



WITHERSPOON • KELLEY

Attorneys & Counselors

SPOKANE | COEUR D'ALENE

Stanley M. Schwartz
Admitted in Washington & Idaho
email: sms@witherspoonkelley.com

RECEIVED

JAN 13 2014

CITY CLERK'S OFFICE
SPOKANE, WA

January 10, 2014

Electronically Filed

William Lake, Chief
Media Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

***Re: I/M/O Comcast Cable Communications, LLC
For Determination of Effective
Competition in 5 Washington Franchise Areas
MB Docket No. 13-310***

Dear Chief Lake:

Enclosed for filing are comments in Opposition to Petition for Special Relief on behalf of the City of Airway Heights, Washington in connection to the above referenced matter.

These comments are electronically filed through the Commission's electronic filing system.

Thank you for your courtesies. Please contact me if you have any questions.

Very truly yours,

WITHERSPOON • KELLEY

Stanley M. Schwartz
Erik A. Kukuk

SMS:EAK/kh

cc: Service List

422 W. Riverside Avenue, Suite 1100 Tel: 509.624.5265
Spokane, Washington 99201-0300 Fax: 509.458.2728
www.witherspoonkelley.com

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Comcast Cable Communications, LLC,) CSR No. _____
on behalf of its subsidiaries and affiliates)
) MB Docket No. 13-310
For Determination of Effective Competition in:)
5 Washington Franchise Areas)

To: Office of the Secretary
Attn: Chief, Media Bureau

**I. OPPOSITION TO PETITION FOR SPECIAL RELIEF ON BEHALF OF THE
CITY OF AIRWAY HEIGHTS, WASHINGTON**

The City of Airway Heights, Washington (the "City") opposes the Petition for Special Relief ("Petition") submitted by Comcast Cable Communications, LLC ("Comcast") for a determination of "effective competition" in the City.¹

The City opposes Comcast's Petition on the basis that (1) the census data relied upon by Comcast is not contemporaneous to the filing date; and (2) a finding of effective competition and deregulation of Comcast's rates would negatively impact the City's population due to the fact that the City has a 10% unemployment rate; the median wage in the City is significantly lower than the statewide wage; and the City's poverty rate is 34.2% as compared to a 12.9% statewide rate.²

Finally, to the extent appropriate, the City respectfully requests its opposition be considered in concert with the opposition filed by the City of Spokane, Washington.

¹ 47 CFR § 76.7

² See Exhibit 1 and *Declaration of Erik A. Kukuk* attached hereto.

II. ARGUMENT

A. Comcast's Petition Relies on Outdated Data that is Not Contemporaneous to the Filing Date.

"[T]he cable operator bears the burden of rebutting the presumption that effective competition does not exist with evidence that effective competition, as defined in 47 CFR § 76.905, exists in the franchise area."³ It is axiomatic that to satisfy its burden Comcast's petition "must demonstrate that its system was subject to effective competition at the time of certification. In order to demonstrate this, cable operators must rely on subscriber data as of or approximately as of the time of certification, but no earlier than two months before the request for certification was filed."⁴

Here, public notice for Comcast's Petition was filed on December 23, 2013. Comcast's Petition utilizes satellite data from May 3, 2013; however, Comcast's Petition relies on household occupancy data from 2010. To satisfy its burden, Comcast should have to provide data that is reasonably contemporaneous to the date it filed its Petition. Tracking this point, the City underwent an annexation in 2012 that added additional residences and properties.⁵

By foregoing the requirement to provide contemporaneous data, Comcast has essentially relied upon stale data that may not accurately reflect actual subscriber rates. Further, as previously noted, the presumption is that effective competition does not exist. To this end, the City respectfully requests the Federal Communications Commission (the "FCC") require Comcast to provide current data to substantiate its Petition.

³ 47 CFR § 76.907(b)

⁴ See *In the Matter of Cable Operators' Petitions for Reconsideration and Revocation of Franchising Authorities' Certifications to Regulate Basic Cable Service Rates*, 9 FCC Rcd. 3656 (1994).

⁵ See *Declaration of Erik A. Kukuk* attached hereto.

B. Deregulation will negatively impact the City's population.

The FCC has the discretion to protect consumers in the City from an increase in cable prices. Effective competition was created by Congress based upon the assumption that, utilizing basic economic theories, market pressures would dictate rates, protect subscribers, and make rate regulation unnecessary.⁶ Since 1993 the FCC has included DBS providers in the definition of MVPDs even though at the time the FCC created the order there was no DBS competition.⁷ However, in the most recent price survey issued by the FCC, the average prices for expanded basic service are actually *higher* in communities in which effective competition has been granted.⁸

Here, the City is a low-income community with a 10% unemployment rate, below average median wage, and a poverty rate of 34.2% as compared to a 12.9% statewide rate. Considering the foregoing data in the FCC survey, a finding of effective competition and deregulation of rates creates the very real risk that prices for basic service will increase.

This risk, juxtaposed to the City's poor economic climate, will significantly harm the City's population. Accordingly, with this point in mind, the City urges the FCC to consider the data trends in its own reports and deny Comcast's Petition.

⁶ See e.g., S. Rep. 102-92 at 11-12, *reprinted at* 1992 U.S.C.C.A.N. 1133, 1144 (1991).

⁷ *In the Matter of Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992 Rate Regulation*, 8 FCC Rcd. 5631, 5660 (1993).

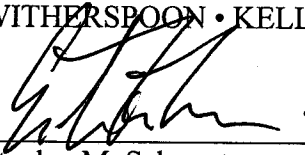
⁸ See *Report on Cable Industry Prices*, MM Docket No. 92-266 at 7-8, Table 2 (June 7, 2013).

III. CONCLUSION

Based on the foregoing reasons, the City respectfully requests that the FCC deny Comcast's Petition.

Respectfully submitted,

WITHERSPOON • KELLEY



Stanley M. Schwartz

Erik A. Kukuk

Counsel for the City of Airway Heights

Dated: January 10, 2014

CERTIFICATE OF SERVICE

I, Alicia Asplint, do hereby certify on the 10th day of January, 2014 that a true and correct copy of the foregoing "Opposition to Petition for Special Relief on behalf of the City of Airway Heights, Washington" was served upon the following persons in the manner indicated:

William Lake, Chief	<input type="checkbox"/>	via U.S. Mail
Media Bureau	<input type="checkbox"/>	via Certified Mail
Federal Communications Commission	<input type="checkbox"/>	via Hand Delivered
445 12th Street, SW	<input checked="" type="checkbox"/>	via Federal Express
Washington, DC 20554		

Mr. Richard Cook	<input checked="" type="checkbox"/>	via U.S. Mail
Clerk-Treasurer	<input type="checkbox"/>	via Certified Mail
City of Airway Heights	<input type="checkbox"/>	via Hand Delivered
S. 1208 Lundstrom	<input type="checkbox"/>	via Federal Express
Airway Heights, WA 99001		

Hon. Daniel Mork	<input checked="" type="checkbox"/>	via U.S. Mail
Mayor, City of Millwood	<input type="checkbox"/>	via Certified Mail
9103 E. Frederick Avenue	<input type="checkbox"/>	via Hand Delivered
Spokane, WA 99206	<input type="checkbox"/>	via Federal Express

Hon. Tom Towe	<input checked="" type="checkbox"/>	via U.S. Mail
Mayor, City of Spokane Valley	<input type="checkbox"/>	via Certified Mail
11707 E. Sprague, Suite 106	<input type="checkbox"/>	via Hand Delivered
Spokane Valley, WA 99206	<input type="checkbox"/>	via Federal Express

Marlene H. Dortch, Secretary	<input type="checkbox"/>	via U.S. Mail
Federal Communications Commission	<input type="checkbox"/>	via Certified Mail
445 12th Street, SW	<input type="checkbox"/>	via Hand Delivered
Washington, DC 20554	<input checked="" type="checkbox"/>	via Federal Express

Ms. Ann Marie Gale	<input checked="" type="checkbox"/>	via U.S. Mail
City Treasurer	<input type="checkbox"/>	via Certified Mail
City of Liberty Lake	<input type="checkbox"/>	via Hand Delivered
22710 E. Country Vista Drive	<input type="checkbox"/>	via Federal Express
Liberty Lake, WA 99019		

Ms. Terri L. Pfister City Clerk	<input checked="" type="checkbox"/>	via U.S. Mail
808 West Spokane Falls Blvd.	<input type="checkbox"/>	via Certified Mail
Spokane, WA 99201-3303	<input type="checkbox"/>	via Hand Delivered
	<input type="checkbox"/>	via Federal Express



Alicia Asplint, Legal Assistant

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Comcast Cable Communications, LLC,) CSR No. _____
on behalf of its subsidiaries and affiliates)
) MB Docket No. 13-310
For Determination of Effective Competition in:)
5 Washington Franchise Areas)

To: Office of the Secretary
Attn: Chief, Media Bureau

**Declaration of Erik A. Kukuk
Filed in Support of the Opposition to Comcast's Petition for Special Relief
Filed by the City of Airway Heights, Washington**

I, Erik A. Kukuk, declare and testify as follows:

1. I submit this declaration in support of the Opposition to Comcast's Petition for Special Relief (the "Opposition") filed by the City of Airway Heights, Washington (the "City") in the above-captioned matter. I am fully competent to testify to the matters set forth herein.

2. I am a duly licensed attorney in good standing in the State of Washington.

3. I am employed at the law firm of Witherspoon Kelley and serve as counsel to the City of Airway Heights.

4. Based upon available public information, the City has an unemployment rate of 10%; the median household income in the City is \$35,857 as compared to the statewide median household income of \$59,374; and the City's poverty rate is 34.2% as compared to a 12.9% statewide poverty rate. Attached hereto as Exhibit 1 is a copy of the governmental webpage from which I obtained the foregoing data.

5. Effective January 1, 2012, the City adopted Ordinance No. C-749 thereby annexing additional residences and property into the City. Attached as Exhibit 2 is a true and

correct copy of "An Ordinance of the City of Airway Heights, Washington Providing for Annexation of Certain Property, Establishing the Official Date of Annexation, Adopting Zoning Regulations for the Property and Providing for Other Matters Related Thereto," which was recorded with the Spokane County Auditor under recording no. 602392.

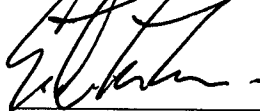
6. The foregoing declaration is based upon my personal knowledge and belief formed after reasonable inquiry.

I certify under penalty of perjury that the foregoing is true and correct.

Signed this 10th day of January, 2014, at Spokane, Washington.

Respectfully submitted,

WITHERSPOON • KELLEY



Stanley M. Schwartz

Erik A. Kukuk

Counsel for the City of Airway Heights

EXHIBIT 1

U.S. Department of Commerce

Home Blogs About Us Index A to Z Glossary FAQs

[People](#) | [Business](#) | [Geography](#) | [Data](#) | [Research](#) | [Newsroom](#)

State & County QuickFacts

Airway Heights (city), Washington

People QuickFacts	Airway	
	Heights	Washington
Population, 2012 estimate	6,363	6,897,012
Population, 2010 (April 1) estimates base	6,114	6,724,543
Population, percent change, April 1, 2010 to July 1, 2012	4.1%	2.6%
Population, 2010	6,114	6,724,540
Persons under 5 years, percent, 2010	5.8%	6.5%
Persons under 18 years, percent, 2010	17.3%	23.5%
Persons 65 years and over, percent, 2010	5.6%	12.3%
Female persons, percent, 2010	32.3%	50.2%
White alone, percent, 2010 (a)	78.5%	77.3%
Black or African American alone, percent, 2010 (a)	7.2%	3.6%
American Indian and Alaska Native alone, percent, 2010 (a)	3.7%	1.5%
Asian alone, percent, 2010 (a)	3.5%	7.2%
Native Hawaiian and Other Pacific Islander alone, percent, 2010 (a)	0.9%	0.6%
Two or More Races, percent, 2010	4.4%	4.7%
Hispanic or Latino, percent, 2010 (b)	8.3%	11.2%
White alone, not Hispanic or Latino, percent, 2010	72.9%	72.5%
Living in same house 1 year & over, percent, 2008-2012	69.8%	82.6%
Foreign born persons, percent, 2008-2012	7.4%	13.0%
Language other than English spoken at home, pct age 5+, 2008-2012	13.4%	18.2%
High school graduate or higher, percent of persons age 25+, 2008-2012	89.2%	90.0%
Bachelor's degree or higher, percent of persons age 25+, 2008-2012	9.7%	31.6%
Veterans, 2008-2012	653	594,914
Mean travel time to work (minutes), workers age 16+, 2008-2012	19.9	25.5
Housing units, 2010	1,727	2,885,677
Homeownership rate, 2008-2012	46.3%	63.8%
Housing units in multi-unit structures, percent, 2008-2012	31.4%	25.7%
Median value of owner-occupied housing units, 2008-2012	\$147,900	\$272,900
Households, 2008-2012	1,472	2,619,995
Persons per household, 2008-2012	2.54	2.52
Per capita money income in past 12 months (2012 dollars), 2008-2012	\$13,136	\$30,661
Median household income, 2008-2012	\$35,857	\$59,374
Persons below poverty level, percent, 2008-2012	34.2%	12.9%
	Airway	
	Heights Washington	
Business QuickFacts		
Total number of firms, 2007	F	551,340
Black-owned firms, percent, 2007	F	S
American Indian- and Alaska Native-owned firms, percent, 2007	F	1.2%
Asian-owned firms, percent, 2007	F	6.8%
Native Hawaiian and Other Pacific Islander-owned firms, percent, 2007	F	0.2%
Hispanic-owned firms, percent, 2007	F	3.2%
Women-owned firms, percent, 2007	F	28.7%
Manufacturers shipments, 2007 (\$1000)	0 ¹	112,053,283
Merchant wholesaler sales, 2007 (\$1000)	0 ¹	76,790,966
Retail sales, 2007 (\$1000)	0 ¹	92,968,519
Retail sales per capita, 2007	NA	\$14,380
Accommodation and food services sales, 2007 (\$1000)		

0¹ 12,389,422

Geography QuickFacts	Airway	
	Heights	Washington
Land area in square miles, 2010	5.63	66,455.52
Persons per square mile, 2010	1,085.8	101.2
FIPS Code	00905	53
Counties		

1: Counties with 500 employees or less are excluded.

(a) Includes persons reporting only one race.

(b) Hispanics may be of any race, so also are included in applicable race categories.

D: Suppressed to avoid disclosure of confidential information

F: Fewer than 25 firms

FN: Footnote on this item for this area in place of data

NA: Not available

S: Suppressed; does not meet publication standards

X: Not applicable

Z: Value greater than zero but less than half unit of measure shown

Source U.S. Census Bureau: State and County QuickFacts. Data derived from Population Estimates, American Community Survey, Census of Population and Housing, County Business Patterns, Economic Census, Survey of Business Owners, Building Permits, Census of Governments

Last Revised: Tuesday, 17-Dec-2013 12:30:28 EST

EXHIBIT 2

City of Airway Heights
PO Box 969
Airway Heights, WA 99001

COPY
ORIGINAL FILED OR RECORDED

AUG 29 2011

COUNTY AUDITOR
SPOKANE COUNTY WA

Recording
6023962

Document Title: Ordinance No. C-749

Grantor: City of Airway Heights

Grantee: The Public

Legal Description: Portion of the NW corner of Section 19, Township 25 North, Range 42
E. W.M. Please see Exhibit A for complete legal description.

Assessor's Tax Parcel ID Numbers: 25193.0101; 25193.0102; 25193.0103; 25193.0104; 25193.0105;
25193.0106; 25193.0107; 25193.0108; 25193.0109; 25193.0110; 25193.0111; 25193.0112; 25193.0113;
25193.0114; 25193.0115; 25193.0116; 25193.0117; 25193.0118; 25193.0119; 25193.0120; 25193.0121;
25193.0122; 25193.0123; 25193.0201; 25193.0202; 25193.0203; 25193.0204; 25193.0205; 25193.0206;
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25193.0807; 25193.0808; 25193.0809; 25193.0810; 25193.0811; 25193.0812; 25193.0813; 25193.0814;
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25193.0905; 25193.0906; 25193.0907; 25193.0908; 25193.0909; 25193.0910; 25193.0911; 25193.0912;
25193.0913; 25193.0914; 25193.0915; 25193.0916; 25193.0917; 25193.0918; 25193.0919; 25193.0920;
25193.0921; 25193.0922; 25193.0923; 25193.0924; 25193.0925; 25193.1001; 25193.1002; 25193.1003;
25193.1004; 25193.1005; 25193.1006; 25193.1007; 25193.1008; 25193.1009; 25193.1010; 25193.1011;
25193.1012; 25193.1013; 25193.1014; 25193.1015; 25193.1016; 25193.1017; 25193.1018; 25193.1019;
25193.1020; 25193.1021; 25193.1022; 25193.1023; 25193.1024; 25193.1025; 25193.1101; 25193.1102;
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25193.1204; 25193.1205; 25193.1206; 25193.1207; 25193.1301; 25193.1302; 25193.1303; 25193.1304;
25193.1305; 25193.1306; 25193.1307; 25193.1401; 25193.1402; 25193.1403; 25193.1501; 25193.1502;
25193.1503; 25193.1504; 25193.1505; 25193.9010; 25193.9034; 25193.9035; 25193.9050; 25193.9051;
25193.9052; 25193.9053; 25193.9058; 25193.9059; 25302.0103; 25302.0105; 25302.0109; 25302.0110;
25302.0118; 25302.0119; 25302.0120; 25302.0123; 25302.0124; 25302.0130; 25302.0131; 25302.0132;
25302.0134; 25302.0135; 25302.0136; 25302.0137; 25302.0138; 25302.0139; 25302.0140; 25302.0141;
25302.0205; 25302.0209; 25302.0210; 25302.0211; 25302.0212; 25302.0301; 25302.0302; 25303.9021;
25303.9024; 25303.9044; 25303.9045; and 25303.9046.

**CITY OF AIRWAY HEIGHTS
SPOKANE COUNTY, WASHINGTON
ORDINANCE NO. C-749**

**AN ORDINANCE OF THE CITY OF AIRWAY HEIGHTS, WASHINGTON,
PROVIDING FOR ANNEXATION OF CERTAIN PROPERTY,
ESTABLISHING THE OFFICIAL DATE OF ANNEXATION, ADOPTING ZONING
REGULATIONS FOR THE PROPERTY AND PROVIDING FOR OTHER MATTERS
RELATED THERETO**

WHEREAS, the City of Airway Heights, the City of Spokane and Spokane County entered into an Interlocal Agreement Regarding Annexations of Portions of the West Plains Urban Growth Area Between the City of Spokane, the City of Airway Heights and Spokane County on December 3, 2009 pursuant to the "Interlocal Method of Annexation" found at RCW Chapter 35A.14.480;

WHEREAS, the City of Airway Heights, Spokane County Fire Protection District 10 and Spokane County entered into an Interlocal Agreement Regarding Annexations of Portions of the West Plains Urban Growth Area between the City of Airway Heights, Spokane County and Spokane County Fire Protection District 10 with the Agreement being approved by the City on June 20, 2011, the County on June 28, 2011, and the District on June 7, 2011;

WHEREAS, RCW 35A.14.480 provides the annexation may commence by ordinance after entering into an interlocal agreement with Spokane County and Fire Protection District 10;

WHEREAS, pursuant to RCW 43.21C.222 annexation by a city is exempt from compliance with the State Environmental Policy Act; however, the adoption of zoning regulations are subject to compliance with SEPA;

WHEREAS, 35A.14.330 and 35A.14.340 provide that the City, simultaneous with the annexation process, may adopt a zoning ordinance to be effective upon approval of the annexation;

WHEREAS, the City comprehensive plan in Chapter 4 entitled "Land Use" has identified potential annexation areas of the City to include the area subject to this Ordinance;

WHEREAS, until the City conducts additional comprehensive planning with zoning regulations, the City pursuant to RCW 35A.12.140 hereby adopts the presently existing Spokane County zoning and related development code for the annexed property, provided, within 60 days following the annexation, the City planning commission shall hold a public hearing to determine the continued zoning for the property with a report thereafter provided to the City Council for further action;

WHEREAS, the City Council has conducted public hearings in order to receive information and take testimony on the proposed annexation with the City Council determining it is in the best interest of the City to annex the Property; and

WHEREAS, the City Council desires to annex the Property and provide for: (1) the levy of taxes and assumption of indebtedness at the same rate and on the same basis as property

presently located in the City; (2) the application of the general laws of the City; and (3) the adoption of zoning for the Property.

NOW, THEREFORE, the City Council of the City of Airway Heights, Washington, do ordain as follows:

Section 1. Approval of Annexation. The annexation of the Property is hereby approved and accepted by the City Council of the City of Airway Heights effective on January 1, 2012 ("Effective Date"), pursuant to RCW 35A.14.480.

Section 2. Effect of Annexation. From and after the Effective Date, the Property (described in Exhibit A) and all persons thereon are subject to the jurisdiction of the City of Airway Heights with all laws, ordinances, rules and regulations of the City being in full force and effect as now enacted or hereinafter amended. Except for services provided by other jurisdiction, the Property and persons shall receive all available City services in the same manner as other City property. The Property shall have levied thereon the real property tax assessment of the City and shall be assessed for the indebtedness of the City.

Section 3. Zoning. The Property shall be developed and used in accord with the County Comprehensive Plan, related Development Code and other land use regulations or policies adopted herein, until modified by further action of the City, not to occur prior to January 1, 2012. The land use, zoning designation and regulations as set forth on the County Comprehensive Plan Map, Zoning Map and Development Code shall apply to and regulate the Property as of the Effective Date. Permit applications for land use shall be made to the City of Airway Heights.

The City Manager, or designee, is hereby authorized to modify the City of Airway Heights Zoning Map to reflect the action taken by the City Council pursuant to this Ordinance. All other maps of the City shall be modified to reflect the expansion of the City corporate limits as set forth herein.

Section 4. Duty of City Clerk. The City Clerk is directed to provide: (1) the Spokane County Auditor a certified copy of this ordinance, a map of the Property, related legal description and request that the above be maintained on file in the office of the Auditor; and (2) a certified copy of this Ordinance to the Spokane County Board of County Commissioners, pursuant to RCW 35A.14.140.

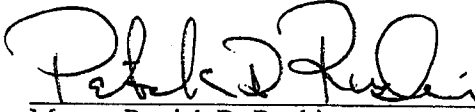
Section 5. Boundary Review Board. The City Manager, or designee, is authorized, following approval of this Ordinance by the City Council, to file a Notice of Intention with the Spokane County Boundary Review Board stating that the Property is proposed to be annexed to the City of Airway Heights. Thereafter, the City Manager shall monitor the action of the Spokane County Boundary Review Board and shall, within 45 days, or such reasonable time, from the filing of the Notice of Intention, report back to the City Council regarding action taken by the Boundary Review Board. The City Manager is further authorized to take all actions necessary in order to process this annexation through the Spokane County Boundary Review Board.

Section 6. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 7. Effective Date. This Ordinance shall be in full force and effect on five (5) days after publication of this Ordinance or a summary thereof in the official newspaper of the City as provided by law.


INTRODUCED this 5th day of July, 2011.

PASSED AND ADOPTED by the City Council of the City of Airway Heights this 18th day of July, 2011.



Mayor, Patrick D. Rushing

ATTEST:



City Clerk, Richard G. Cook

APPROVED AS TO FORM:



City Attorney, Stanley M. Schwartz

Date of Publication: July 21, 2011

EXHIBIT "A"

LEGAL DESCRIPTION

EXHIBIT A

CITY OF AIRWAY HEIGHTS – EAST HAYFORD ANNEXATION AREA LEGAL DESCRIPTION

A parcel of land located in Section 19 and in Section 30, Township 25 North, Range 42 East, W. M., in Spokane County, Washington, being more particularly described as follows:

Commencing at the NW corner of Section 19, T25N, R42E, W.M., thence easterly a distance of 50 feet, more or less, to the NW corner of Spokane County Parcel No. 25192.9023, said point also being a point on the East right-of-way (ROW) line of Hayford Road;

Thence southerly along the east ROW line of Hayford Road, a distance of 2649 feet, more or less, to the SW corner of Parcel No. 25192.9022 as recorded in the Spokane County Auditor's Office, Record of Survey #8012300163, Book 23, Page 83, being the POINT OF BEGINNING;

Thence easterly along the south property line of said parcel, a distance of 968 feet, more or less, to the SE corner of said parcel,

Thence easterly along the south property line of Parcel No. 25192.9023 as recorded in the Spokane County Auditor's Office, Record of Survey #8012300163, Book 23, Page 83, a distance of 1573.84 feet, to the SE corner of said parcel, said point also being the NE corner of the SW $\frac{1}{4}$ of Section 19;

Thence southerly along the east line of the SW $\frac{1}{4}$ of Section 19, said line also being the west property line of Parcel No. 25194.9015, parcel No. 25194.9047, and Parcel No. 25194.9041, as recorded in the Spokane County Auditor's Office, Record of Survey #4428346, Book 89, Page 98 a distance of 2542.21, more or less, to the SW corner of Parcel No. 25194.9041, said point also being a point on the north ROW line of State Highway 2;

Thence southerly along the east line of the SW $\frac{1}{4}$ of Section 19, a distance of 97.5 feet, more or less, to the NE corner of the NW $\frac{1}{4}$ of Section 30, T25N, R42E, W.M.;

Thence southerly along the east line of said NW $\frac{1}{4}$ of Section 30, a distance of 50 feet, more or less, to the NE corner of Parcel No. 25302.0212, said point also being a point on the south ROW line of State Highway 2;

Thence southerly on the east property line of Parcel No. 25302.0212 and Parcel No. 25302.0211, a distance of 805 feet, more or less, to the SE corner of Parcel No. 25302.0211,

Thence southerly along the east line of Parcel No. 25302.0205 and Parcel No. 25302.0209 a distance of 1110 feet, more or less, to the SE corner of Parcel No. 25302.0209;

Thence westerly along the south line of said parcel, a distance of 536 feet, more or less, to SW corner of said parcel, said corner also being a point on the east property line of Spokane County Parcel No. 25302.0124,

Thence south along the east line of Parcel No. 25302.0124, a distance of 58 feet, more or less, to the SE corner of said parcel,

This legal description is intended to describe the general boundary of the annexation area and was developed from County Assessor information and is not a result of an actual survey. The meets and bounds are not mathematically accurate and should not be used for property transactions. The Engineer assumes no liability for uses of this document other than as a general description of the annexation area boundary.

Thence westerly along the south property line of said parcel and the north property line of Parcel No. 25305.9043 a distance of 612 feet, more or less, to the NW corner of parcel 25305.9043,

Thence southerly along the west property line of said parcel a distance of 662 feet, more or less, to a point on the north property line Parcel No. 25303.9024,

Thence easterly along the north property line, of said parcel, a distance of 1,269 feet, more or less, to a point on the east line of the SW $\frac{1}{4}$ of Section 30,

Thence southerly along the east line of the SW $\frac{1}{4}$ of Section 30, a distance of 662.88 feet, more or less, to the SE corner of Parcel No. 25303.9024, as recorded in the Spokane County Auditor's Office Record of Survey #9506090311, Book 65, Page 35;

Thence southwesterly along the southeast line of said parcel a distance of 1,753.64 feet, more or less, to the NE corner of Spokane County Parcel No. 25303.9046, as recorded in the Spokane County Auditor's Office Record of Survey, #8911090175, Book 44, Page 83;

Thence southerly along the east line of said parcel a distance of 386.43 feet; thence westerly along the south line of said parcel a distance of 493.77 feet to the NE corner of Spokane County Parcel No. 25303.9044, as recorded in the Spokane County Auditor's Office Record of Survey, #8911090175, Book 44, Page 83;

Thence southerly along the east line of said parcel a distance of 100.00 feet; thence westerly along the south line of said parcel a distance of 239.58 feet to the NE corner of Spokane County Parcel No. 25303.9045, as recorded in the Spokane County Auditor's Office, #8911090175, Book 44, Page 83;

Thence southerly along the east line of said parcel a distance of 100.00 feet;

Thence westerly along the south line of said Spokane County Parcel No. 25303.9045 to a point on the east ROW line of Hayford Road, said point also being the SW corner of said parcel;

Thence southerly along the east ROW line of Hayford Road, a distance of 643 feet, more or less, to a point on the west line of Spokane County Parcel No. 25310.9021;

Thence westerly a distance of 60 feet, more or less, to a point on the west ROW line of Hayford Road;

Thence northerly along the west ROW line of Hayford Road to the NE corner of Spokane County Parcel No. 15251.0148, as recorded in the Spokane County Auditor's Office, Hazelwood Irrigated Farms, Plat 2;

Thence westerly along the north property line of parcel number 15251.0148, a distance of 25.00 feet, more or less, to the SE corner of Parcel No. 15251.0305 as documented in BSP 06-01 as recorded in Book 2, page 92 and 93 of Binding Site Plans, Spokane County records;

Thence northerly along the west ROW line of Hayford Road, a distance of 602.59 feet, more or less, to the NE corner of Spokane County Parcel No. 15251.0303 as documented in BSP 06-01, said corner lying on the south ROW line of State Highway 2;

Thence northerly a distance of 188.69 feet, more or less, to the SE corner of Lot 1 SP 06-02 as recorded in Book 21, page 90 and 91 of Short Plats, Spokane County records;

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Thence northerly along the west ROW line of Hayford Road, a distance of 535.20 feet, more or less, to the NE corner of Lot 4 SP 06-02;

Thence northerly along the west ROW line of Hayford Road, a distance of 76.27 feet, more or less, to the SE corner of Parcel No. 15244.0029,

Thence northerly along the east property line of said parcel, a distance of 571.52, more or less, also being the west ROW line of Hayford Road, to the NE corner of said parcel 15244.0029;

Thence northerly along the west ROW line of Hayford Road, a distance of 60 feet, more or less, to the NE corner of Spokane County Parcel No. 15244.0036,

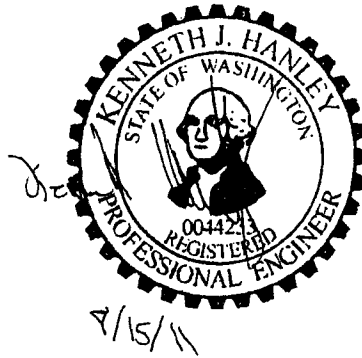
Thence westerly along the north property line of said parcel, a distance of 25 feet, more or less, to the SE corner of Parcel No. 15244.0039,

Thence northerly along the east property line of said parcel a distance of 375 feet, to the NE corner of said parcel;

Thence westerly along the north property line of said parcel a distance of 40 feet, to the SE corner of Parcel No. 15244.0038, said point also being a point on the west ROW line of Hayford Road,

Thence northerly along the west ROW line of Hayford Road, a distance of 919 feet, more or less, to the NE corner of Spokane County Parcel No. 15244.0038,

Thence easterly a distance of 140 feet, more or less, to the POINT OF BEGINNING.



This legal description is intended to describe the general boundary of the annexation area and was developed from County Assessor information and is not a result of an actual survey. The meets and bounds are not mathematically accurate and should not be used for property transactions. The Engineer assumes no liability for uses of this document other than as a general description of the annexation area boundary.

WASHINGTON STATE BOUNDARY REVIEW BOARD
FOR SPOKANE COUNTY

CERTIFICATE OF EXPIRATION OF 45-DAY PERIOD

I hereby certify that more than 45 days have elapsed since the following described Notice of Intention was filed with the Washington State Boundary Review Board for Spokane County and that at no time during said period was a Request for Review filed with the Board. The proposed action is hereby deemed approved as provided in RCW 36.93.100.

FILE NO.: BRB 638-11: Proposed Annexation of 380 Acres to the City of Airway Heights (East of Hayford Rd)

INITIATOR(S): City of Airway Heights

DATE FILED: July 13, 2011

45-DAY REVIEW
PERIOD ENDS: August 26, 2011

LEGAL DESCRIPTION: The following described lands situated in Spokane County, State of Washington, to wit: See attached Exhibit A

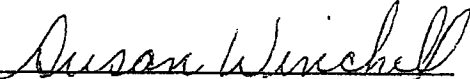
TIME LIMIT: The action proposed in this Notice of Intention must be officially consummated on or before August 26, 2014, or the approval, as defined in this document shall be null and void. (Boundary Review Board Rules of Practice and Procedure)

DATED at Spokane, Washington this twenty-ninth day of August, 2011.

WASHINGTON STATE BOUNDARY REVIEW BOARD FOR SPOKANE
COUNTY

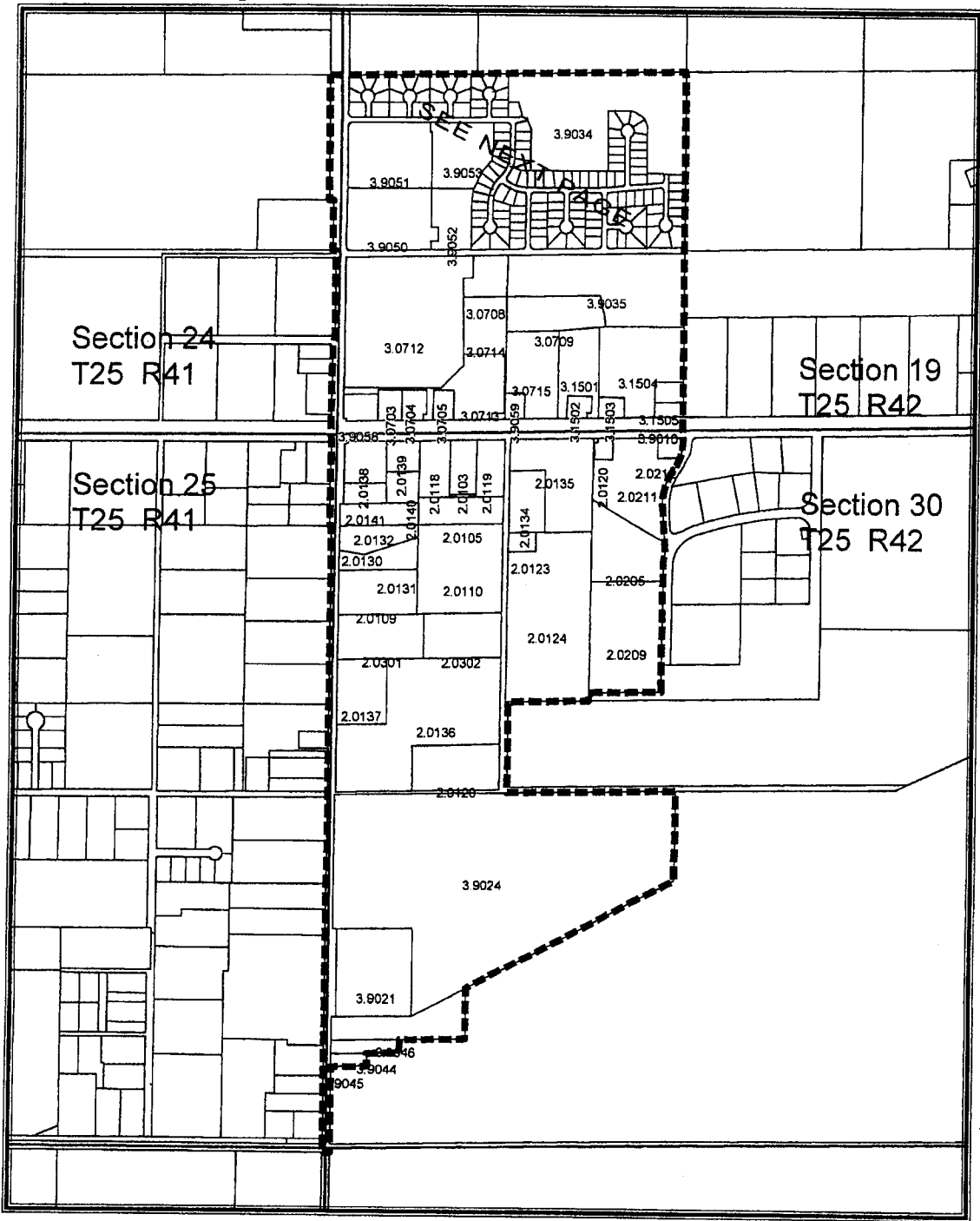

James Peck, Chair

ATTEST:


Susan M. Winchell, AICP
Boundary Review Board Director

Parcel Map

Exhibit B

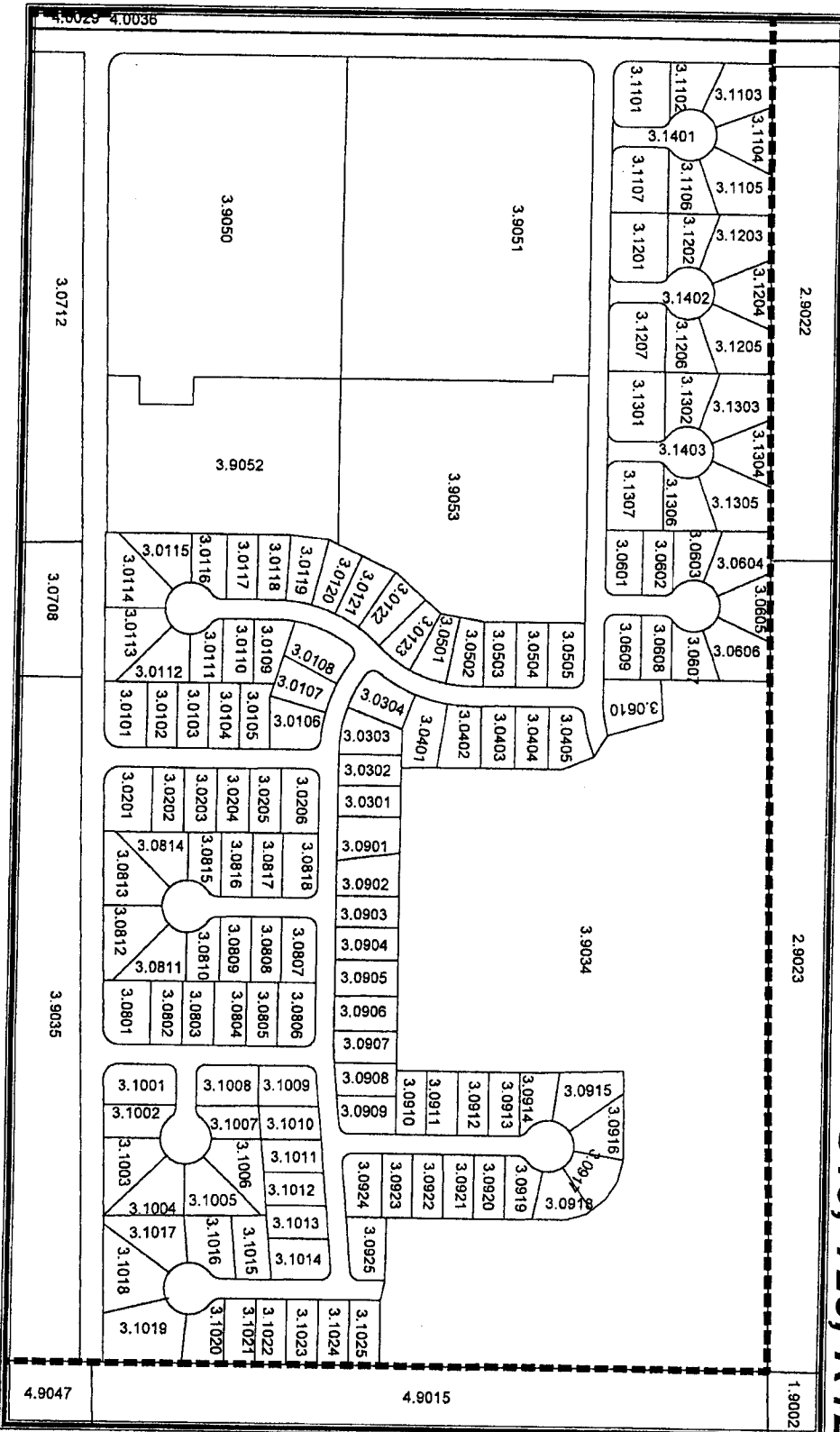


**BRB 638-11: Annexation of 379.47 Acres
to the City of Airway Heights**
Washington State Boundary Review Board For Spokane County

Parcel Map

Exhibit B

S19, T25, R42



**BRB 638-11: Annexation of 379.47 Acres
to the City of Airway Heights**
Washington State Boundary Review Board For Spokane County