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IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

SPOKANE ENTREPRENEURIAL CENTER, *et al*,

Petitioners,

v.

ENVISION SPOKANE, *et al*,

Respondents.

SUPPLEMENTAL BRIEF OF PETITIONERS

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I. INTRODUCTION

The issue presented in this appeal is whether Spokane County, local non-profit organizations, local for-profit entities, elected officials, and local voters have standing to obtain a declaratory judgment declaring that a proposed local initiative to amend the Spokane City Charter exceeds the scope of the local initiative power. Relying on well-established standing precedent and uncontested declarations submitted by Petitioners, the trial court recognized that Petitioners have standing and granted their motion for declaratory judgment. On appeal on the merits, the Court of Appeals *sua sponte* adopted a new test for standing under the Declaratory Judgment Act and reversed the trial court, solely on standing grounds.

Petitioners submit this supplemental brief to summarize the record facts and legal arguments that show the Court of Appeals erred; Petitioners have standing to seek a declaratory judgment under Washington's long-established standing test. In particular, Petitioners are within the zone of interests the proposed initiative seeks to regulate, and had and would continue to suffer harm from the initiative. Petitioners also have standing under the public importance doctrine, as Petitioners challenge a proposed local initiative that seeks to amend the Spokane City Charter and to alter property, First Amendment, and other rights in Spokane and neighboring communities. This Court should reverse the

Court of Appeals' Opinion.

II. ASSIGNMENT OF ERROR

The Court of Appeals erred by adopting a new standing test for pre-election challenges to local initiatives, and by failing to correctly apply the public importance standing doctrine. The Court of Appeals' Opinion conflicts with prior decisions of this Court and the Court of Appeals, in which the courts applied the correct standard for standing under the Uniform Declaratory Judgment Act ("UDJA") in pre-election challenges to local initiatives, and the public importance standing doctrine.

III. STATEMENT OF THE CASE

After Respondent Envision filed its proposed local initiative, Petitioners challenged the proposal as beyond the local initiative power. The Spokane County Superior Court determined that Petitioners had standing to pursue a declaratory judgment, and entered a declaratory judgment declaring the proposed initiative invalid as exceeding the scope of the local initiative power. Envision appealed on the merits, conceding in its brief and at oral argument that Petitioners have standing to pursue a declaratory judgment. Still, the Court of Appeals – without supplemental briefing on the question – reversed by imposing a new, heightened, and ambiguous standing requirement on plaintiffs seeking pre-election review of local initiatives under the UDJA. Petitioners sought review from this

Court.

A. Envision Filed the Proposed Initiative, and Petitioners Filed Suit.

Envision sought to place an initiative on the City of Spokane's ballot that would (1) establish rights in the Spokane River and would grant Spokane residents the ability to enforce them (the "Environmental Rights Provision"); (2) create a neighborhood veto on certain developments (the "Neighborhood Rights Provision"); (3) apply the federal and state "Bill of Rights" to all employee relationships (the "Workplace Rights Provision"); (4) and strip any corporation that violated one of these provisions of all legal rights and privileges (the "Corporate Rights Provision"). CP 40.¹ Before the election, Petitioners filed suit against the initiative proponents, the City of Spokane, and the Spokane County Auditor, seeking injunctive and declaratory relief on the grounds that the proposed initiative exceeded the scope of the local initiative power. CP 4-33.² Although the City of Spokane took no position on Petitioners' substantive claims, it argued the Court should reach the merits because holding an election on an invalid initiative imposes a financial cost to the City and its taxpayers, and

¹ Citations to "CP" refer to the Clerk's Papers. Relevant portions of those papers are attached as Appendix E to this Supplemental Brief. Citations to Appendix A-D refer to the documents attached as appendices to the Petition for Discretionary Review.

² The complaint also challenges, on the same grounds, another initiative that was filed at the same time. As it did with the Envision proposal, the Superior Court found Petitioners had standing and that the proposal exceeded the local initiative power. That initiative's proponents did not appeal. App. A at 5, n. 9.

diminishes the democratic value of the initiative process. CP 251-55.

B. Petitioners Filed Declarations Establishing Standing.

Petitioners filed 16 declarations, demonstrating that they were within the proposed initiative's zone of interests, and that each of the proposed initiative's provisions would harm them. CP 126-201. For example, Avista Corporation operates six hydroelectric facilities on the Spokane River, and is regulated by the Federal Energy Regulation Commission and the Washington Department of Ecology. CP 126, 129-30 (Declaration of Avista Corporation "Avista Decl."). The Environmental Rights provision of Envision's initiative would harm Avista by threatening Avista's ability to produce power, and by imposing rules and requirements (and providing a cause of action for private litigants) that conflict with Avista's federal and state obligations. *Id.*

Similarly, Spokane County operates the Spokane County Regional Water Reclamation Facility, a sanitary sewage system that discharges high-quality treated effluent into the Spokane River while meeting federal and state regulatory requirements. CP 169 (Declaration of Spokane County "Spokane County Decl."). The Environmental Rights provision of the proposed initiative would give individuals the power to challenge this discharge, potentially harming the County's ability to provide sewer and water services and comply with its permits. *Id.* In addition, Spokane

County is considering other potential uses for reclaimed water from this system, a highly regulated process, and the Environmental Rights provision would inhibit its ability to do so. *Id.*³

Multiple Petitioners also submitted declarations showing that the Neighborhood Rights provision would harm their ability to buy, sell, construct, or renovate properties within Spokane, and that the potential for increased costs or other hurdles currently prevented them from engaging in this activity. *See* CP 128-29 (Avista Decl., discussing zoning variances applicable to power generation, transmission, and distribution facilities); CP 134-35 (Declaration of the Downtown Spokane Partnership (“DSP Decl.”), discussing impact on downtown redevelopment projects that incorporate business, retail, and residential uses).⁴

Many of the Petitioners with employees in Spokane submitted declarations showing that the Workplace Rights provision would harm their ability to maintain safe, orderly, and productive workplaces; would

³ *See also* CP 174 (Declaration of the Building Owners and Managers’ Association (“BOMA Decl.”), describing impact of the Environmental Rights provision on storm-water runoff requirements); CP 188 (Declaration of Michael Allen, describing potential for suits against individuals regarding home and garden water usage and runoff).

⁴ *See also* CP 141 (Declaration of Greater Spokane, Inc. (“GSI Decl.”)); CP 147 (Declaration of Nancy McLaughlin, owner of a small residential construction and remodeling business); CP 157-59 (Declaration of Tom Power, commercial real estate developer); CP 163-64 (Declaration of the Spokane Association of Realtors (“Realtors Decl.”)); CP 167-68 (Spokane County Decl.); CP 174 (BOMA Decl.); CP 178 (Declaration of the Spokane Home Builder’s Association (“SHBA Decl.”)); CP 182-83 (Declaration of William Butler, owner of a commercial real estate firm); CP 191-92 (Declaration of the Spokane Entrepreneurial Center (“SEC Decl.”)); CP 199-200 (Declaration of the Inland Pacific Chapter of the Associated Builders & Contractors (“ABC Decl.”)).

impair their enforcement of existing employment contracts; would inhibit the negotiation of future contracts; and would potentially create conflicts with their duties under the National Labor Relations Act.⁵

Finally, many of the Petitioners are for- or non-profit corporations or associations, whose memberships include corporations.⁶ They submitted declarations establishing that they would be harmed by the Corporate Rights provision's elimination of corporations' legal rights and powers. Most importantly, they would be deprived of First Amendment and other rights guaranteed under Washington and federal law.⁷

C. The Superior Court Considered These Facts and Found Petitioners Have Standing.

Petitioners presented these declarations to the Superior Court. CP 213-229; 422-35. Envision did not contest that, based on these facts, Petitioners fell within the zone of interests the proposed local initiative would regulate, and the declarations established harm. CP 422.

Petitioners also argued – and Envision did not contest – that the suit met the test for public importance standing. CP 229; 434-35.

⁵ CP 130 (Avista Decl.); CP 136 (DSP Decl.); CP 141 (GSI Decl.); CP 154 (Declaration of Pearson Packaging Systems (“PPS Decl.”); CP 200 (ABC Decl.).

⁶ CP 130 (Avista Decl.); CP 135-36 (DSP Decl.); CP 140-41 (GSI Decl.); CP 146-47 (McLaughlin Decl.); CP 154 (PPS Decl.); CP 163 (Realtors Decl.); CP 174 (BOMA Decl.); CP 180 (SHBA Decl.); CP 187-88 (Allen Decl.); CP 191 (SEC Decl.); CP 199 (ABC Decl.).

⁷ In addition, the individual Petitioners submitted declarations showing that they are taxpayers in the City of Spokane, and that some portion of the tax revenues collected from them would be used to place the invalid initiative on the ballot. CP 147 (McLaughlin Decl.); CP 160 (Power Decl.); CP 183 (Butler Decl.); CP 188 (Allen Decl.).

The Superior Court agreed. It twice held that Petitioners had standing to seek a declaratory judgment. App. B at 4. It then granted Petitioners' Motion for Declaratory Judgment, and held that all four provisions of the proposed initiative exceeded the scope of the local initiative power. *Id.* at 5-9. Envision appealed on the merits. CP 457-58.

D. The Court of Appeals *Sua Sponte* Reversed on Standing Grounds.

On appeal, Envision conceded in its briefing and at oral argument that Petitioners had standing to pursue a declaratory judgment. App. A at 6. As a result, in their briefing Petitioners focused on the merits. The Court of Appeals did not request supplemental briefing on standing. *Id.* at 7. Yet it reversed on that issue alone. *Id.*

The Court recognized that, “[l]iberally construed, the fact that both Spokane County and Avista use the Spokane River might ‘arguably’ put them ‘within the zone of interests’ of the Environmental Rights provision.” *Id.* at 11. It rejected this straightforward conclusion, however, because “we think more should be required” and “a more concrete showing of likely harm is necessary.” *Id.* at 11-12; 13. Petitioners filed a Motion for Reconsideration to the Court of Appeals, setting forth the Opinion’s legal and factual errors. App. F. The Court denied the Motion. *Id.* Petitioners then filed their Petition for Discretionary Review to this

Court, and this Court accepted the case.

IV. ARGUMENT

A. Under Established Rules, Petitioners Have Standing to Seek a Declaratory Judgment.

1. A Plaintiff Has Standing to Obtain a Declaratory Judgment When It is *Arguably Within the Zone of Interests* and Has or Will Suffer Harm.

Washington’s UDJA provides that a “person . . . whose rights, status, or other legal relations are affected by a statute [or] municipal ordinance . . . may have determined any question of construction or validity arising under the . . . statute [or] ordinance . . . and obtain a declaration of rights, status, or other legal relations thereunder.” RCW 7.24.020. As a “remedial” statute, the UDJA “is to be liberally construed and administered.” RCW 7.24.120.

This Court has repeatedly permitted declaratory judgment actions that seek to prevent harm from the future application of a statute or ordinance under a clear two-part test for standing. First, the party must show that the “interest sought to be protected is *arguably within the zone of interests* to be protected or regulated by the statute or constitutional guarantee in question.” *Grant Cnty. Fire Prot. Dist. No. 5 v. City of Moses Lake*, 150 Wn.2d 791, 802, 83 P.3d 419, 423 (2004) (emphasis added). Second, the party must show an “*injury in fact*, economic or otherwise.” *Id.* (emphasis added). The Court applied this same rule in

Washington Association for Substance Abuse & Violence Prevention v. State (“*WASAVP*”), in which this Court held that an anti-substance abuse organization had standing to obtain declaratory relief based on potential impacts from the enforcement and application of a liquor privatization initiative. 174 Wn.2d 642, 653, 278 P.3d 632 (2012). The Court explained: “*WASAVP*’s goal of preventing substance abuse and violence places it within the zone of interests of I–1183, which ***broadly impacts*** the State’s regulation of alcohol. . . . [*WASAVP*’s] goals of preventing substance abuse ***could reasonably be impacted*** by I–1183’s restructuring of Washington’s regulation of liquor . . . [and] the increase in liquor availability would injure *WASAVP*’s goals.” *Id.* (emphasis added).

Consistent with this rule, this Court has reached the merits of at least four declaratory judgment actions filed by private plaintiffs against local initiatives. *See, e.g., Mukilteo Citizens for Simple Gov’t. v. City of Mukilteo*, 174 Wn.2d 41, 272 P.3d 227 (2012); *1000 Friends of Wash. v. McFarland*, 159 Wn.2d 165, 170, 149 P.3d 616, 619 (2006); *Seattle Bldg. & Constr. Trades Council v. Seattle*, 94 Wn.2d 740, 620 P.2d 82 (1980); *Ford v. Logan*, 79 Wn.2d 147, 483 P.2d 1247 (1971). The Court explicitly discussed standing in *Mukilteo Citizens* only. That case involved a challenge to a proposed local initiative barring the use of red-light traffic cameras. 174 Wn.2d at 41. There, this Court held that the

plaintiff had associational standing because the group “consists of Mukilteo citizens who are eligible to vote.” 174 Wn.2d at 46.⁸ Under *Mukilteo Citizens*, therefore, anyone who has the ability to vote on the proposed initiative is within the zone of interests and has suffered an injury in fact to support standing.⁹

The Court of Appeals has – until this case – followed the same liberal rule when it considered pre-election challenges to local initiatives. For example, in *American Traffic Solutions, Inc. v. City of Bellingham*, Division One considered a challenge to a nearly identical red-light traffic camera initiative, this time from a company with a contract to install and maintain the cameras. 163 Wn. App. 427, 432-33, 260 P.3d 245, 248 (2011). The Court stated the standing rule as follows: “In order to have standing, a party must demonstrate (1) that it falls within the *zone of interests* that a statute or ordinance protects or regulates and (2) that it *has or will* suffer an injury in fact, economic or otherwise, from the proposed action.” 163 Wn. App. at 432-33 (emphasis added). It held that, because the initiative “would potentially mandate termination or modification of

⁸ Although brief, the Court’s statement in *Mukilteo Citizens* is not mere dicta because it was the only reason the Court gave for the plaintiff association’s standing, an issue raised to and considered by the Court. Pet. for Review at 10-11. *Mukilteo Citizens* is not an aberration: the briefing in *Seattle Building* also presented the standing issue to this Court, and plaintiffs argued (citing *Ford*) that the availability of a pre-election injunction “is so well established as to be beyond challenge.” *Id.* at 11-13.

⁹ Petitioners include Spokane voters. CP 147.

[plaintiff's] contract," the initiative had caused "specific and perceptible harm" and the company had standing. *Id.*

This rule and its application is consistent with the broad purpose of the UDJA, which is to "give relief" where parties are "placed in a position of making a determination of a difficult question of constitutional law with the possibility of facing both civil and criminal penalties if they made the wrong choice." *Snohomish Cnty. Bd. of Equalization v. Wash. State Dep't of Revenue*, 80 Wn.2d 262, 264-65, 493 P.2d 1012, 1013-14 (1972). Thus, the UDJA sets a low bar for standing to permit parties to gain relief in advance of such situations. The heightened requirement the Court of Appeals created is especially inapt here, where Petitioners face First Amendment harms (among others). *See* Part IV.A.3, below.

2. Envision's Arguments for an Altered Rule Are Not Relevant to this Case.

In its Answer to the Petition for Review, Envision argued for the first time that this Court's long-standing, clear, and consistently applied standing rule should not apply here. Not so. Both Envision in its arguments and the Court of Appeals in its Opinion attempt to complicate this case by importing doctrines from other areas of law. No such assistance is needed, and this Court should simply apply its well-established UDJA precedent, and should conclude that under the proper

analysis, Petitioners have standing to bring this declaratory judgment action.

In particular, the Court of Appeals reached its erroneous conclusion by conflating state and local initiatives. *See Op.* at 7-10, 15 (citing and quoting *Coppernoll v. Reed*, 155 Wn.2d 290 119 P.3d 318 (2005), and *Futurewise v. Reed*, 161 Wn.2d 407, 166 P.3d 708 (2007)). But the statewide initiative power discussed in the cases on which the Court of Appeals relied materially differs from the local initiative power at issue here. Statewide initiatives are authorized by the Washington Constitution. Wash. Const. art. II, § 1. Thus, statewide initiatives have “constitutional preeminence,” and courts must avoid rendering unnecessary opinions that could infringe on the constitution’s delegation of the statewide legislative power to the people. *Coppernoll*, 155 Wn.2d at 297; *Futurewise*, 161 Wn.2d at 410-11.

In contrast, the local initiative power is statutory and does not implicate a constitutional delegation of the legislative power to the people. RCW 35.22.200 provides that cities may permit local initiatives “upon any matter *within the scope* of the powers, functions, or duties *of the city*.” (emphasis added). The *Coppernoll* Court recognized this distinction between statewide and local initiatives, explaining the latter present “more limited powers” than the constitutionally-authorized statewide initiative

power. 155 Wn.2d. at 299. *See also Ford*, 79 Wn.2d at 157. Likewise, the Court of Appeals has acknowledged that “the local powers of initiative do not receive the same level of vigilant protection as the constitutional powers addressed in *Coppernoll*.” *City of Longview v. Wallin*, 174 Wn. App. 763, 790, 301 P.3d 45 (2013). Envision suggests that “policy considerations” support a new standing doctrine in this case. Envision Answer at 4. But those considerations do not apply to standing to pre-election challenges to *local* initiatives.¹⁰

Envision and the Court of Appeals also allude to the political question doctrine as a reason to avoid applying this Court’s UDJA standing precedents here. Envision Answer at 8, 13; Op. at 8, 18. But “the mere fact that the suit seeks protection of a political right does not mean it presents a political question. Such an objection is little more than a play upon words.” *Baker v. Carr*, 369 U.S. 186, 209, 82 S. Ct. 691, 706 (1962) (internal quotation marks omitted).¹¹ Petitioners do not ask for a declaration that would trigger *Baker* factors (such as separation of powers issues). Rather, Petitioners ask the Court to determine whether a proposed

¹⁰ Even if those considerations were relevant here, Washington law permits the type of pre-election challenge that Petitioners bring. *Coppernoll*, 155 Wn.2d at 299 (“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).”).

¹¹ This Court adopted *Baker v. Carr* as Washington law in *Baker v. Owen*, 165 Wn.2d 706, 718-19, 206 P.3d 310, 316-17 (2009).

action by a *subordinate* governmental entity – a local government – exceeds the powers granted to it. Courts routinely make similar determinations without harming institutional integrity. CP 219 (citing five decisions in the year prior to the filing of this suit where courts found a proposed local initiative to exceed the local initiative power).

Finally, despite decades of Washington courts using the test Petitioners applied, the Court of Appeals suggested that Petitioners’ position would somehow provide “a roadmap to detouring every local initiative to the courtroom.” Op. at 14. That is incorrect. The record in this case demonstrates a nexus between the proposed initiative and harm to Petitioners’ interests. Even if the Court were to narrow *Mukilteo Citizens*’ holding that “citizens eligible to vote” have standing to challenge local initiatives, 174 Wn.2d at 46, Petitioners would still win under a straightforward application of the UDJA’s standing rules, which have not caused every local initiative to detour to the courtroom.

3. Petitioners Have Standing.

Petitioners have standing to challenge each provision of the proposed initiative under this Court’s long-established UDJA standing test.¹² The Environmental Rights provision endows the “Spokane River, its tributaries, and the Spokane Valley-Rathdrum Prairie Aquifer” with the

¹² While many Petitioners face harm from multiple provisions, Petitioners present here a summary of the factual support for standing in this case. *See also* Part III.B, above.

rights to “sustainable recharge, flows sufficient to protect native fish habitat, and clean water,” and grants “residents of Spokane” the right to “sustainably access, use, consume, and preserve water.” CP 40. Thus, the zone of interests protected by this provision includes – at a minimum – interests in river flows, water quality, and river access. *See, e.g., WASAVP*, 174 Wn.2d at 653 (initiative that “broadly impacts the State’s regulation of alcohol” places anti-substance abuse group within its zone of interests). Petitioners Avista and Spokane County met this standard by showing they have facilities that access the river and that impact water levels and water quality. *See* CP 129-30; 169. These same declarations show that operation of these facilities “could reasonably be impacted” by the proposed initiative’s regulations, an injury in fact that supports standing. *WASAVP*, 174 Wn.2d at 653. Moreover, because the Spokane River runs well beyond the City’s boundaries and through other parts of Spokane County, the proposed provision could harm the County’s activities beyond the City’s borders.

The Neighborhood Rights provision gives “neighborhood majorities” “the right to approve all zoning changes proposed for their neighborhood involving major . . . development.” CP 40. Thus, developers such as Tom Powers, and groups such as the Realtors and the Associated Builders & Contractors, whose livelihoods depend on these

major developments, are within the provision's zone of interests. CP 157-59; 163-64; 199-200. Mr. Powers testified that the pendency of the initiative was driving down the value of his existing and future projects, causing economic injury. CP 157-59. The Downtown Spokane Partnership testified that the passage of the proposed initiative would increase development costs, cause lengthy procedural delays, and impose uncertainty that could prevent its projects from moving forward. CP 134-35. All of these harms are injuries in fact that support standing.

The Workplace Rights provision grants workers in unionized workplaces the right of collective bargaining, and states that "Employees shall possess United States and Washington Bill of Rights' constitutional protections in every workplace" in Spokane. CP 40.¹³ This provision's plain language shows that it seeks to regulate labor relations at the local level. Five Petitioners testified that their employment policies and actions would be impacted by this provision. CP 130, 136, 141, 154, 200. Each one listed "specific and perceptible harm[s]" that they would suffer if the initiative were to pass, including the loss of the ability to speak with their employees, to manage their workplaces, and to negotiate or enforce contracts. *Id.*; see *Am. Traffic*, 163 Wn. App. at 433.

Finally, the Corporate Rights provision strips all "legal rights,

¹³ As the Court of Appeals noted, it is unclear what the Washington Bill of Rights entails. App. A at 2.

privileges, powers, and protections” from corporations that violate the other provisions. CP 40. Any corporation is thus within the zone of interests this provision seeks to regulate, and Petitioners include nearly a dozen corporations among their numbers. CP 130, 135-36, 140-41, 146-47, 154, 163, 174, 180, 187-88, 191, 199. Because of the substantial uncertainty about the meaning of the proposal’s other provisions, this provision has a substantial and immediate chilling effect on Petitioners’ First Amendment rights. *See, e.g.*, CP 145-46, 174. As Washington law recognizes, “[i]n the First Amendment context, a ‘chilling effect’ on First Amendment rights is a recognized present harm, not a future speculative harm.” *Walker v. Munro*, 124 Wn.2d 402, 416, 879 P.2d 920 (1994); *see also Sanders Cty. Republican Cent. Cmte. v. Bullock*, 698 F.3d 741, 748 (9th Cir. 2012) (“[T]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.”) (quotation omitted).

In sum, Petitioners have established, and even the Court of Appeals acknowledged, *see App. A* at 11, that Petitioners are (at the very least) “arguably within the zone of interests to be protected or regulated” by each provision of the proposed initiative, and have shown an “injury in fact, economic or otherwise.” *Grant Cnty.*, 150 Wn.2d at 802. Petitioners have standing for a declaratory judgment.

B. The Public Importance Exception Justifies Standing.

Even if Petitioners could not meet traditional standing requirements, Washington’s public importance standing exception applies. Under this exception, when a case “is of serious public importance and immediately affects substantial segments of the population and its outcome will have a direct bearing on the commerce, finance, labor, industry or agriculture generally, questions of standing to maintain an action should be given a less rigid and more liberal answer.” *Wash. Nat’l Gas Co. v. Pub. Util. Dist. No. 1 of Snohomish Cnty.*, 77 Wn.2d 94, 96, 459 P.2d 633, 634-35 (1969). Standing exists under this test when an “issue is a matter of continuing and substantial interest, it presents a question of a public nature which is likely to recur, and it is desirable to provide an authoritative determination for the future guidance of public officials.” *Farris v. Munro*, 99 Wn.2d 326, 330, 662 P.2d 821 (1983).

While this Court has never explicitly applied public importance standing to a pre-election challenge to a local initiative, the Court of Appeals has three times in the last five years held that a proposed local initiative is an issue of substantial public importance that justifies applying the exception. In *American Traffic*, Division One held that “even if the question of . . . standing were debatable, we would still address the issues presented in this appeal, because they involve significant and continuing

matters of public importance that merit judicial resolution.” 163 Wn. App. at 433. Division Two reached the same conclusion: “even if [plaintiff] did not have clear standing, we would address its claims because they ‘involve significant and continuing matters of public importance that merit judicial resolution.’” *Longview*, 174 Wn. App. at 783; *see also Eyman v. McGehee*, 173 Wn. App. 684, 688-89, 294 P.3d 847 (2013) (questions regarding local initiatives are “issues of substantial and continuing public interest,” permitting a court to “exercise its discretion and decide an appeal”).¹⁴

This case meets the requirements of *Washington Natural Gas* and *Farris*. As Petitioners’ declarations show, the proposed initiative has serious and substantial effects on thousands of people and a range of industries. *See* Part III.B, above. First, the proposed local initiative seeks to amend the charter for one of the largest cities in Washington. That is a “matter of continuing and substantial interest.” *Farris*, 99 Wn.2d. at 330. Second, it is “likely to recur.” *Id.* This proposed initiative is the third similar proposal brought by the same group in Spokane since 2009, and a

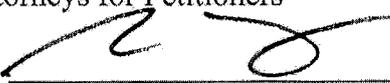
¹⁴ In its Answer to the Petition for Review, Envision argues that the public importance doctrine could potentially lead to a scenario where “any party could bring a pre-election challenge against any initiative.” Envision Answer at 6. But as consistently applied by both the Supreme Court and the Court of Appeals, the public importance exception does not create standing from whole cloth; rather, it merely loosens the standards when the result under the traditional tests is uncertain or debatable. *See Wash. Nat’l Gas*, 77 Wn.2d at 96; *Am. Traffic*, 163 Wn. App. at 433; *Longview*, 174 Wn. App. at 783.

related group proposed a similar initiative in Bellingham. CP 100-102 (declaration of Envision’s president describing the “significant public interest” in the proposal); *City of Bellingham v. Whatcom Cnty.*, No. 691520, slip op. (Wash. Ct. App. Sept. 21, 2012).

Finally, and more broadly, localities across the state regularly face proposed initiatives, and both governments and concerned citizens have a substantial interest in a clear demarcation of who may challenge such proposals in court. Thus, it is “desirable to provide an authoritative determination for the future guidance of public officials.” *Farris*, 99 Wn.2d at 330. The City of Spokane has explained it prefers that the Court inform it whether or not the proposed initiative is a proper use of the local initiative power. *See City of Spokane Answer to Petition for Discretionary Review* at 10-16. They – and every other locality where this or a similar initiative may be proposed in the future – “now fac[e] much legal uncertainty,” potential “damage to the City’s local initiative process” and the “unnecessary expenditure of public funds,” if this case is not resolved on the merits. *Id.* at 15. Public importance standing applies.

RESPECTFULLY SUBMITTED this 2nd day of October, 2015.

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By 

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CERTIFICATE OF SERVICE

The undersigned hereby declares that on October 2, 2015, pursuant to the parties' agreement regarding electronic service under CR 5(b)(7), I sent an e-mail attaching SUPPLEMENTAL BRIEF OF PETITIONERS to counsel of record whose names and addresses are listed below:

<p><i>For Envision Spokane:</i> Lindsey Schromen-Wawrin Community Environmental Legal Defense Fund 306 W. Third Street Port Angeles, WA 98362 E-mail: lindsey@world.oberlin.edu</p>	<p><i>For City of Spokane:</i> Nancy L. Isserlis Nathaniel J. Odle Office of the City Attorney 808 W. Spokane Falls Blvd. 5th Floor Spokane, WA 99201-3333 E-mail: nisserlis@spokanecity.org E-mail: nodle@spokanecity.org</p>
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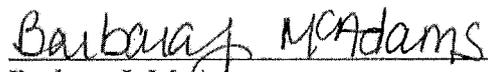
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I declare under penalty of perjury under the laws of the state of
Washington that the foregoing is true and correct.

Executed this 2nd day of October, 2015, in Seattle, Washington.


Barbara J. McAdams

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Dear Clerk:

Please find attached for filing in the above-referenced matter an electronic copy of: The Supplemental Brief of Petitioners

Case Name: Spokane Entrepreneurial Center, et al. v. Envision Spokane, et al

Case Number: 91551-2

Person Filing Document: Rebecca Francis, WSBA # 41196

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By copy of this e-mail, electronic service to counsel of record is made. Please let me know if there is any difficulty opening the .pdf file.

Please note: there is an Appendix to Supplemental Brief of Petitioners also being submitted with this filing - however, due the size, by instruction of the Court Clerk, the Appendix is being sent via U.S. Mail. All counsel of record will also be receiving their copy of the Appendix via U.S. Mail.

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