

FOR COUNCIL MEETING OF: October 20, 1986

AGENDA CATEGORY

RECOMMENDATION

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

TO: MAYOR AND CITY COUNCIL  
 For Action  
 For Information

**RECEIVED**

OCT 14 1986

**CITY CLERK'S OFFICE  
SPOKANE, WA**

- |   |   |
|---|---|
| <input type="checkbox"/> Hearing                | <input type="checkbox"/> Accept             |
| <input type="checkbox"/> Annexation             | <input checked="" type="checkbox"/> Approve |
| <input type="checkbox"/> Report                 | <input type="checkbox"/> Deny               |
| <input checked="" type="checkbox"/> Contract    | <input type="checkbox"/> Place on File      |
| <input type="checkbox"/> Resolution             | <input type="checkbox"/> Set Hrg. / Review  |
| <input type="checkbox"/> Emergency Ord.         | Date For: _____                             |
| <input type="checkbox"/> First Rdg. Ord.        | <input type="checkbox"/> Defer / Continue   |
| <input type="checkbox"/> Report of City Manager | To: _____                                   |
|   | <input type="checkbox"/> Council Direction  |

Clerk's File # OPR 81-1053  
Eng. / LID # \_\_\_\_\_ BID # \_\_\_\_\_

**AGENDA WORDING:**

City of Spokane/Spokane County Interlocal Cooperation Industrial Sewage Pretreatment Agreement; Amendment #3

**BACKGROUND:**

The City of Spokane must develop and implement an industrial sewage pretreatment program pursuant to conditions contained in its wastewater discharge permit issued by the Washington State Department of Ecology. The County, similarly, pursuant to 40 CFR, Part 403, has legal obligations regarding industrial sewage pretreatment. This interlocal agreement amendment reflects the effort of the City and County to adopt and enforce coordinated local government regulatory programs aimed to ensure a safe and healthful environment. Details of the pretreatment program are being developed for further consideration later.

ENVIRONMENTAL FINDING: Positive

FISCAL IMPACT: None-Agreement coordinates City/County programs to be developed.

BUDGET ACCOUNT #: \_\_\_\_\_

ATTACHMENTS: (list) Agreement on file with Manager/Engineering Services (Received by Clerk's Office 10-20-86)

Signatures of:  
[Signature]  
Submitting Department  
[Signature]  
Manager (Finance, Administration, Engineering, or Planning)

[Signature]  
Legal  
[Signature]  
Finance

[Signature]  
Wastewater Management  
[Signature]  
City Manager

COUNCIL ACTION:  
AT ITS October 20, 1986  
MEETING, THE SPOKANE CITY COUNCIL  
DEFERRED CONSIDERATION OF THIS

MATTER FOR one week TO:  
Monday, October 27, 1986  
AT 7:00 P.M. IN THE COUNCIL CHBR.  
Marilyn J. Montgomery  
CMC, SPOKANE CITY CLERK

APPROVED & ADOPTED BY  
SPOKANE CITY COUNCIL:  
OCT 27 1986  
Marilyn J. Montgomery  
CITY CLERK

DISTRIBUTION AFTER COUNCIL ACTION:  
WA State DOE  
WA State Ofc of Community Affairs  
Spokane Co. Health District  
Environmental Affairs  
WWTP  
Legal  
Spokane Co. Utilities/Dobratz  
CCAF  
Form # 568 Rev. 8-84

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF  
SPOKANE COUNTY, WASHINGTON

IN THE MATTER OF EXECUTING AN )  
AMENDMENT TO THE CITY AND ) R E S O L U T I O N  
COUNTY WASTEWATER MANAGEMENT )  
AGREEMENT )

WHEREAS, pursuant to the provisions of the Revised Code of Washington Section 36.32.120(6) the Board of County Commissioners of Spokane County has the care of County property and the management of County funds and business; and

WHEREAS, pursuant to the provisions of RCW Chapter 36.94, the Board of County Commissioners of Spokane County may sell, construct, own and operate a sewerage system within the unincorporated areas of Spokane County; and

WHEREAS, pursuant to the provisions of RCW Chapter 36.94, the Board of County Commissioners of Spokane County has entered into an agreement with the City of Spokane, pursuant to which under certain terms and conditions the County has acquired ten MGD of wet weather interceptor capacity from the City for service in the Spokane Valley; and

WHEREAS, the City of Spokane and County of Spokane desire to modify that agreement dated December 11, 1980 as amended by that document entitled "Amendment No. 1 dated August 17, 1982" which modification establishes the general modification requiring the tentative schedule for the construction and the responsibility for financing certain modifications to the City's existing sanitary and storm sewer system which modifications have been reviewed and accepted by the Washington State Department of Ecology;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Spokane County that either the Chairman of the Board of County Commissioners of Spokane County or a majority of the Board be and is hereby authorized to execute that document entitled "City and County Wastewater Management Agreement Amendment No. 2 dated August, 1983," pursuant to which the City of Spokane and County of Spokane will modify that document entitled "City and County Wastewater Management Agreement" dated December 11, 1980 as modified by that document entitled "Amendment No. 1" dated August 17, 1982, which amendment establishes the general modification required, tentative schedule for construction, and responsibility for financing changes within the existing City of Spokane Sanitary and Storm Sewer System to accommodate ten MGD of wet weather interceptor capacity for service to the Spokane County Valley by the County of Spokane, which modification has been reviewed and accepted by the Washington State Department of Ecology.

PASSED and ADOPTED this 6 day of September, 1983.

BOARD OF COUNTY COMMISSIONERS  
OF SPOKANE COUNTY, WASHINGTON

ATTEST:

WILLIAM E. DONAHUE  
Clerk of the Board

By: [Signature]  
Deputy Clerk

[Signature]  
[Signature]  
[Signature]

86 0886

10/3/86

(changes shown)

City Clerk's File No. OPR 81-1053

CITY OF SPOKANE/SPOKANE COUNTY INTERLOCAL COOPERATION

INDUSTRIAL SEWAGE PRETREATMENT AGREEMENT

(Amendment #3, Interlocal Cooperation Agreement of December 22, 1980)

THIS AGREEMENT made and entered into this 14 day of October, 1986, between the City of Spokane, a municipal corporation, hereinafter known as the City, and the County of Spokane, a political subdivision, hereinafter known as the County.

W I T N E S S E T H:

WHEREAS, the City owns and operates a wastewater treatment system; and

WHEREAS, the County has purchased wastewater treatment system capacity pursuant to the service agreement, dated December 22, 1980; and

WHEREAS, the City must develop and implement an industrial pretreatment program pursuant to conditions contained in its wastewater discharge permit (Permit #WA-002447-3) issued by the State of Washington Department of Ecology (Ecology), in compliance with Ecology Order #DE 85-689; and

WHEREAS, the County desires to continue to utilize the wastewater treatment system and to recognize and comply with its industrial pretreatment obligations under 40 CFR Part 403;

NOW, THEREFORE, in consideration of the following terms and conditions, City and County agree:

1. AMENDMENT

This agreement may be referenced as City/County Wastewater Management Agreement, Amendment #3, Industrial Sewage Pretreatment. It amends and incorporates by reference the December 22, 1980, City/County Wastewater Management Agreement, as amended.

2. PURPOSE; INDUSTRIAL USER

A. This agreement recognizes a continuing cooperative relationship between the City and County of Spokane, to coordinate local and regional wastewater treatment needs, including development and implementation of a wastewater pretreatment program mandated by federal, state and local regulatory agency requirements and in accord with State Department of Ecology requirements, 40 CFR Part 403, and related laws.

B. The parties agree, subject to this agreement and applicable laws, that the County is responsible to develop and enforce its pretreatment program, ordinance, regulations and permits; PROVIDED, such program will be substantially equivalent to the City's program, ordinance, regulations and permits; and PROVIDED FURTHER, that the City may conduct inspections, monitor said program, test County discharge sources, and review any records, permits, or files related to the pretreatment program in the event federal, state or local regulations require the same and the County does not perform such tasks.

C. As used in this agreement, "industrial user" refers to a utility customer or premises connected to the City or County sewer system as defined in the City's pretreatment ordinance, and in accord with City practice. It also includes any significant discharge source designated as such by the City Director of Wastewater Management. PROVIDED, HOWEVER, in the event "City practice" or designation by the City Director of Wastewater Management is more restrictive than EPA or WDOE definitions, they shall be binding on the County only with its agreement.

### 3. PRETREATMENT PROGRAMS; ORDINANCES

A. In conformance with Washington State of Department of Ecology Order #DE 85-689, the City is in the process of adopting and implementing a pretreatment program, including a regulatory ordinance, implementing regulations, and adoption of utility service contract modifications and rate adjustments with City customers.

B. Within the time frames as established by WDOE, the County agrees to have adopted and put in force a substantially similar pretreatment ordinance as that of the City, and implementing regulations. For any City amendments or changes thereafter, the County will (~~initiate consideration of~~) enact such amendments or changes within (~~ninety (90) days~~) time frames established by the WDOE.

C. Within similar time periods, the County agrees to consider, adopt and implement utility service contract modifications, rates and related matters, as deemed necessary by the County, etc., to accomplish a pretreatment program substantially similar to the City's program.

D. This agreement shall not apply to matters outside the legal regulatory or contractual powers of the City or County or matters in contradiction of the requirements of any applicable law or order of the State Ecology Department or other lawful regulatory agency.

### 4. OTHER JURISDICTIONS; INDUSTRIAL USERS

For industrial users or other significant wastewater discharge sources, as defined in EPA or WDOE regulations, using the

County sewer system but located in other jurisdictions, the County agrees either to:

A. negotiate a City pretreatment compliance contract similar to this agreement and in compliance with state and federal law with said other jurisdiction; or

B. contractually impose industrial discharge permit requirements developed as part of the County pretreatment program and in compliance with state and federal law directly upon said industrial users or designated discharge source.

#### 5. RECORDS AND FILES; INSPECTIONS

A. All County files, ordinances and records developed or related to this agreement shall be freely open to inspection and copying by the City Director of Wastewater Management ((and the County appoints)). Said Director ((as its agent)) ~~to may~~ inspect, take samples or tests, or conduct other monitoring activities as he/she deems necessary to assure compliance with this agreement and any ordinance or program relating thereto.

B. Any authorized officer or employee of the City may enter and inspect, at no cost, at any reasonable time, any part of the sewer system of the County for the purpose of determining compliance with pretreatment requirements. "No cost," for the purpose of this section, means the County shall not impose any charge. It does not mean that the County shall be liable for any expenses incurred by the City. The right of entry and inspection shall include access to public streets, above and below ground, and easements and property within which the affected system is located. Additionally, the City shall be permitted, as appropriate and, upon reasonable notice to the County and the private owners, to enter onto private property to inspect sewage discharges. The right of inspection shall include on-site inspection of pretreatment and sewer facilities, observation, measurement, sampling, testing and access to (with the right to copy) all pertinent compliance records located on the premises of the industrial user or other significant discharge source identified by the City Director of Wastewater Management.

C. The County Utilities Director shall furnish, as requested, the City Director of Wastewater Management, free of charge, copies of County ordinances, applicable regulations, as adopted and amended, other interjurisdictional agreements, each industrial waste discharge permit acceptance form issued, and any contract entered into for the purposes of industrial or other sewage or waste control which may be required for the City to meet required federal, state, or local regulations and monitor compliance with this agreement. The County shall provide the City access to and copies of, if requested, all industrial or other pretreatment disclosure forms, industrial or other monitoring reports, including 40 CFR, Section 403.12 compliance reports, self-monitoring reports, baseline reports, records of violations and actions taken, and any other monitoring or reporting require-

ments imposed by federal, state, or local health regulations. These records and other relevant information shall be maintained by the County for City inspection for at least three (3) years.

#### 6. CITY REMEDIES.

A. Where the Director of Wastewater Management determines that the County has not adopted or implemented a pretreatment ordinance/program consistent with this agreement or has failed to satisfactorily implement or enforce the requirements established thereunder, or has otherwise failed to perform this agreement, he may issue a written notice to the County Utilities Director, specifying the nature of the default and any proposal to correct the same. The notice shall specify a reasonable compliance schedule.

B. Should the County fail to perform in accord with the notice within the time specified, the City may proceed to accomplish the terms thereof, at the County's expense and liability; PROVIDED, HOWEVER, if the County fails to agree with the written statement, it may appeal the same to a ((board of arbitration, mutually selected)) mutually selected arbitrator. For convenience, both parties will accept an Ecology official from WDOE designated by the Department as arbitrator.

C. In addition, if the Director of Wastewater Management determines that the County has failed or has refused to fulfill any federal, state, or local regulations concerning pretreatment obligations, or that any County industrial user or other significant discharge source identified by the City is violating the pretreatment ordinance or program, and if the County has not fulfilled its obligations after having received due notice, then the City may develop and issue a remedial plan containing a description of the nature of the pretreatment deficiencies, an enumeration of necessary steps to be taken by the County, and a reasonable time schedule for attaining necessary compliance with all pretreatment requirements. The County agrees to timely implement such plans; PROVIDED, HOWEVER, if the County has appealed any matter discussed herein to the ((Board)) entity designated in subparagraph 6-B herein, it shall have no legal duty to comply with the plan unless its appeal is denied.

D. Should any utility customer fail or refuse to comply with the pretreatment ordinance and program, or with the remedial plan, either the County or the City may seek, where deemed necessary, injunctive relief against such discharge.

#### 7. INDEMNITY.

The County shall indemnify the City for all loss, liability, damages, fines and costs incurred as a result of harmful industrial or other waste discharge from the County system of sewerage. The County shall reimburse the City for fines or costs stemming from injury to City personnel, damages to City facilities, disruption of treatment processes or operations, harmful

degradation of sludge quality, NPDES permit violations, and other air, water and sludge quality violations caused by industrial wastes received from the County's sewer system.

8. DANGER.

Where a discharge from the County or its customers to the City wastewater treatment system presents an imminent danger to the health and welfare of persons, or presents an imminent danger to the environment, or interferes with the operation of the wastewater treatment system, all in the judgment of the City Director of Wastewater Management, he may immediately initiate steps to identify the source of the discharge, and to halt or prevent said discharge. He may seek injunctive relief against outside jurisdictions and/or any industrial user or discharge source contributing to the emergency condition, and/or may pursue other remedies.

9. ADDITIONAL.

A. The County agrees to provide funds, personnel and resources as determined by the County as necessary to establish and enforce its pretreatment program.

B. The County agrees to develop and regularly update an Industrial User Survey similar to the City survey and notify the City of any significant changes regarding industrial dischargers subject to pretreatment within thirty (30) days of such change.

C. The City official in charge of administering the City's responsibilities herein is the City Director of Wastewater Management. The County official in charge of administering the County's responsibilities is the County Utilities Director. These persons function directly and through designees.

10. NOTICE.

The requirement of provision XI(D) of the original, December 22, 1980, contract to transmit notices by registered mail is modified to allow transmission by certified mail, in addition to any other permissible method.

11. TERM.

This agreement will remain in effect so long as the service agreement remains in effect. Termination of the service agreement shall also result in the termination of this agreement.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed by their proper officers this 14 day of October, 1986.

Interlocal Cooperation Agreement - continued

SPOKANE COUNTY

By: *Frank Sullivan*  
Chairman, Board of County  
Commissioners

ATTEST

*Rosanne Montoya*  
Clerk of the Board of  
Commissioners 86 0886

APPROVED AS TO FORM:

*James Macaul*  
County Prosecutor

ADOPTED by the City Council October 28, 1986.

CITY OF SPOKANE

By: *James Macaul*  
City Manager

ATTEST

*Marilyn J. Montgomery*  
City Clerk

Approved as to form:

*[Signature]*  
Assistant City Attorney

AMENDMENT #3 AND PRIOR EXISTING CONTRACT APPROVED:

Department of Ecology  
(RCW 39.34.050)

Office of Community Affairs  
(If applicable, RCW 39.34.120)

R E S O L U T I O N

WHEREAS, the City of Spokane and the County of Spokane entered into a Wastewater Management Agreement on December 11, 1980, which agreement was amended on September 6, 1983; and

WHEREAS, the existing Waste Water Management Agreement between the City and County requires the County, at its expense, to provide for separation of the sewers in the Mallon and Trent Basins as required by the Washington State Department of Ecology to reduce flow in the Interceptor to permit discharge of sanitary sewage flows from the County's Valley Interceptor Sewer; and

WHEREAS, the County now wishes to be released from this obligation so as to allow County funds to be utilized for construction of portions of the Valley Sewer System; and

WHEREAS, the City expects to receive grants from the Washington State Department of Ecology for combined sewer overflow abatement, including certain grant funds released by Spokane County which may be reallocated to the City of Spokane;

NOW, THEREFORE, the City Council of the City of Spokane hereby resolves:

In the event that the grant funds released by the County of Spokane are reallocated to the City of Spokane by the Washington State Department of Ecology, the City hereby agrees to revise the terms of the existing Wastewater Management Agreement to relieve the County of Spokane of the obligation, as set forth in Paragraph 2(c) of Amendment No. 2, dated September 6, 1983, to separate the storm sewers in the Trent and Mallon basins to provide additional capacity in the City's River Interceptor, to allow discharge of sanitary sewage from the Spokane Valley into the City's sewer system.

RES 84-22  
(OPR 81-1053)

Passed the City Council this 26<sup>th</sup> day of March, 1984.

Randyn J. Montgomery  
City Clerk

Approved as to form:

James C. Rosen  
City Attorney

Distributed by City Clerk's Office on 3/27/84 to:  
Board of County Commissioners  
Manager-Engineering  
Director, Public Works  
County Utility Engineer Wm. Dobratz  
Manager-Finance