

Exhibit E

OPR 85-585
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CITY COUNCIL FINDINGS RELATING TO THE
CONSTRUCTION AND OPERATIONS CONTRACTS FOR THE
REGIONAL SOLID WASTE DISPOSAL PROJECT

On October 26, 1987, the Spokane City Council in joint session with the Spokane Board of County Commissioners, held a public hearing pursuant to RCW 35.92 to allow public comment on two proposed contracts for the Regional Solid Waste Disposal Project. One contract is for the design and construction of the Facility and the second contract is for the operations of the Facility over a twenty year period. The contracts are with Wheelabrator Spokane, Inc., subsidiary of Wheelabrator Environmental Systems, of Hampton, New Hampshire. The public hearing was continued until November 2, 1987 to allow further public comment, and staff reports discussion. Having heard all the testimony, reviewed the record, reviewed the contracts in question, and heard reports from staff and various technical and financial consultants, the City Council hereby makes the following findings:

1. The Spokane Regional Solid Waste Disposal Project (hereinafter referred to as "Project") is a joint undertaking of the City of Spokane and Spokane County. The principle purpose of the project is to dispose of solid waste. The Project when constructed will consist of a solid waste combustion facility with electric power production capability, recycling transfer stations and a state-of-the-art landfill to dispose of ash and nonprocessable materials. It is an extension and betterment of the City's existing refuse collection and disposal system.
2. On June 21, 1981, a consortium composed of the City of Spokane, Spokane County and the Washington Water Power Company entered into a contract to study the feasibility of incinerating the garbage within Spokane County to produce energy and also the feasibility of alternative methods of solid waste disposal. In early 1982, the consortium hired the engineering firm of Morrison-Knutson to perform a feasibility study on the alternatives of solid waste disposal. That study was conducted in three phases, with extensive review by staff, Council and the public. Morrison-Knutson examined 11 different scenarios and it ranked the scenarios based upon environmental and economic criteria. It recommended a mass burn waste to energy facility as part of a comprehensive solid waste management system.
3. In May of 1983, the Board of County Commissioners of Spokane County approved a contract with Parametrix to prepare the Spokane County Comprehensive Solid Waste Management Plan update. That Plan recommended a coordinated regional approach to solid waste disposal. It evaluated various alternatives and recommended that a waste to energy facility be part of the Comprehensive Plan for

solid waste disposal in Spokane County. It further recommended that a flow control ordinance be approved by Spokane County to regulate the flow of garbage within the County.

4. Throughout the preparation of the update of the Solid Waste Management Plan, the public was invited to participate and public meetings were held in 1983 and 1984 to allow public comment on the Plan. The Plan update was adopted by the County Commissioners on December 18, 1984, and was adopted by all incorporated cities within Spokane County, except the town of Rockford. It was also approved by the Washington State Department of Ecology.

5. On December 13, 1983, in its continued quest to find a solution for the disposal of 800 to 1,000 tons of solid waste generated daily in Spokane County, the City Council authorized city staff to apply to the Washington State Department of Ecology for Referendum 39 grant funding for a Waste to Energy Facility. In May of 1984, the Department of Ecology and the City executed a contract for Referendum 39 Solid Waste Grant Funding to provide seed money for a resource recovery facility environmental impact statement and the formation of a citizens advisory committee.

6. At the City Council meeting of January 28, 1985, the Council approved a contract with HDR Techserv (formally HDR) as the managing engineering consultant for the Project both for environmental review and for the procurement process. The Board of County Commissioners also approved the selection of HDR at their meeting on December 4, 1984.

7. In December of 1984, the City Council adopted an ordinance authorizing the issuance of fifty million dollars in short term (5 year) project notes to finance a Waste to Energy Facility. That note ordinance also adopted a plan for the acquisition, construction and installation of the Spokane Regional Solid Waste Disposal Facility.

8. At public meetings in late 1984 and early 1985, the Board of County Commissioners of Spokane County considered legislation to implement the Comprehensive Solid Waste Management Plan update. On May 14, 1985, the Board of County Commissioners held a public hearing to obtain public input and adopted ordinance no. 85-0395. The ordinance established a county wide system for solid waste handling and disposal, and prohibited disposal of solid waste except at a site or sites consistent with the Comprehensive Plan and approved by the Board of County Commissioners or its authorized designee.

9. In late January of 1985, in light of their selection of HDR Techserve as engineering consultant, Spokane County and the City of Spokane entered into an Interlocal Cooperation Agreement to implement phase I of the Regional Solid Waste Disposal Project with the assistance of HDR.

10. Interlocal Agreement established a Project Policy Committee to oversee the Project, said Committee being comprised of two city representatives, two county representatives, a citizen at large and a member of the Department of Ecology. The Committee has had twice monthly meetings since February of 1985 and public comment has been taken by the Committee at virtually all of its meetings which were open to the public.

11. Also in 1985, the Board of County Commissioners established the Solid Waste Advisory Committee ("SWAC") to assist the Project. The Committee was comprised of individuals with diverse geographic and interest group representation.

12. A Technical Advisory Committee ("TAC") was also created to review technical reports and comment to the Project Policy Committee regarding the technical aspects of Project development.

13. Also in 1985, the Project hired public information consultants (Alliance Pacific Inc.), as well as an investment banker (Shearson Lehman) a financial advisor (Seattle Northwest Securities Corp.) and bond council (Preston, Thorgrimson, Ellis and Holman).

14. As technical consultant, HDR Techserv's first task was to review the Morrison-Knutson study and report on the feasibility of the recommendations therein. The Morrison and Knutson study had analyzed ten different alternatives of solid waste disposal. In its Project Definition Report, dated September 1985, HDR Techserv did an economic comparison of various alternatives including a mass burn plant producing electricity at an airport site, a co-generation facility located near Kaiser Aluminum in the Spokane valley, and a regional landfill. The report, which has been periodically updated, promotes the economic feasibility of a mass burn plant producing electricity located at Spokane International Airport.

15. The HDR Report referred to above, along with other economic analysis, including evidence from Seattle Northwest Securities, the Projects financial advisor indicate that while the costs of a landfill compared to a mass burn plant will be similar over a 20 year period. The mass burn plant is preferable because it has a much greater residual value at the end of the 20 year period.

16. On March 21, 1986, a Draft Environmental Impact Statement was issued including 13 technical reports. Notices were given as to the availability of the EIS and comments were requested. Public hearings were held on the EIS and a Supplemental EIS was subsequently issued and public hearing held in May of 1986. The Final EIS was issued on July 14, 1986.

17. Also in 1986, the City and County appointed a Vendor Selection Committee to develop a request for qualifications which could be issued seeking an entity that would design, construct and operate the Waste to Energy Facility. The Vendor Selection Committee evaluated and ranked the 15 responses

which were received by the Project and on October 13, 1986, the Project Policy Committee recommended a short list of 5 firms for approval by the City and County. That short list was approved and a Request For Proposals was sent to the 5 firms that were short listed.

18. An Interlocal Agreement for Phase II of the Project was approved in September of 1986, by the City Council and the Board of County Commissioners. Phase II continued the Project, continued the Project Policy Committee, continued the employment of project consultants to assist in completion of the vendor procurement process. It also included finalization of energy sales contracts, finalization of environmental permits and developed of ambient air quality and meteorological monitoring programs, preparation of an engineering feasibility study and the design of recycling transfer stations.

19. On November 17, 1986, the City Council approved acceptance of a sixty million dollar Referendum 39 grant from the State Department of Ecology. The purpose of the grant is to provide funding for the design and construction of the Waste to Energy Facility and the recycling transfer stations. the grant provided 50% matching funds for eligible project expenditures. The parties anticipate the remainder of funds necessary for the Project to be available first from note proceeds and later from the proceeds from revenue bonds which would be issued to retire the notes and fund completion of construction.

20. On September 4, 1986, the Project Policy Committee recommended consideration of the Spokane International Business Park as the site for the Waste to Energy Facility. The RFP, approved by the City and County designated the Spokane International Business Park as the site for the Facility. On April 6, 1987, an addendum to the final EIS was issued and a public comments meeting was held on June 1, 1987.

21. On March 26, 1987, the West Plains Coalition of City Governments adopted a resolution in support of the Project and its location at the Airport Business Park site.

22. After proposals were received, HDR and the Vendor Selection Committee reviewed them and prepared an evaluation report which rated the proposals on the basis of a complex and exhaustive financial and technical analysis. The report rated Signal Environmental Systems as the top proposer. On May 18, 1987, the City Council determined that Signal Environmental Systems (now Wheelabrator Environmental Systems) was " the best qualified" to design, construct and operate the Waste to Energy Project. The City Council also designated a negotiating team led by Mr. James Jackson of the law firm Bishop, Cook, Purcell and Reynolds to negotiate two contracts with the vendor. One contract being for the design and construction of the Facility and the second contract being for the operation of the Facility over a 20 year period.

23. In 1986, the Project entered negotiations with Pudget Sound Power and Light for the sale and transmission of electrical output of the Waste to Energy Facility. Contracts for transmission and power sale have been substantially negotiated and the power price determined.

24. On July 31, 1987, a grant contract between the City and the Department of Ecology was executed to provide up to \$99,879.00 in funds for litter clean-up, a recycling program and a composting program. Since then a recycling recoordinator has been hired for the project.

25. The contracts before the Council have adequate provisions to protect the City in the case of problems that may arise or the possibility of default by the vendor during the construction or operation of the Project. The contracts contain performance bonds and labor and material bonds during construction and they contain performance and financial guarantees during operation by Signal Capital Corporation, a Corporation which met the City's stringent financial requirements for a Guarantor. The contracts were the result not only of negotiation but of the prior procurement process in which, out of the four very qualified firms responding to the RFP, Wheelabrator Environmental Systems surfaced with a proposal which was significantly better for the City from an economic standpoint.

26. The contract requires the company to construct the Project within two years which is important to the City due to its rapidly decreasing landfill capacity.

27. The contract also requires the company to guarantee production of 540 kilowatt hours of electricity per ton and the company must meet all environmental requirements of the state, federal and local governmental agencies.

28. While there are certain items that must be completed prior to a Notice to Proceed being given to the company, there is a section of the construction contract which lists those items as conditions precedent to the Notice to Proceed being given. Those items include receipt of all environmental and air quality permits, execution of the Interlocal Agreement between the City and County and other cities, execution of the energy contracts and the Facility site lease which requires FAA approval. While some of those items have not yet been completed, it is important at this time to formalize the agreement between the vendor and the City since agreement has been reached. With the other items listed as precedent, if there are problems finalizing those items, the City is not bound to issue a Notice to Proceed.

29. It is also important to proceed with the approval of these contracts because if Notice to Proceed is not given by March 20, 1988, the fixed price begins to escalate by a consumer price index factor. It is therefore financially advantageous for the City to proceed as rapidly as possible.

30. Although the City Council heard public testimony regarding possible health risks of this Facility, this Facility is required to meet all state and federal requirements in order to eliminate or minimize any such health risks.

31. Although the public also made comment regarding the possible adverse affects the Facility might have on the operation of Spokane International Airport, the Federal Aviation Administration must approve the construction of the Facility on the airport site before Notice to Proceed is given and the FAA can adequately evaluate the impacts the Facility may have on the airport operations.

32. Evidence was presented at the public hearing by James Jackson, Chief Negotiating Counsel, who has negotiated several contracts similar to this in other communities around the country, that this contract is similar to other contracts for Waste to Energy projects but in many ways it is superior and very advantageous to the City due to the short construction period, the comparatively low fixed dollar amount for construction of the Facility and the energy guarantees the company is willing to provide.

33. Evidence was also received that Wheelabrator Environmental Systems is a recognized leader in the Waste to Energy industry and that it has more experience than other American companies, Wheelabrator has had plants operating in the United States longer than any other American company and has the financial stability to be capable to perform these contracts.

34. This contract is in fact in the public interest in that it is implementing a plan which has been studied for many years, said plan being for the most effective method of disposal of solid waste within Spokane County.

35. This contract is financially sound for the City to enter into for the reasons herein stated, but specifically because of the performance and financial guarantees of the contract, the fixed price nature of the contract, the state matching Referendum 39 grant funds, and the experience, stability and capability of the vendor Wheelabrator Environmental Systems.

36. It is advantageous for the City to enter into this contract compared to pursuing other methods due to the reasons stated herein, but specially due to the fact that the goals for solid waste disposal as set forth in the Solid Waste Management Plan and also as set forth in state law recommend a balanced approach to solid waste disposal including waste reduction, recycling and waste to energy and this particular contract will implement one phase of a total and regional solution to Spokane County's solid waste disposal problem. The Council has reviewed the studies and reports as listed and cited herein, and agrees with the opinions of the experts who authored those studies that this contract will

implement the best possible method of solid waste disposal for the City of Spokane.

37. The recitals^{*} contained in the Interlocal Agreement between the City of Spokane and Spokane County, Washington, on this Project relate to its findings herein and are therefore and hereby incorporated as Findings of Fact herein.

38. The Council finds that after years of planning and the completion of an adequate Environmental Impact Statement and vendor selection process, and after due consideration of the environmental, social, technical, economic and other relevant factors, including public and governmental comment, and observance of applicable federal, state, and local procedures, the City Council finds that construction of the Facility is in the best interests of and will best serve the citizens of this region and needs to be implemented at this time and hereby authorizes the execution of the Vendor contracts with Wheelabrator Spokane, Inc.

* OPR 87-594