

**Agenda Sheet for City Council Meeting of:**

09/24/2012

<b>Date Rec'd</b>	9/12/2012
<b>Clerk's File #</b>	ORD C34917
<b>Renews #</b>	
<b>Cross Ref #</b>	
<b>Project #</b>	
<b>Bid #</b>	
<b>Requisition #</b>	

<b>Submitting Dept</b>	SOLID WASTE MANAGEMENT
<b>Contact Name/Phone</b>	SCOTT 625-7806 WINDSOR
<b>Contact E-Mail</b>	SWINDSOR@SPOKANECITY.ORG
<b>Agenda Item Type</b>	First Reading Ordinance
<b>Agenda Item Name</b>	4500 - FRANCHISE ORDINANCE - SUNSHINE DISPOSAL

**Agenda Wording**

Ordinance granting a municipal franchise until January 1, 2020 for the collection of solid waste to Sunshine Disposal, Inc., dba Sunshine Disposal and Recycling, (Spokane, WA) for the area generally known as the West Plains Annexation.

**Summary (Background)**

This is a solid waste collection franchise, issued pursuant to RCW 35.13.280. Washington State Law requires that cities allow a minimum of seven (7) years of franchise to UTC G-permit holders of annexed lands. Sunshine Disposal and Recycling would be responsible for collection of the City utility tax and compliance with City ordinances. Once the franchise expires, the City Solid Waste Management Department will assume collection functions for the area.

**Fiscal Impact**

Select	\$
Select	\$
Select	\$
Select	\$

**Budget Account**

#
#
#
#

**Approvals**

<b>Dept Head</b>	WINDSOR, SCOTT
<b>Division Director</b>	ROMERO, RICK
<b>Finance</b>	LESESNE, MICHELE
<b>Legal</b>	BURNS, BARBARA
<b>For the Mayor</b>	FEIST, MARLENE

**Council Notifications**

<b>Study Session</b>	PWC 09-10-12
<b>Other</b>	

**Additional Approvals**

<b>Purchasing</b>	swindsor@spokanecity.org
	dustinb@sunshinedisposal.com
	Elizabeth Schoedel

FIRST READING OF THE ABOVE ORDINANCE  
WAS HELD ON

September 24, 2012

AND FURTHER ACTION WAS DEFERRED

[Signature]

CITY CLERK

PASSED BY SPOKANE CITY COUNCIL ON

November 12, 2012

[Signature]

CITY CLERK

C34917

## **SOLID WASTE COLLECTION FRANCHISE**

### **ORDINANCE NO. C34917**

AN ORDINANCE granting a municipal franchise for the collection of solid waste to Sunshine Disposal, Inc., for that area generally known as the West Plains Annexation.

WHEREAS, the City of Spokane annexed areas of the West Plains on January 1, 2012, at which time Sunshine Disposal, Inc. was providing garbage and refuse collection services;

WHEREAS, RCW 35.13.280 provides that when a city annexes an unincorporated area that a company providing solid waste and refuse collection services within the newly annexed area shall be allowed to continue providing the solid waste and refuse collection services for at least seven years following the exercise of certain steps to terminate those statutory rights;

WHEREAS, the City of Spokane has notified the Washington Utilities and Transportation Commission of intent to terminate the statutory rights and offer a franchise; and

WHEREAS, the City of Spokane desires to grant a franchise to Sunshine Disposal, Inc., pursuant to RCW 35.13.280, whereby Sunshine Disposal, Inc., shall be allowed to continue to provide garbage and refuse collection services within the newly annexed West Plains Area under the same terms and conditions as has been previously allowed by the Washington Utilities & Transportation Commission.

NOW THEREFORE, the City of Spokane does ordain:

#### Section 1. GRANT, TERM

- A. Pursuant to RCW 35.13.280, the City of Spokane, a Washington municipal corporation hereby grants to Sunshine Disposal, Inc., (hereinafter referred to as "Franchisee"), a non exclusive franchise for the collection of solid waste inside the City of Spokane in the West Plains Annexation area, as more fully described in Annexation Ordinance C-34749. The legal description and informational map is attached as EXHIBIT A and incorporated herein.
- B. The City of Spokane Solid Waste Management Director administers and interprets this ordinance, considering the public health, safety and convenience.

- C. Notwithstanding any other provision, nothing in this franchise exceeds either the scope of Franchisee's state solid waste certificate in the annexed area at the time of annexation or the City's authority to grant such a privilege. This franchise expires the earlier of seven years from the effective date of this ordinance, or January 1, 2020. At such time, Franchisee agrees to peacefully surrender all routes, customer and other information as required by the Solid Waste Management Director. In addition, the parties agree that Franchisee may at any time voluntarily elect to surrender the franchised territory or any part thereof by giving sixty days written notice to the Solid Waste Management Director, under such arrangements as may be convenient to both parties; PROVIDED, the Solid Waste Management Director shall also approve the surrender under such arrangements as may be mutually convenient to the parties.

## Section 2. CONDITIONS

- A. The City reserves full authority to regulate and tax the Franchisee as authorized by law and asserts full jurisdiction over Franchisee's operations as an independent contractor. Franchisee is solely and separately responsible for all its activities and shall never represent that it is an employee or agent of the City of Spokane. Franchisee agrees to dispose of all materials and solid waste collected at designated landfills or other sites designated by the Solid Waste Management Director, and to pay applicable rates therefore.
- B. The Franchisee agrees to provide safe, reliable public solid waste collection service. Operation shall be in conformance with chapter 13.02 SMC, including SMC 13.02.0204 or equivalent and compliance with the Regional Solid Waste Management Plan is presumed to satisfy this requirement except as ordered by the Solid Waste Management Director. Franchisee's rates to the public shall be fair and reasonable. Compliance with Washington Transportation & Utilities Commission approved rates for similar service in the area is presumed fair and reasonable, but rates in excess of these rates shall be presumed not to be fair and reasonable, all rates subject to review and approval by the Solid Waste Management Director, guided by standards applicable to Washington Transportation & Utilities Commission certificated haulers. As to operational matters, City ordinances and Solid Waste Management Department policies and practices supplant Washington Transportation & Utilities Commission rules.
- C. Franchisee must notify the public at least forty five days prior to any rate increases as provided in RCW 35.21.157. Service levels shall be adequate and sufficient to satisfy all customer needs. Service levels shall be at least to the level currently provided by the City of Spokane Solid Waste Management Department. Service not to this level shall be presumed

insufficient, but all service is subject to review and approval by the Solid Waste Management Director.

- D. The Franchisee agrees to indemnify and hold harmless the City of Spokane, its officers, agents and employees from all loss or liability for Franchisee's actions in connection with the enjoyment of franchise privileges. This provision survives expiration or revocation of this franchise. Franchisee's obligation to indemnify and/or hold harmless the City shall not in any way be modified by the grant of immunity to employers under Title 51 RCW, such immunity being waived for purposes of that obligation. \*\*This provision has been mutually negotiated between the parties.

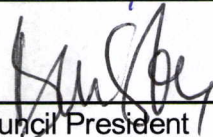
Franchisee Initial \_\_\_\_\_

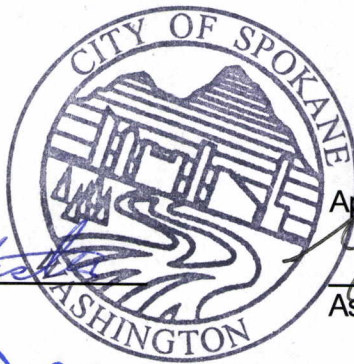
- E. All Franchisee records relating to enjoyment of franchise privileges are subject to inspection and copying by the Solid Waste Management Director. The Franchisee shall provide the Solid Waste Management Director with a copy of its Annual Report to the Washington Transportation & Utilities Commission relating to its operations, in addition to any other information ordered by the Solid Waste Management Director.

Section 3. ACCEPTANCE, TAXES, FEES

- A. The City tenders this franchise and Franchisee accepts the same in full satisfaction of any and all claims for measurable damages caused by cancellation of any state certificate whether arising under RCW 35.13.280 or any other source in contract or at law. The Franchisee acknowledges that the City has granted time in excess of the requirements of law, and the time granted is accepted in full settlement and compromise of any additional claims for damage or additional compensation because of the City's take over of annexed territory upon the expiration of this franchise or for any other reason. Pending signature of Franchisee, operations in the franchise area shall be deemed acceptance of all franchise terms.
- B. The Franchisee must pay all municipal taxes, together with any applicable municipal fees, costs, or expenses associated with the municipal administration of this franchise. Franchisee agrees to provide evidence of insurance generally to include CGL and Pollution legal liability coverages of ten million dollars per occurrence or as may be otherwise approved by the City of Spokane Risk Manager as a condition of operation.

Passed the City Council on November 12, 2012.

  
\_\_\_\_\_  
Council President



Attest:

*Serin A. Hester*  
City Clerk

Approved as to form:

*[Signature]*  
Assistant City Attorney

*David A. Condon*  
Mayor

November 14, 2012  
Date

December 13, 2012  
Effective Date

ATTACH: Legal description: EXHIBIT A; may also attach map

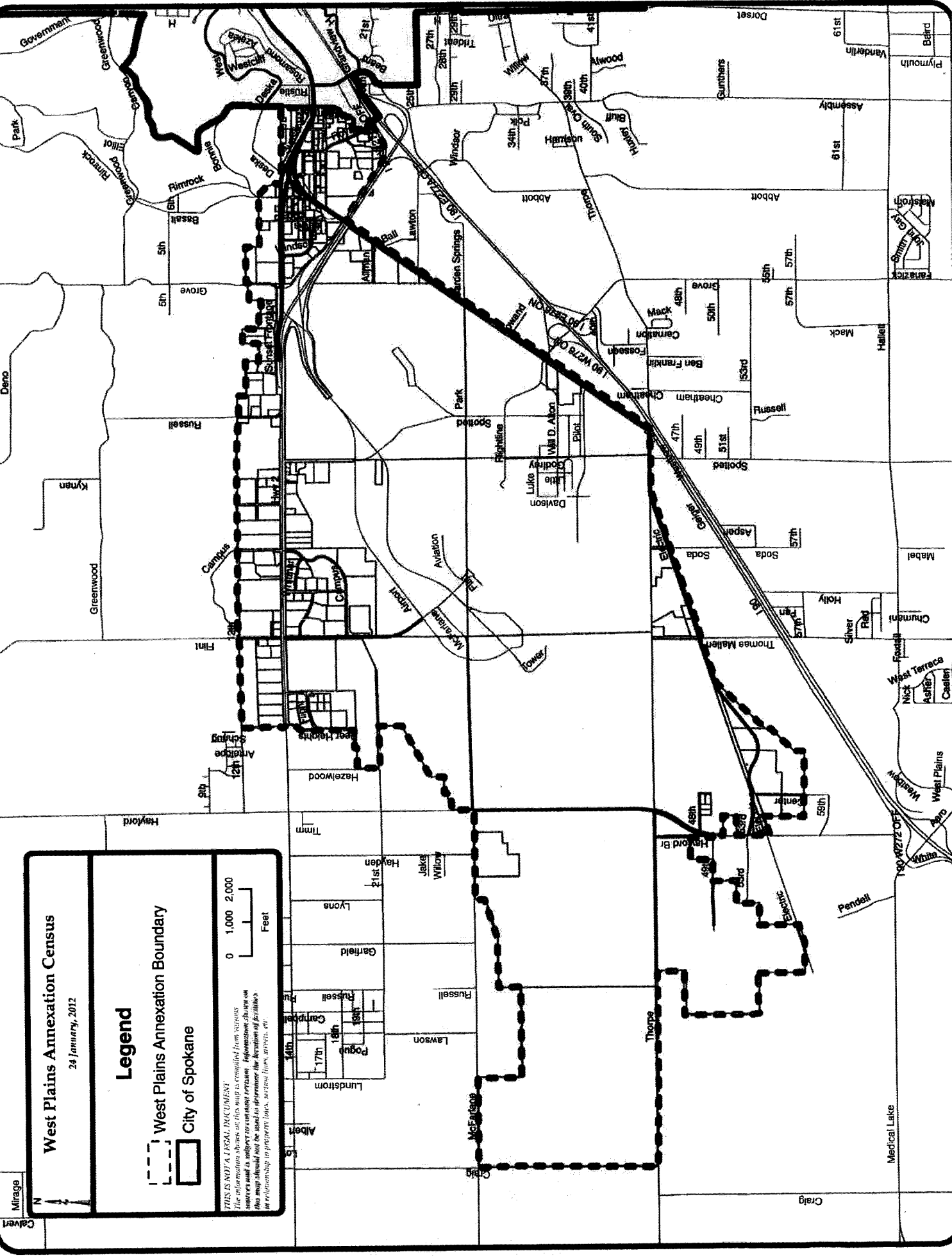
Terms accepted by Sunshine Disposal, Inc.:

Dated: \_\_\_\_\_

SUNSHINE DISPOSAL, INC

By: \_\_\_\_\_

Title: \_\_\_\_\_



**West Plains Annexation Census**  
24 January, 2012

**Legend**

-  West Plains Annexation Boundary
-  City of Spokane

0 1,000 2,000 Feet

THIS IS NOT A LEGAL DOCUMENT  
The information shown on this map is compiled from various sources and is subject to change without notice. Information shown on this map should not be used to determine the location of facilities or relationships to property lines, aerials, lines, streets, etc.

Mirage  
Calvert