



WENATCHEE CITY COUNCIL

Thursday, January 9, 2020

Wenatchee City Hall Council Chambers
301 Yakima Street, 2nd Floor
Wenatchee, WA 98801

AGENDA

4:30 p.m. Executive Session

Executive session to consider the acquisition of real estate when public knowledge regarding such consideration would cause a likelihood of increased price; and to discuss with legal counsel matters of potential litigation to which the city may become a party, when public knowledge regarding the discussion is likely to result in an adverse or financial consequence to the agency.

5:15 p.m. Regular Meeting

1. Call to Order, Pledge of Allegiance, and Roll Call.

2. Consent Items:

- Motion to approve agenda, vouchers, and minutes from previous meetings.

Vouchers:

Claim checks #193297 through #193373 in the amount of \$984,697.80 for December 12, 2019
Claim checks #193374 through #193539 in the amount of \$1,478,598.63 for December 20, 2019
Payroll distribution in the amount of \$357,180.00 for December 20, 2019
Claim checks #1482 through #1485 in the amount of \$179,228.24 for December 26, 2019
Claim checks #193555 through #193561 in the amount of \$7,345.84 for December 27, 2019
Payroll distribution in the amount of \$12,014.14 for December 31, 2019
Payroll distribution in the amount of \$465,322.91 for December 31, 2019 for December 31, 2019
Benefits/deductions in the amount of \$1,068,084.03 for December 31, 2019
Claim checks #193562 through #193599 in the amount of \$173,960.30 for December 31, 2019
Claim checks #193600 through #193608 in the amount of \$98,601.56 for January 2, 2020
Payroll distribution in the amount of \$6,395.23 for January 3, 2020
Claim checks #193609 through #193623 in the amount of \$144,296.99 for January 3, 2020
Payroll distribution in the amount of \$293.06 for January 6, 2020

3. Citizen Requests/Comments.

The "Citizen Comments" period is to provide the opportunity for members of the public to address the Council on items either not on the agenda or not listed as a public hearing. The Mayor will ask if there are any citizens wishing to address the Council. When recognized, please step up to the microphone, give your name and mailing address, and state the matter of your interest. If your interest is an agenda item, the Mayor may suggest that your comments wait until that time. Citizen comments will be limited to three minutes.

4. Presentations.

- Wenatchee School Choice Week Proclamation
- Link Transit Vision 2020 Presentation

5. Action Items.

- A. Homeless Grant Award: Power House Ministries Homeless Day Shelter
Presented by Community Development Director Glen DeVries and Housing Programs Coordinator Sandra Van Osten
Motion for City Council to accept the Homeless Housing Task Force recommendations and authorize the Mayor to enter into a grant agreement with Power House Ministries for low-barrier homeless day shelter services.
- B. Isola Annexation
Presented by Housing & Community Planner Brooklyn Holton
Motion for City Council to adopt Ordinance No. 2020-02, providing for the annexation of an unincorporated area that includes five parcels located on the north side of Terminal Avenue between Methow Street to the west and extending towards Cross Street stopping at approximately midblock also known as the Isola Annexation.
- C. Tramp Annexation
Presented by Housing & Community Planner Brooklyn Holton
Motion for City Council to adopt Ordinance No. 2020-03, providing for the annexation of an unincorporated area located to the west of Skyline Drive in Millerdale Block A without street frontage and bordered to the south and west by urban growth area boundary also known as the Tramp Annexation.
- D. Hale Park Phase Two Project - Consultant Agreement
Presented by Parks, Recreation and Cultural Services Director David Erickson
Motion for City Council to authorize the Mayor to negotiate and sign an agreement with Pacific Engineering for engineering and construction management for the Hale Park Phase Two Project.
- E. Cleveland Avenue Sanitary Sewer Repair – Project No. SW19-10
Presented by Senior Utilities Engineer Jeremy Hoover
Motion for City Council to approve the award of the contract for emergency repair of the Cleveland Avenue Sanitary Sewer, Project SW19-10 to KRCl in the amount of \$77,343.40, and further authorize the Mayor to sign the construction contract.
- F. Surplus Property Sale – Steve and Carol Freeman
Presented by Development Project Manager Matt Shales
Motion for City Council to authorize the Mayor to sign a purchase and sale agreement with Steve and Carol Freeman, and further negotiate any final details of the agreement.
- G. Cultural Resources Special Project – Wenatchee Valley Museum
Presented by Economic Development Director Steve King
Motion for City Council to approve an agreement with the Wenatchee Valley Museum for cultural resources work with Randy Lewis.

H. Mayor Pro Tem 2020

Motion for City Council to appoint a Mayor Pro Tempore for 2020.

6. Public Hearing Items.

The Mayor will call the Public Hearing to order and state the ground rules, the purpose of the hearing, the action that the hearing body may take on the matter, will address the appearance of fairness doctrine, and will state the manner in which the hearing will proceed. Staff will first give a report, followed by testimony of experts and/or the applicant, followed then by public testimony. All speakers must speak into the microphone and clearly state their names and addresses. All comments should be addressed to the hearing body, should be relevant to the application, and should not be of a personal nature. Public testimony may be limited to three minutes, unless further time is granted by the Mayor. If there are a large number of speakers, a representative may be appointed to speak on behalf of the group.

I. Charter Communications Franchise

Presented by Public Works Director Rob Jammerman

Motion for City Council to adopt Ordinance No. 2020-04, renewing the grant of a franchise to Spectrum Pacific West, LLC, locally known as Charter Communications, to operate and maintain a cable system in the City of Wenatchee, and approving the franchise agreement setting forth the conditions accompanying the grant of the franchise.

7. Reports.

- a. Mayor's Report
- b. Reports/New Business of Council Committees

8. Announcements.

9. Adjournment.



WENATCHEE CITY COUNCIL
Thursday, December 12, 2019
Wenatchee City Hall Council Chambers
301 Yakima Street, 2nd Floor
Wenatchee, WA 98801
MINUTES

DRAFT

In attendance:

Mayor Frank Kuntz
Councilmember Jim Bailey
Councilmember Ruth Esparza
Councilmember Lyle Markhart
Councilmember Keith Huffaker
Councilmember Mark Kulaas
Councilmember Linda Herald
Councilmember Mike Poirier

Staff in attendance:

Executive Services Director Allison Williams
City Attorney Steve Smith
City Clerk Tammy Stanger
IS Support Tim McCord
Human Resources Director Kari Page
Parks, Recreation & Cultural Services Director David Erickson
Senior Engineer Jeremy Hoover
Engineering Services Manager Jacob Huylar
Economic Development Project Manager Matt Shales
Economic Development Director Steve King
Housing & Community Planner Brooklyn Holton
Finance Director Brad Posenjak
Community Development Director Glen DeVries
Planning Manager Stephen Neuenschwander
Senior Planner Matt Parsons

5:15 p.m. Regular Meeting

1. Call to Order, Pledge of Allegiance, and Roll Call.

Mayor Frank J. Kuntz called the meeting to order at 5:15 p.m. Councilmember Mike Poirier led the Pledge of Allegiance. All Councilmembers were present.

2. Consent Items:

Motion by Councilmember Keith Huffaker to approve agenda, vouchers, and minutes from previous meetings; for City Council to accept the work performed by the contractor, DJB Construction, on the Poplar Avenue Sanitary Sewer Extension, Project No. 1902, and further authorize the Mayor to sign the Final Contract Voucher Certification on behalf of the City of Wenatchee; for City Council to accept the work performed by the contractor, Hurst Construction, LLC, on City Project No. 1715 - Middle School Crossing Improvements Project, and further authorize the Mayor to sign the Final Contract Voucher; for City Council to accept the work performed by the contractor, Hurst Construction, LLC, on City Project No. 1616 - Western and Springwater Intersection Control, and further authorize

the Mayor to sign the Final Contract Voucher; for City Council to authorize the Mayor to accept the work performed by the contractor, Grindline Skateparks, on the Hale Skate Park, Project No. 16-1666, and further authorize the Mayor to sign the Final Contract Voucher on behalf of the City of Wenatchee. Councilmember Jim Bailey seconded the motion. Motion carried (7-0).

3. Citizen Requests/Comments. None.

4. Presentations.

- Service Awards. Human Resources Director Kari Page presented service awards. Those present to receive their awards were: 5 years: Liz Rivera, Jerred Gardner, and Brooklyn Holton; 10 years: Tammy Stanger; 30 years: Tom Lewis.

5. Action Items.

A. 2020 Wages – Management/Administrative Group

Human Resources Director Kari Page presented the staff report. Council asked questions.

Motion by Councilmember Mark Kulaas for City Council to adopt Ordinance No. 2019-45, establishing positions for regular status employment within the City of Wenatchee Management/Administrative Group, fixing the compensation to be paid for the calendar year 2020, and repealing Ordinance No. 2019-07. Councilmember Linda Herald seconded the motion. Motion carried (7-0).

B. Pay Ranges – Temporary Employees

Human Resources Director Kari Page presented the staff report. Council asked questions.

Motion by Councilmember Mike Poirier for City Council to adopt Ordinance No. 2019-46, establishing pay ranges for temporary employees for the calendar year 2020, and repealing Ordinance No. 2019-06. Councilmember Lyle Markhart seconded the motion. Motion carried (7-0).

C. Arts, Recreation and Parks Commission Appointments

Parks, Recreation & Cultural Services Director David Erickson presented the staff report. Councilmember Lyle Markhart recused himself from this item.

Motion by Councilmember Keith Huffaker for City Council to approve Resolution No. 2019-56, appointing a member to the Arts, Recreation and Parks Commission (Lyle Markhart). Councilmember Mike Poirier seconded the motion. Motion carried (6-0) (Markhart conflict).

Motion by Councilmember Linda Herald for City Council to approve Resolution No. 2019-57, re-appointing a member to the Arts, Recreation and Parks Commission (Lisa Adan). Motion seconded by Councilmember Jim Bailey. Motion carried (6-0) (Markhart conflict).

D. Charter Communications Franchise

Executive Services Director Allison Williams requested this matter be continued to the next regular meeting due to being a public hearing item.

E. Wastewater Treatment Plant Digester 4 – Project No. 1810- Authorization for Consultant Supplemental Agreement #1

Senior Engineer Jeremy Hoover presented the staff report. Council asked questions.

Motion by Councilmember Keith Huffaker for City Council to authorize the Mayor to sign Consultant Supplemental Agreement #1 on behalf of the City with HDR Engineering, Inc., for additional design services for the Wastewater Treatment Plant Digester #4, Project No. 1810. Councilmember Ruth Esparza seconded the motion. Motion carried (7-0).

F. Tacoma Avenue Improvements, City Project #1907 - Interlocal Agreement with Chelan County PUD

Engineering Services Manager Jacob Huylar presented the staff report.

Motion by Councilmember Linda Herald for City Council to authorize the Mayor to approve the Interlocal Agreement between the City of Wenatchee and Public Utility District No. 1 of Chelan County, providing for the reimbursement of costs incurred with the design and construction of water line improvements associated with Project No. 1907. Councilmember Jim Bailey seconded the motion. Motion carried (7-0).

G. Lease for Temporary Use at Former WSDOT Property

Economic Development Project Manager Matt Shales presented the staff report. Council asked questions.

Motion by Councilmember Keith Huffaker for City Council to authorize the Mayor to enter into a lease with Town Auto Group for the temporary use and operation of a car dealership on the former WSDOT property. Councilmember Linda Herald seconded the motion. Motion carried (7-0).

H. Confluence Parkway Chelan PUD Coordination Memorandum of Understanding

Economic Development Director Steve King presented the staff report. Council asked questions.

Motion by Councilmember Mike Poirier for City Council to authorize the Mayor to negotiate and sign a Memorandum of Understanding between the Chelan County PUD and the City of Wenatchee for the purposes of NEPA compliance for Confluence Parkway. Councilmember Lyle Markhart seconded the motion. Motion carried (7-0).

I. Stella Street Annexation – Ordinance No. 2019-34

Housing & Community Planner Brooklyn Holton presented the staff report. Council asked questions.

Motion by Councilmember Ruth Esparza for City Council to adopt Ordinance No. 2019-34, to fully include the public right of way known as Stella Avenue within the corporate limits of the City of Wenatchee, and authorize the Mayor to sign and enter into an Agreement with Chelan County to share equally the cost of \$16,836.49 to overlay the unincorporated segment of Stella Avenue. Councilmember Linda Herald seconded the motion. Motion carried (7-0).

6. Public Hearing Items.

The Mayor explained the public hearing process and ground rules.

J. Consideration of Limited Business and Occupation Tax

Executive Services Director Allison Williams, Finance Director Brad Posenjak, and City Attorney Steve Smith presented the staff report. Council asked questions.

The Mayor then asked for public comment, and the following people spoke on the matter:

A power point prepared by Confluence Health was presented to the Council, with the following representatives speaking on each slide of the presentation (a copy of the power point is on file with the City Clerk):

1. Patricia Wachtel, 10 North Miller, Wenatchee, WA, and Chairman of the Confluence Health Board of Directors, provided an overview of Confluence Health employees and services provided (“At a Glance” slide).
2. Cory Ferari-Zimmerman, 1643 Holly Lane, East Wenatchee, WA, spoke on the nonprofit status and properties owned by Confluence Health (“Property Taxes” slide).
3. Stu Freed, 427 Douglas Street, Wenatchee, WA, presented information on Confluence Health’s revenue (“Overall Revenue” slide).
4. Tracy Kasnic, 430 George Johnson Road, Wenatchee, WA, addressed the Council on information that the Council may not be aware of (“Components you might not be aware of” slide)

5. Gus Heinicke, Confluence Health Board Member, requested the Council consider not passing a B & O tax because of the impacts it will have on services they provide. (“Because it’s the right thing to do” slide).
6. Peter Rutherford, 2105 Lone, Wenatchee, WA, CEO of Confluence Health, addressed the Council with his concerns about the proposed B & O tax and the process by which it was proposed, stating it was rushed, inaccurate and unthoughtful.
7. Garn Christensen, Confluence Health Board Member and Eastmont School District Superintendent, spoke against the proposed tax.
8. Shiloh Burgess, Wenatchee Valley Chamber Executive Director, and Jess Monnette, local Attorney and a member of the WVCC advocacy committee, together spoke against the tax and concerns with constitutionality and fairness.
9. Wilma Cartejena, President of the NCW Hispanic Chamber of Commerce, provided her feedback against the ordinance stating it was unfair and would cause a ripple effect to the community. She asked the Council to reconsider the tax.
10. Deanna Walter, Chelan County Assessor, stated she was not taking a position but rather her intent is to relay factual information, and she provided a spreadsheet to the Council and indicated there are 595 non-profits in city limits who do not pay property taxes. While the amount of property taxes recovered city-wide do not go down, the amount of property taxes not paid by non-profits are then shared and paid for from all paying properties in Wenatchee. (A copy of the spreadsheet provided is on file with the City Clerk’s office).
11. Beth Stipe, Executive Director of the Community Foundation, addressed the Council stating she appreciated the fact that the city needs to raise revenues and asked that they to take more time to consider additional revenues.
12. Paul Schmidt, stated his concerns with the tax and questioned why other health care providers weren’t included.

Police Chief Steve Crown addressed the Council speaking on the needs of the Police Department and concerns with capacity issues and the struggle to hire new officers. The 2020 budget will allow an increase for more proactive police enforcement to prevent future problems due to a recent uptick in gang activities and crime.

The Council and Mayor then discussed. The matter died for lack of a motion.

At 7:36 p.m. the Mayor called for a five minute break. The meeting resumed at 7:41 p.m.

K. WCC 10.72 - Nonconforming Signs – Billboard Amortization

Community Development Director Glen DeVries, Planning Manager Stephen Neuenschwander, and Senior Planner Matt Parsons presented the staff report and answered questions.

The Mayor asked for public comment, and the following people spoke:

1. Neil Schreibeis, with Lamar Outdoor, addressed the Council with his concerns with the proposed ordinance, statutes regarding just compensation, and loss of income to businesses.
2. Dennis Johnson, 1512 Anton Place, Wenatchee, a local sign owner (and former Mayor of Wenatchee), addressed the Council with the need for advertising and his concerns about the proposed ordinance and amortization.
3. Benjamin Goro, local Lamar Outdoor advertising representative, spoke to the Council of his concerns about notification and compromising with sign owners.
4. Jim Snyder, 34 Jennings Street, Wenatchee, stated some of the billboards are decades old and owners have recouped costs, stated he believes the billboards are an antiquated form of advertising, and compete with businesses on site. He thanked the Council for the process.

With no further discussion, the Mayor then turned the matter back over to the Council for additional discussion.

Motion by Councilmember Mark Kulaas for City Council to adopt Ordinance No. 2019-51, amending and restating Chapter 10.72 “Nonconforming uses, structures and lots” of the Wenatchee City Code, with the exception of Chapter 10.72.0950(2) changing the amortization period to 10 years. Councilmember Mike Poirier seconded the motion. Motion carried (7-0).

7. Reports.

a. Mayor’s Report. The Mayor reported on the following:

1. In response to the car tab initiative, the PW/ED committee has reviewed the pavement management program for 2020 and there are three options for funding the program: (1) Continue with the full \$4.1 million; (2) Go with \$3.7 million (overlays); or (3) do the bare minimum with \$2.7 million. It was the consensus of the Council to go with the \$3.7 million and research other revenue choices.

b. Reports/New Business of Council Committees. None.

8. Announcements. None.

9. Adjournment. With no further business the meeting adjourned at 8:31 p.m.

Frank J. Kuntz, Mayor

Attest:

Tammy L. Stanger, City Clerk

PROCLAMATION

WENATCHEE SCHOOL CHOICE WEEK January 26 – February 1, 2020

WHEREAS, all children in Wenatchee should have access to the highest-quality education possible; and,

WHEREAS, Wenatchee recognizes the important role that an effective education plays in preparing all students in Wenatchee to be successful adults; and,

WHEREAS, quality education is critically important to the economic vitality of Wenatchee; and,

WHEREAS, Wenatchee is home to a multitude of high quality public and nonpublic schools from which parents can choose for their children, in addition to families who educate their children in the home; and

WHEREAS, educational variety not only helps to diversify our economy, but also enhances the vibrancy of our community; and,

WHEREAS, Wenatchee has many high-quality teaching professionals in all types of school settings who are committed to educating our children; and,

WHEREAS, School Choice Week is celebrated across the country by millions of students, parents, educators, schools and organizations to raise awareness of the need for effective educational options;

NOW, THEREFORE, I, Frank Kuntz do hereby recognize January 26 – February 1, 2020, as Wenatchee School Choice Week, and I call this observance to the attention of all of our citizens.

IN WITNESS WHEREOF, I have caused the seal of the City of Wenatchee to be affixed on this 9th day of January, 2020.



FRANK J. KUNTZ, Mayor

**COUNCIL AGENDA REPORT
COMMUNITY DEVELOPMENT DEPARTMENT**

TO: Frank Kuntz, Mayor
City Council

FROM: Sandra Van Osten, Housing Programs Coordinator
Glen DeVries, Community Development Director

SUBJECT: Homeless Grant Award: Power House Ministries Homeless Day Shelter

DATE: January 6, 2020

MEETING DATE: January 9, 2020

I. OVERVIEW

The City of Wenatchee is responsible for administering the Chelan-Douglas Strategic Homeless Housing Plan, pursuant to an interlocal agreement with Chelan County, Douglas County, and the City of East Wenatchee. This includes the distribution of local homeless funds collected by county auditors from recording surcharge fees and funds distributed by the Washington State Department of Commerce through the Consolidated Homeless Grant.

The homeless planning and fund distribution processes are guided by the Chelan-Douglas Local Homeless Housing Task Force (formerly known as the Chelan-Douglas Homeless Steering Committee). The Task Force solicited and evaluated proposals for the 2019-2021 grant term in June and August 2019 and made funding recommendations that were later approved by the Wenatchee City Council. One of the RFP solicitations was for the operation of a low-barrier emergency shelter. At the time, there were no viable applicants, and as a result, the funding of \$74,600 that was earmarked for low-barrier shelter services was set aside for future low-barrier projects.

In November 2019, Power House Ministries submitted a written proposal to the Homeless Task Force requesting funding for the operation of their low-barrier homeless day shelter in East Wenatchee for the 2020 winter season. The Homeless Task Force reviewed the proposal at the December 11th Task Force meeting. The Task Force is recommending awarding a grant to Power House Ministries for up to \$15,000 for a three-month term with the following stipulations:

- \$7,500 will be released for allowable grant expenses during the first half of the grant term.
- The remaining grant balance of \$7,500 will be released pending the submittal of a long-term sustainability plan by PowerHouse Ministries and subsequent approval of the plan by City staff.

II. ACTION REQUESTED

Staff recommends the City Council accept the Task Force recommendations and authorize the Mayor to enter into a grant agreement with Power House Ministries for low-barrier homeless day shelter services.

III. FISCAL IMPACT Submitted to the Finance Committee Yes No - X

The source of funds for the proposed grant award are available through local and state funding specifically restricted to homeless and low-income housing eligible activities. Additional funds have

**COUNCIL AGENDA REPORT
COMMUNITY DEVELOPMENT DEPARTMENT**

been set-aside for City administration and homeless program management activities. There are no additional fiscal impacts to the City.

IV. REFERENCE(S): N/A

V. ADMINISTRATIVE ROUTING

Tammy Stanger, City Clerk
Brad Posenjak, Finance Director

**COUNCIL AGENDA REPORT
COMMUNITY DEVELOPMENT DEPARTMENT**

TO: Mayor Frank Kuntz
City Council Members

FROM: Brooklyn Holton, Housing & Community Planner

SUBJECT: Isola Annexation - Ordinance 2020-02

DATE: January 6, 2020

MEETING DATE: January 9, 2020

I. OVERVIEW

On February 28, 2019, a ten percent (10%) Petition for Annexation was brought before the Wenatchee City Council for a property in an unincorporated area located on the northeast corner of the intersection at Terminal Avenue and Methow Street; parcel number 222015680140. The approving motion set the annexation boundary, adopted the existing land use designation as Residential High and required the annexation area to assume city indebtedness.

A sixty percent (60%) annexation petition was established and circulated following approval of the ten percent (10%) petition. This expanded the annexation a boundary area to include five unincorporated parcels located on the north side of Terminal Avenue between Methow Street to the west and extending towards Cross Street stopping at approximately midblock; parcel numbers:

- 222015680140
- 222015680130
- 222015680125
- 222015680120
- 222015680115

The petition has been signed by the majority property owners for the annexation area and certified by the Chelan County Assessor.

On July 11, 2019, Resolution 2019-31 was adopted setting a public hearing on July 25, 2019 to hear public comment regarding the proposed annexation. Notice to the community of the public hearing was provided through a published notice in the Wenatchee World and a public posting located in three separate locations in the annexation area.

On July 25, 2019 the Wenatchee City Council adopted Resolution 2019-34 providing notice of intent to annex to the Chelan County Boundary Review Board in accordance with RCW 36.93.100 and giving direction to bring the annexation back to the City Council for final action after receipt of action. The request for the Boundary Review Board to provide action by reviewing, approving, disapproving or modifying the proposed annexation within forty-five (45) days received no response and therefore no action has been documented.

II. FISCAL IMPACT

Submitted to the Finance Committee: No

III. PROPOSED PROJECT SCHEDULE

Upon approval, staff will notify local agencies and utility providers and forward the information to the state OFM for final verification

**COUNCIL AGENDA REPORT
COMMUNITY DEVELOPMENT DEPARTMENT**

IV. ATTACHMENT(S)

1. Ordinance 2020-02

V. MOTION

I move to approve Ordinance No. 2020-02

VI. ADMINISTRATIVE ROUTING

Tammy Stanger
Kim Schooley

ORDINANCE NO. 2020-02

AN ORDINANCE, providing for the annexation of an unincorporated area that includes five parcels located on the north side of Terminal Avenue between Methow Street to the west and extending towards Cross Street stopping at approximately midblock also known as the Isola Annexation.

WHEREAS, a petition to annex the real property hereinafter described was filed with the City Council of the City of Wenatchee, signed by owners representing 60% of the assessed valuation in the area for which annexation is petitioned, and

WHEREAS, in accordance with Chapter 1.09 of the Chelan County Code and RCW 36.96.090 the City Council of the City of Wenatchee held a public hearing on July 25, 2019 to adopt Resolution 2019-34 providing the Chelan County Boundary Review Board with notice of intent to annex; and

WHEREAS, the request to the Chelan County Boundary Review Board to provide action by reviewing and approving, disapproving or modifying the proposed annexation within forty-five (45) days in accordance with RCW 36.93.100 received no response and therefore no action from the Chelan County Boundary Review Board; and

WHEREAS, the applicable zoning for the annexed property will be Residential High as designated on the pre-annexation zoning map, and

WHEREAS, the City Council of the City of Wenatchee considered all factors relative to the proposed annexation, and

WHEREAS, a review proceeding for said annexation is not required pursuant to RCW 35A.14.220.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF
WENATCHEE DO ORDAIN** as follows:

SECTION I

That the following described real property located in Chelan County,
Washington, contiguous to the City of Wenatchee, to-wit:

See Exhibit "A" as depicted in Exhibit "B", attached hereto and
incorporated herein by reference as if fully set forth;

and each and every part thereof be and the same is hereby annexed to the City of Wenatchee, State
of Washington; and that the corporate limits of the City of Wenatchee be and they are hereby
extended so as to include the property and territory hereinbefore fully described. That said
property be assessed and taxed at the same rate and on the same basis as the property of the City
of Wenatchee is assessed and taxed to pay for the now outstanding indebtedness of the City of
Wenatchee contracted prior to or existing at the time of this annexation.

SECTION II

That the property described in Section I hereof be and the same is hereby
classified and zoned as Residential Moderate. All such zoning and classification being subject to
the provisions of Ordinance No. 2007-34, and all subsequent amendments thereto.

SECTION III

This Ordinance shall take effect from and after its passage on the later of
sixty (60) days after publication of such Ordinance once in The Wenatchee World, the same being
the official newspaper of the City of Wenatchee, and the Clerk is hereby directed to cause the same
to be so publicized, or sixty (60) days from the date notice of the annexation is provided to the
Chelan County Treasurer, Assessor, and light, power and gas distribution businesses.

**PASSED BY THE CITY COUNCIL OF THE CITY OF
WENATCHEE**, at a regular meeting thereof, this 9th day of January, 2020.

CITY OF WENATCHEE, a Municipal
Corporation

By: _____
FRANK KUNTZ, Mayor

ATTEST:

By: _____
TAMMY STANGER, City Clerk

APPROVED:

By: _____
STEVE D. SMITH, City Attorney

EXHIBIT A

Boundary Description of the ISOLA ANNEXATION

June 20, 2019

Parcels of land located within the northeast quarter of the southeast quarter of Section 15, Township 22 North, Range 20 East of the Willamette Meridian, Chelan County, Washington, said parcels being more particularly described as follows:

The West half of Lot 5, Block 3, Loudenback's Broadview Tracts, according to the plat thereof recorded December 14, 1933, in Volume 4 of Plats, at page 74, records of said County;

TOGETHER WITH Lot 6, Block 3, said Loudenback's Broadview Tracts;

AND TOGETHER WITH Lot 7, Block 3, said Loudenback's Broadview Tracts;

AND TOGETHER WITH the South 50 feet of Lot 8, Block 3, said Loudenback's Broadview Tracts;

EXCEPT any portion thereof previously annexed by the City of Wenatchee.

Prepared By: Erik B. Gahringer, PLS
48° North
Professional Land Surveying & Land Use Consultants
P.O. Box 4266
Wenatchee, WA 98807-4266
Phone: (509) 436-1640

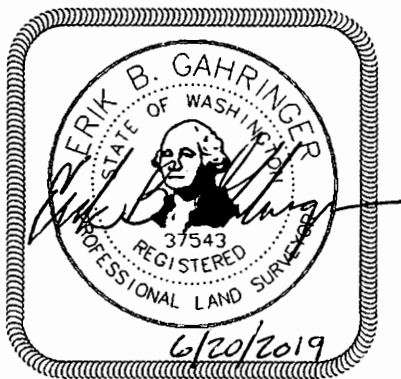
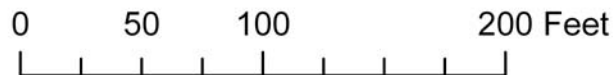
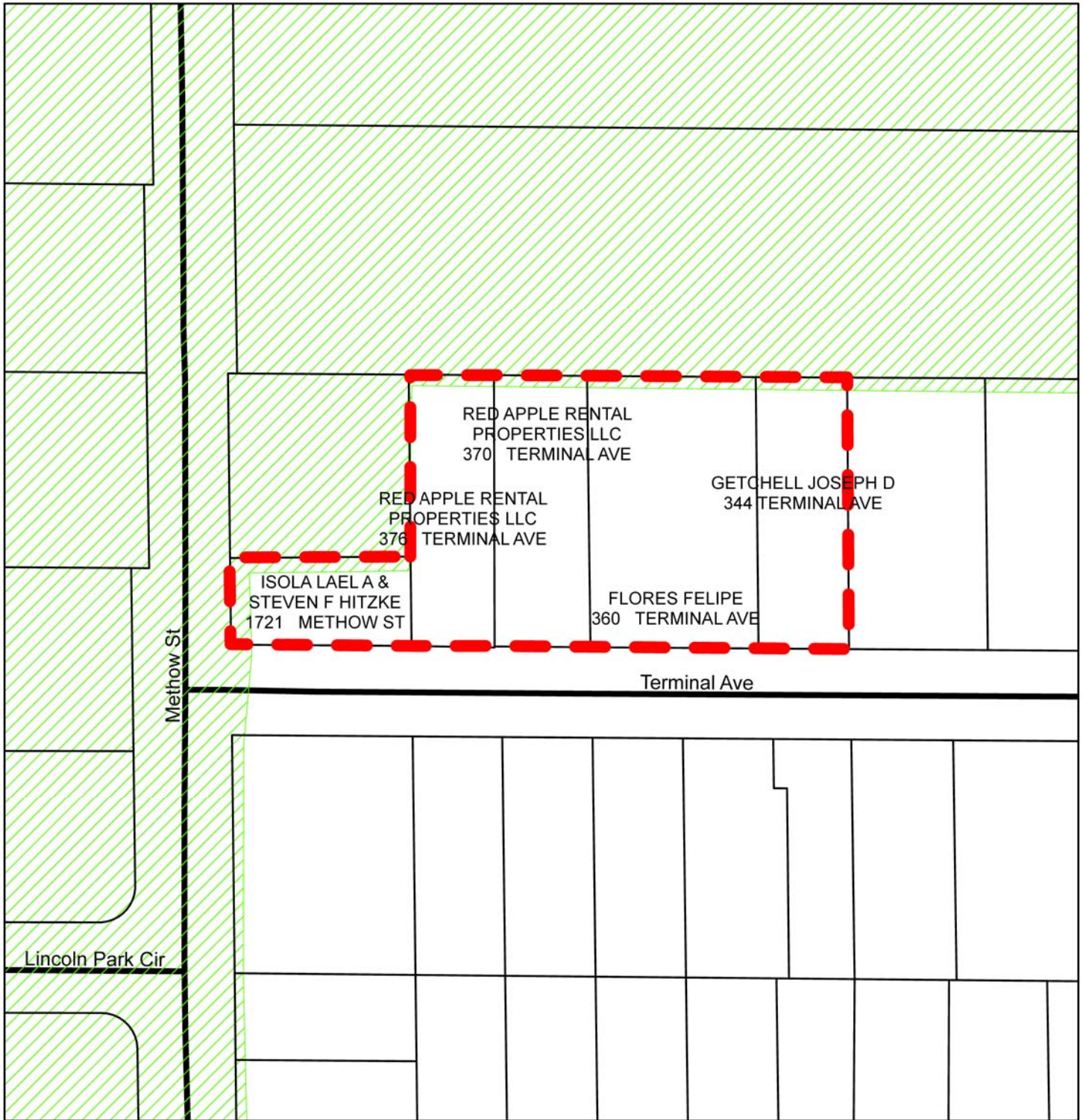







Exhibit B

Map of Proposed Isola Annexation Area



Legend

-  Isola Annexation Proposed Boundary for 60% Petition
-  City Limits
-  Streets
-  Parcels
-  Urban Growth Area



**COUNCIL AGENDA REPORT
COMMUNITY DEVELOPMENT DEPARTMENT**

TO: Mayor Frank Kuntz
City Council Members

FROM: Brooklyn Holton, Housing & Community Planner

SUBJECT: Tramp Annexation - Ordinance 2020-03

DATE: January 6, 2020

MEETING DATE: January 9, 2020

I. OVERVIEW

On May 23, 2019 a ten percent (10%) Petition for Annexation was brought before the Wenatchee City Council for a property located to the west of Skyline Drive in Millerdale Block A without street frontage and bordered to the south and west by urban growth area boundary, to the north by current city limits and to the east by undeveloped land that front Skyline Drive; parcel number 222009705830. The approving motion set the annexation boundary, adopted the existing land use designation as Residential Single Family and required the annexation area to assume existing city indebtedness.

A 60 percent (60%) annexation petition was established and circulated following approval of the 10 percent (10%) petition. The petition has been signed by the majority property owners for the annexation area and certified by the Chelan County Assessor.

On July 11, 2019, Resolution 2019-30 was adopted setting a public hearing on July 25, 2019 that was then continued until October 10, 2019 to hear public comment regarding the proposed annexation. Notice to the community of the public hearing was provided through a published notice in the Wenatchee World and a public posting located in three separate location in the annexation area; the continuation was done so during the scheduled hearing on July 25, 2019.

On October 10, 2019, the Wenatchee City Council adopted Resolution 2019-35 providing notice of intent to annex to the Chelan County Boundary Review Board in accordance with RCW 36.93.100 and giving direction to bring the annexation back to the City Council for final action after receipt of action. The request for the Boundary Review Board to provide action by reviewing, approving, disapproving or modifying the proposed annexation within forty-five (45) days received no response and therefore no action has been documented.

II. FISCAL IMPACT

Submitted to the Finance Committee: No.

III. PROPOSED PROJECT SCHEDULE

Upon approval, staff will notify local agencies and utility providers and forward the information to the State OFM for final verification.

IV. ATTACHMENT(S)

1. Ordinance 2020-03

V. MOTION

I move to approve Ordinance No. 2020-03

VI. ADMINISTRATIVE ROUTING

Tammy Stanger
Kim Schooley

ORDINANCE NO. 2020-03

AN ORDINANCE, providing for the annexation of an unincorporated area located to the west of Skyline Drive in Millerdale Block A without street frontage and bordered to the south and west by urban growth area boundary also known as the Tramp Annexation.

WHEREAS, a petition to annex the real property hereinafter described was filed with the City Council of the City of Wenatchee, signed by owners representing 60% of the assessed valuation in the area for which annexation is petitioned, and

WHEREAS, in accordance with Chapter 1.09 of the Chelan County Code and RCW 36.96.090 the City Council of the City of Wenatchee held a public hearing on October 10, 2019 to adopt Resolution 2019-35 providing the Chelan County Boundary Review Board with notice of intent to annex; and

WHEREAS, the request to the Chelan County Boundary Review Board to provide action by reviewing and approving, disapproving or modifying the proposed annexation within forty-five (45) days in accordance with RCW 36.93.100 received no response and therefore no action from the Chelan County Boundary Review Board; and

WHEREAS, the applicable zoning for the annexed property will be Residential High as designated on the pre-annexation zoning map, and

WHEREAS, the City Council of the City of Wenatchee considered all factors relative to the proposed annexation, and

WHEREAS, a review proceeding for said annexation is not required pursuant to RCW 35A.14.220.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WENATCHEE DO ORDAIN as follows:

SECTION I

That the following described real property located in Chelan County, Washington, contiguous to the City of Wenatchee, to-wit:

See Exhibit "A" as depicted in Exhibit "B", attached hereto and incorporated herein by reference as if fully set forth;

and each and every part thereof be and the same is hereby annexed to the City of Wenatchee, State of Washington; and that the corporate limits of the City of Wenatchee be and they are hereby extended so as to include the property and territory hereinbefore fully described. That said property be assessed and taxed at the same rate and on the same basis as the property of the City of Wenatchee is assessed and taxed to pay for the now outstanding indebtedness of the City of Wenatchee contracted prior to or existing at the time of this annexation.

SECTION II

That the property described in Section I hereof be and the same is hereby classified and zoned as Residential Moderate. All such zoning and classification being subject to the provisions of Ordinance No. 2007-34, and all subsequent amendments thereto.

SECTION III

This Ordinance shall take effect from and after its passage on the later of sixty (60) days after publication of such Ordinance once in The Wenatchee World, the same being the official newspaper of the City of Wenatchee, and the Clerk is hereby directed to cause the same to be so publicized, or sixty (60) days from the date notice of the annexation is provided to the Chelan County Treasurer, Assessor, and light, power and gas distribution businesses.

**PASSED BY THE CITY COUNCIL OF THE CITY OF
WENATCHEE**, at a regular meeting thereof, this 9th day of January, 2020.

CITY OF WENATCHEE, a Municipal
Corporation

By: _____
FRANK KUNTZ, Mayor

ATTEST:

By: _____
TAMMY STANGER, City Clerk

APPROVED:

By: _____
STEVE D. SMITH, City Attorney

EXHIBIT A

City of Wenatchee, Washington

TRAMP ANNEXATION BOUNDARY DESCRIPTION

June 5, 2019

A parcel of land being that portion of the southwest one-quarter of the southwest one-quarter of Section 9, in Township 22 North, Range 20 East of the Willamette Meridian, Situate the County of Chelan, State of Washington, set forth and described within that certain Judgement recorded January 20th, 2017 under Auditor's File Number 2451629, records of said county, said parcel lying West of said county's road known as Highline Drive, being more particularly described as follows:

Commencing at the southwest corner of said Section 9, being a found 3" brass cap monument in concrete;

Thence North 0°01'24" West along the West line of said Section 9 a distance of 691.91 Feet to a rebar and cap marked LS 13104 as recorded in Book 19 of Surveys, at Page 90, records of said County, said rebar and cap being THE TRUE POINT OF BEGINNING;

Thence continuing along said West line North 0°01'24" West 83.54 Feet more or less to a found rebar and cap marked "Weinert LS 16231", also being the Southwest corner of Lot 4 as depicted in Book 115 of Short Plats, at Page 89;

Thence South 88°06'19" East 98.19 Feet along the South line of said Lot 4 to a rebar and cap;

Thence South 88°06'19" East 216.36 Feet to a rebar and cap;

Thence South 88°06'19" East 209.05 Feet to a rebar and cap;

Thence South 88°06'19" East 181.21 Feet to a rebar and cap;

Thence South 88°06'43" East 325.50 Feet more or less, along the South line of Lot 1 as defined by said Short Plat, to a point on the Westerly Right-of-Way of Skyline Drive, also being 45 Feet from centerline when measured at a right angle;

Thence South 23°17'41" East 73.04 Feet along said West Right-of-Way to a rebar and cap marked "Munson LS 13104" as depicted in said Survey;

Thence North 89°03'53" West 1057.86 Feet more or less to the TRUE POINT OF BEGINNING and end of this description.

The basis of bearing is the West line of the Southwest one-quarter of said Section 9 as recorded in said Survey.

Area contained within afore described parcel being 1.80 Acres more or less.

Except that portion lying East of a line more particularly described as follows;

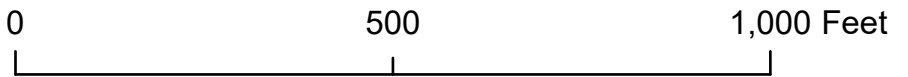
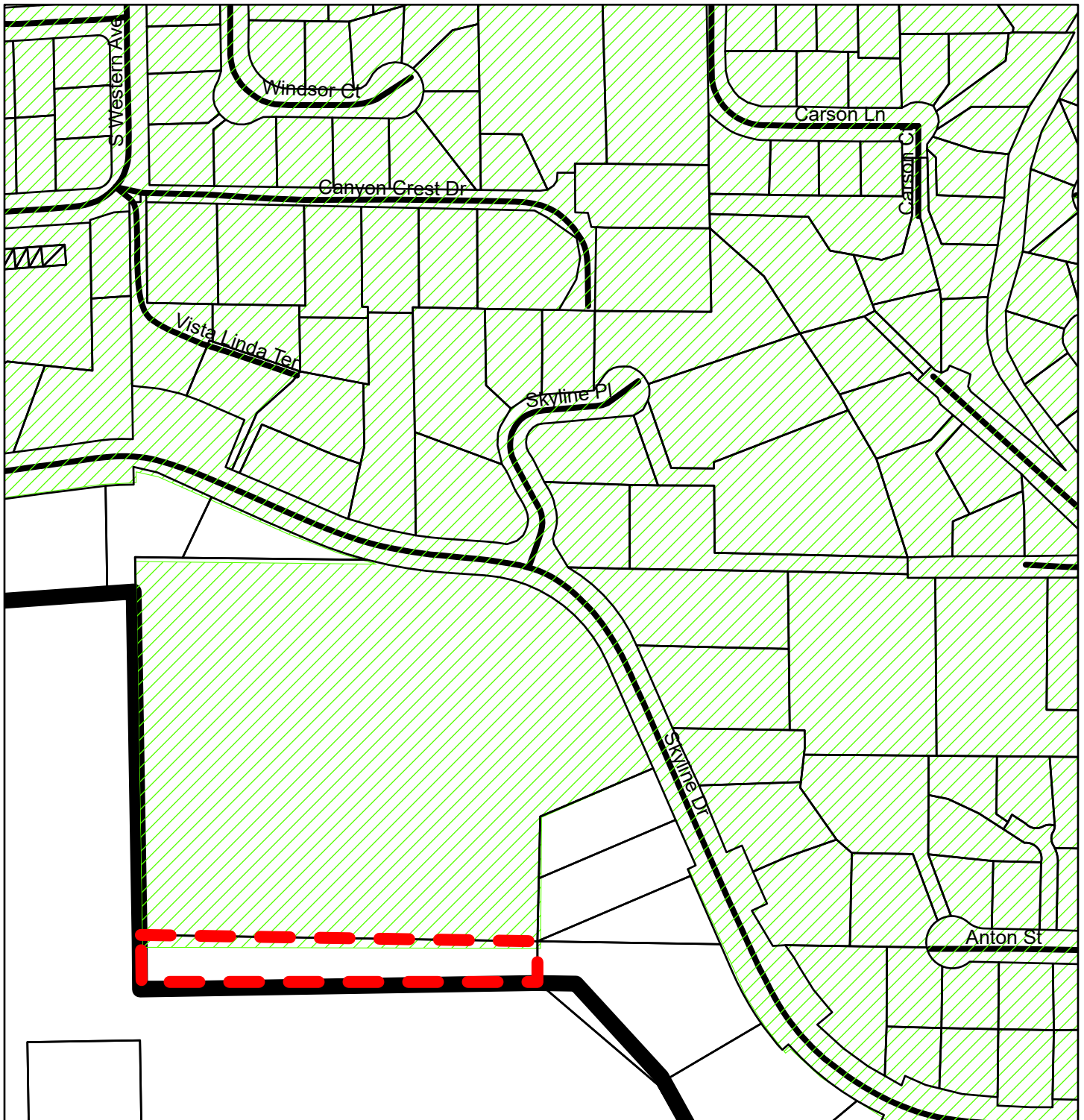
Commencing at the southwest corner of said Section 9, being a found 3" brass cap monument in concrete;

Thence North $0^{\circ}01'24''$ West along the West line of said Section 9 a distance of 691.91 Feet to a rebar and cap marked "MEI LS 13104" as recorded in Book 19 of Surveys, at Page 90, records of said County;

Thence South $89^{\circ}03'53''$ East 703.38 Feet along the North line of Parcel A as described in Boundary Line Adjustment 2018-020, Auditors File Number 247269, records said County, to the TRUE POINT OF BEGINNING of said line description;

Thence North $00^{\circ}53'58''$ East 72.21 Feet more or less to a rebar and cap, being the westerly corner common to Lots 1 and 2 as described in Orndorf Short Plat Book 725 of Short Plats, at Page 600, Auditors File Number 747094, records of said County, also being the TERMINUS of said line description.

Exhibit B Map of Proposed Tramp Annexation Area



Legend

- Parcels
- City Limits
- Streets
- Urban Growth Area
- Annexation Area





MEMO

Parks, Recreation and Cultural Services Department

To: Mayor Kuntz and City Council
From: Dave Erickson, Parks, Recreation and Cultural Services Director
Re: Consultant Agreement
Date: January 1, 2020

ACTION REQUESTED:

Motion to authorize the Mayor to negotiate and sign an agreement with Pacific Engineering for engineering and construction management for the Hale Park Phase Two Project.

GENERAL BACKGROUND:

From December 4 through December 18, 2019 a Request for Qualifications (RFQ) solicitation was completed to select a consultant to prepare final engineering, project bidding and construction management for the final phase of the Hale Park Project. This phase of the project is funded through State and Federal grants received in 2017 and City Sewer Funds.

The main project elements of this phase include: addition of a picnic shelter, children's play equipment, restroom, landscaping trail extension, security lighting and additional cameras.

Three submittals were received by the deadline. An evaluation committee reviewed and ranked the submittals based on the qualifications. From this process, Pacific Engineering was selected to complete the project.

Staff is requesting that the Mayor be authorized to negotiate and sign the consultant agreement so that the project may commence.

With approval, we are hoping that the project engineering may be completed in the next two months and the project put out to bid for construction this Summer and wrapped up by Halloween.

**COUNCIL AGENDA REPORT
PUBLIC WORKS DEPARTMENT**

TO: Frank Kuntz, Mayor
City Council

FROM: Jeremy Hoover, P.E., Senior Engineer - Utilities

SUBJECT: Cleveland Avenue Sanitary Sewer Repair - Project No. SW19-10
Authorization to Award Construction Contract to KRCI, LLC

DATE: January 3, 2020

MEETING DATE: January 9, 2020

I. OVERVIEW

Located within the downtown Historic District, The Christopher House is an adult care facility that provides a residential style environment for those with developmental disabilities and/or mental illness. At the end of 2019, the facility experienced a sanitary sewer backup into its lower level. Upon investigation with a CCTV equipped sewer line camera, City crews were able to determine that the 1910-era VCP sanitary sewer had experienced severe cracking resulting in a blockage that caused the backup. In response, crews jetted and cleaned the sewer main line in Cleveland. Replacement of the pipe was fast-tracked and plans were made to advertise the replacement of the pipeline for bid as a CIP for construction in early 2020.



In late December, the sewer once more backed up into Christopher House. After cleaning and hydro-vacuuming the pipe again, additional video inspection showed further deterioration of the pipe to the point of structural collapse in multiple locations such that its replacement was deemed to be an emergency that could not be delayed further. As such, and in accordance with RCW 39.04.280, the City proceeded to waive the standard competitive bidding advertisement period and directly solicit quotes from the four public utility contractors that had performed sewer related work for the City over the last calendar year.

In order to minimize the costs associated with the emergency repair work, the planned project was reduced in scope to entail only the replacement of approximately 80 linear feet of pipe, side sewer service, and patching of the concrete pavement while still addressing the problem of the localized sewer failure. After a brief onsite consultation on New Year's Eve, three of the contractors solicited – KRCI, J&K Earthworks, and Pipkin Construction provided quotes for the work on January 2. The cost estimates ranged from \$77,343.40 to \$92,042.44 with KRCI, LLC being the low bidder. KRCI was given the notice to proceed on January 3 with construction to begin on Monday, January 6.

II. ACTION REQUESTED

Staff recommends the City Council approve the award of the contract for emergency repair of the Cleveland Avenue Sanitary Sewer, Project SW19-10 to KRCI in the amount of \$77,343.40 and further authorize the Mayor to sign the construction contract.

**COUNCIL AGENDA REPORT
PUBLIC WORKS DEPARTMENT**

III. FISCAL IMPACT

Although not specifically included in the 2019 or 2020 Budgets, the project will be funded through the Emergency Sewer Repair Program (via CPN 1909) from Fund 405 - Sewer.

Emergency Repair Project Budget

| Description | Amount |
|---------------------------|---------------|
| Design | 2,000 |
| In House Management | 2,000 |
| Construction & Surveying | 80,000 |
| Construction Engineering | 2,000 |
| Art Fund | 800 |
| Total Project Cost | 86,800 |

IV. PROPOSED PROJECT SCHEDULE

Notice to Proceed was given on January 3 with construction beginning on Monday January 6. The work is anticipated to take approximately 10 working days and be complete by mid-January. A second phase is anticipated to replace the remainder of the old clay pipe in Cleveland that has deteriorated and fractured, albeit not to the same extent as the current collapse. That work is expected to occur in late spring to early summer of 2020.

V. REFERENCE(S)

Bid Tabulation

VI. ADMINISTRATIVE ROUTING

Tammy Stanger, City Clerk
Rob Jammerman, Public Works Director
John Ricardi, Utilities Manager
Gary Owen, City Engineer
Natalie Thresher, Contracts Coordinator
Brad Posenjak, Finance Director



**City of Wenatchee
Bid Tabulation
Cleveland Sewer Repair SW19-10**

| Item No. | Item | Bid Qty. | Unit | KRCI Unit Cost | KRCI Bid Total | J&K Unit Cost | J&K Bid Total | PIPKIN Unit Cost | PIPKIN Bid Total |
|----------|---|----------|------|-------------------|--------------------|------------------|--------------------|---------------------|---------------------|
| 1 | Mobilization | 1 | LS | \$6,000.00 | \$6,000.00 | \$13,000.00 | \$13,000.00 | \$8,800.00 | \$8,800.00 |
| 2 | Traffic Control | 1 | LS | \$6,000.00 | \$6,000.00 | \$3,000.00 | \$3,000.00 | \$2,500.00 | \$2,500.00 |
| 3 | Construction Surveying | 1 | LS | \$1,000.00 | \$1,000.00 | \$1,500.00 | \$1,500.00 | \$2,200.00 | \$2,200.00 |
| 4 | Shoring or Extra Excavation Class B | 1 | LS | \$100.00 | \$100.00 | \$3,500.00 | \$3,500.00 | \$100.00 | \$100.00 |
| 5 | Temporary Bypass Pumping | 1 | LS | \$2,000.00 | \$2,000.00 | \$5,500.00 | \$5,500.00 | \$3,000.00 | \$3,000.00 |
| 6 | Removing & Replace 6" Concrete Sidewalk | 4 | SY | \$300.00 | \$1,200.00 | \$400.00 | \$1,600.00 | \$350.00 | \$1,400.00 |
| 7 | Removing & Replace Concrete Curb & Gutter | 6 | LF | \$50.00 | \$300.00 | \$100.00 | \$600.00 | \$230.00 | \$1,380.00 |
| 8 | Roadway Excavation incl. Haul | 355 | CY | \$7.00 | \$2,485.00 | \$25.00 | \$8,875.00 | \$30.00 | \$10,650.00 |
| 9 | Sawcut Ex. Concrete Roadway- 6 to 8 in. Depth | 225 | LF | \$7.00 | \$1,575.00 | \$6.75 | \$1,518.75 | \$6.00 | \$1,350.00 |
| 10 | Gravel Borrow Incl. Haul | 690 | TON | \$18.00 | \$12,420.00 | \$12.00 | \$8,280.00 | \$22.00 | \$15,180.00 |
| 11 | 8 in. SDR 26 Sanitary Sewer Pipe | 80 | LF | \$250.00 | \$20,000.00 | \$215.00 | \$17,200.00 | \$225.00 | \$18,000.00 |
| 12 | 6 in. Side Sewer Service Line | 1 | EA | \$6,000.00 | \$6,000.00 | \$4,650.00 | \$4,650.00 | \$6,500.00 | \$6,500.00 |
| 13 | 6 in. Single Cleanout | 1 | EA | \$800.00 | \$800.00 | \$1,250.00 | \$1,250.00 | \$1,400.00 | \$1,400.00 |
| 14 | Heavy Duty Cleanout Frame & Cover | 1 | EA | \$800.00 | \$800.00 | \$350.00 | \$350.00 | \$125.00 | \$125.00 |
| 15 | Crushed Surface Base Course | 65 | TON | \$60.00 | \$3,900.00 | \$35.00 | \$2,275.00 | \$50.00 | \$3,250.00 |
| 16 | Concrete pavement patch - 4 in. | 105 | SY | \$64.00 | \$6,720.00 | \$51.00 | \$5,355.00 | \$85.00 | \$8,925.00 |
| 17 | Inlet Protection | 1 | EA | \$50.00 | \$50.00 | \$100.00 | \$100.00 | \$150.00 | \$150.00 |
| | | | | | \$71,350.00 | | \$78,553.75 | | \$84,910.00 |
| | | | | | \$5,993.40 | | \$6,598.52 | | \$7,132.44 |
| | | | | | \$77,343.40 | | \$85,152.27 | | \$92,042.44 |

COUNCIL AGENDA REPORT
City of Wenatchee



TO: Frank Kuntz, Mayor
City Council

FROM: Matt Shales, Development Project Manager

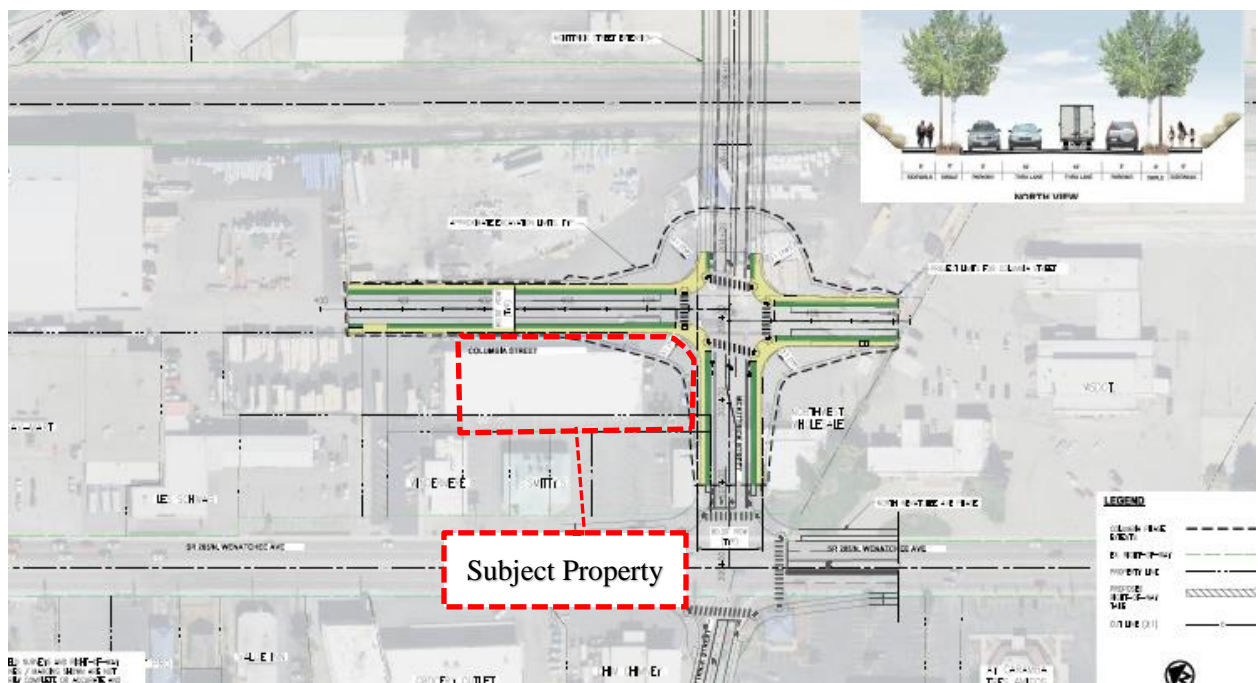
SUBJECT: Surplus Property Sale – Steve and Carol Freeman

DATE: December 6th, 2020

MEETING DATE: December 9th, 2020

I. OVERVIEW

As part of the North Wenatchee Redevelopment Plan, the city purchased property from NW Wholesale to facilitate the building of North Columbia Avenue and the McKittrick Street extension necessary to realize the redevelopment plan. The City surplused excess property on November 15, 2018 allowing staff to negotiate the sale of remnant parcels. City staff obtained appraisals and negotiated a sale with Steve and Carol Freeman associated with a portion of the surplus property - parcel C-1 consisting of 33,719 square feet.



The proposed purchase price of \$741,132 is determined based upon a price of \$24 per square foot for 28,042 square feet plus \$12 per square foot for 5,677 square feet of land encumbered by utility easements. Final price determined by actual area certified by surveyor used for this transaction. The purchase price is to be paid in cash at closing. The purchaser has submitted its earnest money check of \$5,000 along with its signed purchase and sale agreement.

The purchase and sale agreement requires the City to complete North Columbia Avenue by December 2021.

COUNCIL AGENDA REPORT
City of Wenatchee



II. ACTION REQUESTED

Staff recommends the City Council Authorize the Mayor to sign a purchase and sale agreement with Steve and Carol Freeman and further negotiate any final details of the agreement.

III. FISCAL IMPACT Submitted to the Finance Committee Yes No

The Finance Committee has reviewed this action. The fiscal impact is consistent with the project re-development proforma.

IV. PROPOSED PROJECT SCHEDULE

The latest closing date is scheduled for February 28th 2020 or when the plat alteration is complete.

V. REFERENCE(S):

- a. The Purchase and Sale Agreement is attached.

VI. ADMINISTRATIVE ROUTING

Tammy Stanger, City Clerk
Steve King, Economic Development Director
Brad Posenjak, Finance Director

REAL ESTATE PURCHASE AND SALE AGREEMENT

Wenatchee, Washington

_____, 2019 (the "Effective Date")

1. Seller. Seller is City of Wenatchee, a municipal corporation of the state of Washington.
2. Purchaser. Purchaser is Stephen J. Freeman and Carol A. Freeman, husband and wife, and/or assigns.
3. Agreement/Property. Seller agrees to sell and Purchaser agrees to purchase the following described property located in the County of Chelan:

See Exhibit "A" attached hereto and incorporated herein by this reference.

4. Purchase Price. The total purchase price is Seven Hundred Forty-one Thousand One Hundred Thirty-two Dollars (\$741,132.00), subject to adjustment as set forth in the following paragraph.

The purchase price is determined based upon a price of \$24 per square foot of land that may be used by Purchaser and not for public roadways or exclusively by third parties understood to be 28,042 square feet plus \$12 per square foot for 5,677 square feet of land encumbered by utility easements. The final price shall be determined by multiplying the price per square foot by the actual area of the property as certified by the surveyor used for this transaction.

5. Payment of Purchase Price. The purchase price shall be paid as follows:

At closing, Purchaser shall pay Seller in cash the entire purchase price, of which the earnest money herein required shall be a part.

6. Earnest Money. Purchaser shall deposit Five Thousand Dollars (\$5,000), in the form of a check paid or delivered to Closing Agent, within two (2) business days after the Effective Date, as earnest money; such earnest money shall be applied to the purchase price for the afore-described property at closing unless otherwise released to Seller or refunded to Purchaser pursuant to the terms hereof.

7. Condition of Title. Purchaser shall have a period of fourteen (14) days after the preliminary commitment for title insurance is received by or made available to Purchaser to review the condition of title to the property. If, within such 14-day period, Purchaser objects to matters disclosed by the preliminary commitment for title insurance and Seller does not agree, within such 14-day period, to remove such items prior to closing, Purchaser may terminate this Agreement and receive a refund of the deposit made pursuant to Section 6. Encumbrances to be discharged by Seller shall be paid by Seller on or before closing. The title policy provided by Closing Agent pursuant to

REAL ESTATE PURCHASE AND SALE AGREEMENT

Section 8 below and the deed to be provided at closing pursuant to Section 9 below shall not be subject to matters objected to by Purchaser and agreed to be removed by Seller.

8. Title Insurance. Seller shall cause Closing Agent (defined below), at Seller's expense, to issue a standard form owner's policy of title insurance at closing. The title policy shall contain no exceptions other than those contained in said standard form and those not inconsistent with this Agreement. If title is not so insurable and cannot be made so insurable prior to closing, Purchaser may elect either to waive such encumbrances or defects, or to terminate this Agreement and receive a refund of the earnest money.

9. Conveyance. Seller shall convey title to the property to Purchaser by Statutory Warranty Deed free of encumbrances and defects except those included in this Agreement or otherwise acceptable to Purchaser.

10. Closing Agent. This sale shall be closed at the office of Central Washington Title Services, Inc. ("Closing Agent").

11. Time for Closing - Responsibilities of Parties. This sale shall be closed on or before the later to occur of: (i) thirty (30) days following satisfaction of the feasibility contingency, or (ii) twenty (20) days after Seller has notified Purchaser that the Plat Alteration contemplated by Section 34 below is complete other than recordation thereof, but in any event not later than February 28, 2020. Purchaser and Seller shall deposit with the closing agent all instruments, documents, and monies necessary to complete the sale in accordance with this Agreement.

12. Definition of Closing. "Closing" means the date on which all documents are recorded and the sale proceeds are available for disbursement to Seller.

13. Proration. Taxes for the current year, water and other utility charges constituting liens shall be prorated as of the date of closing.

14. Closing Costs.

a. Seller. Seller shall pay the following escrow and closing costs: One-half escrow closing fee, title insurance premium, recording fee for Boundary Line Adjustment application and fee for preparation of Deed and Tax Affidavit. This transaction is exempt from real estate excise tax per WAC 458-61A-205.

b. Purchaser. Purchaser shall pay the following escrow and closing costs: One-half escrow closing fee, and recording fee for Deed.

15. Possession. Seller shall deliver possession to Purchaser on closing.

16. Condition of Property. Purchaser acknowledges that it has inspected the property. Purchaser accepts the property "AS IS" in its current condition and acknowledges that it is not

relying upon any representation or warranty concerning the condition, area or boundaries of the property made by Seller or Seller's agents, employees or representatives.

Seller represents and warrants that it will tear down and remove of the warehouse building currently located on the subject property.

17. Default and Refund. If a dispute should arise regarding the disbursement of any earnest money, the party holding the earnest money may interplead the funds into court. Furthermore, if either Purchaser or Seller defaults, the non-defaulting party may seek specific performance, damages, or rescission, except that Seller's remedy shall be limited as follows:

In the event Purchaser fails, without legal excuse, to complete the purchase of the property, the earnest money deposit made by Purchaser shall be forfeited to Seller as the sole and exclusive remedy available to Seller for such failure.

18. Merger. There are no other verbal or other agreements which modify or affect this Agreement.

19. Modification/Waivers. All subsequent modifications or waivers of any condition of this Agreement shall be in writing and signed by the appropriate parties.

20. Time. Time is of the essence of this Agreement.

21. Notices. Notice hereunder shall be in writing and may be mailed or delivered. If mailed, such notices shall be sent postage prepaid, certified or registered mail, return receipt requested, and the date marked on the return receipt by the United States Postal Service shall be deemed to be the date on which the party received the notice. Notices shall be mailed or delivered as follows:

TO PURCHASER: Stephen J. Freeman and Carol A. Freeman
1250 North Wenatchee Avenue
Suite H, No 410
Wenatchee, WA 98801

WITH COPY TO PURCHASER'S ATTORNEY: Robert L. White
Davis, Arneil Law Firm, LLP
617 Washington Street
Wenatchee, WA 98801

TO SELLER: City of Wenatchee
Attn: Frank Kuntz, Mayor
P.O. Box 519
Wenatchee, WA 98807-0519

WITH COPY TO SELLER'S: Steve D. Smith
Davis, Arneil Law Firm, LLP

ATTORNEY: 617 Washington Street
Wenatchee, WA 98801

22. Waiver. No act or omission of either party hereto shall at any time be construed to deprive such party of a right or remedy hereunder or be construed so as to at any future time estop such party from exercising its rights or remedies.

23. Governing Law and Venue. This Agreement shall be governed by and interpreted in accordance with Washington law. Any litigation arising out of or in connection with this Agreement shall be conducted in Chelan County, Washington.

24. Successors. This Agreement shall be binding upon and shall inure to the benefit of the respective successors, heirs and assigns of each of the parties.

25. FIRPTA Compliance. If Purchaser does not intend to use the property as a principal residence, or if the purchase price exceeds Three Hundred Thousand Dollars (\$300,000.00), then this sale may be subject to the withholding and reporting requirements of the Foreign Investment In Real Property Tax Act (FIRPTA), unless Seller furnishes to Purchaser an Affidavit of Non-foreign Status. Seller and Purchaser agree to comply with FIRPTA, if applicable.

26. Time for Acceptance. Seller shall have until 9:00 p.m. on January 31, 2020 to accept this offer, unless sooner withdrawn. Acceptance by Seller shall not be effective until a signed copy hereof is actually received by Purchaser. If this offer is not so accepted, it shall lapse and the earnest money shall be refunded to Purchaser.

27. Attorney's Fees. If any suit or proceeding is instituted by Seller or Purchaser, including, but not limited to, filing of suit or requesting an arbitration, mediation or alternative dispute resolution process (collectively "proceedings"), and appeals and collateral actions relative to such suit or proceedings, the parties shall bear their own attorney's fees and costs at closing.

28. Representation. Steve D. Smith of Davis, Arneil Law Firm, LLP, represents Seller. Robert L. White of Davis, Arneil Law Firm, LLP, represents Purchaser. Each party has acknowledged and waived the conflict of interest in writing.

29. Counterparts/Facsimile. This Agreement may be executed separately or independently in any number of counterparts and may be delivered by manually signed counterpart, facsimile, or electronically. Each and all of these counterparts shall be deemed to have been executed simultaneously and for all purposes to be one document, binding as such on the parties.

The facsimile or electronic transmission of any signed original document, and retransmission of any signed facsimile or electronic transmission, shall be the same as delivery of an original. At the request of either party, the parties will confirm facsimile or electronically transmitted signatures by

signing an original document.

30. Survival. All terms of this Agreement, which are not satisfied or waived prior to closing, shall survive closing. These terms shall include, but not be limited to, representations and warranties, attorney's fees and costs, disclaimers, etc.

31. Plat Alteration. Each Party's obligations under this Agreement are contingent upon a plat alteration abandoning the private road depicted on the Plat of Northwest Addition to the City of Wenatchee recorded in Volume 5 of Plats, page 17, and as depicted on the attached Exhibit "B," and making it into a public utility corridor. Purchaser agrees to cooperate (at no cost to Purchaser) with and sign all documents reasonably necessary to complete the plat alteration.

32. Private Road. As shown on Exhibit "B," Purchaser's property is bordered by a private road (the "Private Road") Purchaser shall transfer and convey all ownership interests in the Private Road by Quit Claim Deed executed and recorded at closing. The intent of the deed is to convey all interest in the private road to the Seller who will then extinguish the private road in the plat alteration described in Section 31 above and make it into a public utility corridor.

33. Columbia Street. Seller will construct Columbia Street (substantially as shown on Exhibit "B") as a full street, including one or more conduits as prescribed by the applicable utility, to be used at a subsequent time for the undergrounding of power and communications utilities. Seller is scheduled to construct Columbia Street prior to Dec. 1, 2021. Sidewalk construction shall be Purchaser's responsibility at a future date due upon the issuance of a building permit on the Property according to Wenatchee City Code. Relocation of utilities within the existing private road and easements shall be Purchaser's option and responsibility.

34. Post-Closing Agreement. The parties agree to enter into the Post-Closing Agreement attached hereto as Exhibit "C" at closing. It is a condition of Purchaser's obligation to purchase the Property that the Post-Closing Agreement be signed and delivered at Closing.

35. Investigation and Feasibility Study Contingency. Purchaser shall have the right to enter the property and to conduct an investigation and a feasibility study of the suitability of the property for Purchaser's intended use including, but not limited to, market feasibility, engineering and soils studies, investigation of zoning, subdivision, and other land use and environmental restrictions, and availability, adequacy, and cost of utilities.

This Agreement is conditioned upon the suitability of the property for Purchaser's intended use, in Purchaser's sole judgment and discretion. This contingency shall conclusively be deemed satisfied unless within 60 days after the Effective Date (the "Contingency Period") Purchaser gives notice of disapproval, in which event this Agreement shall terminate, Purchaser shall restore the property to its original condition (if changed in the course of the above investigation), Purchaser shall deliver to Seller copies of all results and products of the investigation and feasibility study, and the earnest money shall be refunded to Purchaser.

36. Brokers and Finders. Neither party has had any contact or dealings regarding the property, or any communication in connection with the subject matter of this transaction, through any licensed real estate broker or other person who can claim a right to a commission or finder's fee as a procuring cost of the purchase and sale contemplated by this agreement. If any broker or finder perfects a claim for a commission or finder's fee based upon any contract, dealings, or communication, the party through whom the broker or finder makes his or her claim will be responsible for that commission or fee and shall indemnify, defend, and hold harmless the other party from and against any liability, cost or damages (including attorney's fees and costs, arising out of that claim).

37. Property Disclosure Form. Purchaser hereby waives receipt of the Seller Disclosure Statement provided for in RCW 64.06.013. Seller hereby represents that no answer to any of the questions in the section entitled "Environmental" would be "yes."

This Agreement is effective as of the Effective Date.

PURCHASER:


STEPHEN J. FREEMAN


CAROL A. FREEMAN

SELLER:
CITY OF WENATCHEE

By _____
FRANK J. KUNTZ, Mayor

Exhibit A – Legal Description

Parcel C-1:

A parcel of land being a portion of Lot I and Private Road, Northwest Addition to Wenatchee, Chelan County, Washington, according to the plat thereof recorded in Volume 5 of Plats, page 17, being also a portion of Parcel B, City of Wenatchee Boundary Line Adjustment Number BLA-2017-012W, recorded July 10, 2017, under Auditor's File Number 2460688, records of said County, said parcel being more particularly described as follows:

Commencing at the southwest corner of Parcel C (Lot 13, said Northwest Addition) as set forth and defined by Record of Survey recorded June 6, 2017, under Auditor's File Number 2460499, records of said County; thence North 29°18'35" West 127.52 feet, more or less, along the northeasterly right of way line of North Wenatchee Avenue to a point of intersection with northwesterly right of way line of a proposed public street; thence North 60°41 '25" East 99.86 feet along said proposed street right of way line, said line being also the southwesterly extension of the common line between Parcels B and C, said Boundary Line Adjustment, to a point on the northeasterly boundary of Lot 12, said Northwest and the TRUE POINT OF BEGINNING; thence continue North 60°41 '25" East 80.00 feet along said common boundary line and the southwesterly extension thereof to a point of curvature; thence northeasterly 62.83 feet along the arc of a circular curve to the left, said curve having a radius of 40.00 feet and a chord bearing North 15°41 '28" East 56.57 feet to a point of tangency to the southeasterly extension of the southwesterly boundary line of Parcel A, said Boundary Line Adjustment; thence North 29°18'29" West 243.87 feet along said boundary line extended southeasterly to a point of intersection with the northeasterly extension of the southeasterly line of Lot 6, said Northwest Addition; thence along said southeasterly line extended northeasterly South 60° 40'30" West 120.00 feet to the southeast corner of said Lot 6; thence South 29°18'29" East 283.84 feet along the northeasterly lines of Lots 7-12, said Northwest Addition, to the TRUE POINT OF BEGINNING.

EXHIBIT B

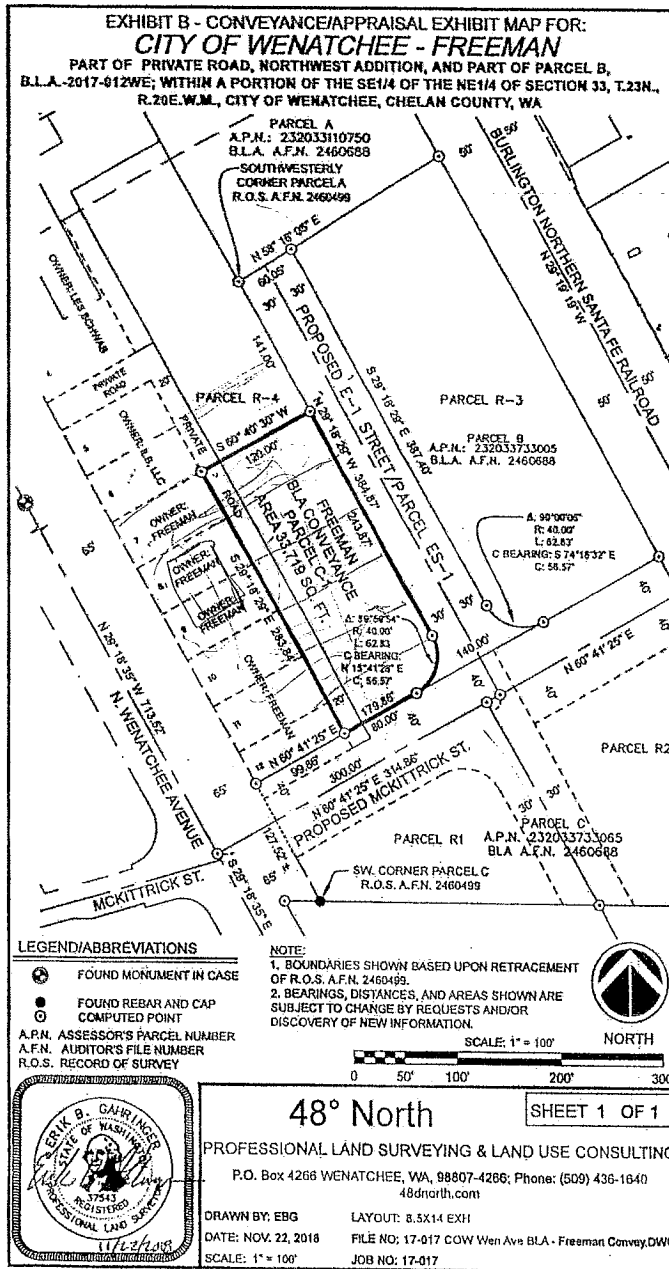


EXHIBIT "C"

Exhibit C – Post-Closing Agreement

**POST-CLOSING AGREEMENT
CITY OF WENATCHEE
AND
STEPHEN L. FREEMAN AND CAROL A. FREEMAN**

This Post-Closing Agreement (“Agreement”) is made and entered into this ____ day of _____, 2020, by and between the City of Wenatchee, a municipal corporation of the State of Washington (“City”) and Stephen L. Freeman and Carol A. Freeman, husband and wife (“Freeman”). The City and Freeman may be referred to herein individually as a “Party” or collectively as “Parties.”

RECITALS

- A. The City and Freeman entered into a Purchase and Sale Agreement in which Freeman agreed to purchase the real property described on Exhibit “A” attached hereto (the “Property”) Property from the City; and
- B. The Parties closed on the purchase and sale of the Property on _____, 2020; and
- C. The City and Freeman agreed to enter into this Post-Closing Agreement to document the post-closing obligations of each Party.

AGREEMENT

1. City Obligations.
 - 1.1 Columbia Street. The City will construct Columbia Street, at the City’s sole expense (but subject to Freeman’s sidewalk obligations pursuant to Section 2.2 below) as a full street curb to curb, including providing water and sewer utilities, and conduit for underground

power as shown on Exhibit "B". The City is scheduled to construct the shown Columbia Street extension prior to December 1, 2021.

2. Freeman Responsibilities.

2.1 Columbia Street. Sidewalk construction adjacent to the Property shall be the responsibility of Freeman at a future date upon the issuance of a building permit on the property according to Wenatchee City Code.

3. Survive Closing. The obligations of each Party set forth herein are intended to survive closing of the sale of the Property between the Parties.

4. Modifications. This Agreement contains all of the post-closing obligations of the Parties and shall not be modified except by written amendment executed by both Parties.

5. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Washington.

6. Recording. This Agreement shall be recorded with the Chelan County Auditor.

7. Binding Agreement. This Agreement shall be a covenant running with the land and be binding upon and inure to the successors and assigns of the Parties hereto.

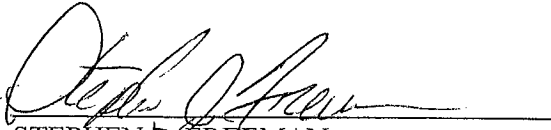
8. No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the Parties hereto and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.


9. Interpretation. This Agreement has been reviewed and revised by legal counsel for both parties, and no presumption or rule construing ambiguity against the drafter of the document shall apply to the interpretation or enforcement of this Agreement.

CITY:
CITY OF WENATCHEE

By _____
FRANK KUNTZ, Mayor

FREEMAN:


STEPHEN J. FREEMAN


CAROL A. FREEMAN

COUNCIL AGENDA REPORT
City of Wenatchee



TO: Frank Kuntz, Mayor
City Council

FROM: Steve King, Economic Development Director

SUBJECT: Cultural Resources Special Project – Wenatchee Valley Museum

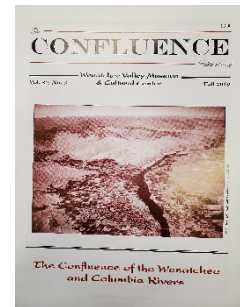
DATE: January 6, 2020

MEETING DATE: January 9, 2020

I. OVERVIEW

The City of Wenatchee is leading the effort to develop Confluence Parkway, a bypass to North Wenatchee Avenue. Confluence Parkway is proposed directly adjacent to the BNSF railroad tracks and along the edge of the Horan Natural Area. This project has brought forth a lot of community interest to the area to ensure that the cultural history of this area is recognized and honored to carry this history forward into the future.

Fortunately, Wenatchi P’Squosa elder, Randy Lewis moved back to Wenatchee a couple of years ago. Randy holds much the history associated with the Wenatchee area and the Confluence of the Wenatchee River. Last year considerable progress was made last year in learning about this history from Randy. Randy also assisted in facilitating connecting with both the Colville Confederated Tribes and the Yakama Nation which is important in helping Wenatchee be a welcoming and inclusive community. In addition, the last edition of the Confluence Magazine was dedicated to this topic and was a result of last year’s investment with the Wenatchee Valley Museum.



The city desires to continue this good work with the Museum and Randy Lewis. The attached agreement authorizes the Wenatchee Valley Museum to facilitate this work with Randy.

II. ACTION REQUESTED

Staff recommends the City Council approve an agreement with the Wenatchee Valley Museum for cultural resources work with Randy Lewis.

III. FISCAL IMPACT Submitted to the Finance Committee Yes No

This project is included in the 2020 budget at \$15,000.

IV. PROPOSED PROJECT SCHEDULE: This work will be performed in 2020.

V. REFERENCE(S): Wenatchee Valley Museum Agreement

VI. ADMINISTRATIVE ROUTING

Tammy Stanger, City Clerk
Brad Posenjak, Finance Director

MUNICIPAL SERVICES AGREEMENT
RE: WENATCHI/P'SQUOSA HISTORICAL AND CULTURAL SUPPORT

THIS AGREEMENT, made and entered into by and between the City of Wenatchee, a municipal corporation of the State of Washington, hereinafter referred to as "City," and The Wenatchee Valley Museum and Cultural Center, a non-profit corporation, hereinafter referred to as "Museum."

WHEREAS, the City and Museum desire to develop expand cultural understanding of the Wenatchi/P'Squosa history in the Wenatchee Valley ; and

WHEREAS, Tribal Elder Randy Lewis and Regional Historian William Layman have been working with the Museum and the City to support the documentation and inclusion of the culture and history of the indigenous people of this region through various forms of media, presentations, and relationship building; and

WHEREAS, the Museum has a history of this work and able to facilitate work on behalf of the City and the greater community.

NOW, THEREFORE, for and in consideration of the mutual benefits set out herein, it is agreed as follows:

1. Services. The Museum shall perform the services identified in the attached Scope of Work (Exhibit A).
2. Funding Amount. The City shall pay to the Museum for the services to be provided under this Agreement a sum not to exceed \$15,000 for satisfactorily carrying out the Scope of Work described in Exhibit A. Payments made pursuant to this paragraph shall be made on a quarterly basis in lump sum amounts of \$3,750 for each of 4 payments.
3. Indemnification. Museum shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Museum in the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.
4. Term. The term of this Agreement and the performance of the Museum shall commence on January 1, 2020 and shall terminate on December 31, 2020.
5. Insurance. The Museum shall obtain and keep in force during the terms of the agreement the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to R.C.W. Title 48:
 - a. Worker's compensation and employer's liability insurance as required by the State of Washington.
 - b. General commercial liability insurance in an amount not less than a single limit of \$1,000,000 for bodily injury, including death and property damage per occurrence.

Excepting the worker's compensation insurance secured by Museum, the City will be named on all certificates of insurance as an additional insured. Museum shall furnish the City with verification of insurance and endorsements required by this agreement. The City reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The Museum shall submit a verification of insurance as outlined above within 14 days of the execution of this agreement to the City.

No cancellation of the foregoing policies shall be effective without 30 days prior notice to the City.

6. No Discrimination. The Museum shall, in employment made possible or resulting from this Agreement, ensure that there shall be no unlawful discrimination against any employee or applicant for employment in violation of RCW 49.60.180, as currently written or hereafter amended, or other applicable law prohibiting discrimination, unless based upon a bona fide occupational qualification as provided in RCW 49.60.180 or as otherwise permitted by other applicable law. Further, no person shall be denied or subjected to discrimination in receipt of the benefit of any services or activities made possible by or resulting from this Agreement in violation of RCW 40.60.215 or other applicable law prohibiting discrimination.

7. Dispute Resolution. Any dispute concerning questions of fact in connection with the work not disposed of by agreement between Museum and the City shall be referred for determination to the City's Mayor, whose decision in the matter shall be final and binding on the parties of this agreement, provided, however, that if an action is brought challenging the Mayor's decision, that decision shall be subject to de novo judicial review. In the event of litigation over the terms of this agreement, each party shall bear its own attorneys' fees and costs incurred therein.

EXECUTED this ____ day of _____, 2020.

City of Wenatchee

By: _____

Steve King, Economic Development Director

By: _____



CONTRACTOR AGREEMENT – SCOPE OF WORK

The Contractor agrees to provide the following work on behalf of the Wenatchee Valley Museum & Cultural Center

Contractor: Randy Lewis

Contract Start Date: January 1, 2020

Contract Duration: Ending December 31, 2020

Staff Liaison: Keni Sturgeon, Executive Director
Wenatchee Valley Museum & Cultural Center

Work to be completed: Randy Lewis, Museum Consultant, will continue to conduct work that leads to the creation of a better understanding of the Native American heritage of our area. Specifically focusing on the history, stories and lifeways of the P'squosa/Wenatchi and their intersection with the area that is now the City of Wenatchee. Of particular interest is the area at the confluence of the Wenatchee and Columbia Rivers now occupied by the Horan Natural Area and Confluence State Park. Funds would be used to:

- 1) Conduct continued research
- 2) Record some of Randy Lewis's extensive knowledge about the focus area (Horan Natural Area)
- 3) Develop written records, if additional funding can be secured, of Randy's stories/memories, that can be adapted into outdoor interpretive signage
- 4) Conduct outreach/hold conversations with other P'squosa/Wenatchi to solicit the information they would be interested in and willing to share
- 5) Work with the *Confluence* magazine editor to research, co-author and publish a second edition of the *Confluence* magazine focused on the P'squosa/Wenatchi's relationship with and history of the Horan Natural Area and Confluence State Park
- 6) Lead at least 3 public walking tours of the Horan that focus on the Native story of the confluence
- 7) Communicating the work he is doing with the Colville Confederated Tribes, and other tribal groups as deemed necessary.
- 8) Attend meetings and work with the Friends of the Huron, State Parks, the City of Wenatchee, and the Chelan PUD, schedule permitting
- 9) Give at least 2 talks at the Museum in 2020 featuring recollections of the Wenatchee area.

Contract Payment: Not to exceed \$15,000, with equal bi-monthly payments of \$625 on the 15th and the last day of the month, to be provided over the term of the contract beginning January 15, 2020 and ending December 31, 2020.

Reporting: Initially, Randy Lewis will meet monthly with the Staff Liaison to report on progress and work completed and next steps being pursued.

Products: The following are products that will occur during or as a result of the contract work:

- 1) At least 2 public presentations at the Museum that focus on some aspect of the research being done.
- 2) At least 2 other presentations, alone or in partnership, about the research being done at non Museum locations. Locations to be determined in consultation with the Staff Liaison, but may include area Service Clubs, Audubon, the Horan Natural Area, Wenatchee City Council, and/or for the members of the Colville Confederated Tribes.
- 3) Written records of Randy Lewis' research, stories, recollections to be housed in the Museum's archives.
- 4) A second edition of the *Confluence* magazine wholly dedicated to the P'squosa/Wenatchi's relationship with and history of the Horan Natural Area and Confluence State Park.
- 5) At least 3 public walking tours of the Horan Natural Area.

Randy Lewis
Authorized Signatory Contractor

Date

Keni Sturgeon
Authorized Signatory
Wenatchee Valley Museum & Cultural Center

Date

RESOLUTION NO. 2020-01

A RESOLUTION, appointing _____ as Mayor Pro Tempore for 2020.

WHEREAS, WCC 1.06.020 requires the City Council at its first regularly scheduled meeting in January of each year, by majority vote, to select among their members a councilmember to act as Mayor Pro Tempore for the ensuing year; and

WHEREAS, the Council has selected Councilmember _____.

NOW, THEREFORE, the City Council of the City of Wenatchee do hereby resolve as follows:

SECTION I

That Councilmember _____ shall be and hereby is designated as Mayor Pro Tempore for 2019 to serve in the absence or temporary disability of the Mayor.

SECTION II

The appointment of Councilmember _____ shall not in any way abridge his/her right to vote upon all questions coming before the Council. Councilmember _____ while acting as Mayor Pro Tempore will not have the power to appoint or remove any officer or to veto any ordinance.

SECTION III

This Resolution shall take effect immediately.

**PASSED BY THE CITY COUNCIL OF THE CITY OF
WENATCHEE** at a regular meeting thereof this 9th day of January, 2020.

CITY OF WENATCHEE, a Municipal Corporation

By: _____
FRANK KUNTZ, Mayor

ATTEST:

By: _____
TAMMY STANGER, City Clerk

APPROVED:

By: _____
STEVE D. SMITH, City Attorney

COUNCIL AGENDA REPORT

TO: Frank Kuntz, Mayor
City Council Members

FROM: Dale Cantrell, IS Director; Rob Jammerman, Public Works Director; Brad Posenjak, Finance Director

SUBJECT: Ordinance 2020-04

DATE: **January 9, 2020**

Overview: The City of Wenatchee has had a Franchise Agreement with Falcon Video Communications, locally known as Charter Communications, since July 13, 1995. The current Franchise (which was last renewed in January 2013) expires at the end of this year and during the term of the current Franchise the agreement was transferred and the Franchise is with Spectrum Pacific West, LLC, locally known as Charter Communications (Charter).

WCC 5.04.130 guides the process for the consideration of a renewal of a Franchise. Upon receiving notice in mid-2018 from Spectrum/Charter, staff began negotiations under the informal process with the first negotiation call on August 20, 2018. After the initial meeting a redlined version of the existing Franchise was received from Spectrum/Charter and staff began the update process which included outreach about the Franchise areas where changes were proposed. Under city code, staff may elect to undertake a full assessment of cable related needs, however for a renewal, the past record of the Franchisee provides a basis for renewing the franchise and an opportunity must be provided for public comment. Staff believes it is in the best interest of the public to follow through with renewal.

The proposed updates to the franchise were reviewed at the Special Council meeting on December 5th and during the public hearing, no comments were received. At the December 14th, 2019 Council a red-lined version of the franchise was provided to Council via email. Since the December meeting, Charter and City Staff have agreed upon the final language presented here. Attached is the final Franchise Agreement for Council approval.

Budget Impact: There is no change in the financial impact of this franchise with its renewal.

Action Requested: Approval of Ordinance No. 2020-04 renewing the grant of a franchise to Spectrum Pacific West, LLC, locally known as Charter Communications, to operate and maintain a cable system in the City of Wenatchee, and approving the franchise agreement setting forth the conditions accompanying the grant of the franchise.

ORDINANCE NO. 2020-04

AN ORDINANCE, renewing the grant of a franchise to Spectrum Pacific West, LLC, locally known as Charter Communications, to operate and maintain a cable system in the City of Wenatchee, and approving the franchise agreement setting forth the conditions accompanying the grant of the franchise.

WHEREAS, Spectrum Pacific West, LLC, locally known as Charter Communications (“Grantee”) desires to continue operation of a cable system in the right of way of the City of Wenatchee under the authority of Chapter 5.04 of the Wenatchee Municipal Code; and

WHEREAS, negotiations between Grantee and the City have been completed and the franchise renewal process followed in accordance with the guidelines established by the City code and federal law; and

WHEREAS, the City Council has reviewed the qualifications of Grantee and the adequacy of its provision of services in the City of Wenatchee; and

WHEREAS, pursuant to RCW 35A.47.040, this Ordinance was first introduced to the City Council at a regular meeting thereof on December 5, 2019.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WENATCHEE DO ORDAIN as follows:

SECTION I

That the franchise agreement attached hereto as Exhibit “A” shall be and hereby is approved and the Mayor is authorized to execute the same on behalf of the City.

SECTION II

This Ordinance shall take effect five days from and after passage and publication as provided by law.

SECTION III

If any section, subsection, sentence, clause or phrase of this Ordinance is declared or adjudged by a court of competent jurisdiction to be invalid or unconstitutional, such adjudication shall in no manner affect the remaining portions of this Ordinance which shall be in full force and effect as if said section, subsection, sentence, clause or phrase, so declared or adjudged invalid or unconstitutional were not originally a part hereof.

PASSED BY THE CITY COUNCIL OF THE CITY OF WENATCHEE at a regular meeting thereof this ____ day of _____, 2020.

CITY OF WENATCHEE, a Municipal corporation

By: _____
FRANK KUNTZ, Mayor

ATTEST:

By: _____
TAMMY STANGER, City Clerk

APPROVED:

By: _____
STEVE SMITH, City Attorney

FRANCHISE AGREEMENT
WENATCHEE, WASHINGTON

This Franchise Agreement (hereinafter "Franchise" or "Agreement") is between the City of Wenatchee, Washington, hereinafter referred to as the "Grantor" or "City" and Spectrum Pacific West, LLC, locally known as CHARTER COMMUNICATIONS, hereinafter referred to as the "Grantee."

WHEREAS, the Grantor finds that the Grantee has substantially complied with the material terms of the current Franchise under applicable laws, and that the financial, legal and technical ability of the Grantee is sufficient to provide services, Facilities and equipment necessary to meet the future cable-related needs of the community, and

WHEREAS, having afforded the public adequate notice and opportunity for comment, Grantor desires to enter into this Franchise with the Grantee for the construction and operation of a cable system on the terms set forth herein; and

WHEREAS, the Grantor and Grantee have complied with all federal and State-mandated procedural and substantive requirements pertinent to this franchise renewal;

NOW, THEREFORE, the Grantor and Grantee agree as follows:

SECTION 1
Definition of Terms

1.1 Terms. For the purpose of this Franchise the following terms, phrases, words and their derivations shall have the meaning ascribed to them in the Cable Act. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

- A. "Access Channel" means any channel set aside for public use, educational use or governmental use as required by the Grantor and without a channel usage charge.
- B. "Affiliate," when used in relation to any Person, means another Person who owns or controls, is owned or controlled by, or is under common ownership or control with such Person.
- C. "Cable Act" shall mean the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition

Act of 1992, as amended by the Telecommunications Act of 1996, and as they may be further amended (47 U.S.C. §§ 521, et. seq).

- D. "Cable System," "Cable Service," and "Basic Cable Service" shall be defined as set forth in the Cable Act.
- E. "Channel" means a portion of the electromagnetic frequency spectrum which is used in a Cable System and which is capable of delivering a television channel.
- F. "City Council" shall mean the governing body of the City.
- G. "City Owned Infrastructure" shall include, but is not limited to, facilities, equipment and structures, along with Streets and rights-of-way owned by the City.
- H. "FCC" shall mean the Federal Communications Commission and any successor governmental entity thereto.
- I. "Facilities" means the physical components of any Person who uses Grantor Streets, such as transmission lines, cable, fiber, equipment, poles and other structures.
- J. "Franchise" shall mean the non-exclusive rights granted pursuant to this Agreement to construct, operate and maintain a Cable System along the Streets within all or a specified area in the Service Area.
- K. "Gross Revenues" means any and all compensation, as determined in accordance with Generally Accepted Accounting Principles, in whatever form, from whatever source, directly received by Grantee or affiliate of Grantee that would constitute a Cable Operator of the Cable System to provide Cable Service insofar as such operation in any manner whatsoever requires use of the public streets and rights-of-way of the City. Gross Revenues shall include, but not be limited to, basic, expanded basic and pay service revenues; revenues from installation and equipment rental; advertising revenues; any leased access revenues; revenues from any home shopping network or similar programming and the fair market value of in-kind payments such as barter.

Gross Revenues shall not include: (1) any taxes, fees (other than Franchise Fees) or assessments of general applicability, such as the FCC user fee or utility tax; (2) bad debt; provided that if amounts previously representing bad debt are collected, then those amounts shall be included in Gross Revenues for the period in which they are collected or as soon thereafter as practicable; (3) credits, refunds and deposits paid to Subscribers; (4) any exclusions available under applicable State law and (5) PEG Fees as set forth in subsection 13.5 hereof. The Franchise Fee is not a tax and shall be included for the purposes of calculating Gross Revenues.

Revenue of affiliated entities that are Cable Operators of the Cable System to provide Cable Services are included in this definition in order that Grantee shall not escape or limit its obligation to pay Franchise Fees through the creation or use of said affiliated entities.

- L. "Person" shall mean an individual, partnership, association, organization, corporation, trust or governmental entity.
- M. "Service Area" shall mean the geographic boundaries of the City, and shall include any additions thereto by annexation or other legal means, subject to the exception in Section 6.4 herein.
- N. "State" shall mean the State of Washington.
- O. "Streets" shall include each of the following located within the Service Area: public streets, roadways, highways, bridges, land paths, boulevards, avenues, lanes, alleys, sidewalks, circles, drives, easements, rights-of-way and similar public ways and extensions and additions thereto, including but not limited to public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses now or hereafter held by the Grantor in the Service Area, which shall entitle the Grantee to the use thereof for the purpose of installing, operating, repairing and maintaining the Cable System.
- P. "Subscriber" shall mean any Person lawfully receiving Cable Service from the Grantee's Cable System.

SECTION 2 **Grant of Franchise**

2.1 Grant. The Grantor hereby grants to the Grantee a nonexclusive Franchise which authorizes the Grantee to erect, construct, operate and maintain in, upon, along, across, above, over and under the Streets, now in existence and as may be created or established; any poles, wires, cable, underground conduits, manholes, and other conductors and fixtures necessary for the maintenance and operation of a Cable System.

Grantor shall not impose any requirements that have the purpose or effect of prohibiting, limiting restricting, or conditioning the provision of a telecommunications service by a Cable Operator or an affiliate thereof. Grantor shall not order Grantee or affiliate thereof to (i) discontinue the provision of a telecommunications service, or (ii) discontinue the operation of a Cable System to the extent such Cable System is used for the provision of a telecommunications service, by reason of the failure of such Cable Operator or affiliate thereof to obtain a cable franchise or cable franchise renewal with respect to the provision of such telecommunications service.

2.2 Term. The Franchise and the rights, privileges and authority hereby granted shall be for a term of ten (10) years, commencing on the Effective Date of this Franchise as set forth in subsection 16.24.

2.3 Application Fee. Grantee shall satisfy the payment of a one-time application fee in the amount of \$5,000 as an offset against the Grantee's Franchise Fee payments under this Franchise consistent with the payment schedule under Section 10.2. Grantee's payment of application fee to Grantor is due within 45 days of the Effective Date of this Franchise.

2.4 Police Powers and Conflicts with Franchise.

- A. The Grantee agrees to comply with the terms of any lawfully adopted generally applicable current local ordinance, to the extent that the provisions of the ordinance do not have the effect of limiting the benefits or expanding the obligations of the Grantee that are granted by this Franchise. This Franchise is a contract and except as to those changes which are the result of the Grantor's lawful exercise of its general police power, the Grantor may not take any future unilateral action which materially changes the explicit mutual promises in this contract. Any changes to this Franchise must be made in writing signed by the Grantee and the Grantor.
- B. In the event of any conflict between the terms and conditions of this Franchise and the City Code, Ordinance or Regulation, the Franchise shall prevail, except Grantee's rights shall be subject to the police powers of the Grantor to adopt and enforce resolutions and ordinances necessary to the health, safety, and welfare of the public. Grantee shall comply with all applicable general laws, resolutions and ordinances enacted by the Grantor pursuant to that police power.

2.5 Cable System Franchise Required. No Cable System shall be allowed to occupy or use the Streets or public rights-of-way of the Service Area or be allowed to operate without a Cable System Franchise.

SECTION 3
Franchise Renewal

3.1 Procedures for Renewal. The Grantor and the Grantee agree that any proceedings undertaken by the Grantor that relate to the renewal of the Grantee's

Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, or any such successor statute.

SECTION 4
Indemnification and Insurance

4.1 Indemnification. The Grantee shall, by acceptance of the Franchise granted herein, defend the Grantor, its officers, boards, commissions, agents, and employees from all claims for injury to any Person or property caused by the negligence of Grantee in the construction, operation or maintenance of the Cable System or any other Grantee act or omission arising under this Franchise, and in the event of a determination of liability shall indemnify and hold Grantor, its officers, boards, commissions, agents, and employees harmless from any and all liabilities, claims, demands, costs, expenses, attorneys' fees or judgments growing out of any injury to any Person or property as a result of the construction, repair, extension, maintenance, operation, upgrade or removal of its wires, poles or other equipment of any kind or character used in connection with the operation of the Cable System, provided that the Grantor shall give the Grantee written notice of its obligation to indemnify the Grantor within seven (7) days of receipt of a claim for damages or action pursuant to this section. In the event any such claim arises, the Grantor shall tender the defense thereof to the Grantee and the Grantee shall have the right to defend, settle or compromise any claims arising hereunder and the Grantor shall cooperate fully herein. If the Grantor determines that it is necessary for it to employ separate counsel, the costs for such separate counsel shall be the responsibility of the Grantor. Notwithstanding the foregoing, the Grantee shall not be obligated to indemnify the Grantor for any damages, liability or claims resulting from the willful misconduct or negligence of the Grantor or for the Grantor's use of the Cable System, including any Public, Education and Government (PEG) channels.

4.2 Insurance.

- A. The Grantee shall maintain throughout the term of the Franchise insurance in amounts at least as follows:

| | |
|---|--|
| Workers' Compensation | Statutory Limit |
| Commercial General Liability | \$2,000,000 per occurrence, Combined Single Limit (C.S.L.) \$5,000,000 General Aggregate |
| Auto Liability including coverage on all owned, non-owned and hired autos | \$2,000,000 per occurrence C.S.L. |
| Umbrella Liability | \$1,000,000 per occurrence C.S.L. |

- B. The Grantor shall be added as an additional insured, arising out of work performed by Grantee, to the above Commercial General Liability, Auto Liability and Umbrella Liability insurance coverage.

- C. The Grantee shall furnish the Grantor with current certificates of insurance evidencing such coverage upon request.

Should any of the policies described herein be cancelled before the expiration date thereof, the insurer affording coverage will use its best efforts to mail thirty (30) days prior written notice to the Grantor.

SECTION 5 **Service Obligations**

5.1 No Discrimination. Grantee shall not deny service, deny access, or otherwise discriminate against Subscribers, channel users, or general citizens on the basis of race, color, religion, national origin, age, military status, sexual orientation, marital status, physical or mental disability or gender.

5.2 Privacy. The Grantee shall fully comply with the privacy rights of Subscribers as contained in Cable Act Section 631 (47 U.S.C. § 551).

SECTION 6 **Service Availability**

6.1 Service Area. The Grantee shall make Cable Service distributed over the Cable System available to every residence within the Service Area where there is a minimum density of at least thirty (30) residences per linear strand mile of cable (excluding any residence subscribing to any satellite service and any residential passed by the Cable System) as measured from Grantee's closest technologically feasible tie-in point that is actively delivering Cable Service as of the date of such request for service. If such residence is located within one hundred twenty five (125) feet of Grantee's feeder cable, the Cable Service will be provided at Grantee's published rate for standard installations. Notwithstanding the foregoing, the Grantee shall have the right, but not the obligation, to extend the Cable System into any portion of the Service Area where another operator is providing Cable Service or into any annexed area which is not contiguous to the present Service Area of the Grantee. Grantee shall not be obligated to provide Cable Service to any area which is financially or technically infeasible.

6.2 Subscriber Charges for Extensions of the Cable System. No Subscriber shall be refused service arbitrarily. However, if an area does not meet the density requirements of subsection 6.1 above, the Grantee shall only be required to extend the Cable System to Subscribers in that area if the Subscribers are willing to share the capital costs of extending the Cable System. The Grantee may require that payment of the capital contribution in aid of construction borne by such potential Subscribers be paid in advance. Subscribers shall also be responsible for any standard/non-standard installation charges to extend the Cable System from the tap to the residence.

6.3 New Development - Undergrounding. In cases of new construction or property development where utilities are to be placed underground, the Grantor agrees to notify the Grantee of a development application. The Grantee shall coordinate with the developer or property owner for Grantee's installation of conduit, pedestals and/or vaults, and laterals to be provided at Grantee's expense. Grantee shall also provide specifications as needed for trenching. Costs of trenching and easements required to bring service to the development shall be borne by the developer or property owner; except that if Grantee fails to install its conduit, pedestals and/or vaults, and laterals within five (5) working days of the date the trenches are available, as designated in the notice given by the developer or property owner, then should the trenches be closed after the five-day period, the cost of new trenching is to be borne by Grantee.

6.4 Annexation. The Grantor shall provide Notice (pursuant to subsection 16.8) to the Grantee of an annexation of any contiguous territory which is being provided Cable Service by the Grantee or its affiliates. Notice shall include detailed and sufficient information for the Grantee, at its discretion, to make any and all necessary changes. Grantee shall pay the Grantor Franchise Fees on revenue received from the operation of the Cable System to provide Cable Services in the recently annexed Service Area, commencing ninety (90) days after receipt of Grantor's Notice.

SECTION 7 **Construction and Technical Standards**

7.1 Compliance with Codes. All construction practices and installation of equipment shall be done in accordance with all applicable sections of the National Electrical Safety Code, National Electrical Code, Occupational Safety and Health Administration, and industry standards.

7.2 Construction Standards and Requirements. All of the Grantee's plant and equipment, including but not limited to the antenna site, head-end and distribution system, towers, house connections, structures, poles, wire, cable, coaxial cable, fixtures and appurtenances shall be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated in accordance with good engineering practices and performed by experienced maintenance and construction personnel.

7.3 Safety. The Grantee shall, at all times, employ ordinary care and shall use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage.

7.4 System Technical Requirements. The Cable System shall be designed, constructed and operated so as to meet those technical standards adopted by the FCC relating to Cable Systems contained in Part 76 of the FCC's rules and regulations as may, from time to time, be amended.

7.5 Performance Monitoring. Grantee shall test the Cable System consistent with the FCC regulations.

7.6 Emergency Alert System. Grantee shall comply with the Emergency Alert System ("EAS") requirements of the FCC and federal and state law, in order that required emergency messages may be distributed over the system. Grantee may execute agreements with broadcast licensees regarding EAS.

SECTION 8 **Conditions on Street Occupancy**

8.1 General Conditions. The Grantee acknowledges that the Grantor desires to promote a policy of coordination and cooperation among franchisees in the Streets and agrees to make a good faith effort to coordinate and share excavations or poles with other franchisees upon such terms as may be agreed between franchisees and satisfactory to the Grantor. Grantee shall have the right to utilize existing poles, conduits and other Facilities whenever possible, and shall not construct or install any new, different, or additional poles, conduits, or other Facilities on public property without obtaining all legally required permits of the Grantor. The terms and conditions of attachment to poles owned by third parties are to be set forth in a pole attachment agreement between Grantee and the third party pole owner.

8.2 Underground Construction. Except for high voltage transmission lines, the Facilities of the Grantee shall be installed underground in those Service Areas where other utility or franchise holders are both underground at the time of system construction. In areas where other Facilities of any utility or franchise holder (except high voltage transmission) are installed aerially at the time of system construction, the Grantee may install its Facilities aerially if the required pole attachment agreements can be obtained and with the understanding that at such time as the existing aerial Facilities are required to be placed underground by the Grantor, the Grantee shall likewise place its Facilities underground. No new utility poles to support Charter facilities will be allowed unless there are extenuating circumstances and the Public Works Director reviews and approves the proposed pole(s) installation; such approval not to be unreasonably withheld. In the event that any facility owners are reimbursed by the Grantor or any agency thereof for the placement of Facilities underground or the movement of Facilities, Grantee shall be reimbursed upon the same terms and conditions as any electric utility or franchise holder.

8.3 Joint Trenching/Boring. To the extent it is technically, commercially and economically feasible, Grantee shall joint trench or share bores or cuts and work with other providers (such as, but not limited to, other cable, telecommunications, gas, and electric companies), licensees, permittees and franchisees so as to reduce the number of right-of-way cuts within the Service Area.

8.4 Construction Codes and Permits. Grantee shall obtain all legally required permits before commencing any work requiring a permit, including the opening or disturbance of any Street within the Service Area. The Grantor shall cooperate with the Grantee in granting any permits required, providing such grant and subsequent construction by the Grantee shall not unduly interfere with the use of such Streets and Grantor owned utilities

such as water, storm, and sanitary sewer. The Grantee shall adhere to all applicable state laws, all building codes, engineering codes, zoning codes, Environmental Protection codes, and normally practiced construction standards currently or hereafter applicable to construction, operation or maintenance of the Cable System in the Service Area, provided that such codes are of general applicability and such codes are uniformly and consistently applied by the Grantor as to other public utility companies and other entities operating in the Service Area. The cost of all permits shall be in addition to Franchise Fees owed to the Grantor by Grantee.

Except for emergency repairs, Grantee shall, prior to excavating within any street, alley or other public place, and installing any conduit, overhead cable or equipment therein, file with the Public Works Department plans showing the work to be done, the location and nature of the installation to be made, repaired or maintained, and a schedule showing the times of beginning and completion. This information shall be submitted with a right of way/street cut permit from the City before proceeding with any such work and permits shall not be unreasonably withheld or delayed. In the event of an emergency requiring immediate action by Grantee for the protection of its Facilities, City property or other Persons or property, Grantee may proceed without first obtaining the normally required permits. In such event Grantee must (1) take all necessary and prudent steps to protect, support, and keep safe from harm the Facilities, or any part thereof, City property, or other Persons or property, and (2) as soon as possible thereafter, must obtain the required permits and comply with any mitigation requirements or other conditions in the after-the-fact permit.

8.5 System Construction. All transmission lines, equipment and structures shall be so installed and located as to cause minimum interference with the rights and reasonable convenience of property owners and at all times shall be kept and maintained in a safe, adequate and substantial condition, and in good order and repair. The Grantee shall, at all times, employ ordinary care and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public. Suitable barricades, flags, lights, flares or other devices shall be used at such times and places as are reasonably required for the safety of all members of the public. The Grantee shall comply with the most currently adopted Manual on Uniform Traffic Control Devices (MUTCD) published by the Federal Highway Administration. Any of the Grantee's Facilities placed in any public way shall be placed in such a manner as not to unreasonably interfere with the City's or public's use of the right of way.

8.6 Construction Bonds. If Grantee or Grantee's subcontractors undertakes any construction in the public right-of-way, prior to issuance of the Right-of-way Construction Permit, the Grantee shall post the required construction bonds as defined in Title 7.28 of the Wenatchee City Code. In lieu of separate bonds for routine individual projects involving work in the Franchise Area, Grantee may satisfy the City's bond requirement of this Section by posting an approved annual indemnity bond with the City of \$50,000.

8.7 Restoration of Public Ways. Upon completion of any construction work, the Franchisee shall promptly repair any and all public property, improvements, fixtures, structures and Facilities which are damaged during the course of construction, restoring the same to their condition before construction commenced in accordance with City

requirements. Grantee shall complete all work in an adequate and workmanlike manner. All excavations within the right-of-way, whether restoration or not, shall be performed in accordance with the City's Street Excavation Ordinance (Chapter 7.28 WMC). The City Street Excavation Ordinance defines minimum standards for repair of pavement, sidewalks and alleys. Whenever necessary, after construction or maintaining any of Grantee's Facilities within the Streets, the Grantee shall, without delay, and at Grantee's sole expense, remove all debris and restore the surface disturbed by Grantee as nearly as possible to as good or better condition as it was in before the work began. Grantee shall replace any property corner monuments, survey reference or equipment that was disturbed or destroyed during Grantee's work in the Streets. Such restoration shall be done in a manner consistent with applicable codes and laws and to the City's satisfaction and specifications where applicable.

8.8 Removal in Emergency. Whenever, in case of fire or other disaster, it becomes necessary in the judgment of the Grantor to remove any of the Grantee's Facilities, no charge shall be made by the Grantee against the Grantor for restoration and repair, unless such acts amount to gross negligence by the Grantor.

8.9 Tree Trimming. Grantee or designee shall have the authority to trim trees or branches measuring up to two (2) inches in caliper on public property or which overhang streets, alleys, sidewalks and public ways of the City so as to prevent the branches of such trees from coming in contact with wires and cables and other television conductors and fixtures of the Grantee. Grantee or designee shall give prior written notice and shall obtain approval from the City Director of Public Works before trimming trees measuring more than two (2) inches in caliper. Grantor agrees to either approve of Grantee's request or to meet with Grantee to review the proposed tree trimming within two (2) business days of the receipt of Grantee's written notice. Grantee takes full responsibility for removing debris when the work is complete. All trimming is to be done at the sole expense and responsibility of Grantee. Grantee is solely responsible for property or tree damaged caused by it, and must fully restore any such property or tree damage when so requested by the City. In an emergency, Grantee or designee shall have the right to trim trees without prior approval from the Grantor.

8.10 Relocation of Facilities.

A. Whenever the City causes the construction of any public works project within the Streets and such construction necessitates the relocation of Grantee's Facilities from their existing location within the Streets, such relocation will be at no cost to the City, except as follows:

- (i) If the City requires the subsequent relocation of any of Grantee's Facilities, including relocation pursuant to Section 8.10(D) below, within twelve (12) years from the date of relocation of such Facilities are in service, the City (or third party if pursuant to Section 8.10(D) below) shall bear the entire cost of such subsequent relocation.
- (ii) All costs and expenses to relocate Grantee's Facilities to accommodate another utility or franchise holder shall be paid by the utility or franchise holder.

- (iii) All costs to temporarily relocate Grantee's Facilities to accommodate the moving of a building, vehicle, equipment or other item by a person holding a valid permit issued by the City. The permit holder, including the City if the permit holder, shall pay all costs and expenses of such temporary relocation.
- (iv) Costs incurred by Grantee but are within the City's scope of work for a public works project, such as, but not limited to costs to relocate fences, retaining walls or underground irrigation in advance of Grantee Facilities relocation, shall be paid by City or as mutually agreed by the City's or Grantee's designated engineers.

B. In the event an emergency posing a threat to public safety or welfare, as declared by the Mayor of the City, requires the relocation of Grantee's Facilities within the Streets, the City shall give Grantee notice of the emergency as soon as reasonably practicable. Upon receipt of such notice from the City, Grantee shall endeavor to respond as soon as reasonably practicable to relocate the affected Facilities.

C. Subject to Section D, whenever the City or any third party requires the relocation of Grantee's Facilities to accommodate work of such third party within the Streets, then Grantee shall have the right as a condition of any such relocation to require payment to Grantee, at a time and upon terms acceptable to Grantee, for any and all costs and expenses incurred by Grantee in the relocation of Grantee's Facilities.

D. Any condition or requirement imposed by the City upon any third party (including, without limitation, any condition or requirement imposed pursuant to any contract or in conjunction with approvals or permits obtained pursuant to any zoning, land use, construction or other development regulation) which requires the relocation of Grantee's Facilities within the Streets, shall be a condition or requirements causing relocation of Grantee's Facilities to occur subject to the provisions of Section 8.10(C) above; provided, however in the event the City reasonably determines and notifies Grantee that the primary purpose of imposing such condition or requirement upon such third party is to cause or facilitate the construction of a public works project to be undertaken within a segment of the Streets on the City's behalf and consistent with the first three years (financially constrained) of the City's Capital Improvement Plan or 6-year Transportation Improvement Program; then only those costs and expenses incurred by Grantee in reconnecting such relocated Facilities with Grantee's other Facilities shall be paid to Grantee by such Third Party, and Grantee shall otherwise relocate its Facilities within such segment of the Franchise Area in accordance with Section 8.10(A) above. The third party shall be responsible to Grantee for any incremental cost increases, as determined by Charter, above costs attributable for the public works project due to factors such as, but not limited to, increased distance or interim design changes necessitated by less than full public works project relocation. The third party shall adhere to Grantee's regulations, standards and policies for all development.

E. Nothing in this Section 8.10 shall require Grantee to bear any cost or expense in connection with the relocation of any Grantee Facilities existing under benefit of easement (other than City owned utility easements) or other rights not arising under this Franchise, nor shall anything in this Section 8.10 require the City to bear any such cost or

expense. Nothing in this Section 8.10 shall be construed to be a waiver of any right of either Grantee or the City to contest any claim or assertion by the other of responsibility to pay such cost or expense.

8.11 Emergency Use. If the Grantee provides an Emergency Alert System ("EAS"), then the Grantor shall permit only appropriately trained and authorized Persons to operate the EAS equipment and shall take reasonable precautions to prevent any use of the Grantee's Cable System in any manner that results in inappropriate use thereof, or any loss or damage to the Cable System. The Grantor shall hold the Grantee, its employees, officers and assigns harmless from any claims or costs arising out of use by the Grantor of the EAS, including, but not limited to, reasonable attorneys' fees and costs.

8.12 Work of Contractors and Subcontractors. Grantee's contractors and subcontractors shall be insured, licensed and bonded in accordance with local policies, ordinances, regulations and requirements. Work by contractors and subcontractors shall be subject to the same restrictions, limitations and conditions as if the work were performed by Grantee.

8.13 Traffic Control. In addition to the other requirements herein, Grantee, and any Person acting on its behalf, shall develop a traffic control plan that conforms to the latest edition of the Manual of Uniform Traffic Control Devices (MUTCD). Said plan shall use suitable barricades, flags, flagmen, lights, flares, and other measures as required for the safety of all members of the general public during the performance of work, of any kind whatsoever, in public ways to prevent injury or damage to any Person, vehicle, or property. Grantee shall implement and comply with its approved traffic control plan during execution of its work. All road closures requested by Grantee requiring a Detour Plan shall be submitted at least forty eight (48) hours in advance for prior City approval unless there is an emergency. The Traffic Control Plan shall be kept on-site in Grantee's possession.

8.14 Sale of the System or Removal of Facilities After Revocation. The Grantee and the Grantor agree that in the case of a final determination of a lawful revocation of the Franchise, or if the Franchise is otherwise lawfully terminated:

(1) The Grantee shall be given at least twelve (12) months to effectuate a transfer of its Cable System to a qualified third party. Furthermore, the Grantee shall be authorized to continue to operate pursuant to the terms of this Franchise during this period. If, at the end of that time, the Grantee is unsuccessful in procuring a qualified transferee or assignee of its Cable System which is reasonably acceptable to the Grantor, the Grantee and the Grantor may avail themselves of any rights they may have pursuant to federal or state law. It is further agreed that the Grantee's continued operation of the Cable System during the twelve (12) month period shall not be deemed to be a waiver, nor an extinguishment of, any rights of either the Grantor or the Grantee.

(2) If a transfer of the Cable System to a qualified third party does not occur within twelve (12) months, Grantee shall forthwith, upon written notice by the Grantor, vacate and remove at its own expense all designated portions of the Cable System and Facilities from all Streets within the Service Area and shall restore said Streets to their former condition.

If Grantee fails to remove its Facilities the Grantor may perform the work at the Grantee's expense. The requirements of this subsection shall not apply to underground cable that has been de-energized and for which an accurate map ("as built") has been provided to the City describing in detail the location of such cable and Facilities; except that the City may continue, in its sole discretion, to require removal where necessary to avoid congestion or, at its option, remove such Facilities at Grantee's expense.

8.15 Alleys. Grantee shall locate its facilities and equipment in alleyways wherever possible.

8.16 Historic Districts. Grantee shall comply with City Codes and requirements regarding Historic Districts.

SECTION 9 **Service and Rates**

9.1 Toll-Free Service. The Grantee shall maintain a toll-free telephone number and a phone service operated such that complaints and requests for repairs or adjustments may be received at any time.

9.2 Notification of Procedures. The Grantee shall furnish each Subscriber at the time service is installed, written instructions that clearly set forth information concerning the procedures for making inquiries or complaints, including the Grantee's name, address and local telephone number. Grantee shall give the Grantor thirty (30) days prior notice of any rate increases, channel lineup or other substantive programming changes that are within the control of Grantee.

9.3 Rate Regulation. Grantor shall have the right to exercise rate regulation to the extent authorized by law, or to refrain from exercising such regulation for any period of time, at the sole discretion of the Grantor. If and when exercising rate regulation, the Grantor shall abide by the terms and conditions set forth by the FCC. Nothing herein shall be construed to limit the Grantee's ability to offer or provide bulk rate discounts or promotions.

9.4 Continuity of Service. It shall be the right of all Subscribers to continue receiving Cable Service insofar as their financial and other obligations to the Grantee are honored, and subject to Grantee's rights under Section 16.4 of this Franchise.

SECTION 10 **Franchise Fee**

10.1 Amount of Franchise Fee. Grantee shall pay to the Grantor an annual Franchise Fee in an amount equal to five percent (5%) of the annual Gross Revenues. Such payment shall be in addition to taxes of general applicability such as City Utility Tax or Business and Occupation (B&O) Tax, owed to the Grantor by the Grantee that are not included as Franchise Fees under Federal law. Franchise Fees may be passed through to Subscribers as a line item on Subscriber bills or otherwise as Grantee chooses, consistent with Federal law.

10.2 Payment of Franchise Fees. Payment of the Franchise Fees due the Grantor shall be calculated on an annual basis consistent with Federal law. Notwithstanding the above, Grantee agrees to pay Franchise Fees to the Grantor on a quarterly basis, within forty-five (45) days of the close of each calendar quarter and transmitted by electronic funds transfer to a bank account designated by Grantor. The sum of the Franchise Fees paid during the term of this Franchise may not exceed the amount, including the time value of money, which would have lawfully been collected if such fees had been paid per annum. The payment period and the collection of the Franchise Fees that are to be paid to the Grantor pursuant to this Franchise shall commence sixty (60) days after the Effective Date (subsection 16.24) of the Franchise. Franchise Fees shall continue to be assessed and paid under the previous franchise agreement (Ordinance No. 3126) until sixty (60) days after the Effective Date of this Franchise or until a renewed franchise comes into effect whichever is later. The payment of Franchise Fees shall be either accompanied by or closely followed by a statement of said payment, reflecting the Gross Revenues and the applicable charges. The Grantee shall take all necessary steps to protect and ensure the confidentiality of the City's bank account information.

10.3 Accord and Satisfaction. No acceptance of any payment by the Grantor shall be construed as a release or as an accord and satisfaction of any claim the Grantor may have for additional sums payable as a Franchise Fee under this Franchise.

10.4 Limitation on Recovery. Grantor's right to audit, and Grantee(s)'s obligation to retain records related to the Franchise Fee audit, shall expire three (3) years from the date on which payment by the Grantee was due. The Grantor also retains the right to audit the Grantee under the terms of the prior franchise; however the limitation on recovery shall not exceed three (3) years.

10.5 Annual Report. Upon request, and no more than once per calendar year, Grantee shall furnish to the Grantor a statement stating the total amount of Gross Revenues for the previous year and all payments, deductions and computations for the period. Adjustments for any Franchise Fee overpayment or underpayment shall be by credit or debit to subsequent payments. Such statement shall be certified by a public accountant who may also be a representative of Grantee, prior to submission to the Grantor.

10.6 Franchise Fee Audits. The Grantor may also conduct an audit of Grantee's financial records by a Person of the Grantor's choosing. Upon thirty (30) days written notice to Grantee, the Grantor shall have the right to audit the books and records of Grantee to determine whether Grantee has paid the Franchise Fees owed. If there is a dispute as to whether a particular item of revenue is within the scope of the term "Gross Revenues" and Grantee withholds revenue records on the ground that the revenues are not subject to the Franchise Fee, Grantee agrees that it will provide a certified statement describing the nature of the revenues contained in the records withheld. Said audit shall be conducted no more often than annually, and the audit period shall not be any greater than the previous three (3) years. The audit shall not last longer than six (6) months. Any undisputed additional amounts, and interest as set forth herein, due to the Grantor as a result of the audit shall be paid within sixty (60) days following written notice to Grantee by the Grantor, which notice shall include a copy of the audit findings.

In the event that any Franchise Fee payment is not received by the Grantor on or before the applicable date due, interest shall be charged from such date at the annual rate equal to the commercial prime interest rate of the Grantor's primary depository bank plus one percent (1%). The due date for the purposes of calculating any interest owed by the Grantee to the Grantor shall be December 31 following the quarterly prepaid due date, consistent with subsection 10.2.

In the event the Franchise is revoked or otherwise terminated prior to its expiration date, Grantee shall file with the Grantor, within ninety (90) days of the date of revocation or termination, a verified, or, if available, an audited financial statement showing the Gross Revenues under the Franchise since the end of the previous year and shall make adjustments at that time for the Franchise Fees due up to the date of revocation or termination.

SECTION 11 **Transfer of Franchise**

The Franchise granted hereunder shall not be assigned, other than to an entity controlling, controlled by, or under common control with the Grantee, without the prior written consent of the Grantor, such consent not to be unreasonably withheld or delayed. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or Cable System to secure indebtedness. Within thirty (30) days of receiving a request for transfer, the Grantor shall notify the Grantee in writing of any additional information it reasonably requires to determine the legal, financial and technical qualifications of the transferee. If the Grantor has not taken action on the Grantee's request for transfer within one hundred twenty (120) days after receiving a completed Application including FCC Form 394, consent by the Grantor shall be deemed given.

SECTION 12 **Records, Reports and Maps**

12.1 Reports Required. The Grantee's schedule of charges, contract or application forms for regular Subscriber service, policy regarding the processing of Subscriber complaints, delinquent Subscriber disconnect and reconnect procedures and any other terms and conditions adopted as the Grantee's policy in connection with its Subscribers shall be filed with the Grantor upon written request.

12.2 Records Required.

The Grantee shall at all times maintain:

- A. A record of all written complaints received regarding interruptions or degradation of Cable Service for one (1) year.
- B. A set of strand maps showing the location of the Cable System.

12.3 Inspection of Records. Grantee shall permit any duly authorized representative of the Grantor, upon receipt of advance written notice to examine during normal business hours

and on a non-disruptive basis any and all records that are legally permissible for release and which are reasonably necessary to ensure Grantee's compliance with Sections 10 and 12.2 of the Franchise. Such notice shall specifically reference the section or subsection of the Franchise that is under review so that the Grantee may organize the necessary books and records for easy access by the Grantor. The Grantee shall not be required to maintain any books and records for Franchise compliance purposes longer than three (3) years, except for service complaints, which shall be kept for one (1) year as specified above. The Grantee shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act. The Grantor agrees to treat as confidential any books, records or maps that constitute proprietary or confidential information to the extent Grantee makes the Grantor aware of such confidentiality. If the Grantor believes it must release any such confidential books or records in the course of enforcing this Franchise, or for any other reason, it shall advise Grantee in advance so that Grantee may take appropriate steps to protect its interests. Until otherwise ordered by a court or agency of competent jurisdiction, the Grantor agrees that, to the extent permitted by State and Federal law, it shall deny access to any of Grantee's books and records marked confidential, as set forth above, to any Person. The Grantor, its agents, employees, representatives or any other Person who has access to records provided by the Grantee shall sign Grantee's nondisclosure agreement prior to records review provided such records are confidential. Grantee shall provide copies of records to Grantor if such are not confidential or unless it is determined by Grantee to be voluminous or unreasonable to reproduce.

SECTION 13
Support for Local Cable-Related Needs

13.1 Public, Educational and Governmental Access.

- A. Access Channels. Within six (6) months of a written request by Grantor, the Grantee shall provide one (1) Access Channel for use by the Grantor for original, non-commercial video programming for Public, Educational and Governmental (PEG) Access programming and subject to the conditions set forth below.
- B. Unused Channel. Grantee shall have the right to reclaim any Channel, or portion thereof, which is allocated under this Section for PEG access use, within sixty (60) days after a written request for such use is submitted to Grantor if such Channel is not “fully utilized” as defined herein. A PEG Channel shall be considered fully utilized if substantially unduplicated programming is delivered over it more than an average of 36 hours per week over a six (6) month period. Programming that is repeated on a PEG Channel up to three times per week over any one week period shall be considered “unduplicated programming.” The City may gain the return of the PEG Access channel by providing information to the Grantee that demonstrates that the Channel can be programmed for thirty-six (36) hours per week with locally produced PEG video programming (as defined herein). At such time, the Grantee shall have six (6) months to restore the PEG Access Channel for use by the City or its designated access provider for PEG access purposes.
- C. Access Channel Designation. Grantee acknowledges and agrees that if Grantee relocates the channel, the Grantee shall provide no less than sixty (60) days notice

of such relocation. Subject to subsection 13.1 , Grantee reserves all rights under the Cable Act to specify channel locations.

- D. Non-Commercial Use. PEG Access Channel shall be non-commercial, not-for-profit, and non-competitive. The PEG Access Channel shall not be used for commercial purposes, such as leasing capacity, advertising, or any use whatsoever that may generate revenue (subject to the permissible uses as outlined in this subsection) for the Grantor or any other Person, or compete with current or future services provided by the Grantee, its designee or assignee. Notwithstanding the foregoing, Grantor and Grantee agree that the Grantor may receive and acknowledge financial support for the provision of PEG Programming for charitable, educational or governmental access purposes with a fifteen (15) second video and/or audio acknowledgment window at the beginning and end of the sponsored program. This window may only contain the name and logo of each sponsor.

13.2 Indemnification and Restrictions. The Grantor shall indemnify, save and hold harmless the Grantee from and against any and all liability resulting from the Grantor's use of the two-way insertion points under subsection 13.3 and the aforementioned PEG Channel whether Grantor operates the PEG Channel from a third party's Facilities or from Grantee's Facilities. Grantee shall not be responsible for operating and managing the PEG Channel including approving any PEG programming and/or for obtaining releases from programmers for any PEG programming. Grantor reserves the right to permit a third party to operate and manage the PEG Channel on the Grantor's behalf.

13.3 Insertion Points. Grantee shall continue to provide one (1) insertion point at City Hall (129 South Chelan Avenue, Wenatchee, WA 98801), provided that users of such insertion point shall hold the Grantee harmless from any and all liability or claims arising out of its use. If, at any time, the Grantor requests that the insertion point be moved from its original location to another location, Grantor shall pay the entire cost for the move and transport costs. To the extent permitted by applicable law, Grantee may recover the fair market value of the recurring operating and maintenance costs for the facilities connecting the insertion point to Grantee's Cable System through a deduction against the franchise fee paid to the Grantor in accordance with Section 10 herein.

13.4 Technical Support from Grantee. Upon receipt of a call or other communication from the Grantor to Grantee identifying a technical problem and requesting assistance, Grantee shall provide technical assistance or diagnostic services to determine whether or not a problem with a PEG signal is the result of matters for which Grantee is responsible, and if so, Grantee shall take corrective action. If the problem persists and there is a dispute about the cause, then the parties shall convene a meeting or telephone call with personnel from Grantee and Grantor in order to determine the course of action to remedy the problem.

13.5 Financial Support for PEG Access. Grantee formerly made a one-time capital contribution to the Grantor in the amount of one hundred thousand dollars (\$100,000), and Grantee shall continue to collect from and bill each Subscriber an amount of eight cents (\$0.08) per month per Subscriber for recovery of the one-time capital contribution. Grantee

shall, annually and at the request of the Grantor, provide the Grantor with the amount of capital contribution collected and the amount remaining to be collected.

SECTION 14 **Enforcement or Revocation**

14.1 Notice of Violation. If the Grantor believes that the Grantee has not complied with the terms of the Franchise, the Grantor shall first informally discuss the matter with Grantee. If these discussions do not lead to resolution of the problem, the Grantor shall notify the Grantee in writing of the exact nature of the alleged noncompliance (the "Violation Notice").

14.2 Grantee's Right to Cure or Respond. The Grantee shall have sixty (60) days from receipt of the Violation Notice to (i) respond to the Grantor, contesting the assertion of noncompliance, or (ii) to cure such default, or (iii) if, by the nature of default, such default cannot be cured within the sixty (60) day period, initiate reasonable steps to remedy such default and notify the Grantor of the steps being taken and the projected date that they will be completed.

14.3 Public Hearing. If the Grantee fails to respond to the Violation Notice received from the Grantor, or if the default is not remedied within the cure period set forth above, the City Council shall schedule a public hearing if it intends to continue its investigation into the default. The Grantor shall provide the Grantee at least twenty (20) days prior written notice of such hearing, which specifies the time, place and purpose of such hearing, notice of which shall be published by the Clerk of the Grantor in a newspaper of general circulation within the Service Area. The Grantee shall have the right to present evidence and to question witnesses. The Grantor shall determine if the Grantee has committed a violation and shall make written findings of fact relative to its determination. If a violation is found, the Grantee may petition for reconsideration before any competent tribunal having jurisdiction over such matters.

14.4 Enforcement. Subject to applicable federal and State law, in the event the Grantor, after the hearing set forth in subsection 14.3 above, determines that the Grantee is in default of any provision of the Franchise, the Grantor may:

- A. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages; or
- B. Commence an action at law for monetary damages or seek other equitable relief; and
- C. In the case of a substantial default of a material provision of the Franchise, seek to revoke the Franchise itself in accordance with subsection 14.5 below.

14.5 Revocation.

- A. Prior to revocation or termination of the Franchise, the Grantor shall give written notice to the Grantee of its intent to revoke the Franchise on the

basis of noncompliance by the Grantee, including one or more instances of substantial noncompliance with a material provision of the Franchise. The notice shall set forth the exact nature of the noncompliance. The Grantee shall have sixty (60) days from such notice to either object in writing and to state its reasons for such objection and provide any explanation or to cure the alleged noncompliance. If the Grantor has not received a satisfactory response from Grantee, it may then seek to revoke the Franchise at a public hearing. The Grantee shall be given at least thirty (30) days prior written notice of such public hearing, specifying the time and place of such hearing and stating Grantor's intent to revoke the Franchise.

- B. At the hearing, the City Council shall give the Grantee an opportunity to state its position on the matter, present evidence and question witnesses, after which the City Council shall determine whether or not the Franchise shall be revoked. The public hearing shall be on the record and a written transcript shall be made available to the Grantee within ten (10) business days. The decision of the City Council shall be made in writing and shall be delivered to the Grantee. The Grantee may appeal such determination to an appropriate court, which shall have the power to review the decision of the City Council *de novo*. The Grantee may continue to operate the Cable System until all legal appeals procedures have been exhausted.
- C. Notwithstanding the above provisions, neither the Grantor nor the Grantee waive any of their rights under Federal law or regulation.

SECTION 15 **Customer Service**

Grantee shall comply with the customer service standards set forth in Section 76.309 of the Federal Rules and Regulations, as such may be amended from time to time.

SECTION 16 **Miscellaneous Provisions**

16.1 Binding Acceptance. This Franchise shall bind and benefit the parties hereto and their respective permitted successors and assigns.

16.2 Preemption. In the event that federal or State laws, rules or regulations preempt a material provision or limit the enforceability of a material provision of this Franchise, then the provision shall be read to be preempted to the extent and for the time required by law. In the event such federal or State law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision hereof that had been preempted is no longer preempted, the Grantor and the Grantee shall work together in good faith to re-implement such provision or one that is materially similar.

16.3 Compliance with Federal State and Local Laws. The Grantee shall comply with all applicable Federal and State laws. Grantee shall comply with local laws and regulations consistent with subsection 2.4.

16.4 Force Majeure. The Grantee shall not be held in default under, or in noncompliance with the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by circumstances reasonably beyond the ability of the Grantee to anticipate and control. This provision includes work delays caused by waiting for utility providers to service or monitor their utility poles to which Grantee's Cable System is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary.

16.5 Minor Violations. Furthermore, the parties hereby agree that it is not the Grantor's intention to subject the Grantee to penalties, fines, forfeitures or revocation of the Franchise for violations of the Franchise where the violation was a good faith error that resulted in no or minimal negative impact on the City or the Subscribers within the Service Area.

16.6 Action of Parties. In any action by the Grantor or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

16.7 Equal Protection. If any new provider of wireline cable services or wireline video services (without regard to the technology used to deliver such services) is lawfully authorized by the Grantor or by any other State or federal governmental entity to provide such services using Facilities located wholly or partly in the public Streets of the Grantor, and if such new provider of wireline cable services or wireline video services actually offers such wireline cable services or wireline video services in the Service Area (or if an existing provider is currently providing wireline cable services or wireline video services and has its existing franchise modified by the Grantor or other State or federal governmental entity), the Grantor shall within sixty (60) days of a written request from Grantee, modify this Franchise to ensure that the obligations applicable to Grantee are no more burdensome than those imposed on any such competing wireline video provider. As an alternative to a Franchise modification request, the Grantee shall have the right and may choose to have this Franchise with the Grantor be deemed expired sixty (60) days after written notice to the Grantor. Grantor and Grantee shall continue to reserve all rights under Section 626 of Title VI of the Communications Act of 1934, as amended, or any successor statute, and do not waive any right related thereto.

16.8 Notices. Unless otherwise provided by Federal, State or Local law, all notices, reports or demands pursuant to this Franchise shall be in writing and shall be deemed to be sufficiently given upon hand delivery to a Person at the addresses set forth below, or by U.S. certified mail, return receipt requested or by nationally or internationally recognized courier service such as Federal Express. Grantee shall provide thirty (30) days written notice of any changes in rates, programming services or channel positions using any reasonable written means at its sole discretion.

As set forth above, notice served upon the Grantor shall be delivered to:

Mayor
City of Wenatchee
P.O. Box 519
Wenatchee, WA 98807

And every notice served upon Grantee shall be delivered or sent by U.S. certified mail, return receipt requested, to:

Attn: Director, Government Relations
Charter Communications
222 NE Park Plaza Drive, #231
Vancouver, WA 98684

With a copy to:

Attn: Vice President, Government Relations
Charter Communications
601 Massachusetts Ave NW, Ste 400W
Washington, DC 20001

Either party may change the address to which notices are sent at any time during the term of this Franchise by notifying the other party in writing not less than thirty (30) days in advance.

16.9 Public Notice. Minimum public notice of any public meeting relating to this Franchise or any such grant of additional franchises, licenses, consents, certificates, authorizations, or exemptions by the Grantor to any other Person(s) to provide Cable Services, video services, or other television services utilizing any system or technology requiring use of the Streets shall be by publication at least once in a newspaper of general circulation in the area at least ten (10) days prior to the meeting and a posting at the administrative building of the Grantor.

Grantor shall provide written notice within ten (10) days of Grantor's receipt from any other Person(s) of an application or request for a franchise, license, consent, certificate, authorization, or exemption to provide Cable Services, video services, or other television services utilizing any system or technology requiring use of the public rights of way. Any public hearings to consider such application or request shall have the same notice requirement as outlined herein.

16.10 Governing Law. This Franchise shall be governed in all respects by the laws of the State of Washington and by applicable federal law. Grantee shall also comply with local laws and regulations consistent with subsection 2.4.

16.11 Time of Essence. In determining whether the Grantee has substantially complied with this Franchise, the parties agree that time is of the essence.

16.12 Cumulative Rights. All rights and remedies given to the Grantor or Grantee by this Franchise or retained by the Grantor or Grantee herein shall be in addition to and cumulative with any and all other rights and remedies, existing or implied, now or hereafter available to the Grantor or Grantee, at law or in equity, and such rights and remedies shall not be exclusive, but each and every right and remedy specifically given by this Franchise or otherwise existing may be exercised from time to time and as often and in such order as may be deemed expedient by the Grantor or Grantee.

16.13 No Joint Venture. Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties, and neither party is authorized to, nor shall either party act toward third Persons or the public in any manner that would indicate any such relationship with the other.

16.14 No Third-Party Beneficiaries. Nothing in this Franchise is or was intended to confer third-party beneficiary status on any Person or any member of the public to enforce the provisions of this Franchise.

16.15 Reservation of Rights. Nothing in this Franchise shall be construed as a waiver of any rights, substantive or procedural, Grantee or Grantor may have under Federal or State law unless such waiver is expressly stated herein.

16.16 Venue. The venue for any dispute related to this Franchise shall be in the Superior Court in Wenatchee, Washington or the district court of the U.S. for any judicial district in which the Cable System is located.

16.17 No Waiver of Terms. A failure of the Grantor on one or more occasions to insist upon or to seek compliance with any term or condition of this Franchise shall not excuse Grantee from complying with said term or condition on any other occasion. A failure of either the Grantor or Grantee on one or more occasions to insist upon or to seek compliance with any term or condition of this Franchise shall not excuse the other party from complying with said term or condition on any other occasion.

16.18 Captions. The captions and headings of Sections and subsections throughout this Franchise are intended solely to facilitate the reading hereof and shall not affect the meaning or interpretation of this Franchise.

16.19 Recitals. The recitals set forth in this Franchise are incorporated into the body of this Franchise as if they had been originally set forth therein.

16.20 Interpretation. This Franchise and the provisions contained herein shall not be construed or interpreted for or against any party because that party drafted or caused that party's legal representative to draft any of its provisions.

16.21 Severability. If any section, subsection, sentence, clause, phrase, or portion of this Franchise is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Franchise.

16.22 Entire Agreement. This Franchise sets forth the entire agreement between the parties respecting the subject matter hereof. All agreements, covenants, representations and warranties, express and implied, oral and written, of the parties with regard to the subject matter hereof are contained herein. No other agreements, covenants, representations or warranties, express or implied, oral or written, have been made by any party to the other with respect to the subject matter of this Franchise. All prior and contemporaneous conversations, negotiations, agreements, representations, covenants and warranties with respect to the subject matter hereof are superseded hereby.

16.23 Amendments. This Franchise is a contract and neither party may take unilateral action that materially changes the explicit mutual promises and covenants contained herein. Any changes, modifications or amendments to this Franchise must be made in writing, signed by the Grantor and the Grantee.

16.24 Effective Date. The Franchise granted herein will take effect and be in full force from such date of acceptance by Grantee recorded on the signature page of this Agreement. This Franchise shall expire on December 31, 2029 unless extended by the mutual agreement of the parties or unless otherwise terminated in accordance with the terms of this Franchise.

16.25 Publication Costs. The Grantee shall be responsible for all costs of publication of this Franchise and any extensions thereto. Such costs shall include, but are not limited to, the cost of publication in any newspaper.

Considered and approved this ____, day of _____, 2020.

City of Wenatchee, Washington

Signature: _____

Name/Title: _____

Accepted this ____ day of _____, 2020, subject to applicable Federal, State and local law.

Spectrum Pacific West, LLC

By: Charter Communications Inc., its Manager

By: _____

Printed Name: Paul D.
Abbott
Title: Vice-President,
Local Government
Affairs & Franchising
Charter Communications