


Agenda Sheet for City Council Meeting of:

10/11/2021

Date Rec'd

9/29/2021

Clerk's File #

OPR 2014-0728

Renews #**Submitting Dept**

SOLID WASTE DISPOSAL

Cross Ref #**Contact Name/Phone**

CHRIS AVERYT 625-6540

Project #**Contact E-Mail**

CAVERYT@SPOKANECITY.ORG

Bid #**Agenda Item Type**

Contract Item

Requisition #

REVENUE

Agenda Item Name

4490 INTERLOCAL AGREEMENT WITH AIRWAY HEIGHTS FOR DISPOSAL SERVICES

Agenda Wording

Interlocal Agreement (ILA) extension with Airway Heights for disposal services at the Waste to Energy Facility from Nov. 17, 2021 - Nov. 16, 2026 for an annual revenue of approximately \$500,000.00.

Summary (Background)

The City of Spokane currently offers disposal services for the City of Airway Heights contracted solid waste collection service providers and residential self-hauled loads at the WTE under a seven (7) year ILA with an option to extend the term. This extension will be for five years, with all terms of the original agreement remaining the same, including annual CPI increases to the hauler disposal rates. Self-hauled loads will continue to be charged at the current gate rates.

Lease? NO

Grant related? NO

Public Works? NO

Fiscal Impact

Revenue \$ 500,000.00

Budget Account

4490-44110-37052-34363

Select \$

#

Select \$

#

Select \$

#

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

AVERYT, CHRIS

Study Session\Other

9/27/21 PIES

Division Director

FEIST, MARLENE

Council Sponsor

CP Beggs

Finance

ALBIN-MOORE, ANGELA

Distribution List**Legal**

ODLE, MARI

mdorgan@spokanecity.org

For the Mayor

ORMSBY, MICHAEL

jsalstrom@spokanecity.org

Additional Approvals

caveryt@spokanecity.org

Purchasing

PRINCE, THEA

Albert Tripp, City Manager, atripp@cawh.org

Approved by Spokane City
Council on: 10/11/2021

DocuSigned by:

CC56CB44DCC84D6...
City Clerk

Briefing Paper

Public Infrastructure, Environment and Sustainability Committee

Division & Department:	Public Works Division; Solid Waste Disposal
Subject:	Extension of Interlocal Agreement with the City of Airway Heights For Disposal Services at the WTE.
Date:	September 27, 2021
Contact (email & phone):	Chris Averyt, caveryt@spokanecity.org , 625-6540
City Council Sponsor:	Breean Beggs, City Council President
Executive Sponsor:	Marlene Feist, Public Works Director
Committee(s) Impacted:	Public Infrastructure, Environment and Sustainability Committee
Type of Agenda item:	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
Alignment: (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	
Strategic Initiative:	Innovative Infrastructure-Sustainability of the WTE Operations
Deadline:	
Outcome: (deliverables, delivery duties, milestones to meet)	Council approval of Interlocal Agreement extension to continue providing disposal services for the City of Airway Heights.
Background/History:	
<p>The City of Spokane currently offers disposal services for the City of Airway Heights contracted solid waste collection service providers and residential self-hauled loads at the WTE Facility under an Interlocal Agreement (ILA) which commenced on November 17, 2014 and runs through November 16, 2021, with an option to extend the term as agreed upon by both Parties.</p> <p>This extension to the ILA would be for an additional five years, beginning on November 17, 2021 and run through November 16, 2026. All terms of the original ILA are to remain the same, including annual CPI increases to the disposal rates for the collection service providers and the self-hauled loads will continue to be charged at the current gate rates. The value of the ILA is approximately \$500,000.00 in annual revenue to the City of Spokane.</p>	
Executive Summary:	
<ul style="list-style-type: none"> • Five (5) year extension to the current ILA with the City of Airway Heights to provide disposal services for Airway Height's contracted solid waste collection service providers and residential self-hauled loads at the WTE Facility. • Term from Nov. 17, 2021 through Nov. 16, 2026. • Annual revenue is approx. \$500,000 or \$2,500,000 for five (5) years. • All terms of the original ILA are to remain the same. 	
Budget Impact:	
Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Annual/Reoccurring expenditure? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A If new, specify funding source: Other budget impacts: (revenue generating, match requirements, etc.)	
Operations Impact:	
Consistent with current operations/policy? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Requires change in current operations/policy? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A Specify changes required: Known challenges/barriers:	



City of Spokane

INTERLOCAL AGREEMENT EXTENSION

Title: **Solid Waste Disposal Services at the WTEF**

This Interlocal Agreement Extension is made and entered into by and between the **City of Spokane** ("City"), a Washington municipal corporation, and the **City of Airway Heights** ("Airway Heights"), a Washington municipal corporation, whose address is 1208 S. Lundstrom, Airway Heights, Washington 99001, individually hereafter referenced as a "Party", and together as the "Parties".

WHEREAS, the Parties entered into that certain "Interlocal Agreement Between the City of Airway Heights and the City of Spokane for Disposal of Solid Waste" on November 17, 2014 (the "Interlocal Agreement"), a copy of which is attached hereto as Exhibit "A", wherein the City of Spokane established terms and conditions with the City of Airway Heights to dispose of all solid waste collected within Airway Heights, to be delivered to the City of Spokane's Waste to Energy Facility including self-haul customers; and

WHEREAS, the Parties wish to extend the Term of the Interlocal Agreement as provided for in Section 3(A) of the Interlocal Agreement for an additional five (5) years; and

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

1. INCORPORATION BY REFERENCE.

The Interlocal Agreement, dated November 17, 2014, is hereby incorporated by reference into this Interlocal Agreement Extension as though written in full and shall remain in full force and effect except as provided herein.

2. EFFECTIVE DATE.

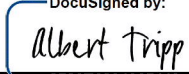
This Interlocal Agreement Extension shall become effective on November 17, 2021.

3. EXTENSION.

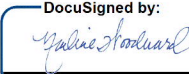
The Interlocal Agreement is hereby extended and shall run through 11:59 p.m. on November 16, 2026.

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


THE CITY OF AIRWAY HEIGHTS

DocuSigned by:

 Albert Tripp, City Manager Date 10/26/2021

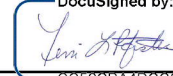
THE CITY OF SPOKANE

DocuSigned by:

 Nadine Woodward, Mayor Date 10/29/2021

Attest:

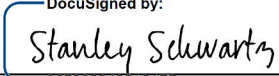
DocuSigned by:

27CF69D3894042E...
Airway Heights, City Clerk

Attest:

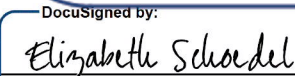
DocuSigned by:

CC56CBA4DCC84D6...
Terri Pfister, City Clerk
DS



Approved as to Form:

DocuSigned by:

8870926436124FB...
Stanley Schwartz
Airway Heights – Attorney

Approved as to Form:

DocuSigned by:

7E7925E6F4B9AB4...
Elizabeth Schoedel
Assistant City Attorney

U2021-081

12/29/15
20



Agenda Sheet for City Council Meeting of:
10/12/2015

Date Rec'd	9/30/2015
Clerk's File #	OPR 2014-0728
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	SOLID WASTE DISPOSAL
Contact Name/Phone	CHUCK 625-6524
Contact E-Mail	CCONKLIN@SPOKANECITY.ORG
Agenda Item Type	Contract Item
Agenda Item Name	4490- SOLID WASTE DISPOSAL

Agenda Wording

Amendment Number 1 to Interlocal Agreement with the City of Airway Heights for disposal of solid waste at the waste to energy facility.

Summary (Background)

The disposal Interlocal Agreement between Airway Heights and the City of Spokane calls for an annual price adjustment beginning in 2017. The ILA calls out the index to be used and the adjustment to be calculated using the month of October to October of the prior year. Airway Heights requested that the calculation month be changed to August to August of the prior year in order to allow them at least 60 days to notify their collection contractor and citizens.

Fiscal Impact	Budget Account
Neutral \$	#
Select \$	#
Select \$	#
Select \$	#

Approvals		Council Notifications	
Dept Head	CONKLIN, CHUCK	Study Session	PWC 9/28/15
Division Director	GIMPEL, KEN	Other	
Finance	SALSTROM, JOHN	Distribution List	
Legal	JACOBSON, ERIN	ttauscher@spokanecity.org	
For the Mayor	SANDERS, THERESA	jsalstrom@spokanecity.org	

Additional Approvals	
Purchasing	

APPROVED BY
SPOKANE CITY COUNCIL:

10/12/15
[Signature]
CITY CLERK

#5



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Summary (Background)

There may be a slight difference in the first year calculation between October versus August however, regardless of which month we use it's a 12 month year to year calculation.

Fiscal Impact	Budget Account
Select \$	#
Select \$	#
Distribution List	

BRIEFING PAPER
Public Works Committee
Wastewater Management
September 28, 2015

Subject

Disposal Interlocal Agreement Amendment 1 with Airway Heights.

Background

The disposal ILA between Airway Heights and the City of Spokane calls for an annual price adjustment beginning in 2017. The ILA calls out the index to be used and the adjustment to be calculated using the month of October to October of the prior year. Airway Heights requested that we change the calculation month to August to August of the prior year in order to allow them at least 60 days to notify their collection contractor and citizens.

Impact

There may be a slight difference in the first year calculation between October versus August however, regardless of which month we use it's a 12 month year to year calculation.

Action

Recommend approval.

Funding

No funding impact.

**INTERLOCAL AGREEMENT AMENDMENT #1
BETWEEN THE CITY OF AIRWAY HEIGHTS AND THE CITY OF SPOKANE
FOR DISPOSAL OF SOLID WASTE**

This INTERLOCAL AGREEMENT AMENDMENT #1 (this "**Amendment**") is made and entered into this ___ day of September, 2015 (the "**Effective Date**") between the CITY OF SPOKANE, a Washington State municipal corporation ("**Spokane**"), and the CITY OF AIRWAY HEIGHTS, a municipal corporation of the State of Washington ("**Airway Heights**"). Airway Heights and Spokane are referred to herein collectively as "**Parties**."

WHEREAS, the Parties entered into that certain interlocal agreement, the "Interlocal Agreement Between the City of Airway Heights and the City of Spokane for Disposal of Solid Waste," dated November 14, 2014 and as filed with the Spokane County Auditor, in accordance with RCW 39.24.040, under "City of Spokane No. OPR 2014-0728" (the "**Agreement**");

WHEREAS, the Agreement establishes the terms and conditions between Airway Heights and Spokane to control the management, handling, and disposal of solid waste within Airway Heights; and

WHEREAS, the Parties agree to amend Section 5(c) of the Agreement to afford Airway Heights, including any vendor contracted by Airway Heights for services related to the management of solid waste, adequate time to notify the public of any rate adjustment in accordance with RCW 35A.21.152.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the Parties agree as follows:

1. **NO MODIFICATION; COUNTERPARTS.** Except as amended herein, the Agreement shall remain in full force and effect. Capitalized terms which are not otherwise defined in this Amendment shall have the meaning ascribed to them in the Agreement. This Amendment may be signed in counterparts.

2. **AMENDMENT.** Section 5(c) of the Agreement is hereby amended to read as follows:

C. Rate Adjustment.

On January 1st of each year following 2016, Spokane will adjust the Airway Heights Disposal Rate to reflect increases in the 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) (the "Index"). The adjustment factor for computing annual rate adjustments shall be computed by dividing the Index number for ~~October~~ August of the just-completed year by the Index number for ~~October~~ August of the previous year. In the event the Index number stays the same or decreases, no rate adjustment will be made, and the next rate adjustment shall not occur until the Index number increases to a number exceeding the highest previous Index number, and shall be computed using the previous highest Index number. No later than October 31 of each year during the Initial Term or any Extension Term of this Agreement, Spokane may provide notice of any rate adjustment to Airway Heights for services under this Agreement.

Example Calculation of Annual Rate Adjustments:

	INDEX	ADJUST FACTOR	COUNTY DISPOSAL RATE
Base Yr.N	125		\$70.50
N+1	128.844	1.030752	\$72.67
N+2	133.315	1.034710	\$75.19
N+3*	132.474	No change	\$75.19
N+4**	133	No change	\$75.19
N+5	137.748	1.033252	\$77.69
N+6	140.054	1.016741	\$78.99
* No change-Index decreased			
** No charge-Index did not exceed highest previous Index			

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement as of the date first written above.

THE CITY OF AIRWAY HEIGHTS:

Albert Tripp
Albert Tripp, City Manager

THE CITY OF SPOKANE:

David A. Condon (10/26/15)
David Condon, Mayor

ATTEST:

Tony Wieducil
City Clerk

ATTEST:

Terry Pfister
Terry Pfister, City Clerk

APPROVED AS TO FORM:

Stanley Schwartz
for Stanley Schwartz,
Airway Heights - City Attorney

APPROVED AS TO FORM:

Elizabeth Schoedel
Elizabeth Schoedel
Assistant City Attorney - Spokane



[Signature Page to Amendment]



Agenda Sheet for City Council Meeting of:
11/03/2014

Date Rec'd	10/22/2014
Clerk's File #	OPR 2014-0728
Renews #	OPR 1989-0808
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	SPOKANE REGIONAL SOLID WASTE
Contact Name/Phone	KEN GIMPEL 625-6532
Contact E-Mail	KGIMPEL@SPOKANECITY.ORG
Agenda Item Type	Contract Item
Agenda Item Name	4490 INTERLOCAL AGREEMENT WITH AIRWAY HEIGHTS

Agenda Wording

Interlocal agreement with Airway Heights for disposal of solid waste at Spokane's Waste to Energy Facility November 17, 2014 to November 16, 2021. Revenue \$2,600,000.00 over 7 years.

Summary (Background)

This interlocal agreement establishes terms and conditions between the City and Airway Heights for disposal of all solid waste collected within Airway Heights at the Waste to Energy Facility. It also establishes terms and conditions for continued service to Airway Heights self haul customers who deliver solid waste, yard waste, recyclables and household hazardous waste to the waste to energy facility.

Fiscal Impact	Budget Account
Revenue \$ 2,600,000.00	# 4490-44110-37052-34363
Select \$	#
Select \$	#
Select \$	#

Approvals		Council Notifications	
Dept Head	GIMPEL, KEN	Study Session	
Division Director	ROMERO, RICK	Other	
Finance	LESNESSE, MICHELE	Distribution List	
Legal	SCHOEDEL, ELIZABETH	ttauscher@spokanecity.org	
For the Mayor	SANDERS, THERESA	cmarchand@spokanecity.org	
Additional Approvals		jfaught	
Purchasing			

APPROVED BY SPOKANE CITY COUNCIL ON
11/3/2014
[Signature]
SPOKANE CITY CLERK



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Summary (Background)

Airway Heights or its contracted solid waste collection service will pay to Spokane \$70.50 per ton for each ton of solid waste delivered to the waste to energy from Airway Heights, adjusted annually on January 1 per CPI. Residents of Airway Heights who choose to self haul waste to the waste to energy facility shall be charged the then current Spokane waste to energy gate fee at the weigh station.

Fiscal Impact

Budget Account

Select

\$

#

Select

\$

#

Distribution List

City of Spokane No. OPR 2014- 0728
City of Airway Heights No. N/A

**INTERLOCAL AGREEMENT
BETWEEN THE CITY OF AIRWAY HEIGHTS AND THE CITY OF SPOKANE
FOR DISPOSAL OF SOLID WASTE**

This WASTE DISPOSAL AGREEMENT (this "Agreement") is made and entered into as of this 14th day of NOVEMBER, 2014 by and between the City of Airway Heights, a municipal corporation of the State of Washington ("AIRWAY HEIGHTS") and the City of Spokane, a municipal corporation of the State of Washington ("SPOKANE"). Airway Heights and Spokane are each sometimes referred to herein as "Party" and collectively as "Parties."

RECITALS

A. WHEREAS, AIRWAY HEIGHTS on October 10, 1989 entered into "An Interlocal Agreement between the City of Spokane, Spokane County and the City of Airway Heights" (City Clerk's OPR 1989-0808) (the "Interlocal Agreement") to control the management, handling, and disposal of solid waste within AIRWAY HEIGHTS.

B. WHEREAS, The Interlocal Agreement was for a term of twenty five (25) years or for so long as bonds remained outstanding, which date is on or about November 16, 2014 (the "Interlocal Agreement Expiration Date").

C. WHEREAS, On November 17, 2014, subsequent to the Interlocal Agreement Expiration Date, SPOKANE will own and operate the Waste to Energy Facility located at 2900 South Geiger Blvd., Spokane, Washington, 99224, including the solid waste incinerator and the portion of the facility that serves the general public (the "WTE").

D. WHEREAS, AIRWAY HEIGHTS, by and through an open meeting of the Airway Heights City Council held on 10-20-2014 has decided to enter into a new Interlocal Agreement with Spokane County for the management of solid waste, and has provided appropriate notice to Spokane County regarding the same.

E. WHEREAS, AIRWAY HEIGHTS has identified the WTE as a disposal site capable of processing Municipal Waste from mixed residential, commercial, and industrial sources. The WTE is capable of processing Municipal Waste from mixed residential, commercial, and industrial sources.

NOW, THEREFORE, for and in consideration of the mutual promises set forth hereinafter and the recitals referenced above, the Parties do mutually agree as follows:

SECTION NO. 1: PURPOSE

The purposes of this Agreement are to:

- A. Formally terminate the 1989 Interlocal Agreement as of November 16, 2014. Effective November 17, 2014, this Agreement will replace all terms and conditions contained in the 1989 Agreement; and
- B. Establish the terms and conditions between AIRWAY HEIGHTS and SPOKANE for the disposal of all solid waste collected within AIRWAY HEIGHTS, which is to be delivered to SPOKANE's WTE after November 17, 2014; and
- C. Establish flow control requirements to be maintained by AIRWAY HEIGHTS to ensure the proper disposal of solid waste; and
- D. Establish the terms and conditions for continued service to AIRWAY HEIGHTS self haul customers who deliver solid waste, yard waste, recyclables and household hazardous waste to the WTE.

SECTION NO. 2: DEFINITIONS

As used in this Agreement, the following words, unless the context otherwise dictates, shall have the following meanings:

- A. **AIRWAY HEIGHTS**- means the City of Airway Heights, or any vendor contracted by AIRWAY HEIGHTS for services related to the management of solid waste.
- B. **AIRWAY HEIGHTS Disposal Rate** means the per ton disposal fee, as outlined in Section 5 of this Agreement, that AIRWAY HEIGHTS or its contracted solid waste collection service provider on behalf of AIRWAY HEIGHTS shall pay SPOKANE for each ton of solid waste delivered to the WTE by AIRWAY HEIGHTS's owned and operated commercial vehicles or AIRWAY HEIGHTS'S contracted solid waste collection service provider.
- C. **Dangerous Wastes** - means any discarded, useless, unwanted, or abandoned substances, including but not limited to certain pesticides, or any residues or containers of such substances which are disposed of in such quantity or concentration as to pose a substantial present or potential hazard to human health, wildlife, or the environment, because such wastes or constituents or combinations of such wastes:
 - 1) Have short-lived, toxic properties that may cause death, injury, or illness or have mutagenic, teratogenic, or carcinogenic properties; or

- 2) Are corrosive, explosive, flammable, or may generate pressure through decomposition or other means.
- D. **Extremely Hazardous Waste** —means any dangerous waste which:
- 1) Will persist in a hazardous form for several years or more at a disposal site and which in its persistent form:
 - a. Presents a significant environmental hazard and may be concentrated by living organisms through a food chain or may affect the genetic make-up of human beings or wildlife, and
 - b. Is highly toxic to human beings or wildlife.
 - 2) If disposed of at a disposal site in such quantities as would present an extreme hazard to human beings or the environment.
- E. **Gate Fee** - means the per ton disposal fee outlined in SECTION NO. 5 of this Agreement. AIRWAY HEIGHTS' residents who direct haul solid waste shall pay SPOKANE for each ton of solid waste delivered to the WTE as self haul waste, as defined in Section 5.
- F. **Hazardous Waste** - means and includes all dangerous and extremely hazardous waste, including substances composed of both radioactive and hazardous components.
- G. **Moderate-Risk Waste** – means:
- 1) any waste that exhibits any of the properties of hazardous waste, but is exempt from regulation under chapter 70.105 RCW solely because the waste is generated in quantities below the threshold for regulation; and
 - 2) any household wastes which are generated from the disposal of substances identified by the department as hazardous household substances.
- H. **Nonprocessable Waste** - means any solid waste that SPOKANE deems to be unacceptable at the WTE.
- I. **Solid Waste or Wastes** - means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to; garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, contaminated soils and contaminated dredged material, and recyclable materials.
- J. **Waste To Energy Facility, WTE, or Facility** - means that solid waste facility located at 2900 South Geiger Boulevard, Spokane, Washington 99224, including the solid waste incinerator and the portion of the facility that serves the general public for disposal of household hazardous waste, recyclables, solid waste, yard debris, and other waste products.

SECTION NO. 3: DURATION

- A. This Agreement shall be effective 12:00 A.M. on November 17, 2014 ("Commencement Date") and run through 11:59 P.M. on November 16, 2021, unless AIRWAY HEIGHTS provides written notice of termination as provided under subparagraph C of this Agreement. Under no circumstances shall this Agreement be terminated prior to the end of three (3) years or before November 16, 2017.

Any notice of termination shall be provided in writing and not later than six (6) months prior to the effective date. Notwithstanding the above provisions, this Agreement may be extended in one (1) year increments for a total of three (3) additional years, or as otherwise agreed upon by the Parties (the "**Extension Term**").

- B. **Extension Terms.** At least ninety (90) days prior to expiration of the Initial Term or an Extension Term, a party may deliver written notice of intent to renew this Agreement. The Notice shall propose the period and terms of renewal. The party receiving the notice shall within ten (10) days of delivery respond by stating its intent to renew this Agreement. Thereafter, the Parties shall negotiate the Extension Term in good faith. No response by the party receiving the notice shall be deemed a refusal to extend this Agreement.
- C. **Termination.** This Agreement shall be in effect for seven (7) years. After two and a half (2.5) years, AIRWAY HEIGHTS shall have the option to provide to SPOKANE six (6) months prior written notice of its intent to terminate this Agreement. Should AIRWAY HEIGHTS exercise this early termination option, it will be effective no earlier than the end of three (3) years (November 16, 2017, or any other later time prior to the seven (7) year term of the Agreement.

SECTION NO. 4: DISPOSAL SERVICES

- A. **Scope of Services.** AIRWAY HEIGHTS, or residents of AIRWAY HEIGHTS who choose to "self-haul" waste, shall deliver all Acceptable Waste, as defined in subparagraph B below, Household Hazardous Waste, Recyclables, and Clean Green Yard Debris to the WTE for disposal or processing. Once delivered to the WTE, SPOKANE shall be responsible for all costs associated with the disposal of the Acceptable Waste, including, but not limited to; incineration, ash disposal, by-pass of unburned materials, processing of Household Hazardous Waste, recyclables and Clean Green Yard Debris and all maintenance, operation, repairs and ordinary renewals and replacements necessary for the operation of the WTE. Once Municipal Waste enters the WTE, SPOKANE shall be responsible for determining its weight.
- B. **Acceptable Waste.** The following shall be acceptable waste at the WTE:
- 1) "**Municipal Waste**" including, but not limited to, Solid Waste from mixed residential, commercial, and industrial sources.

- 2) **"Self Haul"** means solid waste delivered to the WTE by the public in privately owned and operated vehicles.
- 3) **"Solid Waste"** meaning all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, yard debris, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, contaminated soils and contaminated dredged material, and recyclable materials.

The above definitions shall be automatically amended to conform to all WTE permits and operating requirements established by state and federal authorities.

- C. **Guaranteed Capacity.** The guaranteed minimum available capacity for Acceptable Waste shall be two-hundred forty-eight thousand two hundred (248,200) tons per year.
- D. **Primary Services.** The WTE shall be maintained in good working order and repair so as to allow AIRWAY HEIGHTS to dispose of its Municipal Waste without interruption or unreasonable delay. Municipal Waste may be delivered and shall be received at the WTE during all regular hours of operation unless otherwise agreed.

SECTION NO. 5: DISPOSAL RATE; BILLING

A. **AIRWAY HEIGHTS' Disposal Rate.** AIRWAY HEIGHTS or its contracted solid waste collection service provider will pay to SPOKANE seventy dollars and fifty cents (\$70.50) per ton for each ton of Municipal Waste delivered to the WTE from AIRWAY HEIGHTS (the "**AIRWAY HEIGHTS Disposal Rate**"). The AIRWAY HEIGHTS Disposal Rate shall be inclusive of all costs, including applicable taxes. SPOKANE agrees not to exceed the authority granted under state or local law, including taxing authority.

- 1) SPOKANE recognizes that AIRWAY HEIGHTS historically did not utilize either of SPOKANE'S closed landfills and therefore is not responsible for the landfill closure/post closure component of the Gate Fee. This cost represents ten dollars (\$10) per ton and is a basis for a reduced Disposal Rate.
- 2) The Parties agree for the duration of this Agreement only, AIRWAY HEIGHTS' Disposal Rate shall remain ten dollars (\$10) per ton less than the WTE Gate Fee.
- 3) SPOKANE guarantees the AIRWAY HEIGHTS' Disposal Rate described above regardless of disposal method (incineration or landfill disposal) SPOKANE utilizes. SPOKANE shall manage all Acceptable Waste, Household Hazardous Waste, Recyclables and Clean Green Yard Debris delivered by AIRWAY HEIGHTS or its citizens to the WTE.

B. **"Self-Haul Rate"** in the event residents of AIRWAY HEIGHTS choose to self-haul Acceptable Waste to the WTE, those residents shall be charged the then current SPOKANE WTE Gate Fee (the **"Self-Haul Disposal Rate"**). For purposes of this Section those residents who self-haul shall have the waste weighed upon entry into the WTE and shall, at that point, pay the WTE Gate Fee directly to the WTE at the WTE weigh station.

C. **Rate Adjustment.**

On January 1st of each year following 2016, SPOKANE will adjust the AIRWAY HEIGHTS Disposal Rate to reflect increases in the 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) (the "Index"). The adjustment factor for computing annual rate adjustments shall be computed by dividing the Index number for October of the just-completed year by the Index number for October of the previous year. In the event the Index number stays the same or decreases, no rate adjustment will be made, and the next rate adjustment shall not occur until the Index number increases to a number exceeding the highest previous Index number, and shall be computed using the previous highest Index number.

Example Calculation of Annual Rate Adjustments:

	INDEX	ADJUST FACTOR	COUNTY DISPOSAL RATE
Base Yr.N	125		\$70.50
N+1	128.844	1.030752	\$72.67
N+2	133.315	1.034710	\$75.19
N+3*	132.474	No change	\$75.19
N+4**	133	No change	\$75.19
N+5	137.748	1.033252	\$77.69
N+6	140.054	1.016741	\$78.99
* No change-Index decreased			
** No charge-Index did not exceed highest previous Index			

- D. **Invoicing and Payment.** SPOKANE shall, through invoice, bill AIRWAY HEIGHTS or its contracted solid waste collection service provider the AIRWAY HEIGHTS Disposal Rate on or before the 20th day of the month for services rendered the previous month. The invoice shall contain the dates of disposal, weight of Solid Waste, disposal cost per ton, and such other information as necessary to support the invoiced amount due. AIRWAY HEIGHTS or its contracted solid waste collection service provider will pay SPOKANE within thirty (30) calendar days of receiving the invoice.
- E. **Billing Questions and Disputes.** If AIRWAY HEIGHTS has any questions, desires further information, or have a dispute regarding the invoice, AIRWAY HEIGHTS shall advise SPOKANE in writing within ten (10) business days of invoice receipt. Notwithstanding payment of an invoice as set forth in section 4.3, AIRWAY HEIGHTS reserves the right, and SPOKANE acknowledges the right to dispute amounts paid without the necessity of making such payment "under protest." Any dispute between the Parties as to an invoice shall be resolved pursuant to Section 8.4 of this Agreement. Past due invoices shall accrue interest at the current local government investment pool rate - until paid.

SECTION NO. 6: AUDIT / RECORDS

AIRWAY HEIGHTS shall maintain for a minimum of three (3) years following final payment all records related to its performance of the Agreement. AIRWAY HEIGHTS shall provide access to authorized SPOKANE 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.

SPOKANE shall maintain for a minimum of three (3) years following final payment all records related to its performance of the Agreement. SPOKANE shall provide access to authorized AIRWAY HEIGHTS 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.

SECTION NO. 7: LIABILITY

Each Party to this Agreement shall be responsible for damage to persons or property resulting from the negligence on the part of itself, its employees, its directors, its agents or its officers. The Parties shall each indemnify, defend and hold harmless the other Party, its officers and employees from all claims, demands, or suits in law or equity arising from the Party's intentional or negligent acts or breach of any obligations under this Agreement.

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's or employee's negligence.

Each Party's duty to indemnify shall survive the termination or expiration of this Agreement. Each Party waives, with respect to the other Party only, its immunity under Chapter 51 of the Revised Code of Washington ("RCW"), "Industrial Insurance." The Parties have specifically negotiated this provision. THIS WAIVER HAS BEEN MUTUALLY NEGOTIATED BY THE PARTIES.

SECTION NO. 8: INSURANCE

During the term of this Agreement, SPOKANE and AIRWAY HEIGHTS or its contracted solid waste collection service provider shall each maintain in force at its own expense, the following insurance coverage or self-insurance:

- 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 or Stop Gap Insurance in the amount of \$5,000,000;
- B. 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;
- C. 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
- 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, if any. This coverage must remain in effect for 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 providing thirty (30) days written notice from a Party or its insurer(s) to the other Party. Verification of insurance shall be provided upon request.

SECTION NO. 9: RELATIONSHIP OF THE PARTIES

The relationship between the Parties is that of independent contractors. Neither Party, nor its agents and employees, shall under any circumstances be deemed an agent or representative of the other Party and neither shall have authority to act for and/or bind the other in any way, or represent

that it is in any way responsible for acts of the other Party. This Agreement does not establish a joint venture, agency, or partnership between the Parties.

SECTION NO. 10: MISCELLANEOUS

- A. **Assignment and Delegation.** This Agreement shall be binding upon the Parties, their successors and assigns. No Party may assign or delegate, in whole or in part, its interest in this Agreement without the prior written approval of the other Party, which shall not be unreasonably withheld.
- B. **Notices and Other Communications.** All notices, approvals, consents, and other communications required or permitted pursuant to this Agreement shall be in writing and shall be delivered by hand or sent by facsimile or prepaid courier or registered mail, to a Party at the address set forth below, or at such other address provided by such Party via written notice. Such communications shall become effective on the day when delivered by hand or the first (1st) business day following delivery by any other means.

If to AIRWAY HEIGHTS:

City of Airway Heights
Attn: Mayor or Designee
1208 S. Lundstrom
Airway Heights, WA 99001

If to the SPOKANE:

City of Spokane
Attn: Mayor or Designee
Seventh Floor, City Hall
808 West Spokane Falls Boulevard
Spokane, WA 99201

With Copy To:

Witherspoon • Kelley
Attn: Stanley M. Schwartz
422 West Riverside Avenue
Suite 1100
Spokane, WA 99201

With Copy To:

City of Spokane
Attn: City Attorney
Fifth Floor, City Hall
808 West Spokane Falls Boulevard
Spokane, WA 99201

- C. **Governing Law; Venue.** This Agreement is entered into, and its interpretation and enforcement, shall be governed exclusively by its terms and by the laws of the State of Washington, United States of America, without giving effect to that body of laws pertaining to conflict of laws. Any action brought by either Party against the other Party for claims arising out of this Agreement shall only be brought in a court of competent jurisdiction in Spokane County, Washington.
- D. **Meet and Confer / Arbitration.** If either Party has a claim or dispute under this Agreement, notice of the same shall be sent to the other Party. The notice shall provide a brief description of the dispute.

- 1) **Meet and Confer.** Within five (5) business days of the notice, the Parties shall meet and confer to resolve the dispute. If the Parties are unable to resolve the dispute within ten (10) business days of the notice, either party may seek arbitration.
 - 2) **Arbitration.** Arbitration shall be conducted in accordance with the JAMS Arbitration Rules or by an Alternate Dispute Resolution Process that can be mutually agreed upon. The arbitrator's fees and costs shall be equally shared. The arbitrator's decision shall be final, binding on the Parties and enforceable pursuant to RCW Chapter 7.04A.
- E. **Attorneys' Fees.** If any suit is brought or legal action is taken for the enforcement of any provision of this Agreement or as a result of any alleged breach thereof or for a declaration of any right or duty hereunder, the Party who substantially prevails in such suit or legal action shall be paid reasonable attorneys' fees from the Party who does not substantially prevail, and any judgment or decree rendered shall include an award thereof.
- F. **Entire Agreement.** This Agreement embodies the entire understanding among the Parties, is merged and fully integrated, and supersedes any and all prior negotiations, understandings, or agreements.
- G. **Third Parties.** Nothing in this Agreement, express or implied, is intended to confer upon any person, other than the Parties hereto and their successors and assigns, any rights or remedies under or by reason of this Agreement.
- H. **Favored Rate Clause.** To the extent enforceable by law, Spokane affirms that if, after execution of this contract, it enters into a new disposal agreement with another jurisdiction which contains the identical terms and waste volume services outlined in this Agreement, to include, but not limited to disposal for jurisdiction's commercially collected garbage, self self-haul service to jurisdiction's residents, and moderate risk waste services to jurisdiction's residents, and waste volumes, and charges a lower disposal fee than the Airway Heights Disposal Fee set forth in this Agreement, Spokane shall adjust the Airway Heights Disposal Fee to match the lower Jurisdiction's fee.
- I. **Anti-kickback.** No officer or employee of AIRWAY HEIGHTS, having the power or duty to perform an official act or action related to this Agreement, shall have, or acquire, any interest in this Agreement, or have solicited, accepted, or granted, a present or future gift, favor, service, or other thing of value from any person with an interest in this Agreement.
- J. **Severability.** If any provision of this Agreement is determined by any court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such provision will be enforced to the maximum extent possible given the intent of the Parties hereto. If such clause or provision cannot be so enforced, such provision shall be stricken from this Agreement and the remainder of this Agreement shall be enforced as if such invalid, illegal or unenforceable clause or provision had (to the extent not enforceable) never been contained in this Agreement.
- K. **Amendment; Waivers.** This Agreement shall not be amended, supplemented or modified except in writing executed by authorized representatives of the Parties, with the same

formality of this Agreement. Waiver by a Party of any breach of any provision of this Agreement by the other Party shall not operate, or be construed, as a waiver of any subsequent or other breach and no Party's undertakings or agreements contained in this Agreement shall be deemed to have been waived unless such waiver is made by an instrument in writing signed by an authorized representative of that Party.

- L. **Counterparts.** This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, and either Party may execute this Agreement by signing any such counterpart. Signed counterparts executed and delivered by electronic mail or facsimile transmission shall be binding on the Parties and have the same force and effect as an original signed counterpart.
- M. **Representations and Warranties.** Each Party represents and warrants that it has executed this Agreement freely, fully intending to be bound by the terms and provisions contained herein; that it has full power and authority to execute, deliver and perform this Agreement; that the person signing this Agreement on behalf of such Party has properly been authorized and empowered to enter into this Agreement by and on behalf of such Party; that prior to the date of this Agreement, all corporate action of such Party necessary for the execution, delivery and performance of this Agreement by such Party has been duly taken; and that this Agreement has been duly authorized and executed by such Party, is the legal, valid and binding obligation of such Party, and is enforceable against such Party in accordance with its terms.
- N. **Compliance with Laws.** The Parties shall observe all federal, state and local laws, ordinances and regulations; to the extent they may be applicable to the terms of this Agreement.

SECTION NO. 11: RCW 39.34 REQUIRED CLAUSES

- A. **Purpose:** See Section No. 1 above.
- B. **Duration:** See Section No. 3 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:** SPOKANE shall file this Agreement with its City Clerk and place it on its web site or other electronically retrievable public source. AIRWAY HEIGHTS shall file this Agreement with its City Clerk or place it on its web site or other electronically retrievable public source.
- F. **Financing:** Each party shall be responsible for the financing of its contractual obligations under its normal budgetary process.
- G. **Termination:** This Agreement can be terminated in accordance with Section 3.

H. **Property Upon Termination:** Title to all property acquired by any party in the performance of this Agreement shall remain with the acquiring party upon termination of the Agreement.

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement as of the date first written above.

THE CITY OF AIRWAY HEIGHTS:

Patrick Rushing 11-14-14
Patrick Rushing, Mayor

THE CITY OF SPOKANE:

David A. Condon
David Condon, Mayor 11-6-2014

ATTEST:

Richard G. Cook

Richard G. Cook, Clerk-Treasurer

ATTEST:

Terry Pfister

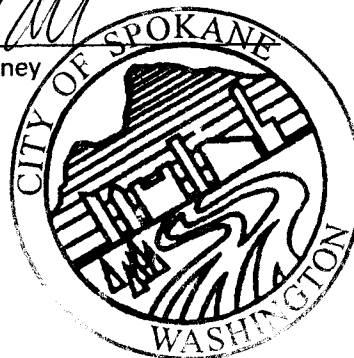
Terry Pfister, City Clerk

APPROVED AS TO FORM:

[Signature]
Assistant City Attorney

APPROVED AS TO FORM:

Stanley M. Schwartz
Stanley M. Schwartz, City Attorney



10-23

FOR COUNCIL MEETING OF: 10/2/89

AGENCY CATEGORY RECOMMENDATION

Notify Prior to Meeting:
Spokane Valley Advisory Council?
Other?

- Hearing
Annexation
Report
Contract
Resolution
Emergency Ord.
First Rdg. Ord.
Report of City Manager
Accept
Approve
Deny
Place on File
Set Hrg. / Review
Date For:
Defer / Continue
To:
Council Direction

TO: MAYOR AND CITY COUNCIL
For Action
For Information

RECEIVED

SEP 27 1989

CITY CLERK'S OFFICE
SPOKANE, WA

Clerk's File # OPR 89-808
Eng. / LID # BID #

AGENDA WORDING:

Interlocal Cooperation Agreement between the City of Spokane, Spokane County and the City of Airway Heights.

BACKGROUND:

These agreements establish Airway Heights' participation in the Spokane Regional Solid Waste Management System. Airway Heights agrees to direct its solid waste to the system and will receive its portion of the landfill closure component for its refuse utility. The agreement also authorizes Spokane to prepare a plan for Airway Heights as part of the revisions to the Spokane County Comprehensive Solid Waste Management Plan. This action does not pose significant adverse environmental impacts over and above those analyzed in previous environmental documents prepared for the Solid Waste Management Plan and the Waste to Energy Project.

ENVIRONMENTAL FINDING: See above.

FISCAL IMPACT: N/A

BUDGET ACCOUNT #: N/A

ATTACHMENTS: (list) Interlocal Agreement with Airway Heights - not available at time of packet distribution. Will be available for review in Office of City Clerk.

Signatures of:

Bill Williams

Submitting Department
Solid Waste Disposal

Laurie Hinn Connelly

Legal

Peter J. Foster

Finance

RUN
City Manager

Manager (Finance, Administration, Engineering, or Planning)

COUNCIL ACTION:

APPROVED & ADOPTED BY
SPOKANE CITY COUNCIL:
OCT 02 1989

M. J. Montgomery
CITY CLERK

DISTRIBUTION AFTER COUNCIL ACTION

- Solid Waste Disposal
City of Airway Heights
Spokane County Auditor
Secretary of State

2A

89 1172

OPR 89-808

AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF SPOKANE,
SPOKANE COUNTY AND THE CITY OF AIRWAY HEIGHTS

SPOKANE REGIONAL SOLID WASTE MANAGEMENT SYSTEM.

RECITALS

WHEREAS, the City of Spokane, a first class charter city duly organized and existing under and by virtue of the laws of the State of Washington (the "City"), and the County of Spokane, a class A county duly organized and existing under and by virtue of the laws of the State of Washington (the "County"), have the power to control the management, handling and disposal of solid waste ("solid waste management") within the City and unincorporated area of the County (the "region"), respectively;

WHEREAS, the City of Airway Heights (hereinafter "Airway Heights") is a city duly organized and existing under and by virtue of the constitution and laws of the State of Washington, and has the power to control solid waste management within the City of Airway Heights; and

WHEREAS, the County duly adopted a Solid Waste Management Plan for the region ("Plan"), which Plan was adopted by Airway Heights; and

WHEREAS, the City and County initiated the Spokane Regional Solid Waste Disposal Project in 1984 in order to develop a necessary solid waste management system and plan including appropriate waste reduction and recycling provisions and litter control provisions; and

WHEREAS, after years of planning and the completion of an adequate environmental impact statement and vendor selection process, and after due consideration of the environmental, social, technical, economic and other relevant factors, including public and governmental comment, and observance of applicable federal, state, and local procedures, the City and County established a cooperative project for the management, handling and disposal of solid waste generated within the City and the unincorporated areas of the County by execution of an Interlocal Cooperation Agreement by a joint Resolution adopted on November 3, 1987, as superseded by an Interlocal Cooperation Agreement adopted by the City and County on October 10, 1988 (hereinafter collectively referred to as the "County Interlocal Cooperation Agreement"); and

WHEREAS, the County, by the County Interlocal Cooperation Agreement has agreed to exercise its police powers, and designate the System, as the site for disposal of solid waste collected within the unincorporated area of the County by its Flow Control Ordinance subject to the exception set forth therein; and

WHEREAS, Airway Heights now desires, in consideration for the City handling the disposal of Solid Waste at the System, to agree to exercise its police power and authority to designate the System as the sole site for disposal of Solid Waste under its control;

NOW, THEREFORE, BETWEEN THE PARTIES HERETO IT IS HEREBY AGREED AS FOLLOWS:

Section 1: DEFINITIONS.

As used in this Agreement, the following words shall have the following meanings, unless the context dictates otherwise:

A. Annual Budget shall mean the System budget for a Fiscal Year, as adopted or amended by the City in accordance with Section 8.12 of the Bond Ordinance.

B. City shall mean the City of Spokane, Washington, a first class charter city of the State of Washington.

C. County shall mean Spokane County, Washington a class A county of the State of Washington.

D. County Interlocal Cooperation Agreement shall mean the Interlocal Cooperation Agreement between the City and the County for the ownership, financing and management of the system and any amendments thereof.

E. Airway Heights shall mean the City of Airway Heights, Washington, an optional municipal code city of the State of Washington.

F. Facility shall mean the mass burn resource recovery steam and electric generating facility to be constructed pursuant to the Construction Contract; such facility is the "Facility" as such term is defined in the Construction Contract.

G. Regional Cities shall mean all incorporated cities and towns in Spokane County, except the City of Spokane, which has entered into, or hereafter enters into a Regional City Interlocal Agreement.

H. Solid Waste includes garbage and refuse and shall mean all putrescible and non-putrescible wastes, whether in solid or in liquid form except liquid-carried industrial wastes and sewage, and including garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, digested sludge, vegetable or animal solid and semi-solid materials. Solid Waste does not include Recyclable Materials or Hazardous Waste. All materials deposited in cans or containers for collection, (other than Recyclable Materials or Hazardous Waste), shall be deemed Solid Waste.

I. System shall mean the existing Spokane Regional Solid Waste Management System comprised of all property, real or personal, tangible, or intangible that is now owned or hereafter acquired by the City and is used or useful by the City (i) in connection with the collection and disposal of Solid Waste generated within the City's boundaries and (ii) in connection with the disposal of Solid Waste generated and collected elsewhere and delivered to the System for disposal. As of the date hereof, the System includes, without limitation, (a) the City's Northside landfill, (b) the right of the City to dispose of Solid Waste at the county's Mica Landfill pursuant to the County Interlocal Agreement, and (c) the City's refuse collection system and all facilities and equipment appurtenant thereto, together with all equipment, rolling stock facilities, properties, whether real or personal, and vehicles necessary or incident thereto.

All capitalized terms used herein, which are not defined, shall have the meanings given to them in the Bond Ordinance.

Section 2: PURPOSE.

The purpose of this Agreement is to establish the participation of Airway Heights in the System.

Section 3: SOLID WASTE TO SYSTEM.

A. Airway Heights hereby covenants, agrees and contracts to exercise its police power and authority to direct the deposit of Solid Waste generated within its geographical boundaries to the System.

B. The following are specifically exempted from the provisions of subsection A:

(1) Wrecking automobiles and parts thereof including storage and handling facilities, minor reclamation of scrap metal, glass, discarded clothing, paper, and their associated facilities which leads to resale or reuse of said material where no charge is made for collection or disposal to the originator.

(2) Depositing soil, rock, tree stumps, gravel, broken concrete, broken asphalt, and similar inert wastes onto the surface of the ground whereby such depositing is to be temporary in nature, graded, and otherwise worked to fill an existing depression or low area of ground.

(3) Depositing agricultural Solid Waste onto or under the surface of the ground when said waste is being utilized primarily for fertilized or a soil conditioner, or is being deposited on ground owned or leased by the person responsible for the production of said waste as long as depositing such waste does not create a nuisance.

(4) Depositing sewage and/or sludge onto or under the surface of the ground at a Disposal Site which has otherwise been issued a Permit by a local, state or federal agency to be operated, maintained or managed for that purpose.

(5) Depositing Hazardous Wastes or Dangerous Wastes onto or under the surface of the ground at a Disposal Site which has otherwise been issued a Permit by a local, state or federal agency to be operated, maintained, or managed for this purpose.

(6) Establishment and operation of a Woodwaste Landfill site.

C. The Spokane County Comprehensive Solid Waste Management Plan will address disposal of all types of waste. The City and County will include Airway Heights in planning for and opportunities for proper disposal of exempt waste.

Section 4: ADMINISTRATION.

A. The City will manage the System pursuant to the terms and conditions of the County Interlocal Cooperation Agreement.

B. The City will provide Airway Heights with a copy of the Annual Budget for the System.

C. A representative of the Regional Cities will be a non-voting member of the Liason Board established by the County Interlocal Cooperation Agreement.

Section 5: TIPPING FEES.

A. The Tipping Fees charged for disposal of Solid Waste at the System shall be that established by the City. Tipping Fees shall be uniform for the same class of service, except that Tipping Fees at the system's transfer stations and the Facility may differ to reflect the costs of transporting Solid Waste from the transfer stations to the facility. The City has included and shall continue to include in the Tipping Fee a "landfill closure component" which will be allocated between the City, the County, and the Regional cities as provided herein and in the County Interlocal Cooperation Agreement.

B. The System shall allocate to Airway Heights a portion of the revenues from the landfill closure component of the System's Tipping Fees. Such allocation of revenues shall be in the same proportion that Airway Heights's Solid Waste generated and delivered to the System bears to the total non-City Solid Waste generated in the County and delivered to the System each year. The portion of non-City Solid Waste generated and delivered to the System by Airway Heights shall be determined by the population of Airway Heights compared to the total non-City population of the County or by such other mechanism as may be mutually agreed upon by the City, the County and Airway Heights.

C. The landfill closure component of the Tipping Fee will be increased or decreased periodically as deemed necessary by the City to generate the amount of funds required by the County or Regional Cities for landfill closure purposes within the limitations set forth in the County Interlocal Cooperation Agreement.

D. Allocation of the revenues from the landfill closure component of the Tipping Fee will be made monthly to reflect the actual proportions based upon weight of Solid Waste delivered or caused to be delivered to the System each year by the City, County, and Regional Cities. The determination of the total weight of Solid Waste delivered or caused to be delivered to the system by the City, the County, and Regional Cities, shall be made through the use of Scale systems or, at any Disposal Site where Scale Systems are not available, by converting volumes of Solid Waste to tons of Solid Waste at the agreed upon rates of 3 1/3 cubic yards of compacted Solid Waste to one ton of Solid Waste and 6 2/3 cubic yards of noncompacted Solid Waste to one ton of Solid Waste. The determination of whether any particular Solid Waste delivered to a disposal site by any person is from the City or from other areas of the County shall be determined by the City through such methods or systems as the City and the County shall agree and deem appropriate.

E. Revenue allocated to Airway Heights shall be remitted to Airway Heights quarterly. Any interest earned on the allocable revenues shall be remitted to Airway Heights.

F. Airway Height's allocable revenues, including interest earnings thereon, may be used for the following purposes:

- (1) To pay landfill closure costs attributable to Airway Heights.
- (2) To fund a reserve for future landfill costs.
- (3) To pay other collection costs for Airway Heights.
- (4) Any other landfill purpose.

Section 6: UTILITY TAX.

If the City or the County should impose a utility tax on the disposal of Solid Waste at the System, the proceeds of that utility tax on disposal of Solid Waste generated within the County shall be shared, after the deduction of all appropriate and reasonable administrative costs, between the City, the County and the Regional Cities proportionately based upon the tons of Solid Waste delivered to the System from the City, the Regional Cities, and the tons of Solid Waste delivered to the System from other sources. The allocation of the tax will be pursuant to the method specified in Section 5B of this Agreement.

Section 7: UPDATE OF THE COUNTY COMPREHENSIVE SOLID WASTE MANAGEMENT PLAN.

Pursuant to RCW 70.95.080, Airway Heights hereby authorizes the City to prepare a plan for Airway Heights solid waste management as a part of the revisions to the Spokane County Comprehensive Solid Waste Management Plan Update in 1989 and every five (5) years thereafter, including preparation of a Local Hazardous Waste Plan, a Recycling Plan and any environmental documents required therefor. The City will provide drafts of the update and notify Airway Heights of meetings regarding the update. The Plan and any updates will be submitted to Airway Heights for their approval.

Section 8: AMENDMENT.

Amendment of this Agreement may be made only by written agreement of the parties.

Section 9: DURATION AND TERMINATION.

A. This Agreement shall be for the term of 25 years or for such longer term as the Series 1988 Bonds or any Additional Bonds remain Outstanding.

B. This Agreement can be terminated early only by written agreement of the parties.

C. This Agreement shall be renewed automatically for successive 20-year terms unless either party agrees not to renew it.

Section 10: HEADINGS.

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

Section 11: ALL WRITINGS CONTAINED HEREIN.

This Agreement contains all of the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto. The parties have read and understand all of this Agreement, and now state that no representation, promise, or agreement not expressed in this Agreement has been made to induce the parties to execute the same.

Section 12: FILING OF THE AGREEMENT.

The City of Spokane and Airway Heights shall file this Agreement with the respective City Clerks and the City shall file this Agreement with the Spokane County Auditor and Secretary of State.

Section 13: SEVERABILITY.

In the event any provision of this Agreement shall be declared by a court of competent jurisdiction to be invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions shall not, in any way, be affected or impaired thereby.

Section 14: EFFECTIVE DATE.

This Agreement shall become effective immediately after it is duly adopted by the Board of Spokane County Commissioners, and the Councils of the Cities of Spokane and Airway Heights.

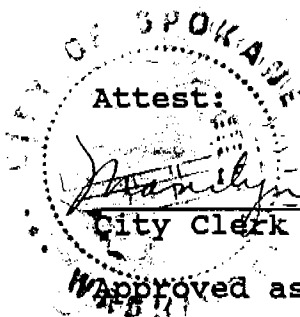
IN WITNESS WHEREOF each of the parties have executed this Agreement by their duly authorized officials.

DATED this 4th day of October, 1989.

CITY OF SPOKANE

By: Vicki S. McNeill
Vickie McNeill, Mayor

Terry L. Novak
Terry L. Novak,
City Manager



Attest:
Patricia J. Montgomery
City Clerk

Approved as to Form:

Laurie Hinn Connelly
Assistant City Attorney

DATED this 10 day of October, 1989.

SPOKANE COUNTY, WASHINGTON

By: John R. McBride
John R. McBride, Chairman

Pat McInney
Pat McInney, Commissioner

Steve Hasson
Steve Hasson, Commissioner

ATTEST:

for *William E. Donahue*
William E. Donahue
Clerk of the Board

Approved:

Marshall R. Farnell
Marshall R. Farnell
Chief Administrative Officer

Approved as to Form:

James P. Emacio
James P. Emacio,
Chief Civil Deputy
Prosecuting Attorney

Attest:

Richard Russell
City Clerk

City of Airway Heights

By: *Richard Russell*
Mayor

Approved as to form:

[Signature]
City Attorney

RECEIVED
FILED OR RECORDED
REQUEST OF *Co Commissioners*
OCT 18 3 24 PM '85
HODUE
SEAL COUNTY, WASH.
SAMPSON

Interoffice - Rosanne

NO. 89 1172

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF SPOKANE COUNTY, WASHINGTON

IN THE MATTER OF AUTHORIZING THE EXECUTION)
OF AN INTERLOCAL AGREEMENT BETWEEN THE)
CITY OF SPOKANE, SPOKANE COUNTY AND) RESOLUTION
THE CITY OF AIRWAY HEIGHTS)

THIS IS TO CERTIFY THAT THIS IS A TRUE
AND CORRECT COPY OF RESOLUTION
NO. 89-1172 PASSED BY THE BOARD
10 DAY OF Oct 1989
Rosanne Montague
DEPUTY

WHEREAS, the City of Spokane, a first class charter city duly organized and existing under and by virtue of the laws of the State of Washington and the County of Spokane, a class A county duly organized and existing under and by virtue of the laws of the State of Washington, have the power to control the management, handling and disposal of solid waste within the City and unincorporated areas of the County, respectively; and

WHEREAS, the City of Airway Heights is a city duly organized and existing under and by virtue of the constitution and laws of the State of Washington, and has the power to control solid waste management within the City of Airway Heights; and

WHEREAS, the City and County initiated the Spokane Regional Solid Waste Disposal Project in 1984 in order to develop a necessary solid waste management system and plan including appropriate waste reduction and recycling provisions and litter control provisions; and

WHEREAS, after years of planning and the completion of an adequate environmental impact statement and vendor selection process, and after due consideration of the environmental, social, technical, economic and other relevant factors, including public and governmental comment, and observance of applicable federal, state, and local procedures, the City and County established a cooperative project for the management, handling and disposal of solid waste generated within the City and the unincorporated areas of the County by execution of an Interlocal Cooperation Agreement by a joint Resolution adopted on November 3, 1987, as superseded by an Interlocal Cooperation Agreement adopted by the City and County on October 10, 1988; and

WHEREAS, the County, by the County Interlocal Cooperation Agreement has agreed to exercise its police powers, and designate the System, as the Site for disposal of solid waste collected within the unincorporated areas of the County, by its Flow Control Ordinance subject to the exception set forth therein; and

WHEREAS, Airway Heights now desires, in consideration for the City handling the disposal of solid waste at the System, to agree to exercise its police power and authority to designate the System as the sole site for disposal of solid waste under its control.

BE IT THEREFORE RESOLVED by the Board of County Commissioners of Spokane County, Washington, that either the Chairman of the Board or a majority of Board members is hereby authorized to execute that certain agreement titled "An Interlocal Agreement between the City of Spokane, Spokane County and the City of Airway Heights" attached hereto and incorporated herein by reference.

APPROVED BY THE BOARD this 10 day of October, 1989.

BOARD OF COUNTY COMMISSIONERS OF SPOKANE COUNTY, WASHINGTON

ATTEST:
WILLIAM E. DONAHUE
CLERK OF THE BOARD

Patricia A. Mumme
PATRICIA A. MUMMEY, CHAIRMAN

Steven Nasson
STEVEN NASSON

BY: *Rosanne Montague*
ROSANNE MONTAGUE, DEPUTY

John R. McBride
JOHN R. MCBRIDE AHWE.1010

OPR 89-808

THIS IS TO CERTIFY THIS IS A TRUE AND EXACT COPY OF RESOLUTION No. 89-1172 ADOPTED BY THE BOARD OF SPOKANE COUNTY COMMISSIONERS ON October 10, 1989

DATED THIS 20th DAY OF October, 1989

NO. **89 1172**

BEFORE THE BOARD OF COUNTY COMMISSIONERS SPOKANE COUNTY WASHINGTON
ROSANNE MONTAGUE, DEPUTY CLERK OF THE BOARD

IN THE MATTER OF AUTHORIZING THE EXECUTION)
OF AN INTERLOCAL AGREEMENT BETWEEN THE)
CITY OF SPOKANE, SPOKANE COUNTY AND) RESOLUTION
THE CITY OF AIRWAY HEIGHTS)

WHEREAS, the City of Spokane, a first class charter city duly organized and existing under and by virtue of the laws of the State of Washington and the County of Spokane, a class A county duly organized and existing under and by virtue of the laws of the State of Washington, have the power to control the management, handling and disposal of solid waste within the City and unincorporated areas of the County, respectively; and

WHEREAS, the City of Airway Heights is a city duly organized and existing under and by virtue of the constitution and laws of the State of Washington, and has the power to control solid waste management within the City of Airway Heights; and

WHEREAS, the City and County initiated the Spokane Regional Solid Waste Disposal Project in 1984 in order to develop a necessary solid waste management system and plan including appropriate waste reduction and recycling provisions and litter control provisions; and

WHEREAS, after years of planning and the completion of an adequate environmental impact statement and vendor selection process, and after due consideration of the environmental, social, technical, economic and other relevant factors, including public and governmental comment, and observance of applicable federal, state, and local procedures, the City and County established a cooperative project for the management, handling and disposal of solid waste generated within the City and the unincorporated areas of the County by execution of an Interlocal Cooperation Agreement by a joint Resolution adopted on November 3, 1987, as superseded by an Interlocal Cooperation Agreement adopted by the City and County on October 10, 1988; and

WHEREAS, the County, by the County Interlocal Cooperation Agreement has agreed to exercise its police powers, and designate the System, as the Site for disposal of solid waste collected within the unincorporated areas of the County, by its Flow Control Ordinance subject to the exception set forth therein; and

WHEREAS, Airway Heights now desires, in consideration for the City handling the disposal of solid waste at the System, to agree to exercise its police power and authority to designate the System as the sole site for disposal of solid waste under its control.

BE IT THEREFORE RESOLVED by the Board of County Commissioners of Spokane County, Washington, that either the Chairman of the Board or a majority of Board members is hereby authorized to execute that certain agreement titled "An Interlocal Agreement between the City of Spokane, Spokane County and the City of Airway Heights" attached hereto and incorporated herein by reference.

APPROVED BY THE BOARD this 10 day of October, 1989.

BOARD OF COUNTY COMMISSIONERS OF SPOKANE COUNTY, WASHINGTON


Patricia A. Mummey
PATRICIA A. MUMMEY, CHAIRMAN

ATTEST:
WILLIAM E. DONAHUE
CLERK OF THE BOARD

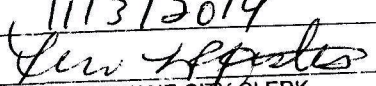
STEVEN NASSON

BY: *Rosanne Montague*
ROSANNE MONTAGUE, DEPUTY

John R. McBride
JOHN R. MCBRIDE AHWE.1010

	Agenda Sheet for City Council Meeting of:		Date Rec'd	10/22/2014
	11/03/2014		Clerk's File #	OPR 2014-0728
			Renews #	OPR 1989-0808
Submitting Dept	SPOKANE REGIONAL SOLID WASTE		Cross Ref #	
Contact Name/Phone	KEN GIMPEL 625-6532		Project #	
Contact E-Mail	KGIMPEL@SPOKANECITY.ORG		Bid #	
Agenda Item Type	Contract Item		Requisition #	
Agenda Item Name	4490 INTERLOCAL AGREEMENT WITH AIRWAY HEIGHTS			
Agenda Wording				
<p>Interlocal agreement with Airway Heights for disposal of solid waste at Spokane's Waste to Energy Facility November 17, 2014 to November 16, 2021. Revenue \$2,600,000.00 over 7 years.</p>				
Summary (Background)				
<p>This interlocal agreement establishes terms and conditions between the City and Airway Heights for disposal of all solid waste collected within Airway Heights at the Waste to Energy Facility. It also establishes terms and conditions for continued service to Airway Heights self haul customers who deliver solid waste, yard waste, recyclables and household hazardous waste to the waste to energy facility.</p>				
Fiscal Impact			Budget Account	
Revenue	\$	2,600,000.00	#	4490-44110-37052-34363
Select	\$		#	
Select	\$		#	
Select	\$		#	
Approvals			Council Notifications	
Dept Head	GIMPEL, KEN		Study Session	
Division Director	ROMERO, RICK		Other	
Finance	LESENE, MICHELE		Distribution List	
Legal	SCHOEDEL, ELIZABETH		ttauscher@spokanecity.org	
For the Mayor	SANDERS, THERESA		cmarchand@spokanecity.org	
Additional Approvals			jfaught	
Purchasing				

APPROVED BY SPOKANE CITY COUNCIL ON

11/3/2014

 SPOKANE CITY CLERK



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Summary (Background)

Airway Heights or its contracted solid waste collection service will pay to Spokane \$70.50 per ton for each ton of solid waste delivered to the waste to energy from Airway Heights, adjusted annually on January 1 per CPI. Residents of Airway Heights who choose to self haul waste to the waste to energy facility shall be charged the then current Spokane waste to energy gate fee at the weigh station.

Fiscal Impact

Budget Account

Select

\$

#

Select

\$

#

Distribution List

City of Spokane No. OPR 2014- 0728
City of Airway Heights No. N/A

**INTERLOCAL AGREEMENT
BETWEEN THE CITY OF AIRWAY HEIGHTS AND THE CITY OF SPOKANE
FOR DISPOSAL OF SOLID WASTE**

This WASTE DISPOSAL AGREEMENT (this "**Agreement**") is made and entered into as of this 14th day of NOVEMBER, 2014 by and between the City of Airway Heights, a municipal corporation of the State of Washington ("**AIRWAY HEIGHTS**") and the City of Spokane, a municipal corporation of the State of Washington ("**SPOKANE**"). Airway Heights and Spokane are each sometimes referred to herein as "**Party**" and collectively as "**Parties**."

RECITALS

A. WHEREAS, AIRWAY HEIGHTS on October 10, 1989 entered into "An Interlocal Agreement between the City of Spokane, Spokane County and the City of Airway Heights" (City Clerk's OPR 1989-0808) (the "**Interlocal Agreement**") to control the management, handling, and disposal of solid waste within AIRWAY HEIGHTS.

B. WHEREAS, The Interlocal Agreement was for a term of twenty five (25) years or for so long as bonds remained outstanding, which date is on or about November 16, 2014 (the "**Interlocal Agreement Expiration Date**").

C. WHEREAS, On November 17, 2014, subsequent to the Interlocal Agreement Expiration Date, SPOKANE will own and operate the Waste to Energy Facility located at 2900 South Geiger Blvd., Spokane, Washington, 99224, including the solid waste incinerator and the portion of the facility that serves the general public (the "**WTE**").

D. WHEREAS, AIRWAY HEIGHTS, by and through an open meeting of the Airway Heights City Council held on 10-20-2014 has decided to enter into a new Interlocal Agreement with Spokane County for the management of solid waste, and has provided appropriate notice to Spokane County regarding the same.

E. WHEREAS, AIRWAY HEIGHTS has identified the WTE as a disposal site capable of processing Municipal Waste from mixed residential, commercial, and industrial sources. The WTE is capable of processing Municipal Waste from mixed residential, commercial, and industrial sources.

NOW, THEREFORE, for and in consideration of the mutual promises set forth hereinafter and the recitals referenced above, the Parties do mutually agree as follows:

SECTION NO. 1: PURPOSE

The purposes of this Agreement are to:

- A. Formally terminate the 1989 Interlocal Agreement as of November 16, 2014. Effective November 17, 2014, this Agreement will replace all terms and conditions contained in the 1989 Agreement; and
- B. Establish the terms and conditions between AIRWAY HEIGHTS and SPOKANE for the disposal of all solid waste collected within AIRWAY HEIGHTS, which is to be delivered to SPOKANE's WTE after November 17, 2014; and
- C. Establish flow control requirements to be maintained by AIRWAY HEIGHTS to ensure the proper disposal of solid waste; and
- D. Establish the terms and conditions for continued service to AIRWAY HEIGHTS self haul customers who deliver solid waste, yard waste, recyclables and household hazardous waste to the WTE.

SECTION NO. 2: DEFINITIONS

As used in this Agreement, the following words, unless the context otherwise dictates, shall have the following meanings:

- A. **AIRWAY HEIGHTS**- means the City of Airway Heights, or any vendor contracted by AIRWAY HEIGHTS for services related to the management of solid waste.
- B. **AIRWAY HEIGHTS Disposal Rate** means the per ton disposal fee, as outlined in Section 5 of this Agreement, that AIRWAY HEIGHTS or its contracted solid waste collection service provider on behalf of AIRWAY HEIGHTS shall pay SPOKANE for each ton of solid waste delivered to the WTE by AIRWAY HEIGHTS's owned and operated commercial vehicles or AIRWAY HEIGHTS'S contracted solid waste collection service provider.
- C. **Dangerous Wastes** - means any discarded, useless, unwanted, or abandoned substances, including but not limited to certain pesticides, or any residues or containers of such substances which are disposed of in such quantity or concentration as to pose a substantial present or potential hazard to human health, wildlife, or the environment, because such wastes or constituents or combinations of such wastes:
 - 1) Have short-lived, toxic properties that may cause death, injury, or illness or have mutagenic, teratogenic, or carcinogenic properties; or

- 2) Are corrosive, explosive, flammable, or may generate pressure through decomposition or other means.

D. **Extremely Hazardous Waste** —means any dangerous waste which:

- 1) Will persist in a hazardous form for several years or more at a disposal site and which in its persistent form:
 - a. Presents a significant environmental hazard and may be concentrated by living organisms through a food chain or may affect the genetic make-up of human beings or wildlife, and
 - b. Is highly toxic to human beings or wildlife.
- 2) If disposed of at a disposal site in such quantities as would present an extreme hazard to human beings or the environment.

E. **Gate Fee** - means the per ton disposal fee outlined in SECTION NO. 5 of this Agreement. AIRWAY HEIGHTS' residents who direct haul solid waste shall pay SPOKANE for each ton of solid waste delivered to the WTE as self haul waste, as defined in Section 5.

F. **Hazardous Waste** - means and includes all dangerous and extremely hazardous waste, including substances composed of both radioactive and hazardous components.

G. **Moderate-Risk Waste** – means:

- 1) any waste that exhibits any of the properties of hazardous waste, but is exempt from regulation under chapter 70.105 RCW solely because the waste is generated in quantities below the threshold for regulation; and
- 2) any household wastes which are generated from the disposal of substances identified by the department as hazardous household substances.

H. **Nonprocessable Waste** - means any solid waste that SPOKANE deems to be unacceptable at the WTE.

I. **Solid Waste or Wastes** - means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to; garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, contaminated soils and contaminated dredged material, and recyclable materials.

J. **Waste To Energy Facility, WTE, or Facility** - means that solid waste facility located at 2900 South Geiger Boulevard, Spokane, Washington 99224, including the solid waste incinerator and the portion of the facility that serves the general public for disposal of household hazardous waste, recyclables, solid waste, yard debris, and other waste products.

SECTION NO. 3: DURATION

- A. This Agreement shall be effective 12:00 A.M. on November 17, 2014 ("Commencement Date") and run through 11:59 P.M. on November 16, 2021, unless AIRWAY HEIGHTS provides written notice of termination as provided under subparagraph C of this Agreement. Under no circumstances shall this Agreement be terminated prior to the end of three (3) years or before November 16, 2017.

Any notice of termination shall be provided in writing and not later than six (6) months prior to the effective date. Notwithstanding the above provisions, this Agreement may be extended in one (1) year increments for a total of three (3) additional years, or as otherwise agreed upon by the Parties (the "**Extension Term**").

- B. **Extension Terms.** At least ninety (90) days prior to expiration of the Initial Term or an Extension Term, a party may deliver written notice of intent to renew this Agreement. The Notice shall propose the period and terms of renewal. The party receiving the notice shall within ten (10) days of delivery respond by stating its intent to renew this Agreement. Thereafter, the Parties shall negotiate the Extension Term in good faith. No response by the party receiving the notice shall be deemed a refusal to extend this Agreement.
- C. **Termination.** This Agreement shall be in effect for seven (7) years. After two and a half (2.5) years, AIRWAY HEIGHTS shall have the option to provide to SPOKANE six (6) months prior written notice of its intent to terminate this Agreement. Should AIRWAY HEIGHTS exercise this early termination option, it will be effective no earlier than the end of three (3) years (November 16, 2017, or any other later time prior to the seven (7) year term of the Agreement.

SECTION NO. 4: DISPOSAL SERVICES

- A. **Scope of Services.** AIRWAY HEIGHTS, or residents of AIRWAY HEIGHTS who choose to "self-haul" waste, shall deliver all Acceptable Waste, as defined in subparagraph B below, Household Hazardous Waste, Recyclables, and Clean Green Yard Debris to the WTE for disposal or processing. Once delivered to the WTE, SPOKANE shall be responsible for all costs associated with the disposal of the Acceptable Waste, including, but not limited to; incineration, ash disposal, by-pass of unburned materials, processing of Household Hazardous Waste, recyclables and Clean Green Yard Debris and all maintenance, operation, repairs and ordinary renewals and replacements necessary for the operation of the WTE. Once Municipal Waste enters the WTE, SPOKANE shall be responsible for determining its weight.
- B. **Acceptable Waste.** The following shall be acceptable waste at the WTE:
- 1) **"Municipal Waste"** including, but not limited to, Solid Waste from mixed residential, commercial, and industrial sources.

- 2) **"Self Haul"** means solid waste delivered to the WTE by the public in privately owned and operated vehicles.
- 3) **"Solid Waste"** meaning all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, yard debris, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, contaminated soils and contaminated dredged material, and recyclable materials.

The above definitions shall be automatically amended to conform to all WTE permits and operating requirements established by state and federal authorities.

- C. **Guaranteed Capacity.** The guaranteed minimum available capacity for Acceptable Waste shall be two-hundred forty-eight thousand two hundred (248,200) tons per year.
- D. **Primary Services.** The WTE shall be maintained in good working order and repair so as to allow AIRWAY HEIGHTS to dispose of its Municipal Waste without interruption or unreasonable delay. Municipal Waste may be delivered and shall be received at the WTE during all regular hours of operation unless otherwise agreed.

SECTION NO. 5: DISPOSAL RATE; BILLING

A. **AIRWAY HEIGHTS' Disposal Rate.** AIRWAY HEIGHTS or its contracted solid waste collection service provider will pay to SPOKANE seventy dollars and fifty cents (\$70.50) per ton for each ton of Municipal Waste delivered to the WTE from AIRWAY HEIGHTS (the "**AIRWAY HEIGHTS Disposal Rate**"). The AIRWAY HEIGHTS Disposal Rate shall be inclusive of all costs, including applicable taxes. SPOKANE agrees not to exceed the authority granted under state or local law, including taxing authority.

- 1) SPOKANE recognizes that AIRWAY HEIGHTS historically did not utilize either of SPOKANE'S closed landfills and therefore is not responsible for the landfill closure/post closure component of the Gate Fee. This cost represents ten dollars (\$10) per ton and is a basis for a reduced Disposal Rate.
- 2) The Parties agree for the duration of this Agreement only, AIRWAY HEIGHTS' Disposal Rate shall remain ten dollars (\$10) per ton less than the WTE Gate Fee.
- 3) SPOKANE guarantees the AIRWAY HEIGHTS' Disposal Rate described above regardless of disposal method (incineration or landfill disposal) SPOKANE utilizes. SPOKANE shall manage all Acceptable Waste, Household Hazardous Waste, Recyclables and Clean Green Yard Debris delivered by AIRWAY HEIGHTS or its citizens to the WTE.

B. **"Self-Haul Rate"** in the event residents of AIRWAY HEIGHTS choose to self-haul Acceptable Waste to the WTE, those residents shall be charged the then current SPOKANE WTE Gate Fee (the **"Self-Haul Disposal Rate"**). For purposes of this Section those residents who self-haul shall have the waste weighed upon entry into the WTE and shall, at that point, pay the WTE Gate Fee directly to the WTE at the WTE weigh station.

C. **Rate Adjustment.**

On January 1st of each year following 2016, SPOKANE will adjust the AIRWAY HEIGHTS Disposal Rate to reflect increases in the 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) (the "Index"). The adjustment factor for computing annual rate adjustments shall be computed by dividing the Index number for October of the just-completed year by the Index number for October of the previous year. In the event the Index number stays the same or decreases, no rate adjustment will be made, and the next rate adjustment shall not occur until the Index number increases to a number exceeding the highest previous Index number, and shall be computed using the previous highest Index number.

Example Calculation of Annual Rate Adjustments:

	INDEX	ADJUST FACTOR	COUNTY DISPOSAL RATE
Base Yr.N	125		\$70.50
N+1	128.844	1.030752	\$72.67
N+2	133.315	1.034710	\$75.19
N+3*	132.474	No change	\$75.19
N+4**	133	No change	\$75.19
N+5	137.748	1.033252	\$77.69
N+6	140.054	1.016741	\$78.99
* No change-Index decreased			
** No charge-Index did not exceed highest previous Index			

- D. **Invoicing and Payment.** SPOKANE shall, through invoice, bill AIRWAY HEIGHTS or its contracted solid waste collection service provider the AIRWAY HEIGHTS Disposal Rate on or before the 20th day of the month for services rendered the previous month. The invoice shall contain the dates of disposal, weight of Solid Waste, disposal cost per ton, and such other information as necessary to support the invoiced amount due. AIRWAY HEIGHTS or its contracted solid waste collection service provider will pay SPOKANE within thirty (30) calendar days of receiving the invoice.
- E. **Billing Questions and Disputes.** If AIRWAY HEIGHTS has any questions, desires further information, or have a dispute regarding the invoice, AIRWAY HEIGHTS shall advise SPOKANE in writing within ten (10) business days of invoice receipt. Notwithstanding payment of an invoice as set forth in section 4.3, AIRWAY HEIGHTS reserves the right, and SPOKANE acknowledges the right to dispute amounts paid without the necessity of making such payment "under protest." Any dispute between the Parties as to an invoice shall be resolved pursuant to Section 8.4 of this Agreement. Past due invoices shall accrue interest at the current local government investment pool rate - until paid.

SECTION NO. 6: AUDIT / RECORDS

AIRWAY HEIGHTS shall maintain for a minimum of three (3) years following final payment all records related to its performance of the Agreement. AIRWAY HEIGHTS shall provide access to authorized SPOKANE 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.

SPOKANE shall maintain for a minimum of three (3) years following final payment all records related to its performance of the Agreement. SPOKANE shall provide access to authorized AIRWAY HEIGHTS 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.

SECTION NO. 7: LIABILITY

Each Party to this Agreement shall be responsible for damage to persons or property resulting from the negligence on the part of itself, its employees, its directors, its agents or its officers. The Parties shall each indemnify, defend and hold harmless the other Party, its officers and employees from all claims, demands, or suits in law or equity arising from the Party's intentional or negligent acts or breach of any obligations under this Agreement.

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's or employee's negligence.

Each Party's duty to indemnify shall survive the termination or expiration of this Agreement. Each Party waives, with respect to the other Party only, its immunity under Chapter 51 of the Revised Code of Washington ("RCW"), "Industrial Insurance." The Parties have specifically negotiated this provision. THIS WAIVER HAS BEEN MUTUALLY NEGOTIATED BY THE PARTIES.

SECTION NO. 8: INSURANCE

During the term of this Agreement, SPOKANE and AIRWAY HEIGHTS or its contracted solid waste collection service provider shall each maintain in force at its own expense, the following insurance coverage or self-insurance:

- 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 or Stop Gap Insurance in the amount of \$5,000,000;
- B. 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;
- C. 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
- 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, if any. This coverage must remain in effect for 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 providing thirty (30) days written notice from a Party or its insurer(s) to the other Party. Verification of insurance shall be provided upon request.

SECTION NO. 9: RELATIONSHIP OF THE PARTIES

The relationship between the Parties is that of independent contractors. Neither Party, nor its agents and employees, shall under any circumstances be deemed an agent or representative of the other Party and neither shall have authority to act for and/or bind the other in any way, or represent

that it is in any way responsible for acts of the other Party. This Agreement does not establish a joint venture, agency, or partnership between the Parties.

SECTION NO. 10: MISCELLANEOUS

- A. **Assignment and Delegation.** This Agreement shall be binding upon the Parties, their successors and assigns. No Party may assign or delegate, in whole or in part, its interest in this Agreement without the prior written approval of the other Party, which shall not be unreasonably withheld.
- B. **Notices and Other Communications.** All notices, approvals, consents, and other communications required or permitted pursuant to this Agreement shall be in writing and shall be delivered by hand or sent by facsimile or prepaid courier or registered mail, to a Party at the address set forth below, or at such other address provided by such Party via written notice. Such communications shall become effective on the day when delivered by hand or the first (1st) business day following delivery by any other means.

If to AIRWAY HEIGHTS:

City of Airway Heights
Attn: Mayor or Designee
1208 S. Lundstrom
Airway Heights, WA 99001

If to the SPOKANE:

City of Spokane
Attn: Mayor or Designee
Seventh Floor, City Hall
808 West Spokane Falls Boulevard
Spokane, WA 99201

With Copy To:

Witherspoon • Kelley
Attn: Stanley M. Schwartz
422 West Riverside Avenue
Suite 1100
Spokane, WA 99201

With Copy To:

City of Spokane
Attn: City Attorney
Fifth Floor, City Hall
808 West Spokane Falls Boulevard
Spokane, WA 99201

- C. **Governing Law; Venue.** This Agreement is entered into, and its interpretation and enforcement, shall be governed exclusively by its terms and by the laws of the State of Washington, United States of America, without giving effect to that body of laws pertaining to conflict of laws. Any action brought by either Party against the other Party for claims arising out of this Agreement shall only be brought in a court of competent jurisdiction in Spokane County, Washington.
- D. **Meet and Confer / Arbitration.** If either Party has a claim or dispute under this Agreement, notice of the same shall be sent to the other Party. The notice shall provide a brief description of the dispute.

- 1) **Meet and Confer.** Within five (5) business days of the notice, the Parties shall meet and confer to resolve the dispute. If the Parties are unable to resolve the dispute within ten (10) business days of the notice, either party may seek arbitration.
 - 2) **Arbitration.** Arbitration shall be conducted in accordance with the JAMS Arbitration Rules or by an Alternate Dispute Resolution Process that can be mutually agreed upon. The arbitrator's fees and costs shall be equally shared. The arbitrator's decision shall be final, binding on the Parties and enforceable pursuant to RCW Chapter 7.04A.
- E. **Attorneys' Fees.** If any suit is brought or legal action is taken for the enforcement of any provision of this Agreement or as a result of any alleged breach thereof or for a declaration of any right or duty hereunder, the Party who substantially prevails in such suit or legal action shall be paid reasonable attorneys' fees from the Party who does not substantially prevail, and any judgment or decree rendered shall include an award thereof.
- F. **Entire Agreement.** This Agreement embodies the entire understanding among the Parties, is merged and fully integrated, and supersedes any and all prior negotiations, understandings, or agreements.
- G. **Third Parties.** Nothing in this Agreement, express or implied, is intended to confer upon any person, other than the Parties hereto and their successors and assigns, any rights or remedies under or by reason of this Agreement.
- H. **Favored Rate Clause.** To the extent enforceable by law, Spokane affirms that if, after execution of this contract, it enters into a new disposal agreement with another jurisdiction which contains the identical terms and waste volume services outlined in this Agreement, to include, but not limited to disposal for jurisdiction's commercially collected garbage, self self-haul service to jurisdiction's residents, and moderate risk waste services to jurisdiction's residents, and waste volumes, and charges a lower disposal fee than the Airway Heights Disposal Fee set forth in this Agreement, Spokane shall adjust the Airway Heights Disposal Fee to match the lower Jurisdiction's fee.
- I. **Anti-kickback.** No officer or employee of AIRWAY HEIGHTS, having the power or duty to perform an official act or action related to this Agreement, shall have, or acquire, any interest in this Agreement, or have solicited, accepted, or granted, a present or future gift, favor, service, or other thing of value from any person with an interest in this Agreement.
- J. **Severability.** If any provision of this Agreement is determined by any court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such provision will be enforced to the maximum extent possible given the intent of the Parties hereto. If such clause or provision cannot be so enforced, such provision shall be stricken from this Agreement and the remainder of this Agreement shall be enforced as if such invalid, illegal or unenforceable clause or provision had (to the extent not enforceable) never been contained in this Agreement.
- K. **Amendment; Waivers.** This Agreement shall not be amended, supplemented or modified except in writing executed by authorized representatives of the Parties, with the same

formality of this Agreement. Waiver by a Party of any breach of any provision of this Agreement by the other Party shall not operate, or be construed, as a waiver of any subsequent or other breach and no Party's undertakings or agreements contained in this Agreement shall be deemed to have been waived unless such waiver is made by an instrument in writing signed by an authorized representative of that Party.

- L. **Counterparts.** This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, and either Party may execute this Agreement by signing any such counterpart. Signed counterparts executed and delivered by electronic mail or facsimile transmission shall be binding on the Parties and have the same force and effect as an original signed counterpart.
- M. **Representations and Warranties.** Each Party represents and warrants that it has executed this Agreement freely, fully intending to be bound by the terms and provisions contained herein; that it has full power and authority to execute, deliver and perform this Agreement; that the person signing this Agreement on behalf of such Party has properly been authorized and empowered to enter into this Agreement by and on behalf of such Party; that prior to the date of this Agreement, all corporate action of such Party necessary for the execution, delivery and performance of this Agreement by such Party has been duly taken; and that this Agreement has been duly authorized and executed by such Party, is the legal, valid and binding obligation of such Party, and is enforceable against such Party in accordance with its terms.
- N. **Compliance with Laws.** The Parties shall observe all federal, state and local laws, ordinances and regulations; to the extent they may be applicable to the terms of this Agreement.

SECTION NO. 11: RCW 39.34 REQUIRED CLAUSES

- A. **Purpose:** See Section No. 1 above.
- B. **Duration:** See Section No. 3 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:** SPOKANE shall file this Agreement with its City Clerk and place it on its web site or other electronically retrievable public source. AIRWAY HEIGHTS shall file this Agreement with its City Clerk or place it on its web site or other electronically retrievable public source.
- F. **Financing:** Each party shall be responsible for the financing of its contractual obligations under its normal budgetary process.
- G. **Termination:** This Agreement can be terminated in accordance with Section 3.

H. **Property Upon Termination:** Title to all property acquired by any party in the performance of this Agreement shall remain with the acquiring party upon termination of the Agreement.

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement as of the date first written above.

THE CITY OF AIRWAY HEIGHTS:

Patrick D Rushing 11-14-14
Patrick Rushing, Mayor

THE CITY OF SPOKANE:

David A. Condon
David Condon, Mayor 11-6-2014

ATTEST:

Richard G Cook
Richard G. Cook, Clerk-Treasurer

ATTEST:

Terry Pfister
Terry Pfister, City Clerk

APPROVED AS TO FORM:

[Signature]
Assistant City Attorney

APPROVED AS TO FORM:

Stanley M. Schwartz
Stanley M. Schwartz, City Attorney



Certificate Of Completion

Envelope Id: CE6FC01B03AF4C98B172C77CF94F2BAE	Status: Completed
Subject: Please DocuSign: OPR 2014-0728 / City of Airway Heights - Waste Disposal Services / ILA	
Source Envelope:	
Document Pages: 18	Signatures: 7
Certificate Pages: 5	Initials: 0
AutoNav: Enabled	Stamps: 1
Enveloped Stamping: Enabled	Envelope Originator:
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	Jillann Hansen
	808 W. Spokane Falls Blvd.
	Spokane, WA 99201
	jehansen@spokanecity.org
	IP Address: 198.1.39.252

Record Tracking

Status: Original 10/22/2021 9:56:02 AM	Holder: Jillann Hansen jehansen@spokanecity.org	Location: DocuSign
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Signer Events

Terri L. Pfister
tpfister@spokanecity.org
City Clerk
City of Spokane
Security Level: Email, Account Authentication (None)

Signature

DocuSigned by:

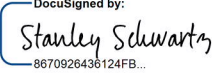
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Signed: 10/22/2021 10:11:47 AM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Stanley Schwartz
SMS@witherspoonkelley.com
Security Level: Email, Account Authentication (None)

DocuSigned by:

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Signature Adoption: Pre-selected Style
Using IP Address: 66.162.141.242

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Albert Tripp
atripp@cawh.org
Albert Tripp
Security Level: Email, Account Authentication (None)

DocuSigned by:

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Signature Adoption: Pre-selected Style
Using IP Address: 50.197.64.165

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Electronic Record and Signature Disclosure:
Accepted: 10/26/2021 2:02:37 PM
ID: c98a8a0e-151a-4f4b-8a8a-519b195efef1

Stanley Schubert
sshubert@cawh.org
Director of Finance/Clerk-Treasurer
City of Airway Heights
Security Level: Email, Account Authentication (None)

DocuSigned by:

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Signature Adoption: Drawn on Device
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Signed: 10/29/2021 8:26:10 AM

Electronic Record and Signature Disclosure:
Accepted: 6/17/2021 9:07:08 AM
ID: cbcca9eb-630a-4031-a599-3d94be91f239

Signer Events

Elizabeth Schoedel
 eschoedel@spokanecity.org
 Assistant City Attorney - approved as to form only
 Security Level: Email, Account Authentication
 (None)

Signature

DocuSigned by:

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Electronic Record and Signature Disclosure:

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Nadine Woodward
 nwoodward@spokanecity.org
 Mayor
 City of Spokane
 Security Level: Email, Account Authentication
 (None)

DocuSigned by:

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Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Terri L. Pfister
 tpfister@spokanecity.org
 City Clerk
 City of Spokane
 Security Level: Email, Account Authentication
 (None)

DocuSigned by:

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 Signature Adoption: Uploaded Signature Image
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Electronic Record and Signature Disclosure:

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Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	10/22/2021 10:01:09 AM
Certified Delivered	Security Checked	10/29/2021 2:34:01 PM
Signing Complete	Security Checked	10/29/2021 2:34:40 PM
Completed	Security Checked	10/29/2021 2:34:40 PM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

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From time to time, SHI International Corp OBO City of Spokane (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign, Inc. (DocuSign) electronic signing system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to these terms and conditions, please confirm your agreement by clicking the 'I agree' button at the bottom of this document.

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If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign 'Withdraw Consent' form on the signing page of a DocuSign envelope instead of signing it. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures

electronically from us.

How to contact SHI International Corp OBO City of Spokane:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: klund@spokanecity.org

To advise SHI International Corp OBO City of Spokane of your new e-mail address

To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at klund@spokanecity.org and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..

In addition, you must notify DocuSign, Inc. to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in the DocuSign system.

To request paper copies from SHI International Corp OBO City of Spokane

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to klund@spokanecity.org and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with SHI International Corp OBO City of Spokane

To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your DocuSign session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to klund@spokanecity.org and in the body of such request you must state your e-mail, full name, US Postal Address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows® 2000, Windows® XP, Windows Vista®; Mac OS® X
Browsers:	Final release versions of Internet Explorer® 6.0 or above (Windows only); Mozilla Firefox 2.0 or above (Windows and Mac); Safari™ 3.0 or above (Mac only)
PDF Reader:	Acrobat® or similar software may be required to view and print PDF files
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	Allow per session cookies

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Acknowledging your access and consent to receive materials electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.

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- Until or unless I notify SHI International Corp OBO City of Spokane as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by SHI International Corp OBO City of Spokane during the course of my relationship with you.