



PACIFIC CITY COUNCIL AGENDA
Council Chambers - City Hall. 100 3rd Ave. SE

July 6, 2015
Monday

Workshop
6:30 p.m.

1. **CALL TO ORDER/PLEDGE OF ALLEGIANCE**
 2. **ROLL CALL OF COUNCIL MEMBERS**
 3. **ADDITIONS TO/APPROVAL OF AGENDA**
 4. **DISCUSSION ITEMS**
- (3) **A. AB 15-093: Ordinance No. 2015-1901:** Authorizing the execution of the fourth amendment to the franchise agreement with Waste Management for July 1, 2015 through July 31, 2015. (10 min.)
(Richard Gould)
- (7) **B. AB 15-094: Ordinance No. 2015-1902:** Authorizing the execution of the third amendment to the franchise agreement with Murrey's Disposal for July 1, 2015 through July 31, 2015. (10 min.)
(Richard Gould)
- (11) **C. AB 15-095:** Motion approving the Findings of Fact from the Solid Waste Public Hearing held on June 22, 2015. (5 min.)
(Richard Gould)
- (15) **D. AB 15-096:** Discussion of the proposed Waste Management contract (10 min.)
(Richard Gould)
- (54) **E. AB 15-097: Resolution No. 2015-271:** Authorizing the execution of Amendment No. 1 to an agreement with KPG, Inc. for additional construction management services for the Stewart Road Project, in an amount not to exceed \$198,119 for a total contract not to exceed \$577,776.79. (20 min.)
(Lance Newkirk)
- (87) **F. AB 15-098: Resolution No. 2015-272:** Authorizing the execution of an agreement with KPG, Inc., in the amount of \$10,320, for surveying services associated with the Stewart Road Trail. (5 min.)
(Lance Newkirk)

- (102) G. **AB 15-099: Resolution No. 2015-273:** Authorizing the execution of an agreement with Robinson Noble, Inc., in an amount not to exceed \$84,440.00, for engineering services for groundwater treatment and monitoring during construction at Stewart Road SE and Valentine Ave SE. (Lance Newkirk) (10 min.)
 - (116) H. **AB 15-100: Resolution No. 2015-274:** Authorizing the execution of an Interlocal Agreement with the Cities of Sumner and Algona to participate in the Police Explorer Program. (John Calkins) (5 min.)
 - (122) I. **AB 15-101: Resolution No. 2015-275:** Setting a public hearing for July 27, 2015, at approximately 6:30 p.m. to take public input regarding the proposed contract with Waste Management, Inc. (Richard Gould) (5 min.)
 - (125) J. **AB 15-102: Discussion:** Purpose of the Governance Committee (Mayor Guier) (10 min.)
 - (126) K. **AB 15-103: Discussion:** Panhandling Ordinance (John Calkins) (10 min.)
 - (129) L. **AB 15-104: Discussion:** Weapons Ordinance (10 min.)
5. **EXECUTIVE SESSION For Collective Bargaining per RCW 42.30.140 (4)(a) for 10 minutes. (Public Works/Clerical Union)**
 6. **ADJOURN**

Council may add other items not listed on this agenda unless specific notification period is required.

Please turn off cell phones during meeting and hold your questions for staff until the meeting has been adjourned.

Meeting materials are available on the City's website at: www.pacificwa.gov or by contacting the City Clerk's office at (253) 929-1105.

For ADA accommodations, please contact City Hall at (253) 929-1105 prior to the meeting. Thank you.



Agenda Bill No. 15-093

TO: Mayor Guier and City Council Members
FROM: Richard Gould, City Administrator
MEETING DATE: July 6, 2015
SUBJECT: Waste Management Contract Extension

ATTACHMENTS: **Franchise Agreement Extension Ordinance No. 2015-1901**
Waste Management Letter Contract Extension

Previous Council Review Date:

Summary: The current agreement with Waste Management expires on June 30, 2015. The city has negotiated a new franchise agreement with Waste Management that will tentatively start on August 1, 2015. In order to allow time for the City to complete the RFP process, an extension to the franchise agreement for solid waste collection in the King County portion of the city is suggested for July 1, 2015 through July 31, 2015.

Recommendation/Action: Enter into the amendment to the franchise agreement with Waste Management to ensure uninterrupted service.

Motion for Consideration: "I move to adopt Ordinance 2015-1901 authorizing the mayor to enter into an amendment of the franchise agreement with Waste Management for solid waste collection services."

Budget Impact:

Alternatives:

**CITY OF PACIFIC
WASHINGTON**

ORDINANCE NO. 2015-1901

**AN ORDINANCE OF THE CITY OF PACIFIC, WASHINGTON,
AUTHORIZING THE MAYOR TO ENTER INTO AN AMENDMENT OF
THE FRANCHISE AGREEMENT WITH WASTE MANAGEMENT OF
WASHINGTON, INC. FOR SOLID WASTE COLLECTION SERVICES.**

WHEREAS, the current agreement with Waste Management for collection and disposal of solid wastes, collected within the King County portion of the City of Pacific, as extended, expired on June 30, 2015; and

WHEREAS, the City has negotiated a new Franchise Agreement with Waste Management of Washington, Inc. to commence on August 1, 2015; and

WHEREAS, to allow sufficient time for the City to complete the RFP process, it is in the best interests of the citizens of Pacific to amend and extend the current Franchise Agreement to ensure uninterrupted solid waste collection services for the period from July 1, 2015 through July 31, 2015;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PACIFIC,
WASHINGTON, DOES ORDAIN AS FOLLOWS:**

Section 1. The Pacific City Council hereby authorizes the Mayor to enter into the Contract Extension with Waste Management of Washington, Inc. (attached as Exhibit A) for collection and disposal services of solid wastes for the King County portion of the City of Pacific.

Section 2. This Ordinance shall be published and shall take effect five days after the date of its publication.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE ____ DAY OF JULY, 2015.

CITY OF PACIFIC

By: _____

Name: Leanne Guier, Mayor

ATTEST/AUTHENTICATED:

Amy Stevenson-Ness, City Clerk

Approved as to form:

James Kelly, Assistant City Attorney



WASTE MANAGEMENT

720 4th Ave, Ste 400
Kirkland WA 98033

June 23, 2015

Mayor Leanne Guier
City of Pacific
100 3rd Avenue SE
Pacific, WA 98047

Re: Contract Extension

Dear Mayor Guier,

The purpose of this Letter of Understanding (“LOU”) is to extend the term of the Franchise Agreement (“Agreement”) between the City of Pacific and Waste Management of Washington, Inc. The Parties agree to extend the Agreement for an additional thirty-one (31) days, through July 31, 2015.

By signing below, each of the City and Waste Management acknowledges its approval and acceptance of the terms of this LOU and acknowledges that this LOU: (a) creates a legally binding obligation upon the parties, (b) shall be governed and constructed in accordance with the laws of the State of Washington regardless of any conflict of law provisions, (c) sets forth the entire agreement between the City and WM with respect to the subject matter hereof and supersedes all prior negotiations, representations, understandings and agreements with respect to the subject matter hereof, and (d) may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

Sincerely,

A handwritten signature in blue ink, appearing to read 'M. Rostami'.

Mindy Rostami
Senior Manager, Contract Compliance
Waste Management of Washington, Inc.

[signatures on following page]

Acknowledged and agreed upon by:

CITY OF PACIFIC

WASTE MANAGEMENT OF
WASHINGTON, INC.

By: _____

By: _____

Its: _____

Its: _____



TO: Mayor Guier and City Council Members
FROM: Richard Gould, City Administrator
MEETING DATE: July 6, 2015
SUBJECT: Murrey's Disposal Contract Extension

ATTACHMENTS:

- **Franchise Agreement Extension Ordinance No. 2015-1902**
- **Third Amendment to Franchise Agreement**

Previous Council Review Date:

Summary: The current agreement with Murrey's Disposal expires on June 30, 2015. The city is negotiating a new franchise agreement with Waste Management that will tentatively start on August 1, 2015. In order to allow time for the City and Waste Management to complete the RFP process, an extension to the franchise agreement for solid waste collection in the Pierce County portion of the city is suggested for July 1, 2015 through July 31, 2015..

Recommendation/Action: Enter into the amendment to the franchise agreement with Murrey's Disposal to ensure uninterrupted service.

Motion for Consideration: "I move to adopt Ordinance 2015-1902 authorizing the mayor to enter into an amendment of the franchise agreement with Murrey's Disposal for solid waste collection services."

Budget Impact:

Alternatives:

**CITY OF PACIFIC
WASHINGTON**

ORDINANCE NO. 2015-1902

AN ORDINANCE OF THE CITY OF PACIFIC, WASHINGTON, AUTHORIZING THE MAYOR TO ENTER INTO AMENDMENT NO. 3 TO THE FRANCHISE AGREEMENT DATED NOVEMBER 6, 2007 WITH MURREY'S DISPOSAL COMPANY, INC. FOR SOLID WASTE AND RECYCLABLES COLLECTION SERVICES, EXTENDING THE FRANCHISE UNTIL JULY 31, 2015.

WHEREAS, the franchise agreement with Murrey's Disposal Company, Inc. ("Murrey's Disposal") for collection and disposal of solid wastes collected within the Pierce County portion of the City of Pacific (the "City"), dated November 6, 2007, (the "Franchise Agreement") as extended by that certain Amendment No. 1 to Franchise Agreement for Collection of Solid Waste and Recyclables Within Annexed Areas in the City of Pacific dated May 22, 2012 (the "Franchise Amendment No. 1"), expires August 28, 2014; and

WHEREAS, on August 25, 2014, *Amendment No. 2 to Franchise Agreement for Collection of Solid Waste and recyclables Within Annexed Areas in the City of Pacific*, dated August 25, 2014, Franchisor requested and Franchisee agreed to, an extension of the Franchise for the period of August 28, 2014 through June 30, 2015; and

WHEREAS, the Parties wish to further extend the Franchise until July 31, 2015 to complete the RFP process.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF PACIFIC, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. The Pacific City Council hereby authorized the Mayor to enter into Amendment No. 3 to the Franchise Agreement with Murrey's Disposal (which is attached as Exhibit A) for collection and disposal services of solid wastes and recyclables for the Pierce County portion of the City of Pacific, to extend the Franchise Agreement until July 31, 2015.

Section 2. This Ordinance shall be published in the official newspaper of the City of Pacific and shall take effect and be in full force five days after the date of publication.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 6TH DAY OF JULY, 2015.

CITY OF PACIFIC

By: _____
Leanne Guier, Mayor

ATTEST/AUTHENTICATED:

Amy Stevenson-Ness, City Clerk

Approved as to form:

Carol Morris, City Attorney

AMENDMENT NO. 3
TO
FRANCHISE AGREEMENT FOR COLLECTION OF SOLID WASTE AND
RECYCLABLES WITHIN ANNEXED AREAS IN THE CITY OF PACIFIC

This AMENDMENT TO FRNACHISE AGREEMENT (“Amendment”) is made and entered into by and between the City of Pacific, a Washington municipal corporation (“Franchisor”) and Murrey’s Disposal Company, Inc., a Washington corporation (“Franchisee”). Franchisor and Franchisee may be collectively referred to herein as the “Parties” and individually as a “Party”, unless specifically identified otherwise. This Amendment shall be effective upon the Effective Date as defined below.

RECITALS

WHEREAS, on November 6, 2007, the Parties entered into the *Franchise Agreement for Collection of Solid Waste and Recyclables Within Annexed Areas in the City of Pacific* (the “Franchise”) for the collection, transportation, and disposal of Solid Waste and Recyclables within the portions of the City of Pacific located in Pierce County, Washington; and

WHEREAS, by that certain *Amendment No. 1 to Franchise Agreement for Collection of Solid Waste and Recyclables Within Annexed Areas in the City of Pacific*, dated May 22, 2012, Franchisor requested, and Franchisee agreed to, a two year extension of the Franchise for the period of August 28, 2012 through August 28, 2014; and

WHEREAS, on August 25, 2014, *Amendment No. 2 to Franchise Agreement for Collection of Solid Waste and recyclables Within Annexed Areas in the City of Pacific*, dated August 25, 2014, Franchisor requested and Franchisee agreed to, an extension of the Franchise for the period of August 28, 2014 through June 30, 2015; and

WHEREAS, the Parties wish to further extend the Franchise until July 31, 2015.

TERMS AND CONDITIONS

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the Parties mutually agree, represent and warrant as follows:

1. **Extension of Franchise.** Section 3 of the Franchise is revised in its entirety to read as follows:

3. Term of Agreement. *The term of this Agreement shall commence on the Effective Date and, unless sooner terminated in accordance with the provisions of this Agreement, and shall expire on July 31, 2015, unless the Parties mutually agree in writing to extend the term of the Agreement.*

2. **Other Terms Unaffected.** Except as expressly provided herein, all other terms and conditions of the Franchise shall remain in full force and effect.

3. **Effective Date.** The Effective Date of this Amendment shall be July 1, 2015.

* * *

IN WITNESS WHEREOF, the Parties enter into this Amendment. Each person signing this Agreement represents and warrants that he or she has been duly authorized to enter into this Amendment by the Party on whose behalf it is indicated that the person is signing.

CITY OF PACIFIC

By: _____

Name: Leanne Guier, Mayor

Date: _____

ATTEST/AUTHENTICATED:

Amy Stevenson-Ness, City Clerk

Approved as to form:

James Kelly, Assistant City Attorney

MURREY'S DISPOSAL COMPANY, INC.

By: _____

Name: _____

Title: _____

Date: _____



Agenda Bill No. 15-095

TO: Mayor Guier and City Council Members

FROM: Richard Gould, City Administrator

MEETING DATE: July 6, 2015

SUBJECT: Solid Waste Contract Findings of Fact

ATTACHMENTS:

- Solid Waste Collection Request for Proposal Process Finding

Previous Council Review Date: N/A

Summary: The City of Pacific issued a Request for Proposals on April 3, 2015. Two submittals were received, Waste Management, Inc., and DM Disposal/Murrey's Disposal, Inc. After careful review, Waste Management was selected as the finalist. A public hearing was held on June 22, 2015, to receive public comment regarding the solid waste collection contract with Waste Management.

Part of the process of selecting a solid waste carrier is for the City Council to adopt Findings of Fact regarding the RFP and selection process.

The attached findings of fact need to be adopted by motion of the City Council.

Recommended Action: Adopt the findings of fact.

Motion for Consideration: "I move to adopt the findings of fact regarding the solid waste collection request for proposal process."

Budget Impact:

Alternatives:

DRAFT

CITY OF PACIFIC, WASHINGTON SOLID WASTE COLLECTION REQUEST FOR PROPOSAL PROCESS FINDINGS

I. Background

Two companies provide solid waste collection services to the City of Pacific, Washington (the City). The City is seeking to contract with one provider for all solid waste services in the City. To that end, a Request for Proposals process was initiated on April 3, 2015, although the City is not required to bid this contract. Bid laws do not apply, and the City reserved the right to negotiate contract changes with the finalist and/or to award the contract to any proponent, in the City's sole discretion. The City further reserved the right to reject the proposal of any and all proponents if the City believes that it would not be in the best interest of the City to make an award, whether because the Proposal is nonresponsive or because the proponent is found to be not responsible or fails to meet any other pertinent standard or criterion established by the City.

A proposal submittal date was set for April 24, 2015. This date was changed to May 8, 2015 on proponents' request. The City received timely proposals from Waste Management, Inc. and DM Disposal/Murrey's Disposal, Inc.

The City reviewed the proposals by an evaluation team composed of City staff and the Solid Waste Committee. The City based its choice on considerations including, but not limited to, unit prices, the clear ability of the Proponent to successfully perform the service. Proposals were evaluated in two phases: (1) a review and evaluation of proposal elements other than price, including reference checks; and (2) review of price proposals and scoring of the price components.

Based on careful review by the evaluation team, Waste Management was selected as the finalist proponent. City staff have been conducting negotiations to finalize the contract.

II. Public Hearing

On June 22, 2015, the City held a public hearing to hear comments regarding the solid waste collection contract with Waste Management. The following summarizes the comments:

Mark Gingrich, DM Disposal, stated there is a lack of information in the process. He requested that the bid amounts be provided to the public at the meeting. He recommended that the City of Pacific stop and take a step back in the process.

Laura Moser, Waste Management, stated Waste Management is prepared, ready, and able to service the entire City of Pacific when the City is ready to move forward.

III. Findings

Based on recommendations of the evaluation team, City staff and public comment, the City finds that it is in the public interest to enter into a contract with Waste Management, Inc. for solid waste collection services, based on the following:

- A. Waste Management and DM/Murrey's Disposal submitted timely proposals that met or exceeded the proposal criteria.
- B. Waste Management and DM/Murrey's Disposal arranged for proposal security to the City of Pacific in the amount of Twenty-five Thousand Dollars (\$25,000) and in the form of an irrevocable standby letter of credit, cashier's check or a Proposal Bond satisfactory to the City.
- C. Although the two proponents scored nearly equally by the evaluation team, Waste Management scored slightly better than DM/Murrey's Disposal on management and environmental criteria.
- D. Waste Management unit prices for all service levels, inclusive of all taxes and fees, were proposed in year 2015 dollars and represent a cost savings to the City over current rates.
- E. Murrey's assertion that the City would save \$1.9M should they be chosen has been found lacking after a staff review which found incorrect and unverifiable calculations.
- F. Waste Management agreed to comply with additional requirements, including:
 1. A 15% discount for low-income senior & low-income disabled customers who qualify for the discount.
 2. Limiting rate increases to CPI with a ceiling of 5% and/or increases in the franchise fee as determined by the City.
 3. A minimum franchise fee of 3% of total gross receipts.
 4. Residential rates based on default 35-40 gallon cart fee that shall not exceed \$23.60 per month in the first year of the contract.
 5. Garbage billing for multifamily garbage collection based on commercial rates.
 6. Garbage billing for commercial garbage collection may be based on separate commercial rates if the rate structure is different than that provided to residential customers.
 7. All service to City facilities and parks provided at no cost to the City.
 8. All billing and collections conducted by Waste Management at their expense.

9. Utility tax of 6% applied to each customer's bill separate from the monthly rate.
 10. All garbage collected taken to the King County system for solid waste disposal regardless of which County the garbage comes from. This requirement does not apply to recycling or yard waste.
 11. Utilize collection vehicles that reduce carbon emissions (e.g., natural gas fuel, electric hybrid, fully electric, etc.) to help reduce the City's carbon footprint.
 12. Commence collection services under the contract on July 1, 2015.
- G. Waste Management agreed to all terms and conditions specified in the RFP, including service, hiring preferences, contract, indemnification, and insurance.

FINDINGS BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 13th DAY OF JULY, 2015.

CITY OF PACIFIC

LEANNE GUIER, MAYOR

ATTEST/AUTHENTICATED:

AMY STEVENSON-NESS, City Clerk

Approved as to form:

JAMES KELLY, Assistant City Attorney



Agenda Bill No. 15-096

TO: Mayor Guier and City Council Members
FROM: Richard Gould, City Administrator
MEETING DATE: July 6, 2015
SUBJECT: Discussion of contract for Solid Waste and Recycling Collection Services

ATTACHMENTS:

- **Proposed Solid Waste Collection Contract with Waste Management, Inc.**
-

Previous Council Review Date: June 15, 2015, June 22, 2015

Summary: The City has been in negotiations with Waste Management, Inc., as the preferred provider of solid waste collection services for the City of Pacific pursuant to a Request for Proposal process. The terms of the negotiated contract represent the best interest of the city subject to public input on the proposed contract.

Presented for discussion is the latest version of the contract in negotiations.

Recommended Action:

Motion for Consideration:

Budget Impact: None.

Alternatives:

**CONTRACT FOR SOLID WASTE
SERVICES
BETWEEN THE
CITY OF PACIFIC, WASHINGTON
AND
WASTE MANAGEMENT OF
WASHINGTON, INC.**

July 1, 2015 – June 30, ~~2022~~2025

Commented [RM1]: 10 yr term per bid specs

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Exhibit A: List of City Facilities

Exhibit B: Service Rate Schedule

Exhibit C: Liquidated Damages

**CONTRACT FOR SOLID WASTE SERVICES
BETWEEN
THE CITY OF PACIFIC, WASHINGTON
AND
WASTE MANAGEMENT OF WASHINGTON, INC.**

This CONTRACT FOR SOLID WASTE SERVICES (hereafter, “**Contract**”) is made and entered into this ___ day of _____, 2015, by and between the City of Pacific, a Washington municipal corporation (the “**City**”), and Waste Management of Washington, Inc., a Washington corporation (“**Contractor**”), to provide for Solid Waste Services in the City Service Area. The parties shall be collectively referred to herein as the “**Parties**” and individually as a “**Party**,” unless specifically identified otherwise.

RECITALS

WHEREAS, the City has negotiated with Contractor for collection, disposal, recycling and other services regarding solid waste; and

WHEREAS, solid waste collection service is a fundamental municipal function, with uniform, managed collection necessary for the preservation of public health; and

WHEREAS, Contractor represents that it has the experience, resources, and expertise necessary to perform solid waste collection services; and

WHEREAS, pursuant to RCW 35.21.120, the City enacted ordinances codified in the City’s Municipal Code which created a system for the orderly collection and disposal of Garbage within the City of Pacific; and

WHEREAS, the City agrees to adopt such modifications to its solid waste ordinances as are necessary to enter into this agreement; and

WHEREAS, the City Council finds that by entering into this Contract for Solid Waste Services, the citizens of the City will receive a greater variety of solid waste services at more stable rates.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL BENEFITS AND COVENANTS STATED HEREIN, THE PARTIES AGREE AS FOLLOWS:

DEFINITIONS

For the purposes of this Contract, the following terms shall have the following meanings:

Adjustment Date: The date that occurs annually on September 1st during this Contract.

Bulky Waste/Items: Couches, chairs, mattresses, appliances and other large items that do not fit into the standard Residential or Commercial Garbage Collection truck.

Cart: A Contractor-owned wheeled cart that is a plastic container with 20, 35, 64 or 96 gallons of capacity; designed for and used with a hydraulic lifting mechanism; fitted with a sturdy handle and a cover; is rodent and insect resistant; and is capable of holding collected liquids without spilling when in an upright position. Where appropriate, Carts can be used for Garbage, Recyclables and Compostables Collection.

Carry-Out Service: The servicing of Carts by Contractor which are not placed Curbside by the Residential Customer for collection, but rather require the Contractor to enter onto Residential Customer's property and roll-out or carry-out Carts to Contractor's collection vehicle. Customers may request a carry-out service for an additional fee, as set forth in Exhibit B, and such fees are charged based upon the distance from Contractor's collection vehicle. Carry-out service for Physically Disabled Persons is set forth in Section 2.1.4.

City: The City of Pacific, Washington.

City Solid Waste: All putrescible and nonputrescible solid, semi-solid, and liquid wastes, including Residential, Commercial and municipal garbage, trash, refuse, paper, rubbish, ashes, demolition and construction wastes, discarded home and industrial appliances, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semi-solid wastes generated or coming to exist in the Service Area.

Collection: The process by which City Solid Waste is removed from Premises and transported to an appropriate facility for disposal, recycling, composting, or processing.

Commercial: Means of, from or pertaining to non-Residential Premises where business activity is conducted, including, but not limited to, retail sales, services, wholesale operations, manufacturing, and industrial operations, but excluding businesses conducted upon Residential Premises which are permitted under applicable zoning regulations and are not the primary use of the property.

Commercial Recycling Customers: Commercial Customers who voluntarily receive Recyclables Collection services.

Compostables: Food Waste, Yard Debris and other materials mutually agreed upon by the Parties.

- **Food Waste:** All compostable pre- and post-consumer food scraps, such as whole or partial pieces of produce, meats, bones, cheese, bread, cereals, coffee grounds and egg shells, and food-soiled paper such as paper napkins, paper towels, paper plates, coffee filters, paper take-out boxes, pizza boxes, or other paper products accepted by the Contractor's selected composting site. Food scraps shall not include large dead animals, plastics, diapers, cat litter, liquid wastes, pet wastes or other materials prohibited by the selected composting facility.

- **Yard Debris:** Leaves, grass and clippings of woody, as well as fleshy plants. Unflocked whole holiday trees, if cut in half, are acceptable. Materials larger than four (4) inches in diameter or four (4) feet in length are excluded. Bundles of Yard Debris up to two (2) feet by two (2) feet by four (4) feet in dimension shall be allowed and shall be secured by degradable string or twine, not nylon or other synthetic materials. Kraft paper bags and untied reusable bags may be used to contain Yard Debris.

Compostables Cart: A Cart suitable for Residential collection, storage and Curbside placement of Compostables.

Composting: The controlled degradation of organic solid waste, yielding a product for use as a soil conditioner.

Containers: A detachable container or drop-box container suitable for storage and Collection of City Solid Waste. For purposes of this Agreement: (i) “detachable container” means a watertight metal or plastic container equipped with a tight-fitting cover, capable of being mechanically unloaded into a Collection vehicle, and that is not less than one (1) cubic yard or greater than eight (8) cubic yards in capacity; and (ii) “drop-box container” means an all-metal container with ten (10) cubic yards or more capacity that is loaded onto a specialized Collection vehicle.

Contractor: Waste Management of Washington, Inc.

County: King County, Washington.

Contract Administrator: The City’s Mayor, or a person designated by the Mayor.

Curb or Curbside: The area within five (5) feet of the Public Street or alley where regular Collection from Residential Premises occurs. If safe access is difficult or extraordinary circumstances preclude such a location, curbside shall be considered a placement suitable to the Customer, convenient to the Contractor’s equipment, and mutually agreed to by the Contract Administrator and Contractor.

Customer: A Person receiving Solid Waste Services from Contractor pursuant to the terms of this Contract.

Disposal: The ultimate disposition of City Solid Waste at a landfill.

Effective Date: ~~July~~ August 1, 2015

Garbage: City Solid Waste that is placed by Customers in appropriate bags, cans, Carts, Containers, or other receptacles for Collection and Disposal by the Contractor. The term “Garbage” shall not include Hazardous Wastes, Special Wastes, Source-Separated Recyclables or Compostables.

Disposal Fee: The fee charged to the Contractor for the Disposal of any City Solid Waste.

Hazardous Waste: Any substance that is:

- A. Defined as hazardous by 40 C.F.R. Part 261 and regulated as Hazardous Waste by the United States Environmental Protection Agency under Subtitle C of the Resource Conservation and Recovery Act (“**RCRA**”) of 1976, 42 U.S.C. § 6901 et seq., as amended by the Hazardous and Solid Waste Amendments (“**HSWA**”) of 1984; the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.; or any other federal statute or regulation governing the treatment, storage, handling or disposal of waste imposing special handling or disposal requirements similar to those required by Subtitle C of RCRA.
- B. Defined as dangerous or extremely hazardous by Chapter 173-303 WAC and regulated as dangerous waste or extremely Hazardous Waste by the Washington State Department of Ecology under the State Hazardous Waste Management Act, Chapter 70.105 RCW, or any other Washington State statute or regulation governing the treatment, storage, handling or disposal of wastes and imposing special handling requirements similar to those required by Chapter 70.105 RCW.

Inaccessible Area: Any road that does not allow safe access, turn-around, clearance or does not meet the weight requirements for Contractor trucks.

Paper: Office paper, copy paper, construction paper; newspaper and paper inserts; magazines and paper inserts; catalogs, mail and paper inserts; envelopes; paper bags; food boxes (cereal, cookie, cracker, etc.); juice boxes; milk, juice and ice cream cartons; aseptic containers, e.g. soup, broth, soy milk, almond milk; paper towel tubes; toilet paper tubes; tissue boxes; non-foil and non-cello wrapping paper; kraft paper bags or boxes; hot or cold cups.

Multi-Family Premises: A Premises with three (3) or more Residences, irrespective of whether residence therein is transient, temporary or permanent.

Multi-Family Residence: A Residence within a Multi-Family Premises.

Non-Regular Scheduled/Temporary Service: Any non-permanent, temporary service requested by a Customer and available from Contractor, for a fee. These requested services will be provided by the Contractor and billed directly to the Customer by Contractor.

Person: An individual, firm, association, organization, partnership, corporation, business trust, joint venture, the United States, the State of Washington, King County, cities, and special purpose districts.

Physically Challenged Persons: Disabled persons or any other Residential Customer who is not physically able to move Carts out to the Curbside, as determined based upon criteria reasonably established by the Contractor, with input from the City. Requests must be made to the Contractor in writing for such designation, and the Customer household cannot have another able-bodied person living in the home who is capable of rolling Carts out to the Curbside.

Premises: Any land or building in the Service Area where City Solid Waste is generated, deposited, accumulated or otherwise coming to exist.

Public Street: A public right of way used for public travel and owned by the City.

Recycling: The processing of City Solid Waste for the purpose of returning it to the economy in the form of raw materials for new, reused, or reconstituted products, or other uses resulting in diversion from Disposal.

Recyclables: Glass: food or beverage containers; Paper; Cardboard: boxes, packaging and beverage 'flats' or nursery 'flats'; Metal: tin, aluminum and steel food or beverage containers (labels okay); empty aerosol cans; scrap metal (limit: 2'x2'x2', 35 lbs.); metal appliances (cords removed); Plastic: food and beverage containers; PET/PETE bottles; HDPE bottles and jugs; dairy tubs, e.g. butter, yogurt, cottage cheese; cups; rigid plant pots; 5-gallon buckets. All recyclables must be clean and free of liquids, food or any other debris. The City and the Contractor can negotiate deletions or additions to the Recyclables list.

Residence: A living space with a kitchen, individually rented, leased or owned, and located in the Service Area.

Residential: Means of, from, or pertaining to Single-Family Premises and Multi-Family Premises, including single-family homes, apartments, condominiums, townhouse complexes, mobile home parks, and cooperative apartments.

Recycling Carts: A Contractor-provided 20-, 35-, 64- or 96-gallon (default size) Cart suitable for Residential storage, Curbside placement and Collection of Recyclables.

Service Area: The municipal boundaries of the City, both now and as they may be expanded by annexation during the life of the Contract, subject to the provisions of RCW 35.13.280.

Single-Family Premises: A Premises with one (1) Residence, irrespective of whether residence therein is transient, temporary or permanent.

Single Stream Recycling: A system in which various types of Recyclables are separated from Garbage by the generator and placed together in a Cart or Container for Collection.

Solid Waste Services: Any and all Collection, Disposal, Recycling and Composting services regarding City Solid Waste.

Special Waste: Polychlorinated biphenyl ("PCB") wastes, industrial process wastes, asbestos containing materials, petroleum contaminated soils, treated/de-characterized wastes, incinerator ash, medical wastes, demolition debris and other materials requiring special handling in accordance with applicable federal, state, county or local laws or regulations.

White Goods: Large household appliances such as washers, dryers, stoves, refrigerators (not containing CFCs), dishwashers, and other similar appliances.

WUTC: The Washington Utilities and Transportation Commission, which regulates solid waste collection in the unincorporated areas of the County.

ARTICLE I - AGREEMENT, TERM

1.1 Agreement

The City hereby agrees that Contractor shall have the exclusive right to perform all of the Solid Waste Services, to the extent allowed by State and Federal law, upon the terms and conditions set forth below.

1.2 Term

The initial term of this Contract is ~~seven-ten (710)~~ years, starting on the Effective Date, and expiring at 11:59 p.m. on June 30, ~~2022~~2025. The Parties may, by mutual written agreement signed by the duly authorized representatives of the Parties, extend the Contract for two (2) successive periods of two (2) years each. Any such extension shall be under the terms and conditions of this Contract. To exercise the option to extend this Contract, the Parties shall agree in writing not less than 180 days prior to the then expiring Contract term.

Commented [RM2]: 10 yr term per bid specs

1.1 Exclusive Right; Franchise Enforcement

The City does hereby grant to Contractor the exclusive duty, right and privilege to perform the Solid Waste Services, except regarding Collection of Recyclables and Compostables, from Commercial Premises. When asked by the Contractor, the City shall use reasonable efforts to protect this right of the Contractor; however, the City shall not be obligated to join or instigate litigation to protect the right of the Contractor. The Contractor may independently enforce the exclusive rights under this Contract against third party violators, including but not limited to seeking injunctive relief, and the City shall use good faith efforts to cooperate with Contractor in Contractor's actions to enforce such rights (without obligating the City to join any litigation initiated by Contractor).

1.2 Mandatory Services

Pursuant to Section 14.02.070 of the City's Municipal Code, Garbage Collection services are mandatory for all Residential and Commercial Premises. Commercial Recycling and Compostables Collection services are optional for Commercial Premises, and will be provided by Contractor on a subscription basis.

ARTICLE II - GENERAL OPERATIONS

2.1 Collection

2.1.1 General

Contractor shall perform the Solid Waste Services as provided in this Contract. Contractor shall have sixty (60) days from the Effective date to perform any new services. The collection of Hazardous Waste is not included within the scope of this Contract, and Contractor shall be under no obligation to collect any Hazardous Waste. Customers shall remain responsible for any Hazardous Waste or other unacceptable materials placed in collection containers, even if such materials are inadvertently collected by Contractor, and to the extent such Customers can be identified, Contractor may seek to impose upon such Customers any and all costs and expenses

associated with managing such Hazardous Waste or unacceptable materials. However, nothing herein is intended to prevent Contractor from collecting, transporting and/or disposing of any Hazardous Waste in accordance with applicable federal and state requirements and regulations, so long as such actions are performed separate and apart from any action taken in the performance of this Contract.

2.1.2 Collection Schedule and Hours of Operations

Collection from Residential Customers shall be between the hours of 6:00 AM and 6:00 PM, Monday through Friday. Collection from Commercial Customers may be made without restriction as to collection time or day or week, provided that Commercial Customers adjacent to Residences shall be collected during the Residential times. Recyclables and Compostables will be collected at least every other week, whereas Garbage will be collected at least weekly.

2.1.3 Collection Locations

Contractor shall collect Garbage, Recyclables and Compostables at Curbside from all Single-Family and Multi-Family Premises Customers with Cart-based services. Contractor shall collect Garbage, Recyclables and Compostables from Customers with Container-based services at locations determined by Contractor and the Customer. Contractor may refuse to pick up materials at locations identified by Contractor and approved by the City, acting reasonably, where, because of the conditions of the streets, alleys or roads, it is impractical to operate vehicles, and may refuse to drive into private property where driveways or roads are without adequate turnarounds or have other unsafe conditions.

2.1.4 Collection from Physically Challenged Persons

The Contractor shall offer Carry-Out Service for Garbage, Recyclables and Compostables Carts up to fifty (50) feet from Contractor's vehicle to qualifying Physically Challenged Persons lacking the ability to place Carts at the Curb, at no additional charge. The Contractor shall use qualification criteria that comply with all local, state and federal regulations, and shall be subject to City review and approval prior to program implementation.

2.1.5 Dangerous Animals

Contractor will not be required to enter into private property to pick up materials while an animal considered or feared to be vicious is loose.

2.1.6 Employees to Use Walks if Carry-Out Service Directed

Contractor employees, in performing collections, shall follow the regular walks for pedestrians (if available) while on Customer property, returning to the street or alley after replacing empty containers. They shall also close all gates opened by them. All employees shall wear clean clothing or uniforms.

2.1.7 Employees Not to Trespass

Contractor Employees shall not trespass or loiter, cross property to an adjoining premises, or meddle with property which does not concern them.

2.1.8 Annual Spring Clean-Up Day

Each year, on a date mutually agreed upon by the City and Contractor, the Contractor shall provide one Residential Customer curbside collection of extra household garbage in bags or cans, limited to five (5) – 32 gallon cans and/or household items measuring no more than one (1) square foot. The curbside clean up will exclude large bulky items; white goods; tires; building materials; rocks; cement; bricks; sod or dirt; recyclable materials; wood pallets, fencing, decking, planter boxes and any hazardous waste.

In conjunction with the annual Spring clean-up day, the Contractor shall collect one (1) select item, such as polystyrene blocks, used cooking oil, or electronic waste from each residential customer who chooses to participate in the clean-up. Materials to be collected, location and date/time of collection shall be mutually agreed on by the City and Contractor. The Contractor shall notify Residents of details for both the curbside collection and select item collection.

2.2 Contractor to Make Examination

Contractor shall make its own examination and investigation regarding the proper method of doing the work and all conditions affecting the work to be done, and the labor, equipment and materials needed therefore and the quantity of work to be performed. Contractor agrees that it is satisfied with its own investigation and research, and will make no claim against City because of any of the estimates, statements, or interpretations made by any officer or agent of the City. This Contract is for the benefit of the Parties thereto, and is not intended to inure to the benefit of any third party.

2.3 Employees

All workers employed by Contractor shall be competent and skilled in the performance of the work to which they may be assigned. All drivers must have a C.D.L. "B" or "A" license and a current medical card.

2.3.1 Non-Discrimination

The Contractor will not discriminate against any employee or applicant for employment because of age, race, religion, creed, color, sex, marital status, sexual orientation, political ideology, ancestry, national origin, or the presence of any sensory, mental or physical handicap, unless based on a bona fide occupational qualification. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their creed, religion, race, color, sex, marital status, sexual orientation, political ideology, ancestry, national origin, or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to the following: Employment upgrading; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and, selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment any required notices setting forth the provisions of this nondiscrimination clause. Contractor understands and agrees that a violation of this nondiscrimination provision shall constitute a breach of this Contract, and that such breach, if uncured, shall cause the Contractor to be barred from performing any services for the City now or in the future, unless a showing is made satisfactorily to the City that discriminatory practices have terminated and that recurrence of such action is unlikely.

2.3.2 OSHA/WISHA

Conditions of the Federal Occupational Safety and Health Act of 1970 (OSHA), the Washington Industrial Safety and Health Act of 1973 (WISHA), and standards and regulations issued under these Acts from time-to-time must be complied with. The Contractor shall indemnify and hold harmless the City from all damages assessed for the Contractor's failure to comply with the acts and standards issued there under. The Contractor is also responsible for meeting all pertinent local, state and federal health and environmental regulations and standards applying to the Solid Waste Services.

2.3.3 Compliance with Laws

Contractor agrees to comply, at its own expense, with all applicable City, state, federal and local laws, rules and regulations, including, but not limited to, all applicable laws regarding wages. Contractor shall comply with all applicable local, state and federal regulations and laws regarding the collection, transfer and disposal of Garbage, Recyclables, and Compostables pursuant to this Contract.

2.3.4 Employees to be Courteous, Etc.

Employees of Contractor shall be courteous at all times and not use loud or profane language and shall do their work as quietly as reasonable.

2.4 Company Name

Contractor shall not use a firm name containing any words implying municipal ownership or including the name of the City.

2.5 Contractor's Offices

Contractor shall be required to maintain a local access telephone number or a toll-free number, and such attendants as may be necessary to take care of complaints, as well as orders for special service or to receive instruction. The attendant shall be on duty between the hours of 8:00 a.m. and 5:00 p.m. PST, Monday through Friday, except holidays.

2.6 Permits

Contractor shall take out and pay for any business license or other fee required by the City or any other governmental authority which may be required to provide the services under this Contract.

2.7 Public Utilities

Contractor shall be obligated to protect all public and private utilities whether occupying street, public or private property. If such utilities are damaged by reason of Contractor's operations under this Contract, it shall repair or replace same, or failing to do so promptly as determined by the City, the City shall cause repairs or replacement to be made and the cost of doing so shall be billed to the Contractor. The City shall not be liable for any damage to property or injuries to any person(s) caused by Contractor, as provided in Section 4.3.1.

2.8 Loading

Extra care shall be taken in the loading and transporting of Garbage, Recyclables, Compostables and other wastes so that the material to be collected is not left either on private property or on the streets or alleys. Any Garbage, Recyclables, Compostables or other wastes left on private property or on streets or alleys spilled by Contractor shall be cleaned up within 24 hours of received complaint.

2.9 Cleanup of Spills

All loads collected by the Contractor shall be completely contained in collection vehicles at all times, except when material is actually being loaded. Hoppers on all collection vehicles shall be operated so as to prevent blowing or spillage of materials. Any blowing or spillage of materials either caused by Contractor or that occurs during collection shall be immediately cleaned up by the Contractor at its expense. Prior to any collection vehicle leaving a collection route and/or operating on any roads with a speed limit higher than 25 miles per hour, Contractor shall completely close any collection vehicle openings where materials may blow out, and thoroughly inspect for and remove any collected materials inadvertently spilled on top of the collection vehicle to prevent release or littering of this material.

All vehicles used in the performance of this Contract shall be required to carry and regularly maintain spill kits. At a minimum, spill kits shall include absorbent pads or granules, containment booms, storm drain covers, sweepers and other similar materials sufficient to contain, control and, for minor events, appropriately clean-up, blowing materials, litter, leaks and spillage of Contractor vehicle fluids and leachate. Spill kits shall also include employee spill containment instructions and procedures as well as a regularly updated list of emergency contacts. The Contractor shall develop spill response procedures for review and approval (if requested) by the City before initiating any work under this Contract. All Contractor vehicle drivers shall be provided with annual hands-on training on the location, maintenance, and use of spill kits and associated containment and notification procedures.

All drop-box Container loads (both open and compactor) shall be properly and thoroughly covered or tarped to prevent any spillage of material prior to Contractor vehicle entering any Private Road or Public Street.

2.10 Disruption of Collection

2.10.1 Disruption of Collection Due to Weather and/or Road Conditions

When weather conditions are such that continued operation would result in danger to the Contractor's staff, area residents, or property, or when road conditions such as flooding or weight restrictions affect road use, the Contractor shall collect only in areas that do not pose a danger or are not subject to road use restrictions. The Contractor shall notify the City, on the same business day, of the areas not served. Following notification to the City, the Contractor will be provided temporary authorization to perform collection services after 6:00pm and/or on Saturdays following disruptions due to weather in order to finish collection routes.

The Contractor shall collect Garbage, Recyclables and Compostables from Customers with interrupted service on their next scheduled service day. Extras will not be charged for as long as it does not exceed double their normal service.

2.10.2 Holiday Schedules

The Contractor shall observe the same holiday schedule as do King County Transfer Stations (New Year's Day, Thanksgiving Day, and Christmas Day). When the day of regular collection is a legal holiday, the Contractor may reschedule the service to the next day, example: Monday to Tuesday, Tuesday to Wednesday, Wednesday to Thursday, Thursday to Friday and Friday to Saturday. The Contractor may not collect Residential Garbage, Recyclables or Compostables earlier than the regular collection day due to a holiday. Commercial collections may be made one day early only with the consent of the Commercial Customer.

2.10.3 Missed and Makeup Collections

If the Contractor fails to collect a Customer's Garbage, Recyclables or Compostables which have been properly and timely set out for collection during a regularly scheduled collection, other than as provided in Section 2.10.1 or 2.10.2, the Contractor shall make a special make up collection within 24 hours (or one business day) of notification by the City or Customer. This section applies to omitted collections of a single residence, a row of residences, or an entire route. If Contractor fails to provide a special pickup for a missed collection within twenty-four (24) hours (or one business day) after notification by the Contract Administrator or Customer, the Contract Administrator may cause the work to be done and the Contractor shall fully reimburse the City for its collection expenses.

2.11 Collection Equipment

All collection vehicles regularly used by the Contractor during the term of this Contract shall be Compressed Natural Gas (CNG) vehicles, less than ten (10) years old and shall have been used for fewer than two hundred thousand (200,000) miles. Should any such vehicles exceed these limits and yet, in the Contractor's opinion, still be in safe working order, the Contractor must receive prior written approval from the City to continue operating the subject vehicle. Back-up vehicles used less than thirty (30) days per year shall not be subject to the age and mileage limits that apply to regularly-used vehicles, but shall be presentable, in safe working order and shall be subject to all other conditions of this section.

Contractor shall maintain all trucks and equipment used within the City and the same shall be clean, numbered and uniformly painted. All truck bodies used by Contractor shall be constructed of metal and shall be watertight and leak proof. In addition to spill cleanup materials referenced above, each vehicle used by Contractor shall carry at all times a broom and shovel or other item appropriate for use in the prompt removal of any spilled material. All vehicles used by Contractor shall have adequate coverage at all times to prevent the spillage of City Solid Waste.

2.12 Reserve Equipment

The number and type of collection vehicles furnished by Contract, including back up or reserve equipment in the event of equipment failure, shall be sufficient for the collection of all Customer Garbage, Recyclables and Compostables. Contractor shall make available for rental Containers which meet all applicable safety requirements.

2.12.1 Painting and Cleaning of Vehicles

Collection vehicles shall be painted and numbered and shall have the Contractor's name and number of the vehicles painted in letters of a contrasting color, at least four (4) inches high

on each side of each vehicle. No advertising shall be permitted other than the name of the Contractor. All vehicles shall be kept in a clean and sanitary condition.

2.13 Method of Processing and Disposal

Contractor shall deliver all Garbage collected under the Contract to the King County Disposal System, unless otherwise negotiated with the City. If the King County Disposal System is not available, then Contractor shall dispose of all Garbage at any permitted and licensed site or facility where such disposal is lawful, as selected by Contractor in its sole discretion. Contractor shall deliver all Recyclables and Compostables collected under the Contract to permitted facilities of its choosing for the processing or disposal of such materials.

2.14 Service to City Facilities

As partial consideration for this Contract, Contractor shall provide free collection of Garbage, Recyclables and Compostables to those City-owned facilities listed in Exhibit A (“**City Facilities**”). Such free collection shall not apply to material which (i) is other than Garbage, Recyclables and Compostables generated at such City Facility through its normal operations and regular weekly service at the facilities listed in Exhibit A (e.g., construction and demolition waste), (ii) is not generated by the City, or (iii) is collected by third parties and delivered to a City Facility.

If the City requests collection services for additional City Facilities, or the volume of a category of material generated by City Facilities increases by 10% or more, then the Parties shall meet and confer in good faith to negotiate an appropriate adjustment to Contractor’s rates set forth herein.

2.15 Carts and Containers

The Contractor shall provide each Single-Family Premises and Residents in appropriate Multi-Family Premises (e.g., duplexes and tri-plexes) with one (1) Cart for Garbage, one (1) Cart for Recyclables, and one (1) Cart for Compostables. Cart sizes available are 20, 35, 64, and 96 gallons (96-gallons is the default size for Recycling and Compostables), at the election of the Customer. Contractor may require a Customer to utilize larger or additional Carts if the Customer’s volume of materials exceeds the Cart capacity. Contractor shall retain ownership of any Carts or other containers provided by Contractor in performing the services under this Contract. Cart deliveries (for new, replacement, and/or re-delivered Carts) shall be subject to the service rate schedule in Exhibit B. Contractor shall deliver Carts necessary to meet the service requirements set forth under this Contract upon a delivery schedule to be mutually agreed upon by the Contractor and the City.

Contractor shall provide each Commercial Premises, City Facility and Multi-Family Premises without Cart-based services with suitable detachable and/or drop-box Containers for Garbage, Recyclables (if desired with respect to Commercial Customers) and Compostables (if desired), as determined by Contractor. Available Container sizes and types are described in Exhibit B.

ARTICLE III - REPORTING REQUIREMENTS

3.1 Reporting Requirements

Contractor shall make available to the City for review monthly and annual reports regarding the number of customers for each class and level of service. The City shall have the right, during normal business hours and upon reasonable (at least three (3) business days') advance notice given to Contractor by the City, to inspect the books of Contractor. Contractor shall maintain billing records, customer lists, compliance records and customer complaints for a period of three (3) years or as required by law, whichever is the greater.

3.2 Contractor's Records; Access Inspection

The City shall have the right to inspect and copy all books, records and documents, and to interview any person, and to review any evidence in Contractor's possession and control that may assist the City in determining whether the Contractor is in compliance with the Contract. However, all financial, commercial, personnel, trade secret and technical information relating to the business of Contractor ("**Confidential Information**") acquired directly or indirectly by the City, including pursuant to any rate review or performance review hereunder, shall be kept by the City in strict confidence. The City shall not use Confidential Information for any reason or in any manner other than as expressly provided in this Article III. The Contractor acknowledges that the City is subject to chapter 42.56, the Public Records Act, and is required to disclose certain public records in the City's possession. If the City receives a third party request for any public record that the City has obtained from the Contractor under this Section, the City shall notify the Contractor of the receipt of such request, and the Contractor may, consistent with RCW 42.56.540, request court protection of such record(s).

ARTICLE IV - INSURANCE AND SAFEGUARDS

4.1 Insurance

Contractor shall procure and maintain for the duration of the Contract insurance for claims for injuries to persons or damage to property that may arise from or in connection with the performance of the services provided under this Contract by Contractor, its agents, representatives, employees or subcontractors. The cost of such insurance shall be paid by the Contractor. Failure to make insurance payments and to keep policies current shall be cause for Contract termination under Section 10.1.

Contractor's maintenance of insurance as required by this Contract shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise to limit the City's recourse to any remedy available at law or in equity.

4.1.1 Minimum Scope of Insurance

Contractor shall obtain insurance that meets or exceeds the following:

- (1) Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. The policy shall be endorsed to provide contractual liability coverage. The City shall be named as an additional

insured under the Contractor's Automobile Liability policy with respect to the work performed for the City, using ISO additional insured endorsement CG 20 48 02 99 or a substitute endorsement providing equivalent coverage.

(2) Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract. There shall be no endorsement or modification of the Commercial General Liability insurance for liability arising from explosion, collapse or underground property damage. The City shall be named by endorsement as an additional insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City using ISO additional insured endorsement CG 20 10 11 85 or a substitute endorsement providing equivalent coverage.

(3) Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

(4) Pollution Legal Liability insurance covering losses caused by pollution conditions that arise from the operations of the Contractor.

(5) Hazardous Waste Hauling. To the Automobile Liability Minimum Scope of Insurance, add Pollution Liability coverage at least as broad as that provided under ISO Pollution Liability – Broadened Coverage for Covered Autos Endorsement CA 99 48 and the Motor Carrier Act Endorsement (MCS 90) shall be attached.

4.1.2 Minimum Amounts of Insurance

Contractor shall maintain the following insurance limits:

(1) Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$5,000,000 per accident.

(2) Commercial General Liability insurance shall be written with limits no less than \$5,000,000 each occurrence, \$5,000,000 ~~annual~~ general aggregate and a \$2,000,000 products-completed operations aggregate limit. The general aggregate shall apply per project or per location

(3) Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

(4) Pollution Legal Liability. The Pollution Legal Liability shall be written in an amount of at least \$3,000,000 per loss, with an annual aggregate of at least \$3,000,000. Coverage may be written on a claims made basis.

(5) Employer's Liability each accident \$1,000,000. Employer's Liability Disease each employee \$1,000,000 and Employer's Liability Disease – Policy Limit \$1,000,000.

Commented [RM3]: The General Liability policy is written with a "general" aggregate so WM needs to stick with that wording. However, WM can agree that it will apply per project or per location (see modifications in this section)

Commented [RM4R3]: Does the City agree with this change?

4.1.3 Deductibles and Self-Insured Retention

Any deductibles or self-insured retentions shall be for the account of Contractor and payment of such shall be made by Contractor without contribution from the City.

4.1.4 Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Commercial General Liability and Contractor's Pollution Liability coverage:

- (1) The Contractor's insurance coverage shall be the primary insurance with respect to the City, its officials, employees and volunteers. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be in excess of the Contractor's insurance and shall not contribute with it.
- (2) Coverage shall state that the Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- (3) The Contractor's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice has been given to the City.
- (4) The City will not waive its right to subrogation against the Contractor. . The Contractor's insurance shall be endorsed to waive the right of subrogation against the City, or any self-insurance or insurance pool coverage maintained by the City.

4.1.5 Acceptability of Insurers

Insurance to be placed with insurers with a current A.M. Best rating of not less than A: VII.

4.1.6 Verification of Coverage

The Contractor shall furnish the City with original certificates including but not necessarily limited to, the additional insured endorsement, evidencing the insurance requirements of the Contractor within ten (10) days of the date of execution of this Agreement by both parties.

4.1.7 Subcontractors

The Contractor shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor before commencement of work. All coverages for subcontractors shall be subject to all of the same insurance requirements as stated herein for the Contractor.

4.1.8 Contractor's Insurance Primary

The Contractor's insurance coverage shall be primary insurance as respects the City, but only as respect the liabilities assumed by Contractor under this Contract. Any insurance, self-

insurance, or insurance pool coverage maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.

4.2 Performance Bond

Contractor shall furnish to the City a proper performance bond to be approved by the City Attorney, conditioned that Contractor shall faithfully perform all the provisions and terms of the contract and related documents and pay all laborers, mechanics and subcontractors and material persons, and all persons who shall provide such Contractor with provisions and supplies for the carrying on of such work; which bond shall be signed by Contractor and two or more good and sufficient sureties or with Surety Company as Surety, and shall be in the amount of Fifty-Six Thousand Dollars (\$56,000.00). Said bond shall at all times be kept in full force and effect during the term of this Agreement. Contractor agrees to pay all costs, including attorney's fees, associated with the enforcement of said bond.

4.3 Indemnification and Hold Harmless Agreement

4.3.1 Indemnification

The Contractor shall defend, indemnify and hold the City and its volunteers, agents, employees, officials and/or officers, harmless from any and all claims, injuries, damages, losses or suits including attorneys' fees arising out of or resulting from or in connection with the performance of this Agreement, except for injuries or damages caused by the sole negligence of the City.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. The provisions of this section shall survive the expiration or termination of this Agreement.

4.3.2 Waiver of RCW Title 51

It is further and specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

ARTICLE V - GARBAGE COLLECTION

5.1 Garbage Collection

For Residential Premises with Cart-based Solid Waste Services, Garbage shall be collected by the Contractor on a weekly basis, at the service levels and rates set forth in Exhibit B. Commercial and Multi-Family Premises not receiving Cart-based Solid Waste Services shall have its Garbage collected by Contractor in accordance with the frequency, service levels and rates set forth in Exhibit B.

5.1.1 Carts; Containers

For Residential Premises with Cart-based Solid Waste Services, Garbage will be collected in Contractor provided Carts. Extra materials which do not fit neatly within the Customer's primary Cart/can shall be collected for an additional fee as set forth in Exhibit B and may be placed adjacent to the primary Cart in customer provided plastic bags which can be safely collected by Contractor's personnel and equipment. All Garbage from Commercial Premises, City Facilities and Multi-Family Premises with Container-based services will be collected in Contractor provided Containers, and extra materials which do not fit neatly within the Customer's primary Container shall be collected for an additional fee as set forth in Exhibit B and may be placed adjacent to the primary Container in Customer provided plastic bags which can be safely collected by Contractor's personnel and equipment.

ARTICLE VI - RECYCLABLES COLLECTION

6.1 General Recycling Provisions

For Residential Premises with Cart-based Solid Waste Services, Recyclables shall be collected on a Single Stream basis every other week, on the same days as Garbage collection. The cost of such Residential Recyclables collection shall be included in the rates for Residential Garbage collection set forth in Exhibit B.

For Multi-Family Premises with Cart/Container-based Solid Waste Service, Recyclables shall only be offered as Cart-based service and shall be collected on a Single Stream basis every other week. The cost of such Multi-Family Recyclables collection shall be included in the rates for Multi-Family Garbage collection set forth in Exhibit B.

Recyclables Collection services will be provided to Commercial Customers pursuant to separate agreements.

Contractor becomes the owner of Recyclables when they are placed in the Contractor's collection vehicle and, thereafter, the Contractor may market or manage them in any manner the Contractor deems to be economically feasible. The Contractor shall be responsible for all marketing and sale of Recyclables collected hereunder and shall be entitled to all proceeds therefrom.

6.2 Recycling Carts/Containers

Contractor will provide a 35, 64 or 96 gallon Cart to all Residential Customers with Cart-based Solid Waste Service. The default Cart size shall be 96 gallons, unless a Customer requests a different size.

Upon customer request, the Contractor will provide a 96 gallon Cart to Multi-Family Premises Customers with Cart/Container-based Solid Waste Service.

For each City Facility, Contractor will provide an appropriate sized Cart(s)/Container(s) to store Recyclables generated between collections by Contractor. Alternatively, the City may provide its own Container(s), so long as they are compatible with Contractor's collection vehicles.

ARTICLE VII - COMPOSTABLES COLLECTION

7.1 General Compostables Provisions

For Residential Premises with Cart-based Solid Waste Services, Compostables shall be collected every other week, on the same days as Garbage collection. The cost of such Residential Compostables collection shall be included in the rates for Residential Garbage collection set forth in Exhibit B.

Yard Waste and Food Waste may be commingled by such Residential Customers in the Compostables Cart. Small Commercial and Multi-Family Premises Customers with Cart/Container-based Solid Waste Services may participate in the Compostables collection program for the fees set forth in Exhibit B. Such Customers shall be provided a 96 gallon Cart(s).

Contractor becomes the owner of Compostables when they are placed in the Contractor's collection vehicle and, thereafter, the Contractor may market or manage them in any manner the Contractor deems to be economically feasible. Contractor shall be responsible for all marketing and sale of Compostables collected hereunder and shall be entitled to all proceeds therefrom.

7.2 Holiday Tree Collection

At no additional cost to the customer, the Contractor shall collect unflocked, undecorated, natural holiday trees (Christmas trees) during the first full week of regularly scheduled Compostable materials collection in January of each calendar year from all Single Family and Multi-Family Residences within the city limits. The Contractor shall not be obligated to collect holiday trees that are not properly placed at the curb, next to the compostables cart.

ARTICLE VIII - COMPENSATION

8.1 Contractor Rates

The Contractor shall charge the rates set forth in Exhibit B, as adjusted over time under this Contract, for all services performed (excluding those for which this Contract allows direct negotiation with Customers). The Contractor shall be responsible for billing and collecting funds from Residential and Commercial Customers in accordance with the rates listed in Exhibit B. There shall be a 15% low income senior citizens and/or low income disabled customer discount on residential rates afforded to qualifying customers in accordance with Pacific Ordinance No. 12-1831 and Pacific Municipal Code section 14.02.120. The City shall provide notification to the Contractor of qualifying customers and shall annually review the application process to ensure the integrity of those accounts receiving the discount.

The Contractor may occasionally provide services outside the scope of this Contract which are related to solid waste collection in the City. If pricing for such services are set forth in the otherwise applicable WUTC tariff, such WUTC rates shall apply. Otherwise, the Contractor shall propose to the City a customer rate for the service. Upon approval of the City, the Contractor may proceed to offer that service.

~~The Contractor shall provide the City with 60 days prior written notice of any rate increases and shall mail to each affected ratepayer any change to the schedule of prices at least 45 days prior to the proposed effective date of the rate increase.~~

Commented [JK5]: Changed to 45 days per RCW 35A.21.152.

8.1.1 CPI Adjustments to Collection Component

Commencing on ~~July~~ September 1, 2016 and on the same date annually thereafter (the “**Adjustment Date**”), the collection component of Contractor’s rates set forth in Exhibit B (as adjusted hereunder) shall be automatically increased by 100% of the annual percent increase in the Consumer Price Index (“**CPI**”) - for Seattle, Tacoma, Bremerton (1982-84 = 100) for ~~All Urban Consumers CPI-U) Water and Sewer and Trash Collection that is seasonally adjusted (Series ID: CUSR0000SEHG) or successor indices as published by the Bureau of Labor Statistics, Not Seasonally Adjusted, All items (CUURA423SA0) as published by the Bureau of Labor Statistics~~ for the twelve month period ending in February. At least sixty (60) days prior to the Adjustment Date, Contractor shall notify the City of the CPI adjustment to take effect on the Adjustment Date and shall provide the City with its computations therefor. Adjustments to the Contractor’s rates shall be made in units of one cent (\$0.01). Fractions less than one cent (\$0.01) shall not be considered when making adjustments. Annual CPI adjustments shall neither be negative nor greater than ~~4.75% eight~~ percent. ~~In the event the CPI index series decreases year-on-year, there shall be no CPI adjustment.~~ In the event the CPI index series increases year-on-year more than ~~4.75% eight~~ percent, that portion of the CPI adjustment exceeding ~~eight~~ 4.75% percent shall ~~not~~ carry forward to the next year, so long as the current year CPI adjustment does not exceed a total of 4.75% percent after application of the carry forward amount. Contractor shall notify customers of any rate increases via a billing/invoice note.

Commented [RM6R5]: **WM 6/26/15:** This language does not belong here as 8.1 refers to if a service is needed that is not in the rate sheet, that we default to the WUTC rate for that particular service. The proper place for customer and city notice of CPI resides in 8.1.1. On the customer notice issue, WM can only notify customers if there is no added expense for the process and the only way we can accomplish that is by invoice/bill note. And then we cannot guarantee customers would receive the note on their invoice prior to the increase date. The City will need to assume the task of notifying customers in advance per RCW. I have added WM’s notice responsibility in last sentence of 8.1.1.

Commented [JK7]: 8.1.1 refers to CPI adjustments, while this section refers to any rate increase. RCW 35A.21.152 applies. The city prefers to have the contractor provide notice as a cost savings since the contractor is already providing routine mailings to affected ratepayers and direct mailing is more effective than publishing notice. RCW 35A.21.152 does not forbid the city from contracting this requirement.

Commented [VK8]: We spoke to this during negotiations and I thought we agreed to a ceiling of 4% in exchange for a floor of 0%..

Commented [RM9]: WM is willing to drop to five percent ceiling with carryover.

Commented [RM10R9]: WM is also willing to drop to 4.75% ceiling with Water Sewer Trash Index. I have edited this section with that in mind.

Commented [JK11]: Richard, this is the city’s decision.

8.1.2 Pass Through Adjustment to Disposal Component

The disposal fee component of Contractor’s rates set forth in Exhibit B (as adjusted hereunder) shall be automatically adjusted to reflect increases in King County disposal fees for solid waste and increases in tip fees for compostables. Such adjustments shall be effective the date on which the modified fees go into effect, and based on Cart/Container content weights specified in Exhibit B of this Contract. The business and occupation tax shall be applied to these fees.

8.1.3 Periodic Adjustment Due to Extraordinary Circumstances:

The Contractor’s rates set by this Contract are calculated to pay certain expenses and costs that are of a contingent and uncertain nature. Therefore, in addition to the adjustments set forth in Section 8.1.1, 8.1.2 and 8.1.3, the Contractor’s rates under this Contract shall, upon written request of Contractor or City, be further adjusted for increased expenses associated with performance of the services hereunder due to any one or more of the following causes:

- (a) material changes in Contractor’s costs resulting from a Force Majeure event;
- (b) changes in the scope or method of services provided by Contractor or other changes or fees required, initiated, or approved by the City;

- (c) any change in law, statute, rule, regulation, ordinance, order or requirement of any federal, state, regional or local government that is effective after the Effective Date of this Contract;
- (d) any increase in surcharges, fees, assessments or taxes levied by federal, state or local regulatory authorities or other governmental entities upon the collection or disposal of City Solid Waste (excluding increases in King County disposal fees, for which Contractor receives an adjustment under Section 8.1.3);
- (e) a material fluctuation in the markets or market price for Recyclables, unforeseen increases in the cost of collection, handling, storing, transporting, marketing, or sale or other disposition of Recyclables, the need for increased promotional or educational activities pertaining to recycling or any changes to the definition of “Recyclables” set forth herein;
- (f) any other extraordinary circumstances or causes or reasons that are not within the reasonable control of Contractor.

If Contractor requests an adjustment due to the extraordinary circumstances set forth above, Contractor shall prepare a rate adjustment request setting forth its calculation of the increase costs and accompanying rate adjustment necessary to offset such increased costs. The City may request any and all documentation and data reasonably necessary to evaluate such request by Contractor, and may retain, at its own expense, an independent third party to audit and review such documentation and such request. If such third party is retained, the City shall take reasonable steps, consistent with state law, to protect the confidential or proprietary nature of any data or information supplied by Contractor. The City shall act within ninety (90) days of receipt of the request from Contractor, and shall either approve or disapprove the request, provided that approval shall not be unreasonably withheld. ~~The Contractor shall mail to each affected ratepayer any change to the schedule of prices at least 60 days prior to the proposed effective date of the rate increase.~~ The Contractor shall notify customers of any rate changes via a billing/invoice note.

8.2 City Administrative Fee

Contractor shall pay City 3% of gross revenues collected each complete calendar quarter during the term of this Contract (“**Quarterly Fee**”). Such payments shall be made by Contractor on or before the twentieth (20th) day of the month following the applicable quarter. The term “gross revenues” means any and all revenue or compensation actually collected by Contractor from Customers under this Agreement for the exclusive collection, transportation, processing, recycling and disposal of City Solid Waste, in accordance with Generally Accepted Accounting Principals (GAAP), net of Quarterly Fees. The term gross revenues, for purposes of this Agreement, shall not include any: a) City, or other federal, state, or local taxes or surcharges; b) any Customer late fees, NSF charges, interest, or reactivation charges; or c) any revenues generated from the sale of Recyclables or any recycling rebates received from the State.

The City Administrative Fee amount may be changed by the City in any year, provided that the change is synchronized with the annual Contractor rate modification described in Section 8.1.1 and that the Contractor’s rates are adjusted accordingly to pass through any changes in the

Commented [RM12]: The burden is on the city to notify customers – per RCW 35.21.157.

Commented [RM13R12]: WM 6/26/15: I have included bill note language.

Commented [JK14]: Good. City will also publish notice.

City Administrative Fee such that the Contractor remains whole. The City shall notify the Contractor of the new City Administrative Fee for the following year by March 1st, and the Contractor shall itemize and include the appropriate adjustment in its rate modification notice to the City each year. In the event that the City Administrative Fee is adjusted, either up or down, the Contractor shall add or subtract an amount equivalent to the state business and occupations tax, as may be adjusted from time to time by the State of Washington, to the rate adjustment calculation to keep the Contractor whole.

ARTICLE IX - BILLING SERVICES AND CUSTOMER EDUCATION

9.1 Contractor Billing

Contractor shall be responsible for billing and collection of all charges, fees and taxes for the collection of City Solid Waste pursuant to this Contract. Contractor shall also perform all customer service functions related to billing and responding to any Customer inquiries. If City ever levies a utility tax or other gross receipts tax, Contractor agrees to collect and remit such taxes to the City without any additional charge for the administrative expense incurred in collection and remitting such taxes.

9.2 Collection for Non-Payment

The Contractor may bill to Customers a late payment fee, interest, NSF check charges, as well as all costs associated with bad debt collection. Interest shall accrue on delinquent charges at the rate set forth by the Contractor until paid in full, but shall not exceed usury rates established in Chapter 19.52 RCW. If a Customer becomes sixty (60) days delinquent on a Contractor invoice, Contractor shall reduce their service to the minimum service level within their class of service. The Contractor may make arrangements for third party collection and/or lien the property for the debt and may petition the City to discontinue service to any delinquent customer. The City shall not unreasonably withhold approval. In the event of discontinued service, the Contractor may charge a redelivery fee of \$25.00 should the Customer request to reinstate their service after paying all overdue balances. The redelivery fee in Exhibit B includes all three carts for Single-family Customers.

The Contractor shall provide the City with a listing of all delinquent customers on a monthly basis, by the thirtieth (30th) day of each month for the month preceding. The listing shall include customer name, address, regular subscription level, amount due on the account and number of days delinquent.

9.3 Suspending Collection from Problem Customers

The City and Contractor acknowledge that, from time to time, some Customers may cause disruptions or conflicts that make continued service to that Customer unreasonable. Those disruptions or conflicts may include, but not be limited to, repeated damage to Contractor-owned Carts/Containers, repeated refusal to position Garbage, Recyclables and Compostables containers properly for automated collection, repeated suspect claims of timely set-out followed by demands for return collection at no charge, repeated claims of Contractor damage to a Customer's property, or other such problems.

The Contractor shall make reasonable efforts to provide service to those problem Customers. However, the Contractor may deny or discontinue service to a problem Customer if reasonable efforts to accommodate the Customer and to provide services fail and the City has provided approval. The City may not unreasonably withhold approval. The City may also require the denial or discontinuance of service to any Customer who is abusing the service or is determined to be ineligible.

9.4 Promotion, Education, and Outreach

The Contractor shall have primary responsibility for developing, designing and executing general waste reduction/recycling public education and outreach programs, with the assistance and cooperation of the City. The Contractor shall have primary responsibility for providing service-oriented information and outreach to Customers and implementing ongoing recycling promotion, at the direction of the City. ~~The Contractor shall develop, design and distribute at least annually to each customer, education materials describing what constitutes hazardous and dangerous waste and notifying the customer that the Contractor may collect additional fees if hazardous or dangerous wastes are improperly disposed of in solid waste containers.~~

The Contractor shall keep the public informed of programs and encourage participation through an Annual Service Update. The Contractor shall provide an Annual Service Update for the Residential and Multi-Family sector, the format, content and timeframe of which shall be subject to prior review and approval by the City. The Annual Service Update shall be mailed to all Residential Customers and Multi-Family Property Managers and, at a minimum, shall include an informational brochure indicating all services available, preparation and other service requirements, contact information, inclement weather and other policies, a collection calendar, resources for customer education on hazardous waste and stating that hazardous waste is not accepted and that additional fees may be incurred, and other useful Customer information.

The Contractor shall develop, print, periodically update and maintain sufficient quantities of new Customer information materials, the format and content of which shall be subject to prior review and approval by the City. Upon approval, materials shall be delivered in a manner agreeable to the City to every new Residential Customer prior to the Customer's first billing and shall, at a minimum, include a statement of applicable rules and service policies, rates, services and preparation requirements, collection days in calendar format, Contractor customer service information and City contact information.

The Contractor shall annually contact all Commercial Customers to promote recycling services and conduct, as necessary, onsite audits, education, and options to reduce garbage service levels through various recycling programs.

ARTICLE X - DEFAULTS

10.1 Termination

Except for the occurrence or existence of Force Majeure, in the event of any material failure or refusal of Contractor to comply with any obligation or duty under this Contract, the City and Contractor shall meet and confer in good faith in an effort to agree on a resolution of

Commented [JK15]: If WM has already developed the materials, then there should be no disagreement over this section.

Commented [RM16R15]: **WM 6/26/15:** The disagreement is that we only advise that hazardous waste is not accepted in the garbage or recycling cart via the annual update. We provide a phone number and king county web address for more information but that is the maximum amount of information we include. We do not list out exactly what constitutes haz waste nor do we list fees since haz waste is not part of this contract nor are we allowed to collect per king county regs. I believe KC sends materials, but that is something solely held by KC. The paragraph below outlines our education duties with the annual mailer, which covers all the education pieces.

Commented [JK17]: Section 2.1.1 states that customers may be charged additional fees for HW, so they need to be informed of this somehow. No need to list specific fees, just a general notice of potential fee collection if HW is improperly disposed.

the breach. If the Parties are unable to agree on the informal resolution the breach, and the Contractor has violated a material provision of this Contract, the City may provide Contractor with written notice of the default, stating the specific reasons for default and the provisions of the Contract which have been violated. The Contractor shall then have thirty (30) days to cure such default, or commence to cure such default if it is of a nature that cannot be cured within the prescribed timeframe. If the Contractor fails to cure the default within the stated period, or fails to commence such cure in a manner reasonably satisfactory to remedy the stated reason, then the City may at its option terminate all or a portion of this Contract. The City reserves the right to pursue any remedy available at law for any default of the Contractor, including enforcement of the Bond.

The City shall be in default of this Contract if it violates any material provision of this Contract. The Contractor reserves the right to pursue any remedy available at law for any default by the City. In the event of default, the Contractor shall give the City written notice of the default, stating the specific reasons for default and the provisions of the Contract which have been violated. The City shall then have thirty (30) days to cure such default, or commence to cure such default if it is of a nature that cannot be cured within the prescribed timeframe. If the City fails to cure the default within the stated period, or fails to commence such cure in a manner reasonably satisfactory to the Contractor to remedy the stated reason, then the Contractor may at its option terminate this Contract.

10.2 Liquidated Damages

As a breach of the mandatory Collection service provided by this Contract would cause serious and substantial damage to City and its residents, and the nature of this Contract would render it impracticable or extremely difficult to fix the actual damage sustained by City by such breach, it is agreed that in case of breach of service, City may elect to collect liquidated damages for each such breach and Contractor shall pay City as liquidated damages and not as penalty, the amounts set forth in Exhibit C, such sums being the amount which City will be damaged by the breach of such services. An election to seek such remedy shall not be construed as a waiver of any remedies City may have as to any subsequent breach of services under this Contract. Liquidated damages shall not apply if the breach caused by a force majeure event.

Fines may be levied only with respect to Residential Collections and Commercial Garbage Collections. Fines may be levied if documented in an incident report presented by the City to the Contractor. The City reserves the right to make periodic, unscheduled inspection visits to determine the Contractor's compliance with the Contract terms. For multiple or continuous violations not falling within the previous sections, the City may assess a cumulative maximum fine of up to one thousand dollars (\$1,000.00). Any fine may be appealed by the Contractor to the City Council whose decision in the matter will be final.

Liquidated damages will be reasonably applied and may be levied only if documented in an incident report presented by the City to the Contractor. The Contractor shall be notified and provided a copy of an incident report and shall be given 24 hours to cure the problem (if applicable) before liquidated damages are invoiced to the Contractor, except in the case of incidents for which, due to the nature of the event, a "cure" is not possible. Such liquidated damages as City shall elect to collect shall be billed to Contractor and be paid within twenty (20)

days. Application of these damages may be appealed within ten (10) days by Contractor to the Contract Administrator, whose decision shall be final.

ARTICLE XI - ANNEXATION

11.1 Franchise Rights/Annexations

If the City annexes any property during the term of this franchise, then the provisions of RCW 35A.14.900 shall apply.

ARTICLE XII - MISCELLANEOUS

12.1 Non-Waiver

The failure of any Party to enforce any Contract provision is not and shall not be construed as a waiver of that provision. The payment or acceptance of compensation subsequent to any breach is not and shall not be construed as an acceptance of that breach. All waivers must be in writing.

12.2 Notices

Any notices to be sent to the City shall be sent to the Contract Administrator at the following address:

Attn: City Administrator
City of Pacific
100 3rd Avenue SE
Pacific, WA 98047

Any notices sent to Waste Management of Washington, Inc. shall be sent to:

Mary S. Evans, Area Director of Public Sector Services
Waste Management of Washington, Inc.
720 4th Avenue, Suite 400
Kirkland, WA 98033

12.3 Severability

If any provision of this Contract is held to be void, invalid or unenforceable under any applicable law by a court of competent jurisdiction, the remaining provisions of the Contract shall remain in effect and bind the parties.

12.4 Entire Agreement

This Contract and all Exhibits hereto constitute the entire agreement between City and Contractor, and there are no promises, conditions, terms, obligations, statements, or guarantees other than those contained herein. No modifications or amendments shall be valid unless in writing and fully executed by both parties.

12.5 Attorneys' Fees

In the event of any action or proceeding to enforce, interpret, construe, or otherwise resolve a dispute between the parties arising from any term, condition or provision of this Contract, the substantially prevailing party in such action or proceeding shall be entitled to recover, in addition to all other relief, from the other party, reasonable attorneys' fees incurred by the substantially prevailing party in connection with such action or proceeding, including but not limited to any appeal thereof.

12.6 Change in Service

Contractor shall give sixty (60) days written notice to the Contract Administrator of any change which affects the date of collection, provided that no change in the terms of this Contract may be made unless agreed to in writing by the Contract Administrator.

12.7 Assignment

This Contract may not be assigned or transferred by Contractor, without the prior written consent of the City Council, as evidenced by a City Resolution and the signature of the Mayor. The City may withhold its consent to assignment or transfer of this Contract, in its sole discretion. In the event of an unauthorized assignment or transfer, the City reserves the right to cancel or terminate the Contract.

12.8 Force Majeure

Provided that the requirements of this section are met, Contractor shall be excused from performance and shall not be liable for failure to perform under this Contract if Contractor's performance is prevented or delayed by acts of terrorism, acts of God, landslides, lightning, forest fires, storms, floods, typhoons, hurricanes, severe weather, freezing, earthquakes, volcanic eruptions, other natural disasters or the imminent threat of such natural disasters, pandemics, quarantines, civil disturbances, acts of the public enemy, wars, blockades, public riots, strikes, lockouts, or other labor disturbances, acts of government or governmental restraint or other causes, whether of the kind enumerated or otherwise, and whether foreseeable or unforeseeable, that are not reasonably within the control of the Contractor ("**Force Majeure**"). If as a result of a Force Majeure event, Contractor is unable wholly or partially to meet its obligations under this Contract, it shall give the City promptly written notice of the Force Majeure event, describing it in reasonable detail. The Contractor's obligations under this Contract shall be suspended, but only with respect to the particular component of obligations affected by the Force Majeure and only for the period during which the Force Majeure exists. The City and Contractor will engage in disaster preparedness planning to address service response in the event of an emergency or Force Majeure in an effort to minimize interruptions in performance under this Agreement.

12.9 Applicable Law / Venue

This Contract shall be governed by the laws of the State of Washington. Venue for any action hereunder shall be in King County Superior Court.

12.10 Independent Contractor

The Parties agree and acknowledge that Contractor is an independent Contractor and not an agent or employee of the City, and that no liability (except as provided herein) shall attach to

the City as a result of the acts or omissions of Contractor, its employees, agents, or assigns. Contractor shall have no authority to execute agreements or to make commitments on behalf of the City, and nothing contained in this Contract shall be deemed to create the relationship of employer and employee or principal and agent between the City and Contractor.

12.11 Subcontracting

The Parties intend that Contractor shall perform pursuant to the terms of this Contract with its own employees. However, in the event any incidental subcontractor services are necessary, Contractor agrees to be responsible for the standards of performance of any subcontractor. Contractor agrees that no subcontractor shall relieve Contractor of any obligations under this Contract.

12.12 Taxes and Fees

Contractor acknowledges that it is responsible for the payment of any local, state, or federal taxes or fees with respect to Contractor's agents and employees, and any taxes or licenses applicable to Contractor's business activity.

12.13 Insolvency; Right to Terminate Contract

In addition to other terms of this Contract, any or all of the following shall be considered events of default of this Contract, allowing the City to terminate the Contract if such events are not cured within 10 days of written notice: a) if Contractor petitions any court to be adjudged a bankrupt; b) if a petition in bankruptcy is filed in any court against Contractor; c) if Contractor is adjudged to be insolvent; d) if Contractor is adjudged to be bankrupt; e) if a receiver or other officer is appointed to take charge of the whole or any part of Contractor's property or to wind up or liquidate its affairs; f) if Contractor seeks reorganization under the Federal Bankruptcy Code, as amended; or g) if Contractor admits in writing its inability to pay its debts as they become due.

12.14 Reservation of Municipal Authority

The City specifically reserves the right to enact general municipal ordinances and resolutions affecting all businesses and persons in the City. Should the City make changes to their general municipal ordinance and resolutions which impact the solid waste business, the Contractor shall be notified at least thirty (30) days in advance of the date for which the ordinance or resolution is noted as an agenda item at a city council meeting.

12.15 Successors and Assigns

This Contract shall be binding upon the Parties and their successors and assigns.

12.16 Corporate Authority

Each individual executing this Contract on behalf of a corporation or entity represents and warrants that he/she is duly authorized to execute and deliver this Contract on behalf of the corporation or entity.

12.17 Dispute Resolution

In order to have an administrative mechanism for promptly mediating Customer complaints regarding billing for or the collection of Garbage, Recyclables, or Compostables, the

City and the Contractor agree as follows: 1) the Contractor shall first make a good faith effort to resolve a Customer's complaint; 2) in the event the Customer is not satisfied with the Contractor's resolution, the complaint shall be forwarded to the City's Mayor or Mayor's designee who shall resolve the complaint after discussing the matter with the Customer and the Contractor.

Agreed to as of this _____ day of _____, 2015:

City of Pacific

Waste Management of Washington, Inc.

By: _____
Mayor

By: _____
Its: _____

Attest:

By: _____
City Clerk

Approved as to form:

City Attorney

EXHIBIT A

LIST OF CITY FACILITIES

- 1). Pacific City Hall-100 3rd Avenue S.E.
 - 1 - 4 yard MSW 1x/week
 - 1 - 2 yard REC 1x/week
 - 1-64 gallon REC 1x/week
- 2). Pacific Fire and Police -133 3rd Avenue S.E.
 - 2-96gallon REC Carts 1x/week
 - 1-3yard MSW 1x/week
 - 1-64gallon REC 1x/week
- 3). Well – 521 Ellington Rd, Algona
- 4). Reservoir – 331 County Line Rd
- 5). All City Park Facilities
 - 5a). City of Pacific Blueberry Park – 117 5th Avenue SW
Serviced at 1 Milwaukee Boulevard & 5th
1-35gallon MSW 1x/week
 - 5b). City of Pacific Strawberry Park – 124 Strawberry Court SW
Serviced at Yakima Boulevard and Otter Dr.
 - 5c). City of Pacific Sunset Park – 240 Sunset Drive
 - 5d). Pacific City Park – 600 3rd Avenue SE
1-6yard MSW 1x/week
 - 5e). City of Pacific Rhubarb Park – xxx Rhubarb Street SW
Serviced at Rhubarb Street SW & Yakima
1-35gallon MSW 1x/week
 - 5f). City of Pacific Beaver Park – 550 Beaver Boulevard
Serviced at Coyote Dr. & Beaver Boulevard
1-35gallon MSW 1x/week
- 6). Pacific Algona Community Center Gymnasium – 305 Milwaukee Ave.
- 7). Pacific Algona Community Senior Center – 100 3rd Ave SE

EXHIBIT B
SERVICE RATE SCHEDULE

DRAFT

EXHIBIT C

LIQUIDATED DAMAGES

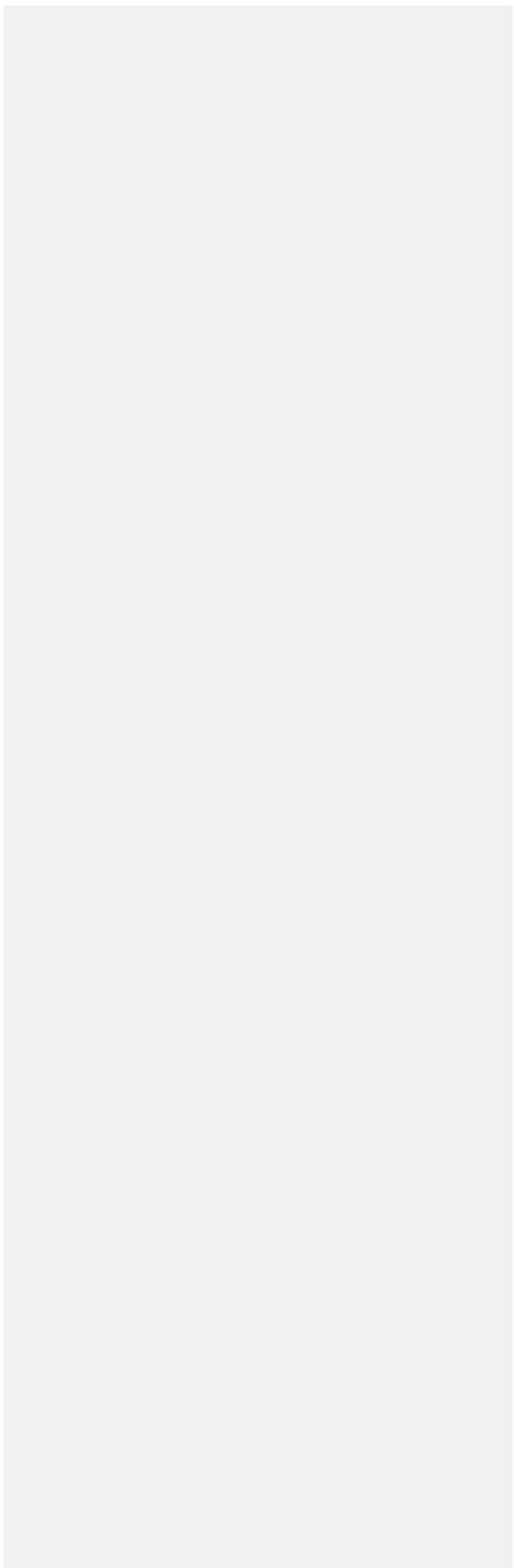
Missed collection that is not collected within a 24 hour period after being notified:	\$50.00 per incident to a maximum of \$500 per truck per day
Repetition of complaints on a route after notification to replace can or detachable container in designated locations, spilling, not closing gate, crossing planted areas, or similar violations:	\$25.00 per incident to a maximum of \$500 per truck per day
Commencement of residential collection prior to 6:00 a.m. or after 10:00 p.m. Also applies in other areas within 300 feet of residential sections.	\$100.00 per incident (each truck on each route is a separate incident)
Failure to collect spillage consistent with the provisions of this Contract (except where caused by overloading by the customer).	\$25.00 per incident
Collection from residential premises on other than the day specified without appropriate notice as specified in this Contract.	\$25.00 per structure, to a maximum of \$750.00 per truck, per day.
Failure to collect within twenty-four (24) hours after notification of a missed collection of an entire block segment of 1-4 unit residences. (This excludes collection days prevented by snow and ice, holiday rescheduling and construction).	\$150.00 per block segment.
Collection of material set out for pick up under different collection program, if clearly marked for recycling or charitable purposes if self-evident.	\$25.00 per incident, up to a maximum of \$750.00 per truck per day.
Failure to deliver recyclable materials or yard waste containers within seven (7) business days of notice.	\$10.00 per container, per day.
Misrepresentation by Contractor of records.	\$250.00 per incident report.
Failure to clean or replace detachable containers within seven (7) business days of notification by City.	\$25.00 per container per day.
Failure to maintain clean and sanitary cleaning facilities and vehicles.	\$25.00 per vehicle to a maximum of \$100.00 per visit.
Landfilling uncontaminated recyclables or yard waste.	\$100.00 per ton with no maximum; minimum of \$100.00 per incident.

Pursuant to Section 12.8 of the Contract, labor disturbances, such as strikes and lockouts, are Force Majeure events. However, notwithstanding Section 12.8, the City may assess the first liquidated damage item listed above for missed collections due to labor disturbance Force Majeure events if make-up collections are not performed within seven (7) days from the 24-hour make-up collection deadline. In the event that a labor disturbance causes Contractor to miss more than one regular service cycle/pick-up, the Contractor shall provide each such affected Customer credit for all service missed due to the labor disturbance including the first missed cycle. The credit shall be equal to or exceed the pro rata portion of the Customers' regular rate that is attributable to the missed service minus the average cost of disposal attributable to the missed service. The credit shall be placed on the Customer's next regular invoice.

DRAFT

EXHIBIT D
CITY SERVICE AREA

DRAFT





TO: Mayor Guier and City Council Members
FROM: Public Works
MEETING DATE: July 6, 2015
SUBJECT: KPG Agreement for Construction Management Services for Stewart Road Contract Amendment No. 1

ATTACHMENTS:

- Resolution
- Scope and Budget Amendment

Previous Council Review Date:

Summary: The attached Resolution provides approval of expenditures with KPG, Inc. for additional professional services for the coordination and management of construction activities for the Stewart Road Project. The Pacific City Council previously authorized by Resolution a professional services agreement between the City of Pacific and KPG, Inc. The additional services are required due to the delay caused by franchise utilities failing to relocate their infrastructure in a timely manner.

Recommendation/Action: Staff recommends Council approve Resolution No. 2015-271.

Motion for Consideration: Move to approve Resolution No. 2015-271, A RESOLUTION OF THE CITY OF PACIFIC, WASHINGTON, AUTHORIZING EXECUTION OF AMENDMENT NO. 1 TO A CONTRACT WITH KPG, INC. FOR ADDITIONAL CONSTRUCTION MANAGEMENT SERVICES FOR THE STEWART ROAD PROJECT.

Budget Impact: If accepted by City Council, the additional cost of the services not to exceed \$198,119.00 for total contract not to exceed \$577,776.79. Some of these costs are reimbursable through the TIB grant.

Alternatives: The City can choose to not amend the contract and complete the services by some other means.

**CITY OF PACIFIC
WASHINGTON**

RESOLUTION NO. 2015-271

A RESOLUTION OF THE CITY OF PACIFIC, WASHINGTON, AUTHORIZING EXECUTION OF AMENDMENT NO. 1 TO A CONTRACT WITH KPG, INC. FOR ADDITIONAL CONSTRUCTION MANAGEMENT SERVICES FOR THE STEWART ROAD PROJECT.

WHEREAS the City Council, by Resolution No 2014-155 approved a contract with KPG, Inc. for Construction Management services for the Stewart Road / Thornton Avenue S Improvements project; and

WHEREAS the project entails the day to day inspection / documentation services of the construction activity estimated to be 225 days (approximately 190 full time days and 35 part time days), processing contractor pay requests (compliance with federal payroll standards), reviewing contractor submittals, answering "Requests for Information", weekly property owner communications, surveying, and project close-out activities; and

WHEREAS the franchise utilities were not relocated in a timely manner extending the duration of construction time period by approximately 90 days, and

WHEREAS the added construction duration requires additional manpower to complete the inspection / documentation services of the construction activities.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PACIFIC, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1, The Pacific City Council hereby authorizes the execution of Amendment No.1 to the contract authorized by Resolution No 2014-155 between the City of Pacific and KPG, Inc. for Construction Management services for the Stewart Road / Thornton Avenue S Improvements project additional fees of \$198,119.00 for a total contract amount of \$577,776.79.

Section 2. This Resolution shall take effect and be in full force upon passage and signatures hereon.

CITY OF PACIFIC

LEANNE GUIER, MAYOR

ATTEST/AUTHENTICATED:

AMY STEVENSON-NESS, CITY CLERK

APPROVED AS TO FORM:

JAMES KELLY, ASSISTANT CITY ATTORNEY

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF PACIFIC AND
KPG, Inc.**

THIS AGREEMENT is made by and between the City of Pacific, a Washington municipal corporation (hereinafter the "City"), and KPG, Inc., (hereinafter the "Consultant,") a Corporation organized under the laws of the State of Washington on located and doing business at 2502 Jefferson Avenue, Tacoma, WA 98402.

RECITALS

WHEREAS, the City requires construction management services for the Stewart Road / Thornton Avenue Improvements Project; and

WHEREAS, the Consultant has agreed to provide qualified project administrators, construction engineers, surveyors, and inspectors qualified in the area of construction management services including as described herein;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

I. Description of Work.

The Consultant shall perform all work described in Exhibit A, which is attached hereto and incorporated herein by this reference.

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed Three Hundred Seventy Nine Thousand Six Hundred Fifty Eight Dollars (\$379,658.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in Exhibit A, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. PROVIDED, HOWEVER, the City reserves the right to direct the Consultant's compensated services under the time frame set forth in Section IV herein before reaching the maximum amount.

B. The Consultant shall submit monthly invoices to the City after such services have been performed, and a final bill upon completion of all the services described in this Agreement. The City shall pay the full amount of an invoice within sixty (60) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the

Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

III. Relationship of Parties

The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

IV. Duration of Work

The City and the Consultant agree that work will begin on the tasks described in Exhibit A immediately upon execution of this Agreement. The parties agree that the work described in Exhibit A shall be completed by March 31, 2016; provided however, that additional time shall be granted by the City for excusable days or extra work.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement, for public convenience, the Consultant's default, the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors, at any time prior to completion of the work described in Exhibit A. If delivered to Consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights Upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its Subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not by reason of race, religion, color, sex, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal Costs and attorneys' fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. The City's inspection or acceptance of any of the Consultant's work when completed shall not be grounds to avoid any of these covenants of indemnification.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, agents and Volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER. THE CONSULTANT'S WAIVER OF IMMUNITY UNDER THE PROVISIONS OF THIS SECTION DOES NOT INCLUDE, OR EXTEND TO, ANY CLAIMS BY THE CONSULTANT'S EMPLOYEES DIRECTLY AGAINST THE CONSULTANT.

The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

A. The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the Consultant's own work including the work of the Consultant's agents, representatives, employees, sub-consultants or sub-contractors.

B. Before beginning work on the project described in this Agreement, the Consultant shall provide evidence, in the form of a Certificate of Insurance, of the following insurance coverage and limits (at a minimum):

1. Business auto coverage for any auto no less than a \$1,000,000 each accident limit, and

2. Commercial General Liability insurance no less than \$1,000,000 per occurrence with a \$2,000,000 aggregate. Coverage shall include, but is not limited to, contractual liability, products and completed operations, property damage, and employers liability, and

3. Professional Liability insurance with no less than \$1,000,000. All policies and coverage's shall be on a claims made basis.

C. The Consultant is responsible for the payment of any deductible or self insured retention that is required by any of the Consultant's insurance. If the City is required to contribute to the deductible under any of the Consultant's insurance policies, the Contractor shall reimburse the City the full amount of the deductible within 10 working days of the City's deductible payment.

D. The City of Pacific shall be named as an additional insured on the Consultant's commercial general liability policy. This additional insured endorsement shall be included with evidence of insurance in the form of a Certificate of Insurance for coverage necessary in Section B. The City reserves the right to receive a certified and complete copy of all of the Consultant's insurance policies.

E. Under this agreement, the Consultant's insurance shall be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy will be considered excess coverage with respect to defense and indemnity of the City only and no other party. Additionally, the Consultant's commercial general liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.

F. The Consultant shall request from his insurer a modification of the ACORD certificate to include language that prior written notification will be given to the City of Pacific at least 30-days in advance of any cancellation, suspension or material change in the Consultant's coverage.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be discovered in the process of performing the work, and that the City is entitled

to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in Consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

XI. City's Right of Inspection

Even though the Consultant is an independent contractor with the authority to control and direct the performance, and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XII. Consultant to Maintain Records to Support Independent Contractor Status

On the effective date of this Agreement (or shortly thereafter), the Consultant shall comply with all federal and state laws applicable to Independent contractors including, but not limited to the maintenance of a separate set of books and records that reflect all items of income and expenses of the Consultant's business, pursuant to the Revised Code of Washington (RCW) Section 51.08.195, as required to show that the services performed by the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties which is subject to RCW Title 51, Industrial Insurance.

XIII. Work Performed at the Consultant's Risk

The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

XIV. Non-Waiver of Breach

The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances, shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options and the same shall be and remain in full force and effect.

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City of Pacific shall determine the term or provision's true intent or meaning. The City of Pacific shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor or Administrator's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in King County Superior Court, King County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:

KPG, Inc.
Attn: Mr. Terry Wright, P.E
2502 Jefferson Avenue
Tacoma, WA 98402

CITY:

Attn: City Engineer, Mr. James Morgan, P.E.
City of Pacific
100 – 3rd Ave. S.E.
Pacific, WA 98047

With a copy to the "City Clerk" at the same address.

XVII. Assignment

Any assignment of this Agreement by the Consultant without the written consent of the City shall be void. If the City shall give its consent to any assignment, this paragraph shall continue in full force and effect and no further assignment shall be made without the City's consent.

XVIII. Modification and Severability

No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reasons held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

XIX. Entire Agreement

The written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, this Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and any Exhibits attached hereto, which may or may not have been executed prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Agreement on this 12th day of May, 2014.

CONSULTANT

By: Terry Wright
Terry Wright

CITY OF PACIFIC

By: Leanne Guier
Leanne Guier, Mayor

Consultant:

KPG, Inc.
2502 Jefferson Avenue
Tacoma, WA 98402

APPROVED AS TO FORM:

City Attorney's Office

ATTEST:

Amy Steenerson-Ness
City Clerk

EXHIBIT A
SCOPE OF SERVICES

Construction Management Services

Scope of Work

May 21, 2014

Stewart Road / Thornton Avenue Improvement Project

This work will provide construction management services for the construction contract to complete the City of Pacific Stewart Road / Thornton Ave Improvements Project. These services will include design support, project management, documentation control, inspection, materials testing, public involvement, and contract administration during the construction of the project, as detailed below. KPG ("Consultant") will provide to the City of Pacific ("City") construction management services for the project.

A detailed scope for the Contract follows:

I. INTRODUCTION

The following scope of services and associated costs are based upon the assumptions outlined below.

General Assumptions:

- The **proposed project team** will include a part-time project manager, one part-time documentation control specialist, part-time project engineer during construction activities, one Part-time inspector during construction activities when unit price work is being performed, sub-consultants to provide services for materials testing.
- The level of service is based on project duration of approximately 10.5 months, or **225 working days**.
- Full time inspection of KPG staff has been budgeted for 190 full-time working days (8 hours), and half-time (4 hours) for the remaining 35 working days. Should additional inspection staff be required City staff will be utilized when additional inspection is required.
- It is anticipated that the KPG will develop the Record of Materials (ROM). This scope of services provides the management of the ROM and scheduling of required materials testing respectively.
- It is anticipated that the City will review and execute the insurance, bonds, and the Construction Contract.
- It is anticipated that the City will complete all grant funding forms.
- It is anticipated that the City will complete any required correspondence with outside agencies.
- Structural engineering reviews If required will be provided by others and are not included.
- It is anticipated that all Community Outreach will be completed by the City.

EXHIBIT A-1

- KPG will be available during construction to answer questions during construction and review RAM's, shop drawings, and answer RFI's.
- Services will be performed in accordance with the Contract plans & special provisions, and City of Pacific engineering standards.
- The franchised Utilities will provide field inspection for all work surrounding the construction or relocation of their utility systems if necessary.
- City/Field Office: The Contractor will provide a field office as required by the contract documents. The Consultants shall also have access to the field office.

II. SCOPE OF WORK

The objective and purpose of this Construction Management Services Agreement is for the Consultant to successfully deliver the construction of the Project to the City by ensuring that the improvements are constructed in accordance with the approved Plans and Specifications, as may be amended or revised, that all of the required Project documentation is accounted for.

TASK 1 – MANAGEMENT/COORDINATION/ADMINISTRATION

Provide overall project management, coordination with the City, monthly progress reports, and invoicing. This effort will include the following elements.

- Organize and layout work for project staff. Prepare project instructions on contract administration procedures to be used during construction.
- Review monthly expenditures and CM team scope activities. Prepare and submit project progress letters to the City along with invoices describing CM services provided each month. Prepare and submit reporting required by funding source(s), if any.

Deliverables

- *Monthly invoices and progress reports*

TASK 2 – PRECONSTRUCTION SERVICES

- 2.1 **Preconstruction Conference:** The Consultant will prepare an agenda for, distribute notices of, and conduct a preconstruction conference in the City's offices. The Consultant's project manager, resident engineer, inspector, and document control specialist will attend the preconstruction conference. The Consultant will prepare a written record of the meeting and distribute copies of the minutes to all attendees and affected agencies, staff, etc.

At the Pre-construction conference, the Consultant shall facilitate discussions with the Contractor concerning the plans, specifications, schedules, issues with utilities, unusual conditions, Federal, State, and local requirements and any other items that will result in better project understanding among the parties involved.

EXHIBIT A-1

Deliverables

- Preconstruction conference agenda with meeting minutes

TASK 3 – CONSTRUCTION SERVICES - FIELD

3.1 **On-site Observation:** The Consultant shall provide the services of one inspector during construction activities and other tasks necessary to monitor the progress of the work. Construction staff shall oversee the following items of work, on the project site, and will observe the technical progress of the construction, including providing day-to-day contact with the Contractor and the City. When additional inspection services are required City staff will be utilized.

- Preparation to include mobilization, clearing and grubbing, removal of structures
- Grading, installation of drainage and storm sewer
- Walls, HMA paving, Erosion Control and Planting
- Signal System at Stewart Road and Thornton Ave, permanent signing, illumination system, and Signal System at Stewart Road and SR 167 NB Ramps.
- Driveways, curb, gutter and sidewalk
- And all incidental items necessary to complete the Work as described in the Plans and/or Specifications.
- Coordination of Traffic Control with City.

Field inspection staff will perform the following duties as a matter of their daily activities:

- i. Observe technical conduct of the construction, including providing day-to-day contact with construction contractor, City, utilities, and other stakeholders, and monitor for adherence to the Contract Documents. The Consultant's personnel will act in accordance with Sections 1-05.1 and 1-05.2 of the Standard Specifications.
- ii. Observe material, workmanship, and construction areas for compliance with the Contract Documents and applicable codes, and notify construction contractor of noncompliance. Advise the City of any non-conforming work observed during site visits.
- iii. Document all material delivered to the job site in accordance with the contract documents.
- iv. Prepare daily inspection reports, recording the construction contractor's operations as actually observed by the Consultant; includes quantities of work placed that day, contractor's equipment and crews, and other pertinent information.
- v. Interpret Contract Documents in coordination with the City and KPG.
- vi. Resolve questions which may arise as to the quality and acceptability of material furnished, work performed, and rate of progress of work performed by the construction contractor.
- vii. Establish communications with adjacent property owners. Respond to questions from property owners and the general public.

EXHIBIT A-1

- viii. Coordinate with permit holders on the Project to monitor compliance with approved permits, if applicable.
- ix. Prepare field records and documents to help assure the Project is administered in accordance with the funding requirements.
- x. Collect and calculate delivery tickets and salesman's daily reports of aggregate. All tickets will be initialed with correct bid item and stationing identified (Construction Manual 10-2).
- xi. Attend and actively participate in regular on-site weekly construction meetings.
- xii. Take periodic digital photographs during the course of construction, and record locations.
- xiii. Coordinate with the City's maintenance personnel.
- xiv. Punch list. Upon substantial completion of work, coordinate with the Client and affected agencies, to prepare a 'punch list' of items to be completed or corrected. Coordinate final inspection with those agencies.

Assumptions:

- Due to limited budget and the number of working days it is assumed that a KPG inspector will only be required for 190 full-time working days (8 hours/day) and the remainder of the working days the inspector will be half-time (4 hours/day).
- The Consultant's monitoring of the construction contractor's activities is to ascertain whether or not they are performing the work in accordance with the Contract Documents; in case of noncompliance, Consultant will reject non-conforming work, and pursue the other remedies in the interests of the City, as detailed in the Contract Documents. The Consultant cannot guarantee the construction contractors' performance, and it is understood that Consultant shall assume no responsibility for: proper construction means, methods, techniques; project site safety, safety precautions or programs; or for the failure of any other entity to perform its work in accordance with laws, contracts, regulations, or City's expectations.

3.2 **Substantial Completion:** Upon substantial completion of work, coordinate with the City and other affected agencies, to perform a project inspection and develop a comprehensive list of deficiencies or 'punchlist' of items to be completed. A punchlist and Certificate of Substantial Completion will be prepared by the Consultant and issued by the City.

3.3 **Materials Testing:** Coordinate the work of the materials testing technicians and testing laboratories in the observation and testing of materials used in the construction; document and evaluate results of testing; and address deficiencies. Frequency of testing shall be determined by the resident engineer.

Deliverables

- Daily Construction Reports with project photos – submitted on a weekly basis
- Punch List, Certificate of Substantial Completion
- Review test reports for compliance

TASK 4.1 – CONSTRUCTION SERVICES – OFFICE

EXHIBIT A-1

- A. **Document Control.** Original documentation will be housed at the Consultant's office, and filed in accordance with standard filing protocol. A copy of working files will be maintained in the field office.

Document Control consists of:

- Final Estimate (Approving Authority File)
 - Comparison of Preliminary and Final Quantities (Approving Authority File)
 - Final Records (Approving Authority File)
 - Record of Material Samples and Tests
 - Affidavit of Wages Paid
 - Release for the Protection of Property Owners and General Contractor
- B. **Project Coordination:** Liaison with City, construction contractor, engineer, utilities and property owners on a regular basis to discuss project issues and status.
- C. **Plan Interpretations:** Provide technical interpretations of the drawings, specifications, and contract documents, and evaluate requested deviations from the approved design or specifications. Coordinate with City for resolution of issues involving scope, schedule, and/or budget changes.
- D. **Weekly Meetings:** Lead weekly meetings, including preparation of agenda, meeting minutes, and distribution of minutes to attendees. Outstanding issues to be tracked on a weekly basis.
- E. **Initial Schedule Review:** Perform detailed schedule review of contractor provided CPM for conformance with the contract documents.
- F. **Lump Sum Breakdown:** Evaluate construction contractors' Schedule of Values for lump sum items. Review the Contract Price allocations and verify that such allocations are made in accordance with the requirements of the Contract Documents. Lump Sum Breakdowns for payment each month will be calculated with detailed data.
- G. **Monthly Pay Requests:** Prepare monthly requests for payment, review with the City, contractor and approve as permitted. Utilize City provided format for pay estimates, or Consultant format.
- H. **Monthly Schedule Review:** At the monthly cutoff, review contractor's updated schedule and compare with field-observed progress, as described in Section 1-08 of the Special Provisions. In addition, perform schedule analysis on contractor provided CPM updates and review schedule for delays and impacts. Coordinate with Contractor in the development of recovery schedules, as needed, to address delays caused by either events or issues within the Contractor's control or other events or issues beyond the Contractor's control.
- I. **Certified Payroll:** The Consultant will Process and check the 1st certified payroll per State Prevailing Wage Requirements for the Prime and each Subcontractor. Thereafter, City Staff will track Certified Payroll each week for Prime and sub. Tracking of payroll shall consist of recording each payroll received from the Prime and Subcontractors and checking pay rates against Contract requirements.
- J. **Weekly Statement of Working Days:** Prepare and issue weekly statement of working day report each week.
- K. **Subcontractor Documentation:** Process / Approve all required subcontractor documentation. Request to Sublets will be verified and logged. This includes checking System Award

EXHIBIT A-1

Management System (SAMS), verifying business licensing, reviewing insurance documentation, verifying city business licensing, Intent to Pay Prevailing Wage and Affidavit of Wages Paid. All subcontractor documentation will be logged into KPG's subcontractor logs.

- L. **Cost Projections:** Prepare up to two cost projections for the project. Projections to be based on the current amount paid to date, pending change orders, quantity projections, and other information. A verbal memo to file at substantial completion will be written outlining all of the over/under-run.
- M. **Record Drawings:** Review record drawings prepared by the Contractor, and prepare a conformed set of project record drawings based on Contractor provided information and from inspection notes. Record drawings to be verified on a monthly basis, as part of the progress payment to the Contractor. Upon project completion, contractor provided markups will be verified for completeness and supplemented with inspection information. The Consultant will provide the marked up plan sheets with both the contractors and inspectors as-built information. Revisions to the CAD drawings are not included
- N. **Physical Completion Letter:** Following completion of all punchlist work, prepare physical completion letter to the contractor, and recommend that City and/or Utilities accept the project.
- O. **Project Closeout:** Transfer all project documents to the City for permanent storage.
 - Schedule review comments
 - As-built schedule
 - Meeting agendas and notes
 - Monthly Pay Estimates
 - Subcontractor Packets
 - Cost Projection
 - Physical Completion Letter
 - Final Project Documents

TASK 4.2 – SUBMITTAL/RFI PROCESSING

- A. **Submittals:** Coordinate review process for shop drawings, samples, traffic control plans, test reports, and other submittals from the Contractor for compliance with the contract documents. Key submittals to be transmitted to the City for their review and approval. Submittals shall be logged and tracked.
- B. **Request for Information (RFI):** Review and respond to RFI's. RFI's shall be logged and tracked.
- C. **Record of Materials (ROM):** Utilize ROM prepared by KPG and update based on Special Provisions and Plans for use on the project, based on the contract specifications. The ROM will be maintained by the Resident Engineer. The ROM will track all of the materials delivered to the site including manufacturer/supplier, approved RAM's, QPL items, material compliance documentation, and all other required documentation.

Deliverables

- Submittal log
- RFI Log
- Completed Record of Material.

EXHIBIT A-1

TASK 4.3 – CHANGE MANAGEMENT

- A. **Case Log:** Develop and maintain a case log which includes change orders, RFP's, Field Work Directives
- B. **Change Orders:** Develop change orders and provide technical assistance to negotiate change orders, and assist in resolution of disputes which may occur during the course of the project. Each change order will be executed in accordance with WSDOT Standard Specifications and contain the following:
- Change order
 - Contractor's Pricing
 - Verbal Approval Memo
 - Back up documentation
- C. **Field Work Directives:** Prepare field work directives as necessary to keep the contractor on schedule.
- D. **Minor Change Orders:** Develop minor change orders per WSDOT Standard Specifications. Each minor change order will be executed and contain the following:
- Verbal Approval Memo
 - Back up documentation
- E. **Force Account:** Track contractor force account labor, equipment and materials. All force account calculations will be verified by the engineer and double checked by the documentation specialist.

Deliverables

- Change Order(s)
- Case Management Log
- RFI Log
- Minor Change Order(s)
- Force Account Records

Assumptions:

- Material Certification will not be required.
- Independent Cost Estimates for change orders will provided by the City, if required by the City.
- Time Impact Analysis will be provided by the City, if required by the City.

Exhibit A-2

PROJECT SUMMARY			
<p>CLIENT: City of Pacific PROJ NAME: Stewart Road/Thornton Ave Improvement Project Job # 14057 PROJ MGR.: Terry Wright DATE: May 21, 2014</p>			
Task	Description	KPG ARCHIT/ENG	Totals
1.0	Management/Meetings/Admin.	\$13,724	\$13,724
2.0	Preconstruction Services	\$8,564	\$8,564
3.0	Construction Services - Field	\$166,544	\$166,544
4.0	Construction Services - Office	\$177,265	\$177,265
	Direct Expense, Incl Material Testing	\$13,560	\$13,560
Totals		\$379,658	\$379,658

Exhibit A-2



CLIENT: City of Pacific
PROJ NAME: Stewart Road/Thornton Ave Improvement Project
Job # 14057
DATE: May 21, 2014

SUMMARY OF STAFF LABOR HOURS REQUIRED BY TASK

TASK NO.	TASK DESCRIPTION	Classification							Total Hours	Task Total
		Project Mgr	Project Engineer	Documentation Specialist	Technician	Construction Observer	Administration			
1.0	Management/Meetings/Admin. Task 1 Hours =	174.02	106.84	94.14	75.83	99.37	75.83			
2.0	Preconstruction Services Task 2 Hours =	61.0					41.0			\$13,724.25
3.0	Construction Services - Field Task 3 Hours =	6.0	9.0	40.0	8.0	22.0	8.0			\$8,564.06
4.0	Construction Services - Office Task 4 Hours =	218.0	818.0	540.0		1676.0	4.0			\$166,544.12
										\$177,265.36
OTHER DIRECT COSTS										
	Other Direct Costs									
	Hours	285.0	827.0	580.0		1706.0	53.0			
	Total	\$49,596	\$88,357	\$54,601		\$169,525	\$4,019			
TOTALS										\$13,560.00
										KPG DESIGN SERVICES LABOR TOTAL = \$379,657.79

**PROJECT SUMMARY
EXPENSE ESTIMATE**



DATE: May 21, 2014

CLIENT: City of Pacific
 PROJ NAME: Stewart Road/Thornton Ave Improvement Project
 Job # 14057

Exhibit A-2

EXPENSE ITEM	Cost / Unit	Qty	Total
Travel - Mileage	0.56 \$ / mile	1000	\$560
Maps and Charts	- estimate	LS	\$0
11 X 17 Copies	0.35 \$ea	0	\$0
11 X 17 Plot Check Prints	1.00 \$ea	0	\$0
Color Reduction Prints 8 1/2 x 11	1.00 \$ea	0	\$0
Color Reduction Prints 11 x 17	1.50 \$ea	0	\$0
22 X 34 Copies	2.00 \$ea	0	\$0
22X34 Plot Check Prints Copy (Bond)	6.00 \$ea		\$0
Plots Large Vellum	8.00 \$ea	0	\$0
Plots Large Mylar	14.00 \$ea		\$0
Mountings 22 x 34	15.00 \$ea	0	\$0
Plot Prints Large Bond Color	22.00 \$ea	0	\$0
Photo Documentation	- estimate	LS	-
Postage	- estimate	LS	-
Courier Service	- estimate	LS	-
Construction Vehicle	600.00 Months	5	\$3,000
Material Testing Services	estimate	1	\$10,000
Total KPG In-House Expense =			\$13,560



CLIENT: City of Pacific
 PROJ NAME: Stewart Road/Thornton Ave Improvement Project
 Job # 14057
 DATE: May 21, 2014

Exhibit A-2

TASK 1 HOUR BREAKDOWN												
TASK NO.	TASK DESCRIPTION	Classification	STAFF LABOR HOURS REQUIRED BY TASK							Task Total		
			Project Mgr	Project Engineer	Documentation Specialist	Technician	Construction Observer	Administration	Total Hours	Total		
1.0	Management/Meetings/Admin. Months)		20.0								20	\$3,480
	Provide Monthly Progress Reports hrs/Month)		11.0						11.0		22	\$2,748
			30.0						30.0		60	\$7,496
OTHER DIRECT COSTS												
	Other Direct Costs											
	Hours Total		61						41		102	
	TOTALS		\$10,615						\$3,109			\$13,724



CLIENT: City of Pacific
PROJ NAME: Stewart Road/Thornton Ave Improvement Project
Job # 14057
DATE: May 21, 2014

Exhibit A-2

TASK 2 HOUR BREAKDOWN										
KPG - STAFF LABOR HOURS REQUIRED BY TASK										
TASK NO.	TASK DESCRIPTION	Classification	Project Mgr	Project Engineer	Documentation Specialist	Technician	Construction Observer	Administration	Total Hours	Task Total
2.0	Preconstruction Services									
	Contractor-Bid-Documentation-Review		2.0						14.0	\$1,478
	Record of Materials (ROM)		4.0	8.0	12.0			2.0	32	\$3,428
	Preconstruction Conference			1.0	8.0			6.0	15	\$1,315
	Project File Establishment				8.0				8	\$753
	Wage Rate Tracking & Request to Sublet						16.0		16	\$1,590
	Preconstruction Review									
OTHER DIRECT COSTS										
	Other Direct Costs									
	Hours		6.0	9.0	40.0		22.0	8.0	85	
	Total		\$1,044	\$962	\$3,766		\$2,186	\$607		\$8,564
TOTALS										\$8,564



- ◆ Architecture
- ◆ Landscape Architecture
- ◆ Civil Engineering

CLIENT: City of Pacific

PROJ NAME: Stewart Road/Thornton Ave Improvement Project

Job # 14057

DATE: May 21, 2014

Exhibit A-2

		TASK 3 HOUR BREAKDOWN								
		STAFF LABOR HOURS REQUIRED BY TASK								
TASK NO.	TASK DESCRIPTION	Project Mgr	Project Engineer	Documentation Specialist	Technician	Construction Observer	Administration	Total Hours	Task Total	
3.0	Working Days = 225.0 Construction Services - Field	\$174.02	\$106.84	\$94.14	\$75.83	\$99.37	\$75.83			
3.1	Daily Observation (8hrs/Day for 190 days than 4 hours for remainder)					1660.0		1660	\$164,954	
3.2	Substantial Completion					16.0		16	\$1,590	
3.3	Material Testing	See Expenses								
OTHER DIRECT COSTS										
	Other Direct Costs									
	Hours Total					1676.0		1676		
	TOTALS					\$166,544			\$166,544	



Architecture
Landscape Architecture
Civil Engineering

CLIENT: City of Pacific
 PROJ NAME: Stewart Road/Thornton Ave Improvement Project
 Job # 14057
 DATE: May 21, 2014

TASK NO. TASK DESCRIPTION

Total Weeks = 45.0
 4.0. Construction Services - Office
 Assumed Hrs/Week =
 Task 4 items Dependent on Time =
 Below Task 4 items not included in above.

4.1 M Record Drawings
 4.1 N Physical Completion Letter
 4.1 O Project Closeout
 4.2 Submittal/RFI Processing

OTHER DIRECT COSTS

Hours
Total

TOTALS

TASK NO.	TASK DESCRIPTION	TASK 4 HOUR BREAKDOWN						Total Hours	Task Total
		Project Mgr	Project Engineer	Documentation Specialist	Technician	Construction Observer	Administration		
		\$174.02	\$106.84	\$94.14	\$75.83	\$99.37	\$75.83		
4.0	Construction Services - Office	4.0	16.0	10.0				1350	\$150,611
	Task 4 items Dependent on Time =	180.0	720.0	450.0					
	Below Task 4 items not included in above.								
4.1 M	Record Drawings		8.0			8.0		16	\$1,650
4.1 N	Physical Completion Letter	2.0						2	\$348
4.1 O	Project Closeout	2.0	4.0				4.0	10	\$1,079
4.2	Submittal/RFI Processing	30.0	70.0	80.0				180	\$20,231
OTHER DIRECT COSTS									
	Hours	218.0	818.0	540.0		8.0	4.0	1588	
	Total	\$37,936	\$87,395	\$50,836		\$795	\$303		
TOTALS									\$173,918

Exhibit A-2



CLIENT: City of Pacific
 PROJ NAME: Stewart Road/Thornton Ave Improvement Project
 Job # 14057
 DATE: June 16, 2015

Classification		SUMMARY OF STAFF LABOR HOURS REQUIRED BY TASK										Total Hours	Task Total
		Project Mgr	Project Engineer	Documentation Specialist	Technician	Construction Observer	Administration						
TASK NO.	TASK DESCRIPTION	44.95	44.95	36.06	37.02	38.00	29.00						
1.0	Management/Meetings/Admin.												
	Task 1 Hours =						5.0					5	\$145.00
2.0	Preconstruction Services												
	Task 2 Hours =												
3.0	Construction Services - Field												
	Task 3 Hours =					630.0						630	\$23,940.00
4.0	Construction Services - Office												
	Task 4 Hours =	180.0	360.0	400.0	200.0							1,140	\$46,101.00
OTHER DIRECT COSTS													
	Other Direct Costs												\$5,360.00
	Hours	180.0	360.0	400.0	200.0	630.0	5.0					1,775	
	Total	\$8,091	\$16,182	\$14,424	\$7,404	\$23,940	\$145						
TOTALS												KPG CONSTRUCTION SERVICES LABOR TOTAL = \$75,546.00	



Architecture
 Landscape Architecture
 Civil Engineering

Utility Delay / Resolution of Utility Conflicts / Utility Coordination

CLIENT: City of Pacific

PROJ NAME: Stewart Road/Thornton Ave Improvement Project

Job # 14057

DATE: June 10, 2015

Classification

TASK NO.	TASK DESCRIPTION	SUMMARY OF STAFF LABOR HOURS REQUIRED BY TASK						Total Hours	Task Total
		Project Mgr	Project Engineer	Documentation Specialist	Technician	Construction Observer	Administration		
1.0	Management/Meetings/Admin. Task 1 Hours =	174.02	94.59	83.34	67.13	38.00	67.13		
2.0	Preconstruction Services Task 2 Hours =								
3.0	Construction Services - Utility Delay Task 3 Hours =					743.2		743	\$28,242.51
4.0	Construction Services - Utility Delay Task 4 Hours =	124.0	496.0	310.0				930	\$94,330.52
OTHER DIRECT COSTS									
Other Direct Costs									
	Hours	124.0	496.0	310.0		743.2		1,673	
	Total	\$21,578	\$46,917	\$25,835		\$28,243			
TOTALS		KPG DESIGN SERVICES LABOR TOTAL =							\$122,573.03



**PROJECT SUMMARY
EXPENSE ESTIMATE**

CLIENT: City of Pacific
 PROJ NAME: Stewart Road/Thornton Ave Improvement Project
 Job # 14057

DATE: June 10, 2015

EXPENSE ITEM	Cost / Unit	Qty	Total
Travel - Mileage	0.56 \$ / mile	0	\$0
Maps and Charts	- estimate	LS	\$0
11 X 17 Copies	0.35 \$ea	0	\$0
11 X 17 Plot Check Prints	1.00 \$ea	0	\$0
Color Reduction Prints 8 1/2 x 11	1.00 \$ea	0	\$0
Color Reduction Prints 11 x 17	1.50 \$ea	0	\$0
22 X 34 Copies	2.00 \$ea	0	\$0
22X34 Plot Check Prints Copy (Bond)	6.00 \$ea		\$0
Plots Large Vellum	8.00 \$ea	0	\$0
Plots Large Mylar	14.00 \$ea		\$0
Mountings 22 x 34	15.00 \$ea	0	\$0
Plot Prints Large Bond Color	22.00 \$ea	0	\$0
Photo Documentation	- estimate	LS	-
Postage	- estimate	LS	-
Courier Service	- estimate	LS	-
Construction Vehicle	600.00 Months	0	\$0
Material Testing Services	estimate	0	\$0
Total KPPG In-House Expense =			\$0



CLIENT: City of Pacific
 PROJ NAME: Stewart Road/Thornton Ave Improvement Project
 Job # 14057
 DATE: June 10, 2015

Classification

TASK NO.	TASK DESCRIPTION	TASK 1 HOUR BREAKDOWN							Total Hours	Task Total
		Project Mgr	Project Engineer	Documentation Specialist	Technician	Construction Observer	Administration	STAFF LABOR HOURS REQUIRED BY TASK		
1.0	Management/Meetings/Admin. (Months) Provide Monthly Progress Reports (hrs/Month)	\$174.02	\$94.59	\$83.34	\$67.13	\$38.00	\$67.13			
OTHER DIRECT COSTS										
Other Direct Costs										
Hours Total										
TOTALS										



CLIENT: City of Pacific
 PROJ NAME: Stewart Road/Thornton Ave Improvement Project

Job # 14057
 DATE: June 10, 2015

Classification

TASK NO.	TASK DESCRIPTION	TASK 2 HOUR BREAKDOWN						Total Hours	Task Total
		Project Mgr	Project Engineer	Documentation Specialist	Technician	Construction Observer	Administration		
2.0	Preconstruction Services	\$174.02	\$94.59	\$83.34	\$67.13	\$38.00	\$67.13		
	Contractor-Bid Documentation-Review								
	Record of Materials (ROM)								
	Preconstruction Conference								
	Project File Establishment								
	Wage Rate Tracking & Request to Sublet								
	Preconstruction Review								
OTHER DIRECT COSTS									
	Other Direct Costs								
	Hours								
	Total								
TOTALS									



Architecture
 Landscape Architecture
 Civil Engineering

CLIENT: City of Pacific
 PROJ NAME: Stewart Road/Thornton Ave Improvement Project
 Job # 14057
 DATE: June 10, 2015

TASK NO.	TASK DESCRIPTION	TASK 3 HOUR BREAKDOWN							Total Hours	Task Total
		Project Mgr	Project Engineer	Documentation Specialist	Technician	Construction Observer	Administration	STAFF LABOR HOURS REQUIRED BY TASK		
3.0	Construction Services - Utility Delay	\$174.02	\$94.59	\$83.34	\$67.13	\$38.00	\$67.13		743.2	\$28,243
3.1	Daily Observation (8Hrs/Day for 190 days than 4 hours for remainder)					743.2			743.2	\$28,243
3.2	Substantial Completion									
3.3	Material Testing	See Expenses								
OTHER DIRECT COSTS										
	Other Direct Costs									
	Hours					743.2			743.2	
	Total					\$28,243				\$28,243
TOTALS										\$28,243



Architecture
Landscape Architecture
Civil Engineering

CLIENT: City of Pacific
 PROJ NAME: Stewart Road/Thornton Ave Improvement Project
 Job # 14057
 DATE: June 10, 2015

Classification

TASK NO.	TASK DESCRIPTION	TASK 4 HOUR BREAKDOWN							Total Hours	Task Total
		Project Mgr	Project Engineer	Documentation Specialist	Technician	Construction Observer	Administration	STAFF LABOR HOURS REQUIRED BY TASK		
4.0	Construction Services - Utility Delay	\$174.02	\$94.59	\$83.34	\$67.13	\$38.00	\$67.13			
	Assumed Hrs/Week =	4.0	16.0	10.0						
	Task 4 Items Dependent on Time =	120.0	480.0	300.0				900	\$91,288	
	Below Task 4 items not included in above.									
OTHER DIRECT COSTS										
	Hours	124.0	496.0	310.0				930		
	Total	\$21,578	\$46,917	\$25,835						
TOTALS									\$91,288	



Agenda Bill No. 15-098

TO: Mayor Guier and City Council Members
FROM: Public Works
MEETING DATE: July 6, 2015
SUBJECT: Contract with KPG – Stewart Road Trail Survey

ATTACHMENTS:

- Resolution 2015-272
- Professional Services Contract Form
- Scope of Work

Previous Council Review Date: N/A

Summary: The City has accepted a grant from the Transportation Improvement Board (TIB) for improvements to the Stewart Road corridor, including the agreement to construct pedestrian facilities on both sides of the road. Specifically excluded from the original scope of work for design and construction of the Stewart Road improvements were the pedestrian facilities (multi-purpose trail) on the north side of the road, as these improvements were planned to be designed and constructed with previously awarded Surface Transportation Program (STP) Funds. The trail project was completed to the 50% level. The STP funds have subsequently been withdrawn. Staff have the technical abilities to complete the trail project design and construction management. However, an updated topographic survey is required to complete the design.

City staff have reviewed the Municipal Research and Services Center (MRSC) roster and determined that several firms are qualified to perform this work, including KPG, Inc. Staff negotiated a Scope of Work and Budget with KPG under the purchasing policy authority limits. The work is anticipated to be complete within three weeks of the notice to proceed.

Recommendation/Action: Staff recommends Council approve Resolution No. 2015-272.

Motion for Consideration: Move to approve Resolution No. 2015-272, A RESOLUTION OF THE CITY OF PACIFIC, WASHINGTON, AUTHORIZING EXECUTION OF A CONTRACT WITH KPG FOR SURVEYING SERVICES ASSOCIATED WITH THE STEWART ROAD TRAIL.

Budget Impact: \$10,320.

Alternatives: Complete the design with inadequate survey data and potentially pay for project change orders.

**CITY OF PACIFIC
WASHINGTON**

RESOLUTION NO. 2015 - 272

**A RESOLUTION OF THE CITY OF PACIFIC, WASHINGTON,
EXECUTING A CONTRACT WITH KPG, INC. FOR SURVEYING
SERVICES ASSOCIATED WITH THE STEWART ROAD TRAIL**

WHEREAS, the City has received money from the Transportation Improvement Board (TIB) for the design and construction of improvements on Stewart Road; and

WHEREAS, the City proposed the construction of a multi-purpose trail as designed to the fifty percent (50%) level on the north side of Stewart Road utilizing STP Grant funds, which were subsequently withdrawn by the funding agency; and

WHEREAS, a condition of the agreement with TIB is to provide pedestrian facilities on both sides of Stewart Road; and

WHEREAS, City staff have the technical abilities to complete the design and manage the construction of the multi-purpose trail on north side of Stewart Road; and

WHEREAS, a topographic survey of the current conditions of north side of Stewart Road are required to complete the construction documents; and

WHEREAS, the City staff have reviewed the Municipal Research and Services Center (MRSC) roster and determined that several firms are qualified to perform this work, including KPG, Inc.; and

WHEREAS, KPG, Inc. has recently performed surveying services in the corridor and are familiar with the survey monuments and controls; and

WHEREAS, KPG, Inc. has provided a scope of work and fee for the project; and

WHEREAS, staff has reviewed the proposed work and is satisfied with the proposal; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PACIFIC, WASHINGTON, DOES
RESOLVE AS FOLLOWS:

Section 1. The Pacific City Council hereby authorizes execution of the profession services contract with KPG, Inc. for surveying services associated with the Stewart Road Trail design, as attached and identified within the Scope of Services.

Section 2. This Resolution shall take effect and be in full force upon passage and signatures hereon.

CITY OF PACIFIC

LEANNE GUIER, MAYOR

ATTEST/AUTHENTICATED:

AMY STEVENSON-NESS, CITY CLERK

APPROVED AS TO FORM:

CAROL MORRIS, CITY ATTORNEY

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
RESOLUTION NO:

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF PACIFIC AND
KPG, INC.**

THIS AGREEMENT is made by and between the City of Pacific, a Washington municipal corporation (hereinafter the "City"), and KPG, Inc., (hereinafter the "Consultant,") a corporation organized under the laws of the State of Washington on located and doing business at 2502 Jefferson Avenue, Tacoma, WA 98402.

RECITALS

WHEREAS, the City requires topographic survey along the north side of Stewart Road to complete the design of the Stewart Road Trail; and

WHEREAS, the Consultant has agreed to perform topographic survey along the north side of Stewart Road in the vicinity of the proposed trail. The limits are from the northbound ramp of SR167 to the east side of the intersection with Valentine Avenue SE – 10' south of curb line to 10' north of right-of-way line as described herein;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

I. Description of Work.

The Consultant shall perform all work described in Exhibit A, which is attached hereto and incorporated herein by this reference.

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed Ten Thousand Three Hundred Twenty Dollars (\$10,320.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in Exhibit A, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. PROVIDED, HOWEVER, the City reserves the right to direct the Consultant's compensated services under the time frame set forth in Section IV herein before reaching the maximum amount.

B. The Consultant shall submit monthly invoices to the City after such services have been performed, and a final bill upon completion of all the services described in this Agreement. The City shall pay the full amount of an invoice within sixty (60) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the

Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

III. Relationship of Parties

The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

IV. Duration of Work

The City and the Consultant agree that work will begin on the tasks described in Exhibit A immediately upon execution of this Agreement. The parties agree that the work described in Exhibit A shall be completed by July 30, 2015; provided however, that additional time shall be granted by the City for excusable days or extra work.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement, for public convenience, the Consultant's default, the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors, at any time prior to completion of the work described in Exhibit A. If delivered to Consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights Upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its Subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not by reason of race, religion, color, sex, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal Costs and attorneys' fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. The City's inspection or acceptance of any of the Consultant's work when completed shall not be grounds to avoid any of these covenants of indemnification.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, agents and Volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER. THE CONSULTANT'S WAIVER OF IMMUNITY UNDER THE PROVISIONS OF THIS SECTION DOES NOT INCLUDE, OR EXTEND TO, ANY CLAIMS BY THE CONSULTANT'S EMPLOYEES DIRECTLY AGAINST THE CONSULTANT.

The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

A. The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the Consultant's own work including the work of the Consultant's agents, representatives, employees, sub-consultants or sub-contractors.

B. Before beginning work on the project described in this Agreement, the Consultant shall provide evidence, in the form of a Certificate of Insurance, of the following insurance coverage and limits (at a minimum):

1. Business auto coverage for any auto no less than a \$1,000,000 each accident limit, and

2. Commercial General Liability insurance no less than \$1,000,000 per occurrence with a \$2,000,000 aggregate. Coverage shall include, but is not limited to, contractual liability, products and completed operations, property damage, and employers liability, and

3. Professional Liability insurance with no less than \$1,000,000. All policies and coverage's shall be on a claims made basis.

C. The Consultant is responsible for the payment of any deductible or self insured retention that is required by any of the Consultant's insurance. If the City is required to contribute to the deductible under any of the Consultant's insurance policies, the Contractor shall reimburse the City the full amount of the deductible within 10 working days of the City's deductible payment.

D. The City of Pacific shall be named as an additional insured on the Consultant's commercial general liability policy. This additional insured endorsement shall be included with evidence of insurance in the form of a Certificate of Insurance for coverage necessary in Section B. The City reserves the right to receive a certified and complete copy of all of the Consultant's insurance policies.

E. Under this agreement, the Consultant's insurance shall be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy will be considered excess coverage with respect to defense and indemnity of the City only and no other party. Additionally, the Consultant's commercial general liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.

F. The Consultant shall request from his insurer a modification of the ACORD certificate to include language that prior written notification will be given to the City of Pacific at least 30-days in advance of any cancellation, suspension or material change in the Consultant's coverage.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be discovered in the process of performing the work, and that the City is entitled

to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in Consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

XI. City's Right of Inspection

Even though the Consultant is an independent contractor with the authority to control and direct the performance, and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XII. Consultant to Maintain Records to Support Independent Contractor Status

On the effective date of this Agreement (or shortly thereafter), the Consultant shall comply with all federal and state laws applicable to Independent contractors including, but not limited to the maintenance of a separate set of books and records that reflect all items of income and expenses of the Consultant's business, pursuant to the Revised Code of Washington (RCW) Section 51.08.195, as required to show that the services performed by the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties which is subject to RCW Title 51, Industrial Insurance.

XIII. Work Performed at the Consultant's Risk

The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

XIV. Non-Waiver of Breach

The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances, shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options and the same shall be and remain in full force and effect.

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City of Black Diamond shall determine the term or provision's true intent or meaning. The City of Black Diamond shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor or Administrator's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in King County Superior Court, King County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:

Attn: Mr. Terry Wright
KPG, Inc.
2502 Jefferson Avenue
Tacoma, WA 98402

CITY:

Attn: Mr. James Morgan, City Engineer
City of Pacific
100 – 3rd Ave. S.E.
Pacific, WA 98047

With a copy to the "City Clerk" at the same address.

XVII. Assignment

Any assignment of this Agreement by the Consultant without the written consent of the City shall be void. If the City shall give its consent to any assignment, this paragraph shall continue in full force and effect and no further assignment shall be made without the City's consent.

XVIII. Modification and Severability

No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

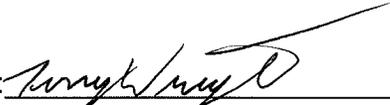
The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reasons held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

XIX. Entire Agreement

The written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, this Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and any Exhibits attached hereto, which may or may not have been executed prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Agreement on this 8th day of June, 2015.

CONSULTANT

By: 
Terry Wright, Its Principle

Consultant: KPA

CITY OF PACIFIC

By: _____
Leanne Guier, Mayor

APPROVED AS TO FORM:

City Attorney's Office

ATTEST:

City Clerk

EXHIBIT A SCOPE OF SERVICES

Stewart Road Topographic Mapping - North Side

Task 1 - Incorporate existing information from KPG Stewart Road project no. 14057 for existing and proposed right-of-way and existing property lines.

Task 2 - Topographic survey along the north side of Stewart Road in the vicinity of the proposed trail. Limits are from the northbound ramp of SR167 to the east side of the intersection with Valentine Avenue SE – 10' south of curb line to 10' north of right-of-way line.

The survey shall include the following:

- Current property boundaries
- All fixed objects – utility components, fences, etc.
- Curb and gutter
- Driveways
- Completed flat work

Survey will not include underground utility locates.

Task 3 – Basemap preparation

An AutoCAD file shall be generated to KPG drafting standards for the area surveyed. This file shall be in AutoCAD Civil 3D 2013 and shall include all point and surface data collected during the survey at a scale 1"=20'.

Base map will contain:

- Existing Surface with contours and contour labels
- Surface evidence of utilities
- Hatching for gravel, asphalt, and grass surfaces
- Existing features identified with call outs
- A legend showing blocks and linetypes
- North Arrow
- Notes describing horizontal and vertical datums, date of survey, etc.

**EXHIBIT A
(continued)
BUDGET**

City of Pacific
Mapping along N. side Stewart Rd
Topographic Mapping
5/11/2015

		Hours	Rate	Amount
Task 1	Incorporate existing information from project no. 14057 for R/W & P/L	8.00	\$120.00	\$960.00
Task 2	Topographic mapping of 20' swath centered on north curblines (1800 l.f. total)	36.00	\$150.00	\$5,400.00
	Coordination and Supervision.	4.00	\$120.00	\$480.00
Task 3	Base map preparation in Civil3D 2013, KPG Stds.	30.00	\$100.00	\$3,000.00
	Coordination and Supervision.	4.00	\$120.00	\$480.00
				<hr/> Total \$10,320.00

EXHIBIT A

SCOPE OF WORK

Stewart Road Topographic Mapping - North Side

Task 1 - Incorporate existing information from KPG Stewart Road project no. 14057 for existing and proposed right-of-way and existing property lines.

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City of Pacific
Mapping along N. side Stewart Rd
Topographic Mapping
5/11/2015

		Hours	Rate	Amount
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			<hr/>	
			Total	\$10,320.00



TO: Mayor Guier and City Council Members
FROM: Public Works
MEETING DATE: July 6, 2015
SUBJECT: Stewart and Valentine Groundwater Treatment Contract

ATTACHMENTS: Proposed Contract for Groundwater Treatment and Monitoring during Construction at Stewart Road SE and Valentine Avenue SE

Previous Council Review Date:

Summary: The attached Resolution provides approval of expenditures with Robinson Noble, Inc. for engineering services for the treatment and monitoring of groundwater during construction activities at Stewart Road and Valentine Avenue. Based on criteria established by city staff, Robinson Noble, Inc. was determined to be the most highly qualified firm among other firms on the MRSC roster. The negotiated price has been determined to be fair and reasonable.

City staff have reviewed the Municipal Research and Services Center (MRSC) roster and determined that several firms are qualified to perform this work, including Robinson Noble, Inc. Staff negotiated a Scope of Work and Budget with Robinson Noble, Inc. under the purchasing policy authority limits. The work is anticipated to be complete within three weeks of the notice to proceed.

Recommendation/Action: Staff recommends Council approve Resolution No. 2015-273.

Motion for Consideration: Move to approve Resolution No. 2015-273, A RESOLUTION OF THE CITY OF PACIFIC, WASHINGTON, AUTHORIZING EXECUTION OF A CONTRACT WITH ROBINSON NOBLE, INC. FOR ENGINEERING SERVICES ASSOCIATED WITH THE TREATMENT OF DEWATERING GROUNDWATER AND MONITORING AT STEWART ROAD AND VALENTINE AVENUE.

Budget Impact: If accepted by City Council, the additional cost of the services not to exceed \$84,440.00. After project completion and staff would apply for reimbursement of a portion of the total contract amount of site clean-up from the department of Ecology.

Alternatives: None recommended.

**CITY OF PACIFIC
WASHINGTON**

RESOLUTION NO. 2015-273

A RESOLUTION OF THE CITY OF PACIFIC, WASHINGTON, AUTHORIZING EXECUTION OF A CONTRACT WITH ROBINSON NOBLE, INC. FOR ENGINEERING SERVICES ASSOCIATED WITH THE TREATMENT OF DEWATERING GROUNDWATER AND MONITORING AT STEWART ROAD AND VALENTINE AVENUE.

WHEREAS the construction activity for the Valentine / 136th Avenue Corridor requires the dewatering of the of utility trenches for construction of water, sewer, and storm lines through the area of known hydrocarbon impacted groundwater; and

WHEREAS the construction dewatering must be treated prior to discharge into the King County sewer system as required by County Ordinance and as required by State law; and

WHEREAS based on criteria established by city staff, Robinson Noble, Inc. has been determined to be the most highly qualified firm among other firms considered and the negotiated price has been determined to be fair and reasonable;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PACIFIC, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1, The Pacific City Council hereby authorizes the execution of a contract between the City of Pacific and Robinson Noble for investigation and monitoring of groundwater at the intersection of Stewart Road and Valentine Avenue for fees of \$84,440.00.

Section 2. This Resolution shall take effect and be in full force upon passage and signatures hereon.

CITY OF PACIFIC

LEANNE GUIER, MAYOR

ATTEST/AUTHENTICATED:

AMY STEVENSON-NESS, CITY CLERK

APPROVED AS TO FORM:

JAMES KELLY, ASSISTANT CITY ATTORNEY

CITY OF PACIFIC PROFESSIONAL SERVICES AGREEMENT

THIS Agreement is made effective as of the _____ day of _____, 201____, by and between the City of Pacific, a municipal corporation, organized under the laws of the State of Washington, whose address is:

CITY OF PACIFIC, WASHINGTON (hereinafter the "CITY")
100 – 3rd Avenue S.E.
Pacific, Washington 98047
Contact: Mayor Leanne Guier Phone: 253-929-1100 Fax: 253-939-6026

and Robinson Noble, Inc., a corporation, organized under the laws of the State of Washington, doing business at:

ROBINSON NOBLE, INC. (hereinafter the "CONSULTANT")
2105 South C Street
Tacoma, Washington 98402
Contact: Michael Brady Phone: 253-475-7711 Fax: 253-472-5846

for professional services in connection with the following Project:

Water quality monitoring of the construction dewatering and retain the proper sub-consultants to provide the treatment services to be performed for utility placement in the Valentine (136th) Avenue corridor near the intersection of Stewart Road.

TERMS AND CONDITIONS

1. Services by Consultant.

A. Consultant shall perform the services described in the Scope of Work attached to this Agreement as Exhibit "A." The services performed by the Consultant shall not exceed the Scope of Work without prior written authorization from the City.

B. The City may from time to time require changes or modifications in the Scope of Work. Such changes, including any decrease or increase in the amount of compensation, shall be agreed to by the parties and incorporated in written amendments to the Agreement.

2. Schedule of Work.

A. Consultant shall perform the services described in the scope of work in accordance with the Schedule attached to this contract as Exhibit "A." If delays beyond Consultant's reasonable control occur, the parties will negotiate in good faith to determine whether an extension is appropriate.

B. Consultant is authorized to proceed with services upon receipt of a written Notice to Proceed.

3. **Terms.** This Agreement shall commence on August 1, 2015, (“Commencement Date”) and shall terminate on December 31, 2015 unless extended or terminated in writing as provided herein.

4. **Compensation.**

LUMP SUM. Compensation for these services shall be a Lump Sum of \$_____.

TIME AND MATERIALS NOT TO EXCEED. Compensation for these services shall not exceed Eighty Four Thousand Four Hundred Dollars (\$84,400.00) without written authorization and will be based on billing rates and reimbursable expenses attached hereto as Exhibit A.

TIME AND MATERIALS. Compensation for these services shall be on a time and material basis according to the list of billing rates and reimbursable expenses attached hereto as Exhibit “_____”

OTHER. _____

5. **Payment.**

A. Consultant shall maintain time and expense records and provide them to the City monthly after services have been performed, along with monthly invoices in a format acceptable to the City for work performed to the date of the invoice.

B. All invoices shall be paid by City warrant within sixty (60) days of receipt of a proper invoice. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

C. Consultant shall keep cost records and accounts pertaining to this Agreement available for inspection by City representatives for three (3) years after final payment unless a longer period is required by a third-party agreement. Copies shall be made available on request.

D. On the effective date of this Agreement (or shortly thereafter), the Consultant shall comply with all federal and state laws applicable to independent contractors, including, but not limited to, the maintenance of a separate set of books and records that reflect all items of income and expenses of the Consultant’s business, pursuant to Revised Code of Washington (RCW) 51.08.195, as required by law, to show that the services performed by the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties, which is subject to Title 51 RCW, Industrial Insurance.

E. If the services rendered do not meet the requirements of the Agreement, Consultant will correct or modify the work to comply with the Agreement. City may withhold payment for such work until the work meets the requirements of the Agreement.

6. **Discrimination and Compliance with Laws**

A. Consultant agrees not to discriminate against any employee or applicant for employment or any other person in the performance of this Agreement because of race, creed, color, national origin, marital status, sex, age, disability, or other circumstance prohibited by federal, state, or local law or ordinance, except for a bona fide occupational qualification.

B. Even though the Consultant is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be subject to the City's general right inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state and municipal laws, rules and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

C. Consultant shall obtain a City of Pacific business license prior to receipt of written Notice to Proceed.

D. Violation of this Paragraph 6 shall be a material breach of this Agreement and grounds for cancellation, termination, or suspension of the Agreement by City, in whole or in part, and may result in ineligibility for further work for City.

7. **Relationship of Parties.** The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

8. **Suspension and Termination of Agreement**

A. Termination without cause. This Agreement may be terminated by the City at any time for public convenience, for the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors.

B. Termination with cause. The Agreement may be terminated upon the default of the Consultant.

C. Rights Upon Termination.

1. *With or Without Cause.* Upon termination for any reason, all finished or unfinished documents, reports, or other material or work of Consultant pursuant to this Agreement shall be submitted to City, and Consultant shall be entitled to just and equitable compensation for any satisfactory work completed prior to the date of termination, not to exceed the total compensation set forth herein. Consultant shall not be entitled to any reallocation of cost, profit or overhead. Consultant shall not in any event be entitled to anticipated profit on work not performed because of such termination. Consultant shall use its best efforts to minimize the compensation payable under this Agreement in the event of such termination. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

2. *Default.* If the Agreement is terminated for default, the Consultant shall not be entitled to receive any further payments under the Agreement until all work called for has been fully performed. Any extra cost or damage to the City resulting from such default(s) shall be deducted from any money due or coming due to the Consultant. The Consultant shall bear any extra expenses incurred by the City in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the City by reason of such default.

D. Suspension. The City may suspend this Agreement, at its sole discretion. Any reimbursement for expenses incurred due to the suspension shall be limited to the Consultant's reasonable expenses, and shall be subject to verification. The Consultant shall resume performance of services under this Agreement without delay when the suspension period ends.

E. Notice of Termination or Suspension. If delivered to the Consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date as stated in the City's notice of termination, whichever is later. Notice of suspension shall be given to the Consultant in writing upon one week's advance notice to Consultant. Such notice shall indicate the anticipated period of suspension. Notice may also be delivered to the Consultant at the address set forth in Section 15 herein.

9. Standard of Care. Consultant represents and warrants that it has the requisite training, skill and experience necessary to provide the services under this agreement and is appropriately accredited and licensed by all applicable agencies and governmental entities. Services provided by Consultant under this agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing in similar circumstances.

10. Ownership of Work Product.

A. All data materials, reports, memoranda, and other documents developed under this Agreement whether finished or not shall become the property of City upon payment by the City for consultant's services, and shall be forwarded to City at its request and may be used by City as it sees fit. Upon termination of this agreement pursuant to paragraph 8 above, all finished or unfinished documents, reports, or other material or work of Consultant pursuant to this Agreement shall be submitted to City. Should the City use reports or other materials furnished by the consultant for purposes not reasonably connected to the Project, the City does so at its own risk and without liability to Consultant. The City agrees to defend, indemnify, and hold harmless Consultant and its owners and employees from any claim, damages, expenses or losses resulting from the City's use of report or other materials provided by consultant for uses other than those reasonably related to the project.

B. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in Consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

11. Work Performed at the Consultant's Risk. The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents and sub-consultants in the performance of

the work hereunder, and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

12. Indemnification. The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorneys' fees, arising out of or in connection with the negligent performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. The City's inspection or acceptance of any of the Consultant's work when completed shall not be grounds to avoid any of these covenants of indemnification.

Should a court of competent jurisdiction determine that this Agreement is Subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, agents and Volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER. THE CONSULTANT'S WAIVER OF IMMUNITY UNDER THE PROVISIONS OF THIS SECTION DOES NOT INCLUDE, OR EXTEND TO, ANY CLAIMS BY THE CONSULTANT'S EMPLOYEES DIRECTLY AGAINST THE CONSULTANT.

13. Insurance. The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

A. Minimum Scope of Insurance

Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
2. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 or a substitute form providing equivalent liability coverage and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury. The City shall be named by endorsement as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington and Employer's Liability Insurance.

4. Professional Liability insurance appropriate to the Consultant's profession.

B. Minimum Amounts of Insurance

Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.
4. Employer's Liability insurance each accident \$1,000,000; Employer's Liability Disease each employee \$1,000,000; and Employer's Liability Disease – Policy Limit \$1,000,000.

C. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability and Commercial General Liability insurance:

1. The Consultant's insurance coverage shall be primary insurance as respect the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.
2. The Consultant's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.
3. The City will not waive its right to subrogation against the Consultant. The Consultant's insurance shall be endorsed acknowledging that the City will not waive their right to subrogation. The Consultant's insurance shall be endorsed to waive the right of subrogation against the City, or any self-insurance, or insurance pool coverage maintained by the City.
4. If any coverage is written on a "claims made" basis, then a minimum of a three (3) year extended reporting period shall be included with the claims made policy, and proof of this extended reporting period provided to the City.

D. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

E. Verification of Coverage

Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.

14. Assigning or Subcontracting. Consultant shall not assign, transfer, subcontract or encumber any rights, duties, or interests accruing from this Agreement without the express prior written consent of the City, which consent may be withheld in the sole discretion of the City.

15. Notice. Any notices required to be given by the City to Consultant or by Consultant to the City shall be in writing and delivered to the parties at the following addresses:

Leanne Guier
Mayor
100 – 3rd Avenue S.E.
Pacific, WA 98047

Phone: 253-929-1100
Fax: 253-939-6026

ROBINSON NOBLE, INC.
Attn: Joseph E. Becker, President
2105 South C Street
Tacoma, Washington 98402

Phone: 253-475-7711
Fax: 253-472-5846

16. Resolution of Disputes and Governing Law.

A. Should any dispute, misunderstanding or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the Mayor, who shall determine the term or provision's true intent or meaning. The Mayor shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

B. If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor's determination in a reasonable time, or if the Consultant does not agree with the Mayor's decision on a disputed matter, jurisdiction of any resulting litigation shall be filed in King County Superior Court, King County, Washington.

C. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In any suit or action instituted to enforce any right granted in this Agreement, the substantially prevailing party shall be entitled to recover its costs, disbursements, and reasonable attorney's fees from the other party.

17. General Provisions.

A. Non-waiver of Breach. The failure of either party to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein contained in one or more instances, shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options, and the same shall be in full force and effect.

B. Modification. No waiver, alteration, modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

C. Severability. The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reason held by a court of competent jurisdiction to be invalid or

unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

D. Entire Agreement. The written provisions of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, the Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and the Exhibits attached hereto, which may or may not have been dated prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year set forth above.

CITY OF PACIFIC, WASHINGTON

CONSULTANT

By: _____
Leanne Guier
Mayor

By: 
Name: Joseph E Becker

Date: _____

Title: President

Date: 7/1/15

Attest:

By: _____
Amy Stevenson-Ness
City Clerk

APPROVED AS TO FORM:

By: _____
Carol A. Morris
City Attorney

**EXHIBIT A
SCOPE OF SERVICES**

Task 1. Wastewater Pretreatment Plan

Robinson Noble will subcontract with Clear Creek Systems, Inc. to develop a wastewater pretreatment plan suitable for submittal to the King County Industrial Wastewater Program as part of the Minor Discharge Authorization (No 951091) issued for the Valentine Avenue Reconstruction Project. For this task, we estimate a cost of approximately **\$3,760**. Table 1, below, summarizes the costs.

Table 1. Wastewater Pretreatment Plan Costs

Entity Description	Description	Cost
Robinson Noble, Inc.	Plan review, coordinating	\$585
Clear Creek Systems, Inc. (cost+ 15%)	Develop treatment plan	\$3,175
Task 1 Total		\$3,760

**Task 2. Implementation of Pretreatment Plan
(Water Quality Monitoring & Sampling)**

Robinson Noble personnel will provide water quality monitoring oversight and technical assistance with the wastewater pretreatment implementation, collect groundwater samples, and submit for analysis of target analytes (fats, oils, grease, benzene, toluene, ethylbenzene, and total xylenes) to an accredited laboratory. Additionally, Robinson Noble personnel will provide assistance as soil and/or groundwater contamination is encountered, we will provide field screening, sample collection for characterization, and submit samples for analysis gasoline- and diesel-range petroleum hydrocarbons. Robinson Noble will subcontract with Clear Creek Systems, Inc. for providing equipment and operations of the treatment system (including power supply). The complete Clear Creek Systems proposal and equipment details for the system to be utilized is attached to this letter. Robinson Noble will subcontract with Libby Environmental for laboratory analytical services and Langseth Environmental for tank cleaning and sludge disposal services. As scoped, disposal of sludge retained in the tanks and water used for cleaning will be disposed of at PRS Group of Tacoma, Washington. For this scope, we are estimating a total of 10,000 gallons of sludge at approximately 8 pounds per gallon of sludge (or approximately 40 tons of material) will be properly disposed.

For this task, we have used the one-month timeline (approximately 22 working days) to calculate equipment and man-hour costs, equating to approximately 176 hours of operations. We estimate a cost of \$58,525 for this task. Table 2, below, summarizes the costs.

Table 2. Treatment System Equipment, Sampling, and Operations Costs

Entity	Description	Cost
Robinson Noble, Inc.	Oversight, coordinating, sampling, field screening	\$12,020
Clear Creak Systems, Inc. (cost+ 15%)	Treatment System Operations	\$17,205
	Treatment System Equipment (includes mob/demob)	\$21,615
	Expendables (chemicals, booms, mileage, etc.)	\$2,225
	Power supply and equipment	\$4,400*
Libby Environmental (cost+ 15%)	Environmental laboratory analysis	\$3,535
Langseth E.S. (cost + 15%)	Equipment cleaning and sludge disposal	\$14,030*
Robinson Noble expenses, rentals, & equipment	PID, PPE, mileage, etc.	\$1,925
Task 2 Total		\$76,955

0 0 *power supply and tank cleaning /disposal costs not originally included in the May 18, 2015 scope of work

Task 3. Report of Treatment System Operations

Following the completion of the construction dewatering within the contaminated area, Robinson Noble personnel will provide the City with a technical report summarizing the treatment system operations and sample results. The report will be suitable for inclusion in the overall pretreatment report required by the King County Industrial Wastewater Program. For this task, we estimate a total cost of approximately **\$3,725**.

Total Project Cost Estimate

Based on our understanding of the project and the conditions outlined in this scope, we estimate the cost of the project to be **\$84,440**. Table 3, below, summarizes the costs associated with each task.

Table 3. Total Project Cost Estimate

Task 1	Pre-treatment work plan	\$3,760
Task 2	Treatment system equipment operations	\$76,955
Task 3	Report of Operations	\$3,725
Project Total		\$84,440

As a cost-savings measure for our clients, each Robinson Noble employee charges their time on a project according to the level of expertise required for a given task (i.e., employees may have more than one billing rate). This allows us to make use of our more experienced staff without unduly impacting project costs, but also means that our clients only pay for the level of expertise applied. Robinson Noble works on a time-and-expense basis according to the attached General Fee Schedule. This estimate will remain valid for 90 days from the date of this scope.

~~This project estimate does not include costs for any extra insurance, business licenses or fees, or applicable local taxes that might be necessary to complete the project. We will request that these additional costs be added to the above total estimate when they become known to us.~~ Rental costs for our standard field equipment and any specialized equipment as detailed in this scope are included in the above estimate. Should additional equipment be deemed necessary or warranted in order to properly complete the project, we will submit a change in scope request with estimated costs based on the equipment rental schedule included in the General Fee Schedule.



Agenda Bill No. 15-100

TO: Mayor Guier and City Council Members

FROM: John Calkins

MEETING DATE: July 06, 2015

SUBJECT: Police Explorer Program

ATTACHMENTS:

- Resolution No. 2015-274
- Interlocal Agreement

Previous Council Review Date:

Summary: The South Valley Explorer Post was founded in 2009 between the Cities of Sumner and Algona. The City of Pacific joined the Post in 2012. In 2015 there was an incident that occurred that has caused the three cities to re-write the Agreement. By Pacific signing this document, we formalize the Agreement.

Recommended Action: Allow the required Signatories to sign the Agreement.

Motion for Consideration: "I move to approve Resolution No. 2015-274 authorizing the mayor to sign the Interlocal Agreement with the Cities of Sumner and Algona regarding the Police Explorer Program."

Budget Impact: None

Alternatives: Not participate in the Explorer Program.

**City of Pacific
Washington**

RESOLUTION NO. 2015-274

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFIC,
WASHINGTON AUTHORIZING CITY OFFICIAL TO SIGN AN INTERLOCAL
AGREEMENT WITH THE CITIES OF ALGONA AND SUMNER TO FORMALIZE
PACIFIC'S PARTICIPATION IN THE SOUTH VALLEY EXPLORER POST.**

WHEREAS, the City of Pacific Police Department provides a Lead Explorer Advisor to oversee the Post, and

WHEREAS, the City of Pacific does utilize the services provided by the Explorer Post, and

WHEREAS, the citizens and our elected officials have expressed the desire to support the Post;

**THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
PACIFIC, WASHINGTON**

Section 1. The Pacific City Council hereby authorizes the City Officials to sign and enter into the 2015 Interlocal Agreement with Algona and Sumner for the South Sound Explorer Post, attached as Exhibit A.

Section 2. This Resolution shall take effect and be in full force upon passage and signatures heron.

**PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE
13th DAY OF JULY, 2015.**

Leanne Guier, Mayor

Amy Stevenson Ness, City Clerk

Carol Morris, City Attorney

**INTERLOCAL AGREEMENT
FOR
POLICE EXPLORER PROGRAM**

This Agreement is made and entered into on this ____ day of _____, 2015, between the Cities of Algona, Pacific and Sumner, all municipal corporations of the State of Washington, with respect to the following facts:

WHEREAS, in 2009 the Cities of Sumner and Algona entered into an Interlocal Agreement to operationally merge their Learning for Life Explorer Posts under the name South Valley Police Explorers; and

WHEREAS, the City of Pacific has jointly participated in the operations of the program since 2011; and

WHEREAS, the Cities desire to continue providing a Learning for Life Explorer Post in a cost effective manner which will avoid duplication of services; and

WHEREAS, the joint program has continued to be mutually beneficial to all Cities; and

WHEREAS, the Interlocal agreement needs to be updated to reflect current practices; and

WHEREAS, this Interlocal agreement is entered into for the mutual benefit of the parties and is specifically authorized by the Interlocal Cooperation Act set forth in Chapter 39.34 of the Revised Code of Washington.

NOW THEREFORE, IN CONSIDERATION OF THE PROMISES AND AGREEMENTS CONTAINED HEREIN, IT IS AGREED AS FOLLOWS:

Section 1. Purpose of Agreement. The purpose of this Agreement is to:

- A. Formalize the desires to continue the joint operation of a Learning for Life Explorer Post.
- B. To establish the basic operational processes necessary to operate a joint program.

Section 2. Basic Requirements.

- A. Each city shall be responsible for supplying a minimum of one advisor on a regular/continual basis. Before becoming an advisor the participating employee(s) shall complete the Learning for Life Youth Safety On-Line training. A copy of the training certificate will be provided to the City of Sumner.
- B. Explorers will participate in a minimum of one community event a year in each city. These events are:
 - 1. Algona: Algona Days, held traditionally in July of each year.
 - 2. Pacific: Pacific Days, held traditionally in July of each year.
 - 3. Sumner: Daffodil Parade, held traditionally in April of each year.

Section 3. Operations Board.

The Operations Board consists of all commissioned and civilian advisors from all participating cities. In addition one Explorer shall participate in the operations board. The board should meet quarterly to facilitate the planning and operations of the program.

- A. Lead Advisor: Responsible for the overall Explorer Program. Attend Washington Law Enforcement Explorer Advisor (WLEEA) meetings, or assign meeting attendance. This includes providing necessary documentation to Learning for Life, obtaining additional insurance coverage (WLEEA etc), event planning, tracking monthly hours and similar duties.
- B. Assistant Advisors: Assist with Explorer training and supervision. Perform duties of Lead Advisor as needed.
- C. Sumner Police Administrative Manager or Sumner Police Chief designee: An advisor who is responsible for administrative oversight of the program. Coordinate overall advisor training compliance; approve expenditures from Explorer Fiduciary Fund and other duties as needed.
- D. Police Explorer: Generally the Explorer holding the rank of Captain. The Explorer will participate in the planning of future training and events.

Annually an advisor will be selected to be the Lead Advisor. Consensus among all advisors will be used to determine which advisor will fill the Lead Advisor role. In the event a consensus cannot be reached the City's Police Department Directors will meet and determine who the Lead Advisor will be.

The Operations Board is responsible for:

- Developing, implementing, and enforcing the Explorer Program's policies and procedures.
- Responsible for approving civilian volunteer advisors.
- Reviewing financial reports provided by the City of Sumner.
- Recommending the approval of other jurisdictions wishing to join the South Valley Explorer Program. Jurisdictions wishing to join must do so via a separate Interlocal Agreement listing the Cities of Algona, Pacific and Sumner as Signatories.

Section 4. Finance. The South Valley Explorer Program is intended to be self-funding and may accept donations to assist with operational costs.

- A. Each city will be responsible for staff time to attend meetings, trainings, and events.
- B. All revenues shall be deposited into a fiduciary fund established and maintained by the City of Sumner. As expenditures are incurred they will be paid from the fiduciary fund.
 1. Upon request, but at least twice a year, the City of Sumner shall provide a financial status report to all involved cities.

2. The fiduciary fund is governed by the South Valley Police Explorers Fiduciary Fund Policy. This policy is written and approved by the participating agencies. The policy must cover the following areas:
 - Approved Revenues
 - Approved Expenditures
 - Purchasing Process / Limits
 - Purchase Reconciliation
- C. The fiduciary fund shall be audited by the Washington State Auditor's Office at the same time the City audit shall take place.
- D. Labor & Industries costs for the volunteer Explorers shall be paid by the City of Algona.
 1. The Lead Advisor shall be responsible for tracking the Explorers monthly hours and reporting those hours to the City of Algona.
 2. All parties agree that all officers, official, employees and volunteers will be covered under RCW Title 51, Industrial Insurance and shall adhere to all applicable rules and regulations.

Section 5. Access to Records. Duly authorized representatives of any participating city shall have the right to inspect the records and the financial records of the South Valley Explorer Program at any reasonable time.

Section 6. Termination. This Agreement may be terminated, without cause and for convenience, by any party by serving written notice of termination upon the other parties hereto sixty (60) days prior to the anticipated date of termination. In the event of termination, the remaining funds, after all outstanding invoices are paid, will be split evenly between the remaining cities.

Section 7. Mediation/Arbitration Dispute Resolution

- A. In the event any party should have a dispute relative to any of the terms and conditions of this agreement, or enforcement thereof, the cities agree to attempt to resolve such conflict first by negotiation between the Police Department Directors. If a dispute arises from or relates to this Agreement or the breach thereof and if the dispute cannot be resolved through direct discussion, the parties agree to endeavor first to settle the dispute in an amicable manner by mediation administered by a mediator under JAMS Alternative Dispute Resolution service rules or polices before resorting to arbitration. The mediator may be selected by agreement of the parties or through JAMS.
- B. Following mediation, or upon written agreement of the parties to waive mediation, any unresolved controversy or claim arising from or relating to this Agreement or breach thereof shall be settled through arbitration which shall be conducted under JAMS rules or policies. The arbitrator may be selected by agreement of the parties or thought JAMS. All fees and expenses for mediation or arbitration shall be borne by the parties equally. However, each party shall bear the expense of its own counsel, experts, witnesses, and preparation and presentation of evidence.
- C. In the event such effort is not successful, all parties shall resolve such dispute through the

Section 13. Severability. If any term or condition of this Agreement or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, conditions or application; to this end the terms and conditions of this contract are declared severable.

Section 14. Counterparts. This Agreement may be executed in three or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 15. Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes any prior agreements or understandings. Any modifications or amendments to this Agreement shall be in writing and shall be signed by each party.

Dated this _____ day of _____ 2015.

CITY OF ALGONA

David Hill, Mayor

Diana Quinn, City Administrator

ATTEST:

Laurie Ulrich, City Clerk

APPROVED AS TO FORM:

Danielle Evans, City Attorney

CITY OF PACIFIC

Leanne Guier, Mayor

Richard Gould, City Administrator

ATTEST:

Amy Stevenson-Ness, City Clerk

CITY OF SUMNER

David L. Enslow, Mayor

John Galle, City Administrator

ATTEST:

Terri Berry, City Clerk

APPROVED AS TO FORM:

Brett C. Vinson, City Attorney



TO: Mayor Guier and City Council Members

FROM: Richard Gould, City Administrator

MEETING DATE: July 6, 2015

SUBJECT: Setting Public Hearing Date for Solid Waste Services

ATTACHMENTS: Draft Resolution No. 2015-275

Previous Council Review Date: N/A

Background: The City issued an RFP for solid waste services in Pacific. The RFP stated that a public hearing would be held to solicit public input on the contract. Responses to the RFP were received. City staff evaluated the qualifications of the vendors, as described in the responses to the RFP. Based on the criteria established by the City Council, the City staff recommended to the Council one vendor that was initially determined to be the best qualified to provide solid waste services in Pacific – Waste Management. On May 18, 2015, at a special meeting, the City Council selected Waste Management of Washington, Inc. as the preferred provider of solid waste services in Pacific. Contract negotiations with Waste Management have been completed.

Summary: A public hearing was held on June 22, 2015, to receive public input regarding a draft contract. The contract was not ready for approval so a new public hearing needs to be held.

A new public hearing has been scheduled to receive public input on the proposed contract. The attached resolution will set the public hearing date for Monday, July 27, 2015, at approximately 6:30 p.m. for the public hearing.

Recommended Action: Approve Resolution No. 2015-275 setting the public hearing, directing the City Clerk to provide public notice of the public hearing.

Motion for Consideration: “I move to approve Resolution 2015-275 setting a public hearing on Monday, July 27, 2015 at approximately 6:30 p.m., to receive public input on the proposed solid waste services contract with Waste Management of Washington, Inc.”

Budget Impact: None

Alternatives: The City Council could decide to defer the public hearing which would require additional extensions to existing solid waste contracts. .

**CITY OF PACIFIC
WASHINGTON
RESOLUTION NO. 2015 - 275**

A RESOLUTION OF THE CITY OF PACIFIC, WASHINGTON, SETTING THE TIME AND PLACE FOR A PUBLIC HEARING ON JULY 27, 2015 AT 6:30 PM, OR AS SOON THEREAFTER, IN THE CITY OF PACIFIC COUNCIL CHAMBERS TO RECEIVE PUBLIC TESTIMONY REGARDING THE SOLID WASTE SERVICES PROPOSAL AND PROPOSED CONTRACT WITH WASTE MANAGEMENT OF WASHINGTON, INC.

WHEREAS, the City issued an RFP for solid waste services; and

WHEREAS, the City has, as a preliminary matter, selected Waste Management as the preferred provider of solid waste services in Pacific; and

WHEREAS, the City is currently engaged in negotiating a contract with Waste Management for solid waste services (the most recent draft is dated June 29, 2015;) and

WHEREAS, RCW 35.21.156(6) requires the legislative body of each city and town to hold a public hearing on the solid waste services proposal and proposed contract;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PACIFIC, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. That public testimony be heard regarding the solid waste services proposal and proposed contract with Waste Management of Washington, Inc. on Monday, July 27, 2015, at 6:30 p.m. in the Council Chambers of the City of Pacific, at Pacific City Hall, Pacific, Washington, or as soon thereafter as the same may be heard, and that

Section 2. The City Clerk is directed to provide Notice of such hearing as required by law.

PASSED BY THE CITY COUNCIL this 13TH day of July, 2015.

CITY OF PACIFIC

LEANNE GUIER, MAYOR

ATTEST/AUTHENTICATED:

AMY STEVENSON-NESS, CITY CLERK

APPROVED AS TO FORM:

CAROL MORRIS, CITY ATTORNEY



Agenda Bill No. 15-102

TO: City Council Members
FROM: Mayor Guier
MEETING DATE: July 6, 2015
SUBJECT: Purpose of the Governance Committee

ATTACHMENTS:

Previous Council Review Date: N/A

Summary: A discussion regarding the purpose of the Governance Committee has been requested to be added to the workshop agenda.

The Governance Committee was added as an ad hoc committee with the purpose of review and update of current municipal code items.

Recommended Action:

Motion for Consideration:

Budget Impact: None

Alternatives:



TO: Mayor Guier and City Council Members
FROM: John Calkins
MEETING DATE: July 6th, 2015
SUBJECT: Aggressive Begging

ATTACHMENTS:

- City of Auburn Ordinance Chapter 9.08, "Aggressive Begging".

Previous Council Review Date: July 6, 2015

Summary: The Public Safety Committee would like the ordinance to be discussed by the Council to decide whether to adopt a like ordinance for the City of Pacific to prohibit begging.

Recommended Action: None

Motion for Consideration: No motion

Budget Impact: None

Alternatives: N/A

Chapter 9.08 AGGRESSIVE BEGGING

Sections:

9.08.010 Aggressive begging.

9.08.010 Aggressive begging.

A. It is unlawful for any person to engage in aggressive begging in any public place in the city, as those terms are defined by this section.

B. As used in this section:

1. "Aggressive begging" shall mean: (a) begging with intent to intimidate another person into giving money or goods; (b) begging with use of false, misleading information; (c) begging with or involving activities that are unsafe or dangerous to any person or property, or begging at locations or in a manner that threatens the safety of persons or property, or that impedes or threatens to impede pedestrian or vehicular traffic; (d) begging in a manner that exploits children; or (e) willfully providing or delivering, or attempting to provide or deliver, unrequested or unsolicited services or products with a demand or exertion of pressure for payment in return.
2. "Begging" shall mean asking for money or goods as a charity, whether by words, bodily gestures, signs or other means.
3. "To intimidate" shall mean to coerce or frighten into submission or obedience, or to engage in conduct which would make a reasonable person fearful or feel compelled.
4. "Public place" shall mean: (a) any public road, alley, lane, parking area, sidewalk, or other publicly owned building, facility or structure; (b) any public playground, school ground, recreation ground, park, parkway, park drive, park path or right-of-way open to the use of the public; or (c) any privately owned property adapted to and fitted for vehicular or pedestrian travel that is in common use by the public with the consent, expressed or implied, of the owner or owners.
5. "Exploit" shall mean using in an unethical, selfish or abusive manner or in any other manner that gives an unfair advantage.
6. "Impeding or threatening to impede pedestrian or vehicular traffic" includes, but is not limited to:
 - a. Any begging activity that causes or is likely to cause either the person begging or the person being contacted by the person begging to enter a roadway lane of traffic on foot, other than in a marked crosswalk;
 - b. Any begging activity that occurs at an intersection controlled by lighted traffic signals, where that activity is between or involves a person or persons located in a sidewalk or along a public roadway and a person or persons in or on a vehicle traveling on a public roadway;

c. Any begging activity that causes or is likely to cause vehicles to stop at locations or times where/when disruptive to or not consistent with the flow of traffic.

C. Violation of this section shall be a misdemeanor, punishable by a fine up to \$1,000 or by a jail sentence of up to 90 days, or by both such fine and jail time. (Ord. 6200 § 1, 2008; Ord. 5918 § 1, 2005; Ord. 5682 § 1, 2002.)

The Auburn Municipal Code is current through Ordinance 6559, passed April 6, 2015.

Disclaimer: The City Clerk's Office has the official version of the Auburn Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.



Agenda Bill No. 15-104

TO: Mayor Guier and City Council Members
FROM: John Calkins
MEETING DATE: July 6, 2015
SUBJECT: **Dangerous Weapons**

ATTACHMENTS:

- City of Auburn Ordinance Chapter 9.34, "Firearms, Dangerous Weapons, Explosives."

Previous Council Review Date:

Summary: The Public Safety Committee wishes the Council review and discuss the attached Auburn Ordinance and decide whether the City of Pacific will ban the use of air-propelled guns, BB guns and pellet guns within the City limits. Currently, there is no prohibition of such guns.

Recommended Action: None

Motion for Consideration: None

Budget Impact: None

Alternatives: N/A

(6 hits)

Chapter 9.34 FIREARMS, DANGEROUS WEAPONS, EXPLOSIVES

Sections:

- 9.34.010 Weapons apparently capable of producing bodily harm – Carrying, exhibiting, displaying or drawing unlawful – Exceptions.
- 9.34.020 Weapons – Intoxicated persons – Places where liquor consumed.
- 9.34.030 Discharge of firearms in city prohibited.
- 9.34.900 Statutes incorporated by reference.

9.34.010 Weapons apparently capable of producing bodily harm – Carrying, exhibiting, displaying or drawing unlawful – Exceptions.

A. It is unlawful for anyone to carry, exhibit, display or draw any pistol, rifle, dagger, sword, knife or other cutting or stabbing instrument, club or any other weapon apparently capable of producing bodily harm, in a manner, under circumstances, and at a time and place that either manifests an intent to intimidate another or that warrants alarm for the safety of other persons. It is also unlawful, except as provided herein, for any person to possess or have within an area of dominion and control throwing stars and chako sticks. For the purposes of this section, "pistol" and "rifle" shall include but are not limited to pellet guns, B-B guns, air-propelled guns and similar devices. For the purposes of this section, "chako sticks" are defined as an instrument consisting of two or more sticks, clubs, bars or rods to be used as handles, connected by rope, cord, wire or chain in the design of a weapon used in connection with the practice of a system of self-defense, such as karate. In addition, for the purposes of this section, "throwing stars" are defined as an instrument consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use as a weapon.

B. Any person violating the provisions of subsection A of this section shall be guilty of a misdemeanor.

C. Subsection A of this section shall not apply to or affect the following:

1. Any act committed by a person while in his place of abode or fixed place of business in self-defense of such abode or business;
2. Any person who by virtue of his office or public employment is vested by law with a duty to preserve public safety, maintain public order, or to make arrests for offenses while in the performance of such duty;
3. Any person acting for the purpose of protecting himself against the use or presently threatened use of unlawful force by another, or for the purpose of protecting another against the use of such unlawful force by the third person;
4. Any person making or assisting in making a lawful arrest for the commission of a felony; or

5. Any person engaged in military activities sponsored by the federal or state governments.

6. Provisions relating to chako sticks or throwing stars shall not apply to or affect regularly enrolled members of clubs and associations organized for the practice, instruction or demonstration of self-defense arts involving chako sticks or throwing stars while such members are at, or are going to and from their place of residence, a practice session, an instruction session, a demonstration, or place of repair, or while such members are going from the place of purchase, providing that the chako sticks or throwing stars are in a carrying case in the possession of the owner. (Ord. 5682 § 1, 2002.)

9.34.020 Weapons – Intoxicated persons – Places where liquor consumed.

A. Any person other than the owner or manager approved as such by the Liquor Control Board who has in his possession or within his immediate physical control a deadly weapon while in an establishment where liquor or alcoholic beverages are served as a consumer thereof, or while under the influence of or affected by the use of intoxicating liquor or drugs as defined in RCW 46.61.506, shall be guilty of a misdemeanor, but this section shall not apply in the former case to customers partaking of alcoholic beverages with a meal and while seated, nor in the latter case to a person in his own residence.

B. The proprietor of all establishments where liquor or alcoholic beverages are consumed on the premises must advise patrons of the requirements of this section. A conspicuous sign stating "No Weapons Allowed" or other sign approved by the chief of police and indicating this section is sufficient notice. No notice needs to be given or posted in the dining area of an establishment with a separate lounge.

C. "Deadly weapon" means any explosive or loaded or unloaded firearm or fixed blade cutting or stabbing instrument, and includes any other weapon, device, instrument, article, or substance as defined in this section, which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious bodily injury. (Ord. 5682 § 1, 2002.)

9.34.030 Discharge of firearms in city prohibited.

The entire area of the city is a "no shoot" area. It is unlawful to shoot or discharge any firearm, pistol, rifle or similar device anywhere within the corporate limits of the city other than for the purposes of exercising the rights specified in RCW 9A.16.020. For the purposes of this section, "pistol" and "rifle" shall include but are not limited to pellet guns, B-B guns, air-propelled guns and similar devices. (Ord. 5682 § 1, 2002.)

9.34.900 Statutes incorporated by reference.

The following statutes are incorporated in this chapter by reference:

RCW

9.41.010 Terms defined

9.41.050 Carrying pistol

9.41.060 Exception to restriction on carrying pistol

- 9.41.070 Concealed pistol license – Application – Fee – Renewal
 - 9.41.075 Concealed pistol license – Revocation
 - 9.41.090 Dealer deliveries regulated – Hold on delivery
 - 9.41.094 Waiver of confidentiality
 - 9.41.0975 Officials and agencies – Immunity, writ of mandamus
 - 9.41.098 Forfeiture of firearms, order by courts – Return to owner – Confiscation by law enforcement officer
 - 9.41.100 Dealers to be licensed
 - 9.41.120 Firearms as loan security
 - 9.41.140 Alteration of identifying marks – Exceptions
 - 9.41.170 Alien's license to carry firearms – Exceptions
 - 9.41.220 Unlawful firearms and parts contraband
 - 9.41.230 Aiming or discharging firearms
 - 9.41.240 Possession of pistol by person from eighteen to twenty-one
 - 9.41.250 Dangerous weapons – Evidence – Penalty
 - 9.41.260 Dangerous exhibitions
 - 9.41.270 Weapons apparently capable of producing bodily harm, carrying, exhibiting, displaying or drawing unlawful – Penalty – Exceptions
 - 9.41.280 Possessing dangerous weapons on school facilities – Penalty – Exceptions
 - 9.41.300 Weapons prohibited in certain places – Local laws and ordinances – Exceptions – Penalty
 - 9.41.800 Surrender of weapons or licenses – Prohibition on future possession or licensing
 - 9.41.810 Penalty
 - 70.74.010 Definitions – Washington State Explosives Act
 - 70.74.290 Keeping explosive unlawfully
 - 70.74.295 Abandonment of explosives
 - 70.74.310 Gas bombs, explosives, stink bombs, etc.
 - 77.16.250 Loaded firearms in vehicles
 - 77.16.260 Shooting firearm from public highway
- (Ord. 5682 § 1, 2002.)

The Auburn Municipal Code is current through Ordinance 6559, passed April 6, 2015.

Disclaimer: The City Clerk's Office has the official version of the Auburn Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.
