

CITY OF SPOKANE



REGARDING CITY COUNCIL MEETINGS

Notice is hereby given that City Council has resumed in-person meetings. City Council's standing committee meetings, Briefing Sessions, Legislative Sessions and study sessions are held in City Council Chambers – Lower Level of City Hall, 808 W. Spokane Falls Blvd.

City Council Members, City staff, presenters and members of the public will still have the option to participate virtually via WebEx during all meetings, with the exception of Executive Sessions which are closed to the public. Call in information for the April 10, 2023, meetings is below. All meetings will continue to be streamed live on Channel 5 and online at <https://my.spokanecity.org/citycable5/live> and <https://www.facebook.com/spokanecitycouncil>.

WebEx call in information for the week of April 10, 2023:

1:15 p.m. Committee Meeting: 1-408-418-9388; access code: 2491 952 4023; password: 0320

3:30 p.m. Briefing Session: 1-408-418-9388; access code: 2497 452 1932; password: 0320

6:00 p.m. Legislative Session: 1-408-418-9388; access code: 2480 493 0435; password: 0320

Thursday Study Session: 1-408-418-9388; access code: 2480 676 7327; password: 0320

To participate in public comment (including Open Forum):

Testimony sign up is open from 5:00-6:00 p.m. on Monday, April 10, 2023. You must sign up by 6:00 p.m. to be called on to testify. Sign up forms will be available outside of Council Chambers for in-person attendees.

Those wishing to give testimony virtually can sign up between 5:00-6:00 p.m. at <https://forms.gle/Vd7n381x3seaL1NW6>. (If you are unable to access the form by clicking the hyperlink, please copy and paste the link address into your browser window.) Instructions for participation are provided on the form when you sign up.

The Open Forum is a limited public forum; all matters discussed in the open forum shall relate to the affairs of the City and items of interest not relating to the Current or Advance Agendas, pending hearing items, or initiatives or referenda in a pending election. Individuals speaking during the open forum shall address their comments to the Council President and shall not use profanity, engage in obscene speech, or make personal comment or verbal insults about any individual.

**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 public testimony on legislative items (two minutes for open forum)!**

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

- A. At the 6:00 p.m. legislative session, prior to the consideration of consent or legislative items, the Council shall hold an open forum unless a majority of Council Members vote otherwise. The open forum shall have 15 (fifteen) spaces of two minutes each available and members of the public who have not spoken during open forum during that calendar month will be prioritized for spaces ahead of those who have spoken during that calendar month.
- B. Members of the public can sign up for open forum in the hour preceding the legislative session, or at the conclusion of the briefing session, whichever is later, via the virtual testimony form linked in the meeting packet or in person outside Council Chambers. Each speaker must sign themselves using their true first and last name. Members of the public who are unable to sign up during the sign up period or who attempt to sign up late will not be added to the list of speakers. The order of the speakers will be determined at the discretion of the chair. Each speaker shall be limited to no more than two minutes unless a majority of the Council Members in attendance vote on an alternate time limit.
- C. No action, other than a statement of Council Members' intent to address the matter in the future, points of order, or points of information will be taken by Council Members during an open forum.
- D. The open forum is a limited public forum and all matters discussed in the open forum shall relate to the affairs of the City. No person shall be permitted to speak in open forum regarding items on that week's current agenda or the next week's advanced agenda, pending hearing items, or initiatives or referenda in a pending election. Individuals speaking during open forum shall address their comments to the Council President and shall maintain decorum as laid out in Rule 2.15(E). Legal or personal matters between private parties that do not impact the governance of the City of Spokane are not a permissible topic of open forum testimony.

Rule 2.7 SERVICE ANIMALS AT CITY COUNCIL MEETINGS

- A. For purposes of these Rules, only dogs that are individually trained to do work or perform tasks for a person with a disability are recognized as service animals. Dogs or other animals whose sole function is to provide comfort or emotional support do not qualify as service animals under these Rules. Service animals are permitted to accompany people with disabilities in City Council meetings, as well as all areas where members of the public are allowed to go.
- B. Service animals must, at all times while present in a City Council meeting, be harnessed, leashed, or tethered, unless these devices interfere with the service animal's work or the individual's disability prevents using these devices, in which case, the individual must maintain control of the animal through voice, signal, or other effective controls.

Rule 2.15 PARTICIPATION OF MEMBERS OF THE PUBLIC IN COUNCIL MEETINGS

- A. Members of the public may address the Council regarding the following items during the Council's legislative session: the consent agenda as a whole, all first reading ordinances together (with the exception of first reading ordinances associated with Hearings, which shall be taken separately), final readings of regular and special budget ordinances, emergency ordinances, special consideration items, hearing items, and other items before the City Council requiring Council action, except those that are adjudicatory or solely administrative in nature. This rule shall not limit the public's right to speak on issues that are not part of the current or advanced agendas during open forum.
- B. No member of the public 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 their city of residence as a condition of recognition. Council Members must be recognized by the chair for the purpose of obtaining the floor.

- C. Each person speaking in a public Council meeting shall verbally identify themselves by true first and last name, city of residence, and, if appropriate, representative capacity.
- D. 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.
- E. 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, signs, applause, profanity, vulgar language or obscene speech, physically pounding the dais or other furniture, yelling, or personal comments or verbal insults about any individual will be permitted.
- F. A speaker asserting a statement of fact may be asked by a Council Member to document and identify the sources of the factual datum being asserted.
- G. When addressing the Council, members of the public shall direct all remarks to the Council President, shall refrain from remarks directed personally to any Council Member or any other individual, and shall confine remarks to the matters that are specifically before the Council at that time.
- H. City employees may participate in public comment, including open forum, providing they are in compliance with the City of Spokane Code of Ethics and they do the following:
 1. Announce at the beginning of their testimony that they are there in their personal capacity or their capacity as a member of a relevant board, commission, committee or community group;
 2. Protect confidential information, including, but not limited to, confidential financial information and attorney-client communications;
 3. Do not use, or be perceived to use, City funds, including giving testimony during paid work time or while in uniform; or City property, including using a City-issued computer or cell phone, in giving testimony.
- I. 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 and avoiding unlawful harassment set forth in Rule 1.2 and the rules governing debate set forth in *Robert's Rules of Order, newly revised*, shall extend to all speakers before the City Council. The City Council's Director of Policy and Government Relations and/or City Attorney shall, with the assistance of Council staff, assist the Council President to ensure that all individuals desiring to speak shall be identified, appropriately recognized, and provided the opportunity to speak. All persons attending City Council Meetings or City Council sponsored meetings shall refrain from unlawfully harassing other attendees or risk being removed and/or prohibited from attending future meetings.

Rule 2.16 PUBLIC TESTIMONY REGARDING LEGISLATIVE AGENDA ITEMS – TIME LIMITS

- A. Members of the public can sign up to give testimony in the hour preceding the legislative session, or at the conclusion of the briefing session, whichever is later, via the virtual testimony form linked in the meeting packet or in person outside Council Chambers. Each speaker must sign themselves using their true first and last name. Members of the public who are unable to sign up during the sign up period or who attempt to sign up late will not be added to the list of speakers. The order of the speakers shall be determined at the discretion of the chair.
- B. The City Council shall take public testimony on all matters included on its legislative agenda as described at Rule 2.15(A), with those exceptions stated in Rule 2.16(B). Public testimony shall be limited to the final Council action, except that public testimony shall be allowed at the first reading of ordinances. Public testimony shall be limited to three (3) minutes per speaker unless the time limit is adjusted by a majority vote of the Council. The chair may allow additional time if the speaker is asked to respond to questions from the Council. Public testimony and consideration of an item may be extended to a subsequent meeting by a majority vote of the Council.
- C. No public testimony shall be taken on amendments to consent or legislative agenda items, votes to override a Mayoral veto, or solely procedural, parliamentary, or administrative matters of the Council.
- D. Public testimony will be taken on consent and legislative items that are moved to Council's regular briefing session or study session unless a majority of Council votes otherwise during the meeting in which the items are moved.
- E. For legislative or hearing items that may affect an identifiable individual, association, or group, the following procedure may be implemented at the discretion of the Council President:

1. Following an assessment by the chair of factors such as complexity of the issue(s), the apparent number of people indicating a desire to testify, representation by designated spokespersons, etc., the chair shall, in the absence of objection by the majority of the Council present, impose the following procedural time limitations for taking public testimony regarding legislative matters:
 - a. There shall be up to fifteen (15) minutes for staff, board, or commission presentation of background information, if any.
 - b. The designated representative of the proponents of the issue shall speak first and may include within their presentation the testimony of expert witnesses, visual displays, and any other reasonable methods of presenting the case. Up to thirty (30) minutes may be granted for the proponent's presentation. If there be more than one designated representative, they shall allocate the allotted time between or among themselves.
 - c. Following the presentation of the proponents of the issue, three (3) minutes shall be granted for any other person not associated with the designated representative of the proponents who wishes to speak on behalf of the proponent's position.
 - d. The designated representative, if any, of the opponents of the issue shall speak following the presentation of the testimony of expert witnesses, visual displays, and any other reasonable methods of presenting the case. The designated representative(s) of the opponents shall have the same amount of time which was allotted to the proponents.
 - e. Following the presentation by the opponents of the issue, three (3) minutes shall be granted for any other person not associated with the designated representative of the opponents who wishes to speak on behalf of the opponents' position.
 - f. Up to ten (10) minutes of rebuttal time may be granted to the designated representative for each side, the proponents speaking first, the opponents speaking second.
 2. In the event the party or parties representing one side of an issue has a designated representative and the other side does not, the chair shall publicly ask the unrepresented side if they wish to designate one or more persons to utilize the time allotted for the designated representative. If no such designation is made, each person wishing to speak on behalf of the unrepresented side shall be granted three (3) minutes to present their position, and no additional compensating time shall be allowed due to the fact that the side has no designated representative.
 3. In the event there appears to be more than two groups wishing to advocate their distinct positions on a specific issue, the chair may grant the same procedural and time allowances to each group or groups, as stated previously.
 4. In the event that the side for which individuals wish to speak is not identified, those wishing to give testimony shall be granted three (3) minutes to present their position after all sides have made their initial presentations and before each side's rebuttal period.
- F. The time taken for staff or Council Member questions and responses thereto shall be in addition to the time allotted for any individual or designated representative's testimony.
- G. Testimony may also be submitted by mail to City Council Office, Spokane City Hall, 808 W. Spokane Falls Blvd., Spokane, WA, 99201, by email to all Council Members, or via the Contact form on the Council's website.

THE CITY OF SPOKANE



ADVANCE COUNCIL AGENDA

MEETING OF MONDAY, APRIL 10, 2023

MISSION STATEMENT

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

MAYOR NADINE WOODWARD

COUNCIL PRESIDENT BREEAN BEGGS

COUNCIL MEMBER JONATHAN BINGLE

COUNCIL MEMBER LORI KINNEAR

COUNCIL MEMBER BETSY WILKERSON

COUNCIL MEMBER MICHAEL CATHCART

COUNCIL MEMBER KAREN STRATTON

COUNCIL MEMBER ZACK ZAPPONE

**CITY COUNCIL CHAMBERS
CITY HALL**

**808 W. SPOKANE FALLS BLVD.
SPOKANE, WA 99201**

LAND ACKNOWLEDGEMENT

We acknowledge that we are on the unceded land of the Spokane people. And that these lands were once the major trading center for the Spokanes as they shared this place and welcomed other area tribes through their relations, history, trade, and ceremony. We also want to acknowledge that the land holds the spirit of the place, through its knowledge, culture, and all the original peoples Since Time Immemorial.

As we take a moment to consider the impacts of colonization may we also acknowledge the strengths and resiliency of the Spokanes and their relatives. As we work together making decisions that benefit all, may we do so as one heart, one mind, and one spirit.

We are grateful to be on the shared lands of the Spokane people and ask for the support of their ancestors and all relations. We ask that you recognize these injustices that forever changed the lives of the Spokane people and all their relatives.

We agree to work together to stop all acts of continued injustices towards Native Americans and all our relatives. It is time for reconciliation. We must act upon the truths and take actions that will create restorative justice for all people.

Adopted by Spokane City Council on the 22nd day of March, 2021
via Resolution 2021-0019

BRIEFING AND LEGISLATIVE SESSIONS

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. Pursuant to Council Rule 2.16.C, public testimony will be taken on consent and legislative items that are moved to Council's regular Briefing Session unless a majority of Council votes otherwise during the meeting in which the items are moved. The Legislative Session is also open to the public and public comment will be taken on Legislative Session items, except those that are adjudicatory or solely administrative in nature. Following the conclusion of the Legislative Agenda, an Open Forum will be held unless a majority of Council Members vote otherwise. Please see additional Open Forum information that appears at the end of the City Council agenda.

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.

ADDRESSING THE COUNCIL

- No member of the public 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 their city of residence as a condition of recognition. Council Members must be recognized by the chair for the purpose of obtaining the floor.
- Each person speaking at the public microphone shall verbally identify themselves by their true first and last name, city of residency and, if appropriate, representative capacity.
- 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. (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, no modes of expression including but not limited to demonstrations, banners, signs, applause, profanity, vulgar language, or personal insults will be permitted.
- A speaker asserting a statement of fact may be asked to document and identify the source of the factual datum being asserted.
- When addressing the Council, members of the public shall direct all remarks to the Council President, shall refrain from remarks directed personally to any Council Member or any other individual, and shall continue to the matters that are specifically before the Council at that time.
- City staff may participate in public comment, including open forum, providing they are in compliance with the City of Spokane Code of Ethics and they follow the steps outlined in the City Council Rules of Procedure.

SPEAKING TIME LIMITS: Unless the time limit is adjusted by a majority vote of the Council, each person addressing the Council shall be limited to a two-minute speaking time during Open Forum and a three-minute speaking time for other matters. The chair may allow additional time if the speaker is asked to respond to questions from the Council. Public testimony and consideration of an item may be extended to a subsequent meeting by a majority vote of the Council. Note: No public testimony shall be taken on amendments to consent or legislative agenda items, or solely procedural, parliamentary, or administrative matters of the Council, including veto overrides.

CITY COUNCIL AGENDA: The City Council Advance and Current Agendas may be obtained prior to Council Meetings by accessing the City website at <https://my.spokanecity.org>.

BRIEFING SESSION

(3:30 p.m.)

(Council Chambers Lower Level of City Hall)
(No Public Testimony Taken)

ROLL CALL OF COUNCIL

INTERVIEWS OF NOMINEES TO BOARDS AND COMMISSIONS

COUNCIL OR STAFF REPORTS OF MATTERS OF INTEREST

ADVANCE AGENDA REVIEW (Staff or Council Member briefings and discussion)

APPROVAL BY MOTION OF THE ADVANCE AGENDA

CURRENT AGENDA REVIEW (Presentation of any new background information and discussion of any adjustments)

EXECUTIVE SESSION

(Closed Session of Council)

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

LEGISLATIVE SESSION

(6:00 P.M.)

(Council Reconvenes in Council Chamber)

PLEDGE OF ALLEGIANCE

WORDS OF INSPIRATION AND SPECIAL INTRODUCTIONS

ROLL CALL OF COUNCIL

COUNCIL AND COMMITTEE REPORTS

(Committee Reports for City Council Standing Committees and other Boards and Commissions)

PROCLAMATIONS AND SALUTATIONS

REPORTS FROM NEIGHBORHOOD COUNCILS AND/OR OTHER CITY-SPONSORED COMMUNITY ORGANIZATIONS

ANNOUNCEMENTS

(Announcements regarding Changes to the City Council Agenda)

NO BOARDS AND COMMISSIONS APPOINTMENTS

ADMINISTRATIVE REPORTS

OPEN FORUM

At each meeting after the conclusion of the legislative agenda, the Council shall hold an open public comment period until 9:30 p.m., which may be extended by motion. Each speaker is limited to no more than three minutes. In order to participate in Open Forum, you must sign up by 6:00 p.m. A sign-up form will be available on the day of the meeting from 5:00-6:00 p.m. outside of Council Chambers for in-person attendees. Those wishing to comment virtually can sign up between 5:00-6:00 p.m. at <https://forms.gle/Vd7n381x3seal1NW6>. (If you are unable to access the form by clicking the hyperlink, please copy and paste the link address into your browser window.) Instructions for virtual participation are provided on the form when you sign up. The Open Forum is a limited public forum; all matters discussed in the open forum shall relate to the affairs of the City and items of interest not relating to the Current or Advance Agendas, pending hearing items, or initiatives or referenda in a pending election. Individuals speaking during the open forum shall address their comments to the Council President and shall not use profanity, engage in obscene speech, or make personal comment or verbal insults about any individual.

CONSENT AGENDA

REPORTS, CONTRACTS AND CLAIMS

RECOMMENDATION

- | | | |
|--|------------------------|--|
| <p>1. Low Bid of Inland Infrastructure, LLC (Spokane, WA) for the Holland Avenue Sewer - Normandie to Colton—\$5,640,705 (plus tax). An administrative reserve of \$564,070.50 (plus tax), which is 10% of the contract price, will be set aside. (Council Sponsor: Council Member Kinnear)
Dan Buller</p> | <p>Approve</p> | <p>OPR 2023-0389
ENG 2021082</p> |
| <p>2. Recommendations to list on the Spokane Register of Historic Places:</p> <ul style="list-style-type: none"> a. Ahrens & Ahrens Automobile Dealership, 807 West 2nd Avenue. b. Spokane Brewing & Malting Building, 901 West Broadway Avenue. c. Hillyard Masonic Temple, 3023 East Diamond Avenue. <p>(Council Sponsors: Council Members Bingle and Cathcart)
Megan Duvall</p> | <p>Approve
All</p> | <p>OPR 2023-0390</p> <p>OPR 2023-0391</p> <p>OPR 2023-0392</p> |

- | | | |
|---|---|--|
| <p>3. Contract with Friends of KSPS (Spokane) for distribution of PEG programming to Comcast for delivery of community and educational access programming from January 1, 2023 through December 31, 2023—\$68,300. (Council Sponsor: Council Member Stratton)
Jeff Bollinger</p> | <p>Approve</p> | <p>OPR 2023-0393</p> |
| <p>4. Reimbursement Contract with Community Minded Enterprises (Spokane) to operate CMTV 14, the City’s Community Access television channel, as part of the City’s cable franchise with Comcast Cable from January 1, 2023 through December 31, 2023—\$70,000. (Council Sponsor: Council Member Stratton)
Jeff Bollinger</p> | <p>Approve</p> | <p>OPR 2023-0394</p> |
| <p>5. Contract Renewal with Incapsulate, LLC for our Customer Relationship Management System Annual Software Maintenance and Support from May 1, 2023 through April 30, 2024—\$106,881.82 (plus tax). (Council Sponsor: Council Member Bingle)
Michael Sloon</p> | <p>Approve</p> | <p>OPR 2019-0292
RFP 4481-18</p> |
| <p>6. Sole Source Contract Renewal with Oracle America, Inc for Oracle license software maintenance and support from April 21, 2023 through April 20, 2024—\$206,053.07 (plus tax). (Council Sponsor: Council Member Bingle)
Michael Sloon</p> | <p>Approve</p> | <p>OPR 2019-0314</p> |
| <p>7. Report of the Mayor of pending:</p> <p style="margin-left: 20px;">a. Claims and payments of previously approved obligations, including those of Parks and Library, through _____, 2023, total \$_____, with Parks and Library claims approved by their respective boards. Warrants excluding Parks and Library total \$_____.</p> <p style="margin-left: 20px;">b. Payroll claims of previously approved obligations through_____, 2023: \$_____.</p> | <p>Approve &
Authorize
Payments</p> | <p>CPR 2023-0002</p> |
| <p>8. City Council Meeting Minutes: February 27 and March 6, 2023.</p> | <p>Approve
All</p> | <p>CPR 2023-0003
CPR 2023-0013</p> |

LEGISLATIVE AGENDA

SPECIAL BUDGET ORDINANCES

(Require Five Affirmative, Recorded Roll Call Votes)

Ordinances amending Ordinance No. C36345 passed by the City Council December 12, 2022, and entitled, "An Ordinance adopting the Annual Budget of the City of Spokane for 2023, making appropriations to the various funds of the City of Spokane government for the fiscal year ending December 31, 2023, and providing it shall take effect immediately upon passage," and declaring an emergency and appropriating funds in:

ORD C36374 Various Funds to make grade and associated pay range changes for various positions (as more specifically described in the ordinance).

(This action arises from the need to adjust pay ranges to align with salary analysis.) (Council Sponsors: Council Members Stratton and Wilkerson)

Mike Piccolo

ORD C36375 Miscellaneous Grants Fund

1) Increase revenue by \$183,648.

A) Of the increased revenue, \$183,648 is provided by the Administrative Office of the Courts for the Domestic Violence Intervention Therapeutic Court.

2) Increase appropriation by \$183,648.

A) Of the increased appropriation, \$25,000 is provided solely for personnel salaries and benefits.

B) Of the increased appropriation, \$19,500 is provided solely for staff equipment and training.

C) Of the increased appropriation, \$139,148 is provided solely for other participant services.

(This action accepts the Administrative Office of the Courts additional DVITC grant.) (Council Sponsors: Council President Beggs and Council Member Wilkerson)

Sarah Thompson

NO EMERGENCY ORDINANCES

NO RESOLUTIONS

FINAL READING ORDINANCES

(Require Four Affirmative, Recorded Roll Call Votes)

ORD C36373 Establishing requirements for unallocated reserve balances within the General Fund; enacting new sections 07.14.030 and 07.14.040 of the Spokane Municipal Code. (Council Sponsors: Council President Beggs and Council Members Cathcart and Wilkerson)

Matt Boston

ORD C36360 Granting a non-exclusive franchise to use the public right-of-way to provide noncable telecommunications service to the public to MCI Metro Access Transmission Services LLC, subject to certain conditions and duties as further provided. (First Reading to be held on February 27, 2023) (Council Sponsors: Council President Beggs and Council Member Kinnear)

Timothy Szambelan

ORD C36361 Granting a non-exclusive franchise to use the public right-of-way to provide noncable telecommunications service to the public to Fatbeam LLC, subject to certain conditions and duties as further provided. (First Reading to be held on February 27, 2023) (Council Sponsors: Council President Beggs and Council Member Kinnear)

Timothy Szambelan

FIRST READING ORDINANCES

ORD C36376 Relating to City Council office staff; amending sections 2.005.010, 2.005.030, 2.005.050, and 2.005.060 of the Spokane Municipal Code and adopting new sections 2.005.070, 2.005.080, 2.005.090 and 2.005.100 of the Spokane Municipal Code. (Council Sponsors: Council President Beggs and Council Member Zappone)

Council President Beggs

ORD C36377 Relating to the executive and administrative organization of the City; amending SMC section 3.01A.215 (changes Accounting Department to Accounting and Grants Department. (Council Sponsors: Council President Beggs and Council Member Wilkerson)

Tonya Wallace

FURTHER ACTION DEFERRED

NO SPECIAL CONSIDERATIONS

NO HEARINGS

Motion to Approve Advance Agenda for April 10, 2023
(per Council Rule 2.1.2)

ADJOURNMENT

The April 10, 2023, Regular Legislative Session of the City Council is adjourned to April 17, 2022.

NOTES



Agenda Sheet for City Council Meeting of:
04/10/2023

Date Rec'd	3/28/2023
Clerk's File #	OPR 2023-0389
Renews #	

Submitting Dept	ENGINEERING SERVICES	Cross Ref #	
Contact Name/Phone	DAN BULLER 625-6391	Project #	2021082
Contact E-Mail	DBULLER@SPOKANECITY.ORG	Bid #	
Agenda Item Type	Contract Item	Requisition #	CR 24794
Agenda Item Name	0370 – LOW BID AWARD – HOLLAND AVENUE SEWER 2021082 – INLAND INFRASTRUCTURE		

Agenda Wording

Low Bid of Inland Infrastructure, LLC of (Spokane, WA) for the Holland Avenue Sewer - Normandie to Colton in the amount of \$5,640,705.00 plus tax. An administrative reserve of \$564,070.50 plus tax, which is 10% of the contract, will be set aside.

Summary (Background)

On March 27, 2023, bids were opened for the above project. The low bid was from Inland Infrastructure, LLC in the amount of \$5,640,705.00, which is \$1,071,311.50 or 16.94% under the Engineer's Estimate; 1 other bid was received as follows: DW Excavating, Inc., - \$6,077,077.00. Various Neighborhood Councils.

Lease? NO Grant related? NO Public Works? YES

Fiscal Impact

Expense	\$ 1,221,892.18
Expense	\$ 4,712,319.28
Expense	\$ 597,170.10
Select	\$

Budget Account

3200 48400 95300 56501 86060
4250 98817 94350 56501 14354
4250 43354 94310 56501 14354
#

Approvals

Dept Head	BULLER, DAN
Division Director	FEIST, MARLENE
Finance	BUSTOS, KIM
Legal	HARRINGTON, MARGARET
For the Mayor	PERKINS, JOHNNIE

Council Notifications

Study Session\Other	PIES 11/28/2023
Council Sponsor	Kinnear
Distribution List	eraea@spokanecity.org
	publicworksaccounting@spokanecity.org
Additional Approvals	kgoodman@spokanecity.org
Purchasing	htrautman@spokanecity.org
	ddaniels@spokanecity.org
	jgraff@spokanecity.org
	Signee - Marshall Sampson msampson@inland-co.com

Committee Agenda Sheet

PIES

Submitting Department	Public Works, Engineering
Contact Name & Phone	Dan Buller 625-6391
Contact Email	dbuller@spokanecity.org
Council Sponsor(s)	Lori Kinnear
Select Agenda Item Type	X Consent <input type="checkbox"/> Discussion Time Requested: _____
Agenda Item Name	Holland Sewer – Normandie to Colton
Summary (Background)	<ul style="list-style-type: none"> • The Northpointe lift station (i.e., sewage pumping station), located at the southeast corner of Holland & Colton, is 60 years old and in need of replacement. • Due to the very small parcel on which it is located (which is also the site of various cell phone infrastructure), the cost of replacement of the lift station on this parcel is very high. There are few options to replace this lift station nearby. • The City’s Integrated Capital Management, Wastewater Management and Engineering Services Departments have therefore evaluated installation of a deep sewer on Holland Ave. as shown on the exhibit below. Installation of this sewer would eliminate the need to replace this sewage lift station and well as eliminate significant future on-going operational expenses associated with this lift station. • Because the proposed sewer main would cross very busy streets (Hwy 2 and Division St.) with significant traffic impacts, we propose to bore and jack (i.e., tunnel) beneath these streets to minimize those impacts. See green rectangles on attached exhibit. • While boring and jacking will significantly reduce impacts to Hwy 2 and Division St., traffic on Holland St. will be restricted or eliminated (depending on the project phase) for several months. • Neighborhood outreach has not yet been done but will be robust on account of the presence of a significant number of large businesses. • This project is locally funded. • This work is planned for summer/fall 2023.
Proposed Council Action & Date:	None at this time. Following bid opening, we will bring a construction contract to Council for approval.
Fiscal Impact:	
Total Cost:	
Approved in current year budget? X Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
Funding Source X One-time <input type="checkbox"/> Recurring	
Specify funding source: project funds (generally street or utility funds)	
Expense Occurrence X One-time <input type="checkbox"/> Recurring	
Other budget impacts: (revenue generating, match requirements, etc.)	
Operations Impacts	
What impacts would the proposal have on historically excluded communities?	

Public Works services and projects are designed to serve all citizens and businesses. We strive to offer a consistent level of service to all, to distribute public investment throughout the community, and to respond to gaps in services identified in various City plans. We recognize the need to maintain affordability and predictability for utility customers. And we are committed to delivering work that is both financially and environmentally responsible. This item supports the operations of Public Works.

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

N/A – This contract supports multiple public works projects and should not impact racial, gender identity, national origin, income level, disability, sexual orientation or other existing disparity factors.

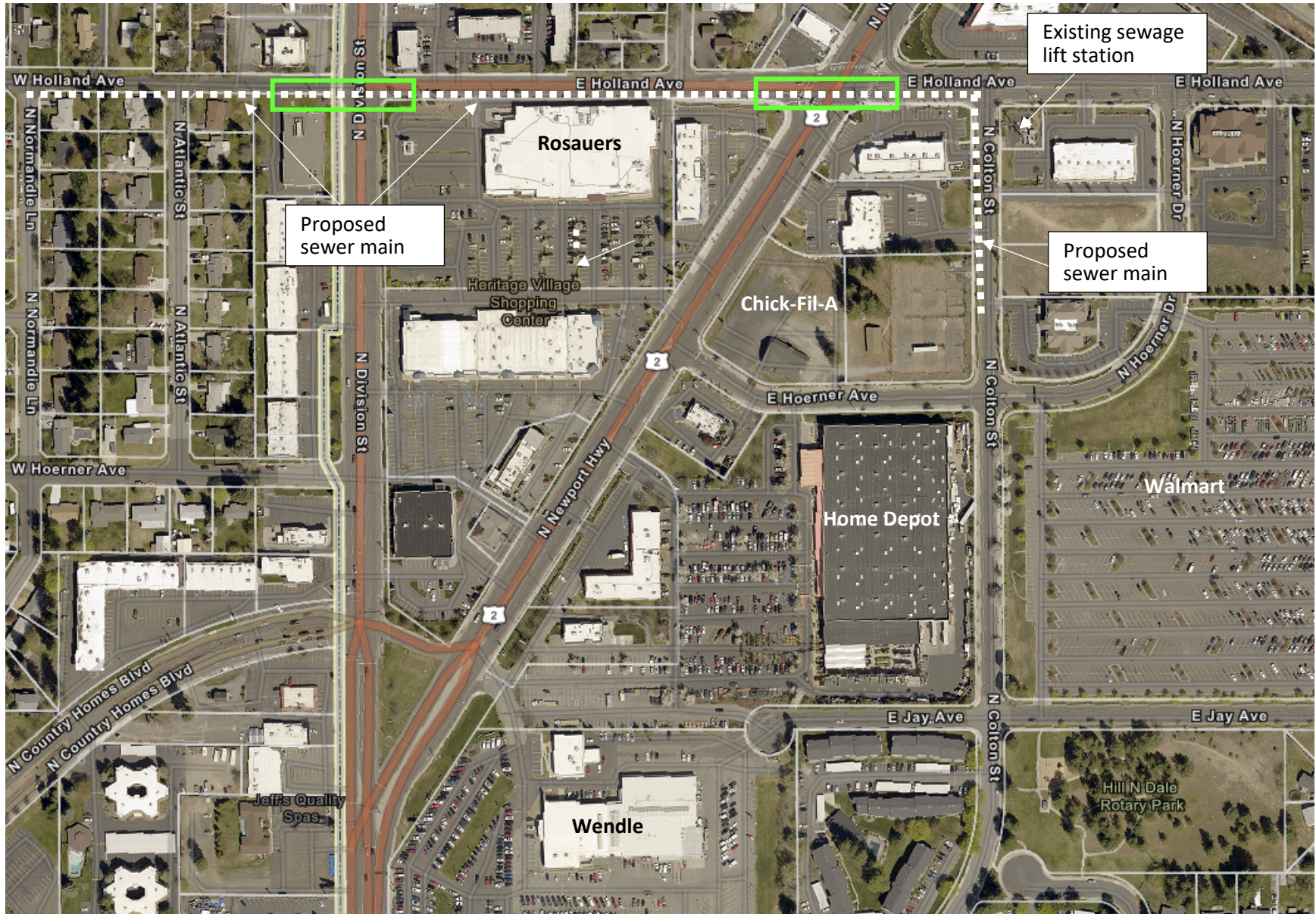
How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

Public Works follows the City's established procurement and public works bidding regulations and policies to bring items forward, and then uses contract management best practices to ensure desired outcomes and regulatory compliance.

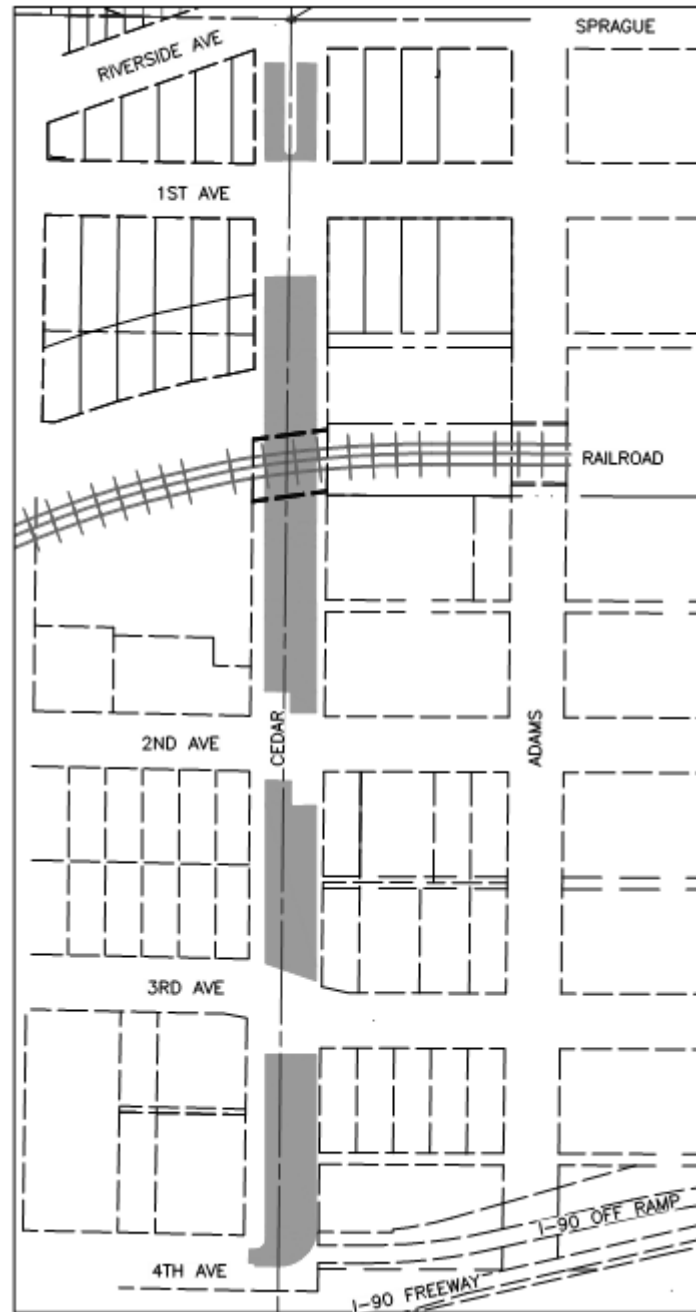
Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

The projects which will use this on-call contract are consistent with our adopted six year programs as well as the annual budget and strategic initiative to advance street maintenance activities.

Project Location



Area 3





City of Spokane
PUBLIC WORKS CONTRACT
Title: **HOLLAND AVENUE SEWER –
NORMANDIE LANE TO COLTON STREET**

This Contract is made and entered into by and between the **CITY OF SPOKANE** as (“City”), a Washington municipal corporation, and **INLAND INFRASTRUCTURE, LLC**, whose address is P.O. Box 3072, Spokane, Washington 99220 as (“Contractor”), individually hereafter referenced as a “party”, and together as the “parties”.

The parties agree as follows:

1. **PERFORMANCE.** The Contractor will do all work, furnish all labor, materials, tools, construction equipment, transportation, supplies, supervision, organization and other items of work and costs necessary for the proper execution and completion of the work described in the Special Provisions entitled **HOLLAND AVENUE SEWER – NORMANDIE LANE TO COLTON STREET.**
2. **CONTRACT DOCUMENTS.** The contract documents are this Contract, the Contractor’s completed bid proposal form, the Washington State Department of Transportation’s Standard Specifications for Road, Bridge and Municipal Construction 2022, City of Spokane Special Provisions, contract provisions, contract plans, standard plans, addenda, various certifications and affidavits, supplemental agreements, change orders and subsurface boring logs (if any). These contract documents are on file in the Engineering Services Department and are incorporated into this Contract by reference as if they were set forth at length. In the event of a conflict, or to resolve an ambiguity or dispute, the order of precedence defined in the City of Spokane Special Provisions section 1-04.2 City Engineering Services File No. 2018106 shall apply.
3. **TIME OF PERFORMANCE.** The time of performance of the Contract shall be in accordance with the contract documents.
4. **LIQUIDATED DAMAGES.** Liquidated damages shall be in accordance with the contract documents.
5. **TERMINATION.** Either party may terminate this Contract in accordance with the contract documents.
6. **COMPENSATION.** This is a unit price contract, and upon full and complete performance by the Contractor, the City will pay only the amount set forth in Schedules A-1 and A-3 for the actual quantities furnished for each bid item at a pre-tax total cost not to exceed \$5,640,705.00.

7. TAXES. Bid items in Schedule A-1 will include sales tax. Bid items in Schedule A-3 shall not include sales tax.

8. PAYMENT. The Contractor will send its applications for payment to the Engineering Services Department, 998 E North Foothills Drive Spokane, WA 99207-2735. All invoices should include the City Clerk's File No. "OPR XXXX-XXXX" and an approved L & I Intent to Pay Prevailing Wage number. The final invoice should include an approved Affidavit of Wages Paid number. Payment will not be made without this documentation included on the invoice. **Payment will be made via direct deposit/ACH** within thirty (30) days after receipt of the Company's application except as provided by state law. Five percent (5%) of the Contract price may be retained by the City, in accord with RCW 60.28 for a minimum of forty five (45) days after final acceptance, as a trust fund for the protection and payment of: the claims of any person arising under the Contract; and the State with respect to taxes imposed pursuant to Titles 50, 51 and 82 RCW which may be due from the Contractor.

9. INDEMNIFICATION. The Contractor shall defend, indemnify, and hold the City and its officers and employees harmless from all claims, demands, or suits at law or equity asserted by third parties for bodily injury (including death) and/or property damage which arise from the Contractor's negligence or willful misconduct under this Agreement, including attorneys' fees and litigation costs; provided that nothing herein shall require a Contractor to indemnify the City against and hold harmless the City from claims, demands or suits based solely upon the negligence of the City, its agents, officers, and employees. If a claim or suit is caused by or results from the concurrent negligence of the Contractor's agents or employees and the City, its agents, officers and employees, this indemnity provision shall be valid and enforceable to the extent of the negligence of the Contractor, its agents or employees. The Contractor specifically assumes liability and agrees to defend, indemnify, and hold the City harmless for actions brought by the Contractor's own employees against the City and, solely for the purpose of this indemnification and defense, the Contractor specifically waives any immunity under the Washington State industrial insurance law, or Title 51 RCW. The Contractor recognizes that this waiver was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation. The indemnity and agreement to defend and hold the City harmless provided for in this section shall survive any termination or expiration of this agreement.

10. BONDS. The Contractor may not commence work until it obtains all insurance, permits and bonds required by the contract documents and applicable law. This includes the execution of a performance bond and a payment bond on the forms attached, each equal to one hundred percent (100%) of the contract price, and written by a corporate surety company licensed to do business in Washington State.

11. INSURANCE. The Contractor represents that it and its employees, agents and subcontractors, in connection with the Contract, are protected against the risk of loss by the insurance coverages required in the contract documents. The policies shall be issued by companies that meet with the approval of the City Risk Manager. The policies shall not be canceled without at least minimum required written notice to the City as Additional Insured.

12. CONTRACTOR'S WARRANTY. The Contractor's warranty for all work, labor and materials shall be in accordance with the contract documents.

13. WAGES. The Contractor and all subcontractors will submit a "Statement of Intent to Pay Prevailing Wages" certified by the industrial statistician of the Department of Labor and Industries,

prior to any payments. The "Statement of Intent to Pay Prevailing Wages" shall include: (1) the Contractor's registration number; and (2) the prevailing wages under RCW 39.12.020 and the number of workers in each classification. Each voucher claim submitted by the Contractor for payment on a project estimate shall state that the prevailing wages have been paid in accordance with the "Statement(s) of Intent to Pay Prevailing Wages" on file with the City. Prior to the payment of funds held under RCW 60.28, the Contractor and subcontractors must submit an "Affidavit of Wages Paid" certified by the industrial statistician.

14. STATEMENT OF INTENT TO PAY PREVAILING WAGES TO BE POSTED. The Contractor and each subcontractor required to pay the prevailing rate of wages shall post in a location readily visible at the job site: (1) a copy of a "Statement of Intent to Pay Prevailing Wages" approved by the industrial statistician of the State Department of Labor and Industries; and (2) the address and telephone number of the industrial statistician of the Department of Labor and Industries where a complaint or inquiry concerning prevailing wages may be made.

15. PUBLIC WORKS REQUIREMENTS. The Contractor and each subcontractor are required to fulfill the Department of Labor and Industries Public Works and Prevailing Wage Training Requirement under RCW 39.04.350. The contractor must verify responsibility criteria for each first tier subcontractor, and a subcontractor of any tier that hires other subcontractors must verify the responsibility criteria listed in RCW 39.04.350(1) for each of its subcontractors. Verification shall include that each subcontractor, at the time of subcontract execution, meets the responsibility criteria. This verification requirement, as well as responsibility criteria, must be included in every public works contract and subcontract of every tier.

16. SUBCONTRACTOR RESPONSIBILITY.

A. The Contractor shall include the language of this section in each of its first tier subcontracts, and shall require each of its subcontractors to include the same language of this section in each of their subcontracts, adjusting only as necessary the terms used for the contracting parties. Upon request of the City, the Contractor shall promptly provide documentation to the City demonstrating that the subcontractor meets the subcontractor responsibility criteria below. The requirements of this section apply to all subcontractors regardless of tier.

B. At the time of subcontract execution, the Contractor shall verify that each of its first tier subcontractors meets the following bidder responsibility criteria:

1. Have a current certificate of registration in compliance with chapter 18.27 RCW, which must have been in effect at the time of subcontract bid submittal;
2. Have a current Washington Unified Business Identifier (UBI) number;
3. If applicable, have:
 - a. Industrial Insurance (workers' compensation) coverage for the subcontractor's employees working in Washington, as required in Title 51 RCW;
 - b. A Washington Employment Security Department number, as required in Title 50 RCW;
 - c. A Washington Department of Revenue state excise tax registration number, as required in Title 82 RCW;
 - d. An electrical contractor license, if required by Chapter 19.28 RCW;

- e. An elevator contractor license, if required by Chapter 70.87 RCW.
- 4. Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).

C. On Public Works construction projects, as defined in RCW 39.04.010, with an estimated cost of six hundred thousand dollars (\$600,000) or more, at least fifteen (15) percent of the labor hours on each project shall be performed by apprentices enrolled in a State-approved apprenticeship program; and for each contract in the project fifteen (15) percent of the labor hours for each craft that has an available state-approved apprenticeship program for Spokane County and utilizes more than one hundred sixty (160) hours in each contract; shall be performed by apprentices enrolled in a state-approved apprenticeship program.

- 1. 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, and at least fifteen percent (15%) of the labor hours for each such subcontract shall be performed by apprentices in a state-approved apprenticeship program. For each craft that has an available apprenticeship program for Spokane county and performs more than one hundred sixty (160) hours on each project, fifteen (15) percent of the labor hours shall be performed by apprentices enrolled in a State-approved apprenticeship program
- 2. Each subcontractor which this chapter applies to is required to execute a form, provided by the city, acknowledging that the requirements of Article X 07.06 SMC are applicable to the labor hours for the project.

17. NONDISCRIMINATION. No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Contract because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation including gender expression or gender identity, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities. The Contractor agrees to comply with, and to require that all subcontractors comply with, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, as applicable to the Contractor.

18. EXECUTIVE ORDER 11246.

- A. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Contractor will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include but not be limited to the following: employment upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- B. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- C. The Contractor will send each labor union, or representative of workers with which it has

a collective bargaining contract or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the Contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- D. The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- E. The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- F. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations or orders, this Contract may be canceled, terminated or suspended in whole or in part, and the Contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- G. The Contractor will include the provisions of paragraphs A through G in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: PROVIDED, HOWEVER, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as the result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

19. DEBARMENT AND SUSPENSION. The Contractor has provided its certification that it is in compliance with and shall not contract with individuals or organizations which are debarred, suspended, or otherwise excluded from or ineligible from participation in Federal Assistance Programs under Executive Order 12549 and "Debarment and Suspension", codified at 29 CFR part 98.

20. ASSIGNMENTS. The Contractor may not assign, transfer or sublet any part of the work under this Contract, or assign any monies due, without the written approval of the City, except as may be required by law. In the event of assignment of accounts or monies due under this Contract, the Contractor specifically agrees to give immediate written notice to the City Administrator, no later than five (5) business days after the assignment.

21. ANTI-KICKBACK. No officer or employee of the City of Spokane, having the power or duty to perform an official act or action related to this Contract shall have or acquire any interest in the Contract, or have solicited, accepted or granted a present or future gift, favor, service or other thing of value from or to any person involved in the Contract. Contractor will comply with the Copeland "Anti-Kickback" Act (40 USC 3145), as supplemented by Department of Labor Regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States").

22. COMPLIANCE WITH LAWS. Each party shall comply with all applicable federal, state, and local laws and regulations that are incorporated herein by reference.
23. DISPUTES. This Contract shall be performed under the laws of the State of Washington. Any litigation to enforce this Contract or any of its provisions shall be brought in Spokane County, Washington.
24. SEVERABILITY. In the event any provision of this Contract should become invalid, the rest of the Contract shall remain in full force and effect.
25. AUDIT / RECORDS. The Contractor and its subcontractors shall maintain for a minimum of three (3) years following final payment all records related to its performance of the Contract. The Contractor and its subcontractors shall provide access to authorized City representatives, at reasonable times and in a reasonable manner to inspect and copy any such record. In the event of conflict between this provision and related auditing provisions required under federal law applicable to the Contract, the federal law shall prevail.
26. BUSINESS REGISTRATION REQUIREMENT. Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid annual business registration. The Contractor shall be responsible for contacting the State of Washington Business License Services at www.dor.wa.gov or 360-705-6741 to obtain a business registration. If the Contractor does not believe it is required to obtain a business registration, it may contact the City's Taxes and Licenses Division at (509) 625-6070 to request an exemption status determination.
27. CONSTRUAL. The Contractor acknowledges receipt of a copy of the contract documents and agrees to comply with them. The silence or omission in the contract documents concerning any detail required for the proper execution and completion of the work means that only the best general practice is to prevail and that only material and workmanship of the best quality are to be used. This Contract shall be construed neither in favor of nor against either party.
28. MODIFICATIONS. The City may modify this Contract and order changes in the work whenever necessary or advisable. The Contractor will accept modifications when ordered in writing by the Director of Engineering Services, and the Contract time and compensation will be adjusted accordingly.
29. INTEGRATION. This Contract, including any and all exhibits and schedules referred to herein or therein set forth the entire Agreement and understanding between the parties pertaining to the subject matter and merges all prior agreements, negotiations and discussions between them on the same subject matter.
30. OFF SITE PREFABRICATED ITEMS. In accordance with RCW 39.04.370, the Contractor shall submit certain information about off-site, prefabricated, nonstandard, project specific items produced under the terms of the Contract and produced outside Washington as a part of the "Affidavit of Wages Paid" form filed with the State Department of Labor and Industries.
31. FORCE MAJEURE. Neither party shall be liable to the other for any failure or delay in performing its obligations hereunder, or for any loss or damage resulting therefrom, due to: (1) acts of God or public enemy, acts of government, riots, terrorism, fires, floods, strikes, lock outs, epidemics, act or failure to act by the other party, or unusually severe weather affecting City, Contractor or its subcontractors, or (2) causes beyond their reasonable control and which are not

foreseeable (each a "Force Majeure Event"). In the event of any such Force Majeure Event, the date of delivery or performance shall be extended for a period equal to the time lost by reason of the delay.

32. CLEAN AIR ACT.

Contractor must comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 USC 7401-7671q) and the Federal Water Pollution Control Act as amended (33 USC 1251-1387). Violations will be reported.

33. USE OF PROJECT MANAGEMENT SOFTWARE. The Contractor shall transmit all submittal documentation for proposed project materials by uploading it to the City's web based construction management software. A City representative will be available to assist in learning this process.

INLAND INFRASTRUCTURE, LLC

CITY OF SPOKANE

By _____
Signature Date

By _____
Signature Date

Type or Print Name

Type or Print Name

Title

Title

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Attachments that are part of this Contract:

- Payment Bond
 - Performance Bond
 - Certification Regarding Debarment
 - Schedules A-1 and A-3
- 23-060

PAYMENT BOND

We, **INLAND INFRASTRUCTURE, LLC**, as principal, and _____,
as surety, are held and firmly bound to the City of Spokane, Washington, in the sum of **FIVE MILLION SIX HUNDRED FORTY THOUSAND SEVEN HUNDRED FIVE AND NO/100 DOLLARS (\$5,640,705.00)** the payment of which, we bind ourselves and our legal representatives and successors, jointly and severally by this document.

The principal has entered into a contract with the City of Spokane, Washington, to do all work and furnish all materials for the **HOLLAND AVENUE SEWER – NORMANDIE LANE TO COLTON STREET**. If the principal shall:

- A. pay all laborers, mechanics, subcontractors, material suppliers and all person(s) who shall supply such person or subcontractors; and pay all taxes and contributions, increases and penalties as authorized by law; and
- B. comply with all applicable federal, state and local laws and regulations;

then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety for value received agrees that no change, extension of time, alteration or addition to the terms of the Contract, the specifications accompanying the Contract, or to the work to be performed under the Contract shall in any way affect its obligation on this bond, except as provided herein, and waives notice of any change, extension of time, alteration or addition to the terms of the Contract or the work performed. The Surety agrees that modifications and changes to the terms and conditions of the Contract that increase the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this bond and notice to Surety is not required for such increased obligation. Any judgment obtained against the City, which relates to or is covered by the contract or this bond, shall be conclusive against the principal and the surety, as to the amount of damages, and their liability, if reasonable notice of the suit has been given.

SIGNED AND SEALED on _____.

INLAND INFRASTRUCTURE, LLC,

AS PRINCIPAL

By: _____
Title: _____

_____,
AS SURETY

By: _____
Its Attorney in Fact

A valid POWER OF ATTORNEY
for the Surety's agent must
accompany this bond.

STATE OF WASHINGTON)
) ss.
County of _____)

I certify that I know or have satisfactory evidence that _____
_____ signed this document; on oath stated that he/she was
authorized to sign the document and acknowledged it as the agent or representative of the
named surety company which is authorized to do business in the State of Washington, for
the uses and purposes therein mentioned.

DATED: _____

Signature of Notary Public

My appointment expires _____

PERFORMANCE BOND

We, **INLAND INFRASTRUCTURE, LLC**, as principal, and _____, as Surety, are held and firmly bound to the City of Spokane, Washington, in the sum of **FIVE MILLION SIX HUNDRED FORTY THOUSAND SEVEN HUNDRED FIVE AND NO/100 DOLLARS (\$5,640,705.00)** for the payment of which, we bind ourselves and our legal representatives and successors, jointly and severally by this document.

The principal has entered into a Contract with the City of Spokane, Washington, to do all the work and furnish all materials for the **HOLLAND AVENUE SEWER – NORMANDIE LANE TO COLTON STREET**. If the principal shall:

- A. promptly and faithfully perform the Contract, and any contractual guaranty and indemnify and hold harmless the City from all loss, damage or claim which may result from any act or omission of the principal, its agents, employees, or subcontractors; and
- B. comply with all applicable federal, state and local laws and regulations;

then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety for value received agrees that no change, extension of time, alteration or addition to the terms of the Contract, the specifications accompanying the Contract, or to the work to be performed under the Contract shall in any way affect its obligation on this bond, except as provided herein, and waives notice of any change, extension of time, alteration or addition to the terms of the Contract or the work performed. The Surety agrees that modifications and changes to the terms and conditions of the Contract that increase the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this bond and notice to Surety is not required for such increased obligation. Any judgment obtained against the City, which relates to or is covered by the Contract or this bond, shall be conclusive against the principal and the Surety, not only as to the amount of damages, but also as to their liability, if reasonable notice of the suit has been given.

SIGNED AND SEALED on _____

INLAND INFRASTRUCTURE, LLC,

AS PRINCIPAL

By: _____

Title: _____

_____,
AS SURETY

By: _____

Its Attorney in Fact

A valid POWER OF ATTORNEY
for the Surety's agent must
accompany this bond.

STATE OF WASHINGTON)
) ss.
County of _____)

I certify that I know or have satisfactory evidence that _____
_____ signed this document; on oath stated that
he/she was authorized to sign the document and acknowledged it as the agent or representative of
the named Surety Company which is authorized to do business in the State of Washington, for the
uses and purposes mentioned in this document.

DATED on _____.

Signature of Notary

My appointment expires _____

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
INELIGIBILITY AND VOLUNTARY EXCLUSION**

1. The undersigned (i.e., signatory for the Subrecipient / Contractor / Consultant) certifies, to the best of its knowledge and belief, that it and its principals:
 - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - b. Have not within a three-year period preceding this contract been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;
 - c. Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and,
 - d. Have not within a three-year period preceding this contract had one or more public transactions (federal, state, or local) terminated for cause or default.

2. The undersigned agrees by signing this contract that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.

3. The undersigned further agrees by signing this contract that it will include the following clause, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

 1. The lower tier contractor certifies, by signing this contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
 2. Where the lower tier contractor is unable to certify to any of the statements in this contract, such contractor shall attach an explanation to this contract.

4. I understand that a false statement of this certification may be grounds for termination of the contract.

<hr style="border: none; border-top: 1px solid black;"/> Name of Subrecipient / Contractor / Consultant (Type or Print)	<hr style="border: none; border-top: 1px solid black;"/> Program Title (Type or Print)
<hr style="border: none; border-top: 1px solid black;"/> Name of Certifying Official (Type or Print)	<hr style="border: none; border-top: 1px solid black;"/> Signature
<hr style="border: none; border-top: 1px solid black;"/> Title of Certifying Official (Type or Print)	<hr style="border: none; border-top: 1px solid black;"/> Date (Type or Print)

SCHEDULE A-1
Tax Classification: Sales tax shall be included in unit prices

ITEM NO.	ITEM DESCRIPTION	ESTIMATED QUANTITIES	UNIT PRICE	TOTAL
1	ADA FEATURES SURVEYING	1.00 LS	\$ 1,550.00	\$ 1,550.00
2	APPRENTICE UTILIZATION	1.00 LS	\$ 10,000.00	\$ 10,000.00
3	REIMBURSEMENT OF THIRD PARTY DAMAGE	1.00 EST	\$ 1.00	\$ 1.00
4	SPCC PLAN	1.00 LS	\$ 2,500.00	\$ 2,500.00
5	ARCHAEOLOGICAL AND HISTORICAL SALVAGE	20,000.00 EST	\$ 1.00	\$ 20,000.00
6	POTHOLING	20.00 EA	\$ 850.00	\$ 17,000.00
7	PUBLIC LIAISON REPRESENTATIVE	1.00 LS	\$ 30,000.00	\$ 30,000.00
8	TYPE B PROGRESS SCHEDULE	1.00 LS	\$ 5,000.00	\$ 5,000.00
9	MOBILIZATION	1.00 LS	\$ 560,000.00	\$ 560,000.00
10	PROJECT TEMPORARY TRAFFIC CONTROL	1.00 LS	\$ 250,000.00	\$ 250,000.00
11	WORK ZONE SAFETY CONTINGENCY	10,000.00 FA	\$ 1.00	\$ 10,000.00
12	SPECIAL SIGNS	310.00 SF	\$ 18.00	\$ 5,580.00
13	SEQUENTIAL ARROW SIGNS	1,900.00 HR	\$ 6.50	\$ 12,350.00

14	TYPE III BARRICADE	30.00 EA	\$	110.00	\$	3,300.00
15	TREE ROOT TREATMENT	4.00 EA	\$	825.00	\$	3,300.00
16	TREE PROTECTION ZONE	20.00 EA	\$	325.00	\$	6,500.00
17	REMOVE TREE, CLASS I	1.00 EA	\$	625.00	\$	625.00
18	REMOVE TREE, CLASS II	1.00 EA	\$	1,100.00	\$	1,100.00
19	TREE PRUNING	24.00 EA	\$	325.00	\$	7,800.00
20	REMOVAL OF STRUCTURE AND OBSTRUCTION	1.00 LS	\$	20,000.00	\$	20,000.00
21	REMOVE EXISTING CURB	635.00 LF	\$	12.00	\$	7,620.00
22	REMOVE EXISTING CURB AND GUTTER	200.00 LF	\$	12.00	\$	2,400.00
23	REMOVE CEMENT CONCRETE SIDEWALK AND DRIVEWAY	275.00 SY	\$	24.00	\$	6,600.00
24	REMOVE MANHOLE, CATCH BASIN, OR DRYWELL	11.00 EA	\$	1,400.00	\$	15,400.00
25	REMOVE EXISTING ≤ 12 IN. DIA. PIPE	69.00 LF	\$	40.00	\$	2,760.00
26	SAWCUTTING CURB	22.00 EA	\$	30.00	\$	660.00
27	SAWCUTTING RIGID PAVEMENT	950.00 LFI	\$	1.00	\$	950.00
28	SAWCUTTING FLEXIBLE PAVEMENT	5,000.00 LFI	\$	0.50	\$	2,500.00

29	ABANDON EXISTING MANHOLE, CATCH BASIN OR DRYWELL	1.00 EA	\$	1,400.00	\$	1,400.00
30	ROADWAY EXCAVATION INCL. HAUL	3,350.00 CY	\$	53.00	\$	177,550.00
31	REMOVE UNSUITABLE FOUNDATION MATERIAL	150.00 CY	\$	65.00	\$	9,750.00
32	REPLACE UNSUITABLE FOUNDATION MATERIAL	150.00 CY	\$	60.00	\$	9,000.00
33	PREPARATION OF UNTREATED ROADWAY	10,925.00 SY	\$	4.00	\$	43,700.00
34	CRUSHED SURFACING TOP COURSE	610.00 CY	\$	120.00	\$	73,200.00
35	CRUSHED SURFACING BASE COURSE	1,405.00 CY	\$	85.00	\$	119,425.00
36	CSTC FOR SIDEWALK AND DRIVEWAYS	22.00 CY	\$	350.00	\$	7,700.00
37	HMA CL. 1/2 IN. MEDIUM TRAFFIC, 3 INCH THICK	2,170.00 SY	\$	20.00	\$	43,400.00
38	HMA CL. 1/2 IN. MEDIUM TRAFFIC, 4 INCH THICK	1,985.00 SY	\$	28.00	\$	55,580.00
39	HMA CL. 1/2 IN. HEAVY TRAFFIC, 5 INCH THICK	6,770.00 SY	\$	33.00	\$	223,410.00
40	COMMERCIAL HMA FOR TRANSITION, 2 INCH THICK	83.00 SY	\$	40.00	\$	3,320.00
41	JOB MIX COMPLIANCE PRICE ADJUSTMENT	1.00 EST	\$	(1.00)	\$	(1.00)
42	COMPACTION PRICE ADJUSTMENT	26,000.00 EST	\$	1.00	\$	26,000.00
43	COMMERCIAL CONCRETE	10.00 CY	\$	650.00	\$	6,500.00
44	STORM SEWER PIPE 8 IN. DIA.	1,050.00 LF	\$	70.00	\$	73,500.00

45	DUCTILE IRON STORM SEWER FORCE MAIN 4 IN. DIA.	330.00 LF	\$	135.00	\$	44,550.00
46	PUMP SYSTEM	1.00 LS	\$	40,000.00	\$	40,000.00
47	MANHOLE - 48 IN.	8.00 EA	\$	7,000.00	\$	56,000.00
48	CATCH BASIN TYPE 1	5.00 EA	\$	4,500.00	\$	22,500.00
49	CATCH BASIN TYPE 3	4.00 EA	\$	4,750.00	\$	19,000.00
50	MANHOLE ADDITIONAL HEIGHT 48 IN. DIA.	2.00 VF	\$	350.00	\$	700.00
51	MH OR DW FRAME AND COVER (LOCKABLE)	1.00 EA	\$	1,500.00	\$	1,500.00
52	FRAME AND GRATE FOR CB OR GRATE INLET	1.00 EA	\$	1,150.00	\$	1,150.00
53	VALVE BOX AND COVER	7.00 EA	\$	750.00	\$	5,250.00
54	CONNECT 8 IN. DIA. PIPE TO EXISTING CB, DW, OR MH	7.00 EA	\$	950.00	\$	6,650.00
55	ADJUST EXISTING VALVE BOX, MON, OR CO IN CONCRETE	1.00 EA	\$	700.00	\$	700.00
56	MANHOLE TEST	2.00 EA	\$	1,900.00	\$	3,800.00
57	CLEANING EXISTING DRAINAGE STRUCTURE	15.00 EA	\$	550.00	\$	8,250.00
58	IMPORTED BACKFILL	10.00 CY	\$	60.00	\$	600.00
59	REMOVE UNSUITABLE PIPE FOUNDATION MATERIAL	10.00 CY	\$	65.00	\$	650.00

60	REPLACE UNSUITABLE PIPE FOUNDATION MATERIAL	10.00 CY	\$	60.00	\$	600.00
61	TRENCH SAFETY SYSTEM	1.00 LS	\$	25,000.00	\$	25,000.00
62	CATCH BASIN SEWER PIPE 8 IN. DIA.	354.00 LF	\$	75.00	\$	26,550.00
63	CATCH BASIN DI SEWER PIPE 8 IN. DIA.	141.00 LF	\$	100.00	\$	14,100.00
64	TEMPORARY ADJACENT UTILITY SUPPORT	1.00 LS	\$	12,000.00	\$	12,000.00
65	ENCASE WATER/SEWER AT CROSSINGS	1.00 EA	\$	2,100.00	\$	2,100.00
66	ABANDON EXISTING 8 IN. DIA. SEWER PIPE	65.00 LF	\$	75.00	\$	4,875.00
67	ESC LEAD	1.00 LS	\$	30,000.00	\$	30,000.00
68	INLET PROTECTION	20.00 EA	\$	100.00	\$	2,000.00
69	STREET CLEANING	100.00 HR	\$	400.00	\$	40,000.00
70	BARK OR WOOD CHIP MULCH	20.00 CY	\$	105.00	\$	2,100.00
71	HYDROSEEDING	40.00 SY	\$	12.00	\$	480.00
72	SOD INSTALLATION	80.00 SY	\$	50.00	\$	4,000.00
73	TOPSOIL FOR BIO-INFILTRATION SWALES, 12 INCH THICK INCL. SE	80.00 SY	\$	45.00	\$	3,600.00
74	CURB DROP INLET	8.00 EA	\$	450.00	\$	3,600.00
75	RECONSTRUCT ROCK WALL	1.00 LS	\$	3,600.00	\$	3,600.00

76	REMOVE AND REPLACE EXISTING SPRINKLER HEADS AND LINES	1.00 LS	\$	2,500.00	\$	2,500.00
77	CEMENT CONCRETE CURB	385.00 LF	\$	55.00	\$	21,175.00
78	CEMENT CONCRETE CURB AND GUTTER	350.00 LF	\$	60.00	\$	21,000.00
79	CEMENT CONCRETE DRIVEWAY	85.00 SY	\$	115.00	\$	9,775.00
80	CEMENT CONCRETE DRIVEWAY TRANSITION	20.00 SY	\$	105.00	\$	2,100.00
81	CHANNELIZING DEVICES - TYPE 4	1.00 EA	\$	500.00	\$	500.00
82	TEMPORARY CONSTRUCTION FENCING	1.00 LS	\$	30,000.00	\$	30,000.00
83	CLASSIFICATION AND PROTECTION OF SURVEY MONUMENTS	1.00 LS	\$	7,500.00	\$	7,500.00
84	REFERENCE AND REESTABLISH SURVEY MONUMENT	1.00 EA	\$	800.00	\$	800.00
85	CEMENT CONCRETE SIDEWALK	170.00 SY	\$	105.00	\$	17,850.00
86	RAMP DETECTABLE WARNING	32.00 SF	\$	35.00	\$	1,120.00
87	SIGNING, PERMANENT - CITY MANUFACTURED SIGNS	1.00 LS	\$	5,500.00	\$	5,500.00
88	REMOVAL OF EXISTING PAVEMENT MARKINGS	7.00 SF	\$	150.00	\$	1,050.00
89	PAVEMENT MARKING - DURABLE HEAT APPLIED	1,426.00 SF	\$	10.00	\$	14,260.00
90	WORD AND SYMBOL MARKINGS – DURABLE HEAT APPLIED	12.00 EA	\$	180.00	\$	2,160.00

91	REINFORCED DOWELED CURB	150.00 LF	\$	38.00	\$	5,700.00
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92	TRAFFIC ISLAND CONCRETE	35.00 SY	\$	75.00	\$	2,625.00
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						<i>Schedule A-1 Subtotal</i>
					\$	<u>2,410,450.00</u>
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SCHEDULE A-3***Tax Classification: Sales tax shall NOT be included in unit prices***

ITEM NO.	ITEM DESCRIPTION	ESTIMATED QUANTITIES	UNIT PRICE	TOTAL
93	ROADWAY SURVEYTING	1.00 LS	\$ 70,000.00	\$ 70,000.00
94	POTHOLING	40.00 EA	\$ 850.00	\$ 34,000.00
95	REMOVE MANHOLE, CATCH BASIN, OR DRYWELL	3.00 EA	\$ 1,400.00	\$ 4,200.00
96	REMOVE EXISTING ≤ 12 IN. DIA. PIPE	171.00 LF	\$ 40.00	\$ 6,840.00
97	REMOVE EXISTING > 12 IN. TO < 30 IN. DIA. PIPE	50.00 LF	\$ 40.00	\$ 2,000.00
98	ABANDON EXISTING MANHOLE, CATCH BASIN OR DRYWELL	2.00 EA	\$ 1,400.00	\$ 2,800.00
99	SHORING	1.00 LS	\$ 400,000.00	\$ 400,000.00
100	CONTROLLED DENSITY FILL	10.00 CY	\$ 250.00	\$ 2,500.00
101	MANHOLE - 48 IN.	10.00 EA	\$ 10,000.00	\$ 100,000.00
102	MANHOLE- 54 IN.	1.00 EA	\$ 12,000.00	\$ 12,000.00
103	MANHOLE - 96 IN. MODIFIED	1.00 EA	\$ 30,000.00	\$ 30,000.00
104	MANHOLE ADDITIONAL HEIGHT 48 IN. DIA.	74.00 VF	\$ 350.00	\$ 25,900.00
105	MANHOLE ADDITIONAL HEIGHT 54 IN. DIA.	13.00 VF	\$ 350.00	\$ 4,550.00
106	MANHOLE ADDITIONAL HEIGHT 96 IN. DIA.	6.00 VF	\$ 350.00	\$ 2,100.00

107	MH OR DW FRAME AND COVER (LOCKABLE)	4.00 EA	\$	1,500.00	\$	6,000.00
108	CONNECT 18 IN. DIA. PIPE TO EXISTING CB, DW, OR MH	2.00 EA	\$	1,000.00	\$	2,000.00
109	ADJUST EXISTING VALVE BOX, MON, OR CO IN ASPHALT	7.00 EA	\$	700.00	\$	4,900.00
110	ADJUST EXISTING MH, CB, DW, OR INLET IN ASPHALT	4.00 EA	\$	700.00	\$	2,800.00
111	RECONSTRUCT 48 IN. MANHOLE INVERT	2.00 EA	\$	3,500.00	\$	7,000.00
112	MANHOLE TEST	3.00 EA	\$	1,900.00	\$	5,700.00
113	REMOVE UNSUITABLE PIPE FOUNDATION MATERIAL	20.00 CY	\$	65.00	\$	1,300.00
114	REPLACE UNSUITABLE PIPE FOUNDATION MATERIAL	20.00 CY	\$	60.00	\$	1,200.00
115	IMPORTED BACKFILL	10.00 CY	\$	60.00	\$	600.00
116	TRENCH SAFETY SYSTEM	1.00 LS	\$	100,000.00	\$	100,000.00
117	RECONNECT SIDE SEWER	210.00 LF	\$	255.00	\$	53,550.00
118	SIDE SEWER CLEANING AND VIDEO INSPECTION	13.00 EA	\$	805.00	\$	10,465.00
119	TEMPORARY ADJACENT UTILITY SUPPORT	1.00 LS	\$	75,000.00	\$	75,000.00
120	CLEANING EXISTING SANITARY SEWERS	8.00 EA	\$	550.00	\$	4,400.00
121	EXCAVATION AND SUPPORT FOR TRENCHLESS	1.00 LS	\$	210,000.00	\$	210,000.00

122	STEEL CASING PIPE 30 IN. DIA. TRENCHLESS	511.00 LF	\$	2,435.00	\$	1,244,285.00
123	CARRIER PIPE APPURTANCES FOR SANITARY SEWER PIPE 18 IN. DIA.	511.00 LF	\$	205.00	\$	104,755.00
124	SANITARY SEWER PIPE 18 IN. DIA.	2,575.00 LF	\$	200.00	\$	515,000.00
125	BYPASS SEWER PUMPING	1.00 LS	\$	160,000.00	\$	160,000.00
126	ABANDON EXISTING 48 IN. DIA. SEWER PIPE	400.00 LF	\$	10.00	\$	4,000.00
127	ABANDON EXISTING 24 IN. DIA. SEWER PIPE	75.00 LF	\$	105.00	\$	7,875.00
128	ABANDON EXISTING 15 IN. DIA. SEWER PIPE	30.00 LF	\$	190.00	\$	5,700.00
129	ABANDON EXISTING 8 IN. DIA. SEWER PIPE	50.00 LF	\$	110.00	\$	5,500.00
130	SIDE SEWER PERMIT	13.00 EA	\$	45.00	\$	585.00
131	SEWER CLEANOUT	1.00 EA	\$	750.00	\$	750.00
Schedule A-3 Subtotal					\$	<u>3,230,255.00</u>
Summary of Bid Items				Bid Total		\$ <u>5,640,705.00</u>

City Of Spokane
Engineering Services Department
*****Bid Tabulation*****

Project Number **2021082**

Project Description Holland Ave Sewer - Normandie Lane to Colton Street **Original Date**

3/27/2023 2:13:00 PM

Project Number: 2021082			Engineer's Estimate		INLAND INFRASTRUCTURE LLC (Submitted)		DW EXCAVATING INC (Submitted)	
Item No	Bid Item Description	Est Qty	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount

Tax Classification

Schedule 01

Sales tax shall be included in unit prices

1	ADA FEATURES SURVEYING	1 LS	5,000.00	5,000.00	1,550.00	\$1,550.00	1,500.00	\$1,500.00
2	APPRENTICE UTILIZATION	1 LS	10,000.00	10,000.00	10,000.00	\$10,000.00	32,000.00	\$32,000.00
3	REIMBURSEMENT OF THIRD PARTY DAMAGE	1 EST	1.00	1.00	1.00	\$1.00	1.00	\$1.00
4	SPCC PLAN	1 LS	1,200.00	1,200.00	2,500.00	\$2,500.00	1,000.00	\$1,000.00
5	ARCHAEOLOGICAL AND HISTORICAL SALVAGE	20000 EST	1.00	20,000.00	1.00	\$20,000.00	1.00	\$20,000.00
6	POTHOLING	20 EA	500.00	10,000.00	850.00	\$17,000.00	950.00	\$19,000.00
7	PUBLIC LIAISON REPRESENTATIVE	1 LS	15,000.00	15,000.00	30,000.00	\$30,000.00	42,000.00	\$42,000.00
8	TYPE B PROGRESS SCHEDULE	1 LS	5,000.00	5,000.00	5,000.00	\$5,000.00	1,000.00	\$1,000.00
9	MOBILIZATION	1 LS	440,000.00	440,000.00	560,000.00	\$560,000.00	618,289.00	\$618,289.00
10	PROJECT TEMPORARY TRAFFIC CONTROL	1 LS	105,000.00	105,000.00	250,000.00	\$250,000.00	175,000.00	\$175,000.00
11	WORK ZONE SAFETY CONTINGENCY	10000 FA	1.00	10,000.00	1.00	\$10,000.00	1.00	\$10,000.00
12	SPECIAL SIGNS	310 SF	25.00	7,750.00	18.00	\$5,580.00	16.00	\$4,960.00
13	SEQUENTIAL ARROW SIGNS	1900 HR	8.00	15,200.00	6.50	\$12,350.00	2.40	\$4,560.00
14	TYPE III BARRICADE	30 EA	120.00	3,600.00	110.00	\$3,300.00	107.00	\$3,210.00
15	TREE ROOT TREATMENT	4 EA	800.00	3,200.00	825.00	\$3,300.00	800.00	\$3,200.00
16	TREE PROTECTION ZONE	20 EA	250.00	5,000.00	325.00	\$6,500.00	300.00	\$6,000.00
17	REMOVE TREE, CLASS I	1 EA	800.00	800.00	625.00	\$625.00	640.00	\$640.00
18	REMOVE TREE, CLASS II	1 EA	1,000.00	1,000.00	1,100.00	\$1,100.00	1,500.00	\$1,500.00
19	TREE PRUNING	24 EA	400.00	9,600.00	325.00	\$7,800.00	1,900.00	\$45,600.00
20	REMOVAL OF STRUCTURE AND OBSTRUCTION	1 LS	10,000.00	10,000.00	20,000.00	\$20,000.00	45,000.00	\$45,000.00

City Of Spokane
Engineering Services Department
*****Bid Tabulation*****

<i>Project Number: 2021082</i>			<i>Engineer's Estimate</i>		INLAND INFRASTRUCTURE LLC (Submitted)		DW EXCAVATING INC (Submitted)	
<i>Item No</i>	<i>Bid Item Description</i>	<i>Est Qty</i>	<i>Unit Price</i>	<i>Amount</i>	<i>Unit Price</i>	<i>Amount</i>	<i>Unit Price</i>	<i>Amount</i>
21	REMOVE EXISTING CURB	635 LF	12.00	7,620.00	12.00	\$7,620.00	12.00	\$7,620.00
22	REMOVE EXISTING CURB AND GUTTER	200 LF	15.00	3,000.00	12.00	\$2,400.00	15.00	\$3,000.00
23	REMOVE CEMENT CONCRETE SIDEWALK AND DRIVEWAY	275 SY	25.00	6,875.00	24.00	\$6,600.00	32.00	\$8,800.00
24	REMOVE MANHOLE, CATCH BASIN, OR DRYWELL	11 EA	750.00	8,250.00	1,400.00	\$15,400.00	1,500.00	\$16,500.00
25	REMOVE EXISTING ≤ 12 IN. DIA. PIPE	69 LF	12.00	828.00	40.00	\$2,760.00	58.00	\$4,002.00
26	SAWCUTTING CURB	22 EA	40.00	880.00	30.00	\$660.00	30.00	\$660.00
27	SAWCUTTING RIGID PAVEMENT	950 LFI	1.75	1,662.50	1.00	\$950.00	1.00	\$950.00
28	SAWCUTTING FLEXIBLE PAVEMENT	5000 LFI	1.50	7,500.00	0.50	\$2,500.00	0.40	\$2,000.00
29	ABANDON EXISTING MANHOLE, CATCH BASIN OR DRYWELL	1 EA	700.00	700.00	1,400.00	\$1,400.00	1,300.00	\$1,300.00
30	ROADWAY EXCAVATION INCL. HAUL	3350 CY	30.00	100,500.00	53.00	\$177,550.00	75.00	\$251,250.00
31	REMOVE UNSUITABLE FOUNDATION MATERIAL	150 CY	20.00	3,000.00	65.00	\$9,750.00	34.00	\$5,100.00
32	REPLACE UNSUITABLE FOUNDATION MATERIAL	150 CY	25.00	3,750.00	60.00	\$9,000.00	37.00	\$5,550.00
33	PREPARATION OF UNTREATED ROADWAY	10925 SY	2.00	21,850.00	4.00	\$43,700.00	7.00	\$76,475.00
34	CRUSHED SURFACING TOP COURSE	610 CY	80.00	48,800.00	120.00	\$73,200.00	95.00	\$57,950.00
35	CRUSHED SURFACING BASE COURSE	1405 CY	70.00	98,350.00	85.00	\$119,425.00	95.00	\$133,475.00
36	CSTC FOR SIDEWALK AND DRIVEWAYS	22 CY	200.00	4,400.00	350.00	\$7,700.00	160.00	\$3,520.00
37	HMA CL. 1/2 IN. MEDIUM TRAFFIC, 3 INCH THICK	2170 SY	30.00	65,100.00	20.00	\$43,400.00	22.00	\$47,740.00
38	HMA CL. 1/2 IN. MEDIUM TRAFFIC, 4 INCH THICK	1985 SY	40.00	79,400.00	28.00	\$55,580.00	27.00	\$53,595.00
39	HMA CL. 1/2 IN. HEAVY TRAFFIC, 5 INCH THICK	6770 SY	55.00	372,350.00	33.00	\$223,410.00	34.00	\$230,180.00

City Of Spokane
Engineering Services Department
*****Bid Tabulation*****

<i>Project Number: 2021082</i>			<i>Engineer's Estimate</i>		INLAND INFRASTRUCTURE LLC (Submitted)		DW EXCAVATING INC (Submitted)	
<i>Item No</i>	<i>Bid Item Description</i>	<i>Est Qty</i>	<i>Unit Price</i>	<i>Amount</i>	<i>Unit Price</i>	<i>Amount</i>	<i>Unit Price</i>	<i>Amount</i>
40	COMMERCIAL HMA FOR TRANSITION, 2 INCH THICK	83 SY	18.00	1,494.00	40.00	\$3,320.00	38.00	\$3,154.00
41	JOB MIX COMPLIANCE PRICE ADJUSTMENT	1 EST	(1.00)	(1.00)	(1.00)	(\$1.00)	(1.00)	(\$1.00)
42	COMPACTION PRICE ADJUSTMENT	26000 EST	1.00	26,000.00	1.00	\$26,000.00	1.00	\$26,000.00
43	COMMERCIAL CONCRETE	10 CY	300.00	3,000.00	650.00	\$6,500.00	320.00	\$3,200.00
44	STORM SEWER PIPE 8 IN. DIA.	1050 LF	80.00	84,000.00	70.00	\$73,500.00	90.00	\$94,500.00
45	DUCTILE IRON STORM SEWER FORCE MAIN 4 IN. DIA.	330 LF	60.00	19,800.00	135.00	\$44,550.00	135.00	\$44,550.00
46	PUMP SYSTEM	1 LS	20,000.00	20,000.00	40,000.00	\$40,000.00	35,000.00	\$35,000.00
47	MANHOLE - 48 IN.	8 EA	4,500.00	36,000.00	7,000.00	\$56,000.00	5,000.00	\$40,000.00
48	CATCH BASIN TYPE 1	5 EA	3,500.00	17,500.00	4,500.00	\$22,500.00	4,000.00	\$20,000.00
49	CATCH BASIN TYPE 3	4 EA	3,500.00	14,000.00	4,750.00	\$19,000.00	6,000.00	\$24,000.00
50	MANHOLE ADDITIONAL HEIGHT 48 IN. DIA.	2 VF	1,000.00	2,000.00	350.00	\$700.00	650.00	\$1,300.00
51	MH OR DW FRAME AND COVER (LOCKABLE)	1 EA	1,000.00	1,000.00	1,500.00	\$1,500.00	1,500.00	\$1,500.00
52	FRAME AND GRATE FOR CB OR GRATE INLET	1 EA	800.00	800.00	1,150.00	\$1,150.00	1,500.00	\$1,500.00
53	VALVE BOX AND COVER	7 EA	650.00	4,550.00	750.00	\$5,250.00	950.00	\$6,650.00
54	CONNECT 8 IN. DIA. PIPE TO EXISTING CB, DW, OR MH	7 EA	650.00	4,550.00	950.00	\$6,650.00	1,300.00	\$9,100.00
55	ADJUST EXISTING VALVE BOX, MON, OR CO IN CONCRETE	1 EA	600.00	600.00	700.00	\$700.00	1,100.00	\$1,100.00
56	MANHOLE TEST	2 EA	800.00	1,600.00	1,900.00	\$3,800.00	900.00	\$1,800.00
57	CLEANING EXISTING DRAINAGE STRUCTURE	15 EA	500.00	7,500.00	550.00	\$8,250.00	1,200.00	\$18,000.00
58	IMPORTED BACKFILL	10 CY	70.00	700.00	60.00	\$600.00	250.00	\$2,500.00
59	REMOVE UNSUITABLE PIPE FOUNDATION MATERIAL	10 CY	80.00	800.00	65.00	\$650.00	120.00	\$1,200.00
60	REPLACE UNSUITABLE PIPE FOUNDATION MATERIAL	10 CY	45.00	450.00	60.00	\$600.00	65.00	\$650.00
61	TRENCH SAFETY SYSTEM	1 LS	5,000.00	5,000.00	25,000.00	\$25,000.00	37,000.00	\$37,000.00

City Of Spokane
Engineering Services Department
*****Bid Tabulation*****

<i>Project Number: 2021082</i>			<i>Engineer's Estimate</i>		INLAND INFRASTRUCTURE LLC (Submitted)		DW EXCAVATING INC (Submitted)	
<i>Item No</i>	<i>Bid Item Description</i>	<i>Est Qty</i>	<i>Unit Price</i>	<i>Amount</i>	<i>Unit Price</i>	<i>Amount</i>	<i>Unit Price</i>	<i>Amount</i>
62	CATCH BASIN SEWER PIPE 8 IN. DIA.	354 LF	70.00	24,780.00	75.00	\$26,550.00	115.00	\$40,710.00
63	CATCH BASIN DI SEWER PIPE 8 IN. DIA.	141 LF	150.00	21,150.00	100.00	\$14,100.00	145.00	\$20,445.00
64	TEMPORARY ADJACENT UTILITY SUPPORT	1 LS	5,000.00	5,000.00	12,000.00	\$12,000.00	35,000.00	\$35,000.00
65	ENCASE WATER/SEWER AT CROSSINGS	1 EA	1,200.00	1,200.00	2,100.00	\$2,100.00	3,000.00	\$3,000.00
66	ABANDON EXISTING 8 IN. DIA. SEWER PIPE	65 LF	50.00	3,250.00	75.00	\$4,875.00	70.00	\$4,550.00
67	ESC LEAD	1 LS	1,000.00	1,000.00	30,000.00	\$30,000.00	6,000.00	\$6,000.00
68	INLET PROTECTION	20 EA	100.00	2,000.00	100.00	\$2,000.00	130.00	\$2,600.00
69	STREET CLEANING	100 HR	110.00	11,000.00	400.00	\$40,000.00	350.00	\$35,000.00
70	BARK OR WOOD CHIP MULCH	20 CY	30.00	600.00	105.00	\$2,100.00	160.00	\$3,200.00
71	HYDROSEEDING	40 SY	2.00	80.00	12.00	\$480.00	16.00	\$640.00
72	SOD INSTALLATION	80 SY	6.00	480.00	50.00	\$4,000.00	30.00	\$2,400.00
73	TOPSOIL FOR BIO-INFILTRATION SWALES, 12 INCH THICK INCL. SE	80 SY	25.00	2,000.00	45.00	\$3,600.00	50.00	\$4,000.00
74	CURB DROP INLET	8 EA	250.00	2,000.00	450.00	\$3,600.00	1,000.00	\$8,000.00
75	RECONSTRUCT ROCK WALL	1 LS	5,000.00	5,000.00	3,600.00	\$3,600.00	5,000.00	\$5,000.00
76	REMOVE AND REPLACE EXISTING SPRINKLER HEADS AND LINES	1 LS	6,000.00	6,000.00	2,500.00	\$2,500.00	18,000.00	\$18,000.00
77	CEMENT CONCRETE CURB	385 LF	30.00	11,550.00	55.00	\$21,175.00	55.00	\$21,175.00
78	CEMENT CONCRETE CURB AND GUTTER	350 LF	36.00	12,600.00	60.00	\$21,000.00	65.00	\$22,750.00
79	CEMENT CONCRETE DRIVEWAY	85 SY	85.00	7,225.00	115.00	\$9,775.00	110.00	\$9,350.00
80	CEMENT CONCRETE DRIVEWAY TRANSITION	20 SY	65.00	1,300.00	105.00	\$2,100.00	110.00	\$2,200.00
81	CHANNELIZING DEVICES - TYPE 4	1 EA	400.00	400.00	500.00	\$500.00	430.00	\$430.00
82	TEMPORARY CONSTRUCTION FENCING	1 LS	2,500.00	2,500.00	30,000.00	\$30,000.00	20,000.00	\$20,000.00

City Of Spokane
Engineering Services Department
*****Bid Tabulation*****

<i>Project Number: 2021082</i>			<i>Engineer's Estimate</i>		INLAND INFRASTRUCTURE LLC (Submitted)		DW EXCAVATING INC (Submitted)	
<i>Item No</i>	<i>Bid Item Description</i>	<i>Est Qty</i>	<i>Unit Price</i>	<i>Amount</i>	<i>Unit Price</i>	<i>Amount</i>	<i>Unit Price</i>	<i>Amount</i>
83	CLASSIFICATION AND PROTECTION OF SURVEY MONUMENTS	1 LS	6,000.00	6,000.00	7,500.00	\$7,500.00	7,000.00	\$7,000.00
84	REFERENCE AND REESTABLISH SURVEY MONUMENT	1 EA	800.00	800.00	800.00	\$800.00	750.00	\$750.00
85	CEMENT CONCRETE SIDEWALK	170 SY	70.00	11,900.00	105.00	\$17,850.00	80.00	\$13,600.00
86	RAMP DETECTABLE WARNING	32 SF	30.00	960.00	35.00	\$1,120.00	35.00	\$1,120.00
87	SIGNING, PERMANENT - CITY MANUFACTURED SIGNS	1 LS	5,000.00	5,000.00	5,500.00	\$5,500.00	5,000.00	\$5,000.00
88	REMOVAL OF EXISTING PAVEMENT MARKINGS	7 SF	10.00	70.00	150.00	\$1,050.00	135.00	\$945.00
89	PAVEMENT MARKING - DURABLE HEAT APPLIED	1426 SF	15.00	21,390.00	10.00	\$14,260.00	10.00	\$14,260.00
90	WORD AND SYMBOL MARKINGS - DURABLE HEAT APPLIED	12 EA	400.00	4,800.00	180.00	\$2,160.00	155.00	\$1,860.00
91	REINFORCED DOWELED CURB	150 LF	35.00	5,250.00	38.00	\$5,700.00	35.00	\$5,250.00
92	TRAFFIC ISLAND CONCRETE	35 SY	70.00	2,450.00	75.00	\$2,625.00	70.00	\$2,450.00

Tax Classification

Schedule 03

Sales tax shall NOT be included in unit prices

93	ROADWAY SURVEYTING	1 LS	5,000.00	5,000.00	70,000.00	\$70,000.00	175,000.00	\$175,000.00
94	POTHOLING	40 EA	500.00	20,000.00	850.00	\$34,000.00	850.00	\$34,000.00
95	REMOVE MANHOLE, CATCH BASIN, OR DRYWELL	3 EA	750.00	2,250.00	1,400.00	\$4,200.00	1,200.00	\$3,600.00
96	REMOVE EXISTING ≤ 12 IN. DIA. PIPE	171 LF	12.00	2,052.00	40.00	\$6,840.00	70.00	\$11,970.00
97	REMOVE EXISTING > 12 IN. TO < 30 IN. DIA. PIPE	50 LF	15.00	750.00	40.00	\$2,000.00	100.00	\$5,000.00
98	ABANDON EXISTING MANHOLE, CATCH BASIN OR DRYWELL	2 EA	700.00	1,400.00	1,400.00	\$2,800.00	1,100.00	\$2,200.00
99	SHORING	1 LS	40,000.00	40,000.00	400,000.00	\$400,000.00	65,000.00	\$65,000.00

City Of Spokane
Engineering Services Department
*****Bid Tabulation*****

<i>Project Number: 2021082</i>			<i>Engineer's Estimate</i>		INLAND INFRASTRUCTURE LLC (Submitted)		DW EXCAVATING INC (Submitted)	
<i>Item No</i>	<i>Bid Item Description</i>	<i>Est Qty</i>	<i>Unit Price</i>	<i>Amount</i>	<i>Unit Price</i>	<i>Amount</i>	<i>Unit Price</i>	<i>Amount</i>
100	CONTROLLED DENSITY FILL	10 CY	180.00	1,800.00	250.00	\$2,500.00	400.00	\$4,000.00
101	MANHOLE - 48 IN.	10 EA	4,500.00	45,000.00	10,000.00	\$100,000.00	9,600.00	\$96,000.00
102	MANHOLE- 54 IN.	1 EA	5,200.00	5,200.00	12,000.00	\$12,000.00	13,000.00	\$13,000.00
103	MANHOLE - 96 IN. MODIFIED	1 EA	15,000.00	15,000.00	30,000.00	\$30,000.00	23,500.00	\$23,500.00
104	MANHOLE ADDITIONAL HEIGHT 48 IN. DIA.	74 VF	1,000.00	74,000.00	350.00	\$25,900.00	90.00	\$6,660.00
105	MANHOLE ADDITIONAL HEIGHT 54 IN. DIA.	13 VF	1,000.00	13,000.00	350.00	\$4,550.00	100.00	\$1,300.00
106	MANHOLE ADDITIONAL HEIGHT 96 IN. DIA.	6 VF	1,000.00	6,000.00	350.00	\$2,100.00	150.00	\$900.00
107	MH OR DW FRAME AND COVER (LOCKABLE)	4 EA	1,000.00	4,000.00	1,500.00	\$6,000.00	1,400.00	\$5,600.00
108	CONNECT 18 IN. DIA. PIPE TO EXISTING CB, DW, OR MH	2 EA	800.00	1,600.00	1,000.00	\$2,000.00	8,500.00	\$17,000.00
109	ADJUST EXISTING VALVE BOX, MON, OR CO IN ASPHALT	7 EA	550.00	3,850.00	700.00	\$4,900.00	1,000.00	\$7,000.00
110	ADJUST EXISTING MH, CB, DW, OR INLET IN ASPHALT	4 EA	800.00	3,200.00	700.00	\$2,800.00	1,300.00	\$5,200.00
111	RECONSTRUCT 48 IN. MANHOLE INVERT	2 EA	1,500.00	3,000.00	3,500.00	\$7,000.00	3,200.00	\$6,400.00
112	MANHOLE TEST	3 EA	800.00	2,400.00	1,900.00	\$5,700.00	800.00	\$2,400.00
113	REMOVE UNSUITABLE PIPE FOUNDATION MATERIAL	20 CY	70.00	1,400.00	65.00	\$1,300.00	50.00	\$1,000.00
114	REPLACE UNSUITABLE PIPE FOUNDATION MATERIAL	20 CY	80.00	1,600.00	60.00	\$1,200.00	50.00	\$1,000.00
115	IMPORTED BACKFILL	10 CY	45.00	450.00	60.00	\$600.00	250.00	\$2,500.00
116	TRENCH SAFETY SYSTEM	1 LS	5,000.00	5,000.00	100,000.00	\$100,000.00	85,000.00	\$85,000.00
117	RECONNECT SIDE SEWER	210 LF	600.00	126,000.00	255.00	\$53,550.00	150.00	\$31,500.00
118	SIDE SEWER CLEANING AND VIDEO INSPECTION	13 EA	650.00	8,450.00	805.00	\$10,465.00	840.00	\$10,920.00
119	TEMPORARY ADJACENT UTILITY SUPPORT	1 LS	5,000.00	5,000.00	75,000.00	\$75,000.00	75,000.00	\$75,000.00
120	CLEANING EXISTING SANITARY SEWERS	8 EA	900.00	7,200.00	550.00	\$4,400.00	910.00	\$7,280.00

City Of Spokane
Engineering Services Department
*****Bid Tabulation*****

<i>Project Number: 2021082</i>			<i>Engineer's Estimate</i>		INLAND INFRASTRUCTURE LLC (Submitted)		DW EXCAVATING INC (Submitted)	
<i>Item No</i>	<i>Bid Item Description</i>	<i>Est Qty</i>	<i>Unit Price</i>	<i>Amount</i>	<i>Unit Price</i>	<i>Amount</i>	<i>Unit Price</i>	<i>Amount</i>
121	EXCAVATION AND SUPPORT FOR TRENCHLESS	1 LS	300,000.00	300,000.00	210,000.00	\$210,000.00	1,100,050.00	\$1,100,050.00
122	STEEL CASING PIPE 30 IN. DIA. TRENCHLESS	511 LF	6,500.00	3,321,500.00	2,435.00	\$1,244,285.00	982.00	\$501,802.00
123	CARRIER PIPE APPURTANCES FOR SANITARY SEWER PIPE 18 IN. DIA.	511 LF	650.00	332,150.00	205.00	\$104,755.00	180.00	\$91,980.00
124	SANITARY SEWER PIPE 18 IN. DIA.	2575 LF	140.00	360,500.00	200.00	\$515,000.00	320.00	\$824,000.00
125	BYPASS SEWER PUMPING	1 LS	20,000.00	20,000.00	160,000.00	\$160,000.00	175,000.00	\$175,000.00
126	ABANDON EXISTING 48 IN. DIA. SEWER PIPE	400 LF	50.00	20,000.00	10.00	\$4,000.00	90.00	\$36,000.00
127	ABANDON EXISTING 24 IN. DIA. SEWER PIPE	75 LF	60.00	4,500.00	105.00	\$7,875.00	60.00	\$4,500.00
128	ABANDON EXISTING 15 IN. DIA. SEWER PIPE	30 LF	50.00	1,500.00	190.00	\$5,700.00	50.00	\$1,500.00
129	ABANDON EXISTING 8 IN. DIA. SEWER PIPE	50 LF	50.00	2,500.00	110.00	\$5,500.00	40.00	\$2,000.00
130	SIDE SEWER PERMIT	13 EA	40.00	520.00	45.00	\$585.00	400.00	\$5,200.00
131	SEWER CLEANOUT	1 EA	1,000.00	1,000.00	750.00	\$750.00	1,600.00	\$1,600.00
Bid Total			\$6,712,016.50		\$5,640,705.00		\$6,077,077.00	

City Of Spokane
Engineering Services Department
*****Bid Tabulation*****

SCHEDULE SUMMARY

	<i>Sched 1</i>	<i>Sched 2</i>	<i>Sched 3</i>	<i>Sched 4</i>	<i>Total</i>
ENGINEER'S ESTIMATE	1,943,244.50	0.00	4,768,772.00	0.00	6,712,016.50
INLAND INFRASTRUCTURE LLC (Submitted)	2,410,450.00	0.00	3,230,255.00	0.00	5,640,705.00
DW EXCAVATING INC (Submitted)	2,633,515.00	0.00	3,443,562.00	0.00	6,077,077.00

Low Bid Contractor: INLAND INFRASTRUCTURE LLC

	<i>Contractor's Bid</i>	<i>Engineer's Estimate</i>	<i>% Variance</i>
<i>Schedule 01</i>	2,410,450.00	1,943,244.50	24.04 % Over Estimate
<i>Schedule 02</i>	0.00	0.00	% Under Estimate
<i>Schedule 03</i>	3,520,977.95	5,197,961.48	32.26 % Under Estimate
<i>Schedule 04</i>	0.00	0.00	% Under Estimate
<i>Bid Totals</i>	5,931,427.95	7,141,205.98	16.94 % Under Estimate



Agenda Sheet for City Council Meeting of:

04/10/2023

Date Rec'd	3/29/2023
Clerk's File #	OPR 2023-0390
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	HISTORIC PRESERVATION
Contact Name/Phone	MEGAN DUVALL X6543
Contact E-Mail	MDUVALL@SPOKANECITY.ORG
Agenda Item Type	Contract Item
Agenda Item Name	0470 - AHRENS & AHRENS AUTOMOBILE DEALERSHIP NOMINATION TO THE SRHP

Agenda Wording

Recommendation to list the Ahrens & Ahrens Automobile Dealership, 807 W 2nd Ave, on the Spokane Register of Historic Places.

Summary (Background)

SMC #17D.100.040 provides that the City/County Historic Landmark Commission can recommend to the City Council that certain properties be placed on the Spokane Register of Historic Places. The Ahrens & Ahrens Automobile Dealership has been found to meet the criteria set forth for such designation, and a management agreement has been signed by the owners.

Lease? NO Grant related? NO Public Works? NO
Fiscal Impact **Budget Account**

Neutral	\$	#
Select	\$	#
Select	\$	#
Select	\$	#

Approvals

Dept Head	DUVALL, MEGAN
Division Director	MACDONALD, STEVEN
Finance	ORLOB, KIMBERLY
Legal	PICCOLO, MIKE
For the Mayor	PERKINS, JOHNNIE

Council Notifications

Study Session\Other	UE 3/13/23
Council Sponsor	CMs Bingle & Cathcart
Distribution List	mduvall@spokanecity.org
	chris@rencorprealty.com
	rbenzie@spokanecity.org
	smaedonald@spokanecity.org
	sgardner@spokanecity.org

Additional Approvals

Purchasing	

Findings of Fact and Decision for Council Review

Nomination to the Spokane Register of Historic Places

Ahrens & Ahrens Automobile Dealership – 827 W Second Avenue

FINDINGS OF FACT

- 1. SMC 17D.100.090: "Generally a building, structure, object, site, or district which is more than fifty years old may be designated an historic landmark or historic district if it has significant character, interest, or value as part of the development, heritage, or cultural characteristics of the city, county, state, or nation."**
 - Originally built in 1919; the Ahrens & Ahrens Automobile Dealership meets the age criteria for listing on the Spokane Register of Historic Places.

- 2. SMC 17D.100.090: The property must qualify under one or more categories for the Spokane Register (A, B, C, D, E).**
 - The Ahrens & Ahrens Automobile Dealership meets Spokane City/County Register of Historic Places under **Category A** for its significance as a building associated with the evolution of the automobile and automobile-related businesses in Spokane.
 - The 1920s was the decade in which most of the buildings that were built downtown Spokane were specifically used to house automobile sales and accessories. The subject building was constructed with a showroom and service facility for the sale of Stephens and Oakland automobiles during the formative stages of Spokane's auto row. The building included both the showroom and garage for new and used cars.
 - First and Second avenues were Spokane's auto row and eight dealerships were constructed between Wall and Cedar in the 1920s. Automobile-related businesses filled in the storefronts of the other commercial buildings along the First and Second avenue corridors. As the number of automobile manufacturers dropped between 1920 and 1929, demand for automobile showrooms declined, and many transitioned to servicing automobiles and eventually to retail and office uses.
 - The building designed by Cowley and Wells was one of several automobile dealerships and garages designed by the firm between 1919 and 1923. The building is a simply detailed brick commercial building that was built for the sales and service of automobiles. Occupying a prominent corner lot location, the showroom and sales gallery in the front part of the building was accessed through the north pedestrian entrance, and the garage in the rear with shop doors on the west elevation to accommodate the passage of vehicles. Although altered over the years, the building continues to retain its essential character and place in the continuum of the automobile commerce of downtown Spokane.
 - The period of significance spans from the building's construction to 1973. *For a property with continued significance, 50 years from the present date is commonly used as the closing date for the Period of Significance. It continued to have importance as an automobile related building and no more specific date can be defined to end the historic period.*
 - The Ahrens & Ahrens Automobile Dealership contains good integrity of location and association. Although the form of the facade has been altered – by removal of the pediments over the entries from original construction in 1919, the removal of the original storefronts and the rebuilding of contemporary storefronts - the building maintains enough integrity to convey the character of the original building.

- 3. SMC17D.100.090: "The property must also possess integrity of location, design, materials, workmanship, and association." From NPS Bulletin 15: "Integrity is the ability of a property to convey its significance...it is not necessary for a property to retain all its historic physical features...the property must retain, however, the essential physical features that enable it to convey its historic identity."**
 - The Ahrens & Ahrens Automobile Dealership is able to convey its significance as a building related to the early period of Spokane's downtown autorow. It possesses the essential physical features to convey that significance as well as good integrity of location and association.

4. Once listed, this property will be eligible to apply for incentives, including:

Special Valuation (property tax abatement), Façade Improvement Grants, Spokane Register historical plaque, and special code considerations.

RECOMMENDATION

The Spokane Historic Landmarks Commission evaluated the Ahrens & Ahrens Automobile Dealership according to the appropriate criteria at a public hearing on 3/15/23 and recommends that the Ahrens & Ahrens Automobile Dealership be listed on the Spokane Register of Historic Places under Category A.

After Recording Return to:
City of Spokane Clerk
808 W Spokane Falls Blvd
Spokane, WA 99201

NOTICE OF MANAGEMENT AGREEMENT

NOTICE IS HEREBY GIVEN that the property legally described as:

RAILROAD ADD ALL LT 1 & S67' OF W25' OF LT 2 BLK 35

Parcel Number(s) 35192.2316, is governed by a Management Agreement between the City of Spokane and the Owner(s), SNEVA Properties, LLC, of the subject property.

The Management Agreement is intended to constitute a covenant that runs with the land and is entered into pursuant to Spokane Municipal Code Chapter 6.05. The Management Agreement requires the Owner of the property to abide by the "Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" (36 CFR Part 67) and other standards promulgated by the Historic Landmarks Commission.

Said Management Agreement was approved by the Spokane City Council on _____. I certify that the original Management Agreement is on file in the Office of the City Clerk under File No. _____.

I certify that the above is true and correct.

Spokane City Clerk

Historic Preservation Officer

Dated: _____

Dated: _____

MANAGEMENT AGREEMENT

The Management Agreement is entered into this **15th** day of **March, 2023**, by and between the City of Spokane (hereinafter “City”), acting through its Historic Landmarks Commission (“Commission”), and **Sneva Properties, LLC** (hereinafter “Owner(s)”), the owner of the property located at **827 W 2nd Ave** commonly known as the **Ahrens & Ahrens Automobile Dealership** in the City of Spokane.

WHEREAS, the City of Spokane has enacted Chapter 4.35 of the Spokane Municipal Code (SMC) and Spokane has enacted Chapter 1.48 of the Spokane County Code (SCC), both regarding the establishment of the Historic Landmarks Commission with specific duties to recognize, protect, enhance and preserve those buildings, districts, objects, sites and structures which serve as visible reminders of the historical, archaeological, architectural, educational and cultural heritage of the city and county is a public necessity and.

WHEREAS, both Ch. 17D.100 SMC and Ch. 1.48 SCC provide that the City/County Historic Landmarks Commission (hereinafter “Commission”) is responsible for the stewardship of historic and architecturally significant properties in the City of Spokane and Spokane County; and

WHEREAS, the City has authority to contract with property owners to assure that any owner who directly benefits by action taken pursuant to City ordinance will bind her/his benefited property to mutually agreeable management standards assuring the property will retain those characteristics which make it architecturally or historically significant;

NOW THEREFORE, -- the City and the Owner(s), for mutual consideration hereby agree to the following covenants and conditions:

1. CONSIDERATION. The City agrees to designate the Owner’s property an Historic Landmark on the Spokane Register of Historic Places, with all the rights, duties, and privileges attendant thereto. In return, the Owner(s) agrees to abide by the below referenced Management Standards for his/her property.

2. COVENANT. This Agreement shall be filed as a public record. The parties intend this Agreement to constitute a covenant that runs with the land, and that the land is bound by this Agreement. Owner intends his/her successors and assigns to be bound by this instrument. This covenant benefits and burdens the property of both parties.

3. ALTERATION OR EXTINGUISHMENT. The covenant and servitude and all attendant rights and obligations created by this Agreement may be altered or extinguished by mutual agreement of the parties or their successors or assigns. In the event Owner(s) fails to comply with the Management Standards or any City ordinances governing historic landmarks, the Commission may revoke, after notice and an opportunity for a hearing, this Agreement.

4. PROMISE OF OWNERS. The Owner(s) agrees to and promises to fulfill the following Management Standards for his/her property which is the subject of the Agreement. Owner intends to bind his/her land and all successors and assigns. The Management Standards are: "THE SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION AND GUIDELINES FOR REHABILITATING HISTORIC BUILDINGS (36 CFR Part 67)." Compliance with the Management Standards shall be monitored by the Historic Landmarks Commission.

5. HISTORIC LANDMARKS COMMISSION. The Owner(s) must first obtain from the Commission a "Certificate of Appropriateness" for any action which would affect any of the following:

- (A) demolition;
- (B) relocation;
- (C) change in use;
- (D) any work that affects the exterior appearance of the historic landmark; or
- (E) any work affecting items described in Exhibit A.

6. In the case of an application for a "Certificate of Appropriateness" for the demolition of a landmark, the Owner(s) agrees to meet with the Commission to seek alternatives to demolition. These negotiations may last no longer than forty-five (45) days. If no alternative is found within that time, the Commission may take up to forty-five (45) additional days to attempt to develop alternatives, and/or to arrange for the salvage of architectural artifacts and structural recording. Additional and supplemental provisions are found in City ordinances governing historic landmarks.

This Agreement is entered into the year and date first above written.

Owner

Owner

CITY OF SPOKANE

HISTORIC PRESERVATION OFFICER

MAYOR

Megan M.K. Duvall

Nadine Woodward

ATTEST:

City Clerk

Approved as to form:

Assistant City Attorney

STATE OF _____)
) ss.
County of _____)

On this _____ day of _____, 2023, before me, the undersigned, a Notary Public in and for the State of _____, personally appeared _____, to me known to be the individual(s) described in and who executed the within and foregoing instrument, and acknowledged that _____ (he/she/they) signed the same as _____ (his/her/their) free and voluntary act and deed, for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2023.

Notary Public in and for the State
of _____, residing at _____
My commission expires _____

STATE OF WASHINGTON)
) ss.
County of Spokane)

On this _____ day of _____, 2023, before me, the undersigned, a Notary Public in and for the State of Washington, personally appeared NADINE WOODWARD, MAYOR and TERRI L. PFISTER, to me known to be the Mayor and the City Clerk, respectively, of the CITY OF SPOKANE, the municipal corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2023.

Notary Public in and for the State
of Washington, residing at Spokane
My commission expires _____

Attachment A

Secretary of The Interior's Standards

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.

6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color,

texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Spokane Register of Historic Places Nomination

*Spokane City/County Historic Preservation Office, City Hall, Third Floor
808 Spokane Falls Boulevard, Spokane, Washington 99201-3337*

1. Name of Property

Historic Name: Ahrens & Ahrens Automobile Dealership
And/Or Common Name: Sneva's

2. Location

Street & Number: 827 West Second Avenue
City, State, Zip Code: Spokane, WA 99201
Parcel Number: 35192.2316

3. Classification

Category	Ownership	Status	Present Use	
<input checked="" type="checkbox"/> building	<input type="checkbox"/> public	<input type="checkbox"/> occupied	<input type="checkbox"/> agricultural	<input type="checkbox"/> museum
<input type="checkbox"/> site	<input checked="" type="checkbox"/> private	<input checked="" type="checkbox"/> work in progress	<input checked="" type="checkbox"/> commercial	<input type="checkbox"/> park
<input type="checkbox"/> structure	<input type="checkbox"/> both		<input type="checkbox"/> educational	<input type="checkbox"/> residential
<input type="checkbox"/> object	Public Acquisition	Accessible	<input type="checkbox"/> entertainment	<input type="checkbox"/> religious
	<input type="checkbox"/> in process	<input checked="" type="checkbox"/> yes, restricted	<input type="checkbox"/> government	<input type="checkbox"/> scientific
	<input type="checkbox"/> being considered	<input type="checkbox"/> yes, unrestricted	<input type="checkbox"/> industrial	<input type="checkbox"/> transportation
		<input type="checkbox"/> no	<input type="checkbox"/> military	<input type="checkbox"/> other

4. Owner of Property

Name: Chris Batten, Sneva Properties LLC
Street & Number: 502 West Riverside, Suite 103
City, State, Zip Code: Spokane, WA 99201
Telephone Number/E-mail: 509-217-5508/chris@rencorprealty.com

5. Location of Legal Description

Courthouse, Registry of Deeds	Spokane County Courthouse
Street Number:	1116 West Broadway
City, State, Zip Code:	Spokane, WA 99260
County:	Spokane

6. Representation in Existing Surveys

Title: none

Date: Federal State County Local
Depository for Survey Records Spokane Historic Preservation Office

7. Description

Architectural Classification

Condition

Check One

excellent

unaltered

good

altered

fair

deteriorated

Check One

ruins

original site

unexposed

moved & date _____

Narrative statement of description is found on one or more continuation sheets.

8. Spokane Register Criteria and Statement of Significance

Applicable Spokane Register of Historic Places criteria: Mark "x" on one or more for the categories that qualify the property for the Spokane Register listing:

- A Property is associated with events that have made a significant contribution to the broad patterns of Spokane history.
- B Property is associated with the lives of persons significant in our past.
- C Property embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components lack individual distinction.
- D Property has yielded, or is likely to yield, information important in prehistory history.

Narrative statement of significance is found on one or more continuation sheets.

9. Major Bibliographical References

Bibliography is found on one or more continuation sheets.

10. Geographical Data

Acreage of Property: less than 1

Verbal Boundary Description: RAILROAD ADD All LT1 & S67' of W25' of LT2 BLK35

Verbal Boundary Justification: Nominated property includes entire parcel and urban legal description.

11. Form Prepared By

Name and Title: Jim Kolva

Organization: Jim Kolva Associates, LLC

Street, City, State, Zip Code: 115 South Adams Street, Suite 1

Telephone Number: 509-458-5517

E-mail Address: jim@jimkolvaassociates.com

Date Final Nomination Heard :

12. Additional Documentation

Additional documentation is found on one or more continuation sheets.

13. Signature of Owner(s)

14. For Official Use Only:

Date nomination application filed: _____

Date of Landmarks Commission Hearing: _____

Landmarks Commission decision: _____

Date of City Council/Board of County Commissioners' hearing: _____

I hereby certify that this property has been listed in the Spokane Register of Historic Places based upon the action of either the City Council or the Board of County Commissioners as set forth above.

Megan Duvall
City/County Historic Preservation Officer
City/County Historic Preservation Office
Third Floor – City Hall
808 W. Spokane Falls Blvd.
Spokane, WA 99201

Date

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Description - Summary

The one-story brick commercial building is on the southeast corner of Lincoln Street and Second Avenue in the west end of downtown Spokane. An early automobile showroom and tire service shop, the building is adjacent to, but outside of the West Downtown Transportation Corridor National Register District. Built in 1919, the 50' -75' x 142' building with basement has been altered but retains its basic form and rhythm with primary facades facing north (front) and west. The building fronts along Second Avenue with three bays, and along Lincoln Street with eight bays. The storefronts have been rebuilt and allude to the original configuration. The front façade is symmetrical with a centered entry bay flanked by a shop-front bays on the east side and the west side. Square brick pilasters project slightly beyond the wall plane of the front and west facades to emphasize the main front pedestrian entry and building corners. The parapet is flat and the original stepped flat pediments over the main pedestrian and vehicular entries were truncated in the 1960s. Decorative brick pattern and terra cotta insets provide detailing. The barrel roof is trapezoidal in shape with a flat wing section over the southeast lobe.

DESCRIPTION OF PROPERTY - CURRENT CONDITION AND APPEARANCE

The ground floor consists of the former showroom in the front, and indoor vehicle parking and service area in the rear. The former showroom has been divided into an office suite with access to the rear garage area. Garage door entries dominate the west façade. The full basement has a garage entrance from the alley in the southeast corner, and an internal stairway at the south end. Although altered by Goodyear during the 1960s, the building maintains its original location, and retains integrity of materials and workmanship. Its association as a commercial building related to the automobile industry is evident as well as its association to the neighborhood with the adjacent commercial buildings to east and the church across Lincoln Street to the west, and commercial buildings to the northwest. Although the original storefronts and garage bays have been altered with respect to material – the original wood sash replaced by extruded metal storefront - the sash configuration is representative to the original design which had been altered in the mid-20th century.

Located in the southwest quadrant of the downtown Spokane business district, the building is at the southeast corner of Second Avenue and Lincoln Street, 827 West Second Avenue, Lot 1, and a portion



Northwest corner - north and west facades, looking southeast

of Lot 2, block 35 of the Railroad Addition. The Ahrens & Ahrens building is one-story in height and has a frontage of 50 feet on Second Avenue, the front façade; and a frontage (depth) of 142 feet along Lincoln Street. An east-west alley forms the 75-foot southern boundary, and two adjacent two-story commercial/residential (former Single Room Occupancy hotels (SROs)) buildings are along the east side. At about its halfway point, the east wall jogs to wrap the south end of the westerly building. The building covers the entire 8,775 square foot site. Although the form of the facade has been altered – by removal of the pediments over the entries from original construction in 1919, the removal of the original storefronts and the rebuilding of contemporary storefronts - the building maintains enough integrity to convey the character of the original building.

Front Façade (north along 2nd Avenue)

The one-story rug-face brick building, rises from a full basement and is composed of low concrete bulkhead walls, a wide band of storefront, door, and window openings, and flat brick field terminated by a narrow and slightly projecting square cornice. Four square brick piers divide the symmetrical front façade: one on each corner and one flanking each side of the main entry. The piers that bracket the entry are also projected 8 inches from the façade plane to provide additional emphasis to the entry. Poured-in-place concrete bases, about 12 inches in height support the brick walls. The façade is divided into three



sections, a centered entry bay flanked by single shop-front commercial bays. The entry bay consists of double glass-panel doors with a six-light transom window above (three rows and two columns). The shop front bays are divided by extruded metal mullions into three sections over a low concrete bulkhead wall. Above each of the large window sections are transom windows divided by three columns and two rows, similar to the entry, but with narrower lights.

The piers are composed with stacked columns of paired headers framing a column of stacked stretchers. At the

bottom, two rows above the concrete base is a terra cotta panel (approximately 18-inches wide by 7-inches in height). Two rows below the line formed by the window heads on the inside header columns are two vertical terra cotta panels, 4-inches wide by 7-inches in height. The entry piers continue to the top of the parapet wall where they have been truncated. Similar to the inset panels at the window heads, terra cotta panels are two rows below the top of the wall. The corner piers with the same brick composition as the entry piers extend to the window heads where they meld into the brick field. But the two courses between the terra cotta panels and window head differ in that they consist of a row of stretchers and a row of header-stretcher-stretcher-header before the field of running-bond courses.

(As shown on historical photographs Libby 1920 and 1943 the main entries on the north and west facades were crowned by flat two-stepped pediments in which the piers extended about six brick courses above the existing. The pediments coupled with the original sash pattern lent an art deco flavor to the building.)

The brick field is flat and subtly patterned into three brick panels corresponding to the three wall sections by single vertical brick headers forming the horizontal frames and stacked horizontal brick



headers forming the vertical frames. Corresponding to the frames, the outside corners of the wall and the entry piers are composed of stacked horizontal brick headers. The corners of the three frames are spotted with 4-inch-square terra cotta tiles. The wall terminates five courses above the frames by

insetting to a continuous concrete cap. The wall section within and including the entry piers extends to the bottom of the slightly projecting cornice which is capped by a sheet metal flashing. The wall sections flanking the entry assembly are at their original height, and as mentioned above, the entry piers and pediments have been truncated. The original photos show that the existing cornice is not original (likely added in 1968). It appears that the concrete coping over which the cornice is set is the original wall cap. The TPO (rubberized) roof is a trapezoidal barrel which rises slightly above the tops of the parapet walls but is not visible from ground level. The southeast section of the building has a flat roof configuration that slopes west down to the main roof section gutter.

West Facade

The west facade, along Lincoln Street, is asymmetrical and divided into eight unequally-sized bays separated by flat brick pilasters that extend to the bay heads. The composition is the same as the front except that the bulkhead walls are at original height (because of street grade, the wall increases in height from north to south). As with the front façade, slightly projecting piers frame the original main west side entry (stepped pediment truncated). The original first floor showroom-office section (north portion) contained two storefront bays (bays 1, and 2) that have been replaced by an approximation of the original configuration. The west side pedestrian entry (bay 3) was within its original bay but in the 1960s the original sash was replaced by a centered aluminum-frame glass panel door with large glass panel sidelights and a transom above. In the 2022 renovation, the entry door assembly has been removed and replaced by a glass storefront that approximates the sash configuration of the original building. As with the door and window assembly of the original building, the storefront windows are divided into three sections with multiple transom windows above. The same configuration as the front bays, and bays 1 and 2 of the west façade, three large glass panels rest on a low bulkhead wall and each section is topped by transom windows divided into three columns and two rows.



Bay 4 is a high-set window bay (about 4'-6" to sill) with original wood sash. The opening is set within the brick wall and differentiated only by the slightly projecting vertical brick header sill. The sash is in three sections, each divided in the middle by a horizontal muntin. Bay 5 is an aluminum panel roll-up shop door in an original opening. Bay 6 is a wood and glass panel roll-up shop door within a new opening (ca. 1960s, six by six panels with two glass rows). Bay 7, an original opening has the same door configuration as Bay 6. Bay 8 consists of a window opening and pedestrian door in the corner. The door opening is narrow

and maintains the same head height as the previously-described openings. The wood panel door is composed of four recessed panels and a four-light upper section over which is a fixed twelve-light light transom window (three columns, four rows).

South Facade

The building backs to an east-west alley which slopes down to the east allowing a garage door opening in the southeast corner. The basement walls are basalt rubble and brick with five window openings and a solid horizontal-ribbed roll-up garage door in the east corner. The basalt wall terminates at the basement window heads and transitions to brick above. The wall is flat except for a slight projecting continuous sill

of vertical brick headers that extends between the outside jambs of the window band. The windows are wood sash and the sash is the same for all window configurations. From west to east is a paired triple-sash opening (pairs are separated by narrow brick wall section) separated from another window pair by a double-wide brick wall section. A wider wall section marks the middle of the façade at which point the window configuration changes to a group consisting of a single double-hung sash, narrow wall section, triple sash section, narrow wall section, and single double-hung sash. Separated by a double-wide brick wall section, the east end of the window band is identical to the west end, a pair of triple sash openings.



East Facade

The east facade, abuts the adjacent buildings with only a short blank brick wall segment revealed at the corner. A square brick chimney extends about four feet above the parapet corner.

Floor Plan

The ground floor consists of the former showroom in the front, remodeled in the early 1960s and again in the 2000s, and a vehicle parking and service area in the rear. The former showroom extended southward to the pedestrian door in Bay 3. The garage area occupies the remainder of the building. The floor plan consists of a large rectangle with the short side corresponding to the 50-foot width of the front façade, and the long side of 142 feet wall between 2nd Avenue and the alley along Lincoln Street. Attached to the rear half of the east façade is a smaller rectangular lobe corresponding to the 25-foot width of the south wall of the building adjacent to the east side, and 67-foot wall filling the gap between the exposed rear of that building and the alley.

The former showroom consists of an open reception lobby with two office suites and a restroom along the south wall. The floor is terrazzo. Walls are plaster and sheetrock. The ceiling is a suspended grid of acoustical tile with three rows of combined 12-inch by 48-inch fluorescent light fixtures. The west bay of the original showroom was opened up during the 1960s—the sash sections of the north bay and two west bays were removed. Additionally, the bulkhead wall of the north bay was removed so that vehicles could enter a porte-cochere. In its most recent alteration, the porte-cochere was walled-in in 2022 to approximate to the original wall configuration of the northwest corner. The interior garage door in the south wall and windows and the wall between the former office suites and porte-cochere remain in place.



The rear southeast corner of the building where it extends behind the neighboring building to the east.

The garage has a concrete floor slab that also functions as the ceiling to the basement. Exposed brick forms the outside west, south and east walls, with the northeast corner of the garage being formed by the southwest corner of the ca. 1902 brick building (Daniel Paul Building, SRHP) that the garage wraps around (four bricked-in windows are in the south end wall of this building). The north wall is a combination of poured concrete structure, sheet rock, and plaster on the original office, mezzanine, and storage rooms. The ceiling is composed of the bottoms of two roof systems, the trapezoidal main section covering the full western section the building, and the flat section over the southeast quadrant. Exposed trapezoidal trusses (approximately 20-feet on center), rafters, and the bottom of tongue and groove roof deck, penetrated by four skylights cover the building. Concrete piers and wood posts support the trusses and a heavy north-south wood beam that supports the rafters of the southeast flat roof section.

The garage area is open with two smaller rooms on the north side. A steep and narrow wooden stairway ascends toward the east to a small mezzanine storage room that is unfinished. Along the south wall is an open stairway to the basement.

The basement is open with concrete floor, basalt rubble walls, and a poured-in-place concrete ceiling supported by concrete posts and beams. In the northeast corner is the brick wall with a segmental arch doorway that provides access to mechanical rooms.

ORIGINAL APPEARANCE & SUBSEQUENT MODIFICATIONS

The Ahrens & Ahrens garage constructed in 1919 and was altered by the Goodrich Tire Company in the 1960s. A 1920 Libby photograph depicts the building as originally configured. A 1943 Libby photograph shows the front façade of the Goodrich Tire Company, also as originally configured.

The original front façade and northern two bays of the west façade were enclosed with wood sash storefront windows with transoms. The symmetrical façade was composed of the centered entry beneath a stepped flat pediment that projected above the flanking wall sections which were capped with concrete coping, slightly inset from the parapet wall edge. Within the entry bay was a set of double-wood-frame glass panel doors with a fixed horizontally-oriented six-light transom window (three columns, two rows). In the openings of the flanking storefront bays, the original bulkhead wall along the front was at the same height as the existing concrete pier and pilaster bases (and the existing wall sections in the two northerly bays of the west façade). The storefronts were composed of three sections with a wide middle section about three times the width of the side panels. The transom windows were the same height as that over the entry and divided to correspond with the storefront divisions – six narrow vertical lights over the side panels and eight wider horizontal lights over the middle section.



Ahrens & Ahrens in 1920 - west facade, looking southeast _ L87-1.18244-20

The west façade, fronting along Lincoln Street and extending between Second Avenue and the alley was altered in the 1960s. The original first floor showroom-office section (north portion) contained two storefront bays (bays 1, and 2) that were opened and converted to a porte-cochere. The west side pedestrian entry (bay 3) is within its original bay but the original sash was replaced by a centered aluminum-frame glass panel door with large

glass panel sidelights. A vertically-oriented fixed transom window is above the door. In its current form, these bays were restored with an approximation of its original configuration in 2022. The 1920 photograph shows the northwest corner of the one-story building. The west façade has been altered similarly to the north façade, but with the conversion of a double window bay into a garage door bay and widening of other two bays. The two northerly storefront bays were configured the same as described for the front. The entry bay originally featured the same, but wider pediment as the front. Within the opening was a single and centered wood-frame glass panel door and wide glass panel sidelights. Above the door head were transom windows, four square glass lights over the door, and six square lights over the side panels. Two garage doors were in the original façade, with a pair of window bays (same as two remaining window bays). In the 1968 remodel, the paired bays were converted to a garage door. The two original bays were widened, but these may have been prior to 1968.



L87-1.506-65 NW MAC JEF Research Archives Libby Collection – 1965 photo showing the porte cochere corner of the Ahrens & Ahrens Building

The storefront was reconfigured in the 1960s by removing the original multi-light wood sash, lowering the bulkhead wall and adding new glazing. The opening is divided vertically into three equal glass segments with the westerly segment divided into two equal sections by a horizontal mullion. The original entry assembly was replaced with an aluminum-frame single-glass-panel pedestrian door with wide single-panel sidelight and fixed three-section transom window above. The westerly bay front was removed and converted to an open entry setback two bays to a roll-up garage door. The brick corner pier is the same as described above.

Building permits were issued to the B.F. Goodrich Tire Company for alterations in 1957 (value of \$5,100), 1964 (value of \$20,000) for interior alterations and reface portion of building (upper section), and 1968 (\$1,500 value) to change window to overhead door and enclose open stairway from basement.

Subsequent interior alterations have been completed in the front office area, but dates are undetermined.

SECTION 8: STATEMENT OF SIGNIFICANCE

Area of Significance: A – Broad Patterns of Spokane History, Commerce
Period of Significance: 1919-1973
Architect: Arthur W. Cowley and William A. Wells
Building Developer/owner: Owner, A.P. Mitchell
Building Contractor: Mitchell Brothers
Business Owners: Ahrens & Ahrens

SUMMARY STATEMENT

The Ahrens & Ahrens Garage, built in 1919, is significant under Category A as a building associated with the evolution of the automobile and automobile-related business in Spokane. The 1920s was the decade in which most of the buildings were built downtown Spokane specifically to house automobile sales and accessories. The subject building was constructed with a showroom and service facility for the sale of Stephens and Oakland automobiles during the formative stages of Spokane's auto row. The building included both the showroom and garage for new and used cars. First and Second avenues were Spokane's auto row and eight dealerships were constructed between Wall and Cedar in the 1920s. Automobile-related businesses filled in the storefronts of the other commercial buildings along the First and Second avenue corridors. As the number of automobile manufacturers dropped between 1920 and 1929, demand for automobile showrooms declined, and many transitioned to servicing automobiles and eventually to retail and office uses.

The building designed by Cowley and Wells was one of several automobile dealerships and garages designed by the firm between 1919 and 1923. The building is a simply detailed brick commercial building that was built for the sales and service of automobiles. Occupying a prominent corner lot location, the showroom and sales gallery in the front part of the building was accessed through the north pedestrian entrance, and the garage in the rear with shop doors on the west elevation to accommodate the passage of vehicles. Although altered over the years, the building continues to retain its essential character and place in the continuum of the automobile commerce of downtown Spokane. The period of significance spans from the building's construction to 1973. For a property with continued significance, 50 years from the present date is commonly used as the closing date for the Period of Significance. It continued to have importance as an automobile related building and no more specific date can be defined to end the historic period. (*National Park Service, National Register Bulletin 16A: How to Complete the National Register Registration Form. Washington DC: US Department of the Interior, National Park Service, Cultural Resources, 1997 (1977):42*).

Ahrens and Ahrens, as several other early automobile dealers in Spokane, not only sold vehicles out of their Spokane showroom, but also acted as wholesalers to automobile dealerships in eastern Washington, northern Oregon and Idaho, and western Montana—from the Cascades to the Rockies. Don Ahrens, a founding partner in the Spokane dealership would eventually head the Cadillac Division for General Motors and retire as a GM vice president.

Historical Context

The Spokane Falls and its surroundings were a gathering place and focus for settlement for the area's indigenous people due to the fertile hunting grounds and abundance of salmon in the Spokane River. The first humans to arrive in the Spokane area arrived between twelve thousand and eight thousand years ago and were hunter-gatherer societies that lived off the plentiful game in the area. Initially, the settlers hunted predominantly bison and antelope, but after the game migrated out of the region, the native

people became dependent on gathering roots, berries, and fish. The Spokane tribe used the Spokane Falls as the center of trade and fishing.

The first American settlers, squatters J.J. Downing, with his wife, stepdaughter, and S.R. Scranton, built a cabin and established a claim at Spokane Falls in 1871. James N. Glover and Jasper Matheney, Oregonians passing through the region in 1873 recognized the value of the Spokane River and its falls. They realized the investment potential and bought the claims of 160 acres and the sawmill from Downing and Scranton. The Reverend Henry T. Cowley followed in October 1874 as a missionary and Indian Sub-Agent to the Spokan Indians. Glover and Matheney knew that the Northern Pacific Railroad Company had received a government charter to build a main line across this northern route. By 1875, Matheney became doubtful that the Northern Pacific Railroad came to Spokane and sold his stake in the venture to Glover.

The Northern Pacific Railroad arrived in Spokane Falls in 1881, providing connection to the Puget Sound. The line was completed in 1883 when the eastern and western branches of the railroad came together, thus establishing transcontinental service through Spokane Falls.

The newly incorporated city continued to grow through the 1880s. Between 1886 and 1889 the population increased from 3,500 to 20,000 people. In spite of the devastating fire of August 4, 1889, which destroyed approximately thirty-two blocks of the business district from the railroad tracks to the river and from Lincoln to Washington Streets, the city quickly rebounded. Because of city ordinance to reduce fire hazard, brick and terra cotta became the dominant building materials of the rebuilt downtown.

When Spokane rebuilt the downtown after the fire, the new buildings were constructed in an area much larger than the original business district. The business district spread east to Division Street. Sanborn Fire Insurance maps from 1891, 1902, and 1910 show a dramatic increase in the construction of commercial buildings in west downtown. Frame dwellings gave way to commercial buildings that would meet the demand of the influx in population. Among the property types and businesses that were prevalent were hotels, lodging houses, and restaurants.

From the turn of the new century, Spokane's population exploded from 36,848 in 1900 to 104,402 in 1910. This growth mirrored the population expansion of the state that saw its greatest increase in the same decade. Many people moving to Washington settled in the state's three largest cities: Seattle, Tacoma, and Spokane. Various industries rapidly developed and with it a demand for more buildings. Most of the city's urban downtown skyline was created from the late 1890s to 1912 with the construction of office buildings, banks, hotels, department stores and other commercial buildings. As author John Fahey describes, Spokane, which had put up 675 new structures in 1900 as migration accelerated, built 1,500 to 1,900 buildings a year from 1904 through 1909.

The economic boom and population expansion of approximately the first fifteen years of the 20th century was short-lived. Growth in both areas in the next decade slowed considerably. But prosperity seemed to return in 1917. In February of that year, the Spokane Daily Chronicle would announce that "Spokane Banks Made Most Gain," with the largest clearings on the west coast (2/2/1917, p8/3), and a "Rosy Future Seen for Local Business," in reporting that Spokane was named as one of the nine most promising cities in the whole country (2/8/1917, p12/1). New buildings were announced and the downtown saw construction activity. Some 32 projects were listed as proposed or under construction as proclaimed by the Spokane Daily Chronicle on March 6, 1917: "Two Millions And Half for New Buildings Here," for buildings that included the Crescent, Chronicle Building, Elks Temple and Overland Garage among others.

By 1920, the population of Spokane was only 104,437, an increase of only 35 people from 1910 (Decennial Census Counts. OFM). Investors soon realized the city was overbuilt. The region it served (the Inland

Northwest) was not able to sustain the city and keep pace with the speculative growth. The 1920s and 1930s saw similar, but less drastic slow growth due to economic factors. The Inland Northwest region's dependency on extractive products from farms, forests, and mines suffered from declining demand. However, the 1920s also saw the advent of the automobile and the improvement in roads throughout the state. Mechanized machinery including motorized trucks replaced the draft horses on the farm and in the woods. Modern buildings were built specifically to house these new businesses and they were concentrated in the western part of downtown, predominantly between Sprague and 2nd avenues, bracketing the Northern Pacific Railroad viaduct.

1920s, the Burgeoning Automobile Business in Downtown Spokane

In the United States and Washington state, the 1920s was a major growth period for automobile ownership and at the same time, the improvement of the infrastructure required for citizens to use those vehicles. In the U.S., by the end of the 1920s, the number of registered owners of automobiles almost tripled from the year 1920 to 1930 to 23 million.

In the state of Washington, there were 9,311 registered vehicles in 1910. By 1921, the number of registered vehicles reached 137,000 and by 1934 had increased to 460,000 vehicles. On May 10, 1925, The Spokesman Review reported that 27,022 automobiles had been licensed in Spokane, compared to 25,287 for the same period the previous year.

Downtown Spokane's auto row was also taking shape. That term was first used in the August 20, 1911 edition of The Spokesman Review in captioning a cartoon that depicted the "Inhabitants of Spokane's auto row." By 1910, auto supply, auto repair, tire companies, and auto showrooms were beginning to line the business blocks along Sprague, First, Second and Third avenues. The area west of Monroe along First Avenue and west of Wall along Second Avenue became the city's auto row with six auto dealership showrooms constructed along First Avenue and four dealerships along Second Avenue between 1919 and 1926. In addition, garages, auto repair shops, and suppliers of parts and accessories including tires were in this district.

Cowley and Wells were at the forefront of these new automobile serving buildings. Cowley and Rigg designed the Child, Day and Churchill Auto Supply building (2nd floor addition) in 1911 as well as three hotels in the block to the east. In 1916, Cowley designed the showroom for the Jamieson Motor Company on the corner of Sprague and Jefferson (razed). The 1919 Ahrens & Ahrens was the first of several automobile showrooms and garages in the Second Avenue auto row. Others include the Doran Building (707 W 2nd 1920, SRHP), the Willis-Overland building at Madison and Sprague (1920, extant), the Chanslor & Lyon wholesale automobile accessories distributors, at the corner of Madison and 2nd (razed); the Wells Chevrolet Service Building (115 South Adams Street, SRHP) and Showroom Building in 1926 (1229 W. 1st, SRHP). In 1931, Wells also designed the Union Pacific Stages at Adams Street and Third Avenue. Between 1911 and 1931 Cowley designed nine automobile-related buildings in Spokane's Auto Row.



Spokesman-Review, August 20, 1911

The automobile business was transitioning to modern day sales in the 1920s. The automobile and rail were still integrally related, since the new dealerships and the suppliers were along the Northern Pacific corridor as well as the US 10 highway corridor (US 10's 1915 route was located on Sprague Avenue, but was later re-routed to 3rd Avenue in the 1930s until the completion of Interstate 90).

Between 1919 and 1926, four automobile dealerships were built along the Second Avenue corridor, and six auto dealerships built new buildings in the West First Avenue district. They include Ahrens and Ahrens at 827 W. Second, Doran at 707 W. Second, Chanslor & Lyon wholesale automobile accessories at Second and Jefferson, March-Strickle Oldsmobile at 1126 W. Second, and NW Truck Transport at 1202 W. 2nd. Along West First were Riegel Brothers Dodge, Willys-Overland Pacific, Findlay-Studebaker, Chandler Auto, Wells Chevrolet, and Eldridge Buick. According to the West Downtown Historic Transportation Corridor National Register Nomination (1999), "During the two decades after World War I, nine brick buildings, all related to the growing automobile industry were erected in the corridor. Most were built in the mid-1920s, only one was constructed after 1930 ...The building boom of the automobile-related structures that occurred during the twenties was never matched again in the West Downtown Historic Transportation Corridor."

Florence K. Lentz and Craig Holstine prepared an inventory and evaluation of historic properties associated with transportation in the state (Lentz, 1995). In that document, the physical form of the auto rows "Downtown Dealerships" were described:

Built between ca. 1900 and 1925, downtown dealerships constructed solely for automotive commerce followed the Main Street formula of zero-setback from the sidewalk, adjoining side walls (in larger towns), and a tri-partite brick or stucco façade. Wood frame or loadbearing masonry construction was the norm. Roof configuration, generally flat, gabled, or bow truss, were hidden behind decorative parapet walls. Downtown dealerships were frequently of two stories (or more in larger cities), requiring interior ramps and /or elevators.

Display windows with transoms were large, offering a view into the street-facing showroom. Often built on corner lots, vehicle access was provided through double-leafed wooden garage doors off the site street or alley. Repair and service facilities were located unobtrusively at the rear.

The Ahrens & Ahrens building exhibits most of the characteristics described above including: zero-setback from the sidewalks on a corner lot, and a tri-partite brick façade, loadbearing masonry construction, trapezoidal truss roof hidden behind decorative parapet walls, two stories in height, large display windows with transoms along both Lincoln Street and Second Avenue, and vehicle access along Lincoln Street.

Chronology of the Ahrens & Ahrens Building

The subject property is on the southeast corner of Second Avenue and Lincoln Street, or the northwest corner of the block bounded by block bounded by Lincoln Street on the west, Post Street on the east, 2nd Avenue on the north and 3rd Avenue on the south. It includes lot 1 on the corner and the adjacent west half (25') of the south 67 feet of lot 2. It should be noted that the north half of lot 2 on which a two-story brick building at 823 2nd resides, was originally and is currently in the same ownership as the garage.

The 1889 Sanborn map shows wood frame dwellings on the entire block.

In 1902 a two-story wood frame building occupied the northern half of the corner lot with the addresses 827-826-1/2-829: stores on the ground floor and lodgings above. Two wood frame dwellings occupied

the southern half of the lot. The western half of the adjacent lot to the east was occupied by a “Chine Laundry” with two other wood frame structure. The remainder of the block contained wood frame dwellings, sheds, Northwestern Business College and the 4-story Bump Block on the corner of Second and Post.

The 1910 Sanborn shows two two-story store buildings fronting on Second Avenue and two dwellings at the southern half of the lot. A two-story brick building (ca. 1902) was depicted on the lot adjacent to the east. Brick buildings filled in a solid front along Second Avenue in the remainder of the block.

The building of the Ahrens & Ahrens garage involved two major dealers in the Spokane real estate/construction and automobile markets: the Mitchell Brothers, railroad and road contractors and real estate investors, and Ahrens & Ahrens automobile distribution and sales. Their stories intertwined during the 1920s with the Mitchell Brothers owning real estate and building the garage, and the Ahrens operating a successful automobile agency that reached between the Cascades and the Rockies.

Arthur P. Mitchell, born in Minnesota arrived in Spokane in 1883, attracted to the city to handle horse-drawn freight wagons over the Walla Walla to Colville military road. Joined by his brother Albert L. Mitchell in 1889 they formed a construction company with their father, George, and built railroads and the streets of a growing Spokane. They believed in the growth of Spokane and made major investments in downtown real estate, including the southeast corner of Lincoln and Second which they acquired ca. 1904 (sewer permit to connect to 2nd Avenue sewer in 1904). They also owned lot on which the two-story brick store/SRO building at 823 West 2nd Avenue had been constructed ca. 1902. That property had been developed by Spokane real estate investor Fred Zahn (a barber) and Dan Paul (former state legislator from Coulee City). To the west, on the corner, Jacob Postel had established a meat market in the two-story wood frame building that contained shops and lodgings, ca. 1904.



The *Spokane Daily Chronicle* reported on November 5, 1909 that a “**Big Five-Story Block on Second**” was proposed by A.P. Mitchell on Corner of Lincoln Street.

Within the near future definite announcement will be made by A.P. Mitchell, the well-known contractor, regarding his plans for the erections of a five-story block on his property at the southeast corner of Second avenue and Lincoln street. Just what the nature of the building will be has not been decided upon, and what it will cost cannot be determined until other details are worked out, but the cost will probably be between \$60,000 and \$70,000 it is said.

Mitchell’s five-story plan apparently did not materialize since the *Chronicle* two years later in June 1911 reported: “**Plans Three-Story Brick on Lincoln.**”

At this time, the building had been reduced to a three-story brick building expected to cost in the neighborhood of \$50,000. “The building is proposed for the property belonging to A. P. Mitchell and will be 90 feet by 142 feet in size.”

But, Mitchell had other plans that were reported by *The Spokesman-Review* on June 12, 1913. **“Pays \$100,000 Cash For Upton.”**

The sale yesterday by the Imperial Investment company to A. P. Mitchell, the contractor, of the Upton hotel [106 Cedar Street, SRHP) at the southwest corner of First avenue and Cedar street, for \$100,000 is the largest cash deal since the purchase of the Curtis block by August Paulson. According to Mitchell, “The money did not come out of the contracting business, either, but through judicious investments in Spokane. The contracting business has reached the stage where it is well to look to other fields and it is for this reason that I have bought the Upton. I consider it a good buy and a good investment.

I have made what I have in Spokane and think well enough of the city to continue to invest it here. I have figured that this is the time to buy real estate when one can afford to carry it, and I believe not mistake can be made.

In the meantime, *The Spokesman-Review* announced a new automobile on the Spokane market on August 25, 1917. **“Stephens Autos to Make Debut.”**

“Ahrens & Ahrens Enter Spokane Field with Initial Order for 300 Cars”

The Stephens Salient Six, heretofore a stranger in Spokane motor circles, will make its initial bow here tomorrow. Spokane has taken its place with leading distributing centers in America, it is said, and all the standard cars want to find a berth here. The Stephens Salient Six, the latest arrival, comes with a 300-car contract, to be represented by the firm of Ahrens & Ahrens, recently of Portland, Ore. The car is the product of the Stephens motor branch of the Moline Plow company, and the factory I at Freeport, Ill. The Moline company is now constructing a big distributing plant here, to be completed in October, according to D. E. Ahern, junior member of the firm.

Salesrooms Secured.

Ahrens & Ahrens will open their salesrooms opposite the Davenport hotel at W901 First Avenue. ...

“George Ahrens, senior member of the firm, has been European wholesale representative of a large manufacturing concern for a number of years, and also has manufacturing interests of his own at Moline. He has traveled the United States for the last 13 years. He has spent the last few years in the northwest. He is optimistic over the possibilities of the Inland Empire and considers it the most favorable for automobile development of any section in the United States.

D.E. Ahrens, his nephew, has been engaged in the automobile business for the last few years in the east, having handled cars in Chicago and Kansas City, and is enthusiastic regarding the prospects both in Spokane and territory tributary.” Article continues

In September 1917, *The Spokesman-Review* included a photo of George Ahrens and announced the first shipment of the 1918 models of the Stephens Salient Six that would occupy the show rooms of Ahrens & Ahrens, W901 First avenue. Further reported: “The company plans to erect its own building here in the early spring.”

Reports in the automobile section of *The Spokesman-Review* and in the *Spokane Chronicle* reported the growth of the automobile industry in Spokane and the success of Ahrens & Ahrens. In December 1917 the company closed a contract with the Franklin-Wicks Motor company of Seattle for distribution of the Stephens in the territory west of the Cascades. They also reached agreements to distribute to dealers in North Yakima, Las Crosse, Corfu, Lind, and Palouse.

In August 1918 *The Spokesman-Review* reported that Don E. Ahrens, junior member of the firm of Ahrens & Ahrens, had recently passed through Spokane enroute to Camp Taylor, near Louisville, Ky., assigned to the officers' training camp there from St. Louis.

Since going over to Camp Lewis this summer Mr. Ahrens was promoted to the rank of Sergeant and passed the officers' training examination. He was one of two out of 25 to pass the examination.

In October 1918, the company had picked up the Fageol Trucks territory.

"We will have distributors' headquarters at Seattle, Tacoma and Butte, and from Spokane will handle all the business for the Stevens Salient Six in Washington, Idaho, Oregon and west Montana," said Mr. Ahrens today. This company's place of business is @901 First avenue and it also has taken over a garage at W1523 First Avenue.

Lieutenant Don Ahrens returned from his military training in December 1918. He had been an instructor of the conduct of fire school at Camp Zachary Taylor. He was now ready to assume active management of the Stephens and Fageol agency in Spokane was the news in *The Spokesman-Review* on January 17, 1919.

George Ahrens, senior partner in the automobile firm of Ahrens & Ahrens, died last night at the residence S824 Lincoln place. His widow survives. Mr. Ahrens has been in poor health for three years, but was able to be at his establishment until a few days ago. His death resulted from diabetes, which became serious three weeks ago.

The *Spokane Chronicle* of February 27, 1919 reported more growth for Ahrens. "Auto Distribution Depot Coming Here."

Spokane has been selected as the logical location for a distributing depot for the Fageol truck and tractor company of Oakland, Cal., and here will be carried a complete stock of trucks and tractors and parts for each, from which dealers of the Inland Empire and Montana will be supplied."

... This will be the only depot of the kind between the factory and Spokane and will mean a large addition to the volume of Spokane's wholesale business. Special attention will be given to developing the truck and tractor business in Montana, which will be supplied through the Spokane dept. The territory will also take in a considerable part of Idaho and of eastern Oregon and will extend north into Canada."

Stephens Salient Six 1918 Type

The Car With the Versatile Engine

Recognized as the most advanced engineering achievement in present day automobile design. An engine which is an efficient combination of the low-grade gasoline available today.

Five by five the greatest six-cylinder engine, embodying the most approved features of modern type with an engine superiority in the design of the gas intake system, which allows the prime mixture in present type, easily capability to burn ALL the gasoline.

This advanced engine is a chassis whose components are produced by the leading parts makers of the country. More mention of split names to Stephens, Devo, Willard, Van Nuzen and Decker should mention you.

And on the chassis a body which is deep-seated, rummy and unexcusively distributed.

The Stephens Salient Six and its dealers are allied with a company of a 51 year manufacturing experience and \$18,000,000 paid-up capital.

Includes valve springs, ensuring quiet, quick action with a shock-absorbing effect in the operation of valve seating.

Unusually large valves, one-half the diameter of the combustion chamber.

Combustion chamber construction special for the most heat for the working. The entire force of the explosion acts on the piston.

Includes overhead inlet for the cylinder head, breaking through the gas valve which is sealed by means of an air-tight gasket.

Complete enclosure of peak valve and valve operating mechanism. The engine is protected against moisture.

Stress free lubrication system through crankshaft with roller bearings, with roller bearings.

Unusually large bearings, one-half the diameter of the crankshaft.

Crankshaft in resting position.

Perfected Overhead Valve Engine That Burns All of the Gasoline

AN article for the present-day low-grade gasoline. A year or possibly more six months from today fuel for motor cars will be of even lower grade than now. It will be a mixture of gasoline, kerosene and possibly even heavier distillates.

The Stephens Salient Six engine will burn all of the mixture of today and will burn all of the poorer grade fuel of six months or a year from today.

The intake manifold of the Stephens Salient Six engine is the center of the cylinder head. It is surrounded by fuel.

Gas is admitted to this manifold from a steering cam-bar which is bolted to side of the cylinder head. Gas travels the least possible distance before it gets into each start hole, which assure perfect combustion.

When the gas enters the manifold it is thrown violently against a "hot spot," which is a flat sheet of cast iron brought to high temperature by the exhaust gases. The hot spot warms the gas and further "wakes it up" before it comes on to the valves.

The intake manifold is bored smooth throughout its length. There are no sharp edges to ligate the gas. It goes into the cylinder—all of it.

But, like other features, the least distance the gas has to travel from the center of the manifold to the farthest valve is 1 1/2 inches. Compare this figure with that of any other car with similar cylinder size.

And finally, the valves are one and five-eighths inches in diameter. Each valve has approximately one-quarter the area of the cylinder bore.

THE Stephens Salient Six engine has a 4 1/2 inch bore and a 4 1/2 inch stroke, developing 17 horsepower. The great power is derived from all the gasoline which passes through the motor. The gas travels the car to be used as fuel, then stop on the accelerator and soon to a nozzle 40 inches or more in the engine. This is the least amount which we could expect. There is no "leakage" in the gas charge to waste the engine.

Another great feature is the overhead valve system, which we believe to be the finest yet devised. Valve adjustment is a matter of a moment's work, with a screw driver while engine is running, and the adjusting screws are on top of the engine while easy reach.

There are two valve springs instead of one. The springs are of different size. The result is that one spring shocks the other with a shock-absorbing effect. Quiet action without noise.

There are only three valve moving parts on the entire engine—the two fan pistons and the belt. This complete enclosure makes the Stephens Salient Six a silent overhead valve engine.

The manifold is in resting position, ensuring that the flow is evenness and that in connection with the efficient gas admission and exiting feature, the engine is capable of extreme high speed.

The most positive type of lubrication, full flow lubrication is achieved in a terrifically great sump system which includes a pressure pump on the dash.

IT BURNS ALL THE GASOLINE

TWO STRIKING BODY TYPES

TOURING CAR with soft, graceful lines. Five-passenger comfort suspended on sensitive springs. The seats are deep and in the body and luxuriously sprung. A three-passenger roadster. These large people may be seated on the one available cushion.

Both types have deep, soft, French-piped Turkish upholstery. Both have rustproof, non-rubber, vibrationless. Both have the Bendix push-button and Killage tire pump drive from transmission. Both have electric motor-driven horns with peak brakes on top of the steering column.

The wheelbase of both models is 118 inches and the price \$1285 factory.

CARS ON EXHIBITION in the INDUSTRIAL BUILDING at the Interstate Fair—a favorable opportunity for you to INSPECT THEM

STEPHENS MOTOR BRANCH of INLAND EMPIRE CO.

AHRENS & AHRENS
 901 First Avenue, SPOKANE Phone Main 990
 Opposite Fairgrounds in West

DEALERS. This is a most attractive proposition for you. Good delivery still open.

Spokesman-Review, August 26, 1917

The Ahrens & Ahrens company recently closed a contract with a Seattle dealer for 100 Stephens Salient Six automobiles, for which the company is the Washington distributors. ...

Finally, the Mitchells had a project on the property at 2nd and Lincoln as reported by *The Spokesman-Review* on July 6, 1919. **"New Home of Ahrens & Ahrens on Second to Cost \$80,000."**

"What promises to be one of the finest automobile display and service buildings in the city is the new home planned for Ahrens & Ahrens, Inc., local distributors of the Stephens Salient Six, and Oakland Sensible Six. The total investment in the building will be around \$80,000. Mitchell Brothers are the owners and builders. Cowley & Wells are the architects.

The floor space in the new structure will be 14,000 square feet. The building will have two stories and basement, with frontage of 75 feet on Second avenue and a depth of 142 feet on Lincoln street. The service entrance will be on Lincoln street and the sales room entrance on the Second avenue thoroughfare. It will be one of the most substantial and artistically finished structures in the city, according to plans. The facade will be of white brick. The display room will be finished in ivory. The room will be large and showy, with a floor area 35 by 50.

The service department will have a 10-car shop, with overhead crane. Ernest Tuttle, former proprietor of the Power City company, will be in charge.

Don E. Ahrens of the Ahrens company declared that the new building is made necessary by the constant expansion of the wholesale and retail business of the company. He expresses it as his opinion that the auto business in Spokane will experience the most prosperous year of its history during 1919, provided car and truck manufacturers can adjust their production schedules so that cars can be obtained. He says the demand for cars has never been so great as now and the only reason why every dealer should not break all previous sales records this year is the inability to get cars.

The new home, which is to be ready for occupancy September 1, will house the business now carried on in three different locations in the city. The Ahrens company recently received the Oakland contract for the factory branch in Spokane and its territory for Oakland distribution will include Spokane city and county.

...

In the new building the stock room will be immense. The Ahrens & Ahrens company's line, with the addition of the new contract, now includes the Stephens Salient Six and Oakland Sensible Six motor cars and the Fageol trucks and tractors, the latter exclusive California products.

Ahrens & Ahrens would continue their strong presence in the Inland Empire automobile market through 1925, when Don Ahrens sold the dealership and moved on to work for General Motors. *The Spokesman-Review* reported that growth in November 1919: **"Stephens Sales Top High Marks."** "Our Oakland retail sales have been averaging 30 to 35 cars a month, the machine, fully equipped bring \$1350 in Spokane. Our territory has been extended until it includes everything between Butte and the Cascade mountains and evidences now point to ditching up with back orders."

February 29, 1920 in *The Spokesman-Review*: **"D. Ahrens Heads Coast Company."**

Backed by Spokane men and Spokane capital, the Cascade Motor company has been incorporated at Seattle, with a capitalization of \$30,000 paid in to distribute Stephens passenger cars west of the Cascade mountains. Don E. Ahrens is president The Seattle headquarters opened in a three-story building at Pine and Summit. Contracts have been signed with dealers in Everett, Bellingham, Tacoma, Mount Vernon, Port Angeles,

Aberdeen, Centralia and other Puget Sound centers. Spokane will continue to be Stephens headquarters for Washington.

"Butte Concern Buys 100 Cars," on June 9, 1922.

"Ahrens & Ahrens, Inc., distributors here for the Stephens Salient Six, has just closed a contract with the Butte Velie Sales company, Butte, Mont. For 100 cars.

The *Spokane Chronicle* reported on March 7 1923: **"Ahrens & Ahrens Increase Stock**

Capitalization of the Ahrens & Ahrens company, motor car dealers, was increased from \$100,000 to \$150,000 today. Enlargement of territory and the addition of new lines by the Stephens automobile factory necessitated the capital increase. ...

Also, "Our territory for the Dort car has been enlarged to include all of Washington east of the Rockies, northern Idaho and western Montana. With the additional territory we have accepted a 500-car contract, requiring additional funds to handle."

"Cadillac Sales Break Records," reported *The Spokesman-Review* in January 1924.

Ahrens & Ahrens Company Sells Sixteen High-Priced Automobiles in Eight Weeks. "The last eight weeks of 1923 proved a record breaker for Cadillac sales in Spokane." Sixteen were sold as listed in the article to out of town buyers, as well as leading Spokane citizens among those included: Adolph Galland, E. J. Cannon, Mrs. H. H. Hebert, H. J. Shinn, Mrs. Charles White, and John W. Graham. And, **"Order 350 HUPS for 1924 Trade."** Ahrens & Ahrens "received word yesterday that they have been appointed Inland Empire distributors for the Hupmobile with northern Idaho, western Montana and eastern Washington as their territory." ... "We picked this line because of the well-known quality of the car and the financial standing of the company manufacturing it." "The addition of the Hupmobile gives Ahrens & Ahrens four cars, the others being Cadillac, Stephens and Dort." ...

In June 1924: **"HUP Franchise Goes to Ahrens."**

Spokane has been made the distribution center for Hupmobiles in place of Seattle and Butte through the issuance of a franchise to Ahrens & Ahrens for the regions between the Cascade and Rocky mountains. The firm will have wholesale privileges in all counties of eastern Washington, all in Idaho north of Clearwater county and all in Montana west of Butte and south of Great Falls, about 42 counties in all, according to Don E. Ahrens.

Ahrens moved further up the road to success as dealer of the iconic British luxury car when *The Spokesman-Review* announced on February 8, 1925: **"Rolls Royce To Be Handled Here."**

"Rolls-Royce, famous English automobile, will have an agency in Spokane, it was announced yesterday by Don Ahrens of Ahrens & Ahrens, Cadillac dealers, who has arranged to handle this expensive car through the San Francisco distributors." ... The Rolls-Royce is listed at from \$12,000 to \$17,000 and carries a five-year guarantee.

In its April 19, 1925 edition *The Spokesman-Review* paid tribute to Don E. Ahrens. **"His Hat Helps Him Sell Cars."**

Catering to the elite, in the way of motor cars, has been Don Ahrens' job for some years. Mr. Ahrens, who, by the way, is Ahrens & Ahrens himself, sells Cadillac cars to Spokane's smart set. He does business at 827 Second avenue.

Mr. Ahrens, it might be added belongs to the intelligentsia. That is to say, he can write M.A. and B.S. after his name. He is a University of Nebraska man, later emerging from a post graduate course at the University of Chicago. By trade, to put it bluntly, he is an electrical engineer. He was with the Western Electric company in 1914.

Started With Fords

Opportunity beckoned from Topeka Kan., in 1915, where Mr. Ahrens' uncle was in business. They went into partnership, selling Ford motor cars. In 1916 Mr. Ahrens came west, taking the agency here for the Stephens car and later that of the Oakland. In 1922 the Cadillac and Hupmobile were handled.

The Cadillacs are distributed through Ahrens & Ahrens to a dozen dealers scattered over a wide territory.

You can never mistake Mr. Ahrens, because he is the only automobile man in Spokane who wears a derby hat while on the job. He says he wears it because it is the most comfortable kind of a hat he's got. But he does not deny that wearing a derby hat lends class to his ordinarily distinctive appearance.

Besides selling Cadillacs, Mr. Ahrens sells a line of Hupmobile fours and straight eights. "Nobody ever knocks a Hupmobile," is his slogan, and there seems to be lots of truth to this.

Knows a Good Joke

In addition to being a purveyor of fine cars, Mr. Ahrens is the most humorous of all the automobile men hereabouts. Funny stories and good jokes, it is said, have done a lot to sell cars when he was on the job himself. Another thing about Mr. Ahrens is that nobody has even seen him angry—for long. He's too good tempered.

Mr. Ahrens was an artillery officer in the war, and his patience may be due to his army training. They push you around and make you wait and push you around some more, while the delay gets longer—in the army. Mr. Ahrens will tell you that. ...

Mascot is Famous

The Ahrens & Ahrens mascot, quite an important bit of show room attraction, is the 1906 Cadillac, all painted yellow. You may have seen it standing outside the automobile house. It does more than stand, however. It goes. Anyone can take a ride in it, or rather, on it. You crank it by and on the right hand side, and the engine is somewhere under the seat. It has one of these rubber bulb horns which toot-toots in the manner of—well, you remember when they first came out.

As the year 1925 came to a close, so did Don E. Ahrens business career in Spokane. As *The Spokesman-Review* would report on December 6, 1925, "**Ahrens Disposes of Auto Agency.**"

Don E. Ahrens, president of Ahrens & Ahrens, Inc, one of the best know automobile men in the Inland Empire, has sold his interest in the Cadillac and Hupmobile automobile business at W827 Second and leaves Sunday for California, where he will look into several business enterprises. He will drive south via Portland.

The stock of Mr. Ahrens has been taken by his associates. William H. Potts, secretary of the company will succeed Mr. Ahrens. M.R. Swift, formerly with the Portland Hupmobile distributors, will be sales manager. The company name will be continued. The firm is capitalized at \$150,000.

With his uncle, Mr. Ahrens organized the firm here more than eight years ago. Since then the concern has grown to a position where it is one of the largest distributors of cars in the Spokane territory. It has the general agency for Hupmobiles and Cadillacs in eastern Washington, western Montana and northern Idaho.

Approximately \$8,000,000 worth of automobiles have been sold by the company since its establishment, Mr. Ahrens said yesterday.

"I have several good opportunities to engage in the automobile business in California," Mr. Ahrens declared, "and I cannot afford to pass them up. I am going to Los Angeles and San Francisco, and later to Detroit and Chicago. One of the propositions offered me is in connection with a Cadillac factory branch and another with a big Hupmobile distributor. I am exceedingly sorry to leave Spokane ..."

At the departure of Don Ahrens in pursuit of his fortune with General Motors, the Mitchell Brothers remained in Spokane and continued to invest in the downtown they helped build. The quickly found a new automobile dealer to occupy their building at W. 827 Second. A.L. Mitchell also owned and managed the two-story brick store and lodgings with which the automobile garage shared a wall, at 823-823-1/2 Second. In an article of May 15, 1927, *The Spokesman-Review* reported that A. P. Mitchell, railroad contractor, and D. F. Pierce [a nephew] purchased the Antlers Hotel [(former Fisher building)] at 917-19-21 First Avenue. The photo caption noted that this is one of six buildings that Mitchell and his associates have purchased since the first of the year. Apparently, Mitchell was following the lead of L. N. Rosenbaum who had purchased a site only a “stone’s throw” away for a \$1,300,000 theater [the Fox, 1931, NRHP, SRHP].

The company, Ahrens & Ahrens, remained in the building for only a year before moving to their garage at 1318 West First. In James L. Elam, Inc. also an automobile dealer—Graham-Paige distributor—occupied the building from 1926 to 1932, followed in 1932-1933 by John Dee Moore automobiles (Packard), and finally in 1933, G.F. Goodrich Silvertown, Inc listed 827 W. Second Avenue as the place for Goodrich tires. Thus, the space in which to display automobiles was now longer necessary. That space would transition into smaller display area and larger floor area for auto service.

Several articles in the next couple of years reported the financial exploits of the Mitchells. An article of June 17, 1929 featured A.P. Mitchell’s investments in Spokane and included a photo. **“Backs Spokane With His Coin,”** reported *The Spokesman-Review* revealing that he “Invests Fortune in Spokane Business Property.” He had been investing in Spokane real estate for the past twenty years and was still buying. His most recent purchase at that time was a half interest in the Felix building (razed) at the northwest corner of First and Madison. Since 1926 he had acquired the Bybee apartments at S321 Lincoln (razed); a half interest in the Michigan block, W420 Main (razed) to own it fully; half interest in the brick building at 328 Main (razed); the Unique theater (razed); half interest in the Albany Hotel (razed); half interest in the Pershing apartments (razed) and the Elgin apartments. He retained ownership of the Hotel Upton. The article ended: “A notable fact about his property dealings is that he buys much but sells little.”



Spokesman-Review, January 4, 1931

One of the Mitchells’ final investments in downtown was the one-story glazed terra cotta garage built for Union Pacific Stages in 1931. *The Spokesman-Review* reported on January 4, **“New \$50,000 Garage,”** and included a photo of the nearly completed building that occupied the northeast corner of Third and Adams (razed). “Better that 7 per cent net will be realized by A. P. and A. L. Mitchell” under a 10-year lease. Arthur C. Cowley, who also designed their former Ahrens and Ahrens

building at Second and Lincoln, was the architect. In the late 1930s and 1940s, the Mitchells began selling their properties: the Union Pacific Stages in 1938 (to Martin Woldson); Pershing apartments in 1941, Grand Coulee (Upton) in 1943, The Felix apartments in 1946, but would still leave estates that included real estate.

The *Spokane Daily Chronicle* in its November 25, 1935 edition brought Spokane readers up to date on the career of Don E. Ahrens. He had recently been appointed the general sales manager of Cadillac Motor Car company. Following his career in Spokane from 1916 to 1925, he became the sales manager Cadillac factory in Chicago, the Philadelphia, and in 1933 he was promoted to the company's largest retail branch in New York city. He had been personally responsible for creating sales exceeding \$50,000,000. He was named general manager of the Cadillac Division and a GM vice-president in 1950 and retired in 1956. He passed away in the Detroit area in 1975 at age 84.

B.F Goodrich sold and maintained tires at 827 W. Second Avenue until 1972. While operating under a lease from the Mitchells, they made a couple of alterations to the building. In March 1957 they received a permit for alterations valuing \$5,100 (not specified); again, in November 1964, they received a building permit for interior alterations and to reface a portion of building (upper section) with a value of \$20,000; and finally, in April 1968 to change a window to an overhead door and enclose the open stairway from basement, a \$1,500 value. These alterations resulted in the open porte cochere in the northwest corner; replacement of the storefront windows on the north façade; changing of entries, both the doors and sash; the removal of the exterior stepped pediments; and the addition of the garage doors on the west facade.

Thus, the building evolved to facilitate the operational and aesthetic needs of the tire sales and service business in transition from the display and sales of automobiles. Although not specified in the building permit, the first major alteration in 1952 was likely the addition of the garage door in the center of the west façade. Larger doors responding to the increase in the size of automobiles from 1919 to the 1950s provided a more efficient entry to the service area. The next modification was in 1964 when exterior alterations removed the pediments over the pedestrian entries, likely to provide a cleaner modern and more streamlined appearance and to deemphasize the pedestrian access. Finally, in 1968, the removal of the northwest corner window opened a porte cochere that allowed for access from 2nd Avenue to the service area via a new overhead garage door. Essentially, better access and more floor area were devoted to moving vehicles in and out as a service operation as opposed to the less frequent movement of automobile display and sales.

Local tire dealers, Ritchie, Riley and Shook Tire Company, formed in 1968 in the Spokane Valley, expanded operations to downtown and replaced Goodrich in 1972. They operated in the building until 1988 and were followed by the Snevas in 1990. The Snevas operated a used car and an automobile detailing business in the building until ca. 2002.

The Mitchell family held the "Ahrens & Ahrens" building until November 2001 when they sold it to Edsol Sneva, former race car driver and father of Indy winner Tom Sneva. Edsol and Joan Sneva transferred it to son Blaine and his wife in 2002, then Blaine sold it to Evergreen Parking on the same day. Evergreen sold the property to Diamond Parking in 2015. Since then, the building has been used to park and store automobiles. It is under new ownership in 2023 and rehabilitation of the building is underway.



Lansing State Journal, December 1, 1967 - Don Ahrens had been appointed the chairman of the Republican state finance committee in Michigan

Architect - Arthur W. Cowley

Arthur W. Cowley, born in Spokane, practiced architecture in Spokane from about 1906 through his death in 1949. Cowley was recognized in the West Downtown Historic Transportation Corridor National Register Nomination (1999) as designer of three major apartment buildings in the same block: the Otis Hotel, the Alberta Hotel, and Jefferson Hotel. Also in the district but at the time of the nomination were not attributed to Cowley, are the Norman Hotel (adjacent to the Jefferson) also a contributing building, and the Child, Brothers and Day Auto Supply (at 1217 W First, 1910, altered and non-contributing). Wells Chevrolet Service building and Showroom (115 South Adams Street and 1229 West First Avenue 1926, SRHP), Doran Building (1920 SRHP), Jamieson Co Salesroom (1916, 1229 Sprague-razed).

Cowley's early work was noted in *The Spokesman-Review* in its 25th Anniversary edition marking Spokane's economic progress on June 17, 1909, featuring Spokane's economy and prominent citizens, included a sketch of "New Apartment House of N.W. Durham" with "Arthur W. Cowley Architect"

A little over a year ago this gentleman opened offices at 631-632 Peyton bldg. for the purpose of carrying on a general architectural business. Mr. Cowley was formerly an engineer of the Great Northern railroad and for a time was chief draftsman for that system. Since entering the architectural field Mr. Cowley has met with flattering success. During the year he has been actively engaged here he [sic] erected the Wellington apartments Sixth and Stevens street; the Buckman apartments, First avenue and Elm street; the Windsor store and hotel building, First avenue and Jefferson street, and several of the better class apartments in Spokane. He is now putting up the new N.W. Durham apartments at Third avenue and Lincoln street, a cut of which appears on this page. Mr. Cowley has also designed and prepared the plans for several handsome residences. Mr. Cowley is an enterprising young man, full of ambition and thoroughly conversant with this business.

N.W. Durham, in his history of Spokane (1912), wrote the following about Cowley, still early in his career in Spokane:

Spokane has grown rapidly and Mr. Cowley has had his share of the business in his line, his intelligently directed effort bringing him substantial reward while his work has been an element in the city's improvement. He has introduced many innovations in building lines and the structures which he has erected are the principal ornaments of their respective neighborhoods, pleasing to the eye and constructed with conscientious regard for real utility, and the comfort and health of their occupants. Because of his operations unsightly vacancies have become occupied by attractive edifices and real estate in all parts of the city have rapidly advanced in value.

Cowley is noted for his apartment and industrial buildings, several of which remain in use in Spokane. The Goodyear Tire and Rubber Building is one of five known industrial/ commercial buildings that are extant in Spokane, and retains the best integrity of those buildings. Besides the Child, Brothers and Day Auto Supply (1911, 1217 West First Avenue), which is totally altered, are the Consolidated Motor Freight Warehouse (1935, 126 S. Sheridan/Pacific), and Inland Auto Freight Warehouse (1929, 159 S. McClellan).

An article in *The Spokesman-Review* (January 20, 1949), at his death in 1949 included below, recaps Cowley's life in Spokane and his important contributions to the city's architectural legacy.



Arthur Cowley, Spokesman-Review, January 20, 1949

Arthur Cowley Taken By Death

Arthur W. Cowley, one of Spokane's first native citizens whose life and that of his family have been interwoven in the history and development of this city since its establishment died yesterday in a hospital following a short illness.

The city's growth is full of evidence of Mr. Cowley's life, as he was a prominent architect here for nearly 43 years. He drew plans for some of Spokane's most substantial business and industrial buildings and fine homes which are monuments to his skill and ability. He remained active in his profession until shortly before he died.

Mr. Cowley was born October 9, 1878 in Spokane. He was the son of Henry Thomas Cowley, an early-day missionary who was one of the first settlers in this region. The only other white families here at the time the elder Mr. Cowley arrived were those of A.M. Cannon, J.J. Browne, and James N. Glover. Arthur Cowley was one of the first white children born in Spokane.

His father answered the invitation of the Spokane Indians to settle among them and the younger Mr. Cowley grew up under frontier conditions. He began his life in the home which his father and friendly Spokane Indians built in the center of the

Spokane's camp, a beautiful wooded site now the location of Cowley park on Sixth between Browne and Division.

When the Cowleys arrived at Spokane Falls the little town had only one store. The Spokanes welcomed them, bringing them dried salmon, lean venison and a pail of milk.

After they had settled, the elder Mr. Cowley was able to build his first church at the site which is now Bernard and Sprague.

[A list of buildings designed by Cowley is included in the Spokane Register Nomination for "Goodyear Tire and Rubber Store & Warehouse."]

***Architect - William A. Wells (1878-1938)**

Architect William A. Wells is noted for having designed some of Oklahoma City's early-day buildings. Born in May 1878 to Abijah and Lauretta Wells in Seneca, Kansas, he received his education there. He attended the Art Institute of Chicago and worked in Frank Lloyd Wright's Oak Park, Illinois, studio. By 1902 Wells had set up an architectural practice in Moline, Illinois, but in 1903 he relocated to Oklahoma City, Oklahoma Territory, to join his brother Frank, a partner in the law firm of Shartel, Keaton, and Wells. The next year William Wells married Lucy Dolling, an Art Institute of Chicago graduate and, later, a well-known artist, in Chicago.

Wells was comfortable with a variety of architectural design types, including Classical Revival, Romanesque Revival, Sullivanesque, and Art Deco. In Oklahoma City he designed a number of downtown's most architecturally significant commercial buildings, often partnering with Arthur J. Williams. They competed with other noted architects, such as Solomon Layton and the firm of Hawk and Parr, and together these other important designers created historic streetscapes that are no longer extant. In 1907 Wells was a founding member of the Oklahoma State Association of Architects.

He often applied the principles of Chicago architect Louis Sullivan's progressive construction design and geometric/floral terra cotta ornamentation in multi-story commercial buildings, "skyscrapers." Wells's Pioneer Building (401 N. Broadway, 1907; extant) was the city's first to offer a Sullivanesque three-part design (base, shaft, and cap) with terra cotta decoration. He also designed the Oklahoma County Courthouse (520 W. Main, 1906, Romanesque Revival; razed 1930s), the Terminal Building (1909–10, 313 W. Grand, Sullivanesque, razed 1980s) and the Colcord Building (1909–10, 15 N. Robinson, Sullivanesque, extant). He is credited with the expansion wing for the 1901 Carnegie Library (razed 1952), a 1912 clubhouse for the Oklahoma City Golf and Country Club on 39th Street, and residences for prominent Oklahoma Cityans, including Charles M. Colcord's home at 421 Northwest Thirteenth Street (1903, Classical Revival, razed 1960s).

A Universalist in faith, a Mason in fraternal affiliation, and the father of two sons, William A. Wells left Oklahoma City for Washington (state) in 1914. He continued in practice in Spokane and later in Seattle, where he died on October 1, 1938. Oklahoma City's Colcord Building is listed in the National Register of Historic Places (NR 76001571), and in Spokane, Washington, the John R. Rogers High School (1932, Art Deco) was listed in 2012.

**Taken from Everett. Dianna. "WELLS, WILLIAM A. (1878-1938)." <https://www.okhistory.org/publications>*

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- . "Big Five-Story Block on Second." 11/5/1909. p1:6-7.
- . "Plans Three-Story Brick on Lincoln." 6/23/1911. p28:1.
- . "Rosy Future Seen for Local Business." 2/8/1917. p1:1.
- . "Two Millions And Half For New Buildings Here." 3/6/1917. p2:1-3.
- . "Auto Firm Adds New Truck Line." 10/17/1918. p10:10.
- . "\$25,000 Change Permit Issued." 8/24/1925. p6.
- . "Auto Salesroom Already in Use" 12/31/1925. p13:1.
- . "Auto Distribution Depot Coming Here." 2/27/1919. p14:1-3.
- . "Stephens Salient Six." (ad for Ahrens & Ahrens). 6/5/1919. p14.
- . "Ahrens Garage Will Cost \$80,000." 6/5/1919. P15:3.
- . "Improvements Are Announced." 7/30/1925. p20:1-3.
- . "\$46,000 Involved in Realty Trade." 6/30/1928. p1:3-4.
- . "Sixth and Howard Property is Sold." 2/17/1928. p1:3-4.
- . "Appoint Ahrens Sales Manager." 11/25/1935. p3:4.

- . "Albert L. Mitchell." 1/12/1942. p5:4
- . "Pioneer In City Taken By Death." 5/10/1955. p1:5.
- . "Mrs. A.L. Mitchell Dies." 1/26/1957. p5:4-5.

The Spokesman-Review.

- . "C.W. Webber Builds Modern Garage and Auto Salesroom on the SE Corner Maple & First—Pacific Motor Company." 3/15/1910. p7:1.
- . "First Spokane Car Came in 1899; Made Initial Run of 50 Miles." 3/5/1911. pD3:1.
- . "With the Inhabitants of Spokane's Auto Row." Part 3p7:4-7. 8/20/1911.
- . "New Jamieson Co. Home Attractive 5/7/1916. p20:3.
- . "Stephens Autos To Make Debut." 8/26/1917. p2:1.
- . "Close Stephens Deal on Coast." 12/2/1917. p3:1.
- . "Chevrolet Firm Here is Merged." 8/4/1918. Part 3, p1:3.
- . "Ahrens Returns From Army Camp." 6/12/1918. p5:3.
- . "George Ahrens Passes Away." 1/17/1919. p7:2.
- . "New Home of Ahrens & Ahrens on Second to Cost \$80,000." 7/6/1919. p4:1-2.
- . "Stephens Sales Top High Marks." 11/23/1919. Part 4. P1:4.
- . "Oakland – The Oakland Sensible Six Sedan." (Advertisement). 12/28/1919. p36.
- . "D. Ahrens Heads Coast Company." 2/29/1920. Part 4. p1:5.
- . "Oldsmobile Co. Lets Contract for Erection of Garage & Sales Room to Harry J. Skinne, Cost \$60,000-75,000." 3/10/1920. p5:1.
- . "Oakland Branch To Sell Retail." 11/27/1921. p8:2.
- . "Butte Concern Buys 100 Cars." 6/9/1922. D3p3:1-4.
- . "Ahrens & Ahrens Increase Stock." 3/7/1923. p8:3.
- . "Auto folk look for busy year." 12/9/1923. pD3:2.
- . "Order 350 HUPS for 1924 Trade." 1/6/1924. p7:3.
- . "HUP Franchise Goes to Ahrens." 6/15/1924. p6:5.
- . "Rolls Royce To Be Handled Here." 2/8/1925. p5:3.
- . "His Hat Helps Him Sell Cars." 4/19/1925. pD7:1.
- . "Ahrens Disposes of Auto Agency." 12/6/1925. P1:6.
- . "For Economical Transportation" "Heart of Auto Row." 4/18/1926. pp4 & 5.
- . "Building Near New Theater Site Changes Hands." 5/15/1927. p8:2-3.
- . "Half Million in Realty Deals." 5/15/1927. pA5:3.
- . "Backs Spokane With His Coin." 6/17/1929. p6:3.
- . "Don E. Ahrens Back For Visit." 12/13/1937. p3:2-4.
- . "A. L. Mitchell, Retired Contractor, Passes." 1/13/1942.
- . "Arthur Cowley Taken By Death. 1/19/1949.
- . "Mitchell Estate Left to Nephew." 5/19/1955. p1:6.
- . "\$385,073 Estate Left by Widow." 6/9/1956. p6:1.

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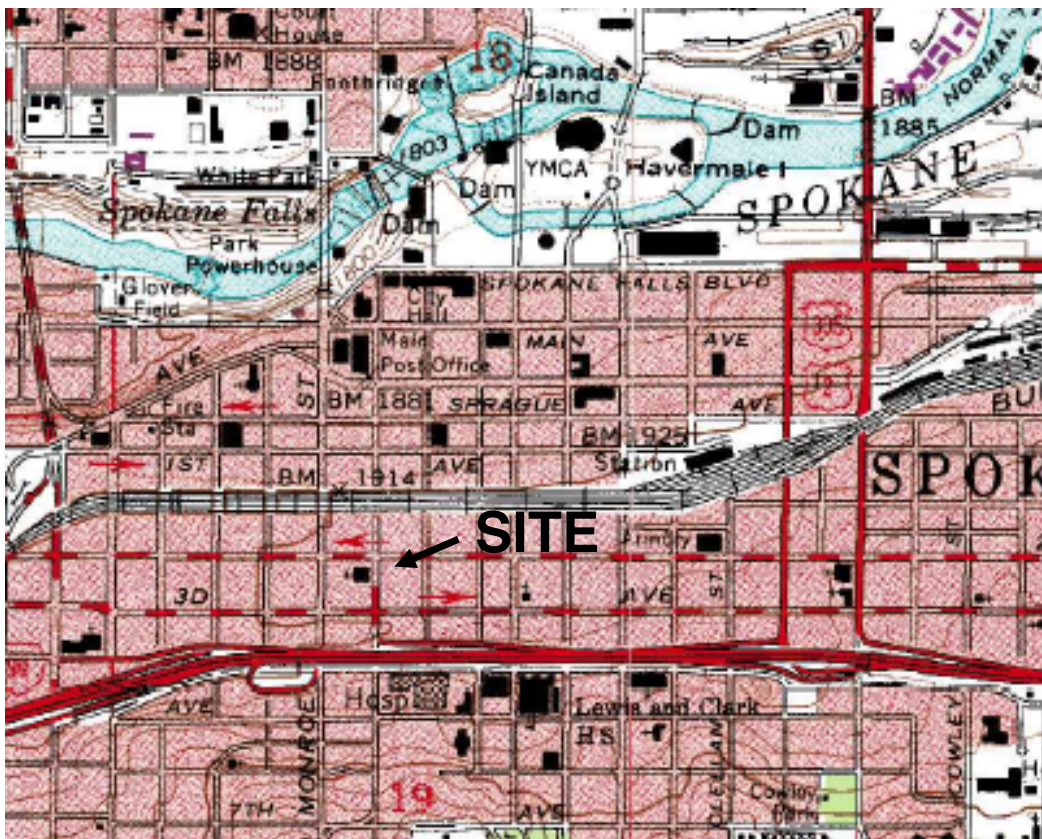
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Maps, Drawings, and Photographs



USGS 7.5 Minute Quadrangle. Spokane NW, Wash. 1974. Photorevised 1986

AHRENS & AHRENS GARAGE
827 WEST SECOND AVENUE
SITE LOCATION

↑
N
1' = 2000'



**AHRENS & AHRENS GARAGE
827 WEST SECOND AVENUE
SITE LOCATION**

↑
N
1" = 2000'

ADDRESS 137 W 2nd Ave. LOT BLK 3

ADDITIONAL DESC. SPO 81 ALL LT 1 & S67' OF W25' OF LT 2 BLK 35 RAILROAD ADD [3592, 2316]

YEAR	A. V.	BY
1970	45800	Int.
1976	44500	DL
1977	35100	PH
1980	39500	450
1984	66800	12
1988	66800	18
2001		64

1982-1984 2315 2316

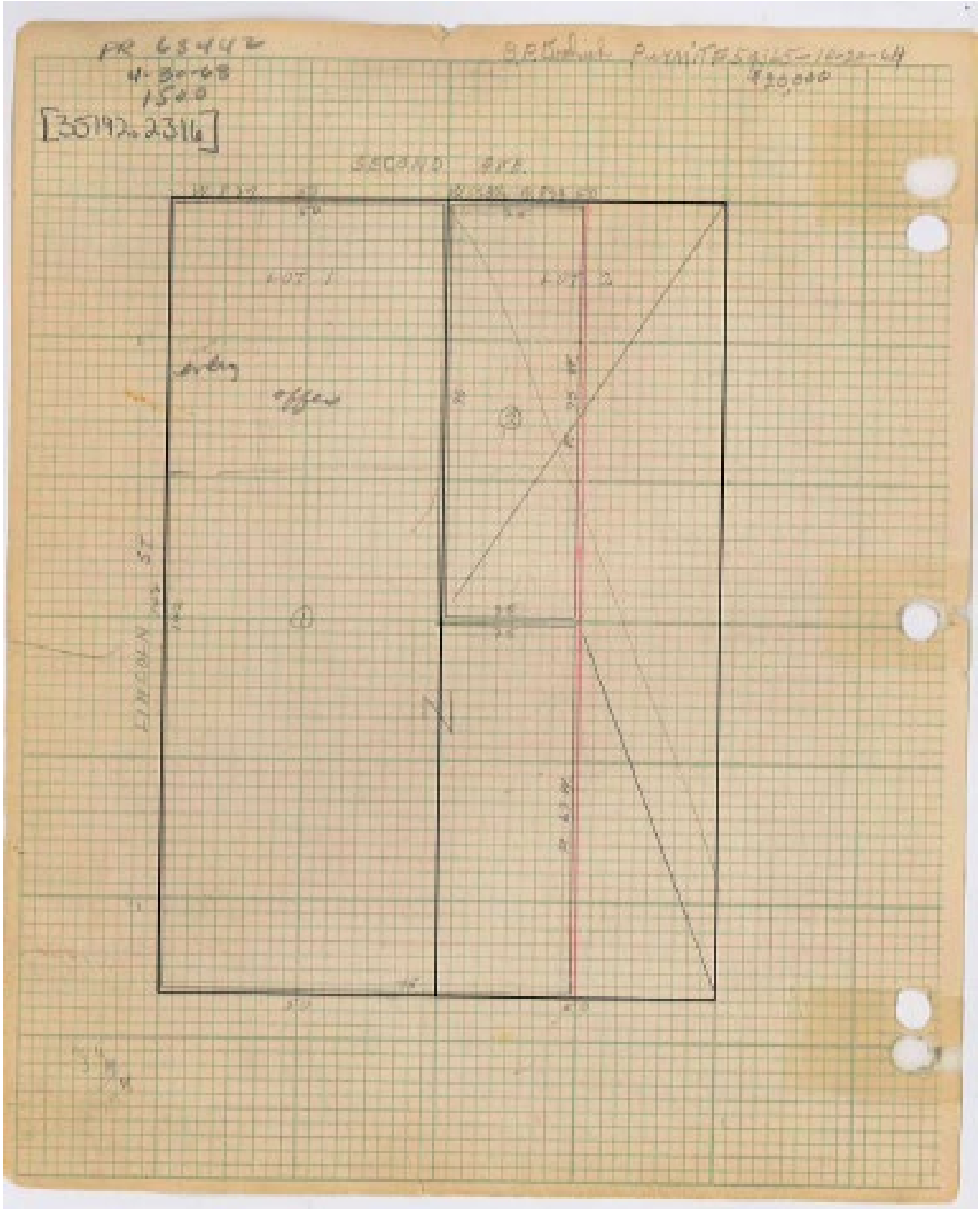
TYPE-USE	INT. WALLS	Plastered	GEN'L CONDITION
Apartment	Plaster - good	Living Room	Very Good
Office		Service Room	Good
Warehouse	FLOOR FINISH		Fair
Gas Station	Asphalt Tile	HEATING	Poor
Hotel	Fir	Pipeless Furn.	
Garage	Linoeum	Hot Air	FLOOR STRUCTURE
Store	Cement	Hot Water	Reinf. Conc. - 4x12
No. Stories		Air Cond. & Fan	Conc. Slab
Basement	EXT. WALLS	Radiant	Mill Const.
No. Rooms	Brick	Electric	
No. Apts.	Concrete	Oil Burner	INT. PARTITIONING
Foodrich Girard	Siding	Coal Stoker	Few - Wood - Conc.
1200 sq. ft. 1982		Steam	Average
CONSTRUCTION	ROOF COVERING	Central	Many
Frame	Asphalt Shingles		
Steel Frame	Corr. Aluminum	PLUMBING	EXTRA FEATURES
Reinf. Conc.	Tar-Gravel	Toilets	Air Conditioning
Brick		Tubs	Therm. Windows
Pumice Blk.	ROOF CONSTR.	Basins	Marcuses
	Flat	Sinks	Stair x
FOUNDATION	Pitched	Urinals	Store Front
Thickness	Steel Truss	Showers	Insulation
Rock	Wood Truss	Laundry Trays	Cold Storage
ELEVATOR	BASEMENT	H. W. Tanks	Sound Proofing
Rtd	Fall CON. F.L.B.	Sprinkler System	Shop - 10' x 10' x 10'
	Size 15' x 75' x 10'	No. Heads	

Yr. Built	% Fin.	Class	Sq. Ft.	Cu. Ft.	Height	Per	Rate	Life	A. V.
1970	100	3-2-2	8775	145000	23				66800

Land Values

Year	Value
1950	111000
1984	123000
1988	123000

Total 66800



ASSESSOR FIELD FILE PLOT SKETCH



1. Context along Second Avenue - looking southeast along south side of street



2. Context along Second Avenue - looking southwest along south side



3. Northeast Corner - front facade, looking southwest



4. Front facade (north), looking south



5. Northwest corner - north and west facades, looking southeast



6. West Facade -north half, looking east



7. West Facade -south half, looking east.



8. Southwest Corner - west and south facades, looking northeast



9. South facade - ground floor and basement, looking north



10. Southeast corner, looking west



11. Ahrens & Ahrens in 1920 - west facade, looking southeast _ L87-1.18244-20



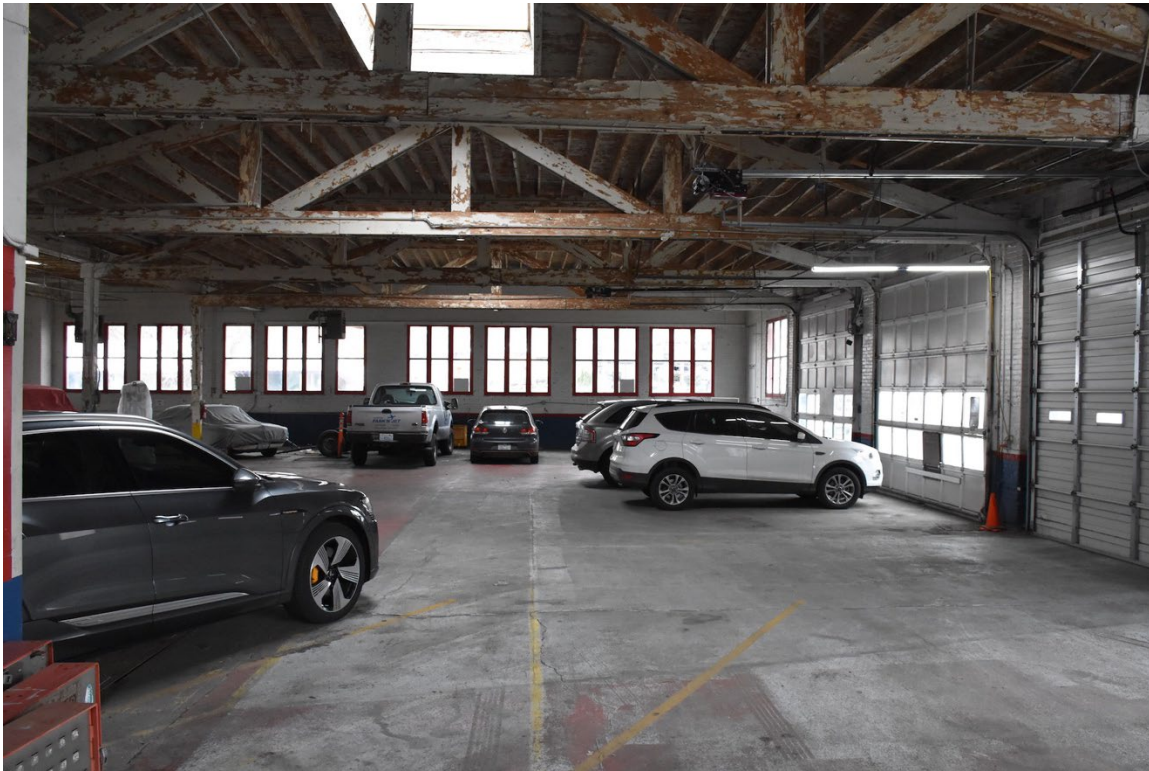
12. Goodrich in 1943 - north facade, looking south. L2008-9.5



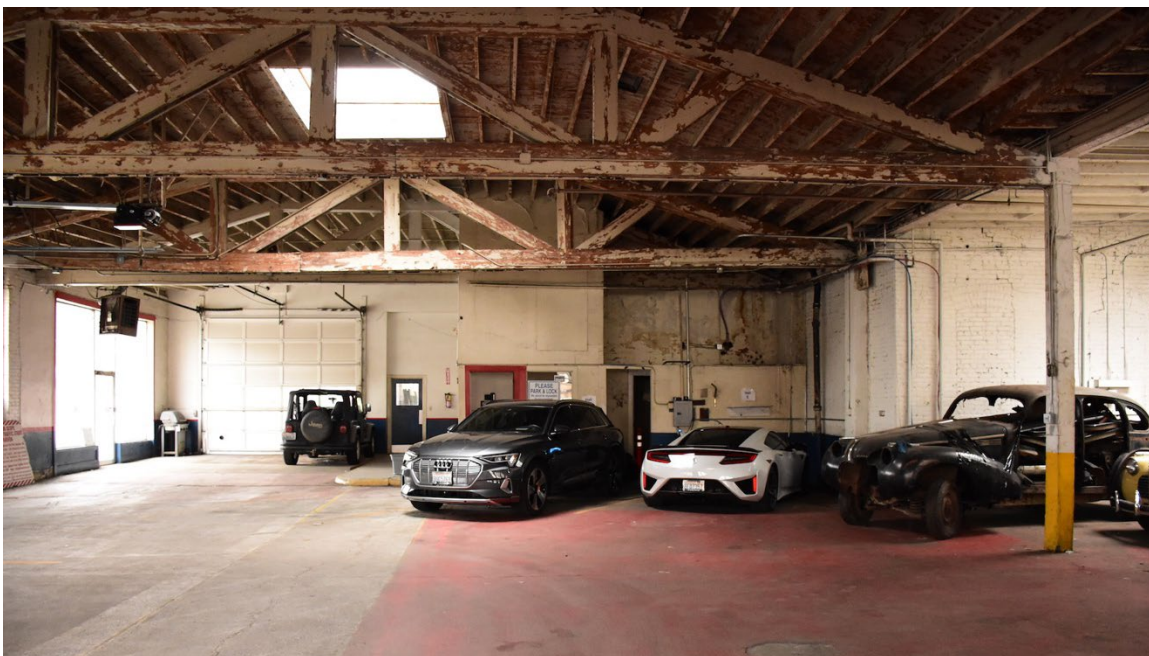
13. Main floor - east bay office/reception area



14. Looking south from reception and porte-cochere entry (enclosed as office space in 2022)



15. Main floor - west bay cochere entry, looking south at roll-up garage door



16. Garage, looking north from south end



17. Garage, looking northeast toward southwest corner of adjacent building



18. Garage office and stairs to mezzanine storage room, looking east



19. Garage area, looking east from Bay 3



20. Garage, looking east along south wall

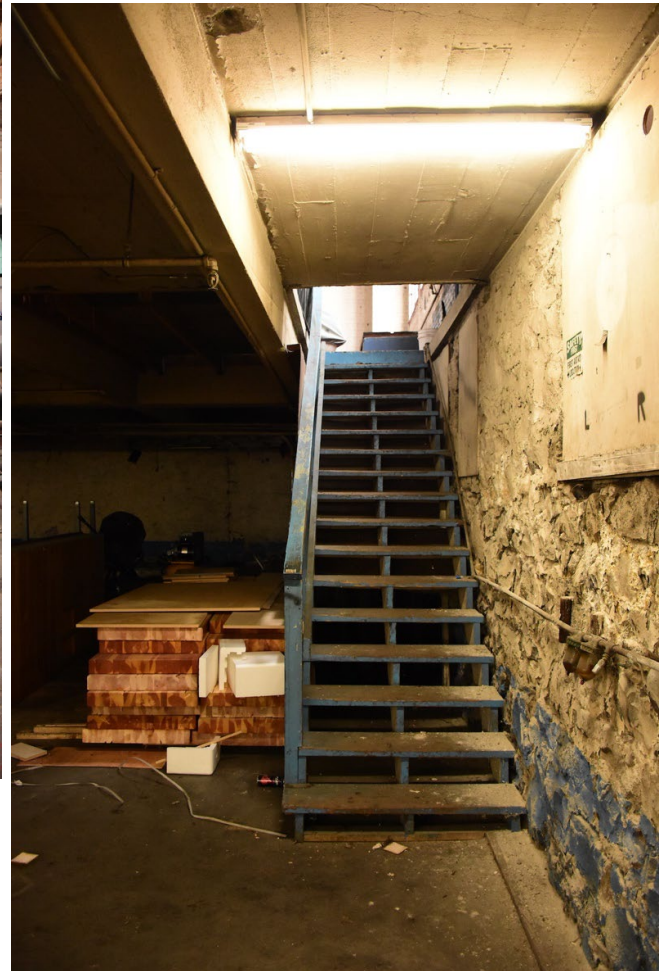


21. Garage, looking west toward west wall door bays



22. Garage looking south and up at south window bays, truss and skylight

23. Garage, looking west along south wall showing stairs to basement



24. Basement, looking east up the stairs to garage



25. Basement, looking west



26. Basement - mechanical room in northeast corner, looking north



27. Basement - southeast corner garage door to alley, looking south

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

04/10/2023

Date Rec'd	3/29/2023
Clerk's File #	OPR 2023-0391
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	HISTORIC PRESERVATION
Contact Name/Phone	MEGAN DUVALL X6543
Contact E-Mail	MDUVALL@SPOKANECITY.ORG
Agenda Item Type	Contract Item
Agenda Item Name	0470 - SPOKANE BREWING & MALTING NOMINATION TO THE SRHP

Agenda Wording

Recommendation to list the Spokane Brewing & Malting building, 901 W Broadway Ave on the Spokane Register of Historic Places.

Summary (Background)

SMC #17D.100.040 provides that the City/County Historic Landmark Commission can recommend to the City Council that certain properties be placed on the Spokane Register of Historic Places. The Spokane Brewing & Malting building has been found to meet the criteria set forth for such designation, and a management agreement has been signed by the owners.

Lease? NO	Grant related? NO	Public Works? NO
Fiscal Impact		Budget Account

Neutral	\$	#
Select	\$	#
Select	\$	#
Select	\$	#

Approvals		Council Notifications	
Dept Head	DUVALL, MEGAN	Study Session\Other	UE 3/13/23
Division Director	MACDONALD, STEVEN	Council Sponsor	CMs Bingle & Cathcart
Finance	ORLOB, KIMBERLY	Distribution List	
Legal	PICCOLO, MIKE	mduvall@spokanecity.org	
For the Mayor	PERKINS, JOHNNIE	wes@lbstoneproperties.com	
Additional Approvals		stone@stonegco.com	
Purchasing		rbenzie@spokanecity.org	
		smacdonald@spokanecity.org	
		sgardner@spokanecity.org	

Findings of Fact and Decision for Council Review

Nomination to the Spokane Register of Historic Places

Spokane Brewing & Malting – 901 W Broadway Avenue

FINDINGS OF FACT

1. **SMC 17D.100.090: “Generally a building, structure, object, site, or district which is more than fifty years old may be designated an historic landmark or historic district if it has significant character, interest, or value as part of the development, heritage, or cultural characteristics of the city, county, state, or nation.”**
 - Originally built in 1913; the Spokane Brewing & Malting building meets the age criteria for listing on the Spokane Register of Historic Places.

2. **SMC 17D.100.090: The property must qualify under one or more categories for the Spokane Register (A, B, C, D, E).**
 - The Spokane Brewing & Malting Building meets Spokane City/County Register of Historic Places under **Categories A & C** for its significance as a building associated with the beer brewing industry in Spokane (Category A) as well as for its significant architectural character as a vernacular commercial brick building with intricate brickwork (Category C).
 - Constructed in 1913, the Spokane Brewing and Malting Building is eligible under Category A because it was constructed during the growth of the beer industry in Spokane and is a fine example of buildings of that type and period. The building functioned as both the Spokane Brewing and Malting offices and bottling house and is associated with the Spokane Brewing and Malting plant that occupied the lot east of the subject building until 1938.
 - The building is also a legacy of the Galland brothers and their contributions to Spokane real estate, financial, and brewery industry. The period of significance for the building is from its construction in 1913 until it was sold out of the Galland brother’s real estate portfolio in 1938.
 - As an early downtown brewery, it is a rare remnant of the heyday of brewing in Spokane. It is one of only two existing buildings built as breweries that remain in downtown Spokane, the other being the Schade Brewery (1902, SRHP, NRHP).
 - The Spokane Brewing and Malting building is also eligible under Category C as a unique building both in terms of design and detailing. The brick itself is unique in Spokane, a high-fire brick with rounded edges reminiscent of street pavers, but more finely rendered. The brick is composed in an intricate pattern that richly details the main facades. The building form is distinctive and attractive with its horizontal striations, corbeling, articulated window arches, a pronounced pressed tin entry architrave, a parapet with stepped and rounded pediments, and corner finials.
 - The Spokane Brewing & Malting building contains very good integrity of location, design, materials, workmanship, and association. While the replacement of the original windows does reduce the integrity somewhat, its most character-defining feature is the intricate and detailed brickwork throughout the exterior. Plans for rehabilitation of the building include replacement of the plate glass windows with operable sash windows in the future.

3. **SMC17D.100.090: “The property must also possess integrity of location, design, materials, workmanship, and association.”** *From NPS Bulletin 15: “Integrity is the ability of a property to convey its significance...it is not necessary for a property to retain all its historic physical features...the property must retain, however, the essential physical features that enable it to convey its historic identity.”*
 - The Spokane Brewing & Malting building is well-preserved on the exterior and is architecturally significant as an excellent example of the brick commercial vernacular style as well as for its association with the early brewing industry in Spokane.

4. Once listed, this property will be eligible to apply for incentives, including:

Special Valuation (property tax abatement), Façade Improvement Grants, Spokane Register historical plaque, and special code considerations.

RECOMMENDATION

The Spokane Historic Landmarks Commission evaluated the Spokane Brewing & Malting building according to the appropriate criteria at a public hearing on 3/15/23 and recommends that the Spokane Brewing & Malting building be listed on the Spokane Register of Historic Places under Categories A & C.

After Recording Return to:
City of Spokane Clerk
808 W Spokane Falls Blvd
Spokane, WA 99201

NOTICE OF MANAGEMENT AGREEMENT

NOTICE IS HEREBY GIVEN that the property legally described as:

POSTS ADD RES & EXT LT 1 BLK 12

Parcel Number(s) 35183.1432, is governed by a Management Agreement between the City of Spokane and the Owner(s), LAWRENCE B STONE PROPERTIES #901 LLC, of the subject property.

The Management Agreement is intended to constitute a covenant that runs with the land and is entered into pursuant to Spokane Municipal Code Chapter 6.05. The Management Agreement requires the Owner of the property to abide by the "Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" (36 CFR Part 67) and other standards promulgated by the Historic Landmarks Commission.

Said Management Agreement was approved by the Spokane City Council on _____. I certify that the original Management Agreement is on file in the Office of the City Clerk under File No. _____.

I certify that the above is true and correct.

Spokane City Clerk

Historic Preservation Officer

Dated: _____

Dated: _____

MANAGEMENT AGREEMENT

The Management Agreement is entered into this **15th** day of **March 2023**, by and between the City of Spokane (hereinafter “City”), acting through its Historic Landmarks Commission (“Commission”), and **Lawrence B Stone Properties #901 LLC** (hereinafter “Owner(s)”), the owner of the property located at **901 W Broadway Ave** commonly known as the **Spokane Brewing & Malting** in the City of Spokane.

WHEREAS, the City of Spokane has enacted Chapter 4.35 of the Spokane Municipal Code (SMC) and Spokane has enacted Chapter 1.48 of the Spokane County Code (SCC), both regarding the establishment of the Historic Landmarks Commission with specific duties to recognize, protect, enhance and preserve those buildings, districts, objects, sites and structures which serve as visible reminders of the historical, archaeological, architectural, educational and cultural heritage of the city and county is a public necessity and.

WHEREAS, both Ch. 17D.100 SMC and Ch. 1.48 SCC provide that the City/County Historic Landmarks Commission (hereinafter “Commission”) is responsible for the stewardship of historic and architecturally significant properties in the City of Spokane and Spokane County; and

WHEREAS, the City has authority to contract with property owners to assure that any owner who directly benefits by action taken pursuant to City ordinance will bind her/his benefited property to mutually agreeable management standards assuring the property will retain those characteristics which make it architecturally or historically significant;

NOW THEREFORE, -- the City and the Owner(s), for mutual consideration hereby agree to the following covenants and conditions:

1. CONSIDERATION. The City agrees to designate the Owner’s property an Historic Landmark on the Spokane Register of Historic Places, with all the rights, duties, and privileges attendant thereto. In return, the Owner(s) agrees to abide by the below referenced Management Standards for his/her property.

2. COVENANT. This Agreement shall be filed as a public record. The parties intend this Agreement to constitute a covenant that runs with the land, and that the land is bound by this Agreement. Owner intends his/her successors and assigns to be bound by this instrument. This covenant benefits and burdens the property of both parties.

3. ALTERATION OR EXTINGUISHMENT. The covenant and servitude and all attendant rights and obligations created by this Agreement may be altered or extinguished by mutual agreement of the parties or their successors or assigns. In the event Owner(s) fails to comply with the Management Standards or any City ordinances governing historic landmarks, the Commission may revoke, after notice and an opportunity for a hearing, this Agreement.

4. PROMISE OF OWNERS. The Owner(s) agrees to and promises to fulfill the following Management Standards for his/her property which is the subject of the Agreement. Owner intends to bind his/her land and all successors and assigns. The Management Standards are: "THE SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION AND GUIDELINES FOR REHABILITATING HISTORIC BUILDINGS (36 CFR Part 67)." Compliance with the Management Standards shall be monitored by the Historic Landmarks Commission.

5. HISTORIC LANDMARKS COMMISSION. The Owner(s) must first obtain from the Commission a "Certificate of Appropriateness" for any action which would affect any of the following:

- (A) demolition;
- (B) relocation;
- (C) change in use;
- (D) any work that affects the exterior appearance of the historic landmark; or
- (E) any work affecting items described in Exhibit A.

6. In the case of an application for a "Certificate of Appropriateness" for the demolition of a landmark, the Owner(s) agrees to meet with the Commission to seek alternatives to demolition. These negotiations may last no longer than forty-five (45) days. If no alternative is found within that time, the Commission may take up to forty-five (45) additional days to attempt to develop alternatives, and/or to arrange for the salvage of architectural artifacts and structural recording. Additional and supplemental provisions are found in City ordinances governing historic landmarks.

This Agreement is entered into the year and date first above written.

Owner

Owner

CITY OF SPOKANE

HISTORIC PRESERVATION OFFICER

MAYOR

Megan M.K. Duvall

Nadine Woodward

ATTEST:

City Clerk

Approved as to form:

Assistant City Attorney

STATE OF _____)
) ss.
County of _____)

On this _____ day of _____, 2023, before me, the undersigned, a Notary Public in and for the State of _____, personally appeared _____, to me known to be the individual(s) described in and who executed the within and foregoing instrument, and acknowledged that _____ (he/she/they) signed the same as _____ (his/her/their) free and voluntary act and deed, for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2023.

Notary Public in and for the State
of _____, residing at _____
My commission expires _____

STATE OF WASHINGTON)
) ss.
County of Spokane)

On this _____ day of _____, 2023, before me, the undersigned, a Notary Public in and for the State of Washington, personally appeared NADINE WOODWARD, MAYOR and TERRI L. PFISTER, to me known to be the Mayor and the City Clerk, respectively, of the CITY OF SPOKANE, the municipal corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2023.

Notary Public in and for the State
of Washington, residing at Spokane
My commission expires _____

Attachment A

Secretary of The Interior's Standards

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.

6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color,

texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Spokane Register of Historic Places Nomination

*Spokane City/County Historic Preservation Office, City Hall, Third Floor
808 Spokane Falls Boulevard, Spokane, Washington 99201-3337*

1. Name of Property

Historic Name: Spokane Brewing and Malting
And/Or Common Name: North By Northwest Productions

2. Location

Street & Number: 901 West Broadway Avenue
City, State, Zip Code: Spokane, WA, 99201
Parcel Number: 35183.1432

3. Classification

Category	Ownership	Status	Present Use	
<input checked="" type="checkbox"/> building	<input type="checkbox"/> public <input type="checkbox"/> both	<input checked="" type="checkbox"/> occupied	<input type="checkbox"/> agricultural	<input type="checkbox"/> museum
<input type="checkbox"/> site	<input checked="" type="checkbox"/> private	<input type="checkbox"/> work in progress	<input checked="" type="checkbox"/> commercial	<input type="checkbox"/> park
<input type="checkbox"/> structure			<input type="checkbox"/> educational	<input type="checkbox"/> residential
<input type="checkbox"/> object	Public Acquisition	Accessible	<input type="checkbox"/> entertainment	<input type="checkbox"/> religious
	<input type="checkbox"/> in process	<input checked="" type="checkbox"/> yes, restricted	<input type="checkbox"/> government	<input type="checkbox"/> scientific
	<input type="checkbox"/> being considered	<input type="checkbox"/> yes, unrestricted	<input type="checkbox"/> industrial	<input type="checkbox"/> transportation
		<input type="checkbox"/> no	<input type="checkbox"/> military	<input type="checkbox"/> other

4. Owner of Property

Name: Lawrence B. Stone Properties #901, LLC
Street & Number: PO Box 3949
City, State, Zip Code: Spokane, WA 99220
Telephone Number/E-mail: 509-343-9008/ Stone@stonegco.com

5. Location of Legal Description

Courthouse, Registry of Deeds	Spokane County Courthouse
Street Number:	1116 West Broadway
City, State, Zip Code:	Spokane, WA 99260
County:	Spokane

6. Representation in Existing Surveys

Title:
Date: Enter survey date if applicable Federal State County Local
Depository for Survey Records: Spokane Historic Preservation Office

7. Description

Architectural Classification

Condition

- excellent
- good
- fair
- deteriorated
- ruins
- unexposed

Check One

- unaltered
- altered

Check One

- original site
- moved & date _____

Narrative statement of description is found on one or more continuation sheets.

8. Spokane Register Criteria and Statement of Significance

Applicable Spokane Register of Historic Places criteria: Mark "x" on one or more for the categories that qualify the property for the Spokane Register listing:

- A Property is associated with events that have made a significant contribution to the broad patterns of Spokane history.
- B Property is associated with the lives of persons significant in our past.
- C Property embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components lack individual distinction.
- D Property has yielded, or is likely to yield, information important in prehistory history.
- E Property represents the culture and heritage of the city of Spokane in ways not adequately addressed in the other criteria, as in its visual prominence, reference to intangible heritage, or any range of cultural practices.

Narrative statement of significance is found on one or more continuation sheets.

9. Major Bibliographical References

Bibliography is found on one or more continuation sheets.

10. Geographical Data

Acreage of Property: Less than one
Verbal Boundary Description: POSTS ADD RES & EXT LT 1 BLK 12
Verbal Boundary Justification: Nominated property includes entire parcel and urban legal description.

11. Form Prepared By

Name and Title: Jim Kolva, Owner
Organization: Jim Kolva Associates, LLC
Street, City, State, Zip Code: 115 South Adams Street, Suite 1, Spokane, WA 99201
Telephone Number: 509-458-5517
E-mail Address: jim@jimkolvaassociates.com
Date Final Nomination Heard:

12. Additional Documentation

Additional documentation is found on one or more continuation sheets.

13. Signature of Owner(s)

14. For Official Use Only:

Date nomination application filed: _____

Date of Landmarks Commission Hearing: _____

Landmarks Commission decision: _____

Date of City Council/Board of County Commissioners' hearing: _____

I hereby certify that this property has been listed in the Spokane Register of Historic Places based upon the action of either the City Council or the Board of County Commissioners as set forth above.

Megan Duvall
City/County Historic Preservation Officer
City/County Historic Preservation Office
Third Floor – City Hall
808 W. Spokane Falls Blvd.
Spokane, WA 99201

Date

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

SUMMARY STATEMENT

Located on a corner lot, the 1913 Spokane Brewing and Malting building is a two-story, flat roof, unreinforced red brick structure resting on a basalt rubble basement. Fronting along the south side of Broadway Avenue, at the southwest corner of Broadway Avenue and Lincoln Street, the building has an imposing presence on its corner location.

The symmetrically-arranged front façade is divided into six bays, the main entry bay in the northeast corner, and a secondary entrance inset one bay from the northwest corner. The façade is a flat plane but is richly detailed with patterned molded -red brick which displays one of the finest examples of decorative brickwork in Spokane. Horizontal striations, alternating recessed header courses, basket weave panels, voussoired brick window arches, corbeled blind arcade parapet wall with pressed tin cornice moldings, and crowned by a semi-circular arch topping a scalloped and stepped pediment. A square medallion with raised press tin letters “SB&Mco” (Spokane Brewing & Malting Co.) embellishes the tympanum. Corner pedestals embellished by pressed tin moldings topped with ball knobs mark the corners of the building.

The building is in its original location and retains integrity of design, material, and workmanship. Its setting on a corner lot creates a prominent feature of the building siting. Alterations have included replacement of the original window sash, replacement of a ground floor window by a new door opening, replacement of the original front entry door assembly to match the new door, bricking-in of two original loading doors on the east façade, revision of the loading dock on the south façade, and addition of steel fire escape and fire door on the west façade.



Figure 1: Spokane Brewing & Malting – Southwest corner at Broadway and Lincoln

DESCRIPTION OF PROPERTY

The Spokane Brewing and Malting building, on the north bank of the Spokane River, is in the northwest quadrant of downtown Spokane. The site occupies a corner lot, Lot 1, Block 12, bounded by Broadway Avenue on the north, Lincoln Street along the east and an alley on the south. The lot has 60 feet of frontage along the south side of Broadway Avenue, and 120 feet

along the west side of Lincoln Street which is the same measurement of the building footprint. The rear loading area is 30 feet of gravel, concrete and asphalt and is bordered by an alley.

The site slopes down from Broadway, south toward the Spokane River. An asphalt parking lot abuts the west side and to the west are several early 1900s brick buildings that extend to Monroe Street. A parking lot is across Broadway to the north, and the Wonder Building (Spokane Continental Bakery Building, 1909, SRHP), is kitty-cornered to the northeast. A vacant parcel, the home of the original Galland-Burke/Spokane Brewing and Malting plant is across Lincoln Street to the east, and last occupied by the Spokane YWCA. A one-story office building, Lincoln Court (1965) is across the alley to the south.

The front façade of the two-story brick building faces north toward Broadway Avenue, and the east side fronts along the west side of Lincoln Street. Composed of molded red brick—a hard brick with rounded edges-- the symmetrically-arranged front façade is divided into six bays, the main entry bay in the northeast corner, and a second entrance inset one bay from the northwest corner.



Figure 1: Front (north) facade

façade, that allowed daylight to penetrate the basement. These multi-light windows are extant in the basement wall. Marking the juncture of the basement wall and brick façade cladding the first and second floors is a water table course.

The projecting water table course is comprised of five courses: a row of brick stretchers, a row of alternating flush and recessed rowlocks and a row of brick stretchers with a total projection of two inches. The fifth course above the assembly transitions with a one-inch projection from the façade plane. The rowlocks alternate as being flush with the stretchers and being recessed one inch. A flat brick field of stretchers in common bond rises to the sill course that extends from corner to corner and is broken only by the two door openings. The sill courses, one at the first-floor windows and the other at the second-floor windows are comprised of three courses, a row of alternating projecting and recessed headers, bracketed by a projecting row of stretchers on the top and on the bottom. This assembly projects one-inch from the façade plane.

The façade is essentially a flat plane but is richly detailed. From the water table course to the top of the parapet wall, the façade features an elaborate pattern of brick work that imparts a degree of artisanship to the building.

The building rises from the concrete-plastered rubble basalt foundation walls which are exposed above sidewalk grade. Historically, as evidenced by the basement windows, there was a well between the basement wall and sidewalk along the north and east facades, and along the west

Continuing up the façade, the plane is again divided horizontally by intermediate striations at every fifth course. These features are formed by flush stretcher courses that form channels by bracketing alternating headers, recessed within channel at one-inch and at 1-1/2-inch deep, thus giving a deeper appearance. This pattern continues to the top of the window arch voussoirs at the second floor--with the recessed channels running along the bottoms and the tops of the voussoirs (seven courses).

The facade terminus is divided into three horizontal sections, the first a blind arcade supported by a corbel of three brick rows and arch piers that are also corbeled as they rise from the base to the springer course. The corners are recessed slightly and rise in six



Figure 4: Wall detail



Figure 2: Detail of brickwork on the east elevation along Lincoln St.

courses to a springer course on which the arches rest, a vertical wall section that extends two courses above the tops of the arches to a three-course corbel that supports a recessed wall section that terminates in a molded projecting pressed tin cornice.

Five courses above the top channel is a double row pattern forming the base courses and brick piers that support a slightly projecting belt course which, in turn supports the upper legs of the arcade piers. The lower course consists of slightly projecting double headers separated by a header, stretcher, and header composition which repeats across the façade. The second row is composed of a stretcher course with the stretcher within the arcade base slightly projecting. These pier bases are separated from the long leg of the



Figure 5: Parapet terminating east elevation

pier by a three-row projecting belt course composed of a header course and two stretcher courses. The top of this ledge forms the base from which the brick corbel piers—alternating stacked double headers, and single stretchers—rise to the springer and semi-circular brick header arches. These piers are corbeled and project the semi-circular arches one full brick width from the façade plane. As a result, the corresponding wall segment projects beyond the base wall corners. Two rows above the tops of the arches, the brick courses corbel back in two steps to a projecting stretcher and header belt course, then steps back to the original façade plane and base corner line for the terminating belt course. The parapet wall is capped by a pressed tin cornice.



Figure 6: Central pediment detail, north elevation

An arched pediment rises above the parapet wall over the center of the façade. On the same plane as the parapet wall, the pediment is separated by the pressed tin cornice that runs along the parapet wall. The pediment two-steps with scalloped shoulders above the parapet wall to terminate in a semi-circular arch. Molded pressed tin provides definition and emphasis to the pediment. Within the tympanum is square sheet metal medallion with raised pressed-tin letters “SB&Mco” (Spokane Brewing & Malting Co.) that labels the building.

Slightly inset from the cornices, each corner features a flat brick pedestal with scalloped shoulders outlined by a molded pressed tin cornice. Atop the pyramidal base is a ball knob finial. The pressed tin cornice molding crisply defines the corner feature.

Returning to the ground floor, the original first floor landing is approached by a granite stoop that is cut into the raised basement wall (the interior approach landing steps up to the elevated first floor within the building). The door opening is an undefined brick jamb topped with a flat arch accentuated by voussoir fan composed of brick soldiers that extends through nine horizontal courses. Within the brick opening is a six-panel wood door that is framed by molded wood trim casing, a

molded door head, above which is a leaded-glass transom window. Not original to the building “W. 901” is set into the leaded glass panel above the door.



Figure 7: Corner finial detail

former window opening from which the bottom wall section was cut out to reach grade level. The opening is framed with wood molding and the door height and composition is the same as the original opening. Above the door head is a leaded glass panel with the number “903” above which is an extended clear glass transom that reaches to the original voussoired window arch. It is likely that this door opening was added during a 1994 building remodel.

The window openings—four on the ground floor and six on the second floor—are aligned and tied by basket weave brick panels spanning the brick field between the first and second floors. The window openings have undifferentiated jambs, a sill course running from corner to corner, the length of the façade, and an enlarged voussoired flat window arch composed of stacked brick soldiers. The sill courses are identical for the first-floor and the second-floor windows. They are a three-course composition, two rows of stretchers projecting one-inch from the façade plane and framing a row of alternating flush and recessed rowlocks.

Attached to the brick façade and focusing emphasis to the main entry is an elaborate pressed tin architrave that emulates a porch. Bracketing the entry opening and set between the top of the voussioired door arch and an upper basket weave panel is a dentiled triangular pediment and frieze supported by elongated brackets that frame the opening as they drop down to about the mid-point of the door. The brackets narrow as they descend from the entablature frieze to the terminating bell and tulip pattern. Within each of the shafts is a single chain of half circles that decrease in size as they descend. Within the pediment tympanum are the raised pressed tin numbers “901”, and “Office” is in raised letters in the frieze over the brick arch. (The building functioned as both the Spokane Brewing and Malting office and bottling plant, while the brewing facility was across the street to the east.) Pressed tin “lanterns” are atop the square pediments flanking the triangular pediment.

The entry door near the west corner is configured similarly to the original entry. Like the original it is entered via a raised concrete landing abutting the basement wall.

The entry landing is poured-in-place concrete. The opening occupies a



Figure 8: Front entry detail

The basket weave patterns spanning the first and second floor windows are comprised of stretchers alternating with recessed headers. The same width as the window openings, the panels are framed by a double row of bricks, soldiers on the sides and stretchers on the tops and bottoms. The extrados is flush with the wall plane, the intrados is recessed one-half brick and the weave pattern is recessed again. The weave is composed of a half header, recessed header, stretcher, recessed header, stretcher, recessed header and half header. The eight rows alternate.



Figure 9: Window, brick detail



Figure 10: East elevation

East Façade

The façade of the east elevation is longer than the north, is symmetrical in form, but asymmetrical in the window and door arrangements. Because of the downward slope of Lincoln Street, the concrete-plaster basement wall increases in height from north to south. The brick detailing—pattern and type—is the same as for the front façade. A flat pediment with decorative basket-weave pattern and extended brick pedestals tops the parapet wall.

The ground floor has five window bays and two abandoned door openings, a pedestrian door and an enlarged door used for loading.

Both are filled-in with concrete blocks. A metal coal chute door is in the basement wall near the south end. The pedestrian door, offset north of center, intrudes into the basement wall with one step down to grade. The door opening is topped by a flat voussoired arch similar to those over the windows. Set above the water table course with a wide granite landing and red-painted steel plate jamb guards, the loading door rises to a flat voussoired brick arch at the same level as the first-floor windows. At the second-floor level, there are ten basket-weave panels equally-spaced (slightly closer north of the pediment) across the façade, but only eight second floor window bays above those panels. Their alignment generally corresponds to those on the first floor below with the following exceptions: the northern-most first floor bay is a blank wall and two second-floor window bays south of center are centered over the ground floor loading door.

As with the front façade, but configured differently, a pediment is added to the parapet wall to add prominence to the building. Slightly north of center, the flat, elongated pediment is composed of square brick pedestals that rise twenty courses from the cornice course above the

arcade to a pressed tin cornice that steps back slightly to the pediment wall and continues to the pedestal anchoring the north end. The pedestals rise above the sheet metal cornice eight courses, step back to form a platform on which a triangular base supports a globe knob. Within the panel formed by the lower belt course, side pedestals and sheet metal cornice is a brick frame enclosing a brick basket weave pattern similar to those spanning the first and second floor windows. Supporting the outside face of the pedestals are scalloped buttresses articulated by pressed tin moldings that form a shelf for a half circle bullseye pattern in pressed tin.

South Façade

With the brickwork pattern is identical to that of the front and east façades, the south façade is symmetrical and equally divided into six window bays on the second floor. As with the windows of the other façades, the windows are smoke-tinted, single-panel set with painted metal sash. Corresponding on the first floor are two window bays flanking each side of a loading door which is centered in the façade but raised above ground-level. Within the opening at two solid flat slab metal doors with a transom above (covered with plywood).



Figure 11: South (rear) elevation

From ground up is the exposed basement wall: basalt rubble foundation visible west of the concrete loading dock and concrete-plaster coated basalt on the east side. On the west side is a concrete retaining wall that forms the at-grade access to a solid metal slab door set in the basalt rubble wall. A pipe railing with chain link fence runs along the top of the wall. Unlike the front and east façades, the façade has no pediments with the sheet metal cornice and flashing running from the southwest and southeast corner finials. The ball-knob finial in the southwest corner, however, is not extant.

West façade

Since the grade is lower than the north and east façades, the basalt rubble wall has a greater exposure and is not coated with concrete. Within the basalt rubble basement wall from north to south are three windows that vary in size as dictated by the grade, a pedestrian door slightly south of center which is below grade and approached by seven concrete steps to a concrete approach landing, and to its south, a single window aligned with the first and second floor windows above.



Figure 12: Southwest corner - south and west façades, looking northeast.

The façade is flat and plain with a common-brick field. The corners are wrapped and reveal a four-foot segment of the ornate brickwork of the front and of the south façades. The brick of this elevation is a lower-quality standard brick without significant detailing. The watertable course at the juncture of the brick and basalt walls is composed of a row of brick stretchers topped by a row of brick headers. The brick field is flat to the sill course which is defined by a single course of slightly projecting brick stretchers. Finally, at the window level of the second floor, is a similar single brick course defining the sill with a flat wall terminating the parapet with a sheet metal flashing.

Attached to the northern portion of the elevation is a gently sloping ramp that provides access from the sidewalk along Broadway Avenue to the first floor, with a door opening in the third bay from the northwest corner. The four-foot-wide ramp is composed of steel I-beam with an extruded steel plank decking and round iron pipe railings with iron pickets. The door opening was cut into the brick wall below the original window opening to accommodate the metal slab door. Aligned over the basement door are egress doors on the first and second floors with access provided by a red-painted wrought iron fire escape that extends north up to the first-floor landing, switches back south to a landing, then switches north to the exit door landing on the second floor. Both the ramp and the fire escape were added in the 1980s.

INTERIOR

Basement

The building includes a basement and two upper floors which have been gutted and readied for remodeling. The basement is open and supported by the basalt rubble and brick perimeter walls, a concrete floor, and wood timber posts and beams. The square timber posts rest on square concrete bases and fit into a cast iron cap that is attached to the undersides of the beams. The beams run north-south and divide the space into three segments. Wood plank joists of the first floor make up the ceiling. A brick elevator shaft that opens to the south is near the middle of the room. Within the north



Figure 13: Basement looking north at the north wall – original daylight windows

wall are five window bays, most with fixed wood sash with glass lights configured in three columns and four rows. The area outside the windows along the perimeter of the exterior basement wall is filled in with earth. Likewise, two window openings are in the east wall but have been closed in. Both the north and east walls indicate that the grade against these faces of the building was several feet lower than present. Along the west wall are three windows, a pedestrian door, and one window in the basement wall. In the southwest corner is a brick room about 12-feet by 12-feet (may have been vault storage). Within the south wall are two high window openings in the easterly portion and a flat steel slab pedestrian door is near the west corner.

First Floor

The first floor is open as a result of the demolition. The walls are brick, predominantly exposed with some plaster along the east wall. The interior structure consists of wood posts and beams, with the beams running north-south. The easterly section of the wood post and beam structure between the

elevator shaft and south wall has been replaced by a round steel post and steel I-beam. The square timber posts rest on square concrete bases and fit into a cast iron cap that is attached to the undersides of the beams. Fiberboard and concrete cover the floor. The ceiling is comprised of the wood plank joists of the second floor. An elevator shaft that opens to the south with a cut opening on the north side is in the middle of the room. A square room, about 12-feet by 12-feet is in the southwest corner of the building. A single pedestrian door is centered in the east face of the wall. A loading door is in the middle of the south wall opening to a concrete platform along the outside wall.

The original main entry door in the northeast corner of the first floor is lower than the first floor and requires a landing and steps (removed) to reach floor level. As evidenced by a pattern of exposed brick in the otherwise plaster wall, a stairway once ascended to the second floor along the east wall. A loading door, pedestrian door and southerly windows along the wall have been closed with concrete blocks. A second entry in the northwest corner added in the 1970s by cutting into a window bay. A section of the floor has been removed in this corner resulting in an open hole over the basement. Two doors are along the west side, one that was cut into an existing window opens to a disabled access ramp, and the other is an emergency egress to the fire escape.



Figure 13: First floor looking north from south wall



Figure 15: Second floor, looking east at the southeast corner and fireplace

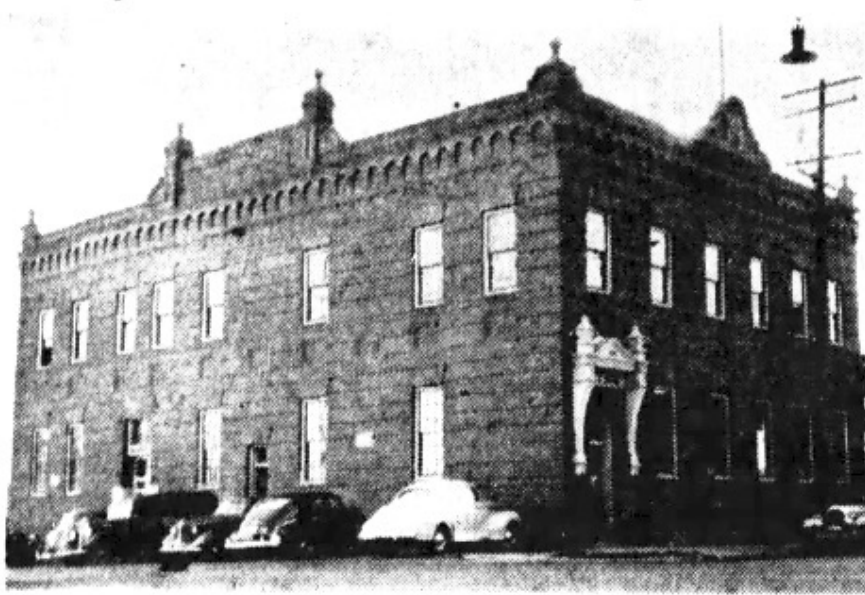
Second Floor

The second floor is currently accessed only by the exterior fire escape in the west wall since the original stairs have been removed, leaving a like-sized hole in the floor. As with the first floor, it has been stripped to bare brick walls, wood timber posts and beams and exposed ceiling joists. The floors are mixed material including original wood strip subfloor, and fiberboard. The walls are brick with the upper portions clad in plaster. An intact brick fireplace is bracketed by windows on each side near the southeast corner of the room. Again, as with the first floor, the brick elevator shaft, opening to the

north, extends through the ceiling, and evidence of the brick room is in the southwest corner. It appears that a restroom was also in the southwest corner, north of the brick room. Finally, the plastered lightwell from a boarded-up skylight is centered in the ceiling south of the elevator shaft.

ORIGINAL APPEARANCE & SUBSEQUENT MODIFICATIONS

The building is essentially unaltered from its original *form* and *detailing*. The visible alterations are limited to replacement of the original multi-light wood sash, bricked up openings, the addition of a new doorway on the front facade and the replacement of the front entry door.



When inside the basement it is apparent that the north and east walls opened to exposed light wells that were located between the exterior wall plane and the back edge of the perimeter sidewalks. The windows that opened to those wells are extant in the north wall of the basement.

Figure 16: Spokesman-Review, October 19, 1941 “Spokane Buildings in Sales News”



Figure 17: Spokane Brewing & Malting, 1928 (left): Northwest Museum of Arts and Culture, Joel E Ferris Research Archives, Charles Libby L87-1.37757-28

SECTION 8: STATEMENT OF SIGNIFICANCE

Area of Significance: A – Broad Patterns of Spokane History
C - Architecture
Significant Dates: 1913
Period of Significance: 1913 -1938
Architect: Unknown
Building Developer: Spokane Brewing and Malting Company
Building Contractor: Unknown

SUMMARY STATEMENT

Significant under Category A – Broad Patterns of Spokane History

Constructed in 1913, the Spokane Brewing and Malting Building is eligible under Category A because it was constructed during the growth of the beer industry in Spokane and is a fine example of buildings of that type and period. The building functioned as both the Spokane Brewing and Malting offices and bottling house and is associated with the Spokane Brewing and Malting plant that occupied the lot east of the subject building until 1938. The building is also a legacy of the Galland brothers and their contributions to Spokane real estate, financial, and brewery industry. As an early downtown brewery, it is a rare remnant of the heyday of brewing in Spokane. It is one of only two existing buildings built as breweries that remain in downtown Spokane, the other being the Schade Brewery (1902, SRHP, NRHP). Finally, the building is related to several north riverbank buildings that supplied Spokane with its basics from milk at the Broadview Dairy (1910, SRHP), flour at the Spokane Flour Mill (1895, SRHP, NRHP), bread at the Spokane Continental Bakery (1910, SRHP), and beer at the Spokane Brewing and Malting Company. The subject building is the only remaining structure of that brewing complex. The period of significance ends in 1938, when the building was sold out of the Galland brother's interests.

Significant under Category C – Architecture

The Spokane Brewing and Malting building is a unique building both in terms of design, and detailing. The brick itself is unique in Spokane, a high-fire brick with rounded edges reminiscent of street pavers, but more finely rendered. The brick is composed in an intricate pattern that richly details the main facades. Horizontal striations, corbeling, articulated window arches, a pronounced pressed tin entry architrave, and a parapet with stepped and rounded pediments, and corner finials, the building form is distinctive and attractive. The building is the west anchor of a line of four industrial buildings that provided basic substance to inhabitants of the Inland Northwest—bread, grain, milk and beer—the order depending on taste. Sharing similar characteristics as these neighboring industrial buildings, the Spokane Brewing and Malting Building is constructed of unreinforced red brick on a basalt rubble foundation. Wood posts and beams provide the structure, from basement to flat roof behind a brick parapet wall.

STATEMENT OF SIGNIFICANCE

Historical Context

The historical context for Spokane has been included in several National and Spokane Register nominations, including the Riverside Avenue National Historic District (Garrett & Potter, 1976) thus, the Spokane historic context discussion is abbreviated.

The Spokane River and its falls had long been a gathering place for Native American tribes. It also attracted white settlers, J.J. Downing and family and S.R. Scranton, who established a claim at Spokane Falls in 1871. James N. Glover and Jasper Matheney would follow and purchase the claims of 160 acres and the sawmill from Downing and Scranton. Early industry would use the water power for milling and sawing lumber and to generate electrical power. The settlement would grow slowly until the railroad entered the city.

The Northern Pacific Railroad arrived in Spokane Falls in 1881, the year of Spokane's incorporation, and with the connection of the eastern and western branches in 1883, transcontinental service through Spokane Falls was established. Spokane continued to grow as a regional shipping and distribution center through the 1880s. Between 1886 and 1889 the population increased from 3,500 to 20,000 people. Although suffering a set back by the fire of August 4, 1889, which destroyed approximately thirty-two blocks of the business district from the railroad tracks to the river and from Lincoln to Washington Streets, the city quickly rebounded as new brick buildings rose from the ashes. The devastation wrought by the fire resulted in a city ordinance to reduce fire hazard, leading to brick and terra cotta becoming the dominant building materials of the rebuilt downtown.

When Spokane businessmen rebuilt the downtown after the fire, the business district would spread east to Division Street and follow Monroe Street across the river. Sanborn Fire Insurance maps from 1891, 1902, and 1910 show a marked increase in the building of commercial buildings in the east downtown. Frame dwellings gave way to brick commercial buildings and street frontages began to solidify. Among the property types and businesses that were prevalent were hotels, lodging houses, saloons, banks, drug stores, and restaurants. They were built to meet the needs of a rapidly growing population.

Generally, warehouses cropped up along the Northern Pacific rail corridor between the two alleys bracketing the tracks. In the blocks south of that warehouse district were shops and two-to-three-story apartment buildings and hotels. These apartment blocks ran along Second and Third avenues, and the cross streets including Post, Howard, Stevens, and Washington as they advanced up the lower South Hill.

According to architectural historian Woo (2003), Spokane's population exploded from 36,848 to 104,402 between 1900 and 1910.

This growth mirrored the population expansion of the state that saw its greatest increase in the same decade. Many people moving to Washington settled in the states three largest cities: Seattle, Tacoma, and Spokane. Various industries rapidly developed and with it a demand for more buildings. Most of the city's urban downtown skyline was created from about the late 1890s to 1912 with the construction of office buildings, banks, hotels, department stores and other commercial buildings. As author John Fahey describes, Spokane, which had put up 675 new structures in 1900 as migration accelerated, built 1,500 to 1,900 buildings a year from 1904 through 1909.

The economic boom and population expansion of approximately the first fifteen years of the 20th century was short-lived. Growth in both areas in the next decade slowed considerably. By 1920, the population of Spokane was

only 104,437, an increase of only 35 people from 1910. Investors soon realized the city was overbuilt. The region it served (the Inland Northwest) was not able to sustain the city and keep pace with the speculative growth. By 1950, the population had increased by only 50,000.

The Spokesman-Review celebrated its 25th anniversary (6/17/1909) with a major edition that showcased the birth of an inland empire and touted of the growth and prominence of Spokane, the capital of a region rich with mines, timber, and farmland, railroads and water power.

“SPOKANE GREATEST RAILROAD CENTER WEST OF THE MISSOURI”
“BIG LUMBER OPERATIONS IN THE INLAND NORTHWEST”
“OUTPUT OF MINES IS ENORMOUS”

BUILDING OPERATIONS EXCEED \$8,000,000 (on banner)
“Permits Issued for First Five Months of 1909 Total 1497, for \$3,866,250, against
1303 for \$2,528,170 a Year Ago.”

A list of some 32 individual buildings and building corridors were listed as either under construction or to be started in 1909 with a total cost of \$8,000,000. Prominent buildings listed in the article included: Old National Bank, Davenport Hotel, Acme Portland Cement Plant, E.H. Stanton & Co. Packing Plant, Spokane Club, Washington Water Power Company, W.E. Parsons Building, Dry Goods Realty Building, North Monroe district buildings, new flats and apartment houses and new dwellings (estimated at 2000 new homes at an average of \$1100 each).

In its August 1, 1909 Sunday edition, *The Spokesman-Review* reported:

“BUILDING PERMITS GAIN 48.5 PER CENT”
First Seven Months Up to Within \$750,000 of Entire 1908 Total
YEAR TO DATE, \$5,150,530
Number to Date Is 1969 Against 1807 for Same Period Last Year.

Building permits for the first seven months of 1909 are 48.6 percent greater than for the first seven months of 1908 and are within \$750,000 of the total for last year.

Already a total of \$5,150,530 in permits has been taken out. While for all of last year the total was \$5,927,548.

For the first seven months of last year the total permits amounted to \$3,456,840. This year to date shows an increase of \$1,684,690, or 48.6 per cent.

The number of permits issued the first seven months this year is 1969, as against 1807 for the same period last year, a gain of 162 permits, or 9 percent. The fact that the increase in cost is much greater than the increase in number of permits shows that more expensive and larger buildings are being erected this year.

July shows a substantial gain over July of last year. The total for the month just past is 211 permits, amounting to \$683,110, while for July last year 182 permits were taken out at an estimated cost of \$433,560. This is a gain of \$149,440, or 15 per cent. Every month this year has made a substantial gain over the corresponding month last year.

Spokane was booming; workers were streaming to the city on the rails. The population had exploded from 19,992 in 1890 to 36,848 in 1900, and 104,402 in 1910. The downtown blocks surrounding the business core were being converted from wood frame dwellings to three-and four-story brick hotels with businesses on the street level and residences above. Most all of these residential buildings were single room occupant hotels (or SROs). They were built quickly and simply for the influx of workers coming into Spokane. The regional industries such as mining, lumber, and agriculture sent their laborers into downtown Spokane when the work season ended.

The newcomers and workers supported local saloons, saloons sold beer, and breweries supplied the saloons with that beer. Breweries such as the Spokane Brewing and Malting Building were constructed to keep Spokane's saloons in steady supply.

Breweries in Spokane

In 1887 Rudolph Gorkow's New York Brewery at Front and Washington and the Henco Brewery at Fifth and Ash began beer production in Spokane.

The *Spokane Falls Review* opened the new year of 1887 with "An Interesting Report and Highly Gratifying Statistics" for the city of Spokane Falls: "A Carefully Prepared Resume of the Year 1886." "There is no more convincing argument than an array of facts. In the effort to say a good word for our flourishing and progressive city the Review presents this morning to its readers a brief compilation of the last year's improvement and advancement in the most important channels of its prosperity." The article listed and described both the civic and the commercial accomplishments over the past year; among them water pipes, electric lights, telephonic exchange, sewage system, fire department, Medical Lake soap works, railroad, pottery works, The Sister's Hospital, College of Gonzaga, three churches, flour mill, saw and grain mills, factories, stores, warehouses, hotels, business blocks and buildings, post office, three breweries and private residences. The *Spokane Falls Review*, in its article, listed a number of projects by name, including the breweries: the New York Brewery on Washington and Front was "well underway" by Mr. Rudolph Gorkon [sic] an expert brewer from New York City. Three buildings were to be erected with a cost of \$25,000, and the brewery was to have a capacity of fifty barrels per day. Henco Brothers in Cannon's addition had a two-story building costing over \$4,000. The two-story frame Loaker & Delvas' Brewery, near the passenger depot, was noted in the article to be "complete but smaller than the former with a cost of \$2,500."

Both the New York Brewery and the Henco Brothers Brewery opened in 1887, but the Loaker & Delvas' brewery was never mentioned again in local newspapers.

An ad in *Spokane Falls Review* of March 3, 1887 was soliciting farmers for barley for brewing beer. "Notice to Farmers: Go to the New York Brewery Who will Pay the Highest Market Price for your Barley. Rudolph Gorkow."

As reported in the *Spokane Falls Review* on August 7, 1887:

The New York brewery on Front street is now manufacturing beer. It is one of the largest establishments of the kind in eastern Washington, and one of the biggest improvements in the city for the year. It has a storage capacity of 30,000 gallons and there are now 10,000 gallons on hand. The beer is kept in the vault

for two months before being sold, that time greatly improving the taste of the liquid. In time the New York brewery production will crowd all other beers out of the market.

Also, in August 1887, the *Spokane Falls Review* noted that the new brewery (Henco brewery) in Cannon's Addition (Fifth and Ash) is unable to keep up with its orders.

And in September 1887, a request was published in the *Spokane Falls Review* to "Patronize Home Industry."

Consumers of beer, a popular beverage among all classes, should remember that just as good a quality of lager beer is manufactured in Spokane Falls as is imported from eastern cities. A proof of this is the prime beer now being manufactured and sold at the California Brewery, Main street. Call and test the beverage and convince yourselves.

On April 4, 1888 the *Spokane Falls Review* reported a new brewery on the home front: "New Home Enterprise."

The Spokane Brewery, at the foot of Post street, is a recent enterprise for the manufacture of ales and porter. There is no other ale and porter manufactory on the Pacific coast, with the single exception of one in San Francisco. The manager of the Spokane establishment has had 16-years-experience in the work at Barton on Trent, in England. The best judges pronounce his product superior to the imported article.

In 1889, John G.F. Hieber was listed in Polk as a "maltster" in the Stafford Addition. Also, in that year, Polk listed 51 saloons that used local as well as beers imported from breweries in the mid-west to the east coast. Hieber was operating a brewery in Vinegar Flats and later built a new plant at Second and Cedar in 1901. Also listed was the Spokane Brewery at the foot of Post Street. Rudolph Gurkow died in 1896 and a group of Spokanites took over the New York Brewery.

Galland Brothers Establish Brewery in Spokane

The year 1891 was a transitional point for the Galland brothers who had sold out of their mercantile businesses in Farmington, Palouse, and Wallace, Idaho; and would enter the beer business in Spokane. An article in the *Spokane Chronicle* of January 27, 1891 revealed that "The report of the locating here of a brewery by Galland Brothers was premature the fact that satisfactory freight rates have not yet been made." Apparently, the rates in question were for hauling grain by rail to the proposed brewing and malting plant. Spokane, unfortunately, suffered from discriminatory freight rates by the railroad which put them at a disadvantage when competing with breweries on the coast in Seattle, Tacoma and Portland.

On the other hand, the extensions for regional rail lines to the Palouse county to the south, the Big Bend of the Columbia River to the west and into Canada to the north provided the network for Spokane breweries to enjoy a wide market outside of Spokane.

The *Spokane Review* reported on July 14, 1891 the opening of a new brewing company in Spokane:

“Articles incorporating the Galland-Burke Brewing and Malting Company were filed at the auditor’s office yesterday. The company proposed to establish a large plant in this city for the manufacture of beer and malt liquors. It is to exist fifty years. The capital stock is \$100,000 divided into 1,000 shares at \$100 per share. The trustees are Julius Galland, John Burke, W.S. Norman, George Truax and Theodore Galland.

It was noted also that of the 1,000 shares issued, 799 were owned by the two Galland brothers, Julius and Theodore. (Smith, 1967) Soon after incorporation, Samuel and Adolph acquired shares and the four Galland brothers owned all the shares of the brewery.

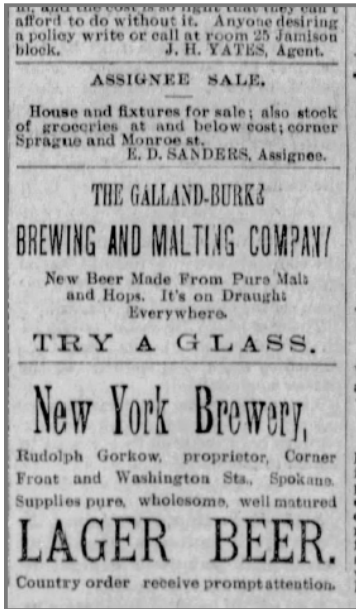
On July 30, 1891 the *Spokane Chronicle* reported that the Palouse Milling company was proposing a large flour mill with a 1,200-barrel capacity on the north side of the river in the neighborhood of Post Street. The organizers were requesting before the Spokane Chamber of Commerce a \$40,000 subsidy to extend side tracks to the proposed mill. Additionally, sidetrack facilities would be required to travel either directly down Post Street from the Seattle & Lake Shore track or up Mallon Avenue to Post Street and Broadway as asked for by the Galland-Burke Brewing Company. The final formation of the company would depend on getting the necessary track facilities. In additional business, S.S. Sterns, Julius Galland, Patrick Henry Winston, and D. B. Fotheringham were voted in as members of the chamber.

The next report of the Gallands was on August 11, 1891 when the *Chronicle* stated that a malt house was under construction for the proposed Galland Brother’s brewery. A contract had been awarded to C.A. Conant who had sublet a masonry contract to H. Missel. But, Missel and the project ran into trouble with the unions because Missel would not employ union men for the job. An article in *The Spokesman-Review* of August 18, 1891, reported a meeting on the union at which Missel was present in which he was fined \$500 (increased from a previously levied \$50 fine) and which he refused to pay. He was advised by the Union that its masons would not build the structure on a foundation laid by scab brick layers.

On October 22, 1891, the *Chronicle* reported progress on the Galland brewery. A twenty-year lease agreement had been contracted with Washington Water Power, the land owner, and work was underway. According to the *Chronicle*: “The imposing structure on the north bank of the river near the crossing of Broadway and Post streets, which is attracting considerable attention, is the Galland-Burke Brewing & Malting company’s building.” The yearly rental for the first five years is to be \$1,200 per annum and will increase in five-year increments to \$3,499.68 for the final term. The lease included the “...power to use and divert any and all springs, waters or water courses within the said premises: to make any reservoirs or dams, or flumes, of drains for conveying any stream of water in, over or through said lands for the purposes stated, and to have sufficient water power for the uses and purposes of said lessee ...”

But, on November 15, 1891 the *Chronicle* would report: “A cloud is still hanging over the work on the big Galland brewery now in process of erection on Post street, north of the river, but the impending strike over use on non-union workers may pass over. Tonight will tell. Understanding has been reached between contractors Conant and Rundall, who have the work for erection of the building and Mr. E.B. Anderson and Mr. Baker of the executive committee of the Trades’ Council.”

It had been hoped that the new brewery would be ready for production in the fall of 1891 with the fall crops of Inland Empire grain and hops, but production was not able to begin until May 1892. Following the first beer sales in June, the grand opening took place on July 2, 1892. Free lunch and beer at Twickenham Park (later Natatorium Park) followed by a dance with music by the Auditorium Orchestra marked the celebratory event. (Smith 1967)



The *Spokane Chronicle's* Talk of the Town on April 16, 1892 had described the operations at the new brewery in getting ready for production.

The Burke-Galland Brewing and Malting Co. are nearly ready to commence operation. The malt house is already in operation, and thousands of bushels of grain are in different stages of progress toward being converted into beer. Mr. Galland said yesterday to a CHRONICLE representative who visited the brewery: "We are pushing the work forward as rapidly as possible and expect that everything will be in running order in a few weeks. We shall employ a force of about thirty five at first, but hope that the demand for our beer will be such that we shall have to increase that number greatly."

Also in April of 1892, John Hieber, with a small brewery in Vinegar Flats, incorporated the fourth substantial brewery in Spokane with a capitalization of \$50,000. Like Galland-Burke, Hieber planned to do its own malting. (Smith, 1967)

In 1892, ads began to appear in local newspapers for the different breweries.

Although incorporated in 1892, Hieber did not build his new plant until 1900. An article in the *Spokane Chronicle* of July 22, 1898 told of Hieber's activities in the Spokane region including new building blocks in Oaksdale and Almira, and plans for a new brewery in



Spokane Chronicle, September 7, 1892

Spokane. He had recently bought a whole block at Cedar and Second, backing the Northern Pacific tracks. He would not only have direct rail access, but was also planning to "sink an artesian well" for his water supply. Work on the building, designed by prominent Spokane architect Albert Held was announced by the *Spokane Chronicle* on January 19, 1899. Another year elapsed and the *Chronicle* repeated its announcement of "Huge New Brewery" in its February 1, 1900 edition. Hieber, it was reported, "has not given up on the project of building his mammoth new plant..." He would decide on whether to build that season and expected construction to take a year. It would be the largest brewery in Spokane.

The years 1899 and 1900 were rather turbulent on the Spokane beer front. In addition to Hieber's announcement of a new brewery building - there were labor struggles; a tussle among

Spokane's brewery businessmen; the trustees and German heirs for the estate of Rudolph Gorkow's New York Brewery; and price wars in the beer industry.

Labor battles were raging in the fall of 1899. Galland-Burke Brewing and Malting Company and New York Brewing and Malting Company had pressured Henco Brewing and Malting and Hieber Brewing and Malting to discharge union brewers after having signed an agreement with the Local Union 27, a branch of the United Brewery Workmen. A boycott circular had been "directed against the use of the beer produced by the Galland-Burke Brewing and Malting company in the city of Spokane on account of the said brewing company being unfriendly to the union of the United Brewery Workmen. That the officials of the Galland-Burke Brewing and Malting company, a corporation, conducting a brewery in the city of Spokane, are unfriendly to organized labor and unfriendly to this affiant in particular." The circular also alleged that Galland-Burke along with the New York Brewery had procured a boycott to be instituted against Henco and Hieber unless they rescinded their contract with the unions. Galland-Burke and New York breweries would work to prevent the issuance of saloon licenses, and that ice, gas and electric light companies would not sell to saloons using Henco and Hieber beer. They also threatened to open opposition saloons in the vicinity of Heiber and Henco saloons. Ultimately the brewers' association held great financial resources -- \$9,000,000 of capital—and great influence and generally intended to destroy union labor within the city.

The battle for control of the Rudolph Gorkow New York Brewery property was in the courts and pitted German heirs against Spokane businesspeople. Conspiracy and fraud were bantered about. Attorneys argued, the judge mused. According to the court, "This estate has been playing battledore and shuttlecock for a long time, and if we wait until the question of a fraudulent sale of the interest of the heirs is determined, it may be years before it is settled." The German heirs were contesting the sale of the estate to the Theis syndicate, et al. It was alleged that the trustees sold the brewery property at a depreciated price to the purchasers. (*Spokane Chronicle*, 4/20/1900)

Charles Theis was vying for the New York Brewery. Theis had come to Spokane in 1889 as a representative of eastern capitalists and bought municipal bonds. He was instrumental in financing Spokane's water department and the Boise Gas, Light and Coke Company among other municipal endeavors. He would eventually buy out the Galland Burke Brewery, Hieber Brewing and Malting, and become a principal stockholder in the Bohemian Breweries. (*Spokesman Review*, 1/1/1954)

"War of the Brewers," announced the *Spokane Chronicle*, in its August 16, 1900 edition. "The scrap among the local breweries is one of the most interesting that has been brewed for some time." And it was good news for local beer drinkers.

The uniform price of beer in Spokane until this week was \$8.50 per keg. ...

This week the Galland-Burke brewery notified the local saloonkeepers that on the 15th of the month it would commence to sell beer at \$6.50 per keg.

This chop of \$2 per keg set the other brewery men all on edge, and they have been waiting anxiously to see the effect. As yet neither the New York brewery, Henco nor Heiber has met the cut, and their solicitors state that there is no intention to sell their beer at \$6.50.

Although “positively” denied by Julius Galland, rumors floated that Galland-Burke reduced the price of their beer because of the discovery of reductions to the country trade, which the Galland-Burke people claim had been made, contrary to the schedule fixed by the local brewers. “On this matter it is said that Galland-Burke management claims to have discovered sales of beer at \$7.75 per kg made by one of the other breweries to the country trade.” ...

It is well known that the Henco and New York breweries were consolidated recently, after the purchase of the New York by the Theis syndicate. It is now claimed that the Galland-Burke owners were also anxious to join in the new consolidated brewing company, and even made a proposition to go into the new company and accept a certain amount of stock in return for their brewing plant. Under this plan it is claimed that Julius Galland was slated for manager of the consolidated companies and R. Martin for assistant. Those who tell this story claim that it was because of the failure of this plan to go through that the Galland-Burke brewery turned the tables and cut prices.

Spokane Brewing and Malting Company is Formed

On July 10, 1900 the *Spokane Chronicle* reported:

Articles of incorporation were filed today for the Spokane Brewing & Malting Company, with permission to operate breweries, bottling works, and a refrigerating plant and for transacting a brewing, malting and ice business in this city. The new company is capitalized at \$500,000 with 5000 shares at \$100 each. The trustees named in the articles are Reinhard Martin, Spokane; Peter Larson, Helena; George M. Forster, Spokane; Moritz Thomsen, Seattle; Gerhard Schade, Spokane; Charles Theis, Spokane, and Samuel Glasgow, Spokane.

Two days later on July 12, 1900 a building permit was issued to the Hieber Brewing and Malting Company for erection of a new brewery on the corner of Cedar and Second avenue.

Within a month of its incorporation, Theis and the Spokane Brewing and Malting Company had acquired the property of the New York Brewery for \$115,000. (*Spokane Chronicle*, 8/1/1900)

On March 5, 1902, *The Spokesman Review* reported that the Spokane Brewing and Malting company, comprising the New York Brewery and Henco Brewery. was erecting a new bottling plant at a cost of about \$25,000 – but does not provide a location of the new plant.

“Big Breweries Form a Trust” was reported by *The Spokesman-Review* on May 1, 1902. The rumors over the past two years had come to fruition. Galland-Burke (now wholly owned by the Galland brothers) ended the beer war by merging with the Spokane Brewing and Malting Company which now had the plants of New York, Henco, and Galland-Burke. For two years, local beer drinkers had enjoyed the fruits of war in lower prices which would now rise.

According to the report: “prices have been advanced to the basis of July 1898. Julius Galland will be the financial manager of the consolidated company and Reinhard Martin, former general manager of the Spokane company, will manage the manufacturing end of the concern. There is only one other brewery in Spokane, Heiber’s, with a capacity of from 15,000 to 20,000 barrels per year. It has not entered the merger, but will advance prices to the schedule

of the combination. The consolidated company will have a capacity of about 100,000 barrels per year.” ...

A modern bottling plant would open in July 1902 at Washington and Front, malt now imported would be produced in Spokane. Beer prices would increase to \$8 per barrel, equivalent to the coast. The principal owners of the company were Peter Larson, George M. Forster, W.J.C. Wakefield, Charles Theis and Moritz Thomsen. Julius, Theodore, Adolph and Samuel Galland owned the Galland-Burke plant.

New competition was brewing in the Spokane beer market. “New Brewery Will Fight the Trust” reported the *The Spokane Press* in February 1903. Bernhardt Schade, formerly a brew master with a New York firm was in the city to take charge of the plant. He stated that the capacity would be between 35,000 and 40,000 barrels annually—“greater than any brewery in the city.” Operation was slated for first of August, 1903. “...it is the intention of the company, of which W.J. Frost of New York and Mr. Schade are the heads, to try to break the beer trust in Spokane. Cost will be around \$80,000 and malt will be shipped from Dayton, WA. A malthouse and bottling works will be built later.”

Plans for a consolidation and expansion of the Spokane Brewing & Malting Company were announced on November 14, 1903 in *The Spokesman-Review*. “The company is planning extensive improvements to its plant to increase capacity from about 75,000 barrels of beer to between 100,000 to 120,000 barrels annually. Construction of a new and larger brewhouse, equipment, installation of large cellars and erection of steel elevators for the malting plant are proposed. Julius Galland, vice president, confirmed the plans and indicated a two-year period to complete the upgrades with a cost between \$50,000 and 100,000. When completed, the plant would be as large as any west of Omaha.”



Spokane Press - May 21, 1903

The article also announced the closure of the New York plant as a brewing facility, but that it would be used as a bottling headquarters. Brewing would be continued at the Henco and the Galland breweries. Based on an engineer’s findings, a decision to close either the Henco or the Galland facilities would be made. The New York Brewery was at Front and Washington and the Henco at 5th and Ash.

As the closure of the New York Brewery became imminent, the new Schade Brewery at

Front and the river opened it taps, as the *Spokane Press* proclaimed on September 18, 1903: “Agitates Beer Trust.”

The opening of Schade signaled the renewal of the war waged by the local brewery trust against the invasion of this territory. Additionally, Olympia brewing company had leased a 100-foot warehouse at the corner of Adams street and the railway with Spokane made a distributing point for eastern Washington. In spite of the bitter fight made against them by the Spokane trust they had established a Spokane foothold and a number of independent saloons are now selling Olympia beer.

The "Last Brew at New York" was reported by *The Spokesman-Review* on December 23, 1903. The big brewery would be dismantled as the first step of the local brewery trust—the Spokane Brewing & Malting Company—towards centralizing all of its production in one plant. The company planned to close the Galland-Burke Brewery in 1904 and make all of its beer at the Henco Brewery.

The sale of the Hieber Brewing and Malting company was announced on October 1, 1905 in *The Spokesman-Review*. John Land, William Huntly, and Charles Theis paid \$300,000 for the brewing plant, but Hieber retained a substantial interest. The company would be incorporated at a valuation of \$500,000 as The Inland Brewing and Malting Company. Mr. Theis was a stockholder in the Spokane Brewing and Malting Company and also was president of the Idaho Brewing and Malting Company in Boise, Idaho.

But, less than a week later, the *Spokane Chronicle* on October 7, 1905 reported that Theis' former partners at Spokane Brewing and Malting, the Gallands, protested the sale and obtained an injunction barring him from purchase of the Hieber Brewery. A temporary injunction by Judge Kennan restrained Theis from engaging in business as a stockholder in the Hieber Brewing & Malting Company. Because Theis had previously entered into an agreement not to manufacture or sale malted or brewery produced beer either directly or indirectly, for a period of 10 years with a radius of 150 miles of Spokane, the Gallands protested his purchase. That agreement required that none of the parties would conduct brewery business unless it under the auspices of Spokane Brewing & Malting.

Theis fired back as reported in the *Chronicle* on January 31, 1906: "Theis Opens Fire on the Gallands" and "alleges that he signed the agreement through fraud, misrepresentation and concealment as to the material facts, and alleges that, in violation of the agreement, the Gallands own a large interest in the Sunset brewery at Wallace, Idaho, and that the product of said brewery is sold almost exclusively in Wallace and vicinity to the exclusion of products of the Spokane company." He accused the Gallands of trying to restrain trade. As a side note, at the same time Theis was also involved in "...A merry Battle of Spokane Gas Men" court battle over stocks and franchise agreements in the Spokane Falls Gas and Light Company (*Spokane Chronicle*, 5/23/1907).

For the next few years the breweries fought battles with the city, first a move to increase licensing fees for saloons and then the attempt to change the relationship between the brewers and their stable of saloons.

The *Spokane Press* reported in July 1907 that the breweries were banning together to fight the increase in saloon license fees. City councilman Laumer proposed to increase the saloon license from \$600 to \$1000 per year. With 210 saloons in the city, this would add \$84,000 a year to the city treasury and perhaps "almost pay for the new concrete bridges which have been ordered."

According to the *Spokane Press*, the Schade, Inland and the Spokane Brewing & Malting companies controlled all the breweries in town and probably all but 50 of the 210 saloons. The brewers put up a hard fight in the belief they could defeat the proposed increase. They were a power in local politics and maintained an organized association that would "bring every influence to bear upon the council to keep it from raising the licenses."

It seems to be the effort of breweries to control every saloon in town. If at first they cannot secure this control, they are content to bid higher for a lease of a building than the independent saloon-man, and the re-lease to that individual on condition that he use the goods of that brewery exclusively. This amounts to a sort of coercion, but is generally accepted as the saloon keeper who owns expensive fixtures would prefer to use a certain brewer's product than move out altogether.

Spokane Brewing and Malting under the Gallands' guidance was a major investor in downtown Spokane real estate. In December 1907 for example, five buildings were listed as being either planned or under construction by the company. With a total value estimated at \$210,000, they included: a three-story brick building at the southeast corner of Pine and Sprague for \$25,000 (extant); a four-story brick building at Bernard Street running through from First to Sprague at \$100,000; a three-story brick building at the northeast corner of Front Avenue and Bernard Street for \$25,000; a one-story building at Front and Washington, \$10,000; and a three-story brick building at southwest corner of Bernard and Main, \$50,000 (Langham, extant).

The death of Theodore Galland was reported in the May 13, 1908 edition of *The Spokesman-Review*. "Theodore Galland, president of the Northwest Loan and Trust company, one of Spokane's well-known citizens, died at 2:15 o'clock yesterday morning in his apartments at the Westminster..." He served for several years as secretary and treasurer of the Galland-Burke Brewing and Malting Company. After managing a Galland brewery interest in Portland, he returned to Spokane as president of the Northwest Loan and Trust company." The long fermenting issue of brewery control of Spokane's saloons was finally tackled by the city council in 1911. On May 13, the *Spokane Chronicle* revealed on its banner: "Breweries Control Many Saloons Contrary to City Ordinance." The article illuminated the brewery-saloon relationship.

Ramifications of a system by which the breweries are controlling the saloons of Spokane in violation of the spirit of the law was divulged to the city commissioners today. "...breweries organize subsidiary "investment" companies which control the saloons by owning or getting leases on the buildings in which saloons operate, thus enforcing the use of their beer and assuring the collection of beer bills, were admissions today of Henry Boesmann, manager of the Spokane Brewing & Malting Co. ... At the meeting the Commissioner of Public Safety, Z. E. Hayden contended that system divulged by the brewery representative was "a business proposition and not in violation of the letter of the law."

The brewery-saloon tiff ran into October 1911, onto the banner of the *Spokane Chronicle* of October 10. "Asks The Council to Close Brewery-Controlled Saloons," and reports that Commissioner of Public Safety Z.E. Hayden planned to submit to city council a recommendation. Hayden proposed a test case with the license renewal of the C.H. Lewis bar on Riverside in recommending that the license not be granted because Lewis had a contract with Spokane Brewing & Malting Co., under which the brewery leased him the saloon building and in return which required him to buy and sell only Spokane Brewing company's beer. "If the council concurs in this recommendation which I am putting up to them, I shall refuse licenses to all the rest of the saloons which have similar contracts with breweries, which

will mean closing about 50 percent of the saloons of the city, unless these saloons give up the brewery contracts," said Commissioner Hayden.

And even though the evidence showed extensive control of breweries over Spokane's saloons in violation of state law, the *Spokane Chronicle* reported that interviews with city commissioners indicated that there was "little likelihood of action by them to right the illegal relations which they admit exist between the breweries and saloons." In other words, the city commissioners dodged responsibility. Evidence revealed in the article that Spokane Brewing & Malting was said "to exercise control over saloons to which it sells beer with promissory notes, for which the brewery advances money for the license, and in addition controls the lease of saloons, which it sublets to the so-called "proprietor." According to commissioner Fassett in the *Spokane Chronicle*, October 19, 1911: "I think these contracts show conclusively brewery control, but inasmuch as it is a state law which is being violated, it appears to me to be up to the state's representative, the county prosecutor, to act."

Another week passed and on October 25, 1911 the *Chronicle* wrote across the banner. "Brewers Hope to Upset State Law So They Can Rule Saloons." In response to Commissioner Hayden's resolution and potential council action, Julius Galland of the Spokane Brewing & Malting company and the Northwest Loan & Trust company (owned by Galland) were organizing opposition on the grounds that the state law against brewery control was unconstitutional. It was believed that the breweries would petition for the postponement of any action until the Supreme Court could pass on the law. "Commissioner Fassett and Mayor Hindley brand the attempt to prevent action as an attempt to influence the council to disobey the law."

The expansion of the railroads in downtown Spokane required major land transactions as reported on April 23, 1912 by the *Spokane Daily Chronicle*. Again, the Gallands and Spokane Brewing and Malting were involved and benefited greatly. The old New York Brewery land including the new bottling works were in the path of the rails.

The O.W.R. & N and Milwaukee railroads have closed deals during the last two weeks for the cash purchase of \$1,250,000 worth of property on Front avenue, between Howard and Washington streets. The Galland property, embracing the old hotel building at the corner of Washington street and Front avenue, and the bottling works of the Spokane Brewing and Malting company extending along the river bank from Washington street to Stevens street, has been purchased for \$385,000 cash.

The article reported that much of this money would be reinvested in Spokane. For example, the Spokane Brewing and Malting company "will be compelled to build a new bottling works and it is already planning a much larger plant than the present one."

Spokane Brewing and Malting Builds its Bottling Works

The announcement of the new bottling works at Broadway and Lincoln was reported in *The Spokesman-Review* on November 14, 1912.

Preparatory to erecting its new bottling works the Spokane Brewing and Malting company has commenced sounding for the proposed new \$25,000 building which will be built at Lincoln street and Broadway.

The lease on the present property on Washington street, according to Adolph Galland, expires January 15, and the new building must be ready for occupancy by that time. When completed the new building, including the lot and fixtures, will represent an outlay of \$45,000.

The general offices of the Spokane Brewing and Malting company were moved on April 26, 1913 to its big new quarters at 901 Broadway. The offices had been located at 11 Washington Street near the former New York Brewery for several years.

A year after the brewery-control of saloons was debated at city council, *The Spokesman-Review* in September 1912 reported: "Breweries Amend Leases."

A reminder of the "beer clause" that local breweries inserted in their leases prior to the action of the city council a year ago terminating this practice is contained in the application for a saloon license filed yesterday afternoon with the city council by Mrs. Minnie E. Hendrickson, who is operating the Carni hotel and bar at 238 Main avenue since the death of her husband.

The Carni hotel property is under lease to the Spokane Brewing and Malting company, which in 1909 subleased the place to A.E. Hendrickson, who has since died, buy his beer of the Spokane brewery, but yesterday this provision was abrogated by a formal release filed with the city council by the Spokane Brewing and Malting company, through Julius Galland, its vice president. As the lease now stands Mrs. Hendrickson has the right to buy her beer from any brewery that she may choose."

REPORT OF THE CONDITION OF	
Northwest Loan and Trust Co.	
SPOKANE, WASH.	
At the close of business April 4, 1913.	
RESOURCES	LIABILITIES
Loans and discounts \$ 563,713.85	Capital stock . . \$ 100,000.00
Loans, mortgage, secured by real estate . . . 159,316.97	Surplus 20,000.00
Overdrafts 8,918.81	Deposits 1,943,635.74
Bonds and warrants 60,385.17	Undivided Profits 15,740.38
Real estate 4,411.20	Reserved for interest on savings, etc 2,856.75
Furniture and fixtures 10,000.00	Trust accounts 400,568.82
Due from banks 292,665.55	
Cash 82,821.32	
Trust Investments 400,568.82	
\$1,582,801.69	\$1,582,801.69
Reserve 35.7 Per Cent.	
Julius Galland, President. Samuel Galland, Secretary.	
Adolph Galland, Vice President. Clarence J. Smith, Cashier.	

As has been previously mentioned, the Gallands in addition to real estate and brewing were involved in Spokane finance. An ad in the April 8, 1913 edition of the *Spokane Chronicle* touted the condition of the Northwest Loan and Trust Co.

The May 10, 1913 edition of *The Spokesman-Review* reported "Local Beer War Breaks Out Again." Another beer war has been precipitated between local and outside breweries, in which the consumer is given another season of low-priced bottled beer.

In response to a demand from patrons who wanted the local beers at the same price as the outside product, the Spokane Brewing and Malting company has cut its bottled beer from \$8 to \$7.50 per barrel," said James McCann, proprietor of the Fountain bar yesterday. "We have met the four-for-a-half price and local users of beer can now get the high-class home product in lieu of the cheaper beers from the outside at the same price.

Report of the Condition of Northwest Loan and Trust Co., Spokane, WASH. *Spokane Chronicle* 4/8/1913

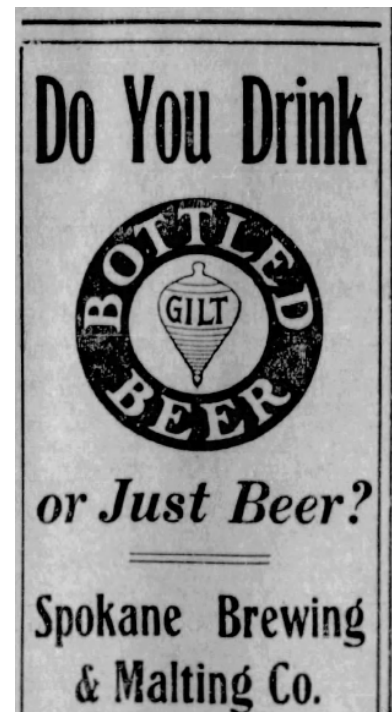
As the year 1913 neared its end and with the new bottling plant operational, another improvement was announced on December 7. In order to facilitate brewery operations, Spokane Brewing and Malting Company planned a tunnel to carry a beer pipeline between the new bottling plant and the brewery on the east side of Lincoln Street. According to *The Spokesman-Review*, the \$5000 pipe line would be installed under government supervision to connect the brewery cellars with the bottling house. "To put in the new system, it will be necessary to dig a tunnel across Lincoln street about 100 feet, and to purchase special vats. These will be under lock and key, to be released only, by the revenue officials. Currently, the beer is poured into 31-1/2-gallon barrels and teamed to the bottling house, both of which would be eliminated."

The Spokesman-Review reported in the January 25, 1914 edition that the Galland's Northwest Loan & Trust Co. had been absorbed by the Spokane & Eastern (S&E). The newly consolidated financial institutions that would operate under Spokane & Eastern would be the largest of its kind in the west with capital and surplus of \$750,000 and assets of nearly \$10,000,000. Samuel Galland would become director and active vice president of S&E and Julius, president of Northwest Loan and Trust, would be on the board of directors. Spokane and Eastern, established in 1890 was a leader in providing capital and credit for many businesses in the region. (Note that the article provides a lengthy history of the Gallands and their twenty years of investing in Spokane.)

The Gallands had settled into a comfortable position in their financial endeavors, but trouble was brewing on the beer front yet again. In addition to dealing with the city and the brewery-saloon issues, an undercurrent over the past couple of years had been the prohibitionist movement and the votes of counties and small towns to prohibit the sale of alcohol - to go "dry." Election results as reported in the November 5, 1914, *The Spokesman-Review* indicated that both the Republicans and prohibition were prevailing.

Following the defeat of the "wets" in Spokane, the *Chronicle* reported the quandary of the Spokane brewers: "Brewers Do Not Know What To Do." According the November 9, 1914 article, Spokane breweries had not adopted plans for reinvestment of their capital outside of the state in response to the successful vote on prohibition. None of the companies had looked forward to what would be made of their properties come 1916 (when the state would go totally dry). According to Samuel Galland, a stockholder in Spokane Brewing and Malting company, "It is all foolishness of talking about moving to Canada or California." "The stories which are being circulated about the Coast breweries seeking location in San Francisco or Vancouver are just talk. No brewery is ready yet to say what it will do. Just as foolish are the rumors of converting the plants into grape-juice and vinegar factories."

The beginning of prohibition was foretold as reported by the *Spokane Chronicle* on December 31, 1915. In welcoming in the new year, "Steam Whistles, Bells and Cannon Shots Will Greet Advent of 1916 in Spokane." That chorus, however, would not be joined by Spokane



The Spokesman-Review 8/22/1914

breweries: “There will be conspicuous absence of three well-known steam whistles that have heretofore been prominent in celebrations of this kind.” Spokane Brewing and Malting, the Inland Brewery and the Schade company announced that they would not sound their whistles.

In the face of prohibition, a new brewing company was reported by the *Spokane Chronicle* on January 11, 1916. The Imperial Beverage company, in concert with Spokane Brewing and Malting, was incorporated the week of January 11, 1916 for the purpose of manufacturing and distributing imitation beer and other soft products of the brewer.

Reinhard Martin, superintendent of the Spokane Brewing and Malting co. is the head of Imperial Beverage Co. Trustees include, Adam Weiser, W.J. Martin, Robert Sheffels and Albert Held. Imperial would operate from the Spokane Malting and Brewing bottling plant at 901 Broadway.

Spokane Brewing and Malting would continue operations between 1916 and the end of prohibition in June 1933 by converting its production of its plant at Broadway and Lincoln to non-alcoholic beer. It sold to a few saloons who remained in existence by selling non-alcoholic beverages.

According to an announcement in the January 11, 1916 *Spokane Chronicle*, the general office of the brewery would move from 901 Broadway to rooms 301 and 302 of the Realty Building (1910, SRHP, NRHP) which was also owned by the Gallands. But, according to the Spokane Polk Directory, the bottling plant remained in operation.

December 31, 1915 would be the end of legal alcohol in Spokane, the closure of saloons and the breweries; and, on January 1, 1916, the brewery – saloon issue became mute as both were out of business with the advent of prohibition.

On February 8, 1918, *The Spokesman-Review* reported that Iver Sorenson would invest \$5000 in a new one-story brick building at 906 Broadway to be used by Imperial Beverage company. Imperial had been using the Spokane Brewing Company’s bottling plant and was so-listed in Polk. The 1918 edition listed under “Bottlers-Mineral Water and Soft Drinks:” Spokane Brewing and Malting Company with Julius Galland as vice president; Henry Bosemann, Manager; and R. Martin, Superintendent as manufacturers and bottlers of Gilt Top-O at W901 Broadway. Imperial Beverage Co., with Reinhard Martin president-manager as manufacturers of fruit beverages, flavors and syrups, mineral waters and highest-grade ginger ale. In the following year, 1919, Imperial was listed at W904 Broadway.

Both Samuel Galland and Julius Galland passed away in the 1920s, Samuel in 1921 and Julius in 1926. The June 15, 1921 edition of *The Spokesman-Review* reported the services--an Elks ritual and Jewish services for Samuel Galland that would take place at the Elks Temple. The former vice president of Spokane and Eastern Trust Company would be cremated with the ashes placed at the Galland mausoleum at Fairmont cemetery. A subsequent article listed the Galland estate, valued at \$261,718 and included shares in power companies, the Galland Brothers Corporation, Spokane Brewing and Malting Company, Spokane and Eastern Trust Company, and others.

In spite of being in the throes of prohibition, Imperial Beverage Company continued to expand and having outgrown its facility on Broadway, built a new plant at Pearl and DeSmet. As reported by *The Spokesman-Review* on July 26, 1925, Imperial had invested \$60,000 in a new

plant equipment at Pearl and DeSmet. Built by the Pioneer Education Association (Jesuits) and leased to Imperial, the building was constructed at a cost of \$40,000. Imperial had a 20-year lease with an option to buy.

“Death Summons Julius Galland,” announced *The Spokesman-Review* on October 27, 1926. Born in Oregon in 1860, Julius, his parents and his brothers moved to the Palouse country in 1883. In 1891, the Gallands having sold out of their businesses in Whitman County erected a building for the Galland-Burke Brewing company at Post and Broadway in 1891. In 1902 Galland-Burke was consolidated with the Spokane Brewing and Malting company, with Julius Galland as president. He remained president until his death. He had large real estate holdings including the Spokane Realty company (also president); stockholder in the Centennial mill and had extensive timber holdings in Stevens county. In 1906 he organized the Northwest Loan and Trust company with his brothers as associates. He was president of that company as well. Later the Northwest Loan and Trust company consolidated with the Spokane and Eastern Trust company, Galland remaining a stockholder until his death. Rabbi Monpaz of Spokane officiated the ceremony held at the Masonic Temple. He is survived by brother, Adolph.

In January 1932, State Initiative Measure No. 61 was filed in Olympia the purpose of which was to “repeal all Washington’s liquor laws except the prohibition of sale to minors.” On November 8, 1932, Washington voters passed Initiative 61 by a 62-percent margin. Thus, a message had been sent to Washington’s Congressional Representatives to support repeal of the Volstead Act. In April 1933, the passage of the 21st Amendment repealing Prohibition—even though not yet ratified by the states, allowed the sale of beer up to 3.2 percent alcohol (because of a modification of the Volstead Act). Thus, the sale of such beer became immediately legal in Washington State. (Becker, 2010)

In anticipation of the passage of the 21st Amendment and demise of Prohibition, the *Spokane Chronicle* reported on November 10, 1932: “Three Spokane Breweries Ready to Go Into Action.” “Three Spokane breweries are set up and ready to sell beer when the new democratic congress liberalizes the Volstead act.” “Spokane has half the operating breweries of the state, engaged in manufacturing near beer and other products.” Spokane’s breweries include Inland Products at Second and Cedar, operated by Charles Theis and associates; the Spokane Brewing and Malting company plant, W 901 Broadway, controlled by Adolph Galland estate; and the Imperial Beverage company, N1107 Pearl, which has been under control of Reinhard and Fred J. Martin. Charles Theis commented: “We are quite satisfied the action of the voters in repealing the bone dry law will prove beneficial in that it will make for a better moral condition, materially reducing the cost of operating under the new law and of course, very substantially increasing the revenue for the state and nation.”

Spokane Brewing and Malting Company was ready for brewing real beer. *The Spokesman-Review* in its final edition of 1932 reported that contracts had been let for brewery improvements to put the plant in shape for large-scale manufacture of real beer, if and when legalized. F.E. Martin was given a contract for a new concrete first floor in the building, at Lincoln and Broadway, and for various other remodeling work. Union Iron Works has been awarded a contract for steel work in connection with the new equipment.

On March 30, 1933, it was reported by the *Chronicle* that:

Spokane Brewing and Malting planned to use its original pre-prohibition Gilt Top beer recipe around July 1. One hundred barrels of beer - more than 10,000 glasses—are being put on brew every day and will be aged three months in giant oak casks, each big enough for two people to live in. The \$100,000 brewery remodel is complete. Storage capacity was increased another 4000 barrels, bottling equipment will be added. A new 200-gallon per minute capacity power pump will use the brewery's own well which has its own sewer system as well.

A familiar name in Spokane hospitality circles, Harry Goetz, the son of Spokane's famed Dutch Jake Goetz and proprietor of the Coeur d Alene Hotel, would manage a new brewery enterprise. The April 8, 1933 edition of the *Spokane Daily Chronicle* reported that the organization of the Goetz Breweries, Inc. to manufacture beer in the plant of Imperial Beverage company at N1007 Pearl was underway. E.G. Sick of Calgary, managing director of Associated Breweries of Canada, Ltd., had taken over the property of the Imperial Beverage company. The Sick brothers and Goetz family had been long-time acquaintances. It was expected that the new brewery would employ 40.

Spokane Brewing and Malting company obtained a wholesale beer license from the city council Tuesday. *The Spokesman-Review* reported the Issuance to Arthur M. Islib in its October 18, 1933 edition.

The city's fourth brewery would join the post-prohibition beer resurgence. The Schade Brewery would once again brew beer in Spokane as reported by *The Spokesman-Review* on December 10, 1933. "Martin Woldson, Spokane entrepreneur, would head the new Golden Age Breweries, Inc as its newly elected president. Mr. M. Rosauer, with extensive brewery experience in Europe would be the vice president and general manager. Golden Age is capitalized at \$300,000 of which \$220,000 is from Spokane businessmen. When originally opened, the Schade brewery had a capacity of 200,000 barrels of beer and it is expected that a force of 150 men will be required for full plant operation. The plant with new equipment would be operational in January 1934."



Spokane Brewing & Malting bottling plant, 1934: Northwest Museum of Arts and Culture, Joel E Ferris Research Archives, Charles Libby L87-1.3298-34

Adolph Galland's obituary ran in the September 2, 1935 *Spokane Chronicle*: "Adolph Galland, philanthropist, and last of the four Galland brothers, died this morning at a local hospital." The article further reported that he had been executor of the Galland estate worth

more than \$400,000 since the deaths of his three brothers. Mr. Galland was 70 years old, a Scottish Rite Mason, a Shriner, and life member of Elks lodge 228. He was an honorary Kiwanian and member of B’Nai B’rith. He was survived by his wife, Maud at the home.

Henry Bosemann, long-time Galland manager would take over the reins of Spokane Brewing and Malting Company as well as Spokane Realty. The 1935 Polk Directory, in addition to Spokane Brewing and Malting, at W 901 Broadway, listed three other breweries in Spokane: Bohemian Breweries, Inc. at 1402 Second which remained in control of Charles Theis having operated during prohibition as Inland products; Goetz Breweries at 1107 Pearl which had been founded as Imperial Beverages by Reinhard Martin in 1925; and Golden Age Breweries, Inc. at N 302 Sheridan which was the rebirth of the Schade Brewery and Spokane Brewing and Malting at W 901 Broadway.

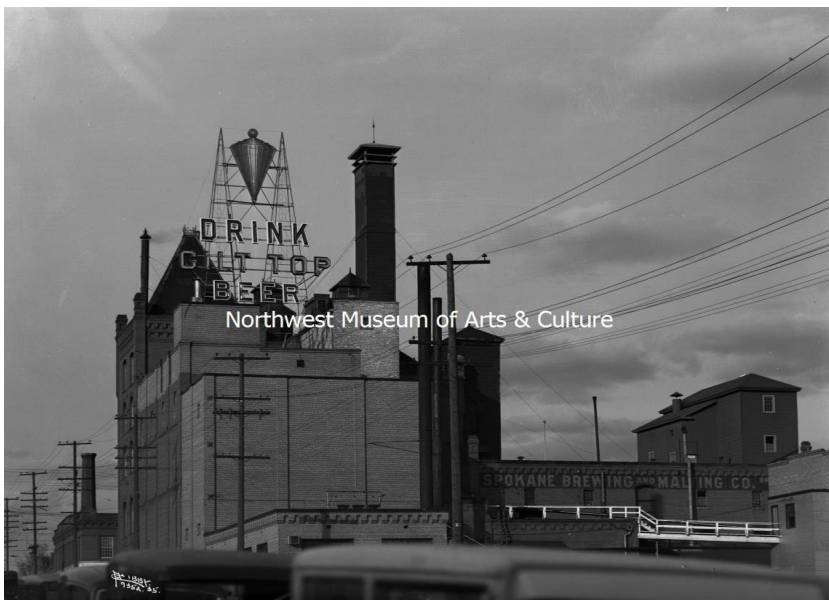
Spokane Brewing and Malting company is sold in 1936

Both the *Spokane Daily Chronicle* and *The Spokesman-Review* on November 20, 1936 announced the “Million-Dollar Brewery Merge;” the “Purchase of the Gilt Top-Spokane Brewing and Malting company for \$500,000 and the consolidation of the Goetz Breweries, Inc., into the new Spokane Breweries, Inc.” The \$1,250,000, transaction involved a “\$450,000 Stock Issue divided into 90,000 common shares according to Articles of Incorporation filed in Olympia.” For the first time the Galland name was not included on the board of directors, but instead they were announced as: Emil G. Sick of Seattle; Gaston Rigaux, Calgary; Rene Besse, Harry Goetz, Dr. Arthur E. Betts, Frank J. Walker, C. Bert Clausin, F.J. McDevitt, H.G. Fraser, all of Spokane; J. Gordon Walford and E.L. Baker, Calgary. “Through the exercise yesterday of an option on stock control of the Spokane Brewing and Malting company, involving more than \$200,000, by interests identified with Goetz Breweries, Inc., the way was paved for the formation of Spokane Breweries, Inc., which will take over the two former concerns.” The operations would remain in the Spokane Brewing and Malting plant which would be enlarged and improved with an expenditure of about \$150,000. President Emil G. Sick of Seattle

Brewing and Malting company, among the dominant interests in the Goetz organization, would be a member of the newly formed board.

Both Spokane Brewing and Malting and Goetz Brewery’s stockholders approved the deal. The investment would also include an initial \$160,000 for improvements to the plant at W 901 Broadway, followed by \$100,000 for new a new type of brew kettle, mash tanks, beer coolers, malt mill, hop strainer and other accessory equipment.

Spokane Breweries maintained its offices at W 901 Broadway until January 1938, when they consolidated all operations in



Spokane Brewing & Malting plant, 1935: Northwest Museum of Arts and Culture, Joel E Ferris Research Archives, Charles Libby L87-1.7352-35

the main plant across Lincoln Street at W 829 Broadway. Polk listed Spokane Breweries, Inc. with E.G. Sick (Seattle), president, and Harry F. Goetz, vice president at W901 Broadway through 1940.

On April 2, 1941, the plant of the Spokane Brewery, Inc had completed a half century of brewing in Spokane. The celebration of this milestone would also mark the introduction of Rainier Beer as an Inland Empire project. It had been produced in Seattle since 1878, but was now being brewed in Spokane under special arrangement with the Seattle Brewing and Malting company. "Water from a subterranean stream, 900 feet beneath the Spokane brewery was found after tests extending over a year to fit in perfectly with the Rainier formula." The article recaps the brewing history of Spokane with the founding of the Galland-Burke Brewing and Malting company at the site in 1891. (*Spokesman-Review*, 4/2/1941)



The Spokesman-Review. July 19, 1936



The Spokesman-Review. April 5, 1936

The Spokesman-Review on October 19, 1941 reported three major buildings that had recently sold in downtown Spokane including the office building of Spokane Breweries, Inc., at Lincoln and Broadway. Purchased by Harve Partridge of Spokane, the building was leased to the National Youth Administration for its regional headquarters. The building would be used to train workers for the war effort. The facility included a sheet metal shop and wool work training for young men and women from 18 to 25 years of age. Nine young women had just completed training and were hired by Boeing in Seattle. (*Spokesman-Review*, 4/29/1942)

In December 1942, *The Spokesman-Review* reported that the 5000 square foot main floor of the three-story brick building at W901 Broadway had been leased by Spokane Tin Salvage, "a patriotic organization." New equipment would be installed to wash and flatten tin cans in preparation for shipping them to San Francisco for detinning. Elmer Nelson of Seattle, chairman of the state salvage committee was scheduled to visit Spokane and discuss the program with Nave G. Lein, the Spokane salvage coordinator. E. Harve Partridge was still the building owner.

"Spokane Firm Plans Expansion," announced *The Spokesman-Review* in its January 16, 1944 edition. Berle J. Warren, president of the Spokane Lithographing company announced the purchase of the two-story brick building with full basement at W901 Broadway. Mr. Warren was planning his post-war expansion with installation of about \$50,000 in new equipment. The new home would have more than 16,000 square feet of floor space, all of which would be used. On September 22, 1944, Spokane Lithographing received a building permit to add a furnace room to the building with a value of \$2,000.

On the beer front, consolidation again reduced the number of breweries in Spokane. On February 7, 1948, *The Spokesman-Review* reported the purchase by Bohemian Breweries, Inc. of the entire physical assets of the Golden Age Breweries, Inc. at N301 Sheridan, (the old Schade Brewery.) Bohemian, controlled by Charles Theis, occupied the city block at Second and Cedar. The Bohemian Breweries, Inc. had been Incorporated on April 15, 1892 as the Inland Brewing and Malting company (founded by John G.F. Hieber in 1889). Purchased by Charles Theis and assoc. in 1908, the business was renamed Bohemian Breweries, Inc. on June 12, 1933. Golden Age was incorporated in 1933 and began producing in 1934 in the old Schade building.

In 1956, Bohemian merged with the Atlantic Brewing company of Chicago, and would continue to operate in Spokane until closing in March 1963 as Spokane's last major brewery. Sick's Rainier Brewery, the original Galland-Burke Brewing and Malting Company, had ceased operations the previous year. (*Spokesman-Review*, 12/4/1962)

Spokane Lithographing sold the building in 1978 to American West Realty Company. In December 1978, Keith Lotze of American West Realty received a permit to remodel the second floor for real estate offices. Tan-Brookie-Kundig were the architects. Spokane Lithographing would continue to operate in the building with American West until 1987.

The city issued a certificate of occupancy to American West Realty on March 7, 1994. It is likely that the new door opening at 903 Broadway was built during this project. The 1995 Polk Directory listed two addresses for the building at W901 Broadway, adding W903 with the new door on the northwest corner. North by Northwest Productions operated by Rich Cowan moved into the building and occupied the basement and first floor listed at the address 903 W. Broadway. North By Northwest Partners, LLC, purchased the building from Keith A. Lotze and W. Lee Lotze (American West Realty) in 2007.

North by Northwest Partners, LLC. sold the property to Lawrence B. Stone Properties in 2020.

Existing Buildings Formerly Breweries

Schade Brewery – 528 E. Spokane Falls Boulevard. (1902, NRHP, SRHP). The Schade is a grand building with a soaring tower and patterned from the European breweries, like its early counterparts in Spokane. Even its bottling plant (razed) was of elaborate design, stone foundation, brick exterior with gothic windows and stepped pediment marking the building's front entry.

Peerless Sunpuft, N1107 Pearl, former Imperial Beverage and Goetz Brewery, is a contributing structure to the DeSmet Avenue National Register Historic District. Built by Pioneer Education Association (Jesuits) and leased to Imperial as a warehouse in 1926, the two-story red brick structure was used by the Imperial Beverage Company as a bottling plant for various beverages until 1933 when Goetz Breweries took over the building and hired Henry C. Bertelson to redesign the interior space to accommodate the building for a brewery. In 1937 Goetz Breweries was acquired by Spokane Breweries, Inc. who vacated the space and moved the old Spokane Brewing and Malting plant on Broadway which would, in 1944, become Sick's Spokane Brewery.

Although its first use was a beverage bottling plant which would become a brewery, the building was not built in the grand style as its earlier counterparts in Spokane. It was more related to a warehouse than to a brewery.

The Gallands – Julius, Theodore, Adolph and Samuel

The sons of adventurer Solomon Galland and his wife Adelaide Goodman, the Galland brothers would become prominent entrepreneurs in the Inland northwest. The four brothers were born in Oregon and moved with the family to Farmington, Washington in 1883. Julius was first in 1860, Theodore in 1863, Adolph in 1865, and Samuel in 1869. Julius, who had been admitted to the Oregon bar brought his legal expertise to the new home in the Palouse. Solomon Galland died shortly after the move and the brothers operated a store in Farmington from 1881 to 1887, opened a store in Palouse in 1889, followed by another store in Wallace, Idaho.

In 1886, Julius Galland partnered with four Farmington businessmen to incorporate the Washington & Idaho Railroad with the intent of building railroad and telegraph lines between Farmington and Spokane Falls. A branch would also extend to Wardner, Idaho. Julius next partnered with John Burke and eight other businessmen to form the Bank of Farmington in 1887 and later became a director of the Security State Bank of Palouse in 1888.

The Gallands looked north to Spokane and felt that its connection to the railroads and proximity to the silver mines of northern Idaho would position it as the commercial hub of the region. In the fall of 1891, the Gallands sold their businesses in Farmington, Palouse, and the Wallace store, and began construction of the Galland-Burke brewery in Spokane. Located on the north bank of the Spokane River on Broadway, between Post and Lincoln streets, the brewery opened in 1892. The Galland brothers, Julius as president, Theodore as secretary, Samuel as manager and Adolph as a stockholder controlled the company, and by 1895, the brewery would be solely owned by the Gallands after buying out John Burke.

A major event in the Spokane brewing business was consummated in 1902 when three Spokane breweries, Galland-Burke, Henco Brewery, and New York Brewery merged in a \$1 million transaction to become the Spokane Brewing and Malting Company. Theodore, Adolph, and Samuel Galland were the controlling stockholders and Julius was vice president and financial manager. The three breweries continued to operate in the existing plants and Julius and Samuel bought land on the west side of Washington Street between Trent Avenue and the Spokane River for a new brewery site.

In 1902, Theodore Galland moved to Portland, Oregon to manage the Gambrinus Brewing Company in which the family had a financial interest, but his failing health forced him to return to Spokane in about 1907. Upon returning to Spokane he was named president of the Northwest Loan and Trust Company, which had been organized by the Galland brothers in 1906. Theodore passed away in 1908 at age 45.

The Gallands were heavily invested in Spokane real estate and in addition to owning Northwest Loan and Trust Company, they also controlled the Spokane Realty Company which built the Realty Building in 1910. At the announcement of that building, *The Spokesman-Review* reported in October 1909 that with the completion of the Realty Building and another building on Division, that the Spokane Realty Company and Spokane Brewing and Malting

Company jointly will become the largest real estate owners in Spokane. (*Spokesman-Review*, 10/16/1909)

In 1914, the Northwest Loan and Trust Company was consolidated with the Spokane & Eastern Trust Company of which Samuel would become vice president. A January 25, 1914 article in *The Spokesman-Review* entitled "Spokane & Eastern Absorbs Northwest Loan & Trust Co." feted the Galland brothers under the subheading "Brothers of Remarkable Family." "The brothers, Julius, Samuel and Adolph, who take an active interest in the Spokane and Eastern Trust company are members of a remarkable family descended from a pioneer of '49."

Samuel Galland, who had been suffering from poor health was taking a long vacation in San Diego at his physician's insistence. His wife and two sons had moved to California to join him. While on a fishing trip, he died on June 9, 1921. At the time of death, he maintained his position as vice president of the Spokane and Eastern Trust Company. *The Spokesman-Review* recounted his life and contributions to the Spokane region in an article of June 14, 1921, "Death Summons Samuel Galland." Samuel left an estate of \$261,718 which he split between his wife, Edith, and two sons, Samuel and Theodore.

Julius Galland passed away in October 1926 at the age of 66. Having never married he left his extensive estate in trust to be distributed for "religious, education charitable purposes." At the time of death, he was president of Spokane Brewing and Malting Company, held large real estate holdings including Spokane Realty Company (served as president), was a stockholder in the Centennial Mill, owned timber lands in Stevens County, and was a stockholder in the Spokane and Eastern Trust Company. The three brothers, in taking over the family businesses upon their father's death, have been "an important factor in the development of the Inland Empire. In addition to their mercantile businesses in Farmington, Palouse, and Wallace, they bought and cultivated 1000 acres around Garfield, entered the grain business and operated a string of seven warehouses. After moving to Spokane, establishing the brewery they formed the Spokane Realty Company, now the largest single real estate company in Spokane; holdings include the Realty building on Riverside, and the Langham hotel on Main Avenue. In addition to 12,000 acres of timber lands, two sawmills and a factory, they have been involved in electrical development throughout Washington, Oregon and Idaho: including the Deschutes Power company, Enterprise Power company, Big Bend Light and Power company."

Several years after his death., the *Spokane Daily Chronicle* recounted the generosity of the Galland estate. "Hundreds of Spokane people, both Jews and Gentiles, have received the benefits of the Julius Galland estate since the death of Mr. Galland in 1926. So far \$261, 813 (about 4.6 million in 2022 dollars) has been given for various philanthropic purposes by the estate. Recipients include the Washington Children's Home, widowed mothers, Roman Catholic Church of the Holy Cross, Spokane County Anti-Tuberculosis League, Unitarian Society, Salvation Army, Temple Emanu-El, Keneseth Israel, and others."

At the repeal of prohibition in February 1933 by Congress and the ratification of the amendment for repeal in December 1933, the beer industry was ready to reenter the economy. Theodore Galland, Samuel's son, took over much of the work of the Galland family business. In July 1933, he announced the issuance of bonds to raise \$150,000 for improvements to the brewery, still at Broadway and Lincoln. The production and consumption of beer was now legal in the United States and Washington and in 1934, the brewery was back in production.

Adolph Galland, the last of the Galland brothers passed away in September 1935 at age 70. He was survived by his wife Maud. The end of the Galland beer interest which had spanned 45 years came in December 1936 when the Goetz Brewery bought the old Galland-Burke Brewery buildings from the Spokane Brewing and Malting Company. A new company, Spokane Breweries, Inc. was formed and the last of the Galland interests in the brewery had ended—no Gallands were listed on the newly appointed board of directors, which included among others Emil G. Sick of Seattle, Gaston Rigaux of Calgary, and Harry Goetz of Spokane.

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- . "Will Build A Brewery." 7/22/1898. p7:3-4.
- . "Boeck Files a Motion to Quash Charles Theis' Petition." 10/30/1899. p5:1.
- . "Struggle For a Brewery." 10/30/1899. p5:1.
- . "For Beer and Ice Business." 7/10/1900. p3:2.
- . "Huge New Brewery." 2/1/1900. p6:1.
- . "For Beer and Ice Business." 7/10/1900. p3:2.
- . "The Heaviest Transfers." 8/1/1900. p6:5.
- . "War of the Brewers." 8/16/1900. p5:3.
- . "One Huge Brewery." 11/13/1903. p1:3-5.
- . "Block Big Deal for Hieber Brewery." 10/7/1905. p1:1-3.
- . "Court says Theis Must Not Buy The Brewery Now." 10/7/1905. P1:1-3.
- . "Theis Opens Fire on the Gallands." 1/31/1906. p1:1-2.
- . "Inland Brewing and Malting Company." (Ad) 2/12/1906. p6.

- . "Among the Wage Earners." 5/2/1908. p7:1-3.
- . "Company Increases its Capital Stock." 8/27/1910. p8:4.
- . "Breweries Control Many Saloons Contrary to City Ordinance." 5/13/1911. p1:1-6.
- . "Gold for Poor Brewer's Offer." 6/23/1911. p10:1.
- . "Asks The Council to Close Brewery-Controlled Saloons." 10/10/1911. p2:1-2.
- . "Extensive Brewery Control of Saloons Admitted by Council." 10/19/1911. p3:2-3.
- . "Cut Price of Beer." 3/1/1912. p3:1-2.
- . "Railways Pay Over A Million for City Lots." 4/23/1912. p1:4.
- . "Cornelius Wrong Declares Brewer." 10/29/1912. p6:2.
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- . "Welcome New Year." (no joy for breweries) 2/31/1915. p3:1-5.
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- . "Brew Gilt Top; Use Old Recipe." 3/30/1933. p6:3.
- . "Julius Galland Estate Has Benefited Hundreds." 9/3/1934. p3:1-3.
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- . "Big Breweries Form a Trust." 5/1/1902. p1:7.
- . "To Brew More Beer Here." 11/14/1903. p7:2.
- . "Last Brew at New York." 12/23/1903. p9:2.
- . "Sharp Words in the Gas Tangle." 4/10/1904. p7:4.
- . "Bartenders Will Avoid Strike." 5/7/1904. p7:3.
- . "Hieber Brewery Changes Hands." 10/1/1905. pA7:1.

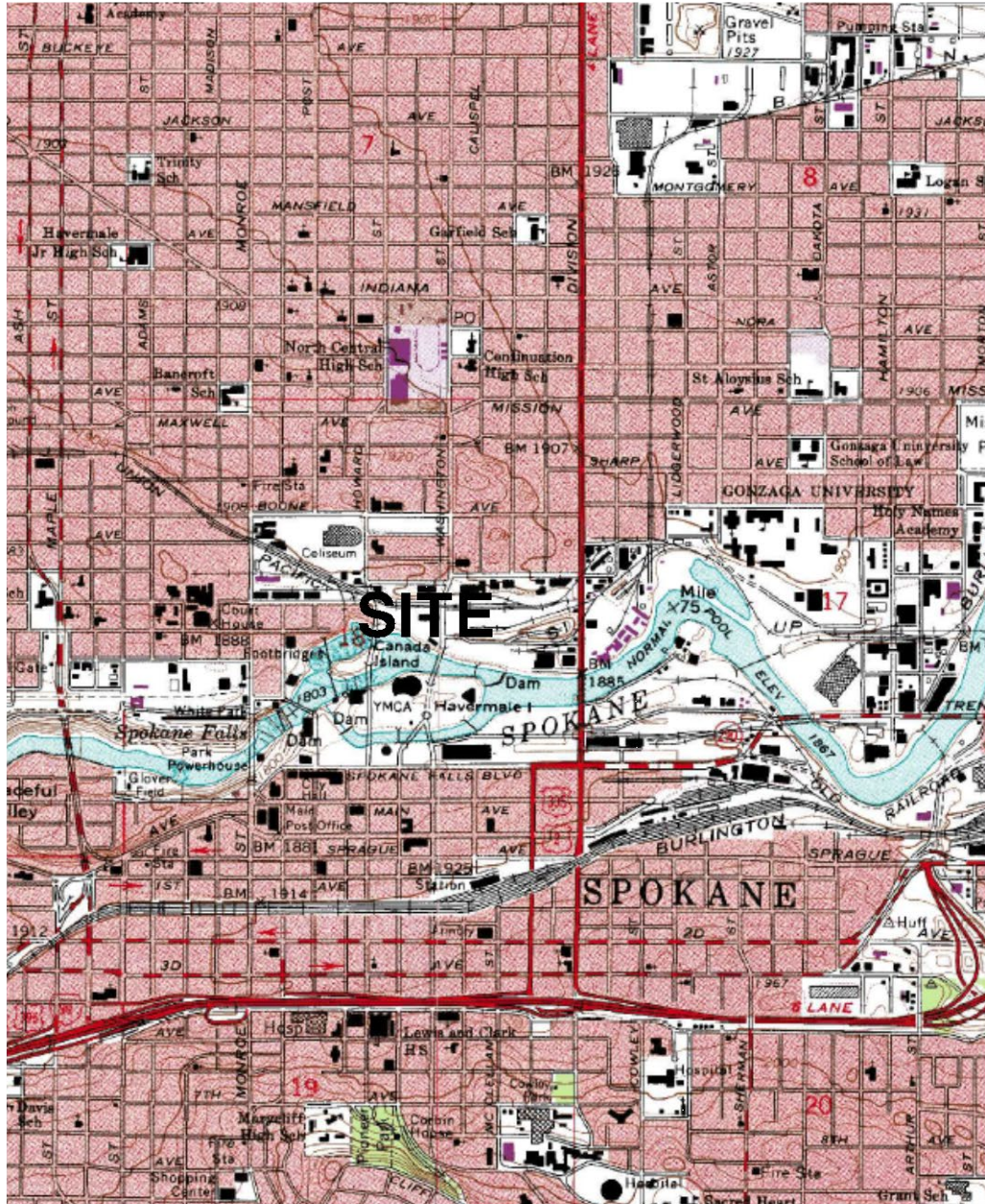
- . "Drunken Brewer Wounds Woman." 5/27/1907. p1:5.
- . "Pays \$35,000 for Lease." 9/29/1908. p8:4.
- . "Brewery Strike is Threatened." 4/30/1911. p1:7.
- . "Build New Bottling Works." 11/14/1912. p5:2.
- . "Northwest Land & Trust Co." (Ad) 3/24/1912. p5:7.
- . "Breweries Amend Leases." 9/28/1912. p16:2.
- . "Local Beer War Breaks Out Again." 5/10/1913. p10:7.
- . "Brewery Installs Pipeline." 12/7/1913. p5:3.
- . "Spokane & Eastern Absorbs Northwest Loan & Trust Co". 1/25/1914. p2:1-2.
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- . "Sorenson To Put \$5000 in Building. 2/8/1918. p2:1.
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- . "Prepare For Real Beer." 12/31/1932. p6:7.
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- . 2/11/1935. p6:3. "Brewery Strike May End Today."--. 9/3/1935. p1:7.
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- . "Adolph Galland Services Held." 9/6/1935. p5:1.
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- . "Theis Funeral Set Tomorrow." 1/1/1954. p7:6-7.
- . "Bohemian Plans Brewery Merger." 10/2/1956. p1:6.

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MAPS, GRAPHICS AND PHOTOS



USGS 7.5 Minute Quadrangle. Spokane NW, Wash. 1974. Photorevised 1986

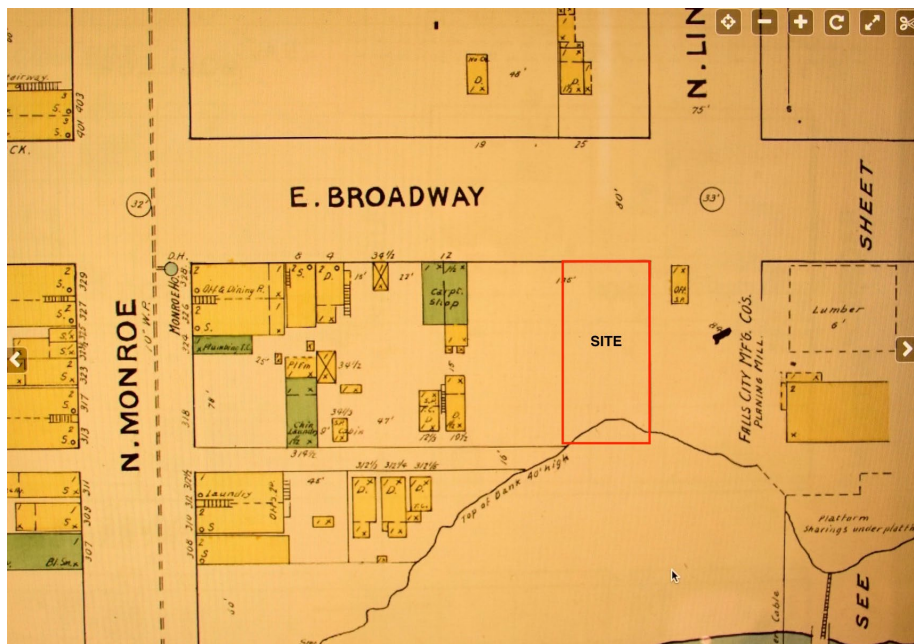
SPOKANE BREWING & MALTING SITE LOCATION

N
1" = 2000'



SPOKANE BREWING & MALTING SITE AERIAL

↑
N
No scale

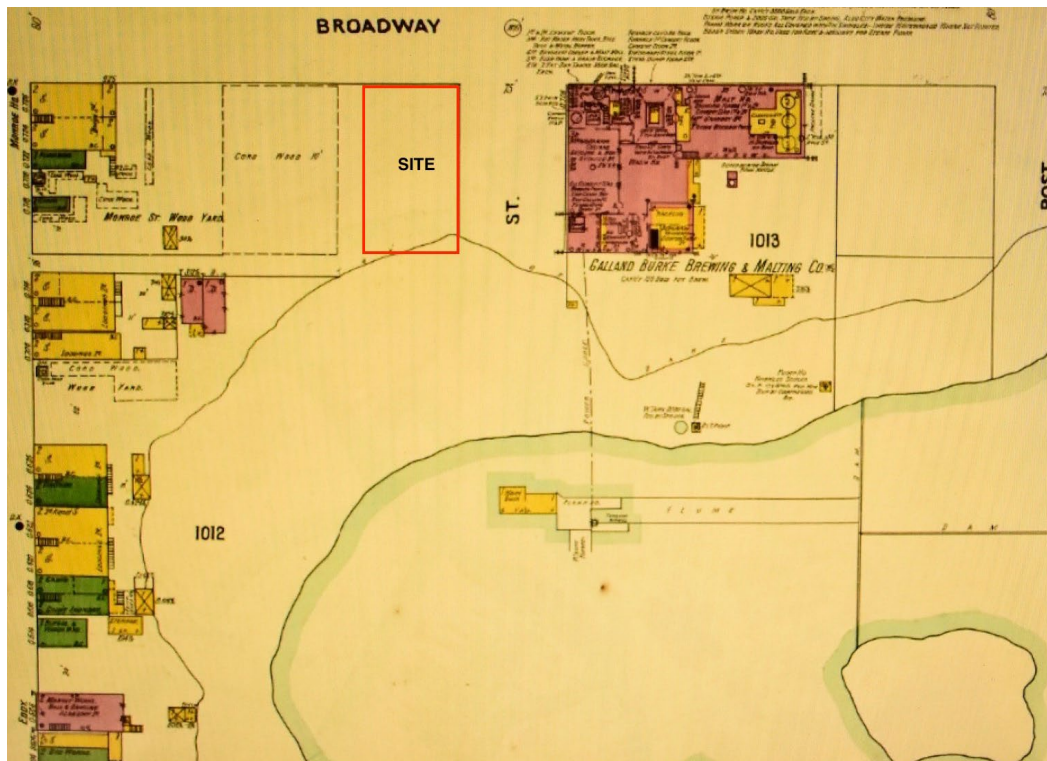


Sheet 45/69

SPOKANE BREWING & MALTING

1891 SANBORN

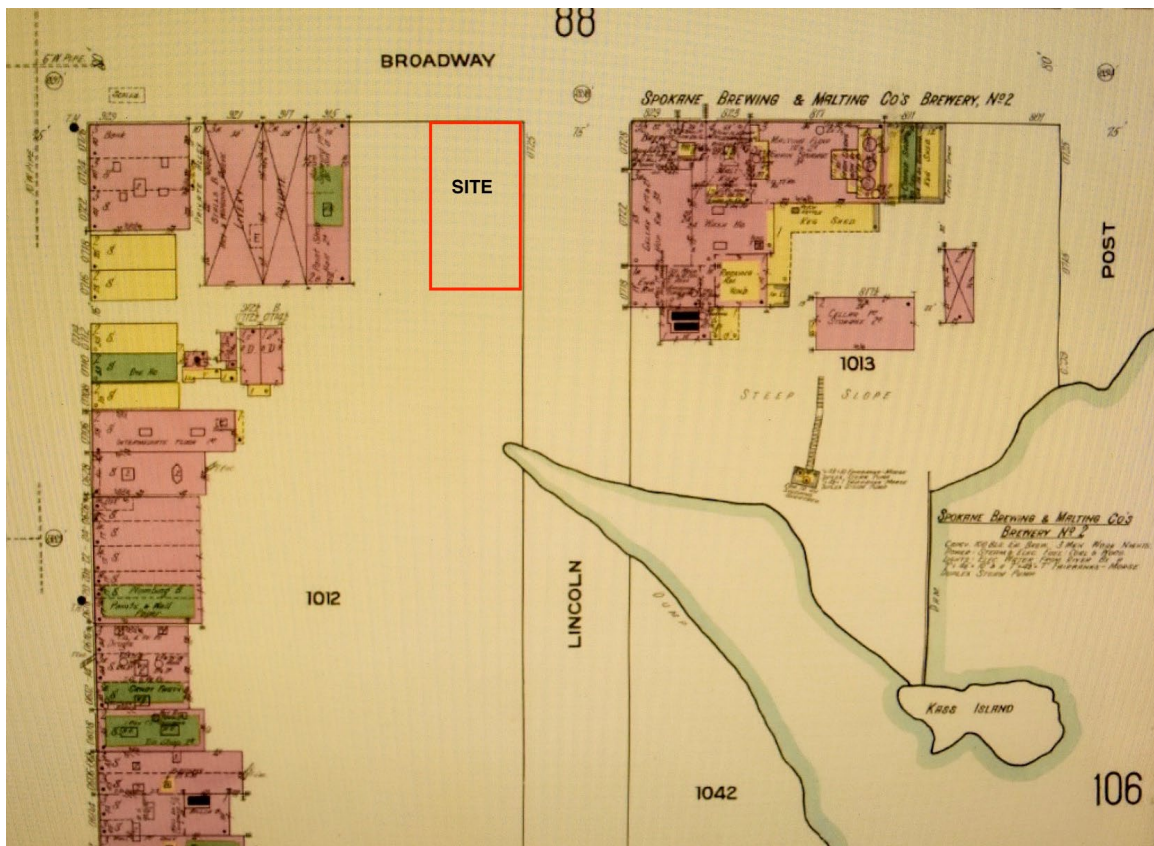
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SPOKANE BREWING & MALTING 1902 SANBORN

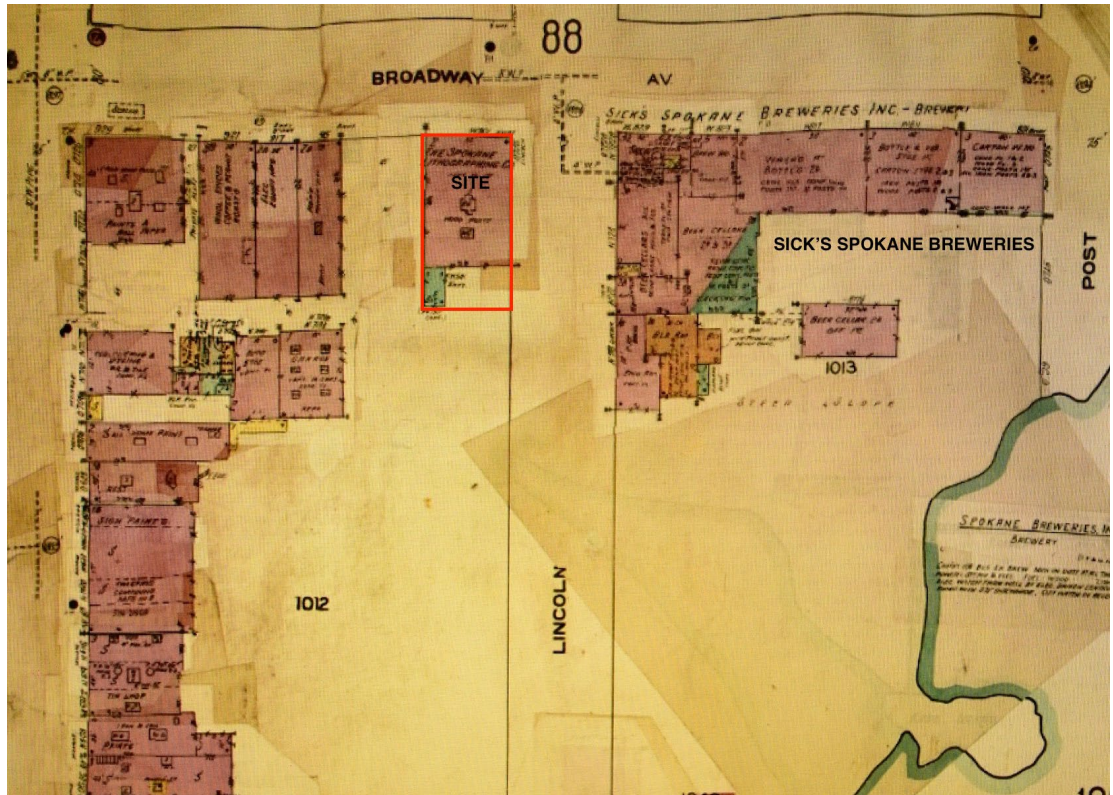
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Sheet 105/113

**SPOKANE BREWING & MALTING
1910 SANBORN**

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SHEET 106

SPOKANE BREWING & MALTING 1910-1940 SANBORN

↑
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No scale

ADDRESS/BLDG. NAME **W. 901 Broadway Avenue**
Spokane Lithographing Company

BUILDING #	Spokane Lithographing Company			
TYPE-USE-QUALITY	EXT. WALLS	BASEMENT	EXTRA FEATURES	<i>Rad Floor South</i>
Apartment	✓ Brick	✓ Full	Marquees	<i>20 Ft x 4' Eaves</i>
Office	Stone	Size	Canopy	<i>East Stairway</i>
Warehouse	Concrete	Finished	Balcony	<i>Cellars</i>
Gas Station	Siding	Utility	Insulation	<i>Basement</i>
Motel	Con. Blk.		Cold Storage	<i>Basement</i>
Garage		HEATING	Sound Proofing	<i>Basement</i>
Store	Cast Panel	Hot Air		<i>Basement</i>
No. Stories		Hot Water	INT. WALLS	<i>Basement</i>
No. Rooms	ROOF CONSTR.	✓ Air Cond.		<i>Basement</i>
No. Apts.	✓ Flat	✓ Gas		<i>Basement</i>
ANNUAL GROSS INC.	Pitched	Electric	INT. PARTITIONING	<i>Basement</i>
DATE	Steel Truss	Oil Burner	Lin-Foot	<i>Basement</i>
<i>2nd Floor</i>	✓ Wood Truss	Coal Stoker		<i>Basement</i>
<i>American West</i>		Steam	ELEVATOR	<i>Basement</i>
<i>Photo</i>		Central	Kind	<i>Basement</i>
<i>1st Floor</i>	ROOF COVERING		Steps	<i>Basement</i>
<i>Basement</i>	Asphalt Shingles	<i>2nd Flr 1st Flr</i>		<i>Basement</i>
<i>North Northwest</i>	Corr.	2 Toilets 1 1 1	APPLIANCES / Stair	<i>Basement</i>
<i>Productions</i>	Tar-Gravel	2 Tubs 1 1	RG & OV	<i>Basement</i>
<i>1994-5300</i>	✓ Built-Up	4 Basins 1 1 1	HF	<i>Basement</i>
	FLOOR STRUCTURE	1 Sinks	DW	<i>Basement</i>
	Reinf. Conc.	Showers	Washer	<i>Basement</i>
CONSTRUCTION	Conc. Slab	Laundry Trays	Dryer	<i>Basement</i>
Frame	✓ Isolated Const.	H. W. Tanks	Basement Area	<i>Basement</i>
Steel Frame	<i>2.5 x 15.5 - 14'0"</i>	Sprinkler System	5 Offices, 1st Flr	<i>Basement</i>
Reinf. Conc.	FLOOR FINISH		Offices, Kitchenette	<i>Basement</i>
✓ Brick	Asphalt Tile		2 Restrooms	<i>Basement</i>
Con. Blk.	✓ Fir		GEN'L CONDITION	<i>Basement</i>
	Linoletum		Excellent	<i>Basement</i>
FOUNDATION	Cement		Good	<i>Basement</i>
Con. Stone Blk	Hit&wd		Fair	<i>Basement</i>
✓ Rock	N/W		Poor	<i>Basement</i>

Yr. Built	% Fin.	Class	Sq. Ft. 1st	Sq. Ft. 2nd	Height	Per	S PSF	A. V.
1918, 1925			5400	5400	30	300		110000 119300
BLDG. DESC	BLDG. #	BLDG. #	BLDG. #	BLDG. #	BLDG. #	BLDG. #	BLDG. #	BLDG. #
Const.	1st Floor Office Type Row	Basement	Deck					Blocktop
Fndtn.	Good Quality Finish	Good Quality	Concrete					
Floors	Walls, N. Vinyl H.W.	Walls	Concrete	141 Sq Ft				
Ext. Walls Int	Dewell	Dewell	Conc. Blk. West & South					
Roof/Ceilings	2x2 Beistax	Unfinished	2x2 Beistax					
Plumb. Fix.	4 Pipes	Southwest	2 1/2' x 16' 0"					
Year Bilt./Life	1925	Studs	1925	1924				
S PSF		40x57	20x77					
Sq. Ft.	5400	1450	1650	360				1200
Value				2,400				750,000
<i>Land 7200</i>								

YEAR	LAND VALUE	BLDG. VALUE	APPRSR.	DATE
1918	45,200	5,700	JES	2-21-18
1925	60,000	10,000	RW	2-6-25
1931	60,200	11,000	RW	10-5-31
1934		119,300	DW	2-9-34
1994		100,000	36	
1999	574,000	416,600	SAMA	Escape
2005			66	Ditely
			66	1105

PARCEL NUMBER
16533-1432 *35183, 1432*

LEGAL DESC:
Spo 81 Resurvey and Extension of Post's Addition
Lt 1, Bk 12





#1. Context along Broadway, looking west from Lincoln Street



#2. Context along Broadway, looking east from Monroe Street



#3. Front (north) facade, looking south



#4. Northeast corner - north and east facades, looking southwest



#5. East facade, looking west



#6. South (rear) facade, looking north



7. Southwest corner - south and west facades, looking northeast



#8. Central pediment detail, looking south



#9. Parapet terminating east facade, looking west



#10. Corner finial atop northwest corner, looking east

#11. Wall and parapet detail at southeast corner, looking west



#12. Wall and parapet detail at southeast corner, looking west

#13. Front Entry, original, looking south



#14. Detail of east facade brickwork, looking southwest



1. Entry to basement from west side.



2. Entry to basement from south side.



3. Basement - looking north at north wall - original daylight windows



4. Basement - mid-section showing freight elevator, looking north



5. Basement, looking south from north wall



6. First floor, looking north from south wall



7. First floor, looking west at southwest corner



8. First floor, main entry in northeast corner, looking north



9. Second floor, looking east at southeast corner and fireplace



10. Second floor, looking north from south wall (skylight and elevator shaft)



11. Second floor, looking south across room (freight elevator) from north wall

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

04/10/2023

Date Rec'd	3/29/2023
Clerk's File #	OPR 2023-0392
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	HISTORIC PRESERVATION
Contact Name/Phone	MEGAN DUVALL X6543
Contact E-Mail	MDUVALL@SPOKANECITY.ORG
Agenda Item Type	Contract Item
Agenda Item Name	0470 - HILLYARD MASONIC TEMPLE NOMINATION TO THE SRHP

Agenda Wording

Recommendation to list the Hillyard Masonic Temple, 3023 E Diamond Ave, on the Spokane Register of Historic Places as part of the Hillyard Historic Business District.

Summary (Background)

SMC #17D.100.040 provides that the City/County Historic Landmark Commission can recommend to the City Council that certain properties be placed on the Spokane Register of Historic Places. The Hillyard Masonic Temple has been found to meet the criteria set forth for such designation, and a management agreement has been signed by the owners.

Lease? NO	Grant related? NO	Public Works? NO
Fiscal Impact		Budget Account

Neutral	\$	#
Select	\$	#
Select	\$	#
Select	\$	#

Approvals		Council Notifications	
Dept Head	DUVALL, MEGAN	Study Session\Other	UE 3/13/23
Division Director	MACDONALD, STEVEN	Council Sponsor	CMs Bingle & Cathcart
Finance	ORLOB, KIMBERLY	Distribution List	
Legal	PICCOLO, MIKE	mduvall@spokanecity.org	
For the Mayor	PERKINS, JOHNNIE	afmarketstreetpizza@gmail.com	
Additional Approvals		rbenzie@spokanecity.org	
Purchasing		smacdonald@spokanecity.org	
		sgardner@spokanecity.org	

Findings of Fact and Decision for Council Review

Nomination to the Spokane Register of Historic Places

Hillyard Masonic Temple – 3023 E Diamond Avenue

DESCRIPTION

The **Hillyard Historic Business District** was originally comprised of 12 contributing buildings with no non-contributing, or non-historic non-contributing buildings; a 13th building was added in 2005. These buildings represent the strongest concentration of early 20th-century commercial historic buildings in downtown Hillyard. It should be noted that the Spokane Register District contains fewer buildings than the National Register Hillyard Historic Business District because the thirteen buildings that comprise the **Hillyard Historic Business District** were those for which the owners had consented to listing. An amendment is being proposed to the district to add a fourteenth building, the **Hillyard Masonic Temple** at 3023 E Diamond Ave, which was previously included in the National Register nomination and noted as an “exceptional building” that is a “pivotal resource in the historic district.”

FINDINGS OF FACT

1. **SMC 17D.100.090: “Generally a building, structure, object, site, or district which is more than fifty years old may be designated an historic landmark or historic district if it has significant character, interest, or value as part of the development, heritage, or cultural characteristics of the city, county, state, or nation.”**
 - Built in 1931, the **Hillyard Masonic Temple** is over 50 years old.
2. **SMC 17D.100.090: The property must qualify under one or more categories for the Spokane Register (A, B, C, D, E).**
 - Properties may be eligible for the Spokane Register under **Category A** for their association with broad patterns of history. The **Hillyard Historic Business District** is significant under Category A, as stated in the nomination: “Listed on the National Register in 2002 as the Hillyard Historic Business District, “Market Street,” the Hillyard Downtown Spokane Register Historic District has been the social and commercial hub of Hillyard for over 100 years. The community of Hillyard developed as a “railroad town” for the hundreds of workers and their families who were employed at the Great Northern Railroad’s western regional terminal facility, the internationally acclaimed rail yard that at one time manufactured the heaviest and most powerful steam locomotives in the world. The huge rail yard was constructed in 1892, the same year Hillyard was planned and platted. Stimulated by the enormous success of the rail center, the town of Hillyard thrived in its location adjacent to the Great Northern yard. **Hillyard Historic Business District** was the marketplace and pulse beat of the community and provided the town’s necessary staples, sundries, and services such as food, clothing, shelter, business enterprise, and places for socializing. Through the first half of the 20th century, especially during the District’s period of significance from 1901 to 1948, Hillyard continued to grow and adapt in response to changing patterns in government, commerce, and technology. **Hillyard Historic Business District** illustrates these changes in tangible ways. As a whole, the district represents the physical evolution of the heart of a small working class community developed in response to the construction and success of the Great Northern Railroad’s distribution and manufacturing center.
 - The well-preserved two-story Hillyard Masonic Temple has two primary facades, fronting Diamond Avenue and Market Street. The building features decorative variegated raked brick veneer cladding, two-story pilasters capped with a classic brick and metal entablature, and block letters that spell “MASONIC TEMPLE” which embellish the frieze on the south and east elevations. The original storefront materials and configuration are intact and include a ceramic tile bulkhead, a recessed corner entrance, corrugated glass clerestory windows, an original wrought-iron and amber glass light fixture above the Diamond Avenue entrance, and c. 1960 signage attached to the southeast corner of the building.

- The Hillyard Masonic Temple was built by the Free and Accepted Masons of Blue Lodge #133 as one of the Mason's only "railroad lodges" constructed to help working class men who worked for the Great Northern Railroad in Hillyard.
 - Spokane architects Roland Vantyne and Archibald Rigg designed the building. First-floor commercial space was leased from 1931 to 1952 by J. C. Penny Company, Burgan grocery, Hillyard Cash Market and Meats, Hillyard Booster Improvement Club, and Fonks Five-and-Dime Store. The second floor was used by Masonic orders including the Blue Lodge, Eastern Star, Job's Daughters, and Rainbow Girls.
- 3. SMC17D.100.090: "The property must also possess integrity of location, design, materials, workmanship, and association." From NPS Bulletin 15: "Integrity is the ability of a property to convey its significance...it is not necessary for a property to retain all its historic physical features...the property must retain, however, the essential physical features that enable it to convey its historic identity."**
- The **Hillyard Masonic Temple** retains excellent integrity. It maintains its original location on the corner of Diamond Avenue and Market Street in Hillyard and it maintains its ability to convey its association as a masonic Temple with a commercial ground floor use. The building contains the original assembly hall on the second floor and storefront configurations remain in remarkably original configurations. Workmanship, materials and design have all been retained in outstanding original condition.
- 4. Once listed, this property will be eligible to apply for incentives, including:**
- Special Valuation (property tax abatement), Spokane Register historic plaque, Façade Improvement Grants and special code considerations.

RECOMMENDATION

The Spokane Historic Landmarks Commission evaluated the Hillyard Masonic Temple according to the appropriate criteria at a public hearing on 3/15/23 and recommends that the Hillyard Masonic Temple be listed on the Spokane Register of Historic Places under Category A.

After Recording Return to:
City of Spokane Clerk
808 W Spokane Falls Blvd
Spokane, WA 99201

NOTICE OF MANAGEMENT AGREEMENT

NOTICE IS HEREBY GIVEN that the property legally described as:

HILLYARD S75FT OF E40 FT OF L11;S75FT L12 B8

Parcel Number(s) 36343.1115, is governed by a Management Agreement between the City of Spokane and the Owner(s), GIAVINROSA, LLC, of the subject property.

The Management Agreement is intended to constitute a covenant that runs with the land and is entered into pursuant to Spokane Municipal Code Chapter 6.05. The Management Agreement requires the Owner of the property to abide by the "Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" (36 CFR Part 67) and other standards promulgated by the Historic Landmarks Commission.

Said Management Agreement was approved by the Spokane City Council on _____. I certify that the original Management Agreement is on file in the Office of the City Clerk under File No. _____.

I certify that the above is true and correct.

Spokane City Clerk

Historic Preservation Officer

Dated: _____

Dated: _____

MANAGEMENT AGREEMENT

The Management Agreement is entered into this **15th** day of **March 2023**, by and between the City of Spokane (hereinafter “City”), acting through its Historic Landmarks Commission (“Commission”), and **Giavinrosa, LLC** (hereinafter “Owner(s)”), the owner of the property located at **3023 E Diamond Avenue (additionally, 5201 and 5207 N Market are also used for the Hillyard Masonic Temple building addresses)** commonly known as the **Hillyard Masonic Temple** in the City of Spokane.

WHEREAS, the City of Spokane has enacted Chapter 4.35 of the Spokane Municipal Code (SMC) and Spokane has enacted Chapter 1.48 of the Spokane County Code (SCC), both regarding the establishment of the Historic Landmarks Commission with specific duties to recognize, protect, enhance and preserve those buildings, districts, objects, sites and structures which serve as visible reminders of the historical, archaeological, architectural, educational and cultural heritage of the city and county is a public necessity and.

WHEREAS, both Ch. 17D.100 SMC and Ch. 1.48 SCC provide that the City/County Historic Landmarks Commission (hereinafter “Commission”) is responsible for the stewardship of historic and architecturally significant properties in the City of Spokane and Spokane County; and

WHEREAS, the City has authority to contract with property owners to assure that any owner who directly benefits by action taken pursuant to City ordinance will bind her/his benefited property to mutually agreeable management standards assuring the property will retain those characteristics which make it architecturally or historically significant;

NOW THEREFORE, -- the City and the Owner(s), for mutual consideration hereby agree to the following covenants and conditions:

1. CONSIDERATION. The City agrees to designate the Owner’s property an Historic Landmark on the Spokane Register of Historic Places, with all the rights, duties, and privileges attendant thereto. In return, the Owner(s) agrees to abide by the below referenced Management Standards for his/her property.

2. COVENANT. This Agreement shall be filed as a public record. The parties intend this Agreement to constitute a covenant that runs with the land, and that the land is bound by this Agreement. Owner intends his/her successors and assigns to be bound by this

instrument. This covenant benefits and burdens the property of both parties.

3. ALTERATION OR EXTINGUISHMENT. The covenant and servitude and all attendant rights and obligations created by this Agreement may be altered or extinguished by mutual agreement of the parties or their successors or assigns. In the event Owner(s) fails to comply with the Management Standards or any City ordinances governing historic landmarks, the Commission may revoke, after notice and an opportunity for a hearing, this Agreement.

4. PROMISE OF OWNERS. The Owner(s) agrees to and promises to fulfill the following Management Standards for his/her property which is the subject of the Agreement. Owner intends to bind his/her land and all successors and assigns. The Management Standards are: "THE SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION AND GUIDELINES FOR REHABILITATING HISTORIC BUILDINGS (36 CFR Part 67)." Compliance with the Management Standards shall be monitored by the Historic Landmarks Commission.

5. HISTORIC LANDMARKS COMMISSION. The Owner(s) must first obtain from the Commission a "Certificate of Appropriateness" for any action which would affect any of the following:

- (A) demolition;
- (B) relocation;
- (C) change in use;
- (D) any work that affects the exterior appearance of the historic landmark; or
- (E) any work affecting items described in Exhibit A.

6. In the case of an application for a "Certificate of Appropriateness" for the demolition of a landmark, the Owner(s) agrees to meet with the Commission to seek alternatives to demolition. These negotiations may last no longer than forty-five (45) days. If no alternative is found within that time, the Commission may take up to forty-five (45) additional days to attempt to develop alternatives, and/or to arrange for the salvage of architectural artifacts and structural recording. Additional and supplemental provisions are found in City ordinances governing historic landmarks.

This Agreement is entered into the year and date first above written.

Owner

Owner

CITY OF SPOKANE

By: _____

Title: _____

ATTEST:

City Clerk

Approved as to form:

Assistant City Attorney

Attachment A

Secretary of The Interior's Standards

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.

6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color,

texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

14. HILLYARD MASONIC TEMPLE

Address	E. 3023 Diamond Avenue (and 5201-05 Market Street)
Built date	1931
Legal address	Hillyard Add, S75' E40' L11, S75' Lot 12, Block 8
Parcel number	36343.1115
Style	Commercial Block
Architect/Builder	Rigg & Vantyne (Architects)
Classification	Historic Contributing

The well-preserved two-story Hillyard Masonic Temple has two primary facades, fronting Diamond Avenue and Market Street. The building features decorative variegated raked brick veneer cladding, two-story pilasters capped with a classic brick and metal entablature, and block letters that spell “MASONIC TEMPLE” which embellish the frieze on the south and east elevations. The original storefront materials and configuration are intact and include a ceramic tile bulkhead, a recessed corner entrance, corrugated glass clerestory windows, an original wrought-iron and amber glass light fixture above the Diamond Avenue entrance, and c. 1960 signage attached to the southeast corner of the building.

The Hillyard Masonic Temple was built by the Free and Accepted Masons of Blue Lodge #133 as one of the Mason’s only “railroad lodges” constructed to help working class men who worked for the Great Northern Railroad in Hillyard.

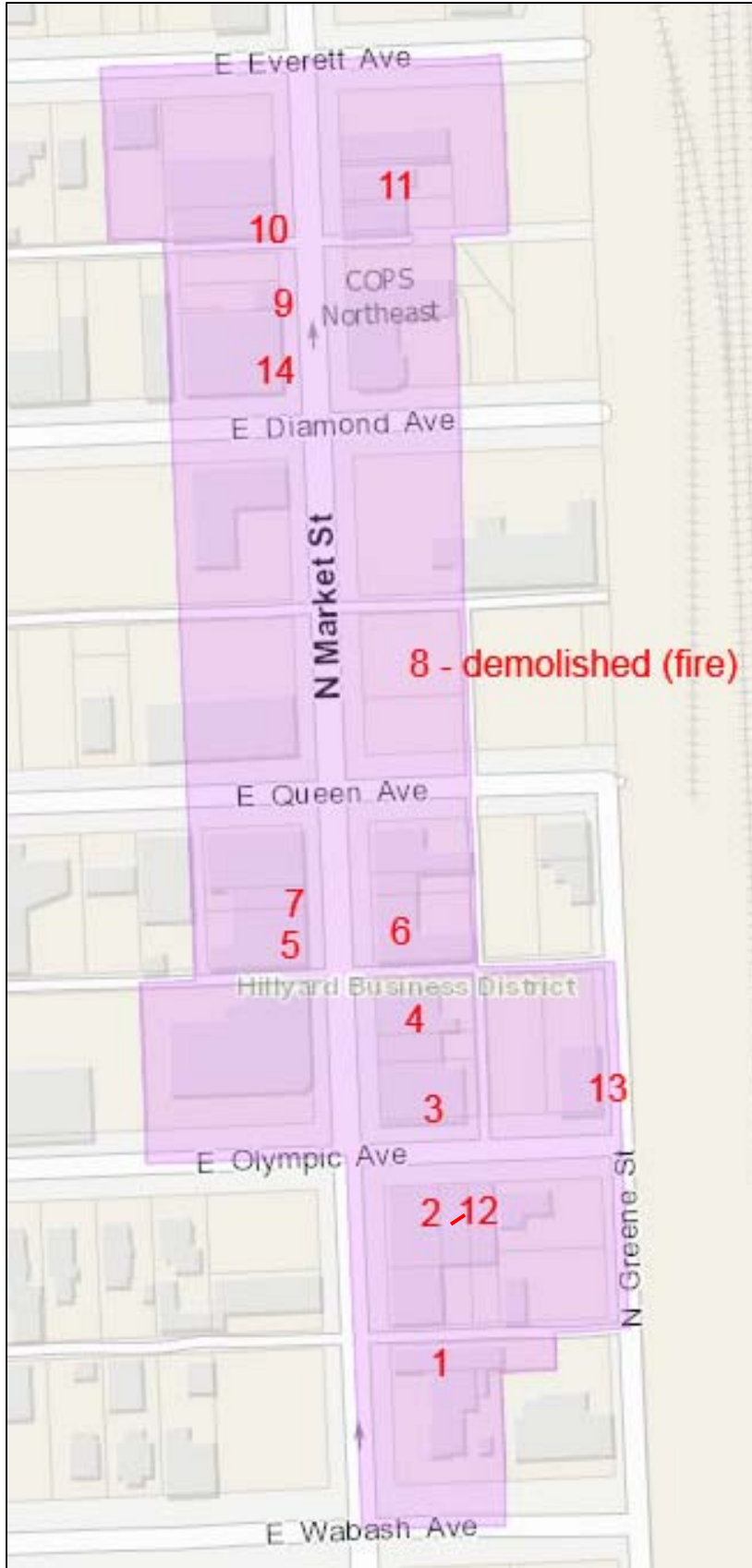
Spokane architects Roland Vantyne and Archibald Rigg designed the building. First-floor commercial space was leased from 1931 to 1952 by J. C. Penny Company, Burgan Grocery, Hillyard Cash Market and Meats, Hillyard Booster Improvement Club, and Fonks Five-and-Dime Store. The second floor was used by Masonic orders including the Blue Lodge, Eastern Star, Job’s Daughters, and Rainbow Girls.

Photo 23: Hillyard Masonic Temple, south façade



Photo 24: Hillyard Masonic Temple, east façade





Hillyard Historic Business District

Spokane, Washington

As amended March 2023

1. Inland Empire News Building
N 4912 Market Street
2. Hamer Block-Leslie Apts.
N 4920-26 Market Street
3. Kehoe Block
N 5002 Market Street
4. Nebraska Block
N 5008 Market Street'
5. Minthorn-Russel Block
N 5015 Market Street
6. United Hillyard Bank Building
N 5016 Market Street
7. Jenkins Block
N 5021 Market Street
8. *Hillyard Water Company Building – demolished, fire
N 5112 Market Street
9. Shoe Repair-Barber Shop
N 5209 Market Street
10. Shell Oil Building
N 5215 Market Street
11. Family Treasures Building
N 5220 Market Street
12. Hillyard Laundry Building
E 3108 Olympic Avenue
13. Hillyard Post Office
E 3117 Olympic Avenue
14. Hillyard Masonic Temple
3023 E Diamond



Agenda Sheet for City Council Meeting of:
04/10/2023

Date Rec'd	3/29/2023
Clerk's File #	OPR 2023-0393
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	COMMUNICATIONS & MARKETING
Contact Name/Phone	JEFF BOLLINGER 6359
Contact E-Mail	JBOLLINGER@SPOKANECITY.ORG
Agenda Item Type	Contract Item
Agenda Item Name	1940 PEG C.A.B.L.E. CHANNEL DISTRIBUTION WITH KSPS

Agenda Wording
The City of Spokane contracts with KSPS to distribute PEG programming to Comcast for delivery of community and educational access programming.

Summary (Background)
The City of Spokane designates KSPS as the administrator of C.A.B.L.E. PEG funds under Section 19 of the City's Cable Franchise. KSPS prioritizes the Capital Equipment needs of the C.A.B.L.E. then relays those requests on to the City for funding. SPS distributes Educational and Community Access Programming from its broadcast facility.

Lease? NO	Grant related? YES	Public Works? NO
Fiscal Impact		Budget Account
Expense	\$ 68,300.00	# 1940.37330.18900.54201
Select	\$	#
Select	\$	#
Select	\$	#

Approvals		Council Notifications	
Dept Head	CODDINGTON, BRIAN	Study Session\Other	Finance 1/23/23
Division Director	CODDINGTON, BRIAN	Council Sponsor	CM Stratton
Finance	WALLACE, TONYA	Distribution List	
Legal	PICCOLO, MIKE	ywang@spokanecity.org	
For the Mayor	ORMSBY, MICHAEL	gstokes@ksps.org	
Additional Approvals		jbollinger@spokanecity.org	
Purchasing		bcoddington@spokanecity.org	
ACCOUNTING - GRANTS	MURRAY, MICHELLE	laga@spokanecity.org	

Committee Agenda Sheet

Finance & Administration Committee

Submitting Department	Communications/Channel Five
Contact Name	John Delay
Contact Email & Phone	jdelay@spokanecity.org ext 6355
Council Sponsor(s)	Stratton
Select Agenda Item Type	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion Time Requested:
Agenda Item Name	KSPS PEG Reimbursement Contract
Summary (Background) *use the Fiscal Impact box below for relevant financial information	The City of Spokane designates KSPS as the administrator of C.A.B.L.E. PEG funds under Section 19 subsection (b) of the City's Cable Franchise. KSPS prioritizes the Capital Equipment needs of the C.A.B.L.E then relays those requests on to the City for funding. This contract enables the City to reimburse KSPS for capital equipment purchases related to PEG video production and distribution.
Proposed Council Action	Approval of contract to fulfill Comcast Cable Franchise Requirements.
Fiscal Impact	
Total Cost: <u>\$68,300</u>	
Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
Funding Source <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring	
Specify funding source: Comcast Cable PEG Fees	
Expense Occurrence <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring	
Other budget impacts: (revenue generating, match requirements, etc.)	
Operations Impacts (If N/A, please give a brief description as to why)	
What impacts would the proposal have on historically excluded communities? PEG Channels are provided by Comcast on the basic cable (lowest tier) of programming.	
How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities? There is currently no way to determine the data on Comcast subscribers	
How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution? There is currently no way to determine the data on Comcast subscribers.	
Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others? This contract fulfills the adopted Comcast Cable Franchise Agreement.	



City of Spokane
PEG C.A.B.L.E. CHANNEL DISTRIBUTION

This Agreement is made and entered into by and between the **CITY OF SPOKANE** as (“City”), a Washington municipal corporation, and **FRIENDS OF KSPS**, whose address is 3911 South Regal Street, Spokane, Washington 99223 as (“KSPS”), individually hereafter referenced as a “party”, and together as the “parties”.

WHEREAS, the City has obtained certain channel resources and capital financing as a result of a Franchise renewal, C35970, with the local Cable Operator, Comcast Cable Communications Management, LLC, (“Comcast”); and

*WHEREAS, the Franchise documents include the Franchise Ordinance itself which is attached hereto as **Exhibit B** and incorporated herein; and*

WHEREAS, KSPS has agreed to provide PEG C.A.B.L.E. Channel Distribution for Public Education Television; and

WHEREAS, KSPS is the established master control provider for PEG access channels.

The parties agree as follows:

1. DESIGNATION OF KSPS AS CHANNEL MANAGER.

The City designates KSPS as Channel Manager of the channel reserved in the Comcast Franchise. This designation terminates if the Comcast Franchise Agreement terminates or expires. The designation is in the nature of a quitclaim authorization, to the extent of the City's power and authority to make such designation, without any promises or warranties. This section and Section 2 comprise the entire obligations of the City under this Agreement, notwithstanding any other provision.

2. 2023 CAPITAL FUNDING. Subject to applicable Franchise requirements as provided in the cable franchise between the City and the Comcast Cable Company (C35970) for PEG Fee source expenditures, the City agrees to pay KSPS from the “PEG Fee” resource identified in Section 19 J of the franchise, a grant up to **SIXTY-EIGHT THOUSAND THREE HUNDRED AND NO/100 DOLLARS (\$68,300.00)** for capital expenditures for the calendar year 2023. Future grant funding at this value is not a guarantee, and is subject to change on a yearly basis.

A. KSPS agrees to continue to present community programming on the cable channel designated for this purpose and represents to the City that it has adequate

operational funding and other resources necessary to accomplish this function;
and

- B. KSPS understands its obligation to be sure that all expenditures of PEG fee grant monies are consistent with any Comcast franchise restrictions for use of said monies. KSPS shall furnish the City with reasonable proof, upon request, that its use meets cable franchise requirements. In the event KSPS cannot do so to City's satisfaction, KSPS is responsible to reimburse the City any reduction in PEG funding obligations by Comcast under Section 19. KSPS further agrees to indemnify and hold harmless the City from any other loss or liability for failure to the City from failure to satisfy Comcast; and
- C. This is a grant from PEG fee resources only. Under no circumstances shall the City be independently liable to KSPS for payment of any sums under this agreement, directly or indirectly by way of reduction of other monies due and payable by Comcast.

3. FUNDING APPROVAL. PEG funds and expenses will be approved upon submission of expense receipts to the City.

4. TERM/NOTICES

- A. The Agreement takes effect January 1, 2023, and expires December 31, 2023; PROVIDED:
 - i. It automatically expires if the current Comcast Franchise expires or is otherwise terminated or substantially modified for any reason unless extended in writing by the City.
 - ii. It may be terminated without any requirement of showing cause by either party, upon sixty (60) days written notice; PROVIDED the City may terminate the Agreement upon a lesser notice period if it reasonably determines that it is exposed to any loss or liability because of continuation of the Agreement,
- B. Notices shall be given:
 - i. To the City: Attention: City Administrator, 808 W. Spokane Falls Blvd., Spokane WA 99201.
 - ii. To KSPS: Attention: General Manager, 3911 South Regal Street, Spokane, Washington 99223.

5. CITY OF SPOKANE BUSINESS LICENSE.

Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid annual business registration. KSPS shall be responsible for contacting the State of Washington Business License Services at www.dor.wa.gov or 360-705-6741 to obtain a business registration. If the Contractor does not believe it is required to obtain a business registration, it may contact the City's Taxes and Licenses Division at (509) 625-6070 to request an exemption status determination.

6. SOCIAL EQUITY REQUIREMENTS / NON-DISCRIMINATION.

No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Agreement because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation including gender expression or gender identity, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities. KSPS agrees to comply with, and to require that all subcontractors comply with, federal, state and local nondiscrimination laws, including but not limited to: the Civil Rights Act of 1964, the Rehabilitation Act of 1973, the Age Discrimination in Employment Act, and the American's With Disabilities Act, to the extent those laws are applicable.

7. INDEMNIFICATION.

KSPS shall defend, indemnify, and hold the City and its officers and employees harmless from all claims, demands, or suits at law or equity asserted by third parties for bodily injury (including death) and/or property damage which arise from KSPS's negligence or willful misconduct under this Agreement, including attorneys' fees and litigation costs; provided that nothing herein shall require a Firm to indemnify the City against and hold harmless the City from claims, demands or suits based solely upon the negligence of the City, its agents, officers, and employees. If a claim or suit is caused by or results from the concurrent negligence of KSPS's agents or employees and the City, its agents, officers and employees, this indemnity provision shall be valid and enforceable to the extent of the negligence of KSPS, its agents or employees. KSPS specifically assumes liability and agrees to defend, indemnify, and hold the City harmless for actions brought by KSPS's own employees against the City and, solely for the purpose of this indemnification and defense, KSPS specifically waives any immunity under the Washington State industrial insurance law, or Title 51 RCW. KSPS recognizes that this waiver was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation. The indemnity and agreement to defend and hold the City harmless provided for in this section shall survive any termination or expiration of this agreement.

8. INSURANCE.

During the period of the Agreement, KSPS shall maintain in force at its own expense, each insurance noted below with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW:

- A. **Worker's Compensation Insurance** in compliance with RCW 51.12.020, which requires subject employers to provide workers' compensation coverage for all their subject workers and Employer's Liability Insurance in the amount of \$1,000,000;
- B. **General Liability Insurance** on an occurrence basis, with a combined single limit of not less than \$1,000,000 each occurrence for bodily injury and property damage. It shall include contractual liability coverage for the indemnity provided under this agreement. It shall provide that the City, its officers and employees are additional insureds but only with respect to KSPS's services to be provided under this Agreement;
 - i. Acceptable **supplementary Umbrella insurance** coverage combined with CMS's General Liability insurance policy must be a minimum of \$1,000,000, in order to meet the insurance coverage limits required in this Agreement; and

- C. **Automobile Liability Insurance** with a combined single limit, or the equivalent of not less than \$1,000,000 each accident for bodily injury and property damage, including coverage for owned, hired and non-owned vehicles.

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without thirty (30) days written notice from KSPS or its insurer(s) to the City. As evidence of the insurance coverage(s) required by this Agreement, KSPS shall furnish acceptable Certificates of Insurance (COI) to the City at the time it returns this signed Agreement. The certificate shall specify the City of Spokane as "Additional Insured" specifically for Firm's services under this Agreement, as well as all of the parties who are additional insureds, and include applicable policy endorsements, the thirty (30) day cancellation clause, and the deduction or retention level. KSPS shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

9. DEBARMENT AND SUSPENSION.

KSPS has provided its certification that it is in compliance with and shall not contract with individuals or organizations which are debarred, suspended, or otherwise excluded from or ineligible from participation in Federal Assistance Programs under Executive Order 12549 and "Debarment and Suspension", codified at 29 CFR part 98.

10. AUDIT.

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

11. ASSIGNMENT AND SUBCONTRACTING.

KSPS shall not assign or subcontract its obligations under this Agreement without the City's written consent, which may be granted or withheld in the City's sole discretion. Any subcontract made by KSPS shall incorporate by reference this Agreement, except as otherwise provided. KSPS shall ensure that all subcontractors comply with the obligations and requirements of the subcontract. The City's consent to any assignment or subcontract does not release KSPS from liability or any obligation within this Agreement, whether before or after City consent, assignment or subcontract.

12. TERMINATION.

Either party may terminate this Agreement, with or without cause, by sixty (60) days written notice to the other party. In the event of such termination, the City shall pay KSPS for all work previously authorized and performed prior to the termination date.

13. STANDARD OF PERFORMANCE.

The standard of performance applicable to Firm's services will be the degree of skill and diligence normally employed by professional Firms performing the same or similar services at the time the services under this Agreement are performed.

14. OWNERSHIP AND USE OF RECORDS AND DOCUMENTS.

Original documents, drawings, designs, reports, or any other records developed or created under this Agreement shall belong to and become the property of the City. All records submitted by the

City to KSPS shall be safeguarded by KSPS. KSPS shall make such data, documents and files available to the City upon the City's request. If the City's use of KSPS's records or data is not related to this project, it shall be without liability or legal exposure to KSPS.

Under Washington State Law (reference RCW Chapter 42.56, the *Public Records Act* [PRA]) all materials received or created by the City of Spokane are **public records** and are available to the public for viewing via the City Clerk's Records (online) or a valid Public Records Request (PRR).

15. ANTI KICK-BACK.

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

16. MISCELLANEOUS PROVISIONS.

- A. **Amendments/Modifications:** This Agreement may be modified by the City in writing when necessary, and no modification or Amendment of this Agreement shall be effective unless signed by an authorized representative of each of the parties hereto.
- B. KSPS, at no expense to the City, shall comply with all laws of the United States and Washington, the Charter and ordinances of the City of Spokane; and rules, regulations, orders and directives of their administrative agencies and officers. Without limiting the generality of this paragraph, KSPS shall comply with the requirements of this Section.
- C. This Agreement shall be construed and interpreted under the laws of Washington. The venue of any action brought shall be in a court of competent jurisdiction, located in Spokane County, Washington.
- D. **Captions:** The titles of sections or subsections are for convenience only and do not define or limit the contents.
- E. **Severability:** If any term or provision is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected, and each term and provision shall be valid and enforceable to the fullest extent permitted by law.
- F. **Waiver:** No covenant, term or condition or the breach shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition shall not be deemed a waiver of any preceding or succeeding breach of the same or any other covenant, term or condition. Neither the acceptance by the City of any performance by KSPS after the time the same shall have become due nor payment to KSPS for any portion of the Work shall constitute a waiver by the City of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by the City in writing.
- G. **Entire Agreement:** This document along with any exhibits and all attachments, and subsequently issued addenda, comprises the entire agreement between the City and KSPS. If conflict occurs between Agreement documents and applicable laws, codes, ordinances or regulations, the most stringent or legally binding requirement shall govern and be considered a part of this Agreement to afford the City the maximum benefits.
- H. **No personal liability:** No officer, agent or authorized employee of the City shall be personally responsible for any liability arising under this Agreement, whether

expressed or implied, nor for any statement or representation made or in any connection with this Agreement.

IN WITNESS WHEREOF, in consideration of the terms, conditions and covenants contained, or attached and incorporated and made a part, the parties have executed this Agreement by having legally-binding representatives affix their signatures below.

FRIENDS OF KSPS

CITY OF SPOKANE

By _____
Signature Date

By _____
Signature Date

Type or Print Name

Type or Print Name

Title

Title

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Attachments that are part of this Agreement:

- Exhibit A – Certificate Regarding Debarment
- Exhibit B – Franchise Ordinance C35970

EXHIBIT A

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
INELIGIBILITY AND VOLUNTARY EXCLUSION**

1. The undersigned (i.e., signatory for the Subrecipient / Contractor / Consultant) certifies, to the best of its knowledge and belief, that it and its principals:
 - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - b. Have not within a three-year period preceding this contract been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;
 - c. Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and,
 - d. Have not within a three-year period preceding this contract had one or more public transactions (federal, state, or local) terminated for cause or default.

2. The undersigned agrees by signing this contract that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.

3. The undersigned further agrees by signing this contract that it will include the following clause, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

1. The lower tier contractor certified, by signing this contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
2. Where the lower tier contractor is unable to certify to any of the statements in this contract, such contractor shall attach an explanation to this contract.

4. I understand that a false statement of this certification may be grounds for termination of the contract.

<hr/> Name of Subrecipient / Contractor / Consultant (Type or Print)	<hr/> Program Title (Type or Print)
<hr/> Name of Certifying Official (Type or Print)	<hr/> Signature
<hr/> Title of Certifying Official (Type or Print)	<hr/> Date (Type or Print)



Agenda Sheet for City Council Meeting of:
11/09/2020

Date Rec'd	10/29/2020
Clerk's File #	ORD C35970
Renews #	

Submitting Dept	COMMUNICATIONS	Cross Ref #	
Contact Name/Phone	MARLENE FEIST X6505	Project #	
Contact E-Mail	MFEIST@SPOKANECITY.ORG	Bid #	
Agenda Item Type	First Reading Ordinance	Requisition #	
Agenda Item Name	0330-CABLE TELEVISION FRANCHISE WITH COMCAST		

Agenda Wording

Granting a non-exclusive Franchise Agreement to Comcast Cable Communications Mgmt., LLC, to use public rights-of-way and other public places in the City of Spokane for the purpose of providing cable TV services with a variety of terms & conditions.

Summary (Background)

Comcast has provided cable television services in the City for some time. The last franchise with the company was entered into in 2005 and continued through November 2017; it had been administratively extended while negotiations continued. Comcast and the City have completed negotiations and present this 10-year non-exclusive cable franchise for approval. The goal is to ensure that our City has modern systems capable of serving future needs of our citizens & businesses.

Fiscal Impact	Grant related? NO	Budget Account
	Public Works? NO	

Select	\$	#
Select	\$	#
Select	\$	#
Select	\$	#

Approvals		Council Notifications	
Dept Head	DELAY, JOHN	Study Session\Other	PIES 7/27/2020 &
Division Director	CODDINGTON, BRIAN	Council Sponsor	Breean Beggs
Finance	HUGHES, MICHELLE	Distribution List	
Legal	PICCOLO, MIKE	mfeist@spokanecity.org	
For the Mayor	ORMSBY, MICHAEL	jdelay@spokanecity.org	
Additional Approvals	tszamblen@spokanecity.org		
Purchasing	terry_davis@comcast.com		
	steven_holmes@cable.comcast.com		
	brian.grogan@lawmoss.com		

Briefing Paper

Public Infrastructure, Environment & Sustainability (PIES)

Division & Department:	Communications Department
Subject:	Updated Cable Franchise with Comcast
Date:	10/26/2020
Contact (email & phone):	Marlene Feist; mfeist@spokanecity.org ; (509) 625-6505
City Council Sponsor:	Breean Beggs
Executive Sponsor:	Marlene Feist, PW Director of Strategic Development
Committee(s) Impacted:	PIES, Urban Experience, Finance
Type of Agenda item:	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
Alignment: (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	This franchise meets goals around technology availability and economic development.
Strategic Initiative:	Sustainable Resources
Deadline:	November anticipated approval of franchise
Outcome: (deliverables, delivery duties, milestones to meet)	Approval of an updated cable franchise with provider Comcast.

Background/History:

Comcast has operated in the City of Spokane for some time. The last franchise with the company was entered into in 2005 and continued through November 2017. The franchise has been extended while negotiations for a new franchise proceeded. Comcast had been our only cable provider for some time, but this is a non-exclusive franchise for such services. TDS Metrocom received a cable franchise earlier this year, which will provide citizens with additional choice.

Executive Summary:

The City's Legal and Communications departments have been meeting with representatives of Comcast to negotiate an updated cable franchise. Comcast's previous franchise with the City was approved in November 2005 and expired in November 2017; terms of the franchise were extended while negotiations for a new franchise have continued. The terms are consistent with those in the franchise of the City's new cable entrant, TDS Metrocom.

With this, and other cable television franchises, the City is working to ensure that our City has modern systems capable of serving the future needs and interests of our citizens and businesses. The City wants to ensure the availability of community programming, maintain our public right of way, and provide broad access to services.

Here are the highlights:

- Franchise Term Length: 10 years
- Franchise Fee: 5 percent
- Utility Tax: 6 percent
- PEG Channels: 6 channels (2 High-Definition and 4 Standard Definition Channels); CityCable 5 maintains the same location: Channel 5 in standard definition and Channel 325 in HD.
- PEG Financial Support: 0.7% of gross revenues for PEG Capital costs. These fees support capital expenses associated with the City's government-access channels as well as Community Minded TV and Education Access channels.
- Technology: As a legacy system that already serves the entire City, Comcast will maintain a hybrid fiber coaxial, fiber-to-the-node system architecture, capable of delivering high-quality

digital signals that meet or exceed FCC requirements.

- **Service area:** Comcast's service area already includes the entire City, and annexed areas shall be provided service within 12 months of notification of the annexation.
- **Other:** Comcast will comply with the City's pavement cut policy and similar policies and will comply with the customer service and related standards found in SMC 10.27.

Budget Impact:

Approved in current year budget? Yes No N/A

Annual/Reoccurring expenditure? Yes No N/A

If new, specify funding source:

Other budget impacts:

Operations Impact:

Consistent with current operations/policy? Yes No N/A

Requires change in current operations/policy? Yes No N/A

Specify changes required:

Known challenges/barriers:



Expenditure Control Form

1. All requests being made must be accompanied by this form.
2. Route **ALL** requests to the Finance Department for signature.
3. If request is greater than \$100,000 it requires signatures by Finance and the City Administrator. Finance Dept. will route to City Administrator.

Today's Date: 10/28/2020 **Type of expenditure:** Goods Services

Department:

Approving Supervisor:

Amount of Proposed Expenditure: N/A

Funding Source: N/A

Please verify correct funding sources. Please indicate breakdown if more than one funding source.

Why is this expenditure necessary now?

What are the impacts if expenses are deferred?

What alternative resources have been considered?

Description of the goods or service and any additional information?

Person Submitting Form/Contact: Marlene Feist mfeist@spokanecity.org

FINANCE SIGNATURE:

CITY ADMINISTRATOR SIGNATURE:

**CABLE COMMUNICATIONS FRANCHISE
BY AND BETWEEN
CITY OF SPOKANE, WASHINGTON
AND
COMCAST CABLE
COMMUNICATIONS MANAGEMENT, LLC**

October 8, 2020

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EXHIBIT A FREE SERVICE TO PUBLIC BUILDINGS A-1

CABLE COMMUNICATIONS FRANCHISE ORDINANCE NO. _____

An Ordinance renewing a non-exclusive Franchise Agreement to Comcast Cable Communications Management, LLC, including any prior transfers to this entity, a corporation organized under the laws of the State of Washington, to occupy and use the public rights-of-way and, upon approval, other public places in the City of Spokane, for the purpose of providing Cable Service to the public, for a term of ten (10) years, subject to regulation by federal, state and local authority and specifying other limitations, terms and conditions governing the exercise of said Franchise Agreement.

THE CITY OF SPOKANE DOES ORDAIN:

SECTION 1.
PURPOSE AND INTENT.

This Franchise Agreement is by and between the City of Spokane, a Washington municipal corporation (“City”), and Comcast Cable Communications Management, LLC (“Franchisee”).

WHEREAS, the City, pursuant to Chapter 10.27A of the Municipal Code of the City of Spokane, Washington (hereinafter “SMC 10.27A”), is authorized to grant one or more non-exclusive revocable Franchise Agreements to construct, maintain and operate a Cable System within the City; and,

WHEREAS, pursuant to SMC 10.27A and in accordance with Section 626 of the Cable Communications Policy Act of 1984, Franchisee has requested renewal of its Cable Communications Franchise Agreement, and after negotiations with Franchisee, the City has determined that it is in the best interest of the City and its residents to renew the Franchise Agreement with Franchisee; and,

WHEREAS, the City has, following required and reasonable notice, conducted a full public hearing, affording all persons concerned with the analysis and consideration of the technical ability, financial condition, legal qualifications and general character of the Franchisee; and,

WHEREAS, the City, after such consideration, analysis and deliberation, has approved and found sufficient the technical ability, financial condition, legal qualification and character of said Franchisee; and,

WHEREAS, the City has determined that it is in the best interests of and consistent with the health, safety and welfare of the citizens of the City to renew the Franchise Agreement to the Franchisee to operate a Cable System within the confines of the City and on the terms and conditions hereinafter set forth; and,

WHEREAS, the Franchisee has agreed to be bound by the conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the renewal of the franchise pursuant to this Franchise Agreement, the Franchisee hereby promises to comply with the provisions of this Franchise Agreement and SMC 10.27A. In consideration of the Franchisee’s promises, the City hereby grants a franchise as hereinafter set forth:

SECTION 2.
TITLE.

THIS AGREEMENT may be referred to as the “City of Spokane, Washington/Comcast Cable Communications Management, LLC Cable Communications Franchise Agreement.”

SECTION 3.
DEFINITIONS.

For the purpose of this Franchise Agreement the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is mandatory and the word “may” is permissive. Words not defined shall be given their common and ordinary meanings.

- (A) “Access Channel” shall mean any Channel set aside for Non-commercial public use, educational use, or governmental use without a Channel usage charge.
- (B) “Access User” shall mean any Person entitled to make use of an Access Channel consistent with the intended purpose of the Channel. [Cross reference SMC 10.27A.510]
- (C) “Basic Cable Service” shall mean any Service Tier which includes the retransmission of local television broadcast signals.
- (D) “Cable Act” shall mean the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 et seq., as amended by the Cable Television Consumer Protection and Competition Act of 1992, as further amended by the Telecommunications Act of 1996, as further amended from time to time.
- (E) “Cable Service” or “Service” shall mean (A) the one-way transmission to Subscribers of (i) Video Programming or (ii) Other Programming Service, and (B) Subscriber interaction, if any, which is required for the selection or use of such Video Programming or Other Programming Service.
- (F) “Cable System” or “System” shall mean a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes Video Programming and which is provided to multiple Subscribers within a community, but such term shall not include:
 - (1) a facility that serves only to retransmit the television signals of one (1) or more television broadcast stations;
 - (2) a facility that serves only Subscribers without using any Public Right of Way;
 - (3) a facility of a common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. § 201 et seq., except that such facility shall be considered

a Cable System (other than for purposes of 47 U.S.C. § 541(c)) to the extent such facility is used in the transmission of Video Programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services;

(4) an open video system that complies with 47 U.S.C. § 573; or

(5) any facilities of any electric utility used solely for operating its electric utility system.

(G) “Channel” shall mean bandwidth in the electromagnetic spectrum capable of carrying a television channel (as television channel is defined by FCC regulation).

(H) “City” shall mean the City of Spokane, Washington. For purposes of enforcement of any provision, “City” further means the City Administrator or their designee except where otherwise specified.

(I) “Complaint” shall mean a Subscriber written contact (via U.S. mail, email or other electronic means) with the City to express a grievance or dissatisfaction concerning Cable Service. Complaints do not include matters not within the scope of this Franchise Agreement or Ch. 10.27A SMC.

(J) “Converter” shall mean an electronic tuning device which converts transmitted signals to a frequency which permits their reception on a television receiver.

(K) “Council” shall mean the legislative body of the City of Spokane, Washington.

(L) “FCC” shall mean the Federal Communications Commission or any legally appointed or designated agent or successor.

(M) “Franchise Agreement” or “Franchise” shall mean the nonexclusive right and authority to construct, maintain, and operate a Cable System through use of Public Rights of Way in the City pursuant to a contractual agreement approved by the City Council and executed by the City and Franchisee.

(N) “Franchise Area” shall mean the entire geographic area within the City as it is now constituted or may in the future be constituted. [Cross reference SMC 10.27A.720]

(O) “Franchisee” shall mean Comcast Cable Communications Management, LLC, including any lawful successor, transferee or assignee of the original Franchisee.

(P) “Franchise Fee” means consideration paid by Franchisee for the privilege to operate a Cable System in the Franchise Area as set forth in Section 4, in accordance with Section 622 of the Cable Act and federal law.

(Q) “GAAP” means Generally Accepted Accounting Principles.

(R) “Gross Revenues” means all amounts derived by the Franchisee and/or an affiliate from the operation of Franchisee’s Cable System to provide Cable Services within the Franchise Area. Gross Revenues include, by way of illustration and not limitation:

- (1) Fees for Cable Services, regardless of whether such Cable Services are provided to residential or commercial Subscribers, including revenues derived from the provision of all Cable Services (including but not limited to pay or premium Cable Services, digital Cable Services, pay-per-view, pay-per-event, audio channels and video-on-demand Cable Services);
- (2) Installation, disconnection, reconnection, downgrade, upgrade, maintenance, repair, or similar charges associated with Subscriber Cable Service;
- (3) Fees paid to Franchisee for Channels designated for commercial/leased access use, which shall be allocated on a pro rata basis using total Cable Service Subscribers within the Franchise Area;
- (4) Converter, remote control, and other Cable Service equipment rentals, leases, or sales (but not revenues from equipment used exclusively for the provision of services that are not Cable Service);
- (5) Advertising Revenues as defined herein;
- (6) Fees including, but not limited to: (1) late fees, convenience fees and administrative fees which shall be allocated in accordance with GAAP; and (2) Franchise fees;
- (7) Commissions from home shopping channels and other Cable Service revenue sharing arrangements which shall be allocated on a pro rata basis using total Cable Service Subscribers within the Franchise Area.
- (8) “Advertising Revenues” shall mean amounts derived from sales of advertising that are made available to Franchisee’s Cable System Subscribers within the Franchise Area and shall be allocated on a pro rata basis using total Cable Service Subscribers reached by the advertising. Additionally, Franchisee agrees that Gross Revenues subject to Franchise Fees shall include all commissions, representative fees, affiliated entity fees, or rebates paid to National Cable Communications and Comcast Spotlight or their successors associated with sales of advertising on the Cable System within the City allocated according to this paragraph using total Cable Service Subscribers reached by the advertising.
- (9) “Gross Revenues” shall not include:
 - a) Actual Cable Services bad debt write-offs, except any portion which is subsequently collected which shall be allocated on a pro rata basis using Cable Services revenue as a percentage of total Franchisee revenues within the Franchise Area;

- b) Any taxes and/or fees on services furnished by Franchisee imposed on Subscribers by any municipality, state or other governmental unit, provided that the Franchise Fee and the FCC user fee shall not be regarded as such a tax or fee;
- c) Public, Educational and Governmental (PEG) Fees collected by Franchisee from Subscribers;
- d) Contra expenses including but not limited to launch fees and marketing co-op fees to the extent consistent with GAAP; and
- e) Unaffiliated third-party advertising sales agency fees or commissions which are reflected as a deduction from revenues to the extent consistent with GAAP.

(10) To the extent revenues are derived by Franchisee for the provision of a discounted bundle of services which includes Cable Services and non-Cable Services, Franchisee shall calculate revenues to be included in Gross Revenues using a methodology that allocates revenue on a pro rata basis when comparing the bundled service price and its components to the sum of the published rate card prices for such components. Except as required by specific federal, state or local law, it is expressly understood that equipment may be subject to inclusion in the bundled price at full rate card value. This calculation shall be applied to every bundled service package containing Cable Service from which Franchisee derives revenues in the Franchise Area. The City reserves its right to review and to challenge Franchisee's calculations.

(11) Franchisee reserves the right to change the allocation methodologies set forth in this definition to meet standards mandated by the Financial Accounting Standards Board ("FASB"), Emerging Issues Task Force ("EITF") and/or the U.S. Securities and Exchange Commission ("SEC"). City acknowledges and agrees that Franchisee shall calculate Gross Revenues in a manner consistent with GAAP where applicable; however, the City reserves its right to challenge Franchisee's calculation of Gross Revenues, including Franchisee's interpretation of GAAP and Franchisee's interpretation of FASB, EITF and SEC directives. Franchisee agrees to explain and document the source of any change it deems required by FASB, EITF and SEC on the first quarterly payment statement implementing the change. Upon the City's written request and subject to Franchisee's reasonable confidentiality requirements, Franchisee shall provide additional detail, explanation and/or reference to source materials.

(12) The City acknowledges that Franchisee shall maintain its books and records in accordance with "GAAP."

(S) "Installation" shall mean the process necessary to connect the Cable System at the Subscriber's premises.

(T) “Non-commercial” shall mean, in the context of Access Channels that products and services are not sold via the Access Channel. The term will not be interpreted to prohibit an Access Channel operator or programmer from independently (i.e. not in the context of any televised programming) soliciting and receiving financial support to produce and transmit Video Programming on an Access Channel, or from acknowledging a contribution, in the manner of the corporation for public broadcasting. An Access Channel operator or programmer may cablecast informational programming regarding City events, projects and attractions of interest to residents so long as the format for such programming is consistent with the purposes for which PEG resources may be used.

(U) “Normal Business Hours” shall mean those hours during which most similar businesses in City are open to serve customers. In all cases, “Normal Business Hours” must include some evening hours, at least one (1) night per week and/or some weekend hours.

(V) “Normal Operating Conditions” shall mean those Service conditions which are within the control of Franchisee. Those conditions which are not within the control of a Franchisee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of Franchisee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the Cable System. [Cross reference SMC 10.27A.700]

(W) “Other Programming Service” shall mean information that a cable operator makes available to all Subscribers generally.

(X) “PEG” shall mean public, educational and governmental.

(Y) “Person” shall mean an individual or legal entity, such as a corporation or partnership.

(Z) “Public Right of Way” or “Public Rights of Way” shall mean the surface of and the space above and below any public street, road, highway, path, sidewalk, alley, court, or easement now or hereafter dedicated and opened by the City for the purpose of public travel or public utilities. Use of skywalks may be subject to additional regulatory requirements consistent with the Spokane Municipal Code. In the case of any grant of authority or permission by the City to a cable operator however, this term shall not exceed the scope of the City’s interests or power to extend such grant.

(AA) “Section 621 Order” means the Third Report and Order in MB Docket No. 05-311 adopted by the FCC on August 1, 2019.

(BB) “Service Tier” shall mean a specific set of Cable Services which are made available as a group for purchase by Subscribers, at a separate rate for the group.

(CC) “Standard Installation” shall mean those that are located up to one hundred twenty-five (125) feet from the existing distribution system. Franchisee shall comply

with applicable FCC regulations regarding commercial Installations as may now or hereafter arise.

(DD) “Subscriber” shall mean a member of the general public who receives broadcast programming distributed by a Cable System and does not further distribute it.

(EE) “Video Programming” shall mean programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

(FF) “Wireline MVPD” means any entity, including the City, that utilizes the Public Right of Way to install cable or fiber and is engaged in the business of making available for purchase, by Subscribers, multiple Channels of Video Programming in the City, which could also include the City. For purposes of this Franchise, the term “Wireline MVPD” shall not be limited to entities defined by the FCC as “multichannel video programming distributors” and shall include entities that provide multiple Channels of Video Programming via open video systems, as defined by the FCC, but it is the intent of the Franchisee and the City that the term Wireline MVPD shall not include small cell providers, unless the City has the legal authority under applicable state and federal law to regulate or to impose cable franchise obligations upon such small cell providers.

SECTION 4.
GRANT OF AUTHORITY.

(A) There is hereby granted by the City to the Franchisee, for a period of ten (10) years from and after the effective date set forth at the end of this Franchise, the right and privilege to have, acquire, construct, reconstruct, use, operate, own and maintain a Cable System for the Franchise Area, subject to the terms and provisions of Section 9(C) herein, and to the conditions and restrictions as hereinafter provided. No privilege or power of eminent domain is bestowed by this grant of authority.

(B) Consistent with the provisions of City ordinances and the Cable Act, the City hereby grants to Franchisee the authority to construct a Cable System in the City’s Public Rights of Way.

SECTION 5.
AUTHORITY NOT EXCLUSIVE.

(A) The grant of authority for use of the City’s Public Rights of Way, as conferred in Section 4 hereof, is not exclusive and does not establish priority for use over other franchise holders, permit holders and the City’s own use of public property. Nothing in this Franchise Agreement shall affect the right of the City to grant to any other Person a similar franchise or right to occupy and use the Public Rights of Way or any part thereof for the erection, Installation, construction, reconstruction, operation, maintenance, dismantling, testing, repair or use of a Cable System within the City. Additionally, the Franchisee shall respect the rights and property of the City and other authorized users of Public Rights of Way. Disputes between the Franchisee and other parties over the use, pursuant to this Franchise Agreement, of the Public Rights of Way shall be submitted to the City Engineer for resolution.

SECTION 6
COMPETITIVE EQUITY.

(A) The City reserves the right to grant additional franchises or similar authorizations to provide Video Programming services via Cable Systems or other Wireline MVPDs. The City intends to treat Wireline MVPDs in a nondiscriminatory manner to the extent permissible under applicable state and federal law. If, following the effective date of this Franchise, the City grants such an additional franchise or authorization to a Wireline MVPD and Franchisee believes the City has done so on terms materially more favorable than the obligations under this Franchise, then the provisions of this Section 6 will apply.

(B) As part of this Franchise, the City and Franchisee have mutually agreed upon the following terms as a condition of granting the Franchise, which terms may place the Franchisee at a significant competitive disadvantage if not required of a Wireline MVPD: the obligation to pay to the City a Franchise Fee consistent with Section 30 of this Franchise, Gross Revenues as provided for and defined in this Franchise, and the obligation to comply with the requirements in this Franchise regarding PEG funding, PEG Access Channels, records and reports, security instruments, audits, dispute resolution, remedies, notice and opportunity to cure, and customer service obligations (hereinafter "Material Obligations"). The City and Franchisee further agree that this provision shall not require a word for word identical franchise or authorization for competitive equity so long as the regulatory and financial burdens on each entity are materially equivalent.

(C) Within one (1) year of the adoption of a Wireline MVPD franchise or similar authorization, Franchisee must notify the City in writing of the Material Obligations in this Franchise that exceed the Material Obligations of the wireline competitor's franchise or similar authorization. The City and Franchisee agree that they will use best efforts in good faith to negotiate Franchisee's proposed Franchise modifications, and that such negotiation will proceed and conclude within a ninety (90) day time period, unless that time period is reduced or extended by mutual agreement of the parties. If the City and Franchisee reach agreement on the Franchise modifications pursuant to such negotiations, then the City shall amend this Franchise to include the modifications. If the City and Franchisee fail to reach agreement in such negotiations, Franchisee may, at its option, elect to replace this Franchise by opting into the franchise or other similar lawful authorization that the City grants to another Wireline MVPD (with the understanding that Franchisee may use its current system design and technology infrastructure to meet any requirements of the new franchise), so as to insure that the regulatory and financial burdens on each entity are equivalent. If Franchisee so elects, the City shall immediately commence proceedings to replace this Franchise with the franchise issued to the other Wireline MVPD. Notwithstanding anything contained in this section to the contrary, the City shall not be obligated to amend or replace this Franchise unless the new entrant makes Cable Services or similar downstream video programming service available for purchase by Subscribers or customers under its franchise agreement with or similar authorization from the City.

(D) In the event the City disputes that the Material Obligations are different, Franchisee may bring an action in federal or state court for a determination as to whether the Material Obligations are different and as to what franchise amendments would be necessary to remedy the disparity. Alternatively, Franchisee may notify the City that it elects to immediately commence the renewal process under 47 U.S.C. § 546 and to have the remaining term of this Franchise shortened to not more than thirty (30) months.

(E) Nothing in this Section 6 is intended to alter the rights or obligations of either party under applicable federal or state law, and it shall only apply to the extent permitted under state and federal law. In no event will the City be required to refund or to offset against future amounts due the value of benefits already received.

(F) To the extent the City has legal authority to grant a franchise or similar authorization to a wireless provider of Cable Service, the competitive equity rights provided by this section shall apply with respect to Material Obligations imposed in such franchise or other similar agreement. In the event of a dispute regarding the City's legal authority, Franchisee shall have the burden to demonstrate that such authority exists.

SECTION 7. CONDITIONS OF SALE.

If a renewal of this Franchise Agreement is denied or the Franchise Agreement is lawfully terminated, and the City lawfully acquires ownership of the Cable System or by its actions lawfully effects a transfer of ownership of the Cable System to another Person, any such acquisition or transfer shall be at a price determined pursuant to the provisions of 47 USC §547.

SECTION 8. PREVIOUS RIGHTS ABANDONED.

This Franchise Agreement is in lieu of any and all other contractual rights, privileges, powers, immunities, and authorities owned, possessed, controlled, or exercisable by Franchisee or any successor pertaining to the construction, operation, modification or maintenance of a Cable System in the City. The acceptance of this Franchise Agreement shall operate as between Franchisee and the City as an abandonment of any and all such contractual rights, privileges, powers, immunities, and authorities within the City. All construction, operation, modification, and maintenance by the Franchisee of any Cable System in the City to provide Cable Service shall be under this Franchise Agreement and not under any other contractual right, privilege, power, immunity, or authority.

SECTION 9. AGREEMENT, ACCEPTANCE, AND INCORPORATION OF SMC 10.27A.

(A) Franchisee acknowledges and accepts the right of the City to grant Franchisee this Franchise under current state, federal and local law. Franchisee agrees it shall not now nor at any time hereafter challenge this right, including in any state or federal court, provided that Franchisee reserves its right to seek changes in state, federal or local law governing the right of City to grant this Franchise and to challenge the City's right to grant this Franchise based on changes in current state, federal or local law that take effect

subsequent to the effective date of this Franchise Agreement. This section shall not be interpreted to prevent Franchisee from engaging in state, federal, or local lobbying efforts, either independently or as part of a consortium, on matters of interest to the Franchisee or the industry.

(B) Franchisee's rights hereunder are subject to the lawful and reasonable exercise of the City's police power consistent with state, federal or local law. It is understood that the City may at any time enact any ordinance of general applicability which may impact the Franchisee in its operation of the Cable System, provided that such ordinance constitutes a proper exercise of the City's police power, consistent with state, federal or local law.

(C) Franchisee acknowledges as of the time of acceptance of this Franchise Agreement that it has reviewed the Spokane City Charter relating to franchises and the use of the Public Right of Way and Ch. SMC 10.27A and accepts them as lawful exercises of City regulatory powers over the Public Right of Way. The parties acknowledge that the City may modify its regulatory policies throughout the term of this Franchise Agreement. Franchisee agrees to comply with such lawful policies except when there is a conflict with Franchisee's rights negotiated hereunder. Franchisee reserves any rights it may have to challenge such policies whether arising in contract or at law. The City reserves all defenses to such challenge, whether arising in contract or law.

SECTION 10.
[RESERVED].

SECTION 11.
TIME IS OF THE ESSENCE TO THIS AGREEMENT.

Whenever this Franchise Agreement shall set forth any time for an act to be performed by or on behalf of the Franchisee, related to a material Franchise requirement, such time shall be deemed of the essence. Any failure of the City to promptly enforce the time for an act to be performed in the past shall not be deemed a waiver of the City's right to require timely performance in the future.

SECTION 12.
TAXES.

Nothing contained in this Franchise Agreement shall be construed to except the Franchisee from any tax, liability or assessment authorized by law or from provisions of Titles 4 and 8 of the Spokane Municipal Code.

SECTION 13.
FRANCHISE AGREEMENT.

This Franchise Agreement is a contract between the City and the Franchisee, binding upon both parties. It is the intent of the parties that this shall be subject to amendment by mutual agreement from time to time to allow the Franchisee to innovate and implement new services

and developments, or to agree to any terms allowed by law and for which each party agrees to bargain in good faith with the other party, upon the initiation of any proposed amendment.

SECTION 14.
RENEWAL.

Any renewal of this Franchise Agreement shall be governed by and comply with the provisions of the Cable Act (47 U.S.C. § 546), as amended.

SECTION 15.
CABLE SYSTEM SPECIFICATIONS AND OVERSIGHT.

(A) The Franchisee shall maintain its Cable System as a hybrid fiber coaxial, fiber-to-the-node system architecture, with fiber-optic cable deployed from the headend to the node and coaxial cable deployed from the node to Subscribers homes. During the term of this Franchise, the Franchisee's Cable System shall be capable of providing a minimum of one hundred twenty (120) Channels of Video Programming to its Subscribers in the Franchise Area. Active and passive devices are capable of delivering high-quality digital video signals meeting or exceeding FCC technical quality standards. Cable System nodes are designed for future segmentation as necessary to maximize shared bandwidth. During the term of this Franchise Agreement, the Franchisee agrees to maintain the Cable System in a manner consistent with these specifications or better.

(B) All Franchisee activity in the Public Right of Way, and other public places where applicable, must be in accord with the Standard Specifications (WSDOT 2004, as amended or current equivalent) applicable to civil works in the Public Right of Way, including any generally applicable Supplemental Specifications as now or hereafter approved by the City Engineer and any other state and local regulations. All such construction, Installation and maintenance must also comply with the National Electrical Safety Code, the Washington State Electrical Construction Code, the National Electrical Code as adopted by the City and good and accepted industry practices.

[Note: at the time of adoption of this section, the generally approved Standard Specifications is that edition published by the Washington State Department of Transportation (WSDOT), "Standard Specifications for Road, Bridge and Municipal Construction, 2016, M 41-10", as amended].

(C) The Franchisee shall comply with all applicable technical standards of the FCC as published in 47 C.F.R. Part 76, Subpart K, as may be amended from time to time. The City shall have, upon written request, the right to review tests and records required to be performed pursuant to the FCC's rules.

(D) The City shall have the right to regulate and inspect the construction, operation and maintenance of the Cable System in the Public Rights of Way. Upon reasonable prior written notice and in the presence of the Franchisee's employee, the City may review the Cable System's technical performance as necessary to monitor the Franchisee's compliance with the provisions of this Franchise Agreement. All equipment testing under a technical performance review shall be conducted by the Franchisee.

[Cross reference SMC 10.27A.600 - 10.27A.680 regarding construction standards which are also applicable.]

SECTION 16.
CABLE SERVICE.

(A) Subject to the density considerations listed below, except in areas reserved for public travel or utility access not yet opened and accepted by the City as Public Right of Way that the Franchisee is specifically and lawfully prohibited from deploying its Cable System by the owner/developer, the Franchisee shall provide Cable Service throughout the entire City. Consistent with SMC 10.27A.720, areas subsequently annexed shall be provided with Cable Service within twelve (12) months of the time of the City notifying Franchisee of the annexation.

(B) Access to Cable Service shall not be denied to any group of potential cable Subscribers because of the income of the potential cable Subscribers or the area in which such group resides to the extent required by state and federal law. All residents requesting Cable Service and living within a Standard Installation of one hundred twenty-five (125) feet shall have the cable installed at no more than the prevailing published Installation rate. In the event a request is made for Cable Service and the residence is more than a Standard Installation of one hundred twenty-five (125) feet, such Installation will be provided at Franchisee's published rate for Standard Installations.

(C) The City and Franchisee acknowledge that the Franchisee currently provides, without charge, one (1) outlet, one (1) Converter, if necessary, and Digital Starter Service programming (including the PEG Channels) to the public buildings listed in Exhibit A, attached hereto ("Complimentary Service"). Subject to Section 35(D) of this Franchise Agreement, Franchisee shall continue to provide service to the City as set forth in this Section 16(C). However, the City shall have the right to request the disconnection of the other franchised cable operator and require Franchisee to meet the free service obligation provided the City maintains a fair distribution of service to public buildings between all franchised cable operators in the City.

(1) If the drop line to such building exceeds a Standard Installation drop one hundred twenty-five (125) feet, the Franchisee will accommodate the drop up to three hundred (300) feet if the City or other agency provides the necessary attachment point for aerial service or conduit pathway for underground service. If the necessary pathway is not provided the City or other agency agrees to pay the incremental cost of such drop in excess of one hundred twenty-five (125) feet or the necessary distribution line extension of the Cable System, including the cost of such excess labor and materials. The recipient of the service will secure any necessary right of entry.

(2) The Complimentary Service will not be used for commercial purposes, and the outlets will not be located in areas open to the public excepting one (1) outlet to be located in a public lobby in City Hall that will be used by the public for viewing Council meeting broadcasts. The City will take reasonable precautions to

prevent any use of the Franchisee's Cable System in any manner that results in inappropriate use, loss or damage to the Cable System. Franchisee hereby reserves all rights it may have under the law to seek payment from City for liability or claims arising out of the provision and use of the Complimentary Service required by this section.

(3) If additional outlets of Complimentary Service are provided to such buildings, the building occupant will pay the usual Installation fees, if any.

(D) Franchisee shall extend the System to any portion of the City after the date of the Franchise Agreement, when dwellings can be served by extension of the System past dwellings equivalent to a density of seven (7) dwellings per one-quarter (1/4) mile of cable contiguous to the System. Franchisee may petition the City for a waiver of this requirement, such waiver to be granted (1) for good cause shown, or (2) where Franchisee's System penetration level (defined as the percentage obtained by dividing (x) the number of Franchisee's Subscribers, by (y) the total number of dwelling units in the Franchise Area) drops below thirty-five percent (35%). The City shall not require Franchisee to extend Service to any dwelling that is already receiving Service from a competing provider. Such extension shall be at Franchisee's cost. In areas not meeting the requirements of seven (7) or more dwellings per one-quarter (1/4) mile, for mandatory extension of Service, Franchisee shall provide, upon the request of any potential Subscribers desiring Service, an estimate of the costs required to extend Service to such Subscribers. Franchisee shall then extend Service upon request and upon payment of an amount equal to the reasonable value of actual time and materials to be incurred by Franchisee for such extension. Any Subscriber drop not exceeding a Standard Installation drop of one hundred twenty-five (125) feet will be free of charge to the Subscriber other than normal Installation fees. For drops in excess of one hundred twenty-five (125) feet, Franchisee may assess an amount equal to time and materials. This provision has been negotiated taking into consideration the unique features of residential property in the City, including the size of lots, historical layout of developments and other factors.

SECTION 17. PROGRAMMING.

(A) All final programming decisions remain the discretion of Franchisee in accordance with this Franchise Agreement, provided that Franchisee notifies City and Subscribers in writing thirty (30) days prior to any Channel additions, deletions, or realignments, and further subject to Franchisee's signal carriage obligations hereunder and pursuant to 47 U.S.C. §§ 531-536, and further subject to City's rights pursuant to 47 U.S.C. § 545.

(B) Franchisee will provide at least the following initial broad categories of programming to the extent such categories are reasonably available:

- (1) Educational programming;
- (2) News, weather and information;

- (3) Sports;
- (4) General entertainment including movies;
- (5) Children, family oriented;
- (6) Arts, culture and performing arts;
- (7) Foreign language programming; and
- (8) Science/documentary.

(C) The Franchisee shall offer to all Subscribers a diversity of Video Programming services and it will not eliminate any broad categories of programming without first obtaining the written approval of the City, such approval not to be unreasonably withheld.

(1) Franchisee shall notify in writing the City, or its designee, of its intent to eliminate any broad category of programming noted in subsection (A). The City, or its designee, shall make a determination on such request not later than sixty (60) days after receipt of the request by Franchisee. In the event that the City makes an adverse determination, such determination shall be in writing, along with a concise statement of the reasons therefore. In the event the City fails to make a determination within sixty (60) days after receipt of a request from Franchisee, Franchisee shall have the right to make the deletion contained in its written request. [Cross reference SMC 10.27A.905.]

SECTION 18.

RATES.

(A) Throughout the term of this Franchise Agreement and upon request, the Franchisee shall provide annually an updated rate card to the City that details applicable rates and charges for Cable Services provided under this Franchise Agreement. This does not require the Franchisee to file rates and charges under temporary reductions or waivers of rates and charges in conjunction with promotional campaigns.

(B) Franchisee shall provide a minimum of thirty (30) days' written notice to the City and each Subscriber before changing any rates and charges. Franchisee shall not be required to provide prior notice of any rate changes as a result of a regulatory fee, franchise fee or other fees, tax, assessment or charge of any kind imposed by the City or any other governmental entity on the transaction between the Franchisee and the Subscriber. Notice shall not be required in cases where the Franchisee adds additional Channels to any tier, provided there is no concurrent rate change.

(C) City may regulate rates for the provision of Cable Service provided over the System in accordance with applicable federal law, in particular 47 C.F.R. Part 76 subpart N. In the event the City chooses to regulate rates it shall, in accordance with 47 C.F.R. § 76.910, obtain certification from the FCC, if applicable. The City shall follow all applicable FCC rate regulations and shall ensure that appropriate personnel are in place to administer such regulations. City reserves the right to regulate rates for any future Cable Services to the maximum extent allowed by law.

SECTION 19.
ACCESS AND LOCAL PROGRAMMING.

(A) Access Channels.

(1) Commencing on the effective date of this Franchise Agreement, Franchisee shall continue to make available eight (8) full-time activated Access Channels for Non-commercial use.

(2) The City may designate entities to be responsible for administering use of the PEG Access Channels. Such entities shall be responsible for the utilization, programming and scheduling of the Access Channels designated for PEG use and public use respectively.

(3) The Franchisee shall provide the PEG Access Channels as part of the Cable Service provided to any Subscriber, at no additional charge, and so that the PEG Access Channels are viewable by the Subscriber without the need for additional equipment beyond that required to receive the Basic Cable Service Tier. If Channels are selected through a menu system, the PEG Access Channels shall be displayed as prominently as commercial programming choices offered by Franchisee.

(4) At such time as all other Basic Service Channels (or its equivalent tier) excluding PEG Access Channels, are carried in HD, the SD PEG Access Channels will also be carried in HD, at which time the SD PEG Access Channels will be discontinued and the maximum number of PEG Access Channels shall be four (4) HD Channels, subject to Section 19(A)(7).

(5) Within six (6) months of the effective date of this Franchise, and upon completion of the Fire Training Channel connection set forth below, Franchisee shall reclaim two (2) SD Access Channels for one (1) HD Access Channel simulcast. The two (2) SD Access Channels to be reclaimed shall be the Fire Training Channel and another Access Channel selected by the City in City's sole discretion.

(6) No sooner than twelve (12) months of the effective date of this Franchise, Franchisee shall reclaim two (2) additional SD Access Channels which will result in the City retaining a total of four (4) SD Access Channels and two (2) additional simulcast SD/HD Access Channels.

(7) Within six (6) months of the effective date of this Franchise, Franchisee shall either: 1) construct a dedicated two-way connection between the Fire Training Center and City Hall, to replace the SD Fire Training Center Access Channel, the cost estimated to be Twenty Thousand and No/100 Dollars (\$20,000) shall be paid for out of the City's PEG Fee; or 2) the City shall assume responsibility for the construction of the connection and Franchisee shall cooperate, the City's construction cost may be paid for out of the PEG Fee so long as consistent with applicable federal law.

(8) City shall be responsible for all programming requirements on the PEG Access Channels, including but not limited to scheduling, playback, training, staffing, copyright clearances, and production equipment owned and controlled by the City, including maintenance and repair of such production equipment.

(B) Regional Channel. The City shall have the right to use one (1) of the existing PEG Access Channels as a regional Channel if desired by the City. Franchisee shall cooperate with City to accommodate such regional Channel.

(C) PEG Access Channel Location. Franchisee shall make commercially reasonable efforts to maintain one (1) of the PEG Access Channels as Channel 5 (SD) and Channel 325 (HD) on the Franchisee's Channel lineup. Franchisee shall make commercially reasonable efforts to maintain one (1) additional PEG Access Channel as Channel 14 (SD) and Channel 326 (HD) on the Franchisee's Channel lineup, or otherwise maintain adjacent positions to each other in the channel lineup.

(1) Franchisee shall make commercially reasonable efforts to minimize Channel location movements for PEG Access Channels, and shall make reasonable commercial efforts to locate Access Channels in a manner that is easily accessible to Subscribers. For new HD Access Channels that are provided pursuant to this Franchise, Franchisee shall make reasonable commercial efforts to assign the Access Channels a number near the other HD local broadcast stations if such channel positions are not already taken, or if that is not possible, near HD news/public affairs programming channels if such channel positions are not already taken, or if not possible, as reasonably close as available channel numbering will allow.

(D) PEG Access Channel Quality.

(1) With respect to signal quality, Franchisee shall not be required to carry an Access Channel in a higher quality format than that of the Channel signal delivered to Franchisee, but Franchisee shall distribute the Channel signal without material degradation. There shall be no restriction on Franchisee's technology used to deploy and deliver SD or HD signals so long as the requirements of the Franchise are otherwise met. Franchisee may implement HD carriage of PEG Access Channels in any manner (including selection of compression, utilization of IP, and other processing characteristics) that produces a signal quality for the Subscriber that is reasonably comparable and functionally equivalent to similar commercial HD Channels carried on the Cable System. Franchisee agrees that in no event will the PEG Access Channels be transmitted in a manner different than other commercial Channels offered by Franchisee on the basic service tier.

(2) In the event the City believes and provides evidence that Franchisee has failed to meet this standard, the City will notify Franchisee of such concern, and Franchisee will respond to any complaints in a timely manner. Disputes under this section shall be addressed through the Franchise enforcement procedures set forth in Section 24. Upon reasonable written request by the City or any authorized

access provider (but not a user of the community Access Channel), Franchisee shall verify that Access Channel signal delivery to Subscribers is consistent with the requirements of this section.

(E) The City shall implement and enforce policy directives and terms of use requirements that all users of public access facilities and public Access Channel(s) assume complete responsibility for the content of programming prepared at public access facilities and/or cablecasts on the public Access Channel(s). The parties agree that clearance for use of copyrighted material shall be the sole responsibility of the access user. The City shall require that all public access users indemnify and hold the Franchisee and the City of Spokane harmless from all liability of any kind whatsoever, including the costs of legal defense arising from the use of facilities, channel(s) or access time by the user.

(F) PEG Fee.

(1) Within sixty (60) days after the effective date of this Franchise Agreement, the Franchisee shall collect and remit to the City zero point seven percent (0.7%) of Gross Revenues (the "PEG Fee") to be used for PEG access capital costs in accordance with applicable federal law. The PEG Fee shall be remitted quarterly to the City in the same manner and at the same time as the Franchise Fee.

(2) The PEG Fee is not intended to represent part of the Franchise Fee and are intended to fall within one (1) or more of the exceptions in 47 U.S.C. § 542. The PEG Fee may be categorized, itemized, and passed through to Subscribers as permissible, in accordance with federal law. So long as the PEG Fee is used by the City as permitted by applicable federal law, and this Franchise, Franchisee agrees that it will not offset or reduce its payment of past, present or future Franchise Fees required as a result of its obligation to remit the PEG Fee, unless otherwise mandated by Applicable Law.

(3) Within ninety (90) days and upon request, the City shall provide the Franchisee with documentation showing expenditures for PEG capital use of the previous year's PEG Fee funding and showing the budgeted use of the current year's PEG funding. In the event the City cannot demonstrate that PEG funding was used or budgeted for PEG capital needs, Franchisee's PEG funding obligations going forward shall be reduced by an equivalent amount.

(4) Any PEG Fees owing pursuant to this Franchise Agreement which remain unpaid more than twenty-five (25) days after the date the payment is due shall be delinquent and shall thereafter accrue interest at twelve percent (12%) per annum.

(5) All PEG Access Channels shall be provided as a part of Franchisee's Basic Cable Service or its equivalent. Franchisee shall make every reasonable effort to coordinate the cablecasting of PEG access programming on the Cable System on the same Channel designations as such programming is currently

cablecast within the City. In no event shall any PEG Access Channel reallocations be made prior to ninety (90) days' written notice to the City by Franchisee, except for circumstances beyond Franchisee's reasonable control.

(G) Guide Selection. Franchisee agrees that if it utilizes a visual interface under its control on its Cable System for all Channels, the PEG Access Channels shall be treated in a non-discriminatory fashion so that Subscribers will have ready access to PEG Access Channels. To the extent the configuration of the Cable System allows for detailed program listings to be included on the digital channel guide, Franchisee will make available to City the ability to place PEG Access Channel programming information on the interactive Channel guide via the electronic programming guide ("EPG") vendor ("EPG provider") that Franchisee utilizes to provide the guide service. Franchisee will be responsible for providing the designations and instructions necessary for the PEG Access Channels to appear on the EPG. All costs and operational requirements for the EPG provider shall be the responsibility of the City. Franchisee is not responsible for operations of the EPG provider. Franchisee shall, to the maximum extent possible, make available to the City any price discounts Franchisee may have in place with third party vendors that offer such programming guide services. The cost of this guide service may be funded in any manner consistent with federal law.

(H) PEG Access Programming Connectivity.

(1) Under Section 19(k) of the 2005 franchise between City and Franchisee, Franchisee agreed to construct and maintain two-way connections. Franchisee was permitted to recoup all of its construction and maintenance costs (\$250,000) from the City's PEG Fee over the term of the 2005 franchise. Currently Franchisee is providing the City with nine (9) complimentary two-way connections to facilitate the live playback of PEG programming in the City. The City has agreed as part of this renewal to reduce the number of two-way connections down to just two (2) remaining connections to facilitate PEG origination over the next Franchise term. The City and Franchisee acknowledge that the Franchisee currently provides and maintains, free of charge to the City, the existing two-way connections located at: 1) the KSPS Facility, located at 3911 South Regal Street; and 2) the City Hall via City Water Works Building on Hamilton & North Foothills. These connections enable the transmission of PEG Access programming over the Cable System. Franchisee shall maintain the two (2) above-referenced connections for the term of this Franchise, without additional charge (with no recurring, monthly costs or offsets) except that Franchisee may, if permitted by federal law, invoice the City for any actual repair or maintenance costs. Such actual repair or maintenance costs shall be estimated to the City in advance when possible, and shall be documented and invoiced to the City by Franchisee for payment.

(2) If the City desires to add new connection points over the term of this Franchise Agreement in addition to the above list, upon (one hundred twenty (120) days written request of the City, and written approval by the City of

Franchisee's construction charges, the Franchisee will construct the new two-way connection, as proposed by the City.

(3) Failure to comply with the provisions of this section shall constitute a material breach of this Franchise Agreement.

SECTION 20.
PARENTAL CONTROL.

(A) Franchisee shall provide Subscriber controlled lockout capability at a reasonable charge to Subscribers upon their request.

(B) As to any program which is transmitted on a Channel offered on a, per Channel, or per program basis, Franchisee shall block entirely the audio and video portion of such program from reception by any Subscriber who so requests. Scrambling of the signal shall not be sufficient to comply with this provision.

SECTION 21.
TRANSFER OF RIGHTS.

(A) Any unauthorized transfer in violation of SMC 10.27A.395 shall be deemed a material breach in default of this Franchise Agreement, and shall subject the Franchisee to all penalties and remedies prescribed in this Franchise Agreement and SMC 10.27A and to all other remedies, legal and equitable; which are available to the City, including, but not limited to:

(1) The immediate entry of an order by a court of competent jurisdiction (i) enjoining Franchisee, its officers, agents, employees and all others acting in concert with them, from transferring or assigning or otherwise disposing of any interest in the Cable System, (ii) appointing a receiver, acceptable to the City, who shall forthwith assume the management of the Cable System in accordance with the terms and conditions of this Franchise Agreement, and (iii) requiring all subscription fees, Installation fees and all other fees payable to Franchisee to be paid into an escrow account which shall be subject to release to Franchisee only on order of the Court.

(2) The immediate termination of this Franchise Agreement and acceleration of all the obligations and rights thereunder, including, but not limited to those described in Section 27 of this Franchise Agreement.

(B) Franchisee shall notify the City Clerk in writing of any occurrence which constitutes a transfer not in accordance with the provisions of SMC 10.27A.395 or this Franchise Agreement.

(C) Franchisee shall notify the City Attorney in writing of the entry of any judgment against Franchisee which would negatively affect the continued operation of this Cable System within seventy-two (72) hours of the occurrence of such event.

SECTION 22.

LETTER OF CREDIT; PERFORMANCE SECURITY FOR OBLIGATIONS.

(A) In accordance with SMC 10.27.330, Franchisee shall maintain security, hereafter referenced as "Performance Security" as follows: Franchisee, based upon its past performance, shall secure and maintain a performance bond in the amount of One Hundred Thousand and No/100 Dollars (\$100,000.00). If at any time thereafter, Franchisee does not continue to maintain a fully compliant rating (no claim against the performance bond which has been sustained following all applicable appeals), the City may require the performance bond to be replaced by a letter of credit sufficient to cover one hundred fifty percent (150%) of draws as reasonable estimated by the City, but not less than One Hundred Thousand and No/100 Dollars (\$100,000.00), upon sixty (60) days written notice to Franchisee. Upon petition by Franchisee and sufficient showing of adequacy, the City may permit an escrow deposit or combination escrow deposit and letter of credit.

(B) If this Franchise Agreement is transferred for reasons requiring consent of the City, the Performance Security requirement may be modified as required by the City, up to the amount set in SMC 10.27A.330.

(C) Failure to deposit said Performance Security or the failure to maintain the Performance Security, in the full amount required herein, in effect during the entire term of this Franchise Agreement, and of any renewal or extension thereof, shall constitute a material breach of this Franchise Agreement.

(D) The City reserves the right to impose additional construction bond requirements upon the Franchisee, pursuant to the generally applicable terms and provisions of the Spokane' Municipal Code, regarding Franchisee's construction in the Public Right of Way.

SECTION 23.

PROCEDURE FOR DRAWING ON PERFORMANCE SECURITY.

(A) Except as provided in Section 30 with respect to delinquent Franchise Fee and PEG Fee payments, the conditions applicable to the City's right to draw on the Performance Security are stated in Sections 23-26. The procedure for drawing on the Performance Security shall be as follows:

(1) If the Franchisee fails to make timely payment to the City of any amount due under this Franchise Agreement other than Franchise Fee or PEG Fee payments and taxes, the City shall have the right to draw on the Performance Security following seven (7) days advance written notice to Franchisee, including the notice information required in Section 24(A), unless the amount due is received within such seven (7) day period. Franchisee may request a hearing on this decision as provided in Section 26, but this does not delay the City's right to draw upon the Performance Security up to the amount of nonpayment, plus applicable

interest and penalties, following the initial seven (7) day notice period. [Cross reference SMC 10.27A.310]

(2) If the Franchisee fails to take timely action as requested by the City with respect to its facilities in the Public Rights of Way which might expose the City to loss or liability, the City shall have the right to draw on the Performance Security an amount reasonably sufficient to prevent or offset the loss or liability, first giving twenty (20) days advance written notice to Franchisee, including the notice information required in Section 24(A). If no Franchisee response is received within twenty (20) day period or if Franchisee has not already cured, the City may proceed to draw on the Performance Security. If a written Franchisee response is received within such period, the City shall then wait at least ten (10) days before making any draw on the Performance Security. Franchisee may request a hearing on this decision as provided in Section 26, but this does not delay the City's right to draw upon the Performance Security. This does not limit the City's rights to take any actions necessary in case of emergencies or the right of either party to seek injunctive relief in a proper case.

(3) The time periods for lawful withdrawal referenced in Section 23(A) (1) and (2) above, may be extended by City in writing in City's discretion. For any other reason besides Section 23(A) (1) and (2) above, Franchisee may request a hearing under Section 26 prior to a City draw on Performance Security. This limitation expires upon expiration of the time to request the hearing, or if one is requested, it expires thirty (30) days after the municipal hearings process is concluded, whether or not further court review is requested. This shall not limit the right of Franchisee to seek injunctive relief in appropriate cases with respect to said draw.

(B) Upon drawing funds from the Performance Security, the City shall give written notice thereof the Franchisee. Not later than thirty (30) days after the mailing or delivery of notice from City to Franchisee indicating a draw, Franchisee must restore the Performance Security to its full required amount.

(C) The collection by City of any damages, monies or penalties from the Performance Security shall not affect any other right or remedy available to City, nor shall any act, or failure to act, by City pursuant to the Performance Security be deemed a waiver of any right of City pursuant to this Franchise Agreement, except as provided with respect to liquidated damages or as provided in Section 23.

SECTION 24. ENFORCEMENT.

(A) This section does not apply to revocation of the Franchise Agreement. Whenever the City seeks to enforce the Franchise Agreement, it shall first provide written notice to the Franchisee of the nature of the problem and requested action, together with any applicable time frame for response. Any time limits here or elsewhere in the Franchise Agreement may be modified by written stipulation of the City and Franchisee, except

time limits relating to revocation of this Franchise Agreement or where otherwise required by law must be approved by the City Council.

(B) Except in case of urgency or public need relating to management of the Public Right of Way as reasonably determined by the City, the Franchisee has thirty (30) days from receipt of such notice to respond in writing to the official sending the notice:

- (1) contesting it; or
- (2) accepting it and agreeing to cure as requested within time limits specified; or
- (3) requesting additional time or other modifications. In such event, Franchisee shall promptly take all reasonable steps to cure the default, keeping the official informed as to the steps to be taken and a projected completion date.

(C) If the official is not satisfied with the response, they shall notify the Franchisee in writing. Franchisee may thereafter request a hearing thereafter as provided in Section 26(C).

(D) Code Violations. Franchisee agrees the City may elect to enforce any provision of the Spokane Municipal Code without regard to this Franchise Agreement.

SECTION 25. LIQUIDATED DAMAGES.

(A) Because Franchisee's failure to comply with the provisions of this Franchise Agreement will result in damage to the City and because it will be impractical to determine the actual amount of such damages, the City and Franchisee hereby agree upon and specify certain amounts set forth hereafter in this section which represent both parties' best estimate of the damages.

(B) The City shall specify any damages subject to this section and shall include such information in the notice sent to Franchisee required under Section 24(A). Such a notice may provide for damages sustained prior to the notice where so provided, and subsequent thereto pending compliance by Franchisee.

(C) To the extent that the City elects to assess liquidated damages as provided in this section and such liquidated damages have been paid, the parties agree that this shall be the City's sole and exclusive damage remedy in lieu of actual damages; provided, that this shall not limit the right of the City to seek equitable or other relief as reserved in Section 26(C).

(D) Unless otherwise provided, liquidated damages do not accrue after the timely filing of a request for hearing by Franchisee until the time of a decision from the hearing. Nothing in this section prevents the parties from settling any dispute relating to liquidated damages by mutual stipulation.

(E) Franchisee may cure the breach or violation within the time specified to petition for review to the City's satisfaction, whereupon no liquidated damages are assessed.

(F) After fulfilling the procedure required under Section 24, Franchisee has thirty (30) days to pay such amounts. If not paid thereafter, liquidated damages shall be immediately payable from the Performance Security, without further notice, upon demand by the City and a statement that the provisions of this section have been fulfilled. Franchisee may seek review of any assessment of liquidated damages under Section 26.

(G) Schedule of Liquidated Damages. Liquidated damages are set as follows. All amounts accrue per day but not beyond the number of days to exceed the amount of Ten Thousand and No/100 Dollars (\$10,000) per twelve (12) month period unless specifically provided. Nothing requires the City to assess liquidated damages, acting in its sole discretion, but such non-assessment does not operate as waiver or estoppel upon the City.

(1) For failure to provide Cable Service as promised in Section 16 of this Franchise Agreement, Five Hundred and No/100 Dollars (\$500) per day,

(2) For failure to provide data, documents, reports and information as required by this Franchise Agreement, Fifty and No/100 Dollars (\$50) per day per each separate violation.

(3) For failure to conduct tests as required by this Franchise Agreement, Fifty and No/100 Dollars (\$50) per day.

(4) For failure to comply with PEG Access requirements outlined in Section 19, One Hundred Fifty and No/100 Dollars (\$150) per day.

(5) For failure to answer Subscriber telephone calls in accordance with the standards in SMC 10.27A.700(B)(1) of the Spokane Municipal Code, as incorporated by reference in Section 33(A) of this Franchise Agreement, in any calendar quarter where Franchisee fails to meet the applicable standard and performs at eighty percent (80%) or above, Franchisee shall pay the City Five Hundred and No/100 Dollars (\$500); in any calendar quarter where Franchisee fails to meet the applicable standard and perform at less than eighty percent (80%) but at least seventy percent (70%), Franchisee shall pay the City Two Thousand Five Hundred and No/100 Dollars (\$2,500); in any calendar quarter where Franchisee fails to meet the applicable standard and performs at less than seventy percent (70%), the Franchisee shall pay the City Five Thousand and No/100 Dollars (\$5,000). NOTE: Franchisee will be deemed to have complied with the applicable telephone call answering and wait time standards whenever a Subscriber call is connected to an automated answering system within thirty (30) seconds after the call first rings and the Subscriber is transferred to a customer service representative within thirty (30) seconds after the Subscriber makes an automated or voice request to be so transferred.

(6) For any violation of the any other customer service standard, One Hundred and No/100 Dollars (\$100) per day per violation, not to exceed One Thousand and No/100 Dollars (\$1,000) for any single violation.

(7) Failure to maintain insurance or Performance Security as required in this Franchise Agreement Five Hundred and No/100 Dollars (\$500) per day. NOTE: for this item, there is no cure privilege, no abeyance pending any hearing, or forgiveness of liquidated damages because of absence of prior violation or breach. There is further no limitation on cumulative liquidated damages for this item.

(8) Failure to indemnify the City as required in Section 25: Five Hundred and No/100 Dollars (\$500) per day. NOTE: this assessment is for delay only and does not excuse any other actual damages for failure to indemnify.

(9) Failure to pay liquidated damages lawfully assessed under this Franchise Agreement, where the same have not been otherwise recovered from the Performance Security: one percent (1%) of the unpaid amount per month. There is no cumulative limitation on the amount of this item, no right of cure beyond any extended prior to the assessment of liquidated damages and no abeyance pending any hearings or appeal process beyond that as may have been previously extended at the time such liquidated damages were initially assessed.

(10) For all other violations of the Franchise Agreement for which actual damages may not be ascertainable: One Hundred and No/100 Dollars (\$100) per day for each violation.

(11) Where Franchisee has three (3) or more of the same violation or breach events (an “event” may involve multiple customers, but is discrete in time or circumstances) within any twelve (12) month period, all applicable damages amounts are doubled.

SECTION 26. HEARINGS.

Except for revocation matters, which are dealt with in Section 27, Franchisee may request a hearing as follows:

(A) Franchisee files a written request within fourteen (14) days of receipt of a decision it wants reviewed with the City Administrator. The request does not stay the effect of the decision or obligation to comply or exercise of any remedy available to the City except as otherwise provided. The City Administrator may conduct the hearing or appoint an alternate hearings officer, who shall not be the person issuing the order or such person’s subordinate. For matters exceeding Twenty-five Thousand and No/100 Dollars (\$25,000) reasonably estimated value in controversy as determined by the City Administrator, the Franchisee may file a request that the City Hearings Examiner conduct the hearing. A reasonable filing fee may be set by the Hearings Examiner or generally applicable ordinances. If not otherwise provided, the filing fee is One Hundred and No/100 Dollars (\$100).

(B) The hearing may be informal and shall be conducted within twenty (20) days, with at least ten (10) days prior notice to both sides. The official conducting the hearing is responsible to keep a record of any materials submitted and shall record the hearing by video or audio tape, for matters involving Twenty-five Thousand and No/100 Dollars (\$25,000) reasonable estimated value amount in controversy. A written decision shall be issued within ten (10) days. Either party may appeal the decision to a court of competent jurisdiction in Spokane County within thirty (30) days.

(C) Except where otherwise provided, at the conclusion of the City hearings process, if Franchisee remains in default, it shall correct said default in fifteen (15) days or as otherwise ordered by the City. In the event the Franchisee does not cure within such time to the City's reasonable satisfaction, the City may draw from the Performance Security any liquidated damages or penalties resulting from Franchisee's default if not already done or await the conclusion of the judicial process. Nothing herein limits the City's right to seek any other relief as provided in Section 26.

(1) If liquidated damages have not been assessed and paid, seek any other legal or equitable relief as provided by contract or at law and/or

(2) await the conclusion of any judicial review process.

(3) In the case of a default of a material provision of this Franchise Agreement, nothing herein limits the City's right to seek to revoke this Franchise Agreement in accordance with Section 27 and/or assert such default as a basis for non-renewal or non-extension of the Franchise Agreement.

(4) Where Franchisee seeks judicial review and ultimately prevails, any money judgment against the City shall be paid or may thereafter be offset by Franchisee, in Franchisee's discretion, against further Franchise Fee payments due to the City. In such event, Franchisee shall notify the City at least sixty (60) days prior to apply the offset.

SECTION 27. REVOCATION.

(A) The City may revoke this Franchise Agreement and rescind all rights and privileges associated with this Franchise Agreement in the following circumstances:

(1) Franchisee fails to perform any material obligation under this Franchise Agreement; or

(2) Franchisee attempts to evade any material provision of this Franchise Agreement or practices any fraud or deceit upon the City or Subscribers.

(B) Prior to revocation of the Franchise Agreement, the City shall give written notice to the Franchisee of its intent to revoke the Franchise Agreement, setting forth the exact nature of the noncompliance. The Franchisee shall have thirty (30) days from such notice to object in writing and to state its reasons for such objection and provide any

explanation. In the event the City has not received a timely and satisfactory response from the Franchisee, it may then seek a revocation of the Franchise Agreement by the City Council in accordance with this section.

(C) Any proceeding regarding revocation shall be conducted by the City Council and open to the public. The Franchisee shall be afforded at least forty-five (45) days prior written notice of such proceeding.

(1) At such proceeding, the Franchisee and City staff shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce evidence. Franchisee may request or the City may refer the matter to be heard by the City's hearing examiner. A complete verbatim record and transcript or video tape shall be made of such proceeding and the cost shall be shared equally between the parties. The City shall maintain a record of such proceeding consistent with its record retention policies. Nothing herein prohibits Franchisee from paying to create a written transcript of the proceeding. The City Council shall hear any Persons interested in the revocation, and shall allow the Franchisee, in particular, an opportunity to state its position on the matter reserving the right to set reasonable time limits or refer extended presentations to the City hearing examiner.

(2) Within ninety (90) days after the hearing, the City Council shall determine whether to revoke the Franchise Agreement; or if the breach at issue is capable of being cured by the Franchisee, it shall direct the Franchisee to take appropriate remedial action within the time and in the manner and on the terms and conditions that are reasonable under the circumstances, as determined in City's sole discretion. If the City Council determines that the Franchise Agreement is to be revoked, the City Council shall issue a written decision and shall transmit a copy of the decision to the Franchisee. The Franchisee shall be bound by the City Council's decision to revoke the Franchise Agreement unless it appeals the decision to a court of competent jurisdiction within thirty (30) days of the date of the decision. Upon timely appeal, the effect of revocation is stayed pending final judicial resolution, but this shall not affect accrual of penalties or the right of the City to take any other enforcement action, including curing the default at Franchisee's expense and liability, also subject to judicial review.

(3) The Franchisee shall be entitled to such relief as the court may deem appropriate.

(D) The Council may in its sole discretion take any lawful action that it deems appropriate to enforce the City's rights under the Franchise Agreement in lieu of revocation.

SECTION 28.
INSURANCE, BONDS, INDEMNITY.

(A) Upon the granting of this Franchise Agreement and following simultaneously with the filing of the acceptance of this Franchise Agreement and at all times during the term of this Franchise Agreement, the Franchisee shall obtain, pay all premiums for, and deliver to the City, written evidence of payment of premiums for and a certificate of insurance, naming the City as an additional insured, with a company licensed to do business in the State of Washington with a rating by A.M. Best and Co. of not less than “A” or equivalent, for the following:

(1) A comprehensive commercial or general liability insurance policy or policies, issued by an insurance carrier licensed to do business in the State of Washington. Said policy or policies shall pay on behalf of and defend the City, its officials, boards, commissions, agents or employees from any and all claims by any Person whatsoever (including the costs, defense costs, attorneys’ fees and interest arising therefrom) on account of personal injury, bodily injury or death of a Person or Persons or damages to property occasioned by the operations of the Franchisee under this Franchise Agreement, or alleged to have been so caused or occurred, with a minimum combined single limit of One Million and No/100 Dollars (\$1,000,000) per occurrence and Five Million and No/100 Dollars (\$5,000,000) in the annual aggregate.

(2) A comprehensive automobile liability insurance policy or policies, issued by an insurance carrier licensed to do business in the State of Washington. Said policy or policies shall pay on behalf of and defend the City, its officials, boards, commissions, agents or employees from any and all claims by any Person whatsoever (including the costs, defense costs, attorneys’ fees and interest arising therefrom) for bodily injury and property damage occasioned by any vehicle operation of the Franchisee, or alleged to have been so caused or occurred, with a minimum liability of One Million and No/100 Dollars (\$1,000,000) per Person and Five Million and No/100 Dollars (\$5,000,000) in any one (1) accident or occurrence.

(B) If the Franchisee undertakes any construction with regard to the Cable System, the cost of which exceeds Five Hundred Thousand and No/100 Dollars (\$500,000), the Franchisee shall maintain a construction bond in accordance with SMC 10.27A.320(B).

(C) Not less than thirty (30) days prior to its expiration, Franchisee shall deliver to City, a substitute, renewal or replacement policy or bond conforming to the provisions of this Franchise Agreement and SMC 10.27A.320.

(D) The Franchisee shall, at its sole cost and expense, indemnify and hold harmless the City, its officials, boards, commissions, agents and employees against any and all third party claims, suits, causes of action, proceedings, and judgments for damage arising out of the construction, reconstruction, use, operation, ownership and maintenance of the Cable System under this Franchise Agreement, except that no such requirement shall

apply where such claims, suits, causes of actions, proceedings, and judgments for damage are occasioned by the active negligence, gross negligence or intentional acts of the City or its officials, boards, commissions, agents and employees while acting on behalf of the City. These damages shall include, but not be limited to, penalties arising out of copyright infringements and damages arising out of any failure by the Franchisee to secure consents from the owners, authorized distributors or licensees of programs to be delivered by the Franchisee's Cable System whether or not any act or omission complained of is authorized, allowed, or prohibited by this Franchise Agreement. Indemnified expenses shall include, but not be limited to, all out-of-pocket expenses, such as costs and attorneys' fees, and shall also include the reasonable value of any services rendered by the City Attorney, Assistant City Attorneys or any outside consultants employed by the City. Franchisee shall not be required to provide indemnification to City for programming cablecast over the PEG Access Channels administered by City. The City shall give the Franchisee timely written notice of any claim or of the commencement of any action, suit or other proceeding covered by the indemnity in this section, but failure to give notice is not a defense to the indemnification obligations except to the extent of actual prejudice. In the event any such claim arises, the City or any other indemnified party shall tender the defense thereof to the Franchisee and the Franchisee shall have the obligation and duty to defend, through services of competent counsel satisfactory to the City, settle or compromise any claims arising thereunder. If the City determines that it is necessary for it to employ separate counsel, the costs for such separate counsel shall be the responsibility of the City.

(E) Failure to comply with the provisions this section shall constitute a material breach of this Franchise Agreement.

(F) Franchisee waives immunity under Title 51 RCW to the extent necessary to fulfill its indemnity obligation. This provision has been specifically negotiated.

SECTION 29. REPORTS.

(A) The City has the right to inspect books and records of Franchisee, which are reasonably necessary to monitor the Franchisee's compliance with the provision of Cable Services under this Franchise Agreement. Within five (5) days of receiving written notice from the City to inspect the Franchisee's books and records under this provision, the Franchisee shall within ten (10) business days or a mutually agreeable date and time, accommodate the City's request at the Franchisee's business office in the City, during Normal Business Hours, and without unreasonably interfering with the Franchisee's business operations. All such documents pertaining to financial matters shall be preserved and maintained in accordance with Franchisee's standard record retention policy except for financial records which are governed by Section 30(D) hereof.

(B) Proprietary and Confidential Information. The City has the right to request a copy of the books and records that are not identified as proprietary or confidential as described under this paragraph. The City shall have a right to inspect within the City, but the Franchisee shall not be required to release information that it reasonably deems to be

proprietary or confidential in nature provided that this shall not prevent the release of such proprietary or confidential documents for purposes of any enforcement proceeding where appropriate legal steps are available to address Franchisee's concerns regarding confidentiality. The City agrees not to oppose any request for confidentiality.

(C) In the event the Franchisee asserts that certain information is proprietary or confidential in nature, the Franchisee shall identify generally the information which it deems proprietary and confidential and the reasons for its confidentiality in writing to the City. Each page of such information provided will be clearly marked as "proprietary and confidential." The City agrees to treat any information disclosed by the Franchisee as confidential and only to disclose it to those employees, representatives, and agents of the City that have a need to know in order to enforce this Franchise Agreement and who agree to maintain the confidentiality of all such information. The City shall not retain information designated as proprietary or confidential by Franchisee for a period of time any longer than necessary to complete its review and any resulting enforcement proceeding therefrom. The City shall certify to Franchisee the destruction of such records.

(D) The Franchisee shall not be required to provide customer information in violation of Section 631 of the Cable Act or any other applicable federal or state privacy law. For purposes of this section, the terms "proprietary or confidential" include, but are not limited to, information relating to the Cable System design, customer lists, marketing plans, financial information unrelated to the calculation of Franchise Fees or rates pursuant to FCC rules, or other information that is reasonably determined by the Franchisee to be competitively sensitive. In the event that the City receives a request under a state "sunshine," public records or similar law for the disclosure of information the Franchisee has designated as confidential, trade secret or proprietary, the City shall notify Franchisee of such request and Franchisee shall have ten (10) business days to file a lawsuit in Spokane County seeking injunctive or other relief should Franchisee choose to oppose such request.

(E) Franchisee shall provide the quarterly customer service report required in SMC 10.27A.410(A). Such reporting requirement may be relieved by the City Administrator in his sole discretion.

(F) File for Public Inspection. Throughout the term of this Franchise Agreement, the Franchisee shall maintain a file available for public inspection in the manner required pursuant to the FCC's rules and regulations.

(G) Complaint File and Reports. Franchisee will keep an accurate and comprehensive file of all Complaints and Franchisee's actions in response to those Complaints in a manner consistent with the privacy rights of Subscribers. Upon thirty (30) days written request, Franchisee will provide a report to the City that contains total number and summary of all Complaints received by category, length of time taken to resolve and action taken to provide resolution.

(H) Route Map. In lieu of SMC 10.27A.410(E) and upon 30 (thirty) days written request, the Franchisee shall only provide a route map that depicts, based upon information available, the general location of the Cable System facilities placed in the Public Rights of Way. The route map shall identify Cable System facilities as aerial or underground and is not required to depict cable types, number of cables, electronic equipment, and drop service lines to individual Subscribers. The Franchisee shall also provide in an electronic format generally compatible with the City's electronic mapping system aerial/underground facilities and the centerline road reference to allow City to add this information to City's GIS program.

SECTION 30.
PAYMENT OF FEES AND COSTS.

(A) From and after the effective date of this Franchise Agreement and throughout the full term of this Franchise Agreement, the Franchisee shall pay to the City five percent (5%) of its annual Gross Revenues in the City, pursuant to 47 U.S.C. § 542. Payment shall be due by forty-five (45) days after the end of each calendar month.

(B) No acceptance by the City of any payment from Franchisee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of payment be construed as a release of any claim the City may have for further or additional sums payable under the provisions of this Franchise Agreement. All amounts paid shall be subject to auditing and recomputation by the City.

(C) Franchisee acknowledges and agrees that the Franchise Fees payable by Franchisee to City pursuant to this Franchise Agreement as well as capital support provided by Franchisee for PEG access equipment and facilities are authorized under the Cable Act and shall not be deemed to be in the nature of a federal, state or local tax.

(D) Any Franchise Fee payments owing pursuant to this Franchise Agreement which remain unpaid more than twenty-five (25) days after the date the payment is due shall be delinquent and shall thereafter accrue interest at twelve percent (12%) per annum.

(E) Franchise Fees Subject to Audit. Upon reasonable prior written notice, during Normal Business Hours, at a location agreed upon with the Franchisee, the City shall have the right to inspect the Franchisee's financial records used to calculate the City's Franchise Fees. The City shall provide to the Franchisee a final report setting forth the City's findings in detail, including any and all substantiating documentation. In the event of an alleged underpayment, the Franchisee shall have thirty (30) days from the receipt of the report to provide the City with a written response agreeing to or refuting the results of the audit, including any substantiating documentation. Franchisee shall review and the City shall be entitled to review Franchisee's historical financial records used to calculate the City's Franchise Fees consistent with the currently applicable state statute of limitations.

(F) Failure to comply with this section shall constitute a material breach of the Franchise Agreement.

SECTION 31.
SERVICE OF NOTICE.

(A) All notices required to be given in writing under this Franchise Agreement shall be sent via registered or certified mail or shall be deemed to be given when delivered personally to any officer of Franchisee or City Administrator forty-eight (48) hours after it is deposited in the United States mail in a sealed envelope, postage prepaid thereon, addressed to the party to whom notice is being given, as follows:

If to City: City Administrator
 City of Spokane
 5th Floor Municipal Building
 W 808 Spokane Falls Boulevard
 Spokane WA 99201-3333

If to Franchisee:
 General Manager
 Comcast Cable Communications Management, LLC
 1717 East Buckeye Avenue
 Spokane, Washington 99207

Non-binding Government Affairs Department
Courtesy Comcast Cable Communications Management, LLC
Copy: 15815 25th Avenue W
 Lynnwood, Washington 98087

Franchisee shall maintain within the City, throughout the term of this Franchise Agreement, an address for service of notice by mail. Such addresses may be changed by either party upon notice to the other party given as provided in this section.

SECTION 32.
SUCCESSORS AND ASSIGNS.

Subject to the requirements contained in this Franchise Agreement, this Franchise Agreement shall be binding on any successors or assigns of Franchisee.

SECTION 33.
CUSTOMER SERVICE STANDARDS.

(A) Customer Service Standards. Franchisee shall satisfy the consumer protection and service standards as outlined in SMC 10.27A.700 during the term of this Franchise Agreement. The City hereby further adopts the customer service standards set forth in Part 76, §76.309 of the FCC's rules and regulations, as amended. The Franchisee shall comply in all respects with SMC 10.27A.700 and the customer service requirements established by the FCC.

(B) Subscriber Bills. Subscriber bills shall be designed in such a way as to present the information contained therein clearly and comprehensibly to Subscribers, and in a way

that (1) is not misleading and (2) does not omit material information. Notwithstanding anything to the contrary, the Franchisee may, in its sole discretion, consolidate costs on Subscriber bills as may otherwise be permitted by Section 622(c) of the Cable Act (47 U.S.C. §542(c)).

(C) Privacy Protection. The Franchisee shall comply with all applicable federal privacy laws pertaining to Cable Services, including Section 631 of the Cable Act and regulations adopted pursuant thereto. The City reserves any right it may have to impose subscriber privacy standards if the Franchisee is no longer subject to federal requirements concerning subscriber privacy.

SECTION 34. REMEDIES CUMULATIVE.

The rights and remedies reserved to the City by this Franchise Agreement are cumulative and shall be in addition to, and not in derogation of, any other rights or remedies which the City may have with the respective subject matter of this Franchise Agreement. A waiver of rights or remedies shall not affect any other rights or times.

SECTION 35. MISCELLANEOUS PROVISIONS.

(A) Force Majeure. The Franchisee shall not be held in default under, or in noncompliance with, the provisions of this Franchise Agreement due to acts of God or impossibility of performance as recognized in the common law of the State of Washington, to the extent and for such period as such conditions persist. For purposes of enforcement of SMC 10.27A.700, conditions outside of Normal Operating Conditions are a basis to excuse Franchisee's performance, but only to the extent and for such period as such conditions persist. Conditions outside Normal Operating Conditions may also excuse other franchise obligations where they effectively render performance infeasible or impossible, to the extent and for such period as such conditions persist, but this does not apply as to conditions within the Franchisee's reasonable control.

(B) Severability. If any section, subsection, sentence, clause, phrase, or other portion of this Franchise Agreement is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

(C) No Third-Party Beneficiaries. Nothing in this Franchise Agreement is or was intended to confer third-party beneficiary status on any member of the public to enforce the terms of this Franchise Agreement.

(D) In-Kind Cable-Related Contributions.

(1) To the extent lawful under federal law, the Franchisee may, if Franchisee so chooses, provide the City with a written list of "in-kind cable-related contributions" (as that term is defined by the FCC in the Section 621 Order) that

the Franchise Agreement requires Franchisee to provide (including but not limited to the Complimentary Service requirements in Section 16(C) and any PEG Transport required by Section 19(H)). Within ninety (90) days of receiving the aforementioned list, the City will notify the Franchisee whether, with respect to each identified in-kind cable-related contribution, the Franchisee is relieved, or temporarily relieved, of its obligations or is required to comply, subject either to the Franchisee taking an offset to the Franchise Fee payments payable under Section 30(A) as may be permitted by the Section 621 Order or to the Franchisee and the City agreeing to a separately identified charge payable by the City to the Franchisee.

(2) In the event the Section 621 Order is stayed or overturned in whole or in part by action of the FCC or through judicial review, the City and the Franchisee will meet promptly to discuss what impact such action has on the provision of the in-kind cable-related contributions to which this section applies. If allowed by subsequent state and federal law, the City may require Franchisee to provide Complimentary Service to the sites set forth in Exhibit A and PEG transport as provided in Section 19(H) for the remaining Franchise term at no charge. Nothing herein waives the City’s right to enforce Franchisee’s compliance with all lawful obligations contained in this Franchise Agreement.

(E) Contract: State and Federal Law. This Franchise Agreement has been reviewed by both the City and Franchisee and each party agrees that the document is valid under applicable state and federal law and each party agrees to be bound by its provisions subject to Section 35 (B) herein. Subject to this protection both parties reserve any rights, substantive or procedural, they may have under federal or state law.

SECTION 36.
APPLICABLE LAW.

This Franchise Agreement shall be construed in accordance with and governed by the laws of the State of Washington, except where preempted by federal law. Venue for any court proceedings under this Franchise Agreement shall be in Spokane County. This does not apply to FCC hearings.

PASSED by the City Council on _____, 2020

Council President

Attest:

Approved as to form:

City Clerk

Assistant Attorney

Mayor

Date

December 8, 2020
EFFECTIVE DATE

ACCEPTED: This Franchise Agreement is accepted, and we agree to be bound by its terms and conditions.

COMCAST CABLE COMMUNICATIONS
MANAGEMENT, LLC

Date: _____, 2020

By: _____

Its: _____

SWORN TO BEFORE ME this

_____ day of _____, 2020

NOTARY PUBLIC

EXHIBIT A

Free Service to Public Buildings

<u>NAME</u>	<u>ADDRESS</u>
1. City Hall	808 W Spokane Falls Blvd
2. Cops West	1901 W Boone Ave
3. COPS, Neva-Wood	4705 N Addison St
4. Community Access Center	104 W 3 rd St., Suite B
5. 4 separate PEG playback locations – all at City Hall	808 W Spokane Falls Blvd



Agenda Sheet for City Council Meeting of:

04/10/2023

Date Rec'd	3/29/2023
Clerk's File #	OPR 2023-0394
Renews #	
Cross Ref #	OPR 2021-0132
Project #	
Bid #	
Requisition #	

Submitting Dept	COMMUNICATIONS & MARKETING
Contact Name/Phone	JEFF BOLLINGER 6359
Contact E-Mail	JBOLLINGER@SPOKANECITY.ORG
Agenda Item Type	Contract Item
Agenda Item Name	1940 CME CABLE CHANNEL AGREEMENT WITH COMMUNITY MINDED ENTERPRISES

Agenda Wording

The City of Spokane contracts with Community Minded Enterprises to operate CMTV 14, the City of Spokane's Community Access television channel as part of the City's Cable Franchise with Comcast Cable.

Summary (Background)

As part of the Franchise CME operates CMTV at no additional charge, which is viewable by Comcast Subscribers without the need for additional equipment beyond that required to receive the Basic Cable Tier. This contract enables the City to reimburse KSPS for capital equipment purchases related to PEG video production and distribution.

Lease? NO Grant related? YES Public Works? NO

Fiscal Impact

Expense \$ 70,000.00

Select \$

Select \$

Select \$

Budget Account

1940-37330-18900-54201-99999

#

#

#

Approvals

Dept Head CODDINGTON, BRIAN

Division Director CODDINGTON, BRIAN

Finance WALLACE, TONYA

Legal PICCOLO, MIKE

For the Mayor ORMSBY, MICHAEL

Council Notifications

Study Session\Other Finance 1/23/23

Council Sponsor CM Stratton

Distribution List

ywang@spokanecity.org

bcoddington@spokanecity.org

jbollinger@spokanecity.org

laga@spokanecity.org

ACCOUNTING - GRANTS MURRAY, MICHELLE johnh@community-minded.org (John Hindman)

Committee Agenda Sheet

Finance & Administration Committee

Submitting Department	Communications/Channel Five
Contact Name	John Delay
Contact Email & Phone	jdelay@spokanecity.org ext 6355
Council Sponsor(s)	Stratton
Select Agenda Item Type	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion Time Requested:
Agenda Item Name	CME Cable Channel Agreement with Community Minded Enterprises
Summary (Background) *use the Fiscal Impact box below for relevant financial information	The City of Spokane Contracts with Community Minded Enterprises to operate CMTV 14, the City of Spokane’s Community access Television Channel as part of the City’s Cable Franchise with Comcast Cable. This contract enables the City to reimburse KSPS for capital equipment purchases related to PEG video production and distribution
Proposed Council Action	Approval of contract to fulfill Comcast Cable Franchise Requirements.
Fiscal Impact	
Total Cost: <u>\$70,000</u>	
Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
Funding Source <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring	
Specify funding source: Comcast Cable PEG Fees	
Expense Occurrence <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring	
Other budget impacts: (revenue generating, match requirements, etc.)	
Operations Impacts (If N/A, please give a brief description as to why)	
What impacts would the proposal have on historically excluded communities? PEG Channels are provided by Comcast on the basic cable (lowest tier) of programming.	
How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities? There is currently no way to determine the data on Comcast subscribers	
How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution? There is currently no way to determine the data on Comcast subscribers.	
Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others? This contract fulfills the adopted Comcast Cable Franchise Agreement.	



City of Spokane
**COMMUNITY ACCESS
TELEVISION AGREEMENT**

This Agreement is made and entered into by and between the **CITY OF SPOKANE** as (“City”), a Washington municipal corporation, and **COMMUNITY MINDED ENTERPRISES**, whose address is 104 West Third Street, Spokane, Washington 99201 as (“CME”), individually hereafter referenced as a “party”, and together as the “parties”.

WHEREAS, the City of Spokane has obtained certain channel resources and capital financing as a result of a Franchise renewal, C35970, with the local Cable Operator, Comcast Cable Communications Management, LLC, (“Comcast”); and

WHEREAS, the Franchise documents include the Franchise Ordinance itself which is attached hereto as Exhibit B and incorporated herein; and

WHEREAS, CME has agreed to provide community programming; and

WHEREAS, it does not appear there is any other entity capable or qualified to use the reserved channel resource identified above and CME Proposal appears to be in the public interest;

The parties agree as follows:

1. DESIGNATION OF CME AS CHANNEL MANAGER.

The City designates CME as Channel Manager of the channel reserved in the Comcast Franchise. This designation terminates if the Comcast Franchise Agreement terminates or expires. The designation is in the nature of a quitclaim authorization, to the extent of the City's power and authority to make such designation, without any promises or warranties. This section and Section 2 comprise the entire obligations of the City under this Agreement, notwithstanding any other provision.

2. 2023 CAPITAL FUNDING. Subject to applicable Franchise requirements as provided in the cable franchise between the City and the Comcast cable company (C35970) for PEG Fee source expenditures, the City agrees to pay CME from the “PEG Fee” resource identified in Section 19 J of the franchise, a grant up to **SEVENTY THOUSAND AND NO/100 DOLLARS (\$70,000.00)** for capital expenditures for the calendar year 2023. Future grant funding at this value is not a guarantee, and is subject to change on a yearly basis.

A. CME agrees to continue to present community programming on the cable channel designated for this purpose and represents to the City that it has adequate

operational funding and other resources necessary to accomplish this function;
and

- B. CME understands its obligation to be sure that all expenditures of PEG fee grant monies are consistent with any Comcast franchise restrictions for use of said monies. CME shall furnish the City with reasonable proof, upon request, that its use meets cable franchise requirements. In the event CME cannot do so to City's satisfaction, CME is responsible to reimburse the City any reduction in PEG funding obligations by Comcast under Section 19 J (4). CME further agrees to indemnify and hold harmless the City from any other loss or liability for failure to the City from failure to satisfy Comcast; and
- C. This is a grant from PEG fee resources only. Under no circumstances shall the City be independently liable to CME for payment of any sums under this agreement, directly or indirectly by way of reduction of other monies due and payable by Comcast.

3. FUNDING APPROVAL. PEG funds and expenses will be approved upon submission of expense receipts to the City.

4. TERM/NOTICES

A. The Agreement takes effect January 1, 2023, and expires December 31, 2023
PROVIDED:

- i. It automatically expires if the current Comcast Franchise expires or is otherwise terminated or substantially modified for any reason unless extended in writing by the City.
- ii. It may be terminated without any requirement of showing cause by either party, upon sixty (60) days written notice; PROVIDED the City may terminate the Agreement upon a lesser notice period if it reasonably determines that it is exposed to any loss or liability because of continuation of the Agreement,

B. Notices shall be given:

- i. To the City: Attention: Deputy Mayor, 808 W. Spokane Falls Blvd., Spokane WA 99201.
- ii. To CME: Attention: General Manager, 421 West Riverside Avenue, Suite 353, Spokane, Washington 99201.

5. CITY OF SPOKANE BUSINESS LICENSE.

Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid annual business registration. CME shall be responsible for contacting the State of Washington Business License Services at <http://bls.dor.wa.gov> or 1-800-451-7985 to obtain a business registration. If the Firm does not believe it is required to obtain a business registration, it may contact the City's Taxes and Licenses Division at (509) 625-6070 to request an exemption status determination.

6. SOCIAL EQUITY REQUIREMENTS / NON-DISCRIMINATION.

No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Agreement because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation including gender expression or gender identity, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities. CME agrees to comply with, and to require that all subcontractors comply with, federal, state and local nondiscrimination laws, including but not limited to: the Civil Rights Act of 1964, the Rehabilitation Act of 1973, the Age Discrimination in Employment Act, and the American's With Disabilities Act, to the extent those laws are applicable.

7. INDEMNIFICATION.

CME shall defend, indemnify, and hold the City and its officers and employees harmless from all claims, demands, or suits at law or equity asserted by third parties for bodily injury (including death) and/or property damage which arise from CME's negligence or willful misconduct under this Agreement, including attorneys' fees and litigation costs; provided that nothing herein shall require a Firm to indemnify the City against and hold harmless the City from claims, demands or suits based solely upon the negligence of the City, its agents, officers, and employees. If a claim or suit is caused by or results from the concurrent negligence of CME's agents or employees and the City, its agents, officers and employees, this indemnity provision shall be valid and enforceable to the extent of the negligence of CME, its agents or employees. CME specifically assumes liability and agrees to defend, indemnify, and hold the City harmless for actions brought by CME's own employees against the City and, solely for the purpose of this indemnification and defense, CME specifically waives any immunity under the Washington State industrial insurance law, or Title 51 RCW. CME recognizes that this waiver was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation. The indemnity and agreement to defend and hold the City harmless provided for in this section shall survive any termination or expiration of this agreement.

8. INSURANCE.

During the period of the Agreement, CME shall maintain in force at its own expense, each insurance noted below with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW:

- A. **Worker's Compensation Insurance** in compliance with RCW 51.12.020, which requires subject employers to provide workers' compensation coverage for all their subject workers and Employer's Liability Insurance in the amount of \$1,000,000;
- B. **General Liability Insurance** on an occurrence basis, with a combined single limit of not less than \$1,000,000 each occurrence for bodily injury and property damage. It shall include contractual liability coverage for the indemnity provided under this agreement. It shall provide that the City, its officers and employees are additional insureds but only with respect to CME's services to be provided under this Agreement;
 - i. Acceptable **supplementary Umbrella insurance** coverage combined with CMS's General Liability insurance policy must be a minimum of \$1,000,000, in order to meet the insurance coverage limits required in this Agreement; and

- C. **Automobile Liability Insurance** with a combined single limit, or the equivalent of not less than \$1,000,000 each accident for bodily injury and property damage, including coverage for owned, hired and non-owned vehicles.

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without thirty (30) days written notice from CME or its insurer(s) to the City. As evidence of the insurance coverage(s) required by this Agreement, CME shall furnish acceptable Certificates of Insurance (COI) to the City at the time it returns this signed Agreement. The certificate shall specify the City of Spokane as "Additional Insured" specifically for Firm's services under this Agreement, as well as all of the parties who are additional insureds, and include applicable policy endorsements, the thirty (30) day cancellation clause, and the deduction or retention level. CME shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

9. DEBARMENT AND SUSPENSION.

CME has provided its certification that it is in compliance with and shall not contract with individuals or organizations which are debarred, suspended, or otherwise excluded from or ineligible from participation in Federal Assistance Programs under Executive Order 12549 and "Debarment and Suspension", codified at 29 CFR part 98.

10. AUDIT.

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

11. ASSIGNMENT AND SUBCONTRACTING.

CME shall not assign or subcontract its obligations under this Agreement without the City's written consent, which may be granted or withheld in the City's sole discretion. Any subcontract made by CME shall incorporate by reference this Agreement, except as otherwise provided. CME shall ensure that all subcontractors comply with the obligations and requirements of the subcontract. The City's consent to any assignment or subcontract does not release CME from liability or any obligation within this Agreement, whether before or after City consent, assignment or subcontract.

12. TERMINATION.

Either party may terminate this Agreement, with or without cause, by sixty (60) days written notice to the other party. In the event of such termination, the City shall pay CME for all work previously authorized and performed prior to the termination date.

13. STANDARD OF PERFORMANCE.

The standard of performance applicable to Firm's services will be the degree of skill and diligence normally employed by professional Firms performing the same or similar services at the time the services under this Agreement are performed.

14. OWNERSHIP AND USE OF RECORDS AND DOCUMENTS.

Original documents, drawings, designs, reports, or any other records developed or created under this Agreement shall belong to and become the property of the City. All records submitted by the City to CME shall be safeguarded by CME. CME shall make such data, documents and files

available to the City upon the City's request. If the City's use of CME's records or data is not related to this project, it shall be without liability or legal exposure to CME.

Under Washington State Law (reference RCW Chapter 42.56, the *Public Records Act* [PRA]) all materials received or created by the City of Spokane are **public records** and are available to the public for viewing via the City Clerk's Records (online) or a valid Public Records Request (PRR).

15. ANTI KICK-BACK.

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

16. MISCELLANEOUS PROVISIONS.

- A. **Amendments/Modifications:** This Agreement may be modified by the City in writing when necessary, and no modification or Amendment of this Agreement shall be effective unless signed by an authorized representative of each of the parties hereto.
- B. CME, at no expense to the City, shall comply with all laws of the United States and Washington, the Charter and ordinances of the City of Spokane; and rules, regulations, orders and directives of their administrative agencies and officers. Without limiting the generality of this paragraph, CME shall comply with the requirements of this Section.
- C. This Agreement shall be construed and interpreted under the laws of Washington. The venue of any action brought shall be in a court of competent jurisdiction, located in Spokane County, Washington.
- D. **Captions:** The titles of sections or subsections are for convenience only and do not define or limit the contents.
- E. **Severability:** If any term or provision is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected, and each term and provision shall be valid and enforceable to the fullest extent permitted by law.
- F. **Waiver:** No covenant, term or condition or the breach shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition shall not be deemed a waiver of any preceding or succeeding breach of the same or any other covenant, term of condition. Neither the acceptance by the City of any performance by CME after the time the same shall have become due nor payment to CME for any portion of the Work shall constitute a waiver by the City of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by the City in writing.
- G. **Entire Agreement:** This document along with any exhibits and all attachments, and subsequently issued addenda, comprises the entire agreement between the City and CME. If conflict occurs between Agreement documents and applicable laws, codes, ordinances or regulations, the most stringent or legally binding requirement shall govern and be considered a part of this Agreement to afford the City the maximum benefits.
- H. **No personal liability:** No officer, agent or authorized employee of the City shall be personally responsible for any liability arising under this Agreement, whether expressed or implied, nor for any statement or representation made or in any connection with this Agreement.

IN WITNESS WHEREOF, in consideration of the terms, conditions and covenants contained, or attached and incorporated and made a part, the parties have executed this Agreement by having legally-binding representatives affix their signatures below.

COMMUNITY MINDED ENTERPRISES

CITY OF SPOKANE

By _____
Signature Date

By _____
Signature Date

Type or Print Name

Type or Print Name

Title

Title

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Attachments that are part of this Agreement:

- Exhibit A – Certificate Regarding Debarment
- Exhibit B –Franchise Renewal Agreement C35970

EXHIBIT A

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
INELIGIBILITY AND VOLUNTARY EXCLUSION**

1. The undersigned (i.e., signatory for the Subrecipient / Contractor / Consultant) certifies, to the best of its knowledge and belief, that it and its principals:
 - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - b. Have not within a three-year period preceding this contract been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;
 - c. Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and,
 - d. Have not within a three-year period preceding this contract had one or more public transactions (federal, state, or local) terminated for cause or default.

2. The undersigned agrees by signing this contract that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.

3. The undersigned further agrees by signing this contract that it will include the following clause, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

1. The lower tier contractor certified, by signing this contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
2. Where the lower tier contractor is unable to certify to any of the statements in this contract, such contractor shall attach an explanation to this contract.

4. I understand that a false statement of this certification may be grounds for termination of the contract.

<hr/> Name of Subrecipient / Contractor / Consultant (Type or Print)	<hr/> Program Title (Type or Print)
<hr/> Name of Certifying Official (Type or Print)	<hr/> Signature
<hr/> Title of Certifying Official (Type or Print)	<hr/> Date (Type or Print)



Agenda Sheet for City Council Meeting of:
11/09/2020

Date Rec'd	10/29/2020
Clerk's File #	ORD C35970
Renews #	

Submitting Dept	COMMUNICATIONS	Cross Ref #	
Contact Name/Phone	MARLENE FEIST X6505	Project #	
Contact E-Mail	MFEIST@SPOKANECITY.ORG	Bid #	
Agenda Item Type	First Reading Ordinance	Requisition #	
Agenda Item Name	0330-CABLE TELEVISION FRANCHISE WITH COMCAST		

Agenda Wording

Granting a non-exclusive Franchise Agreement to Comcast Cable Communications Mgmt., LLC, to use public rights-of-way and other public places in the City of Spokane for the purpose of providing cable TV services with a variety of terms & conditions.

Summary (Background)

Comcast has provided cable television services in the City for some time. The last franchise with the company was entered into in 2005 and continued through November 2017; it had been administratively extended while negotiations continued. Comcast and the City have completed negotiations and present this 10-year non-exclusive cable franchise for approval. The goal is to ensure that our City has modern systems capable of serving future needs of our citizens & businesses.

<u>Fiscal Impact</u>	Grant related? NO	<u>Budget Account</u>
	Public Works? NO	

Select	\$	#
Select	\$	#
Select	\$	#
Select	\$	#

<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	DELAY, JOHN	<u>Study Session\Other</u>	PIES 7/27/2020 &
<u>Division Director</u>	CODDINGTON, BRIAN	<u>Council Sponsor</u>	Breean Beggs
<u>Finance</u>	HUGHES, MICHELLE	<u>Distribution List</u>	
<u>Legal</u>	PICCOLO, MIKE	mfeist@spokanecity.org	
<u>For the Mayor</u>	ORMSBY, MICHAEL	jdelay@spokanecity.org	
<u>Additional Approvals</u>	tszamblen@spokanecity.org		
<u>Purchasing</u>	terry_davis@comcast.com		
	steven_holmes@cable.comcast.com		
	brian.grogan@lawmoss.com		

Briefing Paper

Public Infrastructure, Environment & Sustainability (PIES)

Division & Department:	Communications Department
Subject:	Updated Cable Franchise with Comcast
Date:	10/26/2020
Contact (email & phone):	Marlene Feist; mfeist@spokanecity.org ; (509) 625-6505
City Council Sponsor:	Breean Beggs
Executive Sponsor:	Marlene Feist, PW Director of Strategic Development
Committee(s) Impacted:	PIES, Urban Experience, Finance
Type of Agenda item:	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
Alignment: (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	This franchise meets goals around technology availability and economic development.
Strategic Initiative:	Sustainable Resources
Deadline:	November anticipated approval of franchise
Outcome: (deliverables, delivery duties, milestones to meet)	Approval of an updated cable franchise with provider Comcast.

Background/History:

Comcast has operated in the City of Spokane for some time. The last franchise with the company was entered into in 2005 and continued through November 2017. The franchise has been extended while negotiations for a new franchise proceeded. Comcast had been our only cable provider for some time, but this is a non-exclusive franchise for such services. TDS Metrocom received a cable franchise earlier this year, which will provide citizens with additional choice.

Executive Summary:

The City's Legal and Communications departments have been meeting with representatives of Comcast to negotiate an updated cable franchise. Comcast's previous franchise with the City was approved in November 2005 and expired in November 2017; terms of the franchise were extended while negotiations for a new franchise have continued. The terms are consistent with those in the franchise of the City's new cable entrant, TDS Metrocom.

With this, and other cable television franchises, the City is working to ensure that our City has modern systems capable of serving the future needs and interests of our citizens and businesses. The City wants to ensure the availability of community programming, maintain our public right of way, and provide broad access to services.

Here are the highlights:

- Franchise Term Length: 10 years
- Franchise Fee: 5 percent
- Utility Tax: 6 percent
- PEG Channels: 6 channels (2 High-Definition and 4 Standard Definition Channels); CityCable 5 maintains the same location: Channel 5 in standard definition and Channel 325 in HD.
- PEG Financial Support: 0.7% of gross revenues for PEG Capital costs. These fees support capital expenses associated with the City's government-access channels as well as Community Minded TV and Education Access channels.
- Technology: As a legacy system that already serves the entire City, Comcast will maintain a hybrid fiber coaxial, fiber-to-the-node system architecture, capable of delivering high-quality

digital signals that meet or exceed FCC requirements.

- **Service area:** Comcast's service area already includes the entire City, and annexed areas shall be provided service within 12 months of notification of the annexation.
- **Other:** Comcast will comply with the City's pavement cut policy and similar policies and will comply with the customer service and related standards found in SMC 10.27.

Budget Impact:

Approved in current year budget? Yes No N/A

Annual/Reoccurring expenditure? Yes No N/A

If new, specify funding source:

Other budget impacts:

Operations Impact:

Consistent with current operations/policy? Yes No N/A

Requires change in current operations/policy? Yes No N/A

Specify changes required:

Known challenges/barriers:



Expenditure Control Form

1. All requests being made must be accompanied by this form.
2. Route **ALL** requests to the Finance Department for signature.
3. If request is greater than \$100,000 it requires signatures by Finance and the City Administrator. Finance Dept. will route to City Administrator.

Today's Date: 10/28/2020 **Type of expenditure:** Goods Services

Department:

Approving Supervisor:

Amount of Proposed Expenditure: N/A

Funding Source: N/A

Please verify correct funding sources. Please indicate breakdown if more than one funding source.

Why is this expenditure necessary now?

What are the impacts if expenses are deferred?

What alternative resources have been considered?

Description of the goods or service and any additional information?

Person Submitting Form/Contact: Marlene Feist mfeist@spokanecity.org

FINANCE SIGNATURE:

CITY ADMINISTRATOR SIGNATURE:

**CABLE COMMUNICATIONS FRANCHISE
BY AND BETWEEN
CITY OF SPOKANE, WASHINGTON
AND
COMCAST CABLE
COMMUNICATIONS MANAGEMENT, LLC**

October 8, 2020

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CABLE COMMUNICATIONS FRANCHISE ORDINANCE NO. _____

An Ordinance renewing a non-exclusive Franchise Agreement to Comcast Cable Communications Management, LLC, including any prior transfers to this entity, a corporation organized under the laws of the State of Washington, to occupy and use the public rights-of-way and, upon approval, other public places in the City of Spokane, for the purpose of providing Cable Service to the public, for a term of ten (10) years, subject to regulation by federal, state and local authority and specifying other limitations, terms and conditions governing the exercise of said Franchise Agreement.

THE CITY OF SPOKANE DOES ORDAIN:

SECTION 1.
PURPOSE AND INTENT.

This Franchise Agreement is by and between the City of Spokane, a Washington municipal corporation (“City”), and Comcast Cable Communications Management, LLC (“Franchisee”).

WHEREAS, the City, pursuant to Chapter 10.27A of the Municipal Code of the City of Spokane, Washington (hereinafter “SMC 10.27A”), is authorized to grant one or more non-exclusive revocable Franchise Agreements to construct, maintain and operate a Cable System within the City; and,

WHEREAS, pursuant to SMC 10.27A and in accordance with Section 626 of the Cable Communications Policy Act of 1984, Franchisee has requested renewal of its Cable Communications Franchise Agreement, and after negotiations with Franchisee, the City has determined that it is in the best interest of the City and its residents to renew the Franchise Agreement with Franchisee; and,

WHEREAS, the City has, following required and reasonable notice, conducted a full public hearing, affording all persons concerned with the analysis and consideration of the technical ability, financial condition, legal qualifications and general character of the Franchisee; and,

WHEREAS, the City, after such consideration, analysis and deliberation, has approved and found sufficient the technical ability, financial condition, legal qualification and character of said Franchisee; and,

WHEREAS, the City has determined that it is in the best interests of and consistent with the health, safety and welfare of the citizens of the City to renew the Franchise Agreement to the Franchisee to operate a Cable System within the confines of the City and on the terms and conditions hereinafter set forth; and,

WHEREAS, the Franchisee has agreed to be bound by the conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the renewal of the franchise pursuant to this Franchise Agreement, the Franchisee hereby promises to comply with the provisions of this Franchise Agreement and SMC 10.27A. In consideration of the Franchisee’s promises, the City hereby grants a franchise as hereinafter set forth:

SECTION 2.
TITLE.

THIS AGREEMENT may be referred to as the “City of Spokane, Washington/Comcast Cable Communications Management, LLC Cable Communications Franchise Agreement.”

SECTION 3.
DEFINITIONS.

For the purpose of this Franchise Agreement the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is mandatory and the word “may” is permissive. Words not defined shall be given their common and ordinary meanings.

- (A) “Access Channel” shall mean any Channel set aside for Non-commercial public use, educational use, or governmental use without a Channel usage charge.
- (B) “Access User” shall mean any Person entitled to make use of an Access Channel consistent with the intended purpose of the Channel. [Cross reference SMC 10.27A.510]
- (C) “Basic Cable Service” shall mean any Service Tier which includes the retransmission of local television broadcast signals.
- (D) “Cable Act” shall mean the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 et seq., as amended by the Cable Television Consumer Protection and Competition Act of 1992, as further amended by the Telecommunications Act of 1996, as further amended from time to time.
- (E) “Cable Service” or “Service” shall mean (A) the one-way transmission to Subscribers of (i) Video Programming or (ii) Other Programming Service, and (B) Subscriber interaction, if any, which is required for the selection or use of such Video Programming or Other Programming Service.
- (F) “Cable System” or “System” shall mean a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes Video Programming and which is provided to multiple Subscribers within a community, but such term shall not include:
 - (1) a facility that serves only to retransmit the television signals of one (1) or more television broadcast stations;
 - (2) a facility that serves only Subscribers without using any Public Right of Way;
 - (3) a facility of a common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. § 201 et seq., except that such facility shall be considered

a Cable System (other than for purposes of 47 U.S.C. § 541(c)) to the extent such facility is used in the transmission of Video Programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services;

(4) an open video system that complies with 47 U.S.C. § 573; or

(5) any facilities of any electric utility used solely for operating its electric utility system.

(G) “Channel” shall mean bandwidth in the electromagnetic spectrum capable of carrying a television channel (as television channel is defined by FCC regulation).

(H) “City” shall mean the City of Spokane, Washington. For purposes of enforcement of any provision, “City” further means the City Administrator or their designee except where otherwise specified.

(I) “Complaint” shall mean a Subscriber written contact (via U.S. mail, email or other electronic means) with the City to express a grievance or dissatisfaction concerning Cable Service. Complaints do not include matters not within the scope of this Franchise Agreement or Ch. 10.27A SMC.

(J) “Converter” shall mean an electronic tuning device which converts transmitted signals to a frequency which permits their reception on a television receiver.

(K) “Council” shall mean the legislative body of the City of Spokane, Washington.

(L) “FCC” shall mean the Federal Communications Commission or any legally appointed or designated agent or successor.

(M) “Franchise Agreement” or “Franchise” shall mean the nonexclusive right and authority to construct, maintain, and operate a Cable System through use of Public Rights of Way in the City pursuant to a contractual agreement approved by the City Council and executed by the City and Franchisee.

(N) “Franchise Area” shall mean the entire geographic area within the City as it is now constituted or may in the future be constituted. [Cross reference SMC 10.27A.720]

(O) “Franchisee” shall mean Comcast Cable Communications Management, LLC, including any lawful successor, transferee or assignee of the original Franchisee.

(P) “Franchise Fee” means consideration paid by Franchisee for the privilege to operate a Cable System in the Franchise Area as set forth in Section 4, in accordance with Section 622 of the Cable Act and federal law.

(Q) “GAAP” means Generally Accepted Accounting Principles.

(R) “Gross Revenues” means all amounts derived by the Franchisee and/or an affiliate from the operation of Franchisee’s Cable System to provide Cable Services within the Franchise Area. Gross Revenues include, by way of illustration and not limitation:

- (1) Fees for Cable Services, regardless of whether such Cable Services are provided to residential or commercial Subscribers, including revenues derived from the provision of all Cable Services (including but not limited to pay or premium Cable Services, digital Cable Services, pay-per-view, pay-per-event, audio channels and video-on-demand Cable Services);
- (2) Installation, disconnection, reconnection, downgrade, upgrade, maintenance, repair, or similar charges associated with Subscriber Cable Service;
- (3) Fees paid to Franchisee for Channels designated for commercial/leased access use, which shall be allocated on a pro rata basis using total Cable Service Subscribers within the Franchise Area;
- (4) Converter, remote control, and other Cable Service equipment rentals, leases, or sales (but not revenues from equipment used exclusively for the provision of services that are not Cable Service);
- (5) Advertising Revenues as defined herein;
- (6) Fees including, but not limited to: (1) late fees, convenience fees and administrative fees which shall be allocated in accordance with GAAP; and (2) Franchise fees;
- (7) Commissions from home shopping channels and other Cable Service revenue sharing arrangements which shall be allocated on a pro rata basis using total Cable Service Subscribers within the Franchise Area.
- (8) “Advertising Revenues” shall mean amounts derived from sales of advertising that are made available to Franchisee’s Cable System Subscribers within the Franchise Area and shall be allocated on a pro rata basis using total Cable Service Subscribers reached by the advertising. Additionally, Franchisee agrees that Gross Revenues subject to Franchise Fees shall include all commissions, representative fees, affiliated entity fees, or rebates paid to National Cable Communications and Comcast Spotlight or their successors associated with sales of advertising on the Cable System within the City allocated according to this paragraph using total Cable Service Subscribers reached by the advertising.
- (9) “Gross Revenues” shall not include:
 - a) Actual Cable Services bad debt write-offs, except any portion which is subsequently collected which shall be allocated on a pro rata basis using Cable Services revenue as a percentage of total Franchisee revenues within the Franchise Area;

- b) Any taxes and/or fees on services furnished by Franchisee imposed on Subscribers by any municipality, state or other governmental unit, provided that the Franchise Fee and the FCC user fee shall not be regarded as such a tax or fee;
- c) Public, Educational and Governmental (PEG) Fees collected by Franchisee from Subscribers;
- d) Contra expenses including but not limited to launch fees and marketing co-op fees to the extent consistent with GAAP; and
- e) Unaffiliated third-party advertising sales agency fees or commissions which are reflected as a deduction from revenues to the extent consistent with GAAP.

(10) To the extent revenues are derived by Franchisee for the provision of a discounted bundle of services which includes Cable Services and non-Cable Services, Franchisee shall calculate revenues to be included in Gross Revenues using a methodology that allocates revenue on a pro rata basis when comparing the bundled service price and its components to the sum of the published rate card prices for such components. Except as required by specific federal, state or local law, it is expressly understood that equipment may be subject to inclusion in the bundled price at full rate card value. This calculation shall be applied to every bundled service package containing Cable Service from which Franchisee derives revenues in the Franchise Area. The City reserves its right to review and to challenge Franchisee's calculations.

(11) Franchisee reserves the right to change the allocation methodologies set forth in this definition to meet standards mandated by the Financial Accounting Standards Board ("FASB"), Emerging Issues Task Force ("EITF") and/or the U.S. Securities and Exchange Commission ("SEC"). City acknowledges and agrees that Franchisee shall calculate Gross Revenues in a manner consistent with GAAP where applicable; however, the City reserves its right to challenge Franchisee's calculation of Gross Revenues, including Franchisee's interpretation of GAAP and Franchisee's interpretation of FASB, EITF and SEC directives. Franchisee agrees to explain and document the source of any change it deems required by FASB, EITF and SEC on the first quarterly payment statement implementing the change. Upon the City's written request and subject to Franchisee's reasonable confidentiality requirements, Franchisee shall provide additional detail, explanation and/or reference to source materials.

(12) The City acknowledges that Franchisee shall maintain its books and records in accordance with "GAAP."

(S) "Installation" shall mean the process necessary to connect the Cable System at the Subscriber's premises.

(T) “Non-commercial” shall mean, in the context of Access Channels that products and services are not sold via the Access Channel. The term will not be interpreted to prohibit an Access Channel operator or programmer from independently (i.e. not in the context of any televised programming) soliciting and receiving financial support to produce and transmit Video Programming on an Access Channel, or from acknowledging a contribution, in the manner of the corporation for public broadcasting. An Access Channel operator or programmer may cablecast informational programming regarding City events, projects and attractions of interest to residents so long as the format for such programming is consistent with the purposes for which PEG resources may be used.

(U) “Normal Business Hours” shall mean those hours during which most similar businesses in City are open to serve customers. In all cases, “Normal Business Hours” must include some evening hours, at least one (1) night per week and/or some weekend hours.

(V) “Normal Operating Conditions” shall mean those Service conditions which are within the control of Franchisee. Those conditions which are not within the control of a Franchisee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of Franchisee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the Cable System. [Cross reference SMC 10.27A.700]

(W) “Other Programming Service” shall mean information that a cable operator makes available to all Subscribers generally.

(X) “PEG” shall mean public, educational and governmental.

(Y) “Person” shall mean an individual or legal entity, such as a corporation or partnership.

(Z) “Public Right of Way” or “Public Rights of Way” shall mean the surface of and the space above and below any public street, road, highway, path, sidewalk, alley, court, or easement now or hereafter dedicated and opened by the City for the purpose of public travel or public utilities. Use of skywalks may be subject to additional regulatory requirements consistent with the Spokane Municipal Code. In the case of any grant of authority or permission by the City to a cable operator however, this term shall not exceed the scope of the City’s interests or power to extend such grant.

(AA) “Section 621 Order” means the Third Report and Order in MB Docket No. 05-311 adopted by the FCC on August 1, 2019.

(BB) “Service Tier” shall mean a specific set of Cable Services which are made available as a group for purchase by Subscribers, at a separate rate for the group.

(CC) “Standard Installation” shall mean those that are located up to one hundred twenty-five (125) feet from the existing distribution system. Franchisee shall comply

with applicable FCC regulations regarding commercial Installations as may now or hereafter arise.

(DD) “Subscriber” shall mean a member of the general public who receives broadcast programming distributed by a Cable System and does not further distribute it.

(EE) “Video Programming” shall mean programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

(FF) “Wireline MVPD” means any entity, including the City, that utilizes the Public Right of Way to install cable or fiber and is engaged in the business of making available for purchase, by Subscribers, multiple Channels of Video Programming in the City, which could also include the City. For purposes of this Franchise, the term “Wireline MVPD” shall not be limited to entities defined by the FCC as “multichannel video programming distributors” and shall include entities that provide multiple Channels of Video Programming via open video systems, as defined by the FCC, but it is the intent of the Franchisee and the City that the term Wireline MVPD shall not include small cell providers, unless the City has the legal authority under applicable state and federal law to regulate or to impose cable franchise obligations upon such small cell providers.

SECTION 4.
GRANT OF AUTHORITY.

(A) There is hereby granted by the City to the Franchisee, for a period of ten (10) years from and after the effective date set forth at the end of this Franchise, the right and privilege to have, acquire, construct, reconstruct, use, operate, own and maintain a Cable System for the Franchise Area, subject to the terms and provisions of Section 9(C) herein, and to the conditions and restrictions as hereinafter provided. No privilege or power of eminent domain is bestowed by this grant of authority.

(B) Consistent with the provisions of City ordinances and the Cable Act, the City hereby grants to Franchisee the authority to construct a Cable System in the City’s Public Rights of Way.

SECTION 5.
AUTHORITY NOT EXCLUSIVE.

(A) The grant of authority for use of the City’s Public Rights of Way, as conferred in Section 4 hereof, is not exclusive and does not establish priority for use over other franchise holders, permit holders and the City’s own use of public property. Nothing in this Franchise Agreement shall affect the right of the City to grant to any other Person a similar franchise or right to occupy and use the Public Rights of Way or any part thereof for the erection, Installation, construction, reconstruction, operation, maintenance, dismantling, testing, repair or use of a Cable System within the City. Additionally, the Franchisee shall respect the rights and property of the City and other authorized users of Public Rights of Way. Disputes between the Franchisee and other parties over the use, pursuant to this Franchise Agreement, of the Public Rights of Way shall be submitted to the City Engineer for resolution.

SECTION 6
COMPETITIVE EQUITY.

(A) The City reserves the right to grant additional franchises or similar authorizations to provide Video Programming services via Cable Systems or other Wireline MVPDs. The City intends to treat Wireline MVPDs in a nondiscriminatory manner to the extent permissible under applicable state and federal law. If, following the effective date of this Franchise, the City grants such an additional franchise or authorization to a Wireline MVPD and Franchisee believes the City has done so on terms materially more favorable than the obligations under this Franchise, then the provisions of this Section 6 will apply.

(B) As part of this Franchise, the City and Franchisee have mutually agreed upon the following terms as a condition of granting the Franchise, which terms may place the Franchisee at a significant competitive disadvantage if not required of a Wireline MVPD: the obligation to pay to the City a Franchise Fee consistent with Section 30 of this Franchise, Gross Revenues as provided for and defined in this Franchise, and the obligation to comply with the requirements in this Franchise regarding PEG funding, PEG Access Channels, records and reports, security instruments, audits, dispute resolution, remedies, notice and opportunity to cure, and customer service obligations (hereinafter "Material Obligations"). The City and Franchisee further agree that this provision shall not require a word for word identical franchise or authorization for competitive equity so long as the regulatory and financial burdens on each entity are materially equivalent.

(C) Within one (1) year of the adoption of a Wireline MVPD franchise or similar authorization, Franchisee must notify the City in writing of the Material Obligations in this Franchise that exceed the Material Obligations of the wireline competitor's franchise or similar authorization. The City and Franchisee agree that they will use best efforts in good faith to negotiate Franchisee's proposed Franchise modifications, and that such negotiation will proceed and conclude within a ninety (90) day time period, unless that time period is reduced or extended by mutual agreement of the parties. If the City and Franchisee reach agreement on the Franchise modifications pursuant to such negotiations, then the City shall amend this Franchise to include the modifications. If the City and Franchisee fail to reach agreement in such negotiations, Franchisee may, at its option, elect to replace this Franchise by opting into the franchise or other similar lawful authorization that the City grants to another Wireline MVPD (with the understanding that Franchisee may use its current system design and technology infrastructure to meet any requirements of the new franchise), so as to insure that the regulatory and financial burdens on each entity are equivalent. If Franchisee so elects, the City shall immediately commence proceedings to replace this Franchise with the franchise issued to the other Wireline MVPD. Notwithstanding anything contained in this section to the contrary, the City shall not be obligated to amend or replace this Franchise unless the new entrant makes Cable Services or similar downstream video programming service available for purchase by Subscribers or customers under its franchise agreement with or similar authorization from the City.

(D) In the event the City disputes that the Material Obligations are different, Franchisee may bring an action in federal or state court for a determination as to whether the Material Obligations are different and as to what franchise amendments would be necessary to remedy the disparity. Alternatively, Franchisee may notify the City that it elects to immediately commence the renewal process under 47 U.S.C. § 546 and to have the remaining term of this Franchise shortened to not more than thirty (30) months.

(E) Nothing in this Section 6 is intended to alter the rights or obligations of either party under applicable federal or state law, and it shall only apply to the extent permitted under state and federal law. In no event will the City be required to refund or to offset against future amounts due the value of benefits already received.

(F) To the extent the City has legal authority to grant a franchise or similar authorization to a wireless provider of Cable Service, the competitive equity rights provided by this section shall apply with respect to Material Obligations imposed in such franchise or other similar agreement. In the event of a dispute regarding the City's legal authority, Franchisee shall have the burden to demonstrate that such authority exists.

SECTION 7. CONDITIONS OF SALE.

If a renewal of this Franchise Agreement is denied or the Franchise Agreement is lawfully terminated, and the City lawfully acquires ownership of the Cable System or by its actions lawfully effects a transfer of ownership of the Cable System to another Person, any such acquisition or transfer shall be at a price determined pursuant to the provisions of 47 USC §547.

SECTION 8. PREVIOUS RIGHTS ABANDONED.

This Franchise Agreement is in lieu of any and all other contractual rights, privileges, powers, immunities, and authorities owned, possessed, controlled, or exercisable by Franchisee or any successor pertaining to the construction, operation, modification or maintenance of a Cable System in the City. The acceptance of this Franchise Agreement shall operate as between Franchisee and the City as an abandonment of any and all such contractual rights, privileges, powers, immunities, and authorities within the City. All construction, operation, modification, and maintenance by the Franchisee of any Cable System in the City to provide Cable Service shall be under this Franchise Agreement and not under any other contractual right, privilege, power, immunity, or authority.

SECTION 9. AGREEMENT, ACCEPTANCE, AND INCORPORATION OF SMC 10.27A.

(A) Franchisee acknowledges and accepts the right of the City to grant Franchisee this Franchise under current state, federal and local law. Franchisee agrees it shall not now nor at any time hereafter challenge this right, including in any state or federal court, provided that Franchisee reserves its right to seek changes in state, federal or local law governing the right of City to grant this Franchise and to challenge the City's right to grant this Franchise based on changes in current state, federal or local law that take effect

subsequent to the effective date of this Franchise Agreement. This section shall not be interpreted to prevent Franchisee from engaging in state, federal, or local lobbying efforts, either independently or as part of a consortium, on matters of interest to the Franchisee or the industry.

(B) Franchisee's rights hereunder are subject to the lawful and reasonable exercise of the City's police power consistent with state, federal or local law. It is understood that the City may at any time enact any ordinance of general applicability which may impact the Franchisee in its operation of the Cable System, provided that such ordinance constitutes a proper exercise of the City's police power, consistent with state, federal or local law.

(C) Franchisee acknowledges as of the time of acceptance of this Franchise Agreement that it has reviewed the Spokane City Charter relating to franchises and the use of the Public Right of Way and Ch. SMC 10.27A and accepts them as lawful exercises of City regulatory powers over the Public Right of Way. The parties acknowledge that the City may modify its regulatory policies throughout the term of this Franchise Agreement. Franchisee agrees to comply with such lawful policies except when there is a conflict with Franchisee's rights negotiated hereunder. Franchisee reserves any rights it may have to challenge such policies whether arising in contract or at law. The City reserves all defenses to such challenge, whether arising in contract or law.

SECTION 10.
[RESERVED].

SECTION 11.
TIME IS OF THE ESSENCE TO THIS AGREEMENT.

Whenever this Franchise Agreement shall set forth any time for an act to be performed by or on behalf of the Franchisee, related to a material Franchise requirement, such time shall be deemed of the essence. Any failure of the City to promptly enforce the time for an act to be performed in the past shall not be deemed a waiver of the City's right to require timely performance in the future.

SECTION 12.
TAXES.

Nothing contained in this Franchise Agreement shall be construed to except the Franchisee from any tax, liability or assessment authorized by law or from provisions of Titles 4 and 8 of the Spokane Municipal Code.

SECTION 13.
FRANCHISE AGREEMENT.

This Franchise Agreement is a contract between the City and the Franchisee, binding upon both parties. It is the intent of the parties that this shall be subject to amendment by mutual agreement from time to time to allow the Franchisee to innovate and implement new services

and developments, or to agree to any terms allowed by law and for which each party agrees to bargain in good faith with the other party, upon the initiation of any proposed amendment.

SECTION 14.
RENEWAL.

Any renewal of this Franchise Agreement shall be governed by and comply with the provisions of the Cable Act (47 U.S.C. § 546), as amended.

SECTION 15.
CABLE SYSTEM SPECIFICATIONS AND OVERSIGHT.

(A) The Franchisee shall maintain its Cable System as a hybrid fiber coaxial, fiber-to-the-node system architecture, with fiber-optic cable deployed from the headend to the node and coaxial cable deployed from the node to Subscribers homes. During the term of this Franchise, the Franchisee's Cable System shall be capable of providing a minimum of one hundred twenty (120) Channels of Video Programming to its Subscribers in the Franchise Area. Active and passive devices are capable of delivering high-quality digital video signals meeting or exceeding FCC technical quality standards. Cable System nodes are designed for future segmentation as necessary to maximize shared bandwidth. During the term of this Franchise Agreement, the Franchisee agrees to maintain the Cable System in a manner consistent with these specifications or better.

(B) All Franchisee activity in the Public Right of Way, and other public places where applicable, must be in accord with the Standard Specifications (WSDOT 2004, as amended or current equivalent) applicable to civil works in the Public Right of Way, including any generally applicable Supplemental Specifications as now or hereafter approved by the City Engineer and any other state and local regulations. All such construction, Installation and maintenance must also comply with the National Electrical Safety Code, the Washington State Electrical Construction Code, the National Electrical Code as adopted by the City and good and accepted industry practices.

[Note: at the time of adoption of this section, the generally approved Standard Specifications is that edition published by the Washington State Department of Transportation (WSDOT), "Standard Specifications for Road, Bridge and Municipal Construction, 2016, M 41-10", as amended].

(C) The Franchisee shall comply with all applicable technical standards of the FCC as published in 47 C.F.R. Part 76, Subpart K, as may be amended from time to time. The City shall have, upon written request, the right to review tests and records required to be performed pursuant to the FCC's rules.

(D) The City shall have the right to regulate and inspect the construction, operation and maintenance of the Cable System in the Public Rights of Way. Upon reasonable prior written notice and in the presence of the Franchisee's employee, the City may review the Cable System's technical performance as necessary to monitor the Franchisee's compliance with the provisions of this Franchise Agreement. All equipment testing under a technical performance review shall be conducted by the Franchisee.

[Cross reference SMC 10.27A.600 - 10.27A.680 regarding construction standards which are also applicable.]

SECTION 16.
CABLE SERVICE.

(A) Subject to the density considerations listed below, except in areas reserved for public travel or utility access not yet opened and accepted by the City as Public Right of Way that the Franchisee is specifically and lawfully prohibited from deploying its Cable System by the owner/developer, the Franchisee shall provide Cable Service throughout the entire City. Consistent with SMC 10.27A.720, areas subsequently annexed shall be provided with Cable Service within twelve (12) months of the time of the City notifying Franchisee of the annexation.

(B) Access to Cable Service shall not be denied to any group of potential cable Subscribers because of the income of the potential cable Subscribers or the area in which such group resides to the extent required by state and federal law. All residents requesting Cable Service and living within a Standard Installation of one hundred twenty-five (125) feet shall have the cable installed at no more than the prevailing published Installation rate. In the event a request is made for Cable Service and the residence is more than a Standard Installation of one hundred twenty-five (125) feet, such Installation will be provided at Franchisee's published rate for Standard Installations.

(C) The City and Franchisee acknowledge that the Franchisee currently provides, without charge, one (1) outlet, one (1) Converter, if necessary, and Digital Starter Service programming (including the PEG Channels) to the public buildings listed in Exhibit A, attached hereto ("Complimentary Service"). Subject to Section 35(D) of this Franchise Agreement, Franchisee shall continue to provide service to the City as set forth in this Section 16(C). However, the City shall have the right to request the disconnection of the other franchised cable operator and require Franchisee to meet the free service obligation provided the City maintains a fair distribution of service to public buildings between all franchised cable operators in the City.

(1) If the drop line to such building exceeds a Standard Installation drop one hundred twenty-five (125) feet, the Franchisee will accommodate the drop up to three hundred (300) feet if the City or other agency provides the necessary attachment point for aerial service or conduit pathway for underground service. If the necessary pathway is not provided the City or other agency agrees to pay the incremental cost of such drop in excess of one hundred twenty-five (125) feet or the necessary distribution line extension of the Cable System, including the cost of such excess labor and materials. The recipient of the service will secure any necessary right of entry.

(2) The Complimentary Service will not be used for commercial purposes, and the outlets will not be located in areas open to the public excepting one (1) outlet to be located in a public lobby in City Hall that will be used by the public for viewing Council meeting broadcasts. The City will take reasonable precautions to

prevent any use of the Franchisee's Cable System in any manner that results in inappropriate use, loss or damage to the Cable System. Franchisee hereby reserves all rights it may have under the law to seek payment from City for liability or claims arising out of the provision and use of the Complimentary Service required by this section.

(3) If additional outlets of Complimentary Service are provided to such buildings, the building occupant will pay the usual Installation fees, if any.

(D) Franchisee shall extend the System to any portion of the City after the date of the Franchise Agreement, when dwellings can be served by extension of the System past dwellings equivalent to a density of seven (7) dwellings per one-quarter (1/4) mile of cable contiguous to the System. Franchisee may petition the City for a waiver of this requirement, such waiver to be granted (1) for good cause shown, or (2) where Franchisee's System penetration level (defined as the percentage obtained by dividing (x) the number of Franchisee's Subscribers, by (y) the total number of dwelling units in the Franchise Area) drops below thirty-five percent (35%). The City shall not require Franchisee to extend Service to any dwelling that is already receiving Service from a competing provider. Such extension shall be at Franchisee's cost. In areas not meeting the requirements of seven (7) or more dwellings per one-quarter (1/4) mile, for mandatory extension of Service, Franchisee shall provide, upon the request of any potential Subscribers desiring Service, an estimate of the costs required to extend Service to such Subscribers. Franchisee shall then extend Service upon request and upon payment of an amount equal to the reasonable value of actual time and materials to be incurred by Franchisee for such extension. Any Subscriber drop not exceeding a Standard Installation drop of one hundred twenty-five (125) feet will be free of charge to the Subscriber other than normal Installation fees. For drops in excess of one hundred twenty-five (125) feet, Franchisee may assess an amount equal to time and materials. This provision has been negotiated taking into consideration the unique features of residential property in the City, including the size of lots, historical layout of developments and other factors.

SECTION 17. PROGRAMMING.

(A) All final programming decisions remain the discretion of Franchisee in accordance with this Franchise Agreement, provided that Franchisee notifies City and Subscribers in writing thirty (30) days prior to any Channel additions, deletions, or realignments, and further subject to Franchisee's signal carriage obligations hereunder and pursuant to 47 U.S.C. §§ 531-536, and further subject to City's rights pursuant to 47 U.S.C. § 545.

(B) Franchisee will provide at least the following initial broad categories of programming to the extent such categories are reasonably available:

- (1) Educational programming;
- (2) News, weather and information;

- (3) Sports;
- (4) General entertainment including movies;
- (5) Children, family oriented;
- (6) Arts, culture and performing arts;
- (7) Foreign language programming; and
- (8) Science/documentary.

(C) The Franchisee shall offer to all Subscribers a diversity of Video Programming services and it will not eliminate any broad categories of programming without first obtaining the written approval of the City, such approval not to be unreasonably withheld.

(1) Franchisee shall notify in writing the City, or its designee, of its intent to eliminate any broad category of programming noted in subsection (A). The City, or its designee, shall make a determination on such request not later than sixty (60) days after receipt of the request by Franchisee. In the event that the City makes an adverse determination, such determination shall be in writing, along with a concise statement of the reasons therefore. In the event the City fails to make a determination within sixty (60) days after receipt of a request from Franchisee, Franchisee shall have the right to make the deletion contained in its written request. [Cross reference SMC 10.27A.905.]

SECTION 18.

RATES.

(A) Throughout the term of this Franchise Agreement and upon request, the Franchisee shall provide annually an updated rate card to the City that details applicable rates and charges for Cable Services provided under this Franchise Agreement. This does not require the Franchisee to file rates and charges under temporary reductions or waivers of rates and charges in conjunction with promotional campaigns.

(B) Franchisee shall provide a minimum of thirty (30) days' written notice to the City and each Subscriber before changing any rates and charges. Franchisee shall not be required to provide prior notice of any rate changes as a result of a regulatory fee, franchise fee or other fees, tax, assessment or charge of any kind imposed by the City or any other governmental entity on the transaction between the Franchisee and the Subscriber. Notice shall not be required in cases where the Franchisee adds additional Channels to any tier, provided there is no concurrent rate change.

(C) City may regulate rates for the provision of Cable Service provided over the System in accordance with applicable federal law, in particular 47 C.F.R. Part 76 subpart N. In the event the City chooses to regulate rates it shall, in accordance with 47 C.F.R. § 76.910, obtain certification from the FCC, if applicable. The City shall follow all applicable FCC rate regulations and shall ensure that appropriate personnel are in place to administer such regulations. City reserves the right to regulate rates for any future Cable Services to the maximum extent allowed by law.

SECTION 19.
ACCESS AND LOCAL PROGRAMMING.

(A) Access Channels.

(1) Commencing on the effective date of this Franchise Agreement, Franchisee shall continue to make available eight (8) full-time activated Access Channels for Non-commercial use.

(2) The City may designate entities to be responsible for administering use of the PEG Access Channels. Such entities shall be responsible for the utilization, programming and scheduling of the Access Channels designated for PEG use and public use respectively.

(3) The Franchisee shall provide the PEG Access Channels as part of the Cable Service provided to any Subscriber, at no additional charge, and so that the PEG Access Channels are viewable by the Subscriber without the need for additional equipment beyond that required to receive the Basic Cable Service Tier. If Channels are selected through a menu system, the PEG Access Channels shall be displayed as prominently as commercial programming choices offered by Franchisee.

(4) At such time as all other Basic Service Channels (or its equivalent tier) excluding PEG Access Channels, are carried in HD, the SD PEG Access Channels will also be carried in HD, at which time the SD PEG Access Channels will be discontinued and the maximum number of PEG Access Channels shall be four (4) HD Channels, subject to Section 19(A)(7).

(5) Within six (6) months of the effective date of this Franchise, and upon completion of the Fire Training Channel connection set forth below, Franchisee shall reclaim two (2) SD Access Channels for one (1) HD Access Channel simulcast. The two (2) SD Access Channels to be reclaimed shall be the Fire Training Channel and another Access Channel selected by the City in City's sole discretion.

(6) No sooner than twelve (12) months of the effective date of this Franchise, Franchisee shall reclaim two (2) additional SD Access Channels which will result in the City retaining a total of four (4) SD Access Channels and two (2) additional simulcast SD/HD Access Channels.

(7) Within six (6) months of the effective date of this Franchise, Franchisee shall either: 1) construct a dedicated two-way connection between the Fire Training Center and City Hall, to replace the SD Fire Training Center Access Channel, the cost estimated to be Twenty Thousand and No/100 Dollars (\$20,000) shall be paid for out of the City's PEG Fee; or 2) the City shall assume responsibility for the construction of the connection and Franchisee shall cooperate, the City's construction cost may be paid for out of the PEG Fee so long as consistent with applicable federal law.

(8) City shall be responsible for all programming requirements on the PEG Access Channels, including but not limited to scheduling, playback, training, staffing, copyright clearances, and production equipment owned and controlled by the City, including maintenance and repair of such production equipment.

(B) Regional Channel. The City shall have the right to use one (1) of the existing PEG Access Channels as a regional Channel if desired by the City. Franchisee shall cooperate with City to accommodate such regional Channel.

(C) PEG Access Channel Location. Franchisee shall make commercially reasonable efforts to maintain one (1) of the PEG Access Channels as Channel 5 (SD) and Channel 325 (HD) on the Franchisee's Channel lineup. Franchisee shall make commercially reasonable efforts to maintain one (1) additional PEG Access Channel as Channel 14 (SD) and Channel 326 (HD) on the Franchisee's Channel lineup, or otherwise maintain adjacent positions to each other in the channel lineup.

(1) Franchisee shall make commercially reasonable efforts to minimize Channel location movements for PEG Access Channels, and shall make reasonable commercial efforts to locate Access Channels in a manner that is easily accessible to Subscribers. For new HD Access Channels that are provided pursuant to this Franchise, Franchisee shall make reasonable commercial efforts to assign the Access Channels a number near the other HD local broadcast stations if such channel positions are not already taken, or if that is not possible, near HD news/public affairs programming channels if such channel positions are not already taken, or if not possible, as reasonably close as available channel numbering will allow.

(D) PEG Access Channel Quality.

(1) With respect to signal quality, Franchisee shall not be required to carry an Access Channel in a higher quality format than that of the Channel signal delivered to Franchisee, but Franchisee shall distribute the Channel signal without material degradation. There shall be no restriction on Franchisee's technology used to deploy and deliver SD or HD signals so long as the requirements of the Franchise are otherwise met. Franchisee may implement HD carriage of PEG Access Channels in any manner (including selection of compression, utilization of IP, and other processing characteristics) that produces a signal quality for the Subscriber that is reasonably comparable and functionally equivalent to similar commercial HD Channels carried on the Cable System. Franchisee agrees that in no event will the PEG Access Channels be transmitted in a manner different than other commercial Channels offered by Franchisee on the basic service tier.

(2) In the event the City believes and provides evidence that Franchisee has failed to meet this standard, the City will notify Franchisee of such concern, and Franchisee will respond to any complaints in a timely manner. Disputes under this section shall be addressed through the Franchise enforcement procedures set forth in Section 24. Upon reasonable written request by the City or any authorized

access provider (but not a user of the community Access Channel), Franchisee shall verify that Access Channel signal delivery to Subscribers is consistent with the requirements of this section.

(E) The City shall implement and enforce policy directives and terms of use requirements that all users of public access facilities and public Access Channel(s) assume complete responsibility for the content of programming prepared at public access facilities and/or cablecasts on the public Access Channel(s). The parties agree that clearance for use of copyrighted material shall be the sole responsibility of the access user. The City shall require that all public access users indemnify and hold the Franchisee and the City of Spokane harmless from all liability of any kind whatsoever, including the costs of legal defense arising from the use of facilities, channel(s) or access time by the user.

(F) PEG Fee.

(1) Within sixty (60) days after the effective date of this Franchise Agreement, the Franchisee shall collect and remit to the City zero point seven percent (0.7%) of Gross Revenues (the "PEG Fee") to be used for PEG access capital costs in accordance with applicable federal law. The PEG Fee shall be remitted quarterly to the City in the same manner and at the same time as the Franchise Fee.

(2) The PEG Fee is not intended to represent part of the Franchise Fee and are intended to fall within one (1) or more of the exceptions in 47 U.S.C. § 542. The PEG Fee may be categorized, itemized, and passed through to Subscribers as permissible, in accordance with federal law. So long as the PEG Fee is used by the City as permitted by applicable federal law, and this Franchise, Franchisee agrees that it will not offset or reduce its payment of past, present or future Franchise Fees required as a result of its obligation to remit the PEG Fee, unless otherwise mandated by Applicable Law.

(3) Within ninety (90) days and upon request, the City shall provide the Franchisee with documentation showing expenditures for PEG capital use of the previous year's PEG Fee funding and showing the budgeted use of the current year's PEG funding. In the event the City cannot demonstrate that PEG funding was used or budgeted for PEG capital needs, Franchisee's PEG funding obligations going forward shall be reduced by an equivalent amount.

(4) Any PEG Fees owing pursuant to this Franchise Agreement which remain unpaid more than twenty-five (25) days after the date the payment is due shall be delinquent and shall thereafter accrue interest at twelve percent (12%) per annum.

(5) All PEG Access Channels shall be provided as a part of Franchisee's Basic Cable Service or its equivalent. Franchisee shall make every reasonable effort to coordinate the cablecasting of PEG access programming on the Cable System on the same Channel designations as such programming is currently

cablecast within the City. In no event shall any PEG Access Channel reallocations be made prior to ninety (90) days' written notice to the City by Franchisee, except for circumstances beyond Franchisee's reasonable control.

(G) Guide Selection. Franchisee agrees that if it utilizes a visual interface under its control on its Cable System for all Channels, the PEG Access Channels shall be treated in a non-discriminatory fashion so that Subscribers will have ready access to PEG Access Channels. To the extent the configuration of the Cable System allows for detailed program listings to be included on the digital channel guide, Franchisee will make available to City the ability to place PEG Access Channel programming information on the interactive Channel guide via the electronic programming guide ("EPG") vendor ("EPG provider") that Franchisee utilizes to provide the guide service. Franchisee will be responsible for providing the designations and instructions necessary for the PEG Access Channels to appear on the EPG. All costs and operational requirements for the EPG provider shall be the responsibility of the City. Franchisee is not responsible for operations of the EPG provider. Franchisee shall, to the maximum extent possible, make available to the City any price discounts Franchisee may have in place with third party vendors that offer such programming guide services. The cost of this guide service may be funded in any manner consistent with federal law.

(H) PEG Access Programming Connectivity.

(1) Under Section 19(k) of the 2005 franchise between City and Franchisee, Franchisee agreed to construct and maintain two-way connections. Franchisee was permitted to recoup all of its construction and maintenance costs (\$250,000) from the City's PEG Fee over the term of the 2005 franchise. Currently Franchisee is providing the City with nine (9) complimentary two-way connections to facilitate the live playback of PEG programming in the City. The City has agreed as part of this renewal to reduce the number of two-way connections down to just two (2) remaining connections to facilitate PEG origination over the next Franchise term. The City and Franchisee acknowledge that the Franchisee currently provides and maintains, free of charge to the City, the existing two-way connections located at: 1) the KSPS Facility, located at 3911 South Regal Street; and 2) the City Hall via City Water Works Building on Hamilton & North Foothills. These connections enable the transmission of PEG Access programming over the Cable System. Franchisee shall maintain the two (2) above-referenced connections for the term of this Franchise, without additional charge (with no recurring, monthly costs or offsets) except that Franchisee may, if permitted by federal law, invoice the City for any actual repair or maintenance costs. Such actual repair or maintenance costs shall be estimated to the City in advance when possible, and shall be documented and invoiced to the City by Franchisee for payment.

(2) If the City desires to add new connection points over the term of this Franchise Agreement in addition to the above list, upon (one hundred twenty (120) days written request of the City, and written approval by the City of

Franchisee's construction charges, the Franchisee will construct the new two-way connection, as proposed by the City.

(3) Failure to comply with the provisions of this section shall constitute a material breach of this Franchise Agreement.

SECTION 20.
PARENTAL CONTROL.

(A) Franchisee shall provide Subscriber controlled lockout capability at a reasonable charge to Subscribers upon their request.

(B) As to any program which is transmitted on a Channel offered on a, per Channel, or per program basis, Franchisee shall block entirely the audio and video portion of such program from reception by any Subscriber who so requests. Scrambling of the signal shall not be sufficient to comply with this provision.

SECTION 21.
TRANSFER OF RIGHTS.

(A) Any unauthorized transfer in violation of SMC 10.27A.395 shall be deemed a material breach in default of this Franchise Agreement, and shall subject the Franchisee to all penalties and remedies prescribed in this Franchise Agreement and SMC 10.27A and to all other remedies, legal and equitable; which are available to the City, including, but not limited to:

(1) The immediate entry of an order by a court of competent jurisdiction (i) enjoining Franchisee, its officers, agents, employees and all others acting in concert with them, from transferring or assigning or otherwise disposing of any interest in the Cable System, (ii) appointing a receiver, acceptable to the City, who shall forthwith assume the management of the Cable System in accordance with the terms and conditions of this Franchise Agreement, and (iii) requiring all subscription fees, Installation fees and all other fees payable to Franchisee to be paid into an escrow account which shall be subject to release to Franchisee only on order of the Court.

(2) The immediate termination of this Franchise Agreement and acceleration of all the obligations and rights thereunder, including, but not limited to those described in Section 27 of this Franchise Agreement.

(B) Franchisee shall notify the City Clerk in writing of any occurrence which constitutes a transfer not in accordance with the provisions of SMC 10.27A.395 or this Franchise Agreement.

(C) Franchisee shall notify the City Attorney in writing of the entry of any judgment against Franchisee which would negatively affect the continued operation of this Cable System within seventy-two (72) hours of the occurrence of such event.

SECTION 22.

LETTER OF CREDIT; PERFORMANCE SECURITY FOR OBLIGATIONS.

(A) In accordance with SMC 10.27.330, Franchisee shall maintain security, hereafter referenced as "Performance Security" as follows: Franchisee, based upon its past performance, shall secure and maintain a performance bond in the amount of One Hundred Thousand and No/100 Dollars (\$100,000.00). If at any time thereafter, Franchisee does not continue to maintain a fully compliant rating (no claim against the performance bond which has been sustained following all applicable appeals), the City may require the performance bond to be replaced by a letter of credit sufficient to cover one hundred fifty percent (150%) of draws as reasonable estimated by the City, but not less than One Hundred Thousand and No/100 Dollars (\$100,000.00), upon sixty (60) days written notice to Franchisee. Upon petition by Franchisee and sufficient showing of adequacy, the City may permit an escrow deposit or combination escrow deposit and letter of credit.

(B) If this Franchise Agreement is transferred for reasons requiring consent of the City, the Performance Security requirement may be modified as required by the City, up to the amount set in SMC 10.27A.330.

(C) Failure to deposit said Performance Security or the failure to maintain the Performance Security, in the full amount required herein, in effect during the entire term of this Franchise Agreement, and of any renewal or extension thereof, shall constitute a material breach of this Franchise Agreement.

(D) The City reserves the right to impose additional construction bond requirements upon the Franchisee, pursuant to the generally applicable terms and provisions of the Spokane' Municipal Code, regarding Franchisee's construction in the Public Right of Way.

SECTION 23.

PROCEDURE FOR DRAWING ON PERFORMANCE SECURITY.

(A) Except as provided in Section 30 with respect to delinquent Franchise Fee and PEG Fee payments, the conditions applicable to the City's right to draw on the Performance Security are stated in Sections 23-26. The procedure for drawing on the Performance Security shall be as follows:

(1) If the Franchisee fails to make timely payment to the City of any amount due under this Franchise Agreement other than Franchise Fee or PEG Fee payments and taxes, the City shall have the right to draw on the Performance Security following seven (7) days advance written notice to Franchisee, including the notice information required in Section 24(A), unless the amount due is received within such seven (7) day period. Franchisee may request a hearing on this decision as provided in Section 26, but this does not delay the City's right to draw upon the Performance Security up to the amount of nonpayment, plus applicable

interest and penalties, following the initial seven (7) day notice period. [Cross reference SMC 10.27A.310]

(2) If the Franchisee fails to take timely action as requested by the City with respect to its facilities in the Public Rights of Way which might expose the City to loss or liability, the City shall have the right to draw on the Performance Security an amount reasonably sufficient to prevent or offset the loss or liability, first giving twenty (20) days advance written notice to Franchisee, including the notice information required in Section 24(A). If no Franchisee response is received within twenty (20) day period or if Franchisee has not already cured, the City may proceed to draw on the Performance Security. If a written Franchisee response is received within such period, the City shall then wait at least ten (10) days before making any draw on the Performance Security. Franchisee may request a hearing on this decision as provided in Section 26, but this does not delay the City's right to draw upon the Performance Security. This does not limit the City's rights to take any actions necessary in case of emergencies or the right of either party to seek injunctive relief in a proper case.

(3) The time periods for lawful withdrawal referenced in Section 23(A) (1) and (2) above, may be extended by City in writing in City's discretion. For any other reason besides Section 23(A) (1) and (2) above, Franchisee may request a hearing under Section 26 prior to a City draw on Performance Security. This limitation expires upon expiration of the time to request the hearing, or if one is requested, it expires thirty (30) days after the municipal hearings process is concluded, whether or not further court review is requested. This shall not limit the right of Franchisee to seek injunctive relief in appropriate cases with respect to said draw.

(B) Upon drawing funds from the Performance Security, the City shall give written notice thereof the Franchisee. Not later than thirty (30) days after the mailing or delivery of notice from City to Franchisee indicating a draw, Franchisee must restore the Performance Security to its full required amount.

(C) The collection by City of any damages, monies or penalties from the Performance Security shall not affect any other right or remedy available to City, nor shall any act, or failure to act, by City pursuant to the Performance Security be deemed a waiver of any right of City pursuant to this Franchise Agreement, except as provided with respect to liquidated damages or as provided in Section 23.

SECTION 24. ENFORCEMENT.

(A) This section does not apply to revocation of the Franchise Agreement. Whenever the City seeks to enforce the Franchise Agreement, it shall first provide written notice to the Franchisee of the nature of the problem and requested action, together with any applicable time frame for response. Any time limits here or elsewhere in the Franchise Agreement may be modified by written stipulation of the City and Franchisee, except

time limits relating to revocation of this Franchise Agreement or where otherwise required by law must be approved by the City Council.

(B) Except in case of urgency or public need relating to management of the Public Right of Way as reasonably determined by the City, the Franchisee has thirty (30) days from receipt of such notice to respond in writing to the official sending the notice:

- (1) contesting it; or
- (2) accepting it and agreeing to cure as requested within time limits specified; or
- (3) requesting additional time or other modifications. In such event, Franchisee shall promptly take all reasonable steps to cure the default, keeping the official informed as to the steps to be taken and a projected completion date.

(C) If the official is not satisfied with the response, they shall notify the Franchisee in writing. Franchisee may thereafter request a hearing thereafter as provided in Section 26(C).

(D) Code Violations. Franchisee agrees the City may elect to enforce any provision of the Spokane Municipal Code without regard to this Franchise Agreement.

SECTION 25. LIQUIDATED DAMAGES.

(A) Because Franchisee's failure to comply with the provisions of this Franchise Agreement will result in damage to the City and because it will be impractical to determine the actual amount of such damages, the City and Franchisee hereby agree upon and specify certain amounts set forth hereafter in this section which represent both parties' best estimate of the damages.

(B) The City shall specify any damages subject to this section and shall include such information in the notice sent to Franchisee required under Section 24(A). Such a notice may provide for damages sustained prior to the notice where so provided, and subsequent thereto pending compliance by Franchisee.

(C) To the extent that the City elects to assess liquidated damages as provided in this section and such liquidated damages have been paid, the parties agree that this shall be the City's sole and exclusive damage remedy in lieu of actual damages; provided, that this shall not limit the right of the City to seek equitable or other relief as reserved in Section 26(C).

(D) Unless otherwise provided, liquidated damages do not accrue after the timely filing of a request for hearing by Franchisee until the time of a decision from the hearing. Nothing in this section prevents the parties from settling any dispute relating to liquidated damages by mutual stipulation.

(E) Franchisee may cure the breach or violation within the time specified to petition for review to the City's satisfaction, whereupon no liquidated damages are assessed.

(F) After fulfilling the procedure required under Section 24, Franchisee has thirty (30) days to pay such amounts. If not paid thereafter, liquidated damages shall be immediately payable from the Performance Security, without further notice, upon demand by the City and a statement that the provisions of this section have been fulfilled. Franchisee may seek review of any assessment of liquidated damages under Section 26.

(G) Schedule of Liquidated Damages. Liquidated damages are set as follows. All amounts accrue per day but not beyond the number of days to exceed the amount of Ten Thousand and No/100 Dollars (\$10,000) per twelve (12) month period unless specifically provided. Nothing requires the City to assess liquidated damages, acting in its sole discretion, but such non-assessment does not operate as waiver or estoppel upon the City.

(1) For failure to provide Cable Service as promised in Section 16 of this Franchise Agreement, Five Hundred and No/100 Dollars (\$500) per day,

(2) For failure to provide data, documents, reports and information as required by this Franchise Agreement, Fifty and No/100 Dollars (\$50) per day per each separate violation.

(3) For failure to conduct tests as required by this Franchise Agreement, Fifty and No/100 Dollars (\$50) per day.

(4) For failure to comply with PEG Access requirements outlined in Section 19, One Hundred Fifty and No/100 Dollars (\$150) per day.

(5) For failure to answer Subscriber telephone calls in accordance with the standards in SMC 10.27A.700(B)(1) of the Spokane Municipal Code, as incorporated by reference in Section 33(A) of this Franchise Agreement, in any calendar quarter where Franchisee fails to meet the applicable standard and performs at eighty percent (80%) or above, Franchisee shall pay the City Five Hundred and No/100 Dollars (\$500); in any calendar quarter where Franchisee fails to meet the applicable standard and perform at less than eighty percent (80%) but at least seventy percent (70%), Franchisee shall pay the City Two Thousand Five Hundred and No/100 Dollars (\$2,500); in any calendar quarter where Franchisee fails to meet the applicable standard and performs at less than seventy percent (70%), the Franchisee shall pay the City Five Thousand and No/100 Dollars (\$5,000). NOTE: Franchisee will be deemed to have complied with the applicable telephone call answering and wait time standards whenever a Subscriber call is connected to an automated answering system within thirty (30) seconds after the call first rings and the Subscriber is transferred to a customer service representative within thirty (30) seconds after the Subscriber makes an automated or voice request to be so transferred.

(6) For any violation of the any other customer service standard, One Hundred and No/100 Dollars (\$100) per day per violation, not to exceed One Thousand and No/100 Dollars (\$1,000) for any single violation.

(7) Failure to maintain insurance or Performance Security as required in this Franchise Agreement Five Hundred and No/100 Dollars (\$500) per day. NOTE: for this item, there is no cure privilege, no abeyance pending any hearing, or forgiveness of liquidated damages because of absence of prior violation or breach. There is further no limitation on cumulative liquidated damages for this item.

(8) Failure to indemnify the City as required in Section 25: Five Hundred and No/100 Dollars (\$500) per day. NOTE: this assessment is for delay only and does not excuse any other actual damages for failure to indemnify.

(9) Failure to pay liquidated damages lawfully assessed under this Franchise Agreement, where the same have not been otherwise recovered from the Performance Security: one percent (1%) of the unpaid amount per month. There is no cumulative limitation on the amount of this item, no right of cure beyond any extended prior to the assessment of liquidated damages and no abeyance pending any hearings or appeal process beyond that as may have been previously extended at the time such liquidated damages were initially assessed.

(10) For all other violations of the Franchise Agreement for which actual damages may not be ascertainable: One Hundred and No/100 Dollars (\$100) per day for each violation.

(11) Where Franchisee has three (3) or more of the same violation or breach events (an “event” may involve multiple customers, but is discrete in time or circumstances) within any twelve (12) month period, all applicable damages amounts are doubled.

SECTION 26. HEARINGS.

Except for revocation matters, which are dealt with in Section 27, Franchisee may request a hearing as follows:

(A) Franchisee files a written request within fourteen (14) days of receipt of a decision it wants reviewed with the City Administrator. The request does not stay the effect of the decision or obligation to comply or exercise of any remedy available to the City except as otherwise provided. The City Administrator may conduct the hearing or appoint an alternate hearings officer, who shall not be the person issuing the order or such person’s subordinate. For matters exceeding Twenty-five Thousand and No/100 Dollars (\$25,000) reasonably estimated value in controversy as determined by the City Administrator, the Franchisee may file a request that the City Hearings Examiner conduct the hearing. A reasonable filing fee may be set by the Hearings Examiner or generally applicable ordinances. If not otherwise provided, the filing fee is One Hundred and No/100 Dollars (\$100).

(B) The hearing may be informal and shall be conducted within twenty (20) days, with at least ten (10) days prior notice to both sides. The official conducting the hearing is responsible to keep a record of any materials submitted and shall record the hearing by video or audio tape, for matters involving Twenty-five Thousand and No/100 Dollars (\$25,000) reasonable estimated value amount in controversy. A written decision shall be issued within ten (10) days. Either party may appeal the decision to a court of competent jurisdiction in Spokane County within thirty (30) days.

(C) Except where otherwise provided, at the conclusion of the City hearings process, if Franchisee remains in default, it shall correct said default in fifteen (15) days or as otherwise ordered by the City. In the event the Franchisee does not cure within such time to the City's reasonable satisfaction, the City may draw from the Performance Security any liquidated damages or penalties resulting from Franchisee's default if not already done or await the conclusion of the judicial process. Nothing herein limits the City's right to seek any other relief as provided in Section 26.

(1) If liquidated damages have not been assessed and paid, seek any other legal or equitable relief as provided by contract or at law and/or

(2) await the conclusion of any judicial review process.

(3) In the case of a default of a material provision of this Franchise Agreement, nothing herein limits the City's right to seek to revoke this Franchise Agreement in accordance with Section 27 and/or assert such default as a basis for non-renewal or non-extension of the Franchise Agreement.

(4) Where Franchisee seeks judicial review and ultimately prevails, any money judgment against the City shall be paid or may thereafter be offset by Franchisee, in Franchisee's discretion, against further Franchise Fee payments due to the City. In such event, Franchisee shall notify the City at least sixty (60) days prior to apply the offset.

SECTION 27. REVOCATION.

(A) The City may revoke this Franchise Agreement and rescind all rights and privileges associated with this Franchise Agreement in the following circumstances:

(1) Franchisee fails to perform any material obligation under this Franchise Agreement; or

(2) Franchisee attempts to evade any material provision of this Franchise Agreement or practices any fraud or deceit upon the City or Subscribers.

(B) Prior to revocation of the Franchise Agreement, the City shall give written notice to the Franchisee of its intent to revoke the Franchise Agreement, setting forth the exact nature of the noncompliance. The Franchisee shall have thirty (30) days from such notice to object in writing and to state its reasons for such objection and provide any

explanation. In the event the City has not received a timely and satisfactory response from the Franchisee, it may then seek a revocation of the Franchise Agreement by the City Council in accordance with this section.

(C) Any proceeding regarding revocation shall be conducted by the City Council and open to the public. The Franchisee shall be afforded at least forty-five (45) days prior written notice of such proceeding.

(1) At such proceeding, the Franchisee and City staff shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce evidence. Franchisee may request or the City may refer the matter to be heard by the City's hearing examiner. A complete verbatim record and transcript or video tape shall be made of such proceeding and the cost shall be shared equally between the parties. The City shall maintain a record of such proceeding consistent with its record retention policies. Nothing herein prohibits Franchisee from paying to create a written transcript of the proceeding. The City Council shall hear any Persons interested in the revocation, and shall allow the Franchisee, in particular, an opportunity to state its position on the matter reserving the right to set reasonable time limits or refer extended presentations to the City hearing examiner.

(2) Within ninety (90) days after the hearing, the City Council shall determine whether to revoke the Franchise Agreement; or if the breach at issue is capable of being cured by the Franchisee, it shall direct the Franchisee to take appropriate remedial action within the time and in the manner and on the terms and conditions that are reasonable under the circumstances, as determined in City's sole discretion. If the City Council determines that the Franchise Agreement is to be revoked, the City Council shall issue a written decision and shall transmit a copy of the decision to the Franchisee. The Franchisee shall be bound by the City Council's decision to revoke the Franchise Agreement unless it appeals the decision to a court of competent jurisdiction within thirty (30) days of the date of the decision. Upon timely appeal, the effect of revocation is stayed pending final judicial resolution, but this shall not affect accrual of penalties or the right of the City to take any other enforcement action, including curing the default at Franchisee's expense and liability, also subject to judicial review.

(3) The Franchisee shall be entitled to such relief as the court may deem appropriate.

(D) The Council may in its sole discretion take any lawful action that it deems appropriate to enforce the City's rights under the Franchise Agreement in lieu of revocation.

SECTION 28.
INSURANCE, BONDS, INDEMNITY.

(A) Upon the granting of this Franchise Agreement and following simultaneously with the filing of the acceptance of this Franchise Agreement and at all times during the term of this Franchise Agreement, the Franchisee shall obtain, pay all premiums for, and deliver to the City, written evidence of payment of premiums for and a certificate of insurance, naming the City as an additional insured, with a company licensed to do business in the State of Washington with a rating by A.M. Best and Co. of not less than “A” or equivalent, for the following:

(1) A comprehensive commercial or general liability insurance policy or policies, issued by an insurance carrier licensed to do business in the State of Washington. Said policy or policies shall pay on behalf of and defend the City, its officials, boards, commissions, agents or employees from any and all claims by any Person whatsoever (including the costs, defense costs, attorneys’ fees and interest arising therefrom) on account of personal injury, bodily injury or death of a Person or Persons or damages to property occasioned by the operations of the Franchisee under this Franchise Agreement, or alleged to have been so caused or occurred, with a minimum combined single limit of One Million and No/100 Dollars (\$1,000,000) per occurrence and Five Million and No/100 Dollars (\$5,000,000) in the annual aggregate.

(2) A comprehensive automobile liability insurance policy or policies, issued by an insurance carrier licensed to do business in the State of Washington. Said policy or policies shall pay on behalf of and defend the City, its officials, boards, commissions, agents or employees from any and all claims by any Person whatsoever (including the costs, defense costs, attorneys’ fees and interest arising therefrom) for bodily injury and property damage occasioned by any vehicle operation of the Franchisee, or alleged to have been so caused or occurred, with a minimum liability of One Million and No/100 Dollars (\$1,000,000) per Person and Five Million and No/100 Dollars (\$5,000,000) in any one (1) accident or occurrence.

(B) If the Franchisee undertakes any construction with regard to the Cable System, the cost of which exceeds Five Hundred Thousand and No/100 Dollars (\$500,000), the Franchisee shall maintain a construction bond in accordance with SMC 10.27A.320(B).

(C) Not less than thirty (30) days prior to its expiration, Franchisee shall deliver to City, a substitute, renewal or replacement policy or bond conforming to the provisions of this Franchise Agreement and SMC 10.27A.320.

(D) The Franchisee shall, at its sole cost and expense, indemnify and hold harmless the City, its officials, boards, commissions, agents and employees against any and all third party claims, suits, causes of action, proceedings, and judgments for damage arising out of the construction, reconstruction, use, operation, ownership and maintenance of the Cable System under this Franchise Agreement, except that no such requirement shall

apply where such claims, suits, causes of actions, proceedings, and judgments for damage are occasioned by the active negligence, gross negligence or intentional acts of the City or its officials, boards, commissions, agents and employees while acting on behalf of the City. These damages shall include, but not be limited to, penalties arising out of copyright infringements and damages arising out of any failure by the Franchisee to secure consents from the owners, authorized distributors or licensees of programs to be delivered by the Franchisee's Cable System whether or not any act or omission complained of is authorized, allowed, or prohibited by this Franchise Agreement. Indemnified expenses shall include, but not be limited to, all out-of-pocket expenses, such as costs and attorneys' fees, and shall also include the reasonable value of any services rendered by the City Attorney, Assistant City Attorneys or any outside consultants employed by the City. Franchisee shall not be required to provide indemnification to City for programming cablecast over the PEG Access Channels administered by City. The City shall give the Franchisee timely written notice of any claim or of the commencement of any action, suit or other proceeding covered by the indemnity in this section, but failure to give notice is not a defense to the indemnification obligations except to the extent of actual prejudice. In the event any such claim arises, the City or any other indemnified party shall tender the defense thereof to the Franchisee and the Franchisee shall have the obligation and duty to defend, through services of competent counsel satisfactory to the City, settle or compromise any claims arising thereunder. If the City determines that it is necessary for it to employ separate counsel, the costs for such separate counsel shall be the responsibility of the City.

(E) Failure to comply with the provisions this section shall constitute a material breach of this Franchise Agreement.

(F) Franchisee waives immunity under Title 51 RCW to the extent necessary to fulfill its indemnity obligation. This provision has been specifically negotiated.

SECTION 29. REPORTS.

(A) The City has the right to inspect books and records of Franchisee, which are reasonably necessary to monitor the Franchisee's compliance with the provision of Cable Services under this Franchise Agreement. Within five (5) days of receiving written notice from the City to inspect the Franchisee's books and records under this provision, the Franchisee shall within ten (10) business days or a mutually agreeable date and time, accommodate the City's request at the Franchisee's business office in the City, during Normal Business Hours, and without unreasonably interfering with the Franchisee's business operations. All such documents pertaining to financial matters shall be preserved and maintained in accordance with Franchisee's standard record retention policy except for financial records which are governed by Section 30(D) hereof.

(B) Proprietary and Confidential Information. The City has the right to request a copy of the books and records that are not identified as proprietary or confidential as described under this paragraph. The City shall have a right to inspect within the City, but the Franchisee shall not be required to release information that it reasonably deems to be

proprietary or confidential in nature provided that this shall not prevent the release of such proprietary or confidential documents for purposes of any enforcement proceeding where appropriate legal steps are available to address Franchisee's concerns regarding confidentiality. The City agrees not to oppose any request for confidentiality.

(C) In the event the Franchisee asserts that certain information is proprietary or confidential in nature, the Franchisee shall identify generally the information which it deems proprietary and confidential and the reasons for its confidentiality in writing to the City. Each page of such information provided will be clearly marked as "proprietary and confidential." The City agrees to treat any information disclosed by the Franchisee as confidential and only to disclose it to those employees, representatives, and agents of the City that have a need to know in order to enforce this Franchise Agreement and who agree to maintain the confidentiality of all such information. The City shall not retain information designated as proprietary or confidential by Franchisee for a period of time any longer than necessary to complete its review and any resulting enforcement proceeding therefrom. The City shall certify to Franchisee the destruction of such records.

(D) The Franchisee shall not be required to provide customer information in violation of Section 631 of the Cable Act or any other applicable federal or state privacy law. For purposes of this section, the terms "proprietary or confidential" include, but are not limited to, information relating to the Cable System design, customer lists, marketing plans, financial information unrelated to the calculation of Franchise Fees or rates pursuant to FCC rules, or other information that is reasonably determined by the Franchisee to be competitively sensitive. In the event that the City receives a request under a state "sunshine," public records or similar law for the disclosure of information the Franchisee has designated as confidential, trade secret or proprietary, the City shall notify Franchisee of such request and Franchisee shall have ten (10) business days to file a lawsuit in Spokane County seeking injunctive or other relief should Franchisee choose to oppose such request.

(E) Franchisee shall provide the quarterly customer service report required in SMC 10.27A.410(A). Such reporting requirement may be relieved by the City Administrator in his sole discretion.

(F) File for Public Inspection. Throughout the term of this Franchise Agreement, the Franchisee shall maintain a file available for public inspection in the manner required pursuant to the FCC's rules and regulations.

(G) Complaint File and Reports. Franchisee will keep an accurate and comprehensive file of all Complaints and Franchisee's actions in response to those Complaints in a manner consistent with the privacy rights of Subscribers. Upon thirty (30) days written request, Franchisee will provide a report to the City that contains total number and summary of all Complaints received by category, length of time taken to resolve and action taken to provide resolution.

(H) Route Map. In lieu of SMC 10.27A.410(E) and upon 30 (thirty) days written request, the Franchisee shall only provide a route map that depicts, based upon information available, the general location of the Cable System facilities placed in the Public Rights of Way. The route map shall identify Cable System facilities as aerial or underground and is not required to depict cable types, number of cables, electronic equipment, and drop service lines to individual Subscribers. The Franchisee shall also provide in an electronic format generally compatible with the City's electronic mapping system aerial/underground facilities and the centerline road reference to allow City to add this information to City's GIS program.

SECTION 30.
PAYMENT OF FEES AND COSTS.

(A) From and after the effective date of this Franchise Agreement and throughout the full term of this Franchise Agreement, the Franchisee shall pay to the City five percent (5%) of its annual Gross Revenues in the City, pursuant to 47 U.S.C. § 542. Payment shall be due by forty-five (45) days after the end of each calendar month.

(B) No acceptance by the City of any payment from Franchisee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of payment be construed as a release of any claim the City may have for further or additional sums payable under the provisions of this Franchise Agreement. All amounts paid shall be subject to auditing and recomputation by the City.

(C) Franchisee acknowledges and agrees that the Franchise Fees payable by Franchisee to City pursuant to this Franchise Agreement as well as capital support provided by Franchisee for PEG access equipment and facilities are authorized under the Cable Act and shall not be deemed to be in the nature of a federal, state or local tax.

(D) Any Franchise Fee payments owing pursuant to this Franchise Agreement which remain unpaid more than twenty-five (25) days after the date the payment is due shall be delinquent and shall thereafter accrue interest at twelve percent (12%) per annum.

(E) Franchise Fees Subject to Audit. Upon reasonable prior written notice, during Normal Business Hours, at a location agreed upon with the Franchisee, the City shall have the right to inspect the Franchisee's financial records used to calculate the City's Franchise Fees. The City shall provide to the Franchisee a final report setting forth the City's findings in detail, including any and all substantiating documentation. In the event of an alleged underpayment, the Franchisee shall have thirty (30) days from the receipt of the report to provide the City with a written response agreeing to or refuting the results of the audit, including any substantiating documentation. Franchisee shall review and the City shall be entitled to review Franchisee's historical financial records used to calculate the City's Franchise Fees consistent with the currently applicable state statute of limitations.

(F) Failure to comply with this section shall constitute a material breach of the Franchise Agreement.

SECTION 31.
SERVICE OF NOTICE.

(A) All notices required to be given in writing under this Franchise Agreement shall be sent via registered or certified mail or shall be deemed to be given when delivered personally to any officer of Franchisee or City Administrator forty-eight (48) hours after it is deposited in the United States mail in a sealed envelope, postage prepaid thereon, addressed to the party to whom notice is being given, as follows:

If to City: City Administrator
 City of Spokane
 5th Floor Municipal Building
 W 808 Spokane Falls Boulevard
 Spokane WA 99201-3333

If to Franchisee:
 General Manager
 Comcast Cable Communications Management, LLC
 1717 East Buckeye Avenue
 Spokane, Washington 99207

Non-binding Government Affairs Department
Courtesy Comcast Cable Communications Management, LLC
Copy: 15815 25th Avenue W
 Lynnwood, Washington 98087

Franchisee shall maintain within the City, throughout the term of this Franchise Agreement, an address for service of notice by mail. Such addresses may be changed by either party upon notice to the other party given as provided in this section.

SECTION 32.
SUCCESSORS AND ASSIGNS.

Subject to the requirements contained in this Franchise Agreement, this Franchise Agreement shall be binding on any successors or assigns of Franchisee.

SECTION 33.
CUSTOMER SERVICE STANDARDS.

(A) Customer Service Standards. Franchisee shall satisfy the consumer protection and service standards as outlined in SMC 10.27A.700 during the term of this Franchise Agreement. The City hereby further adopts the customer service standards set forth in Part 76, §76.309 of the FCC's rules and regulations, as amended. The Franchisee shall comply in all respects with SMC 10.27A.700 and the customer service requirements established by the FCC.

(B) Subscriber Bills. Subscriber bills shall be designed in such a way as to present the information contained therein clearly and comprehensibly to Subscribers, and in a way

that (1) is not misleading and (2) does not omit material information. Notwithstanding anything to the contrary, the Franchisee may, in its sole discretion, consolidate costs on Subscriber bills as may otherwise be permitted by Section 622(c) of the Cable Act (47 U.S.C. §542(c)).

(C) Privacy Protection. The Franchisee shall comply with all applicable federal privacy laws pertaining to Cable Services, including Section 631 of the Cable Act and regulations adopted pursuant thereto. The City reserves any right it may have to impose subscriber privacy standards if the Franchisee is no longer subject to federal requirements concerning subscriber privacy.

SECTION 34.
REMEDIES CUMULATIVE.

The rights and remedies reserved to the City by this Franchise Agreement are cumulative and shall be in addition to, and not in derogation of, any other rights or remedies which the City may have with the respective subject matter of this Franchise Agreement. A waiver of rights or remedies shall not affect any other rights or times.

SECTION 35.
MISCELLANEOUS PROVISIONS.

(A) Force Majeure. The Franchisee shall not be held in default under, or in noncompliance with, the provisions of this Franchise Agreement due to acts of God or impossibility of performance as recognized in the common law of the State of Washington, to the extent and for such period as such conditions persist. For purposes of enforcement of SMC 10.27A.700, conditions outside of Normal Operating Conditions are a basis to excuse Franchisee's performance, but only to the extent and for such period as such conditions persist. Conditions outside Normal Operating Conditions may also excuse other franchise obligations where they effectively render performance infeasible or impossible, to the extent and for such period as such conditions persist, but this does not apply as to conditions within the Franchisee's reasonable control.

(B) Severability. If any section, subsection, sentence, clause, phrase, or other portion of this Franchise Agreement is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

(C) No Third-Party Beneficiaries. Nothing in this Franchise Agreement is or was intended to confer third-party beneficiary status on any member of the public to enforce the terms of this Franchise Agreement.

(D) In-Kind Cable-Related Contributions.

(1) To the extent lawful under federal law, the Franchisee may, if Franchisee so chooses, provide the City with a written list of "in-kind cable-related contributions" (as that term is defined by the FCC in the Section 621 Order) that

the Franchise Agreement requires Franchisee to provide (including but not limited to the Complimentary Service requirements in Section 16(C) and any PEG Transport required by Section 19(H)). Within ninety (90) days of receiving the aforementioned list, the City will notify the Franchisee whether, with respect to each identified in-kind cable-related contribution, the Franchisee is relieved, or temporarily relieved, of its obligations or is required to comply, subject either to the Franchisee taking an offset to the Franchise Fee payments payable under Section 30(A) as may be permitted by the Section 621 Order or to the Franchisee and the City agreeing to a separately identified charge payable by the City to the Franchisee.

(2) In the event the Section 621 Order is stayed or overturned in whole or in part by action of the FCC or through judicial review, the City and the Franchisee will meet promptly to discuss what impact such action has on the provision of the in-kind cable-related contributions to which this section applies. If allowed by subsequent state and federal law, the City may require Franchisee to provide Complimentary Service to the sites set forth in Exhibit A and PEG transport as provided in Section 19(H) for the remaining Franchise term at no charge. Nothing herein waives the City’s right to enforce Franchisee’s compliance with all lawful obligations contained in this Franchise Agreement.

(E) Contract: State and Federal Law. This Franchise Agreement has been reviewed by both the City and Franchisee and each party agrees that the document is valid under applicable state and federal law and each party agrees to be bound by its provisions subject to Section 35 (B) herein. Subject to this protection both parties reserve any rights, substantive or procedural, they may have under federal or state law.

SECTION 36.
APPLICABLE LAW.

This Franchise Agreement shall be construed in accordance with and governed by the laws of the State of Washington, except where preempted by federal law. Venue for any court proceedings under this Franchise Agreement shall be in Spokane County. This does not apply to FCC hearings.

PASSED by the City Council on _____, 2020

Council President

Attest:

Approved as to form:

City Clerk

Assistant Attorney

Mayor

Date

December 8, 2020
EFFECTIVE DATE

ACCEPTED: This Franchise Agreement is accepted, and we agree to be bound by its terms and conditions.

COMCAST CABLE COMMUNICATIONS
MANAGEMENT, LLC

Date: _____, 2020

By: _____

Its: _____

SWORN TO BEFORE ME this

_____ day of _____, 2020

NOTARY PUBLIC

EXHIBIT A

Free Service to Public Buildings

<u>NAME</u>	<u>ADDRESS</u>
1. City Hall	808 W Spokane Falls Blvd
2. Cops West	1901 W Boone Ave
3. COPS, Neva-Wood	4705 N Addison St
4. Community Access Center	104 W 3 rd St., Suite B
5. 4 separate PEG playback locations – all at City Hall	808 W Spokane Falls Blvd

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

04/10/2023

Date Rec'd	3/28/2023
Clerk's File #	OPR 2019-0292
Renews #	2 OF 2

Submitting Dept	INNOVATION & TECHNOLOGY SERVICES	Cross Ref #	
Contact Name/Phone	MICHAEL SLOON 625-6468	Project #	
Contact E-Mail	MSLOON@SPOKANECITY.ORG	Bid #	RFP# 4481-18
Agenda Item Type	Contract Item	Requisition #	CR# 24790
Agenda Item Name	5300-CUSTOMER RELATIONSHIP MANAGEMENT SYSTEM (CRM) ANNUAL SOFTWARE SUPPORT		

Agenda Wording

Contract renewal with Incapsulate, LLC for our Customer Relationship Management System (CRM) Annual Software Maintenance and Support. Contract term is May 1, 2023 - April 30, 2024 for a total amount of \$106,881.82 plus sales tax.

Summary (Background)

Incapsulate supports the City's CRM 311 System. The Customer Relationship Management (CRM) system is the application used to track citizen engagement, through multiple entities, including My Spokane-311 and the Mayor's office. Incapsulate was selected from a formal RFP process in 2019. The 2022 contracted amount was \$103,778.84 plus tax.

Lease? NO Grant related? NO Public Works? NO

Fiscal Impact

Expense \$ 106,881.82 (plus sales tax)

Select \$

Select \$

Select \$

Budget Account

5300-73300-18850-54820

#

#

#

Approvals**Dept Head** SLOON, MICHAEL**Division Director** SLOON, MICHAEL**Finance** BUSTOS, KIM**Legal** HARRINGTON, MARGARET**For the Mayor** PERKINS, JOHNNIE**Additional Approvals****Purchasing** PRINCE, THEA**Council Notifications****Study Session\Other** PIES Committee
3/27/2023**Council Sponsor** CM Bingle**Distribution List**

Accounting - ywang@spokanecity.org

Contract Accounting - ddaniels@spokanecity.org

Legal - mharrington@spokanecity.org

Purchasing - cwahl@spokanecity.org

IT - itadmin@spokanecity.org

Tax & Licenses

Committee Agenda Sheet

Public Infrastructure, Environment & Sustainability (PIES)

Submitting Department	Innovation and Technology Services Division
Contact Name & Phone	Michael Sloon, 625-6468
Contact Email	msloon@spokanecity.org
Council Sponsor(s)	CM Bingle
Select Agenda Item Type	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion Time Requested: 3/27/2023
Agenda Item Name	5300 - Customer Relationship Management System (CRM) Annual Software Maintenance and Support
Summary (Background)	Incapsulate supports the City's CRM 311 system. The CRM 311 system is utilized by various City Departments. Incapsulate was selected from a formal RFP process in 2019. The contract term to be May 1 st , 2023, through April 30, 2024, costing \$106,881.82 plus tax. This is the last renewal option remaining on the initial contract. The 2022 contracted amount was \$103,778.84 plus tax.
Proposed Council Action & Date:	Pass Council on April 10, 2023
<p>Fiscal Impact: \$106,881.82 plus sales tax Total Cost: \$106,881.82 plus sales tax Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Funding Source <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring – Annual</p> <p>Specify funding source: 5300-733000-18850-54820</p> <p>Expense Occurrence <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring - Annual</p> <p>Other budget impacts: NA</p>	
Operations Impacts	
What impacts would the proposal have on historically excluded communities?	
Not applicable – annual software maintenance	
How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?	
Not applicable – annual software maintenance	
How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?	
Not applicable – annual software maintenance	
Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?	
This service aligns with the Sustainable Resources strategic initiative based on sound financial objectives, and quality customer service in our CRM 311 system.	



City of Spokane
CONTRACT RENEWAL
2 of 2
Title: Subscription, Annual Maintenance and Support for CRM System

This Contract Renewal is made and entered into by and between the **CITY OF SPOKANE** as ("City"), a Washington municipal corporation, and **INCAPSULATE, LLC** whose address is 650 Massachusetts Ave. NW, Suite 600, Washington DC 20001 as ("Company"), individually hereafter referenced as a "Party", and together as the "Parties".

WHEREAS, the parties entered into a Contract wherein the Company agreed to provide Implementation, Conversion, Integration, Training and Hosting Services for a new Customer Relationship Management System, and

WHEREAS, the initial contract provided for two (2) additional one (1) year renewals, with this being the second of those renewals.

NOW, THEREFORE, in consideration of these terms, the parties mutually agree as follows:

1. CONTRACT DOCUMENTS.

The original Contract, dated April 26, 2019, any previous amendments, renewals and / or extensions / 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 Renewal shall become effective on May 1, 2023 and shall run through April 30, 2024.

3. COMPENSATION.

The City shall pay an additional amount not to exceed **ONE HUNDRED SIX THOUSAND EIGHT HUNDRED EIGHTY-ONE AND 82/100 DOLLARS (\$106,881.82)**, plus applicable sales tax, for everything furnished and done under this Contract Renewal. This is the maximum amount to be paid under this Renewal, and shall not be exceeded without the prior written authorization of the City, memorialized with the same formality as the original Contract and this Renewal document.

4. DEBARMENT AND SUSPENSION.

The Contractor has provided its certification that it is in compliance with and shall not contract with individuals or organizations which are debarred, suspended, or otherwise excluded from or ineligible from participation in Federal Assistance Programs under Executive Order 12549 and "Debarment and Suspension", codified at 29 CFR part 98.

IN WITNESS WHEREOF, in consideration of the terms, conditions and covenants contained, or attached and incorporated and made a part, the parties have executed this Contract Renewal by having legally-binding representatives affix their signatures below.

INCAPSULATE, LLC

CITY OF SPOKANE

By _____
Signature Date

By _____
Signature Date

Type or Print Name

Type or Print Name

Title

Title

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Attachments that are part of this Agreement:

Attachment A – Certification Regarding Debarment
Incapsulate quote for renewal dated March 1, 2023

23-052

**ATTACHMENT A
CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
INELIGIBILITY AND VOLUNTARY EXCLUSION**

1. The undersigned (i.e., signatory for the Subrecipient / Contractor / Consultant) certifies, to the best of its knowledge and belief, that it and its principals:
 - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - b. Have not within a three-year period preceding this contract been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;
 - c. Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and,
 - d. Have not within a three-year period preceding this contract had one or more public transactions (federal, state, or local) terminated for cause or default.

2. The undersigned agrees by signing this contract that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.

3. The undersigned further agrees by signing this contract that it will include the following clause, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

1. The lower tier contractor certified, by signing this contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

 2. Where the lower tier contractor is unable to certify to any of the statements in this contract, such contractor shall attach an explanation to this contract.
4. I understand that a false statement of this certification may be grounds for termination of the contract.

<hr/> Name of Subrecipient / Contractor / Consultant (Type or Print)	<hr/> Program Title (Type or Print)
<hr/> Name of Certifying Official (Type or Print)	<hr/> Signature
<hr/> Title of Certifying Official (Type or Print)	<hr/> Date (Type or Print)

Quotation: City of Spokane Renewal 2023-2024

Client	City of Spokane	Contract Number	OPR 2019-0292
Project Name	311 Capsule Subscription	Date Submitted	03/01/23
Requested By	Incapsulate, LLC	Date Reply Due	04/15/23

Section One: Description of Service

Subscription & Annual Maintenance and Support for the CRM system

Cost

The quote for the subscription, regular support and maintenance for the term 5/1/23-4/30/24 is \$106,881.82.

Renewal Details:

05/01/2023-04/30/2024

Description	Begin Date	End Date	Cost
311 Capsule Subscription and Support	05/01/23	04/30/24	\$106,881.82
Tax (WA State and City) (9%)			\$9,619.36
TOTAL			\$116,394.30



< Business Lookup

License Information:

[New search](#) [Back to results](#)

Entity name: INCAPSULATE, LLC

Business name: INCAPSULATE, LLC

Entity type: [Limited Liability Company](#)

UBI #: 604-407-883

Business ID: 001

Location ID: 0001

Location: Active

Location address: 650 MASSACHUSETTS AVE NW
STE 600
WASHINGTON DC 20001-3979

Mailing address: 650 MASSACHUSETTS AVE NW
STE 600
WASHINGTON DC 20001-3979

Excise tax and reseller permit status: [Click here](#)

Secretary of State status: [Click here](#)

Endorsements

Endorsements held at this loca	License #	Count	Details	Status	Expiration date	First issuance c
Spokane General Business - Non-Resident				Active	Mar-31-2024	Mar-19-2019

Governing People May include governing people not registered with Secretary of State

Governing people	Title
BATISH, SONALI	Member

The Business Lookup information is updated nightly. Search date and time: 3/20/2023 8:26:15 AM



Contact us

How are we doing?

Take our survey!

Don't see what you expected?

Check if your browser is supported





CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

12/30/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Diversified Insurance Industries, Inc. 307 International Circle Suite 610 Hunt Valley MD 21030	CONTACT NAME: PHONE (A/C, No, Ext): 410-433-3000		FAX (A/C, No): 410-433-3440
	E-MAIL ADDRESS: Certificates@dii-ins.com		
INSURED Incapsulate, LLC 650 Massachusetts Avenue NW Suite 600, Office 81 Washington DC 20001	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: Mount Vernon Speciality Insurance Co*		14420
	INSURER B: HARTFORD INSURANCE GROUP		
	INSURER C: Hartford Underwriters Ins. *		30104
	INSURER D:		
	INSURER E:		

COVERAGES

CERTIFICATE NUMBER: 1057418269

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.


INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
C	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:	Y		30SBAAV4TWK	12/31/2022	12/31/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
C	<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			30SBAAV4TWK	12/31/2022	12/31/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			30SBAAV4TWK	12/31/2022	12/31/2023	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	30WECAV1AAK	12/31/2022	12/31/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Cyber Liability			DPS4002867	1/1/2023	1/1/2024	Each Claim 5,000,000 Aggregate 5,000,000 Deductible Each Claim 25,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Regarding Bodily Injury and Property Damage covered under the General Liability, City of Spokane, it officers and employees are included as Additional Insured with respects to ongoing operations of the Named Insured, when required by written contract.

Hartford Underwriters Insurance will endeavor to provide 30 days written notice of cancellation with regards to General Liability.

CERTIFICATE HOLDER**CANCELLATION**

City of Spokane 808 W. Spokane Falls Blvd. Spokane WA 99201	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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Agenda Sheet for City Council Meeting of:
04/10/2023

Date Rec'd	3/27/2023
Clerk's File #	OPR 2019-0314
Renews #	

Submitting Dept	INNOVATION & TECHNOLOGY	Cross Ref #	RES 2019-0032
Contact Name/Phone	MICHAEL 625-6468	Project #	
Contact E-Mail	MSLOON@SPOKANECITY.ORG	Bid #	
Agenda Item Type	Contract Item	Requisition #	CR# 24787
Agenda Item Name	5300 ORACLE'S PEOPLESOFT AND DATABASE ANNUAL SOFTWARE		

Agenda Wording
 Contract with Oracle America, Inc for Oracle license software maintenance and support for the City of Spokane. Contract term to begin 04/21/2023 - 04/20/2024 for a total amount of \$206,053.07 plus sales tax. Oracle was deemed a sole source in 2019.

Summary (Background)
 Oracle America, Inc supports the City's PeopleSoft Human Capital Management (HCM) System and Utility Billing Oracle database, which is utilized by various City Departments. Oracle Software was selected and implemented in 2009 for the City of Spokane's PeopleSoft Benefits, Payroll and Time & Labor software. Oracle Software is the only supplier of PeopleSoft licensing. Contract term is April 21, 2023 - April 20, 2024, for a total cost of \$206,053.07 plus sales tax.

Lease? NO	Grant related? NO	Public Works? NO
Fiscal Impact		Budget Account
Expense	\$ 206,053.07 (+ sales tax)	# 5300-73300-18850-54820
Select	\$	#
Select	\$	#
Select	\$	#

Approvals		Council Notifications	
Dept Head	SLOON, MICHAEL	Study Session\Other	PIES Committee
Division Director	SLOON, MICHAEL	Council Sponsor	CM Bingle
Finance	BUSTOS, KIM	Distribution List	
Legal	HARRINGTON,	Accounting - ywang@spokanecity.org	
For the Mayor	PERKINS, JOHNNIE	Contract Accounting - ddaniels@spokanecity.org	
Additional Approvals		Legal - mharrington@spokanecity.org	
Purchasing	NECHANICKY, JASON	Purchasing - cwahl@spokanecity.org	
		IT - itadmin@spokanecity.org	
		Tax & Licenses	
		Oracle - Jake.camarillo@oracle.com & CC	



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Summary (Background)

The 2022 amount was \$198,127.95 plus tax. The increase is 4% per Oracle's annual inflationary adjustment rate.

Fiscal Impact

Select \$

Select \$

Budget Account

#

#

Distribution List

Committee Agenda Sheet

Public Infrastructure, Environment & Sustainability (PIES)

Submitting Department	Innovation and Technology Services Division
Contact Name & Phone	Michael Sloon, 625-6468
Contact Email	msloon@spokanecity.org
Council Sponsor(s)	CM Bingle
Select Agenda Item Type	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion Time Requested: 03/27/2023
Agenda Item Name	5300 - Oracle's PeopleSoft and Database Annual Software Maintenance and Support
Summary (Background)	Oracle America, Inc supports the City's PeopleSoft Human Capital Management (HCM) System and Utility Billing Oracle database, which is utilized by various City Departments. Oracle Software was selected and implemented in 2009 for the City of Spokane's PeopleSoft Benefits, Payroll and Time & Labor software. Oracle Software is the only supplier of PeopleSoft licensing. Contract term is April 21, 2023 – April 20, 2024, for a total cost of \$206,053.07 plus sales tax. The 2022 amount was \$198,127.95 plus tax. The increase is 4% per Oracle's annual inflationary adjustment rate.
Proposed Council Action & Date:	Pass Council on 04/10/2023
<p>Fiscal Impact: \$206,053.07 plus sales tax Total Cost: \$206,053.07 plus sales tax Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Funding Source <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring – Annual</p> <p>Specify funding source: 5300-73300-18850-54820</p> <p>Expense Occurrence <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring – Annual</p> <p>Other budget impacts: NA</p>	
Operations Impacts	
What impacts would the proposal have on historically excluded communities?	
Not applicable – annual software maintenance	
How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?	
Not applicable – annual software maintenance	
How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?	
Not applicable – annual software maintenance	
Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?	
This service aligns with the Sustainable Resources strategic initiative based on sound financial objectives, and quality customer service in our Human Capital management system and Utility Billing Database.	



14-Mar-23

Dear peggy lund

A support service renewal is expired or about to expire.

The technical support services for support service number 4656540 will expire, or have expired on 20-Apr-23.

Renewing these services is easy. Just click the Quick Checkout button below and complete your renewal online. Once your renewal is completed, the new Support Period for these services will begin on the start date listed for this renewal in your My Support Renewals account and will be provided through the end date as shown for this renewal in your My Support Renewals account. A renewal order containing all of the information about your renewal is also attached for your reference. So that there is no interruption in these services, please complete your renewal on or before 22-Mar-23. You can see and manage all of your support service renewals anytime on My Support Renewals by clicking the Manage Your Renewals button below.

[Quick Checkout](#)

[Manage Your Renewals](#)

To log into My Support Renewals, you will need your username and password:

Your Oracle.com username is: **KLUND@SPOKANECITY.ORG**

New Customer? Forgot your password? [Reset.](#)

If you are unable to complete your renewal on My Support Renewals, you can complete your renewal by following the instructions in the attached renewal order. So that there is no interruption in these services, please complete your renewal on or before 22-Mar-23. If applicable, the attached renewal order may include technical support services that you have requested to order that are in addition to the technical support services that you are renewing.

Have a question? Call 1-888-545-4577, [Chat on My Support Renewals](#), or [Request Assistance](#).



TECHNICAL SUPPORT SERVICES RENEWAL ORDER

GENERAL INFORMATION

OFFER EXPIRATION	ORACLE: Oracle America, Inc.
Support Service Number: 4656540 Offer Expires: 20-Apr-23	Oracle Contact Information: Oracle Premier Support Renewal Center Call: 1-888-545-4577 Chat: Chat on My Support Renewals Request Assistance: Click to Request Assistance
CUSTOMER: CITY OF SPOKANE	
CUSTOMER QUOTE TO	CUSTOMER BILL TO
Account Contact: peggy lund Account Name: CITY OF SPOKANE Address: 808 W Spokane Falls Blvd Spokane WA 99201 United States Telephone: 509 6256954 Fax: E-mail: klund@spokanecity.org	Account Contact: City of Spokane Attn. IT Admin Account Name: CITY OF SPOKANE Address: 808 W SPOKANE FALLS BLVD SPOKANE WA 99201 United States Telephone: 509-6256200 Fax: E-mail: itadmin@spokanecity.org

"You" and "Your" as used in this renewal order, refer to the Customer listed above.

Please take a minute to make sure the email information entered above is correct. Your email address is particularly important because Oracle may email You certain notices about technical support services. If You need to make any changes to the Customer information above, You can either login to your [My Support Renewals](#) account and select "Update Quote to Information" to edit Your "Quote To" information and You can edit Your "Bill To" information at check out. Alternatively, this information can be updated by providing Your current information along with Your support service number 4656540, to Oracle per the General Information section above.

SERVICE DETAILS

Program Technical Support Services							
Service Level: Software Update License & Support							

Product Description	CSI #	Qty	License Metric	License Level / Type	Start Date	End Date	Price
Oracle Database Enterprise Edition - Processor Perpetual	3863575	4		FULL USE	21-Apr-23	20-Apr-24	43,597.93
Expansion - Reported Budget Perpetual	17569302	482		FULL USE	21-Apr-23	20-Apr-24	0.00
PeopleSoft Enterprise Benefits Administration - Enterprise Employee Perpetual	17569302	3000		FULL USE	21-Apr-23	20-Apr-24	15,572.40
PeopleSoft Enterprise ePerformance - Enterprise Employee Perpetual	17569302	3000		FULL USE	21-Apr-23	20-Apr-24	19,236.52
PeopleSoft Enterprise HCM Portal Pack - Enterprise Employee Perpetual	17569302	3000		FULL USE	21-Apr-23	20-Apr-24	2,198.46
PeopleSoft Enterprise Human Resources - Enterprise Employee Perpetual	17569302	3000		FULL USE	21-Apr-23	20-Apr-24	33,892.91
PeopleSoft Enterprise Payroll - Enterprise Employee Perpetual	17569302	3000		FULL USE	21-Apr-23	20-Apr-24	41,221.11
PeopleSoft Enterprise Pension Administration - Enterprise Employee Perpetual	17569302	3000		FULL USE	21-Apr-23	20-Apr-24	15,572.41
PeopleSoft Enterprise Recruiting Solutions - Enterprise Employee Perpetual	17569302	3000		FULL USE	21-Apr-23	20-Apr-24	13,740.37
PeopleSoft Enterprise Time and Labor - Enterprise Employee Perpetual	17569302	3000		FULL USE	21-Apr-23	20-Apr-24	20,152.54
Micro Focus Visual COBOL for Windows for 2 Named Users (Mfr is Microfocus; Third Party Program)	17660375	1		FULL USE	21-Apr-23	20-Apr-24	868.42

Program Technical Support Fees: USD 206,053.07

Total Price: USD 206,053.07

Plus applicable tax

NOTES

- If Oracle accepts Your renewal order, the start date set forth in the Service Details table above shall serve as the commencement date of the technical support services and the technical support services ordered under this renewal order will be provided through the end date specified in the table

- for the applicable programs and/ or hardware ("Support Period").
- If any of the fields listed in the Service Details table above are blank, then such fields do not apply to Your renewal.

TECHNICAL SUPPORT SERVICES TERMS

If the Customer and the Customer Quote To name identified in the General Information table above are not the same, CITY OF SPOKANE represents that Customer has authorized CITY OF SPOKANE to execute this renewal order on the Customer's behalf and to bind the Customer to the terms contained in this renewal order. CITY OF SPOKANE agrees that the services ordered are for the sole benefit of Customer and shall only be used by Customer. CITY OF SPOKANE agrees to advise Customer of the terms of this renewal order as well as any communications received from Oracle regarding the services.

If the Customer and the Customer Bill To name identified in the General Information table above are not the same, Customer agrees that: a) Customer has the ultimate responsibility for payments under this renewal order; and b) any failure of CITY OF SPOKANE to make timely payment per the terms of this renewal order shall be deemed a breach by Customer and, in addition to any other remedies available to Oracle, Oracle may terminate Customer's technical support service under this renewal order.

Technical support is provided under Oracle's technical support policies in effect at the time the services are provided. The technical support policies are subject to change at Oracle's discretion; however, Oracle will not materially reduce the level of services provided for supported programs and/or hardware during the period for which fees for technical support have been paid, or for U.S. federal and public sector entities, the period for which services have been ordered. You should review the technical support policies prior to entering into this renewal order.

The current version of the technical support policies may be accessed at <http://www.oracle.com/us/support/policies/index.html>.

Regarding the inclusion of DFARS 252.204-7012, the parties agree that DFARS 252.204-7012, Safeguarding Covered Defense Information and Cyber Incident Reporting (OCT 2016), does not apply to the Commercial Off the Shelf (COTS) licenses or hardware, and does not apply to the associated technical support because Oracle will not process, collect, develop, receive, transmit, use, or store "covered defense information" on "covered contractor information systems" as defined in DFARS 252.204-7012, Safeguarding Covered Defense Information and Cyber Incident Reporting (OCT 2016), in performance of the associated technical support services ordered under this renewal quote, and the Government agrees that it will not provide "covered defense information" to Oracle in performance of the associated technical support services.

The technical support services renewed under this renewal order are governed by the terms and conditions of the US-PS-TSSA-848173 ("agreement"). Any use of the programs and/or hardware, which includes updates and other materials provided or made available by Oracle as a part of technical support services, is subject to the rights granted for the programs and/or hardware set forth in the order in which the programs and/or hardware were acquired.

This renewal order incorporates the agreement by reference. In the event of inconsistencies between the terms contained in this renewal order and the agreement, this renewal order shall take precedence.

RENEWAL PROCESSING DETAILS

Please renew the technical support services on this renewal order on [My Support Renewals](#).

If You are unable to renew using My Support Renewals, You can renew using the options below. Your renewal order is subject to Oracle's acceptance. Your renewal is considered complete when You provide Oracle with payment details for the renewal as detailed below or an executed Oracle Financing contract. Once completed, Your renewal cannot be cancelled and Your payment is nonrefundable, except as provided in the agreement. Oracle will issue an invoice to You upon receipt of a purchase order or a form of payment acceptable to Oracle. If You are U.S. federal government or public sector entity, Oracle will issue You an invoice quarterly in arrears after the services are performed.

Unless you are an U.S. federal government entity, Oracle's invoice includes applicable sales tax, GST, or VAT (collectively referred to as "tax"). If CITY OF SPOKANE is a tax exempt organization and is not an U.S. federal government entity, a copy of CITY OF SPOKANE's tax exemption certificate must be submitted with CITY OF SPOKANE's purchase order, credit card, or other acceptable form of payment.

Please note that unless You are a U.S. federal government or public sector entity, if the pre-tax value of this renewal is USD \$2,000 or less, the technical support services ordered must be paid by credit card; or You must renew Your support on My Support Renewals.

Technical Support fees are invoiced Quarterly in Arrears. All fees payable to Oracle are due within 30 NET from date of invoice.

You agree to pay any sales, value-added or other similar taxes imposed by applicable law, except for taxes based on Oracle's income.

PAYMENT DETAILS

Purchase Order

If You are submitting a purchase order for the payment of the renewal of the technical support services on this renewal order, the purchase order must be in a non-editable format (e.g., PDF) and include the following information:

- Support Service Number: 4656540
- Total Price: USD 206,053.07 (excluding applicable tax)
- Local Tax, if applicable

In issuing a purchase order, CITY OF SPOKANE agrees that the terms of this renewal order and the agreement supersede the terms in the purchase order or any other non-Oracle document, and no terms included in any such purchase order or other non-Oracle document shall apply to the technical support services renewed under this renewal order.

Please contact Oracle per the General Information section above to issue Your purchase order.

Credit Card

If You wish to use a credit card to pay for the renewal of the technical support services on this renewal order, please contact Oracle per the General Information section above. Please note that Oracle is unable to process credit card transactions of USD \$100,000 or greater or transactions that are not in USD.

Check

If You are submitting a check for the payment of the renewal of the technical support services on this

renewal order, the check must include the following information:

- Support Service Number: 4656540
- Total Price: USD 206,053.07 (excluding applicable tax)
- Local Tax, if applicable

In issuing a check, CITY OF SPOKANE agrees that only the terms of this renewal order and the agreement shall apply to the technical support services renewed under this renewal order. No terms attached or submitted with the check will apply.

Checks for technical support services renewed under this renewal order should be sent to:

AK, AZ, CA, HI, ID, NV, OR, UT, WA:

Oracle America, Inc
PO Box 884471
Los Angeles, CA 90088-4471

All Other States:

Oracle America, Inc
PO Box 203448
Dallas, TX 75320-3448

Payment Confirmation

If You cannot pay using any of the payment methods described above, please complete this payment confirmation and submit it to Oracle. Please initial the following statement that best applies to You.

____ CITY OF SPOKANE does not issue purchase orders.

____ CITY OF SPOKANE does not require a purchase order for the services ordered hereto.

CITY OF SPOKANE certifies that the information provided above is accurate and complies with CITY OF SPOKANE's business practices in entering into this renewal order, including obtaining all necessary approvals to release the funds for this renewal. In issuing this payment confirmation, CITY OF SPOKANE agrees that the terms of this renewal order and the agreement shall apply to the technical support services ordered under this renewal order. No terms attached or submitted with the payment confirmation will apply.

The signature below affirms CITY OF SPOKANE's commitment to pay for the services ordered in accordance with the terms of this renewal order.

CITY OF SPOKANE

Authorized Signature

Name

Title

Signature Date

Please contact Oracle per the General Information section above to issue Your Payment Confirmation.



< **Business Lookup**

License Information:

[New search](#) [Back to results](#)

Entity name: ORACLE AMERICA, INC.

Business name: ORACLE AMERICA, INC.

Entity type: [Profit Corporation](#)

UBI #: 601-091-507

Business ID: 001

Location ID: 0002

Location: Active

Location address: 411 108TH AVE NE
STE 900
BELLEVUE WA 98004-8419

Mailing address: PO BOX 5200
BELMONT CA 94002-5200



Excise tax and reseller permit status:

[Click here](#)

Secretary of State status:

[Click here](#)

Endorsements held at this lo	License #	Count	Details	Status	Expiration da	First issuance
Aberdeen General Business - Non-Resident	21117			Active		Mar-01-2000
Bellingham General	021260			Active		Feb-10-1997

Endorsements

Endorsements held at this lo	License #	Count	Details	Status	Expiration da	First issuance
Non-Resident						
Bremerton General Business - Non-Resident	25945			Active	Sep-30-2023	Jan-01-2007
Burien General Business - Non-Resident	07575			Active	Sep-30-2023	Mar-23-2009
Longview General Business - Non-Resident	585176			Active	Sep-30-2023	Sep-15-2010
Olympia General Business - Non-Resident	1947			Active	Sep-30-2023	Sep-27-2010



Endorsements held at this lo	License #	Count	Details	Status	Expiration da	First issuance
Spokane General Business - Non-Resident	T12068092BL			Active	Sep-30-2023	Oct-15-2012

Governing People May include governing people not registered with Secretary of State

Governing people	Title
CATZ, SAFRA	
DALEY, DORIAN	
HIGGINS, BRIAN S	
HILBRICH, GREGORY	

Registered Trade Names

Registered trade names	Status	First issued
ORACLE AMERICA, INC.	Active	Nov-12-2010

[View Additional Locations](#)

The Business Lookup information is updated nightly. Search date and time: 2/3/2023 4:05:03 PM



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MINUTES OF SPOKANE CITY COUNCIL

Monday, February 27, 2023

BRIEFING SESSION

The Briefing Session of the Spokane City Council held on the above date was called to order at 3:35 p.m. in the Council Chambers in the Lower Level of the Municipal Building, 808 West Spokane Falls Boulevard, Spokane, Washington.

Roll Call

On roll call, Council President Beggs and Council Members Bingle, Cathcart, Kinnear, Stratton, Wilkerson, and Zappone were present.

City Administrator Johnnie Perkins; Hannahlee Allers, Director-City Council Office; Chris Wright, City Council Policy Advisor; and City Clerk Terri Pfister were also present for the meeting.

Current Agenda Review

The City Council reviewed the February 27, 2023, Current Agenda for changes and received an overview from staff and held discussion on the February 27, 2023, Advance Agenda items.

Grant Agreement with Spokane Arts Fund (OPR 2023-0247) (Council Sponsors: Council Member Stratton and Wilkerson)

Motion by Council Member Wilkerson, seconded by Council Member Stratton, **to defer** Consent Agenda Item No. 2—Grant Agreement with Spokane Arts Fund in conjunction with Employment Support in the Arts Program—for one week, to March 6, 2023; **carried 7-0.**

Final Reading Ordinance C36357—Sales and Use Tax Deferral Program for Affordable Housing (Council Sponsors: Council Members Zappone and Kinnear)

Motion by Council Member Kinnear, seconded by Council Member Zappone, **to substitute** Ordinance C36357—relating to the establishment of a sales and use tax deferral program for affordable housing—with version sent out by Legislative Assistant Giacobbe Byrd earlier today; **carried 7-0.**

Resolution 2023-0018—Regional Collaborative Effort to Manage Homelessness (Council Sponsors: Council President Beggs and Council Member Bingle)

Council President Beggs requested to amend the statement attached to Resolution 2023-0018 by removing the Mayor line and the City Council line and just have the City of Spokane. The following action was taken:

Motion by Council Member Bingle, seconded by Council Member Wilkerson, **to so move (to amend** the statement attached to Resolution

2023-0018 by removing the Mayor line and the City Council line and just have the City of Spokane); **carried 7-0.**

Suspension of Council Rules

Motion by Council Member Kinnear, seconded by Council Member Cathcart, **to suspend** the Council Rules for purposes of adding items to the agenda; **carried 6-1.**

Final Reading Ordinances C36330 and C36366

Council President Beggs advised that Final Reading Ordinance C36330 has been divided into two ordinances with some language tweaks. He requested a motion to substitute Ordinance C36330 with the version of Ordinance C36330 referred to as Part 1. The following action was taken:

Motion by Council Member Stratton, seconded by Council Member Cathcart, **to so move (to substitute** Ordinance C36330 with the version of Ordinance C36330 referred to as Part 1); **carried 6-1.**

Council President Beggs requested a motion to add to tonight's agenda for final reading the ordinance he circulated earlier today as Part 2 and known as Ordinance C36366.

Motion by Council Member Stratton, seconded by Council Member Zappone, **to so move (to add** to tonight's agenda for final reading the ordinance circulated earlier today as Part 2 and known as Ordinance C36366); **carried 5-2.**

Service Level Agreement with Spokane Regional Emergency Communications (OPR 2023-0246) (Council Sponsors: Council Members Cathcart and Bingle)

Acting City Attorney Lynden Smithson introduced Lori Markham, SREC Executive Director, and Fire Chief Cody Rohrbach, SREC Governing Board Member, who spoke about the Service Level Agreement with SREC and responded to Council inquiries. Following Council and staff discussion, the following action was taken:

Motion by Council Member Stratton, seconded by Council Member Kinnear, **to defer** the Service Level Agreement with SREC to March 27, 2023; **carried 7-0.**

Action to Approve February 27, 2023, Current Agenda

Following staff reports and Council inquiry and discussion regarding the February 27, 2023, Current Agenda items, the City Council took the following action (pursuant to Council Rule 2.1.B):

Motion by Council Member Stratton, seconded by Council Member Wilkerson, **to approve** the February 27, 2023, Current Agenda, as amended; **carried 7-0.**

Introduction of New Human Resources Director

City Administrator Johnnie Perkins thanked and expressed appreciation to Assistant City Attorney Mike Piccolo for his time as Interim Human Resources Director. He then introduced to the Council the new Human Resources Director David Moss. Mr. Moss noted he is glad to be here and is looking forward to working with the City Council, the Human Resources Department, and other departments to accomplish great things.

Advance Agenda Review

The City Council received an overview from staff and held discussion on the March 6, 2023, Advance Agenda items.

Special Budget Ordinance C36364—Expo+50 Capital Projects (Council Sponsors: Council Members Kinnear, Bingle, and Zappone)

Motion by Council Member Wilkerson, seconded by Council Member Stratton, **to defer** Special Budget Ordinance C36364 (arising from the escalated timeline of the Expo+50 capital projects) to March 13, 2023; **carried 7-0**.

Action to Approve March 6, 2023, Advance Agenda

Following staff reports and Council inquiry and discussion regarding the March 6, 2023, Advance Agenda items, the City Council took the following action (pursuant to Council Rule 2.1.B):

Motion by Council Members Bingle and Cathcart, seconded by Council Member Wilkerson, **to approve** the March 6, 2023, Advance Agenda (as modified); **carried 7-0**.

March 20, 2023, City Council Meeting - Canceled

Council President Beggs inquired if there were any objections to canceling the March 20, 2023, City Council meeting as both he and Council Member Kinnear will be absent that date. No objections were made, and the March 20 meeting will be canceled.

Tonight's Legislative Agenda

Council President Beggs noted he would be taking the agenda items out of order tonight and the landlord tenant ordinances will be last.

Council Recess/Executive Session

The City Council adjourned at 4:47 p.m. No Executive Session was held. The City Council reconvened at 6:06 p.m. for the Legislative Session.

LEGISLATIVE SESSION

Pledge of Allegiance

The Pledge of Allegiance was led by Council President Beggs.

Roll Call

On roll call, Council President Beggs and Council Members Bingle, Cathcart, Kinnear, Stratton, Wilkerson, and Zappone were present.

Hannahlee Allers, Director-City Council Office; Chris Wright, City Council Policy Advisor; and City Clerk Terri Pfister were also present for the meeting.

There were no **Council Committee Reports**.

MAYORAL PROCLAMATIONS

February 28, 2023 *Rare Disease Day*

Council Member Stratton read the proclamation. Mary McDirmid of Special Abilities Network, along with her daughter, accepted the proclamation and remarked on the event.

There were no **Reports from Neighborhood Councils**.

BOARD AND COMMISSION APPOINTMENTS

Reappointments to Plan Commission (CPR 1981-0295) and Design Review Board (CPR 1993-0069)

Upon 7-0 Voice Vote, the City Council **approved** (and thereby confirmed) the following reappointments:

- Mary M. Winkes to the Plan Commission for a three-year term, from January 1, 2023, to December 31, 2025.
- Drew Kleman to the Design Review Board – Architect for a three-year term, from January 1, 2023, to December 31, 2025.
- Mark Brower to the Design Review Board – Civil Engineer (Chair) for a three-year term, from January 1, 2023, to December 31, 2025.

There were no **Administrative Reports**.

OPEN FORUM

The following individual(s) spoke during the Open Forum:

- Rick Bocook

- Christine Quinn
- Sarah Hunter
- Sandy Nichols
- Justice Forral
- Breia Gorder
- Barbara Papke
- Jennifer Bates
- Missy Rouse
- Antone Velone
- CJ (Cody Jacob)
- Mike Gahvarechi
- Patricia Nault
- Stuart Lee

CONSENT AGENDA

Subsequent to the opportunity for public testimony, with no individuals requesting to speak, and Council commentary, the following action was taken:

Upon 7-0 Voice Vote (in the affirmative), the City Council approved Staff Recommendations for the following items:

Consultant Agreement with JRP Integrated Solutions, LLC (St. John, WA) for Broadband/Fiber Consultant Services to continue work on expanding broadband-fiber infrastructure in the City of Spokane from February 1, 2023, through June 15, 2023—not to exceed \$75,000 (excluding applicable tax). (OPR 2023-0248) (Council Sponsor: Council President Beggs)

Personal Service Agreement with Toby's Body & Fender (Spokane) for auto body repair services for the Fleet Services Department from January 1, 2023, through December 31, 2026—annual expenditure not to exceed \$300,000. (OPR 2023-0249 / RFP 5800-23) (Council Sponsor: Council Member Bingle)

Accept sub-award grant funds through the YWCA for the Department of Justice's Office on Violence Against Women Fiscal Year 2022 Improving Criminal Justice Responses to Domestic Violence, Dating Violence, Sexual Assault, and Stalking Grant Program—\$268,240. (OPR 2023-0250) (Relates to Special Budget Ordinance C36358) (Council Sponsor: Council Member Cathcart)

Sub-award to the Spokane Regional Domestic Violence Coalition to provide a site coordinator to lead efforts to reduce domestic violence homicides and injuries committed with firearms from July 1, 2022, through June 30, 2025—\$223,208. (OPR 2023-0251) (Council Sponsor: Council Member Cathcart)

Agreement with Spokane County Sheriff's Office in conjunction with the Mental Health Field Response Team Fiscal Year 2022 Grant Program from July 1, 2022, through June 30, 2023—\$879,780. (OPR 2023-0252) (Council Sponsor: Council Member Cathcart)

Interlocal Agreement with Spokane County and Spokane County Superior Court for the sharing of jury management services from January 1, 2023 through December 31, 2025—\$10,000 2023 preliminary estimate. (OPR 2023-0253) (Council Sponsor: Council Member Kinnear)

Outside Special Counsel Contract Amendments with:

- a. Summit Law Group (Seattle, WA) to assist the City in labor negotiation and human resource advice—additional \$75,000. (Total contract amount: \$125,000.) (OPR 2022-0481) (Council Sponsor: Council Member Cathcart)
- b. Pacifica Law Group (Seattle, WA) in the matter of Lonnie Tofsrud v. City of Spokane—additional \$100,000. (Total contract amount: \$200,000.) (OPR 2022-0297) (Council Sponsor: Council Member Cathcart)
- c. Ankur K. Tohan and K & L Gates, LLP (Seattle, WA) to assist the City with the Climate Commitment Act rules and regulations—additional \$42,000. (Total contract amount: \$92,000.) (OPR 2022-0098) (Council Sponsor: Council Member Kinnear)

Contract Amendment with Rockin' D.W. Construction, Inc. (Spokane Valley, WA) for additional work on the Spokane Police Department Academy restroom remodel from January 18, 2023, through November 13, 2023—\$19,965.75 (plus tax). (OPR 2022-0832) (Council Sponsor: Council Member Cathcart)

Report of the Mayor of pending:

- a. Claims and payments of previously approved obligations, including those of Parks and Library, through February 10, 2023, total \$10,384,392.45 (Check Nos.: 591943-592127; ACH Payment Nos.: 112391-112710), with Parks and Library claims approved by their respective boards. Warrants excluding Parks and Library total \$9,246,591.96. (CPR 2023-0002)
- b. Claims and payments of previously approved obligations, including those of Parks and Library, through February 17, 2023, total \$7,617,254.19 (Check Nos.: 592128-592288; ACH Payment Nos.: 112711-112965), with Parks and Library claims approved by their respective boards. Warrants excluding Parks and Library total \$6,574,131.56. (CPR 2023-0002)
- c. Payroll claims of previously approved obligations through February 18, 2023: \$8,454,731.44 (Payroll Check Nos.: 567043-567152). (CPR 2023-0003)

City Council Meeting Minutes: February 6 and February 13, 2023. (CPR 2023-0013)

LEGISLATIVE AGENDA

(Note: Agenda items were taken out of order, and items are reflected in the order taken.)

FIRST READING ORDINANCES

The following Ordinances were read for the first time, with further action deferred. There was an opportunity for public testimony on the first reading ordinances, with no individuals requesting to speak.

- ORD C36360** Granting a non-exclusive franchise to use the public right-of-way to provide noncable telecommunications service to the public to MCImetro Access Transmission Services LLC, subject to certain conditions and duties as further provided. (Council Sponsors: Council President Beggs and Council Member Kinnear)
- ORD C36361** Granting a non-exclusive franchise to use the public right-of-way to provide noncable telecommunications service to the public to Fatbeam LLC, subject to certain conditions and duties as further provided. (Council Sponsors: Council President Beggs and Council Member Kinnear)
- ORD C36362** Relating to the adoption of the Cannon Streetcar Suburb Local Historic District Overlay Zone and Design Standards and Guidelines; adopting new Spokane Municipal Code sections 17D.100.290. (Council Sponsors: Council President Beggs and Council Members Kinnear and Wilkerson)

HEARINGS

Final Reading Ordinance C36357 – Sales and Use Tax Deferral Program (as substituted during the 3:30 p.m. Briefing Session) (Council Sponsors: Council Members Zappone and Kinnear)

The City Council held a hearing on Final Reading Ordinance C36357 relating to the establishment of a sales and use tax deferral program for affordable housing; creating a new chapter 08.07D of the Spokane Municipal Code. Following commentary by Council Members Kinnear and Zappone, public testimony, and further Council commentary, the following action was taken:

Upon 7-0 Roll Call Vote, the City Council **passed Final Reading Ordinance C36357** relating to the establishment of a sales and use tax deferral program for affordable housing; creating a new chapter 08.07D of the Spokane Municipal Code.

SPECIAL BUDGET ORDINANCES

Special Budget Ordinance C36358 (Council Sponsors: Council Members Cathcart and Kinnear) (Relates to OPR 2023-0250 under Consent Agenda)

After an opportunity for public testimony and Council commentary, with no individuals requesting to speak, the following action was taken:

Upon 7-0 Roll Call Vote, the City Council **passed Special Budget Ordinance C36358** amending Ordinance No. C36345 passed by the City Council December 12, 2022, and entitled, "An Ordinance adopting the Annual Budget of the City of Spokane for 2023, making appropriations to the various funds of the City of Spokane government for the fiscal year ending December 31, 2023, and providing it shall take effect immediately upon passage," and declaring an emergency and appropriating funds in:

Public Safety & Judicial Grants Fund

1) Increase revenue by \$268,240.

A) Of the increased revenue, \$268,240 is provided by the Dept. of Justice Office of Violence Against Women grant program FY22 ICJR DV, Dating Violence, Sexual Assault, and Stalking program.

2) Increase appropriation by \$268,240.

B) Of the increased appropriation, \$268,240 is to be used to fund 0.48 FTE of an assigned SPD officer for grant related work.

(This action arises from the need to accept the Department of Justice Office of Violence Against Women grant award.)

Ayes: Beggs, Bingle, Cathcart, Kinnear, Stratton, Wilkerson, and Zappone
Nays: None
Abstain: None
Absent: None

Special Budget Ordinance C36359 (Council Sponsors: Council Members Cathcart and Kinnear)

Subsequent to receiving public testimony from one individual and Council commentary, the following action was taken:

Upon Unanimous Roll Call Vote, the City Council **passed Special Budget Ordinance C36359** amending Ordinance No. C36345 passed by the City Council December 12, 2022, and entitled, "An Ordinance adopting the Annual Budget of the City of Spokane for 2023, making appropriations to the various funds of the City of Spokane government for the fiscal year ending December 31, 2023, and providing it shall take effect immediately upon passage," and declaring an emergency and appropriating funds in:

Public Safety & Judicial Grant Fund

1) Increase revenue by \$114,754.

A) Of the increased revenue, \$114,754 is provided by the Washington State Legislature solely for one-time training costs incurred as required under enacted legislation.

2) Increase appropriation by \$114,754.

B) Of the increased appropriation, \$114,754 is provided solely for one-time training costs.

(This action arises from the need to accept distribution of state funds for recent legislation regarding police training.)

Ayes: Beggs, Bingle, Cathcart, Kinnear, Stratton, Wilkerson, and Zappone
Nays: None
Abstain: None
Absent: None

There were no **Emergency Ordinances**.

FINAL READING ORDINANCES

Final Reading Ordinance C36348 (First Reading held January 9, 2023) (Council Sponsors: Council Members Wilkerson and Kinnear)

After an overview of Final Reading Ordinance C36348 by Eldon Brown of Development Services Center and an opportunity for public testimony and Council commentary, with none provided, the following action was taken:

Upon 7-0 Roll Call Vote, the City Council **passed Final Reading Ordinance C326348** vacating a portion of 7th Avenue east of Government Way, as requested by Catholic Charities.

Ayes: Beggs, Bingle, Cathcart, Kinnear, Stratton, Wilkerson, and Zappone
Nays: None
Abstain: None
Absent: None

For Council action on Final Reading Ordinances C36330, C36356, and C36366, see section of minutes below following “RESOLUTIONS.”

For Council action on Final Reading Ordinance C36357, see section of minutes above under “HEARINGS.”

RESOLUTIONS

Resolution 2023-0018 (as amended during the 3:30 p.m. Briefing Session) (Council Sponsors: Council President Beggs and Council Member Bingle)

After an overview by Council President Beggs; an opportunity for public testimony, with none provided; and Council commentary, the following action was taken:

Upon 7-0 Roll Call Vote, the City Council **adopted Resolution 2023-0018** supporting the 90-day due diligence period to establish a regional, collaborative effort to effectively manage homelessness and its impacts in the Spokane region.

Ayes: Beggs, Bingle, Cathcart, Kinnear, Stratton, Wilkerson, and Zappone
Nays: None
Abstain: None
Absent: None

Resolution 2023-0019 (Council Sponsors: Council Members Stratton and Zappone)

After an opportunity for public testimony, with none provided, and Council commentary, the following action was taken:

Upon 7-0 Roll Call Vote, the City Council **adopted Resolution 2023-0019** acknowledging the recommendation of the Neighborhood Project Advisory Committee for the West Quadrant Tax Increment Financing district and accepting the use of \$300,000 in tax increment funding for design, planning, and implementation of public improvements in the West Central neighborhood portion of the West Quadrant Tax Increment Financing area.

Ayes: Beggs, Bingle, Cathcart, Kinnear, Stratton, Wilkerson, and Zappone
Nays: None
Abstain: None
Absent: None

FINAL READING ORDINANCES (continued)

Final Reading Ordinance C36356 (Council Sponsors: Council Members Kinnear and Bingle)

After an opportunity for public testimony, with none provided, and Council commentary, the following action was taken:

Upon 6-1 Roll Call Vote, the City Council **passed Final Reading Ordinance C36356** relating to the Water Department and Water Rates, amending SMC Sections 13.04.2002 and 13.04.2012 of chapter 13.034, of the Spokane Municipal Code and setting an effective date.

Ayes: Beggs, Bingle, Kinnear, Stratton, Wilkerson, and Zappone
Nays: Cathcart
Abstain: None
Absent: None

Final Reading Ordinances C36330 (deferred from January 23, 2023, Agenda) and C36366 (Council Sponsors: Council President Beggs and Council Member Stratton)

Council President Beggs provided an overview of Final Reading Ordinances C36330 and C36356. He noted the previous version of Ordinance C36330 was divided into two ordinances – a substituted version of Ordinance C36330 (Part 1; as substituted during the 3:30 p.m. Briefing Session) and new Ordinance C36366 (Part 2; added during the 3:30 p.m. Briefing Session). Following a full reading of Ordinance C36366 by the City Clerk, public testimony was taken on both ordinances and Council discussion ensued, after which the following actions were taken:

Upon 5-2 Roll Call Vote, the City Council **passed Final Reading Ordinance C36366** relating to landlord tenant regulations; adopting new sections 10.57.080, 10.57.090, 10.57.100, 10.57.110, 10.57.120, 10.57.130, and 10.57.140 to chapter 10.57; and enacting new sections 07.08.157 and 07.08.158 of the Spokane Municipal Code.

Ayes: Beggs, Kinnear, Stratton, Wilkerson, and Zappone
Nays: Bingle and Cathcart
Abstain: None
Absent: None

Upon 7-0 Roll Call Vote, the City Council **passed Final Reading Ordinance C36330** establishing a local program for assisting landlords and tenants in Spokane; enacting a new chapter 10.57 to Division II of Title 10; and amending sections 07.08.139, 08.01.160, 08.01.195, 08.01.270 and 08.02.0206 of the Spokane Municipal Code.

Ayes: Beggs, Bingle, Cathcart, Kinnear, Stratton, Wilkerson, and Zappone
Nays: None
Abstain: None
Absent: None

ADJOURNMENT

There being no further business to come before the City Council, the Regular Legislative Session of the Spokane City Council adjourned at 10:07 p.m.

Minutes prepared and submitted for publication in the March 29, 2023, issue of the *Official Gazette*.

Terri Pfister
Spokane City Clerk

Approved by Spokane City Council on April 10, 2023.

Breean Beggs
City Council President

MINUTES OF SPOKANE CITY COUNCIL

Monday, March 6, 2023

BRIEFING SESSION

The Briefing Session of the Spokane City Council held on the above date was called to order at 3:34 p.m. in the Council Chambers in the Lower Level of the Municipal Building, 808 West Spokane Falls Boulevard, Spokane, Washington.

Roll Call

On roll call, Council President Beggs and Council Members Bingle, Cathcart, Kinnear, Stratton, Wilkerson, and Zappone were present.

City Administrator Johnnie Perkins; Giacobbe Byrd, City Council Office; Chris Wright, City Council Policy Advisor; and Acting City Clerk Laurie Farnsworth were also present for the meeting.

Advance Agenda Review

The City Council received an overview from staff and held discussion on the March 13, 2023, Advance Agenda items.

Low Bid of DW Excavating, Inc. of Davenport, WA (OPR 2023-0301 / ENG 2019148)
(Council Sponsor: Council Member Kinnear)

Motion by Council Member Kinnear, seconded by Council Member Cathcart, **to defer** the Low Bid of DW Excavating, Inc. of Davenport, WA for the Cochran Basin Stormwater Control Vault to March 27, 2023; **carried 7-0.**

Emergency Ordinance C36369 Relating to GFC Public Utilities and Services (Council Sponsors: Council President Beggs and Council Member Kinnear)

Utilities Division Director Marlene Feist provided an overview of Emergency Ordinance C36369 relating to GFC public utilities and services. Council inquiry and discussion ensued, with staff response. The following actions were taken:

Motion by Council Member Bingle, seconded by Council Member Cathcart, **to defer** Emergency Ordinance C36369 to May 1, 2023 (with the understanding there would need to be a deferral of the building moratorium); **rejected 2-5.**

Motion by Council Member Cathcart, seconded by Council Member Bingle, **to defer** Emergency Ordinance C36369 to March 27, 2023; **rejected 2-5.**

Motion by Council Member Kinnear, **to substitute** Appendix A to Ordinance C36369 (with updated version); **carried 7-0.**

Action to Approve March 13, 2023, Advance Agenda

Following staff reports and Council inquiry and discussion regarding the March 13, 2023, Advance Agenda items, the City Council took the following action (pursuant to Council Rule 2.1.B):

Motion by Council Member Wilkerson, seconded by Council Member Zappone, **to approve** the March 13, 2023, Advance Agenda (as adjusted); **carried 6-1.**

Current Agenda Review

The City Council reviewed the March 6, 2023, Current Agenda for changes and received an overview from staff and held discussion on the March 6, 2023, Advance Agenda items.

Grant Agreement with Spokane Arts Fund (OPR 2023-0247) (Deferred from February 27, 2023, Agenda) (Council Sponsors: Council Members Stratton and Wilkerson)

Motion by Council Member Wilkerson, seconded by Council Member Stratton, **to substitute** with updated version (circulated earlier in the day); **carried 6-1.**

Council Member Bingle requested the Grant Agreement with Spokane Arts Fund be considered separately during tonight's Legislative Session.

Council Recess/Executive Session

The City Council recessed at 4:32 p.m. (with Council Member Kinnear arriving at 4:53 p.m.) and immediately reconvened into an Executive Session to discuss labor negotiations until 5:20 p.m. Interim City Attorney Lynden Smithson, Assistant City Attorney Mike Piccolo, and Special Counsel John Henry were present for the Executive Session. At 5:20 p.m., the Executive Session was extended for 10 minutes. At 5:30 p.m., the Executive Session was extended an additional 5 minutes. At 5:35 p.m., the Executive Session was extended for another five minutes. The Executive Session ended at 5:40 p.m., at which time the 3:30 p.m. Briefing Session also ended. The City Council reconvened at 6:04 p.m. for the Legislative Session.

LEGISLATIVE SESSION

Pledge of Allegiance

The Pledge of Allegiance was led by Council President Beggs.

Roll Call

On roll call, Council President Beggs and Council Members Bingle, Cathcart, Kinnear, Stratton, Wilkerson, and Zappone were present.

Giacobbe Byrd, City Council Office; Chris Wright, City Council Policy Advisor; and Acting City Clerk Laurie Farnsworth were also present for the meeting.

There were no **Council and Committee Reports.**

POETRY AT THE PODIUM

Sarah Rooney presented the poem “Backyard.”

COUNCIL SALUTATION

Saluting the Public Service of Dr. Christine Johnson

Council Member Wilkerson read a Council Salutation recognizing the public service of Dr. Christine Johnson. The Salutation is attached to these minutes for reference.

COUNCIL PROCLAMATION

March 6-11, 2023 *The Week of the Irish*

Council Member Kinnear read the proclamation. Keats McLaughlin accepted the proclamation and remarked on the event. A performance by the Haran Irish Dancers was provided. The proclamation is attached to these minutes for reference.

MAYORAL PROCLAMATION

March 2023 *Red Cross Month*

Council Member Zappone read the proclamation. Ryan Rodin, Interim Director of the local chapter of the American Red Cross, accepted the proclamation and remarked on the event. The proclamation is attached to these minutes for reference.

There were no **Administrative Reports.**

COMMUNITY REPORT

Mujeres in Action

Ana Trusty and Jesus Torres provided an update on Mujeres in Action (M.i.A). The vision of M.i.A is to guide the community from survival to wellbeing. It’s mission is to advocate for survivors of domestic violence and/or sexual assault, helping them reach their full potential, and educating our community from a Latinx perspective to end family violence. The four pillars of M.i.A are, as follows: Services, education, activism, and research.

BOARD AND COMMISSION APPOINTMENTS

Historic Landmarks Commission (CPR 1981-0122) and Bicycle Advisory board (CPR 1992-0059)

Upon 7-0 Voice Vote, the City Council **approved** (and thereby confirmed) the following:

- Appointment of Nicholas Jay Reynolds to the Spokane Historic Landmarks Commission – City-at-Large for a three-year term, from January 1, 2023, to December 31, 2025.
- Reappointment of Charles Otto Greenwood (Charlie) to the Bicycle Advisory Board for a three-year term, from June 1, 2022, through May 31, 2025.

OPEN FORUM

The following individual(s) spoke during the Open Forum:

- Adam Marshall
- Rick Bocook
- Justice Forral
- Ken Van Voorhis
- Mary Beth McGinley
- Jeff Aasaby
- Becky Dickerhoof
- Rick Repp
- Claudia Lobb
- William Hulings
- Edwin Larry Andrews
- Molly Marshall
- Ellis Kleinkauf
- Antone Velone
- Katherine Corrick
- Stuart Lee

CONSENT AGENDA

Subsequent to the opportunity for public testimony, with one individual requesting to speak (on the Grant Agreement with Spokane Arts Fund), and the opportunity for Council commentary, with none provided, the following action was taken:

Upon 7-0 Voice Vote (in the affirmative), the City Council approved Staff Recommendations for the following items:

Recommendations to list the following on the Spokane Register of Historic Places:

- a. The Judge Blake House, 2615 West Maxwell Ave. (Council Sponsors: Council Members Stratton and Zappone)
- b. The Highland Park United Methodist Church, 611 South Garfield St. (Council Sponsors: Council Members Kinnear and Wilkerson)

- c. The Waldean Apartments, 1428 West Dean Ave. (Council Sponsors: Council Members Stratton and Zappone)

Report of the Mayor of pending claims and payments of previously approved obligations, including those of Parks and Library, through February 24, 2023, total \$12,801,785.76 (Check Nos.: 592289-592460; ACH Payment Nos.: 112966-113274), with Parks and Library claims approved by their respective boards. Warrants excluding Parks and Library total \$12,348,646.31.

Grant Agreement with Spokane Arts Fund (as substituted during the 3:30 p.m. Briefing Session) (OPR 2023-0247) (taken separately) (Council Sponsors: Council Members Stratton and Wilkerson) (Deferred from February 27, 2023, Agenda) Upon 5-2 Voice Vote (in the affirmative), the City Council approved the Grant Agreement with Spokane Arts Fund in conjunction with Employment Support in the Arts Program from March 1, 2023, through February 28, 2024--\$1,000,000.

Ayes: Beggs, Kinnear, Stratton, Wilkerson, and Zappone
Nays: Bingle and Cathcart
Abstain: None
Absent: None

LEGISLATIVE AGENDA

SPECIAL BUDGET ORDINANCE

Special Budget Ordinance C36363 (Council Sponsors: Council Members Stratton and Zappone)

After public testimony and Council commentary, the following action was taken:

Upon 7-0 Roll Call Vote, the City Council **passed Special Budget Ordinance C36363** amending Ordinance No. C36345 passed by the City Council December 12, 2022, and entitled, "An Ordinance adopting the Annual Budget of the City of Spokane for 2023, making appropriations to the various funds of the City of Spokane government for the fiscal year ending December 31, 2023, and providing it shall take effect immediately upon passage," and declaring an emergency and appropriating funds in:

Human Services Grants Fund

1) Increase revenue by \$2,806,625.

A) Of the increased revenue, \$2,806,625 is provided by the Department of Commerce to assist in moving unhoused persons from encampments into housing.

2) Increase appropriation by \$2,806,625.

A) Of the increased appropriation, \$2,806,625 is provided solely for contractual services.

(This action arises from the Department of Commerce grant acceptance.)

Ayes: Beggs, Bingle, Cathcart, Kinnear, Stratton, Wilkerson, and Zappone
Nays: None
Abstain: None
Absent: None

There were no **Emergency Ordinances**.

There were no **Resolutions**.

FINAL READING ORDINANCES

For Council action on Final Reading Ordinance C36362, see section of minutes under “Hearings.”

There were no **First Reading Ordinances**.

There were no **Special Considerations**.

HEARINGS

Final Reading Ordinance C36362 (Council Sponsors: Council President Beggs and Council Members Kinnear and Wilkerson)

The City Council held a hearing on Ordinance C36362. After a presentation by Historic Preservation Officer Meghan Duvall, public testimony, and Council commentary, the following action was taken:

Upon 7-0 Roll Call Vote, the City Council **passed Final Reading Ordinance C36362** relating to the adoption of the Cannon Streetcar Suburb Local Historic District Overlay Zone and Design Standards and Guidelines; adopting new Spokane Municipal Code sections 17D.100.290.

Ayes: Beggs, Bingle, Cathcart, Kinnear, Stratton, Wilkerson, and Zappone
Nays: None
Abstain: None
Absent: None

ADJOURNMENT

There being no further business to come before the City Council, the Regular Legislative Session of the Spokane City Council adjourned at 7:44 p.m.

Minutes prepared and submitted for publication in the April 5, 2023, issue of the *Official Gazette*.

Terri Pfister
Spokane City Clerk

Approved by Spokane City Council on April 10, 2023.

Breean Beggs
City Council President



Agenda Sheet for City Council Meeting of:

04/10/2023

Date Rec'd	3/21/2023
Clerk's File #	ORD C36374
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	HUMAN RESOURCES
Contact Name/Phone	MIKE PICCOLO 625-6237
Contact E-Mail	MPICCOLO@SPOKANECITY.ORG
Agenda Item Type	Special Budget Ordinance
Agenda Item Name	0620-HUMAN RESOURCES-SALARY RANGE CHANGES

Agenda Wording
 Approval for quarterly position salary range changes that have been identified by HR salary analysis.

Summary (Background)
 The City's Human Resources Department conducted an internal and external salary analysis of some positions due to a change in duties and job responsibilities. The individual positions affected by the salary analysis that are currently filled are listed in the briefing paper. Upon approval these range changes will be put into effect in the HR system and incumbents' pay will be adjusted.

Lease? NO	Grant related? NO	Public Works? NO
Fiscal Impact		Budget Account
Select	\$	#
Select	\$	#
Select	\$	#
Select	\$	#

Approvals		Council Notifications	
Dept Head	PICCOLO, MIKE	Study Session\Other	F&A Committee 3-20-23
Division Director	PICCOLO, MIKE	Council Sponsor	CM Stratton and CM Wilkerson
Finance	BUSTOS, KIM	Distribution List	
Legal	PICCOLO, MIKE		
For the Mayor	PERKINS, JOHNNIE		
Additional Approvals			
Purchasing			
MANAGEMENT & BUDGET	STRATTON, JESSICA		

Committee Agenda Sheet

Finance & Administration Committee

Submitting Department	Human Resources																																																																																		
Contact Name & Phone	Mike Piccolo 625-6237																																																																																		
Contact Email	mpiccolo@spokanecity.org																																																																																		
Council Sponsor(s)	CP Beggs / Cm Cathcart / CM Stratton																																																																																		
Select Agenda Item Type	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion Time Requested:																																																																																		
Agenda Item Name	Quarterly Range Changes																																																																																		
Summary (Background)	<p>The City's Human Resources Department conducted an internal and external salary analysis of the below positions due to a change in duties and job responsibilities. The individual positions affected by the salary analysis that are currently filled are listed below. Upon approval these range changes will be put into effect in the HR system and incumbents' pay will be adjusted.</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th>Union</th> <th>SPN</th> <th>Title</th> <th>From Grade</th> <th>To Grade</th> <th>Former Range</th> <th>New Range</th> </tr> </thead> <tbody> <tr> <td>M&P-B</td> <td>232</td> <td>Associate Engineer</td> <td>44</td> <td>46</td> <td>\$72,662-\$103,231</td> <td>\$76,212-\$107,991</td> </tr> <tr> <td>M&P-B</td> <td>233</td> <td>Senior Engineer</td> <td>51</td> <td>52</td> <td>\$86,088-\$122,545</td> <td>\$88,093-\$125,343</td> </tr> <tr> <td>M&P-B</td> <td>657</td> <td>Environmental Analyst</td> <td>40</td> <td>44</td> <td>\$65,939-\$93,438</td> <td>\$72,662-\$103,231</td> </tr> <tr> <td>M&P-B</td> <td>653</td> <td>Water Quality Coordinator</td> <td>42</td> <td>46</td> <td>\$69,071-\$98,011</td> <td>\$76,212-\$107,991</td> </tr> <tr> <td>M&P-A</td> <td>781</td> <td>Director of Code Enforcement and Parking Services</td> <td>N/A</td> <td>59</td> <td></td> <td>\$105,507-\$148,352</td> </tr> <tr> <td>M&P-A</td> <td>826</td> <td>Building Official</td> <td>N/A</td> <td>61</td> <td></td> <td>\$111,040-\$155,974</td> </tr> <tr> <td>270L</td> <td>418</td> <td>HVAC Mechanic</td> <td>N/A</td> <td>39</td> <td></td> <td>\$51,281-\$83,395</td> </tr> <tr> <td>270L</td> <td>272</td> <td>Signal Maintenance Technician</td> <td>39</td> <td>41</td> <td>\$51,281-\$83,395</td> <td>\$52,910-\$87,090</td> </tr> <tr> <td>270L</td> <td>274</td> <td>Signal Maintenance Foreperson</td> <td>45</td> <td>46</td> <td>\$56,125-\$92,665</td> <td>\$57,002-\$93,918</td> </tr> <tr> <td>270L</td> <td>608</td> <td>Welder</td> <td>36</td> <td>38</td> <td>\$49,172-\$76,797</td> <td>\$50,383-\$80,639</td> </tr> </tbody> </table>						Union	SPN	Title	From Grade	To Grade	Former Range	New Range	M&P-B	232	Associate Engineer	44	46	\$72,662-\$103,231	\$76,212-\$107,991	M&P-B	233	Senior Engineer	51	52	\$86,088-\$122,545	\$88,093-\$125,343	M&P-B	657	Environmental Analyst	40	44	\$65,939-\$93,438	\$72,662-\$103,231	M&P-B	653	Water Quality Coordinator	42	46	\$69,071-\$98,011	\$76,212-\$107,991	M&P-A	781	Director of Code Enforcement and Parking Services	N/A	59		\$105,507-\$148,352	M&P-A	826	Building Official	N/A	61		\$111,040-\$155,974	270L	418	HVAC Mechanic	N/A	39		\$51,281-\$83,395	270L	272	Signal Maintenance Technician	39	41	\$51,281-\$83,395	\$52,910-\$87,090	270L	274	Signal Maintenance Foreperson	45	46	\$56,125-\$92,665	\$57,002-\$93,918	270L	608	Welder	36	38	\$49,172-\$76,797	\$50,383-\$80,639
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Proposed Council Action & Date:	Approve range changes on April 3, 2023																																																																																		
Fiscal Impact: \$75,000 - \$124,000 (General Fund \$10,000-\$14,000) Total Annual Cost: \$109,000 - \$178,000 (General Fund \$15,000-\$21,000) Approved in current year budget? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A Funding Source <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring Specify funding source: Various funds' revenues or reserves Expense Occurrence <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring Other budget impacts: (revenue generating, match requirements, etc.)																																																																																			

Operations Impacts

What impacts would the proposal have on historically excluded communities?

N/A, recurring HR admin task.

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

N/A, recurring HR admin task.

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

N/A, recurring HR admin task.

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

Ensures compensation equity.

ORDINANCE NO C36374

An ordinance amending Ordinance No. C36345, passed by the City Council December 12, 2022, and entitled, "An ordinance adopting the Annual Budget of the City of Spokane for 2023, making appropriations in the various funds of the City of Spokane government for the year ending December 31, 2023, and providing it shall take effect immediately upon passage," and declaring an emergency.

WHEREAS, subsequent to the adoption of the 2023 budget Ordinance No. C36345, as above entitled, and which passed the City Council December 12, 2022, it is necessary to make changes in the appropriations of the various funds listed below, which changes could not have been anticipated or known at the time of making such budget ordinance; and

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

The City of Spokane does ordain:

Section 1. That in the budget of the General Fund, Integrated Capital Management Fund and the Development Services Center Fund, and the budget annexed thereto with reference to the funds, the following changes be made:

- 1) Change the grade and associated pay range for the Associate Engineer position as noted below.

Union	SPN	Title	From Grade	To Grade	Former Range	New Range
M&P-B	232	Associate Engineer	44	46	\$72,662-\$103,231	\$76,212-\$107,991

Section 2. That in the budget of the General Fund, Street Maintenance Fund, Water Fund, Integrated Capital Management Fund, Sewer Fund and Solid Waste Fund, and the budget annexed thereto with reference to the funds, the following changes be made:

- 1) Change the grade and associated pay range for the Senior Engineer position as noted below.

Union	SPN	Title	From Grade	To Grade	Former Range	New Range
M&P-B	233	Senior Engineer	51	52	\$86,088-\$122,545	\$88,093-\$125,343

Section 3. That in the budget of the Sewer Fund and Solid Waste Fund, and the budget annexed thereto with reference to the funds, the following changes be made:

- 1) Change the grade and associated pay range for the Environmental Analyst position as noted below.

Union	SPN	Title	From Grade	To Grade	Former Range	New Range
M&P-B	657	Environmental Analyst	40	44	\$65,939-\$93,438	\$72,662-\$103,231

Section 4. That in the budget of the Water Fund, and the budget annexed thereto with reference to the fund, the following changes be made:

- 1) Change the grade and associated pay range for the Water Quality Coordinator position as noted below.

Union	SPN	Title	From Grade	To Grade	Former Range	New Range
M&P-B	653	Water Quality Coordinator	42	46	\$69,071-\$98,011	\$76,212-\$107,991

- 2) Change the grade and associated pay range for the Welder position as noted below.

Union	SPN	Title	From Grade	To Grade	Former Range	New Range
270L	608	Welder	36	38	\$49,172-\$76,797	\$50,383-\$80,639

Section 5. That in the budget of the Code Enforcement Fund, and the Parking Meter Revenue Fund and the budget annexed thereto with reference to the funds, the following changes be made:

- 1) Change the grade and associated pay range for the Director of Code Enforcement and Parking Services position as noted below.

Union	SPN	Title	From Grade	To Grade	Former Range	New Range
M&P-A	781	Director of Code Enforcement and Parking Services	N/A	59		\$105,507-\$148,352

Section 6. That in the budget of the Development Services Center Fund, and the budget annexed thereto with reference to the fund, the following changes be made:

- 1) Change the grade and associated pay range for the Building Official position as noted below.

Union	SPN	Title	From Grade	To Grade	Former Range	New Range
M&P-A	826	Building Official	N/A	61		\$111,040-\$155,974

Section 7. That in the budget of the Facilities Management-Operations Fund, and the budget annexed thereto with reference to the fund, the following changes be made:

- 1) Change the grade and associated pay range for the HVAC Mechanic position as noted below.

Union	SPN	Title	From Grade	To Grade	Former Range	New Range
270L	418	HVAC Mechanic	N/A	39		\$51,281-\$83,395

Section 8. That in the budget of the Street Maintenance Fund, and the budget annexed thereto with reference to the fund, the following changes be made:

- 1) Change the grade and associated pay range for the Signal Maintenance Technician position as noted below.

Union	SPN	Title	From Grade	To Grade	Former Range	New Range
270L	272	Signal Maintenance Technician	39	41	\$51,281-\$83,395	\$52,910-\$87,090

- 2) Change the grade and associated pay range for the Signal Maintenance Foreperson position as noted below.

Union	SPN	Title	From Grade	To Grade	Former Range	New Range
270L	274	Signal Maintenance Foreperson	45	46	\$56,125-\$92,665	\$57,002-\$93,918

Section 9. It is, therefore, by the City Council declared that an urgency and emergency exists for making the changes set forth herein, such urgency and emergency arising from the need to adjust pay ranges to align with salary analysis, and because of such need, an urgency and emergency exists for the passage of this ordinance, and also, because the same makes an appropriation, it shall take effect and be in force immediately upon its passage.

Passed the City Council _____

Council President

Attest: _____
City Clerk

Approved as to form: _____
Assistant City Attorney

Mayor

Date

Effective Date



Agenda Sheet for City Council Meeting of:

04/10/2023

Date Rec'd	3/7/2023
Clerk's File #	ORD C36375
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	MUNICIPAL COURT
Contact Name/Phone	SARAH THOMPSON 309-6948
Contact E-Mail	STHOMPSON@SPOKANECITY.ORG
Agenda Item Type	Special Budget Ordinance
Agenda Item Name	0560-MUNI COURT-SBO FOR ADDITIONAL DVITC GRANT MONIES

Agenda Wording

On January 23, 2023, the SBO for the Domestic Violence Intervention Therapeutic Court (DVITC) program was approved. The Administrative Office of the Courts (AOC) offered additional funding to support the DVITC program.

Summary (Background)

On January 23, 2023, the SBO for the Domestic Violence Intervention Therapeutic Court (DVITC) program was approved. The Administrative Office of the Courts (AOC) offered additional funding to support the DVITC program. The funding will cover Office Space, Training, Computer Software, Housing, Incentives, Basic Needs, Transportation and Prosocial Activities.

Lease? NO Grant related? YES Public Works? NO

Fiscal Impact

Revenue	\$ \$183,648
Expense	\$ \$183,648
Select	\$
Select	\$

Budget Account

#	1360-91214-99999-33775-99999
#	1360-91214-12500-5****-99999
#	
#	

Approvals

Dept Head	DELANEY, HOWARD
Division Director	LOGAN, MARY
Finance	WALLACE, TONYA
Legal	PICCOLO, MIKE
For the Mayor	ORMSBY, MICHAEL

Council Notifications

Study Session\Other	Public Safety Committee 3/6/23
Council Sponsor	CP Beggs / CM Wilkerson
Distribution List	
	mdiamond@spokanecity.org
	jlargent@spokanecity.org
	kbustos@spokanecity.org

Additional Approvals

Purchasing	
MANAGEMENT & BUDGET	STRATTON, JESSICA
ACCOUNTING - GRANTS	MURRAY, MICHELLE

Committee Agenda Sheet

Public Safety & Community Health Committee

Submitting Department	Spokane Municipal Court
Contact Name	Sarah Thompson
Contact Email & Phone	sthompson@spokanecity.org , 309-6948
Council Sponsor(s)	CP Beggs
Select Agenda Item Type	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion Time Requested:
Agenda Item Name	Administrative Office of the Courts – Additional DVITC Grant SBO
Summary (Background)	<p>Domestic Violence Intervention Therapeutic Court Grant</p> <p>On January 23, 2023, the SBO for the Domestic Violence Intervention Therapeutic Court (DVITC) program was approved. The Administrative Office of the Courts (AOC) offered additional funding to support the DVITC program.</p> <p style="text-align: center;"><u>Office Space</u></p> <p>Community Justice Services has exhausted the current footprint of the leased space of the Public Safety Building (PSB) located at 1100 W. Mallon, Spokane, WA 99260. The PSB is owned by Spokane County and all space within the complex is regularly argued over by multiple jurisdictions including Municipal Court, Spokane County District Court, Spokane County Superior Court, including both the Spokane County Sheriff Office and City of Spokane Police Department. Community Justice Services (CJS) is currently expanding services and programs offered to the Spokane community including services in the Pretrial Services Unit, Electronic Monitoring Unit, and Therapeutic Court Unit. To meet the needs of the Therapeutic Court Unit additional space was determined necessary and was successfully found at Monroe Court located at 901 North Monroe Street, Ste. 356, Spokane, WA, 99260. The lease opportunity at Monroe Court provides the necessary footprint and service capabilities for the Domestic Violence Intervention Therapeutic Court Community Justice Counselors for the duration of the pilot and program. The 1,397 square foot office space is a turnkey location being leased at the rate of \$54,147.84 for two years.</p> <p style="text-align: center;"><u>Training</u></p> <p>We will send all members of the Domestic Violence Intervention Therapeutic Team to the National Adult Drug Court Professionals annual Rise Conference on June 26th-29th, 2023. With registration, hotel, rental, airfare and per diem we expect the total cost to be \$2,500 per person for a total of \$32,500. Our current agreements allot for \$12,000 to be used for training. An additional \$14,500 was approved for this training.</p> <p>We will send the Therapeutic Court Coordinator to the Practitioner Training March 27th-March 30th, 2023, and with registration, hotel, rental, airfare, and per diem we expect the total cost to be \$2,500.</p>

*use the Fiscal Impact box below for relevant financial information

We will send one of the DVITC Judges to the Practitioner Training November 27th-December 1st, 2023, and with registration, hotel, rental, airfare, and per diem we expect the total cost to be \$2,500.

Computer Software

We will have a designated IT staff person fulltime for up to 5 months to work through our new software to create the modules and reports needed for DVITC. This will significantly increase our ability to track and provide data. The approved amount is \$25,000 for IT support.

Housing

We will provide funding assistance for housing. All sober living homes have move in costs and charge monthly rates. We would like to assist with the first 3 months of transitional living for participants engaged in treatment services to allow them to focus on rebuilding their lives without the burden of seeking immediate employment to cover housing costs. This removes the barrier of placing employment over the program. The approved amount is \$50,000 for housing.

Incentives

We will provide incentives to the DVITC participants for meeting program milestones and other personal events such as maintaining sobriety, completing assessments and treatment, obtaining, and maintaining employment, furthering education, and other events. Better outcomes are achieved in Therapeutic Courts with the use of incentives such as gift cards, sobriety tokens, journals, items with words of affirmation, snacks, etc. The approved amount is \$5,000 for incentives.

Basic Needs

We will support the participants and victims with basic needs. The DVITC program will not only focus on the perpetrator (participant) but also on the intimate partner/family. The program is projected to offer services to the participant and intimate partner/family.

Basic needs for the participant may include weather appropriate clothing, food, hygiene items, haircut, and laundry services. The anticipated amount for participant basic needs is \$5,000.

Basic needs for the victim(s) may include weather appropriate clothing, food, hygiene items, laundry services, child needs (formula, diapers, blankets, car seat, etc.), hotel voucher, cell phones, etc. The anticipated amount for victim basic needs is \$10,000.

Transportation

We will support transportation services such as bus passes, Uber rides, taxicab vouchers. The approved amount is \$10,000 for transportation services.

Prosocial Activities

We would like to partner with the YMCA to provide gym memberships on a sponsorship basis at a reduced cost to the participant/court. As part of a treatment court, participants are required to complete

	<p>prosocial activities each week. Often funding prohibits participants from seeking activities that have a financial component. The approved amount is \$5,000 for prosocial activities.</p> <p>The AOC funding award includes an increase to the following:</p> <p>1. Community Justice Counselors Grant Award:</p> <table border="1" style="margin-left: 40px;"> <tr> <td>Personnel Salaries & Benefits</td> <td>\$25,000</td> </tr> <tr> <td>Staff Equipment & Training</td> <td>\$19,500</td> </tr> <tr> <td>Treatment Services/Compliance Monitoring</td> <td>No change</td> </tr> <tr> <td>Other Participant Services*</td> <td>\$139,147.84</td> </tr> <tr> <td>Total Increase in award:</td> <td>\$183,647.84</td> </tr> </table>	Personnel Salaries & Benefits	\$25,000	Staff Equipment & Training	\$19,500	Treatment Services/Compliance Monitoring	No change	Other Participant Services*	\$139,147.84	Total Increase in award:	\$183,647.84
Personnel Salaries & Benefits	\$25,000										
Staff Equipment & Training	\$19,500										
Treatment Services/Compliance Monitoring	No change										
Other Participant Services*	\$139,147.84										
Total Increase in award:	\$183,647.84										

Proposed Council Action Approve SBO – March 20, 2023

Fiscal Impact
 Total Cost: \$898,465.84 (\$183,647.84-additional award and 714,818 previously approved)
 Approved in current year budget? Yes No N/A

Funding Source One-time Recurring
 Specify funding source: AOC DVITC Grants

Expense Occurrence One-time Recurring

Other budget impacts: (revenue generating, match requirements, etc.)

Operations Impacts (If N/A, please give a brief description as to why)

What impacts would the proposal have on historically excluded communities?

The Spokane Municipal Court and each of the existing and future therapeutic courts does not control who comes into court but does control how individuals are treated when they come into court. The Court prides itself in working toward the highest level of accessible justice ensuring an equitable, open, and fair service to the citizens and visitors of the City of Spokane. The inclusiveness of the court does not discriminate against race, age, gender, or socio-economic status. The Spokane Municipal Court includes several therapeutic courts such as the Spokane Municipal Community Court, which is a nationally recognized Mentor Court based upon the identified creative approaches to community partnership, openness to all, and provision of services.

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

The Domestic Violence Intervention Therapeutic Court will utilize data metrics that will provide regular analysis of the effectiveness and inclusion of community members to ensure racial inequities do not present. If data analysis presents some limitation to access to the DVITC or any bias against race, age,

gender, or socio-economic status, the court may address the data and alternative methodology of services with the multi-disciplinary court team.

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

The Domestic Violence Intervention Therapeutic Court will utilize data metrics that will provide regular analysis of the effectiveness and inclusion of community members to ensure racial inequities do not present. If data analysis presents some limitation to access to the DVITC or any bias against race, age, gender, or socio-economic status, the court may address the data and alternative methodology of services with the multi-disciplinary court team.

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

The development and implementation of a Domestic Violence Intervention Therapeutic Court, funding to provide necessary treatment and reduce criminogenic needs and barriers is a critical element of the City's criminal justice reform efforts.

ORDINANCE NO C36375

An ordinance amending Ordinance No. C36345, passed by the City Council December 12, 2022, and entitled, "An ordinance adopting the Annual Budget of the City of Spokane for 2023, making appropriations in the various funds of the City of Spokane government for the year ending December 31, 2023, and providing it shall take effect immediately upon passage," and declaring an emergency.

WHEREAS, subsequent to the adoption of the 2023 budget Ordinance No. C36345, as above entitled, and which passed the City Council December 12, 2022, it is necessary to make changes in the appropriations of the Miscellaneous Grants Fund, which changes could not have been anticipated or known at the time of making such budget ordinance; and

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

The City of Spokane does ordain:

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

- 1) Increase revenue by \$183,648.
 - A) Of the increased revenue, \$183,648 is provided by the Administrative Office of the Courts for the Domestic Violence Intervention Therapeutic Court.
- 2) Increase appropriation by \$183,648.
 - A) Of the increased appropriation, \$25,000 is provided solely for personnel salaries and benefits.
 - B) Of the increased appropriation, \$19,500 is provided solely for staff equipment and training.
 - C) Of the increased appropriation, \$139,148 is provided solely for other participant services.

Section 2. It is, therefore, by the City Council declared that an urgency and emergency exists for making the changes set forth herein, such urgency and emergency arising from the need to accept the Administrative Office of the Courts additional DVITC grant, and because of such need, an urgency and emergency exists for the passage of this ordinance, and also, because the same makes an appropriation, it shall take effect and be in force immediately upon its passage.

Passed the City Council _____

Council President

Attest: _____
City Clerk

Approved as to form: _____
Assistant City Attorney

Mayor

Date

Effective Date



Agenda Sheet for City Council Meeting of:
03/27/2023

<u>Date Rec'd</u>	3/16/2023
<u>Clerk's File #</u>	ORD C36373
<u>Renews #</u>	
<u>Cross Ref #</u>	
<u>Project #</u>	
<u>Bid #</u>	
<u>Requisition #</u>	

<u>Submitting Dept</u>	CITY COUNCIL
<u>Contact Name/Phone</u>	MATT BOSTON 6820
<u>Contact E-Mail</u>	MBOSTON@SPOKANECITY.ORG
<u>Agenda Item Type</u>	First Reading Ordinance
<u>Agenda Item Name</u>	0320 - SUPPLEMENTAL BUDGET ORDINANCE

Agenda Wording
An ordinance establishing requirements for unallocated reserve balances within the General Fund; enacting new sections 07.14.030 and 07.14.040 of the Spokane Municipal Code.

Summary (Background)
Establishes requirements for unallocated reserve balances within the General Fund; enacting a new section within article 07.08.010 G of the Spokane Municipal Code relating to budget processes, deadlines, allocation, and monitoring processes.

Lease? NO	Grant related? NO	Public Works? NO
<u>Fiscal Impact</u>		<u>Budget Account</u>
Neutral \$		#
Select \$		#
Select \$		#
Select \$		#

<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	ALLERS, HANNAHLEE	<u>Study Session\Other</u>	1/23/23
<u>Division Director</u>		<u>Council Sponsor</u>	Cathcart, Wilkerson, Beggs
<u>Finance</u>		<u>Distribution List</u>	
<u>Legal</u>		sblackwell@spokanecity.org	
<u>For the Mayor</u>		mboston@spokanecity.org	
<u>Additional Approvals</u>		mboston@spokanecity.org	
<u>Purchasing</u>			

ORDINANCE NO. C36373

An ordinance establishing requirements for unallocated reserve balances within the General Fund; enacting new sections 07.14.030 and 07.14.040 of the Spokane Municipal Code.

NOW THEREFORE, the City of Spokane does ordain:

Section 1. That Section 07.14 of the Spokane Municipal Code is amended to read as follows:

Chapter 07.14 Budget Process

Section 07.14.010 Deadline to Submit Estimates of Sources of Revenue

- A. In accord with the requirements of RCW 35.33.135, on the first Monday of October of each year or such earlier time as may be mutually convenient, the mayor shall provide the city council with current information on estimates of revenues from all sources as adopted in the budget for the current year, together with estimates submitted by the clerk/city budget director under RCW 35.33.051.
- B. The city council and the mayor or his designated representative shall consider the City's total anticipated financial requirements for the ensuing fiscal year, and the city council shall determine and fix by ordinance the amount to be raised by ad valorem taxes.
- C. Upon adoption of the ordinance fixing the amount of ad valorem taxes to be levied, the clerk/budget director shall certify the same to the board of county commissioners as required by RCW 84.52.020.

Section 07.14.020 Revenue Allocation to Northeast Public Development Authority

Effective January 1, 2019, seventy five percent (75%) of incremental Revenue increases from all applicable taxes collected by or on behalf of the City, to include without limitation the City's share of: 1) regular sales or use tax, 2) leasehold excise tax, 3) real and personal property tax, and 4) utility tax generated within the geographic boundaries of the Focus Area set forth in the attached Map, (Map 7.14.020-M1), will be allocated to the NEPDA. For purposes of this section "Revenue" means any incremental increases in tax revenues from properties or conducting of business originating from the location of properties within the geographic boundaries of the Focus Area. The Revenue allocation shall not apply to revenue generated within the boundaries of a tax increment finance district created prior to the effective date of this ordinance.

Section 07.14.030 Budget Monitoring and Review

- A. The Finance, Treasury and Administration Division shall provide regular, monthly, financial reports including budget-to-actual data for the General Fund and any other key fund(s), as necessary. The reports will be provided to the City Council as soon as reasonably available upon the closing of the period.
1. As part of the regular monthly reports, a summary of the General Fund budgeted revenue and expenditures shall be provided with estimates of beginning and ending fund balance and reserves with presumptions and trends defined in the estimates.
 2. In the month following the end of a quarter's Finance and Administration Committee Meeting, the Management and Budget Department will provide a summary of potential financial or operational issues that may impact the City's overall financial position, either positively or negatively, based on analysis of actuals relative to the approved budget.
 3. In the month following the end of the quarter, the Management and Budget Department will provide proposed budget amendments as deemed appropriate based on operational activities, grant or contract awards, financial projections, or other relative information. City Council will determine which proposed budget amendments will proceed for the approval process via a special budget ordinance. The special budget ordinance will be scheduled for approval accordingly.
- B. The Finance, Treasury and Administration Division shall provide a pre-audit year-end financial report for the General Fund, and any other key fund deemed appropriate. The report will include relative fund/reserve balances for the General Fund. The report will be provided to the City Council as soon as reasonable and reliable financial information is available following the close of the fiscal year, but no later than the end of May.
- C. Based on analysis of financial activity from the previous fiscal year, as reported in the pre-audit year-end financial report, the Finance, Treasury and Administration Division shall provide:
1. An update to the General Fund Five-Year Forecast based on all known or expected revenues and expenditures. The General Fund Five-Year Forecast will include the current year's budget, current year projections, and updated projections for the subsequent four years. The report will be provided to the City Council by the May Finance and Administration Committee meeting.
 2. Focused discussion on General Fund "summary type code" accounts (both within the General Fund and supported by the General Fund) that have a materiality level of a budgeted 5% of overall expenditures and/or is projected to be +/- of \$250,000 of its annual budget allocation.

- 3. Recommendation to the City Council that includes reducing and/or increasing expenditure “summary type code” line items that are projected to be over budget or under budget accordingly.

D. Based on the recommendations given in section 07.04.030 (C)(2) and the updated five-year forecast provided in section 07.04.030 (C)(1), the Council will consider making budget adjustments to the annual budget via a special budget ordinance in order to maintain financial sustainability in accordance with Ordinance C36346.

Section 07.14.040 Second Year Detailed Budget Projections

Departments shall prepare preliminary estimates of all known and/or expected revenues and expenditures for the subsequent year following the ensuing fiscal year, in accordance with RCW 35.33.051. The intent of providing the estimates for revenues and expenditures for two years is to better ensure financial sustainability by identifying significant deficits in the future years and attempting to mitigate prior to presenting.

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:**

02/27/2023

Date Rec'd

2/15/2023

Clerk's File #

ORD C36360

Renews #**Submitting Dept**

CITY ATTORNEY

Cross Ref #**Contact Name/Phone**TIMOTHY 625-6218
SZAMBELAN**Project #****Contact E-Mail**

TSZAMBELAN@SPOKANECITY.ORG

Bid #**Agenda Item Type**

First Reading Ordinance

Requisition #**Agenda Item Name**

0500 MCIMETRO ACCESS TRANSMISSION SERVICE FRANCHISE

Agenda Wording

An ordinance granting MCImetro Access Transmission Service LLC, d/b/a Verizon Access Transmission Services a new franchise agreement to operate telecommunications operations in City's right of way.

Summary (Background)

MCImetro Access Transmission Services LLC, d/b/a Verizon Access Transmission Services is a Delaware Limited Liability Corporation company based in Basking Ridge New Jersey. MJ 07920. MCImetro is a registered as a limited liability company with the Washington State Secretary of State to operate in the State of Washington as a telecommunications company.

Lease? NO

Grant related? NO

Public Works? NO

Fiscal Impact**Budget Account**

Select \$

#

Select \$

#

Select \$

#

Select \$

#

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

PICCOLO, MIKE

Study Session\Other

PIES 01/30/2023

Division Director**Council Sponsor**

CP Beggs / CM Kinnear

Finance

BUSTOS, KIM

Distribution List**Legal**

SZAMBELAN, TIMOTHY

msloon@spokanecity.org

For the Mayor

ORMSBY, MICHAEL

mfeist@spokanecity.org

Additional Approvals

lmartinez@spokanecity.org

Purchasing

karen.williams2@verizon.com

tszambelan@spokanecity.org

kbustos@spokanecity.org;

lsmithson@spokanecity.org

MCIMETRO ACCESS TRANSMISSION SERVICE, LLC
TELECOMMUNICATIONS (NONCABLE) FRANCHISE

Ordinance No. C-36360

An ordinance granting a non-exclusive franchise to use the public right-of-way to provide noncable telecommunications service to the public to MCImetro Access Transmission Services LLC, subject to certain conditions and duties as further provided.

THE CITY OF SPOKANE DOES ORDAIN:

- Section 1. Definitions
- Section 2. Parties, grant
- Section 3. Limits on permission
- Section 4. Effective Date, Term
- Section 5. General provisions
- Section 6. Plans; Locate, Relocate
- Section 7. Grantee to restore affected areas
- Section 8. Information, good engineering, inspections
- Section 9. Limited access, no obstruction, accommodation
- Section 10. Undergrounding
- Section 11. Facilities for City Use
- Section 12. Liability; No duty
- Section 13. Insurance
- Section 14. Taxes, fees
- Section 15. Franchise administration
- Section 16. Additional

Section 1. Definitions

"City" means the City of Spokane and its legal successors.

"Administering officer" is the designee of the Mayor who administers this Franchise.

"Cable television service" means the one-way transmission to subscribers of video programming and other programming service and subscriber interaction, if any, that is required for the selection or use of the video programming or other programming service.

"Facilities" means the equipment, fixtures, and appurtenances necessary for Grantee to furnish and deliver telecommunications services as provided in the Franchise. It includes poles, antennas, transmitters, receivers, equipment boxes, backup power supplies, power transfer switches, electric meters, coaxial cables, fiber optic cables, wires and conduits and related materials and equipment, but not above ground pedestals or other special installations in the Public right-of-way absent written permission of the Administering officer.

"Municipal infrastructure" means the road bed and road area, street and sidewalk paving, curbing, utility easements (unless there are relevant use, structure, or other restrictions), associated drainage facilities, combined sewer tanks, bike paths and other construction or improvements pertaining to public travel. It further includes municipal water and sewer lines or other municipal utility facilities, as well as municipal traffic signal, street lighting and communications facilities in the right-of-way or other areas or easements open for municipal use. It further includes skywalks, street trees, plants, shrubs, lawn and other ornamental or beautification installations owned by the City in the right-of-way or other ways open for public travel or municipal use and accepted for municipal management or control as such. The definition is intended to encompass any municipal physical plant, fixtures, appurtenances, or other facilities located in or near the right-of-way or areas or easements opened and accepted for municipal use.

"Public right-of-way" or "right-of-way" means land acquired by or dedicated to the City for public roads and streets, but does not include state highways; land dedicated for roads, streets, and highways not opened and not improved for motor vehicle use by the public; structures, including poles and conduits, located within the right-of-way; federally granted trust lands or forest board trust lands; lands owned or managed by the state parks and recreation commission; or federally granted railroad rights-of-way acquired under 43 U.S.C. 912 and related provisions of federal law that are not open for motor vehicle use.

"Telecommunications service" means the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means for hire, sale, or resale to the general public. For the purpose of this definition, "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols. For purposes of this definition, "telecommunications service" excludes the over-the-air transmission of broadcast television or broadcast radio signals and "cable service" as defined in 42 USC 522 (5) or other distribution of multichannel video programming.

Section 2. Parties, grant

A. This is a Franchise agreement between the City of Spokane as Grantor, hereafter also "City", and MCI metro Access Transmission Services LLC, d/b/a Verizon Access Transmission Services as Grantee, hereafter also "Grantee". Grantee is a Delaware Limited Liability Company whose home office is One Verizon Way, Basking Ridge NJ 07920. Any notice sent hereunder to Grantee shall be sent, via certified mail, return receipt requested, or express carrier with notice deemed given upon receipt or first refusal, to:

MCImetro Access Transmission Services LLC
d/b/a Verizon Access Transmission Services
Attn: Franchise Manager
600 Hidden Ridge
Irving, TX 75038

With a copy to:

Verizon Legal Department
Attn: Network Legal Team
1300 I Street, NW
5th Floor
Washington, DC 20005
Re: City of Spokane WA Telecommunications (noncable) Franchise

Any contact necessary for effectuating this Franchise or any logistics hereunder shall be made to: Dina Dye, phone: 972-457-8337; email: Dina.Dye@verizon.com.

Any notice sent hereunder to the City shall be sent, via certified mail, return receipt requested, or express carrier with notice deemed given upon receipt or first refusal, to:

City of Spokane
808 West Spokane Falls Boulevard
Spokane, WA 99201
Attention: City Clerk's Office

With a copy to:
City of Spokane
808 West Spokane Falls Boulevard
Spokane, WA 99201
Attention: City Attorney's Office

B. In return for promises made and subject to the stipulations and conditions stated, the City grants to Grantee general permission to enter, use, and occupy (including, but not limited to, permission to relocate, install, operate, maintain, replace, relocate, excavate, repair, reinstall, restore and upgrade fiber optic cable) the Public right-of-way, to locate Facilities to provide telecommunications service to the public in the City of Spokane and/or to transport telecommunications services through the City and for no other purpose. This grant expressly does not include permission to use the Public right-of-way for cable service or cable television service. The grant is by way of general permission to occupy the right-of-way, and not in place of specific location permits. In accepting this Franchise, Grantee stipulates and agrees to the City's authority to issue and require the Franchise and stipulates and agrees to the other terms and conditions hereof.

Section 3. Limits on Permission

A. Should the City determine Grantee is using the Franchise beyond its purpose set forth in Section 2B above, or functioning as a cable operator or performing other business functions beyond the scope of permission extended in the Public right-of-way, the City reserves the right to cancel this Franchise and require Grantee to follow any applicable requirements to obtain a cable franchise or other franchise from the City.

B. Permission granted is in the nature of a quitclaim of any interest or authority the City has to make the grant, without warranty of authority by the City to the Grantee. It does not extend beyond the right-of-way, to areas such as buildings or private areas not reserved for general utility access. Grantee is solely responsible to make its own arrangements for any access needed to such places. Permission granted is nonexclusive. Grantee stipulates that the City may grant similar permission to others, provided that any such use by others does not unreasonably interfere with Grantee's use and placement of its Facilities in any right-of-way. The City additionally reserves the right to engage in any lawful municipal function, whether or not including any line of business engaged in by Grantee.

C. The grant of permission from the City does not extend to municipal buildings or other municipally owned or leased structures or premises held in a proprietary or ownership capacity. For such locations, Grantee should make specific written lease arrangements directly with the municipal department controlling such building or other structure or area, all arrangements to be approved in accord with applicable requirements.

Section 4. Effective Date, Term

This Franchise is effective as of the effective date of the Ordinance ("Effective Date"); PROVIDED, that it shall not be effective unless and until the written acceptance of this ordinance by the Grantee, signed by its proper officers, shall be filed with the City Clerk within thirty (30) days of enactment. It expires at midnight ten (10) years thereafter (the "Initial Term"). Following the expiration of the Initial Term, this Franchise shall be automatically renewed for two (2) additional five (5) year periods (each a "Renewal Term"), unless Grantee provides to the City written notice of intention not to renew at least ninety (90) days prior to the expiration of the Initial Term or any Renewal Term, as applicable. This does not affect the City's right to revoke the Franchise for cause, abandonment, or because of breach of any material promise, condition or stipulation stated herein.

Section 5. General Provisions

A. Grantee is and will remain in good standing as a limited liability company registered to do business in the State of Washington and pay all taxes or fees applicable thereto. Grantee will maintain a public telephone number 24 hours a day, seven days a week for the City's access, personally staffed at least during normal business hours. The Grantee will notify the City within five business days if Grantee's contact information changes.

B. Grantee will coordinate its activities with other utilities and users of permitted areas to avoid unnecessary cutting, damage or disturbance to the Public right-of-way and other permitted areas, and to conduct its planning, design, installation, construction, and repair operations to maximize the life and usefulness of the paving and Municipal infrastructure. Grantee agrees that its uses in Franchised areas are fully subordinate to Municipal infrastructure needs and uses, the general public travel and access uses and the public convenience, except as may be otherwise required by law. Grantee promises to minimize or avoid any hazard, danger or inconvenience to Municipal infrastructure needs and uses, public travel, and the public convenience.

C. If required by applicable laws, Grantee will maintain membership with the Inland Empire Utility Coordinating Council (IEUCC) or other similar or successor organization designated to coordinate underground fixture locations and installations. Grantee is familiar with Ch. 19.122 RCW, Washington State's "Underground Utilities" statute. Grantee will familiarize itself with local procedures, custom and practice relating to the one-call locator service program and will see to it that its contractors or others working in the right-of-way on Grantee's behalf are similarly well informed.

Section 6. Plans; Locate, Relocate

A. Grantee's plans for construction or installation shall be submitted to the Administering officer as requested under such advance notification as the Administering officer may reasonably require, with a copy of such plans to the City's ITSD Director, Developer Service Director, City Engineer, and any other information requested by the City. Grantee promises that all its installations shall be placed in the standard location for buried telecommunications fiber cable not to be less than (30) thirty inches below the paved surface and as determined by local regulation, custom and practice in effect on the date that permits or authorizations are issued for the applicable Facilities, or as designated by the Administering officer. In the event that cable is needed to be installed above ground, all above ground pedestals or other above ground structures besides telephone poles and related guy wire supports are subject to separate review and approval by the Administering officer, in addition to other Franchise requirements; provided, however, that such approval shall not be unreasonably withheld, conditioned, or delayed. If the location of the Grantee's facility is already occupied by City utilities, the Grantee is required to submit new plans showing the location that the Grantee will now be occupying. Grantee will not be considered to have breached the Franchise or acted in such a way as to terminate the Franchise if it reduces the amount of right-of-way occupied.

B. The City reserves the right to change, regrade, relocate, or vacate the Public right-of-way and/or skywalk over the right-of-way. If Grantee is required to relocate its cable, relocation costs incurred by Grantee will be reimbursed by the City and/or any other entity requiring the relocation or funding the project that is requiring the relocation, subject to the conditions set forth in Section 6. The City agrees to give Grantee preliminary notice of any such request ("initial notice date"). Grantee must submit design plans within sixty (60) days

of an initial notice date, with relocation to be accomplished within one hundred and eighty (180) days of the initial notice date or thirty days of the City's final approval of Grantee's design plan, whichever is later. In addition, the City agrees to work with Grantee to give additional advance notice as may be reasonable under the circumstances or to extend additional time, considering the nature and size of the project and other factors. Upon expiration of the time limits specified, Grantee will relocate, remove, or reroute its Facilities, as ordered by the Administering officer. This provision prevails over others in the event of conflict or ambiguity. In case of emergency, the City will provide notice as soon as reasonably practicable, giving reasonable consideration also for Grantee's needs.

C. Under the provisions of RCW 35.99.060, the Administering officer may require Grantee to relocate its Facilities within the right-of-way, when reasonably necessary for construction, alteration, repair, or improvement of the right-of-way for purposes of public welfare, health, or safety. The same terms and timelines as exist in Section 6(B) shall apply for the relocation contemplated in this Section 6(C).

D. Grantee shall complete the relocation by the date specified by the Administering officer, unless extended by said official after a showing by Grantee that the relocation cannot be completed by the date specified using best efforts and meeting safety and service requirements. As provided in RCW 35.99.60, Grantee may not seek reimbursement for its relocation expenses from the City except for City requested relocations:

1. Where Grantee has paid for the relocation cost of the same Facilities in the right-of-way at the request of the City within the past five (5) years, Grantee's share of the cost of relocation will be paid by the City when the City is requesting the relocation;
2. Where aerial to underground relocation of authorized Facilities in the right-of-way is required by the City, where Grantee has any ownership share of the aerial supporting structures, the additional incremental cost of underground compared to aerial relocation, or as provided for in the approved tariff if less, will be paid by the City requiring relocation; and
3. Where the City requests relocation in the right-of-way solely for aesthetic purposes, unless otherwise agreed to by the parties.
4. The parties agree that "relocation" refers to a permanent movement of Facilities required of Grantee by the City, and not a temporary or incidental movement of Facilities, such as a raising of lines to accommodate house moving and the like, or other revisions Grantee would accomplish without regard to Municipal request.

E. As provided by RCW 35.99.060, where a project is primarily for private benefit, the private party or parties shall reimburse the cost of relocation in the same proportion to their contribution to the costs of the project. Grantee understands however that the City has no obligation to collect such reimbursement and enforcement of any such rights shall be solely by Grantee. Upon stipulation of all parties, the Administering officer may arbitrate any dispute referenced in this subsection E or refer the matter to the Hearings Examiner, provided, costs of the same as may be assessed by the City shall be borne by the participants. Grantee is not otherwise precluded from recovering costs associated with relocation, consistent with applicable state or federal law, where it does not directly or indirectly create additional liability or expense to the City.

F. The Administering officer may require the relocation, adjustment or securing of Facilities at Grantee's expense at any location in the event of an unforeseen emergency that creates an immediate threat to the public safety, health, or welfare. Where the City determines to abandon or vacate any right-of-way or other permitted area, it is the Grantee's responsibility to resolve any question of Grantee's continued occupancy or use of such areas directly with the owner of such areas.

G. Grantee does not currently have, nor has any plans to have, any Facilities that are subject to SMC 17C.355A Wireless Communication Facilities. Provided, however, that if Grantee did at some time have Facilities subject to SMC 17C.355A Wireless Communication Facilities, then the Grantee would be subject to all applicable zoning laws and requirements in effect on the date that the permits or authorizations are issued for the applicable Facilities, as permitted by law when installing Facilities in the Public right of way.

H. Grantee may be required to obtain a master lease agreement for attachment of telecommunications equipment or other facilities in the Public right of way.

I. The City has the right to charge the Grantee site specific charges for placement of new facilities in the right of way on structures owned by the City pursuant to RCW 35.21.860.

J. The Grantee will work with the City to provide access to conduit or other equipment the Grantee is placing in the public right of way when feasible.

Section 7. Grantee to Restore Affected Areas

Subject to Section 6 as it may apply, whenever Grantee damages or disturbs any location in or near the right-of-way or other permitted area, Grantee will promptly restore the same to original or better condition at its expense, as reasonably required by the Administering officer. Grantee will restore and patch all surfaces cut in accord with the City's generally applicable Pavement Cut Policy, on file with the Administering officer to maintain and preserve the useful life thereof. Any damage or disturbance to facilities, fixtures or

equipment of the City or others shall be promptly repaired. Pavement restorations shall be maintained in good condition and repair by Grantee until such time as the area is resurfaced or reconstructed. If Grantee fails or delays for more than thirty (30) days after receipt of written notice from the City or the Administering officer in performing any obligation here or elsewhere in the Franchise following receipt of written notice of such failure or delay, the City may proceed to correct the problem and bill Grantee for the expense, upon such reasonable notice as determined by the Administering officer under the circumstances. Grantee will reimburse City within thirty (30) days following receipt of an invoice together with reasonably supporting documentation evidencing such expense.

Section 8. Information, Good engineering, Inspections

A. Not more than once annually, Grantee will supply information reasonably requested by the Administering officer such as installation inventory, location of existing or planned Facilities, maps, plans, operational data, and as-built drawings of Grantee's installations or other information reasonably related to Grantee's Facilities, unless the information is confidential and/or proprietary. The information shall be in format compatible with City operations. Grantee is responsible for defending any public record requests as it may desire.

B. Grantee property and Facilities shall be constructed, operated, and maintained according to good engineering practice. In connection with the civil works of Grantee's system, such as trenching, paving, compaction and locations, Grantee promises to comply with the American Public Works Association Standard Specifications, the edition being that in current use by the City, together with the City Standard Plans and City's Supplemental Specifications thereto, all as now or hereafter amended, excluding existing non-conforming uses and other changes to the Specifications which do not apply to previously-constructed improvements and/or wireless communications facilities. Grantee promises its system shall comply with the applicable federal, state and local laws, and the National Electric Safety Code and Washington Electrical Construction Code, where applicable. Grantee will familiarize itself with the City of Spokane's Specifications and other right-of-way installation and location requirements, on file with the Administering officer and make reasonable effort to be familiar with updates or changes thereto.

Section 9. Limited Access, No Obstruction, Accommodation

A. The City reserves the right to limit or exclude Grantee's access to a specific route, Public right-of-way or other location when, in the reasonable judgment of the Administering officer, there is inadequate space, a pavement cutting moratorium, subject to the requirements of applicable law, unnecessary damage to public property, public expense, inconvenience, interference with City utilities, or for any other reasonable cause determined by the Administering officer, provided, it shall do so consistent with the Federal Telecommunications Act of 1996 and RCW 35.99.050 as applicable. The City shall provide written explanations of the denial of access and allow Grantee to make corrections to accommodate the concerns where possible.

B. Grantee must raise any concerns under the aforementioned laws or other applicable laws which it believes limit the City's authority or Grantee's obligations to the City pertaining to this Franchise at the time such issue is first known or should have been reasonably known by Grantee.

C. Grantee will not interfere with Municipal infrastructure uses of the right-of-way or other permitted areas. Grantee shall maintain a minimum underground horizontal separation of five (5) feet from City water facilities and ten (10) feet from above-ground City water facilities including sewer and storm water facilities unless modified in writing; PROVIDED, that for development in new areas, the City, together with Grantee and other utility purveyors or authorized users of the right-of-way, will develop and follow the Administering officer's reasonable determination of a consensus for guidelines and procedures for determining specific utility locations, subject additionally to this Franchise. Subject to Section 6, the City may require Grantee to make reasonable accommodation for public or third party needs in the construction of Grantee Facilities in the right-of-way as, in the reasonable judgment of the Administering officer, are necessary to preserve the condition of, or reduce the interference with, such right-of-way, and a reasonable apportionment of any expenses of any such accommodation; PROVIDED, that this Franchise creates no third party beneficial interests. Notwithstanding the foregoing, it remains the responsibility of the Grantee to anticipate and avoid conflicts with other right-of-way occupants or users, other utilities, franchisees, or permittees existing within the right-of-way as of the date of this Ordinance. The City assumes no responsibility for such conflicts.

Section 10. Undergrounding

The City reserves the right to develop a general policy on undergrounding and to require Grantee's participation therein, in coordination the City's underground program for other utility service providers, as a condition of Grantee's new installation or major maintenance or restoration construction activities of overhead facilities under this Franchise; provided, however, the City's right to require undergrounding of Grantee's Facilities shall exclude antennas, equipment cabinets, cabling and other equipment that must be above-ground to operate. The purpose of this section is to recognize and preserve the City's control over uses of the Public right-of-way, consistent with the Municipal policy favoring undergrounding of overhead lines for aesthetic reasons.

Section 11. Facilities for City Use

A. Except as covered by mutual agreement, whenever Grantee constructs, relocates or places ducts or conduits in the Public right-of-way as part of the Facilities, Grantee will provide the City where technically feasible, judged by objective engineering standards, with additional duct or conduit and related structures necessary to access the conduit at its actual incremental out-of-pocket costs plus 10% to cover all internal costs. The parties agree to execute any documents needed to satisfy RCW 35.99.070 as it may apply. The City may review supporting third party billings to support

incremental cost claims. Unless otherwise agreed, the City further agrees not to resell, lease, sublease, or grant an IRU or other right to use in any Grantee Facilities provided under this paragraph, or use such Facilities to provide communications services for hire, sale or resale, to the public or any third party which is not a governmental entity. All Facilities supplied shall be maintained to technical specifications.

B. The City is permitted to attach to aerial poles for aerial fiber cabling and required mounting hardware in situations where the existing pole agreements between Grantee and the other party would not be violated by the City's attachment use of the aerial pole. The City shall execute a pole attachment agreement with the Grantee prior to attaching.

C. Grantee agrees to notify the City ITSD Director, Developer Service Director, and City Engineer at least sixty (60) days prior to opening a trench or placing overhead lines at any location to allow the parties to implement paragraph B herein as those provisions may apply. As to all matters encompassed in this Section, the parties further agree to do anything required by law to maintain the effectiveness of such arrangements and to negotiate in good faith any matters not otherwise fully resolved. Each party acknowledges receipt of good and adequate consideration for all matters encompassed in this Section.

Section 12. Liability; No duty

A. Grantee waives all claims, direct or indirect, for loss or liability, whether for property damage, bodily injury or otherwise, against the City arising out of Grantee's enjoyment of Franchise or permit privileges. This waiver does not apply to negligent or intentional acts of the City outside a governmental or regulatory capacity, such as granting this franchise or permits. Except to the extent caused by the negligent or intentional acts of the City, Grantee will indemnify and hold the City, its boards, officers, agents and employees ("City") harmless from any and all claims, accidents, losses, or liabilities arising from or by reason of any intentional or negligent act, occurrence or omission of the Grantee, whether singularly or jointly with others, its representatives, permittees, employees or contractors, in the construction, operation, use, or maintenance of any of the Grantee's property or Facilities, and/or enjoyment of any privileges granted by this Franchise, or because of Grantee's performance or failure to perform any Franchise obligations.

B. Grantee accepts that access to any franchised area is furnished "as is". The City has made no assessment or guarantee as to its suitability for Grantee needs or compatibility of Grantee uses with other needs. Grantee waives immunity under Title 51 RCW in any cases involving the City of Spokane relating solely to indemnity claims made by the City directly against Grantee for claims made against the City by Grantee's employees and affirms that the City and Grantee have specifically negotiated this provision, as required by RCW 4.24.115, to the extent it may apply. This waiver has been mutually negotiated.

C. It is not the intent of this Ordinance to acknowledge, create, or expand any duty or liability of the City for any purpose. Any City duty nonetheless deemed created shall be a duty to the general public and not to any specific party, group, or entity.

Section 13. Insurance

A. Grantee shall furnish certificate of insurance as evidence of commercial general liability insurance and maintain the same in good standing, with limits of one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) general aggregate, with the City of Spokane included as an additional insured as their interest may appear under this Agreement. Grantor's additional insured status shall (i) be limited to bodily injury, property damage or personal and advertising injury caused, in whole or in part, by Grantee, its employees, agents or independent contractors; (ii) not extend to claims for punitive or exemplary damages arising out of the acts or omissions of Grantor, its employees, agents or independent contractors or where such coverage is prohibited by law or to claims arising out of the gross negligence of Grantor, its employees, agents or independent contractors; and, (iii) not exceed Grantee's indemnification obligation under this Agreement, if any.

B. Grantee's required insurance shall be primary and non-contributory with any insurance or program of self-insurance that may be maintained by the City. On or before June 1st of each year and at the time of granting this Franchise, as a condition of Franchise validity, Grantee shall file with the City Clerk, with copy to the City Risk Manager, proof of continued insurance coverage, in the amounts required in this Section, through a Certificate of Insurance, including the blanket additional insured endorsement indicating City coverage required herein. Notwithstanding the foregoing, Grantee may self-insure any required coverage.

Section 14. Taxes, fees

A. No Franchise fee is assessed for telecommunications service providers in accord with the prohibition of state law (RCW 35.21.860). If the prohibition of telecommunications service provider franchise fees is removed or modified to allow a franchise fee, the parties agree to negotiate this provision as a material term on which agreement is required for continuation of this franchise, PROVIDED, the City must give one hundred eighty (180) days' notice to invoke this provision and any franchise fee under it shall be prospective in nature.

B. Nothing in this Franchise shall otherwise limit the City's power to tax or recover any lawful expenses in connection with this Franchise. Grantee agrees to pay all taxes as due and any lawful expenses within ninety (90) days of billing pursuant to this Franchise. Failure to pay within ninety (90) days after demand by the City and exhaustion of any applicable remedies is a material breach of this Franchise.

Section 15. Franchise Administration

Questions of application or interpretation of this Franchise are determined by the Administering officer or a court of competent jurisdiction. Said officer may issue enforcement orders, upon due notice as deemed proper, promulgate rules and procedures as deemed necessary and grant exceptions, which shall be revocable. Nothing in the Franchise limits the City's police or regulatory power in general or over its right-of-way or other franchised areas. For the performance of all franchise obligations, time is of the essence. All City acts under this Franchise are discretionary guided by considerations of the public health, safety, esthetics, and convenience.

Section 16. Additional

A. Grantee may assign this Franchise or any of its rights under this Franchise or delegate any of its duties under this Franchise, with the prior written consent of the City, which consent will not be unreasonably withheld, conditioned or delayed, provided, however, that Grantee may assign this Franchise or any of its rights under this Franchise or delegate any of its duties under this Franchise to (i) any entity that it controls, is under common control with or is controlled by or (ii) any entity that is the survivor of a merger, consolidation or other business combination or that acquires all or substantially all of the assets of Grantee. The City may not assign this Franchise or any of its rights under this Franchise or delegate any of its duties under this Franchise, without the prior written consent of Grantee. Any assignment or delegation in violation of this Section is null and void.

No capital stock may ever be issued based on any permission to use or occupy the right-of-way or other permitted areas or the value thereof. The City will provide written notice of any condemnation or annexation actions that would affect Grantee's rights. In any condemnation proceeding brought by the City, Grantee shall not be entitled to receive any return thereon, except for its value.

B. This Franchise may be revoked by the City Council by resolution because of any material breach, after giving at least thirty (30) days' written notice to Grantee and opportunity to cure. Similarly, Grantee may elect to terminate this Franchise because of any material breach of the City's obligations, after giving at least thirty (30) days' written notice to the City and opportunity to cure. Except as otherwise provided for in this Franchise, and upon written notice, the defaulting party will have thirty (30) days to cure defaults under the terms of this Franchise. Neither party is in default of this Franchise if the party provided written notice commences to cure the default within the thirty (30) day period and diligently and in good faith continues to cure the default. If any default exists after the applicable cure period, the non-defaulting party may, without prejudice to any other rights or remedies at law or in equity or under this Franchise, terminate this Franchise.

No forbearance by the City of any term or condition of this Franchise shall ever comprise a waiver or estoppel of the City's right to enforce said term or condition. Grantee

may surrender its Franchise to the City upon sixty (60) days written notice to the Administering officer, subject to acceptance by the City, by a resolution of the City Council.

C. Upon termination, surrender or expiration of the Franchise, Grantee may be required to remove all its Facilities as ordered by the Administering officer or otherwise abandon the cable in place, first removing all electronics, if any, rendering the same safe. In the event removal is required, Grantee shall remove the Facilities within one hundred twenty (120) days of receipt of written notice from City. Grantee will have no further obligations under this Franchise.

D. Grantee understands that this Franchise applies to itself as well as all third-party users, assigns, successors, or any other entity enjoying de facto Franchise privileges derived from permission extended to Grantee herein and Grantee shall assure that any contracts with such users, assigns, successors or entities so provide. Additionally, Grantee accepts full responsibility with said users, assigns, successors, or entities, jointly and severally, to the City for full performance of all Franchise obligations.

E. This Franchise is governed by the laws of the State of Washington, and venue for any litigation arising out of or in connection with privileges extended herein is stipulated to be in Spokane County.

F. (Force Majeure) Except as otherwise provided in this Franchise, neither party hereto will be in default under this Franchise if and to the extent that any failure or delay in a party's performance of one or more of its obligations hereunder, is caused by any of the following conditions, and such party's performance is excused and extended during the period of any such delay: act of God (such as, flood, back water caused by flood, tornado, earthquake, and unforeseeably severe weather); fire; government codes, ordinances, laws, rules, regulations or restrictions not in effect at the time of execution of this Franchise (collectively, "Regulations"); war or civil disorder; or vandalism, or any other events beyond the reasonable control of the party seeking relief under this Section, provided that the party claiming relief under this Section promptly notifies the other in writing of the existence of the event relied on and the cessation or termination of the event. The party claiming relief under this Section must exercise reasonable efforts to minimize the time for any such delay.

Both parties hereto acknowledge that events under this Section may occur which are incapable of being cured so as to allow the parties to enjoy the full benefit of their rights under the Franchise. If a party is unable to conduct its business due to an event of force majeure as described in this Section, and the force majeure occurs and remains uncured after sixty (60) days, the party not claiming inability to perform under force majeure may, at its option, terminate this Franchise without further obligation.

G. (Authority to Sign) Each party hereto hereby represents and warrants to the other that the person or entity signing this Franchise on behalf of such party is duly authorized to execute and deliver this Franchise and to legally bind the party on whose

behalf this Franchise is signed to all of the terms, covenants and conditions contained in this Franchise.

Passed the City Council _____, 2023.

MAYOR

Attest: _____
City Clerk

Approved as to form:

Assistant City Attorney

ACCEPTANCE OF CITY FRANCHISE

Ordinance No. _____, effective _____, 2023.

I, Dina Dye, am the Senior Manager – Network Regulatory/Real Estate of MCImetro Access Transmission Services LLC and am an authorized representative to accept the above referenced City Franchise ordinance on behalf of MCImetro Access Transmission Services LLC.

I certify that this Franchise and all terms and conditions thereof are accepted without qualification or reservation.

DATED this _____ day of _____, 2023.

Witness: _____

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

02/27/2023

Date Rec'd	2/15/2023
Clerk's File #	ORD C36361
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	CITY ATTORNEY
Contact Name/Phone	TIMOTHY 625-6218 SZAMBELAN
Contact E-Mail	TSZAMBELAN@SPOKANECITY.ORG
Agenda Item Type	First Reading Ordinance
Agenda Item Name	0500 FATBEAM LLC FRANCHISE

Agenda Wording

An ordinance granting Fatbeam LLC a franchise agreement to operate telecommunications operations in City's right of way.

Summary (Background)

Fatbeam LLC is a Washington State Limited Liability Corporation company and has its home office in Coeur d' Alene, Idaho. Fatbeam is registered as a limited liability company with the Washington State Secretary of State to operate in the State of Washington as a telecommunications company.

Lease? NO Grant related? NO Public Works? NO
Fiscal Impact **Budget Account**

Select	\$	#
Select	\$	#
Select	\$	#
Select	\$	#

Approvals

Dept Head	PICCOLO, MIKE
Division Director	
Finance	BUSTOS, KIM
Legal	SZAMBELAN, TIMOTHY
For the Mayor	ORMSBY, MICHAEL

Council Notifications

Study Session\Other	PIES 01/30/2023
Council Sponsor	CP Beggs / CM Kinnear
Distribution List	
	msloon@spokanecity.org
	mfeist@spokanecity.org
Additional Approvals	lmartinez@spokanecity.org
Purchasing	brent.byrd@fatbeam.com
	kbustos@spokanecity.org

FATBEAM LLC
TELECOMMUNICATIONS (NONCABLE) FRANCHISE

Ordinance No. C-36361

An ordinance granting a non-exclusive franchise to use the public right-of-way to provide noncable telecommunications service to the public to Fatbeam LLC., subject to certain conditions and duties as further provided.

THE CITY OF SPOKANE DOES ORDAIN:

- Section 1. Definitions
- Section 2. Parties, grant
- Section 3. Limits on permission
- Section 4. Effective Date, Term
- Section 5. General provisions
- Section 6. Plans; Locate, Relocate
- Section 7. Grantee to restore affected areas
- Section 8. Information, good engineering, inspections
- Section 9. Limited access, no obstruction, accommodation
- Section 10. Undergrounding
- Section 11. Facilities for City Use
- Section 12. Liability; No duty
- Section 13. Insurance
- Section 14. Taxes, fees
- Section 15. Franchise administration
- Section 16. Additional

Section 1. Definitions

"City" means the City of Spokane and its legal successors.

"Administering officer" is the designee of the Mayor who administers this Franchise.

"Cable television service" means the one-way transmission to subscribers of video programming and other programming service and subscriber interaction, if any, that is required for the selection or use of the video programming or other programming service.

"Facilities" means the equipment, fixtures and appurtenances necessary for Grantee to furnish and deliver telecommunications services as provided in the Franchise. It includes poles, antennas, transmitters, receivers, equipment boxes, backup power supplies, power transfer switches, electric meters, coaxial cables, fiber optic cables, wires and conduits and related materials and equipment, but not above ground pedestals or other special installations in the Public right-of-way absent written permission of the Administering officer.

"Municipal infrastructure" means the road bed and road area, street and sidewalk paving, curbing, utility easements (unless there are relevant use, structure or other restrictions), associated drainage facilities, combined sewer tanks, bike paths and other construction or improvements pertaining to public travel. It further includes municipal water and sewer lines or other municipal utility facilities, as well as municipal traffic signal, street lighting and communications facilities in the right-of-way or other areas or easements open for municipal use. It further includes skywalks, street trees, plants, shrubs, lawn and other ornamental or beautification installations owned by the City in the right-of-way or other ways open for public travel or municipal use, and accepted for municipal management or control as such. The definition is intended to encompass any municipal physical plant, fixtures, appurtenances or other facilities located in or near the right-of-way or areas or easements opened and accepted for municipal use.

"Public right-of-way" or "right-of-way" means land acquired by or dedicated to the City for public roads and streets, but does not include state highways; land dedicated for roads, streets, and highways not opened and not improved for motor vehicle use by the public; structures, including poles and conduits, located within the right-of-way; federally granted trust lands or forest board trust lands; lands owned or managed by the state parks and recreation commission; or federally granted railroad rights-of-way acquired under 43 U.S.C. 912 and related provisions of federal law that are not open for motor vehicle use.

"Telecommunications service" means the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means for hire, sale, or resale to the general public. For the purpose of this definition, "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols. For purposes of this definition, "telecommunications service" excludes the over-the-air transmission of broadcast television or broadcast radio signals and "cable service" as defined in 42 USC 522 (5) or other distribution of multichannel video programming.

Section 2. Parties, grant

A. This is a Franchise agreement between the City of Spokane as Grantor, hereafter also "City", and Fatbeam LLC., as Grantee, hereafter also "Grantee". Grantee is a Washington Limited Liability Company whose home office is 2065 West Riverstone Drive, Suite 202. Coeur d' Alene, ID 83814. Any notice sent hereunder to Grantee shall be sent, via certified mail, return receipt requested, or express carrier with notice deemed given upon receipt or first refusal, to:

Fatbeam LLC.
2065 West Riverstone Drive, Suite 202
Coeur d' Alene, ID 83814
regulatory@fatbeam.com

Any contact necessary for effectuating this Franchise or any logistics hereunder shall be made to: Regulatory & : (509)344-1008; email: regulatory@fatbeam.com

Any notice sent hereunder to the City shall be sent, via certified mail, return receipt requested, or express carrier with notice deemed given upon receipt or first refusal, to:

City of Spokane
808 West Spokane Falls Boulevard
Spokane, WA 99201
Attention: City Clerk's Office

With a copy to:
City of Spokane
808 West Spokane Falls Boulevard
Spokane, WA 99201
Attention: City Attorney's Office

B. In return for promises made and subject to the stipulations and conditions stated, the City grants to Grantee general permission to enter, use, and occupy (including, but not limited to, permission to relocate, install, operate, maintain, replace, relocate, excavate, repair, reinstall, restore and upgrade fiber optic cable, small cell devices) the Public right-of-way, to locate Facilities to provide telecommunications service to the public in the City of Spokane and/or to transport telecommunications services through the City and for no other purpose. This grant expressly does not include permission to use the Public right-of-way for cable service or cable television service. The grant is by way of general permission to occupy the right-of-way, and not in place of specific location permits. In accepting this Franchise, Grantee stipulates and agrees to the City's authority to issue and require the Franchise and stipulates and agrees to the other terms and conditions hereof.

Section 3. Limits on Permission

A. Should the City determine Grantee is using the Franchise beyond its purpose set forth in Section 2B above, or functioning as a cable operator or performing other business functions beyond the scope of permission extended in the Public right-of-way, the City reserves the right to cancel this Franchise and require Grantee to follow any applicable requirements to obtain a cable franchise or other franchise from the City.

B. Permission granted is in the nature of a quitclaim of any interest or authority the City has to make the grant, without warranty of authority by the City to the Grantee. It does not extend beyond the right-of-way, to areas such as buildings or private areas not reserved for general utility access. Grantee is solely responsible to make its own arrangements for any access needed to such places. Permission granted is nonexclusive. Grantee stipulates that the City may grant similar permission to others, provided that any such use by others does not unreasonably interfere with Grantee's use and placement of its Facilities in any right-of-way. The City additionally reserves the right to engage in any lawful municipal function, whether or not including any line of business engaged in by Grantee.

C. The grant of permission from the City does not extend to municipal buildings or other municipally owned or leased structures or premises held in a proprietary or ownership capacity. For such locations, Grantee should make specific written lease arrangements directly with the municipal department controlling such building or other structure or area, all arrangements to be approved in accord with applicable requirements.

Section 4. Effective Date, Term

This Franchise is effective as of the effective date of the Ordinance ("Effective Date"); PROVIDED, that it shall not be effective unless and until the written acceptance of this ordinance by the Grantee, signed by its proper officers, shall be filed with the City Clerk within thirty (30) days of enactment. It expires at midnight ten (10) years thereafter. This does not affect the City's right to revoke the Franchise for cause, abandonment, or because of breach of any material promise, condition or stipulation stated herein.

Section 5. General Provisions

A. Grantee is and will remain in good standing as a limited liability company registered to do business in the State of Washington, and pay all taxes or fees applicable thereto. Grantee will maintain a public telephone number 24 hours a day, seven days a week for the City's access, personally staffed at least during normal business hours. The Grantee will notify the City within five business days if Grantee's contact information changes.

B. Grantee will coordinate its activities with other utilities and users of permitted areas to avoid unnecessary cutting, damage or disturbance to the Public right-of-way and other permitted areas, and to conduct its planning, design, installation, construction and repair operations to maximize the life and usefulness of the paving and Municipal infrastructure. Grantee agrees that its uses in Franchised areas are fully subordinate to Municipal infrastructure needs and uses, the general public travel and access uses and the public convenience, except as may be otherwise required by law. Grantee promises to minimize or avoid any hazard, danger or inconvenience to Municipal infrastructure needs and uses, public travel, and the public convenience.

C. Grantee will maintain membership with the Inland Empire Utility Coordinating Council (IEUCC) or other similar or successor organization designated to coordinate underground fixture locations and installations. Grantee is familiar with Ch. 19.122 RCW, Washington State's "Underground Utilities" statute. Grantee will familiarize itself with local procedures, custom and practice relating to the one-call locator service program, and will see to it that its contractors or others working in the right-of-way on Grantee's behalf are similarly well informed.

Section 6. Plans; Locate, Relocate

A. Grantee's plans for construction or installation shall be submitted to the Administering officer as requested under such advance notification as the Administering

officer may reasonably require, with a copy of such plans to the City's ITSD Director, Developer Service Director, City Engineer, and any other information requested by the City. Grantee promises that all its installations shall be placed in the standard location for buried telecommunications fiber cable not to be less than (30) thirty inches below the paved surface and as determined by local regulation, custom and practice in effect on the date that permits or authorizations are issued for the applicable Facilities, or as designated by the Administering officer. In the event that cable is needed to be installed above ground, all above ground pedestals or other above ground structures besides telephone poles and related guide wire supports are subject to separate review and approval by the Administering officer, in addition to other Franchise requirements. If the location of the Grantees facility is already occupied by City utilities the grantee is required to submit new plans showing the location that the Grantee will now be occupying. Grantee will not be considered to have breached the Franchise or acted in such a way as to terminate the Franchise if it reduces the amount of right-of-way occupied.

B. The City reserves the right to change, regrade, relocate, or vacate the Public right-of-way and/or skywalk over the right-of-way. If Grantee is required to relocate its cable, relocation costs incurred by Grantee will be reimbursed by the City and/or any other entity requiring the relocation or funding the project that is requiring the relocation, subject to the conditions set forth in Section 6. The City agrees to give Grantee preliminary notice of any such request ("initial notice date"). Grantee must submit design plans within sixty (60) days of an initial notice date, with relocation to be accomplished within one hundred and eighty (180) days of the initial notice date or thirty days of the City's final approval of Grantee's design plan, whichever is later. In addition, the City agrees to work with Grantee to give additional advance notice as may be reasonable under the circumstances or to extend additional time, considering the nature and size of the project and other factors. Upon expiration of the time limits specified, Grantee will relocate, remove, or reroute its Facilities, as ordered by the Administering officer. This provision prevails over others in the event of conflict or ambiguity. In case of emergency, the City will provide notice as soon as reasonably practicable, giving reasonable consideration also for Grantee's needs.

C. Under the provisions of RCW 35.99.060, the Administering officer may require Grantee to relocate its Facilities within the right-of-way, when reasonably necessary for construction, alteration, repair, or improvement of the right-of-way for purposes of public welfare, health, or safety. The same terms and timelines as exists in Section 6(B) shall apply for the relocation contemplated in this Section 6(C).

D. Grantee shall complete the relocation by the date specified by the Administering officer, unless extended by said official after a showing by Grantee that the relocation cannot be completed by the date specified using best efforts and meeting safety and service requirements. As provided in RCW 35.99.60, Grantee may not seek reimbursement for its relocation expenses from the City except for City requested relocations:

1. Where Grantee has paid for the relocation cost of the same Facilities in the right-of-way at the request of the City within the past-five years,

Grantee's share of the cost of relocation will be paid by the City when the City is requesting the relocation;

2. Where aerial to underground relocation of authorized Facilities in the right-of-way is required by the City, where Grantee has any ownership share of the aerial supporting structures, the additional incremental cost of underground compared to aerial relocation, or as provided for in the approved tariff if less, will be paid by the City requiring relocation; and
3. Where the City requests relocation in the right-of-way solely for aesthetic purposes, unless otherwise agreed to by the parties.
4. The parties agree that "relocation" refers to a permanent movement of Facilities required of Grantee by the City, and not a temporary or incidental movement of Facilities, such as a raising of lines to accommodate house moving and the like, or other revisions Grantee would accomplish without regard to Municipal request.

E. As provided by RCW 35.99.060, where a project is primarily for private benefit, the private party or parties shall reimburse the cost of relocation in the same proportion to their contribution to the costs of the project. Grantee understands however that the City has no obligation to collect such reimbursement and enforcement of any such rights shall be solely by Grantee. Upon stipulation of all parties, the Administering officer may arbitrate any dispute referenced in this subsection E or refer the matter to the Hearings Examiner, provided, costs of the same as may be assessed by the City shall be borne by the participants. Grantee is not otherwise precluded from recovering costs associated with relocation, consistent with applicable state or federal law, where it does not directly or indirectly create additional liability or expense to the City.

F. The Administering officer may require the relocation, adjustment or securing of Facilities at Grantee's expense at any location in the event of an unforeseen emergency that creates an immediate threat to the public safety, health, or welfare. Where the City determines to abandon or vacate any right-of-way or other permitted area, it is the Grantee's responsibility to resolve any question of Grantee's continued occupancy or use of such areas directly with the owner of such areas.

G. Grantee may be subject to SMC 17C.355A Wireless Communication Facilities. The Grantee is subject to all applicable zoning laws and requirements in effect on the date that the permits or authorizations are issued for the applicable Facilities, as permitted by law when installing Facilities in the Public right of way.

H. Grantee may be required to obtain a master lease agreement for attachment of telecommunications equipment or other facilities in the Public right of way.

I. The Grantor has the right to charge the Grantee site specific charges for placement of new facilities in the right of way and for the placement of wireless facilities or structures owned by the Grantor pursuant to RCW 35.21.860.

J. The Grantee will work with the City to provide access to conduit or other equipment the Grantee is placing in the public right of way when feasible.

Section 7. Grantee to Restore Affected Areas

Subject to Section 6 as it may apply, whenever Grantee damages or disturbs any location in or near the right-of-way or other permitted area, Grantee will promptly restore the same to original or better condition at its expense, as reasonably required by the Administering officer. Grantee will restore and patch all surfaces cut in accord with the City's generally applicable Pavement Cut Policy, on file with the Administering officer to maintain and preserve the useful life thereof. Any damage or disturbance to facilities, fixtures or equipment of the City or others shall be promptly repaired. Pavement restorations shall be maintained in good condition and repair by Grantee until such time as the area is resurfaced or reconstructed. If Grantee fails or delays for more than thirty (30) days after receipt of written notice from the City or the Administering officer in performing any obligation here or elsewhere in the Franchise following receipt of written notice of such failure or delay, the City may proceed to correct the problem and bill Grantee for the expense, upon such reasonable notice as determined by the Administering officer under the circumstances. Grantee will reimburse City within thirty (30) days following receipt of an invoice together with reasonably supporting documentation evidencing such expense.

Section 8. Information, Good engineering, Inspections

A. Grantee will supply information reasonably requested by the Administering officer such as installation inventory, location of existing or planned Facilities, maps, plans, operational data, and as-built drawings of Grantee's installations or other information reasonably related to Grantee's Facilities, unless the information is confidential and/or proprietary. The information shall be in format compatible with City operations. Grantee is responsible for defending any public record requests as it may desire.

B. Grantee property and Facilities shall be constructed, operated and maintained according to good engineering practice. In connection with the civil works of Grantee's system, such as trenching, paving, compaction and locations, Grantee promises to comply with the American Public Works Association Standard Specifications, the edition being that in current use by the City, together with the City Standard Plans and City's Supplemental Specifications thereto, all as now or hereafter amended, excluding existing non-conforming uses and other changes to the Specifications which do not apply to previously-constructed improvements and/or wireless communications facilities. Grantee promises its system shall comply with the applicable federal, state and local laws, and the National Electric Safety Code and Washington Electrical Construction Code, where applicable. Grantee will familiarize itself with the City of Spokane's Specifications and other right-of-way installation and location requirements, on file with the Administering officer and make reasonable effort

to be familiar with updates or changes thereto.

Section 9. Limited Access, No Obstruction, Accommodation

A. The City reserves the right to limit or exclude Grantee's access to a specific route, Public right-of-way or other location when, in the reasonable judgment of the Administering officer, there is inadequate space, a pavement cutting moratorium, subject to the requirements of applicable law, unnecessary damage to public property, public expense, inconvenience, interference with City utilities, or for any other reasonable cause determined by the Administering officer, provided, it shall do so consistent with the Federal Telecommunications Act of 1996 and RCW 35.99.050 as applicable.

B. Grantee must raise any concerns under the aforementioned laws or other applicable laws which it believes limit the City's authority or Grantee's obligations to the City pertaining to this Franchise at the time such issue is first known or should have been reasonably known by Grantee.

C. Grantee will not interfere with Municipal infrastructure uses of the right-of-way or other permitted areas. Grantee shall maintain a minimum underground horizontal separation of five (5) feet from City water facilities and ten (10) feet from above-ground City water facilities including sewer and storm water facilities unless modified in writing; PROVIDED, that for development in new areas, the City, together with Grantee and other utility purveyors or authorized users of the right-of-way, will develop and follow the Administering officer's reasonable determination of a consensus for guidelines and procedures for determining specific utility locations, subject additionally to this Franchise. Subject to Section 6, the City may require Grantee to make reasonable accommodation for public or third party needs in the construction of Grantee Facilities in the right-of-way as, in the reasonable judgment of the Administering officer, are necessary to preserve the condition of, or reduce the interference with, such right-of-way, and a reasonable apportionment of any expenses of any such accommodation; PROVIDED, that this Franchise creates no third party beneficial interests. Notwithstanding the foregoing, it remains the responsibility of the Grantee to anticipate and avoid conflicts with other right-of-way occupants or users, other utilities, franchisees, or permittees existing within the right-of-way as of the date of this Ordinance. The City assumes no responsibility for such conflicts.

Section 10. Undergrounding

The City reserves the right to develop a general policy on undergrounding and to require Grantee's participation therein, in coordination the City's underground program for other utility service providers, as a condition of Grantee's new installation or major maintenance or restoration construction activities of overhead facilities under this Franchise. The purpose of this section is to recognize and preserve the City's control over uses of the Public right-of-way, consistent with the Municipal policy favoring undergrounding of overhead lines for aesthetic reasons.

Section 11. Facilities for City Use

A. Except as covered by mutual agreement, whenever Grantee constructs, relocates or places ducts or conduits in the Public right-of-way as part of the Facilities, Grantee will provide the City where technically feasible, judged by objective engineering standards, with additional duct or conduit and related structures necessary to access the conduit at its actual incremental out-of-pocket costs plus 10% to cover all internal costs. The parties agree to execute any documents needed to satisfy RCW 35.99.070 as it may apply. The City may review supporting third party billings to support incremental cost claims. Unless otherwise agreed, the City further agrees not to resell, lease, sublease, or grant an IRU or other right to use in any Grantee Facilities provided under this paragraph, or use such Facilities to provide communications services for hire, sale or resale, to the public or any third party which is not a governmental entity. All Facilities supplied shall be maintained to technical specifications.

B. The City is permitted to attach to aerial poles for aerial fiber cabling and required mounting hardware in situations where the existing pole agreements between Grantee and the other party would not be violated by the City's attachment use of the aerial pole.

C. Grantee agrees to notify the City ITSD Director, Developer Service Director, and City Engineer at least sixty (60) days prior to opening a trench or placing overhead lines at any location to allow the parties to implement paragraph B herein as those provisions may apply. As to all matters encompassed in this Section, the parties further agree to do anything required by law to maintain the effectiveness of such arrangements and to negotiate in good faith any matters not otherwise fully resolved. Each party acknowledges receipt of good and adequate consideration for all matters encompassed in this Section.

Section 12. Liability; No duty

A. Grantee waives all claims, direct or indirect, for loss or liability, whether for property damage, bodily injury or otherwise, against the City arising out of Grantee's enjoyment of Franchise or permit privileges. This waiver does not apply to negligent or intentional acts of the City outside a governmental or regulatory capacity, such as granting this franchise or permits. Except to the extent caused by the negligent or intentional acts of the City, Grantee will indemnify and hold the City, its boards, officers, agents and employees ("City") harmless from any and all third party claims, accidents, losses, or liabilities arising from or by reason of any intentional or negligent act, occurrence or omission of the Grantee, whether singularly or jointly with others, its representatives, permittees, employees or contractors, in the construction, operation, use, or maintenance of any of the Grantee's property or Facilities.

B. Grantee accepts that access to any franchised area is furnished "as is". The City has made no assessment or guarantee as to its suitability for Grantee needs or compatibility of Grantee uses with other needs. Grantee waives immunity under Title 51

RCW in any cases involving the City of Spokane relating solely to indemnity claims made by the City directly against Grantee for claims made against the City by Grantee's employees and affirms that the City and Grantee have specifically negotiated this provision, as required by RCW 4.24.115, to the extent it may apply. This waiver has been mutually negotiated.

C. It is not the intent of this Ordinance to acknowledge, create, or expand any duty or liability of the City for any purpose. Any City duty nonetheless deemed created shall be a duty to the general public and not to any specific party, group, or entity.

D. A Party's liability for any claim arising under or relating to this agreement shall be limited solely to direct damages and shall exclude any indirect, special, incidental or consequential damages.

Section 13. Insurance

A. Grantee shall furnish satisfactory evidence of commercial general liability insurance and maintain the same in good standing, with limits of one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) general aggregate, with the City of Spokane included as an additional insured as their interest may appear under this Agreement.

B. Any Grantee insurance policy shall be primary and non-contributory with any insurance or program of self-insurance that may be maintained by the City. On or before June 1st of each year and at the time of granting this Franchise, as a condition of Franchise validity, Grantee shall file with the City Clerk, with copy to the City Risk Manager, proof of continued insurance coverage, in the amounts required in this Section, through a Certificate of Insurance, including the blanket additional insured endorsement indicating City coverage required herein

Section 14. Taxes, fees

A. No Franchise fee is assessed for telecommunications service providers in accord with the prohibition of state law (RCW 35.21.860). If the prohibition of telecommunications service provider franchise fees is removed or modified to allow a franchise fee, the parties agree to negotiate this provision as a material term on which agreement is required for continuation of this franchise, PROVIDED, the City must give one hundred eighty (180) days' notice to invoke this provision and any franchise fee under it shall be prospective in nature.

B. Nothing in this Franchise shall otherwise limit the City's power to tax or recover any lawful expenses in connection with this Franchise. Grantee agrees to pay all taxes as due and any lawful expenses within ninety (90) days of billing pursuant to this Franchise. Failure to pay within ninety (90) days after demand by the City and exhaustion of any applicable remedies is a material breach of this Franchise.

Section 15. Franchise Administration

Questions of application or interpretation of this Franchise are determined by the Administering officer or a court of competent jurisdiction. Said officer may issue enforcement orders, upon due notice as deemed proper, promulgate rules and procedures as deemed necessary and grant exceptions, which shall be revocable. Nothing in the Franchise limits the City's police or regulatory power in general or over its right-of-way or other franchised areas. For the performance of all franchise obligations, time is of the essence. All City acts under this Franchise are discretionary guided by considerations of the public health, safety, esthetics and convenience.

Section 16. Additional

A. Grantee may assign this Franchise or any of its rights under this Franchise or delegate any of its duties under this Franchise, with the prior written consent of the City, which consent will not be unreasonably withheld, conditioned or delayed, provided, however, that Grantee may assign this Franchise or any of its rights under this Franchise or delegate any of its duties under this Franchise to (i) any entity that it controls, is under common control with or is controlled by or (ii) any entity that is the survivor of a merger, consolidation or other business combination or that acquires all or substantially all of the assets of Grantee. The City may not assign this Franchise or any of its rights under this Franchise or delegate any of its duties under this Franchise, without the prior written consent of Grantee. Any assignment or delegation in violation of this Section is null and void.

No capital stock may ever be issued based on any permission to use or occupy the right-of-way or other permitted areas or the value thereof. The City will provide written notice of any condemnation or annexation actions that would affect Grantee's rights. In any condemnation proceeding brought by the City, Grantee shall not be entitled to receive any return thereon, except for its value.

B. This Franchise may be revoked by the City Council by resolution because of any material breach, after giving at least thirty (30) days' written notice to Grantee and opportunity to cure. Similarly, Grantee may elect to terminate this Franchise because of any material breach of the City's obligations, after giving at least thirty (30) days' written notice to the City and opportunity to cure. Except as otherwise provided for in this Franchise, and upon written notice, the defaulting party will have thirty (30) days to cure defaults under the terms of this Franchise. Neither party is in default of this Franchise if the party provided written notice commences to cure the default within the thirty (30) day period and diligently and in good faith continues to cure the default. If any default exists after the applicable cure period, the non-defaulting party may, without prejudice to any other rights or remedies at law or in equity or under this Franchise, terminate this Franchise.

No forbearance by the City of any term or condition of this Franchise shall ever comprise a waiver or estoppel of the City's right to enforce said term or condition. Grantee may surrender its Franchise to the City upon sixty (60) days written notice to the

Administering officer, subject to acceptance by the City, by a resolution of the City Council.

C. Upon termination, surrender or expiration of the Franchise, Grantee may be required to remove all its Facilities as ordered by the Administering officer or otherwise abandon the cable in place, first removing all electronics, if any, rendering the same safe. In the event removal is required, Grantee shall remove the Facilities within one hundred twenty (120) days of receipt of written notice from City. Grantee will have no further obligations under this Franchise.

D. Grantee understands that this Franchise applies to itself as well as all third-party users, assigns, successors or any other entity enjoying de facto Franchise privileges derived from permission extended to Grantee herein and Grantee shall assure that any contracts with such users, assigns, successors or entities so provide. Additionally, Grantee accepts full responsibility with said users, assigns, successors, or entities, jointly and severally, to the City for full performance of all Franchise obligations.

E. This Franchise is governed by the laws of the State of Washington, and venue for any litigation arising out of or in connection with privileges extended herein is stipulated to be in Spokane County.

F. (Force Majeure) Except as otherwise provided in this Franchise, neither party hereto will be in default under this Franchise if and to the extent that any failure or delay in a party's performance of one or more of its obligations hereunder, is caused by any of the following conditions, and such party's performance is excused and extended during the period of any such delay: act of God (such as, flood, back water caused by flood, tornado, earthquake, and unforeseeably severe weather); fire; government codes, ordinances, laws, rules, regulations or restrictions not in effect at the time of execution of this Franchise (collectively, "Regulations"); war or civil disorder; or vandalism, or any other events beyond the reasonable control of the party seeking relief under this Section, provided that the party claiming relief under this Section promptly notifies the other in writing of the existence of the event relied on and the cessation or termination of the event. The party claiming relief under this Section must exercise reasonable efforts to minimize the time for any such delay.

Both parties hereto acknowledge that events under this Section may occur which are incapable of being cured so as to allow the parties to enjoy the full benefit of their rights under the Franchise. If a party is unable to conduct its business due to an event of force majeure as described in this Section, and the force majeure occurs and remains uncured after sixty (60) days, the party not claiming inability to perform under force majeure may, at its option, terminate this Franchise without further obligation.

G. (Authority to Sign) Each party hereto hereby represents and warrants to the other that the person or entity signing this Franchise on behalf of such party is duly authorized to execute and deliver this Franchise and to legally bind the party on whose behalf this Franchise is signed to all of the terms, covenants and conditions contained in this Franchise.

PASSED the City Council _____, 2023.

MAYOR

Attest: _____
City Clerk

Approved as to form:

Assistant City Attorney

ACCEPTANCE OF CITY FRANCHISE

Ordinance No. _____, effective _____, 2023.

I, _____, am the _____ of Intermountain Fatbeam LLC and am an authorized representative to accept the above referenced City Franchise ordinance on behalf of Fatbeam LLC.

I certify that this Franchise and all terms and conditions thereof are accepted without qualification or reservation.

DATED this _____ day of _____, 2023.

Witness: _____



Agenda Sheet for City Council Meeting of:

04/10/2023

Date Rec'd	3/29/2023
Clerk's File #	ORD C36376
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	CITY COUNCIL
Contact Name/Phone	BREEAN BEGGS X6254
Contact E-Mail	BBEGGS@SPOKANECITY.ORG
Agenda Item Type	First Reading Ordinance
Agenda Item Name	0320 - COUNCIL STAFFING SMC UPDATE

Agenda Wording
 Relating to City Council office staff; amending sections 02.005.010, 02.005.030, 02.005.050, and 02.005.060 of the Spokane Municipal Code and adopting new sections 02.005.070, 02.005.080, 02.005.090 and 02.005.100 of the Spokane Municipal Code.

Summary (Background)
 Ordinance updating SMC related to Council office staffing to reflect the current needs of the office.

Lease? NO	Grant related? NO	Public Works? NO
Fiscal Impact		Budget Account
Neutral \$		#
Select \$		#
Select \$		#
Select \$		#

Approvals		Council Notifications	
Dept Head	WRIGHT, CHRISTOPHER	Study Session\Other	3/27 PIES
Division Director		Council Sponsor	CP Beggs; CM Zappone
Finance		Distribution List	
Legal		cwright@spokanecity.org	
For the Mayor		gbyrd@spokanecity.org	
Additional Approvals		bbeggs@spokanecity.org	
Purchasing			

ORDINANCE NO. C36376

An ordinance relating to City Council office staff; amending sections 02.005.010, 02.005.030, 02.005.050, and 02.005.060 of the Spokane Municipal Code and adopting new sections 02.005.070, 02.005.080, 02.005.090 and 02.005.100 of the Spokane Municipal Code.

NOW THEREFORE, the City of Spokane does ordain:

Section 1. That section 02.005.010 of the Spokane Municipal Code is amended to read as follows:

Section 02.005.010 Council President and City Council

- A. As provided in the City Charter a City Council President and six City Council Members constitute the City Council, which is the legislative body of the City. The City Council President and City Council Members have no administrative authority over personnel matters except the Council President and the Council Members:
1. Appoint, evaluate and discharge the Hearing Examiner;
 2. appoint, evaluate, and discharge the City Council's ~~((Senior Research and Policy Analyst))~~ full-time staff, as provided in Section 02.005.030;
 3. appoint, evaluate, and discharge the City Council's ~~((Policy Adviser))~~ seasonal, project and interim staff, as provided in Section 02.005.030;
 4. approve the appointment by the Mayor of the City Attorney, the City Clerk, and the permanent, acting, or interim administrative head in each department and division; provided:
 - a. any person appointed for the position of department head on a permanent basis shall be placed on the city council agenda by the mayor within 30 days of the appointment and considered for approval pursuant to section 24 of the city charter;
 - b. persons appointed for the job positions of interim or acting department head shall serve as such for up to 180 days, which period can be extended for up to an additional 180 days by city council resolution;
 5. appoint nominees of the Mayor to boards, commissions, and other official City agencies, unless otherwise provided;
 6. ~~((hire, supervise, evaluate, and discharge their own administrative staff));~~

6. hire, supervise, evaluate, and discharge their individual legislative assistants.

- B. The Council President reviews the preparation of the agenda for City Council meetings, briefings, and study session meetings and presides at meetings of the City Council. The Council President also serves as the Mayor Pro Tem. The Council President shall serve as the primary signatory on all Council budgetary, expenditure, and appropriation matters as related to the Council Office budget; consistent with City procedures and policies.
- C. City Council agenda items shall be submitted and processed consistent with the City Council Rules of Procedure and administrative policies and procedures.
- D. The City Council shall establish committees to assist in the performance of its assigned duties.
 - 1. The standing committees shall have a minimum of three members, one from each of the three City Council districts.
 - 2. The council president may chair two of the standing committees as determined in his or her sole discretion.
 - 3. All other committees, including ad hoc committees, shall select their own chair.
 - 4. At no time shall a member of the City Council chair more than two standing committees at the same time.
 - 5. Ad hoc committees shall be composed with a minimum of three members appointed by the majority of the City Council.
 - 6. Standing committee membership shall be determined by the second legislative session of the City Council of each calendar year and memorialized by resolution of the City Council. Membership on each of the standing committees will be determined from those expressing an interest to serve on the committee.
- E. Any City Council committee with more than three Council Members as committee members shall be considered a committee of the whole City Council. All meetings of such a committee shall be considered a special Council meeting with the appropriate public meeting notice. No legislative action may be taken at any standing or ad hoc committee unless the committee meeting was noticed as a special meeting in compliance with the Washington Open Public Meetings Act (OPMA) and Rule 4.2 of the City Council Rules of Procedure.
- F. All standing committee meetings shall be open to the public except when the committee adjourns into executive session. No public testimony will be taken during standing committee meetings. Participation in a standing committee

meeting shall be limited to standing committee members, appropriate staff, and other individuals recognized by the committee. Participation by Council Members, including deliberation and voting, shall be open to all Council Members when the standing committee is meeting as a committee of the whole and as a special Council meeting. Participation by Council Members in a standing committee that is not a committee of the whole shall be limited to just the appointed Council Members.

Section 2. That section 02.005.030 of the Spokane Municipal Code is amended to read as follows:

Section 02.005.030 City Council's Office Staff

- A. The council president and the city council members may, subject to budget appropriation, appoint and remove office staff as necessary to support the performance of their legislative duties. The number and type of regular full-time positions ((Staffing requirements)), other than legislative assistants, ((are)) is determined by a majority of the city council. ((Staff responsibilities)) Responsibilities and accountabilities for all full-time staff other than legislative assistants are determined by a majority of the city council with day-to-day supervision provided by the council president or their designee. All regular full-time employees, other than legislative assistants, hired or discharged after the effective date of this ordinance shall be appointed via resolution by a majority vote of the city council and may only be discharged by a majority plus one vote of the city council.
- B. ~~((Each council member is authorized to hire a legislative assistant who shall be supervised and may be discharged by the council member at his or her sole discretion.))~~ City council central staff shall consist of all full-time staff employed by the city council, except for legislative assistants. The positions described in Sections 02.005.050 through 02.005.090 shall be permanent positions within the council office budget. Subject to budget appropriation, other positions, including council's initiative managers, may be created by the council president to serve the office as needed. The council president shall be responsible to nominate persons to fill the regular central staff positions, and in each instance the selection of central staff shall be confirmed as provided in section 02.005.030.
- C. ~~((The council president shall be responsible to nominate a person to fill the position of council administrator whose selection shall be confirmed by the city council.))~~ The council president maintains the authority as the city council department head to appoint and discharge seasonal or project employees as available budget allows.

Section 3. That section 02.005.050 of the Spokane Municipal Code is amended to read as follows:

Section 02.005.050 ~~((Senior Research and Policy Analyst))~~ Council Director

~~((The senior research and policy analyst is appointed by a majority vote of the city council and may be discharged by a majority plus one vote of the city council.))~~ Under the direction of the city council, the ~~((senior research and policy analyst))~~ council office director “director” serves in a chief of staff role for the city council office and is broadly responsible for advancing the city council’s strategic policy, budget and performance objectives by promoting the highest levels of efficiency and effectiveness of Council’s policy setting in support of programs and initiatives. The ~~((analyst))~~ director has the chief administrative role in the office and will lead a broad range of activities including ~~((data analysis, program assessments, project evaluation, and technical tasks related to City Council data information and))~~ office management needs, keeping city council members and office staff informed of issues and coordinating/assisting with required actions. ~~((This includes conducting research and analysis on public policy and budget issues, evaluating proposed policy initiatives, and making recommendations regarding local, regional, and state issues for Spokane’s seven-member City Council.))~~ The ~~((analyst))~~ director will collaborate with ~~((the council members’ legislative aides))~~ city council staff, other City employees, other government officials, and a wide variety of stakeholders. The ~~((analyst))~~ director will also provide office management support ~~((in the form of council budget development and coordination, minor contract development and coordination; as well as))~~ related to public meetings as well as human resources and payroll related duties. ~~((The analyst will also promote the council goal of performance-based budgeting across the City budget.))~~ The specific responsibilities and functions of the ~~((analyst))~~ director may be adjusted from time to time as determined by the city council.

Section 4. That section 02.005.060 of the Spokane Municipal Code is amended to read as follows:

Section 02.005.060 Policy Advisor

~~((The policy advisor is appointed by a majority vote of the city council and may be discharged by a majority plus one vote of the city council.))~~ Under the direction of the city council, the policy advisor is responsible for providing professional support, guidance and advice to the City Council as required. This position will assist in the research and drafting of council documents, assist in the research and develop legislative policies and ensure that legal documents are drafted, reviewed, and interpreted in compliance with all various legal requirements as per applicable laws. ~~((This position will be responsible for keeping the city council informed of issues and coordinating/assisting with required actions.))~~ This position is accountable for taking day-to-day policy responsibilities and providing policy advice that includes all aspects of the analysis, investigation and drafting process. The specific responsibilities and functions of the policy advisor may be adjusted from time to time as determined by the city council.

Section 5. That there is adopted a new section 02.005.070 to chapter 02.005 of the Spokane Municipal Code to read as follows:

Section 02.005.070 Budget Director

Under the direction of the city council, the budget director directs and manages the budgetary review, financial analysis and contracting needs of the city council. The budget director works closely with council members and council staff and serves as a liaison to the City's administrative departments. The budget director is broadly responsible for advancing the city council's strategic policy, budget, and performance objectives by promoting the highest level of efficiency and effectiveness in support of council-supported programs and initiatives. The budget director leads the council office in the development and coordination of the annual budget and the facilitation of minor contracts and grants, and promotes the council goal of performance-based budgeting City-wide. The specific responsibilities and functions of the budget director may be adjusted from time to time as determined by the city council.

Section 6. That there is adopted a new section 02.005.080 to chapter 02.005 of the Spokane Municipal Code to read as follows:

Section 02.005.080 Director of Communications and Community Engagement

Under the direction of the city council, the director of communications and community engagement ("communications director") is primarily responsible for creating and implementing a communications strategy that informs community members, stakeholders and the media about city council activities and initiatives, including digital media, news releases, briefing materials for council and committee meetings, and other communication tools to support the city council's work. The communications director supports the council and its staff in providing the public with accurate, timely, and relevant information and maintains council's digital presence.

Section 7. That there is adopted a new section 05.005.090 to chapter 02.005 of the Spokane Municipal Code to read as follows:

Section 02.005.090 Manager of Intergovernmental Affairs

The manager of intergovernmental affairs ("manager") directs the City's independent federal and state lobbyists and consults with research teams and other analysts to provide hard, quantitative evidence that supports policy recommendations. The manager establishes and maintains collaborative relationships with elected government officials, their key staff members and non-governmental organizations and provides advice and briefings to city council members, the administration, and associated staff on a wide variety of federal, state, and local governmental initiatives.

Section 8. That there is adopted a new section 05.005.100 to chapter 02.005 of the Spokane Municipal Code to read as follows:

Section 02.005.100 Council Legislative Assistants

- A. Each council member, including the council president, is authorized to hire a legislative assistant who shall be supervised and may be discharged by the council member at their sole discretion.
- B. No later than January 1, 2024, there shall be a legislative assistant II position that includes all of the responsibilities of a legislative assistant as well as additional skills and competencies that support the city council office as a whole. Those skills and competencies will be determined during the process of creating the job description, which will be led by the council president or their designee.

PASSED by the City Council on _____.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date

Committee Agenda Sheet

Public Infrastructure, Environment & Sustainability Committee

Submitting Department	City Council
Contact Name	CP Beggs
Contact Email & Phone	bbeggs@spokanecity.org
Council Sponsor(s)	CP Beggs
Select Agenda Item Type	<input type="checkbox"/> Consent <input checked="" type="checkbox"/> Discussion Time Requested: 10
Agenda Item Name	Council Office Staffing Ordinance
Summary (Background) *use the Fiscal Impact box below for relevant financial information	Ordinance updating SMC related to Council office staffing to reflect the current needs of the office.
Proposed Council Action	Will file for consideration after committee
Fiscal Impact	
Total Cost: N/A – this ordinance does not create any additional costs in itself, but the inclusion of a LA II job description in the future may have budgetary impacts to consider.	
Approved in current year budget? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A	
Funding Source <input type="checkbox"/> One-time <input type="checkbox"/> Recurring Specify funding source: Click or tap here to enter text.	
Expense Occurrence <input type="checkbox"/> One-time <input type="checkbox"/> Recurring	
Other budget impacts: (revenue generating, match requirements, etc.)	
Operations Impacts (If N/A, please give a brief description as to why)	
What impacts would the proposal have on historically excluded communities? Council’s current staffing model was built to include more members of the public, particularly those who are historically excluded, in Council’s policy-making process. Codifying this model will help maintain and increase that level of service.	
How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities? N/A	
How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution? N/A	
Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others? The current office organization aid Council Members in aligning with all of the above policies by having dedicated staff with expertise in various subject areas who assist with policy research and community input.	

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

04/10/2023

Date Rec'd

3/14/2023

Clerk's File #

ORD C36377

Renews #**Submitting Dept**

FINANCE, TREASURY & ADMIN

Cross Ref #**Contact Name/Phone**

TONYA WALLACE 625-6585

Project #**Contact E-Mail**

TWALLACE@SPOKANECITY.ORG

Bid #**Agenda Item Type**

First Reading Ordinance

Requisition #**Agenda Item Name**

0410-FINANCE-SMC ACCOUNTING DEPARTMENT NAME CHANGE

Agenda Wording

Allow the change of Accounting Department to become Accounting and Grants Department.

Summary (Background)

In March 2022, ORD C-36181 was passed allowing for department restructure to move Grants from Purchasing to be under accounting. There was a slight over-sight at that time for department name change. SMC needs to be changed to allow the change of Accounting Department to become Accounting and Grants Department.

Lease? NO

Grant related? NO

Public Works? NO

Fiscal Impact**Budget Account**

Select \$

#

Select \$

#

Select \$

#

Select \$

#

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

MURRAY, MICHELLE

Study Session\OtherFinance & Admin
3/20/23**Division Director**

WALLACE, TONYA

Council Sponsor

CP Beggs / CM Wilkerson

Finance

MURRAY, MICHELLE

Distribution List**Legal**

PICCOLO, MIKE

For the Mayor

ORMSBY, MICHAEL

Additional Approvals**Purchasing**

Committee Agenda Sheet

Finance & Administration Committee

Submitting Department	Finance, Treasury & Administration Division
Contact Name	Tonya Wallace
Contact Email & Phone	twallace@spokanecity.org / 625-6585
Council Sponsor(s)	CP Beggs / CM Wilkerson
Select Agenda Item Type	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion Time Requested: 5 min
Agenda Item Name	SMC Accounting Department Name Change
Summary (Background) *use the Fiscal Impact box below for relevant financial information	In March 2022, ORD C-36181 was passed allowing for department restructure to move Grants from Purchasing to be under accounting. There was a slight over-sight at that time for department name change. SMC needs to be changed to allow the change of Accounting Department to become Accounting and Grants Department.
Proposed Council Action	April 3, 2023
Fiscal Impact N/A Total Annual Cost: \$ Total Cost Remaining This Year: \$ Approved in current year budget? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Funding Source <input type="checkbox"/> One-time <input type="checkbox"/> Recurring Specify funding source: Click or tap here to enter text. Expense Occurrence <input type="checkbox"/> One-time <input type="checkbox"/> Recurring Other budget impacts: (revenue generating, match requirements, etc.)	
Operations Impacts (If N/A, please give a brief description as to why)	
What impacts would the proposal have on historically excluded communities? – N/A	
How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities? – N/A	
How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution? – N/A	
Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others? – This aligns with the F&A Division Strategic plan	

ORDINANCE C36377

An Ordinance relating to the executive and administrative organization of the City; amending SMC section 3.01A.215.

The City of Spokane does ordain:

Section 1. That SMC section 3.01A.215 is amended to read as follows:

3.01A.215 Accounting and Grants

The Accounting and Grants Department is a financial administrative department responsible for preparing financial statements, maintaining the general ledger, paying bills, billing customers, payroll, inventory management, disseminating and monitoring financial policies and internal controls, financial analysis, administration of some joint governmental agencies, receipt, and technical review of grant applications and the close out of grants and financial assistance awards. The department is managed by the ~~Accounting~~ Director of Accounting and Grants, ~~who also serves on the City Investment Board.~~

PASSED BY THE CITY COUNCIL ON _____, 2023.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date