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IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

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NO. 91551-2

SPOKANE ENTREPRENEURIAL CENTER, et al.,
Petitioners,

v.

SPOKANE MOVES TO AMEND THE CONSTITUTION, et al.,
Respondents.

**ANSWER OF THE CITY OF SPOKANE
SUPPORTING DISCRETIONARY REVIEW**

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 ORIGINAL

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I INTRODUCTION

This case involves the City of Spokane's local initiative process, which is critically important to the City and its residents. Unlike the statewide power of initiative, the City's local initiative process derives not from the State constitution, but from statute and the Spokane City Charter. Given this difference in origin, courts necessarily approach justiciability concerns for preelection challenges to local initiatives less rigidly than like challenges to statewide initiatives. The Court of Appeals lost sight of this by applying to Petitioners' challenge the justiciability concerns typically applied to preelection challenges to statewide initiatives. In addition, by concluding that a local initiative seeking to amend Spokane's organic law was not sufficiently important to constitute an issue of public importance, the Court of Appeals took too narrow a view of what constitutes public importance for standing purposes. Respectfully, the City requests that this Court grant the Petition for Discretionary Review.

II RESTATEMENT OF THE CASE

While the City agrees with Petitioners' Statement of the Case, it adds the following to assist the Court in assessing the Petition.

A. The City of Spokane and Its Charter-Created Initiative.

The City is a municipal corporation of the first class. *Walker v. City of Spokane*, 62 Wash. 312, 315, 113 P. 775 (1911). As such, the City

has the constitutional authority to frame its own charter. *Id.* (citing Wash. Const., art. XI, § 10). The City exercised that power and adopted the Spokane City Charter, which has been in effect for over one hundred years. While the City’s legislative authority is “vested in a mayor and a city council,” Spokane “*may provide* for direct legislation by the people through the initiative . . . upon any matter within the scope of the powers, functions, or duties of the city.” RCW 35.22.200 (emphasis added) (attached as Appendix A); *accord Hartig v. City of Seattle*, 53 Wash. 432, 435, 102 P.2d 408 (1909). Spokane has exercised that discretionary right, and its Charter provides for an initiative process. *See* Spokane City Charter, art. IX, §§ 81-82 & art. XIV, § 125.¹ Chapter 02.02 of the Spokane Municipal Code (“SMC”) governs how Spokane residents may exercise their charter-granted right of initiative.²

B. Submission of the Initiative.

In April 2012, Envision Spokane submitted its initiative under the former “direct filing” process established by the SMC, seeking to amend the City Charter. CP 39-41. As required by the former SMC 02.02.080,

¹ Relevant parts of the Spokane City Charter are attached as Appendix B.

² As explained below in Section II.B, the City amended several relevant sections of the SMC between the time the initiative was submitted and this action arose. The City attaches as Appendix C relevant portions of the SMC that governed the procedural aspects of the initiative, and as Appendix D relevant portions of the SMC currently in effect.

the City Council held a hearing and a first reading on April 22, 2013. *Id.* At that point, the City Council had the option of (1) granting the petition and passing the initiative into law; (2) accepting the petition but declining to pass it and requesting that the signatures be validated; (3) proposing an alternative measure; or (4) determining whether the petition was legally invalid. Appendix C at § 02.02.080. The City Council chose the second option. On May 2, the Spokane County Auditor verified that the initiative proponents collected a sufficient amount of valid signatures. CP 108.

On May 20, 2013, as required by the former SMC, the Council held another hearing and the initiative was given a second and final reading. *Id.* The SMC requires that upon a final reading “(B) Unless a motion is made and passed to grant the petition and pass the measure as requested in the initiative petition, the city council adopts a resolution to place the measure on the ballot at the next available election.” Appendix C at § 02.02.100(B). The City Council declined to adopt the initiative and passed the required resolution; thus, requesting that the Auditor schedule a special election in November 2013. CP 108-09.

The Council also considered a nonbinding resolution requesting that Spokane’s Mayor pursue a legal challenge regarding the validity of the initiative, which was rejected in a 4-3 vote. 103 *Official Gazette, City*

of *Spokane, Washington*, No. 22, May 29, 2013, at 591.³ The resolution was advisory because the decision to file a preelection lawsuit rested with the Mayor under the SMC in place at that time. On June 12, 2013, the Spokane City Clerk forwarded the resolution to the Auditor, requesting that the initiative be placed on the November 5, 2013 ballot. CP 104-109.

Shortly thereafter, several businesses, individuals, and Spokane County filed a lawsuit challenging the *subject matter* of the initiative, seeking a declaration that the initiative was invalid as outside the scope of the local initiative power. CP 1-66. Spokane was named as a defendant. *See id.* Below, the City took no position on whether the initiative was within the scope of the local initiative power. The City did, however, take the position that, *if* the initiative was declared invalid, it should not appear on the ballot. In the City's view, placing an invalid initiative on the ballot (1) wastes taxpayer dollars, (2) harms the City's initiative process, and (3) causes voter confusion. CP 251-55.

III ARGUMENT

A. **The Justiciability Concerns Relating to Statewide Initiatives Do Not Apply With Equal Force to Local Initiatives.**

The Opinion's equation of the City's initiative process with the statewide initiative process conflicts with decisions from this Court and

³The relevant portions of the *Official Gazette* are attached as Appendix E.

Division II. *See, e.g., City of Port Angeles v. Our Water-Our Choice!*, 170 Wn.2d 1, 239 P.3d 589 (2010); *City of Longview v. Wallin*, 174 Wn. App. 763, 301 P.3d 45 (2013), *rev. denied*, 178 Wn.2d 1020 (2013).

Accordingly, review is warranted. *See* RAP 13.4(b)(1), (2).

In fashioning a heightened standing requirement beyond the “arguably within the zone of interests” test long-endorsed by this Court, the Court of Appeals relied exclusively on two cases involving the statewide initiative process. Opinion at 7-10 (discussing *Coppernoll v. Reed*, 155 Wn.2d 290, 119 P.3d 318 (2005) & *Futurewise v. Reed*, 161 Wn.2d 407, 166 P.3d 708 (2007)). Neither case, however, fits the situation presented in this case.

Coppernoll dealt with a challenge to a statewide initiative where the challenger claimed that the initiative was unconstitutional, which is considered a substantive challenge. 155 Wn.2d at 294, 300-01. In laying out the framework for its justiciability analysis, this Court noted that substantive challenges to a statewide initiative are not generally justiciable “because of the constitutional preeminence of the right of initiative.” *Id.* at 297. Substantive review of an initiative preelection also raises concerns about issuing advisory opinions, ripeness, and interference with the legislative process. *See id.* at 298. *Futurewise* involved a similar constitutional challenge. 161 Wn.2d at 411-12. None of the concerns

animating the Court’s justiciability rulings in either case justifies the Court of Appeals’ application of those rationales to this case.

First, the City’s initiative process is permitted by State statute and the City Charter, it does not derive from the Washington State Constitution. *Our Water-Our Choice!*, 170 Wn.2d at 8 (“Amendment 7 does not apply to municipal governments, which under our constitution are not fully sovereign.”). As such, the underlying “constitutional preeminence of the right to initiative” that concerned the *Coppernoll* Court simply does not apply. While article II, section 1(a) (Amendment 7) of the Washington Constitution “reserve[s]” the power of direct statewide legislation to the people, the power of direct legislation at the local level is one that first class cities—pursuant article XI, section 10, and RCW 35.22.200—“may provide” to the people. *See also* Philip A. Trautman, *Initiative and Referendum in Washington: A Survey*, 49 Wash. L. Rev. 55, 76 (1973) (“[T]he state constitution contains nothing relating specifically to initiatives or referendums at the local level of government.”).⁴ In other words, the local initiative has not been reserved to the people vis-à-vis the State Constitution; rather, it only exists when a local government chooses to provide for such a process. *Accord Our Water-Our Choice!*, 170

⁴ In this regard, the Court of Appeals’ characterization of a “statutorily protected right,” which presumably refers to local initiatives, was a mischaracterization. Opinion at 6.

Wn.2d at 8. Despite this clear line of authority, the Court of Appeals based its standing and justiciability analysis on all the concerns animating this Court’s jurisprudence with respect to preelection challenges to statewide initiatives.

Second, unlike the challengers in *Coppernoll* and *Futurewise*, Petitioners did not make a substantive challenge to the initiative; rather they made a *subject matter challenge*. Petitioners argued, and the trial court agreed, that the varied subjects of the initiative were outside the scope of the local initiative power for various reasons. *See* Petitioners’ Appendix at B-1-15. This Court in *Coppernoll* recognized that “subject matter” challenges do not raise the same concerns the Court of Appeals relied upon in its standing and justiciability analysis in part because such “challenges usually address *the more limited powers of initiatives* under city or county charters[.]” 155 Wn.2d at 299 (emphasis added). Indeed, this Court specifically noted: “Subject matter challenges *do not raise concerns regarding justiciability* because postelection events will not further sharpen the issue (*i.e.*, the subject of the proposed measure is either proper for direct legislation or it is not).” *Id.* (emphasis added); *see also id.* at 301; *Philadelphia II v. Gregoire*, 128 Wn.2d 707, 718, 911 P.2d 389 (1996) (explaining “sensible balance” created by allowing preelection subject matter review while prohibiting preelection substantive review).

In *Our Water-Our Choice!*, which post-dates both *Coppernoll* and *Futurewise*, this Court rejected the notion that local initiative process is on par with the statewide initiative process in considering whether to entertain a preelection challenge, noting “courts will review local initiatives and referendums to determine, notably, whether ‘the proposed law is beyond the scope of the initiative power.’” 170 Wn.2d at 7 (quoting *Seattle Bldg. & Constr. Trades Council v. City of Seattle*, 94 Wn.2d 740, 746, 620 P.2d 82 (1980) (citing *Leonard v. City of Bothell*, 87 Wn.2d 847, 852-53, 557 P.2d 1306 (1976))). At issue in *Our Water-Our Choice!* was whether a local initiative seeking to stop the fluoridation of Port Angeles’ drinking water was within the scope of the local initiative process. The proponents of the initiative argued that under *Coppernoll* the Court’s review of the local initiative was limited. 170 Wn.2d at 13. The Court rejected this argument because “*Coppernoll* concerned a largely substantive preelection challenge to a statewide initiative,” thus acknowledging that for purposes of preelection review, local initiatives are subject to a more searching review than statewide initiatives. *Id.*

More recently, Division II rejected the notion that *Coppernoll*’s concerns applied with equal force to preelection challenges to local initiatives. The court stated its reasoning as follows:

But Wallin's reliance on *Coppernoll* is unpersuasive: The initiative power here does not derive from our state constitution; rather it has been authorized by statute. Thus, the constitutional preeminence of the right of initiative discussed in *Coppernoll* is not a concern in the present case, and *the local powers of initiative do not receive the same vigilant protection* as the constitutional powers addressed in *Coppernoll*.

Wallin, 174 Wn. App. at 790 (emphasis added; internal citations & quotations omitted); *see also City of Port Angeles v. Our Water-Our Choice!*, 145 Wn. App. 869, 879-80, 188 P.3d 533 (2008) ("Where substantive review of a state-wide initiative is inappropriate, a similar review for a local initiative is warranted given the greater restrictions placed upon them."), *aff'd in relevant part*, 170 Wn.2d 1 (2010). Both *Our Water-Our Choice!* and *Wallin* demonstrate that the local initiative power does not stand on equal footing with the statewide initiative power in evaluating a preelection challenge to a local initiative. To the degree that the Court of Appeals' decision rests its standing and justiciability rulings on *Coppernoll* and its progeny, such reliance conflicts directly with these cases because it fails to recognize that courts will more closely scrutinize preelection challenges to local initiatives.

As noted, Petitioners made a subject matter challenge to the initiative. Petitioners argued that the varied subjects contained in the initiative were outside the scope of the local initiative power either

because they were administrative (as opposed to legislative) in nature, or because they conflicted with a superior law. These are precisely the types of challenges that this Court has routinely allowed private parties to make. *See, e.g., Seattle Building*, 94 Wn.2d at 747-49.

By grafting this Court's jurisprudence regarding statewide initiatives, which recognizes the constitutional solicitude courts apply when assessing a preelection challenge to a statewide initiative, onto similar challenges regarding local initiatives, the Court of Appeals created an overly rigid view of standing and justiciability in preelection challenges to local initiatives. Review is warranted. RAP 13.4(b)(1), (2), (3).

B. Amending the City Charter is of Paramount Importance to Spokane and its Citizens.

The Court of Appeals, without analysis, concluded that amending Spokane's Charter was simply not important enough to satisfy the public importance exception to standing. Opinion at 16 ("While there certainly may be local initiatives that present questions of public importance prior to adoption by the voters, this is not one of those cases.") (footnotes omitted). This conclusion should be reviewed for four reasons.

First, nothing in this Court's precedents creates the type of geographical limitation applied by the Court of Appeals. Focusing on geography, as opposed to impact, views the issue through the wrong lens.

Rather than focus on the geographic reach of a particular initiative, the focus should be on the initiative's importance to the community that will be impacted by it. Such a result is consistent with treatment of other local initiatives by other Divisions.

For example, in *Eyman v. McGehee*, Division I determined that the proper functioning of a *local* initiative process was sufficient to overcome any mootness concerns given that the question raised “issues of substantial and continuing public interest.” 173 Wn. App. 684, 688-89, 294 P.3d 847 (2013); *see also City of Flagstaff v. Magnum*, 793 P.2d 548, 553 (Ariz. 1990) (“Local elections and the rules governing them are of considerable public interest[.]”).⁵ Likewise, in *American Traffic Solutions, Inc. v. City of Bellingham*, Division I noted that a local initiative involved “significant and continuing matters of public importance that merit judicial resolution.” 163 Wn. App. 427, 433, 260 P.3d 245 (2011); *see also*

⁵ This Court's public interest standing jurisprudence is similar to its mootness jurisprudence. *State v. Watson*, 155 Wn.2d 574, 578, 122 P.3d 903 (2005). If the Court of Appeals applied the “substantial public importance” exception to mootness as outlined by this Court in *Philadelphia II*, it would have had to conclude this case presented a justiciable controversy because (1) this case involves an “issue” of a public nature; (2) opining on whether the initiative was permissibly within the scope of the local initiative power would have provided much needed “guidance to [Spokane's] public officers;” and, (3) given this initiative has been on the ballot at least two times, if it is rejected again, it would likely be submitted for inclusion on the ballot in the future. 128 Wn.2d at 712; *see also Mukilteo Citizens for Simple Gov't v. City of Mukilteo*, 174 Wn.2d 41, 52 n.6, 272 P.3d 227 (2012).

Wallin, 174 Wn. App. at 783. The Court of Appeals' conclusion that because the initiative only impacted Spokane it was not a sufficiently important public interest is in conflict with these cases. RAP 13.4(b)(2).

Second, the Opinion fails to explain precisely why amending the Spokane City Charter is not sufficiently important for a party to invoke public interest standing. Indeed, this conclusion conflicts with the trial court's assessment of the matter. *See* Petitioners' Appendix at B-4 (lines 14-15), B-12 (lines 12-13). The Court of Appeals never addressed how the trial court erred in reaching this conclusion. The Court of Appeals' *ipse dixit* is troubling given that it acknowledged that "an effort to rescind a county's charter by initiative does provide an example of a question of public importance." Opinion at 16 n.18 (citing *Ford v. Logan*, 79 Wn.2d 147, 157, 483 P.2d 1247 (1971)). It makes little sense that repealing a charter is a matter of public importance, while amending it is not. Any change to the organic law of a local government is extremely important to the residents and businesses subject to that law.

To the City and its residents—the only people who would actually vote on the matter—amending the Spokane City Charter is a matter of substantial public importance. While amending the Spokane City Charter may not be of substantial public importance to the residents of Walla Walla, Seattle, or Olympia, it is substantially important to the residents of

Spokane because it goes to the very heart of how the City governs itself. If it were not important, Spokane would not be asking this Court to review the Court of Appeals' decision. The Court of Appeals' unexplained conclusion to the contrary should not be left unexamined.

Third, the fact that the Spokane City Council did not file a preelection challenge adds nothing to the public interest standing analysis. Opinion at 16 n.19.⁶ As an initial matter, this conclusion is factually incorrect because only the Mayor had the authority to authorize a preelection challenge at the time in question; thus, the Opinion's citation to the current SMC 2.02.115(C), which did not take effect until June 15, 2012, was in error. Opinion at 3 n.4. Moreover, questions relating to standing are legal questions for the courts to decide. *See, e.g., In re Estate of Becker*, 177 Wn.2d 242, 246, 298 P.3d 720 (2013). Plainly stated, that

⁶ The fact that Spokane—a *defendant*—had standing to challenge the initiative preelection is of no moment because this Court has routinely invoked the public interest exception to standing in “cases where the plaintiff whose standing was challenged was the *only* plaintiff in the case and the liberal approach was necessary to ensure that important public issues raised did not escape review.” *Grant Cnty. Fire Protection Dist. No. 5 v. City of Moses Lake*, 150 Wn.2d 791, 803 & n.6, 83 P.3d 419 (2004) (emphasis in original) (collecting cases). Thus, given the issues of substantial public importance raised here, this case is a prime example of when a court should invoke this more “liberal approach” to standing. This also warrants review. *See* RAP 13.4(b)(1), (4).

Spokane chose not to sue preelection adds nothing to the public interest standing analysis.⁷

Finally, there is a substantial public interest in seeing that only valid initiatives are placed on the ballot.⁸ Placing an invalid initiative on the ballot and having the voters vote on it undermines the integrity of the local initiative process. The City has significant concerns regarding the integrity of its own initiative process and the prospect of voter confusion.

As the California Supreme Court said:

Although real party in interest recites the principles of popular sovereignty which led to the establishment of the initiative and referendum in California, those principles do not disclose any value in putting before the people a measure which they have no power to enact. The presence of an invalid measure on the ballot steals attention, time and money from numerous valid propositions on the same ballot. It will confuse some voters and frustrate others, and an ultimate decision that the measure is invalid, coming after the voters have voted in favor of the measure, tends to denigrate the legitimate use of the initiative procedure.

AFL-CIO v. Eu, 686 P.2d 609, 615 (Cal. 1984).

⁷ There are many reasons why a local government might choose not to bring a preelection challenge: the cost, risks and distraction of litigation, the desire to not have an anti-SLAPP motion (RCW 4.24.525) filed against it, or because a private party filed suit, to name just a few.

⁸ In this sense, “valid” means initiatives within the scope of the local initiative power, as distinguished from potentially unconstitutional initiatives. *See supra* Section II.A.

The City of Spokane now faces much legal uncertainty. The trial court determined the initiative to be outside the scope of Spokane's initiative power, yet the Court of Appeals ordered the City "to place the initiative on the next available ballot." Opinion at 19. Thus, Spokane is faced with the prospect of spending valuable taxpayer resources to hold an election on an initiative that may very well be improper.⁹ This Court's precedents counsel against requiring the City to have to do so. *See, e.g., Philadelphia II*, 128 Wn.2d at 718; *City of Yakima v. Huza*, 67 Wn.2d 351, 360, 407 P.2d 815 (1965).

The Court of Appeals' overly restrictive view of public interest standing has the potential to damage to the City's local initiative process and require the unnecessary expenditure of public funds. It is simply not accurate to say that postelection challenges to the scope of the Envision initiative will suffice. *See* Opinion at 13. While such a challenge may adequately protect certain of the Petitioners, it does not adequately protect the integrity of Spokane's local initiative process. Nor will it shield Spokane from having to spend taxpayer dollars putting what may well be an invalid initiative to a vote.

⁹ The Spokane City Charter does not allow the initiative process to be used for advisory votes. *See* Spokane City Charter, art. IX, § 82(A); *cf. Mukilteo Citizens*, 174 Wn.2d at 47 ("There are no statutory or constitutional provisions imposing a duty on a city council to call for an 'advisory' vote.").

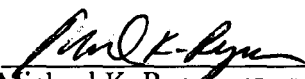
Because Spokane's local initiative process belongs to every citizen in Spokane, the integrity of that process is important to the public as a whole. The local initiative power is enhanced, not hurt, by protecting the initiative process from potentially futile elections. Given the important public interests at stake, review is warranted. *See* RAP 13.4(b)(4).

IV CONCLUSION

For the reasons stated above, and those stated by the Petitioners, the City respectfully requests that this Court grant the Petition for Discretionary Review.

Respectfully submitted this 8th day of May, 2015.

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CITY OF SPOKANE'S
APPENDIX

APPENDIX

- A. RCW 35.22.200
- B. Spokane City Charter
- C. Former Spokane Municipal Code 02.02
- D. Current Spokane Municipal Code 02.02
- E. Official Gazette, City of Spokane, Washington

Appendix A

RCW 35.22.200**Legislative powers of charter city—Where vested—Direct legislation.**

*** CHANGE IN 2015 *** (SEE 1806-S.SL) ***

The legislative powers of a charter city shall be vested in a mayor and a city council, to consist of such number of members and to have such powers as may be provided for in its charter. The charter may provide for direct legislation by the people through the initiative and referendum upon any matter within the scope of the powers, functions, or duties of the city. The mayor and council and such other elective officers as may be provided for in such charter shall be elected at such times and in such manner as provided in *Title 29 RCW, and for such terms and shall perform such duties as may be prescribed in the charter, and shall receive compensation in accordance with the process or standards of a charter provision or ordinance which conforms with RCW 35.21.015. [2001 c 73 § 2; 1965 ex.s. c 47 § 13; 1965 c 7 § 35.22.200. Prior: (i) 1890 p 223 § 6, part; RRS § 8977, part. (ii) 1927 c 52 § 1; 1911 c 17 § 2; RRS § 8949.

[2001 c 73 § 2; 1965 ex.s. c 47 § 13; 1965 c 7 § 35.22.200. Prior: (i) 1890 p 223 § 6, part; RRS § 8977, part. (ii) 1927 c 52 § 1; 1911 c 17 § 2; RRS § 8949.]

NOTES:

***Reviser's note:** Title 29 RCW was repealed and/or recodified in its entirety pursuant to 2003 c 111, effective July 1, 2004. See Title 29A RCW.

Findings—Intent—Severability—2001 c 73: See notes following RCW 35.21.015.

Powers of cities adopting charters: RCW 35.22.195.

Appendix B



Open Data

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Article IX: Legislation by the People

Printable Charter
Need to Print the Charter?

- Section 81 General Power
- Section 82 The Initiative
- Section 83 Referendum
- Section 84 Submission by Council
- Section 85 Capital Expenditures
- Section 86 Publication of Ordinances – Notice of Election
- Section 87 Adoption of Ordinances
- Section 89 Repeal or Amendment of Ordinances Passed by the People
- Section 90 Number of Elections
- Section 91 Regulations by Council

Section 81. General Power

The people of Spokane in regard to local legislative matters shall have the power of direct legislation by initiative and referendum.

Effective Date: March 25, 2009
ORD C34385 Section 37

Section 82. The Initiative

The initiative shall be exercised in the following manner and in accordance with the general laws of the state:

- A. **Petition:** A petition signed by registered and qualified electors of the City, accompanied by the proposed legislation or measure in the form of a proposed ordinance, and requesting that such ordinance be submitted to a vote of the people, if not passed by the council, shall be filed with the city clerk.
- B. **Action by Council Upon Petition – Fifteen Per Centum Petition:** If such petition be signed by registered and qualified electors in number at least equal to fifteen per centum of the total number of votes cast at the last preceding general municipal election, the city council shall either pass such ordinance without alteration, or submit it to popular vote at the next available special or general municipal election.

Less Than Fifteen Per Centum Petition: If such petition be signed by registered and qualified electors in number at least equal to five but less than fifteen per centum of the total number of votes cast at the last preceding general municipal election, the council shall either pass such ordinance without alteration or submit it to popular vote at the next available general municipal election.

Effective Date: March 25, 2009
ORD C34385 Section 38

Section 83. Referendum

If, prior to the date when any ordinance shall take effect, a petition signed by qualified electors in number at least equal to ten per centum of the total number of votes cast at the last preceding general municipal election shall be filed with the city clerk protesting against the enactment of such ordinance, it shall be suspended from taking effect. Thereupon the council shall reconsider such ordinance and, if it does not entirely repeal the same, shall submit it to popular vote at the next municipal election; or, the council, in its discretion, may call a special election for that purpose, and such ordinance shall not take effect unless a majority of the qualified electors voting thereon at such election shall vote in favor thereof.

Effective Date: March 25, 2009

ORD C34385 Section 39

Section 84. Submission by Council

- A. The council, of its own motion, may submit to popular vote for adoption or rejection at any election, any proposed ordinance or measure, in the same manner and with the same force and effect as provided in the article for submission on petition.
- B. The council shall submit to popular vote any proposed ordinance imposing or increasing the rate of a business and occupation tax, except a tax upon utilities, and no such business and occupation tax ordinance shall take effect until approved by a majority of the electors voting thereon.

Effective Date: November 1984

ORD C27612 Section 1

Section 85. Capital Expenditures

- A. A vote of the people shall be required for capital expenditures (excepting that no vote of the people shall be required for expenditures to provide for the necessary and legitimate expenses of the City, including maintenance and operation of existing facilities, assessments for construction of storm sewers, sanitary sewers, landfills, water mains and trunklines, street maintenance and construction, resurfacing streets, snow and ice control, and/or expenditures of an emergency nature) requiring indebtedness of the taxpayers and property owners for capital projects, including the mass burn plant for refuse disposal (waste-to-energy plant).
- B. The use of public funds for the construction of any new vehicular bridge in the Central Falls area of the Spokane River, defined in the shoreline management plan as the area between Division and Monroe Streets, including Havermale and Canada Islands, shall require an affirmative majority vote of approval by the City electors, except as otherwise provided by the constitution and laws of the state. For the purposes of this subsection, the construction of any new vehicular bridge shall not include the maintenance, resurfacing, renovation, or expansion of existing vehicular bridges.
- C. Capital expenditures for capital projects requiring a vote of the people shall include but not be limited to coliseums, convention centers, stadiums, planetariums, and new proposed projects not currently the obligation of the taxpayers and property owners.
- D. No councilmanic bonds shall be used for capital projects. Any proposal for capital expenditures submitted to the voters must designate the revenue source sought for funding of a project or projects.

Effective Date: March 25, 2009

ORD C34385 Section 40

Section 86. Publication of Ordinances – Notice of Election

The city clerk shall publish every proposed or referred ordinance in each number of the *Official Gazette* issued within fifteen days before the date of the election; and shall give such other notices and do such other things relative to such election, as may be required by law.

Effective Date: November 1984

ORD C27612 Section 1

Section 87. Adoption of Ordinances

If a majority of the qualified electors voting on any proposed ordinance or measure shall vote in favor thereof the same shall thereupon, or at a time fixed therein, become effective as a law or as a mandatory order to the council.

Effective Date: November 1984

ORD C27612 Section 1

Section 89. Repeal or Amendment of Ordinances Passed by the People

No ordinance which has been passed by the council upon a petition, or adopted by popular vote, under the provisions of this article, shall be repealed or amended within three years, except by popular vote. After three years, the council may pass an amendatory or repealing ordinance by a vote of one more than a majority. Any such ordinance shall be subject to referendum.

Effective Date: November 1984

ORD C27612 Section 1

Section 90. Number of Elections

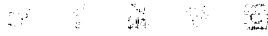
There shall not be held under this article more than one special election in any period of six months.

Effective Date: November 1984
ORD C27612 Section 1

Section 91. Regulations by Council

The council, by ordinance, may make other and further regulations for carrying out the provisions of this article not inconsistent herewith.

Effective Date: November 1984
ORD C27612 Section 1



Appendix C

Chapter 02.02 Initiative and Referendum

Section 02.02.010 Findings and Purpose

- A. The citizens of the City of Spokane have reserved the right to directly legislate through the use of initiative and referendum as provided in the Charter of the City of Spokane.
- B. The purpose of this chapter is to establish procedures for the exercise of the right of initiative and referendum consistent with the Charter of the City of Spokane.
- C. It is intended that this chapter will establish within the City of Spokane a uniform system for the exercise of the reserved right of initiative and referendum.

Section 02.02.020 In General

A legal resident of the City of Spokane or a political committee as defined in RCW 41.17.020(33) may petition the city council, under the authority of the Spokane City Charter, Article IX, Section 82, to ordain a proposed measure, either an ordinance or a charter amendment.

Section 02.02.030 Optional Preliminary Filing of Initiative Measure

- A. In order to facilitate the processing of a proposed initiative measure, a petitioner may file a preliminary version of the proposed measure with the city clerk.
- B. The proposed measure must contain the mailing address of the petitioner and telephone number of the petitioner or petitioner's representative.
- C. The city clerk must immediately transmit a copy of the proposed measure to the city attorney.
- D. Within two weeks after receiving the measure the city attorney prepares, after consultation with the petitioner(s), a ballot title and summary of the measure and files them with the city clerk.
 - 1. The ballot title is a concise statement posed as a question, not to exceed seventy-five words, bearing the number of the measure, giving a true and impartial statement of the purpose of the measure. When practicable, the question posed by the ballot title is written in such way that an affirmative answer to the question and an affirmative vote on the measure would result in a change in the law.

2. The summary of the measure should be a clear and concise statement not to exceed one hundred fifty words.
 3. Neither the ballot title nor the summary of the measure is intentionally an argument or likely to create prejudice for or against the measure.
- E. Upon receipt of the ballot title and summary from the city attorney, the city clerk assigns a number by which the measure is identified. The city clerk affixes the ballot title and summary to the original of the proposed measure, inscribes the identifying number upon it and retains it in the official file.
- F. The city clerk must immediately furnish a copy of the proposed measure with its ballot title and summary to the sponsor and prepare a report to the city council for the next agenda. The city council sets a date for hearing. The hearing is held one week hence unless circumstances dictate otherwise.

Section 02.02.040 Optional Council Action on Preliminary Initiative Measure

At the hearing the city council may decide to:

- A. pass the measure as proposed or submit the initiative measure to the voters on its own motion;
- B. provide for legal review of the procedural and substantive validity of the proposed measure by the city attorney, if requested by the sponsor; or
- C. approve a ballot title and summary of the measure.

Section 02.02.050 Optional Review of Preliminary Measure by City Attorney

- A. If directed by the city council, the city attorney reviews the proposed measure for such matters as form and style, appropriate subject matter and legal validity and effect.
- B. The city attorney may edit the measure as necessary to correct obvious typographical errors, conform the language to Spokane Municipal Code format and style, or eliminate ambiguity. Any such editorial revisions are made on a separate sheet from the measure as submitted and clearly identified. The city attorney sends a copy of any editorial revisions to the sponsor and the city clerk.
- C. Within ten calendar days the city attorney files a written report of review with the city clerk and the city council expressing a formal opinion as to the legal validity and effect of the measure being proposed and at the same

time provides a copy of the report of review to the filer of the proposed measure.

- D. If the report of review suggests significant changes in the text of the proposed measure, the city attorney may prepare an alternate version of the ballot title and summary of the measure to be used in the event the sponsor elects to modify the proposal in accordance with the city attorney's report.

Section 02.02.055 Petition Signatures

- A. Prior to circulation for signatures, an initiative petition shall either have been filed under the optional preliminary filing method as set forth in SMC 2.02.030 through SMC 2.02.050 and have received approval of the ballot title and summary of the measure or the sponsor of the initiative shall have filed the initiative petition with the city clerk who shall have assigned an initiative number to the petition.
- B. Signed petitions must be filed with the city clerk within three hundred sixty-five days after the approval of the ballot title and summary of the measure under the optional preliminary filing method as set forth in SMC 2.02.040 or the assignment of an initiative number by the city clerk. If the three hundred sixty-fifth day lands on a Saturday, Sunday, or a legal holiday, the petitions may be filed on the next succeeding day which is not a Saturday, Sunday, or a legal holiday.
- C. The sponsor of the initiative may submit additional petition signatures at any time during the three hundred sixty-five day period until a sufficient number of signatures have been validated to place the measure on a ballot; however, if the additional petition signatures are submitted later than one-hundred twenty calendar days prior to the next election, the measure, if otherwise valid, will be placed on the ballot at the next appropriate election.
- D. Petition signatures collected after the three hundred sixty-five day period will not be counted towards a previously filed initiative.
- E. A voter may withdraw his or her signature from an initiative petition by submitting to the city clerk a written request for the withdrawal of the signature up to the time the city clerk is directed by the city council to validate the signatures.

Section 02.02.060 Form of Initiative Petition

- A. It is the obligation of the sponsor of the measure to print petitions for circulation of the proposed initiative measure. The sponsor is responsible to conform the petition to the requirements of this chapter as to form and

content, to determine the number of signatures required, and to print enough petition sheets to accommodate sufficient signatures.

- B. The paper used for the petition sheets must be of sufficient weight and quality to accommodate printing and writing on both sides. Paper size should be between eight and twelve inches wide and between eleven and eighteen inches long. Printing should be no smaller than ten-point face, except that the text of the measure may be in smaller type if necessary to allow the entire petition to be on a single sheet of paper. For reasons of length of text or other practical necessity, the specifications of this section may be adjusted as the sponsor and city clerk may agree.
- C. The measure must be typed or printed and be in the form of an ordinance, with a title and the entire text of the section(s) proposed to be added, amended or repealed. When the proposed measure would amend existing law, the text shall be in the following format:
1. Language to be deleted is set forth in full and enclosed in double parentheses or brackets and may be lined out by hyphens.
 2. New language to be added is underlined, unless an entire new section or subsection is being added; and
 3. Deletions of existing language precede additions of new language.
- D. The mandatory elements of the petition sheet are:
1. a warning to potential signers regarding possible election law violations;
 2. a heading;
 3. horizontal lines for the entry of data under four vertical columns (or four boxes);
 4. the full text of the measure;
 5. the name and address of the sponsor (political committee or individual); and
 6. the number of the measure.
- E. If the procedures specified in SMC 2.02.030 through SMC 2.02.050 have been used, then additional mandatory elements of the petition sheet are:
1. the ballot title; and

2. the summary of the measure.

F. The warning, heading, number, body of the petition containing the ballot title (if any), and signature lines must appear in that order on the front of each petition sheet. The other elements may be located on the front or the back of the petition sheet as the sponsor determines.

G. Each sheet of the petition must be in substantially the following form:

WARNING

Under Washington State law every person who signs an initiative or referendum petition with any other than his or her true name, knowingly signs more than once, or signs when he or she is not a legal voter; or signs a petition when he or she is otherwise not qualified to sign, or who makes any false statement on such petition may be guilty of a misdemeanor.

INITIATIVE PETITION TO THE SPOKANE CITY COUNCIL

[INITIATIVE NO. _____]

We, the undersigned citizens and legal voters of the City of Spokane, Washington, respectfully direct that this proposed ordinance [known as Initiative No. _____], a full, true and correct copy of which is printed herein, be passed without alteration by the Spokane City Council, or be submitted to the electors of the City of Spokane for their approval or rejection at the next available special or general municipal elections. [If submitted to election the proposed ordinance shall appear as the following proposition:

(ballot title)]

Each of us for himself or herself says: I have personally signed this petition; I am a legal voter of the City of Spokane; my residence address is correctly stated; and I have knowingly signed this petition only once.

PETITIONER'S SIGNATURE as on voter registration	PRINTED NAME	RESIDENCE ADDRESS (street number)	CHECK IF REGISTERED ADDRESS IS DIFFERENT

(etc.)

[(summary of measure)]

(full text of measure)

Section 02.02.070 Filing of Initiative Petition

- A. The sponsor of the initiative measure must file or cause to be filed with the city clerk the sheets of the petition no later than one hundred twenty calendar days prior to the date of the next general or special election upon which the initiative measure is to be placed.
- B. The city clerk must immediately file a copy of the proposed measure with the city attorney.
- C. The city clerk must immediately tally the signatures on the petition submitted to determine if it appears to bear the requisite number of signatures of registered voters of the City of Spokane as required by the Charter.
- D. At the next meeting the city clerk makes a report to the city council on the petition and the preliminary tally of signatures, stating what percentage of the votes cast at the last preceding general municipal election the tallied signatures represent. The city clerk also files with the council members a sample sheet of the petition.

Section 02.02.080 Council Action on City Clerk's Report on Initiative Petition

- A. If the number of signatures on the petition as reported by the city clerk is sufficient, the city council sets a date for hearing on the matter of the petition. The hearing is held one week hence unless circumstances dictate otherwise.
- B. At the hearing on the petition the city council determines whether:
 - 1. to grant the petition and pass the measure as requested;

2. to accept the petition but decline to pass the measure as requested and direct the city clerk to validate the signatures;
 3. to propose an alternative measure; or
 4. in its opinion, the petition is legally invalid.
- C. Unless the city council determines by five votes to reject the petition as legally invalid, the proposed ordinance is given first reading.
- D. If the council, as provided in subsection (C) of this section, determines to place the petition on file because of its legal invalidity, and if litigation to challenge that determination is commenced, then the city clerk shall proceed to validate the petition signatures to the end that the litigation not delay the validation process.

Section 02.02.090 Validation of Signatures

- A. If directed by the city council, the city clerk without delay makes arrangements with the county auditor, as ex-officio supervisor of elections, to gain access to the voter registration rolls to determine if the petition bears the minimum number of valid signatures of registered voters of the City of Spokane as required by City charter.
- B. For the purpose of determining the validity of the signatures on the petition, the city clerk employs the following criteria:
1. If the surname and signature are the same, a signature is passed even if the signature varies from the official record because of the substitution or omission of an initial or because of the interchange of a given and married first name.
 2. If the address given on the petition does not agree with the official registration record but is within the City limits, if, consistent with the regulations of the superintendent of registrations and elections, the signer can be considered a registered voter, the signature is passed.
 3. If a name is signed more than once, only one signature is passed.
- C. The city clerk immediately tallies the number of signatures as revealed by the process of validation. At the next meeting the city clerk makes a report to the city council concerning the number of validated signatures so tallied and what percentage that number is of the votes cast at the last preceding general municipal election.

Section 02.02.100 Council Action on Validated Initiative Petition

- A. At the hearing on the validated initiative petition the initiative ordinance is given final reading.
- B. Unless a motion is made and passed to grant the petition and pass the measure as requested in the initiative petition, the city council adopts a resolution to place the measure on the ballot at the next available election.
- C. If a preliminary version of the proposed initiative measure was not previously filed with the city clerk, as permitted by SMC 2.02.030, then the city council adopts a ballot title and summary of the measure as provided in SMC 2.02.040(C).
- D. Unlike a referendum petition, the mere filing of which operates to suspend the referred ordinance, as provided in Charter Section 83, the filing of an initiative petition has no legal effect unless, and until, the measure is passed by the city council or by a majority of the City electors.

Section 02.02.110 Publicity

- A. If the city council votes to grant an initiative petition and enact the proposed ordinance, the ordinance is published in the *Official Gazette* upon passage in the ordinary course. If the city council determines an initiative petition is, in its opinion, legally invalid, the decision to place the petition on file is reported in a newspaper of general circulation.
- B. In case the measure would amend the Charter or adopt a new or revised Charter, then, in addition, the measure is published in the newspaper having the largest general circulation within the City once each week for four weeks next preceding the day of the election.
- C. In addition to the summary of the proceedings of the city council, which appears weekly in the *Official Gazette*, Washington law requires that notices of municipal elections be given by the county auditor.

Section 02.02.120 Special Referendum Procedures

- A. The provisions of this chapter apply to both the initiative and the referendum, except to the extent that SMC 2.02.120 through SMC 2.02.170 make special provisions for the referendum.
- B. Because the referendum petition must be circulated and filed before the ordinance takes effect, no procedures for preliminary filing or review by the city attorney are required.

Section 02.02.130 Commencement of Referendum

A legal resident or political committee begins the referendum process by requesting from the city clerk the assignment of a referendum number and identifying the ordinance, or section(s) thereof, sought to be referred. If the clerk is satisfied that the person is entitled to sponsor the petition and if the ordinance has not yet taken effect, then the clerk assigns the measure a number and furnishes to the sponsor a copy of the ordinance.

Section 02.02.140 Form of Referendum Petition

A. The elements of a referendum petition are the same as for an initiative petition as set forth in SMC 2.02.060 except that:

1. there need not be a ballot title; and
2. the full text of the measure is the full text sheet that accompanied the ordinance when it passed the city council.

B. Each sheet of the referendum petition must be in substantially the following form:

WARNING

Under Washington State law, every person who signs an initiative or referendum petition with other than his or her true name, knowingly signs more than once, or signs when he or she is not a legal voter or who makes any false statement on such petition may be punished by fine or imprisonment or both.

REFERENDUM PETITION TO THE SPOKANE CITY COUNCIL

REFERENDUM NO. _____

We, the undersigned citizens and legal voters of the City of Spokane, Washington, respectfully direct that (the entirety) (designated sections) of Ordinance No. _____, passed by the City Council on _____, 20____, and entitled

(title of ordinance)

a concise summary of which is printed herein, be repealed, or be submitted to the electors of the City of Spokane for their approval or rejection at the next municipal election. I understand that should this petition be sufficient and timely filed, the ordinance, or designated section(s) thereof, will be suspended from taking effect until approved by the voters.

Each of us for himself or herself says: I have personally signed this petition; I am a legal voter of the City of Spokane; my residence address is correctly stated; and I have knowingly signed this petition only once.

PETITIONER'S SIGNATURE as on voter registration	PRINTED NAME	RESIDENCE ADDRESS (street number)	CHECK IF REGISTERED ADDRESS IS DIFFERENT

(etc.)

[full text of measure (optional)]

Section 02.02.150 Filing of Referendum Petition

- A. The sponsor must, before the ordinance sought to be referred takes effect, file with the city clerk a petition bearing the signatures of registered voters in number at least equal to ten percent of the total number of votes cast at the last preceding general municipal election.

- B. The city clerk must immediately transmit a page of the petition to the city attorney and tally the signatures on the petition to determine if it appears to bear the requisite number of signatures. At the next meeting the clerk must make a report to the city council concerning the number of signatures so tallied and what percentage that number is of the votes cast at the last preceding general municipal election.

- C. As soon as practical, but no later than ten calendar days after the filing of the petition, the city attorney files a report of review expressing a formal opinion whether the petition is legally valid.

Section 02.02.160 Council Action on Referendum Petition

- A. If the petition has sufficient signatures and has been filed before the subject ordinance has taken effect, the city council sets a date for hearing on the matter of the petition. The hearing is held within two weeks following filing of the report by the city clerk, unless circumstances dictate otherwise.

B. Upon the hearing the city council determines whether:

1. to approve the petition and repeal the ordinance;
2. to accept the petition but decline to repeal the ordinance or parts thereof and direct the city clerk to validate the signatures on the petition in accordance with the procedures set forth in SMC 2.02.090; or
3. in its opinion, the petition is legally invalid.

C. If the city council, as provided in subsection (B)(3) of this section, determines by five votes to place the petition on file, and if litigation to challenge that determination is commenced, then the city clerk shall proceed to validate the petition signatures to the end that the litigation not delay the validation process.

Section 02.02.170 Council Action on Validated Referendum Petition

A. Following validation of the signatures on the referendum petition, the city clerk must immediately tally the number of signatures and make a report to the city council at the next available meeting.

B. At the hearing on the validated referendum petition the city council determines whether:

1. to grant the petition and repeal the ordinance as requested; or
2. the referendum measure should go to the electors either at:
 - a. the next municipal election (the September primary or November general election in odd-numbered years); or
 - b. some earlier special election called as provided in RCW 29.13.020.

Section 02.02.180 Public Funding of Litigation

A. Disputes may arise between proponents of a measure and the city council. Because of the nature and subject matter of the potential disputes, they may not be amenable to resolution other than by order of a court of competent jurisdiction.

B. The City of Spokane has no power to confer, deny or alter the jurisdiction of the superior court of the State of Washington or of the United States district court, or to specify procedures for the commencement of actions.

C. In recognition that a petitioner, having a cause of action against the city council or against whom the City must institute legal proceedings, may be unable to pay the costs of suit, the city council will provide up to two thousand dollars per petition to advance litigation costs on behalf of a petitioner in connection with the:

1. approval of a ballot title or summary of the measure, as provided in SMC 2.02.040 or SMC 2.02.100; and/or
2. rejection of a petition on the ground of invalidity, as provided in SMC 2.02.080 or SMC 2.02.160.

Appendix D



Spokane Municipal Code

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Title 02 Council and Legislation

Chapter 02.02 Initiative and Referendum

Section 02.02.010 Findings and Purpose

- A. The citizens of the City of Spokane have reserved the right to directly legislate through the use of initiative and referendum as provided in the Charter of the City of Spokane.
- B. The purpose of this chapter is to establish procedures for the exercise of the right of initiative and referendum consistent with the Charter of the City of Spokane.
- C. It is intended that this chapter will establish within the City of Spokane a uniform system for the exercise of the reserved right of initiative and referendum.

Date Passed: Monday, February 5, 2007

Effective Date: Thursday, March 15, 2007

Recodification ORD C33976 Section 1

Section 02.02.020 In General

A legal resident of the City of Spokane or a political committee as defined in RCW 42.17A.005 (37), whose mailing address is in the City of Spokane and whose campaign manager, treasurer, or committee officer(s) is a qualified, registered elector in the City of Spokane, may petition the city council, under the authority of the Spokane City Charter, Article IX, section 82, to ordain a proposed measure, either an ordinance or a charter amendment.

Date Passed: Monday, January 5, 2015

Effective Date: Sunday, February 8, 2015

ORD C35209 Section 1

Section 02.02.030 Filing of Initiative Measure

- A. In order to facilitate the processing of a proposed initiative measure, a petitioner shall file the proposed measure with the city clerk.
- B. The proposed measure must contain the mailing address of the petitioner and telephone number of the petitioner or petitioner's representative.
- C. The city clerk must immediately transmit a copy of the proposed measure to the city attorney.
- D. Within two weeks after receiving the measure, the city attorney prepares, after consultation with the petitioner(s), a ballot title and summary of the measure and files them with the city clerk.
 1. The ballot title shall consist of:
 - a. A statement of the subject measure;
 - b. A concise description of the measure; and
 - c. A question.
 2. The statement of the subject measure must be sufficiently broad to reflect the subject of the measure, sufficiently precise to give notice of the measure's subject matter, and not exceed ten words.
 3. The concise description must be a true and impartial description of the measure's essential contents, clearly identify the proposition to be voted on, to the extent reasonably possible, not create prejudice either for or against the measure and not exceed seventy-five words. When practicable, the question posed by the ballot title is written in such way that an affirmative answer to the question and an affirmative vote on the measure would result in a change in the law.
 4. The summary of the measure should be a clear and concise statement not to exceed one hundred fifty words.
 5. The ballot title and the summary of the measure shall not be argumentative or likely to create prejudice for or against the measure.
- E. In addition to preparing the ballot title and summary of the measure, the city attorney shall review the proposed measure for such matters as form and style. The city attorney shall edit the measure as necessary to correct obvious typographical errors, conform the language to Spokane Municipal Code format and style, or eliminate ambiguity. Any such editorial revisions are made on a separate sheet from the measure as submitted and clearly identified. All editorial revisions shall be provided to the sponsor and the city clerk at the same time the city attorney files the ballot title and summary of the measure with the city clerk.
- F. Upon receipt of the ballot title and summary of the measure from the city attorney, the city clerk assigns a number by which the measure is identified.

The city clerk affixes the ballot title and summary to the original of the proposed measure or the measure as revised pursuant to this section, inscribes the identifying number upon it and retains it in the official file.

- G. The city clerk must immediately furnish a copy of the proposed measure with its ballot title and summary to the sponsor and prepare a report to the city council for the next agenda.

Date Passed: Monday, July 29, 2013

Effective Date: Friday, September 6, 2013

ORD C35014 Section 1

Section 02.02.040 Council Action on Initiative Measure

- A. Upon receiving the report regarding an initiative from the city clerk, the city council may pass the measure as proposed or submit the initiative measure to the voters on its own motion.
- B. If the city council does not take either action set for in subsection (A), the initiative and the ballot title and summary of the measure shall be forwarded by the city clerk to the city hearing examiner who shall issue a formal written opinion as to the legal validity and effect of the proposed measure. Within fourteen days of receiving the initiative measure from the city clerk, the hearing examiner shall file his written opinion with the city council and the city clerk with a copy provided to the initiative measure sponsor.
- C. Within seven days of receipt of the hearing examiner's written opinion, the initiative measure sponsor shall notify the city clerk in writing of the sponsor's decision to proceed with collecting signatures for the initiative measure or to revise the initiative measure based upon the hearing examiner's written opinion. If the sponsor elects to proceed with gathering signatures, the time period to collect and file petition signatures set forth in SMC 2.02.055 shall begin to run from the date the sponsor's written decision is filed with the city clerk. If the sponsor elects to revise the initiative measure, the city council shall discontinue processing the originally filed initiative measure. The initiative sponsors may file a revised initiative measure, which shall be submitted to the city clerk's office pursuant to SMC 2.02.030.

Date Passed: Monday, July 29, 2013

Effective Date: Friday, September 6, 2013

ORD C35014 Section 2

Section 02.02.050 REPEALED (Review of Initiative Measure by City Attorney)

Repealed by ORD C35014.

Date Passed: Monday, July 29, 2013

Effective Date: Friday, September 6, 2013

ORD C35014 Section 3

Section 02.02.055 Petition Signatures

- A. Prior to circulation for signatures, an initiative petition shall have received an assigned number from the city clerk's office and a written opinion from the hearing examiner regarding the legal validity and effect of the proposed measure.
- B. Signed petitions must be filed with the city clerk within three hundred sixty-five days from the date the sponsor files a written decision to proceed with the signature gathering pursuant to SMC 2.02.040. If the three hundred sixty-fifth day lands on a Saturday, Sunday, or a legal holiday, the petitions may be filed on the next succeeding day which is not a Saturday, Sunday, or a legal holiday.
- C. The sponsor of the initiative may submit additional petition signatures at any time during the three hundred sixty-five day period until a sufficient number of signatures have been validated to place the measure on a ballot; however, if the additional petition signatures are submitted later than one-hundred twenty calendar days prior to the next election, the measure, if otherwise valid, will be placed on the ballot at the next appropriate election pursuant to section 82 of the City Charter.
- D. Petition signatures collected after the three hundred sixty-five day period will not be counted towards a previously filed initiative.
- E. A person who has signed an initiative petition may withdraw his or her signature from a petition by submitting to the city clerk a written request for the withdrawal of the signature up to the time the city clerk is directed by the city council to validate the signatures.

Date Passed: Monday, July 29, 2013

Effective Date: Friday, September 6, 2013

ORD C35014 Section 4

Section 02.02.060 Form of Initiative Petition

- A. It is the obligation of the sponsor of the measure to print petitions for circulation of the proposed initiative measure. The sponsor is responsible to conform the petition to the requirements of this chapter as to form and content, to determine the number of signatures required, and to print enough petition sheets to accommodate sufficient signatures.
- B. The paper used for the petition sheets must be of sufficient weight and quality to accommodate printing and writing on both sides. Paper size should be between eight and twelve inches wide and between eleven and eighteen

inches long. Printing should be no smaller than ten-point face, except that the text of the measure may be in smaller type if necessary to allow the entire petition to be on a single sheet of paper. For reasons of length of text or other practical necessity, the specifications of this section may be adjusted as the sponsor and city clerk may agree.

- C. The measure must be typed or printed and be in the form of an ordinance, with a title and the entire text of the section(s) proposed to be added, amended or repealed. When the proposed measure would amend existing law, the text shall be in the following format:
1. Language to be deleted is set forth in full and enclosed in double parentheses or brackets and may be lined out by hyphens.
 2. New language to be added is underlined, unless an entire new section or subsection is being added; and
 3. Deletions of existing language precede additions of new language.
- D. The mandatory elements of the petition sheet are:
1. a warning to potential signers regarding possible election law violations;
 2. a heading;
 3. horizontal lines for the entry of data under four vertical columns (or four boxes);
 4. the full text of the measure;
 5. the name and address of the sponsor (political committee or individual);
 6. the number of the measure; and
 7. a ballot title and summary of the measure.
- E. The warning, heading, number, body of the petition containing the ballot title and summary of the measure, and signature lines must appear in that order on the front of each petition sheet. The other elements may be located on the front or the back of the petition sheet as the sponsor determines.
- F. Each sheet of the petition must be in substantially the following form:

WARNING

Under Washington State law every person who signs an initiative or referendum petition with any other than his or her true name, knowingly signs more than once, or signs when he or she is not a legal voter; or signs a petition when he or she is otherwise not qualified to sign, or who makes any false statement on such petition may be guilty of a misdemeanor.

INITIATIVE PETITION TO THE SPOKANE CITY COUNCIL

[INITIATIVE NO. _____]

We, the undersigned citizens and legal voters of the City of Spokane,

Washington, respectfully direct that this proposed ordinance [known as Initiative No. _____], a full, true and correct copy of which is printed herein, be passed without alteration by the Spokane City Council, or be submitted to the electors of the City of Spokane for their approval or rejection at the next available special or general municipal elections. [If submitted to election the proposed ordinance shall appear as the following proposition:

(ballot title)]

Each of us for himself or herself says: I have personally signed this petition; I am a legal voter of the City of Spokane; my residence address is correctly stated; and I have knowingly signed this petition only once.

PETITIONER'S SIGNATURE (as on voter registration)	PRINTED NAME	RESIDENCE ADDRESS (Street Address)	DAYTIME PHONE (optional)	CHECK IF REGISTERED ADDRESS IS DIFFERENT

(etc.)

[(summary of measure)]

(full text of measure)

Date Passed: Monday, April 30, 2012

Effective Date: Friday, June 15, 2012

ORD C34855 Section 6

Section 02.02.070 Filing of Initiative Petition

- A. The sponsor of the initiative measure must file or cause to be filed with the city clerk the sheets of the petition no later than one hundred twenty calendar days prior to the date of the next general or special election upon which the initiative measure is to be placed.
- B. The city clerk must immediately file a copy of the proposed measure with the city attorney.
- C. The city clerk must immediately tally the signatures on the petition submitted to determine if it appears to bear the requisite number of signatures of registered voters of the City of Spokane as required by the Charter.
- D. At the next meeting the city clerk makes a report to the city council on the petition and the preliminary tally of signatures, stating what percentage of the votes cast at the last preceding general municipal election the tallied

signatures represent. The city clerk also files with the council members a sample sheet of the petition.

Date Passed: Monday, February 5, 2007

Effective Date: Thursday, March 15, 2007

Recodification ORD C33976 Section 1

Section 02.02.080 Council Action on City Clerk's Report on Initiative Petition

- A. If the number of signatures on the petition as reported by the city clerk is sufficient to satisfy the requirements of the City Charter, the city council sets a date for hearing on the matter of the petition at which time the proposed ordinance is given a first reading. The hearing is held one week hence unless circumstances dictate otherwise.
- B. At the hearing on the petition the city council determines whether:
 1. to grant the petition and pass the measure as requested;
 2. to accept the petition but decline to pass the measure as requested and direct the city clerk to validate the signatures; or
 3. to propose an alternative measure to either be adopted by the city council or submitted to the voters on the city council's own motion.

Date Passed: Monday, April 30, 2012

Effective Date: Friday, June 15, 2012

ORD C34855 Section 7

Section 02.02.090 Validation of Signatures

- A. If directed by the city council, the city clerk without delay makes arrangements with the county auditor, as ex-officio supervisor of elections, to gain access to the voter registration rolls to determine if the petition bears the minimum number of valid signatures of registered voters of the City of Spokane as required by City Charter.
- B. For the purpose of determining the validity of the signatures on the petition, the city clerk employs the same standards established under state law for validation of signatures.
- C. The city clerk immediately tallies the number of signatures as revealed by the process of validation. At the next meeting the city clerk makes a report to the city council concerning the number of validated signatures so tallied and what percentage that number is of the votes cast at the last preceding general municipal election.

Date Passed: Monday, April 30, 2012

Effective Date: Friday, June 15, 2012

ORD C34855 Section 8

Section 02.02.100 Council Action on Validated Initiative Petition

- A. At the hearing on the validated initiative petition the initiative ordinance is given a second and final reading.
- B. Unless a motion is made and passed to grant the petition and pass the measure as requested in the initiative petition, the city council adopts a resolution to place the measure on the ballot at the next available election, pursuant to section 82 of the City Charter.
- C. Unlike a referendum petition, the mere filing of which operates to suspend the referred ordinance, as provided in Charter section 83, the filing of an initiative petition has no legal effect unless, and until, the measure is passed by the city council or by a majority of the City electors.

Date Passed: Monday, April 30, 2012

Effective Date: Friday, June 15, 2012

ORD C34855 Section 9

Section 02.02.110 Publicity

- A. If the city council votes to grant an initiative petition and enact the proposed ordinance, the ordinance is published in the *Official Gazette* upon passage in the ordinary course. If the city council determines an initiative petition is, in its opinion, legally invalid, the decision to place the petition on file is reported in a newspaper of general circulation.
- B. In case the measure would amend the charter or adopt a new or revised charter, then, in addition, the measure is published in the newspaper having the largest general circulation within the city once each week for four weeks next preceding the day of the election.
- C. In addition to the summary of the proceedings of the city council, which appears weekly in the *Official Gazette*, Washington law requires that notices of municipal elections be given by the county auditor.
- D. Pursuant to section 86 of the City Charter, the city clerk shall publish every proposed or referred ordinance in each number of the *Official Gazette* issued within fifteen days before the date of the election; and shall give such other notices and do such other things relative to such election, as may be required by law.

Date Passed: Monday, April 30, 2012

Effective Date: Friday, June 15, 2012

ORD C34855 Section 10**Section 02.02.115 Appeal of Ballot Title and Legal Challenge Regarding Legal Validity of Initiative Measure**

- A. Any person, including the sponsor of an initiative measure or referendum, the city council or the city administration, dissatisfied with the ballot title prepared by the city attorney may file an appeal in superior court pursuant to RCW 29A.36.090 within ten days of the filing of the ballot title with the county auditor.
- B. No appeal of a ballot title or summary of the measure shall be filed by the city council unless at least five members of the city council vote to file the appeal.
- C. The city council and the city administration may only challenge an initiative or referendum measure as illegal or unconstitutional after it has adopted a resolution directing the county auditor to place the measure on the ballot. No challenge shall be filed by the city council unless at least five members of the city council vote to challenge the initiative or referendum measure. Any pre- or post- election legal challenge shall comply with the current jurisprudence addressing those challenges.

Date Passed: Monday, April 30, 2012

Effective Date: Friday, June 15, 2012

ORD C34855 Section 11**Section 02.02.120 Special Referendum Procedures**

- A. The provisions of this chapter apply to both the initiative and the referendum, except to the extent that SMC 2.02.120 through SMC 2.02.170 make special provisions for the referendum.
- B. Because the referendum petition must be circulated and filed before the ordinance takes effect, no procedures for preliminary filing or review by the city attorney are required.

Date Passed: Monday, February 5, 2007

Effective Date: Thursday, March 15, 2007

Recodification ORD C33976 Section 1**Section 02.02.130 Commencement of Referendum**

A legal resident of the City of Spokane or a political committee as defined in RCW 42.17A.005(37), whose mailing address is in the City of Spokane and whose campaign manager, treasurer, or committee officer(s) is a qualified, registered elector in the City of Spokane, begins the referendum process by requesting from the city clerk the assignment of a referendum number and identifying the ordinance, or section(s) thereof, sought to be referred. If the ordinance has not yet

taken effect, then the clerk assigns the measure a number and furnishes to the sponsor a copy of the ordinance.

Date Passed: Monday, January 5, 2015

Effective Date: Sunday, February 8, 2015

ORD C35209 Section 2

Section 02.02.140 Form of Referendum Petition

- A. The elements of a referendum petition are the same as for an initiative petition as set forth in SMC 2.02.060 except that:
 - 1. there need not be a ballot title; and
 - 2. the full text of the measure is the full text sheet that accompanied the ordinance when it passed the city council.
- B. Each sheet of the referendum petition must be in substantially the following form:

WARNING

Under Washington State law, every person who signs an initiative or referendum petition with other than his or her true name, knowingly signs more than once, or signs when he or she is not a legal voter or who makes any false statement on such petition may be punished by fine or imprisonment or both.

REFERENDUM PETITION TO THE SPOKANE CITY COUNCIL

REFERENDUM NO. _____

We, the undersigned citizens and legal voters of the City of Spokane, Washington, respectfully direct that (the entirety) (designated sections) of Ordinance No. _____, passed by the City Council on _____, 20____, and entitled

(title of ordinance)

a concise summary of which is printed herein, be repealed, or be submitted to the electors of the City of Spokane for their approval or rejection at the next municipal election. I understand that should this petition be sufficient and timely filed, the ordinance, or designated section(s) thereof, will be suspended from taking effect until approved by the voters.

Each of us for himself or herself says: I have personally signed this petition; I am a legal voter of the City of Spokane; my residence address is correctly stated; and I have knowingly signed this petition only once.

PETITIONER'S		RESIDENCE	DAYTIME	CHECK IF
--------------	--	-----------	---------	----------

SIGNATURE (as on voter registration)	PRINTED NAME	ADDRESS (Street Address)	PHONE (optional)	REGISTERED ADDRESS IS DIFFERENT

(etc.)

[full text of measure]

Date Passed: Monday, April 30, 2012

Effective Date: Friday, June 15, 2012

ORD C34855 Section 13

Section 02.02.150 Filing of Referendum Petition

- A. The sponsor must, before the ordinance sought to be referred takes effect, file with the city clerk a petition bearing the signatures of registered voters in number at least equal to ten percent of the total number of votes cast at the last preceding general municipal election.
- B. The city clerk must immediately transmit a page of the petition to the city attorney and tally the signatures on the petition to determine if it appears to bear the requisite number of signatures. At the next meeting the clerk must make a report to the city council concerning the number of signatures so tallied and what percentage that number is of the votes cast at the last preceding general municipal election.
- C. As soon as practical, but no later than ten calendar days after the filing of the petition, the city attorney files a report of review expressing a formal opinion whether the petition is legally valid.

Date Passed: Monday, February 5, 2007

Effective Date: Thursday, March 15, 2007

Recodification ORD C33976 Section 1

Section 02.02.160 Council Action on Referendum Petition

- A. If the petition has sufficient signatures and has been filed before the subject ordinance has taken effect, the city council sets a date for hearing on the matter of the petition. The hearing is held within two weeks following filing of the report by the city clerk, unless circumstances dictate otherwise.
- B. Upon the hearing the city council determines whether:
 - 1. to approve the petition and repeal the ordinance; or

2. to accept the petition but decline to repeal the ordinance or parts thereof and direct the city clerk to validate the signatures on the petition in accordance with the procedures set forth in SMC 2.02.090.

Date Passed: Monday, April 30, 2012

Effective Date: Friday, June 15, 2012

ORD C34855 Section 14

Section 02.02.170 Council Action on Validated Referendum Petition

- A. Following validation of the signatures on the referendum petition, the city clerk must immediately tally the number of signatures and make a report to the city council at the next available meeting.
- B. At the hearing on the validated referendum petition the city council determines whether:
 1. to grant the petition and repeal the ordinance as requested; or
 2. the referendum measure should go to the electors either at the next available general or special municipal election.

Date Passed: Monday, April 30, 2012

Effective Date: Friday, June 15, 2012

ORD C34855 Section 15

Section 02.02.175 Fiscal Impact Statement

- A. The city council, in conjunction with the city administration and the city's chief financial officer, shall cause a fiscal impact statement to be prepared for each of the following measures:
 1. An initiative measure that has been directed to be placed on the ballot pursuant to a city council resolution;
 2. A measure placed on the ballot pursuant to the city council's own motion;
 3. An alternative measure appearing on the ballot that the city council proposes to the voters.
- B. Fiscal impact statements must be written in clear and concise language and avoid legal and technical terms when possible, and may include easily understood graphics. Fiscal impact statements must also be impartial, factually accurate, non-argumentative and unbiased.
- C. The fiscal impact statement shall be prepared by the city's financial services division within thirty calendar days of the date the city council adopts the resolution to place the measure on the appropriate election ballot.

- D. A fiscal impact statement must describe any projected increase or decrease in revenues, costs, expenditures, or indebtedness that the city will experience if the ballot measure were approved by voters. Where appropriate, a fiscal impact statement may include both estimated dollar amounts and a description placing the estimated dollar amounts into context. A fiscal impact statement must include both a summary of not to exceed one hundred words and a more detailed statement that includes the assumptions that were made to develop the fiscal impacts.
- E. The sponsor of a measure or an individual or entity working on behalf of a local voters' pamphlet committee created pursuant to SMC 1.07.010 may prepare a fiscal impact statement that complies with the requirements of this section, including the creation of a summary of not more than one hundred words.
- F. Summaries of fiscal impact statements prepared by the city or the sponsor of a measure shall appear on the city website and be included in any voters' pamphlet, which addresses city ballot propositions. A fiscal impact statement prepared by the sponsors of a measure shall appear next to the city's fiscal impact statement and shall be clearly marked as the fiscal impact statement prepared by the sponsor of the measure.

Date Passed: Monday, April 30, 2012

Effective Date: Friday, June 15, 2012

ORD C34855 Section 16

Section 02.02.180 REPEALED (Public Funding of Litigation)

Repealed by ORD C34855.

Date Passed: Monday, April 30, 2012

Effective Date: Friday, June 15, 2012

ORD C34855 Section 17

Appendix E



Official Gazette

City of Spokane, Washington

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

Volume 103

MAY 29, 2013

Issue 22



MAYOR AND CITY COUNCIL

MAYOR DAVID A. CONDON

COUNCIL PRESIDENT BEN STUCKART

COUNCIL MEMBERS:

MICHAEL A. ALLEN (DISTRICT 2)

MIKE FAGAN (DISTRICT 1)

NANCY McLAUGHLIN (DISTRICT 3)

STEVE SALVATORI (DISTRICT 3)

JON SNYDER (DISTRICT 2)

AMBER WALDREF (DISTRICT 1)

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Minutes

MINUTES OF SPOKANE CITY COUNCIL

Monday, May 20, 2013

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 Chambers in the Lower Level of the Municipal Building, 808 West Spokane Falls Boulevard, Spokane, Washington.

Roll Call

On roll call, Council President Stuckart and Council Members Allen, Fagan, Salvatori, Snyder, and Waldref were present. Council Member McLaughlin was absent. Gerry Gemmill, Director of Local Government and Labor Relations, Assistant City Attorney Mike Piccolo, and City Clerk Terri Pfister were also present on the dais.

Advance Agenda Review

There was no Advance Agenda Review as the regularly scheduled City Council meeting for Tuesday, May 28, 2013, has been canceled.

ADMINISTRATIVE SESSION

Current Agenda Review

Council reviewed items on the May 20, 2013, Current Agenda for any changes and/or additions.

CONSENT AGENDA

Upon motion of Council Member Allen, seconded by Council Member Salvatori, Council unanimously (Council Member McLaughlin absent) approved Staff Recommendations for the following:

Low Bid of N & N Excavation (Spokane, WA) for Euclid Avenue from Mayfair Street to Crestline Street Water Main Replacement—\$1,988,746.20 (plus tax). An administrative reserve of \$198,874.62 (plus tax), which is 10% of the contract price (plus tax), will be set aside. (PRO 2013-0010 / ENG 2012086)

Low Bid of Halme Construction, Inc. (Davenport, WA) for Crestline Street from 37th Avenue to 57th Avenue Water Main Replacement—\$2,692,785.98 (plus tax). An administrative reserve of \$269,278.60 (plus tax), which is 10% of the contract price (plus tax), will be set aside. (PRO 2013-0011 / ENG 2012104)

Increase allotted amount for Value Blanket Order with San Diego Police Equipment, Inc. (San Diego, CA) to purchase additional ammunition needed to keep up with ammunition shortages—\$150,000. Total amount—\$300,000. (OPR 2011-0770 / BID 3791-11)

Value Blanket Order with Special Asphalt Products, Inc. (Spokane, WA) for approximately 140,000 pounds of Rubberized Asphalt Crack Sealant using Washington State Contract #012111—estimated annual expense \$124,500 (including tax). (OPR 2013-0396)

Multiple Family Housing Property Tax Exemption Agreement with North Gorge Residential Partners, LLC for 32 townhome/condominium units located at 2101 West Bridge Avenue, 2100 West Ide Avenue, 2301 West Bridge Avenue, 2300 West Ide Avenue and 2300 West Ohio Avenue; parcel numbers 25133.0901, 25133.0903, 25133.1001, 25133.1003 and 25133.2301. (OPR 2013-0397)

Annual Software Maintenance Contract with Mitchell Humphrey & Company (St. Louis, MO) for the Financial Management System from July 1, 2013 through June 30, 2014—\$86,685. (OPR 2013-0398)

HEARINGS

Hearing on Validated Initiative 2012-3 Petitions Filed by Envision Spokane (LGL 2012-0045) and Related Final Reading Ordinance C34979 and Resolution 2013-0038

The City Council held a hearing on Validated Initiative 2012-3 petitions filed by Envision Spokane pertaining to an amendment to the City Charter to add a Community Bill of Rights, which secures the right of neighborhood residents to approve re-zonings proposed for major new development, recognizes the right of neighborhood residents to reject development which violates the City Charter or the City's Comprehensive Plan, expands protections for the Spokane River and Spokane Valley-Rathdrum Prairie Aquifer, provides constitutional protections in the workplace, and elevates Charter rights above rights claimed by corporations. In conjunction with the hearing, Final Reading Ordinance C34979 amending the City Charter to establish a Community Bill of Rights was provided a final reading (A first reading of the ordinance was held on April 22, 2013.) No individuals requested to speak during the hearing.

The City Council then considered Resolution 2013-0038, and the following action was taken:

Upon Unanimous Roll Call Vote (with Council Member McLaughlin voting in the affirmative via telephone), the City Council adopted Resolution 2013-0038 requesting the Spokane County Auditor to hold a special election on November 5, 2013, to submit to the voters of the City of Spokane a proposition in regards to amending the Spokane City Charter.

Hearing on Validated Initiative 2012-4 Petitions Filed by Spokane Moves to Amend (SMAC) (LGL 2012-0049) and Related First Reading Ordinance C34978 and Resolution 2013-0039

The City Council held a hearing on Validated Initiative 2012-4 petitions filed by Spokane Moves to Amend (SMAC) pertaining to a Spokane Municipal Code amendment to add a Voter Bill of Rights for clean and fair elections and government ordinance that prohibits corporate lobbying, corporate involvement in initiatives, and corporate donations to candidates for elected office. In conjunction with the hearing, Final Reading Ordinance C34978 was provided a final reading. (A first reading of the ordinance was held on April 22, 2013.) Public testimony was received from two individuals.

The City Council then considered Resolution 2013-0039, and the following action was taken:

Upon Unanimous Roll Call Vote (with Council Member McLaughlin voting in the affirmative via telephone), the City Council adopted Resolution 2013-0039 requesting the Spokane County Auditor to hold a special election on November 5, 2013, to submit to the voters of the City of Spokane a proposition pertaining to a Spokane Municipal Code amendment to add a Voter Bill of Rights.

Resolutions 2013-0040 and 2013-0041 Requesting the Mayor to Pursue a Legal Challenge of Initiative 2012-3 and Initiative 2012-4

The City Council considered Resolution 2013-0040 requesting the Mayor to pursue a legal challenge regarding the constitutionality and legal validity of Initiative 2012-3 (Community Bill of Rights) and Resolution 2013-0041 requesting the Mayor to pursue a legal challenge regarding the constitutionality and legal validity of Initiative 2012-4 (Voter Bill of Rights). Council Member Allen provided an overview of both resolutions. President Stuckart requested a motion to postpone Resolutions 2013-0040 and 2013-0041 indefinitely. He commented that both of the initiatives only ask the Mayor to take a specific action. He further stated that both resolutions are non-binding; the Council has no authority over the Legal Department and the actions that it takes; and no matter how the council members vote, the Mayor still has the final call. Subsequent to Council debate, the following action was taken:

Motion by Council Member Snyder, seconded by Council Member Waldref, to postpone Resolution 2013-0040 and Resolution 2013-0041 indefinitely, rejected 2-5 [Council President Stuckart and Council Member Snyder voting "aye" and Council Members Allen, Fagan, McLaughlin (via telephone), Salvatori, and Waldref voting "no"].

Considerable public testimony was then received on the matters.

(Following public testimony, Council took a recess at 8:50 p.m. and reconvened at 8:58 p.m.)

Council debate then ensued, after which the following action was taken:

Upon 3-4 Roll Call Vote [Council Members Allen, Salvatori and McLaughlin (via telephone) voting "aye" and Council President Stuckart and Council Members Fagan, Snyder, and Waldref voting "no"], the City Council rejected Resolution 2013-0040 and Resolution 2013-0041 (both as described above).

(Council Member McLaughlin left the meeting via telephone at approximately 9:34 p.m.)

DECLARATION OF SERVICE

I declare, under penalty of perjury, that on May 8, 2015, I sent a true and correct of the foregoing document by email, per counsels' prior agreement to such electronic service:

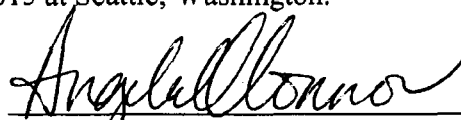
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Defense Fund
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lindsey@world.oberlin.edu

Dated this 8th day of May, 2015 at Seattle, Washington.


Angela O'Connor

OFFICE RECEPTIONIST, CLERK

To: O'Connor, Angela
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Subject: 91551-2 - Spokane Entrepreneurial Center, et al. v. Spokane Moves to Amend the Constitution, et al.

Spokane Entrepreneurial Center, et al. v. Spokane Moves to Amend the Constitution, et al., No. 91551-2

Attached for filing please find Answer of the City of Spokane Supporting Discretionary Review. Pursuant to the parties' agreement regarding electronic service under CR 5(b)(7), this document is also being served via email and has been filed by:

Michael K. Ryan, WSBA 32091
K&L Gates LLP
925 Fourth Ave., Suite 2900
Seattle, WA 98104
Phone: 206.370.8023
michael.ryan@klgates.com

Thank you.

K&L GATES

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