

TIM CONNOR's DRAFT

May 10, 2008

The River Park Square Reform Ordinance of 2008

THE CITY OF SPOKANE DOES ORDAIN

*Whereas the City of Spokane has resolved all claims and actions related to the River Park Square federal securities fraud cause of action (No. 06-35179, D.C No. CV-01-00127-EFS)

*Whereas documents and testimony produced in discovery during the RPS securities fraud litigation, and other proceedings, including a lengthy investigation by the Internal Revenue Service's Tax Exempt Bond Unit, has resulted in clear evidence in the need for reforms in the way the City of Spokane approaches public-private partnerships;

*Whereas an acknowledgment by the City that it made mistakes in the River Park Square garage and loan transactions is an important step in restoring public trust and confidence in city government;

*Whereas a number of substantive reforms are deemed necessary to demonstrate the City of Spokane's commitment to open government, accountability, and fiduciary stewardship;

*Whereas such reforms are also necessary to institute improved ethical and fiduciary practices that will improve the integrity of city government and protect the interests of city taxpayers,

THEREFORE,

1) Consistent with the principles and purposes of the Federal Institutions Reform, Recovery, and Enforcement Act (FIRREA) of 1989, the City adopts, in full, the "minimum appraisal standards," of 12 CFR Part 34, §34.44. This includes, but is not limited to, a requirement that in all transactions in which city funds are transferred or put at risk that appraisals used to assess the value of property be based on market value.

2) Pursuant to part 1 of this ordinance, "market value" will be defined as "the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

(a) Buyer and seller are typically motivated;

(b) Both parties are well informed or well advised, and acting in what they consider their own best interests;

(c) A reasonable time is allowed or exposure in the open market;

(d) Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and

(e) The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

3) The conditions of parts 1 and 2 of this ordinance will apply to all situations in which the city, or a public development authority, or a non-profit corporation acting "on behalf of" the city pursuant to federal revenue ruling 63-20, purchases or leases real property, where the cost of said purchase or lease exceeds \$1,000 annually.

4) In all transactions involving the issuance of bonds, or other securities, for the acquisition of public infrastructure, facilities, etc., the City will appropriately investigate and formally certify that, in accordance with Internal Revenue Code (IRC) §141(b)(2), no more than 10 percent of bond proceeds will accrue to the benefit of private parties.

5) Pursuant to IRS Revenue Procedure 82-66, governing transactions under federal Revenue Ruling 63-20, the City will certify that any private foundation created to operate or issue debt for public projects to be acquired "on behalf of" the City of Spokane is organized and will be operated in the public interest, and that at least 80 percent of the members of the governing board of such foundations will be appointed by the Mayor and approved by a majority vote of the Spokane City Council.

6) Consistent with the purposes of federal Revenue Ruling 63-20 that private, not for profit corporations issuing debt for public projects being acquired "on behalf of" public agencies be primarily engaged in activities that benefit the public interest, the City shall certify that any corporation so authorized has:

a) A letter from the federal Internal Revenue Service certifying that the corporation has been granted federal tax exempt status pursuant to IRC§501(c)(3), or;

b) A pending Form 1023 application to the federal Internal Revenue Service for Tax Exempt Status under IRC§501(c)(3).

7) Pursuant to federal Department of Housing and Urban Development guidelines for loan security for loans extended under the HUD Section 108 loan program, the City, without exception, will require an "unconditional, irrevocable letter of credit" from all applicants for HUD Section 108 loans, or any other loans permissible under Washington law where federal grant funds are leveraged as collateral in loan agreements involving third parties.

8) Consistent with the letter and spirit of the Washington Public Records Act (RCW 42.56), the City of Spokane shall not enter into confidentiality agreements with private individuals

or private entities engaged in public-private partnerships with the City of Spokane. Under no conditions will the City consent to withhold public records in response to lawful public records requests.