

THE CITY OF SPOKANE



ADVANCE COUNCIL AGENDA

MEETING OF MONDAY, MARCH 4, 2013

MISSION STATEMENT

TO DELIVER EFFICIENT AND EFFECTIVE SERVICES
THAT FACILITATE ECONOMIC OPPORTUNITY
AND ENHANCE QUALITY OF LIFE.

MAYOR DAVID A. CONDON

COUNCIL PRESIDENT BEN STUCKART

COUNCIL MEMBER MICHAEL A. ALLEN

COUNCIL MEMBER MIKE FAGAN

COUNCIL MEMBER NANCY McLAUGHLIN

COUNCIL MEMBER STEVE SALVATORI

COUNCIL MEMBER JON SNYDER

COUNCIL MEMBER AMBER WALDREF

COUNCIL CHAMBERS
CITY HALL

808 W. SPOKANE FALLS BLVD.
SPOKANE, WA 99201

CITY COUNCIL BRIEFING SESSION

Council will adopt the Administrative Session Consent Agenda after they have had appropriate discussion. Items may be moved to the 6:00 p.m. Legislative Session for formal consideration by the Council at the request of any Council Member.

SPOKANE CITY COUNCIL BRIEFING SESSIONS (BEGINNING AT 3:30 P.M. EACH MONDAY) AND LEGISLATIVE SESSIONS (BEGINNING AT 6:00 P.M. EACH MONDAY) ARE BROADCAST LIVE ON CITY CABLE CHANNEL FIVE AND STREAMED LIVE ON THE CHANNEL FIVE WEBSITE. THE SESSIONS ARE REPLAYED ON CHANNEL FIVE ON WEDNESDAYS AT 6:00 P.M. AND FRIDAYS AT 10:00 A.M.

The Briefing Session is open to the public, but will be a workshop meeting. Discussion will be limited to Council Members and appropriate Staff and Counsel. There will be an opportunity for the expression of public views on any issue not relating to the Current or Advance Agendas during the Open Forum at the beginning and the conclusion of the Legislative Agenda.

ADDRESSING THE COUNCIL

- No one may speak without first being recognized for that purpose by the Chair. Except for named parties to an adjudicative hearing, a person may be required to sign a sign-up sheet as a condition of recognition.
- Each person speaking at the public microphone shall print his or her name and address on the sheet provided at the podium and verbally identify him/herself by name, address and, if appropriate, representative capacity.
- If you are submitting letters or documents to the Council Members, please provide a minimum of ten copies via the City Clerk. The City Clerk is responsible for officially filing and distributing your submittal.
- In order that evidence and expressions of opinion be included in the record and that decorum befitting a deliberative process be maintained, modes of expression such as demonstration, banners, applause and the like will not be permitted.
- A speaker asserting a statement of fact may be asked to document and identify the source of the factual datum being asserted.

SPEAKING TIME LIMITS: Unless deemed otherwise by the Chair, each person addressing the Council shall be limited to a three-minute speaking time.

CITY COUNCIL AGENDA: The City Council Advance and Current Agendas may be obtained prior to Council Meetings from the Office of the City Clerk during regular business hours (8 a.m. - 5 p.m.). The Agenda may also be accessed on the City website at www.spokanecity.org. Agenda items are available for public review in the Office of the City Clerk during regular business hours.

AMERICANS WITH DISABILITIES ACT (ADA) INFORMATION: The City of Spokane is committed to providing equal access to its facilities, programs and services for persons with disabilities. The Spokane City Council Chamber in the lower level of Spokane City Hall, 808 W. Spokane Falls Blvd., is wheelchair accessible and also is equipped with an infrared assistive listening system for persons with hearing loss. Headsets may be checked out (upon presentation of picture I.D.) at the City Cable 5 Production Booth located on the First Floor of the Municipal Building, directly above the Chase Gallery or through the meeting organizer. Individuals requesting reasonable accommodations or further information may call, write, or email Gita George-Hatcher at (509) 625-7083, 808 W. Spokane Falls Blvd, Spokane, WA, 99201; or ggeorge-hatcher@spokanecity.org. Persons who are deaf or hard of hearing may contact Ms. George-Hatcher at (509) 625-7083 through the Washington Relay Service at 7-1-1. Please contact us forty-eight (48) hours before the meeting date.

If you have questions, please call the Agenda Hotline at 625-6350.

BRIEFING SESSION

(3:30 p.m.)

(Council Chambers Lower Level of City Hall)

(No Public Testimony Taken)

Council Reports

Staff Reports

Committee Reports

Advance Agenda Review

Current Agenda Review

ADMINISTRATIVE SESSION

Roll Call of Council

CONSENT AGENDA

REPORTS, CONTRACTS AND CLAIMS

RECOMMENDATION

- | | | |
|--|----------------|------------------------------|
| 1. Contract with Tax Recovery Services, LLC (Tacoma, WA) to provide tax audit and recovery services for the Taxes and Licenses Department—\$200,000 revenue. (Twenty-five percent of the value of the audit is payable to Tax Recovery Services. There are no out-of-pocket costs for the City.)
<i>Kim Orlob</i> | Approve | OPR 2013-0135
RFP 3890-13 |
| 2. Reimbursement Agreement with Spokane County in conjunction with the Crestline Street from 37th Avenue to 57th Avenue Water Main Replacement Project—estimated revenue \$279,417.60.
<i>Gary Nelson</i> | Approve | OPR 2013-0136
ENG 2012104 |
| 3. Multiple Family Housing Property Tax Exemption Agreements with:
<i>Teri Stripes</i> | Approve
All | |
| a. Asher Ernst for 4 to 6 townhome and apartment units located at 1828 West College Avenue, Parcel Number 25134.1517. | | OPR 2013-0150 |
| b. Central Spokane Properties, LLC for 12 townhome and apartment units located at 606 and 610 South Scott Street, Parcel Numbers 35201.5323 and 35201.5332. | | OPR 2013-0151 |

- c. FPMC II, LLC for 60 townhome and apartment units located at 220 East Rowan Avenue, Parcel Numbers 36323.1904, 36323.1905, 36323.1917 and 36323.1918. OPR 2013-0152
- d. Stephen K. Peterson for 15 townhome and apartment units located at 702, 708 and 712 East 5th Avenue, Parcel Numbers 35201.5305, 35201.5345, 35201.5306 and 35201.5304. OPR 2013-0153
4. Report of the Mayor of pending claims and payments of previously approved obligations, including those of Parks and Library, through _____, total \$_____, with Parks and Library claims approved by their respective boards. Warrants excluding Parks and Library total \$_____. Approve & Authorize Payment CPR 2013-0002
-

EXECUTIVE SESSION

(Closed Session of Council)

(Executive Session may be held or reconvened during the 6:00 p.m. Legislative Session)

CITY COUNCIL SESSION

(May be held or reconvened following the 3:30 p.m. Administrative Session)

(Council Briefing Center)

This session may be held for the purpose of City Council meeting with Mayoral nominees to Boards and/or Commissions. The session is open to the public.

LEGISLATIVE SESSION

(6:00 P.M.)

(Council Reconvenes in Council Chamber)

WORDS OF INSPIRATION

PLEDGE OF ALLEGIANCE

ROLL CALL OF COUNCIL

ANNOUNCEMENTS

(Announcements regarding Changes to the City Council Agenda)

BOARDS AND COMMISSIONS APPOINTMENTS

(Includes Announcements of Boards and Commissions Vacancies)

CITY ADMINISTRATION REPORT

COUNCIL COMMITTEE REPORTS

(Committee Reports for Finance, Neighborhoods, Public Safety, Public Works, and Planning/Community and Economic Development Committees and other Boards and Commissions)

OPEN FORUM

This is an opportunity for citizens to discuss items of interest not relating to the Current or Advance Agendas nor relating to political campaigns/items on upcoming election ballots. This Forum shall be for a period of time not to exceed thirty minutes. After all the matters on the Agenda have been acted on, unless it is 10:00 p.m. or later, the open forum shall continue for a period of time not to exceed thirty minutes. Each speaker will be limited to three minutes, unless otherwise deemed by the Chair. If you wish to speak at the forum, please sign up on the sign-up sheet located in the Chase Gallery.

LEGISLATIVE AGENDA

EMERGENCY BUDGET ORDINANCES

(Require Five Affirmative, Recorded Roll Call Votes)

Ordinances amending Ordinance No. C34947 passed the City Council December 10, 2012, and entitled, "An Ordinance adopting the Annual Budget of the City of Spokane for 2013, making appropriations to the various funds, departments and programs of the City of Spokane government for the fiscal year ending December 31, 2013, and providing it shall take effect immediately upon passage," and declaring an emergency and appropriating funds in:

ORD C34966 Park Fund

FROM: Contributions/Donations, \$529,000;
TO: Other Improvements, same amount.

(This action budgets additional revenue that will be used for Manito Park capital improvements.)

Leroy Eadie

ORD C34967 Street Fund

FROM: Various Accounts, \$77,620;
TO: Various Accounts, same amount.

(This action creates an Associate Engineer position in Traffic Operations.)

Mark Serbousek

EMERGENCY ORDINANCE

Requires Five Affirmative, Recorded Roll Call Votes

- ORD C34963** Relating to adult bookstores, adult video stores, and sex paraphernalia stores; amending SMC Sections 17A.020.010, 17A.020.190, 17C.305.010 and 17C.305.020; adopting a new Section 17C.210.100 to Chapter 17C.210 of the Spokane Municipal Code; providing for a public hearing within sixty days and declaring an emergency.
Sponsors: Council Members Nancy McLaughlin and Steve Salvatori

RESOLUTIONS

(Require Four Affirmative, Recorded Roll Call Votes)

- RES 2013-0016** Authorizing an emergency short-term interfund loan to the Golf Fund from the Park Fund—up to \$150,000.
Gavin Cooley
- RES 2013-0017** Amending City Council Rules of Procedures (Rule 5.5.7 Voting and Rule 7.3 Subject Matter).
Sponsor: Council Member Mike Allen

NO FINAL READING ORDINANCES

FIRST READING ORDINANCES

(No Public Testimony Will Be Taken)

- ORD C34964** Relating to the executive and administrative organization of the City; adopting a new Chapter 3.01A to Title 3; and repealing Chapter 3.01 of the Spokane Municipal Code.
Heather Lowe
- ORD C34965** Relating to the Police Division; adopting a new Chapter 3.10 to Title 3 of the Spokane Municipal Code.
Heather Lowe/Frank Straub

FURTHER ACTION DEFERRED

NO SPECIAL CONSIDERATIONS

NO HEARINGS

Motion to Approve Advance Agenda for March 4, 2013
(per Council Rule 2.1.2)

OPEN FORUM (CONTINUED)

This is an opportunity for citizens to discuss items of interest not relating to the Current or Advance Agendas nor relating to political campaigns/items on upcoming election ballots. This Forum shall be for a period of time not to exceed thirty minutes. After all the matters on the Agenda have been acted on, unless it is 10:00 p.m. or later, the open forum shall continue for a period of time not to exceed thirty minutes. Each speaker will be limited to three minutes, unless otherwise deemed by the Chair. If you wish to speak at the forum, please sign up on the sign-up sheet located in the Chase Gallery.

ADJOURNMENT

The March 4, 2013, Regular Legislative Session of the City Council is adjourned to Monday, March 11, 2013.

NOTES

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

03/04/2013

Date Rec'd

2/20/2013

Clerk's File #

OPR 2013-0135

Renews #**Submitting Dept**

FINANCE

Cross Ref #**Contact Name/Phone**

KIM ORLOB 6369

Project #**Contact E-Mail**

KORLOB@SPOKANECITY.ORG

Bid #

3890-13

Agenda Item Type

Contract Item

Requisition #**Agenda Item Name**

TAX AUDIT & RECOVERY SERVICES

Agenda Wording

Contract with Tax Recovery Services, LLC to provide tax audit and recovery services for the City of Spokane Tax and License Department. 25% of the value of the audit is payable to Tax Recovery Services. There is no out of pocket costs for the city.

Summary (Background)

The City of Spokane collects various business taxes outlined in chapter 8 of our Spokane Municipal Code. These taxes include various utility taxes as well as gambling, admissions, and business registrations. Utility taxes and gambling tax are levied on gross revenues while admissions tax is levied on admissions charged. Businesses are required to submit a tax return and keep records available to the city for examination. This audit will ensure compliance with all city taxes levied on businesses

Fiscal Impact**Budget Account**

Revenue \$ 200,000

Various

Select \$

#

Select \$

#

Select \$

#

Approvals**Council Notifications****Dept Head**

DUNIVANT, TIMOTHY

Study Session**Division Director**

DUNIVANT, TIMOTHY

Other

Finance Committee - multiple

Finance

LESESNE, MICHELE

Distribution List**Legal**

BURNS, BARBARA

korlob@spokanecity.org

For the Mayor

SANDERS, THERESA

mlesesne@spokanecity.org

Additional Approvals

ldillman@spokanecity.org

Purchasing

tdunivant@spokanecity.org

gcooley@spokanecity.org

AGREEMENT

THIS AGREEMENT is between the CITY OF SPOKANE, a Washington State municipal corporation, as "City," and TAX RECOVERY SERVICES, LLC, whose address is 1902 157TH St. E., Tacoma, Washington 98445 as "Company."

The parties agree as follows:

1. DESCRIPTION OF WORK. The Company shall provide TAX RECOVERY SERVICES, in accordance with its proposal dated January 25, 2013.
2. CONTRACT TERM. The agreement shall begin on or about March 1, 2013 and end on December 31, 2013, unless terminated earlier. This agreement may be extended for an additional six (6) months, subject to mutual agreement. At the end of the contract term, if audits are still in process, an additional time extension will be granted subject to mutual agreement.
3. COMPENSATION. The Company shall receive twenty five percent (25%) of the value of the audit recovery, payable at the time the City receives the tax payment.
4. TERMINATION. Either party may terminate this agreement, with or without cause, by ten (10) days' written notice to the other party. In the event of such termination, the City shall pay the Company for all work previously authorized and performed prior to the termination date.
5. COMPLIANCE WITH LAWS. Each party shall comply with all applicable federal, state, and local laws and regulations.
6. INDEPENDENT CONTRACTOR. The parties intend that an independent contractor – employer relationship will be created by this agreement.
7. INDEMNIFICATION. The Company shall defend, indemnify and hold harmless the City, its officers and employees, from and against all claims for damages, liability, cost and expense arising out of the negligent conduct of the Company's performance of this agreement, except to the extent of those claims arising from the negligence of the City, its officers and employees. **The Company waives its immunity under Industrial Insurance, title 51 RCW, to the extent necessary to protect the City's interests under this indemnification. This provision has been specifically negotiated.**
8. INSURANCE. During the term of the contract, the Company shall maintain in force at its own expense, each insurance coverage noted below:

- A. Worker's Compensation Insurance in compliance with RCW 51.12.020, which requires subject employers to provide workers' compensation coverage for all their subject workers and Employer's Liability Insurance in the amount of \$1,000,000;
- B. General Liability Insurance on an occurrence basis, with a combined single limit of not less than \$1,000,000 each occurrence for bodily injury and property damage. It shall include contractual liability coverage for the indemnity provided under this contract. It shall provide that the City, its officers and employees are additional insureds but only with respect to the Company's services to be provided under this contract; and
- C. Automobile Liability Insurance with a combined single limit, or the equivalent of not less than \$1,000,000 each accident for bodily injury and property damage, including coverage for owned, hired and non-owned vehicles.
- D. Professional Liability Insurance with a combined single limit of not less than \$1,000,000 each claim, incident or occurrence. This is to cover damages caused by the error, omission, or negligent acts related to the professional services to be provided under this contract. The coverage must remain in effect for at least [2] years after the contract is completed.

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without sixty (60) days written notice from the Company or its insurer(s) to the City. As evidence of the insurance coverages required by this contract, the Company shall furnish acceptable insurance certificates to the City at the time it returns the signed contract. The certificate shall specify all of the parties who are additional insured, and include applicable policy endorsements and the deductible or retention level, as well as policy limits. Insuring companies or entities are subject to City acceptance and must have a rating of A- or higher by Best. The Company shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

9. NONDISCRIMINATION. No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this agreement because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities.

10. BUSINESS REGISTRATION REQUIREMENT. Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid annual business registration. The Company shall be responsible for contacting the State of Washington Business License Services at <http://bls.dor.wa.gov> or 1-800-451-7985 to obtain a business registration. If the Company does not believe it is required to obtain a business registration, it may contact

the City's Taxes and Licenses Division at (509) 625-6070 to request an exemption status determination.

11. ANTI-KICKBACK. No officer or employee of the City of Spokane, having the power or duty to perform an official act or action related to this agreement shall have or acquire any interest in the agreement, or have solicited, accepted or granted a present or future gift, favor, service or other thing of value from or to any person involved in this agreement.

12. AUDIT / RECORDS. The Company and its sub-companies shall maintain for a minimum of three (3) years following final payment all records related to its performance of the agreement. The Company and its sub-companies shall provide access to authorized City representatives at reasonable times and in a reasonable manner to inspect and copy any such record. In the event of conflict between this provision and related auditing provisions required under federal law applicable to the agreement, the federal law shall prevail.

13. MISCELLANEOUS PROVISIONS.

A. ASSIGNMENTS. Neither party may assign, transfer or subcontract its interest, in whole or in part, without the other party's prior written consent. In the event of an assignment or transfer, the terms of this agreement shall continue to be in full force and effect.

B. DISPUTES. This agreement shall be performed under the laws of the State of Washington. Any litigation to enforce this agreement or any of its provisions shall be brought in Spokane County, Washington.

C. SEVERABILITY. In the event any provision of this agreement should become invalid, the rest of the agreement shall remain in full force and effect.

D. AMENDMENTS. This agreement may be amended at any time by mutual written agreement.

Dated: _____

CITY OF SPOKANE

By: _____
Title: _____

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Dated: _____

TAX RECOVERY SERVICES, LLC

Email Address, if available:

By: _____

Title: _____

13-057

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

03/04/2013

<u>Date Rec'd</u>	2/20/2013
<u>Clerk's File #</u>	OPR 2013-0136
<u>Renews #</u>	
<u>Cross Ref #</u>	
<u>Project #</u>	2012104
<u>Bid #</u>	
<u>Requisition #</u>	REVENUE

<u>Submitting Dept</u>	ENGINEERING SERVICES
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<u>Contact Name/Phone</u>	GARY NELSON 625.6678
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<u>Contact E-Mail</u>	GNELSON@SPOKANECITY.ORG
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<u>Agenda Item Type</u>	Contract Item
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<u>Agenda Item Name</u>	0370-REIMBURSEMENT AGREEMENT-CRESTLINE STREET
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Agenda Wording

Reimbursement Agreement between the City of Spokane and Spokane County in conjunction with the Crestline Street from 37th Avenue to 57th Avenue Water Main Replacement project - revenue estimated in the amount of \$279,417.60.

Summary (Background)

A portion of this project, Crestline Street from 57th Avenue to 53rd Avenue, is in Spokane County. The County wants to add additional work and has agreed to reimburse the City for the preliminary engineering and construction costs. This Agreement is to set forth the terms of the reimbursement agreement.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Revenue	\$ 279,417.60	#	4100-42410-34141-54801-99999
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	TAYLOR, MIKE	<u>Study Session</u>	
<u>Division Director</u>	QUINTRALL, JAN	<u>Other</u>	
<u>Finance</u>	LESESNE, MICHELE	<u>Distribution List</u>	
<u>Legal</u>	BURNS, BARBARA	sdecker@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	pdolan@spokanecity.org	
<u>Additional Approvals</u>		mlesesne@spokanecity.org	
<u>Purchasing</u>	WAHL, CONNIE	mhughes@spokanecity.org	
		acline@spokanecity.org	

REIMBURSEMENT AGREEMENT

13 - 0161

THIS AGREEMENT ("Agreement") is between the CITY OF SPOKANE, a Washington municipal corporation, located at 808 West Spokane Falls Boulevard, Spokane, Washington, 99201, ("City"), and SPOKANE COUNTY, a Washington State political subdivision ("County"), jointly hereinafter referred to as the "Parties".

The Parties agree:

1. PURPOSE. The City is undertaking a water line replacement project in Crestline Street from 57th Avenue to 53rd Avenue. In addition to replacing the water line, the City is upgrading Crestline Street from 53rd Avenue to Thurston Avenue with curbs, sidewalks, storm drainage and widening the existing asphalt surfacing. Crestline Street from 57th Avenue to 53rd Avenue is in the County. The County wants to add additional work on this section and has agreed to reimburse the City for the preliminary engineering and construction costs of the additional work to the City project as shown in the attached plan. The purpose of this agreement is to set forth the terms of the reimbursement agreement.
2. CITY TO BID PROJECT. The CITY will competitively bid the project, and award the project to the lowest responsible bidder. The City shall be responsible for all phases of completion of the Project, including the portion in the County. The County relies on its review of the Project plans for assurance that the contract will satisfy the purpose of the County's expected benefits from this Agreement. Accordingly, the City agrees that the County will have an opportunity to review and comment on any proposed change orders affecting the County's expected benefits. If the Parties cannot agree on the County's continued participation in the Project, the County reserves the right to withdraw, with the understanding that it must pay any reasonable costs the City has incurred.
3. COUNTY PAYMENT.
 - A. The County shall, upon completion of the Project, reimburse City for the actual costs of the added improvements. The County Payment is estimated to be \$279,417.60. The City will open bids, and give the County written notice of its share of the expected costs. The County will have three (3) working days to agree to accept such cost, or may decide to delete the work from the contract. If the County's share of costs increases, more than ten percent (10%) during construction, the City will inform the County as soon as this information is reasonably available so the County may determine whether to continue the contract.

B. The City agrees to assign to the County any contract rights it may have in the event of problems with contract performance of the County's share of the work, PROVIDED, any such assignment or exercise of assigned rights by the City shall be at no cost or liability to the City.

C. The County shall make payment, payable to the City of Spokane, within thirty (30) days after the receipt of City's application for payment as the County's approval of the work as substantially in accord with the contract documents, which approval may not be unreasonably withheld. Payment terms are net thirty (30) days from receipt of the City's application for payment and the County's approval of the work.

4. INDEMNITY AND HOLD HARMLESS. Each party shall indemnify and hold the other party, its officers, employees, agents, and contractors, harmless against any and all claims, lawsuits, actions, and demands for damages arising from its involvement in this Agreement, except for those claims, lawsuits, actions, and demands arising solely from the negligence of the party otherwise to be indemnified, and its officers, employees, agents, and contractors.

5. ADDITIONAL TERMS.

A. WAIVER. No officer, employee, agent or otherwise of either party has the power, right or authority to waive any of the conditions or provisions of this Agreement. No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this Agreement or a law shall be taken and construed as cumulative, that is, in addition to every other remedy provided herein or by law. Failure of either party to enforce at any time any of the provisions of this Agreement or to require at any time performance by the other of any provision hereof, shall in no way be construed to be a waiver of such provisions, nor in any way affect the validity of this Agreement or any part hereof, or the right of the party entitled to performance to hereafter enforce each and every such provision. Either party's failure to insist upon the strict performance of any provision of this Agreement or to exercise any right based upon breach thereof or the acceptance of any performance during such breach, shall not constitute a waiver of any right under this Agreement.

B. MODIFICATION. No modification or amendment to this Agreement shall be valid until the same is reduced to writing, in the form of an amendment, and executed with the same formalities as this present Agreement.

C. ASSIGNMENT. Neither party may assign or transfer in whole or in part, its interest in this Agreement without the express written consent of the other.

D. COMPLIANCE WITH LAWS. The Parties hereto specifically agree to observe Federal, State and local laws, ordinances and regulations, to the extent that they

may have any bearing on either providing any money under the terms of this Agreement or the services actually provided under the terms of this Agreement.

- E. NONDISCRIMINATION. No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Agreement because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities.
- F. ANTI-KICKBACK. No officer or employee of the Parties, having the power or duty to perform an official act or action related to this Agreement, shall have or acquire any interest in this Agreement, or have solicited, accepted or granted a present or future gift, favor, service, or other thing of value from or to any person involved in this Agreement.
- G. HEADINGS. The article headings in this Agreement have been inserted solely for the purpose of convenience and ready reference. In no way do they purport to, and shall not be deemed to, define, limit, or extend the scope or intent of the articles to which they appertain.
- H. ALL WRITINGS CONTAINED HEREIN. This Agreement contains all the terms and conditions agreed upon by the Parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the Parties hereto. The County has read and understands all of this Agreement, and now states that no representation, promise, or agreement not expressed in this document has been made to induce the County to execute the same.
- K. RELATIONSHIP OF THE PARTIES. The Parties intend that an independent contractor relationship will be created by this Agreement. The County is interested only in the results that could be achieved and the conduct and control of all work and services will be solely with the City. No agent, employee, servant or otherwise of the City shall be deemed to be an employee, agent, servant, or otherwise of the County for any purpose, and the employees of the City are not entitled to any of the benefits that the County provides for County employees. The City will be solely and entirely responsible for its acts and the acts of its agents, employees, servants, subcontractors, or otherwise, during the performance of this Agreement.

Dated: _____

CITY OF SPOKANE

By: _____

Title: _____

Attest:

Approved as to form:

City Clerk




Assistant City Attorney

DATED: 2/12/13

BOARD OF COUNTY COMMISSIONERS
OF SPOKANE COUNTY, WASHINGTON

Attest
Clerk of the Board



Daniela Erickson 13-0161






Shelly O'Quinn, Chairperson



Al French, Vice-Chairman



Todd Mielke, Commissioner

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

03/04/2013

Date Rec'd

2/20/2013

Clerk's File #

OPR 2013-0150

Renews #**Submitting Dept**

PLANNING SERVICES

Cross Ref #**Contact Name/Phone**

TERI STRIPES 625-6597

Project #**Contact E-Mail**

TSTRIPES@SPOKANECITY.ORG

Bid #**Agenda Item Type**

Contract Item

Requisition #**Agenda Item Name**

0780 MTFE CONTRACT - ASHER ERNST

Agenda Wording

Multiple Family Housing Property Tax Exemption Agreement with Asher Ernst for four to six townhome and apartment units located at 1828 West College Avenue. Parcel Number 25134.1517.

Summary (Background)

Chapter 84.14 RCW authorizes the City to create a multiple family housing property tax exemption program and to certify qualified property owners for that property tax exemption. The City Council enacted Ordinance No. C-32575, which provides for the property tax exemption program for multiple housing in residential targeted areas. Pursuant to Ordinance No. C-33079, the City Council expanded the residential targeted areas. (See attached)

Fiscal Impact**Budget Account**

Select \$

#

Select \$

#

Select \$

#

Select \$

#

Approvals**Council Notifications****Dept Head**

CHESNEY, SCOTT

Study Session**Division Director**

QUINTRALL, JAN

Other**Finance**

LESESNE, MICHELE

Distribution List**Legal**

BURNS, BARBARA

sdecker@spokanecity.org

For the Mayor

SANDERS, THERESA

mpiccolo@spokanecity.org

Additional Approvals

jquintrall@spokanecity.org

Purchasing

schesney@spokanecity.org

tsgtripes@spokanecity.org

mhughes@spokanecity.org

htrautman@spokanecity.org



Summary (Background)

The State statute and the City ordinance require the City to approve the application regarding the tax exemption and the necessary construction requirements. The City has received an application from Asher Ernst, for a project consisting of approximately four to six new housing units. The staff has reviewed the application and determined that it meets the requirements of Chapter 8.15 SMC and qualifies for the tax exemption. This contract authorizes the appropriate City official to enter into the attached Multiple Family Housing Property Tax Exemption Agreement, which will ultimately result in the issuance of a final certificate of tax exemption to be filed with the Spokane County Assessor's Office.

Fiscal Impact		Budget Account
Select	\$	#
Select	\$	#
Select	\$	#
Select	\$	#

[illegible]

**MULTIPLE FAMILY HOUSING PROPERTY
TAX EXEMPTION AGREEMENT**

THIS AGREEMENT is between the City of Spokane, a Washington State municipal corporation, as "City", and Asher Ernst, as "Owner" whose address is 1007 South F Street, Spokane, WA 99224.

WITNESSETH:

WHEREAS, The City has, pursuant to the authority granted to it by Chapter 84.14 RCW, designated various residential targeted areas for the provision of a limited property tax exemption for new and rehabilitated multiple family residential housing; and

WHEREAS, The City has, through SMC Chapter 8.15, enacted a program whereby property owners may qualify for a Final Certificate of Tax Exemption which certifies to the Spokane County Assessor that the Owner is eligible to receive the multiple family housing property tax exemption; and

WHEREAS, The Owner is interested in receiving the multiple family property tax exemption for new multiple family residential housing units in a residential targeted area; and

WHEREAS, The Owner has submitted to the City a complete application form for no fewer than a total of four new multiple family permanent residential housing units to be constructed on property legally described as:

Lot 18, Block 3, Ide and Kaufman Addition, Parcel Number 25134.1517.

WHEREAS, The City has determined that the improvements will, if completed as proposed, satisfy the requirements for a Final Certificate of Tax Exemption; -- NOW, THEREFORE,

The City and the Owner do mutually agree as follows:

1. The City agrees to issue the Owner a Conditional Certificate of Acceptance of Tax Exemption subsequent to the City Council's approval of this agreement.

2. The project must comply with all applicable zoning requirements, land use requirements, design review recommendations and all building, fire, and housing code requirements contained in the Spokane Municipal Code at the time a complete application for a building permit is received.

3. The Owner intends to construct on the site, approximately four new multiple family residential housing units substantially as described in their application filed with and approved by the City. In no event shall such construction provide fewer than a total of four multiple family permanent residential housing units.

4. The Owner commits to renting or selling at least twenty percent of the multifamily housing units constructed on the site as housing units affordable for low or moderate-income households as defined by SMC 8.15.090.

5. The Owner agrees to complete construction of the agreed-upon improvements within three years from the date the City issues the Conditional Certificate of Acceptance of Tax Exemption or within any extension granted by the City.

6. The Owner agrees, upon completion of the improvements and upon issuance by the City of a temporary or permanent certificate of occupancy, to file with the City's Business & Development Services Department the following:

(a) a statement of the actual development cost of each multiple family housing unit, and the total expenditures made in the rehabilitation or construction of the entire property;

(b) a description of the completed work and a statement that the rehabilitation improvements or new construction of the Owner's property qualifies the property for the exemption;

(c) a statement that the project meets the affordable housing requirements, if applicable; and

(d) a statement that the work was completed within the required three-year period or any authorized extension of the issuance of the conditional certificate of tax exemption.

7. The City agrees, conditioned on the Owner's successful completion of the improvements in accordance with the terms of this Agreement and on the Owner's filing of the materials described in Paragraph 6 above, to file a Final Certificate of Tax Exemption with the Spokane County Assessor indicating that the Owner is qualified for the limited tax exemption under Chapter 84.14 RCW.

8. The Owner agrees, within 30 days following the first anniversary of the City's filing of the Final Certificate of Tax Exemption and each year thereafter for a period of twelve years, to file a declaration with the City's Business and Development Services Department, verified upon oath and indicating the following:

(a) a statement of occupancy and vacancy of the multiple family units during the previous year;

(b) a certification that the property has not changed use and, if applicable, that the property has been in compliance with the affordable housing requirements as described in SMC 8.15.090 since the date of the filing of the Final Certificate of Tax Exemption, and continues to be in compliance with this Agreement and the requirements of SMC Chapter 8.15; and

(c) a description of any improvements or changes to the property made after the filing of the final certificate or last declaration.

9. The parties acknowledge that the units are to be used and occupied for multifamily residential use. The parties further acknowledge that the certificate of occupancy issued by the City is for multifamily residential units. The Owner acknowledges and agrees that the units shall be used primarily for residential occupancy and any business activities shall only be incidental and ancillary to the residential occupancy.

10. If the Owner converts to another use any of the multiple family residential housing units constructed under this Agreement, or if applicable, if the owner intends to discontinue compliance with the affordable housing requirements as described in SMC 8.15.090 or any other condition to exemption, the Owner shall notify the Spokane County Assessor and the City's Business and Development Services Department within 60 days of such change in use.

11. The Owner will have the right to assign its rights under this Agreement. The Owner agrees to notify the City promptly of any transfer of Owner's ownership interest in the Site or in the improvements made to the Site under this Agreement.

12. The City reserves the right to cancel the Final Certificate of Tax Exemption should the Owner, its successors and assigns, fail to comply with any of the terms and conditions of this Agreement or of SMC Chapter 8.15.

13. No modifications of this Agreement shall be made unless mutually agreed upon by the parties in writing.

14. The Owner acknowledges its awareness of the potential tax liability involved if and when the property ceases to be eligible for the incentive provided pursuant to this agreement. Such liability may include additional real property tax, penalties and interest imposed pursuant to RCW 84.14.110. The Owner further acknowledges its awareness and understanding of the process implemented by the Spokane County Assessor's Office for the appraisal and assessment of property taxes. The Owner agrees that the City is not responsible for the property value assessment imposed by Spokane County at any time during the exemption period.

15. In the event that any term or clause of this Agreement conflicts with applicable law, such conflict shall not affect other terms of this Agreement, which can be given effect without the conflicting term or clause, and to this end, the terms of this Agreement are declared to be severable.

16. Nothing in this Agreement shall permit or be interpreted to permit either party to violate any provision of Chapter 84.14 RCW or SMC Chapter 8.15.

17. This Agreement is subject to the approval the City Council.

DATED this _____ day of _____, 2013

CITY OF SPOKANE

ASHER ERNST

By: _____
Mayor, David A. Condon

By: Asher Ernst 2/19/13
Its: _____

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

STATE OF WASHINGTON)
) ss.
County of Spokane)

On this _____ day of _____, 2013, before me, the undersigned, a Notary Public in and for the State of Washington, personally appeared DAVID A. CONDON and TERRI L. PFISTER, to me known to be the Mayor and the City Clerk, respectively, of the CITY OF SPOKANE, the municipal corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2013.

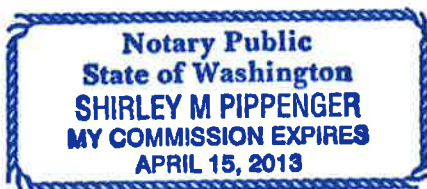
Notary Public in and for the State
of Washington, residing at Spokane

My commission expires _____

STATE OF WASHINGTON)
) ss.
County of Spokane)

On this 19th day of February, 2013, before me, the undersigned, a Notary Public in and for the State of Washington, personally appeared Asher Blue Ernst, to me known to be the person who executed the within and foregoing instrument, and acknowledged the said instrument to be his/her free and voluntary act and deed, for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 19th day of February, 2013.



Shirley M Pippenger
Notary Public in and for the State
of Washington, residing at Spokane

My commission expires 04/15/2013

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

03/04/2013

Date Rec'd

2/20/2013

Clerk's File #

OPR 2013-0151

Renews #**Submitting Dept**

PLANNING SERVICES

Cross Ref #**Contact Name/Phone**

TERI STRIPES 625-6597

Project #**Contact E-Mail**

TSTRIPES@SPOKANECITY.ORG

Bid #**Agenda Item Type**

Contract Item

Requisition #**Agenda Item Name**

0780 0 MTFE CONTRACT - CENTRAL SPOKANE PROPERTIES

Agenda Wording

Multiple Family Housing Property Tax Exemption Agreement with Central Spokane Properties, LLC for twelve townhome and apartment units located at 606 and 610 South Scott Street, Parcel Numbers 35201.5323 and 35201.5332.

Summary (Background)

Chapter 84.14 RCW authorizes the City to create a multiple family housing property tax exemption program and to certify qualified property owners for that property tax exemption. The City Council enacted Ordinance No. C-32575, which provides for the property tax exemption program for multiple housing in residential targeted areas. Pursuant to Ordinance No. C-33079, the City Council expanded the residential targeted areas. (See attached)

Fiscal Impact**Budget Account**

Select \$

#

Select \$

#

Select \$

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Select \$

#

Approvals**Council Notifications****Dept Head**

CHESNEY, SCOTT

Study Session**Division Director**

QUINTRALL, JAN

Other**Finance**

LESESNE, MICHELE

Distribution List**Legal**

BURNS, BARBARA

sdecker@spokanecity.org

For the Mayor

SANDERS, THERESA

mpiccolo@spokanecity.org

Additional Approvals

jquintrall@spokanecity.org

Purchasing

schesney@spokanecity.org

tstripes@spokanecity.org

mhughes@spokanecity.org

htrautman@spokanecity.org



Summary (Background)

The State statute and the City ordinance require the City to approve the application regarding the tax exemption and the necessary construction requirements. The City has received an application from Central Spokane Properties, LLC, for a project consisting of approximately twelve new housing units. The staff has reviewed the application and determined that it meets the requirements of Chapter 8.15 SMC and qualifies for the tax exemption. This contract authorizes the appropriate City official to enter into the attached Multiple Family Housing Property Tax Exemption Agreement, which will ultimately result in the issuance of a final certificate of tax exemption to be filed with the Spokane County Assessor's Office.

[illegible]

MULTIPLE FAMILY HOUSING PROPERTY
TAX EXEMPTION AGREEMENT

THIS AGREEMENT is between the City of Spokane, a Washington State municipal corporation, as "City", and Central Spokane Properties, LLC, as "Owner" whose address is P. O. Box 682, Liberty Lake, WA 99019.

W I T N E S S E T H:

WHEREAS, The City has, pursuant to the authority granted to it by Chapter 84.14 RCW, designated various residential targeted areas for the provision of a limited property tax exemption for new and rehabilitated multiple family residential housing; and

WHEREAS, The City has, through SMC Chapter 8.15, enacted a program whereby property owners may qualify for a Final Certificate of Tax Exemption which certifies to the Spokane County Assessor that the Owner is eligible to receive the multiple family housing property tax exemption; and

WHEREAS, The Owner is interested in receiving the multiple family property tax exemption for new multiple family residential housing units in a residential targeted area; and

WHEREAS, The Owner has submitted to the City a complete application form for no fewer than a total of four new multiple family permanent residential housing units to be constructed on property legally described as:

South 80 feet of east 135 feet of Lot 5 and North 40 feet of east 135 feet of Lot 7,
Block 3, Highland Park Hartsons Addition, Parcel Numbers 35201.5323 and
35201.5332.

WHEREAS, The City has determined that the improvements will, if completed as proposed, satisfy the requirements for a Final Certificate of Tax Exemption; -- NOW, THEREFORE,

The City and the Owner do mutually agree as follows:

1. The City agrees to issue the Owner a Conditional Certificate of Acceptance of Tax Exemption subsequent to the City Council's approval of this agreement.
2. The project must comply with all applicable zoning requirements, land use requirements, design review recommendations and all building, fire, and housing code requirements contained in the Spokane Municipal Code at the time a complete application for a building permit is received.
3. The Owner intends to construct on the site, approximately 12 new multiple family residential housing units substantially as described in their application filed with and approved by the City. In no event shall such construction provide fewer than a total of four multiple family permanent residential housing units.
4. The Owner commits to renting or selling at least twenty percent of the multifamily housing units constructed on the site as housing units affordable for low or moderate-income households as defined by SMC 8.15.090.

5. The Owner agrees to complete construction of the agreed-upon improvements within three years from the date the City issues the Conditional Certificate of Acceptance of Tax Exemption or within any extension granted by the City.

6. The Owner agrees, upon completion of the improvements and upon issuance by the City of a temporary or permanent certificate of occupancy, to file with the City's Business & Development Services Department the following:

(a) a statement of the actual development cost of each multiple family housing unit, and the total expenditures made in the rehabilitation or construction of the entire property;

(b) a description of the completed work and a statement that the rehabilitation improvements or new construction of the Owner's property qualifies the property for the exemption;

(c) a statement that the project meets the affordable housing requirements, if applicable; and

(d) a statement that the work was completed within the required three-year period or any authorized extension of the issuance of the conditional certificate of tax exemption.

7. The City agrees, conditioned on the Owner's successful completion of the improvements in accordance with the terms of this Agreement and on the Owner's filing of the materials described in Paragraph 6 above to file a Final Certificate of Tax Exemption with the Spokane County Assessor indicating that the Owner is qualified for the limited tax exemption under Chapter 84.14 RCW.

8. The Owner agrees, within 30 days following the first anniversary of the City's filing of the Final Certificate of Tax Exemption and each year thereafter for a period of twelve years to file a declaration with the City's Business and Development Services Department, verified upon oath and indicating the following:

(a) a statement of occupancy and vacancy of the multiple family units during the previous year;

(b) a certification that the property has not changed use and, if applicable, that the property has been in compliance with the affordable housing requirements as described in SMC 8.15.090 since the date of the filing of the Final Certificate of Tax Exemption, and continues to be in compliance with this Agreement and the requirements of SMC Chapter 8.15; and

(c) a description of any improvements or changes to the property made after the filing of the final certificate or last declaration.

9. The parties acknowledge that the units are to be used and occupied for multifamily residential use. The parties further acknowledge that the certificate of occupancy issued by the City is for multifamily residential units. The Owner acknowledges and agrees that the units shall be used primarily for residential occupancy and any business activities shall only be incidental and ancillary to the residential occupancy.

10. If the Owner converts to another use any of the multiple family residential housing units constructed under this Agreement, or if applicable, if the owner intends to discontinue compliance with the affordable housing requirements as described in SMC 8.15.090 or any

other condition to exemption, the Owner shall notify the Spokane County Assessor and the City's Business and Development Services Department within 60 days of such change in use.

11. The Owner will have the right to assign its rights under this Agreement. The Owner agrees to notify the City promptly of any transfer of Owner's ownership interest in the Site or in the improvements made to the Site under this Agreement.

12. The City reserves the right to cancel the Final Certificate of Tax Exemption should the Owner, its successors and assigns, fail to comply with any of the terms and conditions of this Agreement or of SMC Chapter 8.15.

13. No modifications of this Agreement shall be made unless mutually agreed upon by the parties in writing.

14. The Owner acknowledges its awareness of the potential tax liability involved if and when the property ceases to be eligible for the incentive provided pursuant to this agreement. Such liability may include additional real property tax, penalties and interest imposed pursuant to RCW 84.14.110. The Owner further acknowledges its awareness and understanding of the process implemented by the Spokane County Assessor's Office for the appraisal and assessment of property taxes. The Owner agrees that the City is not responsible for the property value assessment imposed by Spokane County at any time during the exemption period.

15. In the event that any term or clause of this Agreement conflicts with applicable law, such conflict shall not affect other terms of this Agreement, which can be given effect without the conflicting term or clause, and to this end, the terms of this Agreement are declared to be severable.

16. Nothing in this Agreement shall permit or be interpreted to permit either party to violate any provision of Chapter 84.14 RCW or SMC Chapter 8.15.

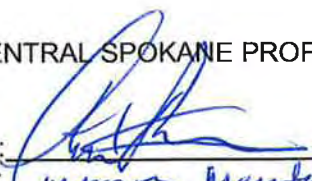
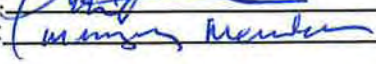
17. This Agreement is subject to the approval the City Council.

DATED this _____ day of _____, 2013

CITY OF SPOKANE

CENTRAL SPOKANE PROPERTIES, LLC

By: _____
Mayor, David A. Condon

By:  _____
Its:  _____

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

STATE OF WASHINGTON)
) ss.
County of Spokane)

On this _____ day of _____, 2013, before me, the undersigned, a Notary Public in and for the State of Washington, personally appeared DAVID A. CONDON and TERRI L. PFISTER, to me known to be the Mayor and the City Clerk, respectively, of the CITY OF SPOKANE, the municipal corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2013.

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

My commission expires _____

STATE OF WASHINGTON)
) ss.
County of Spokane)

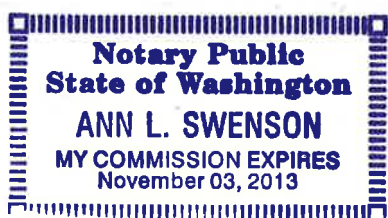
On this 12 day of February, 2013, before me, the undersigned, a Notary Public in and for the State of Washington, personally appeared Stephen K. Petersen, to me known to be the person who executed the within and foregoing instrument, and acknowledged the said instrument to be his/her free and voluntary act and deed, for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 12th day of February, 2013.

Ann L. Swenson

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

My commission expires 11.3.2013





Agenda Sheet for City Council Meeting of:

03/04/2013

Date Rec'd	2/20/2013
Clerk's File #	OPR 2013-0152
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	PLANNING SERVICES
Contact Name/Phone	TERI STRIPES 625-6597
Contact E-Mail	TSTRIPES@SPOKANECITY.ORG
Agenda Item Type	Contract Item
Agenda Item Name	0780 MTFE CONTRACT - FPMC II

Agenda Wording

Multiple Family Housing Property Tax Exemption Agreement with FPMC II, LLC for 60 townhome and apartment units located at 220 East Rowan Avenue, Parcel Numbers 36323.1904, 36323.1905, 36323.1917 and 36323.1918.

Summary (Background)

Chapter 84.14 RCW authorizes the City to create a multiple family housing property tax exemption program and to certify qualified property owners for that property tax exemption. The City Council enacted Ordinance No. C-32575, which provides for the property tax exemption program for multiple housing in residential targeted areas. Pursuant to Ordinance No. C-33079, the City Council expanded the residential targeted areas. (See attached)

Fiscal Impact		Budget Account
Select	\$	#
Select	\$	#
Select	\$	#
Select	\$	#
Approvals		Council Notifications
Dept Head	CHESNEY, SCOTT	Study Session
Division Director	QUINTRALL, JAN	Other
Finance	LESESNE, MICHELE	Distribution List
Legal	BURNS, BARBARA	sdecker@spokanecity.org
For the Mayor	SANDERS, THERESA	mpiccolo@spokanecity.org
Additional Approvals		jquintrall@spokanecity.org
Purchasing		schesney@spokanecity.org
		tstripes@spokanecity.org
		mhughes@spokanecity.org
		htrautman@spokanecity.org



Summary (Background)

The State statute and the City ordinance require the City to approve the application regarding the tax exemption and the necessary construction requirements. The City has received an application from FPMC II, LLC, for a project consisting of approximately 60 new housing units. The staff has reviewed the application and determined that it meets the requirements of Chapter 8.15 SMC and qualifies for the tax exemption. This contract authorizes the appropriate City official to enter into the attached Multiple Family Housing Property Tax Exemption Agreement, which will ultimately result in the issuance of a final certificate of tax exemption to be filed with the Spokane County Assessor's Office.

Fiscal Impact		Budget Account
Select	\$	#
Select	\$	#
Select	\$	#
Select	\$	#

[illegible]

MULTIPLE FAMILY HOUSING PROPERTY
TAX EXEMPTION AGREEMENT

THIS AGREEMENT is between the City of Spokane, a Washington State municipal corporation, as "City", and FPMC II, LLC, as "Owner" whose address is 6506 South Westchester Court, Spokane, WA 99223.

WITNESSETH:

WHEREAS, The City has, pursuant to the authority granted to it by Chapter 84.14 RCW, designated various residential targeted areas for the provision of a limited property tax exemption for new and rehabilitated multiple family residential housing; and

WHEREAS, The City has, through SMC Chapter 8.15, enacted a program whereby property owners may qualify for a Final Certificate of Tax Exemption which certifies to the Spokane County Assessor that the Owner is eligible to receive the multiple family housing property tax exemption; and

WHEREAS, The Owner is interested in receiving the multiple family property tax exemption for new multiple family residential housing units in a residential targeted area; and

WHEREAS, The Owner has submitted to the City a complete application form for no fewer than a total of four new multiple family permanent residential housing units to be constructed on property legally described as:

Lots 4, 5, 20 and 21, Block 1, Lidgerwood North Addition, Parcel Numbers 36323.1904, 36323.1905, 36323.1917 and 36323.1918

WHEREAS, The City has determined that the improvements will, if completed as proposed, satisfy the requirements for a Final Certificate of Tax Exemption; -- NOW, THEREFORE,

The City and the Owner do mutually agree as follows:

1. The City agrees to issue the Owner a Conditional Certificate of Acceptance of Tax Exemption subsequent to the City Council's approval of this agreement.
2. The project must comply with all applicable zoning requirements, land use requirements, design review recommendations and all building, fire, and housing code requirements contained in the Spokane Municipal Code at the time a complete application for a building permit is received.
3. The Owner intends to construct on the site, approximately 60 new multiple family residential housing units substantially as described in their application filed with and approved by the City. In no event shall such construction provide fewer than a total of four multiple family permanent residential housing units.
4. The Owner commits to renting or selling at least twenty percent of the multifamily housing units constructed on the site as housing units affordable for low or moderate-income households as defined by SMC 8.15.090.

5. The Owner agrees to complete construction of the agreed-upon improvements within three years from the date the City issues the Conditional Certificate of Acceptance of Tax Exemption or within any extension granted by the City.

6. The Owner agrees, upon completion of the improvements and upon issuance by the City of a temporary or permanent certificate of occupancy, to file with the City's Business & Development Services Department the following:

(a) a statement of the actual development cost of each multiple family housing unit, and the total expenditures made in the rehabilitation or construction of the entire property;

(b) a description of the completed work and a statement that the rehabilitation improvements or new construction of the Owner's property qualifies the property for the exemption;

(c) a statement that the project meets the affordable housing requirements, if applicable; and

(d) a statement that the work was completed within the required three-year period or any authorized extension of the issuance of the conditional certificate of tax exemption.

7. The City agrees, conditioned on the Owner's successful completion of the improvements in accordance with the terms of this Agreement and on the Owner's filing of the materials described in Paragraph 6 above, to file a Final Certificate of Tax Exemption with the Spokane County Assessor indicating that the Owner is qualified for the limited tax exemption under Chapter 84.14 RCW.

8. The Owner agrees, within 30 days following the first anniversary of the City's filing of the Final Certificate of Tax Exemption and each year thereafter for a period of twelve years, to file a declaration with the City's Business and Development Services Department, verified upon oath and indicating the following:

(a) a statement of occupancy and vacancy of the multiple family units during the previous year;

(b) a certification that the property has not changed use and, if applicable, that the property has been in compliance with the affordable housing requirements as described in SMC 8.15.090 since the date of the filing of the Final Certificate of Tax Exemption, and continues to be in compliance with this Agreement and the requirements of SMC Chapter 8.15; and

(c) a description of any improvements or changes to the property made after the filing of the final certificate or last declaration.

9. The parties acknowledge that the units are to be used and occupied for multifamily residential use. The parties further acknowledge that the certificate of occupancy issued by the City is for multifamily residential units. The Owner acknowledges and agrees that the units shall be used primarily for residential occupancy and any business activities shall only be incidental and ancillary to the residential occupancy.

10. If the Owner converts to another use any of the multiple family residential housing units constructed under this Agreement, or if applicable, if the owner intends to discontinue compliance with the affordable housing requirements as described in SMC 8.15.090 or any

other condition to exemption, the Owner shall notify the Spokane County Assessor and the City's Business and Development Services Department within 60 days of such change in use.

11. The Owner will have the right to assign its rights under this Agreement. The Owner agrees to notify the City promptly of any transfer of Owner's ownership interest in the Site or in the improvements made to the Site under this Agreement.

12. The City reserves the right to cancel the Final Certificate of Tax Exemption should the Owner, its successors and assigns, fail to comply with any of the terms and conditions of this Agreement or of SMC Chapter 8.15.

13. No modifications of this Agreement shall be made unless mutually agreed upon by the parties in writing.

14. The Owner acknowledges its awareness of the potential tax liability involved if and when the property ceases to be eligible for the incentive provided pursuant to this agreement. Such liability may include additional real property tax, penalties and interest imposed pursuant to RCW 84.14.110. The Owner further acknowledges its awareness and understanding of the process implemented by the Spokane County Assessor's Office for the appraisal and assessment of property taxes. The Owner agrees that the City is not responsible for the property value assessment imposed by Spokane County at any time during the exemption period.

17. In the event that any term or clause of this Agreement conflicts with applicable law, such conflict shall not affect other terms of this Agreement, which can be given effect without the conflicting term or clause, and to this end, the terms of this Agreement are declared to be severable.

16. Nothing in this Agreement shall permit or be interpreted to permit either party to violate any provision of Chapter 84.14 RCW or SMC Chapter 8.15.

17. This Agreement is subject to the approval the City Council.

DATED this 19TH day of FEBRUARY, 2013

CITY OF SPOKANE

FPMC II, LLC

By: _____
Mayor, David A. Condon

By: 
Its: MANAGING PARTNER

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

STATE OF WASHINGTON)
) ss.
County of Spokane)

On this _____ day of _____, 2013, before me, the undersigned, a Notary Public in and for the State of Washington, personally appeared DAVID A. CONDON and TERRI L. PFISTER, to me known to be the Mayor and the City Clerk, respectively, of the CITY OF SPOKANE, the municipal corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2013.

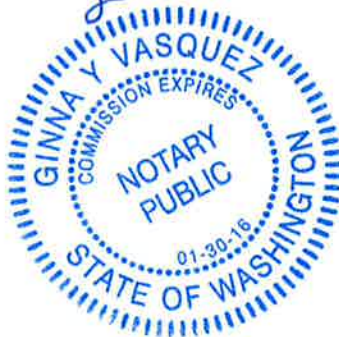
Notary Public in and for the State
of Washington, residing at Spokane

My commission expires _____

STATE OF WASHINGTON)
) ss.
County of Spokane)

On this 19th day of February, 2013, before me, the undersigned, a Notary Public in and for the State of Washington, personally appeared Alfred G. French II, to me known to be the person who executed the within and foregoing instrument, and acknowledged the said instrument to be his/her free and voluntary act and deed, for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 19th day of February, 2013.



Ginna Y. Vasquez
Notary Public in and for the State
of Washington, residing at Spokane

My commission expires 1-30-16

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

03/04/2013

Date Rec'd

2/20/2013

Clerk's File #

OPR 2013-0153

Renews #**Submitting Dept**

PLANNING SERVICES

Cross Ref #**Contact Name/Phone**

TERI STRIPES 625-6597

Project #**Contact E-Mail**

TSTRIPES@SPOKANECITY.ORG

Bid #**Agenda Item Type**

Contract Item

Requisition #**Agenda Item Name**

0780 MTFE CONTRACTG - STEPHEN PETERSON

Agenda Wording

Multiple Family Housing Property Tax Exemption Agreement with Stephen K. Peterson for 15 townhome and apartment units located at 702, 708 and 712 East 5th Avenue, Parcel Numbers 35201.5305, 35201.5345, 35201.5306 and 35201.5304.

Summary (Background)

Chapter 84.14 RCW authorizes the City to create a multiple family housing property tax exemption program and to certify qualified property owners for that property tax exemption. The City Council enacted Ordinance No. C-32575, which provides for the property tax exemption program for multiple housing in residential targeted areas. Pursuant to Ordinance No. C-33079, the City Council expanded the residential targeted areas. (See attached)

Fiscal Impact**Budget Account**

Select \$

#

Select \$

#

Select \$

#

Select \$

#

Approvals**Council Notifications****Dept Head**

CHESNEY, SCOTT

Study Session**Division Director**

QUINTRALL, JAN

Other**Finance**

LESESNE, MICHELE

Distribution List**Legal**

BURNS, BARBARA

sdecker@spokanecity.org

For the Mayor

SANDERS, THERESA

mpiccolo@spokanecity.org

Additional Approvals

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Purchasing

schesney@spokanecity.org

tstripes@spokanecity.org

mhughes@spokanecity.org

htrautman@spokanecity.org



Summary (Background)

Fiscal Impact		Budget Account
Select	\$	#
Select	\$	#
Select	\$	#
Select	\$	#

[illegible]

MULTIPLE FAMILY HOUSING PROPERTY
TAX EXEMPTION AGREEMENT

THIS AGREEMENT is between the City of Spokane, a Washington State municipal corporation, as "City", and Stephen K. Peterson, as "Owner" whose address is P. O. Box 682, Liberty Lake, WA 99019.

WITNESSETH:

WHEREAS, The City has, pursuant to the authority granted to it by Chapter 84.14 RCW, designated various residential targeted areas for the provision of a limited property tax exemption for new and rehabilitated multiple family residential housing; and

WHEREAS, The City has, through SMC Chapter 8.15, enacted a program whereby property owners may qualify for a Final Certificate of Tax Exemption which certifies to the Spokane County Assessor that the Owner is eligible to receive the multiple family housing property tax exemption; and

WHEREAS, The Owner is interested in receiving the multiple family property tax exemption for new multiple family residential housing units in a residential targeted area; and

WHEREAS, The Owner has submitted to the City a complete application form for no fewer than a total of four new multiple family permanent residential housing units to be constructed on property legally described as:

East 40 feet of Tract E 1, Block 3, Highland Park Hartsons Addition; Tract F, Block 1 except south 10 feet, Highland Park Hartsons Sub of Block 3; West 5 feet of Tract E, Block 1, Highland Part Hartsons Sub of Block 3; Tract D 1 Block 3, Highland Park Hartsons Addition, Parcel Numbers 35201.5305, 35201.5345, 35201.5306 and 35201.5304.

WHEREAS, The City has determined that the improvements will, if completed as proposed, satisfy the requirements for a Final Certificate of Tax Exemption; -- NOW, THEREFORE,

The City and the Owner do mutually agree as follows:

1. The City agrees to issue the Owner a Conditional Certificate of Acceptance of Tax Exemption subsequent to the City Council's approval of this agreement.
2. The project must comply with all applicable zoning requirements, land use requirements, design review recommendations and all building, fire, and housing code requirements contained in the Spokane Municipal Code at the time a complete application for a building permit is received.
3. The Owner intends to construct on the site, approximately 15 new multiple family residential housing units substantially as described in their application filed with and approved by the City. In no event shall such construction provide fewer than a total of four multiple family permanent residential housing units.
4. The Owner commits to renting or selling at least twenty percent of the multifamily housing units constructed on the site as housing units affordable for low or moderate-income households as defined by SMC 8.15.090.

5. The Owner agrees to complete construction of the agreed-upon improvements within three years from the date the City issues the Conditional Certificate of Acceptance of Tax Exemption or within any extension granted by the City.

6. The Owner agrees, upon completion of the improvements and upon issuance by the City of a temporary or permanent certificate of occupancy, to file with the City's Business & Development Services Department the following:

(a) a statement of the actual development cost of each multiple family housing unit, and the total expenditures made in the rehabilitation or construction of the entire property;

(b) a description of the completed work and a statement that the rehabilitation improvements or new construction of the Owner's property qualifies the property for the exemption;

(c) a statement that the project meets the affordable housing requirements, if applicable; and

(d) a statement that the work was completed within the required three-year period or any authorized extension of the issuance of the conditional certificate of tax exemption.

7. The City agrees, conditioned on the Owner's successful completion of the improvements in accordance with the terms of this Agreement and on the Owner's filing of the materials described in Paragraph 6 above, to file a Final Certificate of Tax Exemption with the Spokane County Assessor indicating that the Owner is qualified for the limited tax exemption under Chapter 84.14 RCW.

8. The Owner agrees, within 30 days following the first anniversary of the City's filing of the Final Certificate of Tax Exemption and each year thereafter for a period of twelve years, to file a declaration with the City's Business and Development Services Department, verified upon oath and indicating the following:

(a) a statement of occupancy and vacancy of the multiple family units during the previous year;

(b) a certification that the property has not changed use and, if applicable, that the property has been in compliance with the affordable housing requirements as described in SMC 8.15.090 since the date of the filing of the Final Certificate of Tax Exemption, and continues to be in compliance with this Agreement and the requirements of SMC Chapter 8.15; and

(c) a description of any improvements or changes to the property made after the filing of the final certificate or last declaration.

9. The parties acknowledge that the units are to be used and occupied for multifamily residential use. The parties further acknowledge that the certificate of occupancy issued by the City is for multifamily residential units. The Owner acknowledges and agrees that the units shall be used primarily for residential occupancy and any business activities shall only be incidental and ancillary to the residential occupancy.

10. If the Owner converts to another use any of the multiple family residential housing units constructed under this Agreement, or if applicable, if the owner intends to discontinue

compliance with the affordable housing requirements as described in SMC 8.15.090 or any other condition to exemption, the Owner shall notify the Spokane County Assessor and the City's Business and Development Services Department within 60 days of such change in use.

11. The Owner will have the right to assign its rights under this Agreement. The Owner agrees to notify the City promptly of any transfer of Owner's ownership interest in the Site or in the improvements made to the Site under this Agreement.

12. The City reserves the right to cancel the Final Certificate of Tax Exemption should the Owner, its successors and assigns, fail to comply with any of the terms and conditions of this Agreement or of SMC Chapter 8.15.

13. No modifications of this Agreement shall be made unless mutually agreed upon by the parties in writing.

14. The Owner acknowledges its awareness of the potential tax liability involved if and when the property ceases to be eligible for the incentive provided pursuant to this agreement. Such liability may include additional real property tax, penalties and interest imposed pursuant to RCW 84.14.110. The Owner further acknowledges its awareness and understanding of the process implemented by the Spokane County Assessor's Office for the appraisal and assessment of property taxes. The Owner agrees that the City is not responsible for the property value assessment imposed by Spokane County at any time during the exemption period.

15. In the event that any term or clause of this Agreement conflicts with applicable law, such conflict shall not affect other terms of this Agreement, which can be given effect without the conflicting term or clause, and to this end, the terms of this Agreement are declared to be severable.

16. Nothing in this Agreement shall permit or be interpreted to permit either party to violate any provision of Chapter 84.14 RCW or SMC Chapter 8.15.

17. This Agreement is subject to the approval the City Council.

DATED this _____ day of _____, 2013

CITY OF SPOKANE

STEPHEN K. PETERSON

By: _____
Mayor, David A. Condon

By:  _____
Its:  _____

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

STATE OF WASHINGTON)
) ss.
County of Spokane)

On this _____ day of _____, 2013, before me, the undersigned, a Notary Public in and for the State of Washington, personally appeared DAVID A. CONDON and TERRI L. PFISTER, to me known to be the Mayor and the City Clerk, respectively, of the CITY OF SPOKANE, the municipal corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2013.

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

My commission expires _____

STATE OF WASHINGTON)
) ss.
County of Spokane)

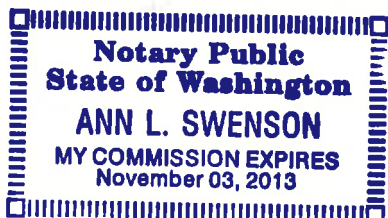
On this 12 day of February, 2013, before me, the undersigned, a Notary Public in and for the State of Washington, personally appeared Stephen K. Peterson, to me known to be the person who executed the within and foregoing instrument, and acknowledged the said instrument to be his/her free and voluntary act and deed, for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 12th day of February, 2013.

Ann L. Swenson

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

My commission expires 11.3.2013



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

03/04/2013

Date Rec'd

2/20/2013

Clerk's File #

ORD C34966

Renews #**Submitting Dept**

PARKS & RECREATION

Cross Ref #**Contact Name/Phone**

LEROY EADIE 625-6204

Project #**Contact E-Mail**

LEADIE@SPOKANECITY.ORG

Bid #**Agenda Item Type**

Emergency Budget Ordinance

Requisition #**Agenda Item Name**

1400 - EBO RE: MANITO CAPITAL IMPROVEMENTS

Agenda Wording

Amending Ordinance No. C-34947 and appropriating funds in the Park Fund, FROM: Contributions/Donations, \$529,000; TO: Other Improvements, same amount. This ordinance budgets additional revenue that will be used for Manito Park capital improvements.

Summary (Background)

This ordinance budgets additional Contributions/Donations that will be used for Manito Park capital improvements. The Park Department has been notified by the Friends of Manito and the Spokane Parks Foundation that funds will be collected (a portion has already been collected) for various improvements in Manito Park. This funding is over and above funding already included in the 2013 Parks and Recreation budget.

Fiscal Impact**Budget Account**

Revenue \$ 529,000

1400-54600-99999-36710-99999

Expense \$ 529,000

1400-54600-94000-56301-99999

Select \$

#

Select \$

#

Approvals**Council Notifications****Dept Head**

EADIE, LEROY

Study Session**Division Director****Other****Finance**

LESESNE, MICHELE

Distribution List**Legal**

BURNS, BARBARA

rmadany@spokanecity.org

For the Mayor

SANDERS, THERESA

leadie@spokanecity.org

Additional Approvals**Purchasing**

ORDINANCE NO. C34966

An ordinance amending Ordinance No. C-34947, passed the City Council December 10, 2012, and entitled, "An ordinance adopting the Annual Budget of the City of Spokane for 2013, making appropriations to the various funds, departments, and programs of the City of Spokane government for the fiscal year ending December 31, 2013, and providing it shall take effect immediately upon passage", and declaring an emergency.

WHEREAS, subsequent to the adoption of the 2013 budget Ordinance No. C-34947, as above entitled, and which passed the City Council December 10, 2012, it is necessary to make changes in the appropriations of the Parks and Recreation Fund, which changes could not have been anticipated or known at the time of making such budget ordinance; and

WHEREAS, this ordinance has been on file in the City Clerk's Office for five days; - Now, Therefore,

The City of Spokane does ordain:

Section 1. That in the budget of the Parks and Recreation Fund, and the budget annexed thereto with reference to the Parks and Recreation Fund, the following changes be made:

FROM:	1400-54600	Parks and Recreation Fund	
	99999-36710	Contributions/Donations	<u>\$ 529,000</u>
TO:	1400-54600	Parks and Recreation Fund	
	94000-56301	Other Improvements	<u>\$ 529,000</u>

Section 2. It is, therefore, by the City Council declared that an urgency and emergency exists for making the changes set forth herein, such urgency and emergency arising from the need to budget additional Contributions/Donations that will be used for Manito Park Capital Improvements, and because of such need, an urgency and emergency exists for the passage of this ordinance, and also, because the same makes an appropriation, it shall take effect and be in force immediately upon its passage.

Passed the City Council _____

Council President

Attest: _____
City Clerk

Approved as to form: _____
Assistant City Attorney

Mayor

Date

Effective Date

03/04/13 Emergency Budget Ordinance

[illegible]

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

03/04/2013

Date Rec'd

2/20/2013

Clerk's File #

ORD C34967

Renews #**Submitting Dept**

STREET

Cross Ref #**Contact Name/Phone**MARK 232-8810
SERBOUSEK**Project #****Contact E-Mail**

MSERBOUSEK@SPOKANECITY.ORG

Bid #**Agenda Item Type**

Emergency Budget Ordinance

Requisition #**Agenda Item Name**

1100 - EBO RE: NEW TRAFFIC ENG. POSITION

Agenda Wording

Amending Ordinance No. C-34947 and appropriating funds in the Street Fund, FROM: Various Accounts, \$77,620; TO: Various Accounts, same amount. This action creates an Associate Engineer position in Traffic Operations.

Summary (Background)

The addition of an Associate Engineer in Traffic Engineering is critical to evaluating signal timing performance in a timely manner and assisting in the deployment of the North Division ASCT. The Federal Highway Administration recommends one signal operations engineer for each 75-100 signals. The City currently employs one engineer to manage the operations and maintenance of 253 signals, Intelligent Transportation System devices, lighting and infrastructure, and to manage the maintenance staff.

Fiscal Impact**Budget Account**

Neutral \$ -

Various Accounts - See Ordinance

Select \$

#

Select \$

#

Select \$

#

Approvals**Council Notifications****Dept Head**

SERBOUSEK, MARK

Study Session**Division Director**

QUINTRALL, JAN

Other

PCED - 2/25/13

Finance

LESESNE, MICHELE

Distribution List**Legal**

BURNS, BARBARA

mdoval@spokanecity.org

For the Mayor

SANDERS, THERESA

mserbousek@spokanecity.org

Additional Approvals

jquintrall@spokanecity.org

Purchasing

jwest@spokanecity.org

ORDINANCE NO. C34967

An ordinance amending Ordinance No. C-34947, passed the City Council December 10, 2012, and entitled, "An ordinance adopting the Annual Budget of the City of Spokane for 2013, making appropriations to the various funds, departments, and programs of the City of Spokane government for the fiscal year ending December 31, 2013, and providing it shall take effect immediately upon passage", and declaring an emergency.

WHEREAS, subsequent to the adoption of the 2013 budget Ordinance No. C-34947, as above entitled, and which passed the City Council December 10, 2012, it is necessary to make changes in the appropriations of the Street Fund, which changes could not have been anticipated or known at the time of making such budget ordinance; and

WHEREAS, this ordinance has been on file in the City Clerk's Office for five days; - Now, Therefore,

The City of Spokane does ordain:

Section 1. That in the budget of the Street Fund, and the budget annexed thereto with reference to the Street Fund, the following changes be made:

FROM:	1100-21300	Street Fund	
	94000-56401	Machinery/Equipment	10,000
	1100-21400		
	42640-54201	Contractual Services	15,000
	42640-54850	Other Repairs/Maintenance Supplies	5,000
	1100-21700		
	42300-53201	Operating Supplies	5,000
	42300-54850	Other Repairs/Maintenance Supplies	15,355
	43300-54902	IF Improvements – Non Building	10,000
	1100-21900		
	42500-54850	Other Repairs/Maintenance Supplies	10,000
	1100-21100		
	99999-34932	IF Engineering Services Revenue	7,265
			<u>\$ 77,620</u>

TO:	1100-21100	Street Fund	
	43200-02320	Associate Engineer (from 0 to 1 positions)	55,000
	43200-52110	Social Security/Medicare	4,200
	43200-52210	Retirement	4,300
	43200-52310	Medical Insurance	11,250
	43200-52320	Dental Insurance	900
	43200-52330	Life Insurance	350
	43200-52340	LTD	200
	43200-52400	Industrial Insurance	50
	43200-51640	Deferred Compensation	1,350
	43200-54602	Retiree Insurance	20
			<u>\$ 77,620</u>

Section 2. It is, therefore, by the City Council declared that an urgency and emergency exists for making the changes set forth herein, such urgency and emergency arising from the need to create an Associate Traffic Engineer position in the Street Department, and because of such need, an urgency and emergency exists for the passage of this ordinance, and also, because the same makes an appropriation, it shall take effect and be in force immediately upon its passage.

Passed the City Council _____

Council President

Attest: _____
City Clerk

Approved as to form: _____
Assistant City Attorney

Mayor

Date

Effective Date

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

02/25/2013

Date Rec'd

2/13/2013

Clerk's File #

ORD C34963

Renews #**Submitting Dept**

CITY COUNCIL

Cross Ref #**Contact Name/Phone**

MCLAUGHLIN & 625.6256

Project #**Contact E-Mail**

NMCLAUGHLIN@SPOKANECITY.ORG,

Bid #**Agenda Item Type**

First Reading Ordinance

Requisition #**Agenda Item Name**

0320 ADULT ENTERTAINMENT INTERIM ORDINANCE

Agenda Wording

An interim ordinance relating to adult bookstores, adult video stores, and sex paraphernalia stores; amending SMC sections 17A.020.010, 17A.020.190, 17C.305.010, and 17C.305.020;

Summary (Background)

The City Council desires to minimize and control the adverse effects of adult businesses operating within the City of Spokane by amending the current definition of "Adult Businesses. Over the past 15 years the City has passed ordinances that have defined adult related businesses that operate within the City of Spokane.

Fiscal Impact**Budget Account**

Select \$

#

Select \$

#

Select \$

#

Select \$

#

Approvals**Council Notifications****Dept Head**

WESTFALL, JENNIFER

Study Session**Division Director****Other****Finance**

LESESNE, MICHELE

Distribution List**Legal**

BURNS, BARBARA

For the Mayor

SANDERS, THERESA

Additional Approvals**Purchasing**

ORDINANCE NO. C34963

An interim ordinance relating to adult bookstores, adult video stores, and sex paraphernalia stores; amending SMC sections 17A.020.010, 17A.020.190, 17C.305.010, and 17C.305.020; adopting a new section 17C.210.100 to chapter 17C.210 of the Spokane Municipal Code; providing for a public hearing within sixty days and declaring an emergency.

WHEREAS, adult businesses require special supervision from the public safety agencies of the City in order to protect and preserve the health, safety, and welfare of the patrons of such businesses as well as the citizens of the City; and

WHEREAS, there is convincing documented evidence that adult businesses, as a category of establishments, have deleterious secondary effects and are often associated with crime and adverse effects on surrounding properties; and

WHEREAS, the City Council desires to minimize and control these adverse effects and thereby protect the health, safety, and welfare of the citizenry; protect the citizens from crime; preserve the quality of life; preserve the character of surrounding neighborhoods and deter the spread of urban blight; and

WHEREAS, certain sexually oriented products and services offered to the public are recognized as not inherently expressive and not protected by the First Amendment, *see, e.g., Sewell v. Georgia*, 233 S.E.2d 187 (Ga. 1977), *dismissed for want of a substantial federal question*, 435 U.S. 982 (1978) (sexual devices); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215, 224 (1990) (escort services and sexual encounter services); *Williams v. Morgan*, 478 F.3d 1316 (11th Cir. 2007) (upholding ban on sexual novelty devices); *Heideman v. South Salt Lake City*, 348 F.3d 1182, 1195 (10th Cir. 2003) (“On its face, the Ordinance applies to all ‘sexually oriented businesses,’ which include establishments such as ‘adult motels’ and ‘adult novelty stores,’ which are not engaged in expressive activity.”); and

WHEREAS, there is documented evidence of adult sexually oriented businesses, including adult bookstores and adult video stores, manipulating their inventory and/or business practices to avoid regulation while retaining their essentially “adult” nature, *see, e.g., City of New York v. Hommes*, 724 N.E.2d 368 (N.Y. 1999); *Taylor v. State*, No. 01-01-00505-CR, 2002 WL 1722154 (Tex. App. July 25, 2002) (noting that “the nonadult video selections appeared old and several of its display cases were covered with cobwebs”); *Z.J. Gifts D-4, L.L.C. v. City of Littleton*, Civil Action No. 99-N-1696, Memorandum Decision and Order (D. Colo. March 31, 2001) (finding “plaintiff’s argument that it is not an adult entertainment establishment frivolous at best”); *People ex rel. Deters v. The Lion’s Den, Inc.*, Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005) (noting that “the accuracy and credibility” of the evidence on inventory in a Lion’s Den was suspect, and that testimony

was “less than candid” and “suggested an intention to obscure the actual amount of sexually explicit material sold”); and

WHEREAS, sexual devices and other sex paraphernalia are often featured in establishments commonly known as adult bookstores and adult video stores, making voluminous reports concerning negative secondary effects of adult bookstores and adult video stores both a rational and substantial basis for the legislative determination to regulate the location of sex paraphernalia stores; and

WHEREAS, the manner in which an establishment holds itself out to the public is a reasonable consideration in determining whether the establishments is a sexually oriented business, *see, e.g., East Brooks Books, Inc. v. Shelby County*, 588 F.3d 360, 365 (6th Cir. 2009) (“A prominent display advertising an establishment as an ‘adult store,’ moreover, is a more objective indicator that the store is of the kind the Act aims to regulate, than the mere share of its stock or trade comprised of adult materials.”); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215, 261 (1991) (Scalia, J., concurring in part and dissenting in part) (“[I]t is most implausible that any enterprise which has as its constant intentional objective the sale of such [sexual] material does not advertise or promote it as such.”); and

WHEREAS, the City intends to regulate such businesses as adult businesses through a narrowly tailored ordinance designed to serve the substantial government interest of preventing the negative secondary effects of adult businesses; and

WHEREAS, the City’s regulations shall be narrowly construed to accomplish this end; and

WHEREAS, the City recognizes its constitutional duty to interpret, construe, and amend its laws to comply with constitutional requirements as they are announced; and

WHEREAS, with the passage of any ordinance, the City and the City Council accept as binding the applicability of general principles of criminal and civil law and procedure and the rights and obligations under the United States and Washington Constitution, the Revised Code of Washington, and the Washington Rules of Civil Procedure and Washington Rules of Criminal Procedure; and

WHEREAS, it is not the intent of this ordinance to suppress any speech activities protected by the U.S. Constitution or the Washington Constitution, but to enact legislation to further the content-neutral governmental interests of the City, to wit, the controlling of secondary effects of sexually oriented adult businesses; and

WHEREAS, the City of Spokane finds it necessary to develop a revised zoning ordinance which will include definitions of adult businesses that are sufficient to protect nearby owners from adverse secondary effects of the operation of such businesses on an interim basis, to begin the amortization process pending public hearing before the Plan Commission; and

WHEREAS, RCW 36.70A.390 provides that, “A county or city governing body that adopts a moratorium, interim zoning map, *interim zoning ordinance*, or interim official control without holding a public hearing on the proposed moratorium, RCW 35.63.200 or RCW 36.70A.390, shall hold a public hearing on the adopted moratorium, interim zoning map, interim zoning ordinance, or interim official control within at least sixty days of its adoption, whether or not the governing body received a recommendation on the matter from the planning commission or department. If the governing body does not adopt findings of fact justifying its action before this hearing, then the governing body shall do so immediately after this public hearing. A moratorium, interim zoning map, interim zoning ordinance, or interim official control adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium, interim zoning map, interim zoning ordinance, or interim official control may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal”; and

WHEREAS, interim zoning control enacted under RCW 36.70A.390 is a method by which local governments may preserve the status quo pending study and public hearing, where reasonably necessary to preserve and protect the public health, safety and welfare; and

WHEREAS, RCW 36.70A.390 authorizes the enactment of an interim zoning ordinance without holding a public hearing before the Plan Commission; and

WHEREAS, substantial evidence has been brought forward the existence of secondary effects from the operation of adult businesses in proximity to residential neighborhoods, and that such secondary effects have been ongoing for many years; and

WHEREAS, the City Council finds that the interim regulation of adult businesses imposed by this ordinance is necessary for the protection of the public health, safety, property or peace; Now, Therefore,

The City of Spokane does ordain:

Section 1. That SMC section 17A.020.010 is amended to read as follows:

17A.020.010 “A” Definitions

- A. Abandoned Sign Structure.
A sign structure where no sign has been in place for a continuous period of at least six months.

- B. Aboveground Storage Tank or AST.
Any one or connected combination of tanks that is used to contain an accumulation of liquid critical materials and the aggregate volume of which (including the volume of piping connected thereto) is more than sixty gallons and the entire exterior surface area of the tank is above the ground and is able to be fully visually inspected. Tanks located in vaults or buildings that are to be visually inspected are considered to be aboveground tanks.
- C. Accepted.
A project for which the required plans have been found to be technically adequate.
- D. Accessory Dwelling Unit (ADU).
An accessory dwelling unit is a separate additional living unit, including separate kitchen, sleeping, and bathroom facilities, attached or detached from the primary residential unit, on a single-family lot. ADUs are known variously as:
1. "mother-in-law apartments,"
 2. "accessory apartments," or
 3. "second units."
- E. Accessory Structure.
A structure of secondary importance or function on a site. In general, the primary use of the site is not carried on in an accessory structure.
1. Accessory structures may be attached or detached from the primary structure.
 2. Examples of accessory structures include:
 - a. garages,
 - b. decks,
 - c. fences,
 - d. trellises,
 - e. flagpoles,
 - f. stairways,
 - g. heat pumps,
 - h. awnings, and
 - i. other structures.
 3. See also SMC 17A.020.160 ("Primary Structure").
- F. Accessory Use.
A use or activity which is a subordinate part of a primary use and which is clearly

incidental to a primary use on a site.

G. Activity.

See Regulated Activity.

H. Administrative Decision.

A permit decision by an officer authorized by the local government. The decision may be for approval, denial, or approval with conditions and is subject to the applicable development standards of the land use codes or development codes.

I. Adult Bookstore or Adult Video Store. A commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of "specified anatomical areas," as defined in SMC 17A.020.190, or "specified sexual activities," as defined in SMC 17A.020.190. A "principal business activity" exists where the commercial establishment meets any one or more of the following criteria:

1. At least 30% of the establishment's displayed merchandise consists of said items, or
2. At least 30% of the retail value (defined as the price charged to customers) of the establishment's displayed merchandise consists of said items, or
3. At least 30% of the establishment's revenues derive from the sale or rental, for any form of consideration, of said items, or
4. The establishment maintains at least 30% of its floor space for the display, sale, and/or rental of said items (aisles and walkways used to access said items, as well as cashier stations where said items are rented or sold, shall be included in "floor space" maintained for the display, sale, or rental of said items); or
5. The establishment maintains at least five hundred square feet (500 sq. ft.) of its floor space for the display, sale, and/or rental of said items (aisles and walkways used to access said items, as well as cashier stations where said items are rented or sold, shall be included in "floor space" maintained for the display, sale, or rental of said items); or
6. The establishment regularly offers for sale or rental at least two thousand (2,000) of said items; or

7. The establishment regularly features said items and regularly advertises itself or holds itself out, in any medium, by using "adult," "adults-only," "XXX," "sex," "erotic," or substantially similar language, as an establishment that caters to adult sexual interests.
- J. Adult Business.
An "adult bookstore or adult video store," an "adult entertainment establishment," or a "sex paraphernalia store."
- K. Adult Entertainment Establishment.
1. An "adult entertainment establishment" is an enclosed building, or any portion thereof, used for presenting performances, activities, or material relating to "specified sexual activities" as defined in SMC 17A.020.190 or "specified anatomical areas" as defined in SMC 17A.020.190 for observation by patrons therein.
 2. A motion picture theater is considered an adult entertainment establishment if the preponderance of the films presented is distinguished or characterized by an emphasis on the depicting or describing of "specified sexual activities" or "specified anatomical areas."
 3. A hotel or motel providing overnight accommodations is not considered an adult entertainment establishment merely because it provides adult closed circuit television programming in its rooms for its registered overnight guests.
- L. Adult Family Home.
 A residential use as defined and licensed by the State of Washington in a dwelling unit.
- ~~M. ((Adult-oriented Merchandise-~~
~~Any goods, products, commodities, or other ware, including, but not limited to, videos, CD-ROMs, DVDs, computer disks, or other storage devices, magazines, books, pamphlets, posters, cards, periodicals, or non-clothing novelties which depict, describe, or simulate "specified anatomical area," as defined in SMC 17A.020.190, or "specified sexual activities," as defined in SMC 17A.020.190.))~~
- ~~N. ((An "adult retail use establishment" is an enclosed building, or any portion thereof which, for money or any other form of consideration, devotes a significant or substantial portion of stock in trade to the sale, exchange, rental, loan, trade, transfer or viewing of "adult-oriented merchandise." For purposes of this definition, a retail establishment devotes a significant or substantial portion of its stock in trade to adult-oriented merchandise if the sale, exchange, rental, loan, trade, or transfer of such adult-oriented merchandise is clearly material to the economic viability of the business. It is rebuttably presumed that such adult-~~

~~oriented merchandise is clearly material to the viability of the business if adult-oriented merchandise accounts for:~~

- ~~1. thirty percent or more of the retail dollar value of gross sales over any quarterly period;~~
- ~~2. thirty percent or more of the floor area of the store open to the public;~~
- ~~3. thirty percent or more of the retail dollar value of all merchandise displayed in the store;~~
- ~~4. thirty percent or more of the store's inventory (whether measured by retail dollar value or number of items); or~~
- ~~5. thirty percent or more of the store's stock in trade.~~

~~In no event shall a retailer whose transactions only incidentally or marginally relate to adult-oriented merchandise be considered an adult retail use establishment.))~~

O. Agency or Agencies.
The adopting jurisdiction(s), depending on the context.

P. Agricultural Activities.

1. Pursuant to WAC 173-26-020(3)(a), agricultural uses and practices including, but not limited to:
 - a. producing, breeding, or increasing agricultural products;
 - b. rotating and changing agricultural crops;
 - c. allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded;
 - d. allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions;
 - e. allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement;
 - f. conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment;
 - g. maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is not closer to the shoreline than the original facility; an
 - h. maintaining agricultural lands under production or cultivation.
2. The City of Spokane shoreline master program defines agriculture activities as:
3. low-intensity agricultural use is defined as passive grazing and plant cultivation; or

4. high-intensity agricultural use includes such activities as feedlots, feed mills, packing plants, agricultural processing plants or warehouse for the purpose of processing, packing, and storage of agricultural products.

Q. Agricultural Land.

Areas on which agricultural activities are conducted as of the date of adoption of the updated shoreline master program pursuant to the State shoreline guidelines as evidenced by aerial photography or other documentation. After the effective date of the SMP, land converted to agricultural use is subject to compliance with the requirements herein.

R. AKART.

An acronym for “all known, available, and reasonable methods to control toxicants” as used in the sense of the state Water Pollution Control Act and RCW 90.48.520 thereof. AKART shall represent the most current methodology that can be reasonably required for preventing, controlling, or abating the pollutants associated with a discharge. The concept of AKART applies to both point and nonpoint sources of pollution.

S. Alkali Wetlands.

Alkali wetlands means wetlands characterized by the occurrence of shallow saline water. In eastern Washington, these wetlands contain surface water with specific conductance that exceeds three thousand micromhos/cm. They have unique plants and animals that are not found anywhere else in eastern Washington such as the alkali bee. Conditions within these wetlands cannot be easily reproduced through compensatory mitigation.

T. Alley.

See “Public Way” (SMC 17A.020.160).

U. Alteration.

A physical change to a structure or site.

1. Alteration does not include normal maintenance and repair or total demolition.
2. Alteration does include the following:
 1. Changes to the facade of a building.
 2. Changes to the interior of a building.
 3. Increases or decreases in floor area of a building; or
 4. Changes to other structures on the site, or the development of new structures.

- V. Alteration of Plat, Short Plat, or Binding Site Plan.
The alteration of a previously recorded plat, short plat, binding site plan, or any portion thereof, that results in a change to conditions of approval or the deletion of existing lots or the change of plat or lot restrictions or dedications that are shown on the recorded plat. An alteration does not include a boundary line adjustment subject to SMC 17G.080.030.
- W. Alternative or Post-incarceration Facility.
A group living use where the residents are on probation or parole.
- X. Alternative Tower Structure (“Stealth” Technology).
Manmade trees, clock towers, bell steeples, light poles, flag poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers (see also “Low Visual Impact Facility” – SMC 17A.020.120).
- Y. Antenna Array (Wireless Communication Antenna Array).
1. One or more rods, panels, discs, or similar devices used for the transmission or reception of radio frequency (RF) signals, which may include omni-directional antenna (whip), directional antenna (panel), and parabolic antenna (dish).
 2. Wireless communication antenna array shall be considered an accessory use provided they are located upon an existing structure.
- Z. Antenna Height.
The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure including the antenna.
- AA. Antenna Support Structure.
Any pole, telescoping mast, tower tripod, or any other structure that supports a device used in the transmitting and/or receiving of electromagnetic waves.
- AA. API 653.
The American Petroleum Institute’s standards for tank inspection, repair, alteration, and reconstruction.
- AB. Appeal.
A request for review of the interpretation of any provision of Title 17 SMC.
- AC. Appeal – Standing For.
As provided under RCW 36.70C.060, persons who have standing are limited to the following:

1. The applicant and the owner of property to which the land use decision is directed; and
2. Another person aggrieved or adversely affected by the land use decision, or who would be aggrieved or adversely affected by a reversal or modification of the land use decision. A person is aggrieved or adversely affected within the meaning of this section only when all of the following conditions are present:
 - . The land use decision has prejudiced or is likely to prejudice that person.
 - a. That person's asserted interests are among those that the local jurisdiction was required to consider when it made the land use decision.
 - b. A judgment in favor of that person would substantially eliminate or redress the prejudice to that person caused or likely to be caused by the land use decision; and
 - c. The petitioner has exhausted his or her administrative remedies to the extent required by law (RCW 36.70C.060).

AD. Applicant.

An application for a permit, certificate, or approval under the land use codes must be made by or on behalf of all owners of the land and improvements. "Owners" are all persons having a real property interest. Owners include:

1. holder of fee title or a life estate;
2. holder of purchaser's interest in a sale contract in good standing;
3. holder of seller's interest in a sale contract in breach or in default;
4. grantor of deed of trust;
5. presumptively, a legal owner and a taxpayer of record;
6. fiduciary representative of an owner;
7. person having a right of possession or control; or
8. any one of a number of co-owners, including joint, in common, by entireties, and spouses as to community property.

AE. Application – Complete.

An application that is both counter-complete and determined to be substantially complete as set forth in SMC 17G.060.090.

AF. Aquaculture.

The farming or culture of food fish, shellfish, or other aquatic plants or animals in freshwater or saltwater areas, and may require development such as fish hatcheries, rearing pens and structures, and shellfish rafts, as well as use of

natural spawning and rearing areas. Aquaculture does not include the harvest of free-swimming fish or the harvest of shellfish not artificially planted or maintained, including the harvest of wild stock geoducks on DNR-managed lands.

- AG. Aquatic Life.
Shall mean all living organisms, whether flora or fauna, in or on water.
- AH. Aquifer or Spokane Aquifer.
A subterranean body of flowing water, also known as the Spokane-Rathdrum Aquifer, that runs from Pend Oreille Lake to the Little Spokane River.
- AI. Aquifer Sensitive Area (ASA).
That area or overlay zone from which runoff directly recharges the aquifer, including the surface over the aquifer itself and the hillside areas immediately adjacent to the aquifer. The area is shown in the map adopted as part of SMC 17E.050.260.
- AJ. Aquifer Water Quality Indicators.
Common chemicals used for aquifer water quality screening. These are:
1. calcium,
 2. magnesium,
 3. sodium,
 4. total hardness,
 5. chloride,
 6. nitrate-nitrogen, and
 7. phosphorus.
- AK. Archaeological Areas and Historical Sites.
Sites containing material evidence of past human life, such as structures and tools and/or cultural sites with past significant historical events. These sites are a nonrenewable resource and provided a critical educational link with the past.
- AL. Area of Shallow Flooding.
A designated AO or AH Zone on the Flood Insurance Rate Map (FIRM).
1. The base flood depths range from one to three feet.
 2. A clearly defined channel does not exist.
 3. The path of flooding is unpredictable and indeterminate.
 4. Velocity flow may be evident.
- AO is characterized as sheet flow and AH indicates ponding.

- AM. Area of Special Flood Hazard.
The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.
- AN. Arterial.
See:
1. "Principal Arterials" – SMC 17A.020.160,
 2. "Minor Arterials" – SMC 17A.020.130,
 3. "Collector Arterial" – SMC 17A.020.030, or
 4. "Parkway" – SMC 17A.020.160.
- AO. Assisted Living Facility.
A multi-family residential use licensed by the State of Washington as a boarding home pursuant to chapter 18.20 RCW, for people who have either a need for assistance with activities of daily living (which are defined as eating, toileting, ambulation, transfer [e.g., moving from bed to chair or chair to bath], and bathing) or some form of cognitive impairment but who do not need the skilled critical care provided by nursing homes.
1. An "assisted living facility" contains multiple assisted living units.
 2. An assisted living unit is a dwelling unit permitted only in an assisted living facility.
- AP. Attached Housing.
Two or more dwelling units attached by a common wall at a shared property line. These include:
1. townhouses,
 2. row houses, and
 3. other similar structures
- that are single-family residences on individual lots, sharing a common wall at a shared property line.
- AQ. Attached Structure.
Any structure that is attached by a common wall to a dwelling unit.
1. The common wall must be shared for at least fifty percent of the length of the side of the principal dwelling.
 2. A breezeway is not considered a common wall.
 3. Structures including garages, carports, and house additions attached to the principal dwelling unit with a breezeway are still detached structures

for purposes of this chapter and its administration.

- AR. Available Capacity.
Capacity for a concurrency facility that currently exists for use without requiring facility construction, expansion, or modification (RCW 76.70A.020).
- AS. Average Grade Level.
Means the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property on that part of the lot to be occupied by the building or structure as measured by averaging the elevations at the center of all exterior walls of the proposed structure.

Section 2. That SMC section 17A.020.190 is amended to read as follows:

17C.020.190 “S” Definitions

- A. Salmonid.
Belonging to the family of Salmonidae, including the salmons, trouts, chars, and whitefishes.
- B. Sandwich Board Sign.
A self-supporting A-shaped freestanding temporary sign with only two visible sides that are situated adjacent to a business, typically on a sidewalk.
- C. Scrub-shrub Wetland.
An area of vegetated wetland with at least thirty percent of its surface area covered by woody vegetation less than twenty feet in height at the uppermost strata.
- D. Secondary Building Walls.
Exterior building walls that are not classified as primary building walls.
- E. Secondary Containment.
A means of spill or leak containment involving a second barrier or tank constructed outside the primary container and capable of holding the contents of the primary container.
- F. Sediment.
Mineral or organic matter deposited as a result of erosion.
- G. Sedimentation.
The settling and accumulation of particles such as soil, sand, and gravel,

suspended in water or in the air.

- H. SEPA Rules.
Chapter 197-11 WAC adopted by the department of ecology.
- I. Service Area.
A geographic area defined by the City, which encompasses public facilities that are part of a plan.
- J. Serviceable.
Means presently useable.
- K. Setback.
The minimum distance required between a specified object, such as a building and another point. Setbacks are usually measured from lot lines to a specified object. In addition, the following setbacks indicate where each setback is measured from:
1. "Front setback" means a setback that is measured from a front lot line.
 2. "Rear setback" means a setback that is measured from a rear lot line.
 3. "Side setback" means a setback that is measured from a side lot line.
 4. "Street setback" means a setback that is measured from a street lot line.
- L. Sex Paraphernalia Store.
A commercial establishment that regularly features sexual devices and regularly advertises or holds itself out, in any medium, as an establishment that caters to adult sexual interests. This definition shall not be construed to include any:
1. pharmacy, drug store, medical clinic, any establishment primarily dedicated to providing medical or healthcare products or services; or
 2. any establishment located within an enclosed shopping mall.
- M. Sexual Device.
Any three (3) dimensional object designed for stimulation of the male or female human genitals, anus, buttocks, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices commonly known as dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, nipple clamps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

- N. Shall.
Unless the context indicates otherwise, the term “shall” means:
1. in reference to the obligations imposed by this title upon owners or occupants of premises or their agents, a mandatory obligation to act, or when used with a negative term to refrain from acting, in compliance with this code at the risk of denial of approval or civil or criminal liability upon failure so to act, the term being synonymous with “must;”
 2. with respect to the functions of officers and agents of the City, a direction and authorization to act in the exercise of sound discretion; or
 3. the future tense of the verb “to be.”
- O. Shallow Groundwater.
Naturally occurring water within an unconfined (water table) aquifer, partially confined aquifer or perched groundwater aquifer, and which is present at depth of fifteen feet or less below the ground surface, at any time, under natural conditions.
- P. Shorelands.
Or “shoreline areas” or “shoreline jurisdiction” means all “shorelines of the state” and “shorelands” as defined in RCW 90.58.030. Those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high-water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of the entire shoreline master program; the same to be designated as to location by the department of ecology.
- Q. Shoreline and Ecosystems Enhancement Plan and Program.
See SMC 17E.020.090, Habitat Management Plans.
- R. Shoreline Buffer.
1. A designated area adjacent to the ordinary high-water mark and running landward to a width as specified by this regulation intended for the protection or enhancement of the ecological function of the shoreline area.
 2. The buffer will consist primarily of natural vegetation or planted vegetation which maintains or enhances the ecological functions of the shoreline area.
 3. The term “buffer area” has the same meaning as “buffer.”
- S. Shoreline Enhancement.
Any alteration of the shoreline that improves the ecological function of the

shoreline area or any aesthetic improvement that does not degrade the shoreline ecological function of the shoreline.

- T. Shoreline Environment Designations.
The categories of shorelines established by local shoreline master programs in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas. The basic recommended system classifies shorelines into four distinct environments (natural, conservancy, rural, and urban). See WAC 173-16-040(4).
- U. Shoreline Habitat and Natural Systems Enhancement Projects.
 - 1. Shoreline habitat and natural systems enhancement projects include those activities proposed and conducted specifically for the purpose of establishing, restoring, or enhancing habitat for propriety species in shorelines.
 - 2. Projects may include shoreline modification actions such as:
 - a. modification of vegetation,
 - b. removal of nonnative or invasive plants,
 - c. shoreline stabilization, dredging, and filling,provided that the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shoreline.
- V. Shoreline Jurisdiction.
See "Shorelands."
- W. Shoreline Letter of Exemption.
Authorization from the City which establishes that an activity is exempt from shoreline substantial development permit requirements under SMC 17E.060.300 and WAC 173-14-040, but subject to regulations of the Act and the entire shoreline master program.
- X. Shoreline Master Program.
 - 1. The comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020.
 - 2. For the City of Spokane, the shoreline master program includes the:
 - a. Shoreline Goals and Policies (Comprehensive Plan Chapter 14),
 - b. Shoreline Regulations (chapter 17E.060 SMC),
 - c. City of Spokane Shoreline Restoration Plan (stand ~~((along))~~ alone document), and

d. Shoreline Inventory and Analysis (Comprehensive Plan Volume III).

Y. Shoreline Mixed Use.

Combination of water-oriented and non-water oriented uses within the same structure or development area.

Z. Shoreline Modifications.

Those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.

AA. Shoreline Protection.

1. Structural and nonstructural methods to control flooding or address erosion impacts to property and dwellings or other structures caused by natural processes, such as current, flood, wind, or wave action.
2. The terms "Shoreline protection measure" and this term have the same meaning.
3. Substantial enlargement of an existing shoreline protection improvement is regarded as new shoreline protection measure.

AB. Shoreline Recreational Development.

Recreational development includes commercial and public facilities designed and used to provide recreational opportunities to the public. Water-dependent, water-related and water-enjoyment recreational uses include river or stream swimming areas, boat launch ramps, fishing areas, boat or other watercraft rentals, and view platforms.

AC. Shoreline Restoration.

1. The re-establishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including, but not limited to, re-vegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials.
2. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

AD. Shoreline Stabilization.

Structural or non-structural modifications to the existing shoreline intended to reduce or prevent erosion of uplands or beaches. They are generally located parallel to the shoreline at or near the ordinary high-water mark. Other construction classified as shore defense works include groins, jetties, and breakwaters, which are intended to influence wave action, currents, and/or the

natural transport of sediments along the shoreline.

AE. Shoreline Structure.

A permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels.

AF. Shorelines Hearings Board (SHB).

The shorelines hearings board is a quasi-judicial body with powers of de novo review authorized by chapter 90.58 RCW to adjudicate or determine the following matters:

1. Appeals from any person aggrieved by the granting, denying, or rescinding of a permit issued or penalties incurred pursuant to chapter 90.58 RCW.
2. Appeals of department rules, regulations, or guidelines; and
3. Appeals from department decisions to approve, reject, or modify a proposed master program or program amendment of local governments which are not planning under RCW 36.70A.040.

AG. Short Plat – Final.

The final drawing of the short subdivision and dedication, prepared for filing for record with the Spokane County auditor and containing all elements and requirements set forth in this chapter and chapter 58.17 RCW.

AH. Short Plat – Preliminary.

1. A neat and approximate drawing of a proposed short subdivision showing the general layout of streets, alleys, lots, blocks, and other elements of a short subdivision required by this title and chapter 58.17 RCW.
2. The preliminary short plat shall be the basis for the approval or disapproval of the general layout of a short subdivision.

AI. Short Subdivision.

A division or redivision of land into nine or fewer lots, tracts, parcels, or sites for the purpose of sale, lease, or transfer of ownership. (RCW 58.17.020(6)).

AJ. Sign.

1. Materials placed or constructed, or light projected, that:
 - a. conveys a message or image, and
 - b. is used to inform or attract the attention of the public but not including any lawful display of merchandise.

2. Some examples of signs are materials or lights meeting the definition of the preceding sentence and which are commonly referred to as signs, placards, A-boards, posters, murals, diagrams, banners, flags, or projected slides, images, or holograms.
 3. The scope of the term sign does not depend on the content of the message or image conveyed.
- AK. Sign – Animated Sign.
A sign that uses movement, by either natural or mechanical means, to depict action to create a special effect or scene.
- AL. Sign – Electronic Message Center Sign.
An on-premises sign capable of displaying words, symbols, figures, or images that can be electronically or mechanically changed by remote or automatic means including signs using a video display method.
- AM. Sign Face.
The portion of a sign which contains lettering, logo, trademark, or other graphic representations. (See SMC 17C.240.140, Sign Face Area.)
- AN. Sign – Flashing Sign.
1. A pattern of changing light illumination where the sign illumination alternates suddenly between fully illuminated and fully non-illuminated in a strobe-like fashion for the purpose of drawing attention to the sign.
 2. Time and temperature signs are excluded from this definition.
 3. For the purpose of this title, electronic message centers consistent with the standards of SMC 17C.240.240(J) shall not be considered flashing signs.
- AO. Sign Maintenance.
Normal care needed to keep a sign functional, such as cleaning, painting, oiling, and changing of light bulbs.
- AP. Sign – Off-premises.
A sign relating, through its message and content, to a business activity, use, product, or service not available on the premises upon which the sign is erected.
- AQ. Sign Repair.
Fixing or replacement of broken or worn parts. Replacement includes comparable materials only. Repairs may be made with the sign in position or with the sign removed.

- AR. Sign Structure.
A structure specifically intended for supporting or containing a sign.
- AS. Significant Vegetation Removal.
1. The removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation.
 2. The removal of invasive or noxious weeds does not constitute significant vegetation removal.
 3. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.
- AT. Single-family Residential Building.
A dwelling containing only one dwelling unit.
- AU. Single-room Occupancy Housing (SRO).
A structure that provides living units that have separate sleeping areas and some combination of shared bath or toilet facilities.
1. The structure may or may not have separate or shared cooking facilities for the residents.
 2. SRO includes structures commonly called residential hotels and rooming houses.
- AV. Site.
Any parcel of land recognized by the Spokane County assessor's office for taxing purposes. A parcel may contain multiple lots.
- AW. Site – Archaeological.
A place where a significant event or pattern of events occurred. It may be the:
1. location of prehistoric or historic occupation or activities that may be marked by physical remains; or
 2. symbolic focus of a significant event or pattern of events that may not have been actively occupied.
- A site may be the location of a ruined or now non-extant building or structure if the location itself possesses historic, cultural, or archaeological significance.
- AX. Slump.
The intermittent movement (slip) of a mass of earth or rock along a curved plane.

- AY. SMC.
The Spokane Municipal Code, as amended.
- AZ. Soil.
The naturally occurring layers of mineral and organic matter deposits overlaying bedrock. It is the outer most layer of the Earth.
- BA. “Sound contours” means a geographic interpolation of aviation noise contours as established by the 2010 Fairchild AFB Joint Land Use Study and placed on the official zoning map. When a property falls within more than one noise zone, the more restrictive noise zone requirements shall apply for the entire property.
- BB. “Sound transmission class (STC)” means a single-number rating for describing sound transmission loss of a wall, partition, window or door.
- BC. Special Drainage District (SDD).
An area associated with shallow groundwater, intermittent standing water, or steep slopes where infiltration of water and dispersion of water into the soils may be difficult or delayed, creating drainage or potential drainage problems. SDDs are designated in SMC 17D.060.130.
- BD. Special Event Sign.
A temporary sign used to announce a circus, a carnival, festivals, or other similar events.
- BE. Species of Concern.
Species native to Washington State listed as state endangered, state threatened, state sensitive, or state candidate, as well as species listed or proposed for listing by the U.S. Fish and Wildlife Service or the National Marine Fisheries Service.
- BF. Specified Anatomical Areas.
They are human:
1. genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola, when such areas are less than completely and opaquely covered;
 2. male genitals in a discernibly turgid state, even if completely and opaquely covered.
- BG. Specified Sexual Activities.
Any of the following:
1. Human genitals in a state of sexual stimulation or arousal.
 2. Acts of human masturbation, sexual intercourse, or sodomy; and

3. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.
- BH. Spokane Regional Stormwater Manual (SRSW).
A technical document establishing standards for stormwater design and management to protect water quality, natural drainage systems, and down-gradient properties as urban development occurs.
- BI. Spokane Register of Historic Places.
The register maintained by the historic preservation office, which includes historic landmarks and districts in the City and County.
- BJ. Sports Field.
An open area or stadium in which scheduled sports events occur on a regular basis. Sports events include both competitive and noncompetitive events such as track and field activities, soccer, baseball, or football games.
- BK. Stabilization.
The process of establishing an enduring soil cover of vegetation or mulch or other ground cover and may be in combination with installation of temporary or permanent structures.
- BL. Standard Plans.
Refers to the City of Spokane's standard plans.
- BM. Standard References.
Standard engineering and design references identified in SMC 17D.060.030.
- BN. State Candidate Species.
Fish and wildlife species that WDFW will review for possible listing as state endangered, threatened, or sensitive.
- BO. State Endangered Species.
Any wildlife species native to the State of Washington that is seriously threatened with extinction throughout all or a significant portion of its range within the state.
- BP. State Register.
The register maintained pursuant to chapter 195, Laws of 1977, 1st ex. sess., section 6 (chapter 27.34 RCW).
- BQ. State Sensitive Species.
Any wildlife species native to the State of Washington that is vulnerable or declining and is likely to become endangered or threatened throughout a significant portion of its range within the state without cooperative management

or removal of threats.

BR. State Threatened Species.

Any wildlife species native to the State of Washington that is likely to become an endangered species within the foreseeable future throughout a significant portion of its range within the state without cooperative management or removal of threats.

BS. Stealth Facilities.

Any cellular telecommunications facility that is designed to blend into the surrounding environment. Examples of stealth facilities include:

1. architecturally screened roof-mounted antennas;
2. building-mounted antennas painted to match the existing structure;
3. antennas integrated into architectural elements; and
4. antenna structures designed to look like light poles, trees, clock towers, bell steeples, or flag poles.

BT. Stewardship.

Acting as supervisor or manager of the City and County's historic properties.

BU. Stormwater.

1. Any runoff flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.
2. "Stormwater" further includes any locally accumulating ground or surface waters, even if not directly associated with natural precipitation events, where such waters contribute or have a potential to contribute to runoff onto the public right-of-way, public storm or sanitary sewers, or flooding or erosion on public or private property.

BV. Stormwater Management Program (SWMP).

A set of actions and activities designed to reduce the discharge of pollutants from the regulated MS4 to the maximum extent practicable and to protect water quality, and comprising the components listed in S5 or S6 of the Eastern Washington Phase II Municipal Permit (WAR04-6505) and any additional actions necessary to meet the requirements of applicable TMDLs.

BW. Story.

That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except:

1. the topmost story is that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above;

2. that portion of a building between the eaves and the ridge, when over twenty feet in height, is considered a story;
3. that portion of a building below the eaves which exceeds fourteen feet in height is considered a story, each fourteen feet of height (or major part of fourteen feet) being an additional story; and
4. a basement or unused under-floor space is a story if the finished floor level directly above is either more than:
 - a. six feet above grade for more than half of the total perimeter, or
 - b. twelve feet above grade at any point.

BX. Stream.

A naturally occurring body of periodic or continuously flowing water where the:

1. mean annual flow is greater than twenty cubic feet per second; and
2. water is contained with a channel (WAC 173-22-030(8)).

BY. Street.

See "Public Way" (SMC 17A.020.160).

BZ. Street Classifications.

Arterial and local access streets are classified in section 4.5 of the comprehensive plan as follows:

1. Principal arterial.
2. Minor arterial.
3. Collector arterial.
4. Local access street.
5. Parkway.

Definitions of all of the above classifications are included herein. Private streets are not classified but are defined under SMC 17A.020.160, "P" Definitions.

CA. Street Frontage.

The lot line abutting a street.

CB. Strobe Light.

A lamp capable of producing an extremely short, brilliant burst of light.

CC. Structural Alteration.

1. Modification of a sign, sign structure, or awning that affects size, shape, height, or sign location.
2. Changes in structural materials; or

3. Replacement of electrical components with other than comparable materials.
4. The replacement of wood parts with metal parts, the replacement of incandescent bulbs with light emitting diodes (LED), or the addition of electronic elements to a non-electrified sign would all be structural alterations.
5. Structural alteration does not include ordinary maintenance or repair, repainting an existing sign surface, including changes of message or image, exchanging painted and pasted or glued materials on painted wall signs, or exchanging display panels of a sign through release and closing of clips or other brackets.

CD. Structure.

Any object constructed in or on the ground, including a gas or liquid storage tank that is principally above ground.

1. Structure includes:
 - a. buildings,
 - b. decks,
 - c. fences,
 - d. towers,
 - e. flag poles,
 - f. signs, and
 - g. other similar objects.
2. Structure does not include paved areas or vegetative landscaping materials.

CE. Structure – Historic.

A work made up of interdependent and interrelated parts in a definite pattern of organization. Generally constructed by man, it is often an engineering project.

CF. Subdivision.

A division or redivision of land into ten or more lots, tracts, or parcels for the purpose of sale, lease, or transfer of ownership (RCW 58.17.020).

CG. Subject Property.

The site where an activity requiring a permit or approval under this code will occur.

- CH. Sublevel Construction Controls.
Design and construction requirements provided in SMC 17F.100.090.
- CI. Submerged Aquatic Beds.
Wildlife habitat area made up of those areas permanently under water, including the submerged beds of rivers and lakes and their aquatic plant life.
- CJ. Substantial Damage – Floodplain.
Damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-existing condition would equal or exceed fifty percent of the assessed value of the structure before the damage occurred.
- CK. Substantial Development.
For the shoreline master program, shall mean any development of which the total cost or fair market value exceeds the dollar amount set forth in RCW 90.58 and WAC 173-26 for any improvement of property in the shorelines of the state.
- CL. Substantial Improvement – Floodplain.
1. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the assessed value of the structure either:
 - a. before the improvement or repair is started, or
 - b. if the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.
 2. The term does not, however, include either any:
 - a. project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
 - b. alteration of a structure listed on the National Register of Historic or State Inventory of Historic Places.
- CM. Suffix.
Describes the roadway type and is located after the root roadway name (i.e., street, avenue, court, lane, way, etc.). The appropriate suffix shall be used in accordance with SMC 17D.050.020(C).

Section 3. That SMC section 17C.305.010 is amended to read as follows:

17C.305.010 Purpose, Findings, and Rationale

~~((Adult businesses including adult retail use and entertainment establishments create adverse secondary effects including health, safety, economic and aesthetic impacts upon neighboring properties and the community as a whole. These standards are intended to address the anticipated effect on the community with respect to the location of these facilities and reduce some of the unwanted effects experienced by the community surrounding the adult retail use and entertainment establishments. Adult business establishments, due to their very nature, have serious objectionable operational characteristics, particularly when located in close proximity to residential neighborhoods, daycare centers, religious facilities, public parks, and schools, thereby having a deleterious impact upon the quality of life in the surrounding areas.))~~

A. Purpose.

It is the purpose of this section to regulate adult businesses in order to promote the health, safety, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of adult businesses within the City. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this section to condone or legitimize the distribution of obscene material.

B. Findings and Rationale. Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the City Council, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); *Sewell v. Georgia*, 435 U.S. 982 (1978); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *City of Dallas v. Stanglin*, 490 U.S. 19 (1989); and

World Wide Video of Washington, Inc. v. City of Spokane, 368 F.3d 1186 (9th Cir. 2004); *World Wide Video of Washington, Inc. v. City of Spokane*, 103 P.3d 1265 (Wash. App. 2005); *Spokane Arcade, Inc. v. City of Spokane*, 75 F.3d 663 (9th Cir. 1996); *Imaginary Images, Inc. v. Evans*, 612 F.3d 736 (4th Cir. 2010); *LLEH, Inc. v. Wichita County*, 289 F.3d 358 (5th Cir. 2002); *Ocello v. Koster*, 354 S.W.3d 187 (Mo. 2011); *84 Video/Newsstand, Inc. v. Sartini*, 2011 WL 3904097

(6th Cir. Sept. 7, 2011); Plaza Group Properties, LLC v. Spencer County Plan Commission, 877 N.E.2d 877 (Ind. Ct. App. 2007); Flanigan's Enters., Inc. v. Fulton County, 596 F.3d 1265 (11th Cir. 2010); East Brooks Books, Inc. v. Shelby County, 588 F.3d 360 (6th Cir. 2009); Entm't Prods., Inc. v. Shelby County, 588 F.3d 372 (6th Cir. 2009); Sensations, Inc. v. City of Grand Rapids, 526 F.3d 291 (6th Cir. 2008); Ben's Bar, Inc. v. Village of Somerset, 316 F.3d 702 (7th Cir. 2003); Peek-a-Boo Lounge v. Manatee County, 630 F.3d 1346 (11th Cir. 2011); Daytona Grand, Inc. v. City of Daytona Beach, 490 F.3d 860 (11th Cir. 2007); Williams v. Morgan, 478 F.3d 1316 (11th Cir. 2007); Jacksonville Property Rights Ass'n, Inc. v. City of Jacksonville, 635 F.3d 1266 (11th Cir. 2011); H&A Land Corp. v. City of Kennedale, 480 F.3d 336 (5th Cir. 2007); Hang On, Inc. v. City of Arlington, 65 F.3d 1248 (5th Cir. 1995); Fantasy Ranch, Inc. v. City of Arlington, 459 F.3d 546 (5th Cir. 2006); Illinois One News, Inc. v. City of Marshall, 477 F.3d 461 (7th Cir. 2007); G.M. Enterprises, Inc. v. Town of St. Joseph, 350 F.3d 631 (7th Cir. 2003); Richland Bookmart, Inc. v. Knox County, 555 F.3d 512 (6th Cir. 2009); Bigg Wolf Discount Video Movie Sales, Inc. v. Montgomery County, 256 F. Supp. 2d 385 (D. Md. 2003); Richland Bookmart, Inc. v. Nichols, 137 F.3d 435 (6th Cir. 1998); City of New York v. Hommes, 724 N.E.2d 368 (N.Y. 1999); Taylor v. State, No. 01-01-00505-CR, 2002 WL 1722154 (Tex. App. July 25, 2002); Fantasyland Video, Inc. v. County of San Diego, 505 F.3d 996 (9th Cir. 2007); Gammoh v. City of La Habra, 395 F.3d 1114 (9th Cir. 2005); Z.J. Gifts D-4, L.L.C. v. City of Littleton, Civil Action No. 99-N-1696, Memorandum Decision and Order (D. Colo. March 31, 2001); People ex rel. Deters v. The Lion's Den, Inc., Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005); Reliable Consultants, Inc. v. City of Kennedale, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005); Patterson v. City of Grand Forks, Case No. 18-2012-CV-00742 (Grand Forks Cty. Dist. Ct. Nov. 1, 2012); Enlightened Reading, Inc. v. Jackson County, County, 2009 WL 792492 (W.D. Mo. Mar. 24, 2009); and

and reports concerning secondary effects occurring in and around adult businesses, including, but not limited to, Austin, Texas - 1986; Indianapolis, Indiana - 1984; Garden Grove, California - 1991; Houston, Texas - 1983, 1997; Phoenix, Arizona - 1979, 1995-98; Tucson, Arizona - 1990; Chattanooga, Tennessee - 1999-2003; Los Angeles, California - 1977; Whittier, California - 1978; Spokane, Washington - 2001; St. Cloud, Minnesota - 1994; Littleton, Colorado - 2004; Oklahoma City, Oklahoma - 1986; Dallas, Texas - 1997; Ft. Worth, Texas - 2004; Kennedale, Texas - 2005; Greensboro, North Carolina - 2003; Amarillo, Texas - 1977; Jackson County, Missouri - 2008; Louisville, Kentucky - 2004; New York, New York Times Square - 1994; the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota); Dallas, Texas - 2007; "Rural Hotspots: The Case of Adult Businesses," 19 Criminal Justice Policy Review 153 (2008); "Correlates of Current Transactional Sex among a Sample of Female Exotic Dancers in Baltimore, MD," Journal of Urban Health (2011); "Stripclubs

According to Strippers: Exposing Workplace Sexual Violence,” by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota; and various articles documenting robbery and other crimes at retail adult establishments,

the City Council finds:

1. Adult businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation. Alcohol consumption impairs judgment and lowers inhibitions, thereby increasing the risk of adverse secondary effects.
2. Adult businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other adult businesses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of adult businesses in one area.
3. Each of the foregoing negative secondary effects constitutes a harm which the City has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the City’s rationale for this section, exists independent of any comparative analysis between adult and non-adult businesses. Additionally, the City’s interest in regulating adult businesses extends to preventing future secondary effects of either current or future adult businesses that may locate in the City. The City finds that the cases and documentation relied on in this section are reasonably believed to be relevant to said secondary effects.

The City hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of adult businesses, including the judicial opinions and reports related to such secondary effects.

Section 4. That SMC section 17C.305.020 is amended to read as follows:

17C.305.020 Use Standards

An adult business (~~((retail use establishment or adult entertainment establishment))~~) must be located on property of sufficient size and frontage to contain the establishment together with off-street parking, driveways, building setbacks and landscaping as required by this chapter and, further, the location must meet the following requirements.

- A. An adult business (~~((retail use establishment or an adult entertainment establishment))~~) may not be located or maintained within seven hundred fifty feet, measured from the nearest property line of the adult business (~~((retail use establishment or of the adult entertainment establishment))~~) to the nearest property line of any of the following preexisting uses located inside or outside of the City of Spokane:
1. Public library.
 2. Public playgrounds or park.
 3. Public or private school and its grounds, from kindergarten to twelfth grade.
 4. Nursery school, mini-daycare center or daycare center.
 5. Church, convent, monastery, synagogue, or other place of religious worship.
 6. Another adult business (~~((retail use establishment or an adult entertainment establishment))~~), subject to the provisions of this section.
- B. An adult business (~~((retail use establishment or an adult entertainment establishment))~~) may not be located within seven hundred fifty feet of any of the following zones located within the City of Spokane:
1. RA – Residential Agriculture.
 2. RSF – Residential Single Family.
 3. RTF – Residential Two Family.
 4. RMF – Residential Multifamily.
 5. RHD – Residential High Density.
 6. O – Office Zone.
 7. OR – Office Retail.
- C. An adult business (~~((retail use establishment or an adult entertainment establishment))~~) may not be located within seven hundred fifty feet of any zone in any other jurisdiction abutting the City of Spokane that has listed in their zoning ordinance a residential zone separation standard similar to subsection (B) of this section. Currently, adult businesses (~~((retail use establishments or adult~~

~~entertainment establishments~~)) must locate at least seven hundred fifty feet from the following Spokane County zones:

1. Rural Residential-10 – RR-10.
2. Semi-rural Residential-5 – SRR-5.
3. Semi-rural Residential-2 – SRR-2.
4. Suburban Residential-1 – SR-1.
5. Suburban Residential-1/2 – SR-1/2.
6. Urban Residential-3.5 – UR-3.5.
7. Urban Residential-7 – UR-7.
8. Urban Residential-12 – UR-12.
9. Urban Residential-22 – UR-22.
10. Rural Settlement – RS.

D. Hours of Operation.

An adult business (~~retail use establishment or an adult entertainment establishment~~)) may not be operated or otherwise open to the public between the hours of two a.m. and ten a.m.

Section 5. That there is adopted a new SMC section 17C.210.100 to read as follows:

17C.210.100 Nonconforming Adult Businesses

- A. An business that does not meet the standards set forth in SMC 17C.305.020(A) through SMC 17C.305.020(C) is a nonconforming adult business use. A nonconforming adult business use may continue to operate for twelve (12) months following the effective date of this section in order to make a reasonable recoupment of its investment in its current location, but only if the nonconforming adult business use was lawfully existing in all respects under law prior to the effective date of this section, such that only this section created the nonconformity. At the conclusion of said twelve (12) months, the nonconforming adult business use shall be unlawful, unless the nonconforming adult business may applies for and obtains an extension of the twelve-month period by clearly demonstrating an extreme economic hardship based upon an irreversible financial investment or commitment made in an arms-length transaction completed prior to the date this section became effective. A demonstration of

extreme economic hardship requires the business to show that the subject property cannot be put to any reasonable alternative use. An application for an initial extension based upon economic hardship ("hardship exception") shall be made at least sixty (60) days before the conclusion of the aforementioned twelve-month period. If a hardship extension is granted, any subsequent applications for hardship extensions shall be made at least sixty (60) days before the conclusion of the non-conforming adult business use's current extension period.

- B. Procedure for seeking hardship extension. An application for a hardship extension shall be filed in writing with the Planning Director, and shall include evidence of purchase and improvement costs, income earned and lost, depreciation, and costs of relocation. Within ten (10) days after receiving the application, the Planning Director shall schedule a public hearing on the application before the Hearing Examiner, which public hearing shall be conducted within thirty (30) days after the Planning Director's receipt of the application. Notice of the time and place of such public hearing shall be published at least ten (10) days before the hearing in a newspaper of general circulation published within the City, and shall identify the particular location for which the hardship extension is requested.
- C. The Hearing Examiner shall issue a written decision within ten (10) days after the public hearing on the application for a hardship extension. The hardship extension shall be granted only upon the Hearing Examiner's determination that the applicant has made the required showing of an extreme economic hardship as required in subsection A above.

Section 6. The City Council does further ordain as follows:

A. Time Period of Interim Regulation of Adult Business Ordinance; Amortization Period Runs from Date Hereof.

The interim regulation imposed by this ordinance shall be for a period not to exceed 60 days during so as allow enough time to adequately address the issues described herein. Pursuant to RCW 36.70A.390, the Plan Commission shall conduct a public hearing on the interim regulation within sixty (60) days of the adoption of this ordinance. The foregoing notwithstanding, the length of interim regulation may need to be longer than 60 days and in such event the city shall have a hearing prior to the passage of 60 days and adopt if necessary an extension of the interim regulations adopted herein. Any amortization period prescribed by this ordinance shall not be tolled, but shall be in full effect, pending the Plan Commission hearing, and shall not be extended provided that the Plan Commission hearing is held within sixty (60) days of the date hereof.

B. Participation.

The city shall provide an opportunity for hearing by affected property owners in the general vicinity of each existing business, and shall provide opportunity for input from

the business owners of such adult retail business in the public hearing process. Public notice and participation in accordance with the local government's standard practices should be followed.

C. Severability.

If any provision of this ordinance, or its application to any person, entity or circumstance is for any reason held invalid, the remainder of the ordinance, or the application of the provisions to other persons, entities or circumstances, is not effected.

D. Emergency Ordinance.

This ordinance, passed by a majority plus one of the whole membership of the City Council as a public emergency ordinance necessary for the protection of the public health, public safety, public property, or public peace, shall be effective immediately upon its passage.

PASSED BY THE CITY COUNCIL ON _____, 2013.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date

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

03/04/2013

Date Rec'd

2/20/2013

Clerk's File #

RES 2013-0016

Renews #**Submitting Dept**

PARKS & RECREATION

Cross Ref #**Contact Name/Phone**

GAVIN COOLEY 625-6586

Project #**Contact E-Mail**

GCOOLEY@SPOKANECITY.ORG

Bid #**Agenda Item Type**

Resolutions

Requisition #**Agenda Item Name**

4600 GOLF FUND EMERGENCY SHORT-TERM INTERFUND LOAN

Agenda Wording

Resolution authorizing an emergency short-term interfund loan to the Golf Fund for \$150,000 from the Park Fund.

Summary (Background)

Due to a short-term Golf Fund cash flow shortfall, an authorization for an immediate short-term loan is necessary.

Fiscal Impact**Budget Account**

Neutral \$

#

Select \$

#

Select \$

#

Select \$

#

Approvals**Council Notifications****Dept Head**

EADIE, LEROY

Study Session**Division Director****Other****Finance**

LESESNE, MICHELE

Distribution List**Legal**

BURNS, BARBARA

Parks - RMadany@SpokaneCity.org

For the Mayor

SANDERS, THERESA

KBustos@SpokaneCity.org

Additional Approvals**Purchasing**

RESOLUTION 2013 – 0016

Resolution authorizing an emergency short-term interfund loan from the Park Fund to the Golf Fund.

WHEREAS, due to an urgency created by a Golf Fund cash flow shortfall, an immediate short-term interfund loan is needed; -- Now, Therefore,

BE IT RESOLVED by the City Council of the City of Spokane:

1. That up to one hundred and fifty thousand dollars (\$150,000) be authorized to be transferred and loaned

FROM: Park Fund, Budget Account Number 1400-99999-99999-13201

TO: Golf Fund, Budget Account Number 4600-99999-99999-22701

2. The loan will bear interest at the State of Washington's Local Government Investment Pool interest rate as of the date of transfer of funds until paid. Funds shall be repaid within ninety (90) days.

ADOPTED BY THE CITY COUNCIL ON _____

City Clerk

Approved as to form:

Assistant City Attorney

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

03/04/2013

Date Rec'd

2/20/2013

Clerk's File #

RES 2013-0017

Renews #**Submitting Dept**

CITY COUNCIL

Contact Name/Phone

MIKE ALLEN 625-6715

Contact E-Mail

RCONGER@SPOKANECITY.ORG

Agenda Item Type

Resolutions

Agenda Item Name

RESOLUTION AMENDING THE CITY COUNCIL RULES OF PROCEDURES

Agenda Wording

A resolution amending the City Council Rules of Procedures.

Summary (Background)

Council Rules of Procedures are amended by resolution. This resolution amends Rule 5.5.7 regarding abstaining from voting to include the ability to abstain from a vote regarding non-binding matters such as resolutions or letters; and also amends Rule 7.3 to further explain that a subject matter is not directly related to local affairs or municipal business if action by the Council doesn't result in the adoption of a new or amendment to an existing ORD or RES or affect any City policy or practice

Fiscal Impact**Budget Account**

Neutral \$

#

Select \$

#

Select \$

#

Select \$

#

Approvals**Council Notifications****Dept Head**

WESTFALL, JENNIFER

Study Session**Division Director****Other****Finance**

LESESNE, MICHELE

Distribution List**Legal**

BURNS, BARBARA

For the Mayor

SANDERS, THERESA

Additional Approvals**Purchasing**

RESOLUTION NO. 2013-0017

A resolution amending the City Council Rules of Procedures.

WHEREAS, pursuant to Section 9(b) of the City Charter, the City Council is authorized to adopt its own rules of procedures; and

WHEREAS, Section 1.5 of the Rules of Procedure require amendments to be adopted pursuant to a resolution; and

WHEREAS, there exists a need to amend Section 5.5.7 and Section 7.3 of the City Council Rules of Procedure regarding abstaining from voting and subject matter of council actions; -- Now, Therefore,

BE IT RESOLVED by the City Council of the City of Spokane that the Spokane City Council Rules of Procedures are amended as follows:

Section 1. That Rule 5.5.7 is amended as follows:

Rule 5.5 VOTING

5.5.7 A Councilperson may (~~only~~) abstain from voting when he or she has a direct personal or pecuniary interest not common to other members of the Council, which is fully expressed to all other members of the Council during the Council meeting. A Councilperson may also abstain from voting on non-binding council agenda items including, but not limited to, resolutions or letters.

Section 2. That Rule 7.3 is amended as follows:

Rule 7.3 SUBJECT MATTER

The Council shall not consider or pass any ordinance or resolution the subject matter of which is not directly related to local affairs or municipal business. A subject matter is not directly related to local affairs or municipal business if action by the City Council does not result in the adoption of a new or amendment to an existing ordinance or resolution or affect any city policy or practice.

ADOPTED by the City Council on _____, 2013.

City Clerk

Approved as to form:

Assistant City Attorney

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

03/04/2013

Date Rec'd

2/20/2013

Clerk's File #

ORD C34964

Renews #**Submitting Dept**

HUMAN RESOURCES

Cross Ref #**Contact Name/Phone**

HEATHER LOWE 6233

Project #**Contact E-Mail**

HLOWE@SPOKANECITY.ORG

Bid #**Agenda Item Type**

First Reading Ordinance

Requisition #**Agenda Item Name**

0620 CHAPTER 3.01 SMC DEPARTMENT ORGANIZATION

Agenda Wording

AN ORDINANCE relating to the executive and administrative organization of the City; adopting a new chapter 3.01A to title 3; and repealing chapter 3.01 of the Spokane Municipal Code.

Summary (Background)

The city charter provides that departments are created by ordinance. This ordinance codifies recent and future department changes to the City organization.

Fiscal Impact**Budget Account**

Select \$

#

Select \$

#

Select \$

#

Select \$

#

Approvals**Council Notifications****Dept Head**

LOWE, HEATHER

Study Session**Division Director****Other****Finance**

LESESNE, MICHELE

Distribution List**Legal**

BURNS, BARBARA

hlowe@spokanecity.org

For the Mayor

SANDERS, THERESA

Additional Approvals**Purchasing**

ORDINANCE NO. C34964

AN ORDINANCE relating to the executive and administrative organization of the City; adopting a new chapter 3.01A to title 3; and repealing chapter 3.01 of the Spokane Municipal Code.

The City of Spokane does ordain:

Section 1. That chapter 3.01 SMC is hereby repealed.

Section 2. That there is adopted a new chapter 3.01A to title 3 of the municipal code to read as follows:

Chapter 3.01A Executive and Administrative Organization

Sections

3.01A.100	Mayor
3.01A.110	City Administrator
3.01A.120	Mayor's Office Staff
3.01A.200	Departments and Offices - Establishment
3.01A.205	Departments – Rights, Powers and Duties
3.01A.210	Division Departments
3.01A.215	Accounting
3.01A.220	Asset Management Group
3.01A.225	Business and Developer Services
3.01A.230	City Attorney
3.01A.235	City Clerk
3.01A.240	Civil Service
3.01A.245	Community and Neighborhood Services
3.01A.250	Community, Housing and Human Services
3.01A.255	Engineering Services
3.01A.260	Finance
3.01A.265	Fire
3.01A.270	Fire Communications
3.01A.275	Fire Emergency Medical Services
3.01A.280	Fire Logistics
3.01A.285	Fire Operations
3.01A.290	Fire Planning and Information Management
3.01A.295	Fire Prevention
3.01A.300	Fire Training
3.01A.310	Fleet Services

3.01A.320	Historic Preservation
3.01A.330	Human Resources
3.01A.340	Management and Budget
3.01A.350	Management Information Services
3.01A.355	Neighborhood Services and Code Enforcement
3.01A.360	Parks and Recreation
3.01A.365	Planning and Development
3.01A.370	Police
3.01A.375	Police Business Services
3.01A.380	Police Communications
3.01A.385	Police Field Operations
3.01A.390	Police Investigations
3.01A.395	Police Public Information
3.01A.400	Police Tactical Operations
3.01A.410	Probation
3.01A.415	Public Affairs / Communications
3.01A.420	Public Defender
3.01A.430	Regional Emergency Communications Systems
3.01A.440	Retirement
3.01A.445	Risk Management
3.01A.450	Solid Waste Management
3.01A.460	Spokane Area Workforce Development Council Administration
3.01A.470	Spokane Regional Solid Waste System
3.01A.480	Street
3.01A.490	Treasurer's Office
3.01A.500	Utilities
3.01A.510	Wastewater Management
3.01A.520	Water and Hydroelectric Services
3.01A.600	Spokane Municipal Court
3.01A.610	Spokane Public Library
3.01A.620	Health

Article I Mayor

3.01A.100 Mayor

- A. As provided in the City Charter, the mayor is the chief executive and administrative officer of the City with final authority over the employment, termination and assignment of all employees of the City, not including the elected officers, except that:
 - 1. the appointment of the city attorney, the city clerk and the administrative heads of each department requires approval of the city council;

2. the appointment of the head of the department of parks and recreation requires the concurrence of the park board;
 3. the appointment of the head and assistant head of the retirement department requires the concurrence of the retirement board;
 4. the appointment of persons to positions within the classified service, and their discharge, must follow the procedures of the civil service system;
 5. the number of positions in the City government is determined in the annual budget;
 6. some individuals, such as the director of Spokane area workforce development council administration, the library director, chief examiner, and the clerk of the municipal court, are appointed or directed by a board or agency by charter, statute or intergovernmental contract;
 7. state law may impose a requirement, such as a license, for the performance of a particular function.
- B. The mayor may appoint such assistants, who are variously referred to as city administrator, division director, department director, or assistant director, as deemed necessary for the efficient operation of City government, subject always to city council approval of positions and salaries through the budget process.
- D. Subject to the provisions of the City Charter and the ordinances by which administrative departments are established and discontinued, the mayor determines the allocation of functions and duties among the several departments and positions and establishes the organizational structure and reporting relationships of the executive branch of the City government.
- E. As provided in SMC 1.02.130, the mayor may delegate to assistants specific functions, authority and responsibility, including the signing of documents.
- F. Subject to the provisions of the City Charter and the ordinances by which administrative departments are established and discontinued, the mayor determines the allocation of functions and duties among the several departments and positions and establishes the organizational structure and reporting relationships of the executive branch of the City government.
- G. As provided in SMC 1.02.130, the mayor may delegate specific functions, authority and responsibility, including the signing of documents.
- H. The mayor exercises direct supervision of the departments of communications and public affairs, retirement, and equal employment opportunity and contract compliance.

- I. The mayor is chair of the Sister Cities Association of Spokane, the nonprofit corporation that oversees the Sister Cities program by contract with the City.

3.01A.110 City Administrator

- A. Under the direction of the mayor, the city administrator performs a variety of administrative duties to assist the mayor in the direction of City operations, and represents the mayor at meetings and conferences and as otherwise directed. This office responds to questions and complaints from the public and the city council.
- B. The city administrator is responsible for planning, recommending, coordinating and administering a local, state and federal legislative program for the City of Spokane in accordance with legislative guidelines established by the city council. The office develops for council approval City legislative programs for the state and federal legislative sessions, represents the City before state and federal legislative bodies, and analyzes and submits reports to the mayor and the city council on state and federal legislation affecting the City.
- C. The city administrator is appointed and removed by the mayor.

3.01A.120 Mayor's Office Staff

The mayor may, subject to budget appropriation, appoint and remove office staff under his direction as necessary to support the performance of the executive and administrative duties of the mayor's office. The mayor's office provides staff to the several Sister Cities associations.

Article II Departments

3.01A.200 Departments and Offices - Establishment

The executive branch of the City shall be organized into departments and offices, which are hereby continued, created, or established as follows:

3.01A.205 Departments – Rights, Powers and Duties

Except as otherwise provided, the departments and offices listed in this chapter shall have all the rights and powers granted and duties imposed by authority of the laws of the state and the charter and ordinances of the City now existing or subsequently adopted, subject to the general supervision and control of the mayor.

3.01A.210 Division Departments

The following departments shall be considered as division departments:

- A. business and developer services
- B. city attorney
- C. community and neighborhood services
- D. finance
- E. fire
- F. parks and recreation
- G. police
- H. utilities

3.01A.215 Accounting

- A. The accounting department provides various accounting services, including accounts payable, accounts receivable, payroll, purchasing, inventory, and budget control, for the City administration and some joint governmental agencies. The department compiles and produces the City's combined annual financial statements. It disseminates and monitors financial policies and internal controls, and provides analysis and reporting.
- B. The director of accounting serves on the City investment board.
- C. The purchasing section is responsible for the procurement of public works, goods and services by competitive bid, quote or proposal; processing purchase orders and contracts; maintaining and accounting for inventories; and the disposal of surplus property. The director of accounting, or a designee, is a permanent member of the committee to receive bids.

3.01A.220 Asset Management Group

The asset management group provides focused leadership in maintaining and managing the City's hard assets. This include the parking system, right of way work, all infrastructure capital programs including how all these areas relate to the combined sewer overflow and storm water solutions.

3.01A.225 Business and Developer Services

The department of business and developer services oversees planning and programming for services to enhance the quality of life in the community. It promotes economic growth, redevelopment and developer incentives.

3.01.230 City Attorney

- A. The office of the city attorney renders legal advice, counsel and services to the mayor, the city council, all City administrative agencies and employees, and certain intergovernmental agencies. The office drafts, reviews and approves ordinances, resolutions, contracts and other legal instruments and documents; gives written and oral opinions and advice to all City officers and employees concerning City affairs; and represents the City in all judicial and administrative proceedings not in the charge of special counsel.
- B. The office of the city prosecutor is the criminal branch of the office of the city attorney. It is responsible for the prosecution of all misdemeanor crimes and civil infractions that occur within the City of Spokane. The office is involved in every phase of criminal and civil infraction law from beginning to end including preparation, diversion, filing, negotiation, resolution, adjudication, sentencing, and compliance. It is the mission of this office to promote justice, to prosecute crime and to protect citizens in the City of Spokane.
- C. The city attorney appoints and removes assistant city attorneys and city prosecutors; and designates a city prosecutor.

3.01A.235 City Clerk

- A. The city clerk is the secretary of the municipal corporation; performing functions as provided in various state statutes, the Charter, the municipal code, council rules of procedure and city policies and procedures.
- B. The city clerk acts as editor and publishes the *official gazette*.
- C. The city clerk acts as the City's records officer.
- D. The city clerk is a member of the fire pension board and of the police relief and pension board.

3.01A.240 Civil Service

- A. The civil service department provides clerical and administrative support to the civil service commission. The department performs duties required by article IV of the city charter, including job classification, examination, maintenance of eligibility lists, and the investigation and processing of applications and appeals.

- B. The chief examiner is the director of civil service and supervises the staff of the commission. The chief examiner is appointed by the civil service commission.

3.01A.245 Community and Neighborhood Services

The department of community and neighborhood services provides support and direction for the City's community-oriented departments. This support is accomplished through ensuring effective expenditure of local, state and federal funds to benefit low and middle income citizens; providing direct services to improve quality of life; sharing information and providing opportunities for citizens to be engaged in the city government decision making process; and ensuring the highest standards of customer service for City department's interactions with citizens.

3.01A.250 Community, Housing and Human Services

The community, housing and human services department, under the direction of the community, housing and human services board, administers federal, state and local grant programs to serve extremely low to moderate income citizens. The department provides staff support to the community, housing and human services board.

3.01A.255 Engineering Services

- A. The engineering services department is the design and construction arm of the City. It designs and manages construction of public street, sewer and water systems. It also assists private development by reviewing and approving plans, issuing permits for construction and inspecting infrastructure projects for compliance with federal, state and local requirements.
- B. The engineering services department also includes a traffic design group that coordinates transportation elements of projects designed in-house and by outside consultants. It also reviews transportation planning, street improvement proposals and transportation-related development issues.

3.01A.260 Finance

- A. The finance department manages the budget, supervises the internal/tax auditor, coordinates debt issuances and is responsible for establishing and maintaining sound fiscal management practices throughout the City.
- B. The chief financial officer shall attend all meetings of the city council finance committee, apprise the committee of the activities that he is responsible for and provide to the committee any information related to these activities that is requested. The chief financial officer shall also present to the committee changes in past practices or procedures or recommended ordinance amendments that he

deems necessary to maintain or increase the efficiency or effectiveness of the financial services division or the financial operations of the City.

- C. The chief financial officer shall regularly communicate to the city council on matters material to the City's financial condition, including quarterly financial updates and budget updates.

3.01A.265 Fire

- A. The fire division, through various departments, provides the community with a number of services, including but not limited to:
 - 1. response to medical help, fires and other situations where the public calls for assistance;
 - 2. fire investigations, and code enforcement and engineering services augmented by public education, technical assistance for fire code compliance, inspections and safety assessments; and
 - 3. CPR and other educational classes.
- B. The fire chief is responsible for the leadership and management of the fire division and the various departments within the fire division.
- C. The fire chief or fire marshal is the "fire official" for enforcement of various federal and state fire codes, including fireworks and underground storage tanks.

3.01A.270 Fire Communications

The communications department's primary responsibilities are to receive calls through the Community's 9-1-1 system and dispatch appropriate resources to the public's request for assistance as well as to communicate with and provide documentation and other support to fire and EMS response agencies and their field units. Includes assuring that facilities, equipment and systems are in place and operational for interoperable communication to occur between the public and responders in order to support the mission of the fire division as well as fulfill the obligations to provide contract dispatching services to other fire agencies.

3.01A.275 Fire Emergency Medical Services

The fire emergency medical services department is responsible for the medical systems necessary to provide quality pre-hospital basic life support and paramedic level critical care. Includes the management and oversight of the 9-1-1 ambulance transport contract as well as participation in the coordination of the overall community emergency medical services system.

3.01A.280 Fire Logistics

The fire logistics department manages and maintains the emergency response fleet of specialized apparatus, equipment, physical buildings and inventory that are in place and necessary to support the fire division's mission.

3.01A.285 Fire Operations

The fire operations department primary responsibilities include response to fire, emergency medical services, rescue and other calls for service that typically occur through the community's 9-1-1 system. Consists of personnel and equipment deployed to field operations (stations and apparatus) as well as special operations and emergency incident management.

3.01A.290 Fire Planning and Information Management

The fire planning and information management department primary responsibilities are to develop and oversee the fire division's information technology plan and systems necessary to support the fire division's mission together with obligations to provide contract dispatching services to other fire agencies. Includes providing all aspects of information technology and information management services through development, purchase, installation and maintenance of routine and critical technological software and interoperable, secure infrastructure.

3.01A.295 Fire Prevention

The fire prevention department primary responsibilities are to manage and oversee the enforcement of the fire code and other applicable standards as well as other efforts to prevent injury and harm from fire and avoidable accidents. Includes the review of plans for new and remodel projects within the City; field inspections to insure compliance with required permits and codes; educational and other collaborative programs to minimize occurrence of fires, accidents and injuries in the community.

3.01A.300 Fire Training

The fire training department primary responsibilities are to lead and manage the training, educational and other systems necessary to assure operational readiness and compliance with governmental standards and regulations. Includes the management and oversight of the fire division's safety program.

3.01A.310 Fleet Services

The fleet services department has three sections:

- A. Equipment maintenance, which develops specifications for and administers the acquisition of motor vehicles and other rolling equipment, schedules and performs equipment maintenance and repairs, and maintains replacement schedules, rental rates and equipment history.
- B. Facilities maintenance, which provides preventive maintenance, emergency repairs, boiler inspections, minor repairs and other work on City facilities, coordinates major repairs and modifications by contract, reviews plans for new facilities, and maintains equipment inspection records as required by federal and state laws; and
- C. Communications management, which manages and maintains communications networks for the police, fire, water, engineering and other departments, develops specifications for equipment acquisition, ensures compliance with Federal Communications Commission requirements, maintains replacements schedules, rental rates and equipment history, and coordinates joint activities with other governmental entities.

3.01A.320 Historic Preservation

The office of historic preservation serves as staff to the historic landmarks commission, providing:

- A. current inventories of historic places;
- B. technical information on the proper preparation and processing of nominations to historic registers;
- C. design review for Spokane Register properties;
- D. assistance to applicants in the preparation of documentation for special valuation;
- E. technical assistance to City departments on projects impacting historic resources;
- F. review of projects for impacts on historic properties, including Section 106 review;
- G. technical information and referral regarding rehabilitation/restoration of local historic properties, as well as information pertaining to tax incentives for historic preservation.

3.01A.330 Human Resources

- A. The human resources department administers all aspects of employment and labor relations, except the responsibilities of the civil service system, for City employees and some employees of other local agencies by agreement.
- B. The department administers employee orientation; counseling and conflict resolution through the employee assistance program; safety, training and discipline programs; wage, salary and fringe benefits; employee benefits, unemployment and workers' compensation, continuous improvement, collective bargaining; recruitment of employees exempt from civil service; and a number of employee records.
- C. The department is responsible for all diversity and equal opportunity programs that pertain to City employment.

3.01A.340 Management and Budget

- A. The department of management and budget assists the chief financial officer in budget development and administration by review and analysis of the City's financial condition, reporting as needed on revenues and expenditures of the various departments. The department is responsible for coordinating the development of the annual budget, budget control, financial forecasting and planning, and the budget activities of all departments.
- B. This department also assists departments with research projects, cost/benefit analyses and similar fiscal management and planning; and manages the City's indirect cost allocation plan.
- C. The taxes and license section administers the City's business registration process and administers the City's various municipal taxes. Its responsibilities include processing applications, registrations and returns; and billing, collecting, accounting and auditing of fees and taxes.
- D. The director of management and budget oversees the risk management department functions.

3.01A.350 Management Information Services

- A. The management information services department is responsible for information technology application and system support, to include electronic mail, telephone system, network infrastructure, city web site, help desk, GIS, datacenter operations, and security and monitoring systems.
- B. The mail room services section collects and distributes interoffice mail and posts outgoing City mail including utility billing invoices.

- C. The reprographic services section provides full digital imaging and printing services for the City.

3.01A.355 Neighborhood Services and Code Enforcement

- A. The department of neighborhood services and code enforcement acts as the staff support for the neighborhood councils and community assembly, and primarily through these organizations, the citizens of Spokane.
- B. The department of neighborhood services and code enforcement serves as liaison between the legislative and executive branches of the City, the neighborhood councils and the community assembly.
- C. The code enforcement section coordinates the activities of the other City departments and local and regional agencies in the investigation and resolution of violations of the public health and safety laws.

3.01A.360 Parks and Recreation

- A. The procurement, disposition, improvement and management of parks, playgrounds, designated boulevards, designated parkways, trees in streets and other rights-of-way, and other designated public places is vested in the park board. The park board and its committees perform their function through the department of parks and recreation. The park board is also authorized by Spokane city charter to adopt a budget for the parks and recreation department.
- B. The parks and recreation department serves as administrative staff to, and receives policy direction from, the park board and receives administrative direction from the mayor. The parks and recreation department performs a complement of duties at the direction of the park board, including but not limited to:
 - 1. design, development and maintenance of parks, gardens, the arboretum, swimming pools and recreational grounds and facilities;
 - 2. development and management of the urban forestry program;
 - 3. operation and management of the municipal golf courses;
 - 4. operation and development of a variety of recreational programs serving the public;
 - 5. operation, maintenance and promotion of grounds facilities and activities at Riverfront Park;

6. acquisition and long-range planning for future parks and open spaces as well as recreational services; and
 7. promotion, public relations, financial control and reporting.
- C. The municipal golf courses may be operated directly by the parks and recreation department or may be operated by licensed golf professionals under contract with the department.

3.01A.365 Planning and Development

- A. The planning and development department is responsible for preparation and maintenance of the comprehensive plan to guide the community's long-term physical, economic and social growth and for other matters of neighborhood and City planning, including regional coordination and urban design. The department supports plan implementation measures using development regulations, capital improvement plans and annexation programs; administers current planning activities such as rezoning, planned unit developments, subdivisions, environmental review, and variances; and reviews development permits for compliance with land use codes.
- B. The department reviews and approves land use, civil, and building plans, makes zoning interpretations, issues building and occupancy permits and inspects building projects for compliance with building and other construction codes. It also enforces land use regulations and works with various city, county and state agencies in the regulation of property use requirements. The "building official" is in the department and oversees all building code interpretations. The department addresses the community's business needs and coordinates revitalization programs with an emphasis on sustainable economic growth. The department reviews transportation and traffic planning, street improvement proposals and transportation-related development issues.
- C. Through the administration section, the department serves as staff to the plan commission, design review board and bicycle advisory board.

3.01A.370 Police

The police division through various departments is the primary law enforcement agency of the City with investigative, arrest and incidental powers over violations of federal, state and municipal laws, both criminal and traffic. In addition to patrol, surveillance, investigation and crime prevention education, division personnel perform administrative, communications, community relations, planning, records maintenance and training functions.

3.01A.375 Police Business Services

The police business services department is responsible for overall fiscal, human resources, and support services (records, property, planning, and fleet) to ensure the daily business and support operations of the police division.

3.01A.380 Police Communications

The police communications department is responsible for the police dispatch center, and responsible for the proper deployment of police division resources.

3.01A.385 Police Field Operations

The police field operations department is responsible for the personnel deployed to patrol, major crimes investigations, traffic, and specialized units for the day-to-day field operations for the police division.

3.01A.390 Police Investigations

The police investigations department leads the overall investigative resources for criminal cases in which the City of Spokane has overall jurisdiction.

3.01A.395 Police Public Information

The police tactical operations department is responsible for coordinating external communications with the public regarding the police division through the development of communication strategies and may serve as a media contact for the division.

3.01A.400 Police Tactical Operations

The police tactical operations department is responsible for the targeted crimes unit (detectives), patrol anti-crime teams, special investigations unit, property crimes and fraud detectives, abandoned auto unit, and special police problems.

3.01A.410 Probation

- A. The probation department supervises offenders place on probation by the municipal court to ensure compliance with court orders, supervises conditions of pre-trial release, refers offenders to various community agencies for programs, facilitates evidence based programs proven to reduce re-offense, conducts pre and post sentence investigations, conducts financial screening for public defense services, works with law enforcement and community agencies to promote offender compliance and rehabilitation and promote victim and community safety.
- B. The chief of probation is appointed by the mayor after consultation with the presiding judge of municipal court and confirmed by the city council.

3.01A.415 Public Affairs / Communications

- A. The department of public affairs/communications informs citizens and employees about important City issues and provides opportunities for increased participation in government. Its efforts focus on three major areas:
 - 1. External communications with the public and the media;
 - 2. Internal communications with employees; and
 - 3. Media relations.
- B. The department uses a multi-media approach to provide information; the goal is to provide information in ways that are convenient for citizens and employees.
- C. Cable TV Channel 5.
 - 1. Through City personnel or by contract, the City produces programming for the City government channel (CityCable5) available under the cable television system franchise.
 - 2. The office of cable TV is operated by a City employee who is appointed by the mayor and confirmed by the city council.

3.01A.420 Public Defender

The office of public defender provides legal representation to indigent persons accused of misdemeanor and gross misdemeanor charges under the criminal and motor vehicle sections of the Spokane municipal code, who have been appointed by municipal court for representation. The office handles some county cases that have been conflicted to the City through agreement with the Spokane county public defender's office.

3.01A.430 Regional Emergency Communications Systems

The regional emergency communications systems department provides radio communications services to local public safety entities as well as city/county non-emergency (public works/utilities, etc.) departments and county-wide public safety information technology services. The department consists of the merger of the city/county radio communications functions and the city/county law enforcement information technology division.

3.01A.440 Retirement

- A. The retirement department is responsible for processing pensions for the Spokane employees retirement system and the LEOFF 1 police and firefighters'

pension plans. The department also oversees the investment funds for these pension plans.

- B. The director and the assistant director are appointed by the mayor with the concurrence of the Spokane employees' retirement board. The director's appointment is subject to confirmation by the city council.

3.01A.445 Risk Management

The risk management department monitors potential and actual claims incidents involving loss or liability to the City. It provides liaison with the City's claims adjusters and develops procedures, methods and practices designed to avoid and to more efficiently handle risks of loss.

3.01A.450 Solid Waste Management

The solid waste management department is responsible for collecting solid waste and recyclables generated in the City of Spokane and managing all other aspects of solid waste collection and related sanitation matters within the City except as assigned to the Spokane regional solid waste system department as allowed by law.

3.01A.460 Spokane Area Workforce Development Council Administration

See chapter 6.03 SMC.

The director and the assistant director are appointed by the mayor with the concurrence of the Spokane county board of county commissioners and the Spokane Area Workforce Development Council.

3.01A.470 Spokane Regional Solid Waste System

- A. The Spokane regional solid waste system department (regional system) handles solid waste disposal and related functions for solid waste generated in the City of Spokane not assigned to the solid waste management department. The regional system also handles solid waste disposal from other participating local government jurisdictions in incorporated and unincorporated areas of Spokane County pursuant to interlocal agreement.
- B. The regional system develops and administers recycling and composting programs and waste-reduction strategies for the City and participating local governments in Spokane County and provides staff support for the regional system liaison board. That board makes recommendations pursuant to interlocal agreements to the City and County regarding the management of regional system. Regional system programs include:
 - 1. waste-to-energy facility,

2. recycling,
3. composting,
4. transfer stations,
5. moderate-risk wastes,
6. long-haul disposal, and
7. administration.

3.01A.480 Street

- A. The street department is responsible for providing day-to-day safe and efficient movement of persons and goods throughout the City and for maintaining and preserving the City's public streets, bridges and traffic control devices. The department has two field operations sections: street maintenance and traffic operations.
- B. Street maintenance performs:
 1. bridge maintenance and inspection;
 2. pavement management evaluations; and
 3. roadway maintenance, street sweeping, leaf removal, snow and ice control, and weed control.
- C. Traffic operations perform:
 1. street signs and pavement markings installation, repair and maintenance;
 2. signals and lighting operations, repair and maintenance, cable system repair and maintenance;
 3. ITS operations and maintenance,
 4. street lighting inventory and design analyses;
 5. maintenance of city-wide traffic count program; and
 6. intersection visibility safety programs.

3.01A.490 Treasurer's Office

- A. The treasurer's office is responsible for receiving, investing, safekeeping and accounting for cash of the City; issuing, paying and redeeming City bonds; collecting local improvement district and parking and business improvement district assessments, utility bill payments, and accounts receivable payments and tax payments; accepting and paying City warrants; providing federal tax reporting on arbitrage; and billing, managing taxes and licenses.
- B. The city treasurer is a member of the fire pension board and the police relief and pension board. The treasurer also serves on the City investment board.

3.01A.500 Utilities

The utilities department manages the City's public utilities including water, wastewater, and solid waste, as well as, overseeing the City's vehicle fleet.

3.01A.510 Wastewater Management

The wastewater management department is responsible for managing all wastewater in the City, including stormwater.

- A. The sewer maintenance section cleans and maintains the public storm and sanitary sewer mains and pumps on-site private treatment facilities when requested.
- B. The water reclamation plant section operates and maintains the water reclamation plant and the pump stations and associated pressure lines. It is also responsible for the biosolids management program of the City.
- C. The department also operates a collection and treatment program for stormwater and assists with the promotion and design of on-site stormwater treatment and dispersion facilities.

3.01A.520 Water and Hydroelectric Services

- A. The water and hydroelectric services department operates and maintains the public water supply system, including fire protection via public fire hydrants, and hydroelectric generating plant.
- B. The director of water and hydroelectric services is appointed by the mayor and confirmed by the city council.

Article III Quasi-Departments

3.01A.600 Spokane Municipal Court

- A. See chapter 5A.04 SMC.
- B. The clerk of the municipal court shall be appointed by the presiding judge of the municipal court upon a majority vote of judges present at a regularly scheduled judges' meeting. Under the direction of the presiding municipal judge, the clerk is responsible for the clerical functions of the court and for the operation of the municipal violations bureau.

3.01A.610 Spokane Public Library

- A. The Spokane public library, although an agency of the City of Spokane, is a separate statutory entity under chapter 27.12 RCW and other laws for certain purposes. As provided by state law, the board of trustees of the Spokane public library is the governing body of the municipal library system. The director of the library is the librarian, who is employed by and responsible to the board of trustees of the Spokane public library for all aspects of library administration and operation. By agreement the City performs budgeting, accounting and personnel administration services for the library.
- B. Whenever this code refers to "mayor" or "city council", such terms shall mean "librarian" and "library board of trustees", respectively, with respect to library matters. The term "employee" includes an employee of the Spokane public library, unless otherwise provided.
- C. Nothing in this code precludes the library board of trustees from adopting personnel, procurement, contracting and other policies pursuant to the authority of state law, including chapter 27.12 RCW and, specifically, RCW 27.12.210.

3.01A.620 Health

Any responsibility devolving upon the city health officer or, by similar terms, upon any local public health official, is the responsibility of the administrator of the Spokane Regional Health District as provided in chapter 6.04 SMC, and the administrator, as health officer, is empowered to enforce within the City all statutes and regulations of the government of the United States and the State of Washington and the ordinances and resolutions of the Spokane Regional Health District, Spokane County and the City and has, specifically, the right of entry and the inspection of all premises in the City as provided by law.

PASSED BY THE CITY COUNCIL on _____, 2013.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date: _____

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

03/04/2013

Date Rec'd

2/20/2013

Clerk's File #

ORD C34965

Renews #**Submitting Dept**

HUMAN RESOURCES

Cross Ref #**Contact Name/Phone**

HEATHER LOWE 6233

Project #**Contact E-Mail**

HLOWE@SPOKANECITY.ORG

Bid #**Agenda Item Type**

First Reading Ordinance

Requisition #**Agenda Item Name**

0620 POLICE DEPARTMENT

Agenda Wording

AN ORDINANCE relating to the Police Division; adopting a new chapter 3.10 to title 3 of the Spokane Municipal Code.

Summary (Background)

This ordinance moves text about the police department from chapter 3.01 SMC which is being repealed to a new chapter of the municipal code.

Fiscal Impact**Budget Account**

Select \$

#

Select \$

#

Select \$

#

Select \$

#

Approvals**Council Notifications****Dept Head**

LOWE, HEATHER

Study Session**Division Director****Other****Finance**

LESESNE, MICHELE

Distribution List**Legal**

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For the Mayor

SANDERS, THERESA

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Additional Approvals

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Purchasing

ORDINANCE NO. C34965

AN ORDINANCE relating to the Police Division; adopting a new chapter 3.10 to title 3 of the Spokane Municipal Code.

The City of Spokane does ordain:

Section 1. That there is adopted a new chapter 3.10 to title 3 to read as follows:

CHAPTER 3.10 POLICE DIVISION

Sections:

- 3.10.010 Police
- 3.10.020 Police – Extra-Duty Employment.
- 3.10.030 Police Volunteer Force.

3.10.010 Police

- A. The chief of police heads the police division and the police volunteer force, and regulates the extra-duty employment of officers in private security.
- B. The police division is the primary law enforcement agency of the City with investigative, arrest and incidental powers over violations of federal, state and municipal laws, both criminal and traffic. In addition to patrol, surveillance, investigation and crime prevention education, division personnel perform administrative, communications, community relations, planning, records maintenance and training functions.
 - 1. The chief of the police division administers the Spokane police department and the police reserve force and has the authority to make rules and issue orders for the proper functioning of the division, consistent with law, council policy and the rules of the civil service commission.
 - 2. The commissioned members of the police division are, and have all the rights and authority conferred, by law, on law enforcement officers, peace officers and constables.
 - 3. Specifically, but without limitation, members of the police division have the duty and the power to investigate and arrest in connection with suspected violations of any law of the City, the State of Washington or the United States; to serve the process, writs and warrants of municipal court; and to enforce all orders issued in cases of emergency, including the establishment of cordon lines.

4. Upon the retirement of a member of the police division, the mayor is authorized and is directed to deliver over to such retiring officer, to become the officer's personal property, the pistol which, as a part of his service equipment, has been previously given over into the officer's custody; that such pistol shall, by such delivery, be considered an added extra compensation for his services to the City and, upon such delivery, shall become the personal property of such officer. This provision shall have continuing effect from year to year, and shall be considered a part of each and every annual appropriation ordinance to be made hereafter.
5. The division's noncommissioned employees are in many cases classified as specialists by virtue of the City's civil service classification system. Noncommissioned police employees are required to receive specialized training and certification from the State of Washington depending upon their assignments. They also work in shifts and are held to the same standards of on-duty conduct as commissioned police officers.

3.10.020 Police – Extra-Duty Employment.

- A. As part of the responsibilities of the chief of police to administer the police division, the chief is specifically authorized to regulate extra-duty service of commissioned officers in private security.
- B. Any officer wishing to be eligible for extra-duty employment of a security nature is required to enroll in the program, thereby agreeing to abide by the special regulations established in divisional policies and procedures.
- C. Any person wishing to employ one or more officers to perform private security services in their capacity as police officers must contract for the services of the officer(s) with the City through the chief of police. By such contract the employer will reimburse the City for the costs of the security services, including wages and benefits of the personnel, equipment and administration. Wages are paid to the officers through the City payroll system.
- D. As circumstances require, the chief may decline a contract or modify the terms proposed by the prospective contractor, including without limitation, to reduce or add to the personnel and equipment to be furnished.
- E. Each contract must contain provisions explaining that even while on extra-duty assignment police officers have a primary obligation to the City and are subject at all times to be called away from such extra-duty assignment for emergencies, overtime duty, special assignments, or other reasons.

3.10.030 Police Volunteer Force.

- A. Pursuant to city council resolutions and ordinance, the police division has been authorized to create and maintain a variety of volunteer forces including law enforcement explorer scouts, reserve police officers, senior and specialized volunteers and the utilization, via contract with the Spokane Community College system, of law enforcement co-op students and interns. A city council resolution authorizes the screening, appointment, training, scheduling, supervision and equipping of these volunteers in exchange for their voluntarily contributed hours of service to the citizens of the City of Spokane via the police department in many different categories and assignments. In some cases volunteers are reimbursed for expenses such as travel, meals, lodging and training costs. The City also provides the necessary uniforms and safety and other equipment for these volunteers to utilize in the course of their duties.
- B. A police reserve corps ("the reserve") is created and established as an organization composed of individuals who shall have been appointed and sworn in as members thereof by the chief of police or by a designated assistant chief. The number of members of the reserve may be increased or decreased by any number deemed advisable by the chief during any fiscal year but shall not exceed two hundred at any time. Members are volunteer workers only, serve gratuitously, and are not deemed to be employees of the City for any purpose.
1. The chief establishes the requirements for membership in the reserve and may include physical, mental, aptitude, personality inventory and character standards and the successful completion of a training program. The chief may require a physical examination to be given at the City's expense.
 2. Whenever a person has met all of the requirements and has certified that he has read the provisions of this section the chief may, but is not required to, appoint and swear in such person as a member of the reserve.
 3. The chief, with or without cause, may terminate the membership of any member at any time and any member may resign at any time by written notification to the chief. Any person who shall cease to be a member shall immediately surrender all property of the City issued to him.
 4. The chief of police has complete authority and control over the reserve. The chief may establish by order rules and regulations governing the reserve and its members, providing for the maintenance of discipline and the assigning of members to perform duties.
 1. Each member of the reserve serves at least two assigned shifts each calendar month.

2. Each member of the reserve, while on duty, has the same power and authority, except to the extent that the same may be restricted or limited by the chief, as a regular police officer. Each member at all times other than while serving as such does not have any status, power, authority or duties as a police officer or as a peace officer and may not represent himself, identify or hold himself out to be a police officer or a peace officer.
5. Each member of the reserve may be issued at City expense equipment including a regulation firearm, a uniform, a regulation police baton, a cap badge and a badge, and an identification card.
 - a. Each item issued to a member of the reserve remains the property of the City.
6. The offense of criminal impersonation, as defined in [SMC 10.07.021](#), includes impersonation of a member of the police reserve.
 - a. The mayor is authorized to include members of the reserve in the City's industrial insurance program as volunteers and to thereby provide medical aid benefits for injury proximately resulting from and suffered while on duty.
 - b. The mayor is directed to include members of the reserve among the officers and employees of the City whose actions are covered by the City's liability insurance. Members of the reserve have no other personnel benefits.
7. The mayor may cause members of the police reserve to be registered emergency services workers.

PASSED BY THE CITY COUNCIL on _____, 2013.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date: _____