

**CITY COUNCIL MEETINGS
RULES – PUBLIC DECORUM**

Strict adherence to the following rules of decorum by the public will be observed and adhered to during City Council meetings, including open forum, public comment period on legislative items, and Council deliberations:

- 1. No Clapping!**
- 2. No Cheering!**
- 3. No Booing!**
- 4. No public outbursts!**
- 5. Three-minute time limit for comments made during open forum and public testimony on legislative items!**
- 6. No person shall be permitted to speak at open forum more often than once per month.**

In addition, please silence your cell phones when entering the Council Chambers!

Further, keep the following City Council Rules in mind:

Rule 2.2 Open Forum

- 2.2.4 The open forum is a limited public forum and all matters discussed shall relate to affairs of the City. No person may use the open forum to speak on such matters and in such a manner as to violate the laws governing the conduct of municipal affairs. No person shall be permitted to speak on matters related to the current or advance agendas, potential or pending hearing items, or ballot propositions for a pending election. Individuals speaking during the open forum shall address their comments to the Council President and shall not make personal comment or verbal insults about any individual.
- 2.2.6 In an effort to encourage wider participation in open forum so that the Council can hear a wide array of citizen comment, no person shall be permitted to speak at open forum more often than once per month. However, this limitation has no effect on the public comment rules concerning items on the Council's current legislative agenda, special consideration items, hearing items, and other items before the City Council requiring Council action that are not adjudicatory or administrative in nature, as specified in Rules 5.3 and 5.4.

Rule 5.4 Public Testimony Regarding Legislative Agenda Items – Time Limits

- 5.3.1 Members of the public may address the Council regarding items on the Council's legislative agenda, special consideration items, hearing items and other items before the City Council requiring Council action that are not adjudicatory or administrative in nature. This rule shall not limit the public's right to speak during the open forum.
- 5.3.2 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 and provide his or her address as a condition of recognition. In order for a council member to be recognized by the Chair for the purpose of obtaining the floor, the council member shall either raise a hand or depress the call button on the dais until recognized by the Council President.
- 5.3.3 Each person speaking at the public microphone shall verbally identify him(her)self by name and, if appropriate, representative capacity.
- 5.3.4 Each speaker shall follow all written and verbal instructions so that verbal remarks are electronically recorded and documents submitted for the record are identified and marked by the Clerk.
- 5.3.5 In order that evidence and expressions of opinion be included in the record and that decorum befitting a deliberative process be maintained, no modes of expression not provided by these rules, including but not limited to demonstrations, banners, applause, profanity, vulgar language, or personal insults will be permitted.
- 5.3.6 A speaker asserting a statement of fact may be asked to document and identify the source of the factual datum being asserted.
- 5.3.7 When addressing the Council, members of the public shall direct all remarks to the Council President and shall confine remarks to the matters that are specifically before the Council at that time.
- 5.3.8 When any person, including members of the public, City staff and others are addressing the Council, council members shall observe the same decorum and process, as the rules require among the members inter se. That is, a council member shall not engage the person addressing the Council in colloquy, but shall speak only when granted the floor by the Council President. All persons and/or council members shall not interrupt one another. The duty of mutual respect set forth in Rule 1.2 and the rules governing debate set forth in *Robert's Rules of Order* shall extend to all speakers before the City Council. The council president pro-tem shall be charged with the task of assisting the council president to insure that all individuals desiring to speak, be they members of the public, staff or council members, shall be identified and provided the opportunity to speak.

THE CITY OF SPOKANE



ADVANCE COUNCIL AGENDA

MEETING OF MONDAY, DECEMBER 5, 2016

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 BREEAN BEGGS

COUNCIL MEMBER LORI KINNEAR

COUNCIL MEMBER KAREN STRATTON

COUNCIL MEMBER MIKE FAGAN

COUNCIL MEMBER CANDACE MUMM

COUNCIL MEMBER AMBER WALDREF

CITY 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 THURSDAYS 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 entrance 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 Christine Cavanaugh at (509) 625-6383, 808 W. Spokane Falls Blvd, Spokane, WA, 99201; or ccavanaugh@spokanecity.org. Persons who are deaf or hard of hearing may contact Ms. Cavanaugh 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 Amendment with Gregory Kane and the law firm of Evans, Craven & Lackie, P.S. (Spokane, WA) for legal services and advice to the City regarding Workers' Compensation matters—increase of \$100,000. Total Contract Amount \$296,500.
Nate Odle | Approve | OPR 2013-0768 |
| 2. | Report of the Mayor of pending claims and payments of previously approved obligations, including those of Parks and Library, through _____, 2016, total \$_____, with Parks and Library claims approved by their respective boards. Warrants excluding Parks and Library total \$_____. | Approve & Authorize Payments | CPR 2016-0002 |
| 3. | City Council Meeting Minutes: _____, 2016. | Approve All | CPR 2016-0013 |
-

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)

NO BOARDS AND COMMISSIONS APPOINTMENTS

ADMINISTRATIVE 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.

Note: No person shall be permitted to speak at Open Forum more often than once per month (Council Rule 2.2.6).

LEGISLATIVE AGENDA

NO SPECIAL BUDGET ORDINANCES**NO EMERGENCY ORDINANCES****NO RESOLUTIONS****FINAL READING ORDINANCES**(Require Four Affirmative, Recorded Roll Call Votes)

- ORD C35393 Relating to refund of comprehensive plan amendment processing fees; amending section 8.02.0692 of the Spokane Municipal Code.
Council Member Beggs
- ORD C35458 Approving amendments to an existing development agreement between the City of Spokane and Spokane Radio, Inc., a subsidiary of Spokane Television, a Washington corporation, dba "KXLY."
Kevin Freibott
- ORD C35459 Relating to the disposition of surplus City real property and enacting a new Chapter 12.10 of the Spokane Municipal Code.
Ed Lukas
- ORD C35460 Relating to the public works apprenticeship program; amending sections 7.06.710, 7.06.720, 7.06.730, 7.06.760 and 7.06.770 of the Spokane Municipal Code.
Council President Stuckart

NO FIRST READING ORDINANCES

NO SPECIAL CONSIDERATIONS

HEARING

(If there are items listed you wish to speak on, please sign your name on the sign-up sheets in the Chase Gallery.)

RECOMMENDATION

- | | | | |
|-----|--|-------------------------------------|------------|
| H1. | a. Vacation of portions of Elgin Court as requested by Michele Byers and Mark and Valerie Sonderen. (Deferred from November 7, 2016, Agenda) | Approve
Subject to
Conditions | |
| | b. First Reading Ordinance C35462 vacating portions of Elgin Court.
Eldon Brown | Further
Action
Deferred | ORD C35462 |
-

Motion to Approve Advance Agenda for December 5, 2016
(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.

Note: No person shall be permitted to speak at Open Forum more often than once per month (Council Rule 2.2.6).

ADJOURNMENT

The December 5, 2016, Regular Legislative Session of the City Council is adjourned to December 12, 2016.

NOTES



Agenda Sheet for City Council Meeting of:
12/05/2016

Date Rec'd	11/15/2016
Clerk's File #	OPR 2013-0768
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	CITY ATTORNEY
Contact Name/Phone	NATE ODLE 625-6288
Contact E-Mail	NODLE@SPOKANECITY.ORG
Agenda Item Type	Contract Item
Agenda Item Name	0500 SPECIAL COUNSEL CONTRACT AMENDMENT

Agenda Wording

This firm (Evans, Craven & Lackie, P.S.) shall act as Outside Counsel providing legal services and advise to the City regarding Workers' Compensation matters on an as needed basis

Summary (Background)

Amending contract to add additional funds.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ 100,000.00	#	5810-78500-17680-54601-99999
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	DALTON, PAT	<u>Study Session</u>	
<u>Division Director</u>		<u>Other</u>	
<u>Finance</u>	KECK, KATHLEEN	<u>Distribution List</u>	
<u>Legal</u>	DALTON, PAT	kkeck@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	rkokot@spokanecity.org	
<u>Additional Approvals</u>		gkane@ecl-law.com	
<u>Purchasing</u>			



City of Spokane
CONTRACT AMENDMENT
Title: **SPECIAL COUNSEL**

THIS CONTRACT AMENDMENT is between the **CITY OF SPOKANE**, a Washington State municipal corporation, as ("City"), and **GREGORY KANE** and the law firm of **EVANS, CRAVEN & LACKIE, P.S.**, whose address is 818 West Riverside Avenue, Suite 250, Spokane, Washington 99201-1910, as ("Firm").

WHEREAS, the parties entered into a Contract wherein the Firm agreed to act as OUTSIDE COUNSEL providing legal services and advice to the City and individual officers and employees regarding workers' compensation matters; and

WHEREAS, additional funds are required.

-- Now, Therefore,

The parties agree as follows:

1. DOCUMENTS. The Contract dated October 21, 2013 and October 25, 2013, any previous amendments and/or extensions/renewals thereto are incorporated by reference into this document as though written in full and shall remain in full force and effect except as provided herein.
2. EFFECTIVE DATE. This Contract Amendment shall become effective November 1, 2016.
3. EXTENSION. The contract documents are hereby extended and shall remain in effect until completion of the services or earlier terminated.

4. COMPENSATION. The City shall pay **ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00)** for everything furnished and done under this Contract Amendment.

Dated: _____

CITY OF SPOKANE

By: _____

Title: _____

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Dated: _____

EVANS, CRAVEN & LACKIE, P.S.

E-Mail address, if available:

By: _____

Title: _____

Excerpt from May 16, 2016 Council Meeting Minutes:

First Reading Ordinance C35393

Council Member Beggs, as sponsor, requested that First Reading Ordinance C35393—relating to refund of comprehensive plan amendment processing fees—be deferred for six months. He noted that in consultation with Council Member Mumm, there is a broader change, and since we are already under a moratorium for comp plan amendments it won't affect anything. Subsequently, the following action was taken:

Motion by Council Member Beggs, seconded by Council Member Mumm, **to defer** First Reading Ordinance C35393 for six months (to November 28, 2016); **carried unanimously (Council Member Waldref absent).**



Agenda Sheet for City Council Meeting of:
11/28/2016

Date Rec'd	5/10/2016
Clerk's File #	ORD C35393
Renews #	

Submitting Dept	CITY COUNCIL	Cross Ref #	
Contact Name/Phone	BREEAN BEGGS 6254	Project #	
Contact E-Mail	BBEGGS@SPOKANECITY.ORG	Bid #	
Agenda Item Type	First Reading Ordinance	Requisition #	
Agenda Item Name	AN ORDINANCE RELATING TO REFUND OF APPLICATION FEES		

Agenda Wording

An ordinance relating to refund of comprehensive plan amendment processing fees; amending section 08.02.0692 of the Spokane Municipal Code.

Summary (Background)

This ordinance would allow the City to refund 100% of the fees received for several types of land use applications, including applications for comprehensive plan amendments, if the application is withdrawn based on the written request of an authorized city official.

Fiscal Impact		Budget Account	
Expense	\$ unknown fee refund number/amount	#	various
Select	\$	#	
Select	\$	#	
Select	\$	#	
Approvals		Council Notifications	
<u>Dept Head</u>	STUCKART, BEN	<u>Study Session</u>	
<u>Division Director</u>		<u>Other</u>	PED 5-16-2016
<u>Finance</u>	KECK, KATHLEEN	<u>Distribution List</u>	
<u>Legal</u>	DALTON, PAT	twhitney@spokanecity.org	
<u>For the Mayor</u>	WHITNEY, TYLER		
<u>Additional Approvals</u>			
<u>Purchasing</u>			

ORDINANCE NO. C35393

An ordinance relating to refund of comprehensive plan amendment processing fees; amending section 08.02.0692 of the Spokane Municipal Code.

NOW THEREFORE, the City of Spokane does ordain:

Section 1. That section 08.02.0692 of the Spokane Municipal Code is amended to read as follows:

Section 08.02.0692 Refund of Land Use and Occupancy Permit Fees

Fees collected under the provisions of SMC 08.02.038, SMC 08.02.061, SMC 08.02.064, SMC 08.02.065, SMC 08.02.066 or SMC 08.02.069 may be refunded as follows:

- A. Seventy-five percent if no processing of the application has occurred; or
- B. Fifty percent if application processing has occurred but not to the point of public notice. No refund is made if public notice has been given or an administrative decision has been rendered((-)); or
- C. One hundred percent if the applicant withdraws the application at the written request of an authorized city official.

PASSED by the City Council on _____.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date



Agenda Sheet for City Council Meeting of:
11/28/2016

Date Rec'd	11/15/2016
Clerk's File #	ORD C35458
Renews #	

Submitting Dept	PLANNING	Cross Ref #	ORD C34469
Contact Name/Phone	KEVIN 625-6184	Project #	
Contact E-Mail	KFREIBOTT@SPOKANECITY.ORG	Bid #	
Agenda Item Type	First Reading Ordinance	Requisition #	
Agenda Item Name	0650 - ORDINANCE AMENDING DEVELOPMENT AGREEMENT - KXLY		

Agenda Wording

An Ordinance approving an amendments to an existing Development Agreement between the City of Spokane and KXLY Radio, Inc. a subsidiary of Spokane Television, a Washington Corporation, DBA "KXLY", to include an additional 1.9 acre parcel in the

Summary (Background)

As a condition of the Purchase and Sale Agreement for the property located immediately southeast of the Southeast Sports Complex (see OPR 2015-0970), a Development Agreement is required. This ordinance would approve an amendment to the approved Development Agreement (see Ordinance C34469) for the property immediately south, owned by KXLY Radio, Inc. Proposed amendments would add this property to the existing agreement and would extend the agreement for a further ten years from the date of a

Fiscal Impact		Budget Account	
Neutral	\$	#	
Select	\$	#	
Select	\$	#	
Select	\$	#	
Approvals		Council Notifications	
Dept Head	KEY, LISA	Study Session	
Division Director	MALLAHAN, JONATHAN	Other	PED 10/17/16
Finance	KECK, KATHLEEN	Distribution List	
Legal	RICHMAN, JAMES	Engineering Admin	
For the Mayor	SANDERS, THERESA	hwhaley@spokanecity.org	
Additional Approvals		jrichman@spokanecity.org	
Purchasing		sms@witherspoonkelley.com	
		kfreibott@spokanecity.org	
		kkeck@spokanecity.org	
		mhughes@spokanecity.org	



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

agreement and extend the timeline a further ten years.

Summary (Background)

approval. This would ensure that future development of the property is in line with the previously approved and ongoing design coordination between KXLY, the City, and the Southgate neighborhood.

Fiscal Impact

Select \$

Select \$

Budget Account

#

#

Distribution List

BRIEFING PAPER
City of Spokane
Planning & Development Services
November 21, 2016

Subject

Ordinance approving amendments to the existing Development Agreement with KXLY Radio, Inc

Background

On November 16, 2015 City Council approved Resolution 2015-0117, declaring that the 1.9 acre parcel immediately southeast of the Southeast Sports Complex was surplus City property and authorizing a purchase and sale agreement to sell the property to QueenB Radio, Inc. (aka KXLY). See OPR 2015-0920 for a copy of that Purchase and Sale Agreement.

Section 7.3.4 of that agreement requires that the Buyer (KXLY) agree that the property will be subject to the existing Development Agreement between the City and KXLY concerning the property immediately south of the property to be sold. Section 7.3.4 also stated that the term of the Development Agreement should be extended a further 10 years after the effective date of Land Use Approvals required elsewhere in the Purchase and Sale Agreement. City Council approved those Land Use Approvals, in the form of a Comprehensive Plan Amendment, on November 7, 2016.

In accordance with the requirements of the Purchase and Sale Agreement, a proposed amendment to the Development Agreement is attached that would add the property to be sold to the Development Agreement and to extend the term of the Development Agreement ten years. Because the original Development Agreement was adopted by Ordinance C34469, a new Ordinance approving the amendments to the original agreement is also attached.

Impact

Approval of the amendments would meet requirement 7.3.4 of the purchase and sale agreement, allowing for completion of the sale, provided the other requirements of the purchase and sale agreement are met.

Action

Planning staff will bring a Ordinance and amendments to the Development Agreement before the City Council for their consideration in the near future.

Funding

n/a

ORDINANCE NO. C35458

AN ORDINANCE APPROVING AMENDMENTS TO AN EXISTING DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SPOKANE AND SPOKANE RADIO, INC., A SUBSIDIARY OF SPOKANE TELEVISION, A WASHINGTON CORPORATION, DBA "KXLY."

WHEREAS, KXLY ("Buyers") have entered into purchase and sale agreement OPR 2015-0920 with the City of Spokane to purchase certain real property described in Exhibit A of this ordinance, which property is located in the Southgate neighborhood of the City of Spokane, Washington (hereafter the "Property"); and

WHEREAS, as a condition of the purchase and sale agreement, the Buyers filed application Z1500085COMP with the City of Spokane to amend the Comprehensive Plan Land Use Map and Zoning Map designations (the "amendment") for the Property; and

WHEREAS, on November 7, 2016, the City Council conducted a public hearing on the amendment and on that date approved Ordinance C35447 approving the proposed amendment to the Comprehensive Plan; and

WHEREAS, the City Council approved a development agreement for the adjacent property to the south, described in Exhibit A of this ordinance, in order to include certain design and development principles that were in large part agreed to between the Buyers and the representatives of the Southgate Neighborhood Council at various meetings and workshops to address their concerns about the nature of development on the adjacent property; and

WHEREAS, a second condition of the purchase and sale agreement requires the Buyer to secure a development agreement for the real property to be purchased; and

WHEREAS, an amendment to the original development agreement (Exhibit B) for the adjacent property has been proposed by the Buyer in order to incorporate the property to be purchased (Exhibit A) into the existing development agreement and to extend the term of the agreement a further ten years from the approval of the amendment; and

WHEREAS, development agreements are specifically authorized by RCW 36.70B.170-210 as a proper exercise of the City's police power. The City promulgated regulations for development agreements in Spokane Municipal Code ("SMC") 11.19.870 and the development agreement, as amended, was prepared in accordance with those provisions; and

WHEREAS, the Development Agreement, as amended, complies with the City's development standards, as that term is defined in RCW 36.70B.170; and

WHEREAS, the City and the Buyers desire to enter into this Development Agreement to formally incorporate the conditions enunciated in the Ordinance as development standards applicable to the Property; and

WHEREAS, pursuant to RCW 36.70B.200 and Chapter 17A.060 SMC, a public hearing has been held before the City Council and the City Council finds that the attached Development Agreement conforms to the criteria contained in Chapter 17A.060 SMC.

NOW, THEREFORE, THE CITY OF SPOKANE DOES ORDAIN:

1. Findings of Fact. That the preambles to this Ordinance and the contents of the attached Development Agreements are adopted as the City Council's findings in support of its approval of the Development Agreement.
2. Approval of Development Agreement. The Development Agreement, as amended, is hereby approved.

PASSED BY THE CITY COUNCIL ON _____, 2016.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date

Exhibit A

Legal Description of City Property:

Parcel 34041.0038

South 150 feet of the east 600 feet of government lot 8 in the NE1/4 of Section 4, T24N, R43E, Willamette Meridian, excepting the road.

Legal Description of Adjacent Property Owned by KXLY:

Parcel 34041.9077

NE1/4 of Government Lot 9, Section 4, T24N, R43E, Willamette Meridian, excepting the road, together with that portion of the NW1/4 of said Government Lot 9 lying east of a line described as follows:

Commencing at the NW corner of said Government Lot 9, thence N87°40'18"E along the north line thereof a distance of 367.44 feet to the point of beginning of said line; thence from said point of beginning S02°27'16"E a distance of 665.47 feet to a point on the south line of said NW1/4 and the terminus of this line description, said point bearing N87°41'12"E a distance of 377.70 feet from the southwest corner of said NE1/4.

Exhibit B – Amendment to Development Agreement

FIRST AMENDMENT TO KXLY DEVELOPMENT AGREEMENT

This First Amendment to the KXLY Development Agreement (the “**First Amendment**”) is entered into by and between the CITY OF SPOKANE, a Washington Municipal Corporation (the “**City**”) and SPOKANE RADIO INC., a subsidiary of Spokane Television Inc., a Washington corporation and QUEENB RADIO, INC., a Washington corporation, as “**KXLY**” (collectively “**Owners**”), jointly referred to collectively as “**Parties**.”

RECITALS

A. On October 28, 2009, Spokane Radio, Inc., and the City entered into a Development Agreement for property identified as Spokane County Parcel No. 34041.9077 (“**KXLY Development Agreement**”). See **Attachment 1**.

B. The City owns certain real property which is located adjacent to the Palouse Highway and east of Regal Street in the Southgate Neighborhood of the City of Spokane, Washington, which is more fully described in **Exhibit “A”**, attached hereto and incorporated by reference herein (hereafter the “**City Property**”).

C. The Owners pursuant to a Purchase and Sale Agreement (the “**Purchase and Sale Agreement**”), filed an application with the City of Spokane to change the Comprehensive Plan land use map designations for the City Property from “Residential 4-10” to “CC Core (District Center)” (hereinafter “**District Center**”) and the zoning map’s corresponding designation from “RSF” to “CC2-DC,” as set forth in City Planning Department File No. Z1500085COMP (“**KXLY Amendment**”).

D. On November 7, 2016, following recommendation from the Plan Commission, the City Council conducted a public hearing on the KXLY Amendment.

E. On November 7, 2016, the City Council approved Ordinance C35447 (KXLY Amendment), to become effective upon the execution of a Development Agreement that includes certain design and development principles from the KXLY Development Agreement as agreed in the Purchase and Sale Agreement.

F. The City is a Washington Municipal Corporation with land use planning and permitting authority over all land within its corporate limits and has the authority to enter into Development Agreements pursuant to RCW 36.70B.170(1), which provides:

(1) A local government may enter into a development agreement with a person having ownership or control of real property within its jurisdiction. A city may enter into a development agreement for real property outside its boundaries as part of a proposed annexation or a service agreement. A development agreement must set forth the development standards and other provisions that shall apply to and govern and vest the development, use, and mitigation of the development of the

real property for the duration specified in the agreement. A development agreement shall be consistent with applicable development regulations adopted by a local government planning under chapter 36.70A RCW.

Further, the legislative findings supporting the enactment of this section state:

The legislature finds that the lack of certainty in the approval of development projects can result in a waste of public and private resources escalate housing costs for consumers and discourage the commitment to comprehensive planning which would make maximum efficient use of resources at the least economic cost to the public. Assurance to a development project applicant that upon government approval the project may proceed in accordance with existing policies and regulations, and subject to conditions of approval, all as set forth in a development agreement, will strengthen the public planning process, encourage private participation and comprehensive planning, and reduce the economic costs of development. Further, the lack of public facilities and services is a serious impediment to development of new housing and commercial uses. Project applicants and local governments may include provisions and agreements whereby applicants are reimbursed over time for financing public facilities. It is the intent of the legislature by RCW 36.70B.170 through 36.70B.210 to allow local governments and owners and developers of real property to enter into development agreements.

G. It is the intent of the City and Owners that this First Amendment comply with the provisions of RCW 36.70B.170(3) and (4); and,

H. The City has promulgated regulations for Development Agreements in Spokane Municipal Code (SMC) Chapter 17A.060 with this Agreement prepared in accordance with those provisions; and,

I. The City and the Owners desire to enter into this First Amendment to amend the KXLY Development Agreement by extending its term, adding the City Property, and providing for other matters with the express purpose of binding City Property to conditions set forth in the KXLY Development Agreement and this First Amendment.

J. This First Amendment will provide increased predictability to the Owners, the Southgate Neighborhood Council, and the City for the future development of the Property and the City Property.

NOW, THEREFORE, based on the foregoing Recitals, the parties agree as follows:

AGREEMENT

- 1. Original Agreement.** The KXLY Development Agreement, attached as Attachment 1 is hereby incorporated by reference as if fully set forth herein (“**Original Agreement**”). This First Amendment is considered to be an amendment of the Original Agreement. The KXLY

Development Agreement shall remain in full force and effect except as provided herein. Words and terms not defined herein shall have the meaning set forth in the KXLY Development Agreement. For purposes of interpretation, any conflict or ambiguity between this First Amendment and the KXLY Development Agreement shall be determined by giving precedence as follows: (a) the terms and conditions set forth in this First Amendment, (b) the KXLY Development Agreement; and (c) City ordinances and regulations.

2. **Amendment.** The Original Agreement, EXHIBIT A entitled "Legal Description of Property" is modified by adding thereto the legal description for the City Property, as set forth on **Exhibit "B"**, attached hereto. Unless otherwise indicated herein the term "**Property**" shall include the **City Property**.
3. **Amendment.** The Original Agreement, Section 2 entitled "Effective Date and Duration of Agreement " is modified as follows:

2. **Effective Date and Duration of Agreement:** This Agreement shall take effect immediately upon the effective date of the ordinance approving it and execution by all parties, provided that any time periods specified in this Agreement shall be tolled pending final resolution of any appeal of any city, state or federal land use decisions necessary to commence or complete development on the Property consistent with this Agreement, as amended by that certain First Amendment of the Agreement, dated _____, 2016 ("**First Amendment Effective Date**"). Unless terminated earlier as provided herein, this Agreement shall expire ten (10) years after the First Amendment Effective Date (hereinafter, "**Term**").

4. **Amendment.** The Original Agreement, section 5 entitled "Integrated Site Plan" is modified by adding the following new sections 5.7 and 5.8:

5.7 **Accepted Integrated Site Plan.** The Property shall be developed consistent with the May 31, 2013 Integrated Site Plan approved by the City.

5.8 **ISP Implementation Memorandum.** Owners acknowledge and understand that the certain ISP Implementation Memorandum, attached to Purchase and Sale Agreement as Exhibit B, will guide the City's evaluation of site plans and development projects for the Property.

5. **Amendment.** A new Section 8A is added to the Original Agreement

8A. Transportation Impacts (City Property):

8A.1 Mitigation of Off-Site Transportation Impacts for City Property. For the City Property, Owners shall mitigate off site transportation impacts pursuant to SEPA, and applicable City ordinances.

8A.2 Credit for Dedication of Land or Construction of Improvements. Owners shall be entitled to a credit for the value of any dedication of land for, improvement to, or new construction of any system improvements provided by Owners, to facilities that are identified in the City of Spokane Six Year Comprehensive Street Program or that are required by the City as a condition of approving any development activity on the Property

8A.2.1 Time to Request Credit. Any claim for credit must be made prior to the issuance of a certificate of occupancy or within 30 days of completion of improvements or dedication of land. In no event shall the credit exceed the amount of SEPA Impact Fees that may be payable by the Owners for the proposed development activity.

No credit shall be given for project improvements, as defined under RCW 82.02.090(6). ("Project improvements" mean site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project, and are not system improvements. No improvement or facility included in a capital facilities plan approved by the governing body of the county, city, or town shall be considered a project improvement.).

8A.3 Requirements for Improvements

8A.3.1 Conformity with Applicable Standards. No credit shall be given unless all improvements or facilities have been constructed in accordance with record drawings and approved plans on file at the City's Department of Engineering Services, and in conformity with the City's Design Standards. Any improvements or facilities shall be constructed in accordance with adopted City standards and including those related to warranties, performance guarantees, and indemnification of the City.

6. Limitation. Nothing contained herein shall be construed as revoking or otherwise altering any of the provisions found in the Original Agreement except as expressed herein.

By (person signing) _____
Title _____

Approved as to form:

Assistant City Attorney

QUEEN B RADIO, INC.

By: _____
Its: _____

On this ____ day of _____, 2016, before me, a Notary Public in and for said State, personally appeared _____, _____ of the City of Spokane, Washington, personally known to me to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same freely and voluntarily in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

DATED this _____ day of _____, 2016.

Print Name: _____
 NOTARY PUBLIC in and for the State of
 Washington, Residing at: _____
 My commission expires: _____

STATE OF WASHINGTON)
)
COUNTY OF SPOKANE)

On this ____ day of _____, 2016, before me, a Notary Public in and for said State, personally appeared _____, _____ of SPOKANE RADIO, INC., personally known to me to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same freely and voluntarily in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

DATED this ____ day of _____, 2016.

Print Name: _____
NOTARY PUBLIC in and for the State of
Washington, Residing at: _____
My commission expires: _____

STATE OF WASHINGTON)
)
COUNTY OF SPOKANE)

On this ____ day of _____, 2016, before me, a Notary Public in and for said State, personally appeared _____, _____ of QUEEN B RADIO, INC., personally known to me to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same freely and voluntarily in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

DATED this ____ day of _____, 2016.

Print Name: _____
NOTARY PUBLIC in and for the State of
Washington, Residing at: _____
My commission expires: _____

Attachment 1

KXLY Development Agreement
Spokane County Auditor No. 5865674

EXHIBIT A

Legal Description of City Property

Parcel 34041.0038

South 150 feet of the east 600 feet of government lot 8 in the NE1/4 of Section 4, T24N, R43E, Willamette Meridian, excepting the road.

EXHIBIT B

Legal Description of Property and City Property

Parcel 34041.9077

NE1/4 of Government Lot 9, Section 4, T24N, R43E, Willamette Meridian, excepting the road, together with that portion of the NW1/4 of said Government Lot 9 lying east of a line described as follows:

Commencing at the NW corner of said Government Lot 9, thence N87°40'18"E along the north line thereof a distance of 367.44 feet to the point of beginning of said line; thence from said point of beginning S02°27'16"E a distance of 665.47 feet to a point on the south line of said NW1/4 and the terminus of this line description, said point bearing N87°41'12"E a distance of 377.70 feet from the southwest corner of said NE1/4.

-and-

Parcel 34041.0038

South 150 feet of the east 600 feet of government lot 8 in the NE1/4 of Section 4, T24N, R43E, Willamette Meridian, excepting the road.

DEVELOPMENT AGREEMENT KXLY

This Development Agreement (this "Agreement") is entered into by and between the CITY OF SPOKANE, a Washington Municipal Corporation (the "City") and SPOKANE RADIO INC., a subsidiary of Spokane Television Inc., a Washington corporation, as "KXLY" (collectively "**Owners**"), as may be referred to collectively as "Parties."

RECITALS

A. **WHEREAS**, Owners own that certain real property which is located south of the Palouse Highway and east of Regal Street in the Southgate neighborhood of the City of Spokane, Washington, which is more fully described in **Exhibit "A"**, attached hereto and incorporated by reference herein (hereafter the "**Property**"); and,

B. **WHEREAS**, the Owners, filed an application with the City of Spokane to change the Comprehensive Plan land use map designations for the Property from "Residential 4-10" to "CC Core (District Center)" (hereinafter "District Center") and the zoning map's corresponding designation from "RSF" to "CC2-DC," City Planning Department File No. Z2005-114-LU (collectively, "**the KXLY Amendment**"); and,

C. **WHEREAS**, on June 9, 2008, the City Council conducted a public hearing on the Black Amendment and others concurrently, including amendment applications pertaining to two large tracts of land in the immediate vicinity of the Property; and,

D. **WHEREAS**, on June 30, 2008, the City Council approved Ordinance C34256 (the Black Amendment), Ordinance C34261 (Richey Amendment) and Ordinance C34257 (KXLY Amendment), each of which were to become effective upon the execution of a Development Agreement that includes certain design and development principles that were in large part agreed to between the Owners and the representatives of the Southgate Neighborhood Council at various meetings and workshops to address their concerns about the nature of development otherwise allowed in the CC2-DC zone; and,

E. **WHEREAS**, following submittal of the KXLY Amendment application, the City Transportation Department, in connection with its review of the Project pursuant to SEPA and the GMA's concurrency and capital facilities planning requirements, requested the Owner to prepare and submit a Corridor Capacity Impact Analysis which would identify off-site transportation impacts together with suitable mitigation for any such impacts; and,

F. **WHEREAS**, based upon the findings of the Corridor Capacity Impact Analysis submitted to and reviewed by the City Transportation Department in 2007 with a final study dated April 24, 2008, the City determined that the City's capital facilities plan includes adequate planned transportation capacity to accommodate the transportation impacts of the Project and the City and Owner agreed that the Owner would pay one thousand and fifty-seven dollars and ninety five cents (\$1057.95) per net new PM peak hour trip towards such projects, which, more specifically, represents \$946.95 per PM peak hour trip toward transportation projects identified in the City's Six-Year Comprehensive Street Program (funded or unfunded) and located within

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the South¹ Service Area (as identified in preliminary service area maps relating to the City's contemplation of implementing transportation impact fees as authorized pursuant to RCW 82.02.050 through .090) and \$111.00 per PM peak trip toward appropriate traffic mitigation projects, which could include the Ray Street cross-over; and,

G. **WHEREAS**, the City issued a Mitigated Determination of Nonsignificance (MDNS) on August 16, 2007, which requires the Owner to pay one thousand and fifty-seven dollars and ninety five cents (\$1057.95) per net new PM peak hour trip ("SEPA Impact Fee"); and,

H. **WHEREAS**, the City has adopted a Growth Management Act Impact Fee ordinance ("GMA Impact Fees"), which is contemplated to go into effect some time after October of 2009; and,

I. **WHEREAS**, the parties acknowledge that RCW 82.02.100 expressly provides that a person required to pay a fee pursuant to SEPA for system improvements shall not be required to pay an impact fee under RCW 82.02.050 through 82.02.090 for those same improvements, but does not foreclose payment of impact fees collected to address other impacts; and,

J. **WHEREAS**, the City is a Washington Municipal Corporation with land use planning and permitting authority over all land within its corporate limits and has the authority to enter into Development Agreements pursuant to RCW 36.70B.170(1), which provides:

(1) A local government may enter into a development agreement with a person having ownership or control of real property within its jurisdiction. A city may enter into a development agreement for real property outside its boundaries as part of a proposed annexation or a service agreement. A development agreement must set forth the development standards and other provisions that shall apply to and govern and vest the development, use, and mitigation of the development of the real property for the duration specified in the agreement. A development agreement shall be consistent with applicable development regulations adopted by a local government planning under chapter 36.70A RCW.

Further, the legislative findings supporting the enactment of this section state:

The legislature finds that the lack of certainty in the approval of development projects can result in a waste of public and private resources escalate housing costs for consumers and discourage the commitment to comprehensive planning which would make maximum efficient use of resources at the least economic cost to the public. Assurance to a development project applicant that upon government approval the project may proceed in accordance with existing policies and regulations, and subject to conditions of approval, all as set forth in a development agreement, will strengthen the public planning process, encourage private participation and comprehensive planning, and reduce the economic costs

¹ The draft GMA Impact Fee Ordinance, at the time the SEPA Impact Fee was imposed in August of 2007, designated a Southeast Area and a Southwest Area, which was subsequently combined into the South Area.

of development. Further, the lack of public facilities and services is a serious impediment to development of new housing and commercial uses. Project applicants and local governments may include provisions and agreements whereby applicants are reimbursed over time for financing public facilities. It is the intent of the legislature by RCW 36.70B.170 through 36.70B.210 to allow local governments and owners and developers of real property to enter into development agreements.

K. **WHEREAS**, it is the intent of the City and Owners that this Development Agreement comply with the provisions of RCW 36.70B.170(3) and (4); and,

L. **WHEREAS**, the City has promulgated regulations for Development Agreements in Spokane Municipal Code (SMC) 11.19.870 and this Agreement is prepared in accordance with those provisions; and,

M. **WHEREAS**, the City and the Owners desire to enter into this Development Agreement to formally incorporate the conditions enunciated in Ordinance C34256 as development standards applicable to the Property; and

N. **WHEREAS**, the City, Owners and the Southgate Neighborhood Council, through its governing body, have negotiated and reached agreement on the terms of this Agreement which will resolve issues, claims and appeals in the pending appeal filed before the Eastern Washington Growth Management Hearings Board, under GMHB Case No. 08-1-0014; and,

O. **WHEREAS**, the City, Owners, Southgate Neighborhood Council and the other named Petitioners in GMHB Case No. 08-1-0014 have executed a separate Settlement Agreement, in connection with such appeal; and

P. **WHEREAS**, this Agreement will provide increased predictability to the Owners, the Southgate Neighborhood Council, and the City for the future development of the Property.

NOW, THEREFORE, based on the foregoing Recitals, the parties agree as follows:

AGREEMENT

1. **Development Agreement:** This Agreement is a Development Agreement to be implemented in accordance with SMC 11.19.870 and RCW 36.70B.170 through RCW 36.70B.210. It shall become a contract between the Owners, their successors and assigns, and the City upon the effective date of the City's approval by ordinance following a public hearing as provided for in SMC 11.19.870 and RCW 36.70B.170.
2. **Effective Date and Duration of Agreement:** This Agreement shall take effect immediately upon the effective date of the ordinance approving it and execution by all parties, provided that any time periods specified in this Agreement shall be tolled pending final resolution of any appeal of any city, state or federal land use decisions necessary to commence or complete development on the Property consistent with this Agreement ("**Effective Date**").

Unless terminated earlier as provided herein, this Agreement shall expire ten (10) years after its Effective Date (hereinafter, "**Term**").

3. Zoning Designation and Development Standards:

3.1 Pursuant to City Ordinance C34257, upon the Effective Date this Agreement shall put into effect the City of Spokane Comprehensive Plan land use map designation of "CC Core (District Center)" and the zoning map's corresponding designation of "CC2-DC" to the Property ("Land Use Approval").

3.2 Pursuant to RCW 36.70B.180, the development standards set forth in this Agreement shall govern during the Term of this Agreement. Any permit or approval issued by the City after execution of this Agreement must be consistent with the terms of this Agreement.

3.3 For the purposes of this Agreement, "General Development Standards" shall mean the presently adopted ordinances of the City of Spokane that are in effect on the Effective Date of this Agreement and applicable to properties within the "CC2-DC" zone which include, but are not limited to, the permitted uses of land, the density, design and intensity of use, and the division of property. Amendments made from time to time by the City to the General Development Standards shall apply to the Property, provided such amendments are applicable city-wide to all properties within the CC2-DC zone.

3.4 In consideration of Owners' commitment to develop the Property as limited by this Agreement, and the desire by the City and the Owners for predictable development standards, except as specifically provided and limited herein, the Owners shall have a vested right, during the Term of this Agreement, to develop, construct and repair the Property in accordance with the General Development Standards, as defined herein; provided such General Development Standards do not conflict with the matters set forth in Section 3.4 through 3.5 and sections 5, 6 and 7 of this Agreement. Following the expiration or lawful termination of this Agreement, all land use applications affecting the Property shall be governed by the land use designations and regulations in effect for the Property at the time such application are filed with the City. Except as may be specifically set forth herein, nothing in this Agreement shall be construed as a waiver of any conditions of development approval.

3.5 Pursuant to RCW 36.70B.170, the City reserves the right to impose new or different regulations to the extent required by a serious threat to public health and safety.

3.6 Notwithstanding any other provision of this Agreement, the following shall apply to the development of the Property:

3.6.1 Regulations, which are strictly procedural and not substantive, relating to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals and any other matter of procedure.

3.6.2 Regulations, other than land use and zoning standards addressed in Paragraph 3.3 above, governing construction standards and specifications, in effect at the time of permit submittal typically enforced, administered and interpreted by the City of Spokane.

3.6.3 Regulations which the City, and Owners mutually agree, by written consent, can be applied to development of the Property.

- 4. Stormwater Pilot Project:** The City may designate the Property and its surrounds, as within a Storm Water Pilot Project Area that is intended to promote creative and innovative solutions for stormwater management within the Moran Prairie Special Drainage District. If a regional stormwater detention facility (such as the area commonly known as the Hazel's Creek Project or other appropriate area) is developed and operated by the City or other governmental entity, and if said facility is capable of accommodating the stormwater management needs of the Property, any plan for development of the Property shall be designed to integrate with such regional facility, if cost effective in the opinion of Owners. Owners shall endeavor to implement Low Impact Development (LID) measures in any development of the property. To the extent allowed by the City's Stormwater Guidelines, such measures shall be considered by the City in regard to any stormwater requirements at the Property. Any development of the Property that occurs prior to the development of such regional stormwater facility shall comply with the City's Stormwater Guidelines and such pre-existing development shall not be required to "retrofit" and connect to the regional stormwater facility. The City and Owners specifically acknowledge and agree that designation of the Property as within a Storm Water Pilot Project Area shall not be construed as a taking of private property for a public or private use.

- 5. Integrated Site Plan:** An integrated site plan, containing the elements in this subsection, shall be completed prior to the issuance of a building permit. The following elements shall apply to the Integrated Site Plan which shall include the Property and the properties included in Ordinance C34261 ("**Richey**") and Ordinances C34256 ("**Black**") and C34257 ("**KXLY**"), hereinafter the "Integrated Properties".

5.1 Pedestrian Connections: The Property shall contain dedicated pedestrian and bicycle connections ("path") which are designed to allow pedestrians and bicycles to access and move around and through the Integrated Properties with connection to the surrounding neighborhood. When feasible, such path shall connect to existing publicly accessible trails, sidewalks or other pathways that are adjacent and contiguous to the Integrated Properties.

5.2 Tree Preservation: Any plan for development of the Property shall provide for the preservation of trees, by leaving in place, a minimum of 10% of all Ponderosa Pine trees.

5.3 Design Theme: The Integrated Properties shall be developed with a consistent design theme utilizing, for example, similar or complementary construction materials, architectural characteristics, streetscapes, open spaces, fixtures, and landscaping. All buildings shall provide architectural treatment of interest on those façades visible from

the street, such as color, texture, glazing, material differentiation or any other mechanism designed to lessen the impact of building mass when viewed from the street.

5.4 Community Plaza: A community plaza shall be designated that serves as a central gathering place on one of the Integrated Properties and, if not located on the Property, Owners shall provide satisfactory evidence of the Owners' contractual and financial commitment to participate in the development of the community plaza.

5.5 Viewscape: The Owners shall determine and map view corridors that allows persons on the property from common or public areas to view Mt. Spokane and Browne's Mountain. Owners shall consult with the City's Planning Service staff and designated representative of the Southgate Neighborhood Council in scoping and determining view corridors. The identified views corridors shall be protected by site and architectural design strategies, if necessary, such as, co-location of important view corridors with public spaces between buildings and with public gathering space(s). In the event of a conflict between this element and elements 5.2, 5.4, 5.6, 7.2 or 7.4, this provision shall yield to those element(s).

5.6 Long-Term Development of Urban District. The intent of the parties is to design and develop urban features that will facilitate integration of the Property (and surrounding area) into an urban district with a unified character that promotes pedestrian and vehicular circulation, without conflict, encourages opportunities for mixed use development and enhances the natural and built aesthetics in the area. In order to enhance connectivity and facilitate future urban development, driveways though the property shall be designed where ever possible, to facilitate connections to the properties identified in Recital D, above. Curbing shall be used to define the parking lot area, such as perimeter curbing and main drive aisles. Driveway entrance(s) and interior landscaping features will also be curbed.

- 6. Review of Integrated Site Plan:** The City of Spokane Design Review Committee ("the Committee") shall evaluate the Integrated Site Plan and make a recommendation to the Planning Director whether it is consistent with Section 5. The Mayor shall designate a City resident from the Southgate Neighborhood to serve as a non-voting liaison to the Design Review Committee. The Committee shall seek comments from the Southgate Neighborhood Council as input to its decision process; such comments shall be submitted at least five (5) days prior to the Committee's consideration. The Planning Director will review the Committee's recommendations and issue an administrative determination related to the Integrated Site Plan and its compliance with Section 5. The Planning Director's decision may be appealed pursuant to SMC 17G.060.020 as a Type I decision.

At least twenty (20) days prior to the Committee's consideration, the Owners shall provide a copy of the proposed Integrated Site Plan to the Southgate Neighborhood Council for its review and comment. Owners shall specify a date, time and place to meet with representative(s) of the Southgate Neighborhood Council, with no less than five (5) days notice, for the purpose of discussing the proposed Integrated Site Plan and to hear the Council's comments and suggestions which must be related to the scope of this Agreement.

Owners shall, in good faith, consider the Council's comments and will at such meeting, or at the design review meeting, state the basis for rejecting any such comments and/or suggestions.

7. Building Permit Review: All buildings proposed for development on the Property shall be subject to the City of Spokane Design Review process and shall comply with the following elements:

7.1 Urban Design. The building and improvements shall be consistent with the Integrated Site Plan.

7.2 Building Treatment: The allowed one large-format retail building on the Property shall orient the building with the narrow side toward the So. Palouse Highway or toward South Regal Street, whichever is closer to the proposed large format retail building and shall promote intervening retail between the large format store and the street. In addition, the siting and design of the large format retail building shall employ site planning strategies that enhance and enliven public spaces on the Property or in the vicinity. The preferred, but not required, configuration of any retail building is multi-story. All buildings shall provide architectural treatment of interest on those façades visible from the street, such as color, texture, glazing, material differentiation or any other mechanism designed to lessen the impact of building mass when viewed from the street.

7.3 Square Footage Limitation: Any plan for development of the Property shall include no more than one large format store up to a maximum of 105,000 square feet. No other single commercial building on the Property shall exceed 55,000 square feet.

7.4 Design Standards: Any plan for development of the Property shall comply with the design standards (but not including any square footage limitations) applicable to properties in the City's CC1 zone in effect on the date of this Agreement, which standards are dated August 11, 2002, and are titled "Initial Design Standards and Guidelines for Centers and Corridors," which are attached hereto as **Exhibit "B"** and incorporated herein by this reference.

8. Transportation Fees:

8.1. Mitigation of Off-Site Transportation Impacts. The Owners agree to pay under RCW 43.21C, a SEPA Impact Fee of \$1,057.95 per net new PM peak hour trip, in accordance with the Mitigated Determination of Nonsignificance issued on August 16, 2007. The parties acknowledge that RCW 82.02.100 expressly provides that a person required to pay a fee pursuant to SEPA for system improvements shall not be required to pay an impact fee under RCW 82.02.050 through 82.02.090 for those same improvements,

8.1.1 Allocation of SEPA Impact Fees. For purposes of RCW 82.02.100, said SEPA Impact Fees shall be applied towards system improvements identified in the capital facilities element of the City's Comprehensive Plan (including its Six

Year Street Plan) intended to provide capacity for new growth and development in the City's South Service Area (as identified in preliminary service area maps relating to the City's contemplation of implementing transportation impact fees as authorized pursuant to RCW 82.02.050 through .090).

8.1.2 Time of Payment. The Owners shall pay the SEPA Impact Fee for the new trips generated by individual phases/stages of project development prior to the issuance of a certificate of occupancy, less any credit(s) provided for in Section 8.4. Prior to issuance of a building permit, Owners shall enter into a binding agreement to pay the SEPA Impact Fee associated with such building permit, which agreement may be recorded in the official records of Spokane County as a lien against the property binding on subsequent owners' of the Property. The Owners shall, at the time of submission of an application for a building permit, provide an estimate of the SEPA Impact Fees. The Owners shall also be entitled to a reduction in the SEPA Impact Fees if the Owners are required to dedicate land or construct an improvement, as provided for in Section 8.3.

8.2. Determination of New Trips. The most current Institute of Transportation Engineers (ITE) Trip Generation Manual and Trip General Handbook will be used to determine the number of net new PM peak trips generated by each land use proposed for the Project.

8.3 Credit for Dedication of Land or Construction of Improvements. Owners shall be entitled to a credit for the value of any dedication of land for, improvement to, or new construction of any system improvements provided by Owners, to facilities that are identified in the City of Spokane Six Year Comprehensive Street Program or that are required by the City as a condition of approving any development activity on the Property. Any such credit(s) shall be calculated as follows.

8.3.1 Determination of Credit for Dedications. For each request for a credit for a dedication of land, if appropriate, the City shall select an appraiser or Owners may select an appraiser acceptable to the City. The appraiser shall be a Washington State Certified Appraiser or a person with other equivalent certification and shall not have a fiduciary or personal interest in the property being appraised. A description of the appraiser's certification shall be included with the appraisal, and the appraiser shall certify that he/she does not have a fiduciary or personal interest in the property being appraised.

The appraiser shall be directed to determine the total value of the dedicated land or improvement provided by the Owner on an individual case-by-case basis.

8.3.2 Payment for the Appraiser for Dedications. Owners shall be solely responsible for any costs and expenses associated with obtaining such appraisals.

8.3.3 Determination of Credit for Improvements. If the City requires Owners, as a condition of development approval, and if Owners thereafter improve or

construct a system improvement or facility or portion thereof identified in the City's Six Year Comprehensive Street Program, the Owners shall receive a credit for the value based on actual cost incurred by the Owners. The entity completing the work on such improvements or facilities shall provide a sworn declaration, submitted under the penalty of perjury, setting forth the dollar amount of actual cost of completing said work, together with copies of all invoices and receipts supporting the total actual cost indicated in the declaration.

8.3.4 Award of Credit for SEPA Impact Fees. After receiving the appraisal for a dedication of land or sworn declaration setting forth the dollar amount of actual cost for improvements, and where consistent with the requirements of this section, the City shall provide the Owners with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, the legal description of the site donated (if a dedication), and the legal description or other adequate description of the project or development to which the credit may be applied. The Owners must sign and date a duplicate copy of such letter or certificate indicating its agreement to the terms of the letter or certificate, and return such signed document to the City before the SEPA Impact Fee credit will be awarded. The credit must be used within seventy-two (72) months of the award of the credit.

8.3.5 Time to Request Credit. Any claim for credit must be made prior to the issuance of a certificate of occupancy or within 30 days of completion of improvements or dedication of land. In no event shall the credit exceed the amount of SEPA Impact Fees that may be payable by the Owners for the proposed development activity.

No credit shall be given for project improvements, as defined under RCW 82.02.090(6). ("Project improvements" mean site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project, and are not system improvements. No improvement or facility included in a capital facilities plan approved by the governing body of the county, city, or town shall be considered a project improvement.).

8.4 Requirements for Improvements

8.4.1 Conformity with Applicable Standards. No credit shall be given unless all improvements or facilities have been constructed in accordance with record drawings and approved plans on file at the City's Department of Engineering Services, and in conformity with the City's Design Standards. Any improvements or facilities shall be constructed in accordance with adopted City standards and including those related to warranties, performance guarantees, and indemnification of the City.

8.4.2. Warranty of Improvements. In the event the improvement for which the Owners is requesting a credit is not completed prior to the issuance of a certificate

of occupancy, the Owners shall execute a City of Spokane Project Agreement and Performance/Warranty Guarantee and shall provide security acceptable to the City to guarantee Owners' obligations under said Project Agreement.

8.5 Geographic limitation on use of SEPA Impact Fee. The City shall use the payment of the SEPA Impact Fee for improvements identified in the capital facilities element of the City's Comprehensive Plan, including its Six Year Street Program (funded or unfunded) located in the South Service Area of the City of Spokane.

8.6 Project Analysis and Improvements. Payment of the SEPA Impact Fees required hereunder shall not relieve Owners of Owners' obligations under state and local laws and regulations to perform such studies and mitigate such impacts as are identified in such studies relating to any development activity on the Property; provided however, the parties acknowledge that RCW 82.02.100 expressly provides that a person required to pay a fee pursuant to SEPA for system improvements shall not be required to pay an impact fee under RCW 82.02.050 through 82.02.090 for those same improvements. At the time of building permit application, if required under the Spokane Municipal Code, the City will require the Owners to perform an Operational Study and Analysis of adjacent intersections to identify transportation impacts attributable to the land use identified in the building permit application, identify appropriate mitigation and design access and frontage improvements to mitigate any impacts.

9. Miscellaneous:

9.1 Effect of Delay. In addition to any specific provisions of this Agreement, performance by either party of its obligations hereunder shall be excused during any period of delay caused at any time before termination or expiration of this Agreement by reason of acts of God or civil commotion, riots, strikes, picketing, or other labor disputes, national shortages of materials or supplies, or damage to work in process by reason of fire, floods, earthquake, or other casualties or any other cause beyond the reasonable control of the delaying party. Further, if any City approvals required hereunder shall be unreasonably delayed beyond the normal time period through no fault of Owners or their assigns, the term of this Agreement shall be extended by a period equal to the time of the delay.

9.2 Non-Waiver. Failure by either party at any time to require performance by the other party of any of the provisions hereof shall in no way affect the parties' rights hereunder to enforce the same, nor shall any waiver by the party of the breach hereof be held to be a waiver of any succeeding breach or a waiver of this non-waiver clause.

9.3 Covenants Run with the Land. During the term of this Agreement, all of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Agreement shall be binding upon the parties and their respective heirs, successors (by merger, consolidation, or otherwise) and assigns, devisees, administrators, representatives, lessees, and all other persons acquiring the Property, or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever, and shall inure to the benefit of the parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns. All of the provisions of this Agreement shall be enforceable as

equitable servitudes and constitute covenants running with the land pursuant to applicable law. Each covenant to do or refrain from doing some act on the Property hereunder, (a) is for the benefit of such properties and is a burden upon the Property, (b) runs with the Property, and (c) is binding upon each successive owner during its ownership of Property or any portion thereof, and each person having any interest therein derived in any manner through any owner of the property or any portion thereof, and shall benefit such party and the Property hereunder, and each other person succeeding to an interest in such Property.

9.4 Relationship of Parties. It is understood and agreed by the parties hereto that the contractual relationship created between the parties hereunder is that Owners are an independent contractor and not an agent of City. Nothing contained herein or in any document executed in connection herewith shall be construed as making City and Owner joint venturers or partners. Owners shall defend, indemnify and hold City and its officers and employees harmless from and shall process and defend at its own expense all claims, demand or lawsuits for damages arising in whole or in part from the Land Use Approval and this Agreement.

9.5 Amendments. Pursuant to SMC 11.19.880, this Agreement may only be amended in writing signed by the City and the Owners, after opportunity for public review and comment and approval by the City Council.

9.6 Recordation of Agreement. This Agreement and any amendment or termination to it shall be recorded with the Spokane County Auditor.

9.7 Severability. If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable by a court of competent jurisdiction the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement or the rights and obligations of the parties have been materially altered or abridged.

9.8 Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of Washington. If any portion of the Spokane Municipal Code is deemed to be inconsistent with any provisions of this Agreement, the provisions of this Agreement shall prevail.

9.9 Assignment.

9.9.1 The parties acknowledge that development of the Property may involve sale, conveyance, or assignment of all or portions of the Property to third parties, who will own, develop and/or occupy portions of the Property and buildings thereon. Subject to Paragraph 9.3 above, Owners shall have the right from time to time to assign or transfer all or any portion of its respective interests, rights, or obligations under this Agreement or in the Property to other parties acquiring an interest or estate in all or any portion of the Property, including a transfer of all interests through foreclosure (judicial or nonjudicial) or by deed in lieu of foreclosure. Consent by the City shall not be required for any assignment or transfer of rights pursuant to this Agreement.

9.9.2 In any such transfer or assignment, the transferee or assignee shall agree in writing to assume the obligations herein pertaining to the Property transferred or assigned, and shall thereafter be entitled to all interests and rights and be subject to all obligations under this Agreement, and Owners who have so transferred or assigned its rights, shall be thereupon be deemed released of liability under this Agreement for the property transferred or assigned, whether or not such release is expressly stated in such transfer or assignment; provided, however, that such Owners shall remain liable for any breach that occurred prior to the transfer or assignment of rights to another party and for those portions of the Property still owned by such Owners; and, provided further, nothing in this Paragraph 9.9.2 shall be construed as limiting the effect of Paragraph 9.3 of this Agreement in the event of such transfer or assignment.

9.10 No Third Party Beneficiary. This Agreement is made and entered into for the sole protection and benefit of the parties and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement, except as otherwise contemplated under RCW 36.70B.170 through .200.

9.11 Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and shall constitute one and the same instrument. All Exhibits hereto are hereby incorporated by specific reference into this Agreement, and their terms are made a part of this Agreement as though fully recited herein.

9.12 Voluntary Agreement. The Parties hereby represent and acknowledge that this Agreement is given and executed voluntarily and is not based upon any representation by any of the Parties to another Party as to the merits, legal liability, or value of any claims of the Parties or any matters related thereto.

9.13 Conflicts. No officer, employee or agent of the City who exercises any function or responsibilities in connection with the authorization, permitting, or approval of the Development, nor any member of the immediate family of any such officer, employee or agent, shall have any personal financial interest, direct or indirect, in this Agreement, either in fact or in appearance. The Owner shall comply with all state conflict of interest laws, statutes and regulations as they shall apply to all parties and beneficiaries under this Agreement, as well as to officers, employees or agents of the City.

9.14 Authority. The undersigned covenant and represent that they are fully authorized to enter into and to execute this Agreement.

9.15 Termination. This Agreement shall be deemed terminated and of no further effect upon the entry of a final judgment (and the exhaustion of all appeals setting aside such final judgment), voiding or annulling the Land Use Approval or the ordinance approving this Agreement. Upon the termination of this Agreement, no party shall have any further right or obligation hereunder.

9.16 Non-Enforcement not Waiver. Failure by any one of the parties to enforce this entire Agreement or any provision of it with regard to any provision contained herein shall not be construed as a waiver by that party of any right to do so.

9.17 Settlement Agreement. The Parties have entered into a Settlement Agreement in connection with an appeal filed by the Southgate Neighborhood Council *et al* with the Eastern Washington Growth Management Hearing Broad (Case No. 08-1-0014). A copy of the agreement is attached hereto as **Exhibit "C"** and incorporated by reference into this Agreement. The Parties acknowledge that arguments against the standing of the Southgate Neighborhood Council have been waived for the limited purposes expressed in said Settlement Agreement.

CITY OF SPOKANE, WASHINGTON

By (person signing) _____
Title _____

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

OWNERS

SPOKANE RADIO, INC.

KXLY

By: _____
Its: _____

By: _____
Its: _____

STATE OF WASHINGTON)
)
COUNTY OF SPOKANE)

On this ____ day of _____, 2009, before me, a Notary Public in and for said State, personally appeared _____, _____ of the City of Spokane, Washington, personally known to me to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same freely and voluntarily in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

DATED this ____ day of _____, 2009.

Print Name: _____
NOTARY PUBLIC in and for the State of
Washington, Residing at: _____
My commission expires: _____

STATE OF WASHINGTON)
)
COUNTY OF SPOKANE)

On this ____ day of _____, 2009, before me, a Notary Public in and for said State, personally appeared _____, _____ of SPOKANE RADIO, INC., personally known to me to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same freely and voluntarily in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

DATED this ____ day of _____, 2009.

Print Name: _____
NOTARY PUBLIC in and for the State of
Washington, Residing at: _____
My commission expires: _____

STATE OF WASHINGTON)
)
COUNTY OF SPOKANE)

On this _____ day of _____, 2009, before me, a Notary Public in and for said State, personally appeared _____, _____ of KXLY, personally known to me to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same freely and voluntarily in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

DATED this _____ day of _____, 2009.

Print Name: _____
NOTARY PUBLIC in and for the State of
Washington, Residing at: _____
My commission expires: _____

EXHIBIT A

Legal Description of Property

PARCEL "A"

THE NORTHEAST QUARTER OF GOVERNMENT LOT 9, SECTION 4, TOWNSHIP 24 NORTH, RANGE 43 EAST, W.M., CITY OF SPOKANE, WASHINGTON; EXCEPT COUNTY ROAD.

TOGETHER WITH THAT PORTION OF THE NORTHWEST QUARTER OF SAID GOVERNMENT LOT 9 LYING EAST OF A LINE DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 9, THENCE N87°40'18"E ALONG THE NORTH LINE THEREOF A DISTANCE OF 367.44 FEET TO THE POINT OF BEGINNING OF SAID LINE; THENCE FROM SAID POINT OF BEGINNING S02°27'16"E A DISTANCE OF 665.47 FEET TO A POINT ON THE SOUTH LINE OF SAID NORTHWEST QUARTER AND THE TERMINUS OF THIS LINE DESCRIPTION, SAID POINT BEARING N87°41'12"E A DISTANCE OF 377.70 FEET FROM THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER.

Spokane County Tax Parcel No. 34041.9077

C:\Documents and Settings\terrip\Local Settings\Temporary Internet Files\OLKC9\DevelopmentAgrKXLY Clean (081709).doc Page 17 of 19

EXHIBIT B

Design Standards,
"Initial Design Standards and Guidelines for Centers and Corridors"

EXHIBIT C
Settlement Agreement

AGENDA SHEET FOR COUNCIL MEETING OF: August 10, 2009

RECEIVED

JUL 29 2009



Submitting Dept.
Planning Services

Contact Person/Phone No.
Tami Palmquist/625-6157

Council Sponsor
CITY CLERK'S OFFICE
SPOKANE, WA

ADMINISTRATIVE SESSION

- ☐ Contract
- ☐ Report
- ☐ Claims

LEGISLATIVE SESSION

- ☐ Emergency Ord
- ☐ Resolution
- ☐ Final Reading Ord
- ☒ First Reading Ord
- ☐ Special Consideration
- ☐ Hearing
- ☐ Public Safety
- ☐ Public Works

CITY PRIORITY

- ☐ Communications
- ☐ Economic Development
- ☒ Growth Management
- ☐ Human Services
- ☒ Neighborhoods
- ☐ Public Safety
- ☐ Quality Service Delivery
- ☐ Racial Equity/Cultural Diversity
- ☐ Rebuild/Maintain Infrastructure

CLERK'S FILE

RENEWS

CROSS REF

ENG

BID

REQUISITION

Neighborhood/Public Notified:

STANDING COMMITTEES

(Date of Notification)

- ☐ Finance
- ☐ Neighborhoods
- ☐ Planning/Community & Econ Dev

AGENDA

WORDING:

(If contract, include the term.)

AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY AND Spokane Radio, Inc., a subsidiary of Spokane Television, a Washington corporation, d/b/a "KXLY"

BACKGROUND:

(Attach additional sheet if necessary)

Spokane Radio, Inc., a subsidiary of Spokane Television, a Washington corporation, d/b/a/ "KXLY" ("Owner") owns real property located south of the Palouse Highway and east of Regal Street in the Southgate neighborhood of the City of Spokane, Washington. Owners filed applications with the City of Spokane to amend the Comprehensive Plan land use map and zoning map designations for the Property, all as outlined in the attached development agreement (collectively, the "Amendments"). On June 30, 2008, the City Council passed Ordinance No. C34257 approving the Amendments ("Ordinance"), which is to become effective upon the execution of a Development Agreement that includes certain design and development principles that were in large part agreed to between the Owners and the representatives of the Southgate Neighborhood Council at various meetings and workshops to address their concerns about the nature of development otherwise allowed in the CC2-DC zone. The City and the Owners desire to enter into the Development Agreement to formally incorporate the conditions enunciated in the Ordinance as development standards applicable to the Property. The City, Owners and the Southgate Neighborhood Council, through its governing body, have negotiated and reached agreement on the terms of the Development Agreement which will resolve issues, claims and appeals in the pending appeal filed before the Eastern Washington Growth Management Hearings Board, under GMHB Case No. 08-1-0014.

RECOMMENDATION:

Fiscal Impact: ☐ N/A

Budget Account: ☐ N/A

- ☐ Expenditure: \$
- ☐ Revenue: \$
- ☐ Budget Neutral

ATTACHMENTS: Include in Packets: Ordinance (including Development Agreement)

On file for Review in Office of City Clerk:

SIGNATURES:

Department Head

Division Director

Finance

Legal

For the Mayor

Council President

DISTRIBUTION:

Leroy Eadie, Planning Director

Theresa Sanders, Economic Development Division Director

James Richman, Asst. City Attorney

COUNCIL ACTION:

FIRST READING OF THE
ABOVE ORDINANCE WAS HELD ON
August 10, 2009
AND FURTHER ACTION WAS DEFERRED
August 17, 2009
CITY CLERK

PASSED BY
SPOKANE CITY COUNCIL:

C34469

ORDINANCE NO. C 3 4 4 6 9

AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY AND Spokane Radio, Inc., a subsidiary of Spokane Television, a Washington corporation, d/b/a "KXLY".

WHEREAS, KXLY ("Owners") own that certain real property described in the attached development agreements (the "Development Agreements"), which property is located in the Southgate neighborhood of the City of Spokane, Washington (hereafter the "Property");

WHEREAS, Owners filed applications with the City of Spokane to amend the Comprehensive Plan land use map and zoning map designations for the Property, all as outlined in the attached development agreement (collectively, the "Amendments");

WHEREAS, on June 9, 2008, the City Council conducted a public hearing on the Amendments;

WHEREAS, on June 30, 2008, the City Council passed Ordinance C-34257 approving the Amendments ("Ordinances"), to become effective upon the execution of a Development Agreement that includes certain design and development principles that were in large part agreed to between the Owners and the representatives of the Southgate Neighborhood Council at various meetings and workshops to address their concerns about the nature of development otherwise allowed in the CC2-DC zone;

Whereas, Development Agreements are specifically authorized by RCW 36.70B.170-210 as a proper exercise of the City's police power. The City promulgated regulations for Development Agreements in SMC 11.19.870 and the Development Agreements are prepared in accordance with those provisions;

Whereas, the Development Agreements comply with the City's development standards, as that term is defined in RCW 36.70B.170;

WHEREAS, the City and the Owners desire to enter into this Development Agreement to formally incorporate the conditions enunciated in the Ordinances as development standards applicable to the Property;

WHEREAS, the City, Owners and the Southgate Neighborhood Council, through its governing body, have negotiated and reached agreement on the terms of the Development Agreements which will resolve issues, claims and appeals in the pending appeal filed before the Eastern Washington Growth Management Hearings Board, under GMHB Case No. 08-1-0014; and,

WHEREAS, the Development Agreements will provide increased predictability to the Owners, the Southgate Neighborhood Council, and the City for the future development of the Property;

Whereas, pursuant to RCW 36.70B.200 and Section 11.19.870 of the Spokane Municipal Code, a public hearing has been held before the City Council, and the City Council finds that the Development Agreements conform with the criteria contained in SMC 11.19.870.

Whereas, prior to conducting the public hearing, notice of the same was posted in City Hall and public libraries, notice was mailed to property owners within 400 feet of the project site, and notice was posted on the project site, all more than 15 days prior to the hearing; Now, Therefore

The City of Spokane does ordain:

Section 1 - Findings of Fact. That the preambles to this Ordinance and the contents of the attached Development Agreements are adopted as the City Council's findings in support of its approval of the development agreement.

Section 2 - Approval of Development Agreements. The Development Agreements are hereby approved.

Passed by the City Council on AUG 17 2009

Alexander J. Shogen Jr.
Council President

Attest:

Approved as to form:

Laura Jensen
City Clerk

Jac
City Attorney

Mary B. Verner
Mary Verner, Mayor

08/21/09
Date

08/21/09
EFFECTIVE DATE

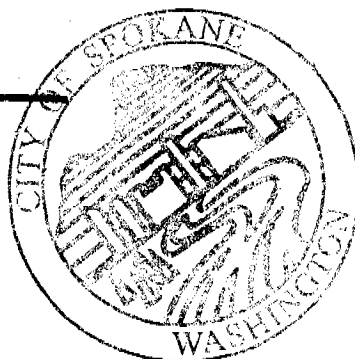


Exhibit 1

Development Agreements



Agenda Sheet for City Council Meeting of:
11/28/2016

Date Rec'd	11/14/2016
Clerk's File #	ORD C35459
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	ASSET MANAGEMENT
Contact Name/Phone	ED LUKAS 625-6286
Contact E-Mail	RLUKAS@SPOKANECITY.ORG
Agenda Item Type	First Reading Ordinance
Agenda Item Name	5900 - ORDINANCE - SURPLUS REAL ESTATE

Agenda Wording

An ordinance relating to the disposition of surplus City real property and enacting a new chapter 12.10 of the Spokane Municipal Code.

Summary (Background)

The City of Spokane periodically evaluates its real estate holdings to determine which properties may be declared surplus and disposed of to third parties. The City also receives unsolicited purchase offers on properties that may not already be in the evaluation stage. Potential candidates for surplus and disposition action include properties underutilized by existing City departments as well as those acquired in the construction of right of ways that are no longer needed (i.e., remnants of

Fiscal Impact		Budget Account	
Neutral	\$	#	
Select	\$	#	
Select	\$	#	
Select	\$	#	
Approvals		Council Notifications	
<u>Dept Head</u>	LUKAS, ED	<u>Study Session</u>	
<u>Division Director</u>	DUNIVANT, TIMOTHY	<u>Other</u>	Finance 10/3/16 &
<u>Finance</u>	KECK, KATHLEEN	<u>Distribution List</u>	
<u>Legal</u>	RICHMAN, JAMES	Engineering Admin	
<u>For the Mayor</u>	SANDERS, THERESA	kkeck@spokanecity.org	
<u>Additional Approvals</u>		mhughes@spokanecity.org	
<u>Purchasing</u>		rlukas@spokanecity.org	



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Summary (Background)

Right-of-Ways). While the Revised Code of Washington ("RCW") provides guidance on surplus and disposition actions, the City of Spokane does not have a formal, transparent process in place to perform such actions. The attached ordinance establishes and illustrates the surplus and disposition process.

Fiscal Impact		Budget Account
Select	\$	#
Select	\$	#
<u>Distribution List</u>		

ORDINANCE NO. C35459

An ordinance relating to the disposition of surplus City real property and enacting a new chapter 12.10 of the Spokane Municipal Code.

NOW THEREFORE, the City of Spokane does ordain:

Section 1. That there is enacted a new chapter 12.10 of the Spokane Municipal Code to read as follows:

Chapter 12.10 Disposition of Surplus Real Property

Section 12.10.010 Purpose and Intent

As authorized by, and pursuant to Article 8, Section 7 of the Washington State Constitution, which generally prohibits the City from gifting money or property to private individuals or corporations, RCW 35.22.280(3), chapters 35.94 and 39.33 RCW, sections 37 and 48 of the City Charter, and this chapter 12.10, SMC, the City Council intends that this chapter govern the determination of surplus and the disposition of all surplus City property, regardless of type, size, location, or department of origin, except for property managed and controlled by the Park Board pursuant to Article V of the City Charter and the Library Board pursuant to Chapter 27.12 RCW.

Section 12.10.020 Review of City Real Property

- A. The Asset Management Department shall, on an annual basis, review all City-owned, real property and determine which, if any, real property parcels are appropriate for disposition as surplus. In making this initial determination, Asset Management will communicate with all City departments to verify whether any of them currently use, or in the near future will use, underutilized City real property within a reasonable timeframe.
- B. In addition to the annual review by Asset management, the Mayor and City department heads may request that specific properties be evaluated for surplus disposition at any time. This review may also be initiated by Asset Management upon the receipt of an unsolicited purchase offer.
- C. Any disposition of City real property requires City Council approval as provided in this chapter.

Section 12.10.030 Real Estate Review Committee; Report

- A. Upon determining that no City department is using, or will use, an identified parcel of land within a reasonable timeframe, the Real Estate Review Committee ("RERC") shall review the subject property and prepare a written recommendation to the Mayor as to whether a particular parcel should be declared surplus and, if so, the method of disposition. The RERC shall meet on an as-needed basis, and shall include the following members or their designees:
 - 1. Asset Management Director,
 - 2. City Administrator,
 - 3. Finance Director,
 - 4. City Attorney,
 - 5. City Department or Division Head most directly affected by the surplus and disposition, if applicable,
 - 6. The two City Council Members who represent the district where the subject property is located, and
 - 7. Director of Neighborhood Services
- B. The RERC report shall include at least the following information regarding the subject property:
 - 1. A description of subject parcel's size, zoning, existing improvements, condition of improvements, ingress/egress, neighborhood planning, environmental condition (findings of environmental reports), and other salient observations.
 - 2. A description of the acquisition and development history of property, including when was the property originally acquired by the City, the source of funds for acquisition, the source of funds for subsequent improvements, how the property is currently used or was used most recently, and the City department(s) involved, etc.
 - 3. The report should identify the City department or fund (e.g., revenue, general, special) which is most logically and/or economically linked to the property. In addition, the report should address the repayment of bonds, grants, or other financing instruments used to acquire the property or which have used the property as security.
 - 4. Before a recommendation for surplus and disposition is made, the RERC shall announce to all City departments and the City Council that the subject property is being evaluated for surplus. If a City department expresses interest in using the property, that department must present a written explanation to the RERC, for inclusion in its recommendation report, of the interested department's interest, its intended use, timeline, and operational

and financial rationale for maintaining City ownership of the property for use by the interested department.

5. The RERC's report must describe the efforts made by the RERC to obtain input from and consultation with elected officials, City staff, neighborhood councils, and other groups that may have developed ideas on re-purposing the subject property in alignment with City strategic goals.
6. The RERC report must also include an estimate of the subject property's market value. This can be accomplished by the use of a Member of Appraisal Institute ("MAI") /state certified appraisal, tax assessment, market comparables, and/or a City staff opinion of market value.
7. The RERC report should include any recommended covenants, conditions, or restrictions that the City should place on the subject property before disposed. Examples include access easements, air rights for adjacent property owners, purchase option or right of first refusal for City to reacquire property at a future date, among others.
8. The RERC report should recommend the preferred disposition method from among those listed in SMC 12.10.040. The methods are not mutually exclusive and some properties may require a mixture of the methods.

Section 12.10.040 Allowable Methods of Property Disposition

A. Surplus City real property may be disposed of using any of the following methods:

1. Direct Sale. Using City legal staff, third party title/escrow companies, and third party reports such as appraisals and environmental studies, the City may sell property directly to another party. This approach does not require the services of a professional listing broker or the additional considerations of a special disposition. Typical examples for which this method are most well-suited include:
 - i. Remnants, defined as: 1) small parcels of land, usually smaller than 2,000 square feet, 2) irregular shapes, and 3) are unlikely to support any stand-alone development. Remnants are often the leftover parcels from right of way dedications and developments. The most likely buyer of a remnant property will be an abutting property owner.
 - ii. Unsolicited offers the City receives from public or private parties on city-owned real estate properties that have not been surplus or are not actively being marketed for sale.

iii. Sales to Public Development Authorities or Limited Redevelopment Authorities, provided that such sales comply with Chapter 39.33, RCW.

2. Listing with Real Estate Broker. In order to generate the greatest return on the sale of a property, subject to applicable procurement laws, the City may contract with a professional commercial real estate broker who specializes in commercial or residential properties for broker listing in some cases. Broker listings are ideally suited for land parcels and improved properties in established neighborhoods for which (1) the anticipated use of the subject properties will be similar to their present uses, and (2) future development of the subject parcel is expected to conform to the well-established land uses prevalent in the subject property's vicinity.
3. Land Swaps. The City may also, as specifically authorized by chapter 39.33, RCW, dispose of real property via a land swap with another public entity, such as a school district, county, the federal government, or other municipal corporation.
4. Special Dispositions. Some City-owned real property may merit the use of a special disposition method because they can provide benefits that far exceed the limitations of monetary market value. Special disposition of these properties can further the objectives and goals of the City and can actually be a catalyst for economic development and expansion of community services. All special dispositions should be reviewed for compliance with Article 8, Section 7 of the Washington State Constitution, which generally prohibits gifting of City property. Key characteristics qualifying a property for special disposition status include the following:
 - a. Properties that have a nexus with a Public Development Authority, such as where the property is within the geographic area of a public development authority (PDA), or where a PDA has expressed specific interest in the subject property.
 - b. Properties within City-designated targeted investment areas or a neighborhood where redevelopment is a focus of revitalization efforts.

- c. Properties for which there is strong community interest, as expressed by neighborhood councils, local businesses, schools, and other community organizations.
- d. Properties which may, if the use is changed from the current use, create a substantial impact on neighboring property owners.
- e. The needs of multiple stakeholders, including those mentioned above, may necessitate the use of a disposition method other than a listing or direct sale.
- f. The City may use a special disposition method where the City anticipates that a likely buyer will request a zoning change, a street dedication, a right of way vacation, or zoning changes.
- g. Special disposition methods may be appropriate where the City retains requires property rights after the sale of the property, such as access easements, air rights, purchase options, and other conditions not already addressed elsewhere.
- h. The RERC report may contain a recommendation for the use of a special disposition method for reasons other than those listed above, based on the specific circumstances.

Prior to finalizing a report which recommends a special disposition method, the RERC shall hold a public hearing regarding the subject property. The RERC will issue a notice of public hearing no sooner than 10 days and no more than 25 days prior to the hearing. Notice will be sent to all property owners within 1,000 feet of the subject property and officers of the applicable neighborhood council. The RERC shall incorporate the public hearing comments in its recommendation report.

The primary means for performing a special disposition is a City-issued Request for Proposal ("RFP"). The RERC will develop the RFP criteria as part of any recommendation report which recommends disposition via a special disposition process. The criteria used in evaluating responses to the RFP will be enumerated and weighted on a property-specific basis. For instance, the RFP

criteria on a residential parcel in one area of the City may vary significantly from that on an industrial property in another area.

Some RFP criteria may be:

1. Compatibility with adopted neighborhood plan
2. Compliance with the City of Spokane's Comprehensive Plan
3. Job creation potential
4. New tax base expansion or creation potential
5. Ultimate range of purchase price and earnest money
6. Relevant purchase contract conditions
7. Experience and capability of the buyer
8. Timeline for completing the project and/or project phases, as applicable

The RFP process may use a direct sale closing process or it may become part of the listing requirements with a licensed broker. Alternatively, the RERC may recommend a long term lease. The RERC report shall contain a recommendation concerning the method of disposition.

Section 12.10.050 Council Action on Disposition

- A. Upon receiving the RERC report and the Mayor's recommendation, the City Council shall undertake consideration of the recommendation to designate the property surplus and, if so, whether and how to dispose of the property.
- B. With respect to property which is the subject of a RERC report, the Council may:
 1. accept the recommendations as presented, pass a resolution determining the subject property to be surplus pursuant to SMC 07.06.040, and pass a resolution authorizing the City to dispose of the property as set forth in the RERC recommendation report.
 2. modify the RERC report recommendations, declare the property surplus by resolution pursuant to SMC 07.06.040, and pass a resolution authorizing the City to dispose of the property as set forth in the modified RERC recommendations.
 3. return the recommendations to the RERC for further analysis and consideration of specific facts or criteria identified by the City Council.

4. Designate the subject property for long term lease; or,
5. take no action on the recommendation.

PASSED by the City Council on _____.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date: _____



Agenda Sheet for City Council Meeting of:
11/28/2016

Date Rec'd	11/14/2016
Clerk's File #	ORD C35460
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	
Submitting Dept	CITY COUNCIL
Contact Name/Phone	COUNCIL 625-6258 PRESIDENT BEN STUCKART
Contact E-Mail	BSTUCKART@SPOKANECITY.ORG
Agenda Item Type	First Reading Ordinance
Agenda Item Name	0320 - AMENDMENTS TO PUBLIC WORKS APPRENTICESHIPS ORDINANCE

Agenda Wording

An ordinance relating to the public works apprenticeship program; amending sections 07.06.710, 07.06.720, 07.06.730, and 07.06.760 and 07.06.770 of the Spokane Municipal Code.

Summary (Background)

This proposed ordinance clarifies the requirements for subcontractors and calculation of labor hours and total hours, raises the minimum contract amount to \$600,000 from \$350,000, clarifies the waiver or reduction circumstances, requires incorporation in contracts by reference, and makes other minor technical corrections.

Fiscal Impact		Budget Account	
Neutral	\$	#	
Select	\$	#	
Select	\$	#	
Select	\$	#	
Approvals		Council Notifications	
Dept Head	STUCKART, BEN	Study Session	
Division Director		Other	Finance 11/7/2016
Finance	KECK, KATHLEEN	Distribution List	
Legal	PICCOLO, MIKE	sstopher@spokanecity.org	
For the Mayor	SANDERS, THERESA		
Additional Approvals			
Purchasing			

ORDINANCE NO. C35460

An ordinance relating to the public works apprenticeship program; amending sections 07.06.710, 07.06.720, 07.06.730, 07.06.760 and 07.06.770 of the Spokane Municipal Code.

NOW THEREFORE, the City of Spokane does ordain:

Section 1. That section 07.06.720 of the Spokane Municipal Code is amended to read as follows:

Section 07.06.710 Definitions

For the purpose of this article, the following words are defined as follows:

- A. "Community Empowerment Zone" (CEZ) means that portion of those census tracts which are situated within the County of Spokane and designated by the State of Washington as entitled to receive tax incentives because of high levels of poverty and unemployment.
- B. "Labor hours" means the total ~~((number of))~~ hours as defined in this section ((of workers receiving an hourly wage who are directly employed on the site of the public works project. "Labor hours" shall include hours performed by workers employed by the contractor and all subcontractors working on the project. "Labor hours" shall exclude hours worked by foremen, superintendents, owners and workers who are not subject to prevailing wage requirements))less the number of hours worked by subcontractors working under subcontracts valued individually at less than \$100,000.
- C. Resident of the Community Empowerment Zone" (CEZ Resident) means any person who continuously occupies a dwelling within the boundaries of the Community Empowerment Zone, with a present and genuine intent to remain within the boundaries of the Community Empowerment Zone; provided however, that an individual initially certified as a CEZ Resident shall retain such certification status for a period of up to 2 years or 1,000 ~~((Labor Hours))~~ hours worked from the date of initial certification, whichever is less, and such certification shall be recognized for any City project covered by this chapter for said certification period.
- D. "State-approved apprenticeship program" means an apprenticeship program approved or recognized by the Washington State Apprenticeship and Training Council or similar programs approved by the Washington State Department of Labor and Industries.
- E. "Total hours" means the total number of hours of worked by all workers receiving an hourly wage who are directly employed on the site of a city public works project including hours performed by workers employed by the contractor and all subcontractors working on the project, but excluding hours worked by foremen, superintendents, owners and workers who are not subject to prevailing wage requirements.

~~((E-))~~F. "Veteran" means every person who has received an honorable discharge or received a discharge for medical reasons with an honorable record, where applicable, and who has served in at least one of the following categories:

1. As a member in any branch of the armed forces of the United States, including the national guard and armed forces reserves, and has fulfilled his or her initial military service obligation;
2. As a member of the women's air forces service pilots;
3. As a member of the armed forces reserves, national guard, or coast guard, and has been called into federal service by a presidential select reserve call up for at least one hundred eighty cumulative days;
4. As a civil service crewmember with service aboard a U.S. army transport service or U.S. naval transportation service vessel in oceangoing service from December 7, 1941, through December 31, 1946;
5. As a member of the Philippine armed forces/scouts during the period of armed conflict from December 7, 1941, through August 15, 1945; or
6. A United States documented merchant mariner with service aboard an oceangoing vessel operated by the department of defense, or its agents, from both June 25, 1950, through July 27, 1953, in Korean territorial waters and from August 5, 1964, through May 7, 1975, in Vietnam territorial waters, and who received a military commendation. (RCW 41.04.007)

Section 2. That section 07.06.720 of the Spokane Municipal Code is amended to read as follows:

Section 07.06.720 Administration of Apprentice Program

A. On public works construction projects, as defined in RCW 39.04.010, with an estimated cost of ~~((three hundred fifty thousand dollars (\$350,000)))~~ six hundred thousand dollars (\$600,000) or more, at least ~~((five (5) percent in 2015,))~~ ten (10) percent in 2016 and fifteen (15) percent in years 2017 and beyond, of the ((total contract)) labor hours of each project~~((, - (all contractor and subcontractor hours)))~~ shall be performed by apprentices enrolled in a State-approved apprenticeship program.

B. Subcontracting Requirements. The utilization percentages for apprenticeship labor for public works construction contracts shall also apply to all subcontracts of one hundred thousand dollars (\$100,000) or more within those contracts, provided there is a state-approved apprenticeship training program for the trade for which a subcontract is issued.

~~((A-))~~C. The City Administrator shall implement and administer this article and shall develop and adopt procedures to implement and enforce this Article X of Chapter 07.06 SMC. The City Administrator shall establish and maintain contract specification language to implement the apprenticeship requirement. The City Administrator shall develop and implement a system for monitoring the actual use of apprentices on public works projects.

~~((B-))~~D. The City Administrator shall establish a monitoring program to verify compliance with this article and shall report to the city council at least twice each year to report on the apprenticeship program.

~~((C. On projects over one million dollars, the director shall establish a goal to utilize a certain percentage of labor from residents of the City of Spokane. Contractors shall make a good faith effort, as determined by the City Administrator, to meet this local labor goal in addition to the apprenticeship utilization requirement. The City Administrator is authorized to establish guidelines by which good faith efforts to employ local labor shall be measured.))~~

E. Each contractor on city public works construction projects to which this article applies shall incorporate the requirements of this article in all subcontracts for the project and shall require each subcontractor to which this chapter applies to execute a form, to be provided by the city, acknowledging that the requirements of this article are applicable to the labor hours for the project.

Section 3. That section 07.06.730 of the Spokane Municipal Code is amended to read as follows:

Section 07.06.730 Waiver or Reduction of Goals

The City Administrator may waive or reduce the apprenticeship participation percentage on public works construction projects with prior written notice to the city council. The notice to the City ((Administrator))Council shall describe the facts and circumstances upon which the City Administrator's decision to reduce the apprenticeship participation percentage ((shall be))is based. These factual ((on his or her)) findings must show that ((either)) (1) there is a demonstrated lack of ability to obtain apprentices in a specific geographic area or field; ((or)) (2) a disproportionately high ratio of material costs to labor hours on the particular projects ((which)) does not make feasible the required minimum level of apprentice participation; (3) the reasonable and necessary requirements of the contract or subcontract render apprentice utilization infeasible at the required levels due to specialized training and safety requirements which is not available through the local available state-approved apprenticeship training programs; or (4) participating contractors or subcontractors cannot meet the utilization requirements despite demonstrated good faith efforts to comply with the requirements of this article.

Section 4. That section 07.06.760 of the Spokane Municipal Code is amended to read as follows:

Section 07.06.760 Penalty

A. All city public works contracts involving this article shall include a provision establishing a penalty equal to thirty percent (30%) of the highest paid craft hourly rate on the public works project as determined by prevailing wages for each unmet labor hour to be imposed by the City Administrator on each contractor ~~((or subcontractor))~~ who violates the provisions of this article.

B. The specific facts and circumstances((Failure to comply with the provisions of this article)) and the existence and extent of any good faith efforts to comply shall be ((deemed a breach of the public works contract with the City and shall be considered grounds for))considered when determining whether a contractor is subject to debarment under SMC 07.06.610(B)((disqualifying the contractor for future public works contracts)).

C. The City Administrator shall dedicate all revenues derived from penalties imposed for violation of this Article X to grants to pre-apprenticeship programs to assist minorities, women, and residents of CEZs as defined in this Article X.

Section 5. That section 07.06.770 of the Spokane Municipal Code is amended to read as follows:

Section 07.06.770 Appeals

- A. An appeal may be filed with the City's hearing examiner by any ~~((individual,))~~ contractor or ~~((other party affected by the enforcement of this article))~~ Washington State registered apprenticeship program regarding the City Administrator's decision to waive or reduce the apprenticeship participation percentage or the imposition of penalties pursuant to SMC 7.06.760.
- B. Appeals shall be filed within ten (10) business days of the City Administrator's decision. Appeals shall be processed consistent with SMC 17G.050.310-320.
- C. The hearing examiner shall either affirm or reverse the decision of the City Administrator. If the hearing examiner reverses the City Administrator's decision, the matter shall be remanded to the City Administrator to decide the matter consistent with the hearing examiner's decision.
- D. An appeal shall not act as a stay to a public works construction project. A decision by the hearing examiner regarding the waiver or reduction of the apprenticeship participation percentage shall be only apply prospectively. A decision by the hearing examiner affirming the City Administrator's assessment of penalties may be ~~((considered))~~ taken into account when determining the relative severity of the violation in the determination as to whether to debar a contractor ~~((grounds for debarment))~~ under SMC 07.06.610(B).
- E. The hearing examiner's decision may be appealed to Superior Court.

PASSED by the City Council on _____

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date



Agenda Sheet for City Council Meeting of:
12/05/2016

Date Rec'd	11/22/2016
Clerk's File #	ORD C35462
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	DEVELOPER SERVICES CENTER
Contact Name/Phone	ELDON BROWN 625-6305
Contact E-Mail	EBROWN@SPOKANECITY.ORG
Agenda Item Type	Hearings
Agenda Item Name	4700 - VACATION HEARING - ELGIN COURT

Agenda Wording

The vacation of portions of Elgin Court as requested by Michele Byers and Mark and Valerie Sonderen. (Five Mile Prairie Neighborhood Council)

Summary (Background)

At its legislative session held on October 10, 2016 the City Council set a hearing on the above vacation. Staff has solicited responses from all concerned parties.

<u>Fiscal Impact</u>	<u>Budget Account</u>
Neutral \$	#
Select \$	#
Select \$	#
Select \$	#

<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	BECKER, KRIS	<u>Study Session</u>	
<u>Division Director</u>	TRAUTMAN, HEATHER	<u>Other</u>	PCED 9/19/16
<u>Finance</u>	KECK, KATHLEEN	<u>Distribution List</u>	
<u>Legal</u>	RICHMAN, JAMES	Engineering Admin	
<u>For the Mayor</u>	SANDERS, THERESA	jeliason@spokanecity.org	
<u>Additional Approvals</u>		ebrown@spokanecity.org	
<u>Purchasing</u>		htrautman@spokanecity.org	

City of Spokane
Department of Engineering Services
808 West Spokane Falls Blvd.
Spokane, WA 99201-3343
(509) 625-6700

ORDINANCE NO. C35462

An ordinance vacating portions of Elgin Court.

WHEREAS, a petition for the vacation of portions of Elgin Court more specifically described below has been filed with the City Clerk representing 100% of the abutting property owners, and a hearing has been held on this petition before the City Council as provided by RCW 35.79; and

WHEREAS, the City Council has found that the public use, benefit and welfare will best be served by the vacation of said public way; -- NOW, THEREFORE,

The City of Spokane does ordain:

Section 1. That the following property located in the NE quarter of Section 25, Township 26N, R42E, E.W.M. described property is hereby vacated. Parcel number not assigned.

All that certain real property situate in the City of Spokane, County of Spokane, State of Washington, being described as follows:

A portion of Elgin Court as said Court is shown upon that certain map entitled "A Final Plat of Southern Vista Estates" recorded November 4, 1997 in Book 25 of Plats at Pages 4, 5, and 6 Spokane County Records, and being more particularly described as follows:

BEGINNING at the Northeast corner of Lot 2, Block 2 of said Plat of Southern Vista Estates, being hereinabove described; thence from said Point of Beginning, South 00°00'00" East along the West line of said Elgin Court, 42.98 feet to the **TRUE POINT OF BEGINNING** of this description; thence continuing along said west line of Elgin Court, Southwesterly along a tangent curve to the right, having a radius of 20.00 feet, through a central angle of 44°24'55", an arc distance of 15.50 feet to a point of reverse curvature; thence Southerly along a reverse curve to the left having a radius of 50.00 feet, through a central angle of 61°14'00", an arc distance of 53.44 feet; thence leaving said West line of Elgin Court, Northeasterly along a curve to the right from a point with a radial bearing of North 73°10'55" West, having a radius of 50.00 feet, through a central angle of 27°35'50", an arc distance of 24.08 feet to a point of reverse curvature; thence Northerly along a

reverse curve to the left, having a radius of 20.00 feet, through a central angle of $44^{\circ}24'55''$, an arc distance of 15.50 feet; thence North $00^{\circ}00'00''$ West 28.93 feet to the said **TRUE POINT OF BEGINNING** of this description

Together with,

A portion of Elgin Court as said Court is shown upon that certain map entitled "A Final Plat of Southern Vistas Estates" recorded November 4, 1997 in Book 25 of Plats at Pages 4, 5, and 6, Spokane County Records, and being more particularly described as follows:

BEGINNING at the Northwest corner of Lot 3, Block 2 of said Plat of Southern Vista Estates, being hereinabove described; thence from said Point of Beginning, South $00^{\circ}00'00''$ East along the East line of said Elgin Court, 61.25 to the **TRUE POINT OF BEGINNING** of this description; thence continuing along said East line of Elgin Court, Southeasterly along a tangent curve to the left, having a radius of 20.00 feet, through a central angle of $44^{\circ}24'55''$, an arc distance of 15.50 feet to a point of reverse curvature; thence Southerly along a reverse curve to the right, having a radius of 50.00 feet, through a central angle of $61^{\circ}14'00''$, an arc distance of 53.44 feet; thence leaving said East line of Elgin Court, Northwesterly along a curve to the left, from a point with a radial bearing of North $73^{\circ}10'55''$ East, having a radius of 50.00 feet, through a central angle of $27^{\circ}35'50''$, an arc distance of 24.08 feet to a point of reverse curvature; thence Northerly along a reverse curve to the right, having a radius of 20.00 feet, through a central angle of $44^{\circ}24'55''$, an arc distance of 15.50 feet; thence North $00^{\circ}00'00''$ West 28.93 feet to the said **TRUE POINT OF BEGINNING** of this description.

Section 2. An easement is reserved and retained over and through the entire vacated area for the utility services of CenturyLink, and Avista to protect existing and future utilities.

Passed the City Council _____

Council President

Attest: _____
City Clerk

Approved as to Form:

Assistant City Attorney

Mayor

Date: _____

Effective Date: _____



**CITY OF SPOKANE
PLANNING & DEVELOPMENT**

808 West Spokane Falls Blvd, Spokane WA 99201-3343
(509) 625-6300 FAX (509) 625-6822

**STREET VACATION REPORT
September 21, 2016**

LOCATION: A portion of Elgin Court RW in the NE Quarter of Section 25, Township 26, Range 42 East, Willamette Meridian

PROPONENT: Michele Byers & Mark Sonderen

PURPOSE: Vacate a portion of the existing RW and re-dedicate back additional RW to accommodate a new plat to the south of the cul-de-sac.

HEARING: TBD

REPORTS:

AVISTA UTILITIES – Avista requests that the vacated portions of Elgin Ct. be reserved for gas, electric, communication lines and associated facilities.

COMCAST – Comcast has reviewed the vacation request. Enclosed is a system map showing our plant. This vacation should not affect our plant, so we have no problem with the vacation.

CENTURYLINK – No issue as long as you stay to the south of our facilities shown in the attachment.

ASSET MANAGEMENT - CAPITAL PROGRAMS – No comments

FIRE DEPARTMENT – Reconstructed cul-de-sac should be 100' in diameter SMC 17.080.030.

INLAND POWER & LIGHT – Inland Power & Light has no facilities in the area.

NEIGHBORHOOD SERVICES – No comments

XO COMMUNICATIONS – XO Comm has no problem with this vacation of property.

PARKS DEPARTMENT - No comments

PLANNING & DEVELOPMENT – DEVELOPER SERVICES – Is the new area going to be paved as part of the vacation?

PLANNING & DEVELOPMENT – TRAFFIC DESIGN – No comments

PLANNING & DEVELOPMENT – PLANNING – No Concerns.

POLICE DEPARTMENT - No comments

SOLID WASTE MANAGEMENT - No comments

STREET DEPARTMENT – The Street Department has no objections to the vacation.

WASTEWATER MANAGEMENT – No objection provided onsite runoff be maintained and treated onsite.

WATER DEPARTMENT – No comments

BICYCLE ADVISORY BOARD - No comments

RECOMMENDATION: That the petition be granted and a vacating ordinance be prepared subject to the following conditions:

1. An easement as requested by Century Link and Avista Utilities shall be retained to protect existing and future utilities.
2. That the final reading of the vacation be held in abeyance until all of the above conditions are met and that the above conditions are met by December 1, 2017.

Eldon Brown, P.E.
Principal Engineer – Planning & Development

A handwritten signature in black ink, appearing to read "Eldon W. Brown". The signature is fluid and cursive, with the first name "Eldon" being more prominent and the last name "Brown" following in a similar style. There is a small mark above the "W" that could be a middle initial or a flourish.

P1605147VACA



Right of Way Description:

A portion of the existing Elgin Court right-of-way

Legend

 **Vacation Area**

THIS IS NOT A LEGAL DOCUMENT.
The information shown on this map is compiled from various sources and is subject to constant revision. Information shown on this map should not be used to determine the location of facilities in relationship to property lines, section lines, streets, etc.



DISTRIBUTION LIST

VACATION OF ELGIN COURT

POLICE DEPARTMENT

ATTN: SGT CHUCK REISENAUER

FIRE DEPARTMENT

ATTN: MEGAN PHILLIPS
MIKE MILLER

CURRENT PLANNING

ATTN: TAMI PALMQUIST
DAVE COMPTON

WATER DEPARTMENT

ATTN: DAN KEGLEY
JAMES SAKAMOTO
ROGER BURCHELL
CHRIS PETERSCHMIDT
HARRY MCLEAN

STREETS

ATTN: MARK SERBOUSEK
MARTHA STEVENSON

TRANSPORTATION OPERATIONS

ATTN: BOB TURNER

PLANNING & DEVELOPMENT

ATTN: ERIK JOHNSON
ELDON BROWN
JOHN SAYWERS

CONSTRUCTION MANAGEMENT

ATTN: KEN BROWN

INTEGRATED CAPITAL MANAGEMENT

ATTN: KATHERINE MILLER

WASTEWATER MANAGEMENT

ATTN: BILL PEACOCK

PARKS & RECREATION DEPARTMENT

ATTN: LEROY EADIE

NEIGHBORHOOD SERVICES

ATTN: JACKIE CARO
JONATHAN MALLAHAN
ROD MINARIK
HEATHER TRAUTMAN

BICYCLE ADVISORY BOARD

ATTN: LOUIS MEULER

SOLID WASTE MANAGEMENT

ATTN: SCOTT WINDSOR

CITY CLERK'S OFFICE

ATTN: JACQUELINE FAUGHT

PUBLIC WORKS

ATTN: SCOTT SIMMONS
MARCIA DAVIS

AVISTA UTILITIES

ATTN: DAVE CHAMBERS
RANDY MYHRE

COMCAST DESIGN & CONSTRUCTION

ATTN: BRYAN RICHARDSON

CENTURY LINK

ATTN: KAREN STODDARD

NORMAN FAMILY REVOCABLE LIVING
TRUST

2302 W KINGSFORD AVE

SPOKANE, WA 99208

KORUM, BILL & DIXIE

2005 W TARYN CT

SPOKANE, WA 99208

DISTRIBUTION LIST

VACATION OF ELGIN COURT

HAMAD, GREGORY F & LESLYE M
7302 N HEMLOCK CT
SPOKANE, WA 99208

F A T FAMILY, LLC
7715 ROCK N ROCK RIDGE DR
SPOKANE, WA 99208

BRAYTON, FREDERICK C & JOANNE
7231 N QUAMISH DR
SPOKANE, WA 99208

WALLACE REVOCABLE LIVING TRUST
3227 PRESTON HILLS CIR
PROSPER, TX 75078

MORSHECK, JUSTIN D & SHANNON M
7221 N QUAMISH DR
SPOKANE, WA 99208

CASSEL, JEREMY F/BEAUMONT, ERIN
K
7301 N HEMLOCK CT
SPOKANE, WA 99208

SONDEREN, MARK A & VALERIE K
7212 N FIVE MILE RD
SPOKANE, WA 99208-4472

NORRIS, KEVIN F & DORIS J
2009 W STRATTON AVE
SPOKANE, WA 99208

DAUGHERY, JACK D & RITA M
1920 W WEILE AVE
SPOKANE, WA 99208-4379

PATCHIN, DENNIS & DOROTHY
2209 W STRATTON AVE
SPOKANE, WA 99208

MIGLIAZZO, ARLIN C & JUDITH C
7329 N HEMLOCK CT
SPOKANE, WA 99208

IBARRA-RIVERA, AMANDA /
HUTCHESON, S
2505 W WALKER CT
SPOKANE, WA 99208

DOUGALL, ERICA L & SHAWN C
7320 N HEMLOCK CT
SPOKANE, WA 99208

BIELLENBERG TRUST/ALICE MARIE
2016 W WEILE AVE
SPOKANE, WA 99208

SINGH, PAYARA / KAUR, JASBIR
3007 W TRINITY AVE
SPOKANE, WA 99208

RIDESATTHEDOOR, ROYLENE M
2308 W KINGSFORD
SPOKANE, WA 99208

**DISTRIBUTION LIST
VACATION OF ELGIN COURT**

STANICAR, MICHAEL V & KELLY M 7321 N HEMLOCK CT SPOKANE, WA 99208	JOHNSON, NANCY A 7330 N HEMLOCK CT SPOKANE, WA 99208
BYERS, MICHELE L 2017 W STRATTON SPOKANE, WA 99208	POWELL LIVING TRUST 2023 W TARYN CT SPOKANE, WA 99208-4308
NGUYEN, TAMMY / TRAN, RYAN 5018 N CALVIN RD SPOKANE VALLEY, WA 99216	GENOVA, MICHAEL C & SANDRA A 9430 N CEDAR RD MEAD, WA 99208
STULC, TIMOTHY & DEBRA 7210 N QUAMISH DR SPOKANE, WA 99208	SONDEREN, MATTHEW G & SHELLI E 6710 N SUTHERLIN ST SPOKANE, WA 99208-5048
DRENNEN, JEREMIAH J & MICHELLE K 2304 W STRATTON AVE SPOKANE, WA 99208-4403	AKERS, WILLIAM L & MARY T 2111 W STRATTON AVE SPOKANE, WA 99208
THAMS, TRAVIS J & SHELLEY L 2205 W STRATTON AVE SPOKANE, WA 99208	EVERS JR, KING W & KAREN J 2132 W WEILE AVE SPOKANE, WA 99208-
REGALADO, CHARLES L & LINDA G 2305 W STRATTON AVE SPOKANE, WA 99208	CHORLEY, GORDON E/BROWN, DEBRA D 2021 W WEILE AVE SPOKANE, WA 99208
SPOKANE, CITY OF 808 W SPOKANE FALLS BLVD SPOKANE, WA 99201-3333	KELLY, CLIFTON O & REGINA C 2301 W KINGSFORD AVE SPOKANE, WA 99208

DISTRIBUTION LIST
VACATION OF ELGIN COURT

BYERS, MICHELE L 2017 W STRATTON SPOKANE, WA 99208	BAIER, MARK & ELISABETH J 2028 W TARYN CT SPOKANE, WA 99208
PICHETTE, CHERYL & JEFF 2116 W WEILE AVE SPOKANE, WA 99208-4315	BORHAUER LIVING TRUST 7311 N HEMLOCK CT SPOKANE, WA 99208
CITY OF SPOKANE 808 W SPOKANE FALLS BLVD SPOKANE, WA 99256-0001	SONDEREN, MARK A & VALERIE K 7212 N FIVE MILE RD SPOKANE, WA 99208
THORNTON, BRANDON P & COLLEEN 2022 W STRATTON AVE SPOKANE, WA 99208	MCCANNA, TIMOTHY J & LI-A KALEI 7105 N CANNON CT SPOKANE, WA 99208-4320
PICICCI, SANDRA L & SAM L 7208 N FIVE MILE RD SPOKANE, WA 99208	HARRISON, RAWLEY L & HELEN L 2027 W TARYN CT SPOKANE, WA 99208-4308
WELLMAN, M L 2120 W WEILE AVE SPOKANE, WA 99208-4315	HASDORFF, HENRY W & MANDY 2115 W STRATTON AVE SPOKANE, WA 99208
NORRIS, KEVIN F & DORIS J 2009 W STRATTON AVE SPOKANE, WA 99208	MATLEN, DARRYL PO BOX 28307 SPOKANE, WA 99228-8307
SHAW, MATTHEW L & MINDI M 2206 W WEILE AVE SPOKANE, WA 99208-4317	MARIK, VACLAV R & EVA 19898 ALLEGHENNY WAY CALDWELL, ID 83605

DISTRIBUTION LIST
VACATION OF ELGIN COURT

MADER JR, WILLIAM J & KIRSTEN L 2126 W WEILE AVE SPOKANE, WA 99208-	ASTERINO, J C 2110 W WEILE AVE SPOKANE, WA 99208-4315
TURNER, LAUREN E 2212 W WEILE AVE SPOKANE, WA 99208	CARPENTER, RALPH F & RITA E 2021 W WEILE AVE SPOKANE, WA 99208
CARUSO, SUSAN 2011 W TARYN CT SPOKANE, WA 99208-4308	
THAYER, RALPH G & KEELY T 2208 W STRATTON AVE SPOKANE, WA 99208	
ASTERINO, DR J C 2110 W WEILE AVE SPOKANE, WA 99208-4315	
KORUM, BILL & DIXIE 2005 W TARYN CRT SPOKANE, WA 99208	
THOMAS, TIMOTHY L & LAUREN K 3510 W TRINITY SPOKANE, WA 99208	
FRITZ LIVING TRUST 7211 N QUAMISH DR SPOKANE, WA 99208	