

#### OFFICE OF THE CITY ATTORNEY

CARY P. DRISKELL – CITY ATTORNEY ERIK J. LAMB - DEPUTY CITY ATTORNEY

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November 14, 2014

VIA Email and Mail

Penny Ingram Washington Utilities and Transportation Commission P.O. Box 47250 Olympia, WA 98504-7250

Re: Notice of cancellation of City Franchises and WUTC administrative oversight over collection of solid waste in the City of Spokane Valley by Waste Management of Washington, Inc., and Sunshine Disposal, Inc.

Dear Ms. Ingram:

On November 7, 2007, the Spokane Valley City Council approved a motion authorizing staff to notify the WUTC (pursuant to RCW 35.02.160) of the termination of the existing certificates under which Sunshine Disposal, Inc. ("Sunshine Disposal") and Waste Management of Washington, Inc. ("Waste Management") provided solid waste hauling services in the City of Spokane Valley (the "City"). In furtherance of that process, the City Council adopted replacement franchises with a term of seven years. Subsequently, the City amended the replacement franchises to have an effective date of March 10, 2008, terminating March 9, 2015. Under the replacement franchises, Sunshine Disposal and Waste Management continued to provide services continued to provide City customers the same services at the same rates as they provided to customers throughout the rest of their surrounding certificated areas.

Pursuant to RCW 81.77.020, the City provided notice to the WUTC of the termination of the haulers' certificates and tariffs within the City of Spokane Valley. A copy of the replacement franchises and termination notice from 2008 is enclosed.

Since 2008, the City has entered into negotiations with both Waste Management and Sunshine Disposal for solid waste collection contracts to finally terminate their remaining rights pursuant to RCW 35.02.160.

On November 4, 2014, the City Council of the City voted to approve City contracts with Waste Management and Sunshine Disposal to replace the existing City franchises. The contracts are effective November 17, 2014. At that time, the City shall assume full control of all aspects of solid waste collection within its boundaries, including service levels, rate setting, and administrative oversight of the contracts and haulers. Copies of

STATE OF WASH.
UTIL. AND TRANSP.
COMMISSION

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the adopted ordinances terminating the replacement franchises are enclosed. Copies of the executed solid waste contracts are available upon request.

While the City officially gave its notice to the WUTC in 2008, the City recognizes that pursuant to the City's franchises, there has existed a unique circumstance where WUTC continued to have apparent administrative oversight over Waste Management and Sunshine Disposal although such entities were operating pursuant to the City franchises. In consideration of the above, the City is providing this letter to give the WUTC notice of the City assuming full control over all aspects of solid waste collection within its jurisdiction. This letter is not new notice nor the first notice of such termination, as such notice was originally given in 2008. As of November 17, 2014, the City intends that the WUTC shall have no regulatory or administrative oversight over Waste Management or Sunshine Disposal within the boundaries of the City of Spokane Valley.

If you have any questions or comments, please feel free to contact me.

Very truly yours,

Erik J. Lamb

EJL/sb Enc.

c: City Council (w/out enc.)

Marc Torre, Sunshine Disposal (w/enc.) Tami Yager, Waste Management (w/enc.)



# OFFICE OF THE CITY ATTORNEY

MICHAEL CONNELLY, CITY ATTORNEY CARY P. DRISKELL, DEPUTY CITY ATTORNEY

11707 East Sprague Ave Suite 103 ♦ Spokane Valley WA 99206 509.688.0231 ♦ Fax: 509.688.0299 ♦ cityhall@spokanevalley.org

February 25, 2008

Penny Ingram Washington Utilities and Transportation Commission P.O. Box 47250 Olympia, WA 98504-7250

Re: Revised notice of cancellation of WUTC tariff for collection of commercial and residential solid waste in the City of Spokane Valley for Waste Management, and of commercial solid waste in Spokane Valley for Sunshine Disposal.

Dear Ms. Ingram:

On November 7, 2007, the Spokane Valley City Council approved a motion authorizing staff to notify the WUTC (pursuant to RCW 35.02.160) of the termination of the existing tariffs under which Sunshine Disposal and Waste Management provide solid waste hauling services in our city. In furtherance of that process, our Council adopted replacement franchises. Copies of the new franchises are included for your records. Under these replacement franchises, Sunshine and Waste Management will continue to have all the rights and obligations they currently have under the WUTC tariffs, for seven years.

In consideration of the above, please consider this letter a notice of termination of Certificate G-237, and Tariff No. 15 granted to Waste Management by WUTC, effective May 1, 2007, and Certificate G-199, and Tariff No. 7 granted to Sunshine Disposal by WUTC, effective September 1, 2006, to provide solid waste hauling within our city limits. The replacement status quo franchises shall be in effect as of March 10, 2008, with the WUTC continuing to provide regulatory oversight over both Sunshine and Waste Management. The replacement franchises shall expire on March 10, 2015, after which the City shall assume full regulatory control over solid waste collection.

If you have any questions or comments, please feel free to contact me.

Very truly yours,
Cary P. D. shell

Cary P. Driskell

CPD/pd

Enc. c:

City Council (w/out enc.)

Marc Torre, Sunshine Disposal (w/enc.)

Steve Wulf, Waste Management (w/enc.)

### CITY OF SPOKANE VALLEY SPOKANE COUNTY, WASHINGTON ORDINANCE NO. 07-022

AN ORDINANCE OF THE CITY OF SPOKANE VALLEY, SPOKANE COUNTY, WASHINGTON, GRANTING A SEVEN YEAR, NON-EXCLUSIVE FRANCHISE TO SUNSHINE DISPOSAL, INC., TO PROVIDE GARBAGE AND REFUSE COLLECTION SERVICE WITHIN THE CITY OF SPOKANE VALLEY

WHEREAS, the City of Spokane Valley incorporated on March 31, 2003, at which time Sunshine Disposal, Inc., was providing garbage and refuse collection services in the geographic area comprising the new city;

WHEREAS, RCW 35.02.160 provides that when a new city incorporates, a company providing solid waste and refuse collection services within the new city shall be allowed to continue providing said services for at least seven years following the exercise of certain steps to terminate those statutory rights;

WHEREAS, the City Council has given preliminary approval to give notice of termination through the Washington Utilities and Transportation Commission; and

WHEREAS, the City desires to grant a status quo franchise to Sunshine Disposal, Inc., whereby Sunshine Disposal, Inc., shall be allowed to continue providing garbage and refuse collection services within the City of Spokane Valley under the same terms and conditions as has been previously allowed by the Washington Utilities Transportation Commission, and under which the Washington Utilities Transportation Commission would continue to have administrative oversight and control over the provision of these services.

NOW, THEREFORE, the City Council of the City of Spokane Valley, Spokane County, Washington, does ordain as follows:

Section 1. Grant of Franchise. The City of Spokane Valley, a Washington municipal corporation (hereinafter the "City"), hereby grants to Sunshine Disposal, Inc., D/B/A Sunshine Disposal & Recycling, (hereinafter "Sunshine"), a non-exclusive franchise for a period of seven (7) years, beginning on the effective date of this Ordinance, to provide garbage and refuse collection services in the City of Spokane Valley on identical terms and conditions as is set forth in Washington Utilities and Transportation Commission (WUTC) Certificate G-199, and Tariff No. 7 granted to Sunshine by WUTC, effective September 1, 2006, copies of which are attached to this franchise ordinance, and incorporated herein by reference. The WUTC will continue to provide administrative oversight and control over this franchise until this franchise expires or is superseded by a subsequent franchise.

Section 2. Notice. Any notice or information required or permitted to be given by or to the parties under this Franchise may be sent to the following addresses unless otherwise specified, in writing:

The City:

City of Spokane Valley Attn: City Clerk 11707 East Sprague, Suite 106 Spokane Valley, WA 99206 Grantee:

Sunshine Disposal, Inc. Attn: Marc B. Torre, Vice President 2405 North University Road Spokane Valley, WA 99206 Phone: (509) 924-5678 Fax: (509) 924-7448

<u>Section 3.</u> <u>Effective Date.</u> This Ordinance shall be in full force and effect five days after publication of the ordinance or a summary thereof occurs in the official newspaper of the City of Spokane Valley as provided by law.

PASSED by the City Council this 7th day of November, 2007.

Drana Wilhite

Mayor, Diana Wilhite

ATTEST:

Christine Bainbridge, City Clerk

Approved as to Form:

Office of the City Attorney

Date of Publication:

Accepted by Sunshine Disposal, Inc.,

By: Marc B. Torre, Vice-President

Sunshine Disposal, Inc., for itself, and for its successors and assigns, does accept all of the terms and conditions of the foregoing franchise, without waiver of any additional right presument to pew 35.02.160

IN WITNESS WHEREOF,

has signed this 20

day of December, 2007.

Subscribed and sworn before me this 30 day of December, 2007.

Notary Public is and for the State of Washington, residing in Spokane Washington

My commission expires 01-18-08



#### CITY OF SPOKANE VALLEY SPOKANE COUNTY, WASHINGTON ORDINANCE NO. 08-003

AN ORDINANCE OF THE CITY OF SPOKANE VALLEY, SPOKANE COUNTY, WASHINGTON, AMENDING ORDINANCE 07-022 BY CHANGING THE APPLICABLE DATE OF THE SEVEN YEAR, NON-EXCLUSIVE FRANCHISE TO SUNSHINE DISPOSAL, INC., TO PROVIDE COMMERCIAL GARBAGE AND REFUSE COLLECTION SERVICE WITHIN THE CITY OF SPOKANE VALLEY

WHEREAS, the City of Spokane Valley incorporated on March 31, 2003, at which time Sunshine Disposal, Inc, was providing garbage and refuse collection services in the geographic area comprising the new City,

WHEREAS, RCW 35.02 160 provides that when a new city incorporates, a company providing solid waste and refuse collection services within the new city shall be allowed to continue providing said services for at least seven years following the exercise of certain steps to terminate those statutory rights,

WHEREAS, on November 7, 2007, the City Council approved Ordinance 07-022 granting a seven-year franchise to Sunshine Disposal, Inc., to provide commercial garbage and refuse collection service within Spokane Valley. The City Council gave approval to give notice of termination through the Washington Utilities and Transportation Commission; and

WHEREAS, City staff had communications with staff at the Washington Utilities and Transportation Commission regarding several clarifications necessary in the City's notice of termination letter. After issuing a second notice of termination letter on February 25, 2008, with a revised termination date of March 10, 2008, it became necessary to amend Ordinance 07-022 to make it effective March 10, 2008 as well

NOW, THEREFORE, the City Council of the City of Spokane Valley, Spokane County, Washington, does ordain as follows

Section 1. Amend Section 3 of Ordinance 07-022 regarding the effective date. This Ordinance shall be in full force and effect on March 10, 2008.

PASSED by the City Council this 25th day of March, 2008,

Javor, Richard Munson

Christine Bainbridge, City Clerk

Approved as to Form:

Office of the City Atto

Effective Date: March 10, 2008

#### CITY OF SPOKANE VALLEY SPOKANE COUNTY, WASHINGTON ORDINANCE NO. 07-023

AN ORDINANCE OF THE CITY OF SPOKANE VALLEY, SPOKANE COUNTY, WASHINGTON, GRANTING A SEVEN YEAR, NON-EXCLUSIVE FRANCHISE TO WASTE MANAGEMENT OF WASHINGTON, INC., D/B/A WASTE MANAGEMENT OF SPOKANE, TO PROVIDE GARBAGE AND REFUSE COLLECTION SERVICE WITHIN THE CITY OF SPOKANE VALLEY

WHEREAS, the City of Spokane Valley incorporated on March 31, 2003, at which time Waste Management of Washington, Inc., d/b/a Waste Management of Spokane (hereafter "Waste Management") was providing garbage and refuse collection services in the geographic area comprising the new city;

WHEREAS, RCW 35.02.160 provides that when a new city incorporates, a company providing solid waste and refuse collection services within the new city shall be allowed to continue providing said services for at least seven years following the exercise of certain steps to terminate those statutory rights;

WHEREAS, the City Council has given preliminary approval to give notice of termination through the Washington Utilities and Transportation Commission; and

WHEREAS, the City desires to grant a status quo franchise to Waste Management whereby Waste Management shall be allowed to continue providing garbage and refuse collection services within the City of Spokane Valley under the same terms and conditions as has been previously allowed by the Washington Utilities Transportation Commission, and under which the Washington Utilities Transportation Commission would continue to have administrative oversight and control over the provision of these services.

NOW, THEREFORE, the City Council of the City of Spokane Valley, Spokane County, Washington, does ordain as follows:

Section 1. Grant of Franchise. The City of Spokane Valley, a Washington municipal corporation (hereinafter the "City"), hereby grants to Waste Management of Washington, Inc., d/b/a Waste Management of Spokane, a non-exclusive franchise for a period of seven (7) years, beginning on the effective date of this Ordinance, to provide garbage and refuse collection services in the City of Spokane Valley on identical terms and conditions as is set forth in Washington Utilities and Transportation Commission (WUTC) Certificate G-237, and Tariff No. 15 granted to Waste Management by WUTC, effective May 1, 2007, copies of which are attached to this franchise ordinance, and incorporated herein by reference. The WUTC will continue to provide administrative oversight and control over this franchise until this franchise expires or is superseded by a subsequent franchise.

Section 2. Notice. Any notice or information required or permitted to be given by or to the parties under this franchise may be sent to the following addresses unless otherwise specified, in writing:

The City:

City of Spokane Valley Attn: City Clerk 11707 East Sprague, Suite 106 Spokane Valley, WA 99206 Grantee:

Waste Management of Spokane

Attn: Ken Gimpel, Municipal Relations Manager

12122 East 1<sup>st</sup> Avenue Spokane Valley, WA 99206 Phone: (509) 344-8232

Fax: (509) 467-7931

Section 3. Effective Date. This Ordinance shall be in full force and effect five days after publication of the ordinance or a summary thereof occurs in the official newspaper of the City of Spokane Valley as provided by law.

PASSED by the City Council this 7th day of November, 2007.

Drana Welhita

Mayor, Diana Wilhite

Approved as to Form:

Christine Bainbridge, City

Office of the City Attorney

Date of Publication:

Effective Date: 11-21

Accepted By:	
Waste Manageme	ent of Washington, Inc.
47	
y: JAMES	DESOER

Waste Management of Washington, Inc., for itself, and for its successors and assigns, does accept all of the terms and conditions of the foregoing franchise.

17th IN WITNESS WHEREOF, James W. De Soer has signed this day of January, 2008.

Subscribed and sworn before me this 17th day of January, 2008.

KATJA I. ELLERTSON STATE OF WASHINGTON SEPTEMBER 20, 201

Notary Public in and for the State of Washington,

residing in Seattle

My Commission Expires: 9/20/11

## CITY OF SPOKANE VALLEY SPOKANE COUNTY, WASHINGTON ORDINANCE NO. 08-004

AN ORDINANCE OF THE CITY OF SPOKANE VALLEY, SPOKANE COUNTY, WASHINGTON, AMENDING ORDINANCE 07-023 BY CHANGING THE APPLICABLE DATE OF ORDINANCE OF THE SEVEN YEAR, NON-EXCLUSIVE FRANCHISE TO WASTE MANAGEMENT TO PROVIDE COMMERCIAL AND RESIDENTIAL GARBAGE AND REFUSE COLLECTION SERVICE WITHIN THE CITY OF SPOKANE VALLEY

WHEREAS, the City of Spokane Valley incorporated on March 31, 2003, at which time Waste Management of Washington, Inc., d/b/a Waste Management of Spokane (hereafter "Waste Management") was providing garbage and refuse collection services in the geographic area comprising the new City;

WHEREAS, RCW 35.02.160 provides that when a new city incorporates, a company providing solid waste and refuse collection services within the new city shall be allowed to continue providing said services for at least seven years following the exercise of certain steps to terminate those statutory rights;

WHEREAS, on November 7, 2007, the City Council approved Ordinance 07-023 granting a seven-year franchise to Waste Management to provide commercial and residential garbage and refuse collection service within Spokane Valley. The City Council also gave approval to give notice of termination through the Washington Utilities and Transportation Commission; and

WHEREAS, City staff had communications with staff at the Washington Utilities and Transportation Commission regarding several clarifications necessary in the City's notice of termination letter. After issuing a second notice of termination letter on February 25, 2008, with a revised termination date of March 10, 2008, it became necessary to amend Ordinance 07-023 to make it effective March 10, 2008 as well.

NOW, THEREFORE, the City Council of the City of Spokane Valley, Spokane County, Washington, does ordain as follows:

Section 1. Amend Section 3 of Ordinance 07-023 regarding the effective date. This Ordinance shall be in full force and effect on March 10, 2008.

PASSED by the City Council this 25th day of March, 2008

Mayor, Richard Wunsen

Christine Bainbridge, City Clerk

Approved as to Form:

Office of the City Attorney

Date of Publication:

Effective Date: March 10, 2008 49-08

#### CITY OF SPOKANE VALLEY SPOKANE COUNTY, WASHINGTON ORDINANCE NO. 14-012

AN ORDINANCE OF THE CITY OF SPOKANE VALLEY, SPOKANE COUNTY, WASHINGTON, TERMINATING THE SEVEN YEAR NON-EXCLUSIVE SOLID WASTE COLLECTION FRANCHISE GRANTED TO SUNSHINE DISPOSAL, INC., GRANTED PURSUANT TO ORDINANCE 07-022, AS AMENDED BY ORDINANCE 08-003, AND OTHER MATTERS RELATING THERETO.

WHEREAS, the City of Spokane Valley incorporated March 31, 2003, at which time Sunshine Disposal, Inc., (hereafter referred to as "Sunshine") was providing garbage, refuse, and recycling collection services in the geographic area comprising the new City; and

WHEREAS, RCW 35A.03.005 and RCW 35.02.160 provide that when a new city incorporates, a company providing solid waste and refuse collection services within the new city shall be allowed to continue providing said services for at least seven years following the exercise of certain steps to terminate the company's statutory rights; and

WHEREAS, on November 7, 2007, the City Council approved Ordinance 07-022 terminating Sunshine's statutory rights to provide solid waste collection services and granting a seven-year non-exclusive franchise to Sunshine to provide commercial and residential solid waste collection service within Spokane Valley. The City Council also gave approval to give notice of termination through the Washington Utilities and Transportation Commission; and

WHEREAS, on March 25, 2008, the City Council adopted Ordinance 08-003, amending Ordinance 07-022 and setting the effective date of the franchise granted to Sunshine as March 10, 2008; and

WHEREAS, the City has negotiated a solid waste collection contract and will enter into such contract with Sunshine concurrently with termination of the franchise granted pursuant to Ordinance 07-022, as amended by Ordinance No. 08-003, for Sunshine to continue providing commercial and residential solid waste collection services until March 31, 2018 in order to fully compensate Sunshine for all remaining measurable damages under RCW 35A.03.005 and RCW 35.02.160 and appellate decisions interpreting those statutory provisions; and

WHEREAS, the City Council hereby finds that termination of the franchise concurrently with the effective date of the new contract is appropriate.

NOW, THEREFORE, the City Council of the City of Spokane Valley ordains as follows:

Section 1. Termination of Franchise. The City Council hereby terminates the non-exclusive franchise the City granted to Sunshine pursuant to Ordinance 07-022, as amended by Ordinance 08-003, as of the effective date of this Ordinance. This termination is appropriate as the City and Sunshine have agreed to enter into a contract for Sunshine to continue providing commercial and residential solid waste collection services until March 31, 2018 in order to fully compensate Sunshine for all measurable damages under RCW 35A.03.005 and RCW 35.02.160, and appellate decisions interpreting those statutory provisions.

The City Manager, or designee, is hereby authorized and directed to provide any and all required notices to the Washington Utilities and Transportation Commission in conjunction with the termination of the franchise.

- Section 2. Severability. If any section, sentence, clause or phrase of this Ordinance shall be 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 section, sentence, clause, or phrase of this Ordinance.
- Section 3. Effective Date. This Ordinance shall be in full force and effect November 17, 2014, which, as provided by law, is at least five days after publication of this Ordinance or a summary thereof in the official newspaper of the City of Spokane Valley.

Passed by the City Council this 4th day of November, 2014.

Dean Grafos, Mayor

City Clerk, Christine Bainbridge

Approved as to Form:

Office of the City Attorney

Date of Publication: November 7, 2014 Effective Date: November 17, 2014

### CITY OF SPOKANE VALLEY SPOKANE COUNTY, WASHINGTON ORDINANCE NO. 14-013

AN ORDINANCE OF THE CITY OF SPOKANE VALLEY, SPOKANE COUNTY, WASHINGTON, TERMINATING THE SEVEN YEAR NON-EXCLUSIVE SOLID WASTE COLLECTION FRANCHISE GRANTED TO WASTE MANAGEMENT OF WASHINGTON, INC., D/B/A WASTE MANAGEMENT OF SPOKANE, GRANTED PURSUANT TO ORDINANCE 07-023, AS AMENDED BY ORDINANCE 08-004, AND OTHER MATTERS RELATING THERETO.

WHEREAS, the City of Spokane Valley incorporated March 31, 2003, at which time Waste Management of Washington, Inc., d/b/a Waste Management of Spokane (hereafter "Waste Management") was providing garbage, refuse, and recycling collection services in the geographic area comprising the new City; and

WHEREAS, RCW 35A.03.005 and RCW 35.02.160 provide that when a new city incorporates, a company providing solid waste and refuse collection services within the new city shall be allowed to continue providing said services for at least seven years following the exercise of certain steps to terminate the company's statutory rights; and

WHEREAS, on November 7, 2007, the City Council approved Ordinance 07-023 terminating Waste Management's statutory rights to provide solid waste collection services and granting a seven-year non-exclusive franchise to Waste Management to provide commercial and residential solid waste collection service within Spokane Valley. The City Council also gave approval to give notice of termination through the Washington Utilities and Transportation Commission; and

WHEREAS, on March 25, 2008, the City Council adopted Ordinance 08-004, amending Ordinance 07-023 and setting the effective date of the franchise granted to Waste Management as March 10, 2008; and

WHEREAS, the City has negotiated a solid waste collection contract and will enter into such contract with Waste Management concurrently with termination of the franchise granted pursuant to Ordinance 07-023, as amended by Ordinance 08-004, for Waste Management to continue providing commercial and residential solid waste collection services until March 31, 2018 in order to fully compensate Waste Management for all remaining measurable damages under RCW 35A.03.005 and RCW 35.02.160 and appellate decisions interpreting those statutory provisions; and

WHEREAS, the City Council hereby finds that termination of the franchise concurrently with the effective date of the new contract is appropriate.

NOW, THEREFORE, the City Council of the City of Spokane Valley ordains as follows:

Section 1. Termination of Franchise. The City Council hereby terminates the non-exclusive franchise the City granted to Waste Management pursuant to Ordinance 07-023, as amended by Ordinance 08-004 as of the effective date of this Ordinance. This termination is appropriate as the City and Waste Management have agreed to enter into a contract for Waste Management to continue providing commercial and residential solid waste collection services until March 31, 2018 in order to fully compensate Waste Management for all measurable damages under RCW 35A.03.005 and RCW 35.02.160, and appellate decisions interpreting those statutory provisions.

The City Manager, or designee, is hereby authorized and directed to provide any and all required notices to the Washington Utilities and Transportation Commission in conjunction with the termination of the franchise.

Section 2. Severability. If any section, sentence, clause or phrase of this Ordinance shall be 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 section, sentence, clause, or phrase of this Ordinance.

Section 3. Effective Date. This Ordinance shall be in full force and effect November 17, 2014, which, as provided by law, is at least five days after publication of this Ordinance or a summary thereof in the official newspaper of the City of Spokane Valley.

Passed by the City Council this 4th day of November, 2014.

Dean Grafos, Mayor

Approved as to Form:

Office of the City Attorney

City Clerk, Christine Bainbridge

Date of Publication: November 7, 2014 Effective Date: November 17, 2014