

9/17 ac
AGENDA SHEET FOR COUNCIL MEETING OF: 9/9/96



Wastewater Mtce Gale Olrich 7900
Submitting Department Contact Person Phone Ext.

RECEIVED

CONSENT AGENDA
X Contract
0 Report

LEGISLATIVE SESSION
0 Resolution
0 Emergency Ordinance
0 Final Reading Ordinance
0 First Reading Ordinance
0 Special Consideration
0 Hearing

AUG 28 1996

CITY CLERK'S OFFICE
SPOKANE, WA

Clerk's Files: #0 PR 81-1053
Renews: #
Cross Reference: #
ENG/LID: #
BID: #

NEIGHBORHOOD/COMMISSION/COMMITTEE NOTIFIED BY SUBMITTING DEPARTMENT:

Area Manager: _____

Action Taken: _____

AGENDA WORDING: Amendment #4 to Wastewater Management Agreement between City and County of Spokane providing for City administration of County pretreatment program required by EPA regulations

COUNCIL PRIORITY & BACKGROUND (Attach separate sheet if necessary):

(2) City Service Delivery

Under federal clean water act regulations, local governments are required to adopt "pretreatment" ordinances assuring that certain identifiable significant industrial dischargers into the public sewerage systems pretreat their effluent prior to discharge. State and federal approval has been obtained for the city and county ordinances, which are substantially similar. This contract amendment addresses the implementation of the county's ordinance by allowing the City wastewater treatment department staff, which has developed specific expertise in pretreatment enforcement, to enforce the County ordinance in the unincorporated areas of Spokane County subject to County jurisdiction, under County official supervision and oversight. Provision is made for reimbursement of municipal costs of enforcement on a monthly basis, as billed by the City Wastewater Treatment Department to the County.

RECOMMENDATION: approve

FISCAL IMPACT: none Expenditure - \$ Budget Account: #
Revenue - \$ #

LIST ATTACHMENTS AS FOLLOWS:

On file for Review in Office of City Clerk: Contract Addendum #4

Include in Packets:

SIGNATURES OF SUBMITTING OFFICERS (sign legibly):

Department Head

Legal

Division Director

City Manager

DISTRIBUTION AFTER COUNCIL ACTION:

Wastewater treatment
Spokane County Director of Utilities
Manager Planning & Engineering

APPROVED BY
SPOKANE CITY COUNCIL:
September 16, 1996

CITY CLERK

COUNCIL ACTION:

September 9, 1996:
The Council did not consider the above matter at its September 9, 1996, meeting due to lack of quorum. The matter is deferred to Council's 3:30 p.m. Briefing Session on September 16, 1996. City Clerk

**AMENDMENT NO. 4 TO WASTEWATER MANAGEMENT AGREEMENT
BETWEEN THE CITY OF SPOKANE AND SPOKANE COUNTY**

THIS AMENDMENT, is made and entered into this 6 day of August 1996, by and between the CITY OF SPOKANE, a municipal corporation of the State of Washington, hereinafter referred to as the "City", and SPOKANE COUNTY, a political subdivision of the State of Washington, hereinafter referred to as the "County."

RECITALS

WHEREAS, the City currently owns and operates a general sewerage system within and without its corporate limits in Spokane County, Washington, including the operation of a regional wastewater treatment plant (RWWTP); and

WHEREAS, the County currently owns and operates a general sewerage system within the unincorporated portions of Spokane County, Washington; and

WHEREAS, Section 36.94.110 of the Revised Code of Washington (RCW) requires the City and the County to abide by the terms of the Comprehensive Wastewater Management Plan (CWMP) and any amendments thereto adopted by the County pursuant to Chapter 36.94 RCW, in the future development of their systems; and

WHEREAS, pursuant to RCW 36.94.190, the City and the County are authorized to contract with each other regarding the establishment, maintenance and operation of all or a portion of a system of sewerage; and

WHEREAS, pursuant to Chapter 39.34 RCW, two or more public entities may jointly cooperate to perform functions which each may perform individually; and

WHEREAS, pursuant to the City and County Wastewater Management Agreement executed between the County and the City and dated December 22, 1980(hereinafter referred to as the "1980 Agreement"), the City of Spokane agreed to reserve and the County agreed to purchase up to ten (10) million gallons per day capacity in regional wastewater treatment plant and interceptor system (RWWTP), for the purpose of providing for the County's wastewater treatment needs in accordance with the CWMP; and

WHEREAS, the 1980 Agreement was amended successively by the parties on August 17, 1982, September 6, 1983 and October 28, 1986; and

WHEREAS, pursuant to the 1980 Agreement, as amended, the County collects and discharges wastewater from the County's general sewerage system into the RWWTP for treatment and disposal; and

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WHEREAS, the 1980 Agreement, as amended, provides for the City and the County to establish a uniform program for pretreatment requirements, wherein each party is responsible to develop and enforce a pretreatment program in accordance with the City's National Pollutant Discharge System (NPDES) waste discharge permit requirements and applicable federal and state laws and regulations; and

WHEREAS, the 1980 Agreement, as amended, and without limitation, further:

A. Requires the County to adopt, amend and enforce a substantially similar pretreatment ordinance as adopted and amended by the City, and implementing regulations therefore, all within time frames established by the Washington Department of Ecology(WDOE);

B. Requires the County to adopt and implement utility service contract modifications and rate adjustments to accomplish a pretreatment program substantially similar to the City's program, within time frames required by WDOE;

C. Gives the City broad authority to monitor the County's pretreatment program to ensure the County's compliance therewith, and to implement and enforce the requirements of the County's pretreatment program and ordinance, at the County's expense, if the County fails to satisfactorily perform or implement such requirements;

D. Authorizes either the County or the City to seek injunctive relief against any utility customer of the County's system filing or refusing to comply with the County's pretreatment ordinance and program, or with any remedial plan issued to correct pretreatment deficiencies;

E. Requires the County to 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's system;

F. Requires the County to 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 similar regulatory violations caused by industrial wastes received from the County's system; and

WHEREAS, the 1980 Agreement, as amended, states that such agreement between the City and the County does not apply to matters outside the legal, regulatory or contractual powers of the City or County or contrary to applicable law or order of the WDOE or other regulatory agency; and

WHEREAS, the County has drafted a pretreatment ordinance for review by the City, the WDOE and the United States Environmental Protection Agency, and for adoption by the Board of County Commissioners of Spokane County; and

WHEREAS, in the process of developing the County's pretreatment program, the parties have reached agreement wherein the County will fund City staff to implement, manage and administer the County's pretreatment program and pretreatment ordinance under the authority of the Director of Spokane County Utilities; and

WHEREAS, the parties recognize that only the County has the legal authority to enforce County ordinances and regulations, and to prosecute and impose civil and criminal penalties for violations of the County's pretreatment ordinance occurring within the unincorporated area of Spokane County.

In consideration of the above recitals and the mutual promises below, the County and the City agree that the December 22, 1980 City and County Wastewater Management Agreement, as amended, is further amended as follows:

SECTION 1

A. The County agrees to retain the City, through its Wastewater Management Department, to implement, administer and manage the requirements of the County's regulatory pretreatment program and pretreatment ordinance (as now constituted or hereafter amended) for the County's general sewerage system within the unincorporated portion of Spokane County. The County, at the request of its Director of Utilities, may also retain the City, through its Wastewater Management Department, to assist the County in implementing, administering and managing the pretreatment provisions of sewer connection agreements which the County executes or has executed with other municipal corporations or sewer districts in Spokane County and which discharge sanitary sewage to the County's system.

B. The City shall:

1. Make contact with potential users, draft permits for users, which the County will review and forward with County letterhead to the user.
2. Endeavor to keep the program with assistance from County in compliance with State and Federal requirements.
3. Determine, administer, and implement compliance monitoring program for user; and prepare reports and forward to user and the County.
4. Copy all monitoring results to the County, as well as correspondence to users that indicate non-compliance with the program.
5. Prepare an annual summary for both the City and the County, and forward to appropriate regulatory agencies, as well as the County.

6. Publish all out of compliance users as required by Federal pretreatment regulations in local paper.

C. The County shall:

1. Update and complete an Industrial Waste survey, and do a follow up on non-responses.
2. Set up a program of continuing survey of new users.

SECTION 2

The County may also retain the City, through its Wastewater Management Department and legal departments, to assist the County with enforcement activities involving the County's regulatory pretreatment program and pretreatment ordinance. In conjunction with these enforcement activities, the City shall:

- A. Prepare all enforcement documents and forward to County. The County will review and forward to County prosecuting attorney for action.
- B. Coordinate all enforcement issues with County staff prior to any action by the City.
- C. Contact the County when changes to the City's pretreatment program or ordinance occur, to allow the County to comment and allow the County to make appropriate changes to its ordinance.

SECTION 3

The County shall have final decisional authority over implementation, administration, management and enforcement of the County's regulatory pretreatment program and pretreatment ordinance, subject to the remedies provided to the City in the December 22, 1980 City and County Wastewater Management Agreement, as amended, for the County's failure to satisfactorily implement and enforce the requirements of the County's pretreatment program and ordinance.

The City Director of Wastewater Management, or his designee, shall coordinate all functions to be performed by the City under this Amendment with the County Director of Utilities, or his designee.

SECTION 4

The County shall reimburse the City for all costs incurred by the City in providing services under this Amendment, based on the actual costs of labor, materials, equipment

rental and out of pocket expenditures, plus all associated costs for fringe benefits to labor, including but not limited to Social Security, retirement, industrial insurance, and medical aid, prorated sick leave, holidays and vacation time, and group medical and dental coverage.

SECTION 5

The City shall submit monthly billings to the County for its services performed and costs incurred pursuant to this Amendment, by invoice to the Division of Utilities, Public Works Building, West 1026 Broadway, Spokane, Washington 99260-0430. Payment by the County to the City shall be made within thirty (30) days of receipt by the County of a properly completed invoice from the City. Delinquent payments shall accrue interest at a rate of one percent (1%) per month.

The City's cost of overhead for the pretreatment program currently being paid by a proportionate share of flow basis at the meter will continue. In the event the County's portion of the pretreatment program results in an increase to the City's pretreatment overhead costs; the City and County will agree on an equitable adjustment in the billing from the City to the County. Current Point Source Specific charges that in the past have been detailed and billed separately to the County; will continue on a information basis only and no additional billing. The County will use this information to bill the source industrial user. The City and County may agree on an alternative method of billing the Point Source than described above as long as the resulting cost impact remains as described.

County will determine if the cost of pretreatment will be passed on to all customers, commercial customers, or a combination.

SECTION 6

The City is an independent contractor in the provision of service to the County under this Amendment, and City employees performing services pursuant to this Amendment, shall in no instance be considered as being employees of the County.

The County will determine what information needs to be sent on County letterhead or determine a standard cover letter that can be sent out to inform the user of the City/County arrangement.

City vehicles that visit County users will be unmarked.

City employees will have proper identification and documentation for all work performed in the County.

SECTION 7

The County shall defend and hold the City harmless from and against all claims, losses, demands, actions, suits or causes of action, of any nature whatsoever, arising out of the work to be performed under this Amendment, except to the extent caused by or arising out of the negligence of the City, respecting which negligence the City shall indemnify the County against all claims, losses, demands, actions, suits or causes of action, of any nature whatsoever arising therefrom or caused thereby.

SECTION 8

Either the City or the County may terminate this Amendment for any reason upon thirty (30) days written notice to the other. In the event of termination, the County shall reimburse the City for all work previously authorized and performed prior to the date of termination.

SECTION 9

The City shall upon request make available to the County all records, data, reports, books, or pertinent information which the City shall have kept in conjunction with this Amendment. The City shall maintain said records for a minimum of three (3) years following completion of its services.

SECTION 10

In all other respects, the 1980 Agreement, and subsequent amendments thereto, shall remain in full force of and effect. To the extent there is a conflict between this Amendment and the 1980 Agreement, and subsequent amendments thereto, the provisions of this Amendment shall control.

This Amendment shall take effect when executed by both parties.

SECTION 11

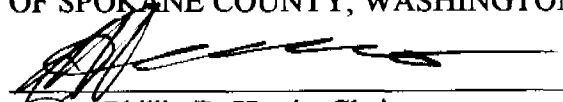
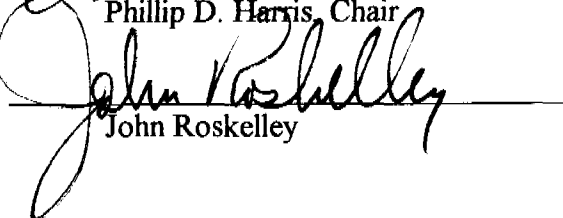
Pursuant to RCW 39.34.040, a copy of this Amendment shall be filed with the County Auditor.

IN WITNESS WHEREOF, the parties hereby execute the above Amendment:

ATTEST:

WILLIAM E. DONAHUE
Clerk of the Board

BOARD OF COUNTY COMMISSIONERS
OF SPOKANE COUNTY, WASHINGTON

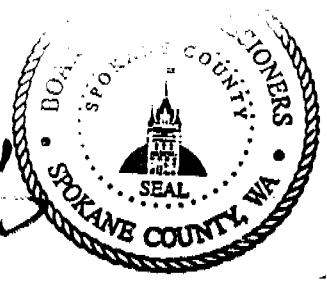

Phillip D. Harsis, Chair

John Roskelley

By: *Sharon Montoya*
Deputy Clerk

Steven Hasson

Approved as to form:

R. P. ...
Deputy Prosecuting Attorney



CITY OF SPOKANE:

Attest: *Sharon Montoya*
City Clerk

By: *Bill Papp*
ACTING CITY MANAGER

Approved as to form:
[Signature]
Assistant City Attorney