extent necessary to evaluate the transactions contemplated hereby and the Property provided that all such persons are told that such information is confidential and agree to keep such information confidential. If Buyer

acquires the Property from Seller, either Party may disclose any information concerning the Property or the transactions contemplated hereby that the disclosing Party wishes to disclose; provided that any press release or other public disclosure by either Party regarding this Agreement or the transactions contemplated herein, and the wording of same, must be approved by the non-disclosing Party. The provisions of this Section shall survive the Closing or any termination of this Agreement.

15.20 Disclaimer—Preparation of Agreement. This Agreement has been negotiated by the Parties. Buyer and Seller agree that no presumption will apply in favor or against any Party in respect of the interpretation or enforcement of this Agreement. Each Party is advised to have this Agreement reviewed by independent legal and tax counsel prior to its execution. By executing this Agreement, each such Party represents: (i) that it has read and understands this Agreement, (ii) that it has had the opportunity to obtain independent legal and tax advice regarding this Agreement and (iii) that it has obtained such independent advice or has freely elected not to do so.

*[signatures to appear on the following page]*



IN WITNESS WHEREOF, the Parties have executed and delivered the foregoing Agreement as of the Effective Date.

SELLER:

SPOKANE AIRPORT BOARD,  
a joint operation of the City of Spokane and County  
of Spokane, Washington

DocuSigned by:  
By: Lawrence J. Krauter  
Name: Lawrence J. Krauter  
Its: Chief Executive Officer

BUYER:

WEST PLAINS DEVELOPMENT, L.L.C.,  
a Washington limited liability company

DocuSigned by:  
By: Thomas B. Tilford  
Name: Thomas B. Tilford  
Its: Business Manager

Approved as to form and content:

DocuSigned by:  
Brian Werst  
8C6BC996EE83462...  
Brian Werst, General Counsel

This Real Property Purchase and Sale Agreement and Escrow Instructions, together with the Earnest Money, is hereby acknowledged and accepted and the escrow is opened as of the \_\_\_\_ day of November, 2021. The Escrow Agent hereby agrees to act as "the person responsible for closing" the purchase and sale transaction contemplated in this Agreement within the meaning of Section 6045(e) of the Internal Revenue Code of 1986, as amended, and to file all forms and returns required thereby.

SPOKANE COUNTY TITLE

By: Keith S. Newell  
Name: KEITH S. NEWELL  
Title: ESCROW MANAGER

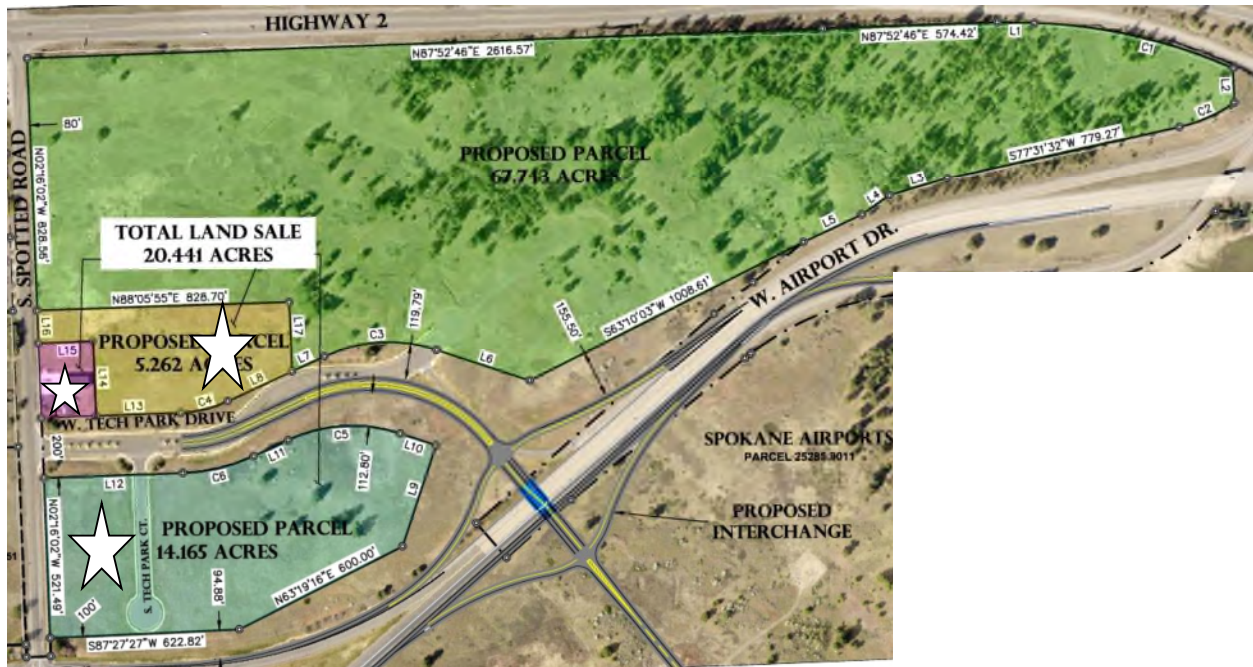
EXHIBIT A-1  
LEGAL DESCRIPTION OF SELLER PROPERTY\*

The following real property identified by the Spokane County Assessor as tax parcel number:

APN: 25285.9011

\*Once the Title Report is provided to the Parties by the Title Company, the legal description contained therein shall be substituted by the Parties and/or the Escrow Agent as the new Exhibit A-1 of this Agreement.

EXHIBIT A-2  
DEPICTION OF REAL PROPERTY\*



\*Parcels marked with a white star denote the Real Property. A final legal description of the Real Property shall be determined by the Final Long Plat, once completed, and the Parties acknowledge and agree such legal description will be deemed incorporated into this Agreement as a replacement Exhibit A-2.

EXHIBIT B  
FORM OF BARGAIN AND SALE DEED

Filed for Record at Request of and  
copy returned to:

Lukins & Annis, P.S.  
Attn: Tyler J. Black, Esq.  
717 W. Sprague Avenue, Suite 1600  
Spokane, WA 99201

DOCUMENT TITLE:	BARGAIN AND SALE DEED
GRANTOR:	SPOKANE AIRPORT BOARD
GRANTEE:	[*]
ABBREVIATED LEGAL DESCRIPTION:	[*]
ASSESSOR'S PARCEL NO.:	[*]

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BARGAIN AND SALE DEED

The grantor, SPOKANE AIRPORT, by and through its Airport Board, a joint operation of the City of Spokane and County of Spokane, municipal corporations of the State of Washington, for and in consideration of Ten Dollars (\$10.00) in hand paid, bargains, sells and conveys to \_\_\_\_\_, that real property situated in the county of Spokane, state of Washington and legally described on Schedule 1 attached hereto and incorporated herein by this reference (the "Property").

SUBJECT TO: (i) the lien securing non-delinquent taxes and assessments, both general and special, (ii) all covenants, conditions, restrictions, reservations, rights, rights of way, easements, and title matters whether or not of record or visible from an inspection of the Property and all matters which an accurate survey of the Property would disclose; and (iii) a restriction that no part of the Property shall ever be used or improved for the operation of a commercial park and ride, park and fly, or such other primary use as a pay-to-park business or enterprise (the "Restrictive Covenant"), such Restrictive Covenant to run with the land and be enforceable against Grantee, Grantee's heirs, successors and assigns forever.

It being further acknowledged that in the event of any violation or threatened violation of the terms and provisions of the Restrictive Covenant, Grantor or any person claiming through or otherwise entitled to enforce the Restrictive Covenant shall, in addition to all remedies available at law or in equity, have the right to enjoin such violation or threatened violation in a court of competent jurisdiction. The specified remedies to which any person entitled to enforce the Restrictive Covenant may resort are cumulative and are not intended to be exclusive of any other remedies or means of redress to which any person entitled to enforce the Restrictive Covenant may be lawfully entitled in case of any breach or threatened breach of any provision hereof. Failure to insist in any one or more cases upon the strict performance of any of the provisions of the Restrictive Covenant, or to exercise any remedy herein

contained, will not be construed as a waiver or a relinquishment for the future of such covenant or remedy.

*[signature page and acknowledgment follows]*

SIGNATURE PAGE  
TO  
BARGAIN AND SALE DEED

DATED effective the \_\_\_\_ day of \_\_\_\_\_, 2022.

**GRANTOR:**

SPOKANE AIRPORT BOARD,  
a joint operation of the City of Spokane  
and County of Spokane, Washington

By: \_\_\_\_\_

Name: Lawrence J. Krauter

Its: Chief Executive Officer

STATE OF WASHINGTON     )  
  : ss  
County of Spokane         )

On this \_\_\_\_ day of \_\_\_\_\_, 2022, before me personally appeared Lawrence J. Krauter, to me known to be the Chief Executive Officer of the SPOKANE AIRPORT BOARD, a joint operation of the City of Spokane and County of Spokane, Washington, the entity that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said entity, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public   (Signature)

\_\_\_\_\_  
(Print Name)

My commission expires: \_\_\_\_\_

(Seal or Stamp)



Schedule 1  
to  
Bargain and Sale Deed  
Legal Description

[To be inserted.]

EXHIBIT C  
FORM OF AVIGATION EASEMENT

Filed for Record at Request of and  
copy returned to:

Lukins & Annis, P.S.  
Attn: Tyler J. Black, Esq.  
717 W. Sprague Avenue, Suite 1600  
Spokane, WA 99201

DOCUMENT TITLE:	AVIGATION EASEMENT
GRANTOR:	WEST PLAINS DEVELOPMENT, L.L.C.
GRANTEE:	SPOKANE AIRPORT BOARD
ABBREVIATED LEGAL DESCRIPTION:	[*]
ASSESSOR'S PARCEL NO.:	[*]

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**AVIGATION EASEMENT**

THIS AVIGATION EASEMENT ("Easement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2022 ("Effective Date"), by WEST PLAINS DEVELOPMENT, L.L.C., a Washington limited liability company ("Grantor") for the benefit of SPOKANE AIRPORT, by and through its Airport Board, a joint operation of the City of Spokane and County of Spokane, municipal corporations of the State of Washington, and the UNITED STATES OF AMERICA (collectively, the "Grantees").

**RECITALS**

A. Grantor is the owner of fee simple title to real property consisting of approximately 20.441 acres located generally at the south side of U.S. Highway 2, east of South Spotted Road, north of West Airport Drive in the City of Spokane, Spokane County, Washington, and legally described on the attached Schedule 1 (the "Property"), which Property was acquired by Grantor from the City of Spokane and Spokane County, as tenants in common, for Spokane Airport, by and through its Airport Board (the "Seller").

B. In consideration of Seller agreeing to sell the Property to Grantor, Grantor desires to provide Grantees an easement over the Property for the unobstructed passage of all Aircraft, on the terms and conditions set forth in this Easement. For purposes of this Easement, "Aircraft" means any contrivance now known or hereafter invented, used or designed for navigation of, or flight in, the air.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, Grantor agrees as follows:

1. Recitals. The recitals set forth above are incorporated by reference in this Easement as though fully set forth herein.

2. Grant of Avigation Easement for Benefit of Grantees. Grantor hereby grants and conveys to Grantees, for themselves, their heirs, administrators, executors, successors and assigns an easement over and across the airspace above the surface of the Property for the unobstructed passage and avigation of all Aircraft by whomsoever owned and operated. Grantees' foregoing avigation easement shall include the right to (i) emit such noise, vibrations, fumes, dust, fuel particles and other incidents typically resulting from the operation of Aircraft, (ii) increase the noise impact to the Property by virtue of an increase in flight frequencies, altering flight paths, or changing types of Aircraft pursuant to the continued growth and expansion of Spokane International Airport and Felts Field Airport (collectively, the "Airports"), or (iii) prevent the use of the Property in a manner that constitutes an Aircraft hazard, including, without limitation, (a) interfering with the operations of radio or electronic facilities used by any Aircraft, (b) making it difficult for pilots to distinguish between airfield lights and other lights, or (c) implementing a use that (1) results in glare in the eyes of Aircraft pilots, (2) impairs visibility in the vicinity of any Aircraft flight path, (3) creates thermal plumes hazardous to Aircrafts, (4) endangers the landing, taking off, or maneuvering of any Aircraft, (5) creates a wildlife attractant that in Grantees' sole discretion and opinion, could create a bird or wildlife strike hazard or otherwise interfere with Aircraft operations, or (6) creates a potential hazard of a fire accelerant or secondary explosion resulting from an Aircraft crash on the Property.

It is further understood and acknowledged that it is reasonable to expect that ongoing expansion of the Airports and attendant improvements will cause Aircraft effects to change, potentially increasing flight frequencies, alteration of flight paths and changing of Aircraft types as the operations of the Airports grow and expand which may have a greater future deleterious impact to the Property of the nature described in this Section.

3. Negative Covenants. Grantor hereby specifically disclaims any intention to create any other easements on the Property by this Easement, except as otherwise specifically provided herein. Grantor shall not erect, construct, alter, maintain, or allow to grow, any vegetation, object, structure, wall, fence or barrier ("Obstruction") of any kind on or in the Property that would increase the Federal Aviation Administration ("FAA") landing, approach, or departure minimum height requirements for Aircraft, or prevent or unreasonably impair the free access of any Aircraft to travel through the airspace above the surface of the Property, unless such Obstruction is specifically consented to by all appropriate Grantees. If any Obstruction violates the height restrictions described herein this Section 3, then any of the Grantees shall have the right to enter the Property to remove such Obstruction at Grantor's sole cost and expense. Grantor shall not create or cause interference with or utilize the Property in any way contrary to (i) Spokane County Zoning Code, Chapters 14.700 and 17C.180 or (ii) any FAA requirements and regulations.

4. Indemnification. Grantor shall indemnify, defend and hold harmless Grantees, their heirs, administrators, executors, successors and assigns from all claims, demands, or suits in law or equity arising from Grantor's intentional or negligent acts or breach of its obligations under this Easement.

5. Not a Public Dedication. The easements established by this Easement shall be for the benefit of and restricted solely to the use of Grantees, their heirs, administrators, executors, successors and assigns and shall be used only for the purposes described herein. Nothing contained in this Easement shall be deemed to be a public dedication of any portion of the Property described herein in the general public or for the general public or for any public purposes whatsoever.

6. Covenants Run With the Land. This Easement shall remain in effect until said Easement, as existing, enlarged or relocated, is abandoned or ceases to be used for Aircraft travel and Airports purposes. The covenants given and the easements granted pursuant to this Easement shall be deemed to be covenants running with the Property and shall be binding upon and benefit the heirs, successors in interest, assigns and devisees of Grantor and Grantees. The Property is the servient estate.

7. Consent to Modification. This Easement and any provision, covenant, or easement contained herein may be terminated, extended, modified, or amended only with the written consent of the Grantor and all appropriate Grantees; *provided, however*, that no termination, extension, modification, or amendment of this Easement shall be effective unless a written instrument setting forth the terms thereof has been executed as herein provided, acknowledged, and recorded in the offices of the Spokane County Recorder.

8. Not a Partnership. By this Easement, the Grantor does not, and any successors or assigns of Grantor shall not, in any way or for any purpose become partners or joint venturers with any of the Grantees, or of any of their respective successors or assigns.

9. Construction. Wherever used herein, unless the context shall otherwise provide, the singular form shall include the plural, the plural shall include the singular, and the use of any gender will include all genders. The section headings set forth herein are for convenience and reference only and are not intended to describe, interpret, define, or otherwise affect the content, meaning, or intent of this Easement or any section or provision hereof.

10. Entire Easement; Interpretation. This Easement constitutes the entire Easement with respect to the subject matter hereof. It is expressly agreed that there are no verbal understandings or other easements that in any way change the terms, covenants and conditions herein set forth. References to Grantor and Grantees shall also be deemed to refer to their respective successors and assigns.

11. Miscellaneous. This Easement shall be governed by the laws of the state of Washington. Any action related to this Easement shall be brought in Superior Court in Spokane County, Washington.

*[signature page and acknowledgements follow]*

[remainder of page left intentionally blank]

IN WITNESS WHEREOF, the Grantor has executed and delivered this Easement as of the Effective Date.

GRANTOR:

WEST PLAINS DEVELOPMENT, L.L.C.,  
a Washington limited liability company

By: \_\_\_\_\_  
Name: Thomas B. Tilford  
Its: Business Manager

STATE OF WASHINGTON     )  
  ) ss.  
County of Spokane         )

On this \_\_\_\_ day of \_\_\_\_, 2022, before me personally appeared Thomas B. Tilford, to me known to be the Business Manager of West Plains Development, L.L.C., a Washington limited liability company, the entity that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said entity, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument on behalf of said entity.

In witness whereof, I have hereunto set my hand and official seal on the day and year first above written.

\_\_\_\_\_  
Notary Public (Signature)

\_\_\_\_\_  
(Print Name)

(Seal or Stamp)

My commission expires: \_\_\_\_\_

Schedule 1  
to  
Avigation Easement

LEGAL DESCRIPTION OF PROPERTY

[To be inserted.]

**EXHIBIT D****ENVIRONMENTAL SECTION OF SELLER DISCLOSURE STATEMENT****NOTICE TO THE BUYER: WEST PLAINS DEVELOPMENT, L.L.C., a Washington limited liability company**

THE FOLLOWING DISCLOSURES ARE MADE BY SELLER ABOUT THE CONDITION OF THE PROPERTY CONSISTING OF APPROXIMATELY 20.441 ACRES LOCATED GENERALLY AT THE SOUTH SIDE OF U.S. HIGHWAY 2, EAST OF SOUTH SPOTTED ROAD, IN THE CITY OF SPOKANE, SPOKANE COUNTY, WASHINGTON (THE "PROPERTY") AS LEGALLY DESCRIBED IN EXHIBIT A-1 ATTACHED TO THIS AGREEMENT. SELLER MAKES THE FOLLOWING DISCLOSURES OF EXISTING MATERIAL FACTS OR MATERIAL DEFECTS TO BUYER BASED ON SELLER'S CURRENT AND ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME SELLER COMPLETES THIS DISCLOSURE STATEMENT. THIS INFORMATION IS FOR DISCLOSURE ONLY AND IS NOT INTENDED TO BE A PART OF ANY WRITTEN AGREEMENT BETWEEN BUYER AND SELLER.

FOR A MORE COMPREHENSIVE EXAMINATION OF THE SPECIFIC CONDITION OF THIS PROPERTY BUYER IS ADVISED TO OBTAIN AND PAY FOR THE SERVICES OF QUALIFIED EXPERTS TO INSPECT THE PROPERTY, WHICH MAY INCLUDE, WITHOUT LIMITATION, ARCHITECTS, ENGINEERS, LAND SURVEYORS, ELECTRICIANS, OR ON-SITE WASTEWATER TREATMENT INSPECTORS. THE PROSPECTIVE BUYER AND SELLER MAY WISH TO OBTAIN PROFESSIONAL ADVICE OR INSPECTIONS OF THE PROPERTY OR TO PROVIDE APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN THEM WITH RESPECT TO ANY ADVICE, INSPECTION, DEFECTS OR WARRANTIES. SELLER IS NOT OCCUPYING THE PROPERTY.

**SELLER'S DISCLOSURES - ENVIRONMENTAL**

**YES      NO      DON'T  
KNOW**

If the answer is "Yes" to a question with an (\*), please explain your answer and attach documents, if available and not otherwise publicly recorded. If necessary, use an attached sheet.

*A. Have there been any flooding, standing water or drainage problems on the Property that affect the Property or access to the Property?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
*B. Is there any material damage to the Property from fire, wind, floods, beach movements, earthquake, expansive soils, or landslides?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
*C. Are there any shorelines, wetlands, floodplains, or critical areas on the Property?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
*D. Are there any substances, materials, or products in or on the Property that may be environmental concerns, such as asbestos, formaldehyde, radon gas, lead-based paint, fuel or chemical storage tanks, or contaminated soil or water?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
*E. Is there any soil or groundwater contamination?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
*F. Has the Property been used as a legal or illegal dumping site?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
*G. Has the Property been used as an illegal drug manufacturing site?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**ADDITIONAL NOTICES TO BUYER:** INFORMATION REGARDING REGISTERED SEX OFFENDERS MAY BE OBTAINED FROM LOCAL LAW ENFORCEMENT AGENCIES. THIS NOTICE IS INTENDED ONLY TO INFORM YOU OF WHERE TO OBTAIN THIS INFORMATION AND IS NOT AN INDICATION OF THE PRESENCE OF REGISTERED SEX OFFENDERS.

**EXPLANATIONS FOR \*YES\* ANSWERS (IF ANY):**

C. Wetlands, generally referred to as "37", "38" and "39" in that certain circa 2009 report prepared by Larry Dawes, presently exist on Seller Property. Once the Real Property is created via the satisfaction of the Subdivision Contingency, at least a portion of wetland "37" will be contained therein.



EXHIBIT E  
FORM OF UNCONDITIONAL RELEASE AND INDEMNITY AGREEMENT

**UNCONDITIONAL RELEASE AND INDEMNITY AGREEMENT**  
for

Spokane International Airport, Airport Business Park, Felts Field Airport

The undersigned hereby requests permission of Spokane Airport to allow the undersigned, or its agents acting on its behalf, to enter a portion of approximately \_\_\_\_\_ at Spokane International Airport for the purposes of \_\_\_\_\_ commencing \_\_\_\_\_, and terminating on \_\_\_\_\_. It is understood that any damage caused while accessing Airport property shall be immediately replaced or repaired at the sole cost and expense of the undersigned. At least 24 hours prior notice shall be provided to the Airport prior to commencing any activities on Airport property. There shall not be a charge for said use. In consideration of and as an inducement for the grant of such permission by the Airport, the undersigned, on behalf of itself, its heirs, employees and assigns, by the execution and delivery of the Unconditional Release and Indemnity Agreement (hereinafter "Release") and provision of a Certificate of Insurance evidencing insurance and coverages as outlined on Exhibit A, attached hereto;

FURTHER, THE UNDERSIGNED HEREBY WAIVES, RELEASES, AND RENOUNCES any and all claims, liabilities, actions, suits, causes, injuries, whether known or unknown or contemplated, demands, penalties, costs (including the reasonable fees for attorneys) and judgments ("all claims") of any kind or nature whatsoever against the Airport, and its respective officers, directors, employees, agents, consultants, assigns, lessees, and attorneys (the "Released Parties") arising out of or in any way connected with its entry onto, presence on, and activities sponsored by or on behalf of the undersigned on the Airport property; and

PERSONALLY ASSUMES ALL RISKS in connection with its entry onto or presence or activities on the Airport property; and

FURTHER AGREES TO INDEMNIFY, HOLD HARMLESS AND DEFEND the Released Parties against and from all claims in connection with its entry onto, presence on and activities sponsored by or on behalf of the undersigned on the Airport property.

I hereby declare and represent to the Airport that I, on behalf of \_\_\_\_\_ its officers, directors and employees, have fully informed myself of the contents of this Release by reading it before voluntarily accepting and signing it below; and declare and represent to the Airport that I understand this is a total and complete release of all claims; and that I have been advised to consult with an attorney should I have any questions about the legal effect of this release.

I warrant, on behalf of \_\_\_\_\_, its officers, directors and employees, that I have the authority to enter into this Release on behalf of and to fully bind the undersigned:

\_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**SPOKANE AIRPORT**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

EXHIBIT F  
FORM OF ACCESS AND UTILITY EASEMENT AGREEMENT

Filed for Record at Request of and  
copy returned to:

Lukins & Annis, P.S.  
Attn: Tyler J. Black, Esq.  
717 W. Sprague Avenue, Suite 1600  
Spokane, WA 99201

<b>Grantor:</b>	SPOKANE AIRPORT BOARD
<b>Grantee:</b>	WEST PLAINS DEVELOPMENT, L.L.C.
<b>Legal Description (abbreviated):</b>	[*]
<b>Assessor's Tax Parcel Number(s):</b>	[*]

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**ACCESS AND UTILITY EASEMENT AGREEMENT**

This ACCESS AND UTILITY EASEMENT AGREEMENT ("Agreement") is granted effective the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by SPOKANE AIRPORT, by and through its Airport Board, created pursuant to the provisions of Section 14.08.200 of the Revised Code of Washington, a joint operation of the City of Spokane and County of Spokane, municipal corporations of the State of Washington (the "Grantor") for the benefit of WEST PLAINS DEVELOPMENT, L.L.C., a Washington limited liability company (the "Grantee"). The Grantor and Grantee may hereinafter be individually referred to as a "Party" or collectively as the "Parties".

A. The Grantor is the owner of that real property situated in the county of Spokane, state of Washington and legally described on Schedule 1 attached hereto and incorporated herein by this reference (the "Grantor Property").

B. The Grantee is the owner of that real property situated in the county of Spokane, state of Washington and legally described on Schedule 2 attached hereto and incorporated herein by this reference (the "Grantee Property").

C. Grantee desires an easement over the Grantor Property for the purpose of vehicular and pedestrian access, ingress and egress; and future utilities improvements thereunder.

D. Grantor desires to grant such easements to the Grantee.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties agree as follows:

1. Grant of Easement.

a. Grant of Easement to Grantee. Grantor hereby grants, conveys, warrants and delivers to Grantee, and Grantee's invitees, successors and assigns, a non-exclusive easement under, upon, over, through and across, the Grantor Property for:

(i) vehicular ingress and egress, of any kind or nature whatsoever, over, upon and across the Grantor Property (collectively, the "Driveways");

(ii) pedestrian and bicycle ingress and egress over, upon and across the Grantor Property (collectively, the "Walkways"); and

(iii) installation, maintenance, repair, replacement and removal of underground utilities (including, but not necessarily limited to water, sewer, storm, gas, TV, data, telephone and electricity) over, under and across the Grantor Property that is now or may in the future be improved for such underground utilities (collectively, the "Utilities" together, with the Driveways and Walkways, and all uses incidental thereto are hereinafter referred to collectively, "Easements").

c. No-Build Covenant. Neither Grantee nor Grantor shall construct or erect any fences or structure over, upon or across the Grantor Property, or otherwise obstruct or prevent access to the Grantor Property by the other party, or such party's invitees, or successors and assigns.

2. Covenants Run With the Land. The covenants given and the Easements granted pursuant to this Agreement shall be deemed to be covenants running with the Grantor Property and shall be binding upon and benefit the Grantee Property.

3. Not a Public Dedication. The Easements and covenants established by this Agreement shall be for the benefit of and restricted solely to the use of Grantee, Grantee's heirs and assigns, as the case may be, and their respective invitees, successors and assigns, and shall be used only for the purposes described herein. Grantor shall not grant easement rights to any other person or entity in the Grantor Property; *provided, however*, nothing contained in this Agreement shall be construed as excluding Grantor or Grantor's tenants, invitees, successors, and assigns from making use of the Grantor Property to the extent such use does not unreasonably interfere with Grantee's use for the purposes described herein. Nothing contained in this Agreement shall be deemed to be a public dedication of any portion of the Easements in the general public or for the general public or for any public purposes whatsoever.

4. Installation; Maintenance. Grantee, at Grantee's sole cost and expense, shall be solely responsible for the cost of the initial installation, construction and maintenance of the Easements, if any, on and under the Grantor Property in respect of Grantee's use of the Easements and for obtaining all required permits and approvals associated therewith. Grantee shall provide Grantor with no less than ninety (90) days' advanced written notice prior to commencing the installation of any material improvements, and shall thereafter exercise commercially reasonable efforts to coordinate its construction activities with any design and/or improvement installation requests timely made by Grantor, which Grantor requests may not be unreasonably conditioned or delayed.

5. Indemnification. Grantee and its successors and assigns shall indemnify and hold harmless Grantor from and against any claim, cost, expense, or liability of any nature, including but not limited to, damage done to the improvements, resulting from the use of the Grantor Property by Grantee or its invitees, successors, and assigns. Grantor and its successors and assigns shall indemnify and hold harmless Grantee from and against any claim, cost, expense, or liability of any nature, including but not

limited to, damage done to the Easements, and any improvements therein or thereon and resulting from the use of the Grantor Property by Grantor or its invitees, successors, and assigns.

6. Consent to Modification. This Agreement and any provision, covenant, or easement contained herein may be terminated, extended, modified, or amended only with the written consent of the Parties, or the then owners of each of the properties; *provided, however*, that no termination, extension, modification, or amendment of this Agreement shall be effective unless a written instrument setting forth the terms thereof has been executed as herein provided, acknowledged, and recorded in the offices of the Spokane County Recorder.

7. Not a Partnership. By this Agreement, the Parties do not, and any successors or assigns of the Parties shall not, in any way or for any purpose become partners or joint venturers of the other, or of any Party's successors or assigns.

8. Construction. Wherever used herein, unless the context shall otherwise provide, the singular form shall include the plural and the plural shall include the singular. The section headings set forth herein are for convenience and reference only and are not intended to describe, interpret, define, or otherwise affect the content, meaning, or intent of this Agreement or any section or provision hereof.

9. Entire Agreement; Interpretation. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof. By executing this Agreement, the Parties specifically intend that this Agreement shall supersede all prior agreements and understandings between the Parties relating to the subject matter of this Agreement. It is expressly agreed that there are no verbal understandings or other agreements which in any way change the terms, covenants and conditions herein set forth.

10. Dispute Resolution. The Parties agree that any dispute or claim arising by, between or among them in respect of any provision of this Agreement, including, but not limited to the Maintenance Cost, the Parties so involved shall meet and confer in good faith to fairly and equitably resolve the dispute. If the Parties cannot resolve the issue or dispute, then the dispute shall be resolved in accordance with Section 12 below.

11. Miscellaneous. The recitals provided at the outset of this Agreement are hereby incorporated by reference in this Agreement as though fully set forth herein. In the event a Party commences an action related to this Agreement, the prevailing Party in such action shall be entitled to recover its attorneys' fees and costs incurred therein, including any on appeal. This Agreement shall be governed by the laws of the state of Washington. Any action related to this Agreement shall be brought in Superior Court in Spokane County, Washington, and the Parties hereby waive the right to remove such matters to federal court or otherwise seek an alternate venue. This Agreement may be executed in counterparts, all of which shall constitute one and the same Agreement.

*[signature page and acknowledgements follow]*

**SIGNATURE PAGE  
TO  
ACCESS AND UTILITY EASEMENT AGREEMENT**

GRANTOR:

SPOKANE AIRPORT BOARD, a joint operation  
of the City of Spokane and County of Spokane,  
Washington

GRANTEE:

WEST PLAINS DEVELOPMENT, L.L.C.,  
a Washington limited liability company

By: \_\_\_\_\_

Name: Lawrence J. Krauter

Its: Chief Executive Officer

By: \_\_\_\_\_

Name: Thomas B. Tilford

Its: Business Manager

*[acknowledgements follow]*

STATE OF WASHINGTON           )  
County of Spokane                 ) ss.

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared Thomas B. Tilford, to me known to be the Business Manager of West Plains Development, L.L.C., a Washington limited liability company, the entity that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said entity, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument on behalf of said entity.

In witness whereof, I have hereunto set my hand and official seal on the day and year first above written.

Notary Public \_\_\_\_\_ (Signature)

(Signature)

(Print Name)

(Seal or Stamp)

My commission expires: \_\_\_\_\_

STATE OF WASHINGTON )  
 ) : ss  
County of Spokane )

On this \_\_\_\_ day of \_\_\_\_\_, 2022, before me personally appeared Lawrence J. Krauter, to me known to be the Chief Executive Officer of the SPOKANE AIRPORT BOARD, a joint operation of the City of Spokane and County of Spokane, Washington, the entity that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said entity, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL the day and year in this certificate first above written.

Notary Public

(Signature)

(Print Name)

My commission expires: \_\_\_\_\_

(Seal or Stamp)

**SCHEDULE 1**

**LEGAL DESCRIPTION TO GRANTOR PROPERTY**

[To be inserted]

APN:

**SCHEDULE 2**

**LEGAL DESCRIPTION TO GRANTEE PROPERTY**

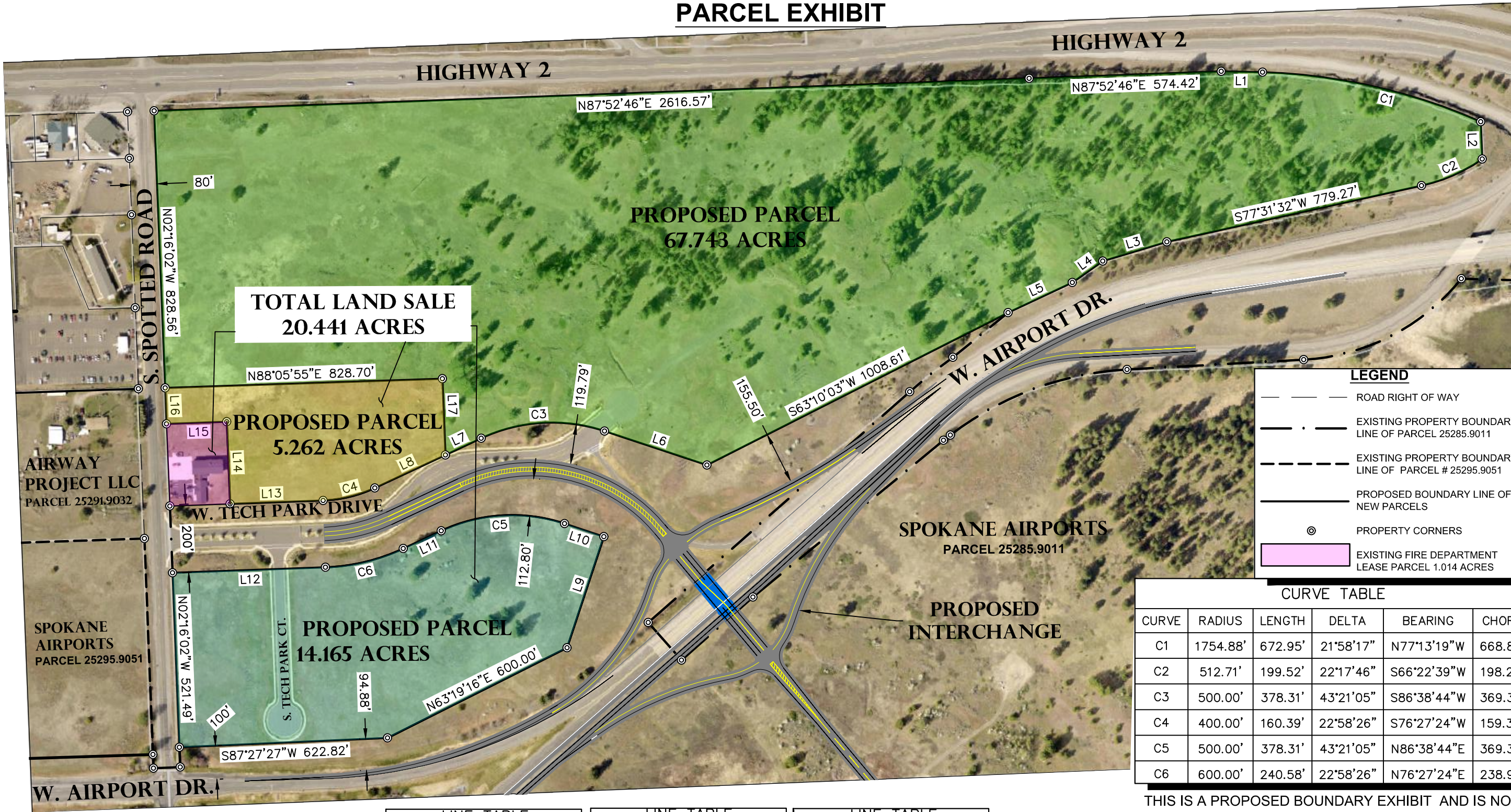
[To be inserted]

APN:



J:\\_SIA Airport Survey\3\_Acaddwg\Survey\2\_Boundary\210029\_21-054 WPD Parcel Exhibit Spotted Rd.dwg, 10/20/2021 2:54:26 PM, Brian McCluer, None

WEST PLAINS DEVELOPMENT  
PARCEL EXHIBIT

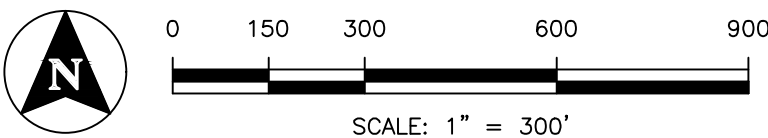


**LEGEND**

- ROAD RIGHT OF WAY
- EXISTING PROPERTY BOUNDARY LINE OF PARCEL 25285.9011
- EXISTING PROPERTY BOUNDARY LINE OF PARCEL # 25295.9051
- PROPOSED BOUNDARY LINE OF NEW PARCELS
- PROPERTY CORNERS
- EXISTING FIRE DEPARTMENT LEASE PARCEL 1.014 ACRES

CURVE TABLE					
CURVE	RADIUS	LENGTH	DELTA	BEARING	CHORD
C1	1754.88'	672.95'	21°58'17"	N77°13'19"W	668.83'
C2	512.71'	199.52'	22°17'46"	S66°22'39"W	198.26'
C3	500.00'	378.31'	43°21'05"	S86°38'44"W	369.35'
C4	400.00'	160.39'	22°58'26"	S76°27'24"W	159.32'
C5	500.00'	378.31'	43°21'05"	N86°38'44"E	369.35'
C6	600.00'	240.58'	22°58'26"	N76°27'24"E	238.97'

THIS IS A PROPOSED BOUNDARY EXHIBIT AND IS NOT AN OFFICIAL SURVEY, IT IS NOT INTENDED TO CONVEY TITLE.



LINE TABLE			LINE TABLE			LINE TABLE		
LINE	BEARING	DISTANCE	LINE	BEARING	DISTANCE	LINE	BEARING	DISTANCE
L1	S88°46'19"E	123.16'	L7	S64°58'11"W	118.12'	L13	S87°56'37"W	278.16'
L2	S02°23'03"E	111.40'	L8	N64°58'11"E	232.38'	L14	N02°16'03"W	245.40'
L3	S73°23'48"W	199.98'	L9	S18°19'16"W	350.00'	L15	S87°56'37"W	180.00'
L4	S54°40'09"W	111.22'	L10	S71°40'44"E	123.49'	L16	N02°16'02"W	107.52'
L5	S64°56'40"W	212.22'	L11	N64°58'11"E	125.34'	L17	N02°16'03"W	228.24'
L6	N71°40'44"W	322.22'	L12	N87°56'37"E	457.42'			



**LEASEHOLDER:**  
**SPOKANE AIRPORT**

DATE: OCT. 20, 2021

**SHEET 1 OF 1**

9000 West Airport Dr., Ste. 204  
Spokane, WA 99224





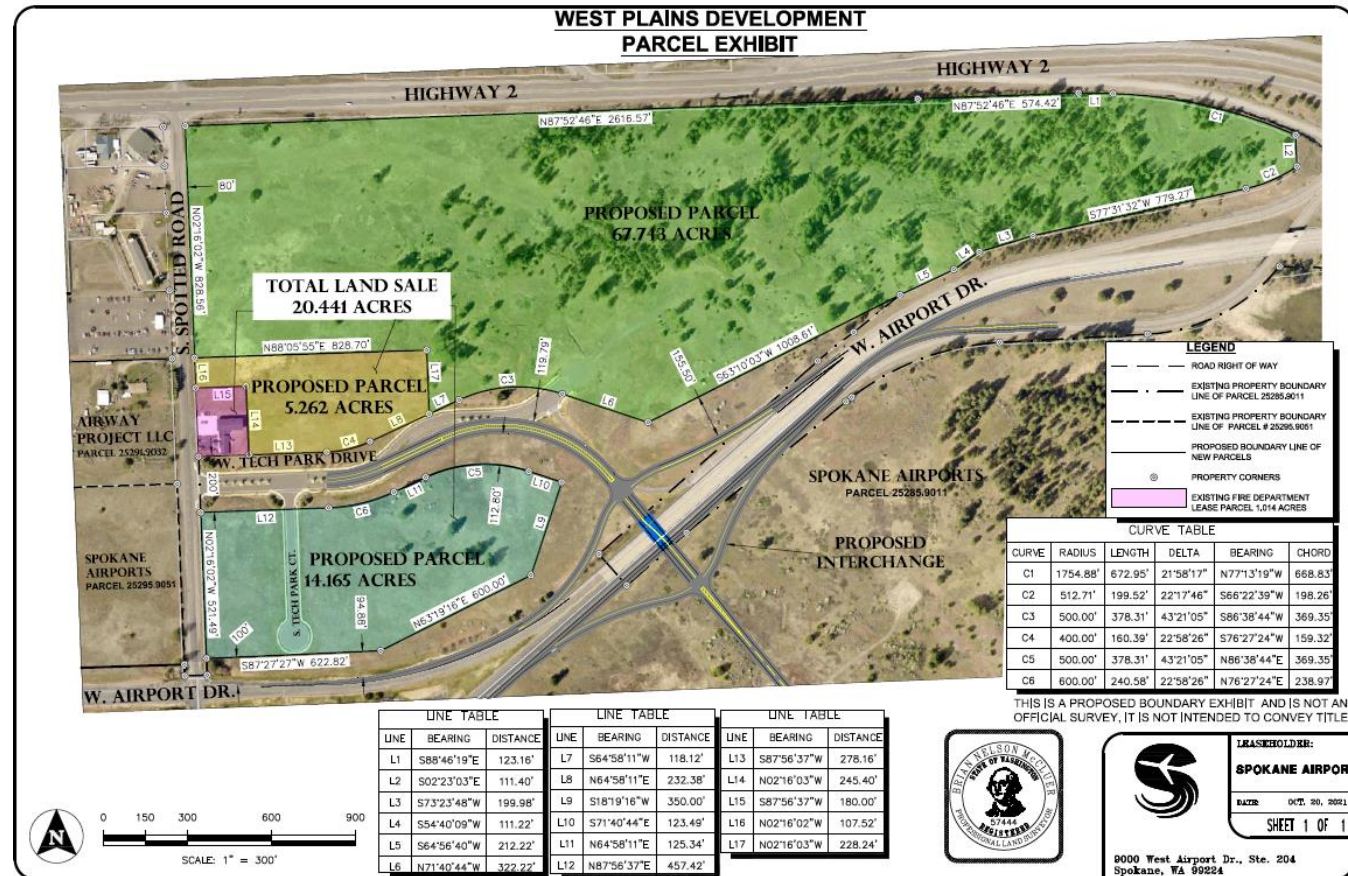
## SPOKANE INTERNATIONAL AIRPORT



# PSA for Sale of Surplus Airport Property to West Plains Development, LLC



## Tech Park Surplus Property Sale to West Plains Development, LLC



## Sale of Tech Park Property to WPD, LLC

- Purchase price at appraised fair market value of \$2.14 psf
- Estimated area to be acquired is @ 20.441 acres
- Total value of proposed sale to WPD, LLC is \$1,905,477.30
- Deed restriction to prohibit use of land for commercial vehicle parking purposes.
- Lease with City of Spokane for Fire Station will be assumed by WPD, LLC.
- Avigation Easement to be provided by WPD, LLC

## **Purchase and Sale Agreement West Plains Development, LLC**

- Letter of Intent received from WPD, LLC on May 21, 2021
- Ultimate sale price will be calculated with metes and bounds description/survey
- Sale conditioned on approval by Airport Board, City and County
- FAA Land Release and Surplus Property Act Release Required
- Review period is 121 days from effective date with closing to take place within 30 days of expiration of review period (estimated March 23, 2022)
- Extensions of review period are possible at mutual consent
- Earnest money of \$40,000 to be deposited within 3 days of effective date
- Buyer has the right to terminate on or before expiration of 121-day due diligence period (the review period)
- Avigation easement to be recorded over property
- No broker involved in transaction



## **Requested City Council and Board of County Commissioners Action**

- Authorize the execution of a Joint Resolution to authorize the sale of @ 20.441 acres of surplus airport property to West Plains Development, LLC in the amount of \$1,905,477.30 based on the terms and conditions contained in the Purchase and Sale Agreement approved by the Airport Board.

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

03/21/2022

**Date Rec'd**

3/8/2022

**Clerk's File #**

RES 2022-0028

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

PLANNING &amp; ECONOMIC

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

KARA 625-6146

**Project #****Contact E-Mail**

KMOWERYFRASHEFSKI@SPOKANECI

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

Resolutions

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

0650 - 2022 COMPREHENSIVE PLAN AMENDMENT WORK PROGRAM

**Agenda Wording**

A Resolution establishing the 2022 Comprehensive Plan Amendment work program and selecting which of the proposed amendments will move forward for full processing, as required by Spokane Municipal Code 17G.020.

**Summary (Background)**

Application File Nos. Z21-280COMP, Z21-281COMP, Z21-282COMP, Z21-283COMP, and Z21-284COMP, proposing various changes to the Land Use Plan Map. As well as city-sponsored proposals proposing various changes to the Bike Facilities Map, the Arterial Network Map and text change to Chapter 4, Transportation.

Lease? NO

Grant related? NO

Public Works? NO

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

Neutral \$

#

Select \$

#

Select \$

#

Select \$

#

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

GARDNER, SPENCER

**Study Session\Other**

Docketing Subcommittee

**Division Director**

BLACK, TIRRELL

**Council Sponsor**

CM Lori Kinnear

**Finance**

ORLOB, KIMBERLY

**Distribution List****Legal**

RICHTMAN, JAMES

kmoweryfrashefski@spokanecity.org

**For the Mayor**

ORMSBY, MICHAEL

kdowney@spokanecity.org

**Additional Approvals**

kfreibott@spokanecity.org

**Purchasing**

tblack@spokanecity.org

sgardner@spokanecity.org

jrichman@spokanecity.org

bmclatchey@spokanecity.org



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

**Agenda Wording**

**Summary (Background)**

**Fiscal Impact**

Select      **\$**

Select      **\$**

**Budget Account**

**#**

**#**

**Distribution List**

sbishop@spokanecity.org

jchurchill@spokanecity.org



## **RESOLUTION 2022-0028**

### **A Resolution Regarding Applications to Amend the City's Comprehensive Plan and Setting the Annual Comprehensive Plan Amendment Work Program for 2022.**

WHEREAS, in Chapter 17G.020 of the Spokane Municipal Code, the City Council has established a threshold review process for private applications to amend the Comprehensive Plan, to be undertaken by an ad hoc committee comprised of members of the City Council and Plan Commission (the "Committee"); and

WHEREAS, this Committee reviews threshold applications per the criteria set forth in SMC 17G.020.026 and forwards a recommendation to the City Council as to which of the amendment proposals should be included in the City's 2022 Annual Comprehensive Plan Amendment Work Program (the "Work Program"); and

WHEREAS, the Committee met on February 1, 2022 at 12:00 p.m. and reviewed the following applications (the "Applications"):

- File Z21-280COMP (440 & 516 W Cora Ave)
- File Z21-281COMP (514 S Freya St)
- File Z21-282COMP (2402 E 31<sup>st</sup> Ave)
- File Z21-283COMP (2621 & 2623 E 27<sup>th</sup> Ave)
- File Z21-284COMP (801 W Francis Ave); and

WHEREAS, the Committee forwarded its Findings, Conclusions, and Recommendation, attached to this resolution as Exhibit A, to the City Council for their consideration, recommending the inclusion of all the Applications in the Annual Comprehensive Plan Amendment Work Program as well as various parcels for expansion of each; and

WHEREAS, the City has complied with RCW 36.70A.370 by completing the threshold review of the Applications; and

WHEREAS, except as may be indicated below, the City Council adopts the Ad Hoc Committee's Findings, Conclusions, and Recommendation regarding the Applications and incorporates said findings into this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE SPOKANE CITY COUNCIL, that the following Applications shall be included in the 2022 Annual Comprehensive Plan Amendment Work Program:

1. File Z21-280COMP (440 & 516 W Cora Ave), including the following parcels:
  - a. 3426 N Post St (Parcel 35063.2005)
  - b. 139 W Gray Ct (Parcel 35064.3801);
2. File Z21-281COMP (514 S Freya St), including the following parcels:
  - a. 3428 E 5th Ave (Parcel 35222.4701);
  - b. 3502 E 5th Ave (Parcel 35222.4817);
  - c. 3512 E 5th Ave (Parcel 35222.4816);
  - d. 510 S Ferrall St (Parcel 35222.4702);
  - e. 514 S Ferrall St (Parcel 35222.4703);
  - f. 515 S Ferrall St (Parcel 35222.4815);
  - g. 519 S Ferrall St (Parcel 35222.4814);
  - h. 520 S Ferrall St (Parcel 35222.4704);
3. File Z21-282COMP (2402 E 31st Ave), including the following parcel:
  - a. 2502 E 31st Ave (Parcel 35331.0014);
4. File Z21-283COMP (2621 & 2623 E 27th Ave), including the following parcels:
  - a. 2533 E 27th Ave (Parcel 35284.0307)
  - b. 2537 E 27th Ave (Parcel 35284.0308)
  - c. 2603 E 27th Ave (Parcel 35284.0309)
  - d. 2609 E 27th Ave (Parcel 35284.0310);
5. File Z21-284COMP (801 W Francis Ave), including the following parcels:

- a. 6211 N Wall St (Parcel 36312.0503)
- b. 6216 N Lincoln St (Parcel 36312.0703)
- c. 6228 N Monroe St (Parcel 36312.0822);

6. File Z22-XXXCOMP—Map TR-5 Amendments;

7. File Z22-XXXCOMP—Map TR-12 Amendments and Chapter 4,  
Transportation Chapter Text Amendments; and

BE IT ALSO RESOLVED that the motion adopted by the Plan Commission asking for a review of policies LU 1.3 and LU 1.4 be separated from the annual Comprehensive Plan Amendment work program and be considered separately. The City Council will establish the scope of this proposal and its associated public notice and participation process by a subsequent resolution with assistance from Planning Department staff.

ADOPTED by the Spokane City Council this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_.

---

City Clerk

Approved as to form:

---

Assistant City Attorney

**Spokane City Council Docketing Committee – February 1, 2022**

**FINDINGS, CONCLUSIONS, and RECOMMENDATION**

**Comprehensive Plan Amendment Application File Nos. Z21-280COMP,  
Z21-281COMP, Z21-282COMP, Z21-283COMP, and Z21-284COMP.**

**FINDINGS:**

- A. The Washington State Legislature passed the Growth Management Act ("GMA") in 1990, requiring among other things, the development of a Comprehensive Plan (RCW 36.70A).
- B. The City of Spokane adopted a Comprehensive Plan in May of 2001, and substantially amended it in 2017, in compliance with the requirements of the GMA, and has provided for periodic updates and annual amendments, as allowed under GMA.
- C. Under GMA, comprehensive plans generally may be amended no more frequently than once per year. All amendment proposals must be considered concurrently to be evaluated for their cumulative effect. Also, the amendment period should be timed to coordinate with budget deliberations.
- D. SMC 17G.020 provides the process by which applications to amend the Comprehensive Plan should be processed, wherein SMC 17G.020.025 establishes a threshold review process to be undertaken by an ad hoc City Council committee known as the "docketing committee."
- E. Notice of the ad hoc committee meeting was provided via email to all neighborhood council leadership in the City on January 28, 2022.
- F. The docketing committee reviews comprehensive plan amendment applications from the public at the threshold review stage for compliance with six specific criteria, codified in SMC 17G.020.026.
- G. The docketing committee met on February 1, 2022 at 12:00 pm in an online meeting via the WebEx software, and reviewed applications Z21-280COMP, Z21-281COMP, Z21-282COMP, Z21-283COMP, and Z21-284COMP (the "Applications").
- H. Staff provided an overview of the decision criteria for threshold review of a Comprehensive Plan amendment application as prescribed by SMC 17G.020.026, Threshold Review Decision Criteria.
- I. Written public comments received as of January 31, 2022 were forwarded to the committee.

### **CONCLUSIONS:**

Based upon the application materials, staff, and public comments received, the docketing committee concludes that all proposed amendments to the Comprehensive Plan satisfy the threshold review criteria, as detailed in SMC 17G.020.026, and recommend to the City Council that the proposals should be included in the Annual Comprehensive Plan Amendment Work Program for 2022, subject to the following.

1. The docketing committee finds, regarding applications Z21-280COMP (W Cora Ave), Z21-281COMP (S Freya St), Z21-282COMP (E 31<sup>st</sup> Ave), Z21-283COMP (E 27<sup>th</sup> Ave), and Z21-284COMP (W Francis Ave):
  - a) The proposed amendments present matters appropriately addressed through the comprehensive plan.
  - b) The proposed amendments do not raise policy or land use issues that are more appropriately addressed by an ongoing work program approved by the City Council or by a neighborhood or subarea planning process.
  - c) The proposed amendments can be reasonably reviewed within the resources and time frame of the Annual Comprehensive Plan Amendment Work Program.
  - d) When expansion of the geographic scope of an amendment proposal is being considered, shared characteristics with nearby, similarly situated property have been identified and the expansion is the minimum necessary to include properties with those shared characteristics.
  - e) The proposed amendments are generally consistent with current general policies in the comprehensive plan for site-specific amendment proposals. The proposed amendments are also consistent with policy implementation in the Countywide Planning Policies, the GMA, or other state or federal law, and the Washington Administrative Code.
  - f) The proposed amendments are not the same as or substantially similar to a proposal that was considered in the previous year's threshold review process but was not included in the Annual Comprehensive Plan Amendment Work Program.
  - g) State law does not require, nor has a decision of a court or administrative agency directed, such changes.

### **RECOMMENDATION:**

Based on the foregoing findings and conclusions, the docketing committee voted to recommend the following:

- Application **File Z21-280COMP (W Cora Ave)** is recommended to be included in the work program, with the inclusion of the similarly situated east 30 feet of adjacent parcel 35063.2005, and requesting that staff provide details for the consideration of City Council on the portion of adjacent parcel 35064.3801 currently designated for Residential 4-10 uses on the Land Use Plan Map.
- Application **File Z21-281COMP (S Freya St)** is recommended to be included in the work program, with the inclusion of nearby similarly situated parcels 35222.4701 through 35222.4704 and parcels 35222.4814 through 35222.4817.
- Application **File Z21-282COMP (E 31<sup>st</sup> Ave)** is recommended to be included in the work program, with the inclusion of nearby similarly situated parcel 35331.0014, provided the property owner (Spokane Transit Authority) assents.
- Application **File Z21-283COMP (E 27<sup>th</sup> Ave)** is recommended to be included in the work program, with the inclusion of nearby similarly situated parcels 35284.0307 through 35284.0310.
- Application **File Z21-284COMP (E Francis Ave)** is recommended to be included in the work program, with the inclusion of nearby similarly situated parcels 36312.0503, 36312.0703, and 36312.0822.




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Councilmember Lori Kinnear, Chair

02/09/2022

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Date

## CITY COUNCIL INFO PACKET

**2021-2022 Proposed Comprehensive Plan Amendments**

Under Revised Code of Washington (RCW) 36.70A.130, the City may generally amend the comprehensive plan once a year. During the application acceptance period in September and October of 2021, the City received five private applications to amend the Land Use Plan Map. Furthermore, there are three city-sponsored applications proposed for consideration. Each of the applications are listed in the following table, along with the pages in this packet where more information can be found for each.

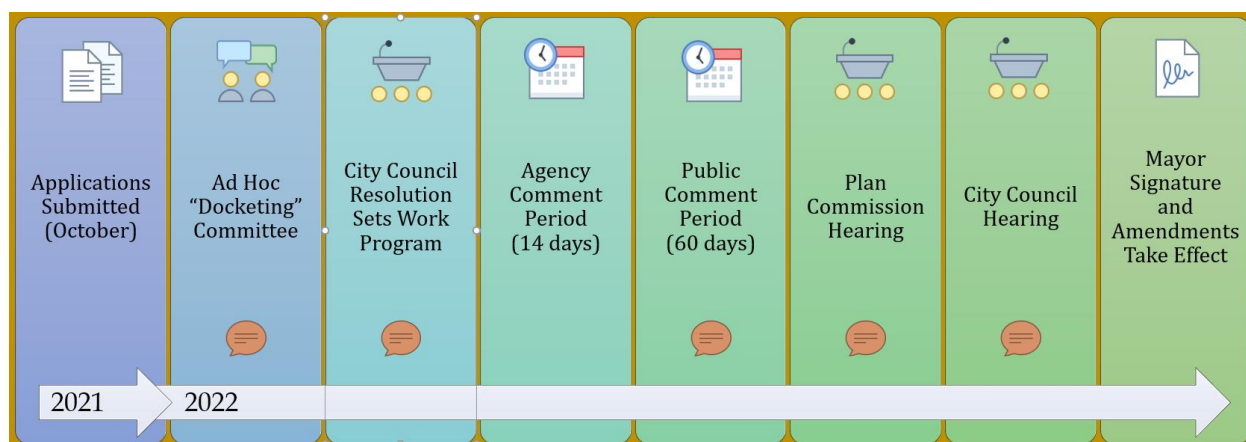
**Comprehensive Plan Amendment Applications under Consideration in 2021-2022**

<b>Application #</b>	<b>General Address</b>	<b>Neighborhood Council</b>	<b>Proposed Change to the Land Use Plan Map LU-1</b>	<b>Page #</b>
Z21-280COMP	440 & 516 W. Cora Ave.	North Hill; adjacent to Emerson/Garfield	"Residential 4-10" to "Residential 15-30"	p. 3
Z21-281COMP	514 S. Freya St.	East Central	"Residential 10-20" to "General Commercial"	p. 6
Z21-282COMP	2402 E. 31 <sup>st</sup> Ave.	Lincoln Heights	"Residential 4-10" to "Residential 15- 30"	p. 9
Z21-283COMP	2621 & 2623 E. 27 <sup>th</sup> Ave.	Lincoln Heights	"Residential 10-20" to "Residential 15-30"	p. 12
Z21-284COMP	801 W. Francis Ave.	North Hill	"Residential 4-10" to "Office"	p. 15
TBD	Map TR-5 Proposed Bike Network Map	Citywide	Amendments to the Proposed Bike Network	p. 18
TBD	Map TR-12 Arterial Network Map	Citywide	Amendments to Proposed Arterial Designations	p. 19
TBD	Comprehensive Plan Land Use Policies	Citywide	Review of Policies LU 1.3 and LU 1.4	p. 20

The full applications for each of these proposals can be found here:

<https://my.spokanecity.org/projects/2021-2022-proposed-comprehensive-plan-amendments/>

The process for each year's consideration of amendments is laid out in the Municipal Code under [SMC 17G.020](#). For your reference, the following graphic provides a rough outline of the process, which generally takes 12-14 months to complete.



### Threshold Criteria

SMC 17G.020.026 states that any application to be included in the annual work program should meet the following criteria:

- A. The proposed amendment presents a matter appropriately addressed through the comprehensive plan; and
- B. The proposed amendment does not raise policy or land use issues that are more appropriately addressed by an ongoing work program approved by the City Council or by a neighborhood or subarea planning process; and
- C. The proposed amendment can be reasonably reviewed within the resources and time frame of the Annual Comprehensive Plan Amendment Work Program; and
- D. When expansion of the geographic scope of an amendment proposal is being considered, shared characteristics with nearby, similarly situated property have been identified and the expansion is the minimum necessary to include properties with those shared characteristics; and
- E. The proposed amendment is consistent with current general policies in the comprehensive plan for site-specific amendment proposals. The proposed amendment must also be consistent with policy implementation in the Countywide Planning Policies, the GMA, or other state or federal law, and the Washington Administrative Code; and
- F. The proposed amendment is not the same as or substantially similar to a proposal that was considered in the previous year's threshold review process, but was not included in the Annual Comprehensive Plan Amendment Work Program, unless additional supporting information has been generated; or
- G. State law required, or a decision of a court or administrative agency has directed such a change.



## Application: Z21-280COMP

---

**Action:** Map amendment to the Land Use Plan Map in Chapter 3

**Applicant/Agent:** Mr. Liam Taylor of Storhaug Engineering

**Site Address(es):** 440 & 516 W. Cora Avenue

**Neighborhood:** North Hill (adjacent to Emerson/Garfield)

**Current Land Use:** Residential 4-10

**Proposed Land Use:** Residential 15-30

**Current Zoning:** RSF (Residential Single Family)

**Proposed Zoning:** RMF (Residential Multifamily)

**Notes:** This proposal seeks to increase the residential density of two parcels between the Monroe Corridor and Division Street. The applicant has stated their intent for the church on the property to remain.







# Application Z21-280COMP (W Cora Ave)

Concerning parcel(s) in the North Hill Neighborhood of Spokane

2022 Comprehensive Plan Amendment Proposals

Drawn: 11/22/2021

THIS IS NOT A LEGAL DOCUMENT

The information shown on this map is compiled from various sources and is subject to constant revision. Information shown on this map should not be used to determine the location of facilities in relationship to property lines, section lines, streets, etc.

## EXHIBIT A: Existing Land Use Plan Map



## EXHIBIT B: Proposed Land Use Plan Map



**Parcel(s):**  
35064.3612 & 35064.3613

**Approximate Area:**  
18.9 Acres



0 375 750  
Feet

## PROJECT LOCATION



Neighborhood and Planning Services  
Drawn By: Kevin Freibott

File: C:\Users\jfreibott\Documents\ArcGIS\Projects\2022 Comp Plan Amendments\2022 Comp Plan Amendments.aprx



# **Application Z21-280COMP (W Cora Ave)** Concerning parcel(s) in the North Hill Neighborhood of Spokane

2022 Comprehensive Plan Amendment Proposals

Drawn: 11/22/2021

THIS IS NOT A LEGAL DOCUMENT

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**EXHIBIT C: Existing Zoning Map**

- City\_Parcel
- Subject Parcels
- Proposed Zoning**
- General Commercial
- Residential Multifamily
- Residential Single-Family
- Residential Two-Family



**EXHIBIT D: Proposed Zoning Map**

**Parcel(s):**  
35064.3612 & 35064.3613

**Approximate Area:**  
18.9 Acres



0 375 750  
Feet

## **PROJECT LOCATION**



Neighborhood and Planning Services  
Drawn By: Kevin Freibott



Path: C:\Users\jfreibott\Documents\ArcGIS\Projects\2022 Comp Plan Amendments\2022 Comp Plan Amendments.aprx



## Application: Z21-281COMP

---

**Action:** Map amendment to the Land Use Plan Map in Chapter 3

**Applicant/Agent:** Mr. Liam Taylor of Storhaug Engineering

**Site Address(es):** 514 S. Freya Street

**Neighborhood:** East Central

**Current Land Use:** Residential 10-20

**Proposed Land Use:** General Commercial

**Current Zoning:** RTF (Residential Two-Family)

**Proposed Zoning:** CB-55 (Community Business)

**Notes:** This proposal seeks to modify the land use plan map designation of a single undeveloped parcel from residential to commercial uses.





# Application Z21-281COMP (S Freya St) Concerning parcel(s) in the East Central Neighborhood of Spokane

2022 Comprehensive Plan Amendment Proposals

Drawn: 11/22/2021

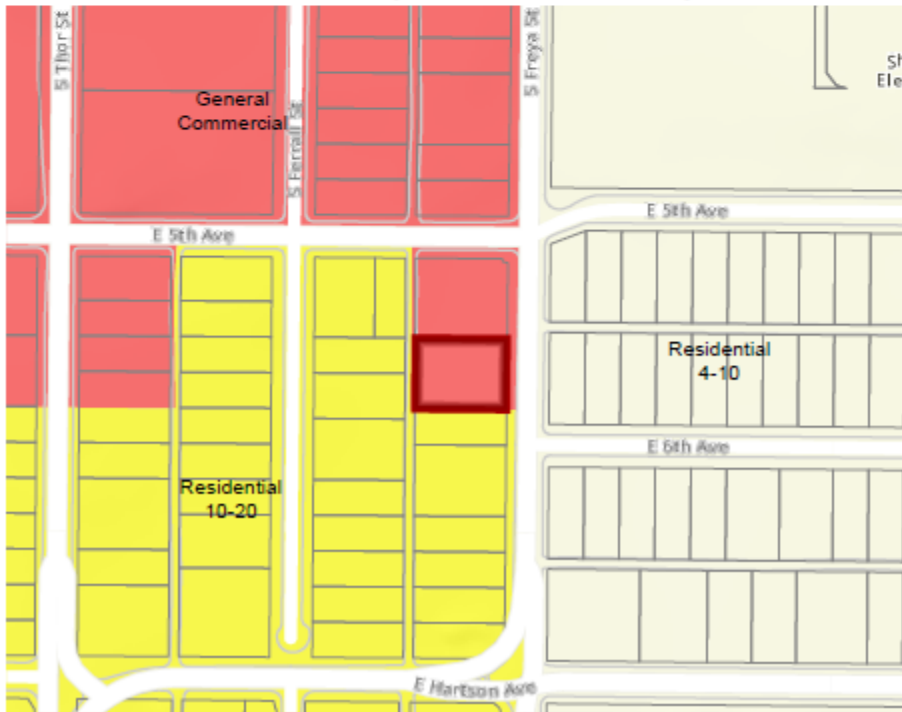
THIS IS NOT A LEGAL DOCUMENT

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## EXHIBIT A: Existing Land Use Plan Map

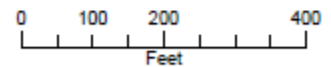


## EXHIBIT B: Proposed Land Use Plan Map



Parcel(s):  
35222.4802

Approximate Area:  
0.3 Acres



### PROJECT LOCATION



Neighborhood and Planning Services  
Drawn By: Kevin Freibott

Path: C:\Users\kfreibott\Documents\ArcGIS\Projects\2022 Comp Plan Amendments\2022 Comp Plan Amendments.aprx



**Application Z21-281COMP (S Freya St)**  
Concerning parcel(s) in the East Central Neighborhood of Spokane  
2022 Comprehensive Plan Amendment Proposals

Drawn: 11/22/2021  
**THIS IS NOT A LEGAL DOCUMENT**  
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**EXHIBIT C: Existing Zoning Map**

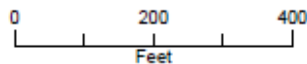
- Parcels
- Subject Parcels
- Proposed Zoning**
- Community Business
- Residential Single-Family
- Residential Two-Family



**EXHIBIT D: Proposed Zoning Map**

Parcel(s):  
35222.4802

Approximate Area:  
0.3 Acres



**PROJECT LOCATION**



Neighborhood and Planning Services  
Drawn By: Kevin Freibott

Path: C:\Users\kfreibott\Documents\ArcGIS\Projects\2022 Comp Plan Amendments\2022 Comp Plan Amendments.aprx





## Application: Z21-282COMP

---

**Action:** Map amendment to the Land Use Plan Map in Chapter 3

**Applicant/Agent:** Mr. Liam Taylor of Storhaug Engineering

**Site Address(es):** 2402 E. 31<sup>st</sup> Avenue

**Neighborhood:** Lincoln Heights

**Current Land Use:** Residential 4-10

**Proposed Land Use:** Residential 15-30

**Current Zoning:** RSF (Residential Single Family)

**Proposed Zoning:** RMF (Residential Multifamily)

**Notes:** This proposal seeks to increase the residential density of one parcel adjacent to the existing Lincoln Heights District Center.

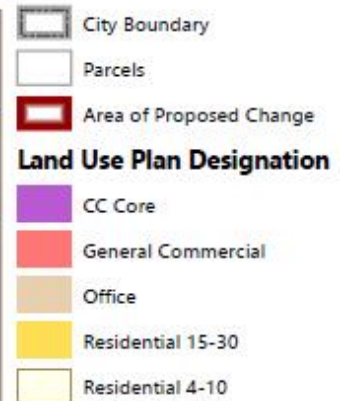




**Application Z21-282COMP (E 31st Ave)**  
Concerning parcel(s) in the Lincoln Heights Neighborhood of Spokane  
2022 Comprehensive Plan Amendment Proposals

Drawn: 11/22/2021  
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**EXHIBIT A: Existing Land Use Plan Map**

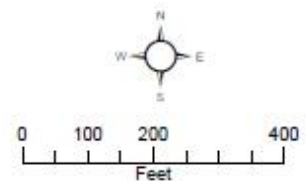


**EXHIBIT B: Proposed Land Use Plan Map**



**Parcel(s):**  
35331.0017

**Approximate Area:**  
3.8 acres



**PROJECT LOCATION**



Neighborhood and Planning Services  
Drawn By: Kevin Freibott

Path: C:\Users\jfreibott\Documents\ArcGIS\Projects\2022 Comp Plan Amendments\2022 Comp Plan Amendments.aprx





# Application Z21-282COMP (E 31st Ave)

Concerning parcel(s) in the Lincoln Heights Neighborhood of Spokane

2022 Comprehensive Plan Amendment Proposals

Drawn: 11/22/2021  
THIS IS NOT A LEGAL DOCUMENT  
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## EXHIBIT C: Existing Zoning Map

- Parcels
- Subject Parcels
- Proposed Zoning**
- Center and Corridor Type 1
- Center and Corridor Type 2
- Office
- Residential Multifamily
- Residential Single-Family



## EXHIBIT D: Proposed Zoning Map

Parcel(s):  
35331.0017

Approximate Area:  
3.8 Acres



0 200 400  
Feet

### PROJECT LOCATION



Neighborhood and Planning Services  
Drawn By: Kevin Freibott



Path: C:\Users\kfreibott\Documents\ArcGIS\Projects\2022 Comp Plan Amendments\2022 Comp Plan Amendments.aprx

## Application: 221-283COMP

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**Action:** Map amendment to the Land Use Plan Map in Chapter 3

**Applicant/Agent:** Mr. Liam Taylor of Storhaug Engineering

**Site Address(es):** 2621 & 2623 E. 27<sup>th</sup> Avenue

**Neighborhood:** Lincoln Heights

**Current Land Use:** Residential 10-20

**Proposed Land Use:** Residential 15-30

**Current Zoning:** RTF (Residential Two-Family)

**Proposed Zoning:** RMF (Residential Multifamily)

**Notes:** This proposal seeks to increase the residential density of one parcel in the vicinity of the existing Lincoln Heights District Center.



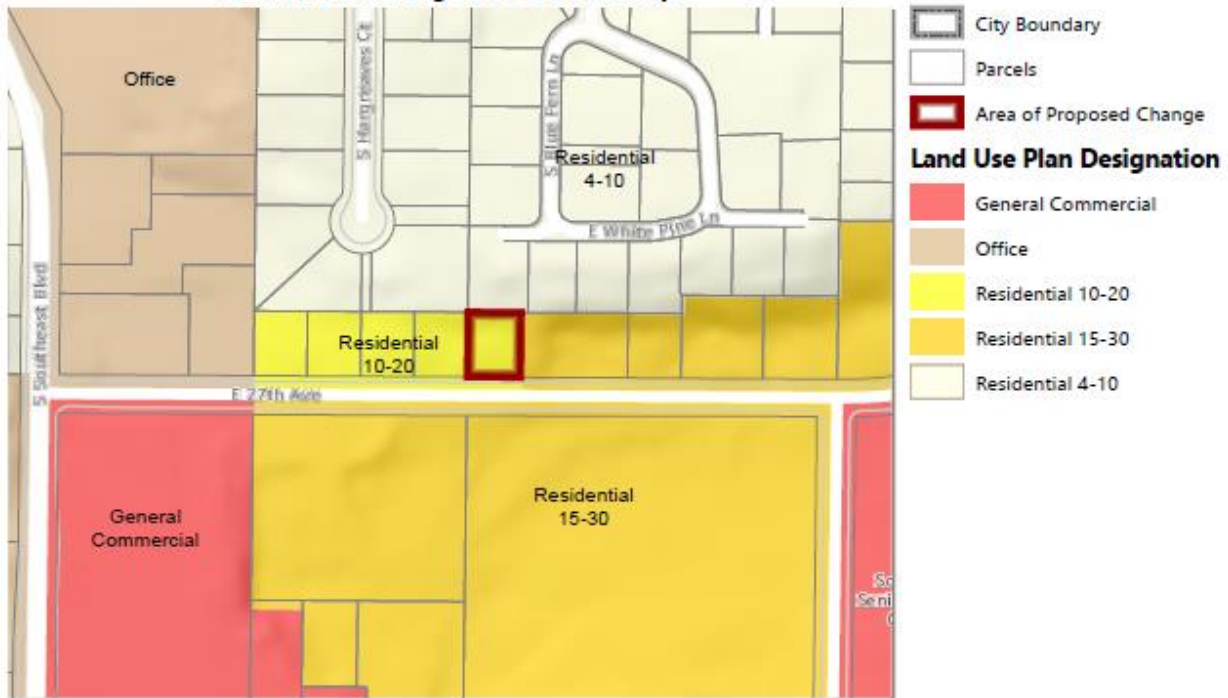




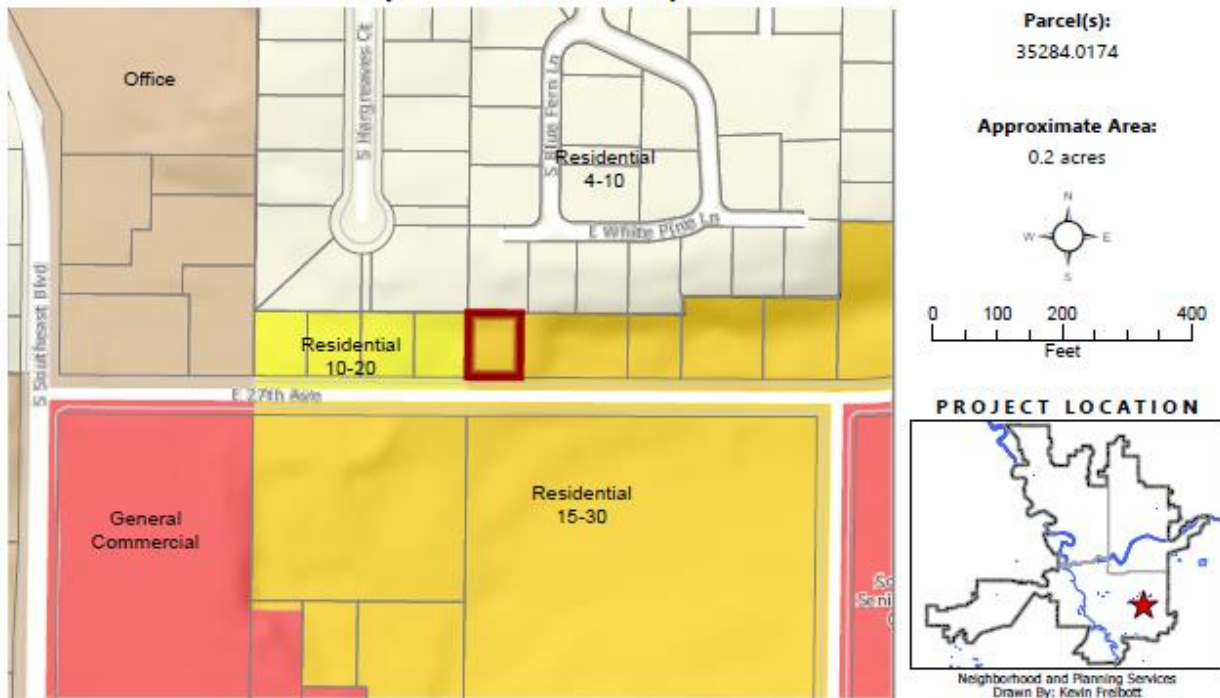
**Application Z21-283COMP (E 27th Ave)**  
Concerning parcel(s) in the Lincoln Heights Neighborhood of Spokane  
2022 Comprehensive Plan Amendment Proposals

Drawn: 11/22/2021  
**THIS IS NOT A LEGAL DOCUMENT**  
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**EXHIBIT A: Existing Land Use Plan Map**



**EXHIBIT B: Proposed Land Use Plan Map**



Path: C:\Users\kfreibott\Documents\ArcGIS\Projects\2022 Comp Plan Amendments\2022 Comp Plan Amendments.aprx

# Application Z21-283COMP (E 27th Ave)

Concerning parcel(s) in the Lincoln Heights Neighborhood of Spokane

2022 Comprehensive Plan Amendment Proposals

Drawn: 11/22/2021

THIS IS NOT A LEGAL DOCUMENT

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EXHIBIT C: Existing Zoning Map

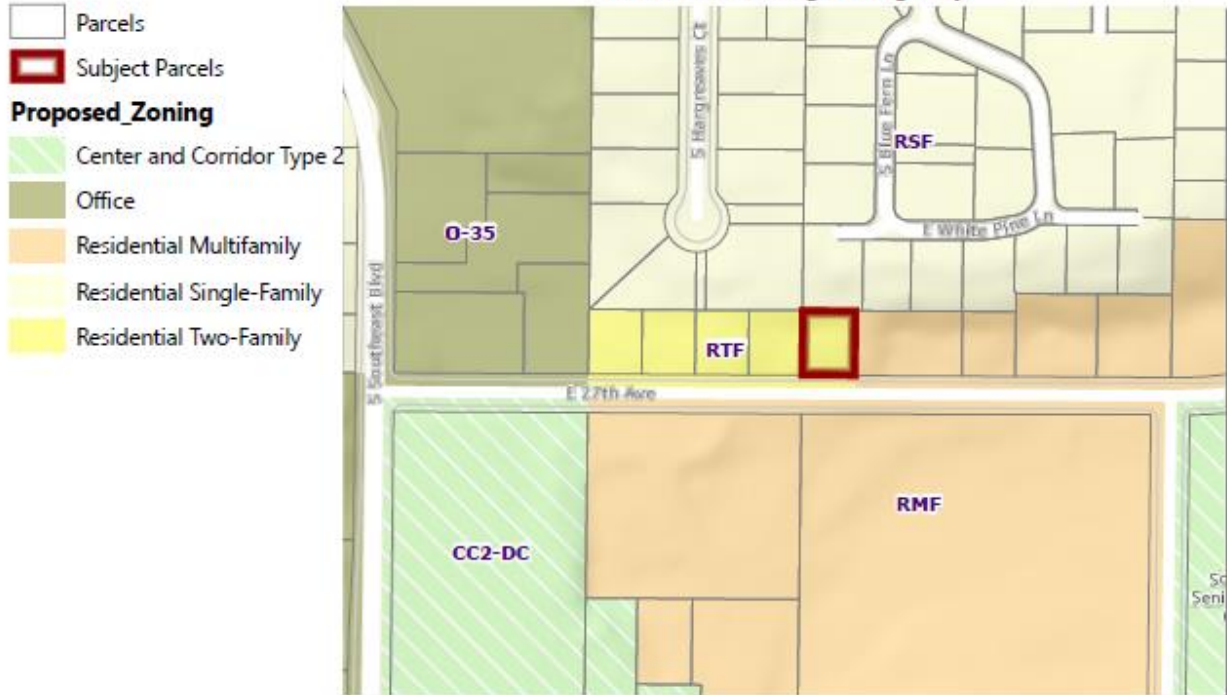
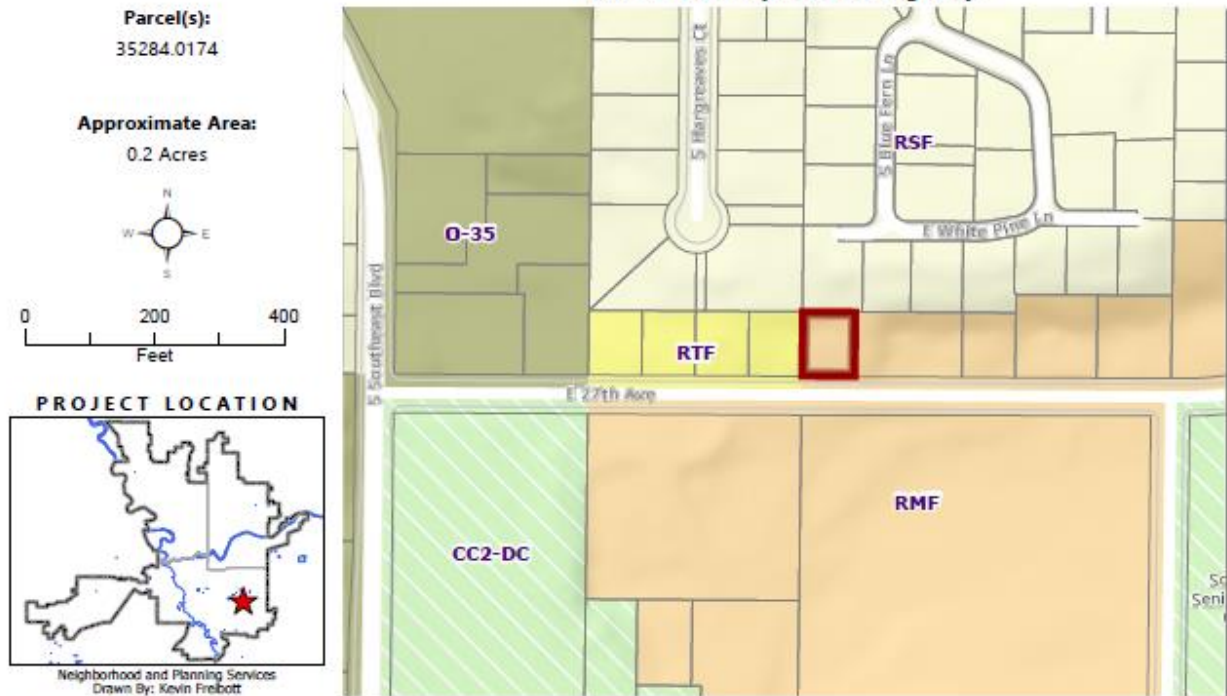


EXHIBIT D: Proposed Zoning Map



Path: C:\Users\jfreibott\Documents\ArcGIS\Projects\2022 Comp Plan Amendments\2022 Comp Plan Amendments.aprx

## Application: Z21-284COMP

---

**Action:** Map amendment to the Land Use Plan Map in Chapter 3

**Applicant/Agent:** Mr. Dwight Hume of Land Use Solutions & Entitlement

**Site Address(es):** 801 W. Francis Avenue

**Neighborhood:** North Hill

**Current Land Use:** Residential 4-10

**Proposed Land Use:** Residential 15-30

**Current Zoning:** RSF (Residential Single Family)

**Proposed Zoning:** OR-35 (Office Retail)

**Notes:** This proposal would alter the land use and zoning designation of one parcel adjacent to an existing commercial area on West Francis Avenue. Note that the houses shown in the aerial below have been removed by permit and construction on a new commercial use is underway. Additionally, the boundary shown below originally contained three parcels, but the applicant was granted a boundary line adjustment last year combining the three parcels. That action was separate and independent from the proposed Comprehensive Plan Amendment.







# Application Z21-284COMP (W Francis Ave)

Concerning parcel(s) in the North Hill Neighborhood of Spokane

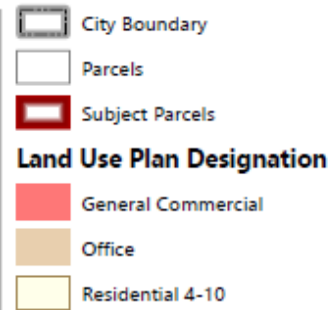
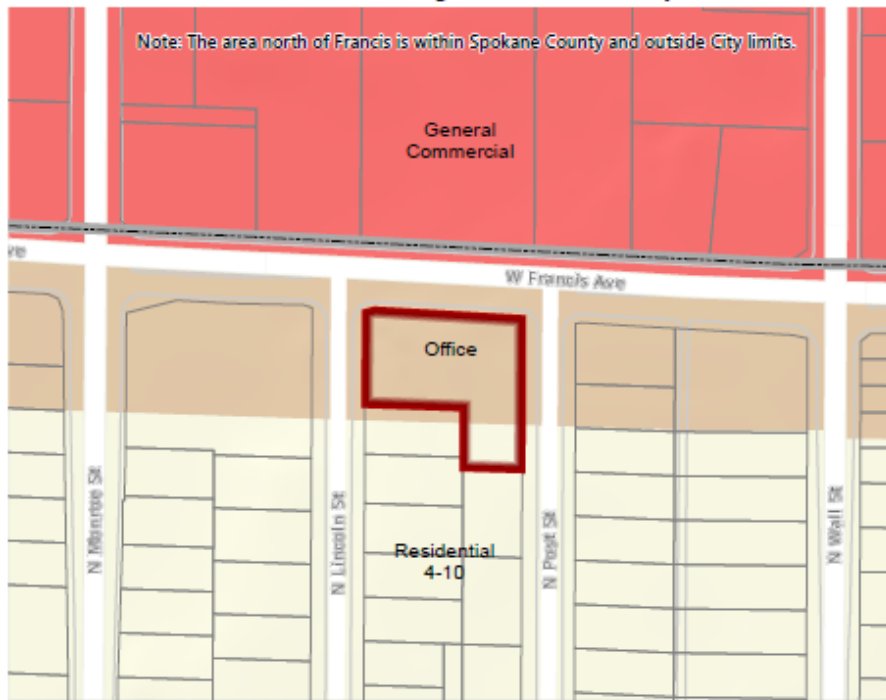
2022 Comprehensive Plan Amendment Proposals

Drawn: 1/28/2022

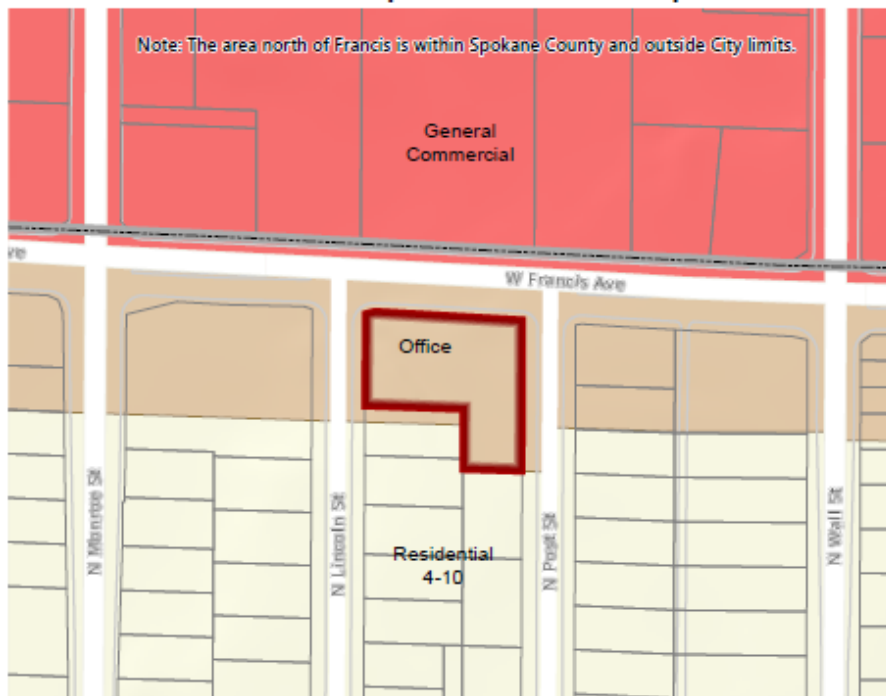
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## EXHIBIT A: Existing Land Use Plan Map



## EXHIBIT B: Proposed Land Use Plan Map



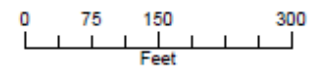
Parcel(s):

36312.0216

Approximate Area:

Affected Parcel - 0.5 acres

Area of Change - 0.08 acres



### PROJECT LOCATION



Neighborhood and Planning Services  
Drawn By: Kevin Freibott

Path: C:\Users\kfreibott\Documents\ArcGIS\Projects\2022 Comp Plan Amendments\2022 Comp Plan Amendments.aprx



# Application Z21-284COMP (W Francis Ave)

Concerning parcel(s) in the North Hill Neighborhood of Spokane

2022 Comprehensive Plan Amendment Proposals

Drawn: 1/21/2022

THIS IS NOT A LEGAL DOCUMENT

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## EXHIBIT C: Existing Zoning Map

- Parcels
- Subject Parcels
- Proposed\_Zoning**
- Office
- Office Retail
- Residential Single-Family



## EXHIBIT D: Proposed Zoning Map

Parcel(s):

36312.0216

**Approximate Area:**

Affected Parcel - 0.5 acres

Area of Change - 0.08 acres



0 150 300  
Feet

### PROJECT LOCATION



Neighborhood and Planning Services  
Drawn By: Kevin Freibott

Path: C:\Users\kfreibott\Documents\ArcGIS\Projects\2022 Comp Plan Amendments\2022 Comp Plan Amendments.aprx



## Application: TBD

---

**Action:** Map amendment to the Proposed Bike Network Map TR-4 in Chapter 4

**Applicant/Agent:** CITY-SPONSORED—Planning Services and Integrated Capital Management

**Site Address(es):** n/a

**Neighborhood:** Various

**Notes:** The following changes to the Bike Network Map are draft in nature and may change during the next months, as the proposal is refined and finalized.

	Street	From	To	Description
1	Pacific Avenue	Sherman St.	Sprague Way	Designate as planned Neighborhood Greenway
2	Frederick Ave	Market St.	Upriver Dr.	Change from planned Moderate Traffic Bike Lane to planned Shared Use Path
3	Washington St	Spokane Falls Blvd.	3rd Ave.	Change from Moderate Traffic Shared to planned Moderate Traffic Bike Lane
4	Fiske St.	27th Ave.	35th Ave.	Change from Bike Friendly Route to planned Neighborhood Greenway
5	Fish Lake Trail Connection	Milton St.	Clark Ave.	Adjust alignment to be consistent with Fish Lake Trail Connection Study alignment recommendation
6	Mallon Ave	Lincoln St.	Post St.	Change from Bike Friendly Route to planned Moderate Traffic Bike Lane
7	Broadway Ave	Ash St.	Lincoln St.	Change from Moderate Traffic Shared to planned Moderate Traffic Bike Lane; remove bike lane designation on Broadway Ave. west of Lincoln and from Post St. between Broadway and Mallon Ave.



## Application: TBD

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<b>Action:</b>	Map amendment to the Arterial Network Map TR-12 in Chapter 4
<b>Applicant/Agent:</b>	CITY-SPONSORED—Planning Services and Integrated Capital Management
<b>Site Address(es):</b>	n/a
<b>Neighborhood:</b>	Various
<b>Notes:</b>	Future arterial designation amendments in various locations citywide

## Application: TBD

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**Action:** Review of Comprehensive Policy Land Use Policies  
**Applicant/Agent:** CITY-SPONSORED—Spokane Plan Commission  
**Site Address(es):** n/a  
**Neighborhood:** Various  
**Notes:** Review of policies LU 1.3 and LU 1.4

# Land Use Solutions & Entitlement

Land Use Planning Services  
9101 N. MT. VIEW LANE Spokane, WA 99218  
509-435-3108 (V)

(Sent via email this date)

1-28-22

Docketing Committee C/O  
Kara Mowery Frashefski  
Planning & Economic Development Services  
808 W Spokane Falls Blvd  
Spokane WA 99201

Ref: 801 W Francis LLC (R6-10 to Office)

Dear Docketing Committee:

While this seems to be yet another request to extend the Office district further south of Francis, it is not the case. I have attached a map illustrating the existing Office designation and you will readily see that this is no deeper than the adjoining designations for Office as seen for the Wells Fargo Bank located at Francis and Monroe. Moreover, it resolves a zone split caused by the original fixed dimensional designation depth along Francis that has no regard for the platted lot patterns which, in this case created a zone split between office and residential.

To conclude, this request will enable the complete use of the site now under construction for Office Retail use and will enable better placement of onsite storm drainage and parking lot improvements. I trust the Committee will concur that the complete site should be uniformly zoned for the primary use.

Respectfully Submitted

*Dwight J Hume*

Land Use Solutions and Entitlement

Attached: Map illustrating Office Designation



**Agenda Sheet for City Council Meeting of:**  
03/21/2022

<b><u>Date Rec'd</u></b>	3/9/2022
<b><u>Clerk's File #</u></b>	RES 2022-0029
<b><u>Renews #</u></b>	
<b><u>Cross Ref #</u></b>	OPR 2022-0202
<b><u>Project #</u></b>	
<b><u>Bid #</u></b>	SOLE SOURCE
<b><u>Requisition #</u></b>	CR23460

<b><u>Submitting Dept</u></b>	FIRE
<b><u>Contact Name/Phone</u></b>	MIKE LOPEZ X7092
<b><u>Contact E-Mail</u></b>	MLOPEZ@SPOKANECITY.ORG
<b><u>Agenda Item Type</u></b>	Resolutions
<b><u>Agenda Item Name</u></b>	1970 - STARS SOLE SOURCE RESOLUTION & CONTRACT

**Agenda Wording**

Declare Spokane Treatment and Recovery Services (STARS) as a Sole Source Vendor and approve contract to provide emergency service van patrol. Resolution and contract will be for a five year term. Contract estimated to not exceed \$584,735.40.

**Summary (Background)**

Spokane Treatment and Recovery Services (STARS) will be providing transport services to transport publicly intoxicated individuals, with response time criteria, training standards, and future goals for continued integration into the emergency response system ,and they are the only local company able and willing to provide this service.

Lease? NO	Grant related? NO	Public Works? NO
<b><u>Fiscal Impact</u></b>	<b><u>Budget Account</u></b>	
Expense \$ 107,958.00 (2022)	# 0020-88100-66000-54201-99999	
Revenue \$ 1.00	# 0020-88100-99999-36200-99999	
Select \$	#	
Select \$	#	

<b><u>Approvals</u></b>		<b><u>Council Notifications</u></b>	
<b><u>Dept Head</u></b>	SCHAEFFER, BRIAN	<b><u>Study Session\Other</u></b>	PSHC 03/07/2022
<b><u>Division Director</u></b>	SCHAEFFER, BRIAN	<b><u>Council Sponsor</u></b>	CM's Kinnear & Cathcart
<b><u>Finance</u></b>	SCHMITT, KEVIN	<b><u>Distribution List</u></b>	
<b><u>Legal</u></b>	PICCOLO, MIKE	fireaccounting@spokanecity.org	
<b><u>For the Mayor</u></b>	ORMSBY, MICHAEL	mlopez@spokanecity.org	
<b><u>Additional Approvals</u></b>		bredding@spokanerecovery.org	
<b><u>Purchasing</u></b>	PRINCE, THEA		

## Committee Agenda Sheet

### Public Safety & Community Health

<b>Submitting Department</b>	Spokane Fire Department
<b>Contact Name &amp; Phone</b>	Michael Lopez
<b>Contact Email</b>	<a href="mailto:mlopez@spokanecity.org">mlopez@spokanecity.org</a>
<b>Council Sponsor(s)</b>	
<b>Select Agenda Item Type</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion      Time Requested:
<b>Agenda Item Name</b>	Renewal of Contract with Spokane Treatment and Recovery Services (STARS)
<b>Summary (Background)</b>	<p>The City of Spokane has had an ongoing service contract agreement with Spokane Treatment and Recovery Services or STARS (previously known as Spokane Detox). The current, five-year contract expires at the end of February. The Spokane Fire Department wishes to renew this five-year contract with STARS with a 2022 maximum annual amount of \$107,958. Increases to the annual amount will be allowable as to adjust for CPI.</p> <p>The partnership between the Fire, Police and STARS provides transportation of public inebriates from locations largely centered in the downtown area to sobering and detoxification facilities operated by STARS. The Fire Department provides a van that is operated by a driver who is an employee of STARS. The van has regularly scheduled hours during each day of the week that coincide with times of the day that historically coincide with higher concentrations of inebriated individuals. The van makes regularly scheduled sweeps through downtown Spokane and identifies individuals who are intoxicated and transports them to the STARS facility located at 105 W. 3<sup>rd</sup> Ave. Additionally, when Spokane Fire Department or Spokane Police Department personnel encounter an inebriated individual, they request the van to respond after having evaluated the individual to rule out any medical conditions that require transport to the hospital.</p> <p>The STARS facility is designed to provide support services to people with Alcohol Use Disorder who are experiencing withdrawal symptoms. STARS maintains a staff of Substance Use Disorder Treatment professionals who engage with the individual after arriving at the STARS facility.</p> <p>In 2021, this program resulted in 458 van responses, transporting intoxicated people to a facility where they could safely detoxify and, in a number of cases, start treatment for the addiction. And, by removing the individual from a public place, improved the overall experience in downtown Spokane. The STARS Van has also provided transportation support for the Spokane Fire Department's Behavioral Response Unit when an individual needed transportation to an appropriate behavioral health treatment setting.</p>

<b>Proposed Council Action &amp; Date:</b>	Approve
<b>Fiscal Impact:</b> Total Cost: <u>Not to exceed \$107,958 per year</u> Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A  Funding Source <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring Specify funding source: General fund  Expense Occurrence <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring  Other budget impacts: (revenue generating, match requirements, etc.)	
<b>Operations Impacts</b>	
What impacts would the proposal have on historically excluded communities?  <p>In many communities, people suffering from Substance Use Disorder and congregate in public areas have little to no access to sobering, treatment, and support services. This program is a relatively unique partnership between a treatment organization and the Fire Departments. In many communities, chronic inebriates are largely left unsupported and untreated while remaining in public areas. This program not only identifies the chronic inebriate, it also provides transportation out of the downtown corridor and to appropriate detoxification and treatment facilities.</p> <p>STARS also has a contractual relationship with Providence that includes a STARS substance use treatment professional at the Emergency Department who facilitates moving the individual from the Emergency Department setting to the STARS facility for treatment. Together, these two programs improve access to Substance Use Disorder treatment.</p>	
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?  <p>The Spokane Fire Department and STARS collaborate on data collection and analysis. STARS is one of only a few fully integrated treatment organizations in the State of Washington. One of the main tenets of Washington State's effort to transform the health care system is promoting and measuring the impact of fully integrated treatment of individuals experiencing Substance Use Disorder. Most, if</p>	

not all the clients served by the program are unhoused, below the poverty level for income and most suffer from co-occurring substance use disorder and behavioral issues.

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

The Fire Department tracks the number of requests for the STARS Van and reviews charts to assure that the correct use of the van occurs. The Fire Department then collaborates with STARS to measure the program's efficacy. Some metrics include number of people who enter substance use treatment, success of the treatment, re-direct of individuals to the emergency department. The Fire Department's Integrated Medical Services Manager is a member of the STARS Board of Directors which allows us to stay abreast of program performance.

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 problem of chronic inebriates in the downtown corridor is a major concern for City Leaders and Business Owners. Inebriated individuals lying on sidewalks, inside doorways to restaurants and congregating in locations in and around hotels, restaurants, parks, and other places of public gatherings represent a barrier to a quality downtown environment. The regular sweeps of the downtown area by the STARS Van in addition to the van responding to requests received from Fire and Law Enforcement addresses these barriers. We believe that this program has proven its contribution to managing chronic, public inebriates from the downtown corridor and represents an innovative approach to providing compassionate care to these individuals.



SOLE SOURCE RESOLUTION NO. 2022-0029

A Sole Source Resolution declaring SPOKANE TREATMENT AND RECOVERY SERVICES (STARS) as a sole source provider for transportation of intoxicated individuals in the downtown corridor to the STARS sobering facility and authorizing the City to enter into a five (5) year contract for an annual not to exceed cost of \$109,000, with an annual CPI increase between one percent and four percent, not including taxes, if applicable.

WHEREAS, the program allows Spokane Fire Department (SFD) and the Spokane Police Department (SPD) personnel to request the STARS transport van when First Response Personnel encounter an intoxicated individual in the downtown corridor. STARS then responds in a van and transports the individual to the STARS detoxification and sobering units that STARS operates at their facility at 105 W Third Avenue, Spokane, WA; and

WHEREAS, when not engaged and with SFD and/or SPD requests, the STARS driver makes regular sweeps through the downtown corridor in search of intoxicated individuals who can then also be transported to the STARS facility for sobering and possible treatment; and

WHEREAS, STARS is a licensed alcohol and chemical dependency recovery facility; and

WHEREAS, this is a unique program in that it is the only recovery program in the area that combines transportation and recovery services together; and

WHEREAS, ultimately, this program reduces the number of chronic inebriates in the downtown corridor, improving the overall downtown environment. No other chemical dependency organization operates with this model in the community.

WHEREAS, the 2022 public bid limit for these services is \$50,000.00;

-- Now, Therefore,

BE IT RESOLVED by the City Council for the City of Spokane that it hereby declares SPOKANE TREATMENT AND RECOVERY SERVICES (STARS) as a sole source provider for the transporting of intoxicated individuals in the downtown corridor to the STARS sobering facility and authorizes without further council action the City Fire

Department to enter into a five (5) year Personal Services contract at an annual not to exceed cost of \$109,000, not including taxes if applicable.

ADOPTED BY THE CITY COUNCIL ON \_\_\_\_\_

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

Approved as to form:

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



**City of Spokane Fire Department**

Title: **EMERGENCY SERVICE VAN PATROL**

This Agreement is made and entered into by and between the **CITY OF SPOKANE FIRE DEPARTMENT** as ("City"), a Washington municipal corporation, and **SPOKANE TREATMENT AND RECOVERY SERVICES**, whose address is 105 West Third Avenue, Spokane, Washington 99201 as ("STARS") , individually hereafter referenced as a "party", and together as the "parties".

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

The parties agree as follows:

**1. PERFORMANCE.** STARS shall provide EMERGENCY SERVICE VAN PATROL TO TRANSPORT PUBLICLY INTOXICATED INDIVIDUAL(S), to include the following:

A. City. The City leases to STARS Services a van suitable for transport of intoxicated individuals. Front-line vehicles utilized by STARS in performance of the Agreement shall not be older than five (5) years, from date of manufacture or have more than one hundred seventy five thousand (175,000) miles, whichever comes first. City will provide preventative maintenance at City's schedule.

B. STARS Services.

- 1) STARS shall be responsible for staffing, fuel, and insurance of the van.
- 2) The van shall be available for response on the following days except for Thanksgiving and Christmas:

Sunday:	11 hours
Monday:	16 hours
Tuesday:	16 hours
Wednesday:	16 hours
Thursday:	16 hours
Friday:	19 hours
Saturday:	11 hours

A sobering slot will be made available for Fire Department use during the extended

hours of Friday, Saturday and Sunday.

- 3) The van will be available for first response in the downtown core seventy-five percent (75%) of the time.
- 4) The van will respond within two (2) minutes of notification to a Spokane City Fire/Police call if not committed to another dispatched incident.
- 5) The van will make sweeps through the downtown core (freeway to the river, Walnut Street to Division Street):
  - i) Five (5) sweeps during the nineteen (19) hour shift
  - ii) Four (4) sweeps during the sixteen (16) hour shifts
  - iii) Three (3) sweeps during the eleven (11) hour shifts.
- 6) STARS shall respond to administrative requests for information or documents for the City within three (3) business days.

2. **AGREEMENT TERM.** The Agreement shall be for five (5) years beginning March 1, 2022 and run through February 28, 2027, unless terminated earlier.

3. **COMPENSATION.**

- A. The City shall pay STARS **EIGHT THOUSAND NINE HUNDRED NINETY-SIX AND 50/100 DOLLARS (\$8,996.50)** per month for a maximum of **ONE HUNDRED SEVEN THOUSAND NINE HUNDRED FIFTY-EIGHT AND NO/100 DOLLARS (\$107,958.00)** annually, as full compensation for everything furnished and done under this Agreement. After successful completion of the initial year of this Agreement, \$8,996.50 annual Compensation amount shall be increased by an amalgamated amount of the combined Consumer Price Indices (CPI) - CPI-U and CPI-W. For the last number of years this amount has consistently been calculated at between one **percent (1%) and four percent (4%) increases.**
- B. STARS shall pay the City **ONE AND NO/100 DOLLAR (\$1.00)** for lease of the van during the Agreement term.

4. **PAYMENT.** STARS shall send its application for payment to the Spokane Fire Station No.1, Accounting Division, 44 West Riverside Avenue, Spokane, Washington 99201. Payment will be made within thirty (30) days after receipt of STARS' application. Payment will be made via direct deposit/ACH within thirty (30) days after receipt of STARS' application except as provided by state law. If the City objects to all or any portion of the invoice, it shall notify STARS and reserves the right to only pay that portion of the invoice not in dispute. In that event, the parties shall immediately make every effort to settle the disputed amount.

5. **TAXES, FEES AND LICENSES.**

- A. 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 STARS' sole responsibility to monitor and determine changes or the enactment of any subsequent requirements for said fees, assessments, or changes and to immediately comply.
- B. The cost of any permits, licenses, fees, etc. arising as a result of the projects included in this Agreement shall be included in the project budgets.

**6. 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. STARS shall be responsible for contacting the State of Washington Business License Services at [www.dor.wa.gov](http://www.dor.wa.gov) or 360-705-6741 to obtain a business registration. If STARS 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.

**7. 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. STARS 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.

**8. INDEMNIFICATION.**

STARS 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 STARS' 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 STARS' 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 STARS, its agents or employees. STARS specifically assumes liability and agrees to defend, indemnify, and hold the City harmless for actions brought by STARS' own employees against the City and, solely for the purpose of this indemnification and defense, STARS specifically waives any immunity under the Washington State industrial insurance law, or Title 51 RCW. STARS 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.

**9. INSURANCE.**

During the period of the Agreement, STARS 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 STARS' 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 sixty (60) days written notice from STARS or its insurer(s) to the City. As evidence of the insurance coverage(s) required by this Agreement, STARS 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. STARS shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

#### **9. DEBARMENT AND SUSPENSION.**

STARS 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.**

STARS 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. STARS 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.**

STARS 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 STARS shall incorporate by reference this Agreement, except as otherwise provided. STARS 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 STARS 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 STARS 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 Company 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 STARS shall be safeguarded by STARS. STARS shall make such data, documents and files available to the City upon the City's request. If the City's use of STARS' records or data is not related to this project, it shall be without liability or legal exposure to STARS.

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. STARS, 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, STARS 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 STARS after the time the same shall have become due nor payment to STARS 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 STARS. 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.

**SPOKANE TREATMENT AND  
RECOVERY SERVICES**

**CITY OF SPOKANE FIRE DEPARTMENT**

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

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

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

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Attest:

Approved as to form:

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

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

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

Exhibit A – Certificate Regarding Debarment

22-004

## EXHIBIT A

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

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

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

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

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



< Business Lookup

## License Information:

[New search](#) [Back to results](#)

**Entity name:** SPOKANE TREATMENT AND RECOVERY SERVICES

**Business name:** SPOKANE TREATMENT AND RECOVERY SERVICES

**Entity type:** [Nonprofit Corporation](#)

**UBI #:** 601-141-795

**Business ID:** 001

**Location ID:** 0004

**Location:** Active

**Location address:** 105 W 3RD AVE  
BLDG 1  
SPOKANE WA 99201-3609

**Mailing address:** PO BOX 2845  
SPOKANE WA 99220-2845



**Excise tax and reseller permit status:**

[Click here](#)

**Secretary of State status:**

[Click here](#)

## Endorsements

Endorsements held at this lo	License #	Count	Details	Status	Expiration da	First issuance
<a href="#">Spokane Nonprofit Business</a>				Active	Jun-30-2022	Feb-07-2019

## Governing People May include governing people not registered with Secretary of State

Governing people	Title
MELVILLE, DONNA	
REDDING, BLAKE	

## Registered Trade Names

Registered trade names	Status	First issued
CUBHOUSE	Active	Dec-09-2016
KAREN'S HOUSE	Active	Feb-03-2015



**Registered trade names****Status****First issued**

SPOKANE TREATMENT AND RECOVERY  
SERVICES

Active

Feb-07-2019

[View Additional Locations](#)

The Business Lookup information is updated nightly. Search date and time: 1/3/2022  
9:26:44 AM

**Contact us**

How are we doing?

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Don't see what you expected?

**Check if your browser is supported**





## Coverage Confirmation

*The terms, conditions, and exclusions shown here are brief overviews included in, but not limited to, the coverages provided by the Non Profit Insurance Program. The terms and conditions offered may differ from your prior policy and from what you requested in your submission. This document is not intended to be used as a direct reflection of all coverages or to replace or alter the policies in any way. Information represented in this Coverage Confirmation is subject to the exclusions, terms, limitations, and conditions of the policy insuring the Non Profit Insurance Program. All specific coverage, exclusion, and limitation questions should be referred directly to the policies and all attached endorsements. In the event of differences, the policy will prevail. Participating companies are non-admitted, unless otherwise stated. Non-admitted companies are not regulated by the Washington State Insurance Commissioner and are not protected by the Washington State Guaranty Fund. Clear Risk Solutions will process all surplus lines filings on any excess and surplus lines policies, if applicable, on behalf of NPIP. The Policy is subject to audit. Defense costs are outside the limits for nonprofit members and inside the limits for independent schools. For claims made coverages, Extended Reporting Periods are available upon request (information regarding basic ERPs is available in the policy).*

***Please note the limits shown here represent the combined full limits provided by multiple policies from various carriers. It is the responsibility of the broker to review this document to confirm its accuracy.***

### **Notice of Cancellation for Non-Payment**

*We may cancel this policy within 10 days in the event of non-payment of premium. Notice of cancellation will be emailed to the Named Insured's last known email address and will indicate the date on which coverage is terminated. A copy will be emailed to the broker of record on file.*

Member/Insured:	Producer:
Spokane Treatment and Recovery Services PO Box 2845 312 West 8th Spokane, Washington 99220	HUB International NW - Spokane Stewart, Laurie PO Box 3144 Spokane, Washington 99201

Policy Term: 06/01/2021 to 06/01/2022

Issue Date: 5/28/2021

Coverage Confirmation Expiration Date: 08/30/2021, at 12:01 a.m.

Member Coverage Number: NPIP212233387

Member Since: 5/22/2005

Authorized Signature:

A handwritten signature in black ink that reads "Cheryl Smith". The signature is written in a cursive, flowing style.

## Coverage Confirmation

### PROPERTY COVERAGE PART

- Item 1. **NPIP Retained Limit:**  
Real and Personal Property Coverage Part Each Occurrence \$150,000
- Item 2. **Limit of Insurance:**  
Real and Personal Property Coverage Part Each Occurrence \$75,000,000 Per all Members of the Group Combined
- Item 3. **Sublimit of Insurance:**

The Sublimits of Insurance shown below are part of and not in addition to the Limit of Insurance shown above for the Real and Personal Property Coverage Part. These sublimits apply excess of the Real and Personal Property Coverage Part Retained Limit shown above. Sublimits applicable in excess of the American Alternative Insurance Corporation policy are per occurrence.

Accounts Receivable	\$100,000 Per Member
Additions, Alterations and Repairs	N/A
Business Income and Extra Expense	\$250,000 + scheduled per Member
Computer Systems	\$1,000,000 Each Occurrence, Per Member
Electronic Data and Media	\$250,000 Each Occurrence, Per Member
Computer Systems and Electronic Data and Media	\$10,000,000 Annual Group Aggregate
Contractors' Equipment	\$100,000 Per Member
Debris Removal	Lesser of 20% or \$500,000 Per Member
Fine Arts	\$100,000 Per Member
Newly Acquired or Constructed Property, Real and Personal Property	\$1,000,000 Per Member
Ordinance or Law	
Undamaged Portion of Building	100% of value of damaged building Per Property Schedule
Increased Costs of Construction	Lesser of 25% of value of damaged building or \$500,000 Per Member
Costs of Demolition	Lesser of 25% of value of damaged building or \$500,000 Per Member
Personal Property in Transit	\$100,000 Per Member
Pollutant Clean Up and Removal	\$100,000 Annual Group Aggregate
Property Off-Premises	\$250,000 Per Member
Valuable Papers and Records including cost of research	\$100,000 Per Member
Personal Property Owned by Employees – Per Employee	\$5,000
Personal Property Owned by Employees – Each Occurrence	\$50,000
Personal Property Owned by Employees – Annual Group Aggregate	\$250,000
Personal Property of Others – Per Person	\$5,000
Personal Property of Others – Each Occurrence	\$50,000
Personal Property of Others – Annual Group Aggregate	\$50,000
Fire Department Service Charge	\$25,000 Per Member
Business Income and Extra Expense for Utility Service Interruption	\$250,000 Per Member
Unnamed Locations	\$250,000 Per Member
Artificial/Paved Surfaces	\$200,000 Per Member
Sewer, Drain or Sump Back-up or Over Flow	\$25,000



Item 4. **Additional Coverages/Endorsements:**

Flood - Each Occurrence and Annual Aggregate Per Member

Excluded

Property located at the time of loss in any flood zone identified by FEMA as Zones A, AO, AH, A1 through 30, AE, A99, AR, AR/A1 through 30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1 through 30, VE and V; or hold a similar high risk FEMA rating are excluded.

Flood – Group Annual Aggregate

\$25,000,000

Earthquake – Each Occurrence and Annual Aggregate Per Member

Excluded

Earthquake – Group Annual Aggregate

\$25,000,000

Auto Physical Damage (except while in transit)

\$2,000,000

Auto Physical Damage (while in transit)

\$300,000

Margin Clause

The most we will pay for Ultimate Net Loss in any one occurrence at a premises described in the Property Schedule on file with the Insurer is **125%** of the values shown on such schedule on file with the Insurer for Real Property and Personal Property at such described premises. This margin clause does not apply to Increased Cost of Construction or Demolition Costs as provided under the Ordinance or Law Coverage Extension, Debris Removal Coverage Extension, Pollutant Clean Up and Removal and the Fire Department Service Charge Coverage Extension, all subject to the Real and Personal Property Coverage Part Limit of Insurance and other policy terms and conditions.

Item 5. **Deductibles:**

The NPIP Program Retention listed above is in addition to the deductibles listed below.

**Real and Personal Property**

(except Earthquake, Flood, and Auto Physical Damage for Scheduled Automobiles)

Real and Personal Property

Each Occurrence

See Schedule

Miscellaneous Equipment

Each Occurrence

\$500

1. Earthquake: Excluded
2. Flood: Excluded
3. Automobile Physical Damage for Scheduled Automobiles: See Schedule
4. Rental Vehicles: \$500 Per Occurrence.

## Coverage Confirmation

### EQUIPMENT BREAKDOWN COVERAGE

Item 1.	<b>NPIP Retained Limit:</b> Equipment Breakdown Coverage	One Accident	\$50,000
Item 2.	<b>Limit of Insurance:</b> Equipment Breakdown Coverage	One Accident	\$75,000,000
Item 3.	<b>Sublimits of Insurance:</b>		

The Sublimits of Insurance shown below are part of and not in addition to the Limit of Insurance shown above for Equipment Breakdown Coverage. These sublimits apply excess of the Equipment Breakdown Coverage Retained Limit shown above.

Expediting Expenses	Included
Hazardous Substances	\$1,000,000
Spoilage	\$500,000
Electronic Data Restoration	\$100,000
Service Interruption	\$100,000
Business Income	Included
Extra Expense	Combined with Business Income
Contingent Business Income	\$100,000
Property Off Premises	\$100,000
Extended Period of Restoration:	60 days
Newly Acquired Locations	Included; 365 days
Service Interruption Waiting Period:	24 hours
Item 4.	<b>Deductibles:</b>
	Equipment Breakdown Coverage Part
	\$1,000 Each Accident

## Coverage Confirmation

### CRIME COVERAGE PART

Item 1.	<b>NPIP Retained Limit:</b>		
	Crime Coverage Part	Each Occurrence	\$150,000
Item 2.	<b>Limit of Insurance:</b>		
	Crime Coverage Part	Each Occurrence/Member Agg	\$2,000,000
	Crime Coverage Part	Group Aggregate	\$5,000,000

Coverage for ERISA Plans is provided within the Crime Coverage Part. Please refer to the policy for all terms, conditions and exclusions related to ERISA coverage.

Item 3. **Sublimits of Insurance**

The Sublimits of Insurance shown below are part of and not in addition to the Limit of Insurance shown above for the Crime Coverage Part. These sublimits apply excess of the Crime Coverage Part Retained Limit shown above.

Employee Theft - Per Loss Coverage	\$2,000,000
Employee Theft - Per Employee Coverage	Not Applicable
Forgery or Alteration	\$1,000,000
Inside the Premises - Money and Securities	\$100,000
Inside the Premises – Robbery or Safe Burglary of Other Property	\$100,000
Outside the Premises - Money and Securities	\$100,000
Computer Fraud	\$100,000
Funds Transfer Fraud	\$100,000
Money Orders Counterfeit Paper Currency	\$100,000

Item 4. **Deductibles:**

The NPIP Program Retention listed above is in addition to the deductibles listed below.

Employee Theft - Per Loss Coverage	\$500 Each Occurrence
Forgery or Alteration	\$500 Each Occurrence
Inside the Premises - Money and Securities	\$500 Each Occurrence
Inside the Premises – Robbery or Safe Burglary of Other Property	\$500 Each Occurrence
Outside the Premises - Money and Securities	\$500 Each Occurrence
Computer Fraud	\$500 Each Occurrence
Funds Transfer Fraud	\$500 Each Occurrence
Money Orders Counterfeit Paper Currency	\$500 Each Occurrence

## Coverage Confirmation

### GENERAL LIABILITY AND AUTOMOBILE LIABILITY COVERAGE PARTS

Item 1.	<b>NPIP Retained Limit:</b>		
	General Liability Coverage Part	Each Occurrence	\$150,000
	Automobile Liability Coverage Part	Each Accident	\$150,000
Item 2.	<b>Limit of Insurance</b>		
	General Liability Coverage Part	Each Occurrence Per Member	\$5,000,000
	General Liability Coverage Part	Member Aggregate	\$10,000,000
		Group Aggregate	\$50,000,000
	Automobile Liability Coverage Part	Each Accident Per Member	\$5,000,000
	Automobile Liability Coverage Part	Group Aggregate	N/A

**Item 3. Sublimits of Insurance and Additional Coverages/Endorsements:**

The Sublimits of Insurance shown below are part of and not in addition to the Limit of Insurance shown above for the General Liability and Automobile Liability Coverage Parts. These sublimits apply excess of the General Liability and Automobile Liability Coverage Part Retained Limits shown above.

**General Liability**

Fire Legal Liability	\$1,000,000 Each Occurrence Per Member
Damage to Leased or Rental Premises	\$250,000 Each Occurrence Per Member
Employee Benefits Liability (Claims-Made Form)	\$5,000,000 Each Claim Per Member
Employee Benefits Liability (Claims-Made Form)	\$5,000,000 Member Aggregate
Employer's Liability	\$1,000,000 Each Occurrence Per Member
Employer's Liability	\$10,000,000 Member Aggregate
	\$10,000,000 Group Aggregate
Sexual Abuse (Claims Made Form)	\$2,000,000 Each Claims Made Per Member
Sexual Abuse (Claims Made Form)	\$4,000,000 Member Aggregate
	\$20,000,000 Group Aggregate
Failure to Supply	\$250,000 Each Occurrence Per Member
Garage Liability	\$1,000,000 Each Accident Per Member
Medical Expenses – Each Person (Excludes Students)	\$5,000
Medical Expenses – Each Accident	\$25,000
Traumatic Event Response Coverage:	
Crisis Expense Sublimit	\$100,000
Crisis Property Improvements Sublimit	Included in Crisis Expense Sublimit
Traumatic Event Response Group Aggregate	\$250,000

**Automobile Liability**

Auto UM/UIM	\$1,000,000
Garagekeepers Liability	\$1,000,000 Each Accident Per Member
Hired Physical Damage	\$250,000 Each Accident Per Member
Automobile Medical Expenses – Each Person (Excludes Students)	\$5,000
Automobile Medical Expenses – Each Accident	\$25,000

Item 4.	<b>Retroactive Dates:</b>		
	Employee Benefits Liability – Primary	\$5,000,000	5/22/2005
	Sexual Abuse Liability – Primary	\$2,000,000	5/22/2005

Item 5.	<b>Deductibles:</b>		
	General Liability	\$2,500 Per Occurrence	
	Automobile Liability	See Schedule Each Accident	

**Coverage Confirmation****WRONGFUL ACTS LIABILITY COVERAGE PART**

Item 1.	<b>NPIP Retained Limit:</b>		
	Wrongful Act Liability Coverage Part	Each Wrongful Act	\$150,000
	Miscellaneous Professional Liability Coverage Part	Each Wrongful Act	\$150,000
Item 2.	<b>Limit of Insurance:</b>		
	<i>Claims-Made Form</i>		
	Wrongful Act Liability Coverage Part (Includes Directors & Officers)	Each Wrongful Act Per Member	\$5,000,000
	Wrongful Act Liability Coverage Part (Includes Directors & Officers)	Member Aggregate	\$5,000,000
		Group Aggregate	\$40,000,000
	Miscellaneous Professional Liability Coverage Part	Each Wrongful Act Per Member	\$5,000,000
	Miscellaneous Professional Liability Coverage Part	Member Aggregate	\$5,000,000
		Group Aggregate	\$40,000,000
Item 3.	<b>Sublimits of Insurance and Additional Coverages/Endorsements:</b>		
	The Sublimits of Insurance shown below are part of and not in addition to the Limit of Insurance shown above for the Wrongful Act Liability Coverage Part. These sublimits apply excess of the Wrongful Act Liability Coverage Part Retained Limits shown above.		
	Fiduciary Liability	\$5,000,000 Each Wrongful Act and Member Aggregate	
	Sexual Harassment	\$5,000,000 Each Wrongful Act and Member Aggregate	
Item 4.	<b>Retroactive Dates:</b>		
	Wrongful Acts Liability – Primary	\$5,000,000	6/1/1986
	Miscellaneous Professional Liability – Primary	\$5,000,000	5/22/2005
	Sexual Harassment – Primary	\$5,000,000	5/22/2005
	Fiduciary Liability – Primary	\$5,000,000	6/1/1986
Item 5.	<b>Deductibles:</b>		
	Wrongful Acts:	\$1,000 Each Wrongful Act	
	Miscellaneous Professional:	\$1,000 Each Wrongful Act	

## Coverage Confirmation

### PRIVACY, SECURITY AND TECHNOLOGY COVERAGE

**Item 1. NPIP Retained Limit:** \$100,000

**Item 2. Deductible:**

All Coverages	\$2,500 per Claim
Except Loss of Business Income	12 Hours waiting period

**Item 3. Limit of Insurance:**

Member Annual Policy Aggregate	\$1,000,000
Group Combined Policy Aggregate	\$10,000,000

**Item 4. Sublimits of Coverage:**

The Sublimits of Coverage shown below do not increase the overall Limits listed above.

a. Media Liability	Per Claim and Aggregate	\$1,000,000
b. Privacy and Cyber Liability	Per Claim and Aggregate	\$1,000,000
c. Privacy Regulatory Defense. Awards and Fines	Per Claim and Aggregate	\$1,000,000
d. Payment Card Industry Data Security Standard Fines and Costs	Per Claim and Aggregate	\$250,000
e. Business Interruption and Extra Expense	Each Occurrence and Aggregate	\$250,000
f. Business Interruption System Failure	Each Occurrence and Aggregate	\$250,000
g. Dependent Business Interruption	Each Occurrence and Aggregate	\$250,000
h. Dependent Business Interruption System Failure	Each Occurrence and Aggregate	\$250,000
i. Data Recovery	Each Occurrence and Aggregate	\$250,000
j. Cyber Extortion and Ransomware	Each Occurrence and Aggregate	\$250,000
k. Data Breach Response & Crisis Management	Each Occurrence and Aggregate	\$250,000
l. Cyber Crime	Each Occurrence and Group Aggregate	\$250,000
m. Utility Fraud	Each Occurrence and Group Aggregate	\$100,000
n. Voluntary Shutdown	Each Occurrence and Aggregate	\$250,000
o. Consequential Reputation Loss Endorsement	Each Occurrence and Aggregate	\$250,000

**Item 5. Retro Active Date:** (Coverages a., b., c., and d. above)

Full Prior Acts

## PARTICIPATING CARRIERS

### THE FOLLOWING CARRIERS PARTICIPATE IN THE DESIGNATED PORTIONS OF THE POLICY (SUBJECT TO CHANGE PRIOR TO JUNE 1, 2021):

#### PROPERTY COVERAGE:

**(Limits listed below reflect the carrier's respective participation in the Combined Group Limit, per Occurrence)**

American Alternative Insurance Corporation, a member of Munich-American Holding Corporation	A+XV (Admitted)	Primary \$10M
Axis Surplus Insurance Company	A XV (Non-Admitted)	Part of \$65M excess \$10M
RSUI Indemnity Company	A+ XIV (Admitted)	Part of \$65M excess \$10M
Arch Specialty Insurance Company	A+ XV (Non-Admitted)	Part of \$65M excess \$10M
Independent Specialty Insurance Company	A X (Non-Admitted)	Part of \$65M excess \$10M
Interstate Fire & Casualty Company	A+ XV (Non-Admitted)	Part of \$65M excess \$10M
Certain UW Lloyds	A XV (Non-Admitted)	Part of \$65M excess \$10M
Certain UW Lloyds, London Syndicate 2357	A XV (Non-Admitted)	Part of \$65M excess \$10M

#### EARTHQUAKE COVERAGE:

**(Limits listed below reflect the carrier's respective participation in the Combined Group Aggregate Limit)**

Munich Earthquake Tower Option: \$25,000,000 Combined Group Aggregate		
American Alternative Insurance Corporation, a member of Munich-American Holding Corporation	A+XV (Admitted)	Primary \$10M
Axis Surplus Insurance Company	A XV (Non-Admitted)	Part of \$15M excess \$10M
RSUI Indemnity Company	A+ XIV (Admitted)	Part of \$15M excess \$10M
Arch Specialty Insurance Company	A+ XV (Non-Admitted)	Part of \$15M excess \$10M
Independent Specialty Insurance Company	A X (Non-Admitted)	Part of \$15M excess \$10M
Interstate Fire & Casualty Company	A+ XV (Non-Admitted)	Part of \$15M excess \$10M
Certain UW Lloyds	A XV (Non-Admitted)	Part of \$15M excess \$10M
Certain UW Lloyds, London Syndicate 2357	A XV (Non-Admitted)	Part of \$15M excess \$10M

#### Peachtree Earthquake Tower Option: \$25,000,000 Combined Group Aggregate

Landmark American Insurance Company	A+ XIV (Non-Admitted)	Part of \$25M
Arch Specialty Insurance Company	A+ XV (Non-Admitted)	Part of \$25M

#### EQUIPMENT BREAKDOWN COVERAGE:

**(Limits listed below reflect the carrier's respective participation in the Combined Group Limit, per Occurrence)**

American Alternative Insurance Corporation, a member of Munich-American Holding Corporation	A+XV (Admitted)	Primary \$10M
Axis Surplus Insurance Company	A XV (Non-Admitted)	Part of \$65M excess \$10M
RSUI Indemnity Company	A+ XIV (Admitted)	Part of \$65M excess \$10M
Arch Specialty Insurance Company	A+ XV (Non-Admitted)	Part of \$65M excess \$10M
Independent Specialty Insurance Company	A X (Non-Admitted)	Part of \$65M excess \$10M
Interstate Fire & Casualty Company	A+ XV (Non-Admitted)	Part of \$65M excess \$10M
Certain UW Lloyds	A XV (Non-Admitted)	Part of \$65M excess \$10M
Certain UW Lloyds, London Syndicate 2357	A XV (Non-Admitted)	Part of \$65M excess \$10M

#### CRIME COVERAGE:

American Alternative Insurance Corporation, a member of Munich-American Holding Corporation	A+XV (Admitted)	\$5M Combined Group Aggregate
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#### GENERAL LIABILITY COVERAGE:

American Alternative Insurance Corporation, a member of Munich-American Holding Corporation	A+XV (Admitted)	\$50M Combined Group Aggregate
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**AUTO LIABILITY COVERAGE:**

American Alternative Insurance Corporation, a member of Munich-American Holding Corporation	A+XV (Admitted)
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**WRONGFUL ACTS LIABILITY COVERAGE:**

Princeton Excess & Surplus Lines Ins Co, a member of Munich-American Holding Corporation	A+XV (Non-Admitted)	\$40M Combined Group Aggregate
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**MISCELLANEOUS PROFESSIONAL LIABILITY COVERAGE:**

Princeton Excess & Surplus Lines Ins Co, a member of Munich-American Holding Corporation	A+XV (Non-Admitted)	\$40M Combined Group Aggregate
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**THE CARRIERS BELOW PROVIDE COVERAGE FOR THE FOLLOWING LINES OF BUSINESS ON A SEPARATE MASTER POLICY:****PRIVACY, SECURITY AND TECHNOLOGY:****(Limits listed below reflect the carrier's respective participation in the Combined Group Aggregate Limit)**

Indian Harbor Insurance Company	A+ XV (Non-Admitted)	Primary \$5M
Crum & Forster Specialty Insurance Company	A XIV (Non-Admitted)	\$5M excess \$5M

**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 &amp; 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

<b>Submitting Department</b>	Finance, Treasury and Administration Division
<b>Contact Name &amp; Phone</b>	Tonya Wallace 509-844-4456
<b>Contact Email</b>	twallace@spokanecity.org
<b>Council Sponsor(s)</b>	Breean Beggs
<b>Select Agenda Item Type</b>	<input type="checkbox"/> Consent <input checked="" type="checkbox"/> Discussion    Time Requested: 5 minutes
<b>Agenda Item Name</b>	Division organization amendment
<b>Summary (Background)</b>	<p>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.</p> <p>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.</p>
<b>Proposed Council Action &amp; Date:</b>	March 14, 2022
<b>Fiscal Impact:</b> N/A Total Cost: Approved in current year budget? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A  Funding Source <input type="checkbox"/> One-time <input type="checkbox"/> Recurring Specify funding source:  Expense Occurrence <input type="checkbox"/> One-time <input type="checkbox"/> Recurring  Other budget impacts: (revenue generating, match requirements, etc.)	
<b>Operations Impacts</b>	
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?

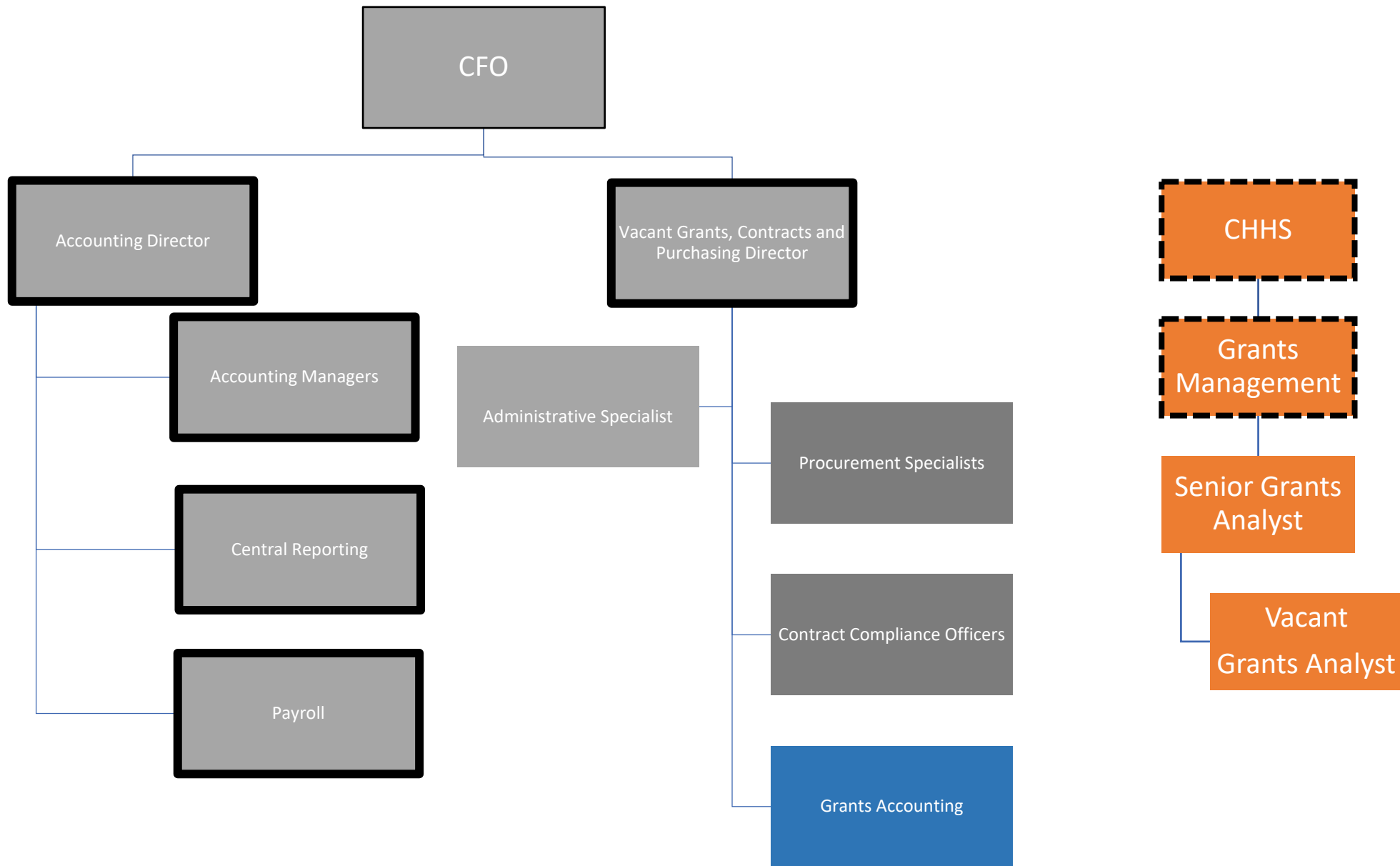
N/A

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

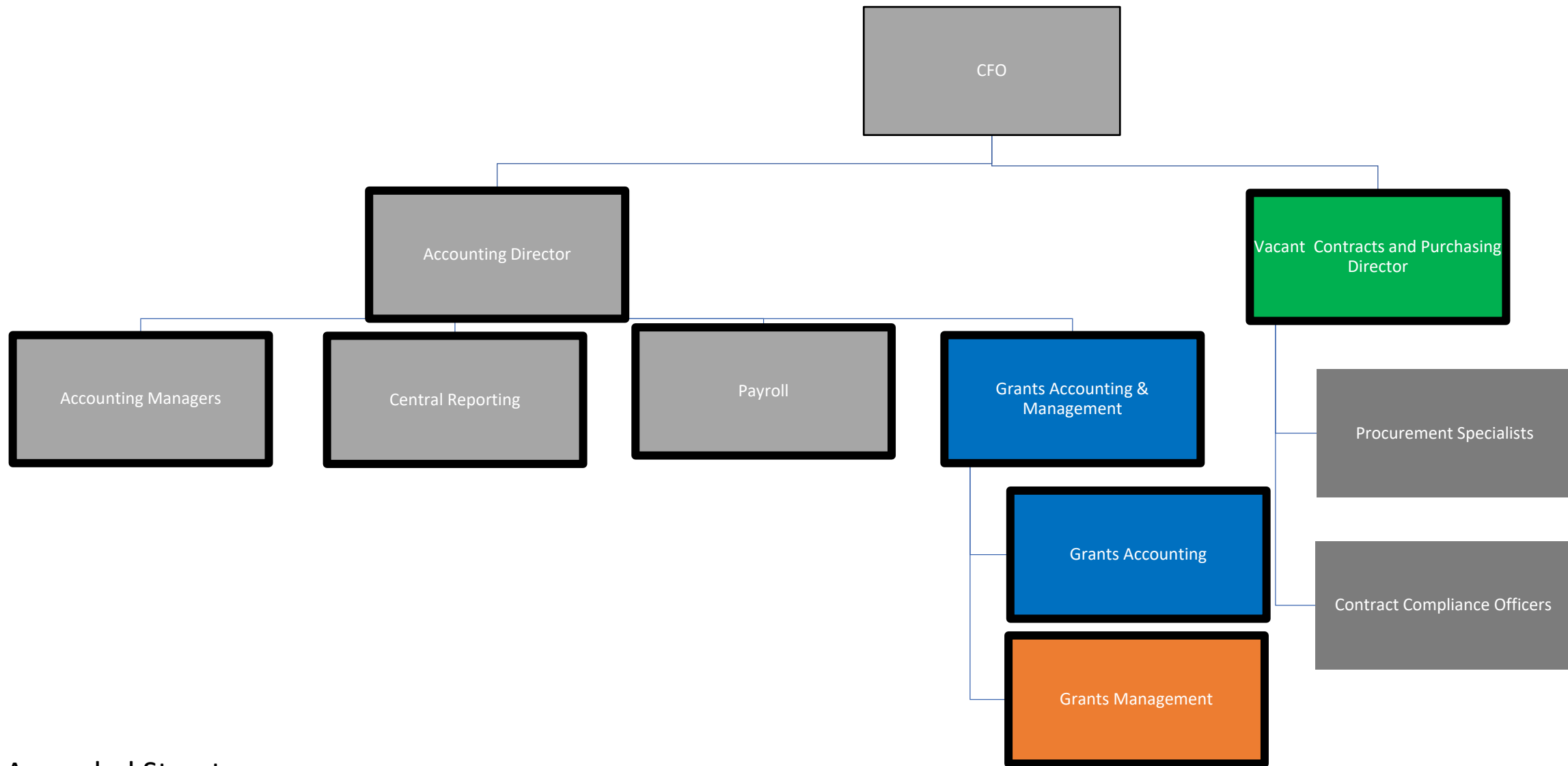
N/A

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?

This aligns with the F&A Division Strategic Plan.



Current Structure



Amended Structure

## ORDINANCE C- 36181

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))~~ Management and Budget 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:

Approved as to form:

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

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Effective Date