

ORDINANCE NO. C \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF SPOKANE, WASHINGTON, CONCERNING A PROPOSITION PROPOSED BY THE MAYOR TO FINANCE ROAD IMPROVEMENTS; A CITIZENS' COMMITTEE HAS DEVELOPED A PLAN FOR ROAD IMPROVEMENT PROJECTS FOR MAJOR ARTERIALS, PUBLIC SAFETY CORRIDORS AND RESIDENTIAL STREET REPAIR; TO FINANCE THESE REPAIRS AND TO HELP PAVE UNPAVED STREETS, THE CITY WOULD ISSUE GENERAL OBLIGATION BONDS IN THE TOTAL AMOUNT OF \$117,351,000 MATURING IN TWENTY YEARS; THE BONDS WOULD BE REPAID FROM AN ANNUAL EXCESS LEVY ON REAL PROPERTY WITHIN THE CITY; PROVIDING FOR THE ISSUANCE OF SUCH GENERAL OBLIGATION BONDS; PROVIDING FOR THE SUBMISSION OF THE PROPOSITION TO THE QUALIFIED ELECTORS OF THE CITY AT A SPECIAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 2, 2004 IN CONNECTION WITH THE STATE GENERAL ELECTION TO BE HELD ON THE SAME DATE; PROVIDING FOR THE NOTICE OF SUCH ELECTION; DECLARING AN EMERGENCY; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.**

**CITY OF SPOKANE  
SPOKANE COUNTY, WASHINGTON**

THE CITY OF SPOKANE DOES ORDAIN:

WHEREAS, the City of Spokane, Washington (the "City") is a first-class city duly organized and existing under and by virtue of the Constitution and the laws of the state of Washington and the Charter of the City;

WHEREAS, the City Council (the "Council") has reviewed a road improvement plan (the "Plan") developed by a Citizens' Committee appointed by the Mayor of the City;

WHEREAS, the Mayor has recommended that the Council implement the Plan;

WHEREAS, the Council has determined that the conditions of certain streets of the City constitute potential health and safety threats to the residents and inhabitants of the City and require immediate improvement;

WHEREAS, the Council has determined that it is necessary for the preservation of the health and safety of the residents and inhabitants of the City to undertake immediately certain road improvement projects, including, but not limited to, the acquisition, construction and installation of certain repairs and improvements to the major arterials, public safety corridors, helping pave unpaved streets, and residential streets of the City;

WHEREAS, future citizens of the City will reap the benefits of such repairs and improvements to the City's streets made with funding authorized by today's voters, making it appropriate to pay for those improvements over a period of time;

WHEREAS, to provide funds to acquire, construct and install such repairs and improvements in as timely a fashion possible and after due deliberation, the Council hereby deems it necessary and advisable that the City issue and sell its general obligation bonds in the aggregate principal amount of not to exceed \$117,351,000 in one or more series;

WHEREAS, RCW 39.36.020(2)(b) and 84.52.056 require that a special election be called for the submission of a proposition to the qualified electors within the City for their ratification or rejection prior to incurring such bonded indebtedness; and

NOW, THEREFORE, IT IS FURTHER ORDAINED, as follows:

**Section 1.** The Council hereby determines that the health and safety of the residents and inhabitants of the City requires the immediate acquisition, construction and installation of certain repairs and improvements and betterments to its streets, together with all necessary appurtenances, equipment, fixtures and furnishings thereof.

**Section 2.** The proposed repairs and improvements to the City's streets to be paid for with bond proceeds are as follows:

(a) the acquisition, construction and installation of repairs and improvements to certain streets within the City, including but not limited to major arterials, public safety corridors, and residential streets and helping pave unpaved City streets;

(b) the acquisition and installation of all necessary appurtenances, equipment, fixtures and furnishings for the foregoing as deemed necessary by the Council;

(c) the acquisition, construction and installation of all such other repairs and improvements to City streets, deemed necessary by the Council; and

(d) ancillary costs of engineering, architectural, construction management, attorney's fees, costs of bond issuance, permits, accounting costs, easement and any other expenses or consultant fees incidental thereto, together with all necessary appurtenances, equipment, fixtures and furnishings thereto.

Such repairs and improvements and betterments are to be more fully described in the plans and specifications to be prepared by the City's engineering staff and consultants and when prepared will be on file with the City Engineer.

**Section 3.** The total estimated cost of repairs and improvements specified in Section 2 above is hereby declared to be approximately \$117,351,000, which shall be paid from the proceeds of the sale, issuance and delivery of the City's unlimited tax general obligation bonds (the "Bonds") to be issued in one or more series in the aggregate principal amount of not to exceed \$117,351,000.

In the event the City has other legally available money or there are Bond proceeds (or interest earnings thereon) remaining after the repairs and improvements set forth in Section 2, subsections (a) through (d) hereof have been completed or duly provided for, the Council may make additional repairs and improvements to the streets of the City as are deemed necessary and desirable by the Council.

**Section 4.** The Bonds provided for in Section 3 hereof, if approved and issued, shall be sold in such amounts and at such time or times as deemed necessary and advisable by the Council and as permitted by law. The Bonds may be issued in one or more series and shall bear interest at such rate or rates (not to exceed the maximum provided by law at the time such Bonds are sold) and in such manner as the Council shall determine at the time the Bonds are sold. The Bonds shall mature in such amounts and at such times within a maximum term of not to exceed twenty (20) years from the date of issuance of any series of Bonds, as determined by the Council and as provided by law. The Bonds may be subject to redemption prior to maturity as determined by the Council at the time or times the Bonds are sold. Such Bonds shall be unlimited tax general obligations of the City, and, unless paid from other sources, both principal thereof and interest thereon shall be payable out of annual tax levies to be made upon all the taxable property within the City without limitation as to rate or amount in excess of any constitutional or statutory tax limitation, including excess tax levies authorized under RCW 84.52.056. The exact dates, forms, terms and maturities of such Bonds shall be hereafter determined by Ordinance of the Council. The designation of the Bonds may be changed to reflect the actual date of issuance. After voter approval of the bond proposition and in anticipation of the issuance of such Bonds, the City may issue short-term obligations as authorized by Chapter 39.50 RCW.

In the event the proceeds of the sale of such Bonds, and other legally available money, are insufficient to make all the repairs and improvements hereinbefore provided for, the City shall use the available money for paying the cost of those improvements for which Bonds were approved and deemed most necessary and to be in the best interest of the City by the Council.

**Section 5.** The City Clerk is hereby authorized and directed to certify a proposition to the Spokane County Auditor in substantially the following form:

CITY OF SPOKANE  
PROPOSITION NO. 1

GENERAL OBLIGATION  
STREET REPAIR AND IMPROVEMENTS BONDS

THE MAYOR HAS PROPOSED AND THE SPOKANE CITY COUNCIL HAS PASSED ORDINANCE NO. \_\_\_\_\_ CONCERNING A PROPOSITION TO FINANCE ROAD IMPROVEMENTS. A CITIZENS' COMMITTEE HAS DEVELOPED A PLAN FOR ROAD IMPROVEMENT PROJECTS FOR MAJOR ARTERIALS, PUBLIC SAFETY CORRIDORS AND RESIDENTIAL STREET REPAIR. TO FINANCE THESE REPAIRS AND TO HELP PAVE UNPAVED STREETS, GENERAL OBLIGATION BONDS IN THE TOTAL AMOUNT OF \$117,351,000 MATURING IN TWENTY YEARS WOULD BE ISSUED. THE BONDS WOULD BE REPAID FROM AN ANNUAL EXCESS LEVY ON REAL PROPERTY WITHIN THE CITY. SHOULD THIS PROPOSITION BE:

APPROVED

REJECTED

**Section 6.** The special election will be held on Tuesday November 2, 2004 in conjunction with the state general election to be held on the same date. Polls will be open from 7:00 o'clock A.M. and will remain open until 8:00 o'clock P.M., when they will close.

**Section 7.** The location of the polling places shall be as determined by the Spokane County Auditor, as *ex officio* Supervisor of Elections for the City.

**Section 8.** In the event the proposition specified in Section 6 above is approved by the qualified electors of the City as required by the Constitution and laws of the state of Washington, there shall be levied and collected annual tax levies in an amount sufficient in each such year to pay and retire the Bonds until the full payment of both principal thereof and interest thereon, as will produce levy proceeds sufficient in amount to fully pay currently maturing installments of principal and interest on such Bonds as each becomes due. Such tax levies will be in excess of the regular annual tax levies permitted by law without voter approval.

**Section 9.** The Council hereby finds and declares that an emergency exists, due to the need for immediate repairs and improvements to the City's streets to preserve the health and safety of the residents and inhabitants of the City and to meet in a timely fashion the filing deadlines for bond measures under State law. Such emergency requires the City to conduct a special bond election and requires the submission to the qualified electors of the City, for their ratification or rejection at such special election, of the proposition as set forth above. The City hereby requests pursuant to RCW 29A.04.330(2) (as may be further reflected in a resolution of the City Council) the Spokane County Auditor, as *ex officio* Supervisor of Elections for the City, to call, conduct and hold within the City a special election on Tuesday, November 2, 2004 in conjunction with the state general election to be held on the same date, for the purpose of submitting to the qualified electors of the City, for their ratification or rejection, the proposal to make the repairs and improvements specified in Section 2 above, to incur indebtedness and issue Bonds to finance such repairs and improvements, and to levy taxes in excess of the regular property tax levies to pay the principal of and interest on such Bonds. The Clerk of the City is hereby authorized and directed to deliver a copy of this Ordinance to the Spokane County Auditor, as *ex officio* Supervisor of Elections for the City, at least 45 days prior to the special election date.

The Spokane County Auditor, as *ex officio* Supervisor of Elections for the City, is also hereby requested to find the existence of such emergency and to deem the same to exist and to call and conduct such special election on Tuesday, November 2, 2004 in conjunction with the general election of the state to be held on the same date for the purpose of submitting to the qualified electors of the City the proposition as described in Section 5 hereof.

**Section 10.** All actions heretofore taken by the Council, the Mayor, and the City's officers and employees, with respect to the road and street improvements described herein are hereby ratified and approved.

**Section 11.** If one or more of the provisions of this Ordinance shall be declared by any court of competent jurisdiction to be contrary to law, then such provision shall be null and void, and shall be deemed separable from the remaining provisions of this Ordinance, and shall in no way affect the validity of the other provisions of this Ordinance.

**Section 12.** The City's Bond Counsel, Orrick, Herrington & Sutcliffe LLP, is appointed as Bond Counsel for the Bonds.

**Section 13.** This Ordinance shall become effective upon its passage.

PASSED by the City Council of the City of Spokane, Washington, at a regular meeting thereof, held this 7th day of September 2004.

CITY OF SPOKANE  
Spokane County, Washington

\_\_\_\_\_  
Dennis Hession, Council President

\_\_\_\_\_  
James E. West, Mayor

ATTEST:

\_\_\_\_\_  
Terri L. Pfister, Clerk

(SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael F. Connelly, City Attorney

\_\_\_\_\_  
Douglas E. Goe, Bond Counsel

\* \* \* \* \*

**CERTIFICATE**

I, Terri L. Pfister, the Clerk of the City of Spokane, Spokane County, Washington, hereby certify that the foregoing ordinance is a full, true and correct copy of an ordinance duly passed and adopted at a regular meeting of the City Council, duly held at the Spokane City Hall on September 7, 2004, of which meeting all members of said Council had due notice, and at which a majority thereof was present, and that at said meeting said ordinance was adopted by the following vote:

AYES, and in favor thereof, Councilmembers: \_\_\_\_\_

NAYS, Councilmembers: \_\_\_\_\_

ABSENT, Councilmembers: \_\_\_\_\_

ABSTAIN, Councilmembers: \_\_\_\_\_

I further certify that I have carefully compared the same with the original ordinance on file and of record in my office; that said ordinance is a full, true and correct copy of the original ordinance adopted at said meeting; and that said ordinance has not been amended, modified or rescinded since the date of its adoption; and that said ordinance has been duly approved by the Mayor of the City and is now in full force and effect.

IN WITNESS WHEREOF, I have set my hand on this 7th day of September 2004.

CITY OF SPOKANE  
Spokane County, Washington

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Terri L. Pfister  
City Clerk

(SEAL)