

to planning, the right equipment, involvement with the community, communication, and City Council support. The city consists of 250 lane miles of street, which equals 500 plowable miles (some streets requiring 5-6 passes). Mr. Martin provided information regarding the average snow removal times and winter tips to the community. Equipment upgrades have provided additional safety and ease of movement for snow removal. One method of including the community is the "Name the Storm Contest" held at Canfield Middle School. This year's theme is rocks and minerals, provided by Bailey Yace. Mr. Martin thanked the community for allowing them to serve and thanked the dedicated crew he works with. Councilman Edinger stated that the Street Department has done a good job with leaf pickup and is confident in the crews' ability to handle snow.

## **PUBLIC COMMENTS:**

EDUCATION PARTNERSHIP: Amy Evans, 717 "B" Street, introduced the Coeur d'Alene Education Partnership group. The group includes Lisa Overby and Chris Meyer. The Partnership is a nonprofit group funded by community parents and community members. The goal of the nonprofit is to promote and ensure excellence in School District 271. Ms. Evans stated that a strong local economy and excellent schools go hand-in-hand. The group has begun Volunteers in Play (V.I.P.), in conjunction with the Coeur group and the Young Professionals group, which gathers volunteers to play with children at noon recess at Borah Elementary. They would like to be looked at as a nonpartisan source to provide information regarding the School District. Councilman Goodlander stated it was nice to see group of young professionals getting involved in the community.

NEW EMPLOYEES: Troy Tymesen, 7688 N. Valley Street, introduced two new Finance Department employees Robyn Cole and Storri Farris.

**CONSENT CALENDAR:** Motion by Kennedy, seconded by Gookin to approve the consent calendar as presented.

Motion by Gookin, seconded by Adams, to amend the motion to approve Resolution No. 12-045 to exclude item 6(f), regarding the Engineering Services Contract with J.U.B. Engineers for Seltice Way.

**DISCUSSION:** Councilman Gookin stated that his objection is not over the project merits, rather that the request is above the allocated amount in the budget, and he would like to see more commitment from the Post Falls Highway District. Councilman Adams stated that he believes that if the item exceeds the budget, that state law would require a budget amendment. Finance Director, Mr. Tymesen, stated that this item would not exceed the line item, so the budget would not be amended at this time. However, the City Engineer anticipates the line item will be exceeded over the fiscal year. Mr. Tymesen clarified that no funds have been spent out of the \$11,000 line item at this point in the fiscal year. The project is brought forward at this time as Kootenai Metropolitan Planning Organization (KMPO) stated that there is a high probability that federal funding will occur, and engineering/design must be done in order to be eligible to receive funding.

Councilman Goodlander stated that appeared that the construction will be fairly simple to complete; however, design must be completed and that being prepared (shovel ready) provides an opportunity to receive Federal funds. Councilman Goodlander stated that Post Falls Highway District is not within the jurisdiction of this project scope.

Amended Motion carried, with the Mayor voting in the affirmative.

Deputy City Administrator Jon Ingalls clarified that Mr. Dobler has been in contact with the Post Falls Highway District, and clarified that the project area is within the city limits of Coeur d'Alene. The project will involve coordination with the area jurisdictions. Councilman Kennedy asked for clarification regarding what would happen if the contract goes forward and Federal funding is not received. Mr. Ingalls assured the Council that design efforts need to be done, as it is a very complex area to design. Councilman Kennedy stated that the budget line item has \$11,000, and the contract is for \$10,000, so this would not be over budget in that line item. Mr. Tymesen clarified that this project, and the potential federal funding, was unknown at the time the budget was established, and that Mr. Dobler believes this line item will go over by the end of the fiscal year due to other planned projects. Councilman Gookin asked if money from another line item could be moved to cover this expense. Mr. Tymesen says that there are not enough line items within the department budget to cover this cost.

Motion by Goodlander, Seconded by Kennedy to approve item 6(f), Resolution No. 12-045, Engineering Services Contract with J.U.B. Engineers for Seltice Way. Motion carried, with Gookin and Adams voting no.

1. Approval of minutes for November 6, 2012.
2. Setting of General Services and Public Works Committees meetings for November 26, 2012 at 12:00 noon and 4:00 p.m. respectively.
3. Approval of Bills as Submitted
4. Support of Waste Management request to Eliminate Two-Block Section Alley Garbage Service
5. Relinquishment of the Fill Slope Easement on Ramsey Road in the Fairway Meadows Subdivision
6. **CONSENT RESOLUTION NO. 12-045 A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO AUTHORIZING THE BELOW MENTIONED CONTRACTS AND OTHER ACTIONS OF THE CITY OF COEUR D'ALENE INCLUDING AUTHORIZING THE POLICE DEPARTMENT TO DECLARE CERTAIN VEHICLES AS SURPLUS AND ALLOWING THEM TO BE SOLD AT AUCTION; APPROVING A DOCK LEASE RENEWAL WITH BROOKS SEAPLANE; APPROVING A DOCK LEASE RENEWAL WITH CD'A PARASAIL AND WATERSPORTS; APPROVING A DOCK LEASE RENEWAL WITH LAKE CD'A CRUISES; APPROVING LEASE AGREEMENTS WITH PANHANDLE KIWANIS FOR THE TASTE OF COEUR D'ALENE EVENT & PANHANDLE PARKS FOUNDATION FOR A NEW FESTIVAL OVER LABOR DAY WEEKEND; APPROVING ENGINEERING SERVICES CONTRACT WITH J.U.B. ENGINEERS FOR SELTICE WAY; APPROVING AMENDMENT NO. 2 – AUTHORIZATION FOR ADDITIONAL SERVICES WITH J.U.B. ENGINEERS FOR THE 2012 WASTEWATER COLLECTION**

SYSTEM PROJECTS; AUTHORIZING THE DESTRUCTION OF RECORDS FOR THE FINANCE DEPARTMENT; AND APPROVING AN AGREEMENT FOR PRE-PURCHASE OF GE TERTIARY FILTRATION EQUIPMENT FOR WWTP PHASE 5C.1.

ROLL CALL: McEvers Aye; Goodlander Aye; Gookin Aye; Kennedy Aye; Edinger Aye; Adams Aye;. Motion carried.

**COUNCIL ANNOUNCEMENTS:**

COUNCILMAN KENNEDY: Councilman Kennedy wished the Mayor a Happy Birthday.

COUNCILMAN GOODLANDER: Councilman Goodlander reminded the community of the upcoming Festival of Trees event. Additionally, the Holiday Lighting Parade, scheduled for Friday night is starting earlier this year at 4:45 p.m. rather than 5:00 p.m., due to a surprise that will make the parade last a little longer. The decorated trees of the Festival of Trees event can be viewed after the parade.

COUNCILMAN ADAMS: Councilman Adams wished the community a Happy Thanksgiving.

**ADMINISTRATOR'S REPORT:** The City of Coeur d'Alene's annual Leaf Fest started on November 13<sup>th</sup> and is expected to be completed by December 1<sup>st</sup>. If crews have already been in your area, please do not put leaves in the street. Leaves should be raked about a foot away from the gutter or curb line to allow for water drainage. Please do not put out bagged leaves, branches, rubble, or refuse. Please contact 769-2233, press 1, for an update. Work on the 2012 McEuen Park project will cease for the winter between November 30<sup>th</sup> and December 6<sup>th</sup>. The upgraded parking lots will accommodate 186 vehicles and 26 boat trailer spots. Next spring, 43 trees and 235 bushes will be planted within those areas. Construction will resume next spring and focus on redevelopment of the park. The 90% completion presentation will take place at Parkside Towers on Friday, December 27, 2012 at 7:30 a.m. The Water Department is developing a new well and is seeking proposals for engineering services. The Request for Proposals will be accepted until 5:00 p.m. on December 3<sup>rd</sup>. Interested parties can contact Jim Markley at the Water Department at 769-2210 for more information. The Coeur d'Alene Arts Commission is seeking artists for the 4<sup>th</sup> & Kathleen Roundabout. Information packets are available at City Hall, or online at [www.cdaid.org](http://www.cdaid.org). Artist proposals are due by 5:00 p.m., December 14<sup>th</sup>. Artists with questions are encouraged to contact Steve Anthony, Arts Commission Liaison, at 769-2249. Person Field will be discussed in Executive Session this evening; however, a meeting with the School District was held recently, and all parties are in agreement that the City should acquire the property. Coeur d'Alene City Hall and other facilities will be closed for the Thanksgiving Holiday this Thursday and Friday, November 22<sup>nd</sup> and 23<sup>rd</sup> and will be open on Monday, November 26<sup>th</sup>, at 8:00 a.m. Due to the Thanksgiving Holiday, City of Coeur d'Alene garbage pickup will be delayed by one day. For more information, please call 769-2223. A meeting was held today with ITD regarding their offer to transfer CDA Lake Drive ownership to the City. Staff will schedule another meeting with the public to discuss the concerns/questions raised at the last public meeting. Councilman Gookin clarified that the city website is [WWW.CDAID.ORG](http://WWW.CDAID.ORG). The website also provides information regarding the Dike/Levee issues, questions/answers, etc.

## RESOLUTION 12-046

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO AUTHORIZING AN AMENDMENT TO THE AGREEMENT FOR FINANCING OF IMPROVEMENTS, MCEUEN PARK, WITH THE LAKE CITY DEVELOPMENT CORPORATION (LCDC).

Councilman Kennedy stated that this is an effort to be more efficient. This amendment would save time and be more efficient, without the city losing oversight of the project. Additionally, the General Services Committee approved this item unanimously.

Motion by Kennedy seconded by McEvers to adopt Resolution 12-046.

Motion by Adams, seconded by Gookin, to table the item to a date certain time to seek a professional opinion on the matter. Motion failed.

DISCUSSION: Councilman Adams stated that this item seems simple and straight forward; however, he is concerned about the payment of the transaction, and that it would not be recorded in the finances of the City, as funds would be paid directly from LCDC to the Contractor. Councilman Adams felt that in light of the recent embezzlement case, now is not the time to weaken controls. City Administrator, Wendy Gabriel, clarified the invoices would be approved by Welch Comer, the City Engineer, and/or the Parks Director, and LCDC, which would mean three to four approvals prior to payment. Councilman Adams stated that he believes there is a conflict of interest with Phil Boyd, as he is also a member of Team McEuen. Ms. Gabriel clarified that this amendment is to the financing agreement with LCDC, not the agreement with Miller Stauffer and further clarified that the engineer's sign off is important to verify amounts/work has been completed prior to payment. Councilman Edinger stated that he does not believe that this takes control out of the hands of the current City Council nor future City Councils and asked for clarification as to who requested this amendment. Mr. Tymesen clarified that LCDC is a component unit of the city; and as such, their financials appear within the City's audit. Therefore, he believes that there would not be a need for the city to write a check, and then be reimbursed by LCDC. Additionally, it would inflate the city's budget. The one check method works and is accurate to record, rather than moving through two sets of accounting records, which would cause a need for a budget amendment. Mr. Tymesen clarified that the payments would be accounted for within the audit document. Councilman Edinger asked Councilman Adams to explain the need for an outside review. Mr. Adams clarified that it would provide an outside opinion regarding concerns of transparency and accounting for this payment method.

Councilman Gookin believes that the City Council has oversight, and believes that is the City Council's job. Mr. Tymesen stated that he brought this item forward after looking at the method of moving money in the original agreement and the affect it would have on our budget records. Councilman Gookin asked for clarification as to why inflating the budget is a bad thing. Mr. Tymesen stated that it is important to have a consistent way to look at budgets year over year and how they are analyzed. Councilman Gookin believes it is important to know what the city is spending, even if it is just a pass through, with a paper trail and accountability. Councilman Kennedy stated that sometimes amending the budget is pointed to as a bad thing, however, he

believes that overspending the budget is often caused by the city taking advantage of opportunities, such as the Seltice Way project, and potential federal funds to pay for projects. Councilman Goodlander stated that she thinks the amendment is making the process simple, and that the LCDC records are also open to the public. The city will still approve these payments prior to them being paid. Mr. Tymesen stated that, per the direction of City Council, staff is tracking all costs associated with the McEuen project and will be supplying an itemized list to the City Council.

ROLL CALL: Goodlander Aye; Gookin No; Kennedy Aye; Edinger Aye; Adams No; McEvers Aye. Motion carried.

### **RESOLUTION 12-049**

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO ADOPTING A RESOLUTION TO FILE A PETITION FOR JUDICIAL CONFIRMATION PURSUANT TO TITLE 7, CHAPTER 13 OF IDAHO CODE TO CONFIRM THE POWER OF THE CITY TO ISSUE REVENUE BONDS UNDER THE PROVISION OF SECTION 50-237, IDAHO CODE AND SECTION 50-1027 THROUGH 50-1042, IDAHO CODE, INCLUSIVE, PURSUANT TO AN ORDINANCE TO BE ADOPTED BY THE MEMBERS OF THE CITY COUNCIL. THE PROCEEDS FROM THE SALE OF THE BONDS WILL BE USED BY THE CITY TO FINANCE THE COSTS OF CERTAIN IMPROVEMENTS TO THE WASTEWATER TREATMENT FACILITY SYSTEM SERVING THE CITY RESIDENTS, WHICH SYSTEM IS OWNED AND OPERATED BY THE CITY.

Wastewater Treatment Plant Superintendent Sid Fredrickson provided the staff report for this item. Mr. Fredrickson is recommending that the Council approve the request to set the public hearing and move forward with Judicial Confirmation, as soon as possible, as there is potential for a draft permit out for public comment by Christmas. Councilman Kennedy requested an explanation as to why it is better to go before a Judge versus going to a public vote and what would happen if the voters denied the funding while EPA is still requiring a permit. Danielle Quade, representative of the bond counsel, explained that if a vote failed, the city would not be able to meet the permit timeline required, as construction needs to start this spring. Mr. Fredrickson gave some history and examples of other cities regarding downstream water quality standards. Mr. Fredrickson also provided the compliance schedule within one year, five years, eight years, and ten years to reach full compliance. He noted that these compliance milestones are mandated. If the city failed to comply, a federal order could be issued demanding compliance within less than five years, with the potential for \$37,000 in fines per day, and the city would no longer qualify for federal funds/loans, etc. Councilman Adams asked for clarification as to the type of bonds - revenue versus general obligation bonds. Ms. Quade stated that the revenue bonds are being sought, and can be paid back from user fees. Councilman Gookin stated that this is still the beginning steps and that the hearing will provide an opportunity for the public to express their opinions. Councilman Edinger stated that he believes the city should go along with the recommendation of EPA.

Motion by Goodlander seconded by Gookin to adopt Resolution 12-049.

DISCUSSION: Councilman Kennedy stated that Sid, Danielle, and Troy have done amazing work bringing this together and it will bring long-term success toward compliance. Councilman

Goodlander stated that this is far from complete, as more studies etc. are still needed. Councilman Goodlander stated that the city is fortunate to have Mr. Fredrickson keeping us on track, and believes that he has allowed us to be ahead of many other cities.

ROLL CALL: Gookin Aye; Kennedy Aye; Edinger Aye; Adams Aye; McEvers Aye; Goodlander Aye. Motion carried.

### **RESOLUTION 12-048**

**A RESOLUTION AUTHORIZING PROCEEDING WITH ISSUANCE AND SALE OF A SEWER REVENUE REFUNDING BOND, SERIES 2012, OF CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AND AUTHORIZING RELATED ACTIONS AND MATTERS.**

Mr. Tymesen introduced Bond Counsel Danielle Quade and Eric Herringer, of Seattle Northwest Securities, and gave an overview of the request to refund a portion of sewer revenue bonds. Mr. Herringer provided a presentation to the City Council demonstrating interest rates based on a 10-year bond for highly rated borrowers. Additionally, he explained that nine communities throughout the state are working together to refinance existing DEQ loans. The City's current interest rate is 3.75% rate, which was a subsidized rate by DEQ. Currently market rates are lower, so if refinancing were to occur, DEQ loans will be repaid (meaning money goes back into DEQ funds to go out to other communities), and the city saves interest rate costs. One requirement of the bond bank is a debt service reserve fund, restricting \$1.1 million in cash to a designated fund. Mr. Herringer explained that the True Interest Cost is estimated at 2.15%, saving the city approximately \$1.5 million, shortening its loan term by one fiscal year, with a savings level of 11.52%. Idaho investors have an opportunity to purchase with the individual investors opening on November 28, 2012, and then it is open to all other investors on November 29th. The bond bank cannot finalize the sale until the city commits to taking the loan, hence the November 29, 2012 City Council meeting. If the loan is approved the bond bank, closing would be scheduled for December 20th, with the first payment due on March 15, 2013.

Mr. Herringer explained that the lending criteria includes the following: payments due 15 days in advance, audited financial statements completed and filed within 6 months of the end of the fiscal year, allowance that the bank intercept state shared revenue in the event of default, the city to maintain net system revenues equal to or greater than 125% of the debt service on the load, and that the city maintain a debt service reserve fund. Councilman Adams asked if these are ongoing requirements. Mr. Herringer clarified that these are the same lending requirements that currently exist for the City, and clarified that the city is rated as an AA2, which is a very good bond rating. Councilman Gookin asked what the city is planning to do with the savings. Mr. Tymesen stated that the rate analysis study that is currently being conducted will consider the savings, and that it is hoped that it will allow rates to increase less. Mr. Tymesen felt that this item would not require a budget amendment since it would not exceed expenses and that it was previously allocated.

Ms. Quade clarified that the resolution would allow the process to move forward with the bond bank. On November 29, 2012, there will be a new wastewater ordinance presented that will allow multiple bond issues and better methods of working with DEQ loan agreements in the future. Ms.

Quade also noted that another covenant required by the bond bank requires the city to demonstrate an ability, and revenue stream, to issue additional bonds.

Motion by Kennedy; seconded by Adams, to adopt Resolution 12-048.

DISCUSSION: Councilman McEvers stated that he appreciates Mr. Tymesen bringing this forward, as it is such a good thing during bad economic times.

ROLL CALL: Kennedy Aye; Edinger Aye; Adams Aye; McEvers Aye; Goodlander Aye; Gookin Aye. Motion carried.

**EXECUTIVE SESSION:** Motion by Goodlander seconded by Adams to enter into Executive Session as provided by I.C. 67-2345 §C: To conduct deliberations concerning labor negotiations or to acquire an interest in real property, which is not owned by a public agency and I.C. 67-2345 §F, To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal option for pending litigation or controversies not yet being litigated but imminently likely to be litigated.

ROLL CALL: Kennedy, Aye; Edinger, Aye; Adams, Aye; McEvers, Aye; Gookin, Aye; Goodlander, Aye. Motion carried.

The Council entered into Executive Session at 8:11 p.m. Members present were the Mayor, City Administrator, City Council, and Deputy City Administrator.

Matters discussed were those of general land acquisition, separation incentive agreements, and the Dixon mediation. No action was taken and the Council returned to its regular session at 10:30 p.m.

#### **RESOLUTION 12-047**

**A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO AUTHORIZING THE 2012 EMPLOYEE SEPARATION INCENTIVE - LETTER OF AGREEMENT(s) (LOA).**

Motion by Adams seconded by Gookin to adopt Resolution 12-047.

ROLL CALL: McEvers Aye; Goodlander Aye; Gookin Aye; Kennedy Aye; Edinger Aye; Adams Aye. Motion carried.

**ADJOURNMENT:** Motion by Goodlander, seconded by Gookin to recess to November 29th at 4:00 p.m. at the Library Community Room. Motion carried.

The meeting recessed at 10:32 p.m.

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Sandi Bloem, Mayor

ATTEST:

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Renata McLeod,  
City Clerk Apprentice

CEMETERY LOT TRANSFER/SALE/REPURCHASE PROCEDURE AND ROUTING SLIP

Request received by: Municipal Services Kathy Lewis 11/2/12  
Department Name / Employee Name / Date

Request made by: Susie Rathke 360-280-4941  
Name / Phone

PO Box 210 Rainier WA 98576  
Address

The request is for:  Repurchase of Lot(s)  
 Transfer of Lot(s) from \_\_\_\_\_ to \_\_\_\_\_

Niche(s): E

Lot(s): \_\_\_\_\_ Block: 14 Section: Forest

Lot(s) are located in  Forest Cemetery / / Forest Cemetery Annex (Riverview).

Copy of / / Deed or / / Certificate of Sale must be attached.

Person making request is / / Owner  Executor\* / / Other\* \_\_\_\_\_

\*If "executor" or "other", affidaviats of authorization must be attached.

Title transfer fee (\$ N/A) attached\*\*.

\*\*Request will not be processed without receipt of fee. Cashier Receipt No.: \_\_\_\_\_

**ACCOUNTING DEPARTMENT** Shall complete the following:

Attach copy of original contract.

Vonnie Johnson  
Accountant Signature

**CEMETERY SUPERVISOR** shall complete the following:

1. The above-referenced Lot(s) is/are certified to be vacant:  Yes / / No
2. The owner of record of the Lot(s) in the Cemtery Book of Deeds is listed as:  
Vickie Sue Hollinshead
3. The purchase price of the Lot(s) when sold to the owner of record was \$ 450.00 per lot.

RDE 11/2/12  
Supervisor's Init. Date

**LEGAL/RECORDS** shall complete the following:

1. Quit Claim Deed(s) received: / / Yes / / No. 1/2
- Person making request is authorized to execute the claim: \_\_\_\_\_ 11/26/12  
Attorney Init. Date

I certify that all requirements for the transfer/sale/repurchase of cemetery lot(s) have been met and recommend that that transaction be completed.

Susan K. Weather 11-28-12  
City Clerk's Signature Date

**COUNCIL ACTION**

Council approved transfer/sale/repurchase of above-referenced Lot(s) in regular session on: \_\_\_\_\_  
Mo./ Day /Yr.

**CEMETERY SUPERVISOR** shall complete the following:

Change of ownership noted/recorded in the Book of Deeds: / / Yes / / No  
Cemetery copy filed / /; original and support documents returned to City Clerk / /

\_\_\_\_\_  
Cemetery Supervisor's Signature Date

Distribution: Original to City Clerk  
Yellow copy Finance Dept.  
Pink copy to Cemetery Dept.

RESOLUTION NO. 12-050

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO AUTHORIZING THE BELOW MENTIONED CONTRACTS AND OTHER ACTIONS OF THE CITY OF COEUR D'ALENE INCLUDING APPROVING CHANGE ORDER NO. 5 TO THE SPOKANE RIVER STEWARDSHIP PARTNERS MEMORANDUM OF UNDERSTANDING.

WHEREAS, it has been recommended that the City of Coeur d'Alene enter into the contract(s), agreement(s) or other actions listed below pursuant to the terms and conditions set forth in the contract(s), agreement(s) and other action(s) documents attached hereto as Exhibit "A" and by reference made a part hereof as summarized as follows:

- A) Approving Change Order No. 5 to the Spokane River Stewardship Partners Memorandum of Understanding;

AND;

WHEREAS, it is deemed to be in the best interests of the City of Coeur d'Alene and the citizens thereof to enter into such agreements or other actions; NOW, THEREFORE,

BE IT RESOLVED, by the Mayor and City Council of the City of Coeur d'Alene that the City enter into agreements or other actions for the subject matter, as set forth in substantially the form attached hereto as Exhibits "A " and incorporated herein by reference with the provision that the Mayor, City Administrator, and City Attorney are hereby authorized to modify said agreements or other actions so long as the substantive provisions of the agreements or other actions remain intact.

BE IT FURTHER RESOLVED, that the Mayor and City Clerk be and they are hereby authorized to execute such agreements or other actions on behalf of the City.

DATED this 4<sup>th</sup> day of December, 2012.

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Sandi Bloem, Mayor

ATTEST

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Susan K. Weathers, City Clerk

Motion by \_\_\_\_\_, Seconded by \_\_\_\_\_, to adopt the foregoing resolution.

ROLL CALL:

COUNCIL MEMBER KENNEDY Voted \_\_\_\_\_

COUNCIL MEMBER GOODLANDER Voted \_\_\_\_\_

COUNCIL MEMBER MCEVERS Voted \_\_\_\_\_

COUNCIL MEMBER ADAMS Voted \_\_\_\_\_

COUNCIL MEMBER GOOKIN Voted \_\_\_\_\_

COUNCIL MEMBER EDINGER Voted \_\_\_\_\_

\_\_\_\_\_ was absent. Motion \_\_\_\_\_.

## Staff Report

To: Public Works Committee

From: H. Sid Fredrickson, Wastewater Supt.

Date: November 26, 2012

Subj: Change Order #5 to Spokane River Stewardship Partners MOU

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**DECISION POINT:** Council may wish to authorize Coeur d'Alene's share of on-going cost for facilitation assistance for the TMDL implementation and the new PCB Regional Toxics Task Force not to exceed \$8,044.

**HISTORY:** Hubbard Gray Consultants was hired several years ago to assist the Spokane River Stewardship Partners (SRSP) with tackling the issues surrounding the TMDL and now the toxics task force to reduce the amount of PCBs entering the river. Hubbard Gray is no longer available. RFPs were sent to several consulting firms. Four were interviewed and Dally Environmental LLC was chosen to act as the facilitator for the Spokane River Stewardship Partners (SRSP).

This amendment to the MOU is shared among the 9 partners and 10 subdivisions (Spokane's stormwater utility is the tenth.). It will allow facilitation services until the end of 2013. By then it is anticipated that all permits will be final and the toxics task force will be solidly in place.

**FINANCIAL ANALYSIS:** The cost will not exceed \$8,044 and is budgeted under "permit assistance."

**PERFORMANCE ANALYSIS:** The SRSP with the help of a facilitator has been successful in having the agencies adopt uniform phosphorus levels that all believe can be achieved. The Spokane River Regional Toxics Task Force is charged with making significant reductions in the amount of PCBs entering the river. Attached is the change order and the cost allocation table.

**DECISION POINT:**

Council may wish to authorize Coeur d'Alene's share of on-going cost for facilitation assistance for the TMDL implementation and the new PCB Regional Toxics Task Force not to exceed \$8,044.

**Avista Contract No. R-39058**  
**Change Order No. 5 to the Memorandum of Understanding**

This Change Order is governed by the Professional Service Agreement identified by the above-referenced Avista Contract Number (the "Agreement") and all Services must be performed in accordance with the terms of the Agreement and this Change Order.

**Consultant:** Dally Environmental LLC

**Effective Date:** Upon execution by all Parties

**Expiration Date:** December 31, 2013

**Project Description:** Spokane River Stewardship Partners ("SRSP") Consulting Services

**Avista's Representative/Department:** Meghan Lunney/Environmental Services

**Description of Requested Changes:** The purpose of this Change Order is to: (i) authorize Dally Environmental LLC to provide the Services initially provided by GeoEngineers, Inc., under Avista Contract R-36053 (the "Geo Agreement"); subsequently provided by Hubbard Gray Consulting, Inc. under Avista Contract R-37498 (the "HG Agreement") and which has now been incorporated into Avista Contract R-39058 as "Exhibit B"; and (ii) approve a budget of \$100,000 for continued services related to the Coordination and Facilitation associated with: (a) Spokane River DO TMDL implementation; (b) Regional Toxics Task Force development and implementation; and (c) coordination on related regional water quality issues through December 31, 2013 (the "Services").

**Reason for Change:** The previous Consultant, Hubbard Gray Consulting, Inc., is no longer available to provide the Services, and the current budget approved under the MOA is not adequate to cover the estimated costs for continued on-call Services requested by the SRSP through 2013.

**Schedule/Deliverables:** The Schedule and Deliverables applicable under this Change Order are as described in the Agreement.

**Compensation:** The Compensation approved under the MOA will be increased by an additional \$100,000. The allocation of costs for each Stakeholder in the SRSP is described in the Attachment described below. The total budget under the MOA is as follows:

Budget approved under the MOA and Geo Agreement:	\$290,250
Budget approved under the MOA and HG Agreement:	\$122,850
Budget increase under this Change Order #5:	<u>\$100,000</u>
Total Budget approved under the MOA to date:	\$513,100

**Attachment:** Attachment A – Allocation of costs per Stakeholder.

Except as set forth in this Change Order, all other terms and conditions of the Agreement remain in full force and effect.

This MOA has been signed by each of the Parties' authorized representatives as set forth below.

**Avista Corporation**

By \_\_\_\_\_

Its: \_\_\_\_\_

Change Order No. 5 to the Memorandum of Agreement (continued)

**Spokane County**

By \_\_\_\_\_

Its: \_\_\_\_\_

**City of Spokane**

By \_\_\_\_\_

Its: \_\_\_\_\_

**City of Coeur d'Alene**

By \_\_\_\_\_

Its: \_\_\_\_\_

**City of Post Falls**

By \_\_\_\_\_

Its: \_\_\_\_\_

**Liberty Lake Sewer and Water District**

By \_\_\_\_\_

Its: \_\_\_\_\_

**Kaiser Aluminum Washington, LLC**

By \_\_\_\_\_

Its: \_\_\_\_\_

**Inland Empire Paper Company**

By \_\_\_\_\_

Its: \_\_\_\_\_

**Hayden Area Regional Sewer Board**

By \_\_\_\_\_

Its: \_\_\_\_\_

**Dally Environmental LLC**

By \_\_\_\_\_

Its: \_\_\_\_\_

Attachment A

**SRSP 2013 coordination/support**  
**\$100,000 budget and cost share allocation**

SRSP Member	Current Flow MGD	Discharger equivalent	Cost Share
City of Spokane Wastewater		1/10 th	\$13,038
City of Spokane Stormwater		1/10 th	\$13,038
Avista (1)		1/10 th	\$13,038
Kaiser	9.1	0.156	\$20,333
Spokane County	6.9	0.118	\$15,417
Post Falls	2.6	0.045	\$5,809
Coeur d'Alene	3.6	0.062	\$8,044
IEP	3	0.051	\$6,703
HARSB	1.2	0.021	\$2,681
Liberty Lake	0.85	0.015	\$1,899

Based on:

Number of dischargers	9	
Total current flow (all dischargers)	58.35	
<b>Total SRSP Member Contribution</b>		<b>\$100,000</b>

Note:

1. Avista will be billed for DO TMDL related support only

**PUBLIC WORKS  
STAFF REPORT**

**DATE: November 26, 2012**

**FROM: Terry Pickel, Dion Holton, Thomas Howard, Water Dept.**

**SUBJECT: DECLARATION OF SOLE SOURCE PROCUREMENT FOR ALLEN-  
BRADLEY ELECTRICAL EQUIPMENT AND SOFTWARE**

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**DECISION POINT:**

The Council is requested to authorize staff to publish a declaration for sole source procurement for Allen-Bradley (A-B) electrical equipment and software for Coeur d'Alene wells.

**BACKGROUND:**

Compatibility of equipment is of paramount consideration for electrical equipment and software in the Coeur d'Alene wells. Being able to rapidly and efficiently get wells back in service when they break down is necessary to meet State and Federal requirements as well to meet the needs of our customers.

Allen Bradley equipment will meet this requirement because:

1. All our city wells have at least some A-B equipment in them. For this reason we are trying to standardize our electrical equipment. Three of our well facilities have already been fully upgraded to A-B equipment (Locust, Hanley, and Landings wells). With the addition of Fourth Street and Linden wells more than half our facilities would have the same or like equipment. This would reduce the need for spare parts on hand, time in locating, ordering, and receiving parts for needed repairs. This equates to less downtime, less interrupted service to the customer, and helps us provide better fire protection throughout the year.
2. A-B carries a complete line of product that applies to our applications and carries replacement parts needed for our repairs with no complications. We have replaced Allen-Bradley parts that were more than 13 years old with the exact replacement part, and parts that are outdated are replaced with upgraded parts that take the place of the old one. This has not been true with other manufactures. A-B also guaranties 24-hour replacement of non-specialty items or equipment and software.
3. A-B equipment has been more user friendly than other manufactures. This equates to ease of operation, less time for repair, and less training for personnel, which could mean quicker repairs with fewer complications.
4. Compatibility of equipment helps us stay up and running which helps keep us in compliance with Federal, State, and Fire safety laws and regulations. It will also help us meet the needs of our customers.

**FINANCIAL ANALYSIS:**

The 2012-13 O&M Budget includes a line item for a new soft start MCC (Motor Control Center) panel for Atlas Well of \$60,000. The existing control panel has been in service for more than 24 years and requires considerably more amperage to start the well than the new energy efficient soft starts.

**CODE ANALYSIS:**

Idaho code allows City Council to declare sole source procurement where the compatibility of equipment, components, accessories, computer software, replacement parts or service is of paramount consideration.

**DECISION POINT/RECOMMENDATION:**

The council is requested to authorize staff to publish a declaration for sole source procurement of Allen-Bradley equipment for Coeur d'Alene wells.



**PUBLIC WORKS  
STAFF REPORT**

**DATE: September 26, 2005**

**FROM: Thomas Howard, Water Dept. Pump Operator**

**SUBJECT: DECLARATION OF SOLE SOURCE PROCURMENT FOR ALLEN-  
BRADLEY ELECTRICAL EQUIPMENT AND SOFTWARE**

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4. Compatibility of equipment helps us stay up and running which helps keep us in compliance with Federal, State, and Fire safety laws and regulations. It will also help us meet the needs of our customers.

**FINANCIAL ANALYSIS:**

Next years budget has \$50,000 for Linden well and \$50,000 for Fourth Street well for needed replacement of control panels that have been in service for more than 37 years each.

**CODE ANALYSIS:**

Idaho code allows City Council to declare sole source procurement where the compatibility of equipment, components, accessories, computer software, replacement parts or service is of paramount consideration.

**DECISION POINT/RECOMMENDATION:**

The council is requested to authorize staff to publish a declaration for sole source procurement of Allen-Bradley equipment for Coeur d'Alene wells.

**MINUTES OF A REGULAR MEETING OF THE CITY  
COUNCIL OF THE CITY OF COEUR D'ALENE, IDAHO,  
HELD AT COEUR D'ALENE CITY HALL  
OCTOBER 4, 2005**

The Mayor and Council of the City of Coeur d'Alene met in a regular session of said Council at the Coeur d'Alene City Hall October 4, 2005 at 6:00 p.m., there being present upon roll call the following members:

Sandi Bloem, Mayor

Dixie Reid                                 ) Members of Council Present  
Woody McEvers                             )  
A. J. Al Hassell, III                     )  
Loren Edinger                             )  
Deanna Goodlander                     )

Ben Wolfinger                             ) Members of the Council Absent

**CALL TO ORDER:** The meeting was called to order by Mayor Bloem.

**PLEDGE OF ALLEGIANCE:** The pledge was led by Council President Reid.

**PROCLAMATION – DOMESTIC VIOLENCE AWARENESS MONTH:** Council President Reid, on behalf of Mayor Bloem, read the proclamation proclaiming October 2005 as "Domestic Violence Awareness" month in the City. Linda Kincade accepted the proclamation. She noted that her organization has helped over 3,000 families this past year.

**PROCLAMATION – WHITE CANE DAY:** Councilman Hassell, on behalf of Mayor Bloem, read the proclamation proclaiming October 15<sup>th</sup> as "White Cane Safety" day in the City. Chester Bemis accepted the proclamation. His organization will be at Super 1 Foods October 15<sup>th</sup> to provide information.

**PRESENTATION – CITYLINK TRANSPORTATION SYSTEM:** Laura Stensgar presented the proposed public transportation system for the City and surrounding area. The Citylink bus system began September 12<sup>th</sup> by providing service to Plummer, Worley and Tensed. The northern part of this transportation service is anticipated to start the 1<sup>st</sup> week of November and will extend to Coeur d'Alene, Post Falls and Hayden. She distributed a drawing of the logo that will be painted on the sides of the bus which depicts a fisherman and trout. She encouraged everyone to use Citylink. Rosie Taylor presented an overview of the objectives for implementing a bus system, the proposed bus route including a bus link to the bicycle trailheads from Riverstone through the Cd' A Casino. She explained that the reason for the November 1<sup>st</sup> starting date for the northern portion of the bus system was due to a delay in the delivery of new buses and installation of wheelchair lifts. Councilman Hassell noted that the City will place the schedule on the

City's web site and the City's television channel, Cable Channel 19. Laura Stensgar also noted that the Casino will also have the schedule posted on their web site as well as having an 800 phone number available.

**PUBLIC COMMENTS:**

**BREAST CANCER AWARENESS MONTH:** Susan Snedaker, 821 Hastings, noted that this is breast cancer awareness month and urged all residents to have their annual checks.

**CITY SIDEWALK SYSTEM:** James Ball, 600 W. Hubbard Ave., #35, Cd'A voiced his concern regarding the City's increasing traffic and noted that the Council has the power to improve the residents' health and longevity by providing more accessibility for pedestrians. Councilman Goodlander noted that the City is working on improving the City's sidewalk system.

Scott Tostengard, 5419 N. Martha Loop, thanked Mayor Bloem, the Council and staff for their support and cooperation with the US Bank project on Seltice Way. He announced that initially it was hoped that they would have 100 employees; however, to date, they have 150 employees. He presented the Mayor with a plaque for the City's cooperative effort. Mayor Bloem thanked US Bank for selecting Coeur d'Alene as the site of their new call center.

**CONSENT CALENDAR:** Motion by Reid, seconded by Hassell to approve the Consent Calendar as presented except to remove items 3f (S-4-04), 3g (S-5-04), 3h (S-2-04) and 5 (Acceptance of right-of-way dedication for Riverway Place Roadway from the calendar.

1. Approval of minutes for September 20, 2005.
2. Setting the Public Works Committee and General Services Committee meeting for October 10, 2005 at 4:00 p.m.
3. RESOLUTION NO. 05-070 A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO AUTHORIZING THE BELOW MENTIONED CONTRACTS AND OTHER ACTIONS OF THE CITY OF COEUR D'ALENE INCLUDING APPROVAL OF AN AMENDMENT TO THE FLEXIBLE SPENDING ACCOUNT PLAN DOCUMENT WITH MAGNUSON, MCHUGH & COMPANY; APPROVAL OF A TRAINING AGREEMENT WITH THE INSTITUTE FOR ADVANCE DEVELOPMENT FOR 3 TRAINING COURSES TO BE OFFERED OCTOBER 19 – 20, 2005; APPROVAL OF AN AGREEMENT WAIVING OPPOSITION TO ANNEXATION FOR WATER SERVICE OUTSIDE CITY LIMITS WITH MR. & MRS. LEICHTNAM AT 2207 E. HARRISON AVENUE; APPROVAL OF A RIGHT-OF-WAY EASEMENT WITH MILLER STAUFFER ARCHITECTS, P.A. FOR THE PARKSIDE DEVELOPMENT AT 7<sup>TH</sup> STREET AND FRONT AVENUE; APPROVAL OF S-1-94 FINAL PLAT APPROVAL AND SUBDIVISION IMPROVEMENT AGREEMENT WITH COEUR D' ALENE PLACE 14<sup>TH</sup> ADDITION;

4. Declaration of sole-source procurement for Allen-Bradley Electrical Equipment and software for the Water Department.
6. Acceptance of bid for Seltice Way/Grandmill Boulevard signal equipment purchase.
7. Approval of cemetery lot transfer from Mrs. Paul Landes to Robert and Donna Landes.

ROLL CALL: McEvers, Aye; Reid, Aye; Edinger, Aye; Hassell, Aye; Goodlander, Aye. Motion carried.

Motion by Hassell, seconded by McEvers to approve the following Consent Calendar items including that portion of Item 3 as follows: RESOLUTION NO. 05-070 - APPROVAL OF S-4-04 ACCEPTANCE OF IMPROVEMENTS AND MAINTENANCE / WARRANTY AGREEMENT FOR JAE'S PLACE; APPROVAL OF S-5-04 ACCEPTANCE OF IMPROVEMENTS AND MAINTENANCE / WARRANTY AGREEMENT FOR MILL RIVER 1<sup>ST</sup> ADDITION; APPROVAL OF S-2-04 FINAL PLAT APPROVAL AND SUBDIVISION IMPROVEMENT AGREEMENT WITH COPPER RIDGE SUBDIVISION, and Consent Calendar item 5: Acceptance of right-of-way dedication for Riverway Place Roadway adjoining the Mill River Development from Neighborhood, Inc.

ROLL CALL: McEvers, Aye; Reid, Abstain, Edinger, Aye; Hassell, Aye; Goodlander, Aye. Motion carried.

**LIBRARY DESIGN:** Councilman Goodlander announced that the Library design has been completed and she believes it is an excellent design and will be a great benefit to the community.

**APPOINTMENT – DESIGN REVIEW COMMISSION AND LIBRARY BOARD:** Motion by Reid, seconded by Goodlander to approve the appointment of Scott Razor to the Design Review Commission and Kathy Canfield-Davis to the Library Board. Motion carried.

**ANIMAL CONTROL AD HOC COMMITTEE:** Motion by Goodlander, seconded by Edinger to approve the formation of an Animal Control Ad Hoc Committee. Motion carried. Councilman Edinger suggested that representatives from the Kootenai Humane Society be asked to serve on this ad hoc committee. Councilman McEvers also suggested a representative from PAWS also serve. Mayor Bloem noted that the committee will be formed as quickly as possible and if anyone is interested on serving on this ad hoc committee please contact the City.

#### RESOLUTION NO. 05-071

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO AUTHORIZING A CONTRACT WITH CONTRACTOR'S NORTHWEST, INC.

Motion by Reid, seconded by Goodlander to adopt Resolution 05-071.

ROLL CALL: Goodlander, Aye; Hassell, Aye; McEvers, Aye; Reid, Aye; Edinger, Aye.  
Motion carried.

#### RESOLUTION NO. 05-072

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO AUTHORIZING AN AGREEMENT FOR PREPARATION OF AN ARTS MASTER PLAN, WITH BARNEY & WORTH, INC. ITS PRINCIPAL PLACE OF BUSINESS AT 1121 SW, STE. 1140, PORTLAND, OREGON 97204.

Motion by Goodlander, seconded by Edinger to adopt Resolution 05-072.

ROLL CALL: Goodlander, Aye; McEvers, Aye; Hassell, Aye; Wolfinger, Aye; Reid, Aye; Edinger, Aye. Motion carried.

**PROPERTY AT 728 E. SHERMAN AVENUE:** Council President Reid explained that in partnership with LCDC, LCDC has been aggressively acquiring key property for the city and one of those properties is located at 728 E. Sherman Avenue. Motion by Reid, seconded by Hassell to confirm that the City does want LCDC to retain the property at 728 Sherman Avenue for the future extension of 8<sup>th</sup> Street. Motion carried.

**PUBLIC HEARING -- A-7-05 -- ANNEXATION/ZONING AT 2248 E. STANLEY HILL ROAD:** Mayor Bloem read the rules of order for this public hearing. John Stamos, Associate Planner, gave the staff report.

Mr. Stamos gave the applicant's name as Gene Haag, the location as a 3.022-acre parcel located at 2248 E. Stanley Hill Road, and the reason for the request as a zone change from County Agricultural-Suburban to R-3.

He went on to give the staff analyses for land use, Comprehensive Plan, zoning, utilities, traffic and streets. He reported that on August 9, 2005 the Planning Commission voted to deny this request by a vote of 4 to 0 and recommended that the subject property be zoned R-1. He noted that 63 notices of this public hearing here mailed on September 16, 2005 and 12 responses were received - 2 in favor, 10 opposed, 0 neutral. Written comments were distributed for Council review. Mr. Stamos noted that since this property has a 19% slope, it would fall under the City's hillside regulations. He also noted that a dedication of the required right-of-way for Lilly Drive necessary for the construction of a standards City Street was recommended. City Engineer Gordon Dobler reported that sewer is available at either Lilly Avenue or Stanley Hill Road.

**PUBLIC COMMENTS:** Scott Jamar W. 31 Honeysuckle, Hayden, commented that the hillside topography has the same degree of slope as existing residential lots within the city limits and adjacent to the subject property. The applicant is requesting the creation

of 5 units on 3 acres which equates to a 1.7 zoning. He believes that by subdividing the property as planned, it would create a better traffic flow for the area. He believes that the requested zoning is compatible with neighboring zoning densities in that neighboring lots are smaller than they have requested. He stated that the applicant is willing to enter into an annexation agreement for the proposed density. He commented that there are some old cisterns and a seep area on this property; however, their consulting engineer inspected the property yesterday during the heavy rains and there was no run off from Stanley Hill. He noted that the lack of runoff into this area was due to the height of the road. He believes that this project will benefit the city by improvements to the water system through looping and constructing Lilly Drive to create a through street. Council President Reid asked what he meant by a seep. Mr. Jamar responded that it is a natural spring; however it is not large enough to be a hydraulic issue. When asked what happens when the cistern fills up, Mr. Jamar noted that it overflows and runs down the hill.

Councilman McEvers asked what the frontage requirement was for an R-3. John Stamos, Associate Planner, responded that 75' of frontage is required for an R-3 zoning.

Councilman McEvers commented that the Planning Commission report noted that Gene Haag was surprised by the objections to his proposal. Mr. Haag, 2248 Stanley Hill Rd., responded that he had spoken with some of the residents and their objection was that they wanted to live on a dead end road. He added that his family is planning on retiring in their home at the north end of the subject property and it is not their intent to develop at a high density. Regarding the roadway, he believes that the opponents would like to not have Lilly Drive extend through his property.

Russ Deverniero, 1112 N. 22<sup>nd</sup> Street, spoke in opposition to the proposed annexation due to the water flow from this property being greater than the applicant is indicating. He believes that any development would increase the flow of water at the end of the hill. He also believes that the traffic will increase considerably if Lilly Drive is extended.

Bruce Deming, E. 2487 Lilly Drive, believes that the issue is specifically about extending Lilly Drive. He believes that this request would negatively impact wildlife and have an impact environmentally due to the water run-off from the spring. He believes that due to the steep topography, the Planning Commission denied the R-3 zoning request. He commented that if Lilly Drive was developed, it would increase traffic flow by 83 cars per day.

Councilman Edinger asked if the roadway was developed, would the applicant need to cut out the side of the hill. Gordon Dobler, City Engineer, responded that they would have to cut out the hillside for the roadway. He estimated that a 3-4 foot cut would be needed to create the roadway. Councilman Goodlander asked about looping. Gordon responded that the Water Department would require a loop as part of the annexation agreement. He added that the loop wouldn't increase pressure but it would just allow more volume. The reason for the loop is for system redundancy. Councilman Edinger asked Mr. Dobler about the run-off and the possible problems with the roadway. Mr. Dobler noted that if the run off is "channelized" it could be piped under the road. Mr.

Deming stated that the cistern is old, deep and not maintained at all. Council President Reid commented that she cannot believe that people would cut down the steep hill from Stanley Hill Road onto Lilly Drive. Mr. Deming responded that the traffic would come from the east side of this development.

Harry Pollard, 2548 Gunnison Place, commented that his concern is by making Lilly Drive a through-street it would increase traffic and noise.

Janis Houghton, 2576 Lilly Drive, commented that she is opposed to this request and asked the Council to support the Planning Commission's decision. Her main concern is safety for the neighborhood children and family pets. She read a letter from Steven and Janice Meyer residing at 1567 Hill Drive who also oppose the request. Councilman Edinger commented on Mrs. Houghton's statement that she was willing to purchase this property and asked if they approached the applicant. Mrs. Houghton responded that there has only been some conversation among her neighbors.

Randy Houghton, 2576 Lilly Drive, commented that he believes the subject property would not perk due to the drain field and that is his reason why the applicant is wanting to annex into the City. He noted that the drain field is totally saturated today from the drainage off the subject property. He commented that he had talked with the applicant who informed him that he wants the money for developing 5 lots and is not interested in creating 2 cul de sacs with an R-1 zoning.

Micah Coring, 2509 E. Lilly, spoke against the request due to the increased traffic flow and safety for his children being able to play basketball in the dead end street. He presented photos showing the size of the cistern.

Barbara Daugherty, 1120 Stanley Hill Road, voiced her concern of the effect on her property if this property were developed at an R-3 zoning as well as the increased traffic on Stanley Hill Road.

Butch Lieggi, 2589 E. Gunnison Place, opposed the requested zoning but would agree to an R-1 zoning. He is concerned about the extension of Lilly Drive. He does not see any advantage to the City in annexing this parcel.

Troy Davidson, 2546 Lilly Drive, is opposed to the requested annexation and zoning and noted that the traffic down the hill creates a dangerous intersection and it would increase if Lilly Drive was extended. He agrees to an R-1 zoning but not an R-3 zoning.

Lisa Thormodsgard, 2543 Lilly Drive, stated that she lives within 300' of the subject property; however, she did not receive the written notice and believes that other parcels that are currently under construction did not receive their notice. She believes that this is in conflict with due process and thus did not provide her with ample time to prepare for tonight's meeting. She requested that the Council deny the R-3 zoning and annexation of this property.

John Stamos explained that notices are sent from an ownership list obtained from a title company, whose list is reviewed by staff to verify that all property owners are included within the 300' radius, and then notices are mailed to those property owners listed.

Dorothy McNeel, 2525 E. Gunnison place, spoke in opposition to the requested zoning and annexation. She believes that this increased R-3 density is in conflict with surrounding neighborhoods and is in conflict with the City's Comprehensive Plan. She lives in a quiet neighborhood and would like to see it stay that way. She asked if the five new homes would put an overload on the existing sewage treatment plant and at what cost to existing city residents.

Jim Ball, 600 W. Hubbard St. #35, proposed a possible solution which was, if the City opens the west end of Lily Drive to ask the County to close the east end of Lily Drive.

Scott Jamar rebutted that the matter is the zoning and if this property should be a part of the City. He reiterated that this request benefits the city in that if Lilly Drive is connected it would provide better transportation for the citizens and better emergency connectivity. He added that it would also benefit the city by providing better looping of the water system and extending the sewer to the eastern boundary of the city. He noted that the Haag's are not interested in extending the roadway but are interested in accessing city water and sewer services. He noted that they still don't know what the condition of the cistern is but it could be addressed during the subdivision phase. He believes this property is consistent with an R-3 zoning and is a logical extension of the City boundaries.

Councilman Goodlander asked about the issues surrounding the water run-off and believes this is a major concern and wanted to know how the owners are going to address this concern. Mr. Jamar stated that the solution will be decided during the subdivision process. He noted that Mr. Haag also receives water run off from the property north of him and that is simply the nature of hillside water run off.

Council President Reid, asked if the applicant had discussed bringing this forward as a PUD. Mr. Jamar stated that they had not but it might be an option. Council President Reid noted that the zoning and annexation is the issue before the Council tonight and the subdivision process is not a part of this process. Councilman Hassell asked if R-1 is an option for the applicant. Mr. Jamar responded that due to the cost of development that an R-1 is not cost effective. Councilman McEvers commented that development also brings value to the property. Mr. Jamar commented that the roadway seems to be the issue and if the City decides to not require the roadway that would resolve everyone's issues.

**MOTION:** Motion by Hassell, seconded by Edinger to uphold the Planning Commission decision and deny without prejudice the requested annexation and R-3 zoning and adopt the Findings and Order of the Planning Commission.

**DISCUSSION:** Councilman Hassell commented that there are too many holes in the plan and suggested the applicant come back with a PUD. Council President Reid asked staff if

a PUD could accompany an annexation request. John Stamos responded that the Planning Commission could hear the annexation with a PUD. Then the application would come forward to the Council for the annexation without the PUD.

Councilman McEvers commented that the Council's motion is in hopes that the issues can be resolved between the applicant and the neighbors.

Councilman Goodlander believes that a PUD does give the Council an opportunity to see what is coming and connectivity of roadways are always an issue for the City and she hopes that the neighborhood can come to a resolution of this issue. She also noted that she does not believe it is fair for neighbors to use another person's property and just because there is wildlife it does not give them the right to trespass, and that there is a need for this neighborhood to come to terms with these issues.

Councilman Edinger appreciated all the neighbors that came to the Council meeting tonight and hopes that something can be worked out.

ROLL CALL: Edinger, Aye; Goodlander, Aye; Hassell, Aye; McEvers, Aye; Reid, Aye. Motion carried.

**PUBLIC HEARING – IDAHO COMMUNITY DEVELOPMENT BLOCK GRANTS FOR THE COSTCO/4<sup>TH</sup> STREET RECONSTRUCTION PROJECT AND THE U.S. BANK/SELTICE WAY IMPROVEMENT PROJECT:** Mayor Bloem read the rules of order for this public hearing. Renata McLeod, Project Coordinator, gave the staff report.

Mrs. McLeod reported that tonight's public hearing is being held as part of the Idaho Community Block Grant requirements for both the 4<sup>th</sup> Street improvements around the Costco facility and the Seltice Way improvements in front of the US Bank site. She introduced Nelle Coler who is the grant administrator for the 4<sup>th</sup> Street project and Sherri Wastweet who is the grant administrator for the US Bank project.

Ms. Coler reported that the 4<sup>th</sup> Street project will provide significant improvements to this roadway. She noted that as a result of Costco's partnership in this project, 4<sup>th</sup> Street has been widened with turn lanes and sidewalks have been added. She reported that the city received a grant for this project in the amount of \$465,000 which the City matched. Costco also participated in this project with an \$18,000,000 investment and they also agreed to create 50 FTE with 51% to be offered to low and middle income persons. In actuality they created 110 full time equivalent jobs and 67% went to low to middle income persons which is well beyond the expectation.

She also reported that in April of 2004, the City formed an Ad Hoc Committee for 504 Americans with Disabilities Act and completed an analysis of impediments and a transition plan which is required by HUD. However, she believes that the City has the

best plan in the State that she has ever seen. She also commended Renata McLeod for her efforts on this project.

Sherri Westweet with Panhandle Area Council is the grant administrator for Seltice Way/US Bank call center project. She reported that the City received \$226,000 to purchase signalization equipment for the egress and ingress to the new call center. Additionally, the City entered into a partnership with US Bank Corporation who promised the creation of 50 FTE jobs of which 51% would go to low income employees. They have hired well over 100 employees to date and are well over their 51% LMI. They are planning by the end of the process to have over 500 jobs available at the call center. She noted that the City also pledged \$226,235 and also there was a partnership with Lake City Development Corporation who did many of the roadway improvements. This grant is basically to purchase the signalization equipment which will be purchased through Thorco with arrival of the equipment within 45 days. The equipment should be in place by the end of November.

Council President Reid commended the partnerships in creating these grants. Councilman Goodlander commended PAC for their efforts in assisting with these grants and providing the grant administration services as well as all the other projects that they have participated in for the benefit of the City and citizens. Councilman Hassell commented that these projects have created \$40-50 million in direct impact, over 600 jobs which equates to over 1/4 billion dollars in economic impact not counting salaries for this area.

**PUBLIC COMMENTS:** Mayor Bloem called for public comments with none being received.

**MOTION:** Motion by Goodlander, seconded by McEvers to accept the mid-construction reports for the 4<sup>th</sup> Street Improvements and the West Seltice Way improvements projects.

**ROLL CALL:** Hassell, Aye; Edinger, Aye; Wolfinger, Aye; McEvers, Aye; Reid, Aye; Goodlander, Aye. Motion carried.

**EXECUTIVE SESSION:** Motion by Reid, seconded by McEvers to enter into Executive Session as provided by Idaho Code 67-2345: Subsection B: To consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against a public officer, employee, staff member or individual agent; and Subsection F: To consider and advise its legal representatives in pending litigation or where there is a general public awareness of probable litigation.

**ROLL CALL:** McEvers, Aye; Reid, Aye; Edinger, Aye; Hassell, Aye; Goodlander, Aye. Motion carried.

The session began at 8:48 p.m. Members present were the Mayor, City Council, City Administrator, and City Attorney.

Matters discussed were those of personnel issues and pending litigation. No action was taken

and the Council returned to regular session at 9:57 p.m.

**ADJOURNMENT:** Motion by Edinger, seconded by McEvers that, there being no further business, this meeting is adjourned. Motion carried.

The meeting adjourned at 9:58 p.m.

  
Sandi Bloem, Mayor

ATTEST:

  
Susan K. Weathers, CMC  
City Clerk

**PUBLIC WORKS COMMITTEE  
STAFF REPORT**

**DATE:** 26 November 2012  
**FROM:** Jim Markley, Water Department Superintendent  
**SUBJECT: Water Comp Plan: Acceptance of plan and setting of public hearing for water rate and fee increases.**

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**DECISION POINT:** Staff is requesting acceptance of the comprehensive plan and the setting of a hearing for revised water rates/fees. We will make a presentation at the meeting to review the highlights of the plan and to address any questions.

**HISTORY:** The first water comprehensive plan was produced in 1987. It has been updated many times since then, most recently in 1999 and 2007. The purpose of these periodic updates is to evaluate the criteria used and to reflect any changed conditions. As needs change and as the system matures, the plan is adjusted.

**FINANCIAL ANALYSIS:** The update was included in the approved financial plan and will be completed within budget.

**PERFORMANCE ANALYSIS:** We periodically review and update the water comprehensive plan so we can know where the water system is going and to identify when we get there. In that process, among other things: the existing plan is revisited, assumptions tested, a hydraulic analysis conducted, and financial elements re-calculated. We began this process earlier in the year a consultant was selected and work began in April. The document is now complete and we are looking to present it to the Council and ask for its approval and adoption. In the financial portion we would like to set a public hearing to go over rate and fee increases.

**QUALITY OF LIFE ANALYSIS:** Without a current comprehensive plan we cannot know that the water system will meet the long term needs of the City or that the rates/fees levels are appropriate and sustainable. These things are necessary to ensure that we are meeting the needs of both our current and our future customers

**DECISION POINT/RECOMMENDATION:** Staff requests committee recommendation for Council approval of the water comprehensive plan on December 4<sup>th</sup>, 2012 and the setting of a public hearing for January 2<sup>nd</sup>, 2013 for approval rate and fee changes.

# Public Works Committee

**DATE:** November 26, 2012

**FROM:** Dion W. Holton, Utility Supervisor, Water Department

**SUBJECT:** Request to declare used 650 H.P. diesel auxiliary engine, Amarillo Right Angle Gear Drive and 1986 C70 6 Yard Dump Truck as surplus property.

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**DECISION POINT:** Water Department Staff requests that Mayor and Council declare an auxiliary diesel engine, right angle gear drive assembly and dump truck surplus property and authorize staff to sell it at auction.

**BACKGROUND:** The auxiliary diesel engine and right angle gear drive assembly was originally installed at the Atlas Well in 1987, as a backup power source in case of a grid power failure. The engine and gear drive assembly have since become obsolete with repair parts unobtainable or extremely difficult to find. The diesel engine requires a 250 gallon diesel fuel storage tank be kept onsite creating the possibility of contamination to the well and aquifer. The engine and gear drive have not been used in several years due to its clumsy nature. It must be manually set up and engaged, all of which may take several hours to accomplish. It has recently been removed from the Atlas Well house and is currently stored at the Water/Street complex. Water Department staff believes the best return from the gear drive and engine would be to send it to auction.

The 1986 C70 6 Yard dump truck, VIN # 1GBM7DIG2GV118214, is in need of major repairs. The vehicle has approximately 58,292 miles and has 1661 hours recorded. The dump truck is under powered and under sized for the Water Department's current needs. The dump truck was in constant need of costly repairs and was starting to become a safety issue. The City's Shop Supervisor evaluated the dump truck and stated it is too far past its prime to cost effectively keep in the city fleet. No other city departments have shown interest in the dump truck.

**FINANCIAL ANALYSIS:** The Engine and gear drive assembly are approximately 26 years old, are rarely used anymore and the current value is unknown. The Dump Truck is 26 years old and has out lived its usefulness, its current value is estimated at less than \$2,000.

**QUALITY OF LIFE:** The declaration of surplus of the auxiliary engine and right angle gear drive and will not affect the City's customers in any regards to a financial impact or customer service as the assembly has not been used in many years. As the 1986 C70 dump truck is in need of extensive repairs and is no longer used by the Water Department, the declaration of it will not affect the City's customers in regard to a financial impact or customer service.

**DECISION POINT/RECOMMENDATION:** Water Department Staff requests a motion to declare of the Atlas Well auxiliary engine, right angle gear drive assembly and a 1986 C70 6 yd. dump truck surplus and authorize staff to dispose of it by auction.

# ANNOUNCEMENTS

OTHER BUSINESS

## RESOLUTION NO. 12-051

A RESOLUTION BY THE MEMBERS OF THE COUNCIL OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO (THE "CITY"), INITIATING THE FORMATION OF A LOCAL IMPROVEMENT DISTRICT FOR THE CONSTRUCTION OF IMPROVEMENTS TO FRONT AVENUE SITUATE IN THE CITY AND DESCRIBING THE (i) KIND AND CHARACTER OF THE PROPOSED IMPROVEMENTS; (ii) THE BOUNDARIES OF THE PROPOSED LOCAL IMPROVEMENT DISTRICT; AND (iii) THE PROPERTY TO BE ASSESSED WITHIN THE PROPOSED LOCAL IMPROVEMENT DISTRICT.

**WHEREAS**, the City of Coeur d'Alene, Kootenai County, Idaho (the "City"), is a body politic and corporate created and existing under and pursuant to the provisions of the Constitution and laws of the State of Idaho;

**WHEREAS**, the City desires to finance certain costs of the design and construction of improvements to Front Avenue situate in the City, as hereinafter described (collectively, the "Improvements");

**WHEREAS**, pursuant to Title 50, chapter 17, Idaho Code, the City is authorized and empowered to create local improvement districts and to construct improvements pursuant thereto, and, in accordance with Section 50-1706, Idaho Code, the City desires to adopt this Resolution to initiate the organization of a local improvement district to finance certain costs of the construction of the Improvements.

**THEREFORE, IT IS RESOLVED** by the members of the Council of the City (the "Council") as follows:

Section 1. That the City hereby initiates the creation of a local improvement district, to be known as "Local Improvement District No. \_\_\_" (the "LID"), for the purpose of financing a portion of the costs of the Improvements.

Section 2. That a general description of the Improvements to be constructed within the proposed LID are set forth on the attached Exhibit A attached hereto and incorporated herein by this reference.

Section 3. That the boundaries of the proposed LID are particularly described in Exhibit B attached hereto and incorporated herein by this reference. All property situate within the boundaries of the proposed LID and benefited by the Improvements will be assessed.

Section 4. This Resolution shall take effect and be in full force from and after its passage.

PASSED by the Council of the City this 4<sup>th</sup> day of December, 2012.

CITY OF COEUR D'ALENE,  
KOOTENAI COUNTY, IDAHO

---

Sandi Bloem, Mayor

ATTEST:

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Susan Weathers, City Clerk

I, the undersigned, Clerk of the City of Coeur d'Alene, Kootenai County, Idaho, hereby certify that the foregoing Resolution is a full, true, and correct copy of a Resolution duly adopted at a regular meeting of the members of the City's Council; the meeting was duly and regularly held at the regular meeting place of the City on December 4, 2012; all members of the Council had due notice thereof; and a majority of the members were present.

Motion by \_\_\_\_\_, Seconded by \_\_\_\_\_, to adopt the foregoing resolution.

ROLL CALL:

COUNCIL MEMBER KENNEDY Voted \_\_\_\_\_

COUNCIL MEMBER GOODLANDER Voted \_\_\_\_\_

COUNCIL MEMBER MCEVERS Voted \_\_\_\_\_

COUNCIL MEMBER ADAMS Voted \_\_\_\_\_

COUNCIL MEMBER GOOKIN Voted \_\_\_\_\_

COUNCIL MEMBER EDINGER Voted \_\_\_\_\_

\_\_\_\_\_ was absent. Motion \_\_\_\_\_.

I further certify that the Resolution has not been amended, modified, or rescinded since the date of its adoption, and is now in full force and effect.

DATED December \_\_, 2012.

By: \_\_\_\_\_  
Susan Weathers, City Clerk

## **EXHIBIT A**

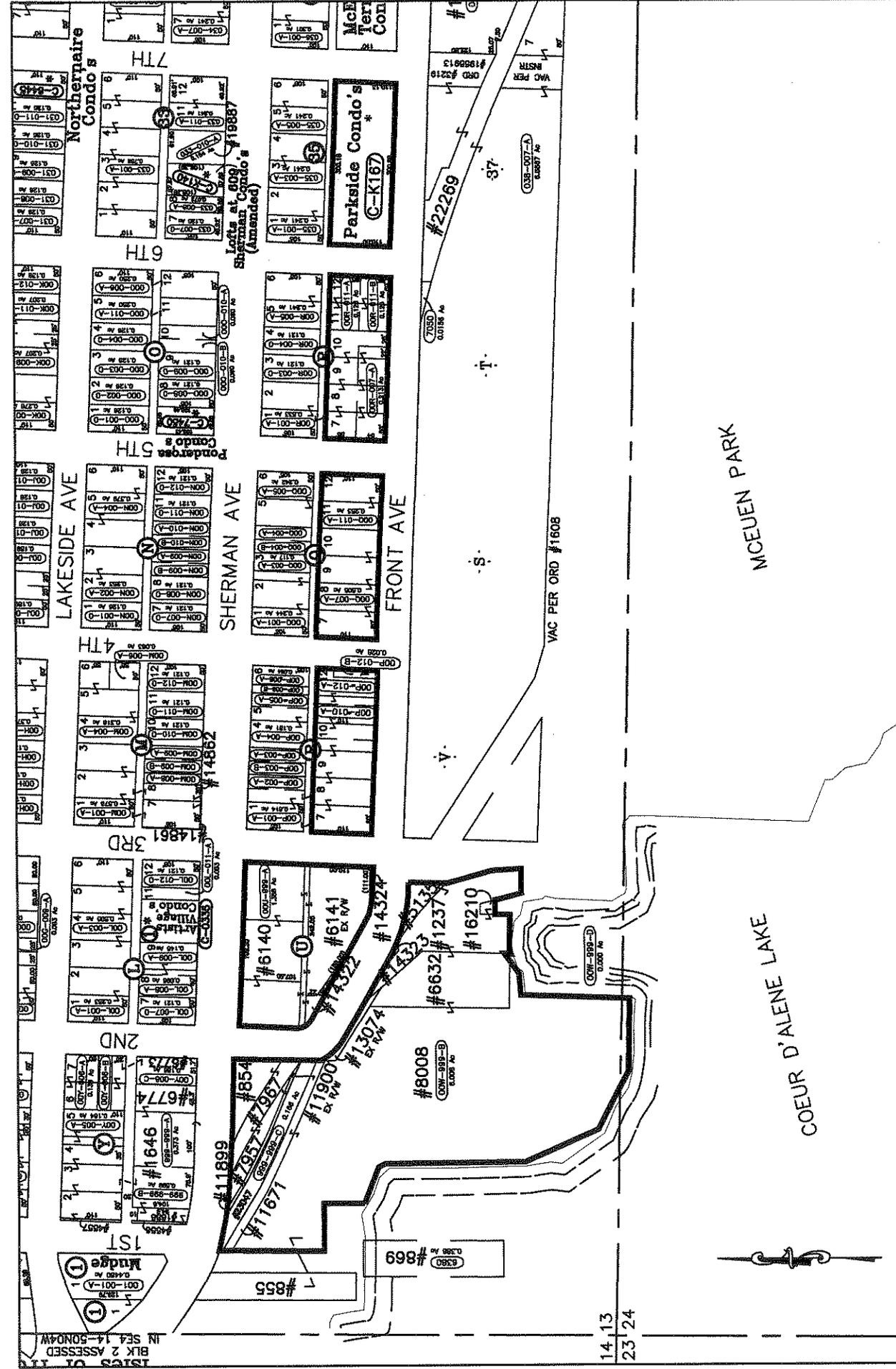
### **GENERAL DESCRIPTION OF IMPROVEMENTS**

#### **Description of Improvements - Front Avenue**

The LID will finance design and construction of street and streetscape improvements including paving, curb, sidewalk, trees, landscaping, lighting, irrigation and power systems, street furniture, erosion and site control, and other related infrastructure.

**EXHIBIT B**

**LID BOUNDARIES**



PROJECT NO.: 41022  
 DESIGNED BY: T.J.F.  
 DRAWN BY: T.J.F.  
 DWG NAME: 41022LID-EX01  
 DATE: 11-27-12  
 SHEET NO: 1

**EXHIBIT B**  
**FRONT AVENUE LID**

BLK 2 ASSESSED  
 IN SEC 14-50ND4W

**WELCH-COMER**  
 ENGINEERS | SURVEYORS

www.welchcomer.com  
 350 E. Kathleen Ave.  
 Coeur d'Alene, ID 83815

208-664-9382  
 (toll free) 877-815-5672  
 (fax) 208-664-5946

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 & Associates, Inc.

Front Avenue LID  
Description

Lot 7, 8, 9, 10, 11 and 12, Block P of the plat of Coeur d' Alene and King's Addition as recorded in Book C of Deeds, page 144, records of Kootenai County, Idaho;

Lot 7, 8, 9, 10, 11 and 12, Block Q of the plat of Coeur d' Alene and King's Addition as recorded in Book C of Deeds, page 144, records of Kootenai County, Idaho;

Lot 7, 8, 9, 10, 11 and 12, Block R of the plat of Coeur d' Alene and King's Addition as recorded in Book C of Deeds, page 144, records of Kootenai County, Idaho;

All of Block U, of the plat of Coeur d' Alene and King's Addition as recorded in Book C of Deeds, page 144, records of Kootenai County, Idaho, together with the vacated alley within said Block U;

All condominium Units within Parkside Condominium as recorded in Book K of Plats, Page 167 through 167I, records of Kootenai County, Idaho.

**TOGETHER WITH the following tax number descriptions**

---

Tax No. 854

Book 19, Page 157 - 4/27/1906

Beginning at SW corner of Second and Sherman St. in town of Coeur d'Alene; thence Westerly along South line of Sherman St. extended 150 feet to point on South line of Sherman St. as extended; thence Southwesterly along North bounday of right of way of Coeur d'Alene and Spokane Ry. Co. Ltd. 175 feet more or less to point on West side of Second St. 89 feet South of beginning; thence North along West line of Second St. 89 ft. to beginning.

Tax No. 1237

All of the East 250 feet of Block W., Coeur d'Alene and King's Addition to Coeur d'Alene, except easements and the East 65 feet S. of pilings belonging to the Northern Pacific Railway and the West 94 feet SW of Union dock belonging to the Idaho Western Railway Company.

(N.P. Deed, Bk. 34, Pg. 174)

Tax No. 5135

Book 183, Page 3

(Block W, CDA & Kings) That portion of land acquired by the City of Coeur d'Alene from the Northern Pacific Railroad Company by deed dated May 26, 1958, recorded in Book 173 of Deeds at Page 423, lying West of the line 30 feet West and parallel to the West line of Third Street extended Southerly and lying South of the South line of Front Avenue, excepting and not including any portion of said land so acquired from the Northern Pacific Railroad Company South of a line 110 feet South of and parallel to the South line of Front Avenue.

Tax No. 6632

Description furnished by Owner

A tract of land, being a portion of Block "W" of Coeur d'Alene and Kings Addition to Coeur d'Alene and of Government Lot 9, Section 13, Township 50 North, Range 4 West, B.M., Kootenai County, Idaho, described as follows:  
Beginning at a point 156 feet Westerly from the extended West line of Third Street, measured at right angles to said West line, and on the Southwest side of the Old Union Dock (not in existence), said point being the most Easterly corner of that certain tract conveyed in Book of Deeds 195, page 186, thence N.  $41^{\circ}02'$  West along the Southwest side of the Old Union Dock 99.85 feet to a point on the South line of the present Front Street; thence N.  $57^{\circ}52'$  West along the South line of said Front Street, 41.8 feet; thence S.  $1^{\circ}00'$  West along a line parallel with and 17.3 feet distant from the East wall of Northshore Lodge, 255.3 feet; thence S.  $89^{\circ}00'$  East along a line parallel with and 5.0 feet distant from the South wall of the Convention building, 86.7 ft. to a point on the face of the existing sea wall; thence along the face of said sea wall N.  $53^{\circ}58'$  East, 18.25 feet; thence N.  $1^{\circ}31'$  E., 148.54 ft. to the point of beginning.

A tract of land in Government Lot 9, Section 13, Township 50 North, Range 4 West, B.M., Kootenai County, Idaho, being a portion of Reserve Block of Coeur d'Alene and Kings's Addition to Coeur d'Alene, and described as follows: Beginning at the Southeast corner, or Corner No. 1, of the Fort Sherman Military Reservation (abandoned, thence South  $0^{\circ}21'$  West along the extended East line of said Reservation 77.0 feet to a point on the South line of Sherman Avenue, said point being the Northwest corner of the Templin Cafe property, thence South  $71^{\circ}05'$  East along the South line of Sherman Avenue 52.75 feet to a point being the Northeast corner of said Templin Cafe property and also the Northwest corner of the City of Coeur d'Alene's Dock Street, thence South  $89^{\circ}39'$  East, 40.0 feet to the Northeast corner of City property, thence South  $0^{\circ}21'$  West along the East line of said City property and also parallel to and 90.0 feet distant from said East Reservation line 19.51 feet to a point on the

Cont'd.

Tax No. 7957, Cont'd. (1)

South line of Sherman Avenue, thence along the South line of Sherman Avenue South  $78^{\circ}09'$  East, 59.45 feet, thence continuing along the South line of Sherman Avenue South  $81^{\circ}19'$  East, 16.35 feet to the true point of beginning for this description, being a point which is Northeasterly 15.0 feet, measured at right angles, from the centerline of the tracks of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, thence continuing along the South line of Sherman Avenue South  $83^{\circ}31'$  East, 33.67 feet, thence continuing along the South line of Sherman Avenue South  $86^{\circ}08'$  East, 23.21 feet to the South line of the right of way of the Great Northern Railway, thence along said right of way line as follows: South  $63^{\circ}33'$  East, 42.25 feet, thence South  $61^{\circ}05'$  East, 50.0 feet, thence South  $58^{\circ}10'$  East, 50.0 feet, thence South  $55^{\circ}15'$  East 84.0 feet to a point which is Northeasterly 15.0 feet, measured at right angles, from the centerline of the tracks of the said Chicago, Milwaukee, St. Paul and Pacific Railroad Company, thence Northwesterly, along a line parallel to and 15.0 feet distant from, measured at

Cont'd.

Tax No. 7957, Cont'd. (2)

right angles, the centerline of said tracks, to the true point of beginning, chord distances and bearings from the aforesaid point being as follows: North  $66^{\circ}26'$  West, 120.26 feet, thence North  $63^{\circ}38'$  West, 95.25 feet, thence North  $59^{\circ}07'$  West, 63.10 feet to the true point of beginning.

Tax No. 7967

From Copy of Contract - 1971

A parcel of land situated in Reserve Block in Town of Coeur d'Alene and Kings Addition thereto, Kootenai County State of Idaho, Section 13, Township 50 North, Range 4 West, B.M., being a 30 foot strip of land 15 feet in width on each side of the centerline of track of the Great Northern Railray, formerly the Coeur d'Alene and Spokane Railway Company, Limited, as originally constructed and now abandoned. Said centerline is described as follows: Beginning at a point on the West side of Second Street where the centerline of Sand Street produced intersects same, thence North  $57^{\circ}$  West, 103 feet to a point, thence on a curve to the left of 478.3 feet radius for a distance of 104 feet, more or less, to an intersection with the South side of Sherman Street, produced, and end of the centerline description.

A tract of land being portions of Block W and the Reserve Block of Coeur d'Alene and King's Addition to Coeur d'Alene, and lying in Government Lot 9, Section 13, Township 50 North, Range 4 West B.M., Kootenai County, State of Idaho and including the riparian lands and rights adjacent thereto, described as beginning at the Southeast corner of Corner No. 1 of the Fort Sherman Military Reservation (Abandoned), thence S.  $0^{\circ}21'$  W. along the extended East line of said Reservation, 77.0 feet to a point on the South line of Sherman Avenue and being the Northwest corner of the Templin Cafe property, thence S.  $71^{\circ}05'$  E. along the South line of Sherman Avenue, 52.75 feet to a point being the Northeast corner of the Templin Cafe property, and also the Northwest corner of the City of Coeur d'Alene's Dock Street, thence S.  $89^{\circ}39'$  E. 40.0 feet to the Northeast corner of said City property, thence S.  $0^{\circ}21'$  W. along the East line of said City property and also running parallel to and 90.0 feet distant from said East Reservation line, 35.97 feet

Cont'd.

Tax No. 8008, Cont'd. (1)

to a point of intersection with a line parallel to and 25 feet Southerly from the center line of the track of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, said point of intersection being the True Point of Beginning for this description, thence S.  $0^{\circ}21'$  W. along said East line of City property, 177.03 feet, thence S.  $89^{\circ}39'$  E. along the North line of said City property, 87.0 feet to a corner of said City property, thence S.  $0^{\circ}21'$  W. along the East line and extended East line of said City property, 73.40 feet to a point in Lake Coeur d'Alene, thence continuing along Lake Coeur d'Alene, S.  $68^{\circ}34'$  E. 71.6 feet, thence S.  $25^{\circ}36'$  E. 14.0 feet, thence S.  $0^{\circ}36'$  E. 255.0 feet, thence S.  $23^{\circ}36'$  E. 147.3 feet, thence S.  $62^{\circ}31'$  E. 120.7 feet, thence S.  $89^{\circ}26'$  E. 132.5 feet, thence N.  $1^{\circ}51'$  E. 199.35 feet to a corner of an existing concrete sea wall, thence along said sea wall N.  $85^{\circ}46'$  E. 39.3 feet, thence along said sea wall N.  $53^{\circ}58'$  E. 27.60 feet, thence leaving Lake Coeur d'Alene N.  $89^{\circ}00'$  W. along a line parallel with and 5.0 feet distance from the South wall of the

Cont'd.

Tax No. 8008, Cont'd. (2)

Convention building, 86.7 feet, thence N.  $1^{\circ}00'$  E. along a line parallel with and 17.3 feet distant from the East wall of Northshore Lodge, 255.3 feet to a point on the South line of present Front Street, thence N.  $57^{\circ}52'$  W. along the South line of Front Street, 115.98 feet to a point on the extended West line of Second Street, thence N.  $1^{\circ}$  E. along the West line of extended Second Street, 25.24 feet to a point of intersection with a line parallel to and 25 feet Southerly from the center line of the track of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, thence along said 25 foot line N.  $66^{\circ}26'$  W. 163.39 feet, thence along said 25 foot line N.  $63^{\circ}38'$  W. 99.45 feet, thence along said 25 foot line N.  $59^{\circ}$  W. 126.48 feet to the True Point of Beginning for this description.

Tax #11671 2/14/80 B-304-770 Quitclaim Deed

A part of Government Lot 9, Section 13, Township 50 North, Range 4 West, Boise Meridian, Kootenai County, Idaho, more particularly described as follows:

Beginning at a point that is the intersection of the East right of way line of First Street with a line that is 10 feet South and parallel to the centerline of the Chicago, Milwaukee, St. Paul and Pacific Railroad; thence southeasterly along said parallel line, the tangents and chord calls as follows: South  $59^{\circ}00'$  East, 134.75 feet; South  $63^{\circ}06'45''$  East, 96.74 feet; South  $66^{\circ}26'$  East, 158.96 feet to the West right of way line of Second Street and the East property line of the Western Frontiers, Inc. property extended; thence South  $1^{\circ}00'$  West along said extended line, 15.22 feet; thence northwesterly along a line that is 25 feet South and parallel to the centerline of said Railroad, the tangents and chord calls as follows: North  $66^{\circ}26'$  West 163.39 feet; North  $63^{\circ}38'$  West, 99.45 feet; North  $59^{\circ}00'$  West, 126.48 feet to the East right of way line of First Street; thence North  $0^{\circ}21'$  East, 17.42 feet to the Point of Beginning, CONTAINING approximately 5,769 square feet or

cont. Tax # 11671

or 0.13 acre.

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Tx #11899 Quitclaim Deed B-305/899 4/25/80

A part of Government Lot 9, Section 13, Township 50 North, Range 4 West, Boise Meridian, Kootenai County, Idaho, more particularly described as follows: Beginning at a point that is the intersection of the South Right-of-Way line of Sherman Avenue with a line that is 10 feet North and parallel to the centerline of the Chicago, Milwaukee, St. Paul and Pacific Railroad; thence, Southeasterly along said parallel line, the tangents, and chord calls as follows: South 59°00' East, 75.10 feet; thence South 63°07'26" East, 94.16 feet; thence South 66°23' East, 150.69 feet to the West Right-of-Way Line of Second Street and the East Property Line of the Western Frontiers, Inc. property extended; thence North 1°00' East along said Extended West Line of Second Street, 0.34 feet; thence North 55°15' West, 24.28 feet to a point that is 15 feet from the centerline of said Railroad; thence Northwesterly along a line that is 15 feet North and parallel to the centerline of said Railroad, the

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Tx #11899 Quitclaim Deed B-305/899 cont.

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tangents and chord calls as follows: North 66°23' West, 126.73 feet; thence North 63°07'37" West, 93.52 feet; thence North 59°00' West, 63.76 feet to the South right-of-Way Line of Sherman Avenue; thence North 82°48' West along said South Right-of-Way Line, 12.39 feet to the Place of Beginning, CONTAINING approximately 1,488 square feet.

Tx#11900 Quitclaim Deed B-305/899 4/25/80

A part of Government Lot 9, Section 13, Township 50 North, Range 4 West, Boise Meridian, Kootenai County, Idaho, more particularly described as follows: Beginning at a point that is on the West Right-of-Way Line of Second Street and 10 feet South, measured at right angles from the centerline of the Chicago, Milwaukee, St. Paul and Pacific Railroad; thence South  $1^{\circ}00'$  West, 15.22 feet; thence South  $66^{\circ}23'$  East parallel to and 25 feet measured at right angles, from said centerline, 33 feet, more or less, to the Present Right-of-Way Line of Front Street; thence along a curve to the right and along said Present Right-of-Way Line of Front Street to a point that is 10 feet South, measured at right angles, from the said centerline, of the Railroad; thence North  $66^{\circ}23'$  West, parallel to and 10 feet from said centerline 13 feet, more or less, to the Point of Beginning, CONTAINING approximately 309 square feet.

Tax No. 13074

Book 329, page 221 QC deed 3-23-84

A portion of CDA & KINGS ADD. in Sec. 13, Twp. 50N, R 4 WBM Kootenai County, ID described as follows: BEGINNING at the SE corner of Tax No. 11,900 (Book 305, Page 899); thence N 66°24'32" West, 33 feet, more or less, along the southerly line of said Tax No. 11,900 to the SW corner thereof, being also a point on the west right of way line of Second St. extended and the east line of Tax No. 8008 described in Book 58, page 145; thence S 1°00' W, 25.24 feet along said east line; thence S 57°52' E, 157.78 feet along a north line of said Tax No. 8008 and Tax No. 6632; thence N 41°02' W, 38.8 feet along the southerly line of what was the Old Union dock; thence N 01°00' E, 21.8 feet, parallel with and 101.8 feet distance from, measured at right angles to, the west line of Second St. to the southerly line of vacated Sand St. being a point on the southwesterly line of that property (Red Collar Line, Inc. and Gardner Supply to City of CDA) described in Book 183 of Deeds, Page 14; thence northwesterly 89.8 feet, more or less, along said southerly line of vacated Sand Street to its intersection with the SE corner of Tax No. 11,900 and the true point of beginning, containing 3,617 sq.ft. more or less

TAX NO. 14322 PAGE 1 OF 1

INSTRUMENT REFERENCE ORDINANCE

RECORDATION INFO: INSTR. NO. 1151885

DATE 6-19-89

A part of Block U and Sand Street in COEUR d'ALENE AND KING'S ADDITION, according to the plat on file in Book A of Deeds at page 346 in the office of the Recorder of Kootenai County, Idaho; situated in Government Lot 9, Section 13, Township 50 North, Range 4 West, B.M.; more particularly described as follows:

COMMENCING at corner No. 1 of the Fort Sherman Military Reservation (abandoned), from which the Southeast corner of Tract 43, Lot 49 on the East boundary of the Fort Sherman Military Reservation, according to the 1966 BLM Plat of the Dependent Resurvey and Survey of Irregular Tracts, bears North 0°27'00" East, 11.90 feet;

thence South 73°21'56" East, 519.83 feet to the present Northwest corner of said Block U;

thence South 1°40'00" West, 105.72 feet along the West boundary of said Block U;

thence 14.89 feet along the arc of a 30.00 ft. radius curve left, said curve having a chord bearing South 12°33'23" East, 17.74 feet to a point on the South boundary of the alley, the POINT OF BEGINNING;

thence 17.53 feet along the arc of a 30.00 foot radius curve left, said curve having a chord bearing South 43°30'53" East, 17.28 feet;

thence South 60°15'11" East, 162.24 feet to an iron rod, 30 inches long, 5/8 inches diameter, with a plastic cap marked PLS 832;

thence 5.69 feet along the arc of a 230.00 foot radius curve left, said curve having a chord bearing South 60°57'44" East, 5.69 feet;

thence North 54°42'24" West, 125.03 feet to an iron rod, 30 inches long, 5/8 inch diameter, with a plastic cap marked PLS 832;

thence North 1°40'00" West, 22.00 feet to a pk nail;

thence North 88°24'00" West, 56.34 feet to the POINT OF BEGINNING.

DEPUTY INITIALS RLF

DATE # ASSIGNED 12-28-89

TAX NO. 14323 PAGE 1 OF 1

INSTRUMENT REFERENCE ORDINANCE

RECORDATION INFO: INSTR. NO. 1151885

DATE 6-19-89

A part of Sand Street adjacent to Block W in COEUR d'ALENE AND KING'S ADDITION, according to the plat on file in Book A of Deeds at page 346 in the office of the Recorder of Kootenai County, Idaho; situated in Government Lot 9, Section 13, Township 50 North, Range 4 West, B.M.; more particularly described as follows:

COMMENCING at corner No. 1 of the Fort Sherman Military Reservation (abandoned), from which the Southeast corner of Tract 43, Lot 49 on the East boundary of the Fort Sherman Military Reservation, according to the 1966 BLM Plat of the Dependent Resurvey and Survey of Irregular Tracts, bears North 0°27'00" East, 11.90 feet;

thence South 78°52'49" East, 815.32 feet (of record as South 78°40' East, 816.3 feet) to the present Northeast corner of said Block U;

thence South 1°40'00" West, 230.00 feet along the East boundary of said Block U to the Southeast corner of said Block U;

thence continuing South 1°40'00" West, 60.00 feet to a point on the South boundary of Front Street, according to the Record of Survey on file in Book 4 at page 4;

thence North 88°11'22" West, 132.31 feet along the South boundary of said Front Street to the POINT OF BEGINNING;

thence continuing North 88°11'22" West, 23.69 feet along the South boundary of said Front Street;

thence North 49°46'00" West, 40.22 feet;

thence South 60°15'11" East, 13.00 feet;

thence 47.67 feet along the arc of a 300.00 foot radius curve left, said curve having a chord bearing South 64°48'19" East, 47.62 feet to the POINT OF BEGINNING.

DEPUTY INITIALS R<sup>L</sup>F

DATE # ASSIGNED 12-28-89

TAX NO. 14324 PAGE 1 OF 1

INSTRUMENT REFERENCE ORDINANCE

RECORDATION INFO: INSTR. NO. 1151885

DATE 6-19-89

A part of Sand Street adjacent to Block U in COEUR d'ALENE AND KING'S ADDITION, according to the plat on file in Book A of Deeds at page 346 in the office of the Recorder of Kootenai County, Idaho; situated in Government Lot 9, Section 13, Township 50 North, Range 4 West, B.M.; more particularly described as follows:

COMMENCING at corner No. 1 of the Fort Sherman Military Reservation (abandoned), from which the Southeast corner of Tract 43, Lot 49 on the East boundary of the Fort Sherman Military Reservation, according to the 1966 BLM Plat of the Dependent Resurvey and Survey of Irregular Tracts, bears North 0°27'00" East, 11.90 feet;

thence South 78°52'49" East, 815.32 feet (of record as South 78°40' East, 816.3 feet) to the present Northeast corner of said Block U;

thence South 1°40'00" West, 230.00 feet along the East boundary of said Block U to the Southeast corner of said Block U, the POINT OF BEGINNING;

thence continuing South 1°40'00" West, 6.03 feet;

thence North 88°11'22" West, 35.34 feet;

thence 51.52 feet along the arc of a 230.00 foot radius curve right, said curve having a chord bearing North 81°46'21" West, 51.41 feet;

thence South 88°22'51" East, 86.41 feet along the South boundary of said Block U to the POINT OF BEGINNING.

DEPUTY INITIALS RLF

DATE # ASSIGNED 12-28-89

TAX # 16210 PAGE 1 OF 1

RECORDING INFO: INSTRUMENT REF. QCD

INSTRUMENT NO. 1362123

RECORDING DATE 7-11-94

A tract of land located adjacent to Government Lot 9, Section 13, Township 50 North, Range 4 West, B.M., and a portion of Block W in the AMENDED COEUR D'ALENE and KING'S ADDITION, according to the plat on file in Book C of Deeds at Page 144, in the office of the Recorder of Kootenai County, Idaho; more particularly described as follows, to-wit:

COMMENCING at corner No. 1 of the Fort Sherman Military Reservation (abandoned), from which the southeast corner of Tract 43, Lot 49, on the east boundary of the Fort Sherman Military Reservation (abandoned), according to the 1966 BLM Plat of the Dependent Resurvey and Survey of Irregular Tracts, bears North 0°27'00" East, 11.90 feet; thence South 47°07'33" East, 956.34 feet to the REAL POINT OF BEGINNING on the south face of an existing sea wall at the southwest corner of State Easement No. 5148, according to the Disclaimer of Interest on file as Instrument No. 1101248; from which the West ¼ section corner of said Section 13 bears North 17°08'51" West, 2664.04 feet (of record as North 16°30'11" West); thence traversing the limits of said Disclaimer of Interest, as follows, to-wit:

North 1°37'00" East, 30.00 feet along the west limit of State Easement No. 5148; thence North 90°00'00" East, 21.70 feet along the north limit of State Easement No's. 5148 and 5149; thence South 18°26'00" East, 25.30 feet along the easterly limit of State Easement No. 5149; thence South 10°48'00" East, 7.19 feet along said easterly limit of State Easement No. 5149 to the south face of an existing sea wall; thence North 88°03'30" West, 31.91 feet and leaving said Disclaimer of Interest line, along the south face of said existing sea wall returning to the real point of beginning.

DEPUTY INITIALS J.C.J. DATE 9-26-94  
THIS DESCRIPTION OVERLAPS/REPLACES \_\_\_\_\_

TAX # 23047 PAGE 1 OF 2  
DOCUMENT TYPE QCD  
INSTRUMENT # 2318159  
RECORDING DATE 06/27/2011

All of the BNSF (Burlington Northern Santa Fe) Railway Company (formerly Chicago, Milwaukee, St. Paul and Pacific Railroad) right-of-way lying West of Second Street and lying South of Sherman Avenue and lying northeasterly of the northeasterly line of that certain parcel conveyed to Western Frontiers, Inc., in deed recorded February 14, 1980 as Instrument No. 833522, as shown on the Record of Survey recorded in Book 2 at Page 15, under Instrument Number 827704 and lying southwesterly of the southwesterly line of that certain parcel conveyed to Western Frontiers, Inc., in deed recorded April 25, 1980 as Instrument No. 840010, as shown on the Record of Survey recorded in Book 2 at Page 67, under Instrument Number 837220; in a portion of the Reserved Block in the Corrected Plat of the Town of Coeur d'Alene and Kings Addition, situated in Government Lot 9, Section 13, Township 50 North, Range 4 West, Boise Meridian, City of Coeur d'Alene, Kootenai County, Idaho;

Commencing at the intersection of the centerlines of Sherman Avenue and Second Street, monumented with an iron rod with an aluminum cap, 2 inches diameter, marked PLS 5574 in a monument box; from which an iron pipe with a brass cap, 3-1/4 inches diameter, marked T50N, R4W, S 13, KC, Bureau of Land Management, according to the Corner Perpetuation and Filing Record form recorded as Instrument Number 1797012, bears North 17°48'23" West, 1,510.39 feet;

thence South 39°23'21" West, 47.48 feet to an existing PK nail at the intersection of the southerly right-of-way line of Sherman Avenue and the West right-of-way line of Second Street;

thence South 1°07'38" West, 124.73 feet along the West right-of-way line of Second Street to a brass tack and washer marked PLS 6374 at the northeasterly corner of the BNSF (Burlington Northern Santa Fe) Railway Company (formerly Chicago, Milwaukee, St. Paul and Pacific Railroad) amended right-of-way, the Point of Beginning;

thence continuing South 1°07'38" West, 21.66 feet (of record as South 1°00' West, 21.66 feet) along the West line of Second Street to a brass tack and washer marked PLS 6374 at the southeasterly corner of said amended railroad right-of-way;

thence traversing the southwesterly line of said amended railroad right-of-way the following three (3) courses:

- 1) North 66°19'41" West, 158.83 feet (of record as North 66°26' West, 158.96 feet) to an iron rod, 5/8 inch diameter, with a plastic cap marked

See Record of Survey Bk 26 Pg 450

THIS TAX # REPLACES \_\_\_\_\_  
DEPUTY INITIALS ET DATE 09/27/2011

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RECORDING DATE 06/27/2011

PLS 832, a non-tangent point of curvature;

- 2) thence along the arc of a curve right, being concave to the northeast, through a central angle of 7°22'13", an arc distance of 96.82 feet and a chord bearing and distance of North 63°03'10" West, 96.75 feet (of record as North 63°06'45" West, 96.74 feet) to an iron rod, 1/2 inch diameter, with no cap;
- 3) thence North 58°57'28" West, 131.87 feet (of record as North 59°00' West) to an iron rod, 5/8 inch diameter, with a plastic cap marked PLS 6374 on the southerly right-of-way line of Sherman Avenue;

thence South 78°02'31" East, 56.91 feet (of record as South 78°09' East) along the southerly right-of-way line of Sherman Avenue;

thence South 81°14'30" East, 3.68 feet (of record as South 82°48' East, 3.28 feet) along the southerly right-of-way line of Sherman Avenue to a brass tack and washer marked PLS 6374;

thence traversing the northeasterly amended right-of-way line of the BNSF (Burlington Northern Santa Fe) Railway Company (formerly Chicago, Milwaukee, St. Paul and Pacific Railroad) the following three (3) courses:

- 1) South 58°57'28" East, 74.75 feet (of record as South 59°00' East, 75.10 feet) to an iron rod, 1/2 inch diameter, with a plastic cap marked LePard and Frame, a non-tangent point of curvature;
- 2) thence along the arc of a curve left, being concave to the northeast, through a central angle of 7°22'13", an arc distance of 94.16 feet and a chord bearing and distance of South 63°03'50" East, 94.10 feet (of record as South 63°07'26" East, 94.16 feet) to an iron rod, 5/8 inch diameter, with a plastic cap marked PLS 6374;
- 3) thence South 66°19'41" East, 150.54 feet (of record as South 66°23' East, 150.69 feet) to the Point of Beginning.



Engineering & Surveying

See Record of Survey Bk 26 Pg 450



*Scott M. Rasor*  
11/15

THIS TAX # REPLACES \_\_\_\_\_  
DEPUTY INITIALS ET DATE 09/27/2011

# PUBLIC HEARINGS

ORDINANCE NO. \_\_\_\_\_  
COUNCIL BILL NO. 12-1026

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, REPEALING CHAPTERS 13.30, 13.32 AND 13.35 AND ADOPTING NEW CHAPTERS 13.30, 13.32 AND 13.35 TO ESTABLISH STORMWATER MANAGEMENT REGULATIONS, CONTROL ILLICIT DISCHARGE AND ESTABLISH A DRAINAGE UTILITY; PROVIDING DEFINITIONS AND PURPOSE STATEMENTS; REQUIRING STORMWATER MANAGEMENT PLANS; ESTABLISHING PERFORMANCE STANDARDS AND DESIGN CRITERIA; REQUIRING A GUARANTEE OF STORMWATER SYSTEM INSTALLATION AND REQUIRING INSPECTIONS; AUTHORIZING ADOPTION OF ADDITIONAL POLICIES, PROCEDURES, BEST MANAGEMENT PRACTICES AND OTHER SUPPLEMENTAL MATERIALS; REQUIRING SYSTEM MAINTENANCE; ESTABLISHING REGULATIONS GOVERNING DISCHARGE TO THE DRAINAGE SYSTEM AND PROHIBITING ILLICIT CONNECTIONS AND DISCHARGES TO THE DRAINAGE SYSTEM; AUTHORIZING ACCESS TO REGULATED FACILITIES; REQUIRING NOTIFICATION OF SPILLS; ESTABLISHING A DRAINAGE SYSTEM UTILITY AND APPROVING ADMINISTRATION OF THE UTILITY; AUTHORIZING A DRAINAGE SYSTEM UTILITY FEE AND ESTABLISHING A PROCESS TO APPEAL THE AMOUNT OF FEE; REQUIRING THAT DRAINAGE SYSTEM FEES BE SEGREGATED FROM THE GENERAL FUND AND ONLY EXPENDED ON DRAINAGE SYSTEM COSTS; ESTABLISHING ENFORCEMENT PROVISIONS AND PENALTIES FOR NON-PAYMENT OF FEES; PROVIDING THAT VIOLATIONS OF THE STORMWATER MANAGEMENT AND ILLICIT DISCHARGE AND DRAINAGE SYSTEM CONNECTION ORDINANCES ARE MISDEMEANORS PUNISHABLE BY A FINE OF NOT MORE THAN \$1,000 DOLLARS OR BY IMPRISONMENT NOT TO EXCEED 180 DAYS OR BOTH; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SEVERABILITY CLAUSE; PROVIDE FOR THE PUBLICATION OF A SUMMARY OF THIS ORDINANCE AND AN EFFECTIVE DATE HEREOF.

WHEREAS, after public hearing on the hereinafter provided amendments, the Mayor and City Council make the following findings;

**A. Authority.**

The city has authority to:

1. Make and enforce sanitary and other regulations within the City that are not in conflict with the general laws of the state.
2. Prevent the flooding of the city or to secure its drainage, to assess the cost thereof to the property benefited, and for such purpose make any improvement or perform any labor on any stream or waterway, either within or without the city limits, when necessary to protect the safety of life and property of the city.

3. Operate and maintain a stormwater drainage system and to prescribe and collect rates, fees, tolls or charges, including the levy or assessment of such rates, fees, tolls or charges against governmental units, departments or agencies, including the state of Idaho and its subdivisions, for the services, and facilities furnished by the drainage system and to provide methods of collections and penalties, including denial of service for nonpayment of such rates, fees, tolls or charges.

4. Construct, acquire, improve, equip, maintain custody, operate and maintain a drainage system and to collect revenues for the service rendered thereby.

5. Issue bonds, when necessary, under authority of the Idaho Revenue Bond Act, and to prescribe and collect reasonable rates, fees, tolls or charges for the services and facilities furnished by the drainage system and shall revise such rates, fees, tolls or charges from time to time, to provide that the drainage system shall be and always remain self-supporting.

6. Incorporate the State of Idaho's ground water quality protection plan into the city's programs provided that the implementation is consistent with the ground water protection plan.

7. Exercise all powers and perform all functions of local self-government as are not specifically prohibited by or in conflict with the general laws or the constitution of the State of Idaho.

8. Impose fees for those services provided by the City that would otherwise be funded by property tax revenue so long as the fees are reasonably related, and do not exceed, the cost of providing the service.

#### **B. MS4 Permit Compliance.**

1. In order to manage and protect the persons and property within the city's boundaries the city has constructed various drainage appurtenances which are a part of its drainage system. Private property owners have been allowed to connect to this system for drainage services. A portion of the system drains to outfalls which discharge into the receiving waters of the United States (Lake Coeur d'Alene and the Spokane River) and other associated waters of the United States within the Coeur d'Alene urbanized area.

2. In compliance with the provisions of the Clean Water Act, 33 USC section 1251 et seq., as amended by the Water Quality Act of 1987, PL 100-4 (the "act"), Region 10 of the Environmental Protection Agency (EPA) has authorized the city to discharge from its drainage system (municipal separate storm sewer system or MS4) into the receiving waters of the United States in accordance with the conditions and requirements of the permit. These conditions and requirements are a regulatory cost associated with the city's provision of drainage services to its customers.

3. The permit has many requirements, which include:

a. Develop, implement and enforce a stormwater management program which is to include best management practices (BMPs), system design, engineering methods, and other provisions appropriate to control discharges of pollutants from the city's drainage system;

b. Develop, implement and report on public education and involvement programs concerning the impacts of stormwater discharges on city water bodies including steps that citizens and businesses can take to reduce pollutants in stormwater runoff;

c. Develop and implement a plan to detect and eliminate illicit discharges into the city's drainage system, including roadways and associated ditches, pipes, culverts, catch basins, retention ponds, and any other drainage facilities in the city's jurisdiction;

d. Develop and implement ordinances or other regulatory mechanisms to prohibit non-stormwater discharges into the city's drainage system including the implementation of appropriate enforcement procedures and actions, including a written policy of enforcement escalation procedures for recalcitrant or repeat offenders;

e. Map the city's drainage system;

f. Implement dry weather field screening and testing of all the city's drainage outfalls for non-stormwater flows;

g. Inventory and report to the EPA all industrial facilities that discharge directly to the city's drainage system or directly to waters of the United States located within the city's jurisdiction;

h. Implement and enforce a program to reduce pollutants from construction activities in any stormwater runoff to the city's drainage system;

i. Implement and enforce programs to address and regulate post-construction stormwater runoff from new development and redevelopment projects that disturb greater than or equal to one acre;

j. Develop and implement an operation and maintenance program intended to prevent or reduce pollutant runoff from city operations;

k. Conduct discharge monitoring and reporting for the city's drainage system; and

l. Develop and implement the monitoring, recordkeeping, reporting, training and education requirements of the permit.

4. Failure by the city to comply with the requirements of the permit subject the city to civil and criminal penalties under federal law which would place the city's resources and staff at financial and criminal risk and subject the taxpayers to additional tax burdens.

**C. Compliance with Idaho statutes and administrative requirements for discharging stormwater over the Spokane Valley - Rathdrum Prairie Aquifer.**

1. A portion of the city's drainage system drains stormwater leaving individual properties in the city into a system of curbs, gutters, ditches, swales, dry wells and other appurtenances that disposes the drainage over the Spokane Valley - Rathdrum Prairie Aquifer (Aquifer).
2. The aquifer is the sole source of drinking water for residents of the city.
3. The Idaho Department of Environmental Quality (IDEQ) and Idaho Department of Water Resources (IDWR) regulate stormwater drainage over the aquifer.
4. Under the Ground Water Quality Rule (IDAPA 58.01.11), the aquifer is designated a Sensitive Resource, which is the highest level of protection under the groundwater quality rule. Discharges into a Sensitive Resource are subject to numerical limits established by IDEQ as well as a narrative standard that the aquifer not be degraded as a result of point source or non-point source activity.
5. Under the Ground Water Quality Rule, drainage of stormwater over the aquifer must comply with Best Management Practices and Best Available Methods to prevent degradation of the aquifer.
6. Additionally, IDWR has adopted Rules and Minimum Standards for the Construction and Use of Injection Wells (IDAPA 37.03.03), which regulates the use of dry wells and shallow injection wells for disposing of stormwater below ground surface via artificial openings or excavations.
7. Failure of the city to comply with the requirements of the Ground Water Quality Rule or the Rules and Minimum Standards for the Construction and Use of Injection Wells will subject the city to potential for enforcement proceedings which would place the city's resources at risk and subject the taxpayers to additional tax burdens.

#### **E. The Lewiston Case.**

1. In November 2011, the Idaho Supreme Court issued a decision in *Lewiston Independent School Dist. et al v. City of Lewiston*, 151 Id 800, 264 P.3d 907 (2011), which struck down a stormwater utility created by the City of Lewiston. The Supreme Court found that because the stormwater utility created by the City of Lewiston was primarily a revenue generating enterprise, rather than a regulatory enterprise, the fee charged by the city was a tax that must be legislatively authorized.
2. In reaching its decision the Court noted that:
  - a. Lewiston charged a fee to all properties with impervious surface regardless of whether they actually drained to the city's system;
  - b. It was unclear whether Lewiston adopted a distinct utility structure other than the Street Maintenance Department;

- c. Lewiston commingled the monies generated by its stormwater fee with its general fund;
- d. Lewiston paid for street maintenance/repair with stormwater fees;
- e. Lewiston's ordinance, by its own terms, was for revenue generation and did not contain any regulation;
- f. Determination of how to spend stormwater funds was left to the discretion of the Streets Maintenance Manager leaving no control over how stormwater revenue was spent; and
- g. Lewiston did not proceed under the Revenue Bond Act; as such the Court did not address the act and the other potential sources of legislative authority because those statutes were not supported by argument.

3. To address the concerns raised by the Court in the Lewiston Case, the proposed ordinance does the following:

- a. The fee proposed by the ordinance only applies to properties actually draining to the city's drainage system and provides for an administrative appeal process for customers to challenge their connection to the system or their rate;
- b. The fee proposed by the ordinance is calculated to recover costs to the city in providing the drainage service including the costs of maintaining the system and complying with all applicable regulations;
- c. Establishes a distinct utility structure under the direction of the city administration on par with the other city utilities;
- d. Prohibits commingling drainage system fees with the general fund;
- e. Prohibits using the drainage system fee for non-drainage system functions and uses;
- f. Establishes that the Drainage System Utility is a regulatory enterprise charged with administering and enforcing the city's Stormwater Management and Illicit Discharge and Drainage System Connection ordinances;
- g. Provides for specific guidance for how drainage system fees are expended and approved;
- h. Relies on the authority contained in the Idaho Revenue Bond Act, and the other sources of authority cited herein, to provide constitutional and statutory authority for the fee authorized by the proposed ordinance.

WHEREAS, based on the findings made above, it is deemed by the Mayor and City Council to be in the best interests of the City of Coeur d'Alene that the following amendments be adopted; NOW, THEREFORE,

BE IT ORDAINED, by the Mayor and City Council of the City of Coeur d'Alene:

**SECTION 1.** *That Coeur d'Alene Municipal Code Chapters 13.30, 13.32 and 13.35 are hereby repealed.*

**SECTION 2.** *That a new Chapter 13.30, entitled Stormwater Management Ordinance, is hereby added to the Coeur d'Alene Municipal Code as follows:*

**13.30.010: TITLE AND PURPOSE:**

- A. Title and Intent: This chapter will be known as the STORMWATER MANAGEMENT ORDINANCE. The intent of these regulations is to require implementation of stormwater management techniques, which rely upon natural on site treatment, and recycling of stormwater as opposed to collection and conveyance of untreated stormwater into groundwater sources or into surface bodies of water.
- B. Purpose: The underlying purposes to be achieved by implementation of these regulations include:
- a. The protection of groundwater quality through pretreatment of stormwater prior to infiltration;
  - b. The protection of surface and subsurface water resources from the effects of contaminants, erosion, sedimentation, and construction waste from land disturbing activities;
  - c. The provision of adequate drainage of stormwater;
  - d. The protection of properties from increased runoff and flooding;
  - e. The provision of stormwater drainage at the lowest possible cost;
  - f. The creation of a stormwater management system and a drainage system utility.

**13.30.020: DEFINITIONS:**

Unless a provision states otherwise, the following terms and phrases used in this chapter, have the following meanings:

**ADMINISTRATOR or DRAINAGE UTILITY ADMINISTRATOR:** The person appointed by the city to serve as the Drainage Utility administrator under chapter 35 of this title or his or her designee (See section 13.35.030).

**AS BUILT DRAWINGS:** Design plans that have been revised to reflect all changes to the plans that occurred during construction. These plans must be signed and stamped by the responsible qualified, licensed professional.

**BEST MANAGEMENT PRACTICES (BMPs):** Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater collection systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

**CITY:** The City of Coeur d'Alene.

**CLEAN WATER ACT:** The federal Water Pollution Control Act (33 USC section 1251 et seq.), and any subsequent amendments thereto.

**CLEARING:** The removal of vegetation, trees, structures, pavement, etc., by manual, mechanical, or chemical methods.

**CONVEYANCE:** A mechanism for transporting water from one point to another, including pipes, ditches, and channels.

**CONVEYANCE SYSTEM:** The drainage facilities, both natural and manmade, which collect, contain, and provide for the flow of stormwater.

**DESIGN STORM:** A rainfall event of specific return frequency and duration that is used to calculate the runoff volume and peak discharge rate.

**DETENTION:** A temporary storage of storm runoff in a BMP, which is used to control the peak discharge rates, and which provides for gravity settling of pollutants and sediments.

**DISCHARGE:** Any addition or introduction of any pollutant, stormwater, or any other substance whatsoever into the drainage system, waters of the state, or into waters of the United States.

**DISCHARGER:** Any person who causes, allows, permits, or is otherwise responsible for a discharge, including, without limitation, any operator of a construction site or industrial facility.

**DRAINAGE SYSTEM OR SYSTEM:** The drainage utility maintained system of ditches, channels, creeks, ponds, intake structures, curbs, gutters, diversion structures, levies, storm sewers, pump stations, force mains, buildings, easements, machinery, equipment, connections and all other appurtenances necessary, useful or convenient for the collection, treatment and disposal of any surface runoff or stormwater.

**EROSION:** The wearing away of the land surface by running water, wind, ice, or other geological agents, including such processes as gravitational creep.

**EROSION/SEDIMENT CONTROL:** Any temporary or permanent measures taken to reduce erosion, control siltation and sedimentation.

**GROUNDWATER:** Water in a saturated zone or stratum beneath the land surface or a surface water body.

**HAZARDOUS MATERIAL:** Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

**ILLICIT CONNECTION:** Either of the following: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the drainage system including, but not limited to, any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the drainage system and any connections to the drainage system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or, any drain or conveyance connected from a commercial or industrial land use to the drainage system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

**ILLICIT DISCHARGE:** Any discharge to a storm drain that is not composed entirely of stormwater except discharges pursuant to an NPDES permit.

**IMPERVIOUS SURFACE:** Has the same meaning as that given at subsection 17.02.070A of this code.

**INDUSTRIAL ACTIVITY:** Activities subject to NPDES industrial permits as defined in 40 CFR 122.26(b)(14).

**INFILTRATION:** The downward movement of water through the soil. Infiltration capacity is expressed in terms of inches per hour.

**INFILTRATION BASIN:** Depressions created by excavation or berms to provide for short term ponding of surface runoff until it percolates into the soil through the basin's floor and sides.

**INTERMITTENT STREAM:** A stream or portion of a stream that flows only seasonally. Typically it is dry for several months of a year.

**LAND DISTURBING ACTIVITY:** Any activity that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing topography. Land disturbing activities include, but are not limited to, demolition, construction, clearing, grading, filling, and excavation.

**NPDES (NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT):** A permit issued by the U.S. EPA, in compliance with the federal Clean Water Act for the discharge of pollutants from any point source into the waters of the United States.

**NON-STORMWATER DISCHARGE:** Any discharge that is not entirely composed of stormwater.

**NUTRIENTS:** Essential chemicals needed by plants or animals for growth. Excessive amounts of nutrients can lead to degradation of water quality and algae blooms. Some nutrients can be toxic at high concentrations.

**POLLUTANT:** Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind or as defined by the federal Water Pollution Control Act (also known as the Clean Water Act).

**QUALIFIED, LICENSED PROFESSIONAL:** A registered civil engineer or registered landscape architect who is licensed in the state of Idaho.

**RETENTION:** The holding of runoff in a basin without release except by means of evaporation, infiltration, or emergency bypass.

**RUNOFF:** Stormwater that does not infiltrate into the soil, but remains on the surface and travels over land to either natural or manmade collection facilities.

**SECURITY:** A surety bond, cash deposit or escrow account, assignment of savings, irrevocable letter of credit or other means acceptable to or required by the city to guarantee that work is completed in compliance with the project's drainage plan and in compliance with all local government requirements.

**SEDIMENT:** Material that originates from weathering and erosion of rocks or unconsolidated deposits, and is transported by, suspended in, or deposited by water.

**SEDIMENTATION:** The deposition of sediment usually in basins or watercourses.

**STORM FREQUENCY:** The time interval between storms of predetermined intensity, e.g., a 2-year, 25-year, or 100-year storm.

**STORMWATER:** Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

**STORMWATER MANAGEMENT PLAN:** A document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, the drainage system and/or receiving waters to the maximum extent practicable.

SWALE: A shallow infiltration basin with relatively gentle side slopes.

TREATMENT AND DETENTION BMP: A BMP that is intended to detain runoff and remove pollutants from stormwater. A few examples of treatment and detention BMPs are detention ponds, oil/water separators, bio-filtration swales, and constructed wetlands.

UNDEVELOPED STATE: The natural soils and vegetation in place prior to the start of any construction or clearing activity on the site.

**13.30.030: APPLICABILITY AND ADMINISTRATION:**

A. Unless otherwise exempted under this chapter, this stormwater management ordinance shall apply to all land disturbing activities including, but not limited to, grading, site development, parking lot paving, or street improvement.

B. This chapter will be applied in a manner consistent with the procedures set forth in the city's subdivision, zoning, drainage system utility and building code ordinances and such other ordinances as the city may enact to regulate the use and development of land within the city pursuant to authority granted by Idaho Code title 67, chapter 65.

C. This chapter will be administered by the Drainage System Utility Administrator.

**13.30.040: STORMWATER MANAGEMENT PLAN:**

A. Stormwater Management Plan Required: Any activity regulated by this chapter shall require the development of a comprehensive stormwater management plan meeting the requirements of sections 13.30.050 and 13.30.060 of this chapter. Stormwater management plans shall be approved by a qualified, licensed professional and submitted to the city for review.

1. Exceptions:

a. Stormwater management plans for new single-family residential structures or additions to single-family residential structures are not required to be designed by a qualified, licensed professional unless required by the city under subsection A(1)(b) of this section.

b. The administrator may require that the stormwater management plan be signed by a registered civil engineer if he or she determines that off-site drainage or adjacent property rights are affected by the plan.

B. General Plan Requirements: Each stormwater management plan must contain the following general elements:

1. The necessary maintenance system, including an acceptable plan for sustained functioning of the collection and treatment system. Unless the plan identifies another responsible party, the parties identified in section 13.30.090 of this chapter shall be responsible for maintenance of all

elements of the stormwater collection and treatment system. Maintenance activities shall include (but not be limited to), watering, mowing and fertilizing of infiltration basins, sod renovation of infiltration basins (unless otherwise provided in this chapter), sediment and debris removal from detention basins, debris removal and cleaning of all inlets, piping, outlet structures, slope protection, etc.

2. The easements necessary to provide continued maintenance of the system.

3. Clearly identified stormwater facilities including, but not limited to, pipes, inlets, catch basins, infiltration basins, basins, and swales.

C. Required Stormwater Plan Elements: In addition to the general plan requirements required by subsection B of this section, stormwater management plans must contain the following parts:

1. Design Calculations: The plan shall present all pertinent calculations necessary to determine the required size of elements of the system. These elements include, but are not limited to, off site drainage onto the property, pre and post development runoff, infiltration basins, detention and/or retention facilities, pipes, swales, culverts, ditches, and catch basins.

2. Site Plan: The site plan shall include the following:

a. Property boundaries and all existing natural and manmade features and facilities within fifty feet (50') of the site, including streets, utilities, easements, topography, structures, and drainage channels.

b. Final contours.

c. Location of all proposed improvements, including paving, structures, utilities, landscaped areas, flat work, and stormwater control facilities.

d. Proposed drainage patterns including ridgelines and tributary drainage areas.

e. Stormwater control facilities, including invert elevations, slopes, length, cross sections, and sizes. Construction details shall be shown for infiltration basins, and/or detention/retention/construction waste facilities.

f. Existing and proposed drainage/stormwater easements.

g. Location of all BMPs, temporary and permanent.

h. Final vegetation, landscape, and permanent stabilization measures.

3. Erosion, Sediment And Construction Site Waste Control Standards: The design, testing, installation, and maintenance of erosion, sediment and construction site waste controls shall be in accordance with city approved best management practices (BMPs). An erosion, sediment and construction waste control plan shall be submitted and approved prior to initiation of any site

clearing, excavation, and grading or other development activity. Both temporary and permanent erosion, sediment and construction waste control measures shall be included. The plan shall represent the minimum requirements for the site. Additional measures may be required by the city in the event of unexpected storm occurrences, repair or maintenance of existing systems, or replacement of nonfunctioning systems.

a. The permit holder and owner of the property are responsible for maintenance and upkeep of both temporary and permanent erosion, sediment and construction waste control measures unless the erosion, sediment and construction waste control plan identifies another person or entity as the responsible party.

### **13.30.050: PERFORMANCE STANDARDS:**

The following performance standards are applicable to all design, construction, implementation, and maintenance of stormwater management systems pursuant to this chapter:

A. All activities subject to the requirements of this chapter shall be carried out in a manner that ensures that runoff of storm or other natural surface waters shall not be accelerated, concentrated, or otherwise conveyed beyond the exterior property lines or project boundaries of the project in question. Existing and/or proposed off site public street drainage shall be detained separately from the on-site drainage. All stormwater facilities and BMPs required for the project must be constructed within the project boundary or property lines.

1. Exceptions: Runoff of storm or other surface waters may be conveyed beyond the exterior property lines or project boundaries if:

a. Done in accordance with the provisions of a joint stormwater management agreement approved in writing by the city; or

b. The downstream property received drainage prior to development. In this case, flow may not be concentrated onto downstream properties where sheet flow previously existed. In no event will there be a measurable increase in the peak rate of runoff from the site after development when compared with the runoff rate in the undeveloped state for a 25-year storm.

c. Runoff may be conveyed beyond property lines on to public rights of way where necessary to obtain site access via driveways, curb cuts or other access points.

B. Erosion, sediment, or discharge of pollutants, resulting from construction activities, which enter onto public property or private property not controlled by the permit holder, shall be eliminated to the maximum extent practicable unless otherwise permitted or exempted under this chapter.

C. All construction activity commenced pursuant to an approved stormwater management plan or site development permit must at all times comply with the conditions of the plan or permit. The permit holder is responsible for ensuring their contractor(s), subcontractor(s), utility trenching subcontractor(s), and all other persons entering the site abide by the conditions of the

permit. The permit holder's signature or that of his authorized agent on the permit shall constitute an agreement by the permit holder to accept responsibility for meeting the conditions of the permit.

D. No construction activity shall take place without a valid stormwater management plan. If a permit has been suspended or revoked, or has expired, all work covered by the plan shall cease until a new plan is issued.

E. All necessary action shall be taken to minimize the depositing and tracking of mud, dirt, sand, gravel, rock or debris on or onto the public right of way. The owner of the site of the construction activity or the permit holder with respect to the construction site shall be responsible for any cleanup of the public rights of way or private property not under the permit holder's control necessitated from any tracking or depositing of mud, dirt, sand, gravel, rock or debris, or shall reimburse the city for any expenses incurred by the city to effectuate the cleanup. At a minimum, all public rights of way shall be cleaned curb to curb on a weekly basis.

F. Construction ramps shall be constructed of material that will not erode or deteriorate under adverse conditions, and shall not be placed in a manner as to interfere with or block the passage of stormwater runoff.

G. No debris, dirt, aggregate or excavated materials, or construction supplies, shall be placed on the public right of way unless specifically permitted by the city in writing. In addition, public sidewalks shall not be removed, blocked, or otherwise rendered unusable by construction activity, equipment or materials, or portable toilets, unless a safe, usable alternate walkway, as approved by the city, is placed on the same side of the right of way by the contractor.

H. No owner or lessee of real property shall allow the property to be unoccupied, unused, vacant or undeveloped after the topsoil has been disturbed or the natural cover removed, unless control measures are undertaken to prevent mud, sand, dirt and gravel, or other material from migrating off site and entering the public right of way or a stormwater system.

I. All temporary erosion/sediment and construction waste control measures shall be removed after final site stabilization. Trapped sediment and other disturbed soil areas resulting from the removal of temporary measures shall be permanently stabilized within twenty one (21) days from removal of the temporary measures.

J. Channels which collect or concentrate stormwater shall be protected against erosion and contain energy dissipation measures to prevent erosion on adjoining lands. Existing unprotected channels shall be protected against further erosion in the course of site development. Any site development or construction shall preserve the existing stormwater management improvements.

K. Sediment resulting from erosion of disturbed soils shall be detained on site. Sediment shall either be stabilized on site or removed in an approved manner.

L. Any and all collected stormwater runoff shall be directed to infiltration basins or to an approved BMP. Permanent treatment of stormwater runoff shall be accomplished by directing all runoff to an infiltration basin or to an approved BMP.

1. Exceptions: Runoff may be discharged directly into dry wells or other overflow structures under the following circumstances:

a. When the increase in impervious surface, resulting from new construction or addition to existing structures, is less than three thousand (3,000) square feet.

b. Runoff from roofs.

M. When existing streets are widened or otherwise improved, runoff from the new impervious surface may be directed into existing storm drain facilities if the existing storm drain facility has sufficient capacity to accommodate the increased runoff.

### **13.30.060: DESIGN STANDARDS:**

A. General Standards: All stormwater facilities shall incorporate the following design standards:

1. All conveyance facilities shall be designed to accommodate a 25-year storm event.

2. When on-site facilities must accommodate drainage from off-site, such conveyance facilities shall be designed to accommodate a 50-year storm event.

3. Peak flows shall be calculated by the rational method for areas ten (10) acres or less. Peak flows shall be calculated by the Soil Conservation Service (SCS) method TR-55, for areas greater than ten (10) acres. Other methods may be approved by the city.

4. The intensity-duration curves from the Idaho Transportation Department shall be used for the rational method.

B. Erosion, Sediment And Construction Site Waste Control: The design, testing, installation, and maintenance of erosion, sediment and construction site waste controls, as detailed in the stormwater management plan, shall be in accordance with city BMPs.

C. Infiltration Basins: All infiltration basins shall incorporate the following design standards:

1. Infiltration basins shall be designed either to retain and treat a volume equal to one-half inch (1/2") of runoff over the tributary impervious area, including roofs or to infiltrate a storm event of 0.1 inches per hour.

2. Infiltration basins designed to detain the treatment volume shall be a maximum of six inches (6") from the lowest point of the swale to the inlet of the overflow structure.

3. Infiltration basins shall have a minimum infiltration rate of 0.5 inches per hour.

4. Infiltration basins shall be planted and maintained with grass and/or other vegetative cover approved by the city. An encroachment permit issued by the city pursuant to title 12, chapter 12.44 of this code must be obtained before starting any landscaping work in infiltration basins located in city rights of way.

5. Infiltration basins must be renovated when they do not meet the minimum infiltration rate or when the vegetative cover dies.

6. Infiltration basins shall contain dry wells, or an equivalent approved by the city engineer, to accommodate overflow.

7. Where infiltration basins will be located between curb and sidewalk, both curb and sidewalk shall be considered an integral part of the storm management system and shall be installed with the infiltration basin.

### **13.30.070: GUARANTEE OF INSTALLATION:**

A. No building permit, final plat approval, or other discretionary approval shall be granted until the stormwater management plan has been approved by the city.

B. Except as allowed by chapter 16.24 of this code, no building permit will be issued for new subdivisions until the stormwater management system, including infiltration basins, curb and sidewalks, has been constructed for the developed portion and will accept the flow of stormwater as designed. For all other cases, no certificate of occupancy will be issued until the stormwater management system has been installed and will accept the flow of stormwater as designed.

1. Exception: If, in the judgment of the administrator, project occupancy can be achieved without harm to the environment or potential occupants, occupancy may proceed upon receipt of an acceptable guarantee of financial surety, pursuant to section 15.08.075 of this code, to complete installation when weather conditions or other variables allow but in no event more than six (6) months after occupancy. In no case shall such guarantee be allowed if the incomplete improvements would result in increased erosion, sedimentation, or other damage to the development, public improvements, surface or subsurface waters, the proposed stormwater management system or otherwise endanger the public health or safety.

C. At any time, the city may stop work on the installation of subdivision improvements, withhold further issuance of building permits in a development, stop work on any individual building or development of any individual building site, or otherwise take steps necessary to ensure that the development meets the requirements of this chapter.

### **13.30.080: INSPECTIONS:**

All construction activities which require a permit or have the potential to impact stormwater discharge or create a discharge to the stormwater collection system shall be subject to the inspection provisions of this section.

A. The city maintains the right to inspect any site of construction activity that has been issued a permit or is required to have a permit issued.

B. Sites shall be required to undergo and pass a city inspection upon completion of the installation of temporary erosion, sediment and construction waste controls, and upon completion of the final grading and/or the permanent drainage and erosion control facilities. The permit holder shall be responsible for scheduling these inspections through the city building department. Inspections must be requested at least forty eight (48) hours prior to the desired time of inspection. Additional inspections may also occur as deemed necessary by the city.

C. When an inspection is required under this chapter, no work shall proceed until completion of the inspection and approval from the authorized city agent conducting the inspection.

**13.30.090: ADOPTION OF SUPPLEMENTAL MATERIALS AND BEST MANAGEMENT PRACTICES:**

The city may, by resolution, adopt additional design standards, definitions of terminology, administrative procedures, stormwater best management practices, etc., intended to implement the general requirements and performance standards set forth in this chapter. Changes in the design standards, best management practices or other adopted materials may be accomplished by subsequently adopted resolution. Adopted design standards may be complied with in alternative ways that will contribute to rational achievement of the general requirements and performance standards set forth in this chapter.

**13.30.100: MAINTENANCE RESPONSIBILITY:**

A. Unless other provisions are made in the process of development review and approval, the owner of the property is responsible to maintain all stormwater system elements required for on-site stormwater collection and treatment and the owner of the abutting property is responsible for maintaining infiltration basins contained within city rights of way or drainage easements for street drainage.

B. For infiltration basins contained within city rights of way or drainage easements the maintenance responsibility created by this section shall include mowing, and otherwise maintaining the grass or other approved vegetative cover in a healthy condition capable of meeting the retention and treatment requirements of this chapter. The city's Drainage System Utility will renovate the infiltration basin upon expiration of its service life.

C. Any violation of these maintenance requirements shall constitute a violation of this chapter.

**13.30.110: PROHIBITED CONDUCT:**

No person shall damage, harm, fail to install, complete, or maintain, or otherwise impair the functioning of infiltration basins or the future functioning of areas designed as an infiltration basin or approved methods of transmission of stormwater to an infiltration basin or any portion of a stormwater management system installed pursuant to this chapter.

### **13.30.120: ENFORCEMENT:**

Provisions of this chapter may be enforced in one or more of the following manners:

A. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this chapter is guilty of a misdemeanor and shall be punished as provided by chapter 1.28 of this code.

1. Each such person is guilty of a separate offense for each and every day during which any violation of any provision of this chapter is committed, continued, or permitted by any such person, and he shall be punished accordingly.

B. By civil action to compel performance and completion of, or maintenance of, facilities installed pursuant to this chapter.

C. Denying, revoking, or suspending building permits or certificates of occupancy, as the case may be.

D. By any other method or remedy allowed by law.

### **13.30.130: VARIANCE:**

A variance from the requirements of this chapter or from the design standards adopted pursuant to this chapter may be granted only upon a showing of undue hardship due to unique site characteristics. A variance may only be granted by the city council in such circumstances if the approval of the variance would not otherwise impair achievement of the standards or purposes of this chapter, would not impose an additional burden upon adjoining or downstream lands or landowners, or otherwise disrupt the scheme of stormwater management in the community. Any person requesting a variance under this section must provide data showing that the proposed alternative methods of stormwater handling will produce comparable efficacy of the stormwater management measures required by this chapter. No variance will be issued unless all elements of this section are met.

**SECTION 3.** *That a new Chapter 13.32, entitled Illicit Discharge and Drainage System Connection Ordinance, is hereby added to the Coeur d'Alene Municipal Code as follows:*

### **13.32.010: TITLE:**

This chapter will be known as the ILLICIT DISCHARGE AND DRAINAGE SYSTEM CONNECTION ORDINANCE.

### **13.32.020: PURPOSE:**

The purpose of this chapter is to comply with the requirements of the city's national pollutant discharge elimination system (NPDES) permit, the federal Clean Water Act, and to provide for the health, safety, and general welfare of the citizens of Coeur d'Alene through the regulation of

non-stormwater discharges to the drainage system as required by federal and state law. This chapter establishes methods to control the introduction of pollutants into the drainage system in order to meet the following objectives:

A. To regulate the contribution of pollutants to the drainage system by stormwater discharges by any user.

B. To prohibit illicit connections and discharges to the drainage system.

C. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance of this chapter.

D. To establish penalties associated with violations of this chapter.

### **13.32.030: DEFINITIONS:**

Unless a provision states otherwise, the following terms and phrases used in this chapter have the provided meanings. In the event of a dispute or discrepancy regarding the definition of a term used in this chapter, the definition contained in the federal water pollution control act (33 USC section 1251 et seq.), also known as the clean water act, and any subsequent amendments thereto, are the controlling authority.

**ADMINISTRATOR or UTILITY ADMINISTRATOR:** The person appointed by the city to serve as the Drainage Utility administrator under chapter 35 of this title or his or her designee (See section 13.35.030).

**AS BUILT DRAWINGS:** Has the same meaning as that given at subsection 13.30.020 of this code.

**BEST MANAGEMENT PRACTICES (BMPs):** Has the same meaning as that given at subsection 13.30.020 of this code.

**CITY:** Has the same meaning as that given at subsection 13.30.020 of this code.

**CLEAN WATER ACT:** Has the same meaning as that given at subsection 13.30.020 of this code.

**CONVEYANCE:** Has the same meaning as that given at subsection 13.30.020 of this code

**CONVEYANCE SYSTEM:** Has the same meaning as that given at subsection 13.30.020 of this code.

**DISCHARGE:** Has the same meaning as that given at subsection 13.30.020.

**DISCHARGER:** Has the same meaning as that given at subsection 13.30.020 of this code.

**DRAINAGE SYSTEM OR SYSTEM:** Has the same meaning as that given at subsection 13.30.020 of this code.

**HAZARDOUS MATERIALS:** Has the same meaning as that given at subsection 13.30.020 of this code.

**ILLCIT CONNECTION:** Has the same meaning as that given at subsection 13.30.020 of this code.

**ILLCIT DISCHARGE:** Has the same meaning as that given at subsection 13.30.020 of this code.

**INDUSTRIAL ACTIVITY:** Has the same meaning as that given at subsection 13.30.020 of this code.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4):** Those portions of the city drainage system that discharge to the waters of the United States and are subject to the city's NPDES stormwater discharge permit.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT:** Has the same meaning as that given at subsection 13.30.020 of this code.

**NON-STORMWATER DISCHARGE:** Has the same meaning as that given at subsection 13.30.020 of this code.

**NOTICE OF INTENT (NOI):** Electronic or written notice completed under provisions of the federal construction general permit and filed with the EPA in accordance with current requirements.

**PERSON:** Any individual, firm, association, club, organization, corporation, partnership, business trust, company or other entity which is recognized by law as the subject of rights or duties.

**POLLUTANT:** Has the same meaning as that given at subsection 13.30.020 of this code.

**POLLUTANTS OF CONCERN:** Objects and materials identified in the Clean Water Act 303(d) are: sediment, oil and grease, coliform bacteria (E. coli), nitrogen, phosphorus, metals and temperatures.

**PREMISES:** Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

**STORMWATER:** Has the same meaning as that given at subsection 13.30.020 of this code.

**STORMWATER MANAGEMENT:** The process of collection, conveyance, storage, treatment, and disposal of stormwater to ensure control of the magnitude and frequency of runoff and to

minimize the hazards associated with flooding. Also includes implementing controls to reduce the discharge of pollutants including management practices, control techniques and systems, design and engineering methods.

**STORMWATER POLLUTION PREVENTION PLAN (SWPPP):** A document which describes the best management practices and activities to be implemented by a person to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

**WASTEWATER:** Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

**WATERCOURSE:** Any natural or artificially managed channel through which water flows on a regular or routine basis.

**WATERS OF THE UNITED STATES:** Those waters described in the context of wetlands and interstate commerce described at 33 CFR 328.

#### **13.32.040: APPLICABILITY:**

This chapter applies to all water directly or indirectly entering the drainage system that is generated on any developed or undeveloped lands unless explicitly exempted by the city or an authorized enforcement agency.

#### **13.32.050: ADMINISTRATION:**

The administrator will administer, implement, and enforce the provisions of this chapter.

#### **13.32.060: DISCLAIMER:**

The standards established by this chapter are minimum standards. As such compliance by any person with this chapter does not guarantee that there will be no contamination, pollution, or unauthorized discharge of pollutants. This chapter does not create liability on the part of the city, any agent or employee thereof for any damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

#### **13.32.070: DISCHARGE REGULATIONS:**

No person shall directly or indirectly discharge non-stormwater to the drainage system except where such discharges satisfy one of the following three (3) conditions:

A. The non-stormwater discharges are in compliance with a separate NPDES permit, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted by the city for any discharge to the storm drain system.

B. The non-stormwater discharges result from a spill and are the result of an unusual and severe weather event where reasonable and prudent measures have been taken to minimize the impact of such discharge; or consist of emergency discharges required to prevent imminent threat to human health or severe property damage, provided that reasonable and prudent measures have been taken to minimize the impact of such discharges.

C. The non-stormwater discharges satisfy all of the following conditions:

1. The discharges consist of uncontaminated water line flushing; potable water sources; landscape irrigation (provided all pesticides, herbicides and fertilizer have been applied in accordance with the manufacturer's instructions); flows from riparian habitats and wetlands; diverted stream flows; springs; rising groundwater; uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005(20)) to separate storm sewers; uncontaminated pumped groundwater or spring water; foundation and footing drains (where flows are not contaminated with process materials such as solvents); uncontaminated air conditioning or compressor condensate; water from crawl space pumps; individual residential car washing; dechlorinated swimming pool discharges; routine external building wash down which does not use detergents; street and pavement wash waters, where no detergents are used and no spills or leaks of toxic or hazardous materials have occurred (unless all spilled material has been removed); fire hydrant flushing; dye testing; or flows from emergency firefighting activities; and

2. The discharges are not sources of pollution to waters of the United States, as described in IDAPA 58.01.02.200. For purposes of this provision, a discharge is considered a source of pollution to waters of the United States if it:

a. Contains hazardous materials in concentrations found to be of public health significance or to impair beneficial uses in receiving waters. (Hazardous materials are those that are harmful to humans and animals from exposure, but not necessarily ingestion.);

b. Contains toxic substances in concentrations that impair designated beneficial uses in receiving waters. (Toxic substances are those that can cause disease, malignancy, genetic mutation, death, or similar consequences.);

c. Contains deleterious materials in concentrations that impair designated beneficial uses in receiving waters. (Deleterious materials are generally substances that taint edible species of fish, cause taste in drinking waters, or cause harm to fish or other aquatic life.);

d. Contains radioactive materials or radioactivity at levels exceeding the values listed in 10 CFR part 20 in receiving waters;

e. Contains floating, suspended, or submerged matter of any kind in concentrations causing nuisance or objectionable conditions or in concentrations that may impair designated beneficial uses in receiving waters;

f. Contains excessive nutrients that can cause visible slime growths or other nuisance aquatic growths that impair designated beneficial uses in receiving waters;

- g. Contains oxygen demanding materials in concentrations that would result in anaerobic water conditions in receiving waters; or
- h. Contains sediment above quantities specified in IDAPA 58.01.02.250.02(e) or in the absence of specific sediment criteria, above quantities that impair beneficial uses in receiving waters; or
- i. Contains material in concentrations that exceed applicable natural background conditions in receiving waters (IDAPA 58.01.02.200.09). Temperature levels may be increased above natural background conditions when allowed under IDAPA 58.01.02.401.

**13.32.080: PROHIBITION OF ILLICIT CONNECTIONS:**

- A. The construction, use, maintenance or continued existence of illicit connections to the drainage system is prohibited.
- B. This prohibition expressly includes, without limitation, illicit connections made prior to the enactment of this chapter, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- C. A person is considered to be in violation of this chapter if the person connects a line conveying sewage or other non-stormwater discharges to the drainage system, or allows such a connection to continue, without written approval from the city.

**13.32.090: SUSPENSION OF MUNICIPAL SEPARATE STORM SEWER SYSTEM ACCESS:**

- A. Suspension Due to Illicit Discharges in Emergency Situations: The city may, without prior notice, suspend drainage system access to a person or entity when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the drainage system or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the city may take such steps as deemed necessary to prevent or minimize damage to the drainage system or waters of the United States, or to minimize danger to persons.
- B. Termination Due to the Detection of Illicit Discharge: Any person discharging to the drainage system in violation of this chapter may have their drainage system access terminated if such termination would abate or reduce an illicit discharge. The city will notify the violator of the proposed termination of its drainage system access. Notification will be made in writing by certified mail to the owner of the property from which the illicit discharge is being made at the last known mailing address of said property owner on record with the Kootenai County assessor. The notice will include a description of the violation and set forth the time allowed for compliance.

C. Written Approval Required For Reinstatement: Written approval from the city must be obtained prior to reinstating or reconnecting any access to the drainage system that was terminated as authorized under this section.

### **13.32.100: INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES:**

Any person subject to an industrial or construction activity NPDES stormwater discharge permit must comply with all provisions of such permit. Proof of compliance with the permit may be required by the city prior to allowing of discharges to the drainage system.

### **13.32.110: MONITORING OF DISCHARGES:**

A. Applicability: This section applies to all facilities that have stormwater discharges associated with commercial, industrial activity and/or construction activity.

B. Access to Facilities:

1. The administrator must be permitted to enter and inspect facilities subject to regulation under this chapter as often as may be necessary to determine compliance with this chapter. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger must make the necessary arrangements to allow access to the administrator.

2. Facility operators must allow the administrator ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law related to said discharges.

3. The city has the right to set up on any permitted facility such devices as are necessary in the opinion of the administrator to conduct monitoring and/or sampling of the facility's stormwater discharge.

4. The city has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment must be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality must be calibrated as required by the manufacturer's operation manual to ensure their accuracy.

5. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled must be promptly removed by the operator at the written or oral request of the administrator and may not be replaced. The costs of clearing such access will be borne by the operator.

6. Unreasonable delays in allowing the administrator access to a permitted facility is a violation of a stormwater discharge permit and of this chapter.

7. If the administrator has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, he or she may seek issuance of a search warrant from any court of competent jurisdiction.

#### **13.32.120: NOTIFICATION OF SPILLS:**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the drainage system or waters of the U.S., that person must take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of a release of hazardous materials that person must immediately notify emergency response agencies and the Idaho Department of Environmental Quality of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, the person must notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the city engineer within three (3) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of the establishment must also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records must be retained for at least three (3) years from the date of the discharge.

#### **13.32.130: VIOLATIONS CONSTITUTE MISDEMEANORS:**

The knowing violation of any provision or failure to comply with any requirement of this chapter shall constitute a misdemeanor punishable as provided in chapter 1.28 of this code.

#### **13.32.140: ACTS RESULTING IN VIOLATION OF FEDERAL LAWS AND REGULATIONS:**

Any person who violates any provision of this chapter, or discharges any pollutant or causes pollution, may also be in violation of federal laws or regulations, and may be subject to the sanctions of those laws or regulations, including civil or criminal penalties, notwithstanding any legal action taken by the city.

**SECTION 4.** *That a new Chapter 13.35, entitled Drainage System Utility, is hereby added to the Coeur d'Alene Municipal Code as follows:*

#### **13.35.010: AUTHORIZATION:**

This chapter is enacted pursuant to the authority vested in the city by Article XII, Section 2 of the Idaho Constitution, the Idaho Revenue Bond Act (I.C. 50-1027 – 50-1042) and Idaho Code Sections 50-301, 50-333 and 63-1311.

### **13.35.020: PURPOSE:**

The purposes of this chapter are:

1. To equitably allocate the operation and maintenance expenses of the drainage system to those served by the system in relation to the service received from the system, including meeting all mandated retention and treatment standards for stormwater.
2. To provide for the establishment of system service fees and charges and provide that the fees and charges collected are set aside and designated solely for use for the maintenance, operations, improvements, regulatory requirements, and program costs of the system.
3. To provide that all services mandated or authorized by this chapter be furnished at the lowest possible cost.
4. To establish and enforce regulations and implement programs necessary and/or convenient to comply with the requirements of the city's NPDES discharge permit as well as the rules governing collection, treatment, detention and disposal of stormwater over the Spokane Valley - Rathdrum Prairie Aquifer.
5. To establish a drainage system utility to operate and maintain the city's drainage system and to regulate stormwater and drainage issues within the city.

### **13.35.030: DEFINITIONS:**

For purposes of this chapter the following terms and acronyms shall have the meaning herein set forth unless the text of the use of the term clearly requires otherwise:

**ADMINISTRATOR or DRAINAGE UTILITY ADMINISTATOR:** The person serving under the direction of the deputy city administrator who is charged with supervising and overseeing the drainage system utility and its regulatory functions.

**DRAINAGE SYSTEM or SYSTEM:** Has the same meaning as that given at subsection 13.30.020 of this code.

**IMPERVIOUS SURFACE:** has the same meaning as that given at subsection [17.02.070A](#) of this code.

**PERMIT:** The current national pollutant discharge elimination system (NPDES) permit issued to the city by the environmental protection agency in compliance with the provisions of the clean water act, 33 USC section 1251 et seq., as amended by the water quality act of 1987, PL 100-4, for stormwater discharges from small municipal separate storm sewer systems also known and referred to as an MS4 permit.

**UTILITY:** The drainage system utility created by this chapter.

**13.35.040: APPLICABILITY:**

All property within the corporate limits of the city containing impervious surfaces that drains stormwater into the city’s drainage system is subject to this chapter.

**13.35.050: DRAINAGE SYSTEM UTILITY CREATED:**

A. Utility Created: There is hereby created and established a drainage system utility for the city. The utility will have regulatory authority and responsibility for planning, design, construction, maintenance, administration, operation of and the services provided by the city’s drainage system.

B. Utility’s Regulatory Functions: The drainage system utility is charged with administering and enforcing the city’s Stormwater Management (Municipal Code Chapter 13.30) and Illicit Discharge and Drainage System Connection (Municipal Code Chapter 13.32) ordinances, which should be referenced in conjunction with this chapter.

**13.35.060: UTILITY ADMINISTRATION:**

A. Drainage System Utility Administration: The utility shall be administered under the direction of the city administration. The drainage system utility will be administered in a manner consistent with the city’s water and wastewater utilities.

B. Utility Administrator: The utility shall be under the supervision of the drainage system utility administrator who shall serve in such capacity under the direction of the deputy city administrator.

C. Annual Reports: In order for the city council to exercise its authority under I.C. 50-1031, the utility shall provide the city council with an annual report of the activities of the utility during the preceding year and a projection of the upcoming year’s priorities.

**13.35.070: POLICIES AND PROCEDURES:**

The administrator is authorized to establish and update, from time to time, written policies and procedures to implement the provisions of this chapter.

**13.35.080: UTILITY FEE:**

A. Drainage System Utility Fee: The city may establish a system of periodic utility fees and charges proportionate to the costs of providing services to a property in accordance with the costs of the operation and maintenance of the city’s system, including administrative, regulation, and enforcement costs and for any redemption of bonds that are used to finance any system improvement.

B. Fee Established by Resolution: The fee authorized by this chapter will be set by resolution of the city council.

C. Basis of Fee: The fee authorized by this chapter will be based on the service a drainage system utility customer receives. Such service shall be determined by the contribution of stormwater runoff into the drainage system. Contribution to the system will be determined by stormwater runoff from any impervious surface area on the property that drains into the city's drainage system.

D. Exemption from Fee: Properties that retain all stormwater runoff on site or that do not receive any drainage services from the system are exempt from the fee authorized by this chapter.

E. Additional Development of Property: The utility will recalculate the fee for each property, including reviewing whether the property is exempt, each time additional development occurs on the property that would either increase or decrease the amount of the fee. The recalculation of the fee will be triggered by application for a building or site development permit.

F. Request to Recalculate Fee: A person subject to the drainage system fee who believes that a particular assigned fee is based on an incorrect calculation, that the subject property does not receive any drainage services from the system or is included in an incorrect fee zone or category, may submit a written request that the utility recalculate the fee within thirty (30) days after the fee is established or increased. The request must identify the basis for disagreement with the assessed fee and be accompanied by relevant supporting documentation. The utility shall recalculate the fee and notify the requestor, in writing, no later than thirty (30) calendar days following receipt of the completed written request for recalculation whether the fee will be adjusted.

G. Appeal of Fee Recalculation: A person dissatisfied with the utility's recalculation of their fee allowed under subsection F of this section may appeal the utility's determination to the city council by submitting a written appeal to the city clerk within thirty (30) calendar days after the utility issues its decision. The request must identify the error(s) committed by the utility in recalculating the fee and any other basis for claim of incorrect calculation and be accompanied by relevant supporting documentation. The city council will not hold a public hearing on the appeal but will meet and review all submitted information during a properly noticed public meeting and make a determination on the appeal. A final written decision from the council will be issued by the city council no later than thirty (30) calendar days following receipt of the completed written request for recalculation unless the appellant agrees to an extension.

H. Refund of Overpayment: The city will refund any drainage system fee overpayment within thirty (30) calendar days if either the utility or the City Council determines that a drainage system fee was improperly calculated as allowed by this section.

### **13.35.090: UTILITY BILLING:**

All billings for utility charges assessed under the provisions of this chapter will be billed and collected in the same manner as sewer charges under chapter 13.08 of this code as it relates to utility billing, payment, delinquency and penalty provisions.

### **13.35.100: DRAINAGE SYSTEM UTILITY FUND AND EXPENDITURES:**

A. Segregation of Funds: All fees and charges received and collected under authority of this chapter shall be deposited and credited to a special fund to be designated as the drainage system fund.

B. Accounting of Receipts and Expenditures: The accounts of the fund created by this section shall show all receipts and expenditures for the maintenance, construction, operation, upkeep and repair of the city's drainage system, including the payment of any system bonds issued by the city, which, from time to time, may be outstanding.

C. Expenditure on System Expenses Only: All funds generated by this chapter will only be expended on the operation, maintenance and other expenses, including regulatory compliance, of the drainage system. No general street maintenance such as filling potholes, repaving, striping, winter sanding or other general fund expenditures may be charged to the drainage system fund. However, repair and replacement of curbs and gutters and removal of pollutants from the drainage system via sweeping or other methods is authorized in order to maintain the integrity of the drainage system and comply with applicable regulations. The drainage system administrator and the finance director are charged with adopting additional policies and guidelines to ensure that drainage system funds are only spent on valid drainage system expenses.

D. Availability of Deposited Funds: As provided by law, when budgeted and appropriated, the funds and credits to the account of the drainage system utility fund shall be available for the payment of the requirements for the maintenance, operation, repairs, and upkeep of the system, compliance with the permit, and to the extent legally available for payment into a sinking fund established for the payment of the principal of and interest of any general obligation system bonds which shall from time to time be outstanding.

E. Independence from the General Fund: The drainage system utility shall operate independently of the city's general fund and shall have the same relationship to the city as other city utilities. Upon creation of the utility, the city's drainage facilities and assets, other than streets, shall be transferred to the utility in accordance with governmental accounting standards board (GASB) financial reporting principles.

**SECTION 5.** All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

**SECTION 6.** Neither the adoption of this ordinance nor the repeal of any ordinance shall, in any manner, affect the prosecution for violation of such ordinance committed prior to the effective date of this ordinance or be construed as a waiver of any license or penalty due under any such ordinance or in any manner affect the validity of any action heretofore taken by the City of Coeur d'Alene City Council or the validity of any such action to be taken upon matters pending before the City Council on the effective date of this ordinance.

**SECTION 7.** The provisions of this ordinance are severable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid, or unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this ordinance or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this ordinance would have been adopted if such illegal, invalid or unconstitutional provision, clause sentence, subsection, word, or part had not been included therein, and if such person or circumstance to which the ordinance or part thereof is held inapplicable had been specifically exempt therefrom.

**SECTION 8.** After its passage and adoption, a summary of this Ordinance, under the provisions of the Idaho Code, shall be published once in the official newspaper of the City of Coeur d'Alene, and upon such publication shall be in full force and effect.

APPROVED, ADOPTED and SIGNED this 4<sup>th</sup> day of December, 2012.

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Sandi Bloem, Mayor

ATTEST:

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Susan K. Weathers, City Clerk

SUMMARY OF COEUR D'ALENE ORDINANCE NO. \_\_\_\_\_  
Title 13.30 Stormwater Management Ordinance

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, REPEALING CHAPTERS 13.30, 13.32 AND 13.35 AND ADOPTING NEW CHAPTERS 13.30, 13.32 AND 13.35 TO ESTABLISH STORMWATER MANAGEMENT REGULATIONS, CONTROL ILLICIT DISCHARGE AND ESTABLISH A DRAINAGE UTILITY; PROVIDING DEFINITIONS AND PURPOSE STATEMENTS; REQUIRING STORMWATER MANAGEMENT PLANS; ESTABLISHING PERFORMANCE STANDARDS AND DESIGN CRITERIA; REQUIRING A GUARANTEE OF STORMWATER SYSTEM INSTALLATION AND REQUIRING INSPECTIONS; AUTHORIZING ADOPTION OF ADDITIONAL POLICIES, PROCEDURES, BEST MANAGEMENT PRACTICES AND OTHER SUPPLEMENTAL MATERIALS; REQUIRING SYSTEM MAINTENANCE; ESTABLISHING REGULATIONS GOVERNING DISCHARGE TO THE DRAINAGE SYSTEM AND PROHIBITING ILLICIT CONNECTIONS AND DISCHARGES TO THE DRAINAGE SYSTEM; AUTHORIZING ACCESS TO REGULATED FACILITIES; REQUIRING NOTIFICATION OF SPILLS; ESTABLISHING A DRAINAGE SYSTEM UTILITY AND APPROVING ADMINISTRATION OF THE UTILITY; AUTHORIZING A DRAINAGE SYSTEM UTILITY FEE AND ESTABLISHING A PROCESS TO APPEAL THE AMOUNT OF FEE; REQUIRING THAT DRAINAGE SYSTEM FEES BE SEGREGATED FROM THE GENERAL FUND AND ONLY EXPENDED ON DRAINAGE SYSTEM COSTS; ESTABLISHING ENFORCEMENT PROVISIONS AND PENALTIES FOR NON-PAYMENT OF FEES; PROVIDING THAT VIOLATIONS OF THE STORMWATER MANAGEMENT AND ILLICIT DISCHARGE AND DRAINAGE SYSTEM CONNECTION ORDINANCES ARE MISDEMEANORS PUNISHABLE BY A FINE OF NOT MORE THAN \$1,000 DOLLARS OR BY IMPRISONMENT NOT TO EXCEED 180 DAYS OR BOTH; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SEVERABILITY CLAUSE. THE ORDINANCE SHALL BE EFFECTIVE UPON PUBLICATION OF THIS SUMMARY. THE FULL TEXT OF THE SUMMARIZED ORDINANCE NO. \_\_\_\_\_ IS AVAILABLE AT COEUR D'ALENE CITY HALL, 710 E. MULLAN AVENUE, COEUR D'ALENE, IDAHO 83814 IN THE OFFICE OF THE CITY CLERK.

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Susan K. Weathers, City Clerk

## STATEMENT OF LEGAL ADVISOR

I, Warren J. Wilson, am a Deputy City Attorney for the City of Coeur d'Alene, Idaho. I have examined the attached summary of Coeur d'Alene Ordinance No. \_\_\_\_\_, Title 13.30 Stormwater Management Ordinance, and find it to be a true and complete summary of said ordinance which provides adequate notice to the public of the context thereof.

DATED this 4<sup>th</sup> day of December, 2012.

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Warren J. Wilson, Chief Deputy City Attorney

RESOLUTION NO. 12-052

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO SETTING SERVICE CHARGES FOR DRAINAGE SERVICES PROVIDED TO PROPERTY OWNERS BY THE DRAINAGE SYSTEM UTILITY.

WHEREAS, The Coeur d'Alene Municipal Code provides that the City Council shall set the fee for services provided by the Drainage System Utility by resolution; and

WHEREAS, the city owns and operates a drainage system that provides drainage and storm water control services for properties in Coeur d'Alene, and

WHEREAS, the city's drainage system consists of a system of swales, ditches, channels, creeks, ponds, intake structures, curbs, gutters, streets, diversion structures, levies, storm sewers, pump stations, force mains, buildings, easements, machinery, equipment, connections and other appurtenances for the collection, treatment and disposal of surface runoff and stormwater; and

WHEREAS, a portion of the city's drainage system ("Zone 1") drains to Lake Coeur d'Alene and the Spokane River, which are surface waters of the United States. This portion of the system is regulated as a Municipal Separate Storm Sewer System ("MS4") by the Environmental Protection Agency ("EPA") through the National Pollution Discharge Elimination System ("NPDES") permitting system; and

WHEREAS, The EPA places restrictions, conditions, and requirements on the NPDES permits that require systematic maintenance and operational controls to limit the amount of pollutants that are discharged into the waters of the United States, which creates additional costs for providing the service of removing and disposing of stormwater leaving properties within the city; and

WHEREAS, the remaining portion of the city's system ("Zone 2") collects, and disposes of storm and other surface drainage waters leaving properties in the city by conveying and collecting the water in a series of curbs, gutters, ditches, swales, dry wells and other appurtenances. This part of the system is regulated by the Idaho Department of Environmental Quality ("IDEQ") and the Idaho Department of Water Resources ("IDWR"); and

WHEREAS, IDEQ and IDWR have established rules and restrictions for the protection of the Spokane Valley – Rathdrum Prairie Aquifer, which is the sole source of drinking water for residents of the city. See, IDAPA 37.03.03 (Rules and Minimum Standards for the Construction and Use of Injection Wells) and IDAPA 58.01.11 (Ground Water Quality Rule); and

WHEREAS, complying with IDEQ and IDWR's requirements creates additional regulatory, maintenance and other costs for providing the service of removing and disposing of stormwater leaving properties within the city; and

WHEREAS, Zones 1 and 2 are depicted on the attached Exhibit “A”, which by this reference is incorporated herein; and

WHEREAS, The Mayor and City Council of Coeur d’Alene have determined that because the costs of complying with EPA’s requirements for Zone 1 are different than the costs of complying with IDEQ and IDWR’s regulatory costs for Zone 2, it would be most equitable to charge property owners in each of the two drainage zones only for the costs of complying with regulations applicable to their zone; and

WHEREAS, The Mayor and City Council of Coeur d’Alene have determined, after considering multiple funding options, that the most equitable fashion of providing a drainage utility system is to charge those properties using the system a service charge that reasonably approximates the service provided to the property by the drainage system utility; and

WHEREAS, after considering several models for determining each properties contribution of costs to the system, the city determined that a service charge based on the amount of impervious surface on a property that drains to the city’s drainage system is the most accurate model for assessing drainage service fees; and

WHEREAS, following the guidance given by the Idaho Supreme Court in *Lewiston Independent School District et al. v. City of Lewiston*, 151 Id 800, 264 P.3d 907 (2012), the city determined that only the impervious surface on a property that is connected or drains to the city’s drainage system should be charged a service fee; and

WHEREAS, in 2012, City staff conducted GIS and site surveys of a statistically significant number (318) of single family residences, which is defined to include duplexes, throughout the city to measure the amount of impervious surface that drains to the city’s system. Based on this work, the city determined that an average of 786 square feet of impervious surface drains to the city’s system from single family residential properties; and

WHEREAS, the city has determined that because the difference in the amount of impervious surface that drains to the city’s system between developed single family residences is not statistically significant and the cost of administering an individual fee for each single family lot would be excessive given the nominal differences, that averaging the amount of impervious surface that drains to the city’s system for single family homes allows for an equitable and uniform service charge for single family residences; and

WHEREAS, each of the 1,526 other developed properties in the city that are not single family residences have been individually surveyed to determine the specific amount of impervious surface that drains to the city’s system from each property; and

WHEREAS, given the wide variation in sizes of all other developed properties that are not single family residences and the relatively small number of such properties, the city has determined that it is feasible and equitable to charge each developed non-single family residential property a fee based on its impervious surface that drains to the city's system; and

WHEREAS; funds collected from the drainage system are exclusively for the expense of operating the Coeur d'Alene Drainage System Utility; NOW, THEREFORE,

BE IT RESOLVED, by the Mayor and City Council that the value of one equivalent service unit (ESU) is hereby established to be 786 square feet of impervious surface area, which is the average amount of impervious surface that a single family residence drains to the drainage system;

BE IT FURTHER RESOLVED, that the Drainage System Utility fee in Zone 1 will be \$3.76 per ESU per month;

BE IT FURTHER RESOLVED, that the Drainage System Utility fee in Zone 2 will be \$4.13 per ESU per month;

BE IT FURTHER RESOLVED, that the monthly utility fee for each single-family residence, including duplexes, shall be the fee for one ESU in the appropriate zone regardless of actual square footage of impervious surface;

BE IT FURTHER RESOLVED, that the monthly fee for all other properties shall be based upon a calculation of total impervious surface on the property that drains to the city's drainage system divided by the ESU value to determine the Equivalent Service Unit (ESU) quantity for the property in question. The ESU quantity shall be multiplied by the Drainage System Utility fee in the correct zone to determine the monthly service charge for the property in question;

BE IT FURTHER RESOLVED that three (3) certified copies of the drainage system utility fees as herein adopted will be kept on file with the City Clerk of the City of Coeur d'Alene.

DATED this 4<sup>th</sup> day of December, 2012

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Sandi Bloem, Mayor

ATTEST:

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Susan K. Weathers, City Clerk

Motion by \_\_\_\_\_, Seconded by \_\_\_\_\_, to adopt the foregoing resolution.

**ROLL CALL:**

Councilman McEvers Voted \_\_\_\_\_

Councilman Gookin Voted \_\_\_\_\_

Councilman Goodlander Voted \_\_\_\_\_

Councilman Kennedy Voted \_\_\_\_\_

Councilman Adams Voted \_\_\_\_\_

Councilman Edinger Voted \_\_\_\_\_

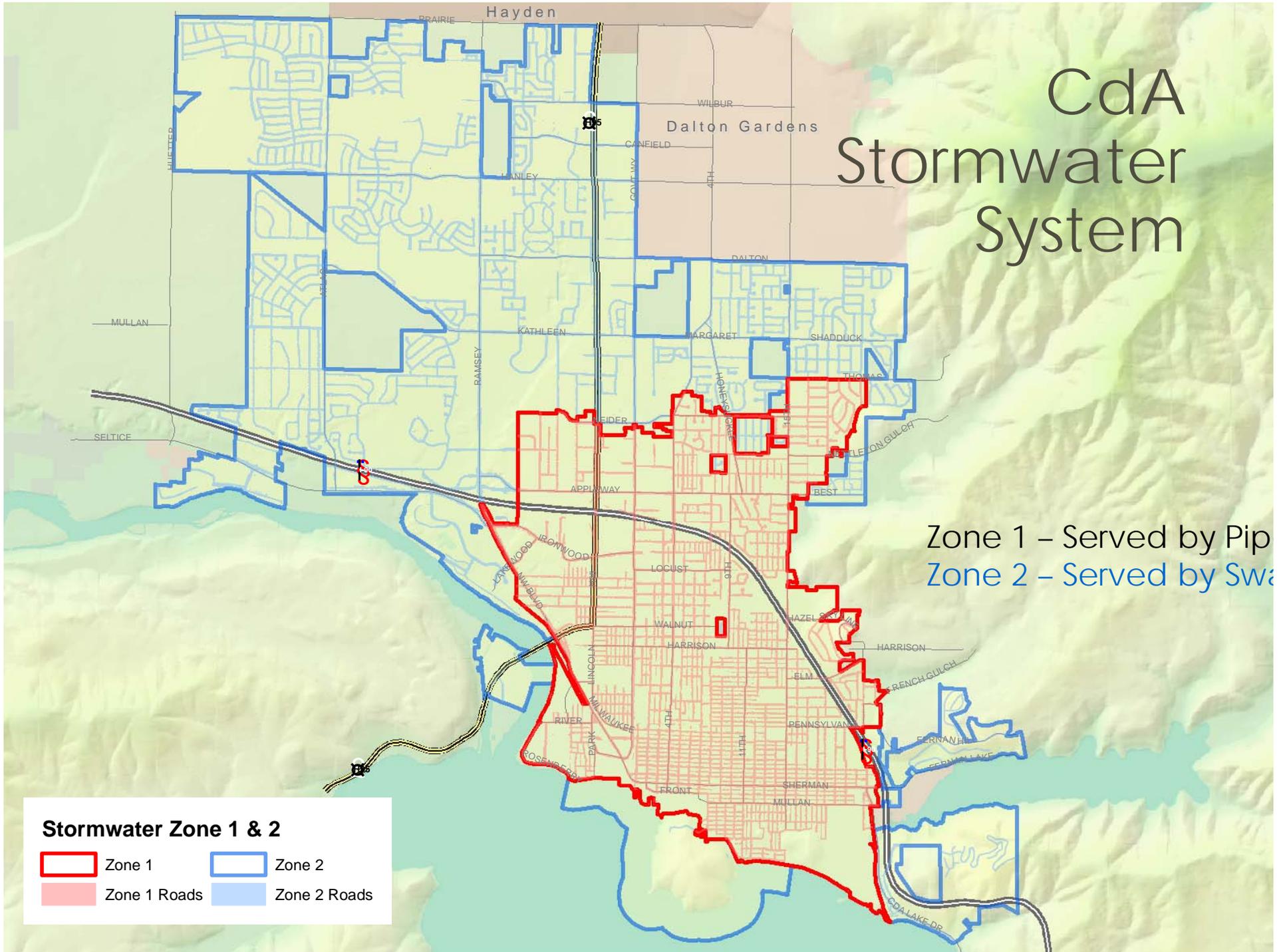
\_\_\_\_\_ was absent. Motion \_\_\_\_\_.

# CdA Stormwater System

Zone 1 – Served by Pipe  
Zone 2 – Served by Swale

## Stormwater Zone 1 & 2

- |  |  |
|--|--|
|  Zone 1       |  Zone 2       |
|  Zone 1 Roads |  Zone 2 Roads |



INFORMATION SECTION

Including

Correspondence

Board, Commission, Committee Minutes

**November 26, 2012**  
**PUBLIC WORKS COMMITTEE**  
**MINUTES**  
**4:00 p.m., Library Community Room**

**COMMITTEE MEMBERS PRESENT**

Council Member Woody McEvers  
Council Member Dan Gookin  
Council Member Deanna Goodlander

**STAFF PRESENT**

Amy Ferguson, Executive Assistant  
Terry Pickel, Asst. Water Supt.  
Jon Ingalls, Deputy City Administrator  
Warren Wilson, Deputy City Attorney  
Jim Markley, Water Supt.  
Sid Fredrickson, WW Superintendent  
Troy Tymesen, Finance Director  
Dion Holton, Utility Supervisor

**GUESTS**

Steve James, JUB  
Angie Sanchez, FCS Group

**Item 1      Request to Declare Used 650 H.P. Diesel Auxiliary Engine, Amarillo Right Angle Gear Drive, and 1986 C70 6-Yard Dump Truck as Surplus Property**  
**Consent Calendar**

Dion Holton, Utility Supervisor, presented a request that Council declare an auxiliary diesel engine, right angle gear drive assembly, and dump truck as surplus property and authorize staff to sell it at auction.

Mr. Holton stated in his staff report that the auxiliary diesel engine and right angle gear drive assembly were originally installed at the Atlas Well in 1987 as a backup power source in case of a grid power failure. The engine and gear drive assembly have since become obsolete with repair parts unobtainable or extremely difficult to find. The diesel engine requires a 250 gallon diesel fuel storage tank be kept onsite, creating the possibility of contamination to the well and aquifer. The equipment has recently been removed from the Atlas Well House and is currently stored at the Water/Street complex. The Water Department staff believes that the best return from the gear drive and engine would be to send it to auction.

The staff report further states that the 1986 C70 6-Yard dump truck is in need of major repairs. The dump truck is under-powered and under-sized for the Water Department's current needs. In addition, it was in constant need of costly repairs and is starting to become a safety issue. The city's Shop Supervisor evaluated the dump truck and stated that it is too far past its prime to cost effectively keep in the city fleet. No other city departments have shown interest in the dump truck. It is no longer being used and has been replaced by two other dump trucks.

The declaration of surplus of the engine and right angle gear drive will not have a financial impact as the assembly has not been used in many years. The declaration of the dump truck as surplus will also not have a financial impact on the city.

Councilman McEvers asked if the well had auxiliary power now. Mr. Holton said that it does not, but it is scheduled to receive a new motor control panel that will have a plug for a generator, which will be more efficient. Mr. Markley confirmed that if the well goes down now, they have other generators in other wells that they could use. Mr. Holton also noted that the Atlas well is primarily used in the summer and is off during the winter.

**MOTION by McEvers, seconded by Gookin, to recommend Council declare the above-mentioned property as surplus and authorize staff to dispose of it by auction. Motion carried.**

**Item 2            Declaration of Sole Source Procurement for Allen-Bradley Electrical Equipment and Software**

**Consent Calendar**

Terry Pickel, Wastewater Superintendent, presented a request for council to authorize staff to publish a declaration for sole source procurement for Allen-Bradley electrical equipment and software for Coeur d'Alene wells.

Mr. Pickel stated in his staff report that compatibility of equipment is of paramount consideration for electrical equipment and software in the Coeur d'Alene wells. Being able to rapidly and efficiently get wells back in service when they break down is necessary to meet state and federal requirements as well as to meet the needs of our customers. The Allen Bradley equipment will meet this requirement because all of the city wells have at least some Allen Bradley equipment. For this reason the Water Department is trying to standardize its electrical equipment, which would reduce the need for parts for needed repairs, equating to less down time, less interrupted service to the customer, and better fire protection. In addition, Allen-Bradley carries a complete line of products that applies to the city's applications and carries replacement parts that are needed for repairs with no complications. Allen Bradley also guarantees 24-hour replacement of non-specialty items or equipment and software. Allen Bradley equipment is also more user-friendly than other manufacturers, which equates to ease of operation, less time for repair, and less training for personnel.

Idaho code allows the city council to declare sole source procurement where the compatibility of equipment, components, accessories, computer software, replacement parts, or service is of paramount consideration.

Mr. Pickel said that in 2005 they went before the council and asked to have Allen Bradley declared the sole source for the electrical equipment and software for their wells. This request is just a for a council reaffirmation of its declaration of sole source.

Councilman McEvers asked if there was a requirement to reaffirm Allen Bradley as a sole source vendor. Mr. Pickel explained that they felt they should seek reaffirmation because of the new councilmembers.

**MOTION: Motion by Gookin, seconded by McEvers, to recommend Council authorize staff to publish a declaration for sole source procurement of Allen-Bradley equipment for Coeur d'Alene wells. Motion carried.**

**Item 3            Water Comp Plan: Acceptance of Plan and Setting of Public Hearing for Water Rate and Fee Increases**

**Consent Calendar (Setting of Public Hearing)**

**Agenda (Water Plan, Rates & Fees – January 2<sup>nd</sup>)**

Jim Markley, Water Department Superintendent, prepared a request for council acceptance of the Water Comprehensive Plan and the setting of a hearing for revised water rates/fees.

Mr. Markley stated in his staff report that the first Water Comprehensive Plan was produced in 1987. It has been updated many times since then, most recently in 1999 and 2007. The purpose of these periodic updates is to evaluate the criteria used and to reflect any changed conditions. As needs change and as the system matures, the plan is adjusted. The update was included in the approved financial plan and will be completed within budget.

The staff report further stated that without a current comprehensive plan, the city cannot know that the water system will meet the long-term needs of the city or that the rates/fees levels are appropriate and sustainable.

Mr. Markley stated that this is an update of the 1999 Comp Plan. Steve James and Angie Sanchez presented a powerpoint overview of the highlights of the plan. Mr. James noted that virtually all of the major improvements in the 1999 plan have been implemented. He reviewed the project objectives which include a comprehensive understanding of the existing system, vision and planning, five year capital improvement, and rate adjustments. Key tools include the water system comp plan, development guidelines, water conservation plans, and financial analysis. In 2013 or 2014 the city will need to add a well and in 2017 or 2018 they will need to add another well. Mr. James reviewed the recommended improvements that will need to be made in the water distribution system over the next 20 years.

Ms. Sanchez discussed the financial plan and said that the city needs to ensure that its rates are sufficient in order to meet its objectives. They looked at operating expenses, capital costs, and financial targets. The overall goal of the financial plan is to develop a rate strategy that balances physical needs with customer impacts.

Ms. Sanchez explained that at existing revenue levels there is a deficiency in 2013. Over time, if nothing is done, that deficiency would increase to \$1.2M in 2017. She reviewed the current rates and proposed a 2.5% increase in 2013, followed by a 4.9% increase in years 2014 through 2018, and then a decreased rate increase after that of around 2%. The increase is inflation-based. Ms. Sanchez confirmed that Reviewed current rates. Proposed 2.5% increase in 2013, followed by 4.9% increase in years 2014 through 2018, and then a decreased rate increase after that of around 2%. Increase is inflation based. Angie confirmed that during the front end of the rate increases, they are meeting some financial requirements, system reinvestment, and depreciation funding. Once those objectives are accomplished, then the rates can increase at a slower pace. Right now the rates do not have the capacity to fund all of the capital funding needs.

Mr. Markley said that the city's philosophy is to design for peak flow. He explained the block rate system that the city uses which charges a base rate, and then a charge depending on the amount of water that is used.

Ms. Sanchez said that they want the Water Comprehensive Plan to be a living document, being updated and compared internally over time so that it will meet the needs of the city. Mr. Markley explained that the plan takes the city pretty close to build out, and in five years they expect to do a pretty detailed rate analysis. Mr. James noted that because of the way development happens, you have to have the infrastructure in place before the development comes.

Ms. Sanchez demonstrated that Coeur d'Alene water rates are still low compared to other purveyors. She also reviewed the CAP Fee structure and proposed a 5.5% per year increase in the CAP fee. She noted, however, that CAP fees are still a bargain compared to other entities.

Councilman Goodlander commented that Mr. Markley has done a great job working with low impact landscaping. She also noted that capacity is important as it affects insurance rates.

Councilman McEvers asked about the possibility of a workshop with council. Councilman Goodlander said that this request has already been presented to the NIBCA and is not a surprise to the building community. Mr. Markley said he would recommend that the full council set the rate hearing on January 2, 2013, and at that he will make a presentation to the full council at that time.

**MOTION: Motion by McEvers, seconded by Gookin, to recommend Council approval of the Water Comprehensive Plan and setting of a public hearing for rate & fee changes for January 2, 2013. Motion carried.**

**Item 4            Change Order #5 to Spokane River Stewardship Partners MOU**  
**Consent Calendar**

Sid Fredrickson, Wastewater Superintendent, presented a request that council authorize Coeur d'Alene's share of ongoing cost for facilitation assistance for the TMDL implementation and the new PCB Regional Toxics Task Force not to exceed \$8,044.

Mr. Fredrickson stated in his staff report that Hubbard Gray Consultants was hired several years ago to assist the Spokane River Stewardship Partners with tackling the issues surround the TMDL and now the toxics task force to reduce the amount of PCBs entering the river. Hubbard Gray is no longer available. RFPs were sent to several consulting firms. Four were interviewed and Dally Environmental LLC was chosen to act as the facilitator for the Spokane River Stewardship Partners. This amendment to the MOU is shared amount the 9 partners and 10 subdivisions. It will allow facilitation services until the end of 2013. By then it is anticipated that all permits will be final and the toxics task force will be solidly in place. The requested cost is budgeted under "permit assistance."

Mr. Fredrickson said that PCBs will be a major issue as the years go on. Councilman Gookin asked if this was going to bring consistency between all of the agencies so that Spokane will have to follow the same rules that the city has to follow. Mr. Fredrickson said that is the goal and that what has been achieved to date is a milestone in its own right in that the city has finally come to an agreement on which test method it will use. He also explained that PCBs are ubiquitous and are in everything. When they receive their draft permit, they will have one year to furnish a draft PCB management plan to the state.

**MOTION: Motion by Gookin , seconded by McEvers, to recommend that Council approve Resolution 12-050 authorizing the City of Coeur d'Alene's share of on-going costs for facilitation assistance for the TMDL implementation and the new PCB Regional Toxics Task Force through the end of 2013, not to exceed \$8,044. Motion carried.**

The meeting adjourned at 4:52 p.m.

Respectfully submitted,

Amy C. Ferguson  
Public Works Committee Liaison