

**MINUTES OF THE CITY-COUNTY COUNCIL
AND
SPECIAL SERVICE DISTRICT COUNCILS
OF
INDIANAPOLIS, MARION COUNTY, INDIANA**

REGULAR MEETINGS

MONDAY, AUGUST 5, 1996

The City-County Council of Indianapolis, Marion County, Indiana and the Indianapolis Police Special Service District Council, Indianapolis Fire Special Service District Council and Indianapolis Solid Waste Collection Special Service District Council convened in regular concurrent sessions in the Council Chamber of the City-County Building at 7:06 p.m. on Monday, August 5, 1996, with Councillor SerVaas presiding.

Councillor O'Dell led the opening prayer and invited all present to join him in the Pledge of Allegiance to the Flag.

ROLL CALL

The President instructed the Clerk to take the roll call and requested members to register their presence on the voting machine. The roll call was as follows:

28 PRESENT: Black, Borst, Boyd, Bradford, Brents, Cockrum, Coonrod, Coughenour, Curry, Franklin, Gilmer, Golc, Gray, Hinkle, Jones, Massie, McClamroch, Moores, Moriarty Adams, O'Dell, Schneider, SerVaas, Shambaugh, Short, Smith, Talley, Tilford, Williams
1 ABSENT: Dowden

A quorum of twenty-eight members being present, the President called the meeting to order.

INTRODUCTION OF GUESTS AND VISITORS

Councillor Talley recognized his brothers, George, John, and sister-in-law Connie Talley. Councillor Cockrum recognized Jason Holiday, member of Decateur Central Alliance Club. Councillor Black introduced Al Polin, President of Martin Luther King Multi-Service Center, member of Board of Directors of Mid-Town Mental Health, and actively involved in many other organizations; Amos Brown, Hoosier Radio & TV, Indianapolis Recorder; Sherri Hoffman-Meadows, Vice President public affairs for American Cablevision.

OFFICIAL COMMUNICATIONS

The Honorable Stephen Goldsmith, Mayor, presented his annual city budget to the Council with the following remarks:

Mr. President, members of the Council, thank you for allowing me to join with you in presenting the budget for next year. I am pleased to present a budget that again, reflects for the fifth straight year, our effort to reduce the size of government, invest the resources in public safety, and produce higher quality and more accountable services.

What I would like to do is step through a little bit of the budget using some of these charts. Which I actually cannot see from here. Can I have permission to move over there? Ok, this will work. Let me just step through a little bit of the budget as it will be reflected in the document that is presented to the Council tonight.

The budget for 1997 is down again from the \$433 million last year to the \$428 million again this year. If we look at the budget line beginning in 1983, which is the red line, up until 1991 which is when we presented the first budget we can see that the trend line is continuously up. That line beginning with the first budget we produced in 1992 now goes back down and has every year that this council has voted on our budget to the \$428 million level. Had it gone up with the same rate of increase it had in the years before 1992 the budget this year would be over \$100 million more than it is. A total reduction of \$31 million since 1992.

The property tax rate, and this accomplishment is one the Council should take great pride on because it actually precedes some of the last five budgets, this is the ninth straight year and this is a remarkable accomplishment for a large city, for nine straight years the property tax rate in the city of Indianapolis has been frozen. Dead, frozen and its a compliment to the Council that we have been able to maintain that and the coit rate has been frozen since 1990 as well. This budget obviously continues those freezes, you'll see that there is a slight dip in the property tax rate this year, the last two years, which is as we've reduced the tax rate so that we can freeze taxes because the assessed values are going up. So essentially the tax rate has remained frozen as we've reduced it to accommodate the growth.

While we've held the line on taxes between 1992 and 1996 the fund balances have gone from \$51 million to \$92 million. So we now have a \$92 million fund balance. Last year when we presented the budget to the Council we established with our waiting agencies as appropriate fund balance of about \$70 million. As we continue to reduce the size of government, and push up the fund balances the Council, in partnership with the Mayor, has chosen to invest the additional surpluses in infrastructure; sewers, roads, bridges, and sidewalks and that will be forthcoming as well.

If I could just spend one second here, this Council by using its small government philosophy has managed to assert itself with respect to the other municipal corporations. I'm presenting just the city budget, obviously, but I would like to both recognize and compliment the Council for its ability with the chief executives of these other taxing units to actually reduce the property taxes of everything except the library. Since 1992 when we asked that every municipal corporation freeze its tax rates as well, Metro which had had a significant property tax increase prior to 1992 froze its tax rate and has actually reduced it slightly, Health & Hospital has dramatically reduced its property tax rate, the city of Indianapolis has a slight reduction in property tax rate, and the only group, and the Council took some steps with respect to this in the last month, that has chosen to continue to raise its property taxes has been the library board. The committee set up by the President to address the additional requests of the library and Councilman Schneider's committee will have a chance to look at that as well.

The number of city employees from 1991 to today has gone from essentially 5,000 to 3,500. We have had enormous reductions in non-public safety employees, 44% in fact, and at the same time we have invested more of the savings in public safety. So we see that the number of public employees comes down, although the number of police officers in the Indianapolis Police Department continues to go up. Public safety is up and the rest of public employment is down. You can see a pretty dramatic reduction of employees as well.

Finally, this chart in blue. If I can take just a second to emphasize this as well. We have chosen with the Council to continue to invest savings in public safety. Public safety and infrastructure are the two fundamental responsibilities of city government. The public safety budget was \$141 million in 1992 and the budget that we are presenting for 1997 shows a public safety budget of \$172 million. We will be increasing the number of sworn police officers, again we have had two fire classes for the first time in several years, every fire house has been rebuilt or renovated, every police car has mobile visual terminals. We have the best trained, best equipped, fire and police departments that we have ever had in the city and that reflects the fact that we are now spending \$30 million a year more than we did when we began. All those things represent the continuation of the policies of this Council.

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One of the things we have done in this budget that the Council began with us in 1992, is an effort to assist you in holding us accountable for performance measures. Obviously, a budget is inherently a financial tool but we also think you should hold city employees accountable, including myself, for the results. And so there will be performance measures, as there have been the last two years, and we think those performance measures are every bit as important as the money that has been expended. The competitive bidding, for example of Metro, has allowed us to increase the number of rides by 1/2 million, the competitive bidding of the golf courses has allowed record numbers of plays and 95% satisfaction. Management performance tools everywhere, fleet management under our high quality union workers has reduced its turn around time and reduced its costs and on and on, every one of the many services has performance measures which I invite you to look at scrutinize and discuss with department directors when they present the budget. So the savings from the competitive efforts that we have engaged in have allowed us to increase public safety budget without increasing taxes, increase the city's fund balances, increase the budget for public safety, fund the building better neighborhood program, and pay for the first few years of the United Airlines bond payments that were previously, as you might recollect, un-funded as well.

Now these results, as I hope you can tell from your districts, are complimented by the largest building program in the history of the city of Indianapolis. Each of the last three years there has been more money invested in roads, bridges, streets, sewers, and sidewalks than in any single year in the history of Indianapolis. We have resurfaced enough miles to go from here to the east coast. We have done 85 separate sanitary sewer projects, 3500 multi and single family homes have been done in Center township alone, 80 parks have been improved or completely revitalized and virtually every district in the city of Indianapolis has received investments, as you all remember because many of you worked on it, on January 1, 1992 the Indianapolis Chamber of Commerce called our attention to the fact that we had a \$1 billion deficit in infrastructure investment and we have purchased down about 2/3 of that since that report was released and we are proud of that as well.

So, this investment, and I think its important because I believe it reflects both Republican and Democrat philosophy on this Council, is we've taken the size of government said we are not going to raise taxes and that we are going to increase the investment in public safety and infrastructure and when we start doing our core business as well, that allows the private sector to expand. And each of the last three years, again, has been the record growth year in the economy since anybody has ever kept records in the city of Indianapolis. More private jobs have been created or retained each of the last three years according to the Indianapolis Economic Development Corporation than any single year in the history of the city of Indianapolis, more new homes were built in the last two years in Indianapolis than any year since the Department of Metropolitan Development has kept records, more streets have been resurfaced than in any period of time since DCAM kept records or its predecessor Dot.

What we've seen is a significant increase in the vitality of the Indianapolis economy. The unemployment rate in the same period of time has dropped from essentially 6% to 3% and we have seen enormous vibrancy. Our city which had essentially no population growth in 15 years prior to 1991, we had a lot of movement in our population but not growth, has seen approximately 5% population growth in the last two years. We are a city on the move, recognized nationally as a city on the move, and I think that is in a large part due to the scrutiny and participation and partnership of this Council, as we look at ways to drive up investments that our public considers to be worthwhile.

We submit to you a budget this year, completely consistent with the budget that you've authorized each of the last several years. Its a budget that's performance driven, its a budget that's down slightly in real dollars, its a budget that continues to be down slightly in terms of public employees, its a budget that's way up again in terms of public safety expenses because I think that's what the public demands, appropriately, from government itself. We will be continuing to come before this Council as we save money to ask for that money to be invested in sewers and sidewalks and streets and bridges and parks, which are necessary as well. We will encourage the Council to hold the municipal corporations to the same standards they hold city and county government to which is don't raise taxes and we think if we do those things together despite some differences we might have as a group, we have shown an ability to get over those and create a partnership that produces true value for our citizens, and produces the fundamentals of an economy that will get us to the 21st century. An economy that is based on hope and opportunity and jobs. Thank you very much.

The Honorable John von Arx, Auditor, had the following remarks concerning the county budget:

Mr. President, members of the City-County Council, and citizens of Marion County,

The 1997 Marion County budget marks the seventh time I have presented a budget to the Council, and it incorporates many of the initiatives that County Elected Officials and the City-County Council have been developing over the past several years. The budget funds the opening a new jail facility, all of the recommendations of the jail overcrowding task force, increased appropriations for the Public Defender Agency, merit increases for Sheriff Deputies as negotiated in the current contract.....Additionally the savings that the County will realize by the absence of an election in 1997 have not been reallocated to

ongoing increases in the budget. All of these initiatives are now in place without an increase in the property tax rate, without an increase in the County Option Income Tax rate, without digging into the County General Fund balance, which is at a level that insures our high bond rating. How has this happened? The answer is simple, although it took a lot of hard work to achieve. The County Elected Officials, County Agency Heads, and the City-County Council have worked long and hard together to fashion a plan which is now in place ready to carry the finances of the County securely into the twenty-first century.

This does not mean that all is clear sailing ahead. There are a few clouds on the horizon for which plans need to be developed. MECA has already made a presentation to the Public Safety Committee in which they stated that their current \$2,000,000 funding from COIT dollars will be insufficient after 1997. The Superior Court has requested over \$3,000,000 in additional funding to support initiatives they feel are necessary as part of the court consolidation plan. The Indiana Tax Court has ordered the legislature, by March 1st, 1998, to amend statutes authorizing the State Tax Board to overhaul the property tax system, to create a system based on market value, which will be a significant funding issue for the taxpayers and the County. The County also needs to continue to monitor the barometric pressure of state welfare and township poor relief, which are now manageable, and juvenile placements in state correctional facilities, which unfortunately continue to worsen.

Now I will lay out the achievements that are incorporated in the 1997 budget. I will start with privatization and consolidation. As you know, the County removed itself from the healthcare business by outsourcing it to the Health & Hospital Corporation in 1994. Without displacing any residents, the County still saves \$1.5 million per year. The Board of County Commissioners is currently investigating the future with a high priority on cost efficiency for Marion County. In 1995, ISA privatized City/County computer services through a contract with SCT. In addition, the Marion County Sheriff's Department and the Indianapolis Police Department consolidated dispatch services and property rooms in order to create greater efficiency as well as cost savings. The trend continues in 1997 with the privatization of jail services. This will be made possible through an agreement with Corrections Corporation of America or CCA. The cornerstone of the entire effort revolves around the proposed conversion of warehouse space about 4 blocks east of the existing jail into 670 additional inmate beds. This will result in a cost savings of about \$30 million when the project is compared to less creative, more traditional methods. For example, St. Joseph County (South Bend) is planning on building a new 600 bed facility for \$49 million. Compare this to Marion County's cost of \$15.5 million. Quite a savings to the taxpayer. In addition, by bringing in an established private corrections business, Sheriff Cotley will be able to manage the added inmate population just as efficiently as he does now, but with more operational and financial flexibility. As a result, Marion County will have safer streets with more capacity to keep dangerous felons off the street and will accomplish this within our budget without raising taxes.

The County is paying \$6,000,000 out of the jail reserve fund within the County General Fund balance to cover acquisition and renovation expense: \$3,675,000 is being provided from the 1996 budget and \$2,235,000 is being provided from the 1997 budget. The facility will open in August of 1997. Then \$507,000 will be paid to the Building Authority for lease payments and \$2,018,000 will be paid for operation per diem to CCA. The City is contributing \$229,710 per year generated through a revenue swap involving COIT & Cumulative Capital Development Fund, toward the funding of the project. This represents a commitment from the City of \$2,500,000 over the 20 years that lease payments will be made to the Building Authority. The Council provided \$2,500,000 a year for jail overcrowding starting with the 1995 budget and an additional \$3,000,000 was set aside starting in 1996. Other user fees have also been identified as a revenue source for the project.

There are several other jail overcrowding initiatives which are fully funded within the 1997 budget. The East Wing Jail/Lockup project is complete and the full cost is reflected in the 1997 budget. In addition are the expedited trial program, the operation of the relocated lockup, additional operating capacity in the jail annex, necessary funding for additional security services, the trustee supervision program as well as the lease and operating expenses of the new jail facility. The Sheriff has also taken several cost saving steps to make these jail overcrowding projects possible. They include the fact that Merit Deputy increases were less than expected, the Sheriff has replaced retiring deputies with civilians where appropriate, more deputies have been returned to traditional law enforcement duties, pension costs have decreased by \$200,000 from 1996 and, due to the shifting of revenue generated from the sale of vehicles from the County General Fund to the Cumulative Capital Development Fund in early 1996, the proceeds from vehicle auctions have increased from \$184,690 in 1995 to \$340,145 as of June 30th, 1996. The Sheriff has also increased the combined communications budget to provide for 9 additional dispatch positions.

In the 1997 budget General Fund revenues of \$132,773,756 will exceed expenditures of \$128,990,739 by \$3.7 million. Of that amount, approximately \$1 million is being set aside to increase the jail reserve. Another \$1.7 million or so represents the savings the County will realize in 1997 by not holding an election process. The remaining \$1 million is available to use in response to the Marion County Job Classification and Compensation Board salary schedule market analysis. The Job Class Board has conducted a review of the county salary schedule through a market analysis conducted by David M. Griffith & Associates (as required by Article VI, Section 23-62(f) of the Municipal Code). Results show that the current salary schedule has slipped an additional 2% behind the market since the last study which was completed 5 years ago. Due to timing conflicts between the printing of this budget and the completion of the final report

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from David M. Griffith and Associates, the 1997 budget includes no recommended increase in Character 01. While the Board recognizes that it is financially impossible to increase county salaries to market level, the Board feels an obligation to urge the Council to consider an increase in Character 01 budgets at some level. The final report of the market analysis will be presented to the Administration and Finance Committee on August 20th. It is anticipated further Council action may be required at the time.

A management study of the Public Defender Agency is currently being conducted by American University. Despite the fact that the study has not been completed, it became apparent to the Council that the Agency needed an additional \$700,000 per year in their budget to supplement the increasing cost of death penalty cases as well as providing some additional funds for appeal transcripts. Although the 1996 increase is not being heard by the full Council until this evening, the Public Safety Committee recommended that this increase continue into the 1997 budget.

The Marion Superior Courts had a study completed by Crowe Chizek & Company regarding the consolidation of the courts, which is currently in its first year of implementation. It should be noted that the study did not consider all of the Court's operations in its scope. However, the courts are requesting an additional \$3 million over the budget guidelines based on their interpretation of the study recommendations. Although the \$3 million cannot be accommodated in one budget year, perhaps a task force, similar to the jail overcrowding effort, should be formed to develop a implementation plan over a number of years.

In spite of all of the challenges the 1997 budget is tackling, county finances continue to be strong. There is no increase in the property tax rate. There is no increase in the County Option Income Tax Rate. Fund Balances will remain at the desired level of at least \$8,000,000. State welfare expenditures continue to decrease through the initiatives facilitated by the Auditor's Office, Mayor's Office and Juvenile Court. We will open a new jail facility. We will make several strides of improvement on the jail overcrowding situation. We will handle the death penalty burden of the Public Defender Agency. We will prepare to face the increasing needs for MECA. All of this will be done with a budget that is relatively flat when the one time start up cost for the new jail facility is removed. Marion County is proud of what we are able to accomplish within our 1997 budget and we feel that taxpayers will be pleased with the priorities we have been able to address.

The President called for the reading of Official Communications. The Clerk read the following:

TO ALL MEMBERS OF THE CITY-COUNTY COUNCIL AND POLICE, FIRE AND SOLID WASTE COLLECTION SPECIAL SERVICE DISTRICT COUNCILS OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA

Ladies And Gentlemen :

You are hereby notified the REGULAR MEETINGS of the City-County Council and Police, Fire and Solid Waste Collection Special Service District Councils will be held in the City-County Building, in the Council Chambers, on Monday, August 5, 1996, at 7:00 p.m., the purpose of such MEETINGS being to conduct any and all business that may properly come before regular meetings of the Councils.

Respectfully,
s/Beurt SerVaas
President, City-County Council

July 23, 1996

TO THE HONORABLE PRESIDENT AND MEMBERS OF THE CITY-COUNTY COUNCIL AND POLICE, FIRE AND SOLID WASTE COLLECTION SPECIAL SERVICE DISTRICT COUNCILS OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA.

Ladies and Gentlemen:

Pursuant to the laws of the State of Indiana, I caused to be published in the Indianapolis COMMERCIAL RECORD on Wednesday, July 24, 1996, and the Indianapolis STAR/NEWS on Thursday, July 25, 1996, a copy of a PUBLIC NOTICE TO TAXPAYERS of a Public Hearing on Proposal Nos.453, 476, 478, 479, 480, and 481, 1996 to be held on August 5, 1996 at 7:00 p.m., in the City-County Building.

Respectfully,
s/Suellen Hart
Clerk of the City-County Council

Journal of the City-County Council

July 26, 1996

TO THE HONORABLE PRESIDENT AND MEMBERS OF THE CITY-COUNTY COUNCIL AND POLICE, FIRE AND SOLID WASTE COLLECTION SPECIAL SERVICE DISTRICT COUNCILS OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA:

Ladies and Gentlemen:

I have this day approved with my signature and delivered to the Clerk of the City-County Council, Suellen Hart, the following ordinances:

FISCAL ORDINANCE NO. 67, 1996: an appropriation of \$217,253 for the County Auditor, Marion County Public Defender Agency, Prosecuting Attorney, and Marion County Superior Court to continue the Expedited Trial Program financed from the County General Fund balances

FISCAL ORDINANCE NO. 68, 1996: an appropriation of \$94,500 for the Cooperative Extension Service to pay for two high-speed copy machines financed from the County General Fund balances

FISCAL ORDINANCE NO. 69, 1996: an appropriation of \$261,773 for Community Corrections to fund personnel, home detention equipment, and office supplies financed by revenues in the Home Detention User Fund

FISCAL ORDINANCE NO. 71, 1996: amends distribution formula for the incremental fees from the Indianapolis Emergency Telephone System Fund

FISCAL ORDINANCE NO. 72, 1996: changes the allocation of County Option Income Tax Revenues and establishes an allocation of the County Cumulative Capital Development Funds

FISCAL ORDINANCE NO. 73, 1996: an appropriation of \$350,000 for the Department of Parks and Recreation to pay for design and inspection services financed by a transfer within the department's City Cumulative Capital Improvement Fund

FISCAL ORDINANCE NO. 74, 1996: an appropriation of \$536,000 for the Department of Parks and Recreation to pay for supplies and design and inspection services financed by a transfer within the department's Consolidated County Cumulative Capital Improvement Fund

GENERAL ORDINANCE NO. 119, 1996: amends the Rules of the Council with respect to public hearings on fiscal ordinances

GENERAL ORDINANCE NO. 121, 1996: establishes a nonreverting fund to be known as the "Victim Witness Support Services Fund" to be administered by the County Prosecutor

GENERAL ORDINANCE NO. 122, 1996: authorizes multi-way stops at Cornell Avenue and 64th Street and at Cornell Avenue and 65th Street (District 2)

GENERAL ORDINANCE NO. 123, 1996: authorizes 55 degree parking meter zones on Westfield Boulevard, on the north side, from College Avenue to Guilford Avenue (Districts 2, 7)

GENERAL ORDINANCE NO. 124, 1996: authorizes the deletion of a.m. and p.m. peak hour parking restrictions on State Street between Michigan Street and Pleasant Run parkway North Drive (Districts 21, 22)

GENERAL RESOLUTION NO. 8, 1996: rejects the Library Capital Project Fund Plan of the Indianapolis-Marion County Public Library and establishes a Library Ad-Hoc Study Committee

SPECIAL RESOLUTION NO. 48, 1996: an inducement resolution for Union Camp Corporation to finance acquisition and construction of certain land, buildings, structures, machinery and equipment comprising solid waste disposal facilities included within the recycled corrugating mill to be located at 2270 South Harding Street in an amount not to exceed \$150,000,000 (District 25)

SPECIAL RESOLUTION NO. 49, 1996: approves a list of projects to be funded by Section 108 loan funds

SPECIAL ORDINANCE 10, 1996: amends S.O. No. 3, 1996 authorizing certain amendments to the previously-issued and outstanding \$8,700,000 City of Indianapolis Variable/Fixed Rate Multi-Family Housing Revenue Bonds, Series 1996 (Crossing Partners, L.P. Project), the proceeds of which were used to finance the acquisition and rehabilitation of the 240-unit apartment complex located at 4000 North Franklin Road and approving and authorizing other actions in respect thereto (District 12)

Respectfully,
s/Stephen Goldsmith, Mayor

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ADOPTION OF AGENDA

The President proposed the adoption of the agenda as distributed. Without objection, the agenda was adopted.

APPROVAL OF JOURNALS

The President called for additions or corrections to the Journals of July 22, 1996. There being no additions or corrections, the minutes were approved as distributed.

INTRODUCTION OF PROPOSALS

PROPOSAL NO. 523, 1996. Introduced by Councillor Franklin. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which amends the Code and the Revised Code by replacing the licensure of various business activities with a system of registrations and removes the requirement of annual fees and renewal applications"; and the President referred it to the Administration and Finance Committee.

PROPOSAL NO. 524, 1996. Introduced by Councillor Schneider. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which approves the Mayor's appointment of Peter A. Bisbecos as hearing officer to preside over the administrative adjudication of parking citations"; and the President referred it to the Administration and Finance Committee.

PROPOSAL NO. 525, 1996. Introduced by Councillor Coughenour. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which is an appropriation of \$250,000 for the Department of Administration, Indianapolis Fleet Services Division, to pay for cost overruns due to the snow removal of 1996 and the purchase of a new wrecker financed by a transfer within the division's Consolidated County Fund"; and the President referred it to the Administration and Finance Committee.

PROPOSAL NO. 526, 1996. Introduced by Councillor Dowden. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which is an appropriation of \$10,000 for the County Sheriff to fund a portion of a contractual staff person for Crime Stoppers financed by a transfer within the department's County General Fund"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 527, 1996. Introduced by Councillor Dowden. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which is an appropriation of \$294,000 in the County Correction Fund for the County Sheriff, Marion County Justice Agency, Community Corrections, and County Auditor to continue providing diversion programs for misdemeanor populations from State penal facilities"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 528, 1996. Introduced by Councillor Coughenour. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which is an appropriation of \$300,000 for the Department of Public Works, Maintenance Operations Division, to pay for cost overruns due to the snow removal of 1996 financed by a federal grant"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 529, 1996. Introduced by Councillor Coughenour. The Clerk read the proposal entitled: "A Proposal for a Solid Waste Collection Special Service District Fiscal Ordinance which is an appropriation of \$275,000 for the Department of Public Works, Solid Waste Administration, to pay for unanticipated overtime financed by a transfer within the division's Solid Waste Collection Fund"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 530, 1996. Introduced by Councillor Coughenour. The Clerk read the proposal entitled: "A Proposal for a Solid Waste Collection Special Service District Fiscal Ordinance which is an appropriation of \$700,000 for the Department of Public Works, Maintenance Operations Division, to pay for the removal of debris financed from the Solid Waste Collection Fund balances"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 531, 1996. Introduced by Councillor Gilmer. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes a traffic signal at Fox Hill Road and Michigan Road (District 1)"; and the President referred it to the Capital Asset Management Committee.

PROPOSAL NO. 532, 1996. Introduced by Councillor Coonrod. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes intersection controls for Cherry Lakes Subdivision, Section 8 (District 5)"; and the President referred it to the Capital Asset Management Committee.

PROPOSAL NO. 533, 1996. Introduced by Councillor Coonrod. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes a multi-way stop at 79th Street and Oaklandon Road (District 5)"; and the President referred it to the Capital Asset Management Committee.

PROPOSAL NO. 534, 1996. Introduced by Councillor Cockrum. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes a multi-way stop at Hadleigh Drive, High School Road southbound and Hanna Avenue (District 19)"; and the President referred it to the Capital Asset Management Committee.

PROPOSAL NO. 535, 1996. Introduced by Councillor Dowden. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes multi-way stops at Johnson Road at 65th Street, Lowanna Way, and Creekside Lane (District 4)"; and the President referred it to the Capital Asset Management Committee.

PROPOSAL NO. 536, 1996. Introduced by Councillor Dowden. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes multi-way stops at Hampton Circle and Narragansett Court and Pawtucket Court, and at Hampton Circle and New London Court (District 4)"; and the President referred it to the Capital Asset Management Committee.

PROPOSAL NO. 537, 1996. Introduced by Councillor Black. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes a multi-way stop at Carrollton Avenue and 44th Street (District 6)"; and the President referred it to the Capital Asset Management Committee.

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PROPOSAL NO. 538, 1996. Introduced by Councillor Black. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes a multi-way stop at Washington Boulevard and 33rd Street (District 6)"; and the President referred it to the Capital Asset Management Committee.

PROPOSAL NO. 539, 1996. Introduced by Councillor Borst. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes parking restrictions on Meridian Street from 400 feet south of Epler Avenue to Dudley Avenue (District 25)"; and the President referred it to the Capital Asset Management Committee.

PROPOSAL NO. 540, 1996. Introduced by Councillor Moriarty Adams. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes a weight limit restriction on Brookville Road from Emerson Avenue to English Avenue (Districts 13, 15)"; and the President referred it to the Capital Asset Management Committee.

PROPOSAL NO. 541, 1996. Introduced by Councillor Brents. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes one-hour parking meters on University Boulevard, on the east side, from a point 174 feet north of New York Street to a point 483 feet north of New York Street (District 16)"; and the President referred it to the Capital Asset Management Committee.

PROPOSAL NO. 542, 1996. Introduced by Councillor Dowden. The Clerk read the proposal entitled: "A Proposal for a Police Special Service District Fiscal Ordinance which is the annual budget for the Police Special Service District for 1997"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 543, 1996. Introduced by Councillor Dowden. The Clerk read the proposal entitled: "A Proposal for a Fire Special Service District Fiscal Ordinance which is the annual budget for the Fire Special Service District for 1997"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 544, 1996. Introduced by Councillor Coughenour. The Clerk read the proposal entitled: "A Proposal for a Solid Waste Collection Special Service District Fiscal Ordinance which is the annual budget for the Solid Waste Collection Special Service District for 1997"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 545, 1996. Introduced by Councillor McClamroch. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which is the annual budget for the Revenue Bonds Debt Service Funds for 1997"; and the President referred it to the Administration and Finance Committee.

PROPOSAL NO. 546, 1996. Introduced by Councillor Franklin. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which is the annual budget for the Marion County Office of Family and Children for 1997"; and the President referred it to the Community Affairs Committee.

PROPOSAL NO. 547, 1996. Introduced by Councillor McClamroch. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which is the annual budget for the

Metropolitan Emergency Communications Agency for 1997"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 548, 1996. Introduced by Councillor McClamroch. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which is the annual budget for Indianapolis and Marion County for 1997"; and the President referred it to various Committees.

SPECIAL ORDERS - PRIORITY BUSINESS

PROPOSAL NO. 549, 1996. Introduced by Councillor Hinkle. The Clerk read the proposal entitled: "REZONING ORDINANCE certified by the Metropolitan Development Commission on August 2, 1996." The Council did not schedule Proposal No. 549, 1996 for hearing pursuant to IC 36-7-4-608. Proposal No. 549, 1996 was retitled REZONING ORDINANCE NO. 157, 1996 and is identified as follows:

REZONING ORDINANCE NO. 157, 1996. 96-Z-84
3701-3731 NORTH KEYSTONE AVENUE (approximate. address), INDIANAPOLIS.
CENTER TOWNSHIP, COUNCILMANIC DISTRICT # 11.
ROBERT L. YOUNG, by William Freihofer, requests a rezoning of 1.61 acres, being in the D-5 District, to the C-3 classification to provide for commercial retail development.

SPECIAL ORDERS - PUBLIC HEARING

PROPOSAL NO. 309, 1996. The proposal is an appropriation of \$785,327 for various County agencies to pay Information Service Agency charges financed by transfers of \$576,806 within certain agencies' County General Fund and an appropriation of \$208,521 from the County General Fund balances. Councillor Schneider asked for consent to postpone Proposal No. 309, 1996 until the August 19, 1996 Council meeting. Consent was given.

PROPOSAL NO. 453, 1996. Councillor Smith reported that Public Safety and Criminal Justice Committee heard Proposal No. 463, 1996 on June 26, 1996. The proposal, sponsored by Councillor Borst, is an appropriation of \$59,000 for the Forensic Services Agency to purchase chemicals, reagents, and supplies for DNA analysis and to provide monies for training and the initiation of the laboratory accreditation process financed by a reimbursement of \$24,000 from Abu Dhabi, United Arab Emirates, and a transfer of \$35,000 within the agency's County General Fund. By a 6-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass.

The President called for public testimony at 7:43 p.m. There being no one present to testify, Councillor Smith moved, seconded by Councillor Borst, for adoption. Proposal No. 453, 1996 was adopted on the following roll call vote; viz:

25 YEAS: Black, Borst, Bradford, Brents, Cockrum, Coonrod, Coughenour, Curry, Franklin, Golc, Gray, Hinkle, Jones, Massie, McClamroch, Moores, O'Dell, Schneider, SerVaas, Shambaugh, Short, Smith, Talley, Tilford, Williams
1 NAY: Gilmer
2 NOT VOTING: Boyd, Moriarty Adams
1 ABSENT: Dowden

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Proposal No. 453, 1996 was retitled FISCAL ORDINANCE NO. 75, 1996, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 75, 1996

A FISCAL ORDINANCE amending the City-County Annual Budget for 1996 No. 86, 1995 appropriating an additional Twenty-four Thousand Dollars (\$24,000) and transferring Thirty-five Thousand Dollars (\$35,000) in the County General Fund for the purposes of Forensic Services Agency and reducing the unappropriated and unencumbered balance in the County General Fund.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 1.02 (y) of the City-County Annual Budget for 1996 be, and is hereby, amended by the increases and reductions hereinafter stated for purposes of the Forensic Services Agency to pay for DNA analysis processing and money for training and initiation of accreditation for the American Society of Crime Laboratory Directors (ASCLD).

SECTION 2. The sum of Twenty-four Thousand Dollars (\$24,000) is appropriated and the transfer of Thirty-five Thousand Dollars (\$35,000) for the purposes as shown in Section 3 by reducing the unappropriated balances as shown in Section 4.

SECTION 3. The following additional appropriation is hereby approved:

<u>FORENSIC SERVICES AGENCY</u>	<u>COUNTY GENERAL FUND</u>
2. Supplies	40,000
3. Other Services and Charges	<u>19,000</u>
TOTAL INCREASE	59,000

SECTION 4. The said additional appropriation is funded by the following reductions:

<u>FORENSIC SERVICES AGENCY</u>	<u>COUNTY GENERAL FUND</u>
4. Capital Outlay	35,000
Unappropriated and Unencumbered County General Fund	<u>24,000</u>
TOTAL REDUCTION	59,000

SECTION 5. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 476, 1996. The proposal is an appropriation of \$123,333 for the Department of Parks and Recreation to enter into a long-term partnership agreement with the City of Lawrence to provide an enhanced and comprehensive array of parks and recreation services to the citizens of northeast Marion County financed by the unappropriated and unencumbered Parks General Fund. Councillor Shambaugh asked for consent to postpone Proposal No. 476, 1996 until the September 9, 1996 Council meeting. Consent was given.

Councillor Smith gave the committee report due to Councillor Dowden's absence. Councillor Smith reported that Public Safety and Criminal Justice Committee heard Proposal Nos. 478, 479, 480, and 481, 1996 on July 24, 1996.

PROPOSAL NO. 478, 1996. The proposal is an appropriation of \$60,000 for the Marion County Superior Court, Juvenile Division, to fund Child Advocates, Inc., a program to assist children who are victims of abuse, financed by a state grant. By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass.

The President called for public testimony at 7:46 p.m. There being no one present to testify, Councillor Smith moved, seconded by Councillor Curry, for adoption. Proposal No. 478, 1996 was adopted on the following roll call vote; viz:

27 YEAS: Black, Borst, Boyd, Bradford, Brents, Cockrum, Coonrod, Coughenour, Curry, Franklin, Gilmer, Golc, Gray, Hinkle, Jones, Massie, McClamroch, Moores, O'Dell, Schneider, SerVaas, Shambaugh, Short, Smith, Talley, Tilford, Williams

0 NAYS:

1 NOT VOTING: Moriarty Adams

1 ABSENT: Dowden

Proposal No. 478, 1996 was retitled FISCAL ORDINANCE NO. 76, 1996, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 76, 1996

A FISCAL ORDINANCE amending the City-County Annual Budget for 1996 (City-County Fiscal Ordinance No. 86, 1995) appropriating an additional Sixty-Thousand (\$60,000) in the State and Federal Grants Fund to fund the Marion Superior Court, Juvenile Division to fund the Child Advocates, Inc. program to assist children who are victims of abuse and reducing the unappropriated and unencumbered balance in the State and Federal Grants Fund.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OR MARION COUNTY, INDIANA:

SECTION 1. To provide for expenditures the necessity of which has arisen since the adoption of the annual budget, Section 1.02(cc) of the City-County Annual Budget for 1996 be, and is hereby amended by the increases and reductions hereinafter stated for purposes of the Marion County Superior Court, Juvenile Division to fund Child Advocates, Inc. to provide independent advocates for the rights of abused and neglected children and juvenile delinquents in Marion County Juvenile Court.

SECTION 2. The sum of Sixty Thousand Dollars (\$60,000) be, and the same is hereby, transferred for the purposes as shown in Section 3 by reducing the accounts as shown in Section 4.

SECTION 3. The following increased appropriation is hereby approved:

<u>MARION COUNTY SUPERIOR COURT</u>	<u>STATE AND FEDERAL GRANTS FUND</u>
3. Service & Charges	60,000
TOTAL INCREASE	60,000

SECTION 4. The said increase appropriation is funded by the following reductions:

	<u>STATE AND FEDERAL GRANTS FUND</u>
Unappropriated and Unencumbered	
State and Federal Grants Fund	60,000
TOTAL REDUCTION	60,000

SECTION 5. Except to the extent of matching funds, if any, approved in this ordinance, the Council does not intend to use the revenues from any local tax regardless of source to supplement or extent the appropriation for the agencies or projects authorized by this ordinance the supervisor of the agency or project, or both, and the Auditor are directed to notify in writing the City-County Council immediately upon receipt of any information that the agency or project is, or may be, reduced or eliminated.

SECTION 6. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 479, 1996. The proposal is an appropriation of \$45,000 for the Prosecuting Attorney to develop a community-wide protocol with the criminal justice agencies and treatment providers to combat domestic violence financed by a federal grant. By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass.

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Councillor Black asked how long the service is to be provided. Councillor Smith replied that the program is for one year.

Councillor Bradford asked if the service was already being provided. Councillor Smith replied that the Family Advocacy Center does provide these services for abused/neglected children.

Councillor Bradford questioned if the training was for just Marion County or other counties also. Councillor Franklin stated that those attending the conferences would be comprised of all counties, but a fee will probably be charged to those outside Marion County to help fund the program.

The President called for public testimony at 7:55 p.m. There being no one present to testify, Councillor Smith moved, seconded by Councillor Talley, for adoption. Proposal No. 479, 1996 was adopted on the following roll call vote; viz:

24 YEAS: Borst, Boyd, Bradford, Brents, Cockrum, Coonrod, Coughenour, Curry, Franklin, Gilmer, Gray, Hinkle, Jones, Massie, McClamroch, Moores, Moriarty Adams, O'Dell, Schneider, SerVaas, Short, Smith, Talley, Tilford

1 NAY: Williams

3 NOT VOTING: Black, Golc, Shambaugh

1 ABSENT: Dowden

Proposal No. 479, 1996 was retitled FISCAL ORDINANCE NO. 77, 1996, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 77, 1996

A FISCAL ORDINANCE amending the City-County Annual Budget for 1996 (City-County Fiscal Ordinance No. 86, 1995) appropriating an additional Forty-five Thousand Dollars (\$45,000) in the State and Federal Grants Fund to fund the Prosecuting Attorney and reducing the unappropriated and unencumbered balance in the State and Federal Grants Fund.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OR MARION COUNTY, INDIANA:

SECTION 1. To provide for expenditures the necessity of which has arisen since the adoption of the annual budget, Section 1.02(v) of the City-County Annual Budget for 1996 be, and is hereby amended by the increases and reductions hereinafter stated for purposes of the Prosecuting Attorney to develop a community-wide protocol with the criminal justice agencies and treatment providers in cases of domestic violence.

SECTION 2. The sum of Forty-five Thousand Dollars (\$45,000) be, and the same is hereby, transferred for the purposes as shown in Section 3 by reducing the accounts as shown in Section 4.

SECTION 3. The following increased appropriation is hereby approved:

<u>PROSECUTING ATTORNEY</u>	<u>STATE AND FEDERAL GRANTS FUND</u>
3. Other Service and Charges	<u>45,000</u>
TOTAL INCREASE	45,000

SECTION 4. The said increase appropriation is funded by the following reductions:

	<u>STATE AND FEDERAL GRANTS FUND</u>
Unappropriated and Unencumbered State and Federal Grants Fund	<u>45,000</u>
TOTAL REDUCTION	45,000

SECTION 5. Except to the extent of matching funds, if any, approved in this ordinance, the Council does not intend to use the revenues from any local tax regardless of source to supplement or extend the appropriation for the agencies or projects authorized by this ordinance the supervisor of the agency or project, or both, and the Auditor are directed to notify in writing the City-County Council immediately upon receipt of any information that the agency or project is, or may be, reduced or eliminated.

SECTION 6. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 480, 1996. The proposal is an appropriation of \$8,529 for the Prosecuting Attorney to pay partial salary of an Adult Protective Services Investigator and to purchase a computer financed by a federal grant. By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass.

The President called for public testimony at 7:57 p.m. There being no one present to testify, Councillor Smith moved, seconded by Councillor Curry, for adoption. Proposal No. 480, 1996 was adopted on the following roll call vote; viz:

24 YEAS: Borst, Boyd, Bradford, Brents, Cockrum, Coonrod, Coughenour, Curry, Franklin, Gilmer, Gray, Hinkle, Jones, Massie, McClamroch, Moores, Moriarty Adams, O'Dell, Schneider, SerVaas, Shambaugh, Smith, Tilford, Williams
1 NAY: Black
3 NOT VOTING: Golc, Short, Talley
1 ABSENT: Dowden

Proposal No. 480, 1996 was retitled FISCAL ORDINANCE NO. 78, 1996, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 78, 1996

A FISCAL ORDINANCE amending the City-County Annual Budget for 1996 (City-County Fiscal Ordinance No. 86, 1995) appropriating an additional Eight Thousand Five Hundred Twenty-nine Dollars (\$8,529) in the State and Federal Grants Fund for purposes of the Prosecuting Attorney and County Auditor and reducing the unappropriated and unencumbered balance in the State and Federal Grants Fund.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 1.02(b,v) of the City-County Annual Budget for 1996 be, and is hereby, amended by the increases and reductions hereinafter stated for purposes of the Prosecuting Attorney and County Auditor to pay partial salary of an Adult Protective Services Investigator and to purchase a computer for report preparation.

SECTION 2. The sum of Eight Thousand Five Hundred Twenty-nine Dollars (\$8,529) be, and the same is hereby, appropriated for the purposes as shown in Section 3 by reducing the unappropriated balances as shown in Section 4.

SECTION 3. The following additional appropriation is hereby approved:

<u>PROSECUTING ATTORNEY</u>	<u>STATE AND FEDERAL GRANTS FUND</u>
1. Personal Services	4,800
4. Capital Outlay	2,529
<u>MARION COUNTY AUDITOR</u>	
1. Personal Services--Fringes	<u>1,200</u>
TOTAL INCREASE	8,529

SECTION 4. The said additional appropriation is funded by the following reductions:

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STATE AND FEDERAL GRANTS FUND

Unappropriated and Unencumbered	
State and Federal Grants Fund	8,529
TOTAL REDUCTION	8,529

SECTION 5. Except to the extent of matching funds, if any, approved in this ordinance, the Council does not intend to use the revenues from any local tax regardless of source to supplement or extend the appropriation for the agencies or projects authorized by this ordinance, the supervisor of the agency or project, or both, and the Auditor are directed to notify in writing the City-County Council immediately upon receipt of any information that the agency or project is, or may be, reduced or eliminated.

SECTION 6. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 481, 1996. The proposal is an appropriation of \$700,000 for the Public Defender Agency to fund indigent Appeal transcripts and death penalty litigation claims financed by revenues from the County General Fund. By a 5-1 vote, the Committee reported the proposal to the Council with the recommendation that it do pass.

Councillor SerVaas asked how many pending indigent death penalty cases there are and the average cost per case. David Cook, Chief Public Defender, stated that there are seven cases pending, with the average cost being \$144,000 per case.

Councillor Coonrod stated that his concern is that specific available revenues are not identified in the County General Fund for this appropriation.

The President called for public testimony at 8:18 p.m. There being no one present to testify, Councillor Smith moved, seconded by Councillor Curry, for adoption. Proposal No. 481, 1996 was adopted on the following roll call vote; viz:

21 YEAS: Borst, Boyd, Brents, Cockrum, Coughenour, Curry, Golc, Hinkle, Jones, Massie, McClamroch, Moores, Moriarty Adams, O'Dell, SerVaas, Shambaugh, Short, Smith, Talley, Tilford, Williams

6 NAYS: Black, Bradford, Coonrod, Franklin, Gilmer, Schneider

1 NOT VOTING: Gray

1 ABSENT: Dowden

Proposal No. 481, 1996 was retitled FISCAL ORDINANCE NO. 79, 1996, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 79, 1996

A FISCAL ORDINANCE amending the City-County Annual Budget for 1996 (City-County Fiscal Ordinance No. 86, 1995) appropriating an additional Seven Hundred Thousand Dollars (\$700,000) in the County General Fund to fund the Marion County Public Defender Agency and reducing the unappropriated and unencumbered balance in the County General Fund.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OR MARION COUNTY, INDIANA:

SECTION 1. To provide for expenditures the necessity of which has arisen since the adoption of the annual budget, Section 1.02(u) of the City-County Annual Budget for 1996 be, and is hereby amended by the increases and reductions hereinafter stated for purposes of the Marion County Public Defender Agency to finance indigent Appeals transcripts and death penalty litigation.

SECTION 2. The sum of Seven Hundred Thousand Dollars (\$700,000) be, and the same is hereby, transferred for the purposes as shown in Section 3 by reducing the accounts as shown in Section 4.

SECTION 3. The following increased appropriation is hereby approved:

<u>MARION COUNTY PUBLIC DEFENDER AGENCY</u>	<u>COUNTY GENERAL FUND</u>
3. Other Services and Charges	<u>700,000</u>
TOTAL INCREASE	700,000

SECTION 4. The said increase appropriation is funded by the following reductions:

	<u>COUNTY GENERAL FUND</u>
Unappropriated and Unencumbered County General Fund	<u>700,000</u>
TOTAL REDUCTION	700,000

SECTION 5. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

SPECIAL ORDERS - UNFINISHED BUSINESS

PROPOSAL NO. 454, 1996. Councillor Curry reported that the Rules and Public Policy Committee met on July 2, 1996. The proposal, sponsored by Councillor McClamroch, calls on the citizens of Marion County to support the Indianapolis Rebuilding Families initiative which will strengthen families by encouraging responsible fatherhood, discouraging teen pregnancy, and improving support for teenage mothers and economic opportunities for young families. By a 4-1-1 vote, the Committee reported the proposal to the Council with the recommendation that it do pass.

Councillor Tilford stated that he agreed with the intent of the proposal, but is in disagreement with the language of Section 2. He feels that by excluding the teenagers from extracurricular activities, they may use the time to get into trouble instead of focusing on their children.

Councillor Tilford moved to amend Section 2 by removing the current language beginning with "and by limiting . . ." and inserting the following: "and by requiring unmarried parent-students to participate in a parenting class, so they may better understand the responsibilities as a parent in supporting their children." Councillor Moriarty Adams seconded the motion. Councillor Tilford's motion failed by a voice vote.

Councillor Williams stated that she feels the school board ought to be making the decision as to what happens in the school rather than the Council.

Councillor Talley stated that he feels the proposal will just create another layer of bureaucracy mess for the local school system and will be voting against the proposal.

The President passed the gavel to Councillor Boyd.

President SerVaas stated that statistics show that the infant mortality rate is relative to uneducated, unmarried teenage mothers. He feels that this proposal which is a suggestion being made to the educational system might be a positive step to help correct these problems.

Councillor Boyd returned the gavel.

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Councillor Boyd stated that he is concerned as to whether this proposal was researched with professional educators to see if this is a workable solution to the problem. He thinks the intention is a good one, but does not believe a realistic solution is to prohibit extracurricular activities and expect the teenagers to automatically focus their attention on supporting their children. For these reasons, Councillor Boyd stated that he will be voting against Proposal 454, 1996.

Councillor Curry moved, seconded by Councillor McClamroch, for adoption. Proposal No. 454, 1996 was adopted on the following roll call vote; viz:

20 YEAS: Borst, Bradford, Cockrum, Coonrod, Coughenour, Curry, Franklin, Gilmer, Golc, Hinkle, Massie, McClamroch, Moores, Moriarty Adams, O'Dell, Schneider, SerVaas, Shambaugh, Smith, Tilford
8 NAYS: Black, Boyd, Brents, Gray, Jones, Short, Talley, Williams
1 ABSENT: Dowden

Proposal No. 454, 1996 was retitled SPECIAL RESOLUTION NO. 50, 1996, and reads as follows:

CITY COUNCIL SPECIAL RESOLUTION NO. 50, 1996

A SPECIAL RESOLUTION calling on the citizens of Marion County to support the Indianapolis Rebuilding Families Initiative which will strengthen families by encouraging responsible fatherhood, discouraging teen pregnancy, and improving support for teenage mothers and economic opportunities for young families.

WHEREAS; our city's most serious problems of poverty and crime can be linked to the increasing number of teenage mothers and the rising absence of fathers; and

WHEREAS; children from fatherless families are five times more likely to live in poverty than children living with both parents; and

WHEREAS; juvenile violent crime in Indianapolis has increased nearly tenfold in the last decade, and 75% of those crimes are committed by children from fatherless families, and

WHEREAS; children from fatherless families are three times as likely to be suspended or expelled from school and twice as likely to drop out of school; and

WHEREAS; the number of babies born to teenage mothers has increased 40% in the last ten years and 89% of those teenage mothers are unmarried; and

WHEREAS; the number of children born out of wedlock is skyrocketing. The number of babies outside of marriage having risen from roughly 5% in 1960 to over 40% in 1995; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Indianapolis City County Council, representing the people of this city, does hereby endorse the Indianapolis Rebuilding Families Initiatives which will strengthen families by encouraging responsible fatherhood, discourage teen pregnancy and improve support for teen mothers and economic opportunities for young families.

SECTION 2. In particular, the Indianapolis City County Council, representing the people of this city, does hereby call upon the Junior and Senior High Schools of Marion County to recognize the catastrophic consequences of unmarried teenagers becoming parents and to work with the city to discourage this behavior by promoting abstinence and values: requiring parent-students to attend alternative schools; and by limiting or prohibiting unmarried parent-students from participating in extracurricular activities, including interscholastic sports, so they may instead focus their attention on supporting their children.

SECTION 3. The Mayor is invited to join this resolution by affixing his signature hereto.

SECTION 4. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

SPECIAL ORDERS - FINAL ADOPTION

PROPOSAL NO. 370, 1996. Councillor Gilmer reported that the Capital Asset Management Committee heard Proposal No. 370, 1996 on July 31, 1996. The proposal passed in committee on June 19, 1996 but was returned to Committee by the Council on June 24, 1996. The proposal amends the Code concerning activities in the right-of-way.

Greg Henneke, Director of the Department of Capital Asset Management (DCAM), explained that DCAM spent a lot of time working with the utility companies and the community. Some of the new standards include: Identification of a Class 1 street which requires higher repair standards, extensive use of flowable fill, and a very strong inspection program with an increase of personnel to enforce the standards.

By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass as amended. Councillor Gilmer moved, seconded by Councillor O'Dell, for adoption. Proposal No. 370, 1996, as amended, was adopted on the following roll call vote; viz:

27 YEAS: Black, Borst, Boyd, Bradford, Brents, Cockrum, Coonrod, Coughenour, Curry, Franklin, Gilmer, Golc, Gray, Hinkle, Jones, Massie, McClamroch, Moores, Moriarty Adams, O'Dell, Schneider, SerVaas, Shambaugh, Short, Smith, Talley, Tilford
0 NAYS:
1 NOT VOTING: Williams
1 ABSENT: Dowden

Proposal No. 370, 1996, as amended, was retitled GENERAL ORDINANCE NO. 118, 1996, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 118, 1996

A GENERAL ORDINANCE recodifying and amending Article III of the Code as a new Chapter 645.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The "Revised Code of the Consolidated City and County" be, and is hereby amended to add a NEW Chapter 645 (which is a revision and recodification of Article III, Chapter 28 of the Code of Indianapolis and Marion County that deletes the stricken-through text and inserts the underlined text) as follows:

Chapter 645

PUBLIC RIGHTS OF WAY

ARTICLE III. ACTIVITIES IN THE RIGHT-OF-WAY

Sec. 28 645-321. Applicability.

(a) This Article ~~establishes minimum standards governing~~ applies to all activities and work performed by any person, partnership, corporation or other entity, including departments, divisions,

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agencies or boards of the city, in, on, under or and over public rights-of-way ~~containing roads dedicated to and accepted by~~ under the jurisdiction of the city.

(b) ~~The minimum standards established by this Article shall not govern new street and bridge design and construction. The standards for new street and bridge design and construction are set forth in Article II of this Chapter.~~

Sec. 28 ~~645-322~~. Duties and responsibilities of the department of ~~transportation capital asset management~~.

(a) The department of ~~transportation capital asset management~~ ("DOT department") shall be responsible for ~~regulating and controlling~~ all activities and work performed by any person, partnership, corporation or other entity, including departments, divisions, agencies or boards of the city, in, on, under and over public rights-of-way ~~containing roads dedicated to and accepted by~~ under the jurisdiction of the city ("public rights-of-way") and for enforcing compliance with ~~the minimum standards established by this article and the~~ with the provisions of regulations adopted by the ~~transportation asset management and public works~~ board ("board") pursuant to this article.

(b) ~~The DOT department shall be responsible for recommending to the transportation board proposed regulations to be adopted by the transportation board, as required by section 23-323.~~

Sec. 28 ~~645-323~~. Duties and responsibilities of the ~~transportation~~ board.

(a) The ~~transportation~~ board ("board") shall, in accordance with the procedures specified in ~~subsection (b) of this section 28-323 section 271-31~~, adopt regulations ~~deemed necessary and appropriate in order for the board and the DOT department to carry out their~~ its duties and responsibilities ~~under this article, including, which apply only to work performed in, on, under and/or over public rights-of-way and to the permits, procedures, requirements, standards and fees which are associated with said work. Those regulations may include, but are not limited to, regulations establishing the following:~~

- (1) Standards for traffic controls for construction and maintenance operations or activities in, on, under and over the public rights-of-way ~~containing streets dedicated to and accepted by the city~~, which standards shall be designed to protect members of the public using such public rights-of-way and to be consistent, to the extent practicable, with the "Indiana Manual of Uniform Traffic Control Devices", the "Indiana State ~~Highway~~ Department of Transportation Standard Specifications, ~~1985~~ 1995 Edition", and all other state and federal statutes, recognizing, however, that traffic controls for projects within public rights-of-way subject to the jurisdiction of the DOT department may be less stringent than the traffic controls required in connection with work on state or federal highways where traffic will be traveling at much greater speeds;
- (2) Restrictions with respect to when and how work should be performed in public rights-of-way ~~containing streets dedicated to and accepted by the city~~ in certain geographical areas, such as the area around Monument Circle, Hoosier Dome and Convention Center or in areas during times when special events, such as the 500 Mile Race and State Fair, are being held;
- (3) Time periods when work in, under, on or over public rights-of-way ~~containing streets dedicated to and accepted by the city~~ should, except in cases of emergencies, be prohibited or limited; ~~such as during rush hours~~;
- (4) Minimum standards for compaction or deflection testing or both;
- (5) A schedule of fees for the enforcement of the provisions of this article or the regulations duly adopted by the board; and
- (6) ~~Standards for requiring additional~~ Bonding or insurance requirements; ~~for single cuts with an area in excess of one hundred (100) square feet.~~
- (7) Enforcement procedures;
- (8) Standards for right-of-way excavations;
- (9) Standards for restoration of the public right-of-way;
- (10) Inspection and testing procedures;

- (11) Applicability of standards adopted by the board;
- (12) Variance procedure;
- (13) Appeal procedure;
- (14) Form and content of the right-of-way excavation permit;
- (15) Kinds and categories of permits;
- (16) Permit fees;
- (17) Permit issuance procedures;
- (18) Indemnification provisions;
- (19) Penalties for non-compliance with the provisions of this chapter or with regulations promulgated by the board;
- (20) Emergency permit notification procedures; and
- (21) Permit verification procedures.

(b) In addition to the requirements specified in Section 271-31(a), a copy of the notice of hearing on any regulation proposed to be adopted by the Board under this section 271-323 shall be mailed by United States first class mail concurrently to all public utilities providing service in Marion County.

~~(b) Before any regulation is adopted by the board pursuant to this section 28-323, the board shall cause a notice to be published in at least two (2) newspapers of general circulation printed and published in Marion County, Indiana, at least twenty one (21) days prior to the date set for a hearing on the proposed regulation. Said notice shall include a statement of the time and place of said hearing, a reference to the subject matter of the proposed regulation or regulations and refer to the fact that a copy of said regulation or regulations is on file in the office of the board where it may be examined. At the same time said notice is sent to the newspapers for publication, a copy thereof shall be mailed to each public utility serving in Marion County. At least five (5) copies of said proposed regulation or regulations shall be on file at the office of the board from the date of the first publication of said notice continuously until the said hearing and any interested person shall be given an adequate opportunity to examine a copy of said proposed regulation or regulations. On the date set for hearing, any interested party in person or by attorney shall be afforded an adequate opportunity to participate in the formulation of the proposed regulation or regulations through the presentation of facts or argument or the submission of written data or views. All relevant matter presented shall be given full consideration by the board. If the board, following the hearing and consideration and all relevant matter presented, adopts the regulation or regulations, either as proposed or as proposed with modifications or amendments, the regulation or regulations adopted by the board shall be submitted to the corporation counsel of the city for his approval as to legality. When the regulation or regulations have been approved by the corporation counsel of the city, the regulation or regulations shall be filed with the clerk of the council for publication. The regulation or regulations shall become effective thirty (30) days after the date filed with the clerk of the council, unless the council prior thereto amends the regulations or suspends their effective date. If the board desires to repeal, rescind or amend any regulation adopted by it, the same procedure shall be followed as prescribed herein for adoption of a regulation.~~

~~(e) The transportation board, in cooperation with the department of transportation, shall establish a program pursuant to which instruction shall be provided to individuals who will be making, restoring or inspecting excavations in public right-of-way. Said program will consist of instruction concerning the proper methods of making and restoring excavations as set forth in this article. The instruction program shall be conducted by competent individuals who are not individuals who will be making, restoring or inspecting excavations in the public rights of way in accordance with this article. The cost associated with such instructional program shall be recovered as admission fees from those individuals attending such program. Persons attending and satisfactorily completing such instructional program shall receive a certificate to that effect. The instruction program established pursuant to this paragraph shall be implemented so that the first instruction program is conducted within ninety (90) days following the effective date of this ordinance. The program shall be offered at such frequencies so as to ensure that all individuals who will be making, restoring and inspecting excavations in the public rights-of-way after~~

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September 1, 1985, will be able to attend and complete the instructional program by that date. All DOT inspectors shall be required to attend the instructional program.

(d) ~~There may be circumstances where it will be appropriate for the board to grant a temporary exception or a permanent variance from either the standards established by this article or the provisions of the regulations adopted by the board. The board should only grant exceptions or variances which it determines would be consistent with public safety and interest, would not frustrate the intent and policies expressed by this article or the board's regulations and would not endanger the traveling public using the public rights of way. The procedure concerning exceptions or variances shall be as follows:~~

- (1) ~~Any person or entity subject to the provisions of this article or the regulations adapted by the board may submit a written application to the board requesting a temporary exception or a permanent variance from a specific minimum standard established by this article or a provision of a regulation adapted by the board, setting forth the reasons why the exception or variance should be granted. Copies of the application shall also be provided to the director of the DOT and to the permit section of the DOT.~~
- (2) ~~The board shall consider said application at its next regularly scheduled meeting held more than seven (7) days following receipt of the application and, by written order, grant said application if it determines that such action would be consistent with the public safety and interest, would not frustrate the intent and policies expressed by this article or the board's regulations and would not endanger the traveling public using the public rights of way. The board may prescribe alternative measures to be used in lieu of those from which it granted an exception or variance. If the board denies the application, it shall set forth in its order the reasons for the denial. The order granting or denying the application shall be mailed to the applicant by certified mail, return receipt requested.~~
- (3) ~~If the exception or variance is approved by the board, the board shall certify its order to the clerk of the council. The exception or variance shall become effective thirty (30) days thereafter, unless the transportation committee of the council shall reject or modify the order of the board.~~
- (4) ~~Exceptions or variances granted by the board may be revoked by the vote of a majority of the board upon finding after notice and hearing, that the person or entity granted the exception or variance is violating the terms of the board's order granting the exception or variance or that the action of such person or entity pursuant to the exception or variance unreasonably jeopardizes the public safety or interest. The revocation of an exception or variance shall not affect the validity of any other exception or variance in effect for that person or entity.~~

Sec. 28 645-324. Permit required for work in Right-of-way, excavation permit required.

(a) ~~Except as otherwise provided in subsections (b) and (c) of this section 28 645-324, it shall be unlawful for any no person, partnership, corporation, or other entity, including departments, divisions, agencies or boards of the city to perform any work, including, but not limited to, shall cutting, drilling, digging or excavating in, on, over or under a public right-of-way containing a street dedicated to and accepted by the city without first having obtained a right-of-way excavation permit from the DOT Department. Application for said permit shall be in accordance with section 28-325.~~

(b) ~~In the event a person, partnership, corporation, or other entity, including departments, divisions, agencies or boards of the city, find it necessary to cut, drill, dig or excavate in or under a public right-of-way containing a street dedicated to and accepted by the city for the purpose of restoring a utility service to a person or entity or for the purpose of making immediate repairs and at such time the permit section of the DOT is not staffed because, for example, it is after normal business hours or the mayor of the city has declared a weather emergency or it is a city holiday, the person, partnership, corporation or other entity may drill, cut, dig or excavate in or under the public right of way without first filing an application for and obtaining a right-of-way excavation permit. The application for the right of way excavation permit shall, however, be filed on the first business day on which the permit section of the DOT is staffed following the commencement of work. an emergency arises that affects the health and safety of the public or requires the restoration of a utility service and such an event occurs at a time other than normal business hours for DCAM, work may be performed in, on, over or under the public right-of-way without first obtaining a permit. If such event were to occur, the person, partnership, corporation or other entity performing said work must file for a permit from DCAM on the first business day following the commencement or performance of the work.~~

(c) Notwithstanding the requirements of Section 271-324(a), no permit shall be required for work in, on, over or under a street, i) which is located within a subdivision platted after January 1, 1992 and ii) which has not been accepted by the Board in accordance with Section 28-68.

Sec. 28-325. Application for right-of-way excavation permit.

~~(a) Application.—The application for a right-of-way excavation permit shall be submitted to the permit section of the department of transportation and shall include the following:~~

- ~~(1) A properly executed permit application, in the form designated by the department, including but not limited to, the following information:
 - ~~(A) The name and address of the applicant;~~
 - ~~(B) The name and address of the person performing the work to be done in the right-of-way, if other than the applicant;~~
 - ~~(C) The nature of, and the reason for, the work to be performed;~~
 - ~~(D) The location of the worksite and the dimensions of the excavation;~~
 - ~~(E) The anticipated length of time to complete the work;~~
 - ~~(F) The method of traffic control to be used by the applicant at the worksite;~~
 - ~~(G) Any other pertinent information requested by the department of transportation; and~~
 - ~~(H) After September 1, 1985, certification that the work to be performed under the right-of-way excavation permit will be under the supervision of a person who has attended and satisfactorily completed the instructional program established pursuant to section 28-323(c).~~~~
- ~~(2) A general liability insurance policy as described in subsection (c), unless the applicant is a public utility or already has a statement of insurance on file;~~
- ~~(3) A performance or maintenance bond as specified in subsection (d), unless the applicant is a public utility;~~
- ~~(4) An indemnification agreement as specified in subsection (e), unless the applicant is a public utility and already has an approved indemnification agreement on file; and~~
- ~~(5) Written approval from the department of public works as specified in subsection (f), if the proposed work involves a sanitary sewer, storm sewer, or affects drainage within the public right-of-way.~~

~~(b) Permit fee.—A permit fee of forty dollars (\$40.00) for a single cut shall be paid when application is submitted and is not refundable. Additional cuts on a new multiple cut permit shall require an additional payment of twenty dollars (\$20.00) per cut.~~

~~(c) General liability insurance policy.—The applicant shall either file or have on file with the City of Indianapolis a general liability insurance policy. The statement of insurance shall be on file with either the division of development services or the department of metropolitan development or the DOT permit section. The insurance company shall be licensed to do business in the State of Indiana. The amount of insurance shall be not less than five hundred thousand dollars (\$500,000.00) for injury to one person and not less than one million dollars (\$1,000,000.00) for injuries to more than one person and not less than two hundred fifty thousand dollars (\$250,000.00) for damages to property. The insurance policy shall have a rider attachment for all listed general contractors to be covered on right-of-way excavation permit.~~

~~(d) Performance bond.—The performance bond posted with respect to each permit shall not be released until an approved inspection is received on the restoration of the public right-of-way. The applicant shall either file or have on file with either the division of development services of the department of metropolitan development or the DOT permit section a performance/maintenance bond. The company writing the bond shall be licensed to do business in the State of Indiana. The bond shall be in the penal amount of not less than ten thousand dollars (\$10,000.00) for a single street cut and one hundred thousand dollars (\$100,000.00) for unlimited multiple street cuts in any year. The bond shall be in effect for a duration of three (3) years from the date of issuance of each permit.~~

~~(e) Indemnification agreement form.—The applicant for a right-of-way excavation permit shall either file or have on file with either the division development of services of the department of metropolitan development or the permit section of the DOT an indemnification agreement to indemnify and hold~~

~~harmless the city from and against all claims, actions, damages and expenses, including reasonable attorneys' fees, based on any alleged injury (including death) to any person or damage to any property arising, or alleged to have arisen out of any act of commission or omission with respect to the activity or work of the applicant (or persons, corporations or firms authorized by the applicant) in a public right-of-way subject to the city's jurisdiction pursuant to a right-of-way excavation permit issued by the DOT.~~

~~(f) Drainage approval. The applicant for a right of way excavation permit shall submit a letter or form of approval from the department of public works with the application when the proposed work involves a sanitary sewer, storm sewer or affects drainage within a public right-of-way. The permit holder shall be responsible for maintaining adequate drainage flow during and after the work authorized by the right-of-way excavation permit.~~

~~(g) Exemptions. The requirements of subsections (b), (c), (d) and (e) shall not apply to applications on behalf of the departments of transportation or public works, if the work is to be performed by city employees.~~

~~Sec. 28-326. Issuance of right of way excavation permit.~~

~~(a) Issuance. Upon receipt of a completed application pursuant to section 28-325, approval of the work site, and payment of application and any other fees as specified, the DOT may issue a right of way excavation permit to the applicant. The DOT may issue the permit (by authorizing the work to proceed and assignment of a permit number) prior to receipt of the application and other required documentation, provided such application is submitted on the following business day.~~

~~(b) Duration. The permit shall be issued for a sixty (60) day time period, beginning at the time of its issuance. Upon applicant's justified request, the permit may be extended for sixty (60) days by the DOT.~~

~~(c) Activation. The applicant shall be responsible to activate the permit by notifying the inspection section, maintenance division, department of transportation at least one business day in advance of starting the work, unless the permit section authorizes that work to begin sooner. Upon notification and activation the permit holder must begin work within three business days. If, for any reason, the permit holder thereafter determines that he or it will not be able to perform the work or activity as scheduled, the permit holder shall immediately notify the inspection section.~~

~~(d) Display of permit. Once work commences in accordance with the issued right of way excavation permit, a copy of the permit shall be available at the worksite or the permit holder must be able to verify to a DOT inspector at the worksite that a permit has been issued and to whom.~~

~~Sec. 28-327. Standards for right of way excavation.~~

~~(a) In general. Any work within a public right of way for which a right of way permit is required by this article must be performed in accordance with, and conform to, the standards of this section.~~

~~(b) Worksites. The permit holder shall be responsible for the safe and expeditious movement of vehicular and pedestrian traffic through the worksite and for the safety of the work force performing the work in the public right of way pursuant to the right of way excavation permit.~~

~~(c) Color Coding. All cuts made in the road surface shall be color coded according to the purpose of the cut with a paint which will remain visible until final inspection is made. The color scheme to be used is:~~

Electric	Safety Red
Cable television	Pink
Telephone Safety Alert	Orange
Water	Safety Precaution Blue
Oil	Grey
Gas	High Visibility Yellow
Sanitary	Safety Green
Steam	White

~~(d) Removal of Surface. The minimum width of all cuts shall be twelve (12) inches, unless a lesser width is specifically allowed by DOT.~~

- (1) Concrete Streets and Alleys. Two methods of concrete surface removal are acceptable:
- (A) All cuts shall be sawed to one third the depth of the pavement with a concrete saw. A minimum saw cut of two inches (2") is required. The cut shall then be completed with a mechanical hammer equipped with a suitable chisel, starting from the center of the cut.
 - (B) All cuts shall be made with a mechanical hammer equipped with a suitable chisel, starting from the center of the cut. Before repair is made, the cuts shall be "squared". This shall be done by sawing to one third the depth of the pavement with a concrete saw. A minimum saw cut of two inches (2") is required. The cut shall then be completed with a mechanical hammer equipped with a suitable chisel.

Whenever possible, cuts should be made at pavement joints. Where the area of the cut exceeds fifty percent (50%) of a panel or a diagonal cut is made, the entire panel shall be removed.

- (2) Asphalt Streets and Alleys. Two methods of asphalt surface removal are acceptable:
- (A) All cuts shall be sawed to one third the depth of the pavement and then completed with a mechanical hammer equipped with a suitable chisel, starting from the center of the cut. A minimum saw cut of two (2) inches is required.
 - (B) All cuts shall be made with a mechanical hammer equipped with a suitable chisel, starting from the center of the cut. Before final repairs are made, the cuts shall be "squared". The edges of all cuts are to be straight.

- (3) Brick Streets and Alleys. All cuts must be made with a mechanical hammer equipped with a suitable chisel.

- (4) Asphalt over Concrete or Brick:

- (A) Two methods of asphalt removal are acceptable:
- (i) All cuts shall be sawed to one third the depth of the asphalt and then completed with a mechanical hammer equipped with a suitable chisel, starting from the center of the cut.
 - (ii) All cuts shall be made with a mechanical hammer equipped with a suitable chisel. Before final repairs are made, the cut shall be "squared". The edges of the asphalt are to be straight.
- (B) Brick Removal. All cuts in the brick or concrete part of the pavement shall be made by a mechanical hammer equipped with a suitable chisel.

- (5) Shot Seal Streets and Alleys. All cuts shall be made by a mechanical hammer equipped with a suitable chisel. The edges are to be straight and parallel.

- (6) Stone and/or Gravel Streets and Alleys. All cuts may be made by mechanical or manual means.

- (7) Sidewalks and Driveways:

- (A) Two methods of concrete surface removal are acceptable:
- (i) All concrete surface cuts are to be sawed to a minimum depth of two (2") inches with a concrete saw and then completed with a mechanical hammer equipped with a suitable chisel, starting from the center of the cut.
 - (ii) All cuts shall be made with a mechanical hammer equipped with a suitable chisel. Before final repairs are made, the cuts shall be "squared". This shall be done by sawing to one third the depth of the pavement with a concrete saw. A minimum saw cut of two (2") inches is required. The cuts shall then be completed with a mechanical hammer equipped with a suitable chisel.

Whenever possible, cuts should be made at pavement or panel joints. All panels of sidewalks that are cut are to be removed.

- (B) Two methods of asphalt surface removal are acceptable:
 - (i) All asphalt surface cuts are to be sawed to a minimum depth of two (2") inches and then completed with a mechanical hammer equipped with a suitable chisel, starting from the center of the cut. The edges of all cuts are to be straight.
 - (ii) All cuts shall be made with a mechanical hammer equipped with a suitable chisel. Before final repairs are made, the cuts shall be "squared". The edges of all cuts shall be straight.
- (C) All brick surface cuts are to be made with a mechanical hammer equipped with a suitable chisel.
- (D) All stone or gravel surface cuts are to be made by a mechanical or manual means.

Sec. 28-328. Standards for restoration of the public right-of-way.

(a) In general. All cuts, excavations, or other damage done to the right-of-way pursuant to a valid right-of-way permit shall be restored in such a way as to return the right-of-way to its condition prior to any work performed in connection with a valid right-of-way permit. Restoration of the public right-of-way upon completion of work performed under a valid right-of-way permit shall be performed by the permit holder in accordance with the standards set forth in this section and the applicable regulations adopted by the transportation board.

(b) Specifications of materials. All materials, unless specifically stated otherwise, shall be in accordance with current "Indiana State Highway Commission Standard Specifications" and all revisions and addendums to that document. ~~Flowable fill shall comply with the department of capital asset management technical specification on flowable fill.~~

(1) Granular backfill:

- (A) Subgrade sand or "B" borrow flowable fill
- (B) Subbase No. 53 stone flowable fill

(2) Concrete:

- Cement content 6 bags per cubic yard, high early strength
- Compressive strength 4,000 PSI
- Slump 3 to 5 inches
- Air entrainment 5 to 8 per cent
- Coarse aggregate size 5L
- Fine aggregate 6-14A or 14B

Retempering concrete by adding water or by other means will not be permitted for continuous operation. When concrete is delivered in transit mixers or agitators, water may be added and additional mixing performed in particular cases to increase the slump. The addition of water and mixing shall be under the direction a DOT inspector or engineer.

(3) Asphalt:

- (A) Hot asphaltic emulsion Surface Type IV mixture
- (B) Hot asphaltic emulsion Base No. 4, No. 5, No. 5D
- (C) Hot asphaltic emulsion Binder No. 8, No. 9
- (D) Hot asphaltic concrete Surface Type "B" mixture
- (E) Hot asphaltic concrete Base No. 4, No. 5
- (F) Hot asphaltic concrete Binder No. 8, No. 9
- (G) Prime coat Asphalt emulsion AE-PL
- (H) Tack coat Asphalt emulsion AE-T
- (I) Cold mix bituminous No. 5 limestone Class-A
No. 11 limestone Class-A

No. 24 natural sand Modified AE-300 or

Modified AE-150

- (i) ~~Coarse patch mix. Cold mix bituminous coarse patch mix shall consist of a blend of No. 5 stone, No. 11 stone and No. 24 natural sand in accordance with the following percentage by weight: No. 5 stone, 40 per cent; No. 11 stone, 20 per cent; and No. 24 sand, 40 per cent. The bitumen residue (determined by ASTM D27-12 Method E vacuum extraction) shall be $4.4 + 0.3$ (6.3 per cent AE-300 or AE-150 modified with moisture). Only coarse patch mix previously approved by the DOT at the manufacturing plant may be used.~~
- (ii) ~~Fine patch mix. Cold mix bituminous fine patch mix shall consist of a blend of No. 11 stone and No. 24 natural sand in accordance with the following percentage by weight: No. 11 stone, 60 per cent, and No. 24 sand, 40 per cent. The bitumen residue (determined by ASTM D2172 Method E vacuum extraction) shall be $4.6 + 0.3$ (6.3 per cent AE-300 or AE-150 modified with moisture). Only fine patch mix previously approved by the DOT at the manufacturing plant may be used.~~
- (4) ~~Topsoil agricultural limestone, fertilizer, grass seed mulch, sod, curing, compound and joint material are to be according to current "Indiana State Highway Commission Standard Specifications" and all revisions and addendums to that document.~~
- (e) ~~Backfill. All excavations shall be backfilled in accordance with this subsection.~~
- (1) ~~Granular backfill. All cuts made in or under any road surface shall be backfilled with granular material. Where a cut either transverses or parallels the road surface, granular backfill shall be placed in that portion of the cut located within three (3) feet of the road surface or within a distance of equal to one half (1/2) the depth of the cut, whichever is greater. The permit holder, at its option, shall place granular backfill either:
 - (A) ~~In 12 inch maximum loose lifts and compact each layer by mechanical means to at least ninety five (95) percent of its maximum dry density, or~~
 - (B) ~~In 24 inch maximum loose lifts and compact each layer by a combination of saturation and mechanical means to at least ninety five (95) per cent of its maximum dry density, or~~
 - (C) ~~In such other size lifts as has been certified to the DOT by a professional engineer to achieve at least ninety five (95) per cent of its maximum dry density for each lift using equipment available to the permit holder and approved by the DOT. Maximum dry density shall be determined in accordance with ASTM Designation D 698.~~
 - (D) ~~If flowable fill is used as backfill, the permit holder shall place the granular backfill in accordance with department of capital asset management technical specification on flowable fill.~~~~
- (2) ~~Earth backfill. Earth backfill may be used in locations not requiring granular backfill. The earth backfill shall be made compatible with the adjacent surface. In established lawn areas, this includes compacting in not less than two (2) lifts for each five (5) feet of depth of the cut, topping off with topsoil, fertilizing, seeding, mulching and restoring all contours. If the contours are greater than a three to one (3:1) slope, restoration of the grass shall be made by sodding. Under sidewalks, the earth backfill shall be compacted in not less than three (3) lifts for each five (5) feet of depth of the cut. If the sidewalk fails as a result of settlement of a cut, the permit holder making such cut shall be responsible for repairing and restoring said sidewalk, including recompacting the backfill in the cut.~~
- (d) ~~Temporary surface restoration. Temporary surface repairs may be made as follows:
 - (1) ~~The surface may be temporarily repaired by use of cold mix bituminous to the top of the cut, compacted by a mechanical tamp or vibrator;~~
 - (2) ~~Overnight while work is continually in progress, the cut may be covered with steel plates having a minimum thickness of three fourths inch which shall be secured so as not to move and so as not to constitute a hazard when open to traffic;~~~~

~~Any cut temporarily repaired under this section shall be permanently repaired, by removing the cold mix bituminous to a depth of at least one and one half (1 1/2) inches below the adjoining road surface and permanently restoring the cut as required in subsection (e) of this section. Final restoration of all cuts shall be made within thirty (30) days of the completion of the temporary repairs, except that cuts made between November 10 and April 1 need not be repaired until June 1. The permit holder shall notify the inspection section within two (2) business days of completion of final restoration.~~

~~(e) Permanent surface restoration.—Permanent repairs shall be in accordance with the standards of this subsection. The restoration of the surface of all cuts shall be completed by such methods and in such manner that the plane of the surface of the repair, at the time of completion and thereafter, will be flush with all contiguous surfaces and will create no dissymmetry with the topography of the roadway.~~

- ~~(1) Concrete streets and alleys.—Final repairs to concrete streets and alleys are to be made with concrete. When repairing or replacing reinforced concrete having a thickness of six (6) inches or more, either (i) the steel reinforcement shall be replaced in kind (temporarily bending the reinforcing steel out of the way and then bending it back into position when the concrete is replaced) and properly fastened to the adjacent reinforcement, or (ii) No. 5 bars, two (2) feet long, shall be drilled and grouted into the existing pavement sides one foot deep at two-foot center-to-center spacing with a minimum of two (2) bars per side. If the concrete being replaced or repaired is less than six (6) inches thick, the steel reinforcement may be replaced in kind and properly fastened to the adjacent reinforcement or the repaired and replaced concrete may be bonded to the existing concrete by epoxy. All new concrete must be protected against excessive dehydration by the application of a membrane type curing compound. The new concrete shall be protected from all traffic for thirty six (36) hours. If this is done by the use of plates, the plates shall be steel with a minimum three fourths inch thickness. These plates shall be secured so as not to move and so as not to constitute a hazard when they are open to traffic.~~
- ~~(2) Asphalt streets and alleys.—The base material used in connection with all final repairs to asphalt streets and alleys shall be either hot asphalt or cold mix bituminous coarse patch mix placed in four inch lifts compacted with a mechanical tamp or vibrator. A one and one half inch hot asphalt surface shall be used on any asphalt surface street repair except when repairs are made in any thoroughfare, or any roadway other than a thoroughfare where so designated by the DOT, when such thoroughfare or roadway has been assigned a project number for resurfacing, in which case the one and one half inch hot asphalt surface may be deleted and the base material brought up to the level of the existing pavement. All edges or joint of existing pavement shall be thoroughly cleaned and tack coated prior to the placement of the hot asphalt surface. All faces of exposed curbing shall be tacked below the finished pavement elevation. All joints shall be sealed with a hot iron.~~
- ~~(3) Brick streets and alleys.—Brick streets shall be restored to their original surface condition and pattern. At the discretion of the DOT, brick alleys shall be restored to their original surface condition and pattern. If such repair of an alley is not directed, the repairs shall be made with concrete. All new concrete shall be protected against all excessive dehydration by the application of a membrane type curing compound. The new concrete shall be protected from all traffic for thirty six (36) hours. If this is done by the use of plates, the plates shall be steel with a minimum three fourths inch thickness. These plates shall be secured so as not to move and so as not to constitute a hazard when they are open to traffic.~~
- ~~(4) Asphalt over concrete or brick streets.—As a general rule, whatever type of material that was excavated shall be replaced.~~
 - ~~(A) Concrete or deep strength asphalt is to be used to replace concrete or brick to the level of the existing concrete base. The new concrete shall be protected against excessive dehydration by the application of a membrane type curing compound. The new concrete shall be protected from all traffic for thirty six (36) hours. If this is done by the use of plates, the plates shall be steel with a minimum three fourths inch thickness. These plates shall be secured so as not to move and so as not to constitute a hazard when they are open to traffic. Asphalt shall then be used to complete the repair. The concrete and all vertical sides shall be thoroughly cleaned and tacked. All faces of exposed curbing shall be tacked below the finish elevation. Asphalt shall be placed in three inch lifts and compacted with a mechanical tamp or vibrator. The top one and one half (1 1/2) inches shall be hot mix asphalt. All joints shall be sealed with a hot iron.~~

- (B) At the discretion of DOT, repairs to asphalt over concrete or brick streets and alleys may be made completely with asphalt. All vertical sides shall be thoroughly cleaned and tacked. All faces of exposed curbing shall be tacked below the finish elevation. Asphalt shall be placed in three inch lifts and compacted with a mechanical tamp or vibrator. The top one and one half (1/2) inches shall be hot mix asphalt. All joints are to be sealed with a hot iron.
- (5) Shot seal streets or alleys. All repairs shall be made with asphalt. Asphalt shall be placed in three inch lifts and compacted with a mechanical tamp or vibrator.
- (6) Stone or gravel street. All repairs shall be made with granular backfill.
- (7) Sidewalks:
 - (A) Brick sidewalks are to be restored to their original surface condition and pattern.
 - (B) Concrete sidewalks are to be repaired with concrete. However, it does not have to be high early strength. All new concrete must be protected against excessive dehydration by the application of a membrane type curing compound. The new concrete shall be protected from all traffic for thirty-six (36) hours. If this is done by the use of plates, the plates shall be steel with a minimum three-fourths inch thickness. These plates shall be secured so as not to move and so as not to constitute a hazard when they are open to traffic.
 - (C) Asphalt sidewalks shall be repaired with asphalt. All edges or joints of existing pavement shall be thoroughly cleaned and tacked. Asphalt shall be placed in three inch lifts and shall be compacted by a mechanical tamp or vibrator. All joints shall be sealed with a hot iron.
 - (D) Gravel or stone sidewalks shall be restored to within six (6) inches of the surface with No. 53 stone or granular material and then topped off with material similar to the original surface.
 - (E) If the cut is outside three (3) feet of the road surface or outside a distance equal to one half the depth of the cut, whichever is greater, the cut may be backfilled with earth backfill compacted in not less than three (3) lifts for each five (5) feet of depth of the cut.
- (8) Driveways:
 - (A) Brick driveways shall be restored to their original surface and pattern.
 - (B) Concrete driveways shall be repaired with concrete to original specifications. The new concrete shall be protected against excessive dehydration by the application of a membrane type curing compound. The new concrete shall be protected from all traffic for thirty six (36) hours. If this is done by the use of plates, the plates shall be steel with a minimum three-fourths inch thickness. These plates shall be secured so as not to move and so as not to constitute a hazard when they are open to traffic.
 - (C) Asphalt driveways shall be repaired with asphalt. All edges or joints of existing pavement shall be thoroughly cleaned and tacked. Asphalt shall be placed in three inch lifts and is to be compacted by mechanical tamp or vibrator. The top one and one half (1 1/2) inches shall be hot mix asphalt. All joints shall be sealed with a hot iron.
 - (D) Gravel or stone driveways shall be restored to six (6) inches of the surface with No. 53 stone or granular material and topped off with material similar to the original surface.
 - (E) If the cut is outside three (3) feet of the road surface or outside a distance equal to one half of the depth of the cut, whichever is greater, the cut may be backfilled with earth backfill compacted in not less than three (3) lifts for each five (5) feet of depth of the cut.
- (9) Gravel or stone berm. All repairs to gravel or stone berms shall be restored to within twelve (12) inches of the surface with compacted granular backfill, and topped off with material similar to the original surface. If the cut is outside three (3) feet of the road surface or outside a distance

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equal to one-half the depth of the cut, whichever is greater, the cut may be backfilled with earth backfill.

(f) Resurfacing because of cuts. The DOT shall determine it necessary to resurface the pavement in any five hundred-foot segment if either of the following conditions are found since the segment was last resurfaced:

- (1) Cut(s) encompass more than thirty-three (33) per cent of the total square footage; or
- (2) Ten (10) or more lateral cuts on any, or a combination of any, of the lanes.

DOT having made the determination to resurface, then such permit holder or combination of permit holders shall be liable for the cost of resurfacing the pavement surface, which cost shall not exceed the cost of a one-inch overlay of hot asphalt over the area to be resurfaced. The DOT shall notify the responsible permit holder or combination of permit holders, as well as all utilities, that the pavement surface in that location will be resurfaced, if possible during the next construction season, but such construction will commence no later than one hundred eighty (180) days after notification by the DOT. Utilities should perform whatever work they desire to do in the right-of-way in that area prior to the resurfacing. The DOT shall be responsible for contracting, supervising and inspecting the resurfacing and upon completion of the resurfacing, shall bill the responsible permit holder or combination of permit holders for it or their share of the cost of the resurfacing. If more than one construction season has passed, the cost shall be based on the cost of resurfacing in the first construction season following the DOT's notification that the area will be resurfaced. When a combination of permit holders is involved, the cost for the resurfacing, as limited above, shall be allocated by the DOT among the permit holders based on the ratio of square footage of pavement surface within the area disturbed by all permit holders. The issuance of a right-of-way excavation permit by the department of transportation and the acceptance of the permit by an applicant/permit holder shall be construed as agreement to this resurfacing requirement.

(g) Lawn restorations. Within thirty (30) days after completion and restoration of a cut in a portion of an established lawn within the public right-of-way, the permit holder shall inspect the cut and if it has settled more than two (2) inches below the adjacent surface, the permit holder will fill and compact the settled area and reseed or resod. The permit holder shall inspect the cut again within thirty (30) days following the original restoration and, if the cut has again settled more than two (2) inches below the adjacent surface, shall fill and compact the settled area and reseed or resod. Such inspections and fillings will continue each thirty (30) days until an inspection discloses that the cut has not settled more than two (2) inches below the adjacent surface in any thirty-day period.

Sec. 28-329. Inspection and testing.

(a) Within thirty (30) days after completion of temporary and final restoration of all cuts and after any repairs requested pursuant to subsection (b), the inspection section, maintenance division, department of transportation, shall inspect each cut and its restoration and may test such restorations by use of deflection testing equipment.

(b) If the inspection discloses that the restoration was not done in the manner required by this article and the regulations adopted hereunder, does not satisfy the standard of subsection (c) of section 28-328, or after September 1, 1985, has a test deflection in excess of any standards adopted by the transportation board, the inspection section shall so notify the permit holder. Within five (5) working days of such notification, the permit holder shall repair and resurface the cut to comply with this article and pay to the DOT an additional fee of one hundred dollars (\$100.00) for reinspection of the repair.

(c) The permit holder shall be responsible for all pavement cuts until such time as the pavement area in which such cut was made is resurfaced. In the event the DOT determines that a cut was not restored in accordance with the provisions of the article or the board's regulations or that the cut has failed for any reason, the DOT shall direct the permit holder who made such cut to take corrective action. If such action is not taken within five (5) working days after notification, or such shorter time as directed by the DOT if the DOT determines that the failed cut poses a significant danger to the traveling public, the DOT shall take whatever action it deems necessary to protect the safety of the public and the permit holder shall be assessed an amount sufficient to reimburse the DOT for any expenses it may have incurred therewith, plus fees in the amount specified in the regulations adopted by the board establishing fees for the enforcement of the standards established by this article and the regulations adopted by the board pursuant to this article.

Sec. 28-330. Waivers rescinded.

All waivers granted by the Director of the DOT pursuant to the "Right of way Activity Manual," with amendments, made a part of the Code of Indianapolis and Marion County by General Ordinance 37, 1980 and General Ordinance 50, 1982, are hereby rescinded.

Sec. ~~28-331~~ 645-325. Violations.

(a) Violations of the standards established by provisions of this chapter article, or the provisions of the regulations adopted by the board pursuant to this article shall subject the permit holders to payment of fees specified in the regulations adopted by the board establishing a schedule of fees for the enforcement of the standards established by this article and the regulations adopted by the board pursuant to this article.

(b) Failure to conform to any of the provisions of this ordinance, including any standards established by the department of transportation shall constitute regulations adopted by the board shall constitute a violation of this ordinance. All violations shall be subject to the penalties of section 1-8 103-3 of this Code.

SECTION 2. This ordinance shall be in full force and affect upon adoption and compliance with IC 36-3-4-14, provided, however the provisions of Sections 28-321, 28-323(d), 28-325, 28-326, 28-327, 28-328, 28-329, and 28-330 shall remain in full force and effect until regulations authorized by Section 645-323 are adopted, promulgated and effective.

SECTION 3. (a) The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

(b) An offense committed before the effective date of this ordinance, under any ordinance expressly or impliedly repealed or amended by this ordinance shall be prosecuted and remains punishable under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 4. Should any provision (section, paragraph, sentence, clause, or any portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the council in adopting this ordinance. To this end the provisions of this ordinance are severable.

PROPOSAL NO. 477, 1996. In Councillor Dowden's absence, Councillor Curry reported that the Public Safety and Criminal Justice Committee heard Proposal No. 477, 1996 on July 24, 1996. The proposal elects to fund MECA operations in calendar year 1997 with \$2 million of COIT revenue. By a 6-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Curry moved, seconded by Councillor Talley, for adoption. Proposal No. 477, 1996 was adopted on the following roll call vote; viz:

23 YEAS: *Borst, Boyd, Bradford, Brents, Cockrum, Coonrod, Coughenour, Curry, Gilmer, Golc, Hinkle, Jones, Massie, McClamroch, Moores, Moriarty Adams, O'Dell, Schneider, SerVaas, Shambaugh, Short, Smith, Tilford*

0 NAYS:

5 NOT VOTING: *Black, Franklin, Gray, Talley, Williams*

1 ABSENT: *Dowden*

Proposal No. 477, 1996 was retitled SPECIAL RESOLUTION NO. 11, 1996, and reads as follows:

CITY-COUNTY SPECIAL ORDINANCE NO. 11, 1996

A SPECIAL ORDINANCE electing to fund MECA in 1997 with County Option Income Tax (COIT) Revenues.

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WHEREAS, IC 36-8-15-19(b) provides that the City-County Council may elect to fund the operation of a public safety communications system and computer facilities special taxing district from part of the certified distribution the county is to receive during a particular calendar year under IC 6-3.5-6-17; and

WHEREAS, the Marion County Metropolitan Emergency Communications Agency ("MECA") is the governing body of the Consolidated City of Indianapolis and Marion County public safety communications system and computer facilities district ("District"); and

WHEREAS, to make such an election for 1997, the City-County Council, prior to September 1, 1996, must pass an ordinance specifying the amount of the certified distribution to be used to fund the District; now, therefore:

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The City-County Council hereby elects to fund the operation of the District through MECA in 1997 from part of the certified distribution the county is to receive under IC 6-3.5-6-17.

SECTION 2. The amount of the certified distribution to be used for this purpose is \$2,000,000.

SECTION 3. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Councillor Curry reported that the Rules and Public Policy Committee heard Proposal Nos. 502, 503, and 504, 1996 on July 23, 1996.

PROPOSAL NO. 502, 1996. The proposal amends Chapter 851 of the Revised Code concerning cable television. By a 5-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass as amended. Councillor Curry moved, seconded by Councillor Black, for adoption. Proposal No. 502, 1996, as amended, was adopted on the following roll call vote; viz:

25 YEAS: *Black, Borst, Boyd, Bradford, Brens, Cockrum, Coonrod, Coughenour, Curry, Golc, Gray, Hinkle, Jones, Massie, McClamroch, Moores, Moriarty Adams, O'Dell, Schneider, SerVaas, Shambaugh, Short, Smith, Talley, Tilford*

0 NAYS:

3 NOT VOTING: *Franklin, Gilmer, Williams*

1 ABSENT: *Dowden*

Proposal No. 502, 1996, as amended, was retitled GENERAL ORDINANCE NO. 125, 1996, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 125, 1996

A GENERAL ORDINANCE amending Chapter 851 of the Revised Code concerning cable television.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. Chapter 851 of the "Revised Code of the Consolidated City and County" be, and is hereby, amended by deleting the stricken-through text and inserting the underlined text to read as follows:

ARTICLE I. IN GENERAL

Sec. 851-101. Statutory authority; findings.

(a) The council determines that the public interests will best be served by franchising cable programming delivery systems to the extent authorized by law.

(b) The council hereby finds that it is in the interest of the city that the public ways be used to make cable programming available to the people of the city. It is intended that the provisions of this chapter should facilitate and encourage orderly and responsible development of systems which will provide the people of the city with cable programming services which are versatile, reliable and efficient, which are responsive to the needs and interests of the community; and which provide the widest possible diversity of information sources and services to the public. The provisions of this chapter shall be construed liberally to further these purposes and to promote competition in the provision of such services.

Sec. 851-102. Definitions.

As used in this chapter:

(a) The term *act* means the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992 and the Telecommunications Act of 1996, an amendments to the Communications Act of 1934 (47 U.S.C. Section 521 et seq.); as the same may be amended or supplemented from time to time.

(b) The term *affiliate*, when used in relation to any person or entity, means another person or entity who owns or controls, is owned or controlled by, or is under common ownership or control with, such person or entity.

(c) The term *board* means the cable franchise board of the city, created by section 285-111 of the Revised Code of the Consolidated City and County, and its successors.

(d) The term *cable channel* or *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 (as television channel is defined by the Federal Communications Commission by regulation).

(e) The term *cable service* means the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

(f) The term *cable system* or *system* means a facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment, that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within the city, but such term does not include (A) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility that serves subscribers without using any public right-of-way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of title II of the Act, except that such facility shall be considered a cable system (other than for purposes of section 621 (c) of the Act (47 U.S.C. Section 541 (c)) to the extent such facility is used in the transmission of video programming directly to subscribers; or (D) any facilities of any electric utility used solely for operating its electric utility systems.

(g) The term *entity* means any corporation, partnership, limited liability company, association, joint stock company, joint venture, trust, or governmental or business entity.

(h) The term *franchise* means an initial authorization, or renewal thereof (including a renewal of an authorization which has been granted subject to Section 626 of the Act (47 U.S.C. Section 546)), issued by the city whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction and operation of a cable system.

(i) The term *franchise administrator* means that officer or employee of the city or cable franchise agency designated by the cable franchise board to perform the duties assigned to such position by this chapter.

(j) The term *gross revenues* means any and all revenues derived from the operations of the operator's cable system to provide cable services.

(k) The term *institutional network* means a system or portion of a system whose use is restricted to governmental and educational operations.

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~~(l) The term *landlord-restricted cable services* means cable television services provided to multiple dwelling units pursuant to a private cable service contract with the owner or manager.~~

~~(m) The term *limited cable system* means a cable system used to provide cable service only to (A) one (1) or more multiple unit dwellings under common ownership, control, or management, where such facility or facilities use any public right-of-way or (B) one (1) or more multiple unit dwellings not under common ownership, control, or management.~~

~~(n) The term *manager* means the owner or any other person or entity authorized by the owner of a multiple unit dwelling to contract for private cable services to such multiple unit dwelling.~~

(el) The term *operator* or *cable operator* means any person or entity or group of persons or entities (A) who provides cable service over a cable system and directly or through one (1) or more affiliates owns a significant interest in such cable system, or (B) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system and who has been granted a franchise by the city or by any predecessor, governmental officer or organization authorized to grant a franchise.

(pm) The term *other programming service* means information that a cable operator makes available to all subscribers generally.

(en) The term *person* means an individual.

~~(r) The term *private cable service contract* means a contract or agreement between the operator of a limited cable system, including an applicant, for landlord-restricted cable services, and the owner or manager of a multiple unit dwelling complex, which authorizes such operator to provide a limited cable service to occupants of such multiple unit dwelling complex.~~

(sq) The term *public, education, or governmental access facilities* means (A) channel capacity designated for public, educational, or governmental use; and (B) facilities and equipment for the use of such channel capacity.

~~(t) The term *separate limited cable service area* means the area containing one (1) or more multiple unit dwellings which is included in the geographic area of a special cable franchise granted under this chapter.~~

~~(u) The term *special cable franchise* means a franchise to operate a limited cable television system.~~

~~(v) The term *special cable operator* has the same meaning as "operator" under this section, except that the term applies solely to a limited private cable system.~~

(wp) The term *subscriber* means any person or entity who contracts or agrees to purchase the regular subscriber service, pay television, or any other service provided by a cable system, and includes anyone actually authorized to use and using such service, even if the person or entity does not pay the charges for such services.

~~(x) The term *telecommunications services* means all transmission of data, voice, or video, including cable services, unless the transmissions are regulated by some other federal or state authority.~~

(yg) The term *video programming services* means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

Sec. 851-103. Previously awarded franchises.

This chapter shall apply to all franchise contracts whether granted before, on or after the effective date of this chapter. ~~With respect to franchises validly existing on the effective date of this chapter, the provisions of this chapter shall be construed and applied (i) so as to be consistent with subsections 626 of the Act (a) (g) (47 U.S.C. Section 546(a) (g)) and (ii) so as to impose no requirement contrary to applicable law.~~

Sec. 851-104. Franchise required.

No person or entity shall operate a cable system within the city for which a franchise is required under Title VI of the Act without having first obtained a franchise granted subject to this chapter. ~~from the city.~~

However, so long as federal law exempts the following from local regulation, a franchise is not required for:

- ~~(1) A facility that serves only to retransmit the television signals of one (1) or more television broadcast stations;~~
- ~~(2) A facility that serves only subscribers in one (1) or more multiple unit dwellings under common ownership, control, or management, unless such facility or facilities use any public right of way;~~
- ~~(3) A facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, as amended, unless such facility is used in the transmission of video programming, whether on a common carrier or noncommon carrier basis directly to customers; or~~
- ~~(4) Any facilities of any electric utility used solely for operating its electric utility systems.~~

Sec. 851-105. Franchises not exclusive.

(a) The granting of a cable franchise shall not grant the operator any rights to exclude any other franchised operator from providing services within the geographic areas included in the cable franchise.

~~(b) Any agreement between the operator and the owner of a multiple dwelling unit which restricts other franchised operators from providing services to the occupants of those units may be enforced only to the extent valid from time to time under applicable law. To the extent that such agreements may, at any time, become unenforceable under applicable law which applies to all franchise holders, the operator under a franchise shall take no action to enforce such exclusive rights.~~

~~(c) On or before January 1, 1997, the operator, under a franchise that is issued or renewed after May 1, 1994, shall file with the cable franchise board a list of all private cable service contracts which purport to grant the operator an exclusive right to provide cable services to occupants of multiple dwelling units. Such list shall identify the owner or manager that made the agreement, the location of the units covered by the agreement, and the date the agreement expires. Thereafter, the operator shall file an amended or supplemental list within thirty (30) days after any change in such information becomes known to the operator.~~

~~(d) To the extent that payments are made to the owner or manager of a multiple dwelling unit for exclusive rights to provide cable services within a multiple dwelling unit, such payments shall not be deemed a cost of providing service for purposes of establishing rates to be charged to consumers of the cable services.~~

Secs. 851-106--851-200. Reserved.

ARTICLE II. PROCEDURES FOR APPLICATION, GRANT, RENEWAL, MODIFICATION OR TRANSFER OF CABLE FRANCHISES

DIVISION 1. AUTHORITY

Sec. 851-211. Authority to approve cable franchises.

Subject to the provisions of this article, the city-county council is hereby authorized to approve one (1) or more nonexclusive franchising contracts conveying the right to construct, operate and maintain, within the public ways in the city, poles, cables and any other equipment necessary to the operation of a cable system within a designated area or areas for the period of time specified in the franchise.

Secs. 851-212--851-220. Reserved.

DIVISION 2. PETITIONS FOR GRANT OF CABLE FRANCHISE, OTHER THAN AN ACT RENEWAL FRANCHISE

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Sec. 851-221. Petition for franchise.

Any person or entity interested in obtaining a cable franchise, except a cable operator, may file a petition expressing such interest with the franchise administrator. The petition must contain or be accompanied by:

- (1) A description of the geographic area proposed to be served with sufficient particularity as to enable a reasonable determination of the boundaries of such area and the proposed location of the cable system's facilities;
- (2) A description of the type of service to be provided by the petitioner;
- (3) An explanation of the reasons why the granting of a franchise for the area described would be in the best interests of the city and its citizens and would not adversely affect the provision of cable service by existing franchisees, and that the proposed facilities will not substantially and unreasonably interfere with current or planned uses of the public ways; and
- (4) The filing fee specified in section 851-261.

Sec. 851-222. Board action on petition.

(a) Upon the receipt of a petition under section 851-221, the franchise administrator shall review the petition and forward to the board and to the clerk a recommendation either:

- (1) That a request for proposals for a cable franchise should be issued; or
- (2) That the petitioner should be required to file an application containing certain of the information listed in section 851-223; or
- (3) That the award of a franchise as proposed in the petition would not promote effective competition or serve the public interest.

(b) The board may determine to accept the franchise administrator's recommendation or to modify the recommendation. In making its decision, the board may conduct such investigations as it deems appropriate to identify the future cable-related needs and interests of the community, provided that the board shall hold at least one (1) public hearing at which interested parties may appear and offer evidence concerning the recommendation made pursuant to subsection (a). Notice of the time and place of the public hearing shall be given in accordance with IC 5-3-1. Personal notice of the time and place of the public hearing shall be given by mail to the petitioner and to all other operators of cable systems regulated by this chapter. The board's decision to accept the franchise administrator's recommendation or to modify the recommendation shall be made within ninety (90) days of the date on which the petition was received by the franchise administrator.

(c) In making its determination, the board shall consider the best interests of the city and its citizens and whether the refusal to award an additional competitive franchise as proposed in the petition would be unreasonable.

(d) The board's recommendation will be in writing made a part of the records of the board, and provided to the petitioner and to all other operators of cable systems regulated by this chapter.

Sec. 851-223. Council action on petition.

The board's recommendation shall be filed with the clerk, and referred to the council committee assigned to review cable system franchises. Such committee may hold a public hearing to consider the recommendation of the board. The committee may propose that the council affirm or modify the board's recommendation by adopting a resolution. The council committee may hold such public hearings and meetings and conduct such investigations as it deems appropriate. The council may specify such requirements for the request for proposals or applications as the council deems appropriate. The board's recommendation will be considered final if the council does not adopt a resolution as provided herein within sixty (60) days of the board's filing of its recommendation with the clerk.

Sec. 851-224. Reserved powers of board and council.

(a) Nothing in this chapter shall be construed to limit the power of the council to issue a request for proposals on its own initiative.

(b) The board may also at any time, on its own motion, conduct public hearings to determine whether it is feasible or desirable to recommend issuing a request for proposals. Such hearings shall be advertised in accordance with the provisions of IC 5-3-1.

(c) The board or council may for good cause extend any of the time limits imposed in this article.

Secs. 851-225--851-230. Reserved.

DIVISION 3. APPLICATIONS AND REQUESTS FOR PROPOSALS

Sec. 851-231. Requests for proposals.

(a) If the board's recommendation as approved by the council is to issue a request for proposals, the council shall cause to be prepared, for board approval, a request for proposals (RFP).

(b) Upon the approval of the request for proposals, the board shall give notice of the request for proposals:

- (1) In accordance with IC 5-3-1; and
- (2) By mailing of the notice to any person or entity the board knows to be interested in submitting a proposal.

The board may, in its discretion, publish the notice in any newspaper of national circulation and in trade magazines or publications of the cable television or telecommunications services industry.

(c) The notice shall name a date upon which proposals must be received at the office of the clerk and shall state that the forms of the request for proposals are available at the office of the board. The date for the receipt of the proposals shall not be sooner than thirty (30) days following the first publication of the notice required by subsection (b).

(d) All responses to a request for proposals shall be filed with the clerk and referred to the council committee assigned to review cable system franchises.

Sec. 851-232. Applications.

If the board's recommendation as approved by the council is that the petitioner be required to file an application containing certain of the information specified in section 851-233, such application shall be filed with the clerk no later than sixty (60) days after the council action becomes final.

Sec. 851-233. Contents of requests for proposals and applications.

(a) An RFP for the grant of a cable franchise, ~~including a renewal franchise under subsection 626(e) of the Act (47 U.S.C. Section 546(e)), to a person or entity other than a cable operator~~ shall require, at a minimum, the following information:

- (1) Name and address of the person or entity applying for a franchise (hereinafter "the applicant") and identification of the ownership and control of the applicant, including: the names and addresses of the ten (10) largest holders of an ownership interest in the applicant and affiliates of the applicant, and all persons or entities with five (5) percent or more ownership interest in the applicant and its affiliates; the persons or entities who control the applicant and its affiliates; all officers and directors of the applicant and its affiliates; and any other business affiliation and cable system ownership interest of each named person or entity.
- (2) A demonstration of the applicant's technical ability to construct and/or operate the proposed cable system, including identification of key personnel, their titles and responsibilities.

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- (3) A demonstration of the applicant's legal qualifications to construct and/or operate the proposed cable system including, but not limited to, a demonstration that the applicant meets the following criteria:
- a. The applicant must not have submitted an application for an initial or renewal franchise to the city, which was denied on the ground that the applicant failed to propose a system meeting the cable-related needs and interests of the community, or as to which any challenges to such franchising decision were finally resolved adversely to the applicant within three (3) years preceding the submission of the application.
 - b. The applicant must not have had any cable television franchise validly revoked by any franchising authority within three (3) years preceding the submission of the application.
 - c. The applicant must have the necessary authority under Indiana law to operate a cable system.
 - d. The applicant shall not be issued a franchise if it may not hold the franchise as a matter of federal law. An applicant must have, or show that it is qualified to obtain, any necessary federal franchises or waivers required to operate the system proposed.
 - e. The applicant shall not be issued a franchise if, at any time during the ten (10) years preceding the submission of the application, the applicant was convicted of any act or omission of such character that the applicant cannot be relied upon to deal truthfully with the city and the subscribers of the cable system, or to substantially comply with its lawful obligations under applicable law, including obligations under consumer protection laws and laws prohibiting anticompetitive acts, fraud, racketeering, or other similar conduct.
 - f. The applicant shall not be issued a franchise if it files materially misleading information in its application or intentionally withholds information that the applicant lawfully is required to provide.
 - g. The applicant shall not be issued a franchise if an elected official of the city holds a controlling interest in the applicant or an affiliate of the applicant.

Notwithstanding the foregoing, the city shall provide an opportunity to an applicant to show that it would be inappropriate to deny it a franchise under section 851-236, by virtue of the particular circumstances surrounding the matter and the steps taken by the applicant to cure all harms flowing therefrom and prevent their recurrence, the lack of involvement of the applicant's principals, or the remoteness of the matter from the operation of cable systems.

- (4) A statement prepared by a certified public accountant regarding the applicant's financial ability to complete the construction and operation of the cable system proposed.
- (5) A description of the applicant's prior experience in cable system ownership, construction, and operation, and identification of communities in which the applicant or any of its principals have, or have had, a cable franchise or franchise or any interest therein, provided that an applicant that holds a franchise for the city and is seeking renewal of that franchise need only provide this information for other communities where its franchise was scheduled to expire in the two (2) calendar years prior to and after its application was submitted.
- (6) A description of the area or areas of the requested franchise with sufficient particularity as to enable a reasonable determination of the boundaries of such area; provided that during the hearing process the board and council may consider modifications to the description of the area of franchise in any franchise application.
- (7) A detailed description of the physical facilities proposed, including channel capacity, technical design, performance characteristics, headend, and access facilities.
- (8) Where applicable, a description of the construction of the proposed system, including an estimate of plant mileage and its location; the proposed construction schedule; a description, where appropriate, of how services will be converted from existing facilities to new facilities; and information on the availability of space in conduits including, where appropriate, an estimate of the cost of any necessary rearrangement of existing facilities.

- (9) The proposed rate structure, including projected charges for each service tier, installation, converters, and all other proposed equipment or services.
 - (10) A description of the insurance policies to be acquired in satisfaction of the requirements of this chapter.
 - (11) A demonstration of how the applicant will reasonably meet the future cable-related needs and interests of the community, including descriptions of how the applicant will meet the needs described in any recent community needs assessment conducted by or for the city, and how the applicant will provide adequate public, educational, and governmental access channel capacity, facilities or financial support to meet the community's needs and interests.
 - (12) A detailed and complete financial statement of the applicant, prepared by a certified public accountant, for the fiscal year next preceding the date of the application hereunder, or a letter or other acceptable evidence in writing from a recognized lending institution or funding source, addressed to both the applicant and the board, setting forth a clear statement of its intent as a lending institution or funding source to provide whatever capital shall be required by the applicant to construct and operate the proposed system in the city, or a statement from a certified public accountant, certifying that the applicant has available sufficient free net and uncommitted cash resources to construct and operate the proposed system in the city, or other acceptable evidence in writing that the applicant is financially capable of constructing and operating the proposed system.
 - (13) Pro forma financial projections for the proposed franchise term, including a statement of projected income, and a schedule of planned capital additions, with all significant assumptions explained in notes or supporting schedules.
 - (14) If the applicant proposes to provide cable service to an area already served by an existing cable franchisee, the identification of the area where the overbuild would occur, the potential subscriber density in the area that would encompass the overbuild, and the ability of the public rights-of-way and other property that would be used by the applicant to accommodate an additional system.
 - (15) A copy of any agreement covering the franchise area, if existing between the applicant and any public utility subject to regulation by the Indiana Utility Regulatory Commission, providing for use of any facilities of the public utility including, but not limited to, poles, lines or conduits.
 - (16) Any other information as may be reasonably necessary to demonstrate compliance with the requirements of this chapter.
 - (17) Information that the city may request of the applicant that is relevant to the city's consideration of the application.
 - (18) An agreement by the applicant to reimburse the city its reasonable out-of-pocket expenses in considering the application in an amount set by the board.
 - ~~(19) If the application is for a special cable franchise, evidence that the owner or manager of each multiple unit dwelling to be served by the limited cable system has agreed to receive such service, which evidence may consist of a certification from such owner or manager certifying to the existence of a private cable service contract between such owner or manager and the applicant and a description of the property.~~
 - ~~(20) If the application is for a special cable franchise, the number of multiple dwelling units included in a proposed franchise area for a limited cable system that are being served under private cable service contracts that expire in less than four (4) years from the date of the franchise application.~~
 - (21) An affidavit or declaration of the applicant or authorized officer certifying the truth and accuracy of the information in the application, acknowledging the enforceability of application commitments, and certifying that the application meets all federal and state law requirements.
- (b) Any application submitted for the grant, renewal, or transfer of a franchise ~~(other than an application submitted pursuant to subsection 626(h) of the Act (47 U.S.C. Section 546(h))~~ shall contain, at

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a minimum, the information listed in subsection (a), unless the board or council determines that one (1) or more of those items are not required.

Sec. 851-234. Report on applications or proposals and notification of operators.

Upon receipt of the applications or proposals for a franchise the clerk shall refer the same to the board, which may cause to be prepared an evaluation of the applications or proposals and a recommendation whether any applicant should be granted a franchise. The board's evaluation and recommendation shall be filed with the clerk within sixty (60) days. The clerk shall also send written notification of the receipt of such applications or proposal(s) to all cable system operators which have a franchise governed by this chapter.

Sec. 851-235. Hearing on proposals or applications.

(a) Within seventy-five (75) days of receipt of the applications or proposals, the council committee shall hold a public hearing to take evidence and hear argument on whether to grant a cable franchise to one (1) or more of the applicants either in the form proposed in the applications or proposals, or proposed by the board, or otherwise, and if so, the nature and extent thereof. The council committee shall base its determination hereunder on the criteria contained in section 851-236. The clerk shall give notice of such hearing in accordance with IC 5-3-1, and if the council committee or board deems appropriate, in one (1) or more trade journals of the cable television or telecommunications services industry.

(b) At the time set for such hearing, or an adjournment thereof, the council committee shall proceed to hear all written protests and other submissions and to hear evidence and arguments from any interested persons or entities in addition to any applicants or potential applicants. A record shall be kept of such hearing and the evidence presented therein.

(c) The council or its committee may propound regulations to govern the conduct of such hearings so as to allow for the orderly and efficient presentation of evidence and argument, and to prevent unnecessary duplication or delay.

Sec. 851-236. Factors governing council's determination.

(a) In making any determination hereunder, the council committee shall base its decision on the following factors:

- ~~(1) The extent to which the applicant has substantially complied with the applicable law and the material terms of any existing cable franchise for the city.~~
- ~~(2) Whether the quality of the applicant's service under any existing franchise in the city, including signal quality, response to customer complaints, billing practices, and the like, has been reasonable in light of the needs and interests of the communities served.~~
- (31) The quality of the service which the applicant promises and of which the applicant is capable.
- (42) Whether the applicant has the financial, technical, and legal qualifications to provide cable service.
- (53) Whether the application satisfies any minimum requirements established by the city and is otherwise reasonable to meet the future cable-related needs and interests of the community, taking into account the cost of meeting such needs and interests.
- (64) Whether the applicant will provide adequate public, educational, and governmental access channel capacity, facilities, equipment or financial support and/or channel capacity on institutional networks for educational and governmental uses.
- (75) That applicant provides cable channels for commercial use in conformity with the requirements of Section 612 of the Act (47 U.S.C. Section 532).
- (86) That applicant promises to provide cable service to subscribers on a nondiscriminatory basis and to provide such service to any group of residential subscribers regardless of the income of the residents of the local area in which such group resides.

- (97) That the applicant agrees to provide cable service within all areas having a specified density of living units within the franchise territory. Such density shall be expressed in terms of number of living units per mile of system.
- (408) The rates to the subscribers.
- (419) The income and expense to the city.
- (4210) Whether issuance of a franchise is warranted in the public interest considering the immediate and future effect on the public ways and private property that would be used by the cable system, including the extent to which installation or maintenance as planned would require replacement of property or involve disruption of property, public services, or use of the public ways; the effect of granting a franchise on the ability of cable to meet the cable-related needs and interests of the community; and the comparative superiority or inferiority of competing applications.
- (4311) The effect on the ability of existing franchisees to perform their obligations under their franchise contracts.
- (4412) The technical and performance quality of facilities and equipment related to the establishment or operation of a cable system.
- (4513) Whether the applicant or an affiliate of the applicant owns or controls any other cable system in the city, or whether grant of the application may eliminate or reduce competition in the delivery of cable service in the city.
- (4614) The demonstrated willingness and ability of any applicant to meet construction and physical requirements and to abide by policies and limitations imposed by law or franchise agreements.
- (4715) Any other considerations deemed pertinent by the board to its task of safeguarding the public health, safety and welfare, and facilitating and encouraging the orderly and responsible development of cable systems which will provide the people of the city with cable services which are versatile, reliable and efficient.

(b) The council committee shall make its determinations based on the record with a written statement of its findings and conclusions, and the reasons therefor.

Sec. 851-237. Council action on application.

Within forty-five (45) days after the conclusion of the hearing provided for in section 851-235, the council committee shall determine whether to grant a franchise to one (1) or more of the applicants.

- (1) If the council committee shall determine after hearing that any application should be denied, such determination shall be final, subject to the appeal provisions of section 851-238.
- (2) If the council committee shall determine after hearing that a franchise should be granted to one (1) or more of the applicants, it shall approve a proposed form of franchise contract, to which the applicant shall indicate its agreement in writing within fifteen (15) days. If the applicant does not agree in writing to the terms of such form of a franchise contract within fifteen (15) days, then its application shall be deemed denied.
- (3) An application may not be amended after it is received by the clerk, except in any case in which only one (1) application is received, such application may be amended for cause shown upon the unanimous consent of the council committee.
- (4) The grantee or grantees shall pay the city a sum of money sufficient to reimburse it for all of its publication and other expenses (including, but not limited to, consultants and legal expenses) incurred in connection with the granting of a franchise pursuant to the terms of this division.
- (5) No provision of this division shall be construed to require the city to grant any franchise contract, and the council may reject any and all applications.

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Sec. 851-238. Council review of rejections.

Any person or entity whose application is rejected by the committee may, within ten (10) days of such action, petition the council for a review of that decision by filing notice thereof with the clerk of the council. If the council determines that the rejection is improper under this division, it may by resolution direct its committee to reconsider its action. In making its determination hereunder the council shall consider as evidence, and give due weight to, the findings and conclusions of its committee and shall consider the criteria contained in section 851-236.

Sec. 851-239. Council action on recommended contracts.

Within thirty (30) days of the council committee's recommendation of a franchise and contract, the council shall introduce an ordinance approving and confirming the contract as accepted by its committee. The council shall act upon the ordinance within sixty (60) days of its introduction, except that such time may be extended by the council for good cause. The council may:

- (1) Adopt the ordinance, subject to the veto of the mayor, in which case the chairman of the cable franchise board and the mayor will be directed to execute the franchise contract; or
- (2) Defeat the ordinance, in which case the application shall be denied; or
- (3) By resolution direct its committee to consider certain modifications or amendments for the franchise contract, in which case its committee shall reconsider the application.

In making its determination hereunder, or under section 851-238, the council shall review the record of proceedings before its committee, and it may, in its discretion, consider new evidence. In making its determination hereunder, the council shall consider as evidence, and give due weight to, the findings and conclusions of its committee, and shall consider the criteria contained in section 851-236. Under no circumstances shall the council by ordinance approve or confirm any franchise contract unless the precise language has been accepted by its committee prior to the council's action.

Sec. 851-240. Reserved.

DIVISION 4. PROCEDURAL STEPS FOR GRANT OF ACT RENEWAL FRANCHISE

Sec. 851-241. Application for renewal; ~~rules and procedures~~ for review of application.

Applications for renewal under the Act shall be filed with the clerk who shall refer them to the council committee assigned to review cable franchises for review in a manner consistent with Section 626 of the Act (47 U.S.C. Section 546). Upon receipt of such application, the committee shall establish such rules and procedures for the conduct of renewal proceedings as it deems appropriate and may lawfully establish, consistent with the Act ~~and sections 851-242 through 851-244~~. The committee may hire such counsel and consultants as it deems advisable to assist in the application review, or it may authorize the franchise board to do so. ~~If neither the operator nor the city activates in a timely manner or can activate the renewal process set forth in subsection 626(a) (g) of the Act (47 U.S.C. Section 546(a) (g)) or if those proceedings are not available for any reason (including, for example, if the provisions are repealed), and except as to applications submitted pursuant to subsection 626(h) of the Act (47 U.S.C. Section 546(h)), the provisions of this division shall apply and a renewal request shall be evaluated using the same criteria as any other request for a franchise.~~

Sec. ~~851-242~~. ~~Request for proposals; proposal evaluation.~~

~~(a) If the provisions of subsections 626(a) (g) of the Act (47 U.S.C. Section 546(a) (g)) are properly invoked, the city shall issue a request for proposals (RFP) after conducting a proceeding to review the applicant's past performance and to identify future cable related community needs and interests. The council committee, or its designee, shall establish deadlines and procedures for responding to the RFP, may seek additional information from the applicant, and shall establish deadlines for the submission of that additional information. Public notice of the RFP's issuance shall be given in accordance with IC 5-3-1 or other applicable provision of state law and shall also be given to the applicant for renewal.~~

~~(b) Following receipt of the response to that RFP (and such additional information as may be provided in response to requests), the council committee will determine that the franchise should be renewed, or make a preliminary assessment that the franchise should not be renewed. This determination~~

shall be in accordance with the time limits established by the act. The preliminary determination shall be made by adopting a resolution.

~~Sec. 851 243. Preliminary grant/denial of renewal application.~~

~~(a) If the council committee determines that the franchise should not be renewed, based on the response to an RFP issued as provided in section 851 242, and the applicant that submitted the renewal application notifies the clerk, either in its RFP response or the later of four (4) months after renewal proceedings are commenced or within ten (10) working days of the preliminary assessment, that it wishes to pursue any rights to an administrative proceeding it has under the act, then the city shall commence an administrative proceeding after providing prompt public notice thereof.~~

~~(b) If the council committee decides preliminarily to grant renewal, the council committee shall prepare and submit to the full council within thirty (30) days of its recommendation a final franchise agreement that incorporates, as appropriate, the commitments made by the applicant in the renewal application or RFP response. If the applicant accepts the proposed franchise agreement, and the council takes action on the recommended agreement as provided in section 851 239 of this chapter, the franchise shall be renewed.~~

~~(c) If the franchise agreement is not so accepted and ratified within the time limits established by paragraph 626(e)(1) of the Act (47 U.S.C. Section 546(e)(1)), renewal shall be deemed preliminarily denied, and an administrative proceeding commenced if the applicant that submitted the renewal application requests it within ten (10) days of the expiration of the time limit established by paragraph 626(e)(1) of the Act (47 U.S.C. Section 546(e)(1)).~~

~~Sec. 851 244. Administrative hearing.~~

~~(a) If an administrative hearing is commenced pursuant to subsection 626(e) of the Act (47 U.S.C. Section 546(e)), the applicant's renewal application or RFP response shall be evaluated considering such matters as may be considered consistent with federal law. The following procedures shall apply:~~

- ~~(1) The council shall, by resolution, appoint an administrative hearing officer or officers (referred to hereafter as "hearing officer"). The council may appoint itself or the board as hearing officer.~~
- ~~(2) Public notice of any proceeding conducted pursuant to subsection 626(e) of the Act (47 U.S.C. Section 546(e)) shall be given in accordance with IC 5-3-1 or other applicable state law and shall also be given by the applicant on at least one (1) channel of the cable system in accordance with rules for such notice established by the hearing officer.~~
- ~~(3) The hearing officer shall establish a schedule for proceeding which allows for documentary discovery and interrogatory responses, production of evidence, and cross examination of witnesses. Discovery shall be conducted in the manner prescribed by the Administrative Adjudication Act (IC 4-21.5-3-1 through 4-21.5-3-37) or successor statutes thereto. Depositions shall not be permitted unless the party requesting the deposition shows that documentary discovery and interrogatory responses will not provide it an adequate opportunity to require the production of evidence necessary to present its case. The hearing officer shall have the authority to require the production of evidence as the interests of justice may require, including to require the production of evidence by the applicant that submitted the renewal application and any entity that owns or controls or is owned or controlled by, or under common control with, such applicant directly or indirectly. The hearing officer may issue protective orders, but shall not prohibit discovery on the ground that evidence sought is proprietary or involves business secrets. Any order may be enforced by a court of competent jurisdiction or by imposing appropriate sanctions in the administrative hearing.~~
- ~~(4) The hearing officer may conduct a prehearing conference and establish appropriate prehearing orders. Intervention by nonparties is not authorized except to the extent required by the act.~~
- ~~(5) The hearing officer shall require the city and the applicant to submit prepared testimony prior to the hearing.~~
- ~~(6) Any reports or the transcript or summary of any proceedings conducted pursuant to subsection 626(a) of the Act (47 U.S.C. Section 546(a)) shall for purposes of the administrative hearing be regarded no differently than any other evidence. The city and the applicant must be afforded full~~

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~~procedural protection regarding evidence related to these proceedings, including the right to refute any evidence introduced by the other party. Both shall have the opportunity to submit additional evidence related to issues raised in the proceeding conducted pursuant to subsection 626(a) of the Act (47 U.S.C. Section 546(a)).~~

- ~~(7) Following completion of any hearing, the hearing officer shall require the parties to submit proposed findings of fact with respect to the matters that the city is entitled to consider in determining whether renewal ought to be granted. Based on the record of the hearing, the hearing officer shall then prepare proposed written findings with respect to those matters, and submit those proposed findings to the council committee and to the parties (unless the hearing officer is the full council, in which case the written findings shall constitute the final decision of the city).~~
- ~~(8) If the hearing officer is not the full council, the parties shall have thirty (30) days from the date the proposed findings are submitted to the council to file exceptions to those findings. The council shall thereafter issue a written decision by adopting a resolution granting or denying the application for renewal, consistent with the requirements of the act and based on the record of such proceedings. A copy of the final decision of the council shall be provided to the applicant.~~
- ~~(9) The proceedings shall be conducted with due speed.~~
- ~~(10) In conducting the proceedings, and except as inconsistent with the foregoing, the hearing officer shall follow the Administrative Adjudication Act (IC 4-21.5-3-1 through 4-21.5-3-1-37) or the successor statutes thereto. The hearing officer may request that the council adopt procedures and requirements for the conduct of the hearing as necessary in the interest of justice.~~

~~(b) This section does not prohibit any franchisee from submitting an informal renewal application pursuant to subsection 626(h) of the Act (47 U.S.C. Section 546(h)), which application may be granted or denied in accordance with the provisions of subsection 626(h) of the Act (47 U.S.C. Section 546(h)). If such an informal renewal application is granted, then the steps specified in subsection (a) need not be taken, notwithstanding the provisions of this subsection.~~

~~(c) The provisions of this section shall be read and applied so that they are consistent with Section 626 of the Act (47 U.S.C. Section 546).~~

Secs. 851-2452--851-250. Reserved.

DIVISION 5. PROCEDURAL STEPS FOR MODIFICATION OR TRANSFER OF A FRANCHISE

Sec. 851-251. Application for modification.

An application for modification of a franchise agreement shall be filed with the clerk and shall include, at minimum, the following information:

- (1) The specific modification requested;
- (2) The justification for the requested modification, including the impact of the requested modification on subscribers and others, and the financial impact on the applicant if the modification is approved or disapproved, demonstrated through, inter alia, submission of financial pro formas;
- (3) A statement whether the modification is sought pursuant to Section 625 of the Act (47 U.S.C. Section 545), and, if so, demonstration that the requested modification meets the standards set forth in Section 625 of the Act (47 U.S.C. Section 545);
- (4) Any other information that the applicant believes is necessary for the city to make an informed determination on the application for modification; and
- (5) An affidavit or declaration of the applicant or authorized officer certifying the truth and accuracy of the information in the application, and certifying that the application is consistent with all federal and state law requirements.

Sec. 851-252. Review of application.

The clerk shall refer the application for modification of the franchise agreement to the council committee assigned to review cable franchises for review and evaluation in accordance with the procedures for the grant of a general cable franchise, other than an act renewal franchise.

Sec. ~~851-253~~. Further expansion of a special cable franchise area.

~~If the operator of a limited cable system:~~

- ~~(1) Enters into a private cable service agreement with the owner or manager to provide landlord restricted cable services to multiple dwelling units that are not in its special cable franchise area; and~~
- ~~(2) The operator proposes to serve those units by interconnection with the operator's franchised system; and~~
- ~~(3) The number of dwelling units in the franchise area after the expansion will not exceed fifteen thousand (15,000) dwelling units;~~

~~the area included within the special cable system franchise may be expanded to include additional areas as follows:~~

- ~~(1) The special cable operator shall file with the franchise administrator of the cable franchise board an application requesting such expansion, which shall include the description of the geographic area to be added and a certification of the owner or manager as to the existence of a private cable service contract or a letter of intent to enter into a private cable service contract, subject to the approval of the expansion.~~
- ~~(2) The application shall, at the time of its filing, be served by certified mail on the department of the city where right of way would be affected and on any operator holding a cable franchise for an area which includes the area to be added to the limited cable system ("incumbent operator"). The application shall be accompanied by a certificate of service certifying that such service has been made.~~
- ~~(3) The application shall be deemed approved and the area included in the special cable franchise shall be expanded to include the additional area if no written objection thereto is delivered to the board by either a department of the city or the incumbent operator within fifteen (15) days of the service of such application.~~
- ~~(4) In the event an objection is made to the application, the board shall automatically schedule the application for hearing at its next regular meeting, or may, in its discretion, schedule a special meeting to hear the same.~~
- ~~(5) At the conclusion of the hearing, the board shall approve the application, and the special cable franchise shall be deemed thereafter to apply to the additional area unless:
 - ~~a. The city establishes that the grant of the expansion of the territory will substantially and unreasonably interfere with existing uses of the public ways; or~~
 - ~~b. The incumbent operator establishes by clear and convincing evidence that the grant of the expansion of the territory will serve to lessen competition for the provision of cable services within the county or will materially adversely affect the economic ability of the incumbent operator to fulfill its franchise obligation to assure that access to cable service is not denied to any group of potential residential cable subscribers because of the income of the residents of the local area in which such group resides.~~~~

~~Neither of the foregoing conditions will be deemed to exist solely because the territory which is sought to be added to the special cable franchise is currently served by the incumbent operator.~~

- ~~(6) The denial of application shall be subject to appeal to the same extent permitted for denials of a franchise.~~

Sec. 851-2543. Transfer of the franchise.

(a) ~~Unless otherwise provided in the franchise agreement~~ Prior approval of the city shall be required before a franchise granted by the city shall be assigned or transferred, either in whole or in part, or leased or sublet in any manner, nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass to or vest in any person, entity, persons or entities until such prior approval is granted.

(b) The proposed transferee shall make a written verified application for approval of the transfer. The application shall provide complete information regarding the proposed transfer, including (i) documents embodying the transaction; (ii) financing documents; ~~if any;~~ (iii) documents describing the proposed transferee, ~~identifying all persons or entities with a five (5) percent or more ownership interest in the proposed transferee, and, if such persons or entities are corporations or partners, identifying their parent companies;~~ (iv) documents identifying any person or entity who will be responsible, through any arrangement for managing or controlling the system; (v) documents showing that the proposed transferee has the financial, technical and legal ability to operate the system after the transfer so as to satisfy all its obligations under the franchise without adversely affecting subscribers; and (vi) such other information as may be required in any ordinance governing applications for a franchise. ~~The proposed transferee shall also pay all reasonable costs incurred by the city in reviewing and evaluating the application.~~

(c) The city shall ~~reply~~ render a final decision on operator's request in writing within one hundred twenty (120) days of the date it receives the information specified above and information required by federal law ~~and shall indicate whether it intends to grant, deny, or condition the proposed transfer.~~ The city may seek additional information from the operator or the proposed transferee and both will cooperate to provide the information to the city. The city shall be under no obligation to transfer the franchise if the operator's acts or omissions make the franchise subject to revocation, nor shall the city be required to transfer unless it is fully satisfied ~~that any interests it or the public has in the franchise will be fully preserved and protected;~~ that past nonperformance will be corrected; that claims that could be considered as part of any renewal proceeding are fully preserved to the extent permitted by law; ~~and that the proposed transferee has the ability and is likely to comply with the franchise agreement for the future;~~ ~~and that the transfer does not constitute trafficking in the franchise.~~ By way of illustration and not limitation, under no circumstances will the franchise be transferred unless the proposed transferee agrees to accept all the terms and conditions of the franchise agreement, except to the extent that the city may be willing to modify such terms and conditions as a part of the approval of the transfer; agrees that the transfer does not constitute a waiver of any rights by the city or indicate that the operator is or has been in compliance with the franchise agreement or applicable law. The city may conduct such public hearings as it deems appropriate to consider the transfer request.

(d) The operator, upon transfer, shall, within sixty (60) days thereafter, file with the city a copy of the deed, agreement, mortgage, lease or other written instrument evidencing transfer or ownership control or lease of the system, certified and sworn to as correct by the operator.

(e) ~~Unless otherwise provided in the franchise agreement~~ A transfer shall include any sale of system assets, a transfer of the franchise itself, or a change of control or ownership of the operator. The term "control" includes actual working control in whatever manner exercised, and there shall be a rebuttable presumption that a transfer shall have occurred upon acquisition or accumulation by any person or entity of five (5) percent of the shares or interest in the operator or any entity which owns or controls the operator.

Secs. 851-2554-851-260. Reserved.

DIVISION 6. FEES

Sec. 851-261. Schedule of filing fees.

To be acceptable for filing, an application submitted after the effective date of this chapter shall be accompanied by a filing fee in the following amount to cover costs incidental to the awarding or enforcement of the franchise, as appropriate:

- (1) For an initial franchise, ~~including a special cable franchise:~~
 - a. Petition for franchise \$ 5,000.00
 - b. A response to an RFP or an application 50,000.00

(2) For renewal of a franchise	60,000.00
(3) For modification requested under Section 625 (a)(1)(A) of the Act of a franchise agreement	30,000.00 25,000.00
(4) For expansion of a special cable franchise during its term in accordance with section 851-253 of this chapter	3,000.00
(5) For approval of a transfer of a franchise	30,000.00

provided that the application fee is used to offset actual out-of-pocket expenses incurred by the city and any balance shall be returned to the operator upon the conclusion of the process.

Sec. 851-262. Reimbursement of city's out-of-pocket expenses.

In addition, the city may require the franchisee, ~~or, where applicable, a transferor or transferee,~~ to reimburse the city for its reasonable out-of-pocket expenses in considering the application for an initial franchise, including consultants' fees, ~~in an amount set by the board.~~ A franchise agreement may provide that payments made by a franchisee hereunder are not a franchise fee and fall within one (1) or more of the exceptions in paragraph 622(g)(2) of the Act (47 U.S.C. Section 542(g)(2)), and that no such payments may be passed through to subscribers in any form.

Secs. 851-263--851-300. Reserved.

ARTICLE III. CONSTRUCTION, OPERATION AND MAINTENANCE OF SYSTEM

DIVISION 1. USE OF PUBLIC WAYS

Sec. 851-311. Street occupancy.

(a) The operator shall comply with the street occupancy requirements of the city including, but not limited to, payment of all generally applicable permit and licensing fees.

(b) All poles, cables, towers, lines, and other equipment and fixtures placed by the operator within the public ways, whether above, on, or below ground, of the city shall be so located as to cause minimum interference with other authorized users of the public ways and adjoining premises.

(c) If the disturbance of any public way is necessary, the operator shall comply with all requirements of the city relevant to such disturbance.

(d) If at any time during the period of the franchise the city shall deem it necessary to change the location of any pole, cable, tower, line and other equipment or fixture located in any public way, either above, on, or below ground, the operator, upon reasonable notice by the city and reasonable time for compliance, shall relocate its poles, cables, towers, lines, and other equipment and fixtures at no expense to the city.

(e) The operator shall have the authority to trim trees upon and overhanging the public ways of the city so as to prevent the branches of such trees from coming in contact with the cables and the equipment of the operator, except that, at the option of the city, such trimming may be done by it or under its supervision and direction.

(f) In all sections of the city where the cables, wires or other like facilities of public utilities are placed underground, the operator shall place its cables and other equipment underground to the maximum extent it can be accomplished using proven technology generally used by the cable industry for comparable systems.

(g) An operator having a franchise to operate a cable system for a portion of the city shall have the right to use the public ways throughout the city as necessary or advisable for the efficient construction, operation and maintenance of that system, provided that cable services may be provided only to subscribers located within the area of the operator's franchise. Use of the public ways outside the area of the operator's franchise to construct, operate, or maintain the operator's cable system shall not unreasonably interfere with the construction, operation and maintenance of a cable system by an operator who has, or thereafter

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obtains, a franchise to serve subscribers in such outside area. The city shall have power to promulgate rules and regulations with respect to jointly used public ways as considered necessary or desirable.

~~Sec. 851-312. Public utility poles.~~

~~(a) The operator shall have the right, privilege, and authority to lease, rent, or in any other manner obtain the use of towers, poles, lines, cables, and other equipment and facilities, both above and below ground, from any and all holders of public utility licenses and franchises within the city including, but not limited to, Ameritech and Indianapolis Power & Light Company, and to use such towers, poles, lines, cables, and other equipment and facilities; provided, however, that the operator shall file with the agency prior written disclosure of the towers, poles, lines, cables and other equipment and facilities it intends to use, which are subject to the board's approval. The facilities used for the operator's system shall be those erected and/or maintained by Ameritech and/or Indianapolis Power & Light Company, when and where practicable, providing mutually satisfactory rental agreements can be entered into with such companies. It is the intention of the city that all holders of public licenses and franchises within the city shall cooperate in making available to the operator their facilities whenever possible and wherever such use does not interfere with the normal use and operation of such facilities by the owners thereof. The operator shall have the right to erect, install, and maintain its own towers, poles, guys, cables, anchors, and ducts, both above and below ground, as may be necessary for the proper construction and maintenance of the system, provided that all equipment and facilities shall not be placed on city property without the prior approval of the city.~~

~~(b) The operator shall have no vested interest in the location of any tower, pole, line, cable, or other equipment and facilities, and such towers, poles, lines, cables, and other equipment and facilities shall be removed or modified by the operator at no expense to the city whenever the city determines the public convenience so requires.~~

~~(c) The city shall have the right to install and maintain free of charge upon the operator owned poles, lines, cables, and other equipment and facilities, both above and below ground, any fixtures, on the condition that such fixtures do not unreasonably interfere with the operator's operation of its system, and the city indemnifies the operator for losses, claims, causes of action, judgments, or liens caused by the city's negligent acts or omissions in using operator owned poles, lines, cables, and other equipment and facilities.~~

~~Sec. 851-313. Notice to occupants of property.~~

~~Prior to the start of construction within any easement other than a public street right-of-way, the operator must give written notice to all affected property occupants informing them that the operator will be working in the area affecting such property occupants. Such notice shall include a telephone number, which may be called by property occupants who encounter any problems or damages as a result of such work by the operator.~~

~~Sec. 851-314. Operator responsibility for damages.~~

~~The operator shall be responsible for repairs to public or private property necessitated by damage caused by or resulting from the operator's or operator's subcontractors' construction operation, or maintenance of the system.~~

~~Sec. 851-315. Deadlines for repair of public and private property; lawn repair.~~

~~(a) The repair of public and private property damaged during construction, operation, or maintenance of the operator's system shall be completed no later than sixty (60) days after notice to the operator date of the damage.~~

~~(b) Lawns shall be repaired to the preconstruction condition.~~

~~Secs. 851-316-851-320. Reserved.~~

DIVISION 2. CONSTRUCTION

Sec. 851-321. General construction standards.

(a) The construction, operation and repair of the operator's system shall be performed in a safe, thorough and reliable manner using equipment of good and durable quality. The construction, operation and repair of the system shall be performed by experienced personnel familiar with their responsibilities

under this franchise and applicable laws and construction standards. The operator shall at all times have sufficient trained personnel to satisfy all its obligations under this franchise (including under the customer service requirements set forth in section 851-501) and applicable laws and regulations.

(b) The operator shall construct, operate and maintain its system in accordance with all applicable laws and regulations including, but not limited to, federal, state and local building, zoning and other land use, and safety laws, codes and regulations now in effect or hereafter adopted. ~~Without limiting the foregoing, the city, after consultation with the operator, may direct the operator to follow standards for construction, operation or repair of the system as required to ensure that work continues to be performed in an orderly and workmanlike manner, or to reflect changes in the standards listed below which may occur over the term of the franchise. In any event, T~~the construction, operation and repair of the operator's system shall at all times be in accordance with the requirements of the:

- (1) National Electrical Code;
- (2) National Electrical Safety Code;
- (3) Rules and regulations of the Federal Communications Commission, Parts 17, 76, and 78;
- (4) Obstruction marking and lighting, AC 70/7460-IE, Federal Aviation Administration;
- (5) OSHA Safety and Health Standards; and
- (6) NCTA Standards of Good Engineering Practices, NCTA 008-0477 EIA Standard RS-222C "Structural Standards for Steel Towers and Antenna Supporting Structures";

and all amendments or successors to such codes, rules, standards, and regulations.

(c) All cabling shall be buried or secured above ground and shall not be placed on the surface.

Sec. 851-322. Construction bond.

(a) Within thirty (30) days after the ~~effective date of the franchise~~ a new franchise agreement, the franchise holder shall obtain and maintain at its cost and expense, and file with the corporation counsel of the city, a corporate surety bond issued by a company licensed to do surety business in the State of Indiana and in an amount required by the franchise agreement to guarantee the timely construction and full activation of the system, considering the nature and extent of the system and the estimated costs of construction. The bond shall include, but not be limited to, the following conditions: There shall be recoverable by the city, jointly and severally, from the principal and surety, any and all damages, cost or expense suffered by the city resulting from failure of the franchise holder to satisfactorily complete and fully activate the system within the construction schedule described in the franchise application and approved in the franchise contract.

(b) Any extension to the prescribed construction schedule must be authorized by the council. Such extension shall be authorized only when the council finds that such extension is necessary and appropriate due to causes beyond the control of the franchise holder.

(c) Upon satisfactory completion of construction required by the franchise agreement, the construction bond shall be reduced by the board to an amount deemed reasonable by the board, considering the nature and extent of any anticipated construction during the remaining term of the franchise.

(d) The rights reserved to the city with respect to the construction bond are in addition to all other rights of the city, whether reserved by this franchise or authorized by law, and no action, proceeding, exercise or failure to exercise any right with respect to such construction bond shall affect any other right the city may have.

(e) The city may require the operator to obtain new construction bonds throughout the franchise term as necessary for construction of system extensions or upgrades.

Secs. 851-323--851-330. Reserved.

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DIVISION 3. MAINTENANCE

Sec. 851-331. General maintenance standards.

(a) Subject to the other provisions of this chapter, the operator shall ~~promulgate and adhere to~~ establish a preventive maintenance policy directed toward maximizing the reliability (mean-time-between-malfunctions) and maintainability (mean-time-to-repair) of the system. ~~The operator shall provide the city with a copy of all written policies.~~

(b) The operator shall perform scheduled maintenance in accordance with the policy filed with the board, ~~so that activities likely to result in an interruption of service are performed so as to minimize the extent of any such interruption and so that interruptions occur at the time of lowest system use. Except in emergency situations, service may only be interrupted after a minimum of forty-eight (48) hours advance notice to subscribers and the city of the anticipated service interruption.~~

(c) In the course of maintaining its system, the operator shall use replacement components of good and durable quality, with characteristics better than or equal to replaced equipment and at least satisfy all federal, state and local requirements.

(d) The operator shall identify and provide the telephone number for a senior employee or employees in the city whom the city can contact concerning system maintenance whenever its business office is closed.

(e) The operator shall ~~establish at least six (6) permanent test~~ the performance of its cable system as required by FCC, ~~points for the system in the franchise territory and shall notify the city of the locations of the test points. In addition to conducting such tests as may be required under federal or state law, as part of its preventive maintenance program the operator shall monthly test summation sweep across the entire band; signal to noise ratio measurements on at least two (2) randomly selected channels; hum to carrier level measurements on at least one (1) randomly selected channel; and subjective picture quality evaluations on all channels. The operator shall promptly correct any defects in system performance and retest the system. Copies of all test results shall be provided to the city upon request. The city, at its own option and expense, may conduct independent tests at the permanent test points of operator's cable system, provided that operator is notified in advance and has an opportunity to be present.~~

(f) If, based on subscriber complaints or based on its own investigation, the city believes that the system may not be operating in compliance with its franchise this section, the city may require the operator to perform tests and to prepare a report to the city on the results of those tests, including a report identifying any problem found and steps taken to correct the problem.

Sec. 851-332. Safety requirements.

(a) The operator shall at all times comply with all safety requirements of the Code.

(b) The operator shall at all times employ reasonable care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injury or nuisance to the public.

(c) All cables and other equipment within the public ways of the city shall at all times be kept and maintained in as safe condition as can be reasonably accomplished using proven technology generally used by the cable industry for comparable systems.

(d) Operation of the system shall not cause any interference to television and radio reception, telephone communication, or other similar operations within the county.

Sec. 851-333-851-340. Reserved.

DIVISION 4. INSPECTIONS AND SUBCONTRACTS

Sec. 851-341. Inspection.

The city shall have the right at any time upon reasonable notice to make such inspections of the system and the operator's equipment used in the construction, operation or maintenance of the system as it

shall find necessary to ensure compliance with the terms of this chapter, the franchising contract, and other pertinent provisions of law.

Sec. 851-342. Subcontract approval.

~~The operator shall give notice to the agency before entering into any subcontract having a price in excess of ten thousand dollars (\$10,000.00) for the construction of or maintenance to the system unless such subcontract relates to emergency circumstances, in which event notice shall be given within three (3) working days after entering the contract. Operator shall require any person performing contractual construction or maintenance of the cable system on subscribers' premises to have picture identification on their person identifying them as authorized by operator. Upon request, the operator shall provide to the board the following information: the name of each subcontractor, the subcontractor's headquarters/main office address, names of subcontractor's officers or owners, a telephone number for handling questions concerning the subcontractor's work, and evidence of both workers' compensation and general liability insurance. The operator agrees to assume responsibility for any act or omission of its subcontractors and to hold its subcontractors to the applicable standards in this chapter and the franchise agreement. The city shall not be liable to any such subcontractor of the operator. Any city review of the operator's subcontractors or failure to review the operator's subcontractors does not in any way relieve the operator of its obligations under this chapter.~~

Sec. 851-343--851-400. Reserved.

ARTICLE IV. GENERAL SYSTEM REQUIREMENTS

Sec. 851-401. Public service systems.

The operator shall provide one (1) connection to its cable system free of installation charge to all public and accredited private schools and to all public institutions in the operator's franchise territory, including city, county, and township agencies, and other local government facilities and shall provide without charge those services specified in the franchise agreement.

Sec. 851-402. Signal quality requirements.

(a) The operator shall install and maintain its cable system (including cables, equipment and devices) so that the signal transmitted to each subscriber at all outlets and on all channels, including public access, education, and government channels, shall be of adequate strength and quality to produce, without causing cross modulation in the cables or interfering with other electrical or electronic systems, pictures and sound as good as can be reasonably accomplished using proven technology generally used by the cable industry for comparable systems.

~~(b) Except as preempted by federal or state law from doing so, the city reserves the right to enforce Federal Communications Commission technical standards regarding cable systems. Compliance with the regulations of the Federal Communications Commission regarding signals transmitted, including at a minimum the technical standards set forth in 47 C.F.R. Section 76.601, as amended from time to time, shall constitute compliance with subsection (a) so long as such regulations exist. However, if such regulations do not exist, the city hereby reserves the right to adopt by ordinance or regulation, and after good faith negotiations with operators whose franchise requires it, standards for complying with subsection (a).~~

~~(c) The operator shall provide public, educational, and governmental access channels without deterioration in signal quality from that of broadcast channels using headend and system processing hardware and techniques which will result in no significant deterioration in signal quality in terms of carrier to noise (C/N), chroma delay, depth of modulation, frequency stability, or other system distortions as compared to the processing quality utilized on operator's own entertainment channels.~~

~~(d) The city reserves the right to enact by ordinance additional technical standards, except as it may be preempted by federal or state law from doing so.~~

Sec. 851-403. Public, educational, and or governmental access channels, facilities and equipment.

~~(a) The operator shall provide at least one (1) public access channel, two (2) educational access channels, and one (1) governmental access channel. four (4) channels to be allocated in accordance with the franchise agreement for public, educational, or governmental access. In addition, if the operator serves additional municipalities in Marion County, the operator shall provide, if the city requests or if it is required~~

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by the franchise agreement, a second governmental access channel for shared use by other governmental units. In addition, if the operator's franchise territory includes more than one (1) school corporation in Marion County and the operator's cable system provides digital service, the operator shall provide, ~~if the city requests or~~ if the operator's franchise agreement so requires, up to two (2) additional educational access channels and any other channels, facilities, equipment, and other support required under its franchise on a nondiscriminatory basis.

(b) The operator shall interconnect its system with all other systems operating under a franchise granted by the city so that the channels designated for public, educational, and governmental access hereunder shall be transmitted on all systems simultaneously and on the same channels. This obligation includes the provision of all devices required to accomplish such interconnection.

(c) To the extent that an operator is providing ~~facilities, support or~~ programming for public, educational, ~~and or~~ governmental access channels which another operator is required to carry by interconnection, the interconnecting operator shall reimburse such operator for a portion of its costs on a per subscriber basis in accordance with rules and regulations adopted by the board or on such terms as the affected operators may otherwise agree.

(d) The board may promulgate rules and procedures for the use of channels, facilities, equipment and other support designated for public, educational or governmental access.

(e) In the case of any franchise under which channel capacity is designated for public, educational or governmental use, the board may promulgate rules and procedures under which the operator is permitted to use such channel capacity for the provision of other services if such channel capacity is not being used for such designated purposes and rules and procedures under which such permitted uses will cease.

(f) The operator shall be responsible for preventing the presentation on public, ~~educational or governmental~~ access channels of:

- (1) Any material designed to promote the sale of commercial products or services; and
- (2) Prerecorded programming which violates the provisions of the Code of Indianapolis and Marion County, Indiana, with respect to obscenity.

(g) The operator shall not exercise any editorial control over any public, educational or governmental use of channel capacity except as federal law expressly provides otherwise or as required to comply with subsection (f) and shall have no legal liability for obscenity in accordance with the act. The operator shall provide to the city copies of any written and published policies concerning indecent programming on leased access channels.

Sec. 851-404. Parental control devices.

The operator shall provide to subscribers on request parental control devices to permit subscribers to block out both the audio and video of ~~specified any channels. Such devices shall be provided for channels whose programs are not appropriate for children without cost if permitted by federal law.~~ In addition, the operator shall install devices (i) so that access to pay-per-view programming is restricted through the use of a confidential "personal identification number" or other confidential validating information that can be assigned at the local business office or through the mail upon subscriber request; and (ii) so that the sound and video portion of any scrambled channel that carries programming can be blocked out on subscriber request. The operator must notify all subscribers that this option is available, when it first begins providing cable services to a subscriber and at least annually thereafter.

Sec. 851-405. Interconnection of institutional networks.

If an operator's franchise agreement requires the provision of an institutional network, the operator shall design the network so that it may be interconnected to institutional networks provided by any other operator granted a franchise by the city and shall be constructed to include all equipment, including active and passive electronic and optical devices, needed to achieve compatibility so as to transmit video, sound and data between users of such networks without modification of user's equipment and without significant deterioration in signal quality between networks.

Sec. 851-406. Emergency use of facilities.

(a) In the case if any disaster duly declared by the mayor or other official legally able to declare a disaster, the operator shall, upon request of the mayor or director of the city's emergency management division, make available to the city for emergency use during the disaster period all facilities, as are necessary, for the term of such disaster.

(b) The system shall incorporate an emergency alert system that permits the city to override the ~~video and~~ audio portions of all signals on all channels which the operator may lawfully override. The operator shall design the emergency alert system to permit the city to do the following:

- (1) Access and activate the emergency alert system using a touch-tone telephone and a special security code. The telephone can be connected to the emergency alert system via the local exchange company or a dedicated connection installed by the operator.
- (2) Replace ~~video and~~ audio on all channels with an emergency message that may be originated from a single location to be designated by the city using a telephone and character generator.
- (3) Play back a prerecorded message over the emergency alert system.

The operator's obligations under this section include the obligation to provide ~~the character generator, modulators, playback equipment and all facilities and~~ equipment for the system required to ensure the system works and complies with FCC regulations. The operator shall work with the city to develop a plan for the regular testing of the emergency alert system. However, it is the sole responsibility of the city to determine whether and under what circumstances the emergency alert system shall be used for county-wide alerts. City shall indemnify and hold operator harmless for any claim arising from the city's use of the emergency alert system.

Sec. 851-407. Technological advances.

The operator, at its expense, shall, upon City's request, but not more often than biennially, make regular biannual reports to the board on technological advances in the industry and how such advances are being applied or could be applied in the city. To the extent provided in a franchise agreement, the city may periodically reopen negotiations with the operator to insure that the system is kept up to date.

Secs. 851-408---851-500. Reserved.

ARTICLE V. CUSTOMER SERVICE STANDARDS

Sec. 851-501. Complaint and service procedure.

(a) The city has adopted the Federal Communications Commission customer service standards, and the operator shall comply with these standards and any modifications to the standards adopted by the Federal Communications Commission during the term of its franchise. ~~The city reserves the right to enact from time to time by ordinance additional customer service standards, including subscriber remedies, and standards for system extension.~~

(b) The operator shall maintain an office in Marion County, Indiana, with local staffing and convenient hours of operation including operating hours at least six (6) days per week (Monday through Saturday) with extended hours at least two (2) days per week. Usual business hours shall be 8:00 a.m. to 6:00 p.m., with extended hours of 8:00 a.m. to 8:00 p.m., and Saturday hours of 9:00 a.m. to 2:00 p.m. In addition, the operator shall have a listed telephone, and be so operated that complaints and requests for repairs or adjustments may be received at any time, whether the office is open or closed.

(c) Maintenance service shall be immediately available to correct major outages from 8:00 a.m. until 12:30 a.m. every day, including Saturdays, Sundays and holidays.

(d) Investigative action shall be initiated in response to all service calls, other than major outages, not later than the next business day after the call is received. Corrective action shall be completed as promptly as practicable.

(e) The operator shall maintain records of customer complaints, of responses to customer complaints, and of service calls in a form adequate for the board to determine compliance with this article.

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(f) ~~The operator shall furnish each subscriber~~ Operator shall provide consumer billing information at the time of installation, at least annually to all subscribers, and at anytime upon request. This information shall include written instructions that clearly set forth procedures for placing a service call or requesting an adjustment. These instructions shall also include a name, address and telephone number of the agency and a reminder that the subscriber can call or write for information regarding terms and conditions of the operator's franchise if the operator fails to respond to the subscriber's request for installation, service or adjustment within a reasonable period of time.

(g) In the event a subscriber does not obtain a satisfactory response or resolution to his request for service or an adjustment within a reasonable period of time, he may advise the board of his dissatisfaction in writing and the board shall investigate the matter and keep records with respect to all complaints.

(h) The operator shall interrupt intentionally system service after 7:00 a.m. and before 1:00 a.m. only with good cause and for the shortest time possible and, except in emergency situations, only after publishing notice of service interruption at least twenty-four (24) hours in advance. Service may be interrupted between 1:00 a.m. and 7:00 a.m. for routine testing, maintenance and repair, without notification, on not more than two (2) nights in any week.

(i) The operator shall bill subscribers no more frequently than once a month not to exceed twelve (12) times per calendar year, and shall not bill for services not being provided to subscribers.

(j) Operator shall provide credit to subscribers who call the City to report an outage to the same extent as if that subscriber had called the operator, provided that the City submits the names of such subscribers to the operator and operator confirms such subscribers are in an area affected by an outage.

(jk) The operator shall maintain lists of current subscribers, recently installed subscribers, and subscribers having repairs performed along with telephone numbers and in a manner consistent with Sec. 851-504 provide such lists monthly in an appropriate format to the contractor selected by the city to conduct cable subscriber surveys to assist the board in evaluating the operator's quality of service.

(kl) The operator shall have authority to promulgate such written rules, regulations, policies, prices and subscriber practices as are reasonably necessary for its business, including installation and disconnection policies, delinquent accounts collection procedures and late payment penalties, but subscribers may not be required to waive rights they would otherwise have under applicable law in order to obtain service. The operator shall provide the city with a copy of all such rules, regulations, policies, prices and subscriber practices promulgated by the operator for the administration of its business as it relates to its franchise and maintained by the operator in writing, whether now existing or hereafter promulgated. ~~No such written policy may be enforced unless it has been so provided.~~ Nothing in this section shall allow the operator to promulgate rules which are inconsistent with its franchise agreement with the city or applicable law, and the city shall have the right to regulate or prohibit any practice or charge which the city may regulate or prohibit under applicable law.

Sec. 851-502. Termination of service.

(a) Upon termination of service to any subscriber, the operator shall promptly remove all its facilities and equipment from the premises of such subscriber upon request or if subscriber declines to acquire the facilities and equipment from the operator.

(b) ~~If any subscriber terminates service during the first year of subscription because of the operator's failure to render service to such subscriber in compliance with the provisions of this chapter, or if service to a subscriber is terminated without good cause or because the operator ceases to operate the cable system for any reason except expiration of the franchise, the operator shall refund to such subscriber an amount equal to the initial tap-in and connection charges paid by the subscriber.~~

Sec. 851-503. Preferential or discriminatory practices prohibited; service provided by special cable operator.

(a) Except to the extent required permitted by federal, state or local law, the operator shall not, as to rates, charges, service facilities, rules, regulations or in any respect, make or grant any undue advantage; provided, however, connection and service charges may be waived or modified during the operator's promotional campaigns which shall be offered on an equal basis to all similarly situated customers.

~~(b) Notwithstanding the foregoing, a special cable operator may provide different levels of service at different areas included in a franchise, if permitted by the franchise agreement and applicable Federal Communications Commission regulations.~~

Sec. 851-504. Subscriber privacy.

~~(a) The provisions of Section 631 of the Act (47 U.S.C. Section 551) with regard to the protection of subscriber privacy are incorporated into this section. Specifically, the operator shall not use the system to collect personally identifiable information concerning any subscriber nor shall the operator disclose any personally identifiable information concerning any subscriber without the prior written or electronic consent of the subscriber concerned. The operator shall take all steps required so that it may provide the information required to the city's cable subscriber survey contractor, including by providing any required notice to subscribers that such information may be provided to the city's contractor for subscriber surveys to assist the city in evaluating the operator's quality of service and otherwise to administer the franchise agreement. In addition, the operator shall take such actions as are necessary to prevent unauthorized access to such information by a person or entity other than the subscriber or operator, including "blacking out" all information that the operator may not transmit to the city or the city's survey contractor.~~

~~(b) No monitoring of any terminal connected to a system shall take place without specific authorization by the subscriber or other user of the terminal in question, nor shall aural or visual monitoring of any kind take place without a clear indication to the subscriber that such monitoring is presently taking place. Such indication may be in the form of an audible sound signal or light signal or any other form the operator deems reasonable, with the subscriber's approval. This indication to the subscriber is not required where a terminal is merely "polled" by a digital signal pursuant to a prior authorization, as opposed to a voice or visual monitoring. It is the intent of this section to give absolute protection against unwarranted invasion of privacy to each subscriber on the system. If at any time the operator initiates a subscriber response system for use in the system, the operator shall notify the board in writing, and demonstrate to the board that the system can operate effectively in an articular mode without any unwarranted invasion of privacy.~~

Secs. 851-505--851-600. Reserved.

ARTICLE VI. RIGHTS AND DUTIES OF OPERATOR

Sec. 851-601. Franchise fee.

(a) General requirement. Unless otherwise provided by its franchise agreement or this chapter, the operator of a cable system for which a franchise is required under this chapter shall pay to the city as compensation for use of the public rights-of-way franchise fees services in aggregate amounts equal to five (5) percent of its gross revenues derived annually from its operations of the cable system to provide cable services within the city.

(b) Previously granted franchise. As to franchises granted prior to August 1, 1995, the operator shall pay the franchise fee specified in the respective franchise agreements, as amended.

(c) Direct payments. A franchise granted or renewed after August 1, 1995, shall require the operator to make direct payments to the city as franchise fees an amount equal to five (5) percent of its gross revenues reduced by (1) any and all taxes or fees or services furnished by the grantee imposed directly on any subscriber or user by any city, county, state or other governmental unit, and collected by the grantee for such entity; (2) any and all interest income from any source attributed to such cable system operations; (3) any and all income derived by the grantee from the sale and transfer of cable system assets; and (4) any and all amounts of bad debts from such cable system operations that are written off by the grantee.

(d) Credits. If the franchise requires the operator to pay other amounts which are deemed franchise fees under federal law and the sum of those payments and those required by subsection (c) exceeds the maximum franchise fees permitted by federal law, the payments under subsection (c) shall be reduced by such amount so that the total franchise fees shall not exceed the maximum permitted by federal law.

(e) The operator shall be prohibited from prepaying franchise fees on estimated annual revenues at the time of bidding for a new or renewal franchise.

~~(f) Should applicable federal law change so that the law no longer specifies a limit on franchise fee payments, the city shall specify the limit by ordinance.~~

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(gf) The city reserves the right to conduct periodic audits of the operator's records to determine compliance with this provision. The city's acceptance of the operator's franchise fee payments does not constitute an accord and satisfaction nor are such payments in lieu of any other fees, taxes, or payments owed by the operator.

(hg) The operator shall pay simple interest at the rate of ten (10) percent per annum on all franchise fees which remain unpaid after the date they are due until the fees are paid.

Sec. 851-602. Security fund.

(a) Within thirty (30) days after the execution of a franchise agreement, the operator shall deposit with the city ~~the sum of one hundred fifty thousand dollars (\$150,000.00) in monies~~, a bond, a letter of credit, or a combination of these instruments in amounts specified in the franchise agreement (the security fund) as security for the faithful performance of all the provisions of the franchise agreement, for timely completion of any construction required by the franchise agreement, for payment of ~~liquidated damages~~ administrative fines described in section 851-605 of this chapter, and for payments by the operator of any claims, liens, and taxes due the city which arise by reason of the construction, operation, or maintenance of the system. Any monies deposited pursuant to this section shall be placed by the controller of the city in an interest-bearing demand account at a bank or local savings institution agreeable to both parties. Interest on this account will accrue to the benefit of the operator upon completion and activation of the system as required in the franchise contract. Upon completion of construction required by the franchise agreement, the security fund shall be reduced by the board thereafter to an amount which the board deems reasonable, considering the nature and extent of any anticipated liabilities during the remaining term of the franchise, which amount shall be maintained during the period of the franchise contract.

(b) ~~If the franchise administrator determines that the operator has failed to perform under the franchise agreement,~~ that city or county taxes are due from the operator and are unpaid, that the city has been compelled to pay damages, costs, or expenses by reason of any act or default of the operator in connection with the franchise agreement, or that any other claims against the operator have arisen by reason of the construction, operation, or maintenance of the system, such that the city may draw monies from the security fund, the franchise administrator shall make a written report to the board outlining both the circumstances which the franchise administrator believes entitles the city to withdraw monies from the security fund and the amount proposed to be withdrawn. The franchise administrator shall provide a copy of the report to the operator. The board shall hold a hearing on the proposed withdrawal during which the operator may respond to the franchise administrator's report. Following the hearing, the board shall decide whether a withdrawal should occur and the amount of any withdrawal. The franchise administrator may immediately withdraw the amount, and, upon such withdrawal, the franchise administrator shall notify the operator of the amount and the withdrawal date. Within ten (10) days after notice to it that any amount has been withdrawn from the security fund deposited pursuant to subsection (a), the operator shall pay to, or deposit with, the city a sum of money or securities sufficient to restore such security fund to the full amount required by subsection (a). If the operator fails to restore such security fund within the specified ten-day period, the city may withdraw the entire security fund deposit remaining which shall be forfeited.

(c) With respect to violations of this chapter for which ~~liquidated damages~~ administrative fines are specified in section 851-605, the franchise administrator or other authorized city official shall provide written notice of the alleged violation to the operator and allow the operator thirty (30) days to comply. If the operator fails to comply or to notify city that corrective action is being actively and expeditiously pursued, the franchise administrator or other authorized city official may initiate a proceeding before the board, which board is hereby designated pursuant to IC 36-1-6-9 as the administrative board before which violations of this chapter may be enforced. Such proceeding shall be initiated by filing a complaint with the board, which shall issue a summons to the operator setting a time and date at which the board will hold a hearing on the violations alleged in the complaint. If after a hearing conducted in compliance with IC 36-1-6-9 the board finds that the operator has violated the ordinance as alleged, the board shall enter an order fixing the amount of the ~~liquidated damage penalty~~ administrative fines. If the operator fails to appeal the order of the board within sixty (60) days after the date of the order as provided in IC 36-1-6-9(f), the city shall withdraw the amount of ~~liquidated damages~~ administrative fines fixed in such order from the security fund.

(d) The security fund deposited pursuant to this section shall become the property of the city in the event that the franchise agreement is canceled by reason of the default of the operator. Notwithstanding the foregoing, the operator shall have the right to contest the board's decision to authorize a withdrawal from the security fund by filing an action in a court of competent jurisdiction. If the operator prevails in such an

action, the city shall repay to the operator the amount of the sum so withdrawn from the security fund together with interest at the statutory rate which applies to judgments from the date of such withdrawal.

(e) The operator shall be entitled to the return of such security fund, or portion thereof, and interest as remains on deposit with the city at the expiration of the term of its franchise, provided that there is then no outstanding default on the part of the operator.

(f) The rights reserved to the city with respect to the security fund are in addition to all other rights of the city, whether reserved by this chapter, the franchise or contract, or authorized by law; and no action, proceeding, or exercise of a right with respect to such security fund shall affect any other right the city may have.

Sec. 851-603. Liability, indemnification and insurance.

(a) The operator shall indemnify the city and its officers, employees, and agents for all expenses and costs, including reasonable attorneys' fees and other out-of-pocket expenses, arising out of or resulting from the grant of a franchise to the operator under this chapter, ~~including any such expenses and costs incurred by the city in defending the validity of the grant of a franchise,~~ provided that the operator shall have the right to agree to the selection of counsel and the fees to be charged for such defense and shall have the right, together with the city, to give direction to counsel in such defense.

(b) The operator shall pay all damages and penalties which the city may legally be required to pay as a result of the grant of its franchise under this chapter, including all damages arising out of the installation, operation, or maintenance of the system, whether or not any act or omission complained of is authorized, allowed, or prohibited by this Code. The operator's payment shall include all amounts expended by the city in defending itself in such action including, but not limited to, attorneys' fees and out-of-pocket expenses.

(c) In order for the city to assert its rights to be indemnified, defended, and held harmless, the city shall:

- (1) Notify the operator of any claim or legal proceeding which gives rise to such right;
- (2) Afford the operator the opportunity to participate in any compromise, settlement, or other resolution or disposition of such claim or proceeding and to fully control the financial terms of any payments to be made in such final disposition;
- (3) Fully cooperate with the reasonable request of the operator in its participation in, and control, compromise, settlement, or resolution or disposition of such claim or proceeding;

and the operator and the city shall act reasonably under all circumstances so as to mutually protect each other against liability and to mutually refrain from compromising the rights of each other. The city shall inform the operator of any offers to compromise, settle or otherwise resolve or dispose on any such claim or proceeding. If the operator is willing to accept such an offer and make all payments required by its terms, but the city refuses to agree to such offer within fifteen (15) days of notice from operator, the operator's obligation for indemnification shall be limited to the amount that would have been due if the offer had been accepted.

(d) The operator shall purchase and maintain throughout the term of the franchising contract such commercial general liability and other insurance as is appropriate and as will protect the operator and the city, by their employees, officers, or agents from (i) claims under workers' or workmen's compensation, disability benefits and other similar employee benefit acts; (ii) claims for damages because of bodily injury, occupational sickness or disease, or death of the operator's employees; (iii) claims for damages because of bodily injury, sickness or disease, or death of any person other than the operator's employees; (iv) claims for damages insured by personal injury liability coverage which are sustained by any person as a result of an offense directly or indirectly related to the employment of such person by the operator, or by any other person or entity for any other reason; (v) claims for damages because of physical injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; (vi) claims arising out of operation of any laws or regulations for damages because of bodily injury or death of any person or for damage to property; and (vii) claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle, which may arise out of or result from the operator's other obligations under the franchise agreement whether it is to be performed or furnished by the operator, by any subcontractor, by anyone directly or indirectly employed by

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any of them to perform or furnish any of the work under the agreement, or by anyone for whose acts any of them may be liable. Written evidence of payment of premiums and copies of such insurance certificates shall be filed with the board within thirty (30) days of the effective date of the franchise.

- (1) The insurance required by this section shall be written for not less than the limits of liability and coverages as provided herein or as required by law, whichever is greater. The commercial general liability insurance shall include coverage of (a) premises and operations; (b) contractual liability as applicable to any indemnification hold harmless agreements in the agreement; (c) products and completed operations; (d) broadform property damage, including completed operations; (e) fellow employee claims under personal injury; and (f) independent contractors. Such insurance shall specifically include coverage for property damage from explosion, collapse of structures or structural injury due to grading of land, excavation, filling, backfilling, tunneling, pile driving, caisson work, moving, shoring, underpinning, raising of or demolition of any structure, or removal or rebuilding of any structural support of a building or structure. Such insurance shall further include coverage for damage to wires, conduits, pipes, mains, sewers, or other similar apparatus encountered below the surface of the ground when such damage is caused by any occurrence arising out of work performed by the operator or by any of the operator's subcontractors or anyone directly or indirectly employed by either.
- (2) The operator's insurance shall be written for not less than the following limits of liability:
 - a. Workers' compensation and disability: Statutory limits;
 - b. Employer's liability:
 1. Bodily injury by accident: One hundred thousand dollars (\$100,000.00) each accident;
 2. Bodily injury by disease: Five hundred thousand dollars (\$500,000.00) policy limit;
 3. Bodily injury by disease: One hundred thousand dollars (\$100,000.00) each employee.
 - c. Commercial general liability (occurrence basis) bodily injury, personal injury, property damage, contractual liability, products-completed operations:
 1. General aggregate limit (other than products/completed operations): Two million dollars (\$2,000,000.00);
 2. Products/completed operations: Two million dollars (\$2,000,000.00);
 3. Personal and advertising injury limit: One million dollars (\$1,000,000.00);Each occurrence: One million dollars (\$1,000,000.00);
Fire damage (any one (1) fire): Fifty thousand dollars (\$50,000.00);
Medical expense limit (any one (1) person): Five thousand dollars (\$5,000.00).
 - d. Comprehensive auto liability (single limit) (owned, hired and nonowned)
Bodily injury and property damage: One million dollars (\$1,000,000.00) each accident.
 - e. Umbrella excess liability: Five million dollars (\$5,000,000.00) each occurrence and aggregate. The deductible on the umbrella liability shall not be more than ten thousand dollars (\$10,000.00).
- (3) The operator shall be responsible for paying all deductible amounts.
- (4) Before commencing work, the operator shall submit a "certificate of insurance" indicating the above necessary coverages as well as naming the city, its employees and representatives as "additional named insureds" on all policies except workers' compensation to the city for review and approval. Such insurance shall be carried with financially responsible insurance companies authorized to do business in the State of Indiana, have a general policyholder's rating of A+, A,

or A-, in the edition of Alfred M. Best's Insurance Reports and be satisfactory in form and coverage to the city. Such coverages shall be kept in force at all times during the term of the franchise agreement. The operator's insurer(s) shall provide by certified mail to the city sixty (60) days prior written notice in the event of cancellation, nonrenewal or material change in the policies. In the event the board determines that the certificates do not clearly show that the operator's coverages and liability limits are those required by this chapter or litigation involving the scope or amount of the operator's coverage under this chapter is commenced, the board reserves the right to request, and the operator shall provide, copies of the underlying insurance policies for the certificates required above.

- (5) The commercial general liability insurance required by this section shall include contractual liability insurance applicable to indemnity and hold harmless obligations under the franchise agreement.

(e) The rights reserved to the city with respect to indemnification and insurance are in addition to all other rights of the city, whether reserved by this Code, the franchise agreement, or authorized by law, and no action, proceedings, or exercise of a right with respect to such indemnification and insurance shall affect any other right the city may have.

Sec. 851-604. No recourse.

~~Except for actions seeking equitable relief, the~~ operator shall have no recourse whatsoever against the city or its officers, employees, or agents, for any loss, cost, expense or damage on account of claims arising out of any provision or requirements of its franchise because of its enforcement or nonenforcement, and without regard to whether the act or omission giving rise to the loss, cost, expense or damage was required or not required by the grant of the franchise. Nothing in this section shall be read to waive or limit any immunities granted by state or federal law to the city.

Sec. 851-605. ~~Liquidated damages~~ Administrative fines.

(a) For certain violations of the provisions of this chapter, ~~for which damages are otherwise not ascertainable, liquidated damages~~ the following administrative fines shall be chargeable to the security fund ~~described in in accordance with the procedures of section 851-602 of this chapter as follows:~~

- (1) For the failure to complete construction and installation of the system in accordance with article III of this chapter, ~~unless the council specifically approves the delay by resolution because of reasons beyond the control of the operator,~~ the operator shall ~~forfeit~~ be subject to an administrative fine of one thousand dollars (\$1,000.00) each day or part thereof that the failure continues.
- (2) For failure to provide data and reports as requested by the council or board or required by this chapter, the operator shall ~~forfeit~~ be subject to an administrative fine of fifty dollars (\$50.00) each day or part thereof that the failure continues.
- (3) For failure to comply with the transfer requirements of section 851-254~~3~~ of this chapter, the operator shall ~~forfeit~~ be subject to an administrative fine of one thousand dollars (\$1,000.00) each day or part thereof that the failure continues.
- (4) For continuing failure after notice by city to comply with the system and customer service standards of articles IV and V of this chapter, the operator shall ~~forfeit~~ be subject to an administrative fine of seven hundred fifty dollars (\$750.00) each day or part thereof that the failure continues.
- (5) For persistent failure to comply with such reasonable requests ~~and recommendations~~ as may be made by the council and board pursuant to authority granted by this Code, the operator shall ~~forfeit~~ be subject to an administrative fine of seven hundred fifty dollars (\$750.00) each day or part thereof that the failure continues.
- (6) Recovery of ~~liquidated damages~~ administrative fines shall not excuse nonperformance, and the city may, in addition to recovering such damages, obtain any other relief or apply any other remedy which it may seek under this Code, the franchise agreement, or otherwise at law or equity.

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(b) In addition, the city retains all other rights and powers it has by virtue of this Code, the franchise agreement or otherwise, including the right to impose civil penalties, and shall have the right to terminate and cancel the franchise and all rights and privileges of the operator ~~in the event that the operator:~~ in accordance with the franchise agreement.

- (1) ~~Fails to cure any violation (except where such violation is an event not within the operator's control) of any material provision of this Code, the franchise agreement, or any lawful rule, regulation, order, or determination of the city, the board or the council made pursuant to this Code, except where such violation is cured within a reasonable time before termination as determined by the city.~~
- (2) ~~Fails to meet the construction schedule as established in the franchise agreement or as modified by the council at the end of any two (2) years, unless such failure is not an event within the operator's control.~~

(c) ~~An event not within the operator's control includes, but is not limited to, natural disasters, civil disturbances, power outages, telephone network outages and severe weather. Those events which are ordinarily within the operator's control include, but are not limited to, special promotions, pay per view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the system. Operator shall not be deemed in violation of the provisions of this chapter where such violation is an event beyond operator's control such as war, riots, civil disturbance, loss of utility service or facilities, judicial or governmental order, hurricanes, tornadoes, wind, floods or other natural catastrophes or other events beyond an operator's control, and an operator shall not be penalized for such violation, provided the operator takes immediate and diligent steps to bring itself back into compliance and to comply as soon as possible with this chapter under the circumstances without endangering the health, safety and integrity of the public, public streets, public property, or private property.~~

(d) Termination and cancellation may be effected only as specified by ordinance and in accordance with federal, state and local law; however, before the franchise may be terminated and canceled under this section, the operator must be provided with thirty (30) days notice and an opportunity to be heard before the council or its designated committee.

Sec. 851-606. Noncollusion warranty.

The operator shall warrant that it has neither paid nor agreed to pay any commission, fee, percentage, gift, or any other consideration, including providing service without charge, contingent upon, or resulting from the award, transfer or renewal of its franchise to any officer (whether elected or appointed), employee or agent of the city or of Marion County, Indiana.

Secs. 851-607--851-700. Reserved.

ARTICLE VII. GENERAL REGULATORY PROVISIONS

Sec. 851-701. Subscribers' rates and charges.

(a) To the extent permitted by Section 623 of the Act (47 U.S.C. Section 543) and any regulations promulgated pursuant thereto by the Federal Communications Commission, the city shall regulate rates and charges for cable service to subscribers. The authority of the city to regulate such rates and charges is delegated to the board, subject to the procedures and limitations of this section.

- (b) The following procedures shall be used to review and approve changes in rates and charges:
 - (1) The cable franchise board shall adopt rules and regulations for the review and regulation of rates and charges for cable services provided by franchisees consistent with the requirements of the act, applicable Federal Communications Commission regulations and this chapter. Because of the deadlines contained in current Federal Communications Commission regulations, such rules and regulations shall be in effect upon adoption by the board, provided that the council may suspend or reject such regulations by resolution adopted within sixty (60) days of the date of certification of such rules and regulations to the clerk.
 - (2) The cable franchise board shall adopt final rate orders in accordance with the rules and regulations adopted by the board. Such orders shall be final upon adoption for purposes of time limits set forth in Federal Communications Commission rules but may be reviewed by the

council upon request by any participating party as set forth in this paragraph. "Participating party" means the franchisee, the franchise administrator, and any person or entity who participated orally or by filing written petitions with the board in the rate proceedings before the board. Review by the council shall be initiated by filing a request with the clerk of the council. Such request shall state briefly the reasons that review is requested and shall be filed within fifteen (15) days of the date of the board's final rate order. Within thirty (30) days of the filing of such request, the committee shall hold a hearing upon the request, which hearing may be continued as deemed appropriate by the committee. The committee may recommend to the council that the final rate order be returned to the board for further proceedings. If the council adopts a resolution returning the order to the board, the board shall hold such additional hearings as appropriate and may either affirm or amend its final rate order. If the order is amended or modified such amended or modified order shall be subject to further review as provided in this paragraph for final rate orders. If the council fails to act upon a final rate order within ninety (90) days of its adoption by the board, the order of the board shall be final, subject only to review as provided by law. Notwithstanding the above, an interested party may appeal the order of the board to the Federal Communications Commission or a court of competent jurisdiction in accordance with Federal Communications Commission rules without seeking review by the council.

(3) The city reserves the right to regulate subscribers' rates and charges by ordinance if the applicable federal law is changed or repealed and the city is not prohibited from doing so by law.

(c) Regardless of whether the city regulates or is authorized to regulate rates and charges to subscribers, the operator shall not discriminate as to rates and charges among customers of basic service, except as permitted by applicable law.

(d) In any request for proposals or as a condition of the renewal of existing franchises, the city may require and regulate the installation or rental of equipment which facilitates the reception of basic cable service by hearing-impaired individuals.

~~Sec. 851-702. Administration and enforcement.~~

~~The operator's franchise is subject to such ordinances or regulations that may be lawfully adopted from time to time (i) to permit the city to exercise its rights under the franchise agreement or the Code; or (ii) pursuant to the city's police and regulatory powers under applicable law.~~

~~Sec. 851-703.2. Compliance with other applicable laws.~~

(a) The operator shall comply with all statutes, codes, ordinances, rules and regulations applicable to its business.

(b) A franchise granted pursuant to this chapter authorizes only the operation of a cable system, and does not take the place of any other franchise, license or permit which law requires of the operator.

~~(c) The council, the board and any other agency of the city shall have the power to adopt, in addition to the provisions contained in this chapter, the franchising contract, and any other applicable ordinances or regulations, such additional ordinances or regulations as they shall find necessary in the exercise of police power.~~

~~Sec. 851-704.3. Reports to be filed with board.~~

(a) The operator shall file and maintain with Indianapolis Mapping and Geographic Infrastructure System (IMAGIS) Consortium or successors true and accurate mapping data in digital format of all existing and proposed plant extensions.

(b) Upon request of the city, ~~the~~ operator shall file with the agency all quarterly and annual financial reports and statements required to be filed with the Securities and Exchange Commission. The operator shall also provide the agency with quarterly statements of gross revenues by category of revenue with regard to payment of franchise fees as well as an annual report of gross revenues by category of revenue from the operation of its system in the city.

(c) The operator shall file with the agency a copy of any formal communications received from or required to be filed with any other governmental agency, except tax returns and determinations, including

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the Federal Communications Commission, concerning the operation of its system in the city or affecting the operator's ability to perform its franchise agreement with the city.

(d) The operator shall file with the agency written evidence at least annually of payment of premiums on insurance policies required by this chapter.

(e) The operator shall file annually with the agency the equal employment opportunity reports described in Section 634 of the Act (47 U.S.C. Section 554). These reports shall be filed with the agency within thirty (30) days after the reports are filed with the Federal Communications Commission.

(f) The operator shall keep on file with the agency current copies of insurance certificates evidencing the coverages and liability limits required by this chapter.

(g) The operator shall monthly file with the agency an operations report, showing such information as changes in subscriber totals, subscribers for each tier of service, a summary of complaints, and a summary of outages.

(h) The operator shall file or keep on file with the agency any information which may be required by this Code or which the board reasonably deems necessary to ensure that the duties of the operator, its customers, the agency, and the board are carried out.

Sec. 851-705~~4~~. Inspection of records and facilities; maintenance of records.

(a) At any reasonable time during normal business hours, the city shall have the right to inspect the studios, equipment, operating facilities and business records maintained by the operator to ~~ensure that the obligations to the city, its customers, the agency, and the board are carried out.~~ determine compliance with applicable law.

(b) The operator shall maintain all records related to the franchise ~~for the term of the franchise at least five (5) years,~~ and all such records shall stay with the system in the event of a transfer.

Sec. 851-706~~5~~. Limitation on ownership by certain parties.

(a) No officer (whether elected or appointed), employee, or agent of the city or of Marion County, Indiana, or member of his immediate family (meaning spouse or children), whose official duties require him to administer, enforce, or regulate the business of the operator or the terms or conditions of the franchise agreement, shall, during the term of the franchise or until after a period of one (1) year following the termination of his duties as such officer, employee, or agent, own, either directly or indirectly, any beneficial interest in the business of the operator.

(b) Without limiting the generality of the description of persons or entities described in subsection(a), the limitation set forth in this section shall apply to members of the board, members of the council, the officers, employees, and agents of the council and of the agency.

Sec. 851-707~~6~~. Performance evaluations.

The city shall conduct regular performance evaluations at least every three (3) years during the term of the franchise to determine the operator's compliance with the terms of his franchise agreement and the Code.

Sec. 851-708~~7~~. Reimbursement of city's expenses.

The operator shall reimburse the city its expenses for conducting the franchise audits described in section 851-601 and the performance evaluations described in section 851-708~~6~~, if specifically required by the franchise agreement.

Sec. 851-709. ~~Termination of a portion of a special cable franchise.~~

~~(a) The geographic area of a special cable franchise shall be the separate limited cable service areas described in the franchise agreement, including expansions approved under section 851-253; provided, that ninety (90) days after a private cable service contract to serve a separate limited cable service area expires by its terms or is terminated, such area shall no longer be included in the geographic area of such franchise unless extended within such ninety day period. Provided, however, if the termination of such private cable~~

~~service contract is the result of foreclosure, bankruptcy or insolvency of the owner or manager of the multiple unit dwellings served under such private cable service contract and such dwellings are being managed under judicial supervision, such ninety-day period shall be tolled until such dwellings are transferred to a new owner or manager.~~

~~(b) Whenever under the terms of subsection (a) a separate limited cable service area ceases to be within the geographic area of a special cable franchise, the operator within thirty (30) days shall certify to the franchise administrator of the cable franchise board the description of such separate limited cable service area.~~

~~Sec. 851-710. Removal of system~~

~~Upon expiration or forfeiture of the franchise, the city shall have the right to order the operator to continue to maintain and operate the system or limited cable system pending the operator's replacement.~~

Sec. 851-711-08. Reservation of city rights; franchise limitations.

(a) No privilege or power of eminent domain is bestowed by the grant of a franchise under this chapter; the grant of franchise does not confer any rights other than as expressly provided by this chapter or the franchise agreement.

(b) The franchise and the right it grants to use and occupy the public ways shall not be exclusive and do not explicitly or implicitly preclude the issuance of other franchises to operate cable systems or other communications systems within Marion County, Indiana, affect the city's right to authorize use of public ways by other persons or entities to operate cable systems or other communications systems or for other purposes as it determines appropriate for the same or a different franchise territory, or affect the city's right to itself construct, operate or maintain a cable system or other communications system, with or without a franchise as permitted by federal or state law.

~~(c) By its acceptance of the franchise, the operator agrees to comply with all requirements of the cable ordinance (chapters 851 and 285 of this Code) and any validly enacted amendments to the ordinance during the term of the franchise.~~

~~(d) All rights and privileges granted pursuant to this chapter are subject to the valid exercise of the police powers of the city and its rights under applicable laws and regulations to regulate the operator and the construction, operation, or maintenance of its system, including, but not limited to, the right to adopt and enforce additional regulations as the city shall find necessary in the exercise of its police powers; the right to adopt and enforce applicable zoning, building and permitting and safety codes; the right to adopt ordinances and regulations relating to equal employment opportunities; and any right the city has to adopt and enforce laws, ordinances and regulations including cable television consumer protection laws and service standards pursuant to the act.~~

Sec. 851-712-09. Public records standard.

Public records generated under this chapter shall be available in accordance with the provisions of IC 5-14-3.

SECTION 2. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 3. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end the provisions of this ordinance are severable.

SECTION 6. This ordinance shall be in effect from and after its passage by the Council and compliance with IC 36-3-4-14.

Councillor Curry requested that Proposal Nos. 503 and 504, 1996 be heard together, but voted on separately. Consent was given.

PROPOSAL NO. 503, 1996. The proposal approves and confirms an agreement for the renewal of a franchise for cable service granted by the City to Time Warner Entertainment-Advance/Newhouse Partnership d.b.a. American Cablevision of Indianapolis. PROPOSAL NO. 504, 1996. The proposal approves and confirms an agreement for the renewal of a franchise for cable service granted by the City to Comcast Cablevision of Indianapolis, L.P.

By a 5-0 vote, the Committee reported Proposal No. 503, 1996 to the Council with the recommendation that it do pass as amended.

Councillor Bradford asked if the franchise fee is going to be increased from 3% to 5% revenue. Councillor Curry answered in the affirmative.

Councillor Bradford stated that he will be voting against Proposal Nos. 503 and 504, 1996 because his feeling is the proposals are another tax increase for the taxpayers.

Councillor Williams asked about government access regarding Channel 16. Councillor Curry replied that there will be no change to Channel 16. Channel 16 will be the major benefactor of the Capital Equipment Fund allowing them to update their equipment.

Councillor O'Dell asked if the proposals affect the scheduled build out promised by both cable franchises. Jerry Murray, Comcast Cablevision, replied that Comcast is trying to stay with timeline on the construction on the rebuild. The year 2000 is the completion date and more than likely reached prior to then. American Cablevision replied with the same answer.

Councillor O'Dell asked if the cable companies plan to carry the maximum of 80 channels at all times. Mr. Murray replied that the franchise agreement does specifically require the cable companies to carry programming on all 80 channels but Comcast will be providing them.

Councillor Curry moved, seconded by Councillor McClamroch, for adoption. Proposal No. 503, 1996, as amended, was adopted on the following roll call vote; viz:

24 YEAS: Borst, Boyd, Cockrum, Coonrod, Coughenour, Curry, Franklin, Gilmer, Golc, Gray, Hinkle, Jones, Massie, McClamroch, Moores, Moriarty Adams, O'Dell, Schneider, SerVaas, Shambaugh, Short, Smith, Tilford, Williams
2 NAYS: Bradford, Brents
2 NOT VOTING: Black, Talley
1 ABSENT: Dowden

Proposal No. 503, 1996, as amended, was retitled SPECIAL ORDINANCE NO. 12, 1996, and reads as follows:

CITY-COUNTY SPECIAL ORDINANCE NO. 12, 1996

A SPECIAL ORDINANCE approving and confirming an agreement for the renewal of a franchise for cable service granted by the Consolidated City of Indianapolis, Indiana, to Time Warner Entertainment-Advance/Newhouse Partnership d.b.a. American Cablevision of Indianapolis.

WHEREAS, the City-County Council of the Consolidated City of Indianapolis and Marion County, Indiana, has adopted Chapter 851 of the Revised Code of the Consolidated City and County, which regulates the grant of franchises for cable service, including the construction, operation, and maintenance of cable systems; and

WHEREAS, on March 16, 1993, Time Warner Entertainment-Advance/Newhouse Partnership d.b.a. American Cablevision of Indianapolis (American) duly filed notice requesting commencement of formal franchise renewal proceedings under Section 626 of the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992 and the Telecommunications Act of 1996, amendments to the Communications Act of 1934 (47 U.S.C. Sec. 521 et seq.) (the Act) for its current franchise for cable service; and

WHEREAS, on July 12, 1993, the City, through its Cable Franchise Board, commenced proceedings under Section 626 of the Act and conducted public hearings and mail surveys and engaged consultants to perform studies to identify future cable-related community needs and interest and to review American's performance under its franchise during the current franchise term; and

WHEREAS, on July 23, 1996, the Council's Rules and Public Policy Committee, pursuant to the Code, conducted jointly with the Cable Franchise Board a public hearing and has given due consideration as to whether the terms and conditions of the agreement, which were informally negotiated by the parties, meet the future cable-related community needs; and

WHEREAS, the City-County Council, pursuant to the Code, must act upon an ordinance approving and confirming an agreement for the renewal of American's franchise for cable service as recommended by the Council's Rules and Public Policy Committee; now, therefore:

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The City-County Council hereby approves and confirms the renewal of a franchise for cable service to Time Warner Entertainment-Advance/Newhouse Partnership d.b.a. American Cablevision of Indianapolis, and approves and confirms the franchise agreement by and between the Consolidated City of Indianapolis, Indiana, through the Indianapolis-Marion County Cable Franchise Board, and Time Warner Entertainment-Advance/Newhouse Partnership d.b.a. American Cablevision of Indianapolis, the original of which agreement will be kept in the City-County Council's permanent files and available for public inspection.

SECTION 2. The City-County Council directs the chair of the Indianapolis-Marion County Cable Franchise Board to execute this franchise agreement on behalf of the Consolidated City of Indianapolis, Indiana.

SECTION 3. This ordinance shall be effective upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 504, 1996. The proposal approves and confirms an agreement for the renewal of a franchise for cable service granted by the City to Comcast Cablevision of Indianapolis, L.P. By a 4-1 vote, the Committee reported the proposal to the Council with the recommendation that it do pass as amended.

Councillor Curry moved, seconded by Councillor McClamroch, for adoption. Proposal No. 504, 1996, as amended, was adopted on the following roll call vote; viz:

24 YEAS: Black, Boyd, Cockrum, Coonrod, Coughenour, Curry, Franklin, Golc, Gray, Hinkle, Jones, Massie, McClamroch, Moores, Moriarty Adams, O'Dell, Schneider, SerVaas, Shambaugh, Short, Smith, Talley, Tilford, Williams
4 NAYS: Borst, Bradford, Brents, Gilmer
1 ABSENT: Dowden

Proposal No. 504, 1996, as amended, was retitled SPECIAL ORDINANCE NO. 13, 1996, and reads as follows:

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CITY-COUNTY SPECIAL ORDINANCE NO. 13, 1996

A SPECIAL ORDINANCE approving and confirming an agreement for the renewal of a franchise for cable service granted by the Consolidated City of Indianapolis, Indiana, to Comcast Cablevision of Indianapolis, L.P.

WHEREAS, the City-County Council of the Consolidated City of Indianapolis and Marion County, Indiana, has adopted Chapter 851 of the Revised Code of the Consolidated City and County, which regulates the grant of franchises for cable service, including the construction, operation, and maintenance of cable systems; and

WHEREAS, on June 29, 1993, Comcast Cablevision of Indianapolis, L.P. (Comcast) duly filed notice requesting commencement of formal franchise renewal proceedings under Section 626 of the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992 and the Telecommunications Act of 1996, amendments to the Communications Act of 1934 (47 U.S.C. Sec. 521 et seq.) (the Act) for its current franchise for cable service; and

WHEREAS, on July 12, 1993, the City, through its Cable Franchise Board, commenced proceedings under Section 626 of the Act and conducted public hearings and mail surveys and engaged consultants to perform studies to identify future cable-related community needs and interest and to review Comcast's performance under its franchise during the current franchise term; and

WHEREAS, on July 23, 1996, the Council's Rules and Public Policy Committee, pursuant to the Code, conducted jointly with the Cable Franchise Board a public hearing and has given due consideration as to whether the terms and conditions of the agreement, which were informally negotiated by the parties, meet the future cable-related community needs; and

WHEREAS, the City-County Council, pursuant to the Code, must act upon an ordinance approving and confirming an agreement for the renewal of Comcast's franchise for cable service as recommended by the Council's Rules and Public Policy Committee; now, therefore:

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The City-County Council hereby approves and confirms the renewal of a franchise for cable service to Comcast Cablevision of Indianapolis, L.P., and approves and confirms the franchise agreement by and between the Consolidated City of Indianapolis, Indiana, through the Indianapolis-Marion County Cable Franchise Board, and Comcast Cablevision of Indianapolis, L.P., the original of which agreement will be kept in the City-County Council's permanent files and available for public inspection.

SECTION 2. The City-County Council directs the chair of the Indianapolis-Marion County Cable Franchise Board to execute this franchise agreement on behalf of the Consolidated City of Indianapolis, Indiana.

SECTION 3. This ordinance shall be effective upon adoption and compliance with IC 36-3-4-14.

Councillor Gilmer reported that the Capital Asset Management Committee heard Proposal Nos. 458, 459, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, and 493, 1996 on July 31, 1996. Councillor Gilmer asked for consent to vote on Proposal Nos. 458, and 459, 1996 together. Consent was given.

PROPOSAL NO. 458, 1996. The proposal, sponsored by Councillor Tilford, authorizes a 25 mph speed limit on Whistler Drive from German Church Road to Mutz Drive (District 12). PROPOSAL NO. 459, 1996. The proposal, sponsored by Councillor Tilford, authorizes a 25 mph speed limit on Tapp Drive from Winding Hart Drive to County Line (District 12). By 6-0 votes, the Committee reported the proposals to the Council with the recommendation that they be

stricken. Councillor Gilmer moved, seconded by Councillor Tilford, that the Committee report to strike be upheld. Proposal Nos. 458, and 459, 1996 were stricken by a unanimous voice vote.

PROPOSAL NO. 482, 1996. The proposal, sponsored by Councillor Golc, authorizes a traffic signal at Holt Road and Oliver Avenue (District 17). By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Gilmer moved, seconded by Councillor Golc, for adoption. Proposal No. 482, 1996 was adopted on the following roll call vote; viz:

22 YEAS: Black, Borst, Boyd, Bradford, Brents, Cockrum, Coonrod, Coughenour, Franklin, Gilmer, Golc, Gray, Jones, Massie, McClamroch, Moores, Moriarty Adams, Schneider, Shambaugh, Short, Talley, Tilford

0 NAYS:

6 NOT VOTING: Curry, Hinkle, O'Dell, SerVaas, Smith, Williams

1 ABSENT: Dowden

Proposal No. 482, 1996 was retitled GENERAL ORDINANCE NO. 126, 1996, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 126, 1996

A GENERAL ORDINANCE amending the "Code of Indianapolis and Marion County, Indiana", Sec. 29-92, Schedule of intersection controls.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The "Code of Indianapolis and Marion County, Indiana", specifically, Chapter 29, Sec. 29-92, Schedule of intersection controls, be, and the same is hereby, amended by the deletion of the following, to wit:

<u>BASE MAP</u>	<u>INTERSECTION</u>	<u>PREFERENTIAL</u>	<u>TYPE OF CONTROL</u>
30	Holt Rd, Oliver Av	Holt Rd	Stop

SECTION 2. The "Code of Indianapolis and Marion County, Indiana", specifically, Chapter 29, Sec. 29-92, Schedule of intersection controls, be, and the same is hereby, amended by the addition of the following, to wit:

<u>BASE MAP</u>	<u>INTERSECTION</u>	<u>PREFERENTIAL</u>	<u>TYPE OF CONTROL</u>
30	Holt Rd, Oliver Av	None	Signal

SECTION 3. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Councillor Gilmer asked for consent to vote on Proposal Nos. 483, 484, 485, 486, 487, 488, 489, 490, and 491, 1996 together. Consent was given.

PROPOSAL NO. 483, 1996. The proposal, sponsored by Councillor Dowden, authorizes intersection controls for Allison Commons, Section 1 (District 4). PROPOSAL NO. 484, 1996. The proposal, sponsored by Councillor Dowden, authorizes a multi-way stop at Sherman Drive and Lorrain Road (District 4). PROPOSAL NO. 485, 1996, sponsored by Councillor Bradford, authorizes a multi-way stop at 58th Street and Carvel Avenue (District 7). PROPOSAL NO. 486, 1996. The proposal, sponsored by Councillor Talley, authorizes a multi-way stop at Baker

Drive and Conried Drive (District 14). PROPOSAL NO. 487, 1996. The proposal, sponsored by Councillor Black, authorizes a multi-way stop at 46th Street and Sunset Avenue (District 6). PROPOSAL NO. 488, 1996. The proposal, sponsored by Councillor Tilford, authorizes a multi-way stop at 13th Street and Mitchner Avenue (District 12). PROPOSAL NO. 489, 1996. The proposal, sponsored by Councillor Coughenour, authorizes a multi-way stop at Harlan Street and Werges Avenue (District 24). PROPOSAL NO. 490, 1996. The proposal, sponsored by Councillor Schneider, authorizes a multi-way stop at Holliday Drive and Pine Drive (District 3). PROPOSAL NO. 491, 1996. The proposal, sponsored by Councillor Smith, authorizes a multi-way stop at Post Road, Imperial Drive, and Northeastern Avenue (District 23).

By 7-0 votes, the Committee reported the proposals to the Council with the recommendation that they do pass. Councillor Gilmer moved, seconded by Councillor Bradford, for adoption. Proposal Nos. 483, 484, 485, 486, 487, 488, 489, 490, and 491, 1996 were adopted on the following roll call vote; viz:

24 YEAS: Black, Borst, Boyd, Bradford, Brents, Cockrum, Coughenour, Curry, Franklin, Gilmer, Golc, Gray, Hinkle, Massie, McClamroch, Moriarty Adams, O'Dell, Schneider, SerVaas, Shambaugh, Short, Smith, Talley, Tilford
0 NAYS:
4 NOT VOTING: Coonrod, Jones, Moores, Williams
1 ABSENT: Dowden

Proposal No. 483, 1996 was retitled GENERAL ORDINANCE NO. 127, 1996, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 127, 1996

A GENERAL ORDINANCE amending the "Code of Indianapolis and Marion County, Indiana", Sec. 29-92, Schedule of intersection controls.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The "Code of Indianapolis and Marion County, Indiana", specifically, Chapter 29, Sec. 29-92, Schedule of intersection controls, be, and the same is hereby, amended by the deletion of the following, to wit:

<u>BASE MAP</u>	<u>INTERSECTION</u>	<u>PREFERENTIAL</u>	<u>TYPE OF CONTROL</u>
12	Periwinkle Way, Spindrift Ln	Periwinkle Way	Stop
12	Spindrift Ln, 56th St	56th St	Stop

SECTION 2. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 484, 1996 was retitled GENERAL ORDINANCE NO. 128, 1996, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 128, 1996

A GENERAL ORDINANCE amending the "Code of Indianapolis and Marion County, Indiana", Sec. 29-92, Schedule of intersection controls.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The "Code of Indianapolis and Marion County, Indiana", specifically, Chapter 29, Sec. 29-92, Schedule of intersection controls, be, and the same is hereby, amended by the deletion of the following, to wit:

<u>BASE MAP</u>	<u>INTERSECTION</u>	<u>PREFERENTIAL</u>	<u>TYPE OF CONTROL</u>
12	Lorrain Rd, Sherman Dr	Sherman Dr	Stop

SECTION 2. The "Code of Indianapolis and Marion County, Indiana", specifically, Chapter 29, Sec. 29-92, Schedule of intersection controls, be, and the same is hereby, amended by the addition of the following, to wit:

<u>BASE MAP</u>	<u>INTERSECTION</u>	<u>PREFERENTIAL</u>	<u>TYPE OF CONTROL</u>
12	Lorrain Rd, Sherman Dr	None	All Way Stop

SECTION 3. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 485, 1996 was retitled GENERAL ORDINANCE NO. 129, 1996, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 129, 1996

A GENERAL ORDINANCE amending the "Code of Indianapolis and Marion County, Indiana", Sec. 29-92, Schedule of intersection controls.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The "Code of Indianapolis and Marion County, Indiana", specifically, Chapter 29, Sec. 29-92, Schedule of intersection controls, be, and the same is hereby, amended by the deletion of the following, to wit:

<u>BASE MAP</u>	<u>INTERSECTION</u>	<u>PREFERENTIAL</u>	<u>TYPE OF CONTROL</u>
11	58th St, Carvel Av	Carvel Av	Stop

SECTION 2. The "Code of Indianapolis and Marion County, Indiana", specifically, Chapter 29, Sec. 29-92, Schedule of intersection controls, be, and the same is hereby, amended by the addition of the following, to wit:

<u>BASE MAP</u>	<u>INTERSECTION</u>	<u>PREFERENTIAL</u>	<u>TYPE OF CONTROL</u>
11	58th St, Carvel Av	None	All Way Stop

SECTION 3. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 486, 1996 was retitled GENERAL ORDINANCE NO. 130, 1996, and reads as follows:

August 5, 1996

CITY-COUNTY GENERAL ORDINANCE NO. 130, 1996

A GENERAL ORDINANCE amending the "Code of Indianapolis and Marion County, Indiana", Sec. 29-92, Schedule of intersection controls.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The "Code of Indianapolis and Marion County, Indiana", specifically, Chapter 29, Sec. 29-92, Schedule of intersection controls, be, and the same is hereby, amended by the deletion of the following, to wit:

<u>BASE MAP</u>	<u>INTERSECTION</u>	<u>PREFERENTIAL</u>	<u>TYPE OF CONTROL</u>
21	Baker Dr, Conried Dr	Conried Dr	Stop

SECTION 2. The "Code of Indianapolis and Marion County, Indiana", specifically, Chapter 29, Sec. 29-92, Schedule of intersection controls, be, and the same is hereby, amended by the addition of the following, to wit:

<u>BASE MAP</u>	<u>INTERSECTION</u>	<u>PREFERENTIAL</u>	<u>TYPE OF CONTROL</u>
21	Baker Dr, Conried Dr	None	All Way Stop

SECTION 3. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 487, 1996 was retitled GENERAL ORDINANCE NO. 131, 1996, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 131, 1996

A GENERAL ORDINANCE amending the "Code of Indianapolis and Marion County, Indiana", Sec. 29-92, Schedule of intersection controls.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The "Code of Indianapolis and Marion County, Indiana", specifically, Chapter 29, Sec. 29-92, Schedule of intersection controls, be, and the same is hereby, amended by the deletion of the following, to wit:

<u>BASE MAP</u>	<u>INTERSECTION</u>	<u>PREFERENTIAL</u>	<u>TYPE OF CONTROL</u>
17	46th St, Sunset Av	Sunset Av	Stop

SECTION 2. The "Code of Indianapolis and Marion County, Indiana", specifically, Chapter 29, Sec. 29-92, Schedule of intersection controls, be, and the same is hereby, amended by the addition of the following, to wit:

<u>BASE MAP</u>	<u>INTERSECTION</u>	<u>PREFERENTIAL</u>	<u>TYPE OF CONTROL</u>
17	46th St, Sunset Av	None	All Way Stop

SECTION 3. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 488, 1996 was retitled GENERAL ORDINANCE NO. 132, 1996, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 132, 1996

A GENERAL ORDINANCE amending the "Code of Indianapolis and Marion County, Indiana", Sec. 29-92, Schedule of intersection controls.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The "Code of Indianapolis and Marion County, Indiana", specifically, Chapter 29, Sec. 29-92, Schedule of intersection controls, be, and the same is hereby, amended by the deletion of the following, to wit:

<u>BASE MAP</u>	<u>INTERSECTION</u>	<u>PREFERENTIAL</u>	<u>TYPE OF CONTROL</u>
27	13th St, Mitchner Av	Mitchner Av	Stop

SECTION 2. The "Code of Indianapolis and Marion County, Indiana", specifically, Chapter 29, Sec. 29-92, Schedule of intersection controls, be, and the same is hereby, amended by the addition of the following, to wit:

<u>BASE MAP</u>	<u>INTERSECTION</u>	<u>PREFERENTIAL</u>	<u>TYPE OF CONTROL</u>
27	13th St, Mitchner Av	None	All Way Stop

SECTION 3. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 489, 1996 was retitled GENERAL ORDINANCE NO. 133, 1996, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 133, 1996

A GENERAL ORDINANCE amending the "Code of Indianapolis and Marion County, Indiana", Sec. 29-92, Schedule of intersection controls.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The "Code of Indianapolis and Marion County, Indiana", specifically, Chapter 29, Sec. 29-92, Schedule of intersection controls, be, and the same is hereby, amended by the deletion of the following, to wit:

<u>BASE MAP</u>	<u>INTERSECTION</u>	<u>PREFERENTIAL</u>	<u>TYPE OF CONTROL</u>
32	Harlan St, Werges Av	Harlan St	Stop

SECTION 2. The "Code of Indianapolis and Marion County, Indiana", specifically, Chapter 29, Sec. 29-92, Schedule of intersection controls, be, and the same is hereby, amended by the addition of the following, to wit:

<u>BASE MAP</u>	<u>INTERSECTION</u>	<u>PREFERENTIAL</u>	<u>TYPE OF CONTROL</u>
32	Harlan St, Werges Av	Werges Av	Stop

August 5, 1996

SECTION 3. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 490, 1996 was retitled GENERAL ORDINANCE NO. 134, 1996, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 134, 1996

A GENERAL ORDINANCE amending the "Code of Indianapolis and Marion County, Indiana", Sec. 29-92, Schedule of intersection controls.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The "Code of Indianapolis and Marion County, Indiana", specifically, Chapter 29, Sec. 29-92, Schedule of intersection controls, be, and the same is hereby, amended by the deletion of the following, to wit:

<u>BASE MAP</u>	<u>INTERSECTION</u>	<u>PREFERENTIAL</u>	<u>TYPE OF CONTROL</u>
4	Holliday Dr, Pine Dr	Pine Dr	Stop

SECTION 2. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 491, 1996 was retitled GENERAL ORDINANCE NO. 135, 1996, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 135, 1996

A GENERAL ORDINANCE amending the "Code of Indianapolis and Marion County, Indiana", Sec. 29-92, Schedule of intersection controls.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The "Code of Indianapolis and Marion County, Indiana", specifically, Chapter 29, Sec. 29-92, Schedule of intersection controls, be, and the same is hereby, amended by the deletion of the following, to wit:

<u>BASE MAP</u>	<u>INTERSECTION</u>	<u>PREFERENTIAL</u>	<u>TYPE OF CONTROL</u>
4I	Post Rd, Imperial Dr, Northeastern Av	None	All Way Stop

SECTION 2. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 492, 1996. The proposal, sponsored by Councillor Williams, removes parking restrictions on Central Avenue (District 22). By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Gilmer moved, seconded by Councillor Moriarty Adams, for adoption. Proposal No. 492, 1996 was adopted on the following roll call vote; viz:

23 YEAS: Black, Borst, Bradford, Cockrum, Coonrod, Coughenour, Curry, Franklin, Golc, Gray, Hinkle, Massie, McClamroch, Moores, Moriarty Adams, O'Dell, Schneider, SerVaas, Shambaugh, Short, Smith, Talley, Tilford

0 NAYS:

5 NOT VOTING: Boyd, Brents, Gilmer, Jones, Williams

1 ABSENT: Dowden

Proposal No. 492, 1996 was retitled GENERAL ORDINANCE NO. 136, 1996, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 136, 1996

A GENERAL ORDINANCE amending the "Code of Indianapolis and Marion County, Indiana", Sec. 29-271, Stopping, standing and parking prohibited at designated locations on certain days and hours.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The "Code of Indianapolis and Marion County, Indiana", specifically, Chapter 29, Sec. 29-271, Stopping, standing and parking prohibited at designated locations on certain days and hours, be, and the same is hereby, amended by the deletion of the following, to wit:

ON ANY DAY EXCEPT SUNDAY
from 7:00 a.m. to 9:00 a.m.

Central Avenue, on the west side,
from Thirty-fourth Street to Eleventh Street

ON ANY DAY EXCEPT
SATURDAYS AND SUNDAYS
from 6:00 a.m. to 9:00 a.m.

Central Avenue, on the east side,
from Eleventh Street to Fall Creek Boulevard

Central Avenue, on the east side,
from Fall Creek Parkway to Thirty-fourth Street

Central Avenue, on the west die,
from Twenty-eight Street to Fall Creek Parkway

Central Avenue, on the west side,
from Twenty-eighth Street to Thirty-fourth Street

from 4:00 p.m. to 6:00 p.m.

Central Avenue, on the east side,
from Thirty-fourth Street to South Central Court

ON ANY DAY EXCEPT SATURDAYS,
SUNDAYS AND HOLIDAYS
from 7:00 a.m. to 9:00 a.m.

Central Avenue, on the east side,
from Twenty-eight Street to Thirty-eight Street

SECTION 2. The "Code of Indianapolis and Marion County, Indiana", specifically, Chapter 29, Sec. 29-271, Stopping, standing and parking prohibited at designated locations on certain days and hours, be, and the same is hereby, amended by the addition of the following, to wit:

August 5, 1996

ON ANY DAY EXCEPT
SATURDAYS AND SUNDAYS
from 6:00 a.m. to 9:00 a.m.

Central Avenue, on the west side,
from Thirty-fourth Street to Eleventh Street

SECTION 3. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 493, 1996. The proposal, sponsored by Councillor Moriarty Adams, authorizes parking restrictions on Dearborn Street, on the west side, from the south curblineline of 10th Street to a point 200 feet south of 10th Street (District 15). By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Gilmer moved, seconded by Councillor Moriarty Adams, for adoption. Proposal No. 493, 1996 was adopted on the following roll call vote; viz:

24 YEAS: Black, Borst, Boyd, Bradford, Brents, Cockrum, Coonrod, Curry, Gilmer, Golc, Gray, Hinkle, Massie, McClamroch, Moores, Moriarty Adams, O'Dell, Schneider, SerVaas, Shambaugh, Short, Smith, Talley, Tilford

0 NAYS:

4 NOT VOTING: Coughenour, Franklin, Jones, Williams

1 ABSENT: Dowden

Proposal No. 493, 1996 was retitled GENERAL ORDINANCE NO. 137, 1996, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 137, 1996

A GENERAL ORDINANCE amending the "Code of Indianapolis and Marion County, Indiana", Sec. 29-267, Parking prohibited at all times on certain streets.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The "Code of Indianapolis and Marion County, Indiana", specifically, Chapter 29, Sec. 29-267, Parking prohibited at all times on certain streets, be, and the same is hereby, amended by the addition of the following, to wit:

Dearborn Street, on the west side,
from the south curblineline of Tenth Street,
to a point 200 feet south of Tenth Street

SECTION 2. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

NEW BUSINESS

Councillor Hinkle recognized and thanked Councillor O'Dell for the successful way he planned and handled the Scarborough Peace Games. Councillor Gray thanked the Councillors who attended the Firefighters Memorial Service.

ANNOUNCEMENTS AND ADJOURNMENT

The President said that the docketed agenda for this meeting of the Council having been completed, the Chair would entertain motions for adjournment.

Councillor Boyd stated that he had been asked to offer the following motion for adjournment by:

- (1) Councillor Gilmer in memory of Robert J. Stevens; and
- (2) Councillor Boyd in memory of Catherine McDaniels.

Councillor Boyd moved the adjournment of this meeting of the Indianapolis City-County Council in recognition of and respect for the life and contributions of Robert J. Stevens and Catherine McDaniels. He respectfully asked the support of fellow Councillors. He further requested that the motion be made a part of the permanent records of this body and that a letter bearing the Council seal and the signature of the President be sent to the families advising of this action.

There being no further business, and upon motion duly made and seconded, the meeting adjourned at 9:49 p.m.

We hereby certify that the above and foregoing is a full, true and complete record of the proceedings of the regular concurrent meetings of the City-County Council of Indianapolis-Marion County, Indiana, and Indianapolis Police, Fire and Solid Waste Collection Special Service District Councils on the 5th day of August, 1996.

In Witness Whereof, we have hereunto subscribed our signatures and caused the Seal of the City of Indianapolis to be affixed.



President

ATTEST:



Clerk of the Council

(SEAL)