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ETTER, McMAHON  
LAMBERSON, VAN WERT  
& ORESKOVICH, P.C.

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SUPERIOR COURT, STATE OF WASHINGTON, COUNTY OF SPOKANE

JOHN E. DURGAN, individually and )  
as class representative for all others )  
similarly situated; TAWNDI L. )  
SARGENT, individually and as class )  
representative for all others similarly )  
situated; and KRISTOPHER J. )  
KALLEM, individually and as class )  
representative for all others similarly )  
situated, )

Plaintiffs, )

v. )

CITY OF SPOKANE, a municipal )  
corporation in and for the State of )  
Washington, )

Defendant. )

NO. 17-2-02507-5

**ANSWER TO DEFENDANT'S  
COUNTERCLAIM FOR  
DECLARATORY JUDGMENT**

Plaintiffs John E. Durgan, Tawndi L. Sargent, and Kristopher J. Kallem,  
individually and as class representatives for all others similarly situated, by and through  
their attorneys of record, Dunn & Black, P.S., answer Defendant City of Spokane's  
counterclaim for declaratory judgment as follows:

ANSWER TO DEFENDANT'S  
COUNTERCLAIM FOR  
DECLARATORY JUDGMENT - 1

**DUNN & BLACK**  
LAWYERS  
A PROFESSIONAL SERVICE CORPORATION  
BANNER BANK BUILDING  
111 NORTH POST, SUITE 300  
SPOKANE, WASHINGTON 99201-0705  
VOICE: (509) 455-8711 • FAX: (509) 455-8734

1           1.       Plaintiffs incorporate by reference the allegations set forth in paragraphs  
2 1-72 of their Second Amended Complaint as though fully set forth herein.

3           2.       Paragraph 2 contains argument and/or legal conclusions that require no  
4 response. Plaintiffs admit that RCW 35.92, et seq., speaks for itself and lack knowledge  
5 or information sufficient to admit or deny any remaining allegations set forth in  
6 paragraph 2 and therefore deny the same.

7           3.       Paragraph 3 contains argument and/or legal conclusions that require no  
8 response. Plaintiffs admit that RCW 35.92.010 speaks for itself and deny any and all  
9 remaining allegations set forth in paragraph 3.

10          4.       Paragraph 4 contains argument and/or legal conclusions that require no  
11 response. Plaintiffs admit that RCW 35.92.010 speaks for itself and deny any and all  
12 remaining allegations set forth in paragraph 4.

13          5.       Paragraph 5 contains argument and/or legal conclusions that require no  
14 response. Plaintiffs admit that RCW 80.04.500 speaks for itself and deny any and all  
15 remaining allegations set forth in paragraph 5.

16          6.       Paragraph 6 contains argument and/or legal conclusions that require no  
17 response. Plaintiffs admit that Title 35 RCW speaks for itself and deny any and all  
18 remaining allegations set forth in paragraph 6.



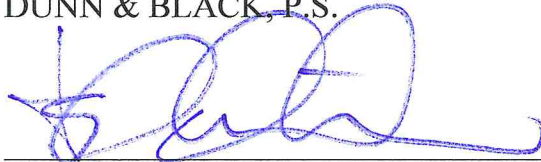
1           3. For interest, attorney fees, and costs in defending this matter, as  
2 authorized by contract, statute, or equity;

3           4. For award of the relief requested in Plaintiffs' Second Amended  
4 Complaint; and  
5

6           5. For such other relief as the Court deems just and equitable.

7 DATED this 24 day of September, 2018.  
8

9 DUNN & BLACK, P.S.

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11 \_\_\_\_\_  
12 ROBERT A. DUNN, WSBA #12089  
13 BIL G. CHILDRESS, WSBA #45203  
14 Attorneys for Plaintiffs  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 24<sup>th</sup> day of September, 2018, I caused to be served a true and correct copy of the foregoing document to the following:

HAND DELIVERY                      Salvatore J. Faggiano  
 U.S. MAIL                                      Elizabeth L. Schoedel  
 OVERNIGHT MAIL                      Assistant City Attorneys  
 FAX TRANSMISSION                      808 W. Spokane Falls Blvd., 5th Floor  
 EMAIL    Spokane, WA 99201

HAND DELIVERY                      Michael J. McMahon  
 U.S. MAIL                                      Michael F. Connelly  
 OVERNIGHT MAIL                      Megan C. Clark  
 FAX TRANSMISSION                      Etter, McMahon, Lamberson  
 EMAIL    Van Wert & Oreskovich, P.C.  
618 W. Riverside Ave., Suite 210  
Spokane, WA 99201

  
\_\_\_\_\_  
Maureen E. Cox-O'Brien