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

MAYOR DAVID A. CONDON
COUNCIL PRESIDENT BEN STUCKART
COUNCIL MEMBER MICHAEL A. ALLEN
COUNCIL MEMBER NANCY MCLAUGHLIN
COUNCIL MEMBER JON SNYDER
COUNCIL MEMBER MIKE FAGAN
COUNCIL MEMBER STEVE SALVATORI
COUNCIL MEMBER AMBER WALDREF

CITY OF SPOKANE Guest Wireless access for Council Chambers for January 14:
USER NAME: COS Guest
PASSWORD: C9V6puH

Please note the space in user name. Also, both user name and password are case sensitive.
CITY COUNCIL BRIEFING SESSION

The purpose of this meeting is for Council Members, City Staff and Counsel to review the Current Agenda for this evening’s Council Meeting. 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.

The Briefing Session is open to the public, but will be a workshop meeting. Discussion will be limited to Council Members and appropriate Staff and Counsel. There will be an opportunity for the expression of public views on any issue not relating to the Current or Advance Agendas during the Open Forum at the conclusion of the Legislative Agenda.

ADDRESSING THE COUNCIL

No one may speak without first being recognized for that purpose by the Chair. Except for named parties to an adjudicative hearing, a person may be required to sign a sign-up sheet as a condition of recognition.

Each person speaking at the public microphone shall print his or her name and address on the sheet provided at the podium and verbally identify him/herself by name, address and, if appropriate, representative capacity.

If you are submitting letters or documents to the Council Members, please provide a minimum of ten copies via the City Clerk. The City Clerk is responsible for officially filing and distributing your submittal.

In order that evidence and expressions of opinion be included in the record and that decorum befitting a deliberative process be maintained, modes of expression such as demonstration, banners, applause and the like will not be permitted.

A speaker asserting a statement of fact may be asked to document and identify the source of the factual datum being asserted.

SPEAKING TIME LIMITS: Unless deemed otherwise by the Chair, each person addressing the Council shall be limited to a three-minute speaking time.

CITY COUNCIL AGENDA: The City Council Advance and Current Agendas may be obtained prior to Council Meetings from the Office of the City Clerk during regular business hours (8 a.m. - 5 p.m.). The Agenda may also be accessed on the City website at www.spokanecity.org. Agenda items are available for public review in the Office of the City Clerk during regular business hours.

AMERICANS WITH DISABILITIES ACT (ADA) INFORMATION: The City of Spokane is committed to providing equal access to its facilities, programs and services for persons with disabilities. The Spokane City Council Chamber in the lower level of Spokane City Hall, 808 W. Spokane Falls Blvd., is wheelchair accessible and also is equipped with an infrared assistive listening system for persons with hearing loss. Headsets may be checked out (upon presentation of picture I.D.) at the City Cable 5 Production Booth located on the First Floor of the Municipal Building, directly above the Chase Gallery or through the meeting organizer. Individuals requesting reasonable accommodations or further information may call, write, or email Gita George-Hatcher at (509) 625-7083, 808 W. Spokane Falls Blvd, Spokane, WA, 99201; or ggeorge-hatcher@spokanecity.org. Persons who are deaf or hard of hearing may contact Ms. George-Hatcher at (509) 625-7083 through the Washington Relay Service at 7-1-1. Please contact us forty-eight (48) hours before the meeting date.

If you have questions, please call the Agenda Hotline at 625-6350.
BRIEFING SESSION
(3:30 p.m.)
(Council Chambers Lower Level of City Hall)
(No Public Testimony Taken)

Council Reports
Staff Reports
Committee Reports
Advance Agenda Review
Current Agenda Review

ADMINISTRATIVE SESSION

Roll Call of Council

CONSENT AGENDA

REPORTS, CONTRACTS AND CLAIMS

1. Extension No. 2 to Contract with Corvel Healthcare Corporation (Seattle, WA) to provide medical bill review and related servers for the Workers' Compensation Program from January 1, 2013 through December 31, 2013—not to exceed $100,000.
   Approve OPR 2008-1135
   RFP 3518-08

2. Extension No. 3 to Contract with Don Schaechtel, LLC (Leavenworth, WA) to provide safety management consulting services to the Riverside Park Water Reclamation Facility—$14,300.
   Approve OPR 2009-0947
   RFQ/P 3617-09

3. Multijurisdictional Agreement with Spokane County for implementation of the Industrial Pretreatment Program.
   Approve OPR 2013-0002

4. Contract with AECOM, Inc. (Spokane, WA) for final design and services during construction of the Combined Sewer Overflow Reduction Program Basins 26 and 34-1—$4,788,857.
   Approve & Authorize OPR 2013-0003
   ENG 2010088
   ENG 2012088
   RFQ 3802-11
5. Increase the administrative reserve on contracts with:
   a. Spokane Rock Products, Inc. (Spokane, WA) for the Riverside Extension Phase 1 (Martin Luther King Jr. Way)—$300,000.
   b. Schimmels Construction (Spokane, WA) for Lidgerwood Street from North Avenue to Francis Avenue and surrounding streets—$21,000.

The following item had been deferred one week; however, staff requests motion to suspend the rules in order to add this item back on the agenda:

   c. Bacon Concrete, Inc. (Colbert, WA) for the Neighborhood Traffic Calming Project – Districts 1, 2 and 3—$2,785.95.

6. Report of the Mayor of pending:
   a. Claims and payments of previously approved obligations, including those of Parks and Library, through January 7, 2013, total $3,704,011.01, with Parks and Library claims approved by their respective boards. Warrants excluding Parks and Library total $3,696,917.46.
   b. Payroll claims of previously approved obligations through January 5, 2013: $6,029,328.10.

7. Contract with APS Healthcare Bethesda, Inc. (White Plains, NY) for the Employee Assistance Program from February 1, 2013 through January 31, 2016 with an option for a two-year extension—not to exceed $70,600.

The following item requires Council Suspension of the Rules to add to the Agenda:

8. Interlocal Agreement with Spokane County for Animal Control Services for 20 years beginning January 1, 2014—$561,492.

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

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

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

WORDS OF INSPIRATION
PLEDGE OF ALLEGIANCE
ROLL CALL OF COUNCIL
ANNOUNCEMENTS
(Announcements regarding Changes to the City Council Agenda)

BOARDS AND COMMISSIONS APPOINTMENTS
(Includes Announcements of Boards and Commissions Vacancies)

CITY ADMINISTRATION REPORT

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

OPEN FORUM
This is an opportunity for citizens to discuss items of interest not relating to the Current or Advance Agendas nor relating to political campaigns/items on upcoming election ballots. This Forum shall be for a period of time not to exceed thirty minutes. After all the matters on the Agenda have been acted on, unless it is 10:00 p.m. or later, the open forum shall continue for a period of time not to exceed thirty minutes. Each speaker will be limited to three minutes, unless otherwise deemed by the Chair. If you wish to speak at the forum, please sign up on the sign-up sheet located in the Chase Gallery.
LEGISLATIVE AGENDA

NO EMERGENCY BUDGET ORDINANCES

NO EMERGENCY ORDINANCES

RESOLUTIONS & FINAL READING ORDINANCES
(Require Four Affirmative, Recorded Roll Call Votes)

RES 2013-0001 Conferring the appointment of Heather Trautman as Office of Neighborhood Services and Code Enforcement Director for the City of Spokane.

The following item requires Council Suspension of the Rules to add to the Agenda:

RES 2013-0002 Regarding the appointment of committees to prepare statements advocating voters’ approval and rejection of Propositions No. 1, No. 2 and No. 3 on the February 12, 2013 Special Election.

ORD C34840 Vacating the alley between Cowley Street and Grant Street from East Riverside Avenue south to alley requested by Wolff & Hislop, Attorneys at Law. (First Reading held January 14, 2013.)

ORD C34948 Granting Avista Corporation, d/b/a/ Avista Utilities, a Washington Corporation, a public utility franchise to locate, access, construct, install, own, operate, maintain, repair, and replace poles, elevated and underground wires, cables and appurtenances for the transmission, control and distribution of electricity within the City. (First Reading held December 10, 2012.)

ORD C34949 Granting a non-exclusive franchise to use the public right-of-way to provide noncable telecommunications service to the public to LightSpeed Networks Inc., subject to certain conditions and duties as further provided. (First Reading held December 10, 2012.)

NO FIRST READING ORDINANCES

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

RECOMMENDATION

S1. Approve Community, Housing and Human Services Board recommendations and authorization to enter into contracts with various agencies from January 1, 2013 through December 31, 2013.

Approve & Authorize Contracts OPR 2013-0004
NO HEARINGS

OPEN FORUM (CONTINUED)
This is an opportunity for citizens to discuss items of interest not relating to the Current or Advance
Agendas nor relating to political campaigns/items on upcoming election ballots. This Forum shall be
for a period of time not to exceed thirty minutes. After all the matters on the Agenda have been acted
on, unless it is 10:00 p.m. or later, the open forum shall continue for a period of time not to exceed
thirty minutes. Each speaker will be limited to three minutes, unless otherwise deemed by the Chair.
If you wish to speak at the forum, please sign up on the sign-up sheet located in the Chase Gallery.

ADJOURNMENT
The January 14, 2013, Regular Legislative Session of the City Council is adjourned
to Monday, January 28, 2013. The January 28, 2013, 6:00 p.m. Legislative Session
will be a Town Hall Session held in the City Council Chambers of City Hall.

Note: The regularly scheduled City Council meeting for Tuesday, January 22, 2013,
has been canceled. (There is no meeting on Monday, January 21, 2013, due to the
recognized Martin Luther King Jr. holiday.)

NOTES
### Agenda Sheet for City Council Meeting of: 01/14/2013

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### Agenda Wording
Extend contract with CORVEL HEATHCARE CORP (SEATTLE, WA) to provide medical bill review and related services for the city Workers' Compensation program from January 1, 2013 -- December 31, 2013 -- annual cost not to exceed $100,000.

### Summary (Background)
Request for Proposal 3518-08 was issued 9/5/08, and the proposals were received from 14 companies. CorVel has a competitive proposal, and has provided medical bill review for the city for the past 4 years and prior to 2006. This is the second of two one-year renewal options.

### Fiscal Impact
| Expense | $ 100,000.00 |

### Budget Account
| # | 5810-78500-17610-54620 |

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<td>For the Mayor</td>
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### Distribution List
| rkokot@spokanecity.org |
| mlesesne@spokanecity.org |

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CONTRACT EXTENSION

THIS CONTRACT EXTENSION is between the CITY OF SPOKANE, a Washington State municipal corporation, as "City," and CORVEL CORPORATION, whose address is 9725 – 3rd Avenue NE. Suite 215, Seattle, Washington 98115, as "CorVel".

WHEREAS, the parties entered into a contract wherein CorVel agreed to provide SELF-INSURED WORKERS' COMPENSATION BILL REVIEW SERVICES; and

WHEREAS, the original contract allowed for two (2) additional one(1) year extensions; and

WHEREAS, the parties would like to extend the contract for the last and final extension; -- Now, Therefore,

The parties agree as follows:

1. CONTRACT DOCUMENTS. The contract dated January 7, 2009 and December 31, 2008, any previous amendments, addendums and / or extensions / renewals thereto are incorporated by reference into this document as though written in full and shall remain in full force and effect except as provided herein.

2. EXTENSION. The contract documents are hereby extended and shall run through December 31, 2013.

3. COMPENSATION. The City shall pay CorVel a maximum annual amount of ONE HUNDRED THOUSAND AND NO/100 DOLLARS ($100,000.00) for everything furnished and done under this contract extension.

Dated: _______________________

CITY OF SPOKANE

By: _______________________

Mayor

Attest: _______________________

Approved as to form:

_________________________

Assistant City Attorney

City Clerk
Dated: 11-6-12

CORVEL CORPORATION

E-Mail address, if available: monica-medalia@corvel.com

City of Spokane Business License No. T12056271 BUS

By: Monica A. Medalia
Title: Area Vice President
Agenda Sheet for City Council Meeting of:
01/14/2013

Date Rec'd 1/2/2013
Clerk's File # OPR 2009-0947
Renews #

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Agenda Wording
Extension No. 3 to contract with Don Schaechtel, LLC (Leavenworth, WA) to provide safety management consulting services to the Riverside Park Water Reclamation Facility (RPWRF) --$14,300.00

Summary (Background)
In October 2009, an RFQ/P was opened for safety consulting services. The contract was awarded to the sole responder. The contract was extended in 2011 and 2012 for another year each to perform additional related work. Now the Department wishes to extend the contract through December 31, 2013, to perform additional work. This includes a compliance audit of process safety management activities as required by OSHA and EPA regulations, participation in management of change discussions regarding the digester gas process, tracking compliance audit recommendations with plant staff, and assisting with safety related assignments. Since this contract began, the Department's actual cost vs the estimated cost has decreased yearly, as Mr. Schaechtel has trained our employees to develop safety procedures and standard operating procedures. The 2013 extension was approved by the Public Works Committee on December 10, 2012.

Fiscal Impact | Budget Account
--- | ---
Expense $ 14,300.00 | # 4320-43200-35148-54101
Select $ | #
Select $ | #
Select $ | #

Approvals

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<td><a href="mailto:cwahl@spokanecity.org">cwahl@spokanecity.org</a></td>
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CONTRACT EXTENSION

THIS CONTRACT EXTENSION is between the CITY OF SPOKANE, a Washington State municipal corporation, as "City," and DON SCHAECHTEL, LLC, whose address is 8214 Icicle Road, Leavenworth, Washington 98826, as “Consultant”.

WHEREAS, the parties entered into a contract wherein the Consultant agreed to provide safety management consulting for the Riverside Park Water Reclamation Facility; and

WHEREAS, the parties would like to extend the contract; -- Now, Therefore,

The parties agree as follows:

1. CONTRACT DOCUMENTS. The contract dated October 18 and November 4, 2009, any previous amendments, addendums and / or extensions / renewals thereto are incorporated by reference into this document as though written in full and shall remain in full force and effect except as provided herein.

2. SCOPE OF WORK. The Consultant shall perform those services listed in the attached 2013 Scope of Work. This Scope of Work also includes items not completed in 2012.

3. EXTENSION. The contract documents are hereby extended and shall run through December 31, 2013.

3. COMPENSATION. The City shall pay the Consultant a maximum of FOURTEEN THOUSAND THREE HUNDRED AND NO/100 DOLLARS ($14,300.00) for everything furnished and done under this contract extension.

Dated: _________________________

CITY OF SPOKANE

By: ____________________________
    Title: _________________________

Attest: __________________________

Approved as to form: ____________________

______________________________
City Clerk

Assistant City Attorney
Dated: December 3, 2012

DON SCHAECHTEL, LLC

E-Mail address, if available:
don.safety@nwi.net

City of Spokane Business License No.
T12035977BUS

By: Don Schaechtel
Title: Manager

Attachment which is a part of this contract extension:
2013 Scope of Work
# Proposed Scope of Work for Safety Consulting Services in 2013

**Don Schaechtel, LLC**

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<th>Project</th>
<th>Estimated Hours</th>
<th>Budget</th>
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<td>1. Conduct a compliance audit of process safety management activities as required by OSHA and EPA regulations.</td>
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<td>$2,500</td>
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<tr>
<td>2. Participate as needed in management of change discussions involving the digester gas process.</td>
<td>40</td>
<td>$5,600</td>
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<tr>
<td>3. Track open process hazard analysis and compliance audit recommendations and assist plant staff as needed to resolve open recommendations.</td>
<td>15</td>
<td>$2,100</td>
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<tr>
<td>4. Assist Wastewater Management Department as needed with safety-related assignments during the year</td>
<td>15</td>
<td>$2,100</td>
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Subtotal, billed hours 88 $12,300

Travel (5 visits at $400 per visit) $2,000

**Total** $14,300

The budget is based on hours billed at $140 per hour rounded to the nearest $100.
Subject
Contract Extension No. 3 with Don Schaechtel, LLC to complete safety management consulting services and proposed safety management consulting work in 2013 for the Riverside Park Water Reclamation Facility (RPWRF)

Background
Wastewater Management has contracted with a safety consultant to ensure that the water reclamation facility continues to comply with the requirements of the Process Safety Management Program and the National Pollutant Discharge Elimination System (NPDES) permit.

In 2009, three firms were contacted to submit proposals for safety consulting services, but only one proposal was received. The original contract with Don Schaechtel LLC was $44,570, we spent $43,880. The first extension in 2011 was $55,314 we spent $33,772. The second extension in 2012 was $47,000 we spent $19,905. This Contract Extension with Don Schaechtel LLC will cost approximately $14,300. Don has trained our employees to develop safety procedures and standard operating procedures so the cost has decreased since 2009.

Impact
The extension for safety consulting services in 2013 includes a compliance audit of process safety management activities as required by OSHA and EPA regulations, participation in management of change discussions regarding the digester gas process, tracking compliance audit recommendations with plant staff and assisting with safety related assignments.

Action
Recommend approval.

Funding
Funding for this work is provided in the Wastewater Management budget

For further information, please contact Rick Romero, Director of Utilities Division 625-6361 or rromero@spokanecity.org.
Agenda Sheet for City Council Meeting of: 01/14/2013

Date Rec'd: 1/2/2013

Clerk's File #: OPR 2013-0002

Renews #: 

Submitting Dept: WASTEWATER MANAGEMENT

Cross Ref #: OPR 1981-1053

Contact Name/Phone: DALE ARNOLD  625-7900

Project #:

Contact E-Mail: DARNOLD@SPOKANECITY.ORG

Bid #:

Agenda Item Type: Contract Item

Requisition #:

Agenda Item Name: 4320-MULTIJURISDICTIONAL AGREEMENT WITH SPOKANE COUNTY

Agenda Wording
Approval of the Multijurisdictional Agreement for implementation of the industrial pretreatment program between the City of Spokane and Spokane County.

Summary (Background)
The Multijurisdictional Agreement includes necessary changes in the sewer service area due to the startup of the Spokane County Regional Water Reclamation Facility (SCRWRF). Both the City of Spokane and the County provide sewer service within their respective sewer service area. The City provides sewer service to areas both inside and outside the City Limits, to other jurisdictions, and unincorporated areas of Spokane County. Spokane County provides sewer service to areas inside Spokane County. Federal and State Pretreatment Regulations require the City and County implement programs for all areas contributing flows to respective facilities for which they hold a National Pollutant Discharge Elimination System (NPDES) permit. The City and County mutually cooperate and coordinate their local pretreatment regulatory programs. This Multijurisdictional Agreement provides for jurisdictional coverage and reimbursement for costs, time and materials spent on pretreatment activities conducted for each party. There is an additional requirement for immediate notification upon diversion from the SCRWRF.

Fiscal Impact

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Distribution List

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<td><a href="mailto:kbrooks@spokanecity.org">kbrooks@spokanecity.org</a></td>
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Multijurisdictional Agreement for Pretreatment Program
between Spokane County and the City of Spokane

12/02/4

THIS MULTIJURISDICTIONAL AGREEMENT entered into by and between the COUNTY OF SPOKANE, a Washington State political subdivision, whose business address is 1116 West Broadway Avenue, Spokane, Washington 99260, as “COUNTY”, and the CITY OF SPOKANE, a Washington State municipal corporation, whose business address is 808 West Spokane Falls Boulevard, Spokane, Washington 99201, as “CITY”, hereinafter jointly referred to as “PARTIES”.

RECITALS

A. The City of Spokane (“CITY”) is required by federal and state law to have a pretreatment program in all jurisdictions which it serves or from which it accepts wastewater. The CITY operates a public sewer utility which includes areas within and outside the city boundaries and other cities or towns (“CITY Service Areas”). The CITY regulates public health and safety and exercises local government police powers within its respective regulatory authority areas, as now or hereafter amended (“CITY Regulatory Areas”). The CITY’s regulatory area is its City limits, as now or hereafter amended. The CITY owns and operates the Riverside Park Water Reclamation Facility (“RPWRF”).

B. Spokane County (“COUNTY”) is required by federal and state law to have a pretreatment program in all jurisdictions which it serves or from which it accepts wastewater. The COUNTY operates a public sewer utility which includes areas inside and outside the city limits of CITY and other cities or towns (“COUNTY Service Areas”). The COUNTY regulates public health and safety and exercises local government police powers within its respective regulatory authority area, as now or as hereafter amended (“COUNTY Regulatory Areas”). The COUNTY’s regulatory area is unincorporated Spokane County, as now or as hereafter amended. The COUNTY owns and operates the Spokane County Regional Water Reclamation Facility (“SCRWRF”).

C. The regulatory areas of other cities and towns in Spokane County are addressed as stated hereafter. In some places, the respective Service Areas may not be identical to the Regulatory Areas of a party. The purpose of this Agreement is to help coordinate the CITY and COUNTY regulatory programs as may be required by federal and state regulatory agency requirements.
D. Pretreatment program requirements concerning this Agreement include but are not limited to 40 CFR 403.8 provisions referenced below, and state laws and regulations. The purpose of this Agreement is to address these pretreatment program requirements with respect to flows accepted by either Party. The PARTIES understand that neither party can accept wastewater without an actively enforced pretreatment program in accord with applicable federal and state requirements. Both CITY and COUNTY hold current National Pollutant Discharge Elimination System (NPDES) Permits. Because of the common interest in compliance with the NPDES permits, the PARTIES desire to mutually cooperate and coordinate their respective local pretreatment regulatory programs.

E. CITY and COUNTY have adopted parallel pretreatment ordinances in coordination for this purpose. The CITY’s pretreatment ordinance as now or hereafter amended is contained in Spokane Municipal Code (SMC) chapter 13.03A. The COUNTY’s pretreatment ordinance as now or hereafter amended is contained in Spokane County Code (SCC) chapter 8.03A. Chapter 8.03A SCC and chapter 13.03A SMC are patterned after each other and federal and state model ordinances.

F. Federal and state regulatory obligations are enforced as a requirement of the NPDES permit program regulating wastewater discharges into public waters administered by the Washington State Department of Ecology as a delegate agency of the US EPA. Both CITY and COUNTY hold these permits for their individual treatment facilities.

G. Additional regulatory requirements require generators of biosolids from the POTW to comply with 40 CFR, Part 503—Biosolids Rule, governing the use and disposal of municipal sewage sludge, and relevant State statutes. “POTW” stands for “Publicly Owned Treatment Works”, as defined in 40 CFR 403.3. For purposes of this Agreement, flows to the RPWRF are referenced as “RP Flows”. Areas from which RP Flows originate are referenced as “RP Flow Areas”. For purposes of this Agreement, flows to the SCRWRF that could also flow to the RPWRF, are referenced as “SC Flows”. Areas from which SC Flows originate are referenced as “SC Flow Areas”.

H. The federally and state mandated local pretreatment regulatory program requires the CITY and COUNTY to implement and enforce a pretreatment program to control discharges from all “Industrial Users.”

I. Except as otherwise required by the Washington State Department of Ecology, either the CITY or COUNTY may delegate regulatory functions for administration and management of regulatory programs or make mutual arrangements to manage them through interlocal cooperation agreements authorized by chapter 39.34 RCW.
Now, therefore CITY and COUNTY agree:

1. **CONTRACT REPRESENTATIVES**

CITY’s representative is Tim Pelton, Pretreatment Coordinator at RPWRF located at 4401 Aubrey L. White Parkway, Spokane, Washington 99205. COUNTY’s representative is David Moss, Water Reclamation Manager at SCRWRF located at 1116 West Broadway Avenue, Spokane, Washington 99260.

2. **IMPLEMENTATION OF REGULATORY PROGRAMS**

A. **RP Flow Areas** may be broken down further as:

1) **ICR Area (inside City Service Area, and inside City Regulatory Area): City responsible for Pretreatment program:** These are areas inside the City Regulatory Area, determined by the point where the originating customer’s wastewater first enters the POTW. These areas are also referenced as “ICR Areas”. The City Sewer Utility serves all or virtually all ICR Area customers. The PARTIES agree that chapter 13.03A SMC applies to the ICR Area and the City Sewer Utility handles all aspects of the local pretreatment regulatory program for this Area.

   (Abbreviated summary of activities conducted by each party located in Attachment 1 of this document)

2) **OCR Area (inside City Service Area, but outside City Regulatory Area): City handles enforcement up to court action:**

   a. Where the End of Pipe location is inside the City Service Area but outside the City’s Regulatory Area, also referenced as “OCR Area”, the PARTIES agree that the Spokane County Code pretreatment ordinance governs. An OCR Area may be inside the County Regulatory Area, or within some other incorporated city or town’s Regulatory Area.

   b. Within the County Regulatory Area, the City Sewer Utility will enforce the County ordinance, chapter 8.03A SCC, as now or hereafter amended and all aspects of the COUNTY’s pretreatment regulatory program, and may be specially deputized by the COUNTY as may be necessary for this function. Any court action to enforce the COUNTY’s pretreatment program will be brought in the name of the COUNTY by its legal counsel.

   c. Within the Regulatory Area of some other city or town, the CITY will seek to enforce the COUNTY pretreatment program as adopted by the Regulatory Area’s local government, or if refused, the CITY may use any other lawful
program, but any legal action must be brought in an appropriate court by the respective city or town attorney, absent other arrangements with the County Prosecutor or Spokane City Attorney’s office.

(Abbreviated summary of activities conducted by each party located in Attachment 1 of this document)

3) COR Area (inside County Service Area): County responsible for Pretreatment program:

Areas inside the County Service Area are referenced as “COR Areas”. In general, the County Service Area is comprised of three major sewer interceptor systems: NSI (North Spokane Interceptor), SVI (Spokane Valley Interceptor), and NVI (North Valley Interceptor). For the SVI and NVI, the COUNTY has contracted with CH2M HILL for long-term operations of the SCRWRF, including pretreatment program support. The SCRWRF generally serves COUNTY customers in the Spokane Valley Service Area. COUNTY’s customers in the North Spokane County Service Area (served by the NSI) will continue to be served by RPWRF. The COUNTY, through its Director of Utilities, may use the City Sewer Utility (also referenced as City “Wastewater Management Department”) and/or qualified consultants or other pertinent resources of its choice to implement and administer and manage the requirements of the COUNTY’s pretreatment program in the COR Area. Where desired, the COUNTY may accomplish this in pretreatment provisions of sewer connection agreements which the COUNTY may execute with other municipal corporations or sewer districts in Spokane County and which discharge sanitary sewage to the COUNTY’s POTW. In addition, the COUNTY will take emergency action for RP Flows to stop or prevent any known discharge which presents or may present an imminent danger to the health or welfare of humans, which reasonably appears to threaten the environment, or which threatens to cause interference, pass through, or sludge contamination, as these terms are understood in a pretreatment regulatory program approved by state and federal regulatory authorities.

(Abbreviated summary of activities conducted by each party located in Attachment 1 of this document)

B. SC Flow Areas may be broken down further as:

1) ICC Area (inside City Service Area, and inside City Regulatory Area, but connected in such manner that flows can be directed to/through the County’s POTW to SCRWRF, or RPWRF): City responsible for pretreatment program: These are areas inside
the City Regulatory Area, determined by the point where the originating customer's wastewater first enters the POTW. These areas are also referenced as "ICC Areas". Chapter Ch. 13.03A SMC applies to the ICC Area, except in the cases where the County ordinance chapter 8.03A SCC is more stringent. The City Sewer Utility handles all aspects of the local pretreatment regulatory program for this Area.

(Abbreviated summary of activities conducted by each party located in Attachment 1 of this document)

2) OCC Area (inside the City Service Area, but outside the City Regulatory Area, but connected in such manner that flows can be directed to/through the County's POTW to SCRWRF, or RPWRF): City handles enforcement up to court action:

a. Where the End of Pipe location is inside the City Service Area but outside the City's Regulatory Area, also referenced as "OCC Area", the Spokane County Code pretreatment ordinance governs unless other arrangements are approved by the City and County Sewer Utility Directors. An OCC Area may be inside the County Regulatory Area, or within some other incorporated city or town's Regulatory Area.

b. Within the County Regulatory Area, the City Sewer Utility will enforce the COUNTY ordinance, chapter 8.03A, SCC as now or hereafter amended and all aspects of the County's pretreatment regulatory program, and may be specially deputized by the COUNTY as may be necessary for this function. Any court action to enforce the COUNTY pretreatment program will be brought in the name of the COUNTY by its legal counsel.

c. Within the Regulatory Area of some other city or town, the CITY will seek to enforce the COUNTY pretreatment program as adopted by the Regulatory Area's local government, or if refused, the CITY may use any other lawful program, but any legal action must be brought in an appropriate court by the respective city or town attorney, absent other arrangements with the County Prosecutor or Spokane City Attorney's office.

(Abbreviated summary of activities conducted by each party located in Attachment 1 of this document)

3) COC Area (inside County Service Area and connected in such manner that flows can be directed to/through the County's POTW to SCRWRF, or RPWRF): County responsible for pretreatment program:
Areas inside the County Service Area are referenced as "COC Areas". COC Areas may discharge to either SCRWRF or to RPWRF through the County POTW. The COUNTY has contracted with CH2M HILL for long-term operations of the SCRWRF, including pretreatment program support. The SCRWRF generally serves COUNTY customers in the Spokane Valley (via SVI and NVI). COUNTY’s customers in the North Spokane County Service Area (via NSI) will continue to be served by RPWRF. The COUNTY, through its Director of Utilities, may use the City Sewer Utility (also referenced as City “Wastewater Management Department”) and/or qualified consultants or other pertinent resources of its choice to implement to administer and manage the requirements of the COUNTY’s pretreatment program in the COC Area. Where desired, the COUNTY may accomplish this in pretreatment provisions of sewer connection agreements which the COUNTY may execute with other municipal corporations or sewer districts in Spokane County and which discharge sanitary sewage to the COUNTY’s POTW. In addition, the COUNTY will take emergency action for SC Flows to stop or prevent any known discharge that presents or may present an imminent danger to the health or welfare of humans, that reasonably appears to threaten the environment, or that threatens to cause interference, pass through, or sludge contamination, as these terms are understood in a pretreatment regulatory program approved by state and federal regulatory authorities.

(Abbreviated summary of activities conducted by each party located in Attachment 1 of this document)

3. WASTEWATER MANAGEMENT AGREEMENT; ORDINANCE COORDINATION

A. This Agreement supersedes the previous Multijurisdictional Agreement for Pretreatment Program between Spokane County and the City of Spokane dated June 14, 2010, and Amendments 3 and 4 of the City-County Wastewater Management Agreement originally dated December 22, 1980. In accord with the Wastewater Management Agreement, the City will continue to accept COUNTY wastewater flows into the RPWRF (RP Flows). Correspondingly, the COUNTY will accept CITY wastewater flows into the SCRWRF (SC Flows). The COUNTY accepts responsibility to maintain an enforceable pretreatment program no less broad in scope as the CITY’s program and as approved by federal and state authorities in all COR and COC Areas. The CITY accepts equivalent responsibility for their ICC and OCC Areas regarding an enforceable pretreatment program.

B. Whenever the CITY revises its pretreatment ordinance in areas affecting the COUNTY’s program, it will work with the COUNTY and circulate a draft for proposed comments, and thereafter, forward a copy of the
revisions to the COUNTY. The COUNTY will adopt revisions to its pretreatment ordinance that are at least as stringent as those adopted by the CITY. The COUNTY will forward to the CITY for review its proposed revisions within ninety (90) days of receipt of the CITY's revisions. The COUNTY will adopt its revisions within ninety (90) days of receiving approval from the CITY of its content. The PARTIES envision that the COUNTY may periodically initiate technically-based amendments to its own pretreatment ordinance, but COUNTY agrees not to independently adopt modifications of its pretreatment ordinance without consultation with the CITY, and at least ninety (90) days written notice. These restrictions are to assist with reasonable coordination of programs and do not apply if either party faces significant adverse regulatory action or liability and must act to protect itself. The PARTIES agree to cooperate and coordinate promptly thereafter in the event of such emergency action.

C. Local Limits. The COUNTY will adopt and enforce pollutant-specific local limits to apply to the OCR, COR, ICC, OCC and COC Areas which address at least the same pollutant parameters and are at least as stringent as the local limits enacted by the CITY within ninety (90) days of the date of this Agreement. If the CITY makes any revisions or additions to its local limits, it will forward to the COUNTY a copy of such revision or additions within ninety (90) days of enactment thereof. The CITY will document the basis for revisions or additions and provide for COUNTY review. Within ninety (90) days of concurrence with the revisions or additions, the COUNTY will revise its own local limits to maintain either the same pollutant standards or more stringent standards than those enacted by the CITY.

4. COR/COC AREAS FURTHER PROVISIONS

A. ICR, ICC, OCR and OCC Areas are addressed above as they pertain to flows from customers of the CITY. For the COR/COC Areas, the COUNTY will maintain current information on industrial users located in that area and share that information with CITY pretreatment staff. The COUNTY will update the industrial waste survey for Industrial Users located in the COR/COC Areas. The COUNTY will forward a copy of this survey to the CITY. Whenever a new industrial user begins operations in the COR/COC Areas or any time an existing COR/COC Area industrial user increases its discharge by twenty percent (20%) or more, or changes its discharge, or any time it is requested by the CITY, the COUNTY will require that such industrial user respond to an Industrial User Questionnaire. The COUNTY will forward a copy of the completed questionnaire to the CITY for review within sixty (60) days or as otherwise arranged between the CITY and COUNTY Sewer Utility Directors. Equally, the COUNTY may request same with the CITY for facilities in the CITY's ICC and OCC Areas.
**B.** The COUNTY will provide the CITY access to all records or documents relevant to the pretreatment program for any industrial user located in the COR/COC Areas or discharging through the COUNTY POTW to the CITY. The COUNTY can make similar requests for industrial users in the City Service Area discharging to the COUNTY's POTW.

**C.** For COR/COC Areas, the COUNTY will inspect and sample all industrial users each year or more frequently as ordered by the County Sewer Utility Director. The COUNTY may use a qualified consultant to perform sampling and inspections. If requested by the CITY, the COUNTY will give notice of scheduled inspections to the CITY in COR/COC Areas for Users with the potential to discharge to RPWRF, providing the opportunity for the CITY to attend inspections as the CITY deems necessary. If an inspection in the COR/COC Area is in response to an emergency situation and notice is not possible, the COUNTY will make every effort to informally notify the CITY of the impending inspection so the CITY may attend. If requested by the CITY, the COUNTY will forward copies of all inspection reports for users with the potential to discharge to RPWRF to the CITY within thirty (30) days of the inspection. If requested by the CITY, the COUNTY will submit to the CITY its procedures for sampling and analyses, including all procedures in place for quality assurance and quality control. All procedures will conform to those set out in 40 CFR Part 136, except as otherwise required by the U.S. Environmental Protection Agency. Equally, the COUNTY may do same with the CITY for facilities in the CITY’s ICC and OCC Areas.

**D.** The CITY may conduct inspections and sampling at any industrial user’s facility located within the COR/COC Areas, as it deems necessary. Equally, the COUNTY may conduct inspections and sampling at any industrial user’s facility located within the ICC/OCC Areas, as it deems necessary.

**E.** The COUNTY will issue permits and renewals to all industrial users required to be permitted under its pretreatment ordinance located in the COR/COC Areas. Permits must be issued prior to any discharge. Permits must contain, at a minimum, appropriate effluent limitation, monitoring and reporting requirements, a statement of duration, a statement of nontransferability, a statement of applicable civil and criminal penalties, and any other conditions requested to be included in the permit by the CITY. Equally, the CITY shall do same for facilities in the CITY’s ICC and OCC Areas.

**F. Notification of flows to RPWRF from SVI and NVI.** The COUNTY will normally treat 8 MGD flow at its facility (SCRWRF). Any flows in excess of this 8 MGD will be diverted from the SVI to the RPWRF, under normal daily conditions. If it becomes necessary to divert flows from either the SVI or the NVI to RPWRF the COUNTY or its Contractor CH2M HILL will immediately notify the CITY via telephone to the operator in charge.
G. City to continue quarterly sampling in the NSI, SVI and NVI. Flows from the NSI will continue to be treated solely at RPWRF. Flows from the SVI and NVI have the ability to be routed to either the RPWRF or the SCRWRF for treatment. Hence, the CITY will continue to provide quarterly sampling of all three COUNTY interceptors as per the NPDES monitoring requirements for RPWRF.

5. PERMIT COMPLIANCE IN COR/COC AREAS

A. For the COR/COC Areas, the COUNTY will require all significant industrial users to submit a permit application not less than one hundred eighty (180) days prior to commencement of discharge, or one hundred eighty (180) days prior to permit expiration in the case of a permit renewal. The COUNTY shall draft the permit within sixty (60) days of receipt of a completed permit application and obtain a Washington State Department of Ecology-approved engineering report (if required). After reviewing the draft permit with the CITY, the COUNTY will forward the draft permit to the Department of Ecology. If the CITY desires to make revisions to the draft permit, the revisions will be negotiated by the CITY and COUNTY. Once the Department of Ecology has reviewed and approved the draft permit, the COUNTY will issue the final permit. No permit will be issued if the CITY Wastewater Director objects.

B. The COUNTY will maintain a database of Discharge Monitoring Report data from each of the COUNTY’s significant industrial users in the COR/COC Areas, and submit a rolling quarterly Compliance Results Report to the CITY, if requested.

C. The COUNTY will submit a brief bi-monthly report (summary list or table) to the CITY on the compliance status of each significant industrial user within the COR/COC Areas, and any enforcement response taken or anticipated. The reports will include the time frames for initial enforcement actions, as well as any subsequent enforcement actions, where applicable.

D. The COUNTY will enforce the provisions of its pretreatment ordinance and permits in the stated COR/COC Areas. In the event the COUNTY fails to take adequate enforcement action against noncompliant users in the COUNTY with the potential to discharge to RPWRF on a timely basis, the CITY may take such action on behalf of and as agent for the COUNTY.

E. Equally, the CITY shall address similar compliance activities in its ICC and OCC Areas with the potential to discharge to SCRWRF, and provide actions, submittals and/or documentation to the COUNTY upon request.
6. **EMERGENCY ACTION: CITY NPDES PERMIT HOLDER (RPWRF)**

A. The CITY may take emergency action, whenever it deems necessary, to stop or prevent any discharge that presents, or may present, an imminent danger to the health or welfare of humans, that reasonably appears to threaten the environment, or that threatens to cause interference, pass through, or sludge contamination as these terms are understood in the pretreatment program. The CITY will provide informal notice to the industrial user and the COUNTY of its intent to take emergency action prior to taking action in the COR/COC Areas. The opportunity to respond, however, may be limited to a hearing after the emergency powers of the CITY have been exercised.

B. The PARTIES understand that the CITY is the holder of the NPDES permit for the RP Flows and ultimately responsible to assure compliance with NPDES permit requirements for these flows. The CITY reserves the right to take whatever actions necessary to comply with NPDES permit violations and to avoid any violations. The PARTIES shall support and work together to protect each other from loss or liability due to NPDES permit violations, to the extent arising from their respective fault or neglect and in accord with the duties and obligations of this Agreement.

7. **EMERGENCY ACTION: COUNTY NPDES PERMIT HOLDER (SCRWRF)**

A. The COUNTY may take emergency action, whenever it deems necessary, to stop or prevent any discharge that presents, or may present, an imminent danger to the health or welfare of humans, that reasonably appears to threaten the environment, or that threatens to cause interference, pass through, or sludge contamination as these terms are understood in the pretreatment program. The COUNTY will provide informal notice to the industrial user and the CITY of its intent to take emergency action prior to taking action in the ICC and OCC Areas. The opportunity to respond, however, may be limited to a hearing after the emergency powers of the COUNTY have been exercised.

B. The COUNTY is the holder of the NPDES permit for the SC Flows and ultimately responsible to assure compliance with NPDES permit requirements for such flows. The COUNTY reserves the right to take whatever actions necessary to comply with NPDES permit violations and to avoid any such violations. The PARTIES shall support and work together to protect each other from loss or liability due to NPDES permit violations, to the extent arising from their respective fault or neglect and in accord with the duties and obligations of this Agreement.
8. INDUSTRIAL USERS IN COR/COC AND OCC AREAS IN OTHER INCORPORATED LOCAL GOVERNMENT REGULATORY AREAS

A. Before an industrial user located in the COR/COC Areas but another local government's Regulatory Area discharges into COUNTY's POTW, the COUNTY will enter into an agreement with the jurisdiction in which the industrial user is located to assure an effective pretreatment regulatory program consistent with the existing City-County Model. The CITY will support and participate in this process as needed. The agreements shall be substantially equivalent to this Agreement and must be fully secured prior to a discharge from any industrial user in the outside jurisdiction.

B. Before an industrial user located in the OCC Areas (another local government's Regulatory Area) discharges into CITY's POTW, the CITY will enter into an agreement with the jurisdiction in which the industrial user is located to assure an effective pretreatment regulatory program consistent with the existing City-County Model. The COUNTY will support and participate in this process as needed. The agreements shall be substantially equivalent to this Agreement and must be fully secured prior to a discharge from any industrial user in the outside jurisdiction.

9. CITY AND COUNTY PROGRAM EXPENSES

A. The COUNTY will reimburse the CITY for expenses associated with pretreatment services, as listed in Attachment 1 or requested in writing by the COUNTY, within sixty (60) days of billing, supported by any information reasonably requested by the County, for implementing, administering, managing the pretreatment program, and any enforcement actions in which the CITY has taken or is recommended against the COUNTY industrial users in the COR and COC Areas. Pretreatment costs will be based on reimbursement for all actual costs. Included, but not limited to, are labor, materials, equipment, rental, and all out of pocket expenditures, plus all associated costs for administration and fringe benefits to labor, including but not limited to Social Security, retirement, industrial insurance, and medical aid, pro-rated sick leave, holidays and vacation time, and group medical and dental coverage, as well as other mandated expenses associated with employees.

B. Each billing shall be submitted annually, on or before April 1, for services provided in the prior year. The COUNTY shall advise if it has any questions or needs further information within thirty (30) days. If a billing not subject to further question is outstanding for more than three (3) months, it shall accrue interest at the current local government investment pool rate until paid. A cover letter which summarizes each billing's services shall also be provided. Additionally, the CITY shall send the COUNTY a projected budget for the upcoming year on or before September 1 of each year.
C. The CITY will reimburse the COUNTY for expenses associated with pretreatment services, within sixty (60) days of billing, for implementing, administering, managing the pretreatment program and any enforcement actions in which the COUNTY has taken or is recommended against the CITY industrial users in the ICC and OCC Areas. Pretreatment costs will be based on reimbursement for all actual costs. Included, but not limited to, are labor, materials, equipment, rental, and all out of pocket expenditures, plus all associated costs for administration and fringe benefits to labor, including but not limited to Social Security, retirement, industrial insurance, and medical aid, pro-rated sick leave, holidays and vacation time, and group medical and dental coverage, as well as other mandated expenses associated with employees.

10. INDEMNITY

The COUNTY shall indemnify, defend and hold harmless the CITY, its officers and employees from all claims, demands, or suits in law or equity arising from the COUNTY’S intentional or negligent acts or breach of its obligations under the Agreement. The COUNTY’S duty to indemnify shall not apply to loss or liability caused by the intentional or negligent acts of the CITY, its officers and employees.

The CITY shall indemnify, defend and hold harmless the COUNTY, their officers and employees from all claims, demands, or suits in law or equity arising from the CITY’S intentional or negligent acts or breach of its obligations under the Agreement. The CITY’S duty to indemnify shall not apply to loss or liability caused by the intentional or negligent acts of the COUNTY, their officers and employees.

If the comparative negligence of the PARTIES and their officers and employees is a cause of such damage or injury, the liability, loss, cost, or expense shall be shared between the PARTIES in proportion to their relative degree of negligence and the right of indemnity shall apply to such proportion.

Where an officer or employee of a Party is acting under the direction and control of the other Party, the Party directing and controlling the officer or employee in the activity and/or omission giving rise to liability shall accept all liability for the other Party’s officer or employee’s negligence.

Each Party’s duty to indemnify shall survive the termination or expiration of the Agreement.

Each Party waives, with respect to the other Party only, its immunity under RCW Title 51, Industrial Insurance. The PARTIES have specifically negotiated this provision.

COUNTY initials

CITY initials

INITIAL HERE
11. OTHER

A. If any term of this Agreement is held to be invalid in any judicial action, the remaining terms of this Agreement will be unaffected.

B. The PARTIES will review and revise this Agreement to ensure compliance with the Federal Clean Water Act (42 U.S.C. §1251 et seq.) and the rules and regulations (see 40 CFR Part 403) issued thereunder, as necessary, but at least every five (5) years on a date to be determined by the PARTIES.

C. The Table provided in Attachment 1 summarizes the responsibilities covered by this Agreement at this time.

12. RCW 39.34.030 (3) and (4) ELEMENTS

A. Duration: Either party may terminate this Agreement in its sole discretion upon one hundred eighty (180) days written notice. Unless so terminated, this Agreement expires June 30, 2017. Thereafter, it will renew automatically each June 30 for additional one (1) renewal terms, but will remain always subject to termination upon one hundred eighty (180) days written notice. The renewal does not affect the right of termination.

B. Precise Organization: Each party functions under its existing structures. No additional organizational structures are created.

C. Purpose: The purpose of this Agreement is to help the PARTIES coordinate their respective pretreatment regulatory programs, as further explained in Section 1.

D. Budget and Financing: Each party retains sole control of all finance and budget items for its operations and functions. Charges for services are addressed in Sections 4C, 9 and 12F.

E. Termination: Upon expiration or termination of this Agreement, each party retains control of its property. No joint property or jointly held assets or funds are contemplated.

F. Administration: Each party has sole control of administering its utility service and regulatory programs, except any litigation must handled by a legal representative of the party in whose regulatory area the action arises. Any fines or penalties are retained by the jurisdiction in whose name the action is brought. After payment of such amounts, any restitution ordered of costs incurred by the party administering the enforcement program will be distributed by the party bringing the enforcement action.
13. NOTICE

All notices or other communications given hereunder shall be deemed given on: (i) the day such notices or other communications are received when sent by personal delivery; or (ii) the third day following the day on which the same have been mailed by certified mail delivery, receipt requested and postage prepaid addressed to PARTIES at the address set forth below, or at such other address as the PARTIES shall from time-to-time designate by notice in writing to the other PARTIES:

COUNTY: Spokane County Chief Executive Officer or authorized representative
1116 West Broadway Avenue
Spokane, Washington 99260

CITY: City of Spokane Mayor or authorized representative
City Hall
808 West Spokane Falls Boulevard
Spokane, Washington 99201

14. COUNTERPARTS

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

15. ASSIGNMENT

No Party may assign, in whole or in part, its interest in this Agreement without the approval of all other PARTIES.

16. RELATIONSHIP OF THE PARTIES

The PARTIES intend that an independent contractor relationship will be created by this Agreement. No agent, employee, servant or representative of the COUNTY shall be deemed to be an employee, agent, servant or representative of the CITY for any purpose. Likewise, no agent, employee, servant or representative of the CITY shall be deemed to be an employee, agent, servant or representative of the COUNTY for any purpose.

17. VENUE STIPULATION

This Agreement has been and shall be construed as having been made and delivered within the State of Washington and it is mutually understood and agreed by each Party that this Agreement shall be governed by the laws of the State of Washington both as to interpretation and performance. Any action at law, suit in equity or judicial proceeding for the enforcement of this Agreement, or any provision hereeto, shall be instituted only in courts of competent jurisdiction within Spokane County, Washington.
18. **SEVERABILITY**

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

19. **HEADINGS**

The section headings appearing in this Agreement have been inserted solely for the purpose of convenience and ready reference. In no way do they purport to, and shall not be deemed to define, limit or extend the scope or intent of the sections to which they pertain.

20. **ALL WRITINGS CONTAINED HEREIN/BINDING EFFECT**

This Agreement contains terms and conditions agreed upon by the PARTIES. The PARTIES agree that there are no other understandings, oral or otherwise, regarding the subject matter of this Agreement. No changes or additions to this Agreement shall be valid or binding upon the PARTIES unless such change or addition is in writing, executed by the PARTIES.

This Agreement shall be binding upon the PARTIES hereto, their successors and assigns.

21. **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, 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.

22. **INSURANCE**

During the term of the Agreement, the CITY and COUNTY shall each maintain in force at its sole expense, each insurance coverage with minimum limit noted below:

1. Workers’ Compensation Insurance in compliance with Title 51 RCW, which requires subject employers to provide workers’ compensation coverage for all their subject workers and Employer’s Liability Insurance in the amount of $5,000,000;
(2) General Liability Insurance on an occurrence basis, with a combined single limit of not less than $10,000,000 each occurrence for bodily injury and property damage. It shall include contractual liability coverage for the indemnity provided under this Agreement;

(3) Automobile Liability Insurance with a combined single limit, or the equivalent of not less than $5,000,000 each accident for bodily injury and property damage, including coverage for owned, hired and non-owned vehicles; and

(4) Professional Liability Insurance with a combined single limit of not less than $5,000,000 each claim, incident or occurrence. This is to cover damages caused by the error, omission, or negligent acts related to the professional services to be provided under this Agreement. The coverage must remain in effect for at least two years after the Agreement is completed.

Each policy shall be endorsed and the certificate shall reflect that the insurance afforded therein shall be primary insurance and any insurance or self-insurance carried by the other entity shall be excess and not contributory insurance to that provided by the other entity.

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without 30 days written notice from either entity or their insurer(s) to the other entity.

As evidence of the insurance coverages required by this Agreement, each entity shall furnish written evidence of acceptable insurance to the other entity within 30 days of the Agreement becoming effective. If requested, complete copies of insurance policies shall be provided to either entity. The CITY and COUNTY shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

Attachment: 1 – Summary of Responsibilities under Multijurisdictional Agreement for Pretreatment Program between Spokane County and the City of Spokane
Dated: 12-11-2012

BOARD OF COUNTY
COMMISSIONERS
OF SPOKANE, COUNTY,
WASHINGTON

TODD MIELKE, Chair

MARK RICHARD, Vice Chair

AL FRENCH, Commissioner

ATTEST:
CLERK OF THE BOARD

Daniela Erickson 12-10-24

Approved as to form:

Deputy County Prosecutor

Dated: 12/11/12

CITY OF SPOKANE

Mayor

ATTEST:

City Clerk

Approved as to form:

Assistant City Attorney
## Attachment 1

Summary of Responsibilities under Multijurisdictional Agreement for Pretreatment Program between Spokane County and the City of Spokane

<table>
<thead>
<tr>
<th>Responsibility</th>
<th>City of Spokane</th>
<th>Spokane County</th>
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</thead>
<tbody>
<tr>
<td>Spokane County Pretreatment Ordinance</td>
<td>• Review Draft ordinance</td>
<td>• Maintain Ordinance at least as stringent as City</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Issue final ordinance after City review</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Obtain any regulatory agency approval necessary</td>
</tr>
<tr>
<td>Pretreatment Ordinance Modification by County</td>
<td>• Forward any changes to City ordinance to County</td>
<td>• Revise to keep at least as stringent as City ordinance</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Obtain any regulatory agency approval necessary</td>
</tr>
<tr>
<td>Local Limits</td>
<td>• Forward any changes to City local limits to County</td>
<td>• Maintain limits at least as stringent as City</td>
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<tr>
<td>Pretreatment Annual Report</td>
<td>• City shall prepare a draft annual RPWRF report for County’s review, completion, and submittal to Ecology</td>
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<tr>
<td></td>
<td>• City may review SCRWRF report as it deems necessary</td>
<td>• County or designated consultant shall prepare and submit SCRWRF annual report to Ecology</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• County will forward annual report to City</td>
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<tr>
<td>County Industrial User Survey for COR/COC Areas</td>
<td></td>
<td>• Update continually</td>
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<tr>
<td></td>
<td></td>
<td>• Conduct survey and follow up on non-responses</td>
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<tr>
<td></td>
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<td>• Forward latest version to City</td>
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<tr>
<td></td>
<td></td>
<td>• Make any changes as required by regulatory agencies</td>
</tr>
<tr>
<td>Permitting Process for COR/COC Areas</td>
<td>• Review Draft permit prepared by County</td>
<td>• Send out surveys, permit applications, and classify Industrial Users</td>
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<tr>
<td></td>
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<td>• Review permit application and prepare Draft permit</td>
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<tr>
<td></td>
<td></td>
<td>• Forward permit application to City for review</td>
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<tr>
<td></td>
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<td>• Send Draft permit for Department of Ecology Review</td>
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<td></td>
<td></td>
<td>• Publish and conduct Public Commentary of Draft permit</td>
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<tr>
<td></td>
<td></td>
<td>• Issue Final permit after Department of Ecology review</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Permit modification as needed</td>
</tr>
<tr>
<td>Responsibility</td>
<td>City of Spokane</td>
<td>Spokane County</td>
</tr>
<tr>
<td>----------------</td>
<td>-----------------</td>
<td>----------------</td>
</tr>
</tbody>
</table>
| Inspections, Sampling, Analysis of Users within COR/COC Areas | • City may perform duties as it deems necessary. City will give notice to County prior to inspections and sampling.  
• City may perform duties at request of County  
• County to give notice to City prior to inspections and sampling. City may attend at its discretion. | • County or designated consultant performs inspections, sampling, and analysis of Users in COR/COC Areas  
• County distributes inspection and sampling reports  
• County to forward inspection and sampling reports to City  
• County to provide City with monthly compliance reports on each permitted User |
| Enforcement within County (COR/COC Areas) | • City may perform duties as it deems necessary  
• City may perform duties at request of County  
• City may recommend enforcement actions to the County | • County to perform enforcement tasks, or delegate to consultant  
• Publish all out of compliance users as required by Federal Pretreatment regulations in local paper |
| Emergency Suspension | • City may act as needed | • County may act as needed |
| Response to Production Changes or Changed Discharge | | • County to review and take appropriate action  
• County to notify City of change and of action taken |
| ICR/ICC Inside City service and City regulatory area | • Legal Authority- City Ordinance  
• Industrial Waste Survey  
• Permitting (all aspects)  
• Enforcement with City Ordinance  
• Inspections | |
| OCR/OCC Inside City service area but outside City regulatory area | • Legal Authority - County Ordinance  
• Industrial Waste Survey  
• Permitting (all aspects)  
• Enforcement with County Ordinance  
• Inspections | |
| COR/COC inside County service area | | • Legal Authority - County Ordinance  
• Industrial Waste Survey  
• Permitting (All aspects not delegated to consultant)  
• Enforcement with County Ordinance  
• Inspections |
Summary of Responsibilities under Multijurisdictional Agreement for Pretreatment Program between Spokane County and the City of Spokane

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<th>FLOW AREA</th>
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<td>CITY</td>
<td>CITY</td>
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<tr>
<td>OCR</td>
<td>RPWRF</td>
<td>COUNTY</td>
<td>CITY</td>
<td>CITY / TO COURT ACTION</td>
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<td>ICC</td>
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<td>CITY / TO COURT ACTION</td>
<td>COUNTY</td>
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<tr>
<td>COC</td>
<td>RPWRF / SCRWRF</td>
<td>COUNTY</td>
<td>COUNTY</td>
<td>COUNTY</td>
<td>COUNTY</td>
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</table>
Subject
Update to the Multijurisdictional Agreement with Spokane County, to include changes in sewer service areas due to the startup of the Spokane County Regional Water Reclamation Facility (SCRWRF).

Background
The City of Spokane and Spokane County provide sewer service within their respective sewer service areas. The City of Spokane provides sewer service to areas inside and outside of City limits, to other jurisdictions and unincorporated areas of Spokane County. Spokane County provides sewer service to areas inside Spokane County.

Under Federal and State pretreatment program regulations, the City and County are required to implement programs for all areas contributing flows to respective facilities for which they hold National Pollutant Discharge Elimination System (NPDES) permits. Because of a common interest in compliance, the City and County desire to mutually cooperate and coordinate their local pretreatment regulatory programs.

Impact
Spokane County will reimburse the City, for time and materials spent on pretreatment activities conducted by the City in County sewer service areas. The City of Spokane will not implement the regulatory pretreatment program in areas generating flows that go solely to the County’s Regional Water Reclamation Facility (SCRWRF), unless the flows originate inside Spokane City limits.

Action
Recommend approval.

Funding
Funding for this work is provided in the Wastewater Management budget.

For further information, please contact Rick Romero, Director of Utilities Division 625-6361 or rromero@spokanecity.org.
## Agenda Sheet for City Council Meeting of: 01/14/2013

<table>
<thead>
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<th>1/2/2013</th>
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### Agenda Wording

Contract with AECOM, Inc. of Spokane for Final Design and Services During Construction of the Combined Sewer Overflow (CSO) Reduction Program Basins 26 and 34-1 for an amount of $4,788,857.

### Summary (Background)

With this professional services contract, AECOM, Inc. will provide final design and services during construction of the CSO Reduction Program Basins 26 and 34-1. Additionally, in conjunction with the planned reconstruction of High Drive, they will do the Pre-Design and modeling for 5 smaller CSO tanks within CSO Basins 20 and 24. This firm, out of Request for Qualifications # 3802-11 was selected as the most highly qualified to do these designs. A Scope and Fee Negotiation then followed and the final agreed upon fair and reasonable Design and Services During Construction amount was $4,788,857.

### Fiscal Impact

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### Budget Account

| # | 4370-43416-94000-56501 |

### Approvals

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<td>TAYLOR, MIKE</td>
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<td>LESESNE, MICHELE</td>
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<td>Legal</td>
<td>BURNS, BARBARA</td>
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<td>For the Mayor</td>
<td>SANDERS, THERESA</td>
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### Approval Notifications

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<td>Study Session</td>
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<tr>
<td>Other</td>
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### Distribution List

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</tr>
<tr>
<td><a href="mailto:lhendron@spokanecity.org">lhendron@spokanecity.org</a></td>
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</table>
Subject:
Professional Services contracts with AECOM, Inc. of Spokane for Final Design and Services During Construction of the Combined Sewer Overflow (CSO) Reduction Program Basins 26 and 34-1. Additionally, in conjunction with the planned reconstruction of High Drive, they will do the Pre-Design and modeling for 5 smaller CSO tanks within CSO Basins 20 and 24. This firm, out of Request for Qualifications # 3802-11 was selected as the most highly qualified to do these designs. A Scope and Fee Negotiation then followed and the final agreed upon fair and reasonable Design and Services During Construction amount was $4,788,857.

Background:
In accordance with the City’s Ecology-approved CSO System-Wide Alternatives Report and our National Pollutant Discharge Elimination System permit, the CSO Reduction Program is scheduled to install numerous Control Facilities (underground storage tanks) by December 31, 2017 to achieve one overflow per outfall per year. Planning, modeling, and preliminary designs have been conducted under a CSO PMO contract with AECOM.

The City of Spokane (COS) has elected to return the Program Management Office functions in house. We have also elected to embrace an Integrated Strategy Approach to water quality projects impacting the quality of our river and sole source aquifer; and, the rate payers of the COS. Because of the magnitude of the projects; and, limited resources, it is our determination to optimize the benefit of capital facilities investments while meeting regulatory requirements through this approach. This means that we intend to take advantage of every opportunity to capture and retain storm water closest to its initial area and to minimize the size and costs of downstream holding tanks wherever practicable.

Because of the regulatory deadline; and, of the nature of several of the CSO basins, it has been determined that basins 34-1 and 26 were not likely to be significantly reduced in size and volume. Essentially, their tributary areas are heavily built up; or, predominantly channeled scabland geology with little opportunity for annualized retention and disposal. Therefore, while reviewing other Integrated Strategy Approach options, it is prudent to proceed expeditiously with the design and construction of basins 34-1 and 26.

Since High Drive is scheduled for reconstruction in the final year of the 2004 Street Bond program, the CSO tanks associated with it need to be incorporated into that design and construction program.

For further information, please contact Mike Taylor, Director of Engineering Services, 625-6307 or pmtaylor@spokanecity.org
AECOM has been responsible for the modeling and design of the overall CSO abatement project under the supervision of WWM. They submitted an original Scope and Fee Estimate for the project. Engineering Services Department (ESD) took that scope (after removing the manhours and fee dollars) and prepared their Independent Fee Estimate for designing and providing Construction Service Support for those two basins. Two sessions were held with AECOM representatives and with Engineering Services Project Engineers to clarify agreement on Scope and deliverables. Further, industry standards were used to compare the proposed fees as % of construction costs; and, of the reasonableness of hours to efforts. After final negotiations, the $4.7 million combined fee was $1.85 million lower than the original submitted Scope and Fee proposal. All parties agree that the projects can be properly accomplished for that amount. All parties agree that the scope and fee are within industry standards and norms.

**Impact:**
The proposed contracts will allow the COS to stay on track to achieve CSO compliance; and, for the timely and integrated CSO design and construction with the High Drive Street Bond project.

**Action:**
City Council approval of contracts with AECOM, Inc.

**Funding:**
Funds are from sewer rates and are provided for in the Wastewater Management budget.

For further information, please contact Mike Taylor, Director of Engineering Services, 625-6307 or pmtnaylor@spokanecity.org
Agenda Sheet for City Council Meeting of: 01/14/2013

<table>
<thead>
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<th>Date Rec’d</th>
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<th>ENGINEERING SERVICES</th>
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</thead>
<tbody>
<tr>
<td>Contact Name/Phone</td>
<td>MIKE TAYLOR 625-6307</td>
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<td>Contact E-Mail</td>
<td>PMTAYLOR</td>
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<td>Agenda Item Type</td>
<td>Contract Item</td>
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<tr>
<td>Agenda Item Name</td>
<td>0370-ADMIN RESERVE INCREASE - RIVERSIDE EXTENSION-PHASE 1</td>
</tr>
</tbody>
</table>

**Agenda Wording**

Authorization to increase the administrative reserve on the contract with Spokane Rock Products, Inc. for Riverside Extension Phase 1 (Martin Luther King Jr. Way) for an increase of $300,000.00.

**Summary (Background)**

This project had multiple costly change orders due to problems that could not be foreseen. These exceptional costs caused an overrun of Administrative Reserves. To finalize the project we request authorization of an additional $300,000 Administrative Reserves. This raises the administrative reserves to 29% of bid price.

**Fiscal Impact**

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<tr>
<th>Expense</th>
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**Budget Account**

| # 3200-94990-95300-56501 |

**Approvals**

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**Council Notifications**

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**Distribution List**

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<tr>
<td><a href="mailto:pdolan@spokanecity.org">pdolan@spokanecity.org</a></td>
</tr>
<tr>
<td><a href="mailto:mlesesne@spokanecity.org">mlesesne@spokanecity.org</a></td>
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<td><a href="mailto:jmallahan@spokanecity.org">jmallahan@spokanecity.org</a></td>
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<td><a href="mailto:mhughes@spokanecity.org">mhughes@spokanecity.org</a></td>
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<tr>
<th><a href="mailto:mlesesne@spokanecity.org">mlesesne@spokanecity.org</a></th>
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</table>
Subject:

Increase in Administrative Reserve to make final payment for the Riverside Extension Phase 1 project (Martin Luther King Jr. Way), #2004047.

Background:

This project had multiple costly change orders due to problems that could not be foreseen. Four in particular have led to this request for additional funding.

Our last request was for Additional Rock Excavation which we estimated to be $440,000 and this was granted. In actuality it totaled $541,000 for an additional increase of over $100,000. The abrupt nature of the basalt ledges; and, the inability of current technology to accurately determine what can be dug with heavy backhoes; and, what must be chipped are the basis for the changes. Ultimately, had the geotechnical predictions been more accurate, this would still have been the required project cost for rock removal and excavation.

There were also three other large change orders that came after the last request.

The first was an Underground Drainage System to remove excessive ground water. This came to $72,500. This was required to ensure a stable roadbed and to reduce infiltration to the sanitary sewer system.

The second was for the additional striping and traffic control required to work beyond the original amount of working days and also to carry the project over the winter. These costs totaled $81,000. The project delays, again, were primarily caused by the rock chipping process.

The River City Auto Body shop required substantial modifications to their private property to keep their access, prevent storm water issues, and to provide acceptable parking. The total for this work came to over $45,000.

The sum of these three change orders plus the overage from the rock estimate total $298,500.

These exceptional costs caused an overrun of Administrative Reserves. To final the project we request authorization of an additional $300,000 Administrative Reserves. This raises the administrative reserves to 29% of bid price.

Impact:

$300,000 increased cost to the overall project costs.
Agenda Sheet for City Council Meeting of: 01/14/2013

Date Rec'd 1/2/2013  
Clerk's File # PRO 2012-0009  
Renews #  
Cross Ref #  
Project # 2010126  
Bid # BT  
Requisition #  

Submitting Dept ENGINEERING SERVICES  
Contact Name/Phone MIKE TAYLOR 625-6307  
Contact E-Mail PMTAYLOR@SPOKANECITY.ORG  
Agenda Item Type Contract Item  
Agenda Item Name 0370-ADMIN RESERVE INCREASE FOR Lidgerwood STREET BOND PROJECT  

Agenda Wording
Authorization to increase the administrative reserve on the contract with Schimmels Construction (Spokane, WA) for Lidgerwood Street from North Avenue to Francis Avenue and Surrounding Streets for $21,000.00

Summary (Background)
This project had two exceptional costs that caused an overrun of the Administrative Reserve. These costs include additional asphalt prelevel that was necessary to complete the project and an increase in traffic control cost. This will raise the Administrative Reserve to 12% of the bid price.

Fiscal Impact

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Approvals

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Additional Approvals

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Budget Account

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<td><a href="mailto:mhughes@spokanecity.org">mhughes@spokanecity.org</a></td>
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Subject:

Increase in Administrative Reserve for the Lidgerwood Bond project, #2010126.

Background:

The quantity of asphalt prelevel included in the project bid was insufficient to adequately smooth the roadway surfaces prior to top lift paving. This is a difficult to predict quantity because accuracy generally relies on the consistent thickness of 40 to 60 year old paving. It is necessary to have sufficient remaining paving to provide a proper base for a grind and overlay improvement. In this case, after grinding, it was determined that several significant areas simply had too thin an existing paving section to leave a proper base for the new hot mix overlay. To satisfactorily complete the project additional asphalt prelevel was needed at an additional cost of $63,000 dollars.

This project reconstructed roadways adjacent to Holy Family Hospital that hindered access to the Hospital and the Hospital Emergency Room. Temporary traffic control plans required significant modification during construction to ensure continued access to the hospital during varied phases of the project. Added cost was $11,000.

These two exceptional costs caused an overrun of Administrative Reserves. To final the project we request authorization of an additional $21,000 Administrative Reserves.

Impact:

$21,000 increased cost to the Street Bond Program.

Action:

Increase Administrative Reserve of the Lidgerwood Bond project by $21,000. This raises the Administrative reserve to 12% of the bid price.
January 8, 2013

City Clerk File No.:
PRO 2012-0025

COUNCIL ACTION MEMORANDUM

RE: AUTHORIZATION TO INCREASE THE ADMINISTRATIVE RESERVE ON THE CONTRACT WITH BACON CONCRETE, INC. FOR NEIGHBORHOOD TRAFFIC CALMING PROJECT - DISTRICTS 1, 2 AND 3

During the Spokane City Council's 3:30 p.m. Briefing Session held Monday, January 7, 2013, upon review of the January 14, 2013, Advance Agenda, Engineering Services Director Mike Taylor asked that the above-described matter be deferred for one week at the request of Neighborhood Services. The reason for the deferral is to allow an opportunity for staff to confirm the budget figures. Subsequently, the following action was taken:

Motion by Council Member Fagan, seconded by Council Member Waldref, that line item 5.c (authorization to increase the administrative reserve on the contract with Bacon Concrete, Inc. for Neighborhood Traffic Calming Project – Districts 1, 2 and 3) (on the January 14, 2013, Advance Agenda) be deferred for one week; carried unanimously.

[Note: Since the City Council's regularly scheduled meeting on January 22, 2013, has been cancelled, this item is instead deferred to the January 28, 2013, agenda (rather than for one week, to January 22).]

Terri L. Pfister, MMC
Spokane City Clerk
Agenda Sheet for City Council Meeting of: 01/14/2013

Date Rec’d 1/2/2013
Clerk’s File # PRO 2012-0025
Renews #

Submitting Dept ENGINEERING SERVICES
Contact Name/Phone MIKE TAYLOR 625-6307
Contact E-Mail PMTAYLOR@SPOKANECITY.ORG

Agenda Item Type Contract Item
Agenda Item Name 0370-ADMIN RESERVE INCREASE-NEIGHBORHOOD TRAFFIC CALMING PROJECT

Agenda Wording
Authorization to increase the administrative reserve on the contract with Bacon Concrete, Inc. (Colbert, WA) for Neighborhood Traffic Calming Project, Districts 1, 2 and 3 for an increase of $2,785.95.

Summary (Background)
There were revisions required to complete construction of the Neighborhood Traffic Calming Project which increased the cost of the project. The required changes absorbed all of the administrative reserve with some remaining work needed. A request to increase the administrative reserve is needed to compensate the contractor for the completed work. This will raise the Administrative reserve to 11.00% of the bid amount.

Fiscal Impact

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Approvals

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Approval for the Mayor

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<tr>
<td><a href="mailto:mlesesne@spokanecity.org">mlesesne@spokanecity.org</a></td>
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<tr>
<td><a href="mailto:mhugh@spokanecity.org">mhugh@spokanecity.org</a></td>
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Distribution List

| sdecker@spokanecity.org |
| pdolan@spokanecity.org  |
| mlesesne@spokanecity.org|
| jmallahan@spokanecity.org|
| mhugh@spokanecity.org   |

LinkedIn Link

#
Subject:
Increase in Administrative Reserve for the Neighborhood Traffic Calming Project 2010-12, #2010139, 2010140, 2010141.

Background:

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<tr>
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*Cost Increases:
- There were revisions required to complete construction of the Neighborhood Traffic Calming Project which increased the cost of the project. The required changes absorbed all of the administrative reserve with some remaining work needed. A request to increase the administrative reserve is needed to compensate the contractor for the completed work.

History:
- Northeast District 1- Illinois Bike/Parking Lane, Myrtle Street Sidewalk: Due to existing tree root issues, Myrtle Street was narrowed to avoid the existing root systems so new sidewalk could be installed. With this redesign quantities overran and increased the cost for this district.
- South District 2- Walnut Street at 8th Avenue and 9th Avenue: Bump outs; sidewalk and ADA ramps were installed. A redesign was requested by the neighborhood and was constructed. Additional mobilization, traffic control, equipment, labor and materials were required.
- South District 2- 17th Avenue and Mt. Vernon Street: Due to conflict with existing storm water facilities, modifications were required which added cost to the project.

Impact:
- Increased cost to the program

Action:
- Approve increase of $2,785.95 to the Administrative Reserve to allow final payment for this project.

Total Project Cost will be 11.00% over the project bid amount.
Report of the Mayor of pending claims & payments of previously approved obligations through: 1/7/13. Total: $3,704,011.01 with Parks & Library claims being approved by their respective boards. Claims excluding Parks & Library Total: $3,696,917.46

Summary (Background)
Pages 1-26
Warrant nos. 459871 - 460165
ACH Payment nos. 9212 - 9259

On file for review in City Clerks Office: 26 Page listing of Claims

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**Total:** 3,696,917.46
PROCESSING OF VOUCHERS RESULTS IN CLAIMS AS FOLLOWS:

0020 - NONDEPARTMENTAL

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**TOTAL FOR 0020 - NONDEPARTMENTAL**

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0070 - ADMINISTRATIVE SERVICES

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0300 - HUMAN SERVICES

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**TOTAL FOR 0300 - HUMAN SERVICES**

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0370 - ENGINEERING SERVICES

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### 0440 - FIRE

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0500 - LEGAL

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0520 - MAYOR

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PROCESSING OF VOUCHERS RESULTS IN CLAIMS AS FOLLOWS:

TOTAL FOR 0520 - MAYOR 461.00

0550 - NEIGHBORHOOD SERVICES

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CENTER FOR ORGANIZATIONAL CONTRACTUAL SERVICES
REFORM CHECK NO. - 00459961 1,100.00

TOTAL FOR 0550 - NEIGHBORHOOD SERVICES 1,100.00

0560 - MUNICIPAL COURT

----
ANNETTE BEACH CIVIL PARKING INFRACTION PENLT
1730 W PACIFIC APT 4A CHECK NO. - 00460021 15.00

DEVRIES MOVING CIVIL PARKING INFRACTION PENLT
112 N HAVEN ST STE B CHECK NO. - 00460015 25.00

JASON C JOYCE CIVIL PARKING INFRACTION PENLT
3212 COUNTRY WAY CHECK NO. - 00460016 25.00

JENNA TAMURA CIVIL PARKING INFRACTION PENLT
5420 W ARNES RD APT 356 CHECK NO. - 00460022 15.00

KAITLEN S MARK CIVIL PARKING INFRACTION PENLT
6710 CORSON AVE S APT 7 CHECK NO. - 00460018 25.00

LINDA SEPPA SALISBURY CIVIL PARKING INFRACTION PENLT
3217 E 12TH PL CHECK NO. - 00460020 25.00

MARIE D GRIMES CIVIL PARKING INFRACTION PENLT
5627 NORTH D ST CHECK NO. - 00460017 55.00

RUSTY MOOSE CIVIL PARKING INFRACTION PENLT
9105 W STATE ROUTE #2 CHECK NO. - 00460019 15.00

SPOKANE MUNICIPAL COURT MISC SERVICES/CHARGES
PUBLIC SAFETY BUILDING CHECK NO. - 00460069 747.27

TRUDY GRUMMONS CIVIL PARKING INFRACTION PENLT
17004 N TRIPLE BUTTE CIR CHECK NO. - 00460023 30.00

VALLEY EMPIRE COLLECTION CIVIL PARKING INFRACTION PENLT
8817 E MISSION STE 101 CHECK NO. - 00460014 354.55

TOTAL FOR 0560 - MUNICIPAL COURT 1,331.82

0570 - OFFICE OF HEARING EXAMINER

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THOMSON WEST PUBLICATIONS
WEST PUBLISHING PAYMENT CTR CHECK NO. - 00460077 158.16

TOTAL FOR 0570 - OFFICE OF HEARING EXAMINER 158.16
PROCESSING OF VOUCHERS RESULTS IN CLAIMS AS FOLLOWS:

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PROCESSING OF VOUCHERS RESULTS IN CLAIMS AS FOLLOWS:

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<td>Roadwise Inc Other Repairs/Maintenance Supplies</td>
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<td>WA State Dept of Agriculture Permits/Other Fees</td>
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PROCESSING OF VOUCHERS RESULTS IN CLAIMS AS FOLLOWS:

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**Total for 1200 - Code Enforcement Fund:** 500.00

**Total for 1380 - Traffic Calming Measures:** 2,375.51

**Total for 1390 - Urban Forestry Fund:** 29.26

**Total for 1400 - Parks and Recreation Fund:** 106.53

**Total for 1450 - Under Freeway Parking Fund:** 16.34

**Total for 1510 - Law Enforcement Info Sys Fund:** 2,087.04
PROCESSING OF VOUCHERS RESULTS IN CLAIMS AS FOLLOWS:

1520 - REAL ESTATE RENTAL FUND

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**Total for 1520 - REAL ESTATE RENTAL FUND**

32.46

1630 - COMBINED COMMUNICATIONS CENTER

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**Total for 1630 - COMBINED COMMUNICATIONS CENTER**

1,796.53

1640 - COMMUNICATIONS BLDG M&O FUND

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**Total for 1640 - COMMUNICATIONS BLDG M&O FUND**

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1700 - MISC COMM DEVELOP GRANTS

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**Total for 1700 - MISC COMM DEVELOP GRANTS**

38,736.27

1710 - HOME PROGRAM

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**Total for 1710 - HOME PROGRAM**

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1730 - HOPE ACQUISITION FUND

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PROCESSING OF VOUCHERS RESULTS IN CLAIMS AS FOLLOWS:

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**TOTAL FOR 1730 - HOPE ACQUISITION FUND**

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**1741 - EAST CENTRAL NEIGHBORHOOD**

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**1743 - HILLYARD NEIGHBORHOOD**

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**TOTAL FOR 1743 - HILLYARD NEIGHBORHOOD**

<table>
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<th>Amount</th>
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<td>10,489.55</td>
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**1746 - EMERSON/GARFIELD NEIGHBORHOOD**

<table>
<thead>
<tr>
<th>Company</th>
<th>Service Description</th>
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<tbody>
<tr>
<td>Kiemle &amp; Hagood Company</td>
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**TOTAL FOR 1746 - EMERSON/GARFIELD NEIGHBORHOOD**

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<th>Amount</th>
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**1750 - NEVADA/LIDGERWOOD NBHD**

<table>
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<th>Company</th>
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<tr>
<td>Kiemle &amp; Hagood Company</td>
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**TOTAL FOR 1750 - NEVADA/LIDGERWOOD NBHD**

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<tr>
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PROCESSING OF VOUCHERS RESULTS IN CLAIMS AS FOLLOWS:

### 1757 - RESERVE FOR CONTINGENCY

<table>
<thead>
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<th>Services</th>
<th>ACH PMT No.</th>
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<tr>
<td>ALLEN D SCHMELZER</td>
<td>CONTRACTUAL SERVICES</td>
<td>80009259</td>
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<tr>
<td>AVISTA UTILITIES</td>
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<td>00460096</td>
<td>398.10</td>
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<tr>
<td>BELLEVUE PAINT AND DECORATING INC</td>
<td>CONTRACTUAL SERVICES</td>
<td>00460097</td>
<td>35.09</td>
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<tr>
<td>BLACKS INDUSTRIAL INC</td>
<td>CONTRACTUAL SERVICES</td>
<td>00460099</td>
<td>64.55</td>
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<tr>
<td>BRIAN BALCH ATTORNEY AT LAW</td>
<td>CONTRACTUAL SERVICES</td>
<td>00460101</td>
<td>27.42</td>
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<tr>
<td>HONEY BUCKET/DIV OF NORTHWEST CASCADE/HONEY BUCKETS INC</td>
<td>CONTRACTUAL SERVICES</td>
<td>80009253</td>
<td>171.15</td>
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<td>MERTON SAUER DBA MERTS ELECTRIC</td>
<td>CONTRACTUAL SERVICES</td>
<td>00460134</td>
<td>119.57</td>
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<tr>
<td>SAVEMORE BUILDING SUPPLY/DIV VALLEY SAVEMORE BLDG SUPPLY</td>
<td>CONTRACTUAL SERVICES</td>
<td>00460144</td>
<td>112.60</td>
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<td>SPOKANE CITY TREASURER</td>
<td>CONTRACTUAL SERVICES</td>
<td>00460147</td>
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<td>THE FENCE PROS LLC</td>
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**TOTAL FOR 1757 - RESERVE FOR CONTINGENCY**

3,139.67

### 1758 - CITY WIDE NEIGHBORHOOD

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<td>SPOKANE NEIGHBORHOOD ACTION PARTNERS</td>
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**TOTAL FOR 1758 - CITY WIDE NEIGHBORHOOD**

17,441.58

### 1800 - WIA ADULT PROGRAMS FUND

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**TOTAL FOR 1800 - WIA ADULT PROGRAMS FUND**

12,455.19
### 1820 - WIA DISLOCATED WORKER FUND

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<tr>
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<td>WA State Employment Security</td>
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<td><strong>TOTAL FOR 1820 - WIA DISLOCATED WORKER FUND</strong></td>
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<td><strong>10,602.72</strong></td>
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### 1840 - WIA ADMINISTRATIVE COST POOL

<table>
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<th>Vendor/Applicant</th>
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<tbody>
<tr>
<td>Christine M Purviance</td>
<td>Contractual Services</td>
<td>Check No. - 00459875</td>
<td>1,557.50</td>
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<tr>
<td>Dawn Karber</td>
<td>Non-Travel Meals/Light Refreshment</td>
<td>ACH PMT No. - 80009247</td>
<td>21.50</td>
</tr>
<tr>
<td>Dawn Karber</td>
<td>Office Supplies</td>
<td>ACH PMT No. - 80009247</td>
<td>53.12</td>
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<tr>
<td>Verizon Wireless Bellevue</td>
<td>Telephone</td>
<td>Check No. - 00460082</td>
<td>80.04</td>
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<tr>
<td>WIA State Employment Security Department</td>
<td>Check No. - 00459877</td>
<td>1,782.48</td>
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<td><strong>TOTAL FOR 1840 - WIA ADMINISTRATIVE COST POOL</strong></td>
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<td><strong>3,494.64</strong></td>
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### 1950 - PARK CUMULATIVE RESERVE FUND

<table>
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<tbody>
<tr>
<td>Dell Marketing LP</td>
<td>Computer/Micro Equipment</td>
<td>ACH PMT No. - 80009224</td>
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<td><strong>TOTAL FOR 1950 - PARK CUMULATIVE RESERVE FUND</strong></td>
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### 1970 - E M S FUND

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<tbody>
<tr>
<td>Bound Tree Medical LLC</td>
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<td>Check No. - 00460100</td>
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<tr>
<td>Deaconess Medical Center</td>
<td>Operating Supplies</td>
<td>Check No. - 00460106</td>
<td>430.31</td>
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<tr>
<td>HRA VeBa Trust</td>
<td>Veba Post Employment</td>
<td>ACH PMT No. - 80009217</td>
<td>800.00</td>
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<tr>
<td>Inland NW Health Services</td>
<td>Operating Supplies</td>
<td>Check No. - 00459987</td>
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<tr>
<td>Inland NW Health Services</td>
<td>Registration/Schooling</td>
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<tr>
<td>McKesson Medical Surgical Inc</td>
<td>Operating Supplies</td>
<td>ACH PMT No. - 80009230</td>
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PROCESSING OF VOUCHERS RESULTS IN CLAIMS AS FOLLOWS:

<table>
<thead>
<tr>
<th>Company</th>
<th>Category</th>
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<tbody>
<tr>
<td>NORCO INC</td>
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<td>PROFESSIONAL CONTRACTS</td>
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<td><strong>TOTAL FOR 1970 - E M S FUND</strong></td>
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<td>3200 - ARTERIAL STREET FUND</td>
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<td>AVISTA CORPORATION</td>
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<tr>
<td>THOMAS DEAN &amp; HOSKINS INC</td>
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<td><strong>TOTAL FOR 3200 - ARTERIAL STREET FUND</strong></td>
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<tr>
<td>4100 - WATER DIVISION</td>
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<tr>
<td>AT&amp;T MOBILITY</td>
<td>CELL PHONE</td>
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<td>AVISTA UTILITIES</td>
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<td>BRADLEY J KOLLER</td>
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<td>CALL REALTY</td>
<td>REFUNDS OR BAD CHECKS</td>
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<tr>
<td>CDW GOVERNMENT INC</td>
<td>MINOR EQUIPMENT</td>
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<td>ENTERPRISE HOLDINGS INC</td>
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<td>FIRE CONTROL SPRINKLER SYSTEMS COMPANY INC</td>
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<td>FIRE PROTECTION SPECIALISTS LLC</td>
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<td>H D FOWLER COMPANY</td>
<td>INVENTORY PURCHASES FOR WATER</td>
<td>00460118</td>
<td>1,769.64</td>
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<td>HARRY MCLEAN</td>
<td>REGISTRATION/SCHOOLING</td>
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<td>HASKINS STEEL CO INC</td>
<td>OPERATING SUPPLIES</td>
<td>80009226</td>
<td>57.77</td>
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</table>
PROCESSING OF VOUCHERS RESULTS IN CLAIMS AS FOLLOWS:

- **JAMES BARR**  
  5003 N ELGIN ST  
  REFUNDS OR BAD CHECKS  
  CHECK NO. - 00460026  
  **103.67**

- **QLT CONSUMER LEASE SERVICES INC**  
  TELEPHONE  
  CHECK NO. - 00460051  
  **14.91**

- **RICOH USA INC**  
  EQUIPMENT REPAIRS/MAINTENANCE  
  CHECK NO. - 00460055  
  **48.83**

- **SPOKANE CITY TREASURER PARKS DEPT**  
  REFUNDS OR BAD CHECKS  
  CHECK NO. - 00460063  
  **588.00**

- **SPOKANE COUNTY TREASURER**  
  PERMITS/OTHER FEES  
  CHECK NO. - 00460065  
  **82.11**

- **VERIZON WIRELESS BELLEVUE**  
  CELL PHONE  
  CHECK NO. - 00460082  
  **1,681.96**

- **WINDERMERE PROPERTY MGMT**  
  REFUNDS OR BAD CHECKS  
  CHECK NO. - 00460027  
  **244.67**

  **TOTAL FOR 4100 - WATER DIVISION**  
  **7,381.07**

**4110 - HYDROELECTRIC DIVISION**

- **H D SUPPLY WATERWORKS LTD**  
  COMPL MAINTENANCE EXPENSE WO  
  CHECK NO. - 00460119  
  **3,397.14**

- **INLAND POWER & LIGHT CO**  
  UTILITY LIGHT/POWER SERVICE  
  CHECK NO. - 00459989  
  **430.12**

- **OXARC INC**  
  OPERATING SUPPLIES  
  CHECK NO. - 00460044  
  **39.13**

  **TOTAL FOR 4110 - HYDROELECTRIC DIVISION**  
  **3,866.39**

**4300 - SEWER FUND**

- **CALL REALTY**  
  PO BOX 141928  
  REFUNDS OR BAD CHECKS  
  CHECK NO. - 00460024  
  **80.83**

- **GENESIS FINANCIAL CORP**  
  3773 W 5TH AVE # 301  
  REFUNDS OR BAD CHECKS  
  CHECK NO. - 00460025  
  **838.21**

- **JAMES BARR**  
  5003 N ELGIN ST  
  REFUNDS OR BAD CHECKS  
  CHECK NO. - 00460026  
  **16.51**

- **SPOKANE CITY TREASURER PARKS DEPT**  
  REFUNDS OR BAD CHECKS  
  CHECK NO. - 00460064  
  **26,701.26**

- **TOMBARI MARITAL TRUST**  
  ATTN: JEWEL SMALLEY  
  REFUNDS OR BAD CHECKS  
  CHECK NO. - 00460028  
  **162.00**

- **WINDERMERE PROPERTY MGMT**  
  8601 N DIVISION ST STE B  
  REFUNDS OR BAD CHECKS  
  CHECK NO. - 00460027  
  **37.27**
PROCESSING OF VOUCHERS RESULTS IN CLAIMS AS FOLLOWS:

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<th>部 门</th>
<th>项目</th>
<th>金额（美元）</th>
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<tr>
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4310 - SEWER MAINTENANCE DIVISION

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<th>项目</th>
<th>金额（美元）</th>
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<tr>
<td>AT&amp;T MOBILITY</td>
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<td>CENTURYLINK</td>
<td>TELEPHONE</td>
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<td>CENTRAL PRE-MIX CONCRETE CO</td>
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<td>KODIAK SECURITY SERVICES INC</td>
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<td>NORLIFT INC</td>
<td>BUILDING REPAIRS/MAINTENANCE</td>
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<td>SEWER EQUIPMENT CO OF AMERICA</td>
<td>OTHER REPAIRS/MAINTENANCE</td>
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<td>SPOKANE HOUSE OF HOSE INC</td>
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<td>WALTER E NELSON CO</td>
<td>BUILDING REPAIRS/MAINTENANCE</td>
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<td>WESTERN CONCRETE PRODUCTS</td>
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<td>WSF LLC</td>
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TOTAL FOR 4310 - SEWER MAINTENANCE DIVISION | 14,671.48 |

4320 - ADVANCED WASTEWATER TRTMT PLNT

<table>
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<tr>
<th>收款方</th>
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PROCESSING OF VOUCHERS RESULTS IN CLAIMS AS FOLLOWS:

<table>
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<th>Category</th>
<th>Check No.</th>
<th>Amount</th>
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<tbody>
<tr>
<td>JOE PAPENLEUR</td>
<td>MOTOR FUEL-OUTSIDE VENDOR</td>
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<tr>
<td>KEMIRA WATER SOLUTIONS INC</td>
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<td>OLIN CORPORATION</td>
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<td>POLYDYNE INC</td>
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<td>BUILDING REPAIRS/MAINTENANCE</td>
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<td>UNIVAR USA INC</td>
<td>CHEMICAL/LAB SUPPLIES</td>
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<td>VICTOR JOHN GIAMPIETRI</td>
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**Total for 4320 - Advanced Wastewater Trtmt Plnt**: 75,560.56

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<tbody>
<tr>
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<tr>
<td>RICHARD A JENSEN</td>
<td>CONSTRUCTION OF FIXED ASSETS</td>
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<tr>
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<tr>
<td>TRINDERA ENGINEERING</td>
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**Total for 4370 - Sewer Construction Fund**: 3,424.91

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<th>Category</th>
<th>Check No.</th>
<th>Amount</th>
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<tbody>
<tr>
<td>CALL REALTY</td>
<td>REFUNDS OR BAD CHECKS</td>
<td>00460024</td>
<td>2.97</td>
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<td>WINDERMERE PROPERTY MGMT</td>
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**Total for 4480 - Solid Waste Fund**: 13.34

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**Total for 4490 - Solid Waste Disposal Cons Fund**
PROCESSING OF VOUCHERS RESULTS IN CLAIMS AS FOLLOWS:

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4500 - SOLID WASTE MANAGEMENT

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PROCESSING OF VOUCHERS RESULTS IN CLAIMS AS FOLLOWS:

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4600 - GOLF FUND

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4700 - BLDG SERVICES

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5100 - FLEET SERVICES FUND

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PROCESSING OF VOUCHERS RESULTS IN CLAIMS AS FOLLOWS:

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### Processing of Vouchers Results in Claims as Follows:

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PROCESSING OF VOUCHERS RESULTS IN CLAIMS AS FOLLOWS:

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<th>Check No.</th>
<th>Amount</th>
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PROCESSING OF VOUCHERS RESULTS IN CLAIMS AS FOLLOWS:

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PROCESSING OF VOUCHERS RESULTS IN CLAIMS AS FOLLOWS:

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<td>JAMES BARR</td>
<td>REFUNDS OR BAD CHECKS</td>
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PROCESSING OF VOUCHERS RESULTS IN CLAIMS AS FOLLOWS:

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**TOTAL FOR 5300 - MIS FUND**

17,331.47

**5310 - MIS CAPITAL REPLACEMENT FUND**

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**TOTAL FOR 5310 - MIS CAPITAL REPLACEMENT FUND**

7,835.05

**5600 - ACCOUNTING SERVICES**

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<td>JANET E SHAW</td>
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**TOTAL FOR 5600 - ACCOUNTING SERVICES**

17.00

**5800 - RISK MANAGEMENT FUND**

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**TOTAL FOR 5800 - RISK MANAGEMENT FUND**

13,491.61

**5810 - WORKER'S COMPENSATION FUND**

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**TOTAL FOR 5810 - WORKER'S COMPENSATION FUND**

246.98
PROCESSING OF VOUCHERS RESULTS IN CLAIMS AS FOLLOWS:

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PROCESSING OF VOUCHERS RESULTS IN CLAIMS AS FOLLOWS:

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3,696,917.46 | 7,082.68

CITYWIDE TOTAL: 3,704,011.01
**Agenda Wording**

Report of the Mayor of pending payroll claims of previously approved obligations through January 5, 2013. Payroll check #510116 through check #510315 $6,029,328.10

**Summary (Background)**

N/A

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January 8, 2013

City Clerk File No.:
OPR 2013-0001

COUNCIL ACTION MEMORANDUM

RE: CONTRACT WITH APS HEALTHCARE BATHESDA, INC. FOR THE EMPLOYEE ASSISTANCE PROGRAM

During the Spokane City Council's 3:30 p.m. Briefing Session held Monday, January 7, 2013, upon review of the January 14, 2013, Advance Agenda, Human Resources Director Heather Lowe reported on the above described matter and requested the Council to suspend its rules to add this item to its January 14, 2013, Agenda. Subsequently, the following action was taken:

Motion by Council Member Waldref, seconded by Council Member McLaughlin, to suspend the Council Rules; carried unanimously.

Council President Stuckart requested a motion to add this agenda item to next week's (January 14) Consent Agenda. The following action was taken:

Motion by Council Member Fagan, seconded by Council Member Waldref, to so move [to add this agenda item to next week's (January 14) Consent Agenda]; carried unanimously.

Terri L. Pfister, MMC
Spokane City Clerk
**Agenda Wording**

Contract with APS HEALTHCARE BATHESDA, INC. (WHITE PLANS, NY) for the Employee Assistance Program (EAP) from 2/1/13 -- 1/31/2016 -- cost not to exceed $70,600 -- with an option for a two-year extension.

**Summary (Background)**

EAP services have been provided to out employees for many years. On November 12, 2012, RPF 3879-12 was sent out, and seven (7) companies responded. APS Heathlcare Bathesda, Inc. had a competitive bid.

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AGREEMENT

THIS AGREEMENT is between the CITY OF SPOKANE, a Washington State municipal corporation, as "City," and APS HEALTHCARE NORTHWEST, INC., whose address is 44 South Broadway, Suite 1200, White Plains, New York 10601, as “APS.”

The parties agree as follows:

1. PERFORMANCE. APS shall administer the City’s EMPLOYEE ASSISTANCE PROGRAM, in accordance with the City’s Request for Proposal, and APS’ response dated November 8, 2012, to include, but be limited to the following tasks:

   ✓ Training
   ✓ Publicity; Employee Communications
   ✓ Pretreatment Counseling
   ✓ Referrals
   ✓ Aftercare Service
   ✓ Program Performance; Records
   ✓ Services – twenty-four (24) hours, seven (7) days per week.
   ✓ Compliance
   ✓ Up to four (4) hours of specific mental health and PTSD training per year for supervisors who manage employees with these situations.

2. TIME OF PERFORMANCE. This agreement shall begin February 1, 2013 and run through December 31, 2015, unless terminated earlier. The agreement may be extended upon mutual written agreement for two (2) additional one (1) year contract periods.

3. MODIFICATIONS. The City may modify this agreement and order changes in the work whenever necessary or advisable. APS will review modifications when ordered in writing by the Director of Human Resources, or designee, and determine if such modifications require an increase to the compensation as listed below.

4. COMPENSATION. The City will pay APS in accordance with the following fee schedule based on an approximate employee count of 1,850:

   - 2013 $2.94 per employee per month
   - 2014 $2.94 per employee per month
   - 2015 $2.94 per employee per month
5. **PAYMENT.** APS will send its applications for payment to the Human Resources Department, Fourth Floor, City Hall, 808 West Spokane Falls Boulevard, Spokane, Washington 99201. Payment will be made within thirty (30) days after receipt of APS' application.

6. **TERMINATION.** Either party may terminate this agreement by thirty (30) days written notice to the other party. In the event of such termination, the City shall pay APS for all work previously authorized and performed prior to date of termination.

7. **LIABILITY.** In the performance of this agreement, APS is an independent contractor and APS, its officers, employees, agents, or subcontractors shall not be considered an employee or agent of the City. APS shall defend, indemnify and hold harmless the City, its officers and employees, from and against all claims for damages, liability, cost and expense arising out of the negligent conduct of APS, its officers, employees and subcontractors in connection with the performance of the agreement, except to the extent of those claims arising from the negligence of the City, its officers and employees. APS' indemnification shall include any and all costs, expenses, attorneys' fees and liability incurred by the City, its officers, and employees in defending against such claims, whether or not litigation is instituted.

8. **COMPLIANCE WITH LAWS.** APS shall comply with all applicable federal, state, and local laws and regulations.

9. **INSURANCE.** During the term of the agreement, APS shall maintain in force at its own expense, each insurance coverage noted below:

   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 APS' services to be provided under this agreement; and

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

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

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without sixty (60) days written notice from APS or its insurer(s) to the City. As evidence of the insurance coverages required by this agreement, APS shall furnish acceptable insurance certificates to the City at the time it returns the signed agreement. The certificate shall specify all of the parties who are additional insured, and include applicable policy endorsements and the deductible or retention level, as well as policy limits. Insuring companies or entities are subject to City acceptance and must have a rating of A- or higher by Best. Copies of all applicable endorsements shall be provided. APS shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

10. ASSIGNMENTS. This agreement is binding on the parties and their heirs, successors, and assigns. Neither party may assign or transfer its interest, in whole or in part, without the other party's prior written consent.

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

12. NONDISCRIMINATION. No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this agreement because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities.

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

13. AUDIT / RECORDS. APS and its subcontractors shall maintain for a minimum of three (3) years following final payment all records related to its performance of the agreement. APS 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 agreement, the federal law shall prevail.

15. 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 APS shall be
responsible for contacting the State of Washington Business License Services at http://bls.dor.wa.gov or 1-800-451-7985 to obtain a business registration. If APS 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.

16. **HIPAA BUSINESS ASSOCIATE AGREEMENT.** APS shall execute and comply with the requirements of the attached HIPAA Business Associate Agreement.

Dated on __________________________ CITY OF SPOKANE

By: _____________________________
   Title: __________________________

Attest:

Approved as to form:

______________________________  ________________________________
City Clerk                        Assistant City Attorney

Dated on __________________________ APS HEALTHCARE NORTHWEST, INC.

E-Mail address, if available: _____________
   _________________________________

By: ________________________________
   Title: __________________________

Attachment which is a part of this agreement:
   HIPAA Business Associate Agreement
BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("Agreement") is between the CITY OF SPOKANE ("Covered Entity"), and APS HEALTHCARE NORTHWEST, INC., ("Business Associate"), and is effective as of February 1, 2013 or such earlier date as this Agreement is fully signed by the parties ("Effective Date").

WHEREAS, the parties contemplate an arrangement whereby Business Associate provides services to Covered Entity, and Business Associate receives, has access to or creates Protected Health Information (PHI) in order to provide those services; and

WHEREAS, Covered Entity is subject to the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the American Recovery and Reinvestment Act of 2009 (ARRA), and regulations promulgated thereunder, including the Standards for Privacy of Individually Identifiable Health Information codified at 45 Code of Federal Regulations Parts 160 and 164 ("Privacy Regulations"); and

WHEREAS, the Privacy Regulations require Covered Entity to enter into a contract with Business Associate in order to mandate certain protections for the privacy and security of Protected Health Information, and those Regulations prohibit the disclosure to or use of Protected Health Information by Business Associate if such a contract is not in place; -- Now, Therefore,

The parties agree as follows:

1. DEFINITIONS

1.1. “Designated Record Set” shall mean a group of records maintained by or for the Covered Entity that is (i) the medical records and billing records about individuals maintained by or for the Covered Entity, (ii) the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or (iii) used, in whole or in part, by or for the Covered Entity to make decisions about individuals. As used herein the term “Record” means any item, collection, or grouping of information that includes PHI and is maintained, collected, used, or disseminated by or for the Covered Entity.

1.2. “Protected Health Information” or “PHI” means information, including demographic information, that (i) relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual, or the past, present or future payment for the provision of health care to an individual; (ii) identifies the individual (or for which there is a reasonable basis for believing that the information can be used to identify the individual); and (iii) is received by Business Associate
from or on behalf of Covered Entity, or is created by Business Associate, or is made accessible to Business Associate by Covered Entity.

1.3. Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those in 45 CFR 160.103 and 164.501.

2. OBLIGATIONS OF BUSINESS ASSOCIATE

2.1. Permitted Uses and Disclosures of PHI. Except as otherwise limited in this Agreement, Business Associate may use and disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity for the following purposes, if such use or disclosure of PHI would not violate the Privacy regulations if done by the Covered Entity:

2.1.1. To provide data aggregation services as permitted by 42 CFR § 164.504(e)(2)(i)(B); and

2.1.2. To report violations of law to appropriate federal and state authorities, where consistent with 45 CFR § 164.502(j)(1);

2.1.3. Business Associate agrees not to use or further disclose PHI other than as permitted or required by this Agreement, or as required by law.

2.2. Adequate Safeguards for PHI. Business Associate shall implement and use appropriate administrative, physical and technical safeguards to:

2.2.1. Prevent use of disclosure of PHI other than as permitted or required by this Agreement;

2.2.2. Reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that Business Associate creates, receives, maintains, or transmits on behalf of the Covered Entity; and

2.2.3. As of the Compliance Date of 42 U.S.C.A. § 17931, comply with the Security Rule requirements set forth in 45 CFR §§164.308, 164.310, 164.312, and 164.316.

2.3. Reporting Non-Permitted Use or Disclosure. Business Associate shall immediately in writing notify Covered Entity of each use or disclosure, of which it becomes aware, that is made by Business Associate, its employees, representatives, agents or subcontractors that is not specifically permitted by this Agreement pursuant to 45 CFR 504 and 45 CFR 164.
2.4. Use and/or Disclosure of Unsecured PHI. With respect to any use of disclosure of unsecured PHI not permitted by the Privacy Rule that is caused solely by the Business Associate’s failure to comply with one (1) or more of its obligations under this Agreement, Covered Entity hereby delegates to Business Associate the responsibility for determining when any such incident is a Breach and for providing all legally required notifications to Individuals, HHS and/or the media, on behalf of Covered Entity. Business Associate shall provide these notification in accordance with the data breach notification requirements set forth in 42 U.S.C.A. § 17932 and 45 CFR Parts 160 & 164 subparts A, D & E as of their respective Compliance Dates, and shall pay for the reasonable and actual costs associated with such notifications. In the event of a Breach, without reasonable delay, and in any event no later than sixty (60) calendar days after Discovery, Business Associate shall provide Covered Entity with written notification that includes a description of the Breach, a list of individuals (unless Covered Entity is a plan sponsor ineligible to receive PHI) and a copy of the template notification letter to be sent to Individuals.

2.5. Availability of Internal Practices, Books and Records to Government Agencies. Business Associate agrees to make its internal practices, books and records relating to the use and disclosure of PHI available to the Secretary of the federal Department of Health and Human Services for purposes of determining Covered Entity’s compliance with the Privacy Regulations. Business Associate shall immediately notify Covered Entity of any requests made by the Secretary and provide Covered Entity with copies of any documents produced in response to such request.

2.6. Access to and Amendment of PHI. Within ten (10) days of receiving a request from the Covered Entity for access to PHI about an individual contained in a Designated Record Set, Business Associate shall: (a) make the PHI specified by Covered Entity available to the individual(s) identified by Covered Entity as being entitled to access and copy that PHI, and (b) make PHI available to Covered Entity for the purpose of amendment and incorporating such amendments into the PHI. Business Associate shall provide such access and incorporate such amendments within the time and in the manner specified by Covered Entity.

2.7. Accounting of Disclosures. Business Associate agrees to document disclosures of PHI and information related to such disclosures, and further, to provide such documentation to Covered Entity in a time and manner designated by Covered Entity, to permit Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR Section 164.528. Within ten (10) days of receiving a request from the Covered Entity that it has received a request for an accounting of disclosures of PHI as set forth above, Business Associate shall provide to Covered Entity such information in Business
Associate’s possession and required for Covered Entity to make the accounting required by 45 CFR Section 164.528. Any accounting provided by Business Associate under this Section 2.7 shall include: (a) the date of the disclosure; (b) the name, and address if known, of the entity or person who received the PHI; (c) a brief description of the PHI disclosed; and (d) a brief statement of the purpose of the disclosure. For each disclosure that could require an accounting under this Section 2.7, Business Associate shall document the information specified in (a) through (d), above, and shall securely retain this documentation for six (6) years from the date of the disclosure.

2.8. Business Associate shall request, use and/or disclose only the minimum amount of PHI necessary to accomplish the purpose of the request, use of disclosure; provided that Business Associate shall comply with 42 U.S.C.A. § 17935(b) as of its Compliance Date.

2.9. Business Associate shall not directly or indirectly receive remuneration in exchange for any PHI as prohibited by 42 U.S.C.A. § 17935(d) as of its Compliance Date.

2.10. Business Associate shall not make or cause to be made any communication about a product or service that is prohibited by 42 U.S.C.A. § 17936(a) as its Compliance Date.

2.11. Business Associate shall not make or cause to be made any written fundraising communications that is prohibited by 42 U.S.C.A. § 17936(b) as of its Compliance Date.

2.12. Business Associate shall accommodate reasonable requests by Individuals for confidential communications in accordance with 45 CFR § 164.522(b).

2.13. Use of Subcontractors and Agents. Business Associate shall require each of its agents and subcontractors that receive PHI from Business Associate to execute a written agreement obligating the agent or subcontractor to comply with all the terms of this Agreement.

2.14. Agreement to Mitigate. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement, and to promptly communicate to Covered Entity any actions taken pursuant to this paragraph

3. OBLIGATIONS OF COVERED ENTITY
3.1. Covered Entity shall, upon request, provide Business Associate with its current notice of privacy practices adopted in accordance with the Privacy Regulations.

3.2. Covered Entity shall inform Business Associate of any revocations, amendments or restrictions in the use or disclosure of PHI if such changes affect Business Associate’s permitted or required uses and disclosure of PHI hereunder.

4. ADDITIONAL PERMITTED USES

4.1. Except as otherwise limited in this Agreement or the services agreement, Business Associate may use Protected Health Information for the following additional purposes:

4.1.1. Use of Information for Management, Administration and Legal Responsibilities. Business Associate may use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate as required by law.

4.1.2. Disclosure of Information for Management, Administration and Legal Responsibilities. Business Associate may disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, as required by law, provided that the disclosures are handled in accordance with Section 2.1 above.

5. TERM AND TERMINATION

5.1. Term and Termination. The term of this Agreement shall commence as of the Effective Date and shall terminate, except as otherwise provided herein, when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity in accordance with this Agreement. This Agreement may be terminated by Covered Entity immediately and without penalty upon written notice by Covered Entity to Business Associate if Covered Entity determines, in its sole discretion, that Business Associate has violated any material term of this Agreement, as amended. In addition, the term of this Agreement shall coincide with the term of the service arrangement between Covered Entity and Business Associate and shall terminate automatically upon termination of such service arrangement. Business Associate’s obligations under Sections 2.3, 2.5, 2.6, 2.7 and 5.2 of this Agreement shall survive the termination or expiration of the Agreement.
5.2. **Disposition of PHI upon Termination or Expiration.** Upon termination or expiration of this Agreement, Business Associate shall either return or destroy, in Covered Entity's sole discretion and in accordance with any instructions by Covered Entity, all PHI in the possession or control of Business Associate or its agents and subcontractors. However, if Covered Entity determines that neither return nor destruction of PHI is feasible, Business Associate may retain PHI provided that Business Associate (a) continues to comply with the provisions of this Agreement for as long as it retains PHI, and (b) limits further uses and disclosures of PHI to those purposes that make the return or destruction of PHI infeasible.

6. **GENERAL TERMS**

6.1. **No Third Party Beneficiaries.** There are no third party beneficiaries to this Agreement.

6.2. **Indemnification.** Business Associate will indemnify, hold harmless and defend Covered Entity from and against any and all claims, losses, liabilities, costs, and other expenses, including attorneys' fees, incurred as a result or arising directly or indirectly out of or in connection with (a) any misrepresentation, breach or non-fulfillment of any undertaking on the part of Business Associate under this Section; and (b) any claims, demands, awards, judgments, actions and proceedings made by any person or organization, arising out of or in any way connected with Business Associate's obligations under this Section.

6.3. **No Property Interest.** Business Associate agrees that it acquires no title or rights to the PHI, including any de-identified information, as a result of providing services to Covered Entity.

6.4. **Legal Compliance; Amendment.** The parties hereto shall comply with applicable laws and regulations governing their relationship, including, without limitation, the Privacy Regulations, and any other federal or state laws or regulations governing the privacy, confidentiality or security of patient health information, including without limitation, the Washington Uniform Healthcare Information Act, RCW ch. 70.02. If a provision of this Agreement is held invalid under any applicable law, such invalidity will not affect any other provision of this Agreement that can be given effect without the invalid provision. Further, all terms and conditions of this Agreement will be deemed enforceable to the fullest extent permissible under applicable law, and when necessary, the court is requested to reform any and all terms or conditions to give them such effect. Upon request by Covered Entity, Business Associate agrees to promptly enter into negotiations with Covered Entity concerning the terms of an amendment to this Agreement embodying written assurances consistent
with the standards and requirements of the Privacy Regulations or other applicable laws. Covered Entity may terminate this Agreement upon 30 days written notice to Business Associate in the event (i) Business Associate does not promptly enter into negotiations to amend this Agreement when requested by Covered Entity pursuant to this Section or (ii) Business Associate does not enter into an amendment of this Agreement providing assurances regarding the safeguarding of PHI that Covered Entity, in its sole discretion, deems sufficient to satisfy the standards and requirements of the Privacy Regulations.

Date:__________________________  BUSINESS ASSOCIATE:

Signature: ______________________

Printed Name:____________________

Title:____________________________

Date: __________________________  COVERED ENTITY: CITY OF SPOKANE

By: ____________________________

Title: __________________________

Attest: __________________________

Approved as to form:

________________________________

City Clerk

________________________________

Assistant City Attorney
### Agenda Sheet for City Council Meeting of: 01/14/2013

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**Summary (Background)**

Interlocal Agreement for Animal Control Services in the City of Spokane.
INTERLOCAL AGREEMENT FOR ANIMAL CONTROL SERVICES
IN THE CITY OF SPOKANE

THIS AGREEMENT, made and entered into by and between Spokane County, a
political subdivision of the State of Washington, having offices for the transaction of business at
1116 West Broadway Avenue, Spokane, Washington 99260, hereinafter referred to as “COUNTY”
and the City of Spokane, a municipal corporation of the State of Washington, having offices for
the transaction of business at 808 West Spokane Falls Boulevard, Spokane, Washington 99201,
hereinafter referred to as “CITY,” jointly hereinafter referred to as the "PARTIES." The COUNTY
and CITY agree as follows.

SECTION NO. 1: RECITALS AND FINDINGS

(a) The Board of County Commissioners of Spokane County has the care of County
property and the management of COUNTY funds and business under RCW
36.32.120(6).

(b) Counties and cities may contract with each other to perform certain functions which
each may legally perform under chapter 39.34 RCW (Interlocal Cooperation Act).

(c) Pursuant to the provisions of 36.32.120(6) and RCW 36.32.120(7), Spokane County,
through its Board of County Commissioners, may enact ordinances dealing with animal
control within the unincorporated area of Spokane County.

(d) City of Spokane may enact ordinances dealing with animal control within its
boundaries.

(e) Spokane County intends on acquiring and improving property (“Regional Animal
Control Facility”) from which Spokane County will provide certain animal control
services to itself, the City of Spokane, and other public entities. The cost of acquiring
and improving the Regional Animal Control Facility will be financed in part through
the operational savings realized by the City of Spokane, Spokane County and other
public entities contracting with Spokane County to receive animal control services from
the Regional Animal Control Facility. Spokane County desires to enter into an
agreement with the City of Spokane wherein the City will contract to receive animal
control services from with the County for a term of twenty (20) years thus providing the
County with operational savings to finance in part the County’s acquisition and
improvement of the Regional Animal Control Facility.

(f) The City of Spokane desires to utilize the services of Spokane County for the purpose
of performing certain animal control services within the boundaries of the City of
Spokane Valley for a term of twenty (20) years.
SECTION NO. 2: DEFINITIONS

(a) **Agreement:** “Agreement” means this Interlocal Agreement between the CITY and COUNTY regarding animal control services.

(b) **City:** “CITY” means the City of Spokane.

(c) **County:** “COUNTY” means Spokane County.

(d) **Services:** “Services” means those services identified in Attachment “1” attached hereto and incorporated herein by reference.

(e) **Annual Fee:** “Annual Fee” means that annual amount of money which the CITY will pay the COUNTY to provide Services. The annual fee shall be comprised of debt service element and operating cost element as further addressed in Section No. 5.

(f) **Uncontrollable Circumstances:** “Uncontrollable Circumstances” means the following events: strikes, riots, wars, civil disturbances, insurrections, acts of terrorism, fires and floods, weather conditions, volcanic eruptions, lightning or earthquakes or other acts of God at or near where the Services are performed and/or that directly affect providing of such Services.

(g) **Consumer Price Index:** “Consumer Price Index” or “CPI” means the percentage change between the current year index and the previous year index as determined by United States Department of Labor, Bureau of Labor Statistics, West-Size Class B/C, Consumer Price Index, All items for all urban consumers (CPI-U), Base year Annual Average. See Attachment “2”. For example, as shown on Attachment “2” the CPI for calendar year 2012 is 3.0%. It was calculated by determining the difference in the CPI-U for 2010 and CPI-U for 2011, dividing this number by the CPI-U for 2010 and rounding the number to the nearest 1/10 of 1%. (I.E. Difference between 133.778 and 137.748 = 3.97/133.778=2.96 rounded up to 3.)

(h) **Regional Animal Control Facility:** “Regional Animal Control Facility” means that entire property acquired, improved and owned by Spokane County from which the County will provide Services.

SECTION NO. 3: PURPOSE

The purpose of this Agreement is to reduce to writing the PARTIES’ understandings as to the terms and conditions under which the COUNTY will provide Services on behalf of the CITY.
SECTION NO. 4: DURATION/WITHDRAWAL

This Agreement shall commence on January 1, 2014, ("Commencement Date") and run for a term of twenty (20) years. In the event the COUNTY for any reason whatsoever is unable to commence providing Services on the Commencement Date, it will provide the CITY with at least six (6) months advance written notice which shall state the date upon which the COUNTY will provide Services. This twenty (20) year time frame shall be referred to as the "Initial Term." The PARTIES acknowledge that the Initial Term is necessary in order for the COUNTY to realize operational savings which it will use to acquire and improve the Regional Animal Control Facility. At the conclusion of the Initial Term, this Agreement may be renewed upon mutual agreement of the PARTIES. All renewals shall be subject to all terms and conditions set forth herein unless otherwise mutually agreed upon.

This Agreement may not be terminated during the Initial Term except upon mutual agreement of the PARTIES. Subsequent to the Initial Term, either party may terminate this Agreement for any reason whatsoever upon a minimum of one (1) year advance notice as provided for in Section 7 to the other party.

SECTION NO. 5: COST OF SERVICES AND BILLINGS/PAYMENTS

A. Cost of Services

The CITY shall pay the COUNTY an annual fee for Services provided under this Agreement. The annual fee for Services contemplates Services commencing as of January 1st of each year and running through December 31st of each year.

The annual fee for calendar year 2014 will be FIVE HUNDRED SIXTY ONE THOUSAND FOUR HUNDRED NINETY TWO AND 00/100 DOLLARS ($561,492.00).

For each subsequent year of the initial term, annual fee shall be increased by an amount equal to the CPI, as defined in Section No. 2 (h), applied to the previous year's annual fee less ONE HUNDRED THOUSAND AND 00/100 DOLLARS ($100,000.00).

For example, assuming that the CPI for 2014 was 3%, the 2015 annual fee would be $575,336.76. [$561,492.00 + $13,844.76 = $575,336.76, with the $13,844.76 computed as ($561,492.00 - $100,000.00) x .03 = $13,844.76].

B. Billing / Payments

The COUNTY shall advise the CITY in writing of its annual fee for Services on or before the first Monday of December for the subsequent calendar year.

There shall be no annual settle and adjust reconciliation with regard to any Services provided under this Agreement.
In the first year of the Agreement, the COUNTY will bill the CITY for the cost of Services in seven payments. The first payment shall be due on or before January 5th. The first payment will equal one-half of the annual fee for that year. The following six (6) payments shall be in equal installments of 1/12 of the annual fee. Each installment shall be due on or before the July 5th, August 5th, September 5th, October 5th, November 5th, and December 5th. In subsequent years, the COUNTY will bill the CITY for the annual fee in twelve equal payments, each due by the fifth of each month of the calendar year. The COUNTY will bill the CITY by the 15th of the month immediately preceding the month when the payment is due.

The COUNTY, at its sole option, may charge interest on any late payments calculated on any lost interest earning had the amount due been invested since the date due to the date of payment in the COUNTY’s investment pool.

SECTION NO. 6: RELATED RESPONSIBILITIES IN CONJUNCTION WITH PROVIDING SERVICES

The COUNTY or its designee agrees to attend staff meetings as requested by the CITY.

The COUNTY or its designee agrees to meet upon request by the CITY or its designee to discuss any Service provided under the terms of this Agreement.

The CITY agrees the COUNTY may use the COUNTY’s stationery in conjunction with providing Services under the terms of this Agreement.

SECTION NO. 7: NOTICE

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

**COUNTY:**  Spokane County Chief Executive Officer
or his/her authorized representative
1116 West Broadway Avenue
Spokane, Washington 99260

**CITY:**  Mayor or his/her authorized designee
City of Spokane
Fifth Floor, City Hall
808 West Spokane Falls Boulevard
Spokane, Washington 99201
SECTION NO. 8: RECORDS REVIEW

The CITY shall be allowed to conduct random reviews of the records generated by the COUNTY in performance of this Agreement. The CITY will provide the COUNTY with reasonable advance notice of the records reviews. The PARTIES agree that they will make best efforts to achieve a resolution of any potential records confidentiality issues, including entering into confidentiality agreements or other similar mechanisms that will allow disclosure of the necessary information to accurately conduct a records review.

SECTION NO. 9: COUNTERPARTS

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

SECTION NO. 10: ASSIGNMENT

No party may assign in whole or part its interest in this Agreement without the written approval of the other party. Provided, however, this does not prohibit the COUNTY from contracting for any euthanasia or cremation services.

SECTION NO. 11: COUNTY EMPLOYEES

The COUNTY shall hire, assign, retain and discipline all employees performing Services under this Agreement according to applicable collective bargaining agreements and applicable state and federal laws.

The COUNTY agrees to meet and confer with the CITY with respect to staff that is assigned to provide Services. Issues of discipline or performance will be specifically handled according to COUNTY policies.

SECTION NO. 12: LIABILITY

The COUNTY shall indemnify, defend and hold harmless the CITY, its officers and employees from all claims, demands, or suits in law or equity arising from the COUNTY’s intentional or negligent acts or breach of its obligations under the Agreement. The COUNTY’s duty to indemnify shall not apply to loss or liability caused by the intentional or negligent acts of the CITY, its officers and employees.

The CITY shall indemnify, defend and hold harmless the COUNTY, its officers and employees from all claims, demands, or suits in law or equity arising from the CITY’s intentional or negligent acts or breach of its obligations under the Agreement. The CITY’s duty to indemnify shall not apply to loss or liability caused by the intentional or negligent acts of the COUNTY, its officers and employees.
If the comparative negligence of the PARTIES and their officers and employees is a cause of such damage or injury, the liability, loss, cost, or expense shall be shared between the PARTIES in proportion to their relative degree of negligence and the right of indemnity shall apply to such proportion.

Where an officer or employee of a party is acting under the direction and control of the other party, the party directing and controlling the officer or employee in the activity and/or omission giving rise to liability shall accept all liability for the other party’s officer or employee’s negligence.

Each party’s duty to indemnify shall survive the termination or expiration of the Agreement.

Each party waives, with respect to the other party only, its immunity under RCW Title 51, Industrial Insurance and only as necessary to make this indemnity provision enforceable with respect to claims relating to the death or injury of CITY and/or COUNTY employees acting within the scope of this Agreement. The PARTIES have specifically negotiated this provision.

COUNTY initials                       CITY initials

SECTION NO. 13: RELATIONSHIP OF THE PARTIES

The PARTIES intend that an independent contractor relationship will be created by this Agreement. The COUNTY shall be an independent contractor and not the agent or employee of the CITY. The CITY is interested only in the results to be achieved and that the right to control the particular manner, method and means in which the Services are performed is solely within the discretion of the COUNTY. Any and all employees who provide Services to the CITY under this Agreement shall be deemed employees solely of the COUNTY. The COUNTY shall be solely responsible for the conduct and actions of all employees under this Agreement and any liability that may attach thereto. Likewise, no agent, employee, servant or representative of the CITY shall be deemed to be an employee, agent, servant or representative of the COUNTY for any purpose.

SECTION NO. 14: MODIFICATION

This Agreement may be modified in writing by mutual written agreement of the PARTIES.

SECTION NO. 15: PROPERTY AND EQUIPMENT

The ownership of all property and equipment utilized in conjunction with providing the Services under this Agreement shall remain with the COUNTY unless otherwise specifically and mutually agreed to by the PARTIES.
SECTION NO. 16: ALL WRITINGS CONTAINED HEREIN/BINDING EFFECT

This Agreement contains terms and conditions agreed upon by the PARTIES. The PARTIES agree that there are no other understandings, oral or otherwise, regarding the subject matter of this Agreement. No changes or additions to this Agreement shall be valid or binding upon the PARTIES unless such change or addition is in writing, executed by the PARTIES.

This Agreement shall be binding upon the PARTIES hereto, their successors and assigns.

SECTION NO. 17: DISPUTE RESOLUTION

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

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

SECTION NO. 18: VENUE STIPULATION

This Agreement has been and shall be construed as having been made and delivered within the State of Washington and it is mutually understood and agreed by each party that this Agreement shall be governed by the laws of the State of Washington both as to interpretation and performance. Any action at law, suit in equity or judicial proceeding for the enforcement of this Agreement, or any provision hereto, shall be instituted only in courts of competent jurisdiction within Spokane County, Washington.

SECTION NO. 19: SEVERABILITY

The PARTIES agree that if any parts, terms or provisions of this Agreement are held by the courts to be illegal, the validity of the remaining portions or provisions shall not be affected and the rights and obligations of the PARTIES shall not be affected in regard to the remainder of the Agreement. If it should appear that any part, term or provision of this Agreement is in conflict with any statutory provision of the State of Washington, then the part, term or provision thereof that may be in conflict shall be deemed inoperative and null and void insofar as it may be in conflict therewith and this Agreement shall be deemed to modify to conform to such statutory provision.
SECTION NO. 20: RECORDS

All public records prepared, owned, used or retained by the COUNTY in conjunction with providing Services under the terms of this Agreement shall be deemed CITY property and shall be made available to the CITY upon request by the CITY subject to the attorney client and attorney work product privileges set forth in statute, court rule or case law.

SECTION NO. 21: HEADING

The section headings appearing in this Agreement have been inserted solely for the purpose of convenience and ready reference. In no way do they purport to, and shall not be deemed to define, limit or extend the scope or intent of the sections to which they pertain.

SECTION NO. 22: TIME OF ESSENCE OF AGREEMENT

Time is of the essence of this Agreement and in case either party fails to perform the obligations on its part to be performed at the time fixed for the performance of the respective obligation by the terms of this Agreement, the other party may, at its election, hold the other party liable for all costs and damages caused by such delay.

SECTION NO. 23: UNCONTROLLABLE CIRCUMSTANCES/IMPOSSIBILITY

A delay or interruption in or failure of performance of all or any part of this Agreement resulting from Uncontrollable Circumstances shall be deemed not a default under this Agreement.

A delay or interruption in or failure of performance of all or any part of this Agreement resulting from any change in or new law, order, rule or regulation of any nature which renders providing of Services in accordance with the terms of this Agreement legally impossible, and any other circumstances beyond the control of the COUNTY which render legally impossible the performance by the COUNTY of its obligations under this Agreement, shall be deemed not a default under this Agreement.

SECTION NO. 24: FILING

The CITY shall file this Agreement with its City Clerk or alternatively place the Agreement on the CITY’s website. The COUNTY shall file this Agreement with the County Auditor, or, alternatively, place the Agreement on the COUNTY’s website or other electronically retrievable public source.

SECTION NO. 25: EXECUTION AND APPROVAL

The PARTIES warrant that the officers executing below have been duly authorized to act for and on behalf of the party for purposes of confirming this Agreement.
SECTION NO. 26: COMPLIANCE WITH LAWS

The PARTIES shall observe all federal, state and local laws, ordinances and regulations, to the extent that they may be applicable to the terms of this Agreement.

SECTION NO. 27: DISCLAIMER

Except as otherwise provided, this Agreement shall not be construed in any manner that would limit either party’s authority or powers under law.

SECTION NO. 28: ANTI-KICKBACK

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

SECTION NO. 29: 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, 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.

SECTION NO. 30: NO THIRD PARTY BENEFICIARIES

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

SECTION NO. 31: ANNUAL REPORT

The SCRAPS Director shall prepare annual report. The annual report shall include, among other matters, performance measurements/indicators and a twelve (12) month Activity Study.

Performance measurements/indicators will include:

- Statistics regarding annual number of pet licenses sold/issued
- Annual live release rate – animals returned to owner, adopted and/or transferred to other facilities/rescue groups
- Where applicable, industry statistics for the same measures will also be listed for the above two (2) bullets
The Activity Study will include monthly statistics regarding:

- Requests for service
- Emergency calls
- Animal impounds
- Investigations
- Trapping

The Activity Study will be sent out monthly as part of the reporting process.

**SECTION NO. 32: INSURANCE**

During the term of the Agreement, the COUNTY shall maintain in force at its own expense, each insurance noted below:

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

B. General Liability Insurance on an occurrence basis, with a combined single limits of not less than $10,000,000 each occurrence for bodily injury and property damage. It shall include contractual liability coverage for the indemnity provided under this Agreement. It shall provide that the CITY, its officers and employees are additional insureds but only with respect to the COUNTY's services to be provided under this Agreement; and

C. Automobile Liability Insurance with a combined single limit, or the equivalent of not less than $15,000,000 each accident for bodily injury and property damage, including coverage for owned, hired and non-owned vehicles.

D. Professional Liability Insurance with a combined single limit of not less than $5,000,000 each claim, incident or occurrence. This is to cover damages caused by the error, omission, or negligent acts related to the professional services to be provided under this Agreement. The coverage must remain in effect for two years after the Agreement is completed.

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without thirty (30) days written notice from the COUNTY or its insurer(s) to the CITY.

Written evidence of insurance shall reflect that the insurance afforded therein shall be primary insurance and any insurance or self-insurance carried by the COUNTY shall be excess and not contributory insurance to that provided by the CITY. As evidence of the insurance coverages required by this Agreement, the COUNTY shall furnish acceptable insurance certificates to the CITY at the time it returns the signed Agreement. The certificate shall specify all of the parties
who are additional insured; and include applicable policy endorsements, the thirty (30) day cancellation clause, and the deduction or retention level. Insuring companies or entities are subject to CITY acceptance. If requested, complete copies of insurance policies shall be provided to the CITY. The COUNTY shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

SECTION NO. 33: ACQUISITION OF START UP COST ITEMS

COUNTY shall acquire and pay for all Start Up Cost Items. Start Up Cost Items means all supplies, equipment, materials, and training necessary for the COUNTY to provide Services to the CITY under the terms of this Agreement. The cost of Start Up Cost Items shall not be included in calculating the annual fee.

SECTION NO 34. DATA CONVERSION COSTS

PARTIES recognize and agree that as a condition precedent to the COUNTY providing Services to the CITY, it is necessary for the COUNTY to have access to animal control records presently held by the CITY’s contract animal control provider SpokAnimal.

CITY agrees to assume the sole responsibility and costs for obtaining access to animal control records presently held by SpokAnimal.

CITY further agrees to assume all costs associated with the one-time data conversion cost to transfer SpokAnimal records to the software system presently used by SCRAPS in conjunction with SCRAPS providing animal control services.

CITY agrees to contact the COUNTY Information Systems Department immediately upon the execution of this Agreement to coordinate transferring such records.

SECTION NO. 35: RCW 39.34 REQUIRED CLAUSES

A. PURPOSE: See Section No. 3 above.

B. DURATION: See Section No. 4 above.

C. ORGANIZATION OF SEPARATE ENTITY AND ITS POWERS: No new or separate legal or administrative entity is created to administer the provisions of this Agreement.

D. RESPONSIBILITIES OF THE PARTIES: See provisions above.

E. AGREEMENT TO BE FILED: See Section No. 24.
F. **FINANCING:** Each party shall be responsible for the financing of its contractual obligations under its normal budgetary process.

G. **TERMINATION:** See Section No. 4 above.

H. **PROPERTY UPON TERMINATION:** See Section No. 15 above.

**IN WITNESS WHEREOF,** the PARTIES have caused this Agreement to be executed on date and year opposite their respective signatures.

Dated: __________________________  BOARD OF COUNTY COMMISSIONERS OF SPOKANE COUNTY, WASHINGTON

______________________________  TODD MIELKE, Chairperson

ATTEST
Clerk of the Board

______________________________  MARK RICHARD, Vice-Chairman

Daniela Erickson  AL FRENCH, Commissioner

Dated: __________________________  CITY OF SPOKANE

By: __________________________

Attest: __________________________

Title: __________________________

______________________________  City Clerk

Approved as to form:

______________________________  Assistant City Attorney
ATTACHMENT “1”

The COUNTY through the Spokane County Regional Animal Protection Services (SCRAPS) will provide Animal Control Services to the CITY within the CITY’s boundaries. The CITY agrees to specially commission any SCRAPs staff which may be necessary for them to carry out such Services so long as such staff meet the requirement(s) necessary for such commission.

For the purpose of this Agreement, Animal Control Services shall include:

ITEM 1: Enforcement of the CITY’S Animal Control Ordinance presently in effect and/or as hereafter amended by the City consistent with this Agreement;
ITEM 2: Enforcement of chapter 16.08 RCW (Dogs);
ITEM 3: Enforcement of chapter 16.52 RCW (Prevention of Cruelty to Animals); and
ITEM 4: Enforcement of chapter 16.54 RCW (Abandoned Animals).

Enforcement includes field services, shelter services, educational services, the licensing of dogs, cats and appearing before all administrative and judicial hearings in conjunction with such duties and functions.

FIELD SERVICES

Field Services include those provided during normal hours of operation as well as emergency services provided only after normal hours of operation. Normal hours of operation will be determined by the COUNTY after consultation with the Board of Directors.

Field Services provided during normal hours of operation include: (1) Dog at large complaints; (2) Cat at large on private property; (3) Dog barking; (4) Dog or cat – no license; (5) Dog or cat – no rabies vaccination; (6) Dog threatens person; (7) Dog threatens domestic animal; (8) Dog or cat bite; (9) Injured dog or cat; (10) Sick dog or cat; (11) Agency assist; (12) Abandoned animal; (13) Animal cruelty; (14) Dead on arrival dog or cat; (15) Confined dog or cat; (16) Trapping dog or cat; (17) Vicious dog; (18) Kennel inspections; (19) Dangerous dog inspections; and (20) Others as deemed necessary by the SCRAPS.

Field Services provided after normal hours of operation, referred to as Emergency Services, include: (1) Injured or sick dog/cat; (2) Dog/cat bite – dog/cat is still at large; (3) Dog bite – severe dog bite (victim is in hospital and dog will need to be quarantined immediately in the county shelter); (4) Vicious or threatening dog – dog threatens persons or domestic animals and is still at large; (5) Animal in our humane trap that is making a disturbance or injuring itself; (6) Other law enforcement agency requests for assistance when animals are involved; (7) Other emergencies such as extreme cruelty or pet dying in a hot vehicle; and (8) Multiple calls on same problem – animal control officer on call will evaluate and make a determination on whether to respond.
SHELTER SERVICES

Shelter Services are provided Monday, Wednesday and Friday from noon to 5:30 p.m.; Tuesday and Thursday from noon to 6:30 p.m.; Saturday and Sunday from noon to 5:30 p.m.; and closed holidays. Shelter Services include the following: (1) Housing dog/cat – occasional other animal; (2) Pet license program; (3) After hours animal receiving room; (4) Animal redemptions; (5) Adoption program; (6) Volunteer program; (7) Dog training program; (8) Trapping program; and (9) Crematorium. Shelter Services hours may be adjusted by the COUNTY after consultation with the Board of Directors.

EDUCATIONAL SERVICES

Educational services include: (1) Dog bite prevention program – elementary schools and service workers; (2) School career fair participation; (3) Specialty presentations available upon request; (4) Public service announcements – newspaper, radio and television; (5) Community outreach such as fair booth, license clinics, special events; and (6) Website.

The COUNTY may conduct surveys within the CITY for unlicensed dogs and cats.

ANIMAL CONTROL ORDINANCE / LICENSES/ FEES / PENALTIES

In conjunction with the enforcement of the CITY’S Animal Control Ordinance, the CITY shall adopt and keep current by appropriate legislative action an Animal Control Ordinance substantially identical to that adopted by the COUNTY as it presently exist or as it may hereinafter be modified/amended, to include all licenses/fees/penalties. This responsibility shall not be deemed a restriction upon the CITY’s legislative power. The CITY may enact ordinances dealing with animal control within its boundaries. Provided, further, the CITY may add a surcharge to its license fee (“City License Fee Surcharge”).

All revenues from licenses/fees/penalties collected (not including City License Fee Surcharge) shall be retained by SCRAPS and applied to the cost of providing Services. Any such City License Fee Surcharge shall not be retained by SCRAPS. The COUNTY shall remit to the CITY all such City License Fee Surcharges collected under the terms of this Agreement semiannually on or before or before July 31st for the time frame from January 1st through June 30th of each calendar year this Agreement is in effect and January 31st for the time frame from July 1st through December 31st of each year this Agreement is in effect.

The COUNTY shall provide the CITY with a copy of its Animal Control Ordinance presently codified in Chapter 5.04 of the Spokane County Code and all subsequent modifications/amendments thereto. The CITY shall provide the COUNTY with copies of its adopted/amended Animal Control Ordinance substantially identical to chapter 5.04 of the Spokane County Code.
The CITY shall provide legal counsel to prosecute any citations/complaints issued by the COUNTY in enforcement of Items No. 1 through 4 herein above in any court of lawful jurisdiction except if the enforcement constitutes a felony.

In performing the above Animal Control Services, the COUNTY will provide such personnel, as it deems necessary as well as any and all vehicles and materials of any kind or nature whatsoever.

The COUNTY will provide additional Animal Control Services above and beyond those set forth herein to the CITY at cost negotiated between the CITY and the COUNTY.

Animal Control Services provided by the COUNTY under the terms of this Agreement, absent subsequent negotiation and agreement will not include:

1. Picking up dead wildlife or livestock on CITY streets, roads or alleys.
2. Providing emergency service for dead animals at any time or for dead dogs/cats after normal hours of operation.
3. Providing traps to the public for wildlife.
4. Responding to calls pertaining to dead or injured wildlife threatening the safety of other animals or the public.
5. Holding licensed dogs/cats in the Regional Animal Control Facility for a period of more than five (5) business days. Provided, at sole discretion of the COUNTY, holding periods may be extended.
6. Holding unlicensed dogs/cats in the Regional Animal Control Facility for a period more than seventy-two (72) hours. Provided, at sole discretion of the COUNTY, holding periods may be extended.
7. Holding any wildlife at the Regional Animal Control Facility.

Providing Hearing Examiner Services.

**CITIZEN COMPLAINT PROCESS**

- Written complaints may be filed via an email help request or complaint form available on the SCRAPPS website or through the mail. Verbal complaints, whether submitted telephonically or in person, shall be documented in writing by SCRAPPS staff receiving the complaint.
- All complaints will be handled by SCRAPPS Management Team within five (5) business days unless the complaint is related to an ongoing active investigation.
- Unresolved complaints will be referred to the Board of County Commissioners and will be resolved within ten (10) business days of receiving the complaint from the SCRAPPS Management Team. The COUNTY will notify the CITY’s representative in writing of the Board of County Commissioners’ decision.
• The COUNTY will provide the CITY on a monthly basis a report listing any complaints received within the CITY by SCRAPPS staff for the preceding month, which shall include at least the following information:
  o The nature of the customer complaint
  o The location of the incident
  o Response times to customer complaints
• The COUNTY shall work with the CITY to develop a system for mapping the locations of any complaints received.

SERVICE GOALS

• Emergency/high priority calls responded to within 24 hours – immediate response when a person and/or animal is at immediate risk (safety/health).
• Routine calls responded to within 48 hours – nuisance calls such as barking, dogs not on a leash, etc.
• Licensed/identified animals impounded by animal protection officer in field will be returned directly to the owner if someone is home to receive the animal. Otherwise owner will be notified via phone and mail that their animal was impounded within 24 hours of impounding.
• Dedicated emergency phone line – no voice mail. All emergency calls for service will be answered by a person – either SCRAPPS staff or answering service.
• Convenience for citizen with online pet licensing (new/renewal) and online request for service option.
• Current list of impounded animals updated every two hours on website – helpful for owners who are missing their pet.
• Animal Protection Officers have 24/7 access to pet license data and animal control records via laptops in the field.
• All impounded animals scanned for a microchip at the time of impound, given a health exam and vaccinated (unless vicious and threatening safety of staff).
• All SCRAPPS staff are trained in customer service through the Spokane County Training Program and are required to follow the Spokane County Behavioral Standards.

SCRAPS STANDARDS

• Guidelines for Standards of Care in Animal Shelters published by The Association of Shelter Veterinarians 2010 - the guidelines were developed to provide a tool that would allow communities and animal welfare organizations, to identify minimum standards of care, as well as best and unacceptable practices.
• Animal Control Management A Guide for Local Governments published by the Humane Society of the United States – a guide to establish effective animal care and control
• National Animal Control Association Training Guide – a guide to training today’s professional animal control officer
• American Society for the Prevention of Cruelty to Animals Professionals website – animal welfare tools and resources

Any CITY concern for nonperformance shall be forwarded to the SCRAPS Board of Directors for consideration at their next scheduled meeting. The SCRAPS Board of Directors is a five (5) member advisory board. Failure to resolve the CITY’s concern by the SCRAPS Board of Directors at their next scheduled meeting shall result in the concern being immediately forwarded to the Board of County Commissioners for resolution. If the CITY is not satisfied by the decision of the Board of County Commissioners, it may resolve the issue pursuant to SECTION No. 17.
### Agenda Item Name
0520 APPOINTMENT OF HEATHER TRAUTMAN

### Agenda Wording
Resolution approving the appointment of Heather Trautman as Office of Neighborhood Services and Code Enforcement Director for the City of Spokane.

### Summary (Background)
Mayor David A. Condon has appointed Ms. Heather Trautman as the Office of Neighborhood Services & Code Enforcement Director for the City of Spokane pending approval of City Council

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### Additional Approvals

### Council Notifications

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### Contact Name/Phone
THERESA SANDERS 6502 TSANDERS@SPOKANE.CITY.ORG

### Mayor
MAYOR

### Cross Ref #
RES 2013-0001

### Submitting Dept
MAYOR

### Clerk's File #
RES 2013-0001

### Date Rec'd
1/2/2013
RESOLUTION 2013-0001

A resolution confirming the appointment of Heather Trautman as Director of Neighborhood Services and Code Enforcement.

WHEREAS, section 24 of the city charter states that the Mayor shall have the power to appoint department heads subject to the approval of the City Council; and

WHEREAS, section 5.2.6 of the city council rules of procedures states that approval of appointment of department heads shall be by resolution; and

WHEREAS, after full consideration, Mayor David A. Condon has appointed Ms. Trautman as the Director of Neighborhood Services and Code Enforcement for the City of Spokane; -- Now, Therefore,

BE IT RESOLVED by the City Council for the City of Spokane that it hereby confirms the appointment of Heather Trautman as the Director of Neighborhood Services and Code Enforcement for the City of Spokane.

ADOPTED BY THE CITY COUNCIL ON ____________________________.

___________________________________________________________
City Clerk

Approved as to form:

___________________________________________________________
Assistant City Attorney
**Agenda Sheet for City Council Meeting of:**
01/14/2013

**Date Rec'd**
01/10/2013

**Clerk's File #**
RES 2013-0002

**Renews #**

**Submitting Dept**
CITY COUNCIL

**Cross Ref #**

**Contact Name/Phone**
AMBER WALDREF 625-6275

**Project #**

**Contact E-Mail**
AWALDREF@SPOKANECITY.ORG

**Bid #**

**Agenda Item Type**
Resolutions

**Requisition #**

**Agenda Item Name**
0320 PRO-CON COMMITTEE APPOINTMENTS

**Agenda Wording**
A resolution regarding the appointment of committees to prepare statements advocating voters’ approval and rejection of Propositions No. 1, No.2 and No. 3 on the February 12, 2013 special election.

**Summary (Background)**
The City Council enacted SMC 1.07.010 regarding the appointment of committees to prepare arguments advocating both voters’ approval and rejection of ballot measures. On December 17, 2012, the City Council approved Resolution No. 2012-0105 regarding the Office of Police Ombudsman, No. 2012-0107 regarding a majority plus one vote to approve councilmanic taxes and No. 2012-0106 regarding a library operations levy lid lift, respectively listed as Propositions No. 1, No. 2 and No. 3. This resolution establishes the separate committees to prepare arguments advocating voters’ approval or rejection of Propositions No. 1, No. 2 and No. 3 consistent with SMC 1.07.010 and provides for the appointment of committee members.

**Fiscal Impact**

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Resolution No. 2013-0002

A resolution regarding the appointment of committees to prepare statements advocating voters' approval and rejection of Propositions No. 1, No. 2 and No. 3 on the February 12, 2013 special election.

WHEREAS, the City Council enacted SMC 1.07.010 regarding the appointment of committees to prepare arguments advocating both voters’ approval and rejection of ballot measures;

WHEREAS, on December 17, 2012, the City Council approved Resolution No. 2012-0105 regarding the Office of Police Ombudsman, No. 2012-0107 regarding a majority plus one vote to approve councilmanic taxes and No. 2012-0106 regarding a library operations levy lid lift, respectively listed as Propositions No. 1, No. 2 and No. 3;

WHEREAS, the resolutions call for a special election to be held on February 12, 2013;

WHEREAS, pursuant to SMC 1.07.010, it is appropriate for the City Council to appoint committees to prepare statements advocating voter's approval and rejection of the propositions.

NOW, THEREFORE, BE IT RESOLVED by the City Council for the City of Spokane that the City Council appoints separate committees to prepare arguments advocating voters’ approval or rejection of Propositions No. 1, No. 2 and No. 3 consistent with SMC 1.07.010 to be voted on the February 12, 2013 special election.

BE IT FURTHER RESOLVED that the City Council appoints the following individual to the following committees:

Proposition No. 1: Amendment to City Charter Regarding a Police Ombudsman and Commission

Committee preparing statement advocating approval:

Committee preparing statement advocating rejection:

Proposition No. 2: Amendment to City Charter Regarding City Council Approval of Taxes

Committee preparing statement advocating approval:

Committee preparing statement advocating rejection:
Proposition No. 3: Library Operations Levy

Committee preparing statement advocating approval:

Committee preparing statement advocating rejection:

BE IT FURTHER RESOLVED that if committee members are not appointed in conjunction with the adoption of this resolution, the Council may subsequently appoint committee members by motion of the City Council.

ADOPTED by the City Council ______________________, 2013.

____________________________________
City Clerk

Approved as to form:

____________________________________
Assistant City Attorney
Spokane County Local Voters’ Pamphlet
Administrative Rules

1. Purpose

The purpose of these rules is to provide information for units of local government who participate in the Spokane County Local Voters’ Pamphlet. In addition, these rules follow laws that are designed to provide voters with informative, non-biased, consistent and readable information. The pamphlet provides information about both candidates and the various ballot measures as well as general voter registration and election information.

2. Authority

These rules follow Title 29A.32 of the Revised Code of Washington (RCW) State and local voters’ pamphlet election laws. These rules also follow the Washington Administrative Code, WAC 434-381.

3. Administrative Rules

I. Content Outline

II. Specifications for Participation by Units of Local Government

III. Specifications for Candidate Statements and Photographs

IV. Specifications for Committee Statements
I. Content Outline

A. Content Requirements

1. Appearing on the cover of the voters’ pamphlet are the current year, the title “Official Local Voters’ Pamphlet for Spokane County, Washington”, “Published by the Spokane County Auditor’s Office”, and the date of the election. (29A.32.241 RCW)

2. A list of jurisdictions that have measures or candidates in the pamphlet. (29A.32.241 RCW)

3. A letter of introduction from the auditor.

4. A table of contents.

5. Information on how a person may register to vote and obtain an absentee ballot. (29A.32.241 RCW)

6. A sample ballot.

7. The text of each measure accompanied by an explanatory statement prepared by the prosecuting attorney for any county measure or by the attorney for the jurisdiction submitting the measure if other than a county measure. All explanatory statements for city, town or district measures not approved by the attorney for the jurisdiction submitting the measure shall be reviewed and approved by the county prosecuting attorney or city attorney, when applicable, before inclusion in the pamphlet. (29A.32.241 RCW)

8. The arguments for and against each measure submitted by committees selected pursuant to RCW 29A.32.280. (29A.32.241 RCW)

9. For partisan primary elections, information on how to vote the applicable ballot format and an explanation that minor political party candidates and independent candidates will appear only on the general election ballot. (29A.32.241 RCW)

10. A list of Voter Service Centers with addresses and accessibility information.

11. The election office website address.
B. Content Requirements (continued)

12. Graphics, artwork and any other material that will make the information easier to understand.

13. The following statement shall be printed once when arguments related to an issue appear in the voters’ pamphlet: “Arguments printed are the opinions of the authors. Spelling, grammatical and/or other corrections may be made at the discretion of the Auditor”.

14. The following statement shall be printed once when candidate statements appear in the voters’ pamphlet: “Candidate statements are printed as submitted. Spelling, grammatical and/or other corrections may be made at the discretion of the Auditor”.

15. Measures and candidate statements shall be printed in the voters’ pamphlet as closely as possible, in the same order in which they appear on the ballot.

C. Required Pamphlet Content if No Notice of Election is published

(RCW 29A.52.350)

1. Party designation, title of each office, names and addresses of candidates.
2. Ballot title measures.
3. List of districts; If the election is county-wide then just a statement.
4. Location of replacement ballots and Voter Service Centers.
5. Hours during which the Voter Service Centers will be open.

II. Specifications for Participation by Units of Local Government

A. Participation. All units of local government in the county shall participate in the Spokane County Local Voters’ Pamphlet. The units of local government shall include information on all measures from that unit of local government and include information on candidates. If the required appearance in the pamphlet would create undue financial hardship for the unit of local government, the legislative authority of the unit may petition the legislative authority of the county to waive this requirement (29A.32.220). The Notice of Hardship from a City, Town or District must be received by the Board of County Commissioners no later than 75 days prior to publication.

The legislative authority of the county may provide such a waiver if it does so not later than sixty days before the publication of the pamphlet and it finds that the requirement would create such hardship.
Spokane County Voters’ Pamphlet
Administrative Rules – April 1, 2007

B. Termination of Publication of Voters Pamphlet
The Board of County Commissioners of Spokane County may, through resolution, suspend the publication of the voters’ pamphlet for a particular General Election. Notice of such suspension must be given by the Board to the Spokane County Auditor’s Office no less than 97 days before publication.

C. Notification to Units of Local Government –
If a local voters’ pamphlet will be published, the County Auditor shall notify all units of local government at least 90 days before the publication and distribution of the local voters’ pamphlet. The notice will include information on the financial hardship clause (see Specifications for Participation by Units of Local Government, above). The notice shall also indicate that a representative from the County Auditor’s Office is available to meet with a unit of local government and answer any questions.

D. Verification of Unit of Local Government Not Participating in the Pamphlet–
The County Auditor shall be notified in writing of any waiver granted by the county legislative authority, no later than sixty days before the publication of the pamphlet. A unit of local government should submit a copy of the petition to the County Auditor.

5. Responsibility for the Cost of the Pamphlet –
The cost of the Local Voters’ Pamphlet shall be considered an election cost to those units of local government included in the pamphlet and shall be prorated in the manner provided in RCW 29A.04.410; which states:

Every city, town, and district is liable for its proportionate share of the costs when such elections are held in conjunction with other elections held under RCW 29A.04.321 and 29A.04.330.

The purpose of this section is to clearly establish that the county is not responsible for any costs involved in the holding of any city, town or district election.

In recovering such election expenses, including a reasonable pro-ration of administrative costs, the county auditor shall notify each district of its share of the cost. The district shall promptly issue its warrant for payment of election costs.
E. Inter-local Agreements –
In cases where a unit of local government wishes to participate in the pamphlet but the boundary lines of that district extend into another county, the county auditor shall formally request in writing from the adjoining county auditor an agreement that Spokane County is permitted to mail pamphlets to those voters residing in the affected county. If the county auditor from the affected county so chooses, he or she may through their office do the distribution of the Spokane County Local Voters’ Pamphlets.

III. Specifications for Candidate Statements and Photographs

A. Deadline for Submission of Statements and Photographs –
Candidate statements will first appear in the on-line voter’s pamphlet for the Primary and then in both the on-line and published pamphlets for the General Election. Deadlines for candidates not appearing on the Primary ballot are the same as for those candidates who are on the Primary ballot. The deadline for when materials must be received by the Elections Office will be provided to candidates when they file for office.

Upon receipt of pamphlet submissions, the material will be date stamped and the candidate will be sent an acknowledgement of receipt. It is the candidate’s responsibility to contact the Elections Office if an acknowledgement is not received.

Any candidate who is defeated in the primary election shall not have their statement appear in the Spokane County Local Voters’ Pamphlet for the General Election.

No material for the voter’s pamphlet will be accepted by the Elections Office after the deadline. There will be no exceptions.

B. Statement Length –
Statements submitted by all candidates shall conform to the length established for the state voter guide in RCW 29A.32.121. The maximum number of words for local offices and state representative is 100 words; state senator and superior court judge, 200 words.

Each individual word is counted as one word. Email and website addresses will be counted as ONE word. The word limit includes headers, footers, numbers or dates. Any statement over the limit will be returned. No changes will be accepted for the General Election.

3. Statement Submission Standards –
In order to maintain high standards of readability and to insure accuracy in typesetting this material for publication, the following standards and recommendations for style and format have been established:
1. Statements must be submitted as computer files or type written; handwritten statements will not be accepted.

2. The name, address, telephone number and position sought should appear on the top of each page of the statement.

3. Only plain text will be accepted; no italics, bold, tables, images or other enhancements will be accepted.

**E. Statement Content**
The Spokane County Auditor will reject any statements which contain obscenity, vulgarity, profanity, scandalous, libelous or defamatory matter; or any language which in any way cites, counsels, promotes or advocates hatred, abuse, violence and hostility toward, or which tends to cause ridicule or shame upon any person or group of persons by reason of sex, race, color, religion or manner of worship or any language or matter the circulation of which through the mail is prohibited by federal law.

Statement content suggestions are: occupation, education, professional qualifications, why you seek the position, what ideas you have if you were elected, length of residence in the county, city, town or district, additional personal information and community involvement.

**F. Editing Statements**
In a publication of this magnitude, it is inevitable that the material submitted for publication will contain some inadvertent errors of spelling, punctuation, or syntax which would adversely affect the readability of the statement and improperly reflect on the candidate. The County Auditor may correct such incidental errors as long as this does not affect the content of the statement. This office is not obligated, however, to make such corrections and assumes no responsibility for errors which result from inaccuracies in the original statement submitted by the candidate.

**G. Rejected Statements and Appeal of Rejected Statements**
If any portion of the candidate’s statement is rejected, only that rejected portion may be rewritten and submitted for inclusion in the statement.

Candidates will be notified if their statement, or any portion thereof, has been rejected. They will be given an opportunity to appeal that rejection or resubmit a statement or revision of a portion which has been rejected. A second rejection is final, due to time constraints.

Appeals will be made to the County Auditor, who has the final decision in the acceptance and rejection of statements.

**H. Proofing of Statements**
To insure the maximum accuracy in the publication of these statements, the County Auditor will mail a proof copy of any statement to the candidate at the address listed on his/her submission form. If an email address is provided by the submitter the proof may
be sent by this means. This office assumes no responsibility for providing a proof copy of any statement submitted without a return address or email address.

Candidates will not be permitted to amend the content of their original statement after a proof has been provided. Only the correction of incidental errors in spelling, punctuation, or syntax in the original statement or errors in typesetting will be allowed.

**J. Candidate Photographs**

Candidates may submit photographs to be included with their statements. Candidates may choose to have their photos taken in the elections office at no charge. To assure the best possible reproduction, all photographs must be:

1. Black and white glossy prints
2. Not smaller than 3 x 5 inches or larger than 5 x 7 inches.
3. Limited to the head and shoulder of the candidate. To achieve the best contrast, we recommend that you use a photograph with a light (not white) background.
4. Photograph must be no more than five years old. (RCW 42.17.520)
5. No scanned photographs or photos that have already been screened back for printing purposes.
6. Photographs are prohibited which show the uniform or insignia suggesting the holding of a public office. (RCW 29A.32.110)
7. The photo can be submitted by e-mail or delivered on disk. *All electronic photos must be in the electronic jpeg format.* The Spokane County Elections Office will not maintain a file of photographs so prints submitted for use in previous editions of the Spokane County Local Voters’ Pamphlet cannot be used again.
8. If a candidate does not have a photo, the Elections Office will offer photography service in conjunction with candidate filing. Candidates will have an opportunity to approve the photo, which is the property of the Spokane County Elections Department. If the candidate is unable to sit for the photo immediately after filing, an appointment can be made to have a photo taken at a later time. This service will be offered through the Friday following the close of filing week.
Spokane County Voters’ Pamphlet
Administrative Rules – April 1, 2007

K. Statement and Photograph Costs –
No costs shall be charged to candidates submitting material to be included in the Local Voters’ Pamphlet. The cost of the Local Voters’ Pamphlet shall be considered an election cost to those units of local government included in the Pamphlet and the cost shall be prorated in the manner provided in RCW 29A.04.410.

L. Viewing of Statements –
Viewing of statements shall be allowed after the official deadline for submission of statements has passed and the statements have been delivered to opposing committees for rebuttal.

M. Failure to Submit Photo or Statement –
If a candidate does not submit a printable photo or statement the following language will appear in the appropriate position in the Voters’ Pamphlet: “No Photo was Submitted”, and/or “No Candidate Statement was Submitted”.

Send Statement and Photograph to:

Paul Brandt
1033 W. Gardner Ave.
Spokane, WA. 99260

Or email to:
elections@spokanecounty.org

IV. Specifications for Committee Statements – 29A.32.280

A. Committees to Write Arguments For and Against Measures –
For each measure from a unit of local government that is included in a Local Voters’ Pamphlet, the legislative authority of that unit of local government shall, not later than forty-five days before the publication of the pamphlet:

1. Formally appoint a committee to prepare arguments advocating voters’ approval of the measure; and
2. Formally appoint a committee to prepare arguments advocating voters’ rejection of the measure.

3. The authority shall appoint persons known to favor the measure to serve on the committee advocating approval and shall, whenever possible, appoint persons known to oppose the measure to serve on the committee advocating rejection.
4. Each committee shall not have more than three members, however, a committee may seek the advice of any person or persons.

5. The committee shall elect from among their members a chairperson and shall immediately notify the County Auditor of the names, addresses and telephone numbers of the persons on the committee.

6. If the legislative authority of a unit of local government fails to make such appointments by the prescribed deadline, the County Auditor shall whenever possible make the appointments.

B. Advisory Committees
Committees appointed to write arguments for or against measures appearing in the Local Voters’ Pamphlet may select up to five other persons to serve as an advisory committee within five days after formation of the Committee. Persons serving on advisory committees drafting arguments for or against measures appearing in the Local Voters’ Pamphlet who are officers, employees, or representatives of any organization may only be designated as such if that organization has taken an official action to support or oppose the measure, as the case may be.

C. Length of Statements and Rebuttals –
Arguments for and against measures appearing in the Local Voters’ Pamphlet shall not exceed 250 words, except that the committee may use up to four headings to summarize and identify major arguments or portions of the statement for the convenience of the reader and such headings shall not be included in the computation of the number of words in the statement.

Rebuttals to arguments for and against measures appearing in the Local Voters’ Pamphlet shall not exceed seventy-five (75) words and must address issues raised in the opposing argument without injecting issues not previously discussed by either the argument for or against the measure. Headings are not permitted in connection with rebuttal statements.

D. Restrictions on the Style of Statements in the Local Voters’ Pamphlet–
The County Auditor finds that it is in the public interest that all statements published in the Local Voters’ Pamphlet be of substantially similar format and style. To promote such consistency, all statements submitted for publication in the Local Voters’ Pamphlet shall be in common electronic format or typewritten on plain sheets of white paper measuring eight and one-half inches by eleven inches (8 ½ X 11”) and containing the name, address and telephone number of the chairperson of the committee submitting such statement. All statements shall be typeset in block paragraph style without tables, lists, or other material requiring multiple indentation and words which are underlined, in italics, or all in uppercase letters will be typeset in italics.
E. Deadline for Submission of Statements and Rebuttals –
Arguments for or against measures appearing in the Local Voters’ Pamphlet shall be submitted to the County Auditor by the Chairperson of the committee appointed to draft that argument. The deadline for submission of statements and rebuttals shall be established by the County Auditor and notification of these dates shall be provided to the units of local government in the Notice of Publication.

F. Costs –
No costs shall be charged to committees submitting materials to be included in the Local Voters’ Pamphlet.

The cost of the Local Voters’ Pamphlet shall be considered an election cost to those units of local government included in the pamphlet and shall be prorated in the matter provided in RCW. 29A.04.410.

G. Rejection of Statements for the Local Voters’ Pamphlet –
Any statement submitted for publication in the Local Voters’ Pamphlet which, in the opinion of the County Auditor, contains any obscene, libelous, or defamatory matter or any language or matter the circulation of which is prohibited by Federal law shall be rejected.

Within five days of the rejection of any statement, the committee proposing such statement may appeal the rejection to the County Auditor. The County Auditor shall render a decision within three business days of the appeal and such decision to accept or reject the statement shall be final.

H. Editing of Statements for the Local Voters’ Pamphlet –
The County Auditor finds that it is in the public interest that all statements published in the Local Voters’ Pamphlet be accurate as to form and syntax. To promote such accuracy, the County Auditor may correct any incidental errors of spelling, grammar, and punctuation which he/she feels would unfairly prejudice the statement or confuse the voters so long as such corrections do not alter the meaning or substance of the statement.

I. Failure to Submit Committee Statement –
If a committee does not submit a printable statement for inclusion, the following language will appear in the appropriate in the Voters’ Pamphlet: “No Committee Statement was submitted”.

J. Viewing of Statements –
Viewing of statements shall be allowed after the official deadline for submission of statements has passed and the statements have been delivered to opposing committees for rebuttal.
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<th>Agenda Item Name</th>
<th>0370-ALLEY VACATION-COWLEY &amp; GRANT</th>
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**Agenda Wording**
Ordinance C34840 vacating the Alley between Cowley Street and Grant Street from East Riverside Avenue South to Alley.

**Summary (Background)**
City Council held the first reading of Ordinance C-34840 on March 5, 2012. Since that time it has become necessary to modify the ordinance to change the legal description to more fully describe the vacation. This makes it necessary to have a new First Reading.

**Fiscal Impact**
- Neutral $  
- Select $  
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**Budget Account**
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**Approvals**
- **Dept Head**: TAYLOR, MIKE  
- **Division Director**: QUINTALL, JAN  
- **Finance**: LESESNE, MICHELE  
- **Legal**: BURNS, BARBARA  
- **For the Mayor**: SANDERS, THERESA  

**Council Notifications**
- Study Session  
- Other  
- Distribution List  
- sdecker@spokanecity.org  
- htrautman@spokanecity.org  

**Additional Approvals**
- **Purchasing**
An ordinance vacating the Alley between Cowley Street and Grant Street from East Riverside Avenue South to Alley

WHEREAS, a petition for the vacation of the Alley between Cowley Street and Grant Street from East Riverside Avenue South to Alley has been filed with the City Clerk representing 100% of the abutting property owners, and a hearing has been held on this petition before the City Council as provided by RCW 35.79; and

WHEREAS, the City Council has found that the public use, benefit and welfare will best be served by the vacation of said public way; -- NOW, THEREFORE,

The City of Spokane does ordain:

Section 1. That the Alley between Cowley Street and Grant Street from East Riverside Avenue South to Alley in the southwest 1/4 of Section 17 Township, 25 North, Range 43 East, is hereby vacated. Alley is more fully described as Lot 11, Block 5, First Addition to Third Addition to Railroad which was dedicated for alley purposes. Parcel number not assigned.

Section 2. Adequate emergency vehicle access shall be maintained to existing and future buildings.

Section 3. That this ordinance shall not become effective until the owners of property abutting upon the area to be vacated shall have compensated the City of Spokane in an amount equal to the full assessed value of the area herein vacated.
Passed by the City Council ___________________ _________________________

________________________________________
Council President

Attest: ________________________________
City Clerk

Approved as to Form:

________________________________________
Assistant City Attorney

________________________________________ Date: _____________________
Mayor

Effective Date: ____________________________

stvaci Cowley-Grant Alley ord doc
### Agenda Wording

An ordinance granting Avista Corporation, d/b/a Avista Utilities, a public utility franchise to locate, access, construct, install, own, operate, maintain, repair, and replace poles, for the transmission of electricity.

### Summary (Background)

Avista Corporation d/b/a Avista Utilities (“Avista”), a Washington Corporation has respectfully requested that the City of Spokane, Washington (hereinafter referred to as “City”), renew its Franchise to locate, access, construct, operate and maintain poles, wires, underground cables and appurtenances over, under, along and across all of City's rights of way and public property in the City for the purposes of the transmission, control and distribution of electricity within the City; and the City has determined it is in the interest of persons and businesses in this jurisdiction to have access to Avista's services;

### Fiscal Impact

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### Approvals

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### Additional Approvals

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CITY OF SPOKANE, WASHINGTON
ORDINANCE NO. C34948

AN ORDINANCE OF THE CITY OF SPOKANE, WASHINGTON GRANTING
AVISTA CORPORATION, d/b/a AVISTA UTILITIES, A WASHINGTON COR-
PORATION, A PUBLIC UTILITY FRANCHISE TO LOCATE, ACCESS, CON-
STRUCT, INSTALL, OWN, OPERATE, MAINTAIN, REPAIR, AND REPLACE
POLES, ELEVATED AND UNDERGROUND WIRES, CABLES AND APPUR-
TENANCES FOR THE TRANSMISSION, CONTROL AND DISTRIBUTION OF
ELECTRICITY WITHIN THE CITY.

WHEREAS, Avista Corporation d/b/a Avista Utilities ("Avista"), a Washington Corporation has re-
spectfully requested that the City of Spokane, Washington (hereinafter referred to as "City"), re-
new its Franchise to locate, access, construct, operate and maintain poles, wires, underground
cables and appurtenances over, under, along and across all of City’s rights of way and public
property in the City for the purposes of the transmission, control and distribution of electricity
within the City; and the City has determined it is in the interest of persons and businesses in this
jurisdiction to have access to Avista’s services;

THEREFORE, THE CITY OF SPOKANE DOES ORDAIN:

SECTION 1.0 DEFINITIONS

For the purposes of this Franchise the following terms, phrases, words and their deriv-
ations have the meaning given in this Section. When not inconsistent with the context, words
used in the present tense include the future, words in the plural include the singular, and words
in the singular include the plural. Words not defined will be given their common and ordinary
meaning.

1.1 Avista. “Avista” means Avista Corporation, d/b/a Avista Utilities, a Washington corpora-
tion, and its respective successors and assigns, agents and contractors.

1.2 City. “City” means the City of Spokane, a municipal corporation of the State of Washing-
ton.

1.3 Commission. “Commission” means the Washington Utilities and Transportation Com-
misson or such successor regulatory agency having jurisdiction over investor-owned public utili-
ties in the State of Washington.

1.4 Days. “Days” means business days.

1.5 Facilities. “Facilities” means, collectively, any and all electric transmission, and distri-
bution systems and appurtenances owned by Avista, now and in the future in the Franchise Ar-
ea, including but not limited to poles, towers, overhead and underground wires and cables, con-
duits, vaults, transformers, meters, meter-reading devices, communication and control systems.
and other equipment, appliances, fixtures, attachments, appurtenances and other items necessary, convenient, or in any way appertaining to any and all of the foregoing for the purposes of transmission, distribution, and control of electricity, whether the same be located above or below ground.

1.6 Franchise. “Franchise” means this Ordinance.

1.7 Franchise Area. “Franchise Area” means the surface and space above and below all rights-of-way for:

(i) public roads, streets, avenues, alleys, bridges, tunnels, easements, and highways of the City, as now laid out, platted, dedicated, acquired or improved within the present corporate limits of the City;

(ii) public roads, streets, avenues, alleys, bridges, tunnels, easements, and highways that may hereafter be laid out, platted, dedicated, acquired or improved within the present corporate limits of the City and as such limits may be extended by annexation or otherwise during the term of this Franchise;

(iii) all City-owned utility easements dedicated for the placement and location of various utilities, provided such easements would permit Avista to fully exercise the rights granted under this Franchise within the area covered by the easement; and

(iv) any other specifically designated City-owned property.

1.8 Maintenance, maintaining, or maintain. The definition of the terms “Maintenance, maintaining, or maintain” includes, without limit, repairing, replacing, upgrading, examining, testing, inspecting, and removing Avista Facilities, vegetation management, digging and excavating, and restoration of affected Right-of-way surfaces.

1.9 Parties. “Parties” means City and Avista collectively.

1.10 Party. “Party” means either City or Avista individually.

1.11 Person. “Person” means a business entity or natural person.

1.12 Right-of-way. “Right-of-way” means the surface of and the space along, above, and below any street, road, highway, freeway, bridge, tunnel, lane, sidewalk, alley, utility easement and/or Right-of-way now or hereafter held or administered by the City within its corporate limits.

1.13 State. “State” means the State of Washington.

1.14 Tariff. “Tariff” means the rate schedules, rules, and regulations relating to utility service, filed with and approved by the Commission during the term of this Franchise.

SECTION 2.0 GRANT OF FRANCHISE

Subject to the terms and conditions of this Franchise, the City hereby grants to Avista the non-exclusive privilege and authority to enter upon all roads, rights of way, streets, alleys, highways, public places or structures, lying within the Franchise Area to locate, access, construct, operate and maintain its Facilities for the purpose of controlling, transmitting and distributing electricity, as may be necessary to provide electric service to its Customers within the Franchise Area and for no other purpose. Avista accepts all areas in existing condition(s) and the City makes no express or implied assurances of the suitability of any area for Avista’s needs or purposes, whether now or hereafter.
2.1 Non-Franchise Area City-Owned Property

This Franchise shall not convey any right to Avista to locate, install, extend, or construct Facilities on or to otherwise use City-owned or leased properties outside the Franchise Area.

Existing Facilities installed or maintained by Avista prior to the enactment of this Ordinance on public grounds and places within the City in accordance with prior franchise agreements or easements (but which such Facilities are not within the Franchise Area as defined by this Franchise) may be maintained, repaired, replaced, operated, and used in like kind by Avista at the location where such Facilities exist as of the Effective Date of this Franchise for the term of this Franchise; provided, however, that 1) no such Facilities may be enlarged, improved, or expanded without the prior review and approval of the City pursuant to applicable ordinances, codes, resolutions, standards, and procedures, 2) the City provides no express or implied assurances of suitability for all existing Facilities outside of the City’s Franchise Area, and 3) Avista is otherwise bound by all other Franchise obligations.

2.2 Duration of Franchise

The rights, privileges and Franchise granted to Avista will extend for a term of 25 years from the Effective Date, and shall continue year-to-year thereafter, until it is otherwise renewed for another 25-year term, or terminated by either Party, with not less than 180 days prior written notice to the other Party.

2.3 Non-Exclusive Franchise

This Franchise is not, and will not be deemed to be, an exclusive Franchise. This Franchise shall not in any manner prohibit the City from granting other franchises within the Franchise Area that do not interfere with Avista’s rights under this Franchise. This Franchise shall not prohibit or prevent the City from using the Franchise Area or affect the jurisdiction of the City over the same or any part thereof. City may not, however, award an electric franchise to another party under more favorable or less onerous terms than those of this Franchise without this Franchise being amended to reflect such more favorable or less onerous terms.

2.4 Notice of City’s Intent to Compete With Avista

In consideration of Avista’s undertaking pursuant to this Franchise, the City agrees that in the event the City intends to engage in the business of providing Electric service during the life of this Franchise or any extension of this Franchise, in competition with Avista, the City will provide Avista with six months notice of such action.

2.5 Assignment Of Franchise

Avista shall not assign or otherwise transfer its Franchise herein without the prior written authorization and approval of City, which such approval and authorization shall not be unreasonably withheld. Any assignee shall, within thirty (30) days of the date of any assignment, file written notice of the assignment with the City together with its written acceptance of all terms and conditions of this Franchise. As permitted by law and Commission regulation, Avista shall have the right without notice to or consent of the City, to mortgage or hypothecate its rights, benefits and privileges in and under this Franchise as security for indebtedness.
2.6 Recovery of Franchise Cost

2.6.1 Authority
So long as provided by RCW 35.21.860, the City may not impose a franchise fee or any other fee or charge of whatever nature or description upon Avista, except a fee as provided in RCW 35.21.860 that recovers from Avista actual administrative expenses incurred by the City that are directly related to:

(i) receiving and approving a permit, license or this Franchise;
(ii) preparing a detailed statement pursuant to Chapter 43.21C RCW, as the same exists now or may hereafter be amended.

2.6.2 Fee
The parties understand that the restrictions of RCW 35.21.860 forbid the imposition of a franchise fee. If, at some time, the restrictions of this statute should be removed, Avista and the City shall negotiate a fair and reasonable franchise fee.

2.6.3 Additional Fees
Nothing in this Section shall preclude the City from collecting from Avista fees lawfully imposed by the City (related to this Franchise or otherwise) including fees for permits.

2.7 Utility Tax
Avista acknowledges that the City is authorized under the laws of the state of Washington to impose certain taxes upon Avista. Nothing in this Section shall exempt (nor shall be construed to exempt) Avista from payment of any and all such taxes lawfully imposed by the City of Spokane Municipal Code, City Ordinance, or City Resolution, as any may hereafter be lawfully amended, adopted, or superseded, and due from Avista; provided, nothing in this Section shall be construed in any way as a waiver of Grantee’s rights to contest the validity of any such tax or the amount of any tax due. In the event payment of such taxes is not made by Avista in a timely manner, the City reserves the right, at its sole option, to suspend the rights granted to Avista by this Franchise until such time that Avista pays such taxes or Avista and the City otherwise resolve any matter concerning payment thereof.

SECTION 3.0 AVISTA’S OPERATIONS AND MAINTENANCE

3.1 Compliance with Laws, Regulations, Codes and Standards

3.1.1 In carrying out any authorized activities under the privileges granted by this Franchise, Avista shall meet accepted industry standards and codes and shall comply with all applicable laws, regulations and ordinances of any governmental entity with jurisdiction over Avista’s Facilities and operations in the Franchise Area. This includes all applicable laws, regulations and ordinances existing as of the Effective Date or may be subsequently enacted by any governmental entity with jurisdiction over Avista’s operations within the Franchise Area.

3.1.2 The City shall have the right to make and enforce reasonable rules and regulations pertaining to the conduct of Avista’s operations within the Franchise Area. Prior to the adoption by the City of any new rule, procedure or policy affecting Avista’s operations under the Fran-
chise, the City shall provide Avista a written draft document for comment with a response period of not less than thirty days. Service shall be supplied to the City and its inhabitants in accordance with Avista’s rules and regulations and Tariffs currently or subsequently filed with and approved by the Commission.

3.2 Facility Location and Non-Interference

Avista shall have the discretion to determine the placement of its Facilities as may be necessary to provide safe and reliable electric service within the Franchise Area, subject to the following non-interference requirements. All construction, installation, repair, relocation or operation of Avista’s Facilities performed by Avista in the Franchise Area will be done in such a manner as not to interfere with the existing facilities or construction and maintenance of other utilities (public or private) including drains, drainage ditches and structures, irrigation ditches and structures located therein, nor with the grading or improvement of the Franchise Area.

3.3 Facility Location Information

Avista shall provide the City, upon the City’s reasonable request, Facility location information in electronic or hard copy showing the location of its Facilities at specific locations within the Franchise Area to the extent such information is reasonably available. With respect to any excavations within the Franchise Area undertaken by or on behalf of Avista or the City, nothing stated in this Franchise is intended (nor shall be construed) to relieve either party of their respective obligations arising under the State one-call law with respect to determining the location of existing underground utility facilities in the vicinity of such excavation, prior to commencing work.

3.4 Vegetation Management -- Trimming/Removal Of Trees

State law requires electric utilities to comply with the National Electric Safety Code, including the guidance in the Code for the trimming or removal of vegetation interfering or potentially interfering with energized power lines. The right of Avista to maintain its Facilities and appurtenances under this Franchise shall accordingly include the right, as exercised in Avista’s professional discretion, to utilize an integrated vegetation management program to minimize the likelihood that vegetation encroaching (either above or below the ground) on Avista’s facilities can lead to power outages and other threats to public safety and welfare. Avista or its agents may inhibit the growth of, prune, or remove any trees and vegetation which overhangs or encroaches upon its electric transmission and distribution corridors within the Franchise Area, whether such trees or vegetation originate within or outside of the Right-of-way. Nothing contained in this Section shall prevent Avista, when necessary and with the approval of the record owner of the property on which they may be located, from pruning or removing any trees which overhang the Franchise Area and may interfere with Avista’s Facilities, subject to the City’s Urban Forestry Program reflected in Chapter 12.02 S.M.C., Article V thereof, as now or hereafter amended.
3.5 **Right Of Excavation**

For the purpose of implementing the privileges granted under this Franchise, and after any required notification is made to the City, Avista is authorized to make any necessary excavations in, under and across the streets, alleys, roads, rights of way and public grounds within the Franchise Area. Such excavation shall be carried out with reasonable dispatch and with as little interference with or inconvenience to the public as may be feasible. In addition, Avista shall only commence excavation work upon the issuance of applicable permits by the City. Avista also acknowledges that excavations required in arterial streets, especially during peak hours of operation, or during special civic events require substantial coordination with the City prior to issuance of a permit. Avista agrees to coordinate such activity prior to commencing excavation as necessary to minimize impacts to the public as required by the City.

3.6 **Restoration of Franchise Area**

Upon completion of any phase of an excavation project within the Franchise Area, Avista shall, without delay, and at Avista’s sole expense, remove all debris and restore the surface of the Franchise Area as nearly as possible to as good or better condition as it was in before the work began. Avista shall replace any property corner monuments, survey references, or hubs that were disturbed, damaged, or destroyed during Avista’s work in the Franchise Area. Such restoration shall be done in a manner consistent with applicable codes and laws, under the supervision of the City, and to the City’s specifications, and in accordance with the City’s most current adopted Pavement Cut Policy.

3.7 **Workman-like Completion**

Any excavation work performed in the Franchise Area shall be carried out in accordance with all applicable City permit requirements, rules, and procedures. Additionally, such excavation work shall be performed with reasonable dispatch, in a workmanlike manner, and with as little interference or inconvenience to the rights of the public as may be reasonable.

3.8 **Emergency Work**

In the event of an emergency requiring immediate action by Avista to protect the public health and safety or for the protection of its Facilities, or the property of the City or other persons in the Franchise Area, Avista may immediately proceed with excavation or other Right-of-way work, subject to the following conditions. In the event of such an emergency requiring immediate action, Avista shall: (i) take all necessary and prudent steps to protect, support, and keep safe from harm its Facilities, or any part thereof, the City’s property, or other persons or property, and to protect the public health and safety; (ii) as soon as possible thereafter, obtain the required permits and comply with any mitigation requirements or other conditions in the after-the-fact permit; and (iii) the City shall not be responsible for any and all costs associated with such emergency action.

3.9 **Compliance with Rules and Regulations**

Avista shall comply with all ordinances, codes, rules, regulations, or policies now or hereafter adopted by the City regarding excavations in the Franchise Area and the Facilities contained therein.
SECTION 4.0 RESERVATION OF CITY’S RIGHTS AND POWERS

The City, in granting this Franchise, does not waive any rights which it may now have or may subsequently acquire with respect to road rights-of-way or other property of City under this Franchise, and this Franchise shall not be construed to deprive the City of any such powers, rights or privileges which it now has or may hereafter acquire to regulate the use of and to control the City’s roads, rights of way and other public property covered by this Franchise. Nothing in the terms of this Franchise shall be construed or deemed to prevent the City from exercising at any time any power of eminent domain granted to it under the laws of this State. Avista shall be bound by all ordinances, resolutions, codes, regulations or policies now or hereafter adopted regarding the City’s Franchise Area.

4.1 Necessary Construction/Maintenance By City

The construction, operation and maintenance of Avista’s Facilities authorized by this Franchise shall not preclude the City, its agents or its contractors, from grading, excavating, or doing other necessary road work contiguous to Avista’s Facilities, provided that Avista shall be given not less than thirty (30) business days’ notice of said work, and provided further that the City, its agents and contractors shall be liable for any damages, including any consequential damages to third parties, caused by said work to any Facilities belonging to Avista.

4.2 Expansion of Avista’s Facilities.

Facilities in the City’s Franchise Area that are incidental to the Franchise Area, or that have been, or are at any future time acquired, newly constructed, leased, or utilized in any manner by Avista shall be subject to all provisions of this Franchise.

4.3 Change of Boundaries of the City

Any subsequent additions or modifications of the boundaries of the City, whether by annexation, consolidation, or otherwise, shall be subject to the provisions of this Franchise as to all such areas. The City shall notify Avista of the scope of any change of boundaries not less than thirty (30) days prior to such change becoming effective.

4.4 Removal of Abandoned Facilities

During the Term of this Franchise, or upon a revocation or non-renewal of this Franchise, the City may direct Avista to remove designated abandoned Facilities from the Franchise Area at its own expense and as soon as practicable, but only where such abandoned Facilities constitute a demonstrated threat to public health and safety. Avista shall not be required to remove, or pay for the removal of facilities it has previously abandoned to another franchisee, or utility under a joint use agreement, or person granted permission to access Avista’s facilities.

4.6 Vacation of Properties by City

If, at any time, the City shall vacate any road, right of way or other public property which is subject to rights granted by this Franchise, to the extent permitted by law and in the event Avista has made substantial plans, begun construction or previously constructed Facilities in the subject street or alley, such vacation shall, upon reasonable request from Avista, be subject to the reservation of a perpetual easement in favor of Avista for the purpose of operating and maintaining the Facilities of Avista.
4.7 Utility Pole Attachments by City

City shall be permitted, upon reasonable notice to Avista and without charge by Avista, to attach its traffic control, street lighting, fire and police communications equipment and City-owned information technology communications infrastructure that is used for internal City communications ("City IT Infrastructure") to Avista's poles in the Franchise Area, but at the City's own risk and only in accordance with standard safety practices, codes and Avista specifications. If there is not sufficient space available on Avista's structures such structures may be changed, altered, or rearranged at the expense of the City so as to provide proper clearance and capacity for City facilities. Such City facilities shall be subject to removal or repositioning by Avista to the extent necessary for utility worker safety and the proper construction, maintenance, operation or repair of Avista's Facilities and appurtenances. City assumes all responsibility for the installation and maintenance of City's facilities installed on Avista's Facilities.

SECTION 5.0 RELOCATION OR CONVERSION OF AVISTA'S FACILITIES

City acknowledges that Avista is obligated to provide electric service and related line extension, relocation or conversion of Facilities for the benefit of its Customers and to require compensation for such services on a non-preferential basis in accordance with applicable Tariffs.

5.1 Relocation of Facilities

Upon request of the City, Avista shall relocate its Facilities as necessary within the Franchise Area or other City-owned property as specifically designated by the City for such purpose. Whether relocation is necessary shall be determined by the City in its sole discretion, which discretion shall be reasonably exercised taking into account all facts and circumstances. The City shall provide Avista reasonable notice of any intended or expected requirement or request to relocate Avista's Facilities, but not less than ninety (90) calendar days prior to any such relocation except in cases of emergency or not otherwise reasonably foreseeable by the City. The City shall use reasonable efforts to cause any such relocation to be consistent with any applicable long-term development plan(s) of the City. If, at any time, the City shall cause or require the alteration or the improvement of any road, right of way or other public property which is subject to rights granted by this Franchise within the Franchise Area, Avista shall, upon written notice from the City change the location or readjust the elevation of its system and other Facilities so that the same shall not interfere with such work and so that such equipment and Facilities shall conform to such new grades or routes as may be established. In the event a relocation forces Avista off City's existing Public Right(s) of Way then the City shall make a reasonable effort to accommodate said relocation on alternative Public Right(s) of Way. If the City requires the subsequent relocation of any of Avista's Facilities within three (3) years from the date of relocation of such Facilities or installation of new Facilities, the City shall bear the entire cost of such subsequent relocation. Avista agrees to relocate all Facilities promptly within a reasonable time. Upon notice from the City, the parties agree to meet and determine a reasonable relocation time, which shall not exceed the time normally needed for construction projects of the nature of the City's relocation request unless otherwise mutually agreed.
5.2 Relocation of Facilities Requested By Third Parties

If Facilities are to be relocated at the request of and for the primary benefit of a third party, the City shall not require Avista to relocate its Facilities until such time as the third party has entered into an agreement to reimburse Avista for its reasonable costs of relocation. The City shall have no responsibility for the costs of such third party relocations and shall only incur costs pursuant to 5.1 in the event of subsequent relocation requests (within 3 years).

5.3 Availability of Other Funds

In the event federal, state or other funds are available in whole or in part for utility relocating purposes, upon Avista’s request in writing, the City agrees to use reasonable efforts to apply for such funds, provided such funds do not interfere with the City’s right to obtain the same or similar funds, or otherwise create any expense or detriment to the City. The City may recover all costs, including internal costs, associated with obtaining such funds.

5.4 Temporary Relocation of Facilities Requested by Third Parties

At the request of any Person holding a valid permit or other written permission from the City, and upon reasonable advance notice and payment by the permit holder of Avista’s expenses of such temporary change, Avista will temporarily raise, lower or remove its Facilities as necessary to accommodate a permittee of the City desiring to move over-sized structures or equipment along or across the Right-of-Way in the Franchise Area.

5.5 Conversion of Electric Facilities

City, subject to applicable laws, rules, regulations and tariffs, may direct Avista to convert from above ground to below ground wires, for the distribution of electricity underground and City IT Infrastructure, provided that the City IT Infrastructure is associated with an existing conversion project, after a finding by City, with Avista’s concurrence, that such installation is feasible, practical and required for the public interest, safety and convenience. The incremental cost of such conversion of existing Facilities shall be borne and paid by the City or other party requesting the same, subject to law and such rules, regulations, and Tariifs of the Commission. It is expressly agreed by both Parties that this Section 5.6 does not apply to any conversion of transmission infrastructure.
SECTION 6.0 INDEMNITY

6.1 Indemnification of City

Avista agrees to defend and indemnify the City, its appointed and elected officers and employees, from any and all liabilities, claims, causes of action, losses, damages and expenses, including costs and reasonable attorneys fees, that the City may sustain, incur, become liable for, or be required to pay, as a consequence of or arising from the construction, installation, maintenance, condition or operation of Avista's Facilities in the Franchise Area; provided, however, that this indemnification provision shall not apply to the extent that said liabilities, claims, damages and losses were caused by or result from the negligence of the City, its employees or agents. Avista's indemnification obligations pursuant to this Section shall include assuming liability for actions brought by Avista's own employees and the employees of Avista's agents, representatives, contractors, and subcontractors even though Avista might be immune under Title 51 RCW from direct suit brought by such employees. It is expressly agreed and understood that this assumption of liability for actions brought by the aforementioned employees is limited solely to claims against the City arising by virtue of Avista's exercise of the rights set forth in this Franchise. The obligations of Avista under this Section have been mutually negotiated by the parties hereto, and Avista acknowledges that the City would not enter into this Franchise without Avista's waiver thereof. To the extent required to provide this indemnification and this indemnification only, Avista waives its immunity under Title 51 RCW as provided in RCW 4.24.115.

6.2 Notice to Avista of Intent to Assert Rights

In the event any matter (for which the City intends to assert its rights under this Section) is presented to or filed with the City, the City shall promptly notify Avista thereof and Avista shall have the right, at its sole cost and expense, to settle and compromise such matter as it pertains to Avista's responsibility to indemnify, defend, and hold harmless the City, its officers, elected officials, agents, representatives, engineers, consultants, employees, and volunteers provided Avista supplies the City with written acceptance of its indemnification obligations as contained in this Section. In the event any suit or action is commenced against the City based upon any such matter, the City shall likewise promptly notify Avista thereof, and Avista shall have the right, at its sole cost and expense, to settle and compromise such suit or action, or defend the same at its sole cost and expense, by attorneys of its own election, as it pertains to Avista’s responsibility to indemnify, defend and hold harmless the City, its officers, elected officials, agents, representatives, engineers, consultants, employees, and/or volunteers; provided Avista has agreed in writing to the full indemnification and defense of the City and its officers, elected officials, agents, representatives, engineers, consultants, employees and volunteers. In the event of a less than full written agreement to indemnify and defend, the City may select attorneys and bill the costs of the same to Avista and Avista shall pay the same. Failure of the City to give notice as required herein shall not be a defense except and to the extent that Avista demonstrates actual prejudice therefrom.
6.3 Indemnification of Avista

To the extent permitted by law, City agrees to defend and indemnify Avista, its officers and employees, from any and all liabilities, claims, causes of action, losses, damages and expenses, including costs and reasonable attorneys fees, that Avista may sustain, incur, become liable for, or be required to pay, as a consequence of or arising from the negligent acts or omissions of the City, its officers, employees or agents in connection with City's obligations under this Franchise; provided, however, that this indemnification provision shall not apply to the extent that said liabilities, claims, damages, losses and so forth were caused by or result from the negligence of Avista, its employees or agents.

SECTION 7.0 FRANCHISE DISPUTE RESOLUTION

7.1 Non-waiver

Failure of a Party to declare any breach or default of this Franchise immediately upon the occurrence thereof, or delay in taking any action in connection therewith, shall not waive such breach or default, but the Party shall have the right to declare any such breach or default at any time. Failure of a Party to declare one breach or default does not act as a waiver of the Party's right to declare another breach or default. In addition, the pursuit of any right or remedy by the City shall not prevent the City from thereafter declaring a revocation and forfeiture for breach of the conditions of the Franchise.

7.2 Revocation and Forfeiture of Franchise

If Avista shall materially violate any of the provisions of this Franchise through material or material or unreasonable failure to heed or comply with any notice given Avista under the provisions of this Franchise, this Franchise may be revoked or annulled by the City and Avista shall forfeit all rights conferred under the Franchise; provided, however, the City shall give 90-days' written notice of its intention to revoke the Franchise during which period Avista shall have the opportunity to remedy any breach. No forbearance by the City shall constitute a waiver of the City's right to enforce any provision of this Franchise.
7.3 Franchise Dispute Resolution

Except in cases of forfeiture under Section 7.2, disputes regarding the interpretation or execution of the terms of this Franchise shall be resolved by direct discussion between a decision-making representative of Avista and the City’s Public Works Director. Such discussion shall take place as soon as reasonably possible once the Parties are aware of the dispute.

In the event that direct discussions do not result in resolution of the dispute, the Parties shall in good faith attempt resolution of the matter through mediation. The Parties shall select a mediator as soon as reasonably possible after the failure of direct discussions. Should the Parties not agree on mediator selection, either of them may request that one be appointed by the Seattle office of the American Arbitration Association. Once a mediator is appointed, the Parties shall abide by the rules and instructions of the mediator. A mediation session shall be held as soon as reasonably possible after appointment of the mediator, and decision makers with authority to resolve the dispute shall personally attend the mediation session.

Participation in direct discussions and mediation shall be conditions precedent to the commencement of any other form of dispute resolution. The Parties shall share the cost of mediation fees and expenses equally. If a dispute continues to exist, venue for any legal action arising out of the existence of this Franchise shall be in the state or federal court located in Spokane County, Washington.

7.4 Attorneys’ Fees and Costs

Each Party shall pay for its own attorneys’ fees and costs incurred in any action arising out of the existence of this Franchise.
SECTION 8.0 INSURANCE

8.1 Coverage Required
Avista shall procure and maintain for the duration of the Franchise, insurance against all claims for injuries to persons or damages to property which may arise from or in connection with the exercise of the Franchise granted herein to Avista, its officers, directors, agents, representatives, servants, employees, or volunteers. Avista shall provide certificate(s) of insurance and all policy endorsements naming the City as an additional insured, and to the City for its inspection and approval prior to the commencement of any work or installation of any Facilities pursuant to this Franchise. Such certificate(s) of insurance shall evidence the following minimum coverage amounts:

(i) Comprehensive general liability insurance including coverage for premises - operations, explosions, and collapse hazard, underground hazard and product completed hazard, written on an occurrence basis, with limits not less than: $10,000,000 for bodily injury or death to each person; and $10,000,000 for property damage resulting from any one accident.

(ii) Automobile liability for owned, non-owned and hired vehicles with a limit of $2,000,000 for each person and $5,000,000 for each accident.

8.2 Duration of Coverage
The liability insurance policies required by this Section shall be maintained by Avista throughout the term of this Franchise. Any deductibles or self-insured retentions must be declared to and approved by the City. Payment of deductibles and self-insured retentions shall be the sole responsibility of Avista. Such coverage shall continue to apply after termination, cancellation, or expiration of the Franchise as to all claims accruing during any hold-over period for a minimum of three (3) years, or longer if the Facilities remain in the ground.

8.3 Primary Coverage
Avista's insurance with respect to Avista’s Franchise obligations and indemnity to the City shall be primary insurance with respect to the City, its officers, elected officials, agents, representatives, engineers, consultants, employees, and volunteers. Any insurance, including self insured retention maintained by the City, its officers, elected officials, agents, representatives, engineers, consultants, employees, and/or volunteers shall be in excess of Avista’s insurance and shall not contribute with it.

8.4 Proof of Continued Coverage
On or before sixty (60) days of the anniversary Effective Date of the Franchise, Avista shall file with the City Clerk/Treasurer proof of continued insurance coverage, at least in the amounts required in this Section, through a Certificate of Insurance, indicating City coverage required herein and a provision that the coverage may not be cancelled or reduced without at least thirty (30) days prior written notice to the City.
SECTION 9.0 GENERAL PROVISIONS

9.1 Non-assumption of Risk by City
By granting this Franchise, the City is not assuming any risks or liabilities therefrom, which shall be solely and separately borne by Avista. Avista shall, at its sole cost and expense, take all necessary and prudent steps to protect, support, and keep safe from harm its Facilities, or any part thereof, when necessary to protect the public health and safety.

9.2 Limited Rights
This is only intended to convey a limited right and interest. It is not a warranty of title or interest in the Franchise Area or any other City-owned property. None of the rights granted herein shall affect the City's jurisdiction over its property, including but not limited to the Franchise Area.

9.3 Franchise As Contract, No Third Party Beneficiaries
This Franchise is a contract between the Parties and binds and benefits the Parties and their respective successors and assigns. This Franchise does not and is not intended to confer any rights or remedies upon any persons, entities or beneficiaries other than the Parties.

9.2 Force Majeure
In the event that Avista is delayed in or prevented from the performance of any of its obligations under the Franchise by circumstances beyond Avista's control (Force Majeure) including, without limitation, third party labor disputes, fire, explosion, flood, earthquake, power outage, acts of God, war or other hostilities and civil commotion, then Avista's performance shall be excused during the period of the Force majeure occurrence. Avista will use all commercially reasonable efforts to minimize the period of the disability due to the occurrence. Upon removal or termination of the occurrence Avista will promptly resume performance of the affected Franchise obligations in an orderly and expeditious manner.

9.3 Prior Franchises Superseded
Upon Avista's acceptance of this Franchise, all rights and obligations of the City and Avista under the prior Franchise granted by the City (Ordinance No. C34948) shall terminate, and the Parties' rights and obligations shall be governed by the terms and conditions provided in this Franchise as of the Effective Date. Termination of the prior Franchise shall not, however, relieve the Parties from any obligations which accrued under said Franchise prior to Avista's acceptance, including but not limited to, any outstanding indemnity or administrative fee payment obligations.

9.4 Severability
The Franchise is granted pursuant to the laws of the State of Washington relating to the granting of such rights and privileges by City. If any article, section, sentence, clause, or phrase of this Franchise is for any reason held illegal, invalid, or unconstitutional, such invalidity shall not affect the validity of the Franchise or any of the remaining portions. The invalidity of any portion of this Franchise shall not abate, reduce, or otherwise affect any obligation required of Avista.

9.5 Changes or Amendments
Changes or amendments to this Franchise shall not be effective until lawfully adopted by the City and agreed to by Avista.
9.6 Supremacy and Governing Law

This Agreement shall be interpreted, construed and enforced in all respects in accordance with the laws of the State of Washington. In the event of any conflict between this Franchise and any City ordinance, regulation or permit, the provisions of this Franchise shall control. In the event of a conflict between the provisions of this Franchise and Avista's applicable Tariff on file with the Commission, the Tariff shall control.

9.7 Headings

The headings or titles in this Franchise are for the purpose of reference only and shall not in any way affect the interpretation or construction of this Franchise.

9.8 Acceptance of Franchise.

Avista has provided its unconditional written acceptance of all the terms and conditions of the Franchise.

9.9 Notices

Notwithstanding any other provision in this Franchise, the City shall not be liable for any failure or alleged failure to provide notice or timely notice to Avista unless Avista can demonstrate that it has been substantially harmed by the City's failure to provide such notice. For purposes of this Franchise, the contact information and addresses for the City and Avista shall be as follows:

If to the City: Director, Public Works and Utilities
2nd Floor, City Hall
808 W. Spokane Falls Blvd
Spokane, WA 99201

With Copy to: City Attorney Legal Department
5th Floor, City Hall
808 W. Spokane Falls Blvd
Spokane, WA 99201

If to Avista: Director of Operations
P.O. Box 3727
Spokane, WA 99220-3727

From time to time the City and Avista may designate another person and/or address for all purposes of this Franchise by a notice given to the other party in accordance with the provisions hereof.
9.10 Franchise Effective Date

This Ordinance takes effect after publication in accord with the requirements of the City Charter, enactment by the City Council, with approval of the Mayor, and acceptance by Avista. The City Clerk is authorized to indicate the effective date upon these events.

PASSED by the City Council ________________________________.

______________________________
Council President

Attest: Approved as to form:

Terri L. Pfister, City Clerk Assistant City Attorney

Date

Effective Date

UNCONDITIONAL ACCEPTANCE BY AVISTA:

I, the undersigned official of Avista Corporation, am authorized to bind Avista Corporation and to unconditionally accept the terms and conditions of the foregoing City of Spokane Franchise Ordinance, which are hereby accepted by Avista Corporation this ___ day of ____________, 20__.

AVISTA CORPORATION

By: ____________________________

Name: __________________________

Title: ____________________________
I certify that I know or have satisfactory evidence that ___________________________ is the person who appeared before me, and said person acknowledged that s/he signed this instrument, on oath stated that s/he was authorized to execute the instrument and acknowledged it as the ___________________________ of Avista Corporation, a Washington corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: ___________________________

Notary Public
Print Name ___________________________
My commission expires ___________________________
**Agenda Item Name**: 5200-LIGHTSPEED NETWORKS FRANCHISE ORDINANCE

**Agenda Wording**
An ordinance granting a non-exclusive franchise to use the public right of way to provide noncable telecommunications service to the public to LightSpeed Networks Inc., subject to certain conditions and duties as further provided.

**Summary (Background)**
This is a Franchise agreement between the City of Spokane as Grantor, hereafter also "City", and LightSpeed Networks Inc. as Grantee, hereafter also "Grantee". Grantee is an Oregon Corporation whose home office is 921 SW Washington Street, Ste. 370, Portland, OR 97205.

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**Fiscal Impact**

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**Council Notifications**

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**Additional Approvals**

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LIGH T Speed Networks Inc., Telecommunications (NonCable) Franchise

Ordinance No. C-34949

An ordinance granting a non-exclusive franchise to use the public right of way to provide noncable telecommunications service to the public to LightSpeed Networks Inc., subject to certain conditions and duties as further provided.

The City of Spokane Does Ordain:

Section 1. Definitions
Section 2. Parties, grant
Section 3. Limits on permission
Section 4. Effective Date, Term
Section 5. General provisions
Section 6. Plans; Locate, Relocate
Section 7. Grantee to restore affected areas
Section 8. Information, good engineering, inspections
Section 9. Limited access, no obstruction, accommodation
Section 10. Undergrounding
Section 11. Facilities for City Use
Section 12. Liability; No duty
Section 13. Insurance
Section 14. Taxes, fees
Section 15. Franchise administration
Section 16. Additional

Section 1. Definitions

"City" means the City of Spokane and its legal successors.

"Administering officer" is the designee of the Mayor who administers this Franchise.

"Cable television service" means the one-way transmission to subscribers of video programming and other programming service and subscriber interaction, if any, that is required for the selection or use of the video programming or other programming service.

"Facilities" means the equipment, fixtures and appurtenances necessary to furnish and deliver Telecommunications services as provided in the Franchise. It includes poles, wires and conduits, but not above ground
pedestals or other special installations in the Public Right of way absent written permission of the Administering officer.

“Gross Revenues” means any and all revenue, of any kind, nature, or form, without deduction for expenses in the City of SPOKANE and is further defined in Section 14. All such revenue remains subject to applicable FCC rules and regulations which exclude revenues from internet access services while prohibited by law.

"Municipal infrastructure" means the road bed and road area, street and sidewalk paving, curbing, associated drainage Facilities, bike paths and other construction or improvements pertaining to public travel. It further includes municipal water and sewer lines or other municipal utility Facilities, as well as municipal traffic signal, street lighting and communications Facilities in the Right of way or other areas or easements open for municipal use. It further includes skywalks, street trees, plants, shrubs, lawn and other ornamental or beautification installations owned by the City in the Right of way or other ways open for public travel or municipal use, and accepted for municipal management or control as such. The definition is intended to encompass any municipal physical plant, fixtures, appurtenances or other Facilities located in or near the Right of way or areas or easements opened and accepted for municipal use.

"Public Right of way" or “Right of way” means land acquired by or dedicated to the City for public roads and streets, but does not include

state highways;

land dedicated for roads, streets, and highways not opened and not improved for motor vehicle use by the public;

structures, including poles and conduits, located within the Right of way;

federally granted trust lands or forest board trust lands;

lands owned or managed by the state parks and recreation commission; or

federally granted railroad rights of way acquired under 43 U.S.C. 912 and related provisions of federal law that are not open for motor vehicle use.

“Telecommunications service” means the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means for hire, sale, or resale to the general public. For the purpose of this definition,
"information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols. For purposes of this definition, "Telecommunications service" excludes the over-the-air transmission of broadcast television or broadcast radio signals and "cable service" as defined in 42 USC 522 (5) or other distribution of multichannel video programming.

Section 2. Parties, grant

A. This is a Franchise agreement between the City of Spokane as Grantor, hereafter also "City", and LightSpeed Networks Inc. as Grantee, hereafter also "Grantee". Grantee is an Oregon Corporation whose home office is 921 SW Washington Street., Ste. 370, Portland, OR 97205. Any notice sent hereunder shall be sent to the above address to Attention: General Counsel. Any contact necessary for effectuating this Franchise or any logistics hereunder shall be made to Robin Smith: telephone (503) 414-0479; email rsmith@LSNetworks.net; fax (503) 227-8585.

B. In return for promises made and subject to the stipulations and conditions stated, the City grants to Grantee general permission to enter, use, and occupy the Public Right of way, to locate Facilities to provide Telecommunications service to the public in the City of Spokane and/or to transport Telecommunications services through the City and for no other purpose. This grant expressly does not include permission to use the Public Right of way for cable service or cable television service. The grant is by way of general permission to occupy the Right of way, and not in place of specific location permits. In accepting this Franchise, Grantee stipulates and agrees to the City's authority to issue and require the Franchise and stipulates and agrees to the other terms and conditions hereof.

Section 3. Limits on permission

A. Should the City determine Grantee is using the Franchise beyond its purpose or functioning as a cable operator or performing other business functions beyond the scope of permission extended in the Public Right of way, the City reserves the right to cancel this Franchise and require Grantee to follow any applicable requirements to obtain a cable franchise or other franchise from the City. [Cross reference section 16 B for cure and default provision.]

B. Permission granted is in the nature of a quitclaim of any interest or authority the City has to make the grant, without warranty of authority by the City to the Grantee. It does not extend beyond the Right of way, to areas such as buildings or private areas not reserved for general utility access. Grantee is solely responsible to make its own arrangements for any access needed to such places. Permission granted is nonexclusive. Grantee stipulates that the City may grant
similar permission to others. The City additionally reserves the right to engage in any lawful municipal function, whether or not including any line of business engaged in by Grantee.

C. The grant of permission from the City does not extend to municipal buildings or other municipally owned or leased structures or premises held in a proprietary or ownership capacity. For such locations, Grantee should make specific written lease arrangements directly with the municipal department controlling such building or other structure or area, all arrangements to be approved in accord with applicable requirements.

Section 4. Effective Date, Term

This Franchise is effective as of the effective date of the Ordinance; PROVIDED, that it shall not be effective unless and until the written acceptance of this ordinance by the Grantee, signed by its proper officers, shall be filed with the City Clerk within thirty (30) days of enactment. It expires at midnight twenty (20) years thereafter. This does not affect the City's right to revoke the Franchise for cause, abandonment, or because of breach of any material promise, condition or stipulation stated herein.

Section 5. General provisions

A. Grantee will become and remain in good standing a corporation registered to do business in the State of Washington, and pay all taxes or fees applicable thereto. Grantee will maintain a toll free public telephone number 24 hours a day, seven days a week for customer access, personally staffed at least during normal business hours.

B. Grantee will provide safe and reliable service to its customers at rates that are fair and reasonable, in accordance with all applicable laws and regulations, including regulatory ordinances, resolutions of the City Council and orders of the Administering officer relating to use of the Right of way or otherwise to areas within municipal jurisdictional powers as may now or hereafter arise. Grantee agrees to be accessible to its customers and responsive to customer needs.

C. Grantee will coordinate its activities with other utilities and users of permitted areas to avoid unnecessary cutting, damage or disturbance to the Public Right of way and other permitted areas, and to conduct its planning, design, installation, construction and repair operations to maximize the life and usefulness of the paving and Municipal infrastructure. [See also, section 7; Pavement Cut policy.] Grantee agrees that its uses in Franchised areas are fully subordinate to Municipal infrastructure needs and uses, the general public travel and access uses and the public convenience, except as may be otherwise required by law. Grantee promises to minimize or avoid any hazard,
danger or inconvenience to Municipal infrastructure needs and uses, public travel, and the public convenience.

D. Grantee will maintain membership with the Inland Empire Utility Coordinating Council (IEUCC) or other similar or successor organization designated to coordinate underground fixture locations and installations. Grantee is familiar with ch. 19.122 RCW, Washington State’s "Underground Utilities" statute. Grantee will familiarize itself with local procedures, custom and practice relating to the one-call locator service program, and will see to it that its contractors or others working in the Right of way on Grantee’s behalf are similarly well informed.

Section 6. Plans; Locate, Relocate

A. Grantee’s plans for construction or installation shall be submitted to the Administering officer as requested under such advance notification as the Administering officer may reasonably require, with a copy of such plans to the City’s MIS Director and any other information requested by the City. Grantee promises that all its installations shall be placed in the standard location for telephone conduit or overhead lines, as determined by local regulation, custom and practice, or as designated by the Administering officer. Above ground pedestals or other above ground structures besides telephone poles and related guy wire supports are subject to separate review and approval by the Administering officer, in addition to other Franchise requirements.

B. The City reserves the right to change, regrade, relocate, or vacate the Public Right of way and/or skywalk over the Right of way at no expense or liability to the City. The City agrees to give Grantee preliminary notice of any such request (“initial notice date”). Grantee must submit design plans within sixty (60) days of an initial notice date, with relocation to be accomplished within ninety (90) days of the initial notice date or thirty days of the City’s final approval of Grantee’s design plan, whichever is later. In addition, the City agrees to work with Grantee to give additional advance notice as may be reasonable under the circumstances or to extend additional time, considering the nature and size of the project and other factors. Upon expiration of the time limits specified, Grantee will relocate, remove, or reroute its Facilities, as ordered by the Administering officer, at its sole expense and liability, including handling any third party claims, such as service interruption. This provision prevails over others in the event of conflict or ambiguity. In case of emergency, the notice period may be shortened, giving reasonable consideration also for Grantee’s needs.

C. Under the provisions of RCW 35.99.060, the Administering officer may require Grantee to relocate it Facilities within the Right of way, when reasonably necessary for construction, alteration, repair, or improvement of the Right of way for purposes of public welfare, health, or safety. The same terms and timelines as
exists in Section 6B shall apply for the relocation contemplated in this Section 6C.

D. Grantee shall complete the relocation by the date specified by the Administering officer, unless extended by said official after a showing by Grantee that the relocation cannot be completed by the date specified using best efforts and meeting safety and service requirements. As provided in RCW 35.99.60, Grantee may not seek reimbursement for its relocation expenses from the City except for City requested relocations:

1. Where Grantee has paid for the relocation cost of the same Facilities in the Right of way at the request of the City within the past five years, Grantee’s share of the cost of relocation will be paid by the City when the City is requesting the relocation;

2. Where aerial to underground relocation of authorized Facilities in the Right of way is required by the City, where Grantee has any ownership share of the aerial supporting structures, the additional incremental cost of underground compared to aerial relocation, or as provided for in the approved tariff if less, will be paid by the City requiring relocation; and

3. Where the City requests relocation in the Right of way solely for aesthetic purposes, unless otherwise agreed to by the parties.

4. The parties agree that “relocation” refers to a permanent movement of Facilities required of Grantee by the City, and not a temporary or incidental movement of Facilities, such as a raising of lines to accommodate house moving and the like, or other revisions Grantee would accomplish without regard to municipal request.

E. As provided by RCW 35.99.060, where a project is primarily for private benefit, the private party or parties shall reimburse the cost of relocation in the same proportion to their contribution to the costs of the project. Grantee understands however that the City has no obligation to collect such reimbursement and enforcement of any such rights shall be solely by Grantee. Upon stipulation of all parties, the Administering officer may arbitrate any dispute referenced in this subsection E or refer the matter to the Hearings Examiner, provided, costs of the same as may be assessed by the City shall be borne by the participants. Grantee is not otherwise precluded from recovering costs associated with relocation, consistent with applicable state or federal law, where it does not directly or indirectly create additional liability or expense to the City.

F. The Administering officer may require the relocation of Facilities at Grantee’s expense at any location in the event of an unforeseen emergency that creates an immediate threat to the public safety, health, or welfare. Where the
City determines to abandon or vacate any right or way or other permitted area, it is the Grantee's responsibility to resolve any question of Grantee's continued occupancy or use of such areas directly with the owner of such areas.

Section 7. Grantee to restore affected areas

Subject to section 6 as it may apply, whenever Grantee damages or disturbs any location in or near the Right of way or other permitted area, Grantee will promptly restore the same to original or better condition at its expense, as required by the Administering officer. Grantee will restore and patch all surfaces cut in accord with the City's generally applicable Pavement Cut Policy, on file with the Administering officer to maintain and preserve the useful life thereof. Any damage or disturbance to Facilities, fixtures or equipment of the City or others shall be promptly repaired. Pavement restorations shall be maintained in good condition and repair by Grantee until such time as the area is resurfaced or reconstructed. If Grantee fails or delays for more than thirty (30) days in performing any obligation here or elsewhere in the Franchise, the City may proceed to correct the problem and bill Grantee for the expense, upon such reasonable notice as determined by the Administering officer under the circumstances.

Section 8. Information, good engineering, inspections

A. Grantee will supply information requested by the Administering officer such as installation inventory, locates of existing or planned Facilities, maps, plans, operational data, and as-built drawings of Grantee's installations or other information. The information shall be in format compatible with City operations. Grantee is responsible for defending any public record requests as it may desire.

B. Grantee property and Facilities shall be constructed, operated and maintained according to good engineering practice. In connection with the civil works of Grantee's system, such as trenching, paving, compaction and locations, Grantee promises to comply with the American Public Works Association Standard Specifications, the edition being that in current use by the City, together with the City's Supplemental Specifications thereto, all as now or hereafter amended. Grantee promises its system shall comply with the applicable federal, state and local laws, and the National Electric Safety Code and Washington Electrical Construction Code, where applicable. Grantee will familiarize itself with the City of Spokane's Specifications and other Right of way installation and location requirements, on file with the Administering officer and make reasonable effort to be familiar with updates or changes thereto.

Section 9. Limited access, no obstruction, accommodation

A. The City reserves the right to limit or exclude Grantee's access to a specific route, Public Right of way or other location when, in the reasonable
judgment of the Administering officer, there is inadequate space, a pavement cutting moratorium, subject to the requirements of applicable law, unnecessary damage to public property, public expense, inconvenience, interference with City utilities, or for any other reasonable cause determined by the Administering officer, provided, it shall do so consistent with the federal Telecommunications Act of 1996 and RCW 35.99.050 as applicable.

B. Grantee must raise any concerns under the aforementioned laws or other applicable laws which it believes limit the City’s authority or Grantee’s obligations to the City pertaining to this Franchise at the time such issue is first known or should have been reasonably known by Grantee.

C. Grantee will not interfere with Municipal infrastructure uses of the Right of way or other permitted areas. Grantee shall maintain a minimum underground horizontal separation of five (5) feet from City water facilities and ten (10) feet from above-ground City water facilities unless modified in writing; PROVIDED, that for development in new areas, the City, together with Grantee and other utility purveyors or authorized users of the Right of way, will develop and follow the Administering officer’s reasonable determination of a consensus for guidelines and procedures for determining specific utility locations, subject additionally to this Franchise. Subject to Section 6, the City may require Grantee to make reasonable accommodation for public or third party needs in the construction of Grantee facilities in the Right of way as, in the judgment of the Administering officer, are necessary to preserve the condition of, or reduce the interference with, such Right of way, and a reasonable apportionment of any expenses of any such accommodation; PROVIDED, that this Franchise creates no third party beneficial interests. Notwithstanding the foregoing, it remains the responsibility of the Grantee to anticipate and avoid conflicts with other Right of way occupants or users, other utilities, franchisees, or permittees. The City assumes no responsibility for such conflicts.

Section 10. Undergrounding

The City reserves the right to develop a general policy on undergrounding and to require Grantee's participation therein, in coordination the City's underground program for other utility service providers, as a condition of Grantee's new installation or major maintenance or restoration construction activities of overhead facilities under this Franchise. The purpose of this section is to recognize and preserve the City's control over uses of the Public Right of way, consistent with the municipal policy favoring undergrounding of overhead lines for aesthetic reasons.

Section 11. Facilities for City Use
A. Except as covered by mutual agreement, whenever Grantee constructs, relocates or places ducts or conduits in the Public right of way, Grantee will provide the City where technically feasible, judged by objective engineering standards, with additional duct or conduit and related structures necessary to access the conduit at its actual incremental out-of-pocket costs to cover all internal costs. The parties agree to execute any documents needed to satisfy RCW 35.99.070 as it may apply. The City may review supporting third party billings to support incremental cost claims. Unless otherwise agreed, the City further agrees not to resell, lease, sublease, or grant an IRU or other right to use in any Grantee facilities provided under this paragraph, or use such facilities to provide communications services for hire, sale or resale, to the public or any third party which is not a governmental entity. All facilities supplied shall be maintained to technical specifications.

B. The City is permitted to attach to aerial poles for aerial fiber cabling and required mounting hardware in situations where the existing pole agreements between LightSpeed Networks Inc. and the other party would not be violated by the City’s attachment use of the aerial pole.

C. Grantee agrees to notify the City MIS Director at least sixty (60) days prior to opening a trench or placing overhead lines at any location to allow the parties to implement paragraph B herein as those provisions may apply. As to all matters encompassed in this Section, the parties further agree to do anything required by law to maintain the effectiveness of such arrangements and to negotiate in good faith any matters not otherwise fully resolved. Each party acknowledges receipt of good and adequate consideration for all matters encompassed in this Section.

Section 12. Liability; No duty

A. Grantee waives all claims, direct or indirect, for loss or liability, whether for property damage, bodily injury or otherwise, against the City arising out of Grantee’s enjoyment of Franchise or permit privileges. This waiver does not apply to negligent or intentional acts of the City outside a governmental or regulatory capacity, such as granting this franchise or permits. Grantee will indemnify and hold harmless the City, its boards, officers, agents and employees (“City”) harmless from any and all claims, accidents, losses, or liabilities arising from or by reason of any intentional or negligent act, occurrence or omission of the Grantee, whether singularly or jointly with others, its representatives, permittees, employees or contractors, in the construction, operation, use, or maintenance of any of the Grantee’s property or Facilities, and/or enjoyment of any privileges granted by this Franchise, or because of Grantee’s performance or failure to perform any Franchise obligations.

B. Grantee accepts that access to any Franchised area is furnished “as is”.
The City has made no assessment or guarantee as to its suitability for Grantee needs or compatibility of Grantee uses with other needs. Grantee waives immunity under Title 51 RCW in any cases involving the City of Spokane and affirms that the City and Grantee have specifically negotiated this provision, as required by RCW 4.24.115, to the extent it may apply. This waiver has been mutually negotiated.

C. It is not the intent of this ordinance to acknowledge, create, or expand any duty or liability of the City for any purpose. Any City duty nonetheless deemed created shall be a duty to the general public and not to any specific party, group, or entity.

Section 13. Insurance

A. During the term of this Franchise, the Administering officer, with the advice of the City Risk Manager may review the relative risk of Grantee's installation and operations and direct changes to insurance and liability protections as he/she may require. Unless so modified, Grantee shall furnish satisfactory evidence of commercial general liability insurance and maintain the same in good standing, with limits of at least one million dollars ($1,000,000) per occurrence and two million dollars ($2,000,000) aggregate, with the City of Spokane named as an additional insured.

B. Any Grantee insurance policy or approved self insurance arrangements addressing requirements of this Franchise shall be primary to any City insurance coverage or, in the event the City is self insured, any Grantee policy shall afford first dollar protection coverage for risks included in Grantee's operations. On or before June 1st of each year and at the time of granting this Franchise, as a condition of Franchise validity, Grantee shall file with the City Clerk, with copy to the City Risk Manager, proof of continued insurance coverage, at least in the amounts required in this Section, through a Certificate of Insurance, including the additional insured endorsement indicating City coverage required herein and a provision that said coverage may not be cancelled or reduced without at least thirty (30) days notice to the City, filed as above provided.

Section 14. Taxes, fees

A. No Franchise fee is assessed for telephone business operations in accord with the prohibition of state law (RCW 35.21.860). If the prohibition of telephone business franchise fees is removed or modified to allow a Franchise fee, the parties agree to negotiate this provision as a material term on which agreement is required for continuation of this franchise; PROVIDED, the City must give one hundred eighty (180) days notice to invoke this provision and any Franchise fee under it shall be prospective in nature.

B. If Grantee operates a Cable television service, the cable franchise fee is
5% of gross receipts from said business from the time of commencement of such operations, but this shall not excuse full compliance with other applicable requirements.

C. Nothing in this Franchise shall otherwise limit the City’s power to tax or recover any lawful expenses in connection with this Franchise. Grantee agrees to pay all taxes as due and any lawful expenses within forty-five (45) days of billing pursuant to this Franchise. Failure to pay within forty-five (45) days after demand by the City and exhaustion of any applicable remedies is a material breach of this Franchise.

D. The City reserves the right to audit any books or records required to enforce any lawful tax, fee or expense to be paid by Grantee. All audits will take place on Grantee’s premises or offices furnished by Grantee, which shall be a location within the City of Spokane or by mutually accepted other arrangements. Grantee agrees, that no later than sixty (60) after receiving written request from the City Treasurer to provide copies of all documents filed with any federal, state, or local regulatory agency, to be mailed to the City Treasurer on the same day as filed, postage prepaid, affecting any of Grantee’s Facilities or business operations in the City of Spokane. Any information provided by Grantee to City shall be subject to public disclosure under the public records act, RCW 42.56.

Section 15. Franchise administration

Questions of application or interpretation of this Franchise are determined by the Administering officer or a court of competent jurisdiction. Said officer may issue enforcement orders, upon due notice as deemed proper, promulgate rules and procedures as deemed necessary and grant exceptions, which shall be revocable. Nothing in the Franchise limits the City’s police or regulatory power in general or over its Right of way or other franchised areas. For the performance of all Franchise obligations, time is of the essence. All City acts under this Franchise are discretionary, guided by considerations of the public health, safety, esthetics and convenience.

Section 16. Additional

A. Any assignment of use or occupancy privileges requires consent of the City in the manner originally granted. This does not apply to minor stock transfers, or assignments to affiliates. No capital stock may ever be issued based on any permission to use or occupy the right-of-way or other permitted areas or the value thereof. In any condemnation proceeding brought by the City, no grantee of any permission, permit or franchise under this chapter or otherwise shall ever be entitled to receive any return thereon, or its value.

B. This Franchise may be revoked by the City Council by resolution because of any material breach, after giving at least thirty (30) days notice to
Grantee and opportunity to cure. No forbearance by the City of any term or condition of this Franchise shall ever comprise a waiver or estoppel of the City's right to enforce said term or condition. Grantee may surrender its Franchise to the City upon sixty (60) days written notice to the Administering officer, subject to acceptance by the City, by a resolution of the City Council.

C. Upon termination, surrender or expiration of the Franchise, Grantee may be required to remove all its Facilities as ordered by the Administering officer or otherwise render the same safe as the Officer reasonably determines.

D. Grantee understands that this Franchise applies to itself as well as all third party users, assigns, successors or any other entity enjoying de facto Franchise privileges derived from permission extended to Grantee herein and Grantee shall assure that any contracts with such users, assigns, successors or entities so provide. Additionally, Grantee accepts full responsibility with said users, assigns, successors, or entities, jointly and severally, to the City for full performance of all Franchise obligations.

E. This Franchise is governed by the laws of the State of Washington, and venue for any litigation arising out of or in connection with privileges extended herein is stipulated to be in Spokane County.

Passed the City Council _________________________, __________.

_______________________________
Council President

_______________________________
City Clerk

_______________________________
Assistant City Attorney

_______________________________
Mayor

_______________________________
Date

_______________________________
Effective Date
ACCEPTANCE OF CITY FRANCHISE

Ordinance No. C34949, effective ________________, ________.

I, _______________, am the __________________ of LightSpeed Networks Inc., and am an authorized representative to accept the above referenced City Franchise ordinance on behalf of LightSpeed Networks Inc.

I certify that this Franchise and all terms and conditions thereof are accepted without qualification or reservation.

DATED this _____ day of ____________________, ________.

________________________________________

Witness: ________________________________
Agenda Sheet for City Council Meeting of: 01/14/2013

<table>
<thead>
<tr>
<th>Date Rec’d</th>
<th>1/2/2013</th>
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<tbody>
<tr>
<td>Clerk’s File #</td>
<td>OPR 2013-0004</td>
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<td>Renews #</td>
<td>OPR 2012-0021</td>
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<td>Submitting Dept</td>
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</tr>
<tr>
<td>Contact Name/Phone</td>
<td>JERIE ALLARD  X6055</td>
</tr>
<tr>
<td>Contact E-Mail</td>
<td><a href="mailto:JALLARD@SPOKANE.CITY.ORG">JALLARD@SPOKANE.CITY.ORG</a></td>
</tr>
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<td>Special Considerations</td>
</tr>
<tr>
<td>Agenda Item Name</td>
<td>2013 COMMUNITY, HOUSING AND HUMAN SERVICES FUNDING RECOMMENDATIONS TO COUNC</td>
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</tbody>
</table>

### Agenda Wording

Approve Community, Housing and Human Services Board (CHHS) recommendations and authorization to enter into contracts with the agencies listed on the attached list. The term of the contracts will be January 1, 2013 through December 31, 2013.

### Summary (Background)

Each year, City Council allocates funding for human services grants through the general fund budget. The CHHS Board evaluates the proposals submitted and makes recommendations to City Council, which has the final authority to approve or modify the recommendations. On 12/5/12, the CHHS Board approved the recommendation to extend all 22 of the 2012 projects to 12/31/13 for a funding total of $898,680.00

### Fiscal Impact

| Expense | $ 878,600 |
| Revenue | $ 20,080 |
| Expense | $ 20,080 |
| Select | $ |

### Budget Account

| Expense | # 0300-53010-51200-54201 |
| Revenue | # 0300-53010-66000-33694 |
| Expense | # 0300-53010-66000-54201 |

### Approvals

| Dept Head | ALLARD, JERRIE |
| Division Director | MALLAHAN, JONATHAN |
| Finance | LESESNE, MICHELE |
| Legal | BURNS, BARBARA |
| For the Mayor | SANDERS, THERESA |

### Council Notifications

| Study Session |
| Other | PCED 12/17/12 |
| Distribution List |
| jchaffins@spokanecity.org |

### Additional Approvals

<table>
<thead>
<tr>
<th>Purchasing</th>
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<tbody>
<tr>
<td>Agency</td>
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<td>American Red Cross</td>
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<td>Boys &amp; Girls Clubs</td>
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<td>Catholic Charities</td>
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<td>Catholic Housing Services</td>
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<td>Community Health Association of Spokane</td>
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<td>First Covenant Church</td>
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<td>Frontier Behavioral Health dba Spokane Mental Health</td>
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<td>Goodwill Industries</td>
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<td>Lutheran Community Services</td>
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<td>Martin Luther King Jr Family Outreach Ctr</td>
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<td>Our Place Community Ministries</td>
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<td>Partners w/ Families &amp; Children</td>
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<td>Salvation Army</td>
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<tr>
<td>Second Harvest</td>
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<td>Spokane Aids Network</td>
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<td>Transitional Programs for Women</td>
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<td>Volunteers of America</td>
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<td>Volunteers of America</td>
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<tr>
<td>YFA Connections</td>
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<td>YWCA</td>
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<tr>
<td><strong>TOTAL AWARDS</strong></td>
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</table>
Subject

Renewal of 2012 human services general fund grant allocations. Beginning with the 2012 awards, contracts were awarded for a one year term with the intent of renewal in 2013 for programs meeting fiscal and program performance measures as well as the availability of funding.

Representatives from the Community Housing and Human Services board (CHHS) have concluded their review of the 2012 programs and subsequent 2013 funding recommendations.

Background

In 2011, the Human Services Board worked closely with members of the City Council and the Mayor’s office in establishing criteria and recommendations for City funding of human service programs. In 2012, the Human Services Board was combined with the Community Development Board and Regional Homeless Governance Council to create the Community Housing and Human Services Board. The review of 2012 programs and resulting recommendations were formed by a subcommittee of the CHHS board comprised of former members of the Human Services Advisory Board.

Local governments, for-profit and non-profit (including faith-based) agencies serving the City of Spokane are all eligible to apply. In 2007, the City Council encouraged the board to make funding recommendations using the philosophy of funding fewer projects at a higher level. The purpose of this philosophy follows the national trend of funders seeking measurable impact with the dollars awarded to social service providers.

The 2012 proposals were reviewed and scored using a comprehensive scoring process. A total of 35 of proposals were received totaling $2,111,861 million in requests. City Council approved awards totaling $898,680 on January 17, 2012.

The scoring process included an evaluation of each proposal based off the funding principles and priorities as approved by City Council.

Funding Principles & Priorities

Principles

- Ensuring measureable progress towards addressing the human services funding priorities
- Strengthening our community safety-net
Promoting economic self-sufficiency
- Encouraging innovation and use of best practices
- Supporting prevention
- Seeking efficiency and coordination of services through agency (public and private) collaboration
- Using human services grant funds to leverage other local, state and federal funding
- Eliminating barriers to needed services

Funding Priorities
Per City RES 2006-0070, funding priorities for Human Services grants are set annually by the City Council. Priorities are to be needs driven, community-based, of the mind-set of basic needs or of a safety-net approach, and in accordance with long-term intentions.

The priorities have equal value and are not listed in order of importance. The following 2012 Human Services funding priorities were adopted by City Council per Resolution 2010-0052.
- Reducing or preventing homelessness among the most vulnerable populations such as the disabled, veterans, youth and families
- Promoting and ensuring nutrition and food security
- Improving access to and utilization of mental and physical health care

Impact
Renewed funding for the programs will allow for continuity of critical, basic need services for low-income households.

Action
Approve funding renewals as presented. Final dollar amounts will be adjusted based off the 2013 approved budget. The board’s recommendations are tentatively scheduled to go before City Council on January 14, 2013. Once approved, the department will enter into one year contracts with funded agencies.

<table>
<thead>
<tr>
<th>Agency</th>
<th>Program</th>
<th>Final</th>
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<tbody>
<tr>
<td>American Red Cross</td>
<td>Emergency Services</td>
<td>$15,000</td>
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<td>Boys &amp; Girls Clubs</td>
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<td>Sexual Assault &amp; Fam Trauma Response</td>
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<td>Family Emergency Services</td>
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<td>On My Way</td>
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<tr>
<td><strong>TOTAL AWARDS</strong></td>
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<td><strong>$898,680</strong></td>
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</table>

**Funding**

Funding for these grants is provided through the City’s general fund. The Mayor’s proposed budget includes $898,680 for this purpose.