



# Official Gazette

## City of Spokane, Washington

Statement of City Business, including a Summary of the Proceedings of the City Council

Volume 110

MARCH 4, 2020

Issue10



### MAYOR AND CITY COUNCIL

MAYOR NADINE WOODWARD

COUNCIL PRESIDENT BREEAN BEGGS

COUNCIL MEMBERS:

KATE BURKE (DISTRICT 1)

MICHAEL CATHCART (DISTRICT 1)

LORI KINNEAR (DISTRICT 2)

CANDACE MUMM (DISTRICT 3)

KAREN STRATTON (DISTRICT 3)

BETSY WILKERSON (DISTRICT 2)

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# Minutes

## MINUTES OF SPOKANE CITY COUNCIL

Monday, February 24, 2020

### BRIEFING SESSION

The Briefing Session of the Spokane City Council held on the above date was called to order at 3:30 p.m. in the Council Briefing Center 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 Burke, Cathcart, Kinnear, Mumm, Stratton, and Wilkerson were present.

City Administrator Wes Crago, City Attorney Mike Ormsby, City Council Policy Advisor Brian McClatchey, and City Clerk Terri Pfister were also present on the dais.

**Advance Agenda Review**

The City Council received an overview from staff on the March 2, 2020, Advance Agenda items.

Emergency Ordinance C35860

**Motion** by Council Member Stratton, seconded by Council Member Cathcart, **to defer** Emergency Ordinance C35860—establishing a local residential tenancy code—to May 4, 2020; **carried unanimously.**

Emergency Ordinance C35861

**Motion** by Council Member Stratton, seconded by Council Member Cathcart, **to defer** Emergency Ordinance C35861—requiring specific cause for most residential evictions—to May 4, 2020; **carried unanimously.**

Council Member Cathcart noted there are plans in place for some public forums on these matters (Ordinance C35860 and C35861). Council President Beggs stated that discussion has started, and he's heard various proposals how to do that, and noted there are plenty of people who want to be heard.

**Action to Approve March 2, 2020, Advance Agenda**

Following staff reports and Council inquiry and discussion regarding the March 2, 2020, Advance Agenda items, the City Council took the following action (pursuant to Council Rule 2.1.B):

**Motion** by Council Member Burke, seconded by Council Member Wilkerson, **to approve** the Advance Agenda for Monday, March 2, 2020 (as amended); **carried unanimously.**

### ADMINISTRATIVE SESSION

**Current Agenda Review**

The City Council received an overview from staff on the February 24, 2020, Current Agenda items.

Low Bid for Post Street Water Line Replacement (OPR 2020-0146)

Upon review of the February 24, 2020, Current Consent Agenda items, City Attorney Mike Ormsby noted the Low Bid for Post Street Water Line Replacement has been withdrawn. No action by City Council was taken on this matter.

Restated Interlocal Agreement for Animal Control Services (OPR 2020-0066)

City Attorney Mike Ormsby provided an overview of updates to the Restated Interlocal Agreement for Animal Control Services, and he requested the City Council to substitute with the draft of the new Interlocal Agreement for Animal Control Services for the previously filed agreement. The following action was taken:

**Motion** by Council Member Kinnear, seconded by Council Member Wilkerson, **to accept** the substitute version of OPR 2020-0066 as described by City Attorney Ormsby; **carried unanimously.**

Council President Beggs noted there is an additional change in front of the City Council (as proposed by Council Members Burke and Cathcart), and he invited a motion to accept the language regarding no kill sheltering and “Irremediable Prognosis,” to be integrated by City Attorney’s Office into the Interlocal Agreement. The additional language states, as follows:

Policy:

**No Kill Sheltering:** *The operating policy of SCRAPS will be to restrict euthanasia to only those cases in which the animal in the care of the facility is found to be in the process of dying or determined by a licensed veterinarian or animal behavioral specialist to suffer from an irremediable prognosis. No euthanasia will be performed without the express approval of the SCRAPS Director.*

*Animals in the care of SCRAPS will not be sent to or exchanged with any other animal shelter, care facility, or rescue with policies that do not meet this standard.*

Definitions:

**Irremediable Prognosis:** *An animal determined by a licensed veterinarian to be suffering from severe, unremitting physical pain even with prompt, necessary and comprehensive veterinary care and/or an animal deemed by applicable law or determined by an animal behavioral specialist to be an untreatable threat to other animals or people.*

The following action was taken:

**Motion** by Council Member Cathcart, seconded by Council Member Burke, **to so move (to amend the Interlocal Agreement by adding the additional language as proposed); carried unanimously.**

Council Member Cathcart requested the Interlocal Agreement be considered tonight with the Special Budget Ordinance C35886 during the 6:00 p.m. Legislative Session.

Appointment to Community Health and Human Services Board (CPR 2012-0033)

The following appointment appeared on the City Council’s February 24, 2020, Current Agenda:

*Appointment of Council President Beggs to replace Council Member Burke on the Community Health and Human Services Board for 2020, effective February 25, 2020.*

Discussion was held by Council President Beggs and Council Member Burke during the 3:30 p.m. Briefing Session on the above-referenced appointment. Subsequently, Council President Beggs stated he is withdrawing the appointment to the Community Health and Human Services Board.

First Reading Ordinance C35894 (Council Sponsors: Council Member Kinnear and Council Member Wilkerson)

Upon review of the February 24 Current Agenda, the Spokane City Council took the following actions:

**Motion** by Council Member Burke, seconded by Council Member Wilkerson, **to suspend** the Council Rules; **carried unanimously.**

**Motion** by Council Member Kinnear, seconded by Council Member Wilkerson, **to hold** the first reading of Ordinance C35894—harmonizing the noise disturbance prohibitions in the context of health care providers and facilities with the noise disturbance provisions applicable generally throughout the City—today (February 24) (and thereby add Ordinance C35894 to the February 24 Agenda under First Reading Ordinances) and final reading on March 2; **carried unanimously.**

Final Reading Ordinance C35889 Relating to the Executive and Administrative Organization of the City (Council Sponsor: Council President Beggs)

Upon review of the February 24 Current Agenda, the Spokane City Council took the following action:

**Motion** by Council Member Mumm, seconded by Council Member Stratton, **to substitute** (and thereby replace the previously filed version of Ordinance C35889 with the updated version); **carried unanimously.**

Final Reading Ordinance C35883 (Council Sponsor: Council President Beggs)

Upon review of the February 24 Current Agenda, the Spokane City Council took the following action:

**Motion** by Council Member Cathcart, seconded by Council Member Mumm, **to substitute** (and thereby replace the previously filed version of Ordinance C35883—vacating Riverside Avenue between the west line of Grant Street and the west line of lot 10 of the Plat of Railroad addition in the City of Spokane)—with the updated version filed with the City Clerk on February 11, 2020); **carried unanimously.**

**Action to Approve February 24, 2020, Current Agenda**

Following staff reports and Council inquiry and discussion regarding the February 24, 2020, Current Agenda items, the City Council took the following action (pursuant to Council Rule 2.1.B):

**Motion** by Council Member Mumm, seconded by Council Member Wilkerson, **to approve** the Current Agenda for Monday, February 24, 2020 (as amended); **carried unanimously**.

**CONSENT AGENDA**

**Upon Unanimous Voice Vote (in the affirmative), the City Council approved Staff Recommendations for the following items:**

Add additional funds to Value Blanket Order with Western Peterbilt (Spokane, WA) for miscellaneous automotive filters—\$50,000. (OPR 2020-0147 / RFQ 681-16)

Purchase from Western Peterbilt (Spokane, WA) for two Automated Side Loading Wayne refuse trucks and two Automated Side Loading Bridgeport refuse trucks for the Solid Waste Collection Department using Sourcewell Contracts #081-716-PMC and #112014-LEG—\$1,623,931.29. (OPR 2020-0148)

Interlocal Cooperation Agreement with the City of Medical Lake for Hearing Examiner Services. (OPR 2020-0151)

Interlocal Cooperation Agreement with Spokane County for Hearing Examiner Services. (OPR 2020-0152)

Contract Renewal 1 of 4 with Cerium Networks, Inc. (Spokane) for hardware maintenance and software support for Cisco Equipment from January 1, 2020 through December 31, 2020—\$250,255.71 (incl. tax). (OPR 2020-0798 / RFP 4500-18)

Contract Amendment with Northeast Community Center for The ZONE project to leverage Ballmer Grant funding—\$199,577.96. (OPR 2017-0018)

Contract with Bacon Concrete (Spokane, WA) for Utility Concrete Repair Services to be used on an as-needed basis by the Street, Water & Hydroelectric Services, and Wastewater Maintenance departments—not to exceed \$325,000 (incl. tax). (OPR 2020-0153 / BID 5215-20)

Disbursement of additional Consolidated Homeless Grant funds to an existing subrecipient agreement with Catholic Charities—\$47,847. (The amount being disbursed exceeds 10% of the current agreement amount.) (OPR 2019-0724)

Interlocal Agreement with Spokane County and Spokane County Superior Court for the sharing of jury management services from January 1, 2020 through December 31, 2022. (OPR 2020-0154)

Report of the Mayor of pending:

- a. Claims and payments of previously approved obligations, including those of Parks and Library, through February 14, 2020, total \$10,184,338.48 (Check Nos. 568756 through 569246; ACH Payment Nos. 74670 through 75246), with Parks and Library claims approved by their respective boards. Warrants excluding Parks and Library total \$9,579,632.90.
- b. Payroll claims of previously approved obligations through February 8, 2020: \$7,175,375 (Payroll Check Nos. 556122-556240).

**Multiple Family Housing Property Tax Exemption Agreements (OPR 2020-0149 and OPR 2020-0150) (Taken Separately)**

**Upon 6-1 Voice Vote (Council Member Burke voting “no”), the city Council approved** the Multiple Family Housing Property Tax Exemption Agreements with:

- a. Solitude Properties, LLC for no fewer than four new multi-family housing units located at 618 South Denver Street, Parcel Number 35201.6422. (OPR 2020-0149)
- b. 6th Avenue Partners LLC for at least 4 new multiple family permanent residential housing units located at 508 West 6th Avenue, Parcel Number 35191.4311. (OPR 2020-0150)

**Council Recess/Executive Session**

The City Council adjourned at 4:17 p.m. No Executive Session was held. The City Council reconvened at 6:00 p.m. for the Legislative Session.

**LEGISLATIVE SESSION****Pledge of Allegiance**

The Pledge of Allegiance was led by Council President Beggs.

**Roll Call**

Council President Beggs and Council Members Burke, Cathcart, Kinnear, Mumm, Stratton, and Wilkerson were present.

Mayor Nadine Woodward, City Council Policy Advisor Brian McClatchey, and City Clerk Terri Pfister was also present on the dais.

**ADMINISTRATIVE REPORT****Announcement of Downtown Police Precinct**

Mayor Woodward remarked on the announcement that was made this morning for a Police Precinct back in the core of Downtown Spokane at Riverside and Wall, right across from the STA Plaza. She noted it will be open by this summer and will house up to 35 officers, including seven officers funded by the public safety levy, and some of those officers will be paired with Frontier Behavioral Health counselors. Mayor Woodward further stated the targeted opening will be in July.

**Wastewater Access Cover Design Awards**

Mayor Woodward provided a briefing on the Wastewater Access Cover Design Awards. She noted that over the last decade the City's Wastewater Management Department has partnered with the Spokane Arts, Lands Council, and other conservation organizations, as well as *The Spokesman Review*, to recruit art designs from all of our talented students to enhance the appearance of the City's Wastewater access covers. The project this year received 280 submissions – all ages and school locations throughout the City. Mayor Woodward recognized the first place winner of the contest Soryanna Taylor from Sacajawea Middle School. Mayor Woodward also recognized Kaua Robertson from Sacajawea who was chosen as the second place finalist.

**MAYORAL PROCLAMATIONS**

February 29, 2020 *Shalom Day of Dignity*

Mayor Woodward read the proclamation and presented it to Deidre Jacobson. Shalom Ministries has served the poor and hungry homeless of Spokane with food and support for 25 years utilizing countless volunteers and donors in support of churches of many denominations. Spokane in spite of a robust economy is challenged to provide dignified support for a sometimes intractable population of homeless and underserved men, women, and youth. Many of the guests suffer from addiction and mental illness and otherwise lack the tools for help through more traditional channels of treatment. The proclamation recognizes Shalom Ministries as an agent of positive response to the pervasive blight of homelessness in otherwise beautiful City.

March 7, 2020 *Suddenly Sleepy Saturday, a Day for Narcolepsy Awareness*

Mayor Woodward read the proclamation and presented it to Michaela Cumming. In the United States, only 200,000 have narcolepsy. A total of three million people worldwide do; however, only 25 percent of people have been diagnosed and are receiving treatment. Ninety-four percent of population with narcolepsy in the U.S. say more education to the general public is needed and feel that only 88 percent of people actually know how disruptive narcolepsy is. A survey was taken of adults and adults who have heard of narcolepsy scored the lowest on the scale of diseases and when asked 70 percent of the information about narcolepsy was inaccurate. It is estimated that 50 percent of people with narcolepsy are not diagnosed due to low recognition and information about the disease. Narcolepsy is often misdiagnosed for depression, anxiety, ADHD, epilepsy, chronic fatigue syndrome, insomnia, and obstructive sleep apnea. Narcolepsy has no cure, just ways to help control symptoms but they don't work for everyone and we will never get rid of narcolepsy. Researchers are trying to create a cure but with limited knowledge are struggling.

**COUNCIL COMMITTEE REPORTS****Finance and Administration Committee**

Council President Beggs briefly reported on the Finance and Administration Committee meeting held earlier today (February 24, 2020). Minutes of the Finance Administration Committee meetings are filed with the City Clerk's Office and are available for review following approval by the Finance and Administration Committee.

**Public Infrastructure, Environment, & Sustainability (PIES) Committee**

Council President Beggs reported on the PIES Committee meeting held earlier today (February 24, 2020). Minutes of the PIES Committee meetings are filed with the City Clerk's Office and are available for review following approval by the PIES Committee.

**REVIEW OF OPEN FORUM RULES**

Council President Beggs reviewed the rules for Open Forum.

**OPEN FORUM**

**Clay Roy** stated he is the operations director for The Church at Planned Parenthood (TCAPP) and remarked on freedom of assembly and freedom of speech.

**Anna Bohach** stated she is a pro-life activist and member of The Church at Planned Parenthood. She remarked on Planned Parenthood and corruption and suppression of free speech, peaceable assemblage, and religious freedom.

**Caleb Colier** stated he is the representative for the John Burch Society and Assistant Director for The Church at Planned Parenthood and previously served on the Spokane Valley City Council. He addressed recusal and cited the ethics code.

**Tom Meyer** with TCAPP advocated for the return of the law of God in public policy, namely by making the City of Spokane a sanctuary city for the preborn.

**Josh Deschamp** remarked on the renaming of the East Central Community Center and homelessness issues. He remarked that landlords care about tenants and provided other remarks.

**Rick Bocook** remarked on the constitution as it pertains to awnings and sidewalks and the Police.

**Jaclyn Gallion** remarked on Planned Parenthood and abortion and freedom of speech.

**Bonita Ott** stated she is a citizen concerned with maintaining freedom of speech as set forth in the Constitution.

**Christine Stickelmeyer** with TCAPP remarked on freedom of speech and Planned Parenthood.

**Jon Lossing** remarked on the Mandela Community Garden.

**Colleen Palmer** invited City Council to a 5G and wireless forum on Thursday at Gonzaga and stated she is with an organization called Spokane Wired and expressed concerns regarding 5G and health.

**BOARDS AND COMMISSION APPOINTMENTS****Spokane Airport Board (CPR 1982-0071)**

**Upon Unanimous Roll Call Vote (in the affirmative)**, the City Council **approved** (and thereby confirmed) the appointment of Council President Beggs to the Spokane Airport Board for a three year term from January 13, 2020 to January 13, 2023.

(Mayor Woodward left the dais at 6:48 p.m.)

**LEGISLATIVE AGENDA****SPECIAL BUDGET ORDINANCES****Special Budget Ordinance C35886 (Deferred from February 3, 2020, Agenda) (Council Sponsor: Council Member Mumm) (Relates to OPR 2020-0066)**

Subsequent to a brief overview of Special Budget Ordinance C35886 by Council President Beggs and public testimony, the following action was taken:

**Upon Unanimous Roll Call Vote**, the City Council **passed Special Budget Ordinance C35886** amending Ordinance No. C35857 passed by the City Council December 16, 2019, and entitled, "An Ordinance adopting the Annual Budget of the City of Spokane for 2020, making appropriations to the various funds of the City of Spokane government for the fiscal year ending December 31, 2020, and providing it shall take effect immediately upon passage," and declaring an emergency and appropriating funds in:

General Fund  
FROM: Unappropriated Reserves, \$110,000;  
TO: Contractual Services, same amount.

(This action budgets extra funds for SCRAPS regarding a one-time deficiency payment and to cover a budget deficit for the 2020 contract amount.)

**Special Budget Ordinance C35892 (Council Sponsor Council President Beggs)**

Subsequent to public testimony from one individual and the opportunity for Council commentary, with no Council Members requesting to speak, the following action was taken:

**Upon Unanimous Roll Call Vote**, the City Council **passed Special Budget Ordinance C35892** amending Ordinance No. C35857 passed by the City Council December 16, 2019, and entitled, "An Ordinance adopting the Annual Budget of the City of Spokane for 2020, making appropriations to the various funds of the City of Spokane government for the fiscal year ending December 31, 2020, and providing it shall take effect immediately upon passage," and declaring an emergency and appropriating funds in:

General Fund  
FROM: Unappropriated Reserves, \$280,000;  
TO: Human Services, Other Misc. Charges, same amount.

[This action funds two permanent housing projects (The Carlyle and Home Yard Cottages) to help alleviate emergency need in the community.]

**Special Budget Ordinance C35893 (Council Sponsor: Council Member Stratton)**

Subsequent to the opportunity for public testimony and Council commentary, with no individuals requesting to speak, the following action was taken:

**Upon Unanimous Roll Call Vote**, the City Council **passed Special Budget Ordinance C35893** amending Ordinance No. C35857 passed by the City Council December 16, 2019, and entitled, "An Ordinance adopting the Annual Budget of the City of Spokane for 2020, making appropriations to the various funds of the City of Spokane government for the fiscal year ending December 31, 2020, and providing it shall take effect immediately upon passage," and declaring an emergency and appropriating funds in:

Water & Hydroelectrical Services Fund  
FROM: Unappropriated Reserves, \$200,000;  
TO: Contractual Services, same amount.

(This action budgets additional funding to the 2020 budget for Urban Utility Installations that were appropriated in 2019 but not completed and encumbered.)

There were no **Emergency Ordinances**.

**RESOLUTIONS**

**Resolution 2020-0013 (Council Sponsors: Council President Beggs and Council Member Cathcart)**

Subsequent to an overview of Resolution 2020-0013 by Council President Beggs and an opportunity for public testimony, with no individuals requesting to speak, the following action was taken:

**Upon Unanimous Roll Call Vote**, the City Council **adopted Resolution 2020-0013** permitting the use of drone technology for the safety inspection of the Sunset Bridge Project.

**FINAL READING ORDINANCES**

**Final Reading Ordinance C35881 (First Reading held January 13, 2020) (Council Sponsor: Council President Beggs)**

Subsequent to an overview by Council President Beggs and an opportunity for public testimony and Council commentary, with no individuals requesting to speak, the following action was taken:

**Upon Unanimous Roll Call Vote**, the City Council **passed Final Reading Ordinance C35881** granting a non-exclusive Franchise Agreement to TDS Metrocom, LLC to occupy and use the public rights-of-way and, upon approval, other public places in the City of Spokane, for the purpose of

constructing, maintaining, and operating a Cable System within the City for a term of ten years, subject to regulation by federal, state and local authority and specifying other limitations, terms and conditions governing the exercise of said Franchise Agreement.

**Final Reading Ordinance C35889 (Deferred from February 3, 2020, Agenda) (Council Sponsor: Council President Beggs)**

The City Council considered the substitute version of Final Reading Ordinance C35889. Council President Beggs provided an overview of Final Reading Ordinance C35889. He stated the ordinance, or portions thereof, will likely be revisited in the next budget cycle, in the fall, once all the top level cabinet positions are in place. There was an opportunity for public testimony, with no individuals requesting to speak, and Council commentary was held. Council Member Mumm stated that her support of this ordinance in no way means that she necessarily endorses the City having one department head that serves parking services, code enforcement, and business and development services and stated she looks forward to further discussions with Administration on this. She further stated she would support each having their own director as it comes about for next year. Council Member Cathcart concurred and stated he appreciates the Mayor's willingness to look at this and consider some reorganization to make sure those departments are as effective as they can be. Following additional commentary by Council President Beggs, the following action was taken:

**Upon Unanimous Roll Call Vote**, the City Council **passed Final Reading Ordinance C35889 (as substituted)** relating to the executive and administrative organization of the City; amending SMC sections 3.01A.210, 3.01A.253, 3.01A.260, 3.01A.355 and 3.01A.415; repealing SMC section 3.01A.490; and adopting a new section 3.01A.251 to chapter 3.01A of the Spokane Municipal Code.

**Final Reading Ordinance C35883 (as substituted during 3:30 p.m. Administrative Session) (First Reading held January 27, 2020) (Council Sponsor: Council President Beggs)**

The City Council considered Final Reading Ordinance C35883 (as substituted). Subsequent to an overview of Ordinance C35883 by Council President Beggs and an opportunity for public testimony and Council commentary, with no individuals requesting to speak, the following action was taken:

**Upon Unanimous Roll Call Vote**, the City Council **passed Final Reading Ordinance C35883 (as substituted)** vacating Riverside Avenue between the west line of Grant Street and the west line of lot 10 of the Plat of Railroad addition in the City of Spokane.

**Final Reading Ordinance C35884 (First Reading held January 27, 2020) (Council Sponsor: Council President Beggs)**

Subsequent to a brief overview of Final Reading Ordinance C35884 by Council President Beggs and an opportunity for public testimony and Council commentary, with no individuals requesting to speak, the following action was taken:

**Upon Unanimous Roll Call Vote**, the City Council **passed Final Reading Ordinance C35884** vacating the east 37.5 feet of Thor Street between the north line of Garnet Avenue and the south line of the plat of JJ Hill Estates.

**Final Reading Ordinance C35867 (First Reading held December 9, 2019)**

Subsequent to an opportunity for public testimony, with no individuals requesting to speak, and Council commentary, the following action was taken:

**Upon Unanimous Roll Call Vote**, the City Council **passed Final Reading Ordinance C35867** vacating the alley in Block 9 of the plat of Englebart Addition.

**FIRST READING ORDINANCES**

**First Reading Ordinance C35894 (Council Sponsor: Council Members Kinnear and Wilkerson)**

**The following Ordinance was read for the first time, with further action deferred:**

**ORD C35894** Harmonizing the noise disturbance prohibitions in the context of health care providers and facilities with the noise disturbance provisions applicable generally throughout the city.

**SPECIAL CONSIDERATIONS**

**Restated Interlocal Agreement for Animal Control Services with Spokane County (as substituted and amended during the 3:30 p.m. Administrative Session) (OPR 2020-0066) (Deferred from February 3, 2020, Agenda) (Relates to Special Budget Ordinance C35886)**

Subsequent to an opportunity for public testimony and Council commentary, the following action was taken:



**Upon Unanimous Roll Call Vote**, the City Council **approved the Restated Interlocal Agreement** for Animal Control Services with Spokane County for services in the City of Spokane from January 1, 2019, through December 31, 2025—\$670,451 for 2020, plus one-time payment of \$89,431 for prior deficient payments from January 1, 2014, through December 31, 2019. Total Amount: \$759,882.

There were no **Hearings**.

## SECOND OPEN FORUM

**Doug Stickelmeyer** remarked on giving a voice to those who are trying to protect life at The Church at Planned Parenthood, the 5G event at Gonzaga, and protecting citizens from coronavirus.

**Jeanne Feller** expressed concern about the new housing development on the steep slope between the Finch House and the Ridge

**Afshin Yaghtin** remarked he is here to address misinformation being told about The Church at Planned Parenthood.

**Bruce Wakeman** provided religious/spiritual remarks and commented on Planned Parenthood, and abortion.

**Larry Beatty** remarked on bills being considered and expressed concern regarding comprehensive sex education that is coming across the state. In addition, he remarked on Planned Parenthood.

**Micah Beatty** remarked on freedom of speech and the constitution.

**Hunter Beatty** remarked on the bible and its influence on mankind.

**George McGrath** remarked on abortion and respect.

**Michael Pfleigr** expressed concern regarding words captured on police body camera footage released earlier this week.

**Gabriel Blomgren** remarked on the story of Araminta Ross.

**Mercy Aguilar** remarked on Planned Parenthood and questioned where the compassion for love and life for the children at the border. She also remarked on being refused a police escort when leaving the Chambers one evening.

**Will Neville** stated he is with Spokane Area Tenants United and remarked on people being thrown out into the street by landlords with no concern for their well-being and remarked on homelessness and housing.

**Cherrie Barnett** commented on Planned Parenthood and shared statements from a speech provided by President Trump at the last March for Life. She also expressed concern with sex education in schools.

**Tom Robinson** remarked on the same policy body camera video Michael (Pfleigr) spoke about and demonstrations outside Planned Parenthood.

**Kim Schmidt** expressed concern regarding the policy body camera footage that has been circulating and referenced an article in The Spokesman by Adam Shanks.

**Nicolette Ocheltree** remarked on situation at Planned Parenthood and stated it is a failure of Police to enforce ordinances already on the books and questioned what good it is to pass an ordinance when they are not enforced.

## RECOGNITION OF SCOUTS

Council President Beggs recognized the scouts in the audience and thanked them for being present and experiencing democracy in action.

## ADJOURNMENT

There being no further business to come before the City Council, the Regular Legislative Session of the Spokane City Council adjourned at 7:56 p.m.

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# Hearing Notices

## **Notice of Intent to Adopt Amendment to the Unified Development Code and SEPA Review**

City of Spokane Code Enforcement is the lead on proposed amendments to the SMC. The Proposal specifically amends Spokane Municipal Code (SMC): 17F.070.470 – Construction Standards, Existing Building and Conservation Code, Compliance with Order; and, 17F.070.490 – Construction Standards, Existing Building and Conservation Code, Enforcement.

**Project Description:** The proposed amendments provide an alternative to demolition orders by the Building Official as a part of the substandard building process in the City of Spokane and are intended to facilitate mitigation of safety hazards and nuisance conditions, aimed at the rehabilitation and re-use of substandard, abandoned, unfit, and/or nuisance properties.

If approved the proposed amendments would be implemented as part of the Building Official hearing process – an administrative hearing process for substandard, abandoned, unfit, and nuisance properties. When appropriate, the Building Official could refer properties to City Legal staff to petition Superior Court to appoint a Receiver as the responsible party for a distressed property. This alternative could be implemented following exhaustion of all appropriate administrative remedies, including standard code enforcement notices of violation, Building Official administrative hearings and potentially Hearing Examiner appeals processes, and would then follow Superior Court protocol.

More information is available at:

<https://my.spokanecity.org/projects/alternative-to-substandard-building-demolition/>

The proposed text amendment includes the following:

- Amends 17F.070.470 and 17F.070.490 by adding a new subsections to both sections of code permitting the referral of substandard, abandoned, unfit, or nuisance properties to Superior Court in pursuit of a receivership order.

**SEPA Status:** The proposed amendments are categorically exempt from SEPA.

**Legislative Process:** A briefing before the City Council Urban Experience Committee took place on January 13, 2020 and a workshop before the City of Spokane Plan Commission is tentatively scheduled for March 11, 2020. Public testimony will not be taken at this committee meeting; however, amendments to the Spokane Municipal Code will proceed through the regular Plan Commission and City Council Adoption processes which both include opportunities for public comment and testimony. Please note that Plan Commission and City Council hearings regarding these amendments have not yet been scheduled, but is anticipated for spring 2020.

**More information:** Any person may call for additional information and/or sign up to receive email updates on this project by sending an email to the planner. Contact Person: Jason Ruffing, City of Spokane Code Enforcement, [jruffing@spokanecity.org](mailto:jruffing@spokanecity.org), 509-625-6802. A current draft and additional documents may be viewed on the Project Page: <https://my.spokanecity.org/projects/alternative-to-substandard-building-demolition/>.

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# Ordinances

**These ordinances are published in this issue of the *Official Gazette* pursuant to passage by the Spokane City Council. It should be noted that these ordinances may be subject to veto by the Mayor. If an ordinance is vetoed by the Mayor, the Mayoral veto will be published in a subsequent issue of the *Official Gazette*.**

## **ORDINANCE NO. C35867**

An ordinance vacating the alley in Block 9 of the plat of Englebart Addition,

WHEREAS, a petition for the vacation of the alley in Block 9 of the plat of Englebart Addition has been filed with the City Clerk representing 100% of the abutting property owners, and a hearing has been held on this petition before the City Council as provided by RCW 35.79; and

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

The City of Spokane does ordain:

Section 1. That the alley between Market Street and the railroad right-of-way and more particularly described below is hereby vacated. Parcel number not assigned.

The alley in Block 9 of the plat of Englebart Addition as recorded with the Spokane County Auditor on December 1, 1906 under recording number 3100280

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

**Passed by City Council February 24, 2020  
Delivered to Mayor March 2, 2020**

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**CABLE COMMUNICATIONS FRANCHISE  
BY AND BETWEEN  
CITY OF SPOKANE, WASHINGTON  
AND  
TDS METROCOM, LLC**

**November 12, 2019**

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**EXHIBIT A FREE SERVICE TO PUBLIC BUILDINGS A-1**

**CABLE COMMUNICATIONS FRANCHISE**

An Ordinance granting a non-exclusive Franchise Agreement to TDS Metrocom, LLC to occupy and use the public rights-of-way and, upon approval, other public places in the City of Spokane, for the purpose of constructing, maintaining, and operating a Cable System within the City 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 TDS Metrocom, 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 the grant of a 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 grant 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 grant 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 grant 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/TDS Metrocom, 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) "Base Coverage Area" means an area comprised of seventy percent (70%) of the Dwelling Units in the Franchise Area.
- (D) "Basic Cable Service" shall mean the most highly penetrated, separately-priced Service Tier that is available without the purchase of any other Service Tier and which includes the retransmission of local television broadcast signals.
- (E) "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.
- (F) "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.
- (G) "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.
- (H) "Channel" shall mean bandwidth in the electromagnetic spectrum capable of carrying a television channel (as television channel is defined by FCC regulation).
- (I) "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.
- (J) "Complaint" shall mean a Subscriber written contact (via U.S. mail, email or other electronic means) with the Franchisee 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. A Complaint must be in writing but does not include initial contacts where an issue is promptly resolved to the Subscriber's satisfaction.
- (K) "Converter" shall mean an electronic tuning device which converts transmitted signals to a frequency which permits their reception on a television receiver.
- (L) "Council" shall mean the legislative body of the City of Spokane, Washington.
- (M) "Dwelling Units" means all residential single family and multi-family homes or units in the Franchise Area.
- (N) "FCC" shall mean the Federal Communications Commission or any legally appointed or designated agent or successor.
- (O) "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 a Franchisee.
- (P) "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]
- (Q) "Franchisee" shall mean TDS Metrocom, LLC, including any lawful successor, transferee or assignee of the original Franchisee.
- (R) "Franchisee's Service Territory" shall mean any area of the City where Dwelling Units are passed by Franchisee's Cable System activated plant.
- (S) "Franchise Fee" means consideration paid by Franchisee for the privilege to operate a Cable System in the Franchise Area in accordance with Section 622 of the Cable Act and federal law.
- (T) "GAAP" means Generally Accepted Accounting Principles.
- (U) "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 on any Cable Service 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.
  - (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 received 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. This calculation shall be applied to every bundled service package containing Cable Service from which Franchisee derives revenues in the City and shall be modified whenever a rate change occurs on any part of the bundled services. 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 concurrently with any Franchisee-required document, identifying each revised section or line item as well as a detailed explanation on the first payment statement to the City of any change made to the allocation methodologies.
  - (12) The City acknowledges that Franchisee shall maintain its books and records in accordance with "GAAP" and subject to applicable laws.
- (V) "Installation" shall mean the process necessary to connect the Cable System at the Subscriber's premises.
- (W) "Lockout Device" shall mean an optional mechanical or electrical accessory to a Subscriber's terminal which inhibits the viewing of a certain program, certain Channel, or certain Channels provided by way of the Cable System.
- (X) "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.

- (Y) "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.
- (Z) "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]
- (AA) "Other Programming Service" shall mean information that a cable operator makes available to all Subscribers generally.
- (BB) "PEG" shall mean public, educational and governmental.
- (CC) "Person" shall mean an individual or legal entity, such as a corporation or partnership.
- (DD) "Penetration Level" means the percentage obtained by dividing (x) the number of Franchisee's Subscribers, by (y) the total number of Dwelling Units in Franchisee's Service Territory (e.g.  $x/y = \text{Penetration Level percentage}$ ).
- (EE) "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.
- (FF) "Section 621 Order" means the Third Report and Order in MB Docket No. 05-311 adopted by the FCC on August 1, 2019.
- (GG) "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.
- (HH) "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.
- (II) "Subscriber" shall mean a member of the general public who receives broadcast programming distributed by a Cable System and does not further distribute it.
- (JJ) "Unserved Area" means any area within the City where the Dwelling Units are not in the Franchisee's Service Territory.
- (KK) "Video Programming" shall mean programming provided by, or generally considered comparable to programming provided by, a television broadcast station.
- (LL) "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 first day of the first month following enactment, the right, and privilege to have, acquire, construct, reconstruct, use, operate, own and maintain a Cable System for the Franchise Area, subject to applicable law, 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 use the City's Public Rights of Way for the purposes of this Franchise Agreement.

SECTION 5.  
AUTHORITY NOT EXCLUSIVE.

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 requirements in this Franchise regarding complimentary services, 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 applicable law and FCC orders. 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 SMC 10.27A.380 to the extent consistent with the provisions of the Cable Act.

SECTION 8.  
[RESERVED].

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 federal, state 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 federal, state, 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 federal, state, or local law that take effect subsequent to the effective date of this Franchise Agreement.
- (B) Franchisee's rights hereunder are subject to the lawful and reasonable exercise of the City's police power consistent with federal, state, or local law. It is understood that the City may at any time enact any ordinance 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 federal, state 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.

As is consistent with applicable law, 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 construct an all fiber, fiber to the home, Cable System. Franchisee shall provide a Cable System that 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) In accordance with applicable law, 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) Franchisee acknowledges the City's desire for all residents in the Franchise Area to benefit from competitive Cable Service offerings. The City acknowledges that requiring Franchisee, as a second market entrant, to initially buildout all of the Franchise Area as a condition of receiving a cable franchise may be economically prohibitive and could be construed as a barrier to entry for competitive cable service in the City. Accordingly, the parties agree to implement the following procedure for the expansion of Franchisee's Cable System within the Franchise Area.
- (1) Within sixty (60) days following the effective date of this Franchise, the City and Franchisee shall establish a mutually agreeable construction start date that takes into account such time as is reasonably necessary for Franchisee to issue Requests for Proposals relating to the construction of the Cable System. No later than five (5) years from the agreed upon construction start date, Franchisee's Cable System shall be capable of providing Cable Service to all of the Dwelling Units in the Base Coverage Area requesting Cable Service, provided however that the Franchisee may request, and the City shall not unreasonably withhold its approval of, extensions of this deadline based on construction delays caused or contributed to by unforeseen events outside Franchisee's control, including but not limited to events described in Section 35(A).
- (2) After completion of the Base Coverage Area, the City may require Franchisee to expand Franchisee's Cable System in accordance with the terms of this Section 16(A)(2). No more than once a year, after receipt of a written request from the City, Franchisee shall provide a report showing the current Penetration Level in Franchisee's Service Territory. If the Penetration Level is thirty-five percent (35%) or greater, the City may require Franchisee to expand its Cable System to cover an additional seven percent (7%) of the Unserved Area by delivering written notice to Franchisee. Upon receipt of such notice, Franchisee shall have twenty-four (24) months to meet such expansion requirement. Franchisee shall determine which portion of the Unserved Area it will serve.

- (3) Once Franchisee has extended its Cable System to cover ninety-five percent (95%) of the Franchise Area in accordance with Section 16(A)(2) above, the Franchisee shall make available Cable Service distributed over the Cable System when Dwelling Units can be served by extension of the System past Dwelling Units equivalent to a density of seven (7) Dwelling Units 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 for good cause shown. Such extension shall be at Franchisee's cost. In areas not meeting the requirements of seven (7) or more Dwelling Units 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. If such Dwelling Unit is located within one hundred twenty-five (125) feet of Franchisee's feeder cable, the Cable Service will be provided at Franchisee's published rate for Standard Installations.
- (4) Cable Service offered to Subscribers pursuant to this Franchise shall be conditioned upon Franchisee having legal access to any such Subscriber's Dwelling Unit or other units wherein such Cable Service is provided. Nothing herein shall be construed to limit the Franchisee's ability to offer or provide bulk rate discounts or promotions.
- (B) In order to permit the City to monitor and enforce the provisions of Section 16(A) above, as well as other provisions of this Franchise, the Franchisee shall, commencing ninety (90) days after the effective date, and continuing throughout the term of this Franchise, meet quarterly with the City, unless otherwise specified by the City, and provide reports and make available maps showing the City the Franchisee's progress towards compliance with Section 16(A).
- (C) Consistent with SMC 10.27A.720, areas subsequently annexed shall be provided with Cable Service in accordance with the formula set forth in Section 16(A) herein.
- (D) 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. 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 Standard 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 shall be completed on a time and material cost basis for that portion of the service line extending beyond one hundred twenty-five (125) feet.
- (E) Subject to Section 35(D) of this Franchise Agreement and upon request through the designated City representative, the Franchisee shall provide, without charge and throughout the term of this Franchise Agreement, 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 (provided such buildings are then passed by Franchisee's cable system), attached hereto ("Complimentary Service") and not currently receiving service from another franchised cable operator. 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 of 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 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 exclusively to allow the public to view Council meeting broadcasts and other governmental programming appearing on that Channel. The City will take reasonable precautions to prevent any inappropriate or unlawful use of the Franchisee's Cable System that results in any loss or damage to the Cable System or exposes Franchisee to any third-party claims of liability arising from such inappropriate or unlawful use. 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.

SECTION 17.  
PROGRAMMING.

- (A) Subject to the provisions of this Section 17, the City shall not interfere with the Franchisee in the Franchisee's exercise of its discretion regarding the addition, deletion, or realignment of the Channels of Video Programming carried on the Cable System.
- (B) To the extent required by applicable federal law, and in any manner allowed by applicable federal law, Franchisee will notify City and Subscribers in writing thirty (30) days prior to any Channel additions, deletions, or realignments, provided that in the case of a channel addition, deletion or realignment occasioned by the interruption or cessation of a Channel or Channels of Video Programming due to a technical or other equipment failure beyond the Franchisee's control or the refusal of the vendor of the Video Programming to extend or renew an expiring agreement for the carriage of such Video Programming Channel, the Franchisee will give such notice within a reasonable period of time after such interruption or cessation of service.
- (C) 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.
- (D) Except where the elimination of Video Programming is not within the Franchisee's control (as described in subsection (B)), the Franchisee may not eliminate any broad category of programming noted in subsection (C) without first requesting the written approval of the City, such approval not to be unreasonably withheld. In the event that the City makes an adverse determination with respect to a request to eliminate a broad category of programming, 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 increasing 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.
- (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) Franchisee shall dedicate six (6) Channels for PEG use by the City. Use of the PEG Channels shall be determined in City's sole discretion. At such time as Franchisee first provides Cable Service to its first Subscriber in the City, Franchisee shall carry two (2) of the PEG Channels in high-definition ("HD") format and four (4) channels in standard definition ("SD") format. For purposes of this Franchise, HD format shall mean a display resolution of at least 1080 lines (progressive) that is supported by Franchisee on the Cable System, including

the Franchisee's terminal device(s) provided to Subscribers for HDTV use. If Franchisee supports more than one such HD resolution, the City shall have the right to specify which of those formats supported by Franchisee shall be used for the PEG Channels.

- (2) Franchisee shall ensure that any PEG Channels carried in HD format pursuant to subsection (1) can also be viewed in standard definition (non-HD) format by Subscribers who do not receive HD service or do not have HD equipment, with the same quality and functionality as commercial channels of the same format, whether through simulcasting the programming in SD and HD, or by means of another technical solution used by Franchisee for other commercial programmers carried on the channel lineup.
  - (3) At any time during the term of this Franchise, the City may at its sole discretion, upon one hundred twenty (120) days' advance written notice to Franchisee, require Franchisee to carry any one of the four (4) SD PEG Channels referenced in subsection (1) in HD format subject to the same requirements as set forth in subsections (1) and (2) above.
  - (4) City shall be responsible for all programming requirements, including but not limited to scheduling, playback, training, staffing, copyright clearances, and equipment, maintenance and repair. Franchisee shall provide City with the ability to verify that the PEG programming which the City provides on the PEG Channels is actually received by Franchisee. To that end Franchisee shall provide the City with "confidence feeds" at each City playback location that will permit the City to view only the PEG Access Channels for the purpose of verifying the audio and visual level of the PEG programming on each PEG Channel is correct.
  - (5) The Franchisee shall provide the PEG Access Channels as part of the Basic Cable Service provided to any Subscriber 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.
- (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) Upon commencement of Cable Service by Franchisee to its first Subscriber in the City and through the end of the term of this Franchise, 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 to the City in the same manner and at the same time as the Franchise Fee.
  - (2) The City shall allocate all amounts under this paragraph to PEG capital uses exclusively.
  - (3) 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 47 U.S.C. §542 or other applicable laws. 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.
  - (4) 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 Fee funding was used or budgeted for PEG capital needs, Franchisee's PEG Fee funding obligations going forward shall be reduced by an equivalent amount.
  - (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 consistent with applicable laws 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 and the City will be responsible for providing PEG Access content in a format that is compatible with 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 applicable law.
- (H) PEG Access Programming Connectivity.
- (1) Prior to the date on which Franchisee first provides Cable Service to its first Subscriber in the City, Franchisee shall meet with the City to discuss and reach mutual agreement on the most efficient means by which Franchisee, without having to extend its facilities beyond areas then passed, can connect with and obtain access to existing transport paths used for PEG Access programming in order to enable the transmission of PEG Access programming over the Cable System.
  - (2) In the event the parties are not able to reach mutual agreement pursuant to Section 19 (H)(1) above, Franchisee agrees that prior to the date on which Franchisee first provides Cable Service to its first Subscriber in the City, Franchisee shall provide a technical solution that will enable the transmission of PEG Access programming over the Cable System, to the below locations:
    1. KSPS Facility, located at 3911 South Regal Street.

2. City Hall via City Water Works Building on Hamilton & North Foothills.

- (3) If the City desires to relocate either or both of the PEG Access transmission points identified in Section 19(H)(2), the Franchisee shall, upon receipt of reasonable advance written notice from the City, meet with the City to discuss and reach mutual agreement on the most efficient means by which Franchisee can connect with and obtain access to such new transport paths to enable the transmission of PEG Access programming over the Cable System, if technically feasible. Each party shall cover the costs on its side of the demarcation point. City will not be assessed additional fees or recurring costs for the provisions of SD or HD Access Channels after the signal leaves the City's control.
- (4) Failure to comply with the provisions of this Section 19 shall constitute a material breach of this Franchise Agreement.

SECTION 20.  
PARENTAL CONTROL.

- (A) Franchisee shall provide Subscriber controlled Lockout Devices (audio and visual) or similar 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 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 bond requirements upon the Franchisee, pursuant to the terms and provisions of the City's 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, 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 taking into consideration all factors, including the number of Subscribers that the Franchisee serves and/or is anticipated to serve over time.
- (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. City agrees not to seek liquidated damages under paragraphs (5) and (6) of this subsection for any acts or omissions occurring prior to the date on which Franchisee serves three thousand (3,000) Subscribers, however, the City reserves the right to pursue any and all other remedies that may be available under this Franchise, the Spokane Municipal Code and applicable law.
- (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 subsequent to the date on which Franchisee serves three thousand (3,000) Subscribers, 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 in any matter involving Twenty-five Thousand and No/100 Dollars (\$25,000) reasonable estimated value amount in controversy and in any other matter if requested by either side. 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 propriety 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 be temporarily relieved of the obligation to provide the quarterly customer service report required in SMC 10.27A.410(A) until the first quarter following the quarter during which Franchisee first provided Cable Service to its first Subscriber. Thereafter, the City Administrator, upon thirty (30) days' notice and after consultation with Franchisee, shall determine whether to grant further relief regarding the timing and substance of such customer service report.
- (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, in addition to the PEG Fee described in Section 19(F) of this Franchise Agreement, a Franchise Fee in the amount of five percent (5%) of its annual Gross Revenues in the City, pursuant to 47 U.S.C. § 542. Payment of both the franchise fee and PEG Fee shall be due by forty-five (45) days after the end of each calendar month ("Due Date"), provided that for the three (3) year period starting with the first quarter in which Franchisee has Gross Revenues, the Due Date for payment of the Franchise Fee and PEG Fee will be no later than forty-five (45) days after the end of each calendar quarter.
- (B) No acceptance by the City of any payment of Franchise Fees or PEG Fees 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) Any Franchise Fee payments or PEG Fee payments owing pursuant to this Franchise Agreement which remain unpaid on the Due Date shall be delinquent and shall thereafter accrue interest calculated at twelve percent (12%) per annum.
- (D) If Franchisee receives written notice from the City of the Franchisee’s failure to make timely payment of the Franchise Fee or PEG Fee due under this Franchise Agreement, the Franchisee shall have fifteen (15) days from receipt of such notice either to provide the City with proof that the payment was made on or before the Due Date or to make the payment, together with any accrued interest. If Franchisee fails to respond within fifteen (15) days, the payment will be deemed delinquent and the City may, on seven (7) days’ notice to Franchisee, draw on the Performance Security in an amount not to exceed the amount of the Franchisee’s most recent Franchise Fee payment (in the case of a delinquent Franchise Fee payment) or PEG Fee payment (in the case of a delinquent PEG Fee payment). The City shall give notice to the Franchisee of the amount drawn on the Performance Security on the date such draw occurs.
- (E) Either the Franchisee or the City may contest whether the amount drawn on the Performance Security pursuant to this section represents the actual amount of the Franchise Fees or PEG Fee due from the Franchisee. The Franchisee may initiate such challenge by requesting a hearing within thirty (30) days of receiving notice of the amount of the draw, such hearing to be conducted pursuant to the procedures in Section 26. The City may initiate such a challenge by requesting an audit pursuant to Section 30(F).
- (F) If a hearing or audit conducted pursuant to Section 30(D) of this Franchise establishes that additional Franchise Fee or PEG Fee payments are due from the Franchisee, the Franchisee shall have fifteen (15) days to remit the additional amount due plus interest on that amount accruing at twelve percent (12%) per annum back to the Due Date. If a hearing or audit conducted under Section 30(D) establishes that the amount of the Performance Security draw exceeds the amount that was due from the Franchisee, the Franchisee shall be entitled to a credit equal to such amount against its next quarterly Franchise Fee or PEG Fee payment.
- (G) 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.
- (H) 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 5 <sup>th</sup> Floor Municipal Building W 808 Spokane Falls Boulevard Spokane WA 99201-3333
If to Franchisee:	TDS Metrocom, LLC Attention: Legal Department 525 Junction Road, Suite 78000 Madison, WI 53717

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.

- (1) Franchisee shall satisfy the consumer protection and service standards as outlined in SMC 10.27A.700 during the term of this Franchise Agreement provided that Franchisee may seek a waiver from the City of its obligation under SMC 10.27A.700.B to maintain a local office based on a lack of use of such office. 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. Except as otherwise provided herein, the Franchisee shall comply in all respects with SMC 10.27A.700 and the customer service requirements established by the FCC.
  - (2) The above Customer Service Standards shall apply once Franchisee provides Cable Service to its first Subscriber in the City and throughout the remainder of the term of this Franchise.
- (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 Operator is no longer subject to federal requirements concerning subscriber privacy.

SECTION 34.  
REMEDIES CUMULATIVE.

Subject to applicable law, 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) At any time after this Franchise Agreement is approved by the City Council, 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(E) 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 negotiated 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. Nothing herein waives the City's right to enforce Franchisee's compliance with all lawful obligations contained in this Franchise Agreement.

**SECTION 36.  
APPLICABLE LAW.**

This Franchise Agreement is a voluntary contract and its obligations are protected against impairment by the Constitution and laws of the State of Washington and United States. Subject to this protection both parties reserve any rights, substantive or procedural, they may have under federal or state 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.

ACCEPTED: This Franchise Agreement is accepted, and we agree to be bound by its terms and conditions.

**Passed by City Council February 24, 2020  
Delivered to Mayor March 2, 2020**

Attachment on file in the City Clerk's Office.

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**ORDINANCE NO. C35883**

An ordinance vacating Riverside Avenue between the west line of Grant Street and the west line of Lot 10 of the Plat of Railroad Addition in the City of Spokane

WHEREAS, pursuant to Resolution 2019-0116, the City Council initiated the vacation of Riverside Avenue between the west line of Grant Street and the west line of Lot 10 of the Plat of Railroad Addition, and a hearing has been held on the resolution before the City Council as provided by RCW 35.79; and

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

The City of Spokane does ordain:

Section 1. That Riverside Avenue between the west line of Grant Street and the east line of Lot 12, Block 5 of Railroad 1<sup>st</sup> to 3<sup>rd</sup> Addition to Spokane is hereby vacated. Parcel number not assigned.

Section 2. An easement is reserved and retained over, under, and across that portion of the vacated right-of-way described below, for the utility services of Comcast.

An easement over, under and across a portion of vacated Riverside Avenue adjacent to and lying north of Block 5, First Addition to 3<sup>rd</sup> Addition to Railroad Addition to Spokane, per Plat recorded in Volume "C" of Plats, Pages 23 and 24, records of Spokane County, Washington, being 5.00 feet in width and lying 2.50 feet on each side of the following described centerline:

Commencing at the Northeast corner of said Block 5; thence North 3° 00' 39" West along the projected East line of said Block 5, a distance of 53.00 feet to the POINT OF BEGINNING of said centerline and easement; thence North 84° 31'39" West 20.97 feet; thence North 73°21'09" West 11.68 feet to a point on the North Right-of-Way line of vacated Riverside Avenue and the terminus of this centerline and easement.

The sidelines of this easement to be lengthened or shortened to terminate on the North Right-of-way line of Vacated Riverside Avenue and the projected East line of said Block 5.

**Passed by City Council February 24, 2020  
Delivered to Mayor March 2, 2020**

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**ORDINANCE NO. C35884**

An ordinance vacating the east 37.5 feet of Thor Street between the north line of Garnet Avenue and the south line of the plat of JJ Hill Estates,

WHEREAS, a petition for the vacation of the east 37.5 feet of Thor Street between the north line of Garnet Avenue and the south line of the plat of JJ Hill Estates has been filed with the City Clerk representing 100% of the abutting property owners, and a hearing has been held on this petition before the City Council as provided by RCW 35.79; and

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

The City of Spokane does ordain:

Section 1. That the east 37.5 feet of Thor Street between the north line of Garnet Avenue and the south line of the plat of JJ Hill Estates is hereby vacated. Parcel number not assigned.

**Passed by City Council February 24, 2020  
Delivered to Mayor March 2, 2020**

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**ORDINANCE NO. C35886**

An ordinance amending Ordinance No. C35857, passed by the City Council December 31, 2019, and entitled, "An ordinance adopting the Annual Budget of the City of Spokane for 2020, making appropriations to the various funds of the City of Spokane government for the fiscal year ending December 31, 2020, and providing it shall take effect immediately upon passage", and declaring an emergency.

WHEREAS, subsequent to the adoption of the 2020 budget Ordinance No. C35857, as above entitled, and which passed the City Council December 16, 2019, it is necessary to make changes in the appropriations of the General 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 General Fund, and the budget annexed thereto with reference to the General Fund, the following changes be made:

FROM:	0020-99999 99999	General Fund Unappropriated Reserves	<u>\$110,000</u>
TO:	0020-88400 18900-54201	General Fund Contractual Services	<u>\$110,000</u>

Section 2. It is, therefore, by the City Council declared that an urgency and emergency exists for making the changes set forth herein, such urgency and emergency arising from the need to budget extra funds for SCRAPS regarding a one-time deficiency payment and to cover a budget deficit for the 2020 contract amount, 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 by City Council February 24, 2020  
Delivered to Mayor March 2, 2020**

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**ORDINANCE NO. C35889**

An ordinance relating to the executive and administrative organization of the City; amending SMC sections 3.01A.210, 3.01A.253, 3.01A.260, 3.01A.355 and 3.01A.415; repealing SMC section 3.01A.490; and adopting a new section 3.01A.251 to chapter 3.01A of the Spokane Municipal Code.

The City of Spokane does ordain:

Section 1. The SMC Section 3.01A.210 is amended to read as follows:

**3.01A.210 Division Departments**

The following departments shall be considered as division departments:

- A. City Attorney
- B. Neighborhood and Business Services
- C. ~~((Finance and Administration))~~ Finance, Treasury and Administration
- D. Fire
- E. Parks and Recreation
- F. Police
- G. Public Works
- H. Human Resources
- I. Innovation and technology Services

Section 2. That there is adopted a new section 3.01A.251 to chapter 3.01A of the Spokane Municipal Code to read as follows:

**3.01A.251 Customer Experience**

The department of customer experience oversees the operation of My Spokane – 311 and community programs, including community centers, special events, community engagement and volunteer programs.

Section 3. The SMC Section 3.01A.253 is amended to read as follows:

**3.01A.253 Development Services Center, Code Enforcement and Parking Services**

- A. The development services center, code enforcement and parking services department performs the following functions:
  - 1. Reviews and approves plans, issues building and occupancy permits and inspects building projects for compliance with building and other construction codes. It also enforces land use regulations and works with various city, county and state agencies in the regulation of property use requirements.
  - 2. Coordinates the activities of the other City departments and local and regional agencies in the investigation and resolution of violations of the public health and safety laws.
  - 3. Coordinates the operation of parking services provided by the city including parking enforcement.
- B. The building official is appointed by the mayor.

Section 4. The SMC Section 3.01A.260 is amended to read as follows:

**3.01A.260 Finance, Treasury and Administration**

- ~~((A. The finance and administration department manages the accounting, budgeting, grants and contracts management, asset management and risk management functions of the City, and is responsible for establishing and maintaining sound fiscal management practices throughout the City.~~
- ~~B. The director of finance and administration department shall attend all meetings of the city council finance committee, apprise the committee of the activities that he/she is responsible for and provide the committee any information related to these activities that is requested. The director of finance and administration shall also present to the committee changes in past practices or procedures or recommended ordinance amendments deemed necessary to maintain or increase the efficiency or effectiveness of the financial services division or the financial operations of the City.~~

- ~~C. The chief financial officer shall coordinate all debt issuances and supervise other Treasury functions of the City. The chief financial officer and/or the director of finance and administration shall regularly communicate to the city council on matters material to the City's financial condition, including quarterly financial and budget updates.))~~
- A. The chief financial officer shall coordinate all debt issuances and supervise all other finance and treasury functions of the City. The chief financial officer shall regularly communicate to the city council on matters material to the City's financial condition, including quarterly financial and budget updates. The chief financial officer shall attend all meetings of the city council finance and administration committee, apprise the committee of the activities that he/she is responsible for and provide the committee any information related to these activities that is requested. The chief financial officer shall oversee all finance and treasury related departments and functions including the finance, treasury and administration department and the management and budget department. Department heads and managers of the finance and budget departments shall report to the chief financial officer
- B. The finance and administration department manages the accounting, budgeting, grants and contracts management, asset management and risk management functions of the City, and is responsible for maintaining sound fiscal management practices throughout the City. The director of finance and administration shall present to city council committees regarding changes in past practices or procedures or recommended ordinance amendments deemed necessary to maintain or increase the efficiency or effectiveness of the financial services division or the financial operations of the City.
- C. The City treasurer is responsible for receiving, investing, safekeeping and accounting for cash of the City; issuing, paying and redeeming City bonds; collecting local improvement district and parking and business improvement district assessments, utility bill payments, and accounts receivable payments and tax payments; accepting and paying City warrants; providing federal tax reporting on arbitrage; and billing, managing taxes and licenses. The city treasurer is a member of the fire pension board and the police relief and pension board. The city treasurer also serves on the City investment board.

Section 5. The SMC Section 3.01A.355 is amended to read as follows:

**3.01A.355 Neighborhood Services ((and Code Enforcement))**

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

Section 6. The SMC Section 3.01A.415 is amended to read as follows:

**3.01A.415 ((Public Affairs-)) Communications and Marketing**

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

Section 7. The SMC Section 3.01A.490 is repealed.

**~~((3.01A.490 Treasurer's Office))~~**

~~((A. The treasurer's office is responsible for receiving, investing, safekeeping and accounting for cash of the City; issuing, paying and redeeming City bonds; collecting local improvement district and parking and business improvement district assessments, utility bill payments, and accounts receivable payments and tax payments; accepting and paying City warrants; providing federal tax reporting on arbitrage; and billing, managing taxes and licenses.~~

~~B. The city treasurer is a member of the fire pension board and the police relief and pension board. The treasurer also serves on the City investment board.))~~

**Passed by City Council February 24, 2020  
Delivered to Mayor March 2, 2020**

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**ORDINANCE NO. C35892**

An ordinance amending Ordinance No. C35857, passed by the City Council December 16, 2019, and entitled, "An ordinance adopting the Annual Budget of the City of Spokane for 2020, making appropriations to the various funds of the City of Spokane government for the fiscal year ending December 31, 2020, and providing it shall take effect immediately upon passage", and declaring an emergency.

WHEREAS, subsequent to the adoption of the 2020 budget Ordinance No. C35857, as above entitled, and which passed the City Council December 16, 2019, it is necessary to make changes in the appropriations of the General 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 General Fund, and the budget annexed thereto with reference to the General Fund, the following changes be made:

FROM:	0100-99999- 99999-	General Fund Unappropriated Reserves	<u>\$280,000.00</u>
TO:	0300-53010- 65410-54999	Human Services Other Misc. Charges	<u>\$280,000.00</u>

Section 2. It is, therefore, by the City Council declared that an urgency and emergency exists for making the changes set forth herein, such urgency and emergency arising from a significant and pressing need to fund two permanent housing projects to help alleviate emergency need in the community, 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 by City Council February 24, 2020  
Delivered to Mayor March 2, 2020**

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**ORDINANCE NO. C35893**

An ordinance amending Ordinance No. C35857, passed by the City Council December 16, 2019, and entitled, "An ordinance adopting the Annual Budget of the City of Spokane for 2020, making appropriations to the various funds of the City of Spokane government for the fiscal year ending December 31, 2020, and providing it shall take effect immediately upon passage", and declaring an emergency.

WHEREAS, subsequent to the adoption of the 2020 budget Ordinance No. C35857, as above entitled, and which passed the City Council December 16, 2019, it is necessary to make changes in the appropriations of the Water & Hydroelectrical Services 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 Water & Hydroelectrical Services Fund, and the budget annexed thereto with reference to the Water & Hydroelectrical Services Fund, the following changes be made:

FROM:	4100-99999 99999-28810	Water & Hydroelectrical Services Fund Unappropriated Reserves	<u>\$200,000</u>
TO:	4100-42420 34145-54201	Water & Hydroelectrical Services Fund Contractual Services	<u>\$200,000</u>

Section 2. It is, therefore, by the City Council declared that an urgency and emergency exists for making the changes set forth herein, such urgency and emergency arising from the need to add additional funding to the 2020 budget for Urban Utility Installations that were appropriated in 2019 but not completed and encumbered, 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 by City Council February 24, 2020  
Delivered to Mayor March 2, 2020**

# Job Opportunities

**We are an equal opportunity employer and value diversity within our organization. We do not discriminate on the basis of race, religion, color, national origin, gender identity, sexual orientation, age, marital status, familial status, genetic information, veteran/military status, or disability status.**

**AMENDMENT**

**AMENDMENT**

**AMENDMENT**

**CLAIMS ADMINISTRATOR**

SPN 059

(Announcement of 2/3/2020)

The above titled announcement is hereby amended to read:

**EXAMINATION DETAILS:** Closing Date/Time Sun. 03/17/2020 4:00 PM Pacific Time



**WATER HYDROELECTRIC MAINTENANCE FOREPERSON SPN 663  
PROMOTIONAL**

**DATE OPEN:** Monday, March 2, 2020

**DATE CLOSED:** Tuesday, March 17, 2020 at 4:00 p.m.

**SALARY:** \$53,747.21 annual salary, payable bi-weekly, to a maximum of \$88,514.50

**DESCRIPTION:**

Performs skilled supervisory work in the installation, maintenance and repair of hydroelectric plant and water pumping station machinery and equipment.

**DUTIES:**

- Advises and assists the supervisors in developing equipment maintenance schedules, work shifts, interpretation and evaluation of operating records, and other administrative and supervisory functions.
- Assigns and supervises the work of a small crew of skilled mechanics engaged in general electrical and mechanical maintenance work.
- Locates and purchases parts for equipment repair.
- Supervises and instructs the performance of more difficult electrical wiring and motor repair work in the hydroelectric plant or in the pumping stations.
- Assists in developing and implementing the most efficient pumping schemes.
- Inspects turbines, generators, pumps, fans, gauges, compressors, power cables, transformers, and related equipment for faulty operation; diagnoses trouble and effects repairs.
- Installs and inspects electrical equipment in new construction or in change-overs in existing stations. Installs and wires switchboard panels, meters, and control and protective equipment using engineering and manufacturer's drawings and specifications, such as electronic annunciators, control, and security systems.
- Operates an automobile or pickup truck and various tools as required.
- Performs related work as required.

**MINIMUM QUALIFICATIONS:**

*Combinations of education and experience that are equivalent to the following minimum qualifications are acceptable.*

**Promotional Requirements:**

(Current employees of the City of Spokane may meet the promotional requirements. All promotional requirements must be met at the date of the examination.)

- *Experience:* Two years of experience with the City in the classification of Water Hydroelectric Plant Mechanic (SPN: 664) or Instrument Repair Technician (SPN 648) in the Water Hydroelectric Services Department.
- *License:* Possession of a valid driver's license.

**License and Certifications:**

(Employees in this job class must meet these requirements.)

- A Water Distribution Manager 2 Certificate must be obtained within one year of appointment.

Shortage Recruitment Note: Employees who have one year of experience with the City in the classification of Water Hydroelectric Plant Mechanic (SPN 664) or Instrument Repair Technician (SPN 648) in the Water Hydroelectric Services Department may apply on a promotional basis.

**EXAMINATION DETAILS:**

You need to meet the minimum qualifications and pass the examination for this position to be eligible for hire. The examination will consist of a written test and a performance evaluation (PAR), with weights assigned as follows:

- Written Test 80%
- PAR 20%

Written tests will be conducted in the Civil Service Test Room on March 24, 2020. Start time is 2:30 p.m., with an approximate duration of 2 hours.

Upon request, at time of application, the City will provide alternative accessible tests to individuals with disabilities that impair manual, sensory or speaking skills needed to take the test, unless the test is intended to measure those skills.

**Self-schedule written test date and time:**

Upon passing the minimum qualification review, you will receive an e-mail with complete instructions to self-schedule your test session. Multiple sessions may be made available depending on the number of applicants and are filled on a first come, first served basis.

**The written test may include the following subjects:**

- Utility Plant Operations
- Records and Reports
- Safety
- Supervision and Training

**Promotional Evaluation Details:**

Pursuant to Civil Service Rule VI, Section 9, an evaluation of an employee's job performance [in the form of a Performance Appraisal Review (PAR)] shall be a subject in all promotion exams. The PAR should be administered by the employee's supervisor within the past year.

The employee's most recent PAR is the Promotional Evaluation for this position. If the most recent PAR is expired (older than one year), the employee's payroll clerk and supervisor are notified. The supervisor is responsible for submitting an updated PAR to the HR department for approval prior to the closing date. If an updated PAR is not received by the closing date, the most recent PAR on file will be used, regardless of date administered.

Qualified applicants are encouraged to apply immediately. All applicants must complete and submit a City of Spokane employment application online by 4:00 p.m. on the filing cut-off date.

**TO APPLY:**

**An application is required for promotional applicants.** Applications must be completed online at: <http://my.spokanecity.org/jobs> by 11:59 p.m. on the filing cut-off date. Copies of required additional documents may be attached to your application or submitted via any of the following:

- Email: [civilservice@spokanecity.org](mailto:civilservice@spokanecity.org) with Job Title – Applicant Name in the subject line of the email
- In person or mail to: Civil Service Commission, 4<sup>th</sup> Floor-City Hall, 808 W. Spokane Falls Blvd., Spokane, WA 99201
- Fax: (509) 625-6077

By order of the SPOKANE CIVIL SERVICE COMMISSION, dated at Spokane, Washington, this 27th day of February 2020.

MARK LINDSEY  
Chair

AMBER RICHARDS  
Chief Examiner

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**POLICE MAJOR SPN 919  
PROMOTIONAL**

**DATE OPEN: Monday, March 2, 2020**

**DATE CLOSED: Tuesday, March 17, 2020 at 4:00 p.m.**

**SALARY: \$129,873.60 annual salary, payable bi-weekly, to a maximum of \$158,729.76**

**DESCRIPTION:**

Performs responsible administrative and command duties assisting the Police Chief.

**DUTIES:**

- Directs major bureaus of the Police Department through subordinates.
- Maintains and enforces discipline, and reviews records and reports. Develops new procedures, and submits reports and recommendations to the Police Chief.
- Assists the Police Chief with a variety of special projects as assigned. Researches data essential for budget preparation. Makes presentations to groups and organizations essential to the successful implementation of various plans.
- Responsible for the managerial development of subordinates.
- Performs related work as required

**MINIMUM QUALIFICATIONS:****Promotional Requirements:**

- Currently a Police Captain (SPN 917) or Police Lieutenant (SPN 916).



Completion of at least two years of experience with the City in the classification of Police Captain, Police Lieutenant or a combination of both.

**EXAMINATION DETAILS:**

Applicants must meet the minimum qualifications and pass the examination for this position to be eligible for promotion. The examination will consist of a training and experience evaluation (T&E) with scoring weight assigned as follows:

- T&E: 100%

**T&E EVALUATION DETAILS**

The T&E examination consists of a Supplemental Questionnaire. The questions may be viewed online under the tab marked "**QUESTIONS**" on the job announcement page. The T&E must be submitted online at the time of application. All applicants must complete and submit a City of Spokane employment application online by 4:00 p.m. on the closing date.

**NOTE:**

- Responses should be consistent with the information on your application and are subject to verification. "See Resume" or "See Application" are not qualifying responses and will not be considered.
- Changes or corrections to your responses cannot be made once your application packet has been submitted. Duplicate applications will be disqualified.
- Failure to complete all of the questions or incomplete responses will result in a lower score; therefore, it is advantageous for you to provide a full and complete response to each supplemental question.
- Resumes or questionnaires uploaded as attachments to the application will not be accepted in lieu of completing each question online.
- It may be more efficient to develop your responses in a word processing document and then paste them into the online questionnaire as you complete your application for submission.

Upon request, at time of application, the City will provide alternative accessible tests to individuals with disabilities that impair manual, sensory or speaking skills needed to take the test, unless the test is intended to measure those skills.

Qualified applicants are encouraged to apply immediately.

**TO APPLY:**

**An application is required for promotional applicants.** Applications must be completed online at: <http://my.spokanecity.org/jobs> by 11:59 p.m. on the filing cut-off date. Copies of required additional documents may be attached to your application or submitted via any of the following:

- Email: [civilservice@spokanecity.org](mailto:civilservice@spokanecity.org) with Job Title – Applicant Name in the subject line of the email
- In person or mail to: Civil Service Commission, 4<sup>th</sup> Floor-City Hall, 808 W. Spokane Falls Blvd., Spokane, WA 99201
- Fax: (509) 625-6077

By order of the SPOKANE CIVIL SERVICE COMMISSION, dated at Spokane, Washington, this 27th day of February 2020.

MARK LINDSEY  
Chair

AMBER RICHARDS  
Chief Examiner

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# Notice for Bids

## Paving, Sidewalks, Sewer, etc.

### Sprague Avenue Rebuild 2B Engineering Services File No.2019113

This project consists of the construction of approximately 3500 cubic yards of excavation and embankment, 1312 linear feet of 24" ductile iron water main, 1302 linear feet of 24" Stormwater pipe, 530 linear feet of 21" sanitary sewer main, 200 linear feet of 24" sanitary sewer main, 11 drainage structures, 3000 square yards of sidewalk, 7050 square yards of 7-inch thick HMA pavement, illumination system, landscaping and sundry utility adjustments, and other related miscellaneous items.

The City of Spokane will receive bids until 1:00 p.m. March 16, 2020 for the above project located in Spokane, Washington, in accordance with the Contract Documents on file at the Department, Engineering Services. Hand delivered bids shall be delivered to the security desk on the first floor, City Hall, 808 W Spokane Falls Blvd, Spokane WA 99201-3316.

New location for bid opening: The bids will be publicly opened and read at 1:15 p.m. in the Tribal Conference Room, 1st floor, City Hall.

**Copies of the Contract Documents are available at [www.cityofspokaneplans.com](http://www.cityofspokaneplans.com).** The Planholders list is also available at this website. Additional project information including the Engineer's estimated cost range for the project, bid results (after bid opening), as well as information about other City projects are available by following the appropriate links at the following website: <https://my.spokanecity.org/business/bid-and-design/current-projects/>

The City of Spokane, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulation, Department of Transportation, subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR Part 26 will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color or national origin, or sex in consideration for an award.

Bids shall be submitted on the forms provided in accordance with the provisions of the Specifications. Irregular bid proposals will be rejected in accordance with the specifications.

Cash, cashier's check, a certified check or surety bond in the sum of five percent (5%) of the Total Project Bid must accompany the copy of the bid filed with the City Clerk. Successful bidder shall execute the Contract within FIVE (5) calendar days after receiving the Contract. Should the successful bidder fail to enter into such contract and furnish satisfactory performance bond within the time stated herein, the bid proposal deposit shall be forfeited to the City of Spokane.

The City of Spokane will normally award this Contract or reject bids within FORTY FIVE (45) calendar days after the time set for the bid opening. If the lowest responsible Bidder and the City of Spokane agree, this deadline may be extended. If they cannot agree on an extension by the 45-calendar day deadline, the City of Spokane reserves the right to Award the Contract to the next lowest responsible Bidder or reject all Bids.

**Note regarding new specifications:** The City of Spokane is using WSDOT's 2020 Standard Specifications. Bidders should allow sufficient time to familiarize themselves with the WSDOT 2020 Standard Specifications prior to bidding the project.

In accordance with SMC 7.06.500 and RCW 39.04.350(1), the low bidder shall complete the Supplemental Bidder Responsibility Criteria form located in Appendix C. Failure to promptly submit the form including supporting documentation if required may delay award of the Contract.

**\*\*\*\*Time is of the essence due to the length of the construction window and/or the time of year in which the project is being constructed. Please note that various award phase steps have shorter than normal time frames as detailed in section 1-03.3, 1-08.4, and 1-08.5.**

Publish: February 26, March 4 and 11, 2020



