

WELCOME
To a Regular Meeting of the
Coeur d'Alene City Council
Held in the Library Community Room

AGENDA

VISION STATEMENT

Our vision of Coeur d'Alene is of a beautiful, safe city that promotes a high quality of life
and sound economy through excellence in government.

The purpose of the Agenda is to assist the Council and interested citizens in the conduct of the public meeting. Careful review of the Agenda is encouraged. Testimony from the public will be solicited for any item or issue listed under the category of Public Hearings. Any individual who wishes to address the Council on any other subject should plan to speak when **Item G - Public Comments** is identified by the Mayor. The Mayor and Council will not normally allow audience participation at any other time.

6:00 P.M.

May 1, 2018

A. CALL TO ORDER/ROLL CALL

B. INVOCATION: Pastor Pace Hartfield, One Place

C. PLEDGE OF ALLEGIANCE

D. AMENDMENTS TO THE AGENDA: Any items added less than forty eight (48) hours prior to the meeting are added by Council motion at this time.

E. PRESENTATIONS:

1. Proclamation for National Safe Boating Week – May 19-25, 2018
Received by: Kathleen Goodwin, District 12 Commodore
2. Fiscal Year 2017-2018 Audit
Presented by: Toni Hackwith, Anderson Bros., CPA, PA
3. Riverstone Transit Center
Presented by: Jody Bieze, Director of the Kootenai County Transit System
4. Walk Friendly Community Designation
Presented by: Tessa Jilot and Jamie Lynn Morgan

*****ITEMS BELOW ARE CONSIDERED TO BE ACTION ITEMS**

F. CONSENT CALENDAR: Being considered routine by the City Council, these items will be enacted by one motion unless requested by a Councilmember that one or more items be removed for later discussion.

1. Approval of Council Minutes for the April 17, 2018 Council Meeting.
2. Approval of Bills as Submitted.
3. Approval of the Public Works Committee Meeting Minutes from the meeting held on April 23, 2018.
4. Setting of General Services and Public Works Committees meetings for May 7, 2018 at 12:00 noon and 4:00 p.m. respectively.
5. Approval of a Beer and Wine License for Taqueria El Taco Loco, 219 W. Canfield Avenue, Alfredo Guerrero (new)

As Recommended by City Clerk

6. Approval of Final Plat for SS-18-01, Bellerive 7th Addition

Approved by the City Engineer

G. PUBLIC COMMENTS: (Each speaker will be allowed a maximum of 3 minutes to address the City Council on matters that relate to City government business. Please be advised that the City Council can only take official action this evening for those items listed on the agenda.)

H. ANNOUNCEMENTS

1. **City Council**
2. **Mayor**
 - a. Appointment of Erika Eidson to the Urban Forestry Committee

I. PUBLIC WORKS COMMITTEE

1. Biosolids Disposal Presentation
Presented by: Mike Anderson, Wastewater Treatment Superintendent
2. **Resolution No. 18-026** - Approval of a Professional Services Agreement with J-U-B Engineers for the Design of Compost Facility Improvements.
Staff Report by: Mike Anderson, Wastewater Treatment Superintendent

J. OTHER BUSINESS

1. Introduction of the Mobilitie, LLC. Franchise Agreement and setting of a Public Hearing for June 5, 2018.
Staff Report by: Mike Gridley, City Attorney
2. (Legislative) Public Hearing to Declare Property Located at 601 W. Neider Avenue as Surplus, and Setting Minimum Value of \$40,000.
Staff Report by: Kyle Marine, Assistant Water Superintendent

- a. **Resolution No. 18-027** – Declaring Property Located at 601 W. Neider Avenue as Surplus, and Setting Minimum Value of \$40,000.

K. EXECUTIVE SESSION: Idaho Code 74-206(c), to acquire an interest in real property which is not owned by a public agency.

L. RECESS: May 9, 2018 for a City Strategic Planning Workshop at Noon in the Library Community Room.

This meeting is aired live on CDA TV Cable Channel 19

Coeur d'Alene

CITY COUNCIL MEETING

May 1, 2018

MEMBERS OF THE CITY COUNCIL:

Steve Widmyer, Mayor

Council Members Edinger, English, Evans, Gookin, McEvers, Miller

PROCLAMATION

WHEREAS, on average, 700 people die each year in boating-related accidents in the United States, and nearly 70% of these are fatalities caused by drowning; and

WHEREAS, the vast majority of these accidents are caused by human error or poor judgment and not by the boat, equipment, or environmental factors; and

WHEREAS, a significant number of boaters who lose their lives by drowning each year would be alive today had they worn life jackets; and

WHEREAS, modern life jackets are more comfortable, more attractive, and more wearable than styles of years past and deserve a fresh look by today's boating public.

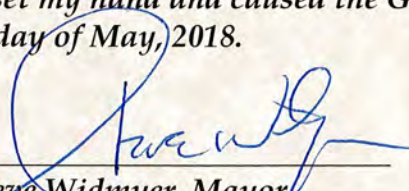
NOW, THEREFORE, I Steve Widmyer, Mayor of the City of Coeur d'Alene, Idaho, do hereby proclaim the week of May 19th through May 25th, 2018 as

"NATIONAL SAFE BOATING WEEK"

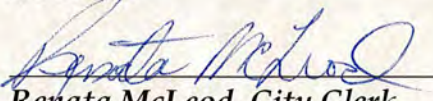
In support of the goals of the North American Safe Boating Campaign and the start of the year-round effort to promote safe boating

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of Coeur d'Alene to be affixed this 1st day of May, 2018.




Steve Widmyer, Mayor

ATTEST:


Renata McLeod, City Clerk



Basics of a Financial Statement Audit

- ▶ A financial statement audit is required by Idaho State statutes
- ▶ Primary purpose:
 - ▶ Assures that the financial statements, in all material respects, fairly state the financial position as of a certain date.
 - ▶ Statements conform with GAAP (generally accepted accounting principles) and Governmental GAAP

City of Coeur d'Alene

Audit for the year ended September 30, 2017

- ▶ Independent Auditor's Report on Financial Statements - **Unmodified Opinion** (pages 1-3)
- ▶ Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards - **Unmodified Opinion** (pages 98-99)
- ▶ Independent Auditor's Report on Compliance for Each Major Program and on Internal Control Over Compliance in Required by the Uniform Guidance - **Unmodified Opinion** (pages 100-101)

City of CDA Internal Controls

- ▶ Internal Control Testing in a Financial Statement Audit
 - ▶ Internal controls over financial reporting – Policies and procedures within the City that are designed to reasonably ensure compliance with the City's policies and procedures over financial reporting
 - ▶ Objective of testing internal controls in a Financial Statement Audit - Internal Control testing is performed in order to plan and perform our audit of the financial statements, in order to express our opinion on the financial statements
 - ▶ Testing of internal controls is not performed for the purpose of expressing an opinion on the effectiveness of the City's internal controls
 - ▶ No findings were noted as a result of our testing of the internal controls

City of Coeur d'Alene, Idaho

**SCHEDULE OF REVENUES, EXPENDITURES AND
CHANGES IN FUND BALANCES - BUDGET AND ACTUAL
GENERAL FUND**

For the Year Ended September 30, 2017

| | <u>Final Budget</u> | <u>Actual Amounts</u> | <u>Variance With Final Budget</u> |
|----------------------------|-------------------------|---------------------------|---------------------------------------|
| REVENUES | | | |
| Taxes | \$ 19,573,490 | \$ 19,603,373 | \$ 29,883 |
| Licenses and permits | 5,790,490 | 5,968,818 | 178,328 |
| Intergovernmental | 10,456,174 | 10,242,509 | (213,665) |
| Charges for services | 294,250 | 330,380 | 36,130 |
| Fines and forfeits | 329,600 | 465,057 | 135,457 |
| Assessments collected | - | - | - |
| Investment (loss) earnings | 51,000 | 112,703 | 61,703 |
| Contributions | - | - | - |
| Miscellaneous | 124,750 | 154,012 | 29,262 |
| Total revenues | <u>36,619,754</u> | <u>36,876,852</u> | <u>257,098</u> |

Overall revenues for the General Fund before transfers were
\$257,098 *over* the final amended budget of \$36.88 million

City of Coeur d'Alene, Idaho

**SCHEDULE OF REVENUES, EXPENDITURES AND
CHANGES IN FUND BALANCES - BUDGET AND ACTUAL
GENERAL FUND**

For the Year Ended September 30, 2017

| | <u>Final Budget</u> | <u>Actual Amounts</u> | <u>Variance With Final Budget</u> |
|---------------------------------|-------------------------|---------------------------|---------------------------------------|
| EXPENDITURES | | | |
| Current: | | | |
| General government | 6,720,040 | 6,020,916 | 699,124 |
| Public safety | 22,892,404 | 22,424,292 | 468,112 |
| Public works | 5,384,513 | 5,402,361 | (17,848) |
| Culture and recreation | 2,668,225 | 2,666,791 | 1,434 |
| Capital outlay | 5,220,457 | 5,089,067 | 131,390 |
| Debt service: | | | |
| Principal payments | - | 39,920 | (39,920) |
| Interest and fiscal agent fees | - | 12,876 | (12,876) |
| Total expenditures | <u>42,885,639</u> | <u>41,656,223</u> | <u>1,229,416</u> |
| (Deficiency) excess of revenues | | | |
| (under) over expenditures | <u>(6,265,885)</u> | <u>(4,779,371)</u> | <u>1,486,514</u> |

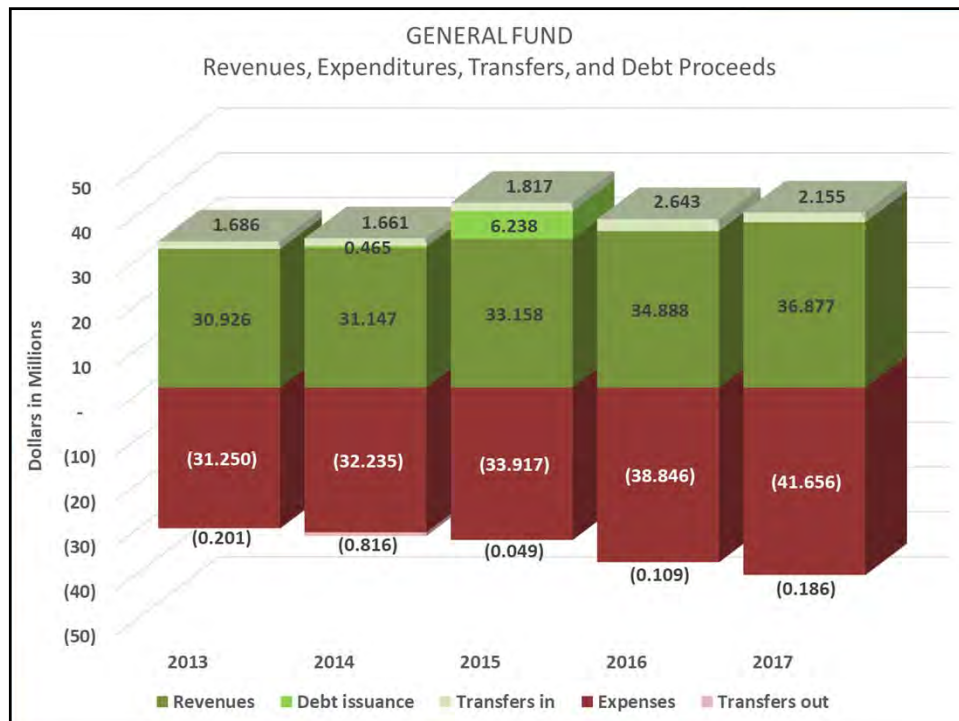
Overall expenditures for the General Fund before transfers
were \$1.23 million *under* the final amended budget

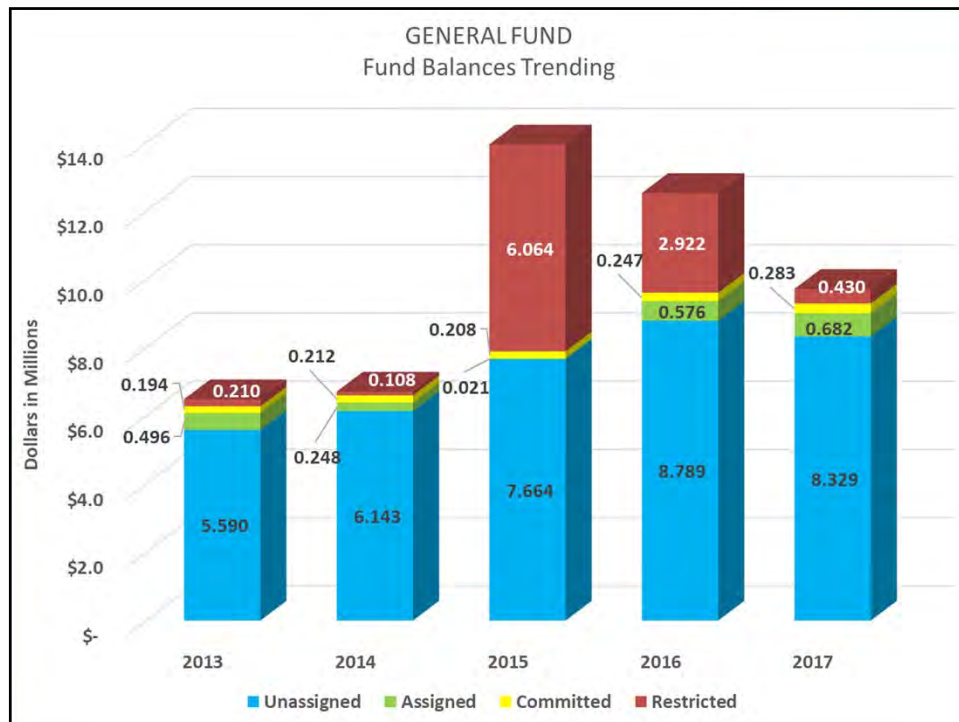
City of Coeur d'Alene, Idaho

**SCHEDULE OF REVENUES, EXPENDITURES AND
CHANGES IN FUND BALANCES - BUDGET AND ACTUAL
GENERAL FUND**

For the Year Ended September 30, 2017

| | Final Budget | Actual Amounts | Variance With Final Budget |
|---------------------------------------|-------------------------|---------------------------|---------------------------------------|
| OTHER FINANCING SOURCES (USES) | | | |
| Operating transfers in | 2,268,854 | 2,154,576 | (114,278) |
| Operating transfers out | (93,925) | (185,748) | (91,823) |
| Total other financing sources (uses) | 2,174,929 | 1,968,828 | (206,101) |
| Net change in fund balances | (4,090,956) | (2,810,543) | 1,280,413 |
| Fund balances - beginning of year | 4,090,956 | 12,533,639 | 8,442,683 |
| Fund balances - end of year | \$ - | \$ 9,723,096 | \$ 9,723,096 |

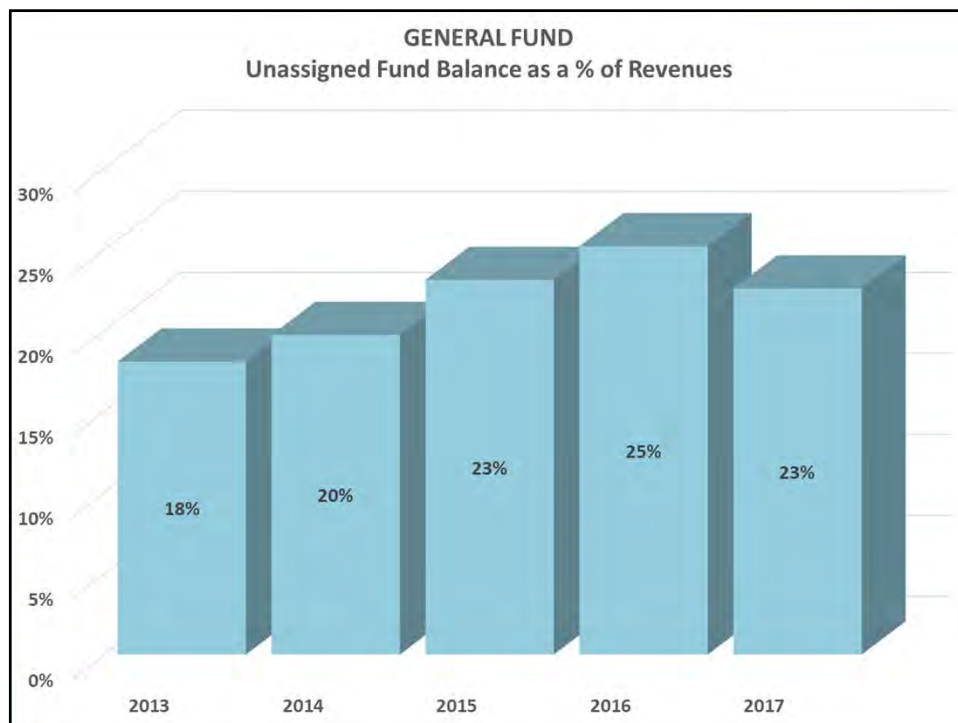


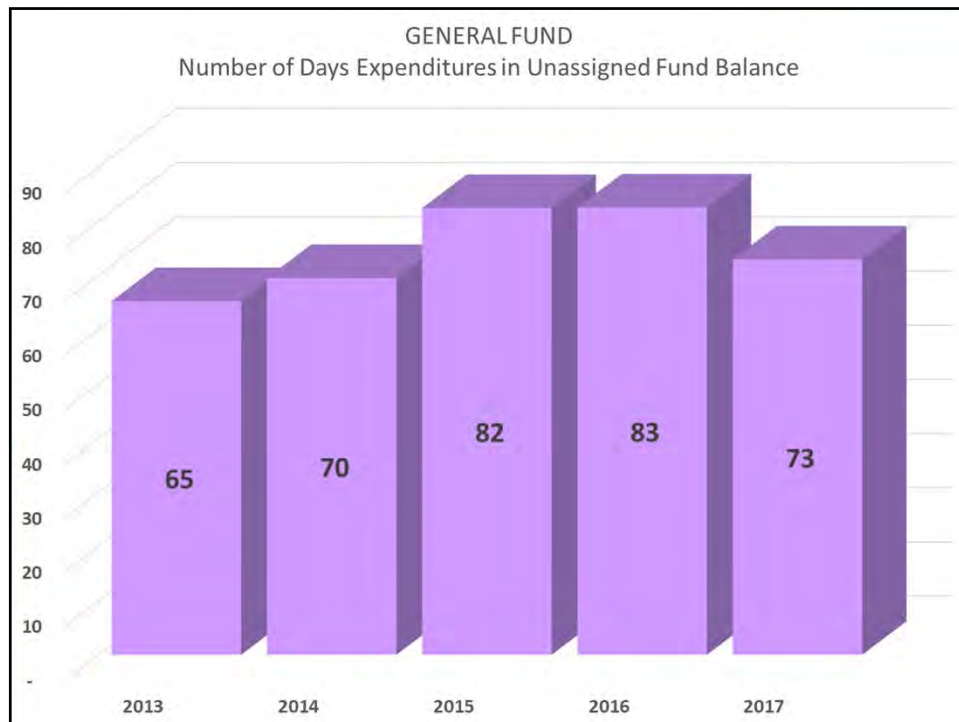


City of Coeur d'Alene

- ▶ Why is a Fund Balance Important?
 - ▶ Revenue stream is not consistent month to month (property taxes received in July and January)
 - ▶ Provide prudent resources to meet unexpected emergencies (recessions) and protect against catastrophic events
 - ▶ Meet uncertainties of State and Federal funding
 - ▶ Protect the City from unnecessary borrowing
 - ▶ Help ensure a credit rating that would qualify the City for lower interest costs (in case of needed borrowing)

The Government Finance Officers Association recommends *at a minimum*, that governments, maintain an *unassigned fund balance* in their general fund of no less than *five to fifteen percent* of regular general fund operating revenues, or no less than *one to two months* of regular general fund operating expenditures.

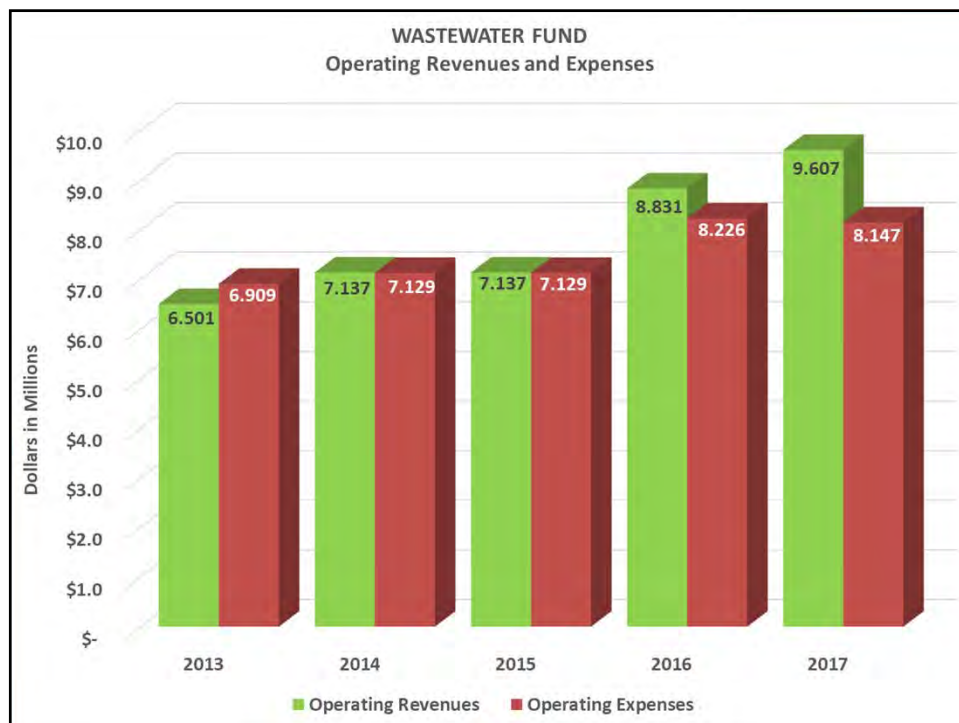




City of Coeur d'Alene
Audit for the year ended September 30, 2017

► **Proprietary Funds - Financial Highlights:**

- Every major proprietary fund increased its revenues from charges for services; Wastewater's increase was the most significant at \$776,426. The total change in service revenue across all proprietary funds was \$1,853,249, reflecting a 9.26% increase.
- Operating performance across all Proprietary Funds was a net income of \$3.08 million; Wastewater had the highest net operating income of \$1.46 million.



Questions?



Photo curtesy of:
@kylevandeveer (Instagram)

CITYLINK NORTH

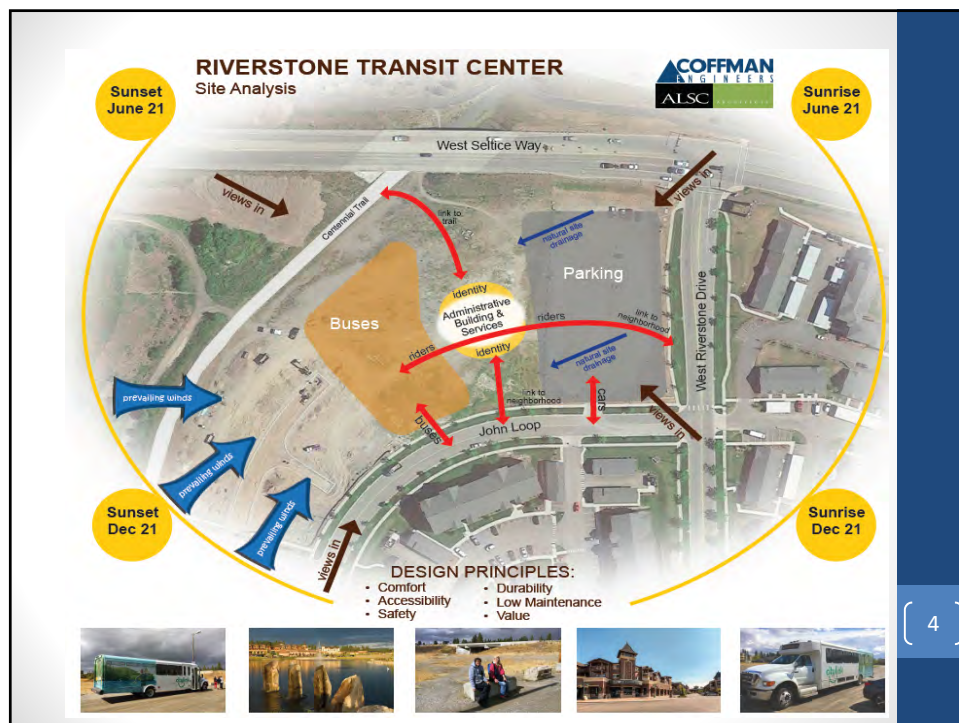
1 May 2018
City of Coeur d'Alene Councilors and Mayor



Riverstone Transit Center
Kootenai County Public Transportation

[2]

Coffman Engineers and ALSC Architects
EXPLORATIONS | SITE ANALYSIS

$$\begin{pmatrix} 3 \end{pmatrix}$$


(4)

Coffman Engineers and ALSC Architects
PRE-DESIGN COMMITTEE

[5]

Design Advisory Committee Members

- Jody Bieze, Committee Chairperson
- Lynn Borders, City Council, City of Post Falls
- Chris Fillios, Kootenai County Commissioner
- Dan Gookin, City Council, City of Coeur d'Alene
- Jim Kackman, Director Public Works, Coeur d'Alene Tribe
- Rob Paulus, Assistant City Engineer, City of Post Falls
- Lee White, Chief of Police, City of Coeur d'Alene
- Robert B. Wright, City Engineer, City of Hayden

[6]

Design Principles

- Rider Comfort and Convenience
- Improve Operations
- Safe and Secure Site
- Accessibility
- Flexibility
- Unique Coeur d'Alene Character
- Beautiful Durability

[7]

Design Review Committee

SITE STUDY OPTIONS

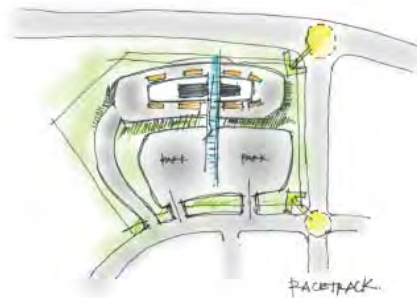
[8]



Long Loop

Dispersing buses along the northwest side of the site creates a dynamic building, creating a large parking lot. Passive law enforcement observation is not ideal in this concept; observation is too far away from West Riverstone Drive.

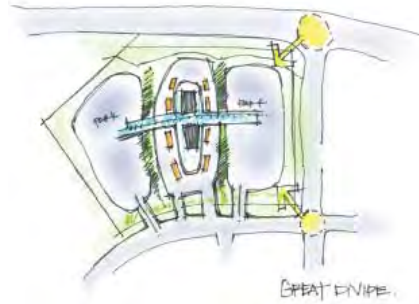
[9]



The Racetrack

A loop on the north side of the site allows bus maneuvering without having to leave the site. The Racetrack has a nice presence to Seltice Way but not to the Riverstone development. Passive law enforcement observation is great from West Riverstone Drive.

[10]



The Great Divide

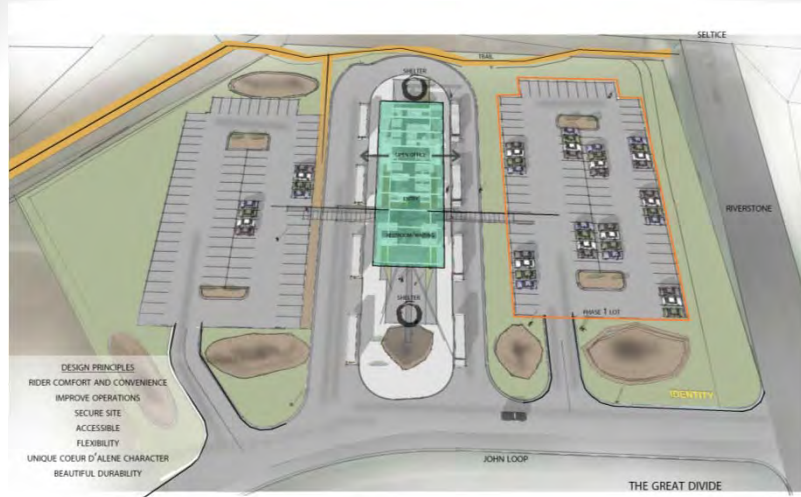
Dividing the parking lots allows for quick access for riders. The central location of the office building makes a strong civic statement about Kootenai County Transit. Passive law enforcement observation is attainable from West Riverstone Drive and John Loop.

(11)

Design Review Committee

SITE STUDY PREFERRED OPTION: THE GREAT DIVIDE

(12)



The Great Divide

(13)



Citylink North
 Phase I

(14)

Coffman Engineers and ALSC Architects
DESIGN SCHEMATIC

(15)



Citylink North
Kootenai County Public Transportation

(16)







Citylink North
Kootenai County Public Transportation

(21)



Citylink North
Kootenai County Public Transportation

(22)

Coffman Engineers and ALSC Architects
FLOORPLAN

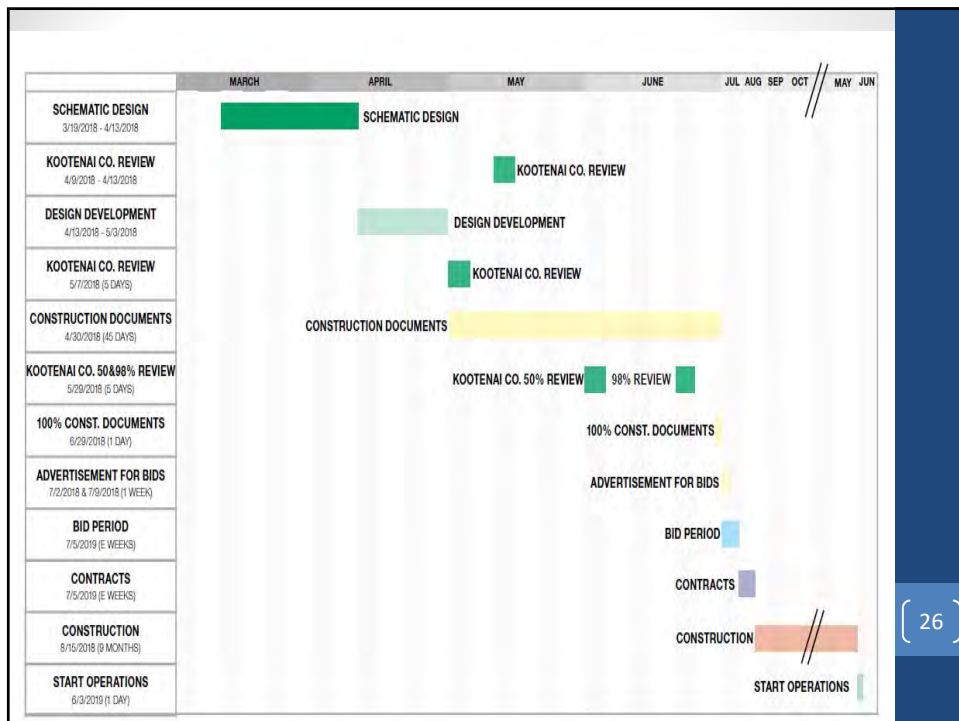
(23)



(24)

Coffman Engineers and ALSC Architects
SCHEDULE

(25)



(26)

Thank you!

CITYLINK NORTH

(27)

CONSENT CALENDAR

MINUTES OF A REGULAR MEETING OF THE CITY
COUNCIL OF THE CITY OF COEUR D'ALENE, IDAHO,
HELD AT THE LIBRARY COMMUNITY ROOM

April 17, 2018

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 Library Community Room, April 17, 2018 at 6:00 p.m., there being present upon roll call the following members:

Steve Widmyer, Mayor

| | | |
|-------------------|---|----------------------------|
| Loren Ron Edinger |) | Members of Council Present |
| Dan English |) | |
| Woody McEvers |) | |
| Dan Gookin |) | |
| Kiki Miller |) | |
| Amy Evans |) | |

CALL TO ORDER: Mayor Widmyer called the meeting to order.

INVOCATION: Pastor Kurt Wandrey with Peace Lutheran Church gave the invocation.

PLEDGE OF ALLEGIANCE: Councilmember McEvers led the pledge of allegiance.

PROCLAMATION OF ARBOR DAY - APRIL 17, 2018: Mayor Widmyer proclaimed April 17, 2018 as Arbor Day. Urban Forester Katie Kosanke accepted the proclamation and noted that the Arbor Day celebration will take place on Friday, April 27, 2018 at noon. It will start with a ceremony, followed by a tree planting and lunch. The event will take place on North Idaho College grounds (College Drive and River Avenue), since we are having a combined Arbor Day program with NIC. The City has been working with college staff to achieve their Tree Campus USA accreditation, only the second in the state of Idaho. This program is similar to the Tree City USA Program and requires meeting annual standards, which creates a more sustainable campus environment and instills pride in the students, faculty and community. The City will receive the Tree City USA award for the 34th consecutive year at the April 27 event. On April 26, 10:30 a.m. the Urban Forestry Committee will be hosting a children's program in the Library. The winner of sticker and button art contest was Lauren Knobich from Coeur d'Alene High School.

ATLAS WATERFRONT PROJECT UPDATE: Phil Boyd, President of Welch/Comer noted that through the various community input events the shaping of the Atlas waterfront site has begun. They have provided information regarding the need to balance the site between public space and development n adoptions for roads, public space size and character and shoreline restoration. He presented a drawing of the spaces and densities discussed. He noted that funding options for the public portion of the project includes G.O. bonds and City and ignite cda funds. He explained the relationship of density to public space. At the last public input meeting, citizens were asked to mark, via dots, their most preferred, moderately preferred, or least

preferred options regarding planning the space. He summarized the results of the public input by noting the following: the road network preferred was a meandering roadway with a grid; the size of public space preferred considering the funding tradeoffs which ended up being the most amount of public space possible; the type of character space preferred was option two which is more developed than just trails but not as developed as boat docks; the riverbank stabilization preferred was that to include a retaining wall for high banks, steps for medium height banks and beach areas for low riverbank areas. The next public meeting will be held April 25, 5:30 p.m. in the Library Community Room. The meeting will be an open house style event with question and answer opportunities. Thereafter, there will be a joint meeting between the City Council and ignite cda on April 26, 2018 at 5:00 p.m. in the North Idaho College Lake Coeur d'Alene Room. Councilmember Miller reminded the public that the results of the presentation are on the city website www.cdavid.org/atlaswaterfront. Councilmember McEvers asked about the process of making a final design decision. Mr. Boyd explained that the Council would have a hard decision to make based on funding mechanisms available and public input. Councilmember Miller noted that the core vision group consisted of representative from many community organizations, so the information went out to their organizations and continued to spread to thousands of people. She also noted that the consultants hired by ignite cda are professionals that will provide good data to aid in Council's future decisions.

EAST SHERMAN MASTER PLAN UPDATE: Hilary Anderson, Community Planning Director introduced consultant Alex Joyce and Matt Farrar, Community Builders Project Manager. Mr. Farrar noted that the East Sherman Annual Design Studio Event will take place on Wednesday, April 18 at 5:30 p.m. at the Coeur d'Alene Visitor Center/Chamber of Commerce Building located at 105 N. 1st Street. The event will include design drawings and seeking of input on the design that can be added into the plan. He explained that community builders is a nonprofit organization that helps train and capacity build, provides technical assistance and conducts research and analysis and communication and outreach for economic development projects like East Sherman. He explained that the project purpose is to create a shared community vision for East Sherman Avenue that will guide long-term decision-making. Additionally, the will assist with the creation of an action-oriented master plan for the physical and economic development of East Sherman Avenue. Councilmember McEvers asked about the difference between the downtown Sherman Avenue project and what type of enhancements would be done in the East Sherman Area. Mr. Farrar felt that public private partnerships should be an incentive to the business and pedestrians and bicyclists. Also, to understand what type of development people want to see there such as mix used, number of stories, etc.

CONSENT CALENDAR: Motion by McEvers, seconded by English, to approve the consent calendar, with an amendment to the General Services Meeting Minutes of April 9, 2018 to reflect Councilmember Gookin's No vote regarding the smoke free zone.

1. Approval of Council Minutes for the April 3, 2018 Council Meeting.
2. Approval of Bills as Submitted.
3. Approval of the General Service Committee Meeting Minutes from the meeting held on April 9, 2018.
4. Approval of the Financial Report.
5. Setting of General Services and Public Works Committees meetings for April 23, 2018 at 12:00 noon and 4:00 p.m. respectively.

6. Approval of outdoor seating for the NYC Piano Bar, 313 E. Sherman Avenue
7. Approval of a Beer and Wine License for the NYC Piano Bar, 313 E. Sherman Avenue (New), Daniel and Nika Schnatter
8. Approval of a Beer and Wine License transfer from Cenex Zip Trip to Par Hawaii, Inc., 1427 E. Best Avenue , Jim R. Yates, Eric Wright, and William Monteleone
9. Approval of a Beer and Wine License transfer from Gus's Cigar Pub to Wicked Buffalo Bar, 1903 E. Sherman Avenue , Craig Curlett
10. **Resolution No. 18- 025-** approving Final Plat, Subdivision Improvement Agreement, and Security for Tilford Place (S-4-17).

ROLL CALL: English Aye; Edinger Aye; Miller Aye; McEvers Aye; Gookin Aye; Evans Aye.
Motion Carried.

PUBLIC COMMENTS:

Nick Swope, Coeur d'Alene, said he represents the Panhandle Health District, and was expressing support of the smoke free zone code amendment. He reiterated that smoking is bad for your health and is the number one preventable cause of death in Idaho. He appreciates the benefit of allowing citizens to avoid second hand smoke and e-cigarettes. Mr. Swope noted that Panhandle Health District has funds available for signage and technical assistance regarding policies and procedures and is willing to assist staff in moving forward.

Karen Ashenbrenner, Coeur d'Alene, with Idaho Drug Free Youth, expressed support of the smoke free zone and noted that cigarette butts left behind are toxic to children, as well as the second hand smoke dangers to youth. She noted that smoking is modeling behavior to our youth in our parks and now E-cigarettes are a problem in the High Schools.

COUNCILMEMBER ANNOUNCEMENTS:

Councilmember English notice that the City has installed a trail system between the Library and City Hall building.

RESOLUTION NO. 18-023

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AUTHORIZING AN AGREEMENT WITH POWER CITY ELECTRIC, INC., FOR THE COLLECTION SYSTEM RADIO/TELEMETRY UPGRADE.

STAFF REPORT: Wastewater Capital Program Manager James Remitz explained that the sewage collection system consists of approximately 220 miles of buried sewer main piping, 3,500 manholes, and 11 sewage lift (pump) stations that convey customer sewage to the City. In order to efficiently operate this system, radio telemetry equipment has been installed at each of the eleven (11) lift stations. This equipment enables City staff to monitor the operation of each lift station and respond quickly to operational alarms, thereby reducing the potential for sewage back-ups. This project will upgrade the radio telemetry equipment at each lift station by replacing outdated and malfunctioning equipment with new equipment. A bids opening was held

on March 1 and no bids were received. He noted that funds for this project have been budgeted in the approved FY 17-18 Wastewater Operating Fund. Power City Electric, Inc., is qualified and capable of performing the work required in this contract. The Wastewater Department has had experience working with Power City Electric, Inc., and has been very pleased with the quality and timeliness of work performed by Power City Electric, Inc.

DISCUSSION: Councilmember McEvers asked if this was an old and antiquated system, with the use of radios. Mr. Remitz confirmed that it is a radio network with a set radio frequency, but the changeover to cable would be very costly. Councilmember Miller asked if the system requires a specialize electrical license. Mr. Remitz explained that the electrical contractor will have a subcontractor to work on the radios and electronics. Councilmember Miller asked if this project needs to be done now or could it be rebid later to ensure competitive costs. Mr. Remits confirmed that the department does have a budget for the project and that it is a fair price.

MOTION: Motion by McEvers, seconded by Evans to approve **Resolution No. 18-023**, Approval of award and agreement with Power City Electric, Inc. for the Collections System Radio/Telemetry upgrade.

ROLL CALL: Edinger Aye; Miller Aye; McEvers Aye; Gookin Aye; Evans Aye; English Aye.
Motion carried.

COUNCIL BILL NO. 18-1006

AN ORDINANCE AMENDING SECTIONS 8.12.010, 8.12.020, 8.12.030, 8.12.040, 8.12.050, 8.12.090, AND 8.12.100 OF THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, ADOPTING AMENDMENTS REGARDING FIREWORKS; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE PUBLICATION OF A SUMMARY OF THE ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE THEREOF.

STAFF REPORT: Fire Inspector Craig Etherton noted that the proposed code changes bring the Fire stand operations into compliance with the current safety checklist and include a clear prohibition of sky lanterns. He clarified that the definition of sky lantern would not include any manned device such as a hot air balloon. The release of airborne flames often ends in forested areas. He noted that there is a low amount of fires related to fireworks within the city.

DISCUSSION: Councilmember Miller asked if the vendors have been notified of these changes. Mr. Etherton noted that the Municipal Services Department sent a copy of the draft code to all of last year's firework stand vendors and received no comments. Councilmember Gookin noted that he is supportive of the fire stand code amendments; however, believes that the Idaho code already defines the difference between a firework and a sky lantern. Additionally, the City already disallows sky lanterns so he is not sure another code is needed. Mr. Etherton noted that in the 2015 version of the Uniform Fire Code introduced sky lanterns and IDAPA Rules have been created. The state code gives two options under the code; one is that they are not allowed, the other noting that the local fire department can issue a permit. This has been

confusing to citizens and it is recommended by staff to adopt the city code to clarify that the city will not approve permits for the sky lanterns.

MOTION: Motion by Evans, seconded by Miller, to dispense with the rule and read **Council Bill No. 18-1006** once by title only.

ROLL CALL: Miller Aye; McEvers Aye; Gookin Aye; Evans Aye; English Aye; Edinger Aye. **Motion carried.**

MOTION: Motion by Evans, seconded by Miller, to adopt **Council Bill 18-1006**.

ROLL CALL: Miller Aye; McEvers Aye; Gookin Aye; Evans Aye; English Aye; Edinger Aye. **Motion carried.**

COUNCIL BILL NO. 18-1007

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, ADOPTING A NEW CHAPTER 4.35 ENTITLED SMOKE-FEE ZONE; PROVIDING REPEAL OF CONFLICTING ORDINANCES; PROVIDING SEVERABILITY; PROVIDING THE PUBLICATION OF A SUMMARY AND PROVIDING AN EFFECTIVE DATE.

STAFF REPORT: Library Director Bette Ammon explained that there has been an on-going concern about smoking within and around the entrance to the Library, around the kid's playground in McEuen Park and City Hall entrances. The Library Board of Trustees has expressed support for a ban of tobacco product, as has the Parks and Recreation Director, and City Hall Administration. She presented the campus area map that would be included in the ban.

DISCUSSION: Mayor Widmyer noted that the NIC campus is a smoke free zone. Councilmember Edinger agreed there should be a smoke free area around the Library but expressed concerns about enforcement and if the smoke free zone would eventually spread to other public areas. Ms. Ammon explained that the area being proposed is solely for the Library, City Hall, and the McEuen park playground area and that enforcement will be handled by law enforcement as needed. Captain Brainard noted that it would not be a big priority within their calls for service. However, during the summer months there are other resources (such as the ambassador volunteers) within the area that could approach someone to provide education regarding the ordinance. Councilmember Edinger reiterated that Panhandle Health expressed support and has some money to help implement the program. Mr. Swope confirmed that they would assist with signage and often partner with cities and parks to do such a thing quickly. Parks and Recreation Director Bill Greenwood noted that they already have signs within the play area that say "thank you for not smoking" due to proximately to children and that the flooring in that area is flammable. He noted that the proposal is a zone within McEuen Park not the entire park. Additionally, he noted that they had no smoking zones around the lifeguard stands when there were lifeguards on the city beach and in 2009 the National Parks Service banned smoking in all their parks. Councilmember English expressed concerned about law enforcement resources being limited and does not believe the City should make a rule that they cannot

enforce. He questioned if there were other ways to educate without criminalization. Additionally, Councilmember English expressed concern that we are just regulating one park and not all giving the appearance that this one takes precedent. Mr. Greenwood noted that he could look at all parks in the future. Councilmember Miller understood that the astro-turf had melted due to cigarettes being dropped and is supportive of the project. She noted that there is already code about no smoking so many feet away from entrance, and the signage would notify smokers that this is a nonsmoking campus and use of ambassadors would be great. She expressed concern that the sidewalk along Front Avenue and 8th Street are included in the smoke free zone and if someone is walking along the sidewalk and comes into the area, they would not know. Mr. Greenwood noted that when they ask people to stop smoking near the play equipment, they ask where the signage is, so he believes that signage is important. Ms. Ammon noted that they can stipulate that the boundary inside of the sidewalk boundary so the sidewalk is excluded. She also noted that signage with a law noted upon it gives them more authority. Councilmember Edinger noted that as ex-smoker of many years he supports the smoke free zone. Councilmember Evans thanked Ms. Ammon for bringing this forward and hopes to explore other public areas as smoke free zones in the future. Councilmember Gookin noted that he would oppose code, as smoking is legal, the surgeon general has been warning for 50 years not to smoke and it does not work. He believes it is inconveniencing their customers and they will not like it or obey the law. He expressed concern that enforcement will be problematic and does not want to see people arrested. Mr. Gridley noted that the state law prohibits smoking within 20 feet within an entrance.

MOTION: Motion by Edinger, seconded by Evans, to dispense with the rule and read **Council Bill No. 18-1007** once by title only.

ROLL CALL: McEvers Aye; Gookin Aye; Evans Aye; English Aye; Edinger Aye; Miller Aye. **Motion carried.**

MOTION: Motion by Edinger, seconded by Evans, to adopt **Council Bill 18-1007** with the exclusion of the sidewalk on 8th Street and Front Avenue, so the boundary excludes the sidewalk.

ROLL CALL: McEvers Aye; Gookin No; Evans Aye; English Aye; Edinger Aye; Miller Aye. **Motion carried.**

RESOLUTION NO. 18-024

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, APPROVING AN AGREEMENT WITH ALLEN AND MARY DEE DODGE FOR A NEW ARTISTIC/FUNCTIONAL BIKE RACK FOR THE UPPER LEVEL OF THE COEUR D'ALENE PUBLIC LIBRARY.

STAFF REPORT: City Administrator Troy Tymesen explained that the Arts Commission issued a local Call to Artists for artistic/functional bike racks for the upper and lower level of the Coeur d'Alene Public Library. Four submissions were received, and after a thorough review by the selection committee, the Arts Commission recommended the Dodge Artworks piece entitled "Fish & Game" for the bike rack to be located on the upper level of the library. The call to

artists will be reissued for the lower level of the library. The agreement calls for the bike rack to be constructed and installed by August 1, 2018. The “Fish & Game” bike rack consists of six wildlife figures, each made of welded stainless steel, each sized 24” x 36” by approximately 2” thick. They will be flanged at the base to facilitate bolting into concrete. The figures would be placed approximately 30” apart to allow two bikes per piece. The total budget for both the upper and lower level bike racks is \$18,000. This agreement would be issued for the upper level bike racks only in the amount of \$9,000.00. Funding for the bike rack will come from the Arts Fund – Lake District URD.

DISCUSSION: Councilmember Gookin noted that this is fun art, but does not believe the bike rack will be used. Councilmember Evans explained that she participated in the selection committee and assured the Council that the committee had a lot of discussion regarding functionality and had several cyclists on the committee. Councilmember McEvers expressed concern about the cost but noted he will support the project. Mr. Tymesen noted that the current bike rack at the Library is used regularly.

MOTION: Motion by Evans, seconded by Miller to approve **Resolution No. 18-024**, Agreement with Allen and Mary Dee Dodge for a new artistic/functional bike rack for the upper level of the Coeur d’Alene Public Library.

ROLL CALL: Gookin Aye; Evans Aye; English Aye; Edinger Aye; Miller Aye; McEvers Aye.
Motion carried.

RECESS: Motion by Gookin, seconded by Miller to recess to April 26, 2018 for a workshop with ignite CDA at 5:00 p.m. at the NIC Student Union Building, Lake Coeur d’Alene Room.
Motion carried.

The meeting adjourned at 7:27 p.m.

ATTEST:

Steve Widmyer, Mayor

Renata McLeod, CMC, City Clerk

**PUBLIC WORKS COMMITTEE
MINUTES
April 23, 2018
4:00 p.m., Library Community Room**

COMMITTEE MEMBERS PRESENT

Councilmember Woody McEvers
Councilmember Dan English
Councilmember Kiki Miller

STAFF PRESENT

Jim Remitz, WW Capital Prog. Mgr.
Juanita Knight, Senior Legal Assistant
Mike Anderson, WW Superintendent
Mike Gridley, City Attorney
Troy Tymesen, City Administrator
Renata McLeod, Municipal Services Dir.

Item 1 Designating Hubbard Street Park as an off-leash dog swim area – Bill Greenwood

ITEM PULLED FROM THE AGENDA

**Item 2 Biosolids Disposal Presentation – Mike Anderson
Information Only**

Mike Anderson, WW Superintendent, presented a PowerPoint presentation regarding Biosolids Disposal. Mr. Anderson noted in his staff report that the Wastewater Department has been using composting as the preferred method of disposal for biosolids since 1988. Prior to this, the biosolids were simply spread out on a field and dried. Biosolids are the solid particles that accumulate at a wastewater treatment plant as a result of the separation of organic solids from the water and growth of the biology that consume these “solids”. These solids are anaerobically digested at the treatment plant which reduces the odors, pathogens, and vector attraction of these solids. Mr. Anderson compared the operational cost of composting, \$338,000 annually, versus the operational cost of a contracted private hauler, \$324,000 annually. Capital improvement costs were not taken into consideration for analysis. Utilizing a compost method or use of a private hauler enable the City to meet the permit requirements of the Advanced Wastewater Treatment Facility. The annual operating cost for either method is roughly the same at the moment. An increase in solids production would have less of an impact on the composting method than it would on the cost of a private hauler. The volatility of the cost is also much more stable with composting of the product as compared to utilizing a private hauler. There are non-monetary considerations as well. After composting the biosolids, there is a valuable (beneficial) product that is currently being sold to local retailers. This product is also part of a community outreach program and is regularly given away to community gardens, schools, City parks and other City departments to help keep our City beautiful and encourage community involvement. Our regulatory community quite often uses your facility in tours for potential “this is how it is done” composting operation.

Councilmember Miller asked if the compost is organic or if it is a harmful product. Mr. Anderson said it is not considered organic nor is it harmful. The product meets Class A EQ, or exception quality, which is the highest standard of any kind of compost and the compost has zero restrictions to it. Councilmember Miller also asked if he has had conversations about joining with other local municipalities for their biosolids. Mr. Anderson said he has had a few conversations with other utilities and they’ve discussed

taking them on emergency basis and he would certainly investigate doing it on a non-emergency service to other communities.

THE COMMITTEE requested this presentation be presented to the full Council on May 1st under Public Works.

Item 3 Approval of Professional Services Agreement with J-U-B Engineers for the Design of Compost Facility Improvements – Jim Remitz

Agenda

Councilmember McEvers said this item was presented at the March 26th Public Works meeting. Staff has returned with additional information.

Jim Remitz, Capital Program Manager, is asking Council to approve an agreement with J-U-B Engineers for Professional Services for the design of improvements to the City of Coeur d'Alene Compost facility. Mr. Remitz noted in his staff report that due to the increased flows and solids coming into the City's Advanced Wastewater Treatment Facility, the volume of bio-solids to be disposed at the Compost Facility has increased. The need for the proposed improvements to accommodate and process the increased volume of bio-solids was identified in the Compost Facility Site Visit and Evaluation, August 2017 report by J-U-B Engineers. As a part of this report, the design and construction of another building to process additional compost beds was identified as the top priority. Funds for this proposed professional services agreement are available in the current (FY 17-18) Wastewater Operating Fund in account # 031-058-4353-7411. The total contract amount is Sixty-Seven Thousand One Hundred Eighty dollars (\$67,180.00).

Councilmember McEvers asked if this is going to be for the final plan. Mr. Remitz said yes. This is for site planning and they want to coordinate with the construction of the new Water Dept. site. However, they are not doing a total geographic survey of the site but they are going to do topographic survey of the compost facility so they make sure they have adequate traffic flow for the trucks, proper grading and drainage, etc.

Councilmember Miller asked if the requested amount for this project is a budgeted item. Mr. Remitz said it is. He said they anticipate having the design and construction bidding documents complete and have it out to bid by September or October of this year with construction beginning in the spring of 2019. The project will likely take 2 years to complete.

Councilmember Miller asked if there is time to have the conversations with other municipalities about joining with the City to have it included in this agreement / scope of services. Mr. Anderson said the number one reason for this project is to increase capacity. If we were to receive compost/solids from other facilities we would have to increase capacity, which this project is doing.

MOTION: Motion by English, seconded by Miller, to recommend council approval of an agreement with J-U-B Engineers for the Design of Improvements to the City of Coeur d'Alene Compost Facility. Motion carried.

The meeting adjourned at 4:38 p.m.

Respectfully submitted,
Juanita Knight for
Amy C. Ferguson
Public Works Committee Liaison

BEER, WINE, AND/OR LIQUOR APPLICATION Expires March 1 annually

**City of Coeur d' Alene
Municipal Services
710 Mullan Avenue
Coeur d' Alene, Idaho 83814
208.769.2229 Fax 769.2237**

[Office Use Only] Amt Pd \$300.00 PD
Rec No 1520392
Date 4-24-18
Date to City Council: 5-1-18
Reg No. _____
License No. _____
Rv _____

Date that you would like to begin alcohol service _____

Check the ONE box that applies:

| | | |
|-------------------------------------|---|-------------------|
| <input type="checkbox"/> | Beer only (canned and bottled) not consumed on premise | \$ 50.00 per year |
| <input type="checkbox"/> | Beer and Wine (canned and bottled) not consumed on premise | \$250.00 per year |
| <input type="checkbox"/> | Beer only (canned and bottled only) consumed on premise | \$100.00 per year |
| <input checked="" type="checkbox"/> | Beer and Wine (canned and bottled only) consumed on premise | \$300.00 per year |
| <input type="checkbox"/> | Beer only (draft, canned, and bottled) consumed on premise | \$200.00 per year |
| <input type="checkbox"/> | Beer and Wine (Draft, canned, and bottled) consumed on premise | \$400.00 per year |
| <input type="checkbox"/> | Beer, Wine, and Liquor (number issued limited by State of Id) | \$762.50 per year |
| <input type="checkbox"/> | Transfer of ownership of a City license with current year paid Beer-to go only \$6.25 Beer- Can, Bottled only COP \$12.50 Beer- Draft, can, bottled COP \$25 Wine additional \$25 Consumed on premise yes no Transfer from _____ to _____ | \$ |

| | |
|---|--|
| Business Name | Taqueria El Taco Loco |
| Business Mailing Address | 219 W Canfield Ave |
| City, State, Zip | Coeur d'Alene, ID 83815 |
| Business Physical Address | 219 W Canfield, Ave |
| City, State, Zip | Coeur d'Alene, ID 83815 |
| Business Contact | Business Telephone: 208 719 0040 Fax: 208 635 5043 |
| Alfredo Guerrero | Email address: ranchovejohayden@hotmail.com |
| License Applicant | Alfredo Guerrero |
| If Corporation, partnership, LLC etc. List all members/officers | Taqueria El Taco Loco, LLC |

CITY COUNCIL STAFF REPORT

DATE: April 17, 2018
FROM: Dennis Grant, Engineering Project Manager
SUBJECT: **SS-18-01, Bellerive 7th Addition: Final Plat Approval**

DECISION POINT

Staff is requesting the following:

1. City Council approval of the final plat document, a three (3) lot subdivision in a commercial C-17 with PUD Overlay zoning district.

HISTORY

- a. Applicant: John R. Williams
Riverwalk Townhomes, LLC
7358 N. Aaron Street
Coeur d'Alene, ID 83815
- b. Location: +/- .346 Acre, 1238 W. Bellerive Lane, East of the terminus of Bellerive Lane and South of the existing Centennial Trail.
- c. Previous Action:
 1. Preliminary plat approval, March 15, 2018

FINANCIAL ANALYSIS

There are no financial issues with this development.

PERFORMANCE ANALYSIS

This commercial development is a re-plat of an existing single lot and portion of another lot located in Coeur d'Alene. This subdivision created three (3) lots. The infrastructure has been previously installed and accepted by the appropriate departments, therefore, the document is ready for approval and recordation.

DECISION POINT RECOMMENDATION

City Council approval of the final plat document

OWNERS CERTIFICATE AND DEDICATION

BE IT KNOWN BY THOSE THAT RIVERWALK TOWNHOMES, LLC AN IDAHO LIMITED LIABILITY COMPANY, AS VESTED OWNERS, AND WASHINGTON TRUST BANK AS BENEFICIAL INTEREST OF THE PROPERTY DESCRIBED HEREIN, DO HEREBY CERTIFY THAT THEY HAVE LAID OUT THE LAND EMBRACED BY THIS SHORT PLAT, TO BE KNOWN AS "BELLERIVE 7TH ADDITION", SAID LAND BEING LEGALLY DESCRIBED AS LOT 1, TOGETHER WITH THAT PORTION OF LOT 2, BLOCK 1, BELLERIVE 6TH ADDITION, ACCORDING TO THE PLAT THEREOF RECORDED IN BOOK "L" OF PLATS, PAGE(S) 193, RECORDS OF KOOTENAI COUNTY, IDAHO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST NORTHERLY CORNER OF SAID LOT 2, THENCE SOUTH 39°15'15" WEST, ALONG THE WESTERLY LINE OF SAID LOT 2, A DISTANCE OF 22.00 FEET TO AN ANGLE POINT ON THE NORTHERLY LINE OF LOT 1, BLOCK 1 OF SAID BELLERIVE 6TH ADDITION, AND THE POINT OF BEGINNING;

THENCE SOUTH 57°35'30" EAST A DISTANCE OF 50.34 FEET;

THENCE SOUTH 24°56'59" WEST A DISTANCE OF 62.69 FEET TO THE SOUTHERLY LINE OF SAID LOT 2;

THENCE NORTH 65°03'01" WEST, ALONG SAID SOUTHERLY LINE OF LOT 2, A DISTANCE OF 16.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 1;

THENCE NORTH 39°15'15" EAST, ALONG THE EASTERLY LINE OF SAID LOT 1, A DISTANCE OF 58.70 FEET TO THE NORTHEAST CORNER OF SAID LOT 1;

THENCE NORTH 50°44'45" WEST ALONG THE NORTHERLY LINE OF SAID LOT 1, A DISTANCE OF 49.96 FEET TO THE POINT OF BEGINNING;

SITUATED IN THE SOUTHWEST QUARTER OF SECTION 11, TOWNSHIP 50 NORTH, RANGE 4 WEST, BOISE MERIDIAN, KOOTENAI COUNTY, IDAHO.

DOMESTIC WATER SERVICE FOR THIS SHORT PLAT WILL BE PROVIDED BY THE CITY OF COEUR D' ALENE.

SANITARY SEWER SERVICE FOR THIS SHORT PLAT WILL BE PROVIDED BY THE CITY OF COEUR D' ALENE.

CERTIFICATES OF OCCUPANCY WILL NOT BE ISSUED FOR ANY DEVELOPMENT WITHIN THIS SHORT PLAT UNTIL ADEQUATE FIRE FLOWS ARE PROVIDED.

THE TEMPORARY EASEMENT PREVIOUSLY GRANTED TO THE PUBLIC FOR PEDESTRIAN ACCESS TO TRACT B, BELLERIVE 6TH ADDITION, IS HEREBY VACATED AS A RESULT OF THE REVERSIONARY CLAUSE CONTAINED IN THE PLAT OF BELLERIVE 6TH ADDITION SINCE THE EXTENSION OF THE PUBLIC BOARDWALK ADJACENT TO TRACT A, BELLERIVE 1ST ADDITION, IS COMPLETE. THE PROPERTY PREVIOUSLY ENCUMBERED BY THE TEMPORARY ACCESS EASEMENT IS NOW VESTED WITH THE UNDERLYING PROPERTY OWNERS, THEIR SUCCESSORS OR ASSIGNS WHO CAN EXERCISE ALL RIGHTS AND PRIVILEGES OF OWNERSHIP.

ALL OTHER CONDITIONS AND REQUIREMENTS PERTAINING TO THE PLATS OF BELLERIVE, BELLERIVE 1ST ADDITION, BELLERIVE 2ND ADDITION AND BELLERIVE 6TH ADDITION ARE APPLICABLE TO THIS PLAT.

RIVERWALK TOWNHOMES, LLC
AN IDAHO LIMITED LIABILITY COMPANY

BY: Lee Williams
ITS: Managing Member, Trillium Group LLC

ACKNOWLEDGMENT

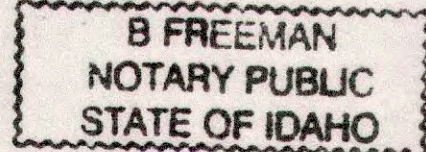
STATE OF Idaho
COUNTY OF Kootenai

THIS RECORD WAS ACKNOWLEDGED BEFORE ME ON 10th DAY OF April, 2018

BY Lee Williams AS Managing member, Trillium Group LLC
OF RIVERWALK TOWNHOMES, LLC

BY: B. Freeman
NOTARY PUBLIC

MY COMMISSION EXPIRES ON 1/11/2022



WASHINGTON TRUST BANK

BY: Nelson Granney
ITS: Vice President

ACKNOWLEDGMENT

STATE OF Idaho
COUNTY OF Kootenai

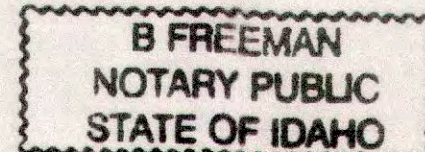
THIS RECORD WAS ACKNOWLEDGED BEFORE ME ON 10th DAY OF April, 2018

BY Nelson Granney AS vice president

OF WASHINGTON TRUST BANK

BY: B. Freeman
NOTARY PUBLIC

MY COMMISSION EXPIRES ON 1/11/2022



RESTRICTIONS:

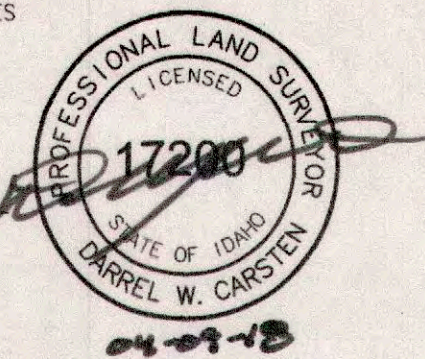
THIS SUBDIVISION IS SUBJECT TO THE FOLLOWING MATTERS PER THE RESEARCH REPORT ISSUED BY TITLE ONE, FILE NUMBER 17301849, WITH AN EFFECTIVE DATE OF DECEMBER 22, 2017, SCHEDULE B-II ITEMS:

- 1-10. NOT SURVEY RELATED
11. AN EASEMENT FOR THE PURPOSE SHOWN BELOW AND RIGHTS INCIDENTAL THERETO AS SET FORTH IN A DOCUMENT.
GRANTED TO: WASHINGTON WATER POWER
PURPOSE: PUBLIC UTILITIES
RECORDED: MARCH 21, 1940
INSTRUMENT NO.: BOOK 113/PAGE 145
AFFECTS: BLANKET POWER EASEMENT
12. TERMS, CONDITIONS, EASEMENTS AND OBLIGATIONS, IF ANY.
GRANTED TO: CITY OF COEUR D'ALENE
RECORDED: JANUARY 24, 2000
INSTRUMENT NO.: 1621564
AFFECTS: AS SHOWN ON PLAT
13. NOT SURVEY RELATED
14. AN EASEMENT FOR THE PURPOSE SHOWN BELOW AND RIGHTS INCIDENTAL THERETO AS SET FORTH IN AN EASEMENT.
GRANTED TO: VERIZON NORTHWEST, INC
PURPOSE: INGRESS AND EGRESS
RECORDED: JUNE 22, 2001
INSTRUMENT NO.: 1683725
AFFECTS: DOES NOT AFFECT PROPERTIES
15. TERMS, CONDITIONS, EASEMENTS AND OBLIGATIONS, IF ANY.
GRANTED TO: CITY OF COEUR D'ALENE
RECORDED: JUNE 24, 2004
INSTRUMENT NO.: 1884083
AFFECTS: DOES NOT AFFECT PROPERTIES
16. AN EASEMENT FOR THE PURPOSE SHOWN BELOW AND RIGHTS INCIDENTAL THERETO AS SET FORTH IN AN EASEMENT.
GRANTED TO: AVISTA CORPORATION, KOOTENAI CABLE, INC., ADELPHIA CABLE COMMUNICATIONS
PURPOSE: UTILITIES
RECORDED: SEPTEMBER 8, 2004
INSTRUMENT NO.: 1899358
AFFECTS: DOES NOT AFFECT PROPERTIES
17. TERMS, CONDITIONS, EASEMENTS AND OBLIGATIONS, IF ANY.
GRANTED TO: RIVERMILL INVESTMENTS, LLC AND RIVERSTONE MASTER ASSOCIATION, INC.
PURPOSE: VARIES
RECORDED: NOVEMBER 8, 2004
INSTRUMENT NO.: 1911641
AFFECTS: AS SHOWN HEREON
- AMENDMENT TO THE DECLARATION ESTABLISHING EASEMENT RIGHTS AND PROPERTY EXCHANGE OBLIGATIONS.
GRANTED TO: RIVERSTONE MASTER ASSOCIATION, INC
PURPOSE: WATER LINE
RECORDED: MAY 24, 2006
INSTRUMENT NO.: 2033207
RE-RECORDED: SEPTEMBER 10, 2008
INSTRUMENT NO.: 2177183
AFFECTS: DOES NOT AFFECT PROPERTIES
18. TERMS, CONDITIONS, EASEMENTS AND OBLIGATIONS, IF ANY.
GRANTED TO: AVISTA CORPORATION, VERIZON NORTHWEST, INC., KOOTENAI CABLE, INC., ADELPHIA CABLE COMMUNICATIONS
PURPOSE: UTILITY EASEMENT
RECORDED: JANUARY 11, 2006
INSTRUMENT NO.: 2007048
AFFECTS: DOES NOT AFFECT PROPERTIES
- 19-20. NOT SURVEY RELATED
21. AN EASEMENT FOR THE PURPOSE SHOWN BELOW AND RIGHTS INCIDENTAL THERETO AS SET FORTH IN A DOCUMENT.
GRANTED TO: CITY OF COEUR D'ALENE
PURPOSE: PUBLIC UTILITIES
RECORDED: AUGUST 18, 2006
INSTRUMENT NO.: 2050572
AFFECTS: DOES NOT AFFECT PROPERTIES
22. AN EASEMENT FOR THE PURPOSE SHOWN BELOW AND RIGHTS INCIDENTAL THERETO AS RESERVED IN AN ACCESS EASEMENT.
GRANTED TO: CITY OF COEUR D'ALENE
PURPOSE: CONSTRUCTION, MAINTENANCE, REPAIR AND REPLACEMENT OF A ROAD FOR INGRESS, EGRESS AND INSTALLATION OF UTILITIES
RECORDED: MAY 5, 2008
INSTRUMENT NO.: 2209591
AFFECTS: DOES NOT AFFECT PROPERTIES
- 23-25. NOT SURVEY RELATED
26. ANY ADVERSE CLAIM BASED UPON THE ASSERTION THAT:
a) SOME PORTION OF THE LAND FORMS THE BED OR BANK OF A NAVIGABLE RIVER OR LAKE, OR LIES BELOW THE MEAN HIGH WATER MARK THEREOF;
b) THE BOUNDARY OF THE LAND HAS BEEN AFFECTED BY A CHANGE IN THE COURSE OR WATER LEVEL OF A NAVIGABLE RIVER OR LAKE;
c) THE LAND IS SUBJECT TO WATER RIGHTS, CLAIMS OR TITLE TO WATER AND TO ANY LAW OR GOVERNMENTAL REGULATION PERTAINING TO WETLANDS.
27. ANY RIGHTS, INTERESTS OR EASEMENTS IN FAVOR OF THE STATE OF IDAHO, THE UNITED STATES OF AMERICA, OR THE PUBLIC WHICH EXIST OR ARE CLAIMED TO EXIST IN AND OVER THE WATERS, BED AND BANKS OF THE SPOKANE RIVER.
28. ANY DIFFERENCE IN THE MEAN HIGH WATER LINE OF THE SPOKANE RIVER AND THE MEANDER LINE AS SHOWN BY GOVERNMENT SURVEY.
- 29-32. NOT SURVEY RELATED
33. RECORD OF SURVEY AND WARRANTY DEED TRANSFERRING A PORTION OF LOT 2, BLOCK 1 BELLERIVE 6TH ADDITION TO LOT 1, BLOCK 1 BELLERIVE 6TH ADDITION.
RECORDED: DECEMBER 21, 2017
INSTRUMENT NO.: 2625367 AND 2625368

SURVEYOR'S CERTIFICATE

I, DARREL W. CARSTEN, PROFESSIONAL LAND SURVEYOR IN THE STATE OF IDAHO, DO HEREBY CERTIFY THAT THE PLAT OF BELLERIVE 7TH ADDITION AS SHOWN HEREON WAS PREPARED UNDER MY DIRECT SUPERVISION AND IS BASED UPON AN ACTUAL FIELD SURVEY OF THE LAND DESCRIBED AND THAT ALL ANGLES AND DISTANCES ARE CORRECT, AND CORNERS ARE STAKED AS SHOWN ON THE PLAT.

DARREL W. CARSTEN, PLS 17200



KOOTENAI COUNTY RECORDER

THE PLAT WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER IN KOOTENAI COUNTY, STATE OF IDAHO, THIS _____ DAY OF _____, 20____ AT _____, IN BOOK _____ OF _____
AT PAGES _____ AT THE REQUEST OF _____

KOOTENAI COUNTY RECORDER FEE INSTRUMENT NO.

CITY COUNCIL APPROVAL

THIS PLAT OF BELLERIVE 7TH ADDITION WAS APPROVED BY THE CITY COUNCIL OF COEUR D'ALENE, IDAHO ON _____ DAY OF _____, 20____

CLERK, CITY OF COEUR D'ALENE

ENGINEER, CITY OF COEUR D'ALENE

KOOTENAI COUNTY TREASURER'S CERTIFICATE

I HEREBY CERTIFY THAT THE TAXES DUE FOR THE PROPERTY DESCRIBED IN THE OWNER'S CERTIFICATE AND DEDICATION HAVE BEEN PAID THROUGH _____ DATED THIS _____ DAY OF _____, 20____

KOOTENAI COUNTY TREASURER

HEALTH DISTRICT APPROVAL

SANITARY RESTRICTIONS AS REQUIRED BY IDAHO CODE, TITLE 50, CHAPTER 13 HAVE BEEN SATISFIED BASED ON A REVIEW BY A QUALIFIED PROFESSIONAL ENGINEER (QPE) REPRESENTING THE CITY OF COEUR D'ALENE AND THE QPE APPROVAL OF THE DESIGNED PLANS AND SPECIFICATIONS AND CONDITIONS IMPOSED ON THE DEVELOPER FOR CONTINUE SATISFACTION OF THE SANITARY RESTRICTIONS. WATER AND SEWER LINE HAVE BEEN COMPLETED AND SERVICES CERTIFIED AS AVAILABLE. SANITARY RESTRICTION MAY BE REIMPOSED, IN ACCORDANCE WITH SECTION 50-1326, IDAHO CODE, BY THE ISSUANCE OF A CERTIFICATE OF DISPOSAL.

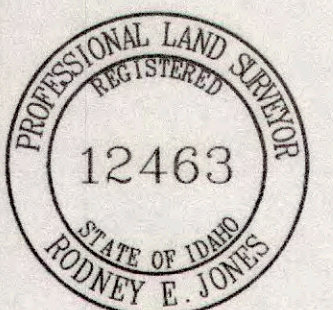
DATED THIS 17th DAY OF April, 2018

BY: Gaylene Land
PANHANDLE HEALTH DISTRICT 1

KOOTENAI COUNTY SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT I HAVE EXAMINED THE HEREIN PLAT AND CHECKED THE PLAT COMPUTATIONS THEREON AND HAVE DETERMINED THAT THE REQUIREMENTS OF THE STATE CODE PERTAINING TO PLATS AND SURVEYS HAVE BEEN MET. DATED THIS _____ DAY OF _____, 20____

KOOTENAI COUNTY SURVEYOR



BELLERIVE 7TH ADDITION

A REPLAT OF LOT 1 AND A PORTION OF LOT 2
BLOCK 1 OF BELLERIVE 6TH ADDITION
BEING A PORTION OF THE SOUTHWEST QUARTER OF
SECTION 11, TOWNSHIP 50 NORTH, RANGE 4 WEST, BOISE MERIDIAN,
CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO
JANUARY 2018

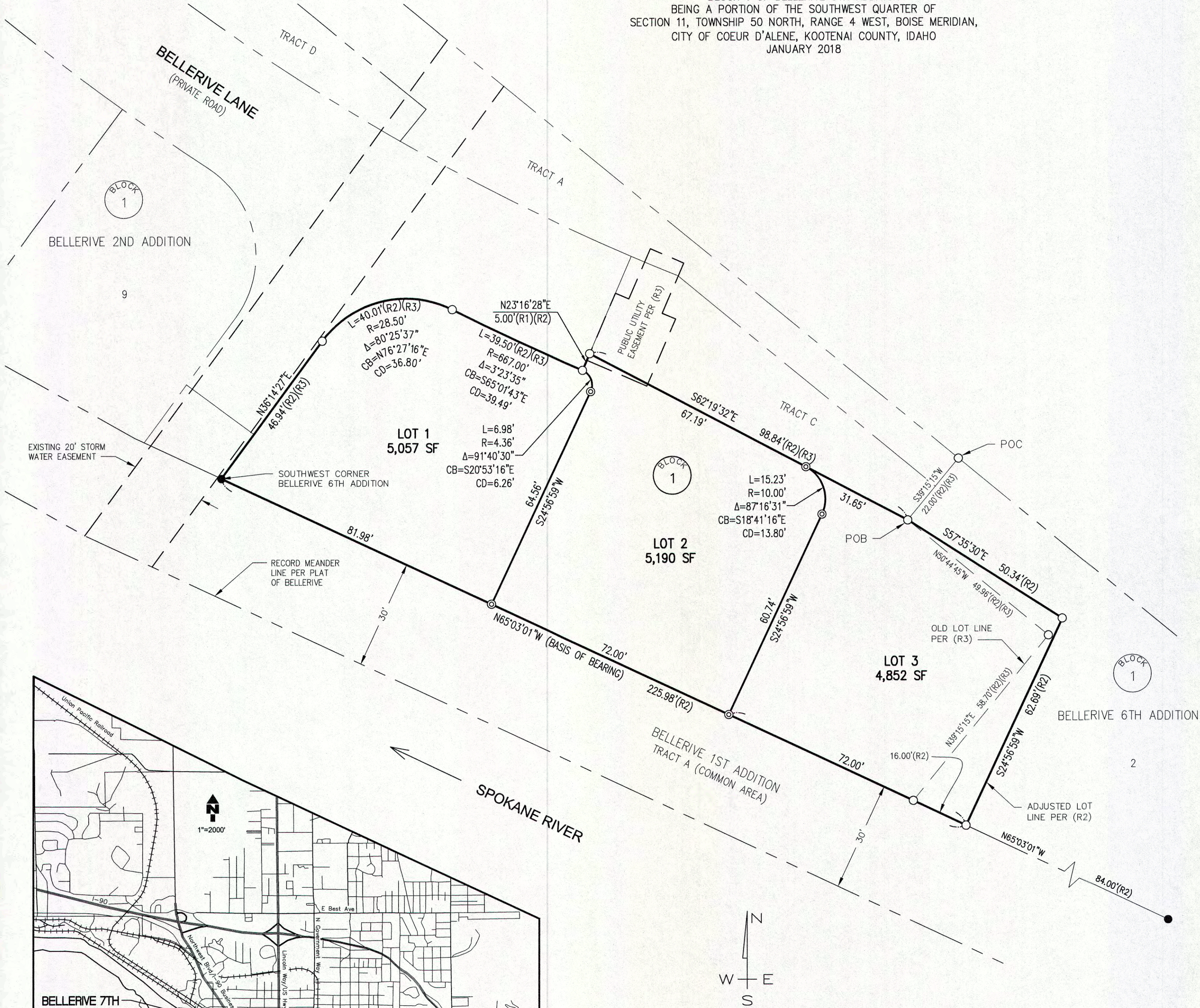
Parametrix
ENGINEERING . PLANNING . ENVIRONMENTAL SCIENCES

1044 NORTHWEST BOULEVARD, SUITE A | COEUR D'ALENE ID 83814
P 208.664.9405 WWW.PARAMETRIX.COM

BELLERIVE 7TH ADDITION

A REPLAT OF LOT 1 AND A PORTION OF LOT 2
BLOCK 1 OF BELLERIVE 6TH ADDITION
BEING A PORTION OF THE SOUTHWEST QUARTER OF
SECTION 11, TOWNSHIP 50 NORTH, RANGE 4 WEST, BOISE MERIDIAN,
CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO
JANUARY 2018

BOOK _____ PAGE _____
INSTRUMENT # _____
RECORDER _____
FILED AND RECORDED AT THE REQUEST OF
RIVERWALK TOWNHOMES LLC.
DATE: _____
TIME: _____
BOOK: _____ PAGE _____
INSTRUMENT NO: _____
KOOTENAI COUNTY, STATE OF IDAHO
RECORDER: _____
DEPUTY: _____
FEE: _____



LEGEND

- FOUND 5/8" REBAR WITH YELLOW PLASTIC CAP MARKED "PLS 4346"
- FOUND 5/8" x 24" REBAR WITH ORANGE PLASTIC CAP MARKED "CARSTEN PLS 17200"
- ⊙ SET 5/8" x 24" REBAR WITH ORANGE PLASTIC CAP MARKED "CARSTEN PLS 17200"
- CB CHORD BEARING
- CD CHORD DISTANCE

REFERENCES:

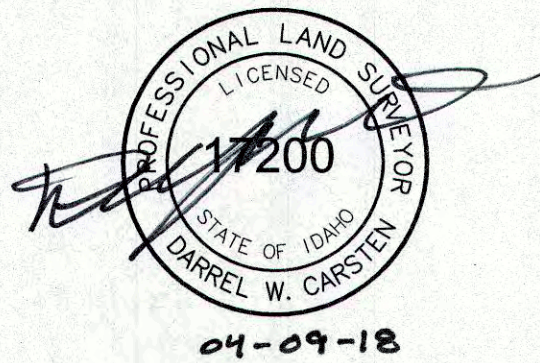
- (R1) TITLEONE CORPORATION, FILE NUMBER 17301849, (RIVERWALK TOWNHOMES, LLC), DECEMBER 22, 2017.
- (R2) SURVEY FOR: RIVERWALK TOWNHOMES, LLC, BOUNDARY LINE ADJUSTMENT, INSTRUMENT # 2625367000, BOOK 30, PAGE 90, 2017, SURVEYOR: CARSTEN
- (R3) BELLERIVE 6TH ADDITION, RECORDED IN BOOK "L" OF PLATS, PAGE 193, 2017
- (R4) BELLERIVE 2ND ADDITION RECORDED IN BOOK "K" OF PLATS, PAGE 158, 2008
- (R5) BELLERIVE 1ST ADDITION, RECORDED IN BOOK "K" OF PLATS, PAGE 133, 2008

BASIS OF BEARING

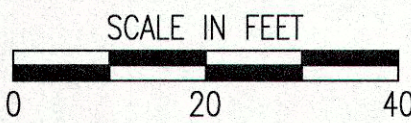
THE BASIS OF BEARINGS IS NORTH 65°03'01" WEST BETWEEN FOUND MONUMENTS ALONG THE SOUTHERLY LINE OF LOT 1 AND A PORTION OF LOT 2, BLOCK 1, BELLERIVE 6TH ADDITION PER (R1) AND (R2).

SURVEYOR'S NOTES:

- 1. TOTAL SUBDIVISION AREA IS: 0.35 ACRES OR 15,099 SQUARE FEET.
- 2. FIELD SURVEYS WERE PERFORMED BETWEEN JULY 2015 AND DECEMBER 2017.
- 3. ALL DISTANCES SHOWN ARE GROUND VALUES.
- 4. THERE ARE CURRENTLY NO STRUCTURES ON THE SUBJECT PROPERTY.



VICINITY MAP
COEUR D'ALENE, IDAHO



Parametrix

ENGINEERING . PLANNING . ENVIRONMENTAL SCIENCES

1044 NORTHWEST BOULEVARD, SUITE A | COEUR D'ALENE ID 83814
P 208.664.9405 WWW.PARAMETRIX.COM

SHEET

2
OF
2

ANNOUNCEMENTS

Memo to Council

DATE: April 25, 2018

RE: Appointments to Boards/Commissions/Committees

The following appointment is presented for your consideration for the May 1st Council Meeting:

ERIKA EIDSON

Urban Forestry Committee

A copy of the data sheet has been placed by your mailboxes.

Sincerely,

Amy Ferguson
Executive Assistant

cc: Renata McLeod, Municipal Services Director
Katie Kosanke, Urban Forestry Committee Liaison

PUBLIC WORKS COMMITTEE

**PUBLIC WORKS COMMITTEE
STAFF REPORT**

DATE: April 23, 2018
FROM: Mike Anderson, Wastewater Superintendent
SUBJECT: Biosolids Disposal Presentation

DECISION POINT: This is a presentation for information purposes only and no decision is required.

HISTORY: The City of Coeur d'Alene Wastewater Department has been using composting as the preferred method of disposal for biosolids since 1988. Prior to this, the biosolids were simply spread out on a field and dried. Biosolids are the solid particles that accumulate at a wastewater treatment plant as a result of the separation of organic solids from the water and growth of the biology that consume these "solids". These solids are anaerobically digested at the treatment plant which reduces the odors, pathogens, and vector attraction of these solids.

FINANCIAL ANALYSIS: The presentation will cover and compare the operational cost of composting, \$338,000 annually, versus the operational cost of a contracted private hauler, \$324,000 annually. Capital improvement costs were not taken into consideration for analysis.

PERFORMANCE ANALYSIS: Utilizing a compost method or use of a private hauler enable the City to meet the permit requirements of the Advanced Wastewater Treatment Facility. The annual operating cost for either method is roughly the same at the moment. An increase in solids production would have less of an impact on the composting method than it would on the cost of a private hauler. The volatility of the cost is also much more stable with composting of the product as compared to utilizing a private hauler.

There are non-monetary considerations as well. After composting the biosolids, there is a valuable (beneficial) product that is currently being sold to local retailers. This product is also part of a community outreach program and is regularly given away to community gardens, schools, City parks and other City departments to help keep our City beautiful and encourage community involvement. Our regulatory community quite often uses your facility in tours for potential "this is how it is done" composting operation.

DECISION POINT/RECOMMENDATION: No decision is required however the Wastewater Department appreciates the opportunity to show both the Council and the community the great work that is occurring with what some consider a waste product.



Cost of Composting

How does it stack up?

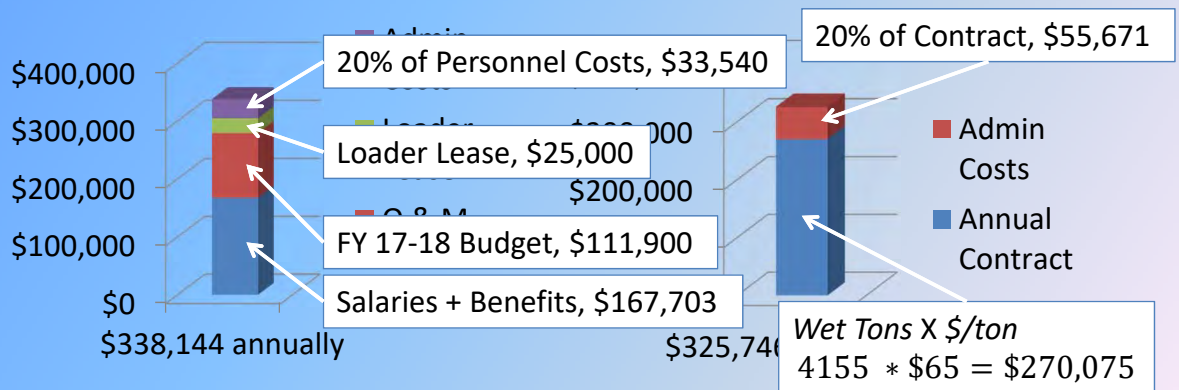




Annual Costs

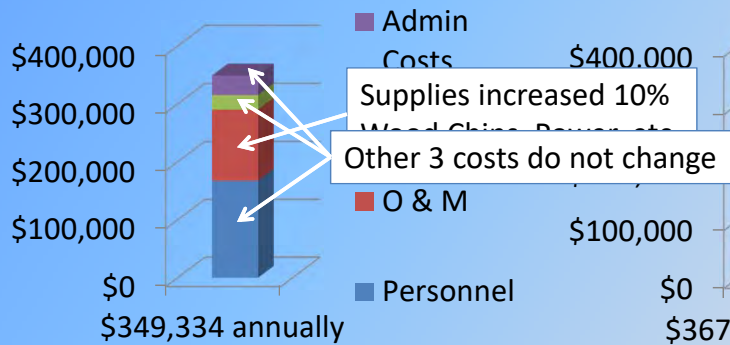
Compost (FY 2017-2018)

Private Hauler

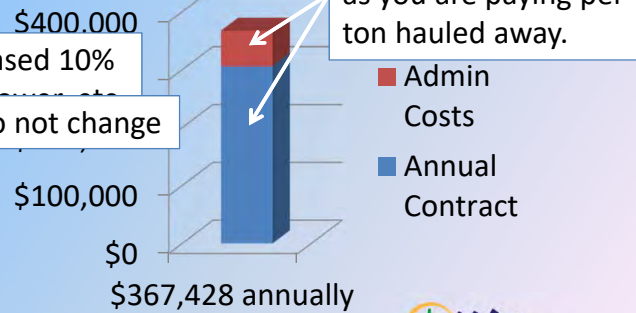


Annual Costs + 10%

Compost



Private Hauler



Cost Data

| Biosolids Disposal Costs | | | | | | | | |
|--------------------------|--------------|-----------------|------------------------|-------------------------------------|--|---------------|---------------------|-----------------------------|
| OPERATING COSTS | Compost | | | | Private Hauler | | | |
| | Item | Cost | Description | With 10% increase in solids | Item | Amount | Description | With 10% increase in solids |
| | | | | | Dry | | 914 tons annually | 1005. |
| | Personnel | \$ 167,703.00 | Salaries + Benefits | \$ 167,703.00 | Wet | | 4,155 tons annually | 457 |
| | O&M | \$ 111,900.00 | FY 17-18 Budget | \$ 123,090.00 | Cost to Haul | \$ 65.00 | per wet ton | \$ 65.00 |
| | Loader Lease | \$ 25,000.00 | | \$ 25,000.00 | Annual Contract | \$ 270,045.45 | Wet tons X \$/ton | \$ 297,050.00 |
| | Admin Costs | \$ 33,540.60 | 20% of Personnel Costs | \$ 33,540.60 | Admin Costs | \$ 54,009.09 | 20% of Contract | \$ 59,410.00 |
| | Total Costs | \$ 338,143.60 | | \$ 349,333.60 | Total Costs | \$ 324,054.55 | | \$ 356,460.00 |
| CAPITAL COSTS | Year | Original Cost | Cost to build today | Item | Unknown but expected upgrades to dewatering building to allow larger receiving | | | |
| | 1989 | \$ 1,309,000.00 | \$ 2,932,273.46 | Phase 1 | | | | |
| | 1992 | \$ 137,000.00 | \$ 284,113.54 | Phase 2 | | | | |
| | 1994 | \$ 220,000.00 | \$ 420,554.73 | Materials Handling | | | | |
| | 2008 | \$ 50,000.00 | \$ 62,202.17 | Curing Storage & Pavement Extension | | | | |
| | 2010 | \$ 30,000.00 | \$ 35,247.19 | Biosolids Storage | | | | |
| | | | | | | | | |
| | | | | | | | | |



Juneau, AK

- Sludge incinerator failed in 2010. Not repaired due to capital costs
- Privately hauled by Waste Management for 3 years.
- New contract in 2013 at 40% cost increase.



Community Benefits

Compost is donated to:

- Community Gardens
- Food Bank
- City Parks
- Streets Department
- Water Department



**PUBLIC WORKS COMMITTEE
STAFF REPORT**

DATE: April 23, 2018
FROM: James Remitz, Capital Program Manager
SUBJECT: Approval of Agreement for Professional Services with J.U.B. Engineers for the Design of Compost Facility Improvements, 2018

DECISION POINT: Should the City Council approve an agreement with J.U.B. Engineers for Professional Services for the design of improvements to the City of Coeur d'Alene Compost Facility?

HISTORY: The City of Coeur d'Alene first developed a composting facility on a City-owned parcel at 3500 North Julia Street in 1988. The facility enabled the City's wastewater treatment facility to dispose of de-watered bio-solids by combining the bio-solids with wood chips and composting this mixture. This operation resulted in a soil amendment material (Coeur d'Green™) that is wholesaled to local landscape companies. Since 1988, numerous improvements have been made to the composting facility to increase the operational efficiency of the facility. However, due to the increased flows and solids coming into the City's Advanced Wastewater Treatment Facility, the volume of bio-solids to be disposed at the Compost Facility has increased. The need for the proposed improvements to accommodate and process the increased volume of bio-solids was identified in the Compost Facility Site Visit and Evaluation, August 2017 report by J-U-B Engineers. As a part of this report, the design and construction of another building to process additional compost beds was identified as the top priority. With the completion of the design of this building and associated site improvements in 2018, it is anticipated that the construction of the improvements will be completed in 2019.

FINANCIAL ANALYSIS: Funds for this proposed professional services agreement are available in the current (FY 17-18) Wastewater Operating Fund in account # 031-058-4353-7411. The total contract amount is Sixty-Seven Thousand One Hundred Eighty dollars (\$67,180.00).

PERFORMANCE ANALYSIS: J-U-B Engineers have successfully completed a number of collection system and treatment plant studies and projects for the Coeur d'Alene Wastewater Department. Because J-U-B Engineers performed the recent Compost Facility Site Visit and Evaluation, August 2017, they are uniquely qualified to design the compost facility improvements. The proposed agreement complies with I.C. § 67-2320(4) for the procurement of professional services. (Copy attached.)

DECISION POINT/RECOMMENDATION: The council should approve and authorize the Mayor to execute the Agreement For Professional Services between the City of Coeur d'Alene and J-U-B Engineers, Inc., for the design of Compost Facility Improvements, 2018. A copy of the proposed agreement, scope of services, and fee estimate is attached.



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- [Redistricting Commission](#)



Idaho Statutes

TITLE 67 STATE GOVERNMENT AND STATE AFFAIRS

CHAPTER 23 MISCELLANEOUS PROVISIONS

67-2320. PROFESSIONAL SERVICE CONTRACTS WITH DESIGN PROFESSIONALS, CONSTRUCTION MANAGERS AND PROFESSIONAL LAND SURVEYORS. (1) Notwithstanding any other provision of law to the contrary, it shall be the policy of this state that all public agencies and political subdivisions of the state of Idaho and their agents shall make selections for professional engineering, architectural, landscape architecture, construction management and professional land surveying services, including services by persons licensed pursuant to chapters 3, 12, 30 and 45, [title 54](#), Idaho Code, on the basis of qualifications and demonstrated competence and shall negotiate contracts or agreements for such services on the basis of demonstrated competence and qualifications for the type of services required at fair and reasonable prices.

(2) In carrying out this policy, public agencies and political subdivisions of the state shall use the following minimum guidelines in securing contracts for engineering, architectural, landscape architecture, construction management and land surveying services on projects for which the professional service fee is anticipated to exceed the total sum of twenty-five thousand dollars (\$25,000), excluding professional services contracts previously awarded for an associated or phased project, and the expenditure is otherwise exempt from the bidding process provided by law:

- (a) Encourage persons or firms engaged in the services being solicited to submit statements of qualifications and performance data;
- (b) Establish and make available to the public the criteria and procedures used for the selection of qualified persons or firms to perform such services;
- (c) Select the persons or firms whom the public agency or political subdivision determines to be best qualified to provide the required services, ranked in order of preference, pursuant to the public agency or political subdivision's established criteria and procedures;
- (d) Negotiate with the highest ranked person or firm for a contract or agreement to perform such services at a price determined by the public agency or political subdivision to be reasonable and fair to the public after considering the estimated value, the scope, the complexity and the nature of the services;
- (e) When unable to negotiate a satisfactory contract or agreement, formally terminate negotiations and undertake negotiations with the next highest ranked person or firm, following the procedure prescribed in subsection (2)(d) of this section;
- (f) When unable to negotiate a satisfactory contract or agreement with any of the selected persons or firms, continue with the selection and negotiation process provided in this section until a contract or agreement is reached;
- (g) When public agencies or political subdivisions solicit proposals for engineering, architectural, landscape architecture, construction management or land surveying services for which the professional service fee is anticipated to exceed the total sum of twenty-five thousand dollars (\$25,000), they shall publish public notice in the same manner as required for bidding of public works construction projects.
- (h) In fulfilling the requirements of subsections (2)(a) through



(2)(g) of this section, a public agency or political subdivision may limit its selection from a list of three (3) persons or firms selected and preapproved for consideration by the public agency or political subdivision. In establishing a preapproved list a public agency or political subdivision shall publish notice as set forth in subsection (2)(g) of this section. When selecting from such list, no notice shall be required.

(i) In fulfilling the requirements of subsections (2)(a) through (2)(g) of this section, a public agency or political subdivision may request information concerning a person's or firm's rates, overhead and multipliers, if any, however such information shall not be used by the public agency or political subdivision for the purpose of ranking in order of preference as required in subsection (2)(c) of this section.

(3) In securing contracts for engineering, architectural, landscape architecture, construction management or land surveying services on projects for which the professional service fee is anticipated to be less than the total sum of twenty-five thousand dollars (\$25,000), the public agency or political subdivision may use the guidelines set forth in paragraphs (a) through (g) of subsection (2) of this section or establish its own guidelines for selection based on demonstrated competence and qualifications to perform the type of services required, followed by negotiation of the fee at a price determined by the public agency or political subdivision to be fair and reasonable after considering the estimated value, the scope, the complexity and the nature of services.

(4) When a public agency or political subdivision of the state has previously awarded a professional services contract to a person or firm for an associated or phased project the public agency or political subdivision may, at its discretion, negotiate an extended or new professional services contract with that person or firm.

(5) (a) For the purposes of this section, "public agency" shall mean the state of Idaho and any departments, commissions, boards, authorities, bureaus, universities, colleges, educational institutions or other state agencies which have been created by or pursuant to statute other than courts and their agencies and divisions, and the judicial council and the district magistrate's commission;

(b) For the purposes of this section, "political subdivision" shall mean a county, city, airport, airport district, school district, health district, road district, cemetery district, community college district, hospital district, irrigation district, sewer district, fire protection district, or any other district or municipality of any nature whatsoever having the power to levy taxes or assessment, organized under any general or special law of this state. The enumeration of certain districts herein shall not be construed to exclude other districts or municipalities from this definition.

History:
[67-2320, added 1984, ch. 188, sec. 1, p. 438; am. 1998, ch. 410, sec. 4, p. 1273.]

[How current is this law?](#)
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RESOLUTION NO. 18-026

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH J-U-B ENGINEERS FOR THE DESIGN OF COMPOST FACILITY IMPROVEMENTS.

WHEREAS, the Public Works Committee of the City of Coeur d'Alene has recommended that the City of Coeur d'Alene enter into an agreement with J-U-B Engineers, pursuant to terms and conditions set forth in an agreement, a copy of which is attached hereto as Exhibit "1" and by reference made a part hereof; 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 agreement;

NOW, THEREFORE,

BE IT RESOLVED by the Mayor and City Council of the City of Coeur d'Alene that the City enter into an agreement with J-U-B Engineers, in substantially the form attached hereto as Exhibit "1" and incorporated herein by reference, with the provision that the Mayor, City Administrator, and City Attorney are hereby authorized to modify said agreement to the extent the substantive provisions of the agreement remain intact.

BE IT FURTHER RESOLVED that the Mayor and City Clerk be and they are hereby authorized to execute such agreement on behalf of the City.

DATED this 1st day of May, 2018.

Steve Widmyer, Mayor

ATTEST:

Renata McLeod, City Clerk

Motion by _____, Seconded by _____, to adopt the foregoing resolution.

ROLL CALL:

COUNCIL MEMBER EVANS Voted _____

COUNCIL MEMBER MCEVERS Voted _____

COUNCIL MEMBER MILLER Voted _____

COUNCIL MEMBER EDINGER Voted _____

COUNCIL MEMBER GOOKIN Voted _____

COUNCIL MEMBER ENGLISH Voted _____

_____ was absent. Motion _____.

PROFESSIONAL SERVICES AGREEMENT
between
CITY OF COEUR D'ALENE
and
J-U-B ENGINEERS, Inc.
for
DESIGN OF COMPOST FACILITY IMPROVEMENTS, 2018

THIS Agreement is made and entered into this 1st day of May, 2018, between the CITY OF COEUR D'ALENE, Kootenai County, Idaho, a municipal corporation organized and existing under the laws of the state of Idaho, hereinafter referred to as the "City," and J-U-B ENGINEERS, Inc., a corporation duly organized and existing in the state of Idaho, with its principal place of business at 7825 Meadowlark Way, Coeur d'Alene, ID 83815, hereinafter referred to as the "Consultant."

W I T N E S S E T H:

Section 1. Definitions. In this agreement:

- A. The term "City" means the city of Coeur d'Alene, 710 Mullan Avenue, Coeur d'Alene, Idaho 83814.
- B. The term "Consultant" means J-U-B ENGINEERS, Inc.

Section 2. Employment of Consultant. The City hereby agrees to engage the Consultant and the Consultant hereby agrees to perform the services hereinafter set forth.

Section 3. Scope of Services.

- A. The Consultant shall perform the services described in the Scope of Services attached hereto and incorporated herein by reference as Attachment 1.
- B. Area Covered: The Consultant shall perform all the necessary services provided under this Agreement respecting the tasks set forth in the Scope of Services.

Section 4. Personnel.

- A. The Consultant represents that it has or will secure at its own expense all personnel required to perform its services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the City.

B. All of the services required hereunder will be performed by the Consultant or under his direct supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized under state and local law to perform such services.

C. The Consultant agrees to maintain Worker's Compensation coverage on all employees, including employees of subcontractors, during the term of this Agreement as required by Idaho Code Section 72-101 through 72-806. Should the Consultant fail to maintain such insurance during the entire term hereof, the Consultant shall indemnify the City against any loss resulting to the City from such failure, either by way of compensation or additional premium liability. The Consultant shall furnish to the City, prior to commencement of the work, such evidence as the City may require guaranteeing contributions which will come due under the Employment Security Law including, at the option of the City, a surety bond in an amount sufficient to make such payments.

Section 5. Time of Performance. The services of the Consultant shall commence upon execution of this Agreement by the Mayor and shall be completed on or before September 30, 2018. The period of performance may be extended for additional periods only by the mutual written agreement of the parties.

Section 6. Compensation.

A. Subject to the provisions of this Agreement, total compensation for all services and expenses required by this agreement shall not exceed Sixty-seven Thousand One Hundred Eighty (\$67,180) dollars.

B. Except as otherwise provided in this Agreement, the City shall not provide any additional compensation, payment, use of facilities, service or other thing of value to the Consultant in connection with performance of agreement duties. The parties understand and agree that, except as otherwise provided in this Section, administrative overhead and other indirect or direct costs the Consultant may incur in the performance of its obligations under this Agreement have already been included in computation of the Consultant's fee and may not be charged to the City.

Section 7. Method and Time of Payment.

A. The City will pay to the Consultant an amount not to exceed the amount set forth in Section 6, which shall constitute the full and complete compensation for the Consultant's professional services. Monthly progress payments must be submitted by the 10th of the month for work done in the previous calendar month. Partial payment shall be made by the end of each calendar month for the work completed in the previous calendar month. Final payment shall be made thirty (30) days after completion of all work and acceptance by the City Council.

Section 8. Termination of Agreement for Cause. If, through any cause within Consultant's reasonable control, the Consultant shall fail to fulfill in a timely and proper manner his obligations under this Agreement, or if the Consultant shall violate any of the covenants, agreements,

or stipulations of this Agreement, the City shall, after providing Consultant reasonable time to remedy the deficiency, thereupon have the right to terminate this Agreement by giving written notice to the Consultant of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In that event, all finished or unfinished hard copy documents, data, studies, surveys, and reports or other material prepared by the Consultant under this agreement shall at the option of the City become its property, and the Consultant shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and materials. Equitable compensation shall not exceed the amount reasonably billed for work actually done and expenses reasonably incurred.

Section 9. Termination for Convenience of City. The City may terminate this Agreement at any time by giving thirty (30) days written notice to the Consultant of such termination and specifying the effective date of such termination. In that event, all finished or unfinished documents and other materials as described in Section 8 above shall, at the option of the City, become its property. The Consultant shall be entitled to receive compensation not to exceed the amount reasonably billed for work actually done and expenses reasonably incurred as of the effective date of the termination.

Section 10. Modifications. The City may, from time to time, require modifications in the general scope of services initial basic services of the Consultant to be performed under this Agreement. The type and extent of such services cannot be determined at this time; however, the Consultant agrees to do such work as ordered in writing by the City, and the City agrees to compensate the Consultant for such work accomplished by written amendment to this Agreement.

Section 11. Equal Employment Opportunity.

A. The Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin, sexual orientation and/or gender identity/expression. The Consultant shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, or national origin, sexual orientation and/or gender identity/expression. Such actions shall include, but not be limited to the following: employment, upgrading, demotions, or transfers; recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; selection for training, including apprenticeship; and participation in recreational and educational activities. The Consultant agrees to post in conspicuous places available for employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause. The Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin, sexual orientation and/or gender identity/expression. The Consultant will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this agreement so that such provisions will be binding upon each sub-consultant, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

B. The Consultant shall keep such records and submit such reports concerning the racial and ethnic origin of applicants for employment and employees as the City may require.

Section 12. Interest of Members of City and Others. No officer, member, or employee of the City and no member of its governing body, and no other public official of the governing body shall participate in any decision relating to this Agreement which affects his personal interest or the interest of any corporation, partnership, or association in which he is, directly or indirectly, interested or has any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.

Section 13. Assignability.

A. The Consultant shall not assign any interest in this Agreement and shall not transfer any interest in the same (whether by assignment or novation) without the prior written consent of the City thereto. Provided, however, that claims for money due or to become due to the Consultant from the City under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

B. The Consultant shall not delegate duties or otherwise subcontract work or services under this Agreement without the prior written approval of the City.

Section 14. Interest of Consultant. The Consultant covenants that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. The Consultant further covenants that, in the performance of this Agreement, no person having any such interest shall be employed.

Section 15. Findings Confidential. Any reports, information, data, etc., given to or prepared or assembled by the Consultant under this Agreement which the City requests to be kept confidential shall not be made available to any individual or organization by the Consultant without the prior written approval of the City.

Section 16. Publication, Reproduction and Use of Materials. No material produced, in whole or in part, under this Agreement shall be subject to copyright in the United States or in any other country. The City shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data or other materials prepared under this Agreement. Consultant shall provide copies of such work products to the City upon request. City may make and retain copies of Documents for information and reference in connection with use on the Project by the City. Such Documents are not intended or represented to be suitable for reuse by City or others on extensions of the Project or on any other project. Any such reuse or modification without written verification or adaptation by the Consultant, as appropriate for the specific purpose intended, will be at the City's sole risk and without liability or legal exposure to the Consultant and

Consultant's sub-consultants. To the extent allowed by law, the City shall indemnify and hold harmless the Consultant and Consultant's sub-consultants from all claims, damages, losses, and expenses, including attorney's fees arising out of or resulting therefrom.

Section 17. Audits and Inspection. Consultant shall provide access for the City and any duly authorized representatives to any books, documents, papers, and records of the consultant that are directly pertinent to this specific agreement for the purpose of making audit, examination, excerpts, and transcriptions. Consultant shall retain all records pertinent to the project for three years after final payment and all other pending matters are closed.

Section 18. Jurisdiction; Choice of Law. Any civil action arising from this Agreement shall be brought in the District Court for the First Judicial District of the State of Idaho at Coeur d'Alene, Kootenai County, Idaho. The law of the state of Idaho shall govern the rights and obligations of the parties.

Section 19. Non-Waiver. The failure of the City at any time to enforce a provision of this Agreement shall in no way constitute a waiver of the provisions, nor in any way affect the validity of this Agreement or any part thereof, or the right of the City thereafter to enforce each and every protection hereof.

Section 20. Permits, Laws and Taxes. The Consultant shall acquire and maintain in good standing all permits, licenses and other documents necessary to its performance under this Agreement. All actions taken by the Consultant under this Agreement shall comply with all applicable statutes, ordinances, rules, and regulations. The Consultant shall pay all taxes pertaining to its performance under this Agreement.

Section 21. Relationship of the Parties. The Consultant shall perform its obligations hereunder as an independent contractor of the City. The City may administer this Agreement and monitor the Consultant's compliance with this Agreement but shall not supervise or otherwise direct the Consultant except to provide recommendations and to provide approvals pursuant to this Agreement.

Section 22. Integration. This instrument and all appendices and amendments hereto embody the entire agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations or agreements, either oral or written, between the parties.

Section 23. City Held Harmless.

A. The Consultant shall save, hold harmless, indemnify, and defend the City, its officers, agents and employees from and against any and all damages or liability arising out of the acts, errors, omissions, or negligence, including costs and expenses, for or on account of any and all legal actions or claims of any character resulting from injuries or damages sustained by any person or persons or

property arising from Consultant's performance of this Agreement and not arising from Consultant's professional services. To this end, Consultant shall maintain general liability insurance in at least the amount set forth in Section 25A.

B. The Consultant shall save, hold harmless, and indemnify the City, its officers, agents, and employees from and against damages or liability arising out of the Consultant's negligent acts, errors, or omissions, including costs and expenses for or on account of any and all legal actions or claims of any character resulting from injuries or damages sustained by persons or property to the extent arising from Consultant's negligent performance of this Agreement, including but not limited to Consultant's professional services. To this end, Consultant shall maintain Errors and Omissions insurance in at least the amounts set forth in Section 25B.

Section 24. Notification. Any notice under this Agreement may be served upon the Consultant or the City by mail at the address provided in Section 1 hereof.

Section 25. Special Conditions. Standard of Performance and Insurance.

A. Consultant shall maintain general liability insurance naming the City, its entities, and its representatives as additional insureds in the amount of at least \$500,000.00 for property damage or personal injury, death or loss as a result of any one occurrence or accident regardless of the number of persons injured or the number of claimants, it being the intention that the minimum limits shall be those provided for by Idaho Code 6-924.

B. In performance of professional services, the Consultant will use that degree of care and skill ordinarily exercised under similar circumstances by members of the Consultant's profession. Should the Consultant or any of the Consultants' employees be found to have been negligent in the performance of professional services from which the City sustains damage, the Consultant has obtained Errors and Omission Insurance in at least the amount of five hundred thousand dollars (\$500,000.00). The Consultant shall maintain, and furnish proof thereof, coverage for a period of two years following the completion of the project.

C. The Consultant shall obtain and maintain auto liability insurance in the amount of \$500,000.00 for the duration of the project.

D. Prior to work under this Agreement, the Consultant shall furnish to the City certificates of the insurance coverages required herein, which certificates must be approved by the City Attorney. Certificates shall provide cancellation notice information that assures at least thirty (30) day's notice prior to cancellation of the policy for any reason in which case the Consultant shall promptly notify the City.

Section 26. Non – Discrimination.

During the performance of this contract, the Consultant, for itself, its assignees and successors

in interest (hereinafter referred to as the “Consultant”) agrees as follows:

A. The Consultant shall comply with the Regulations relative to non-discrimination in federally assisted programs of United States Department of Transportation (USDOT), Title 49, Code of Federal Regulations, part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract. In addition, the Consultant shall comply with the requirements of Title 9, Chapter 9.56, Coeur d’Alene City Code.

B. The Consultant, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, national origin, sexual orientation, and/or gender identity/expression, in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations or discrimination prohibited by Title 9, Chapter 9.56, Coeur d’Alene City Code.

C. In all solicitations either by competitive bidding or negotiations made by the Consultant for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the Consultant of the Consultant’s obligations under this contract and the Regulations and City Code relative to non-discrimination on the grounds of race, color, sexual orientation and/or gender identity/expression, national origin, sexual orientation, and/or gender identity/expression.

D. The Consultant shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the contracting agency or the appropriate federal agency to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to ITD or the USDOT as appropriate, and shall set forth what efforts it has made to obtain the information.

E. In the event of the Consultant’s non-compliance with the non-discrimination provisions of this contract, the contracting agency shall impose such contract sanctions as it or the USDOT may determine to be appropriate, including, but not limited to:

- Withholding of payments to the Consultant under the contract until the Consultant complies, and/or;
- Cancellation, termination, or suspension of the contract, in whole or in part.

The Consultant shall include the provisions of paragraphs (A) through (E) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Consultant shall take such action with respect to any sub-consultant or procurement as the contracting agency or USDOT may direct as a means of enforcing

such provisions including sanctions for non-compliance. Provided, however, that in the event a Consultant becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the Consultant may request ITD enter into such litigation to protect the interests of the state and, in addition, the Consultant may request the USDOT enter into such litigation to protect the interests of the United States.

IN WITNESS WHEREOF, this agreement executed the day and year first written above.

CITY OF COEUR D'ALENE

J-U-B Engineers, Inc.

Steve Widmyer, Mayor

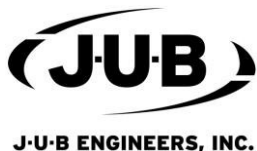
(Name and Title)

ATTEST:

ATTEST:

Renata McLeod, City Clerk

(Name and Title)



J-U-B ENGINEERS, Inc.
AGREEMENT FOR PROFESSIONAL SERVICES

Attachment 1 – Scope of Services, Schedule, and Basis of Fee

The Agreement for Professional Services is amended and supplemented to include the following provisions regarding the Scope of Services, Schedule of Services, and the Basis of Fee:

For the purposes of this attachment, 'Agreement for Professional Services' and 'the Agreement' shall refer to the document entitled 'Agreement for Professional Services,' executed between J-U-B and CLIENT to which this exhibit and any other exhibits have been attached.

BACKGROUND

The City of Coeur d'Alene Compost Facility is located on City owned property located at 3500 North Julia Street. This facility is nearing capacity at the current wastewater treatment plant flow of 3.5 MGD. The upcoming completion of the WWTP tertiary membrane filtration facility will increase the solids loading to the compost facility by 10% according to City estimates. As the facility nears capacity, the operations staff have identified short term upgrades needed to make the facility more efficient. These improvements are included in a Capital Improvement Plan for the City's FY2018 budget. The City's WWTP facility plan also projects a treatment plant build out capacity of 6 MGD. The improvements required to meet the increased loading to the Facility were documented in the August 9, 2017 "Compost Facility Site Visit and Evaluation" (J-U-B, August 9, 2017).

As part of this evaluation, a number of immediate needs were identified by the City and J-U-B. The most significant of these is a significant shortage of covered composting beds which limits the capacity of the Facility. Based on the evaluation, a minimum of 4 additional covered 18'x70' compost beds are needed to meet current demands with an additional 6 beds required in the future. The Wastewater Department would like to develop design and construction documents to implement the first 4 beds.

This project will consist of development of construction documents for four additional compost beds including siting, future facility master planning, evaluation of aeration options, consideration of future expansion, and coordination with the adjacent Water Department Facility.

The project will be constructed in FY2019, but the design must be completed in the FY2018 budget.

This Scope of Services is therefore separated into the following tasks and detailed in the following pages:

SCOPE OF SERVICES

J-U-B's Services for this Agreement consist of the following:

Task 000: Project Administration and Client Meetings

Task 100: Compost Facility Design

Subtask 001: Topographic Survey

Subtask 002: Preliminary Design

Subtask 003: Final Design

Task 200: Bidding and Construction Support Services^A

Subtask 101: Bidding and Award Support

Subtask 102: Construction Management Services

Task 300: Management Reserve

^A Construction phase services are not scoped or budgeted at this time.

TASK 000: PROJECT ADMINISTRATION AND CLIENT MEETINGS

J-U-B will provide Project Management for the Compost Facility Projects as follows:

- Set up Project into J-U-B's accounting and record keeping systems for document retention and project controls.
- Regularly communicate with CLIENT about project status, budget and schedule, as project progress requires.
- During periods of project activity, provide a monthly report to CLIENT on project status, budget and schedule. This report may be in the form of an email or an attachment to the monthly invoice.
- Provide a monthly invoice including budget status.
- Provide ongoing document handling and filing.
- Close-out the Project in J-U-B's accounting and record keeping systems.

TASK 100: COMPOST FACILITY DESIGN SERVICES

SUBTASK 001: TOPOGRAPHIC SURVEY

This task is intended to develop a topographic survey of the compost facility site for site planning and grading. Specific tasks include:

- One Call utility locate coordination
- Topographic survey including the following: Collection of surface improvements within the proposed project area (approximately 4 acres); sanitary and storm sewer locations and depths to inverts; utilities as marked by the utility owners; utilities as marked by CLIENT (water and storm water utilities); and any readily-discoverable property pins within the project area.
- Development of base drawings for subsequent use in design. Property boundary will be approximated using the City's GIS database and the County Assessor's Map; a boundary survey will not be conducted unless specifically requested by the CLIENT and authorized under Task 300: Management Reserve.

SUBTASK 002: CONCEPT DESIGN

This task is intended to identify design criteria, develop a preliminary site plan, and identify major equipment for the proposed project. Specific tasks include:

- Conduct a kick-off meeting with CLIENT to determine project goals, objectives, milestones, and list of potential reaches for the project. Meeting will also include a review of the preliminary findings of August 9, 2017 Technical Memorandum to discuss design criteria including aeration options, preferred compost bed configuration, preferred modes of operation, and input on overall site plan.
- Develop preliminary building layout including compost bed and aeration system configuration.
- Review potential structure location with Water Department to identify potential conflicts.
- Develop 1-2 potential site plans including vehicle travel patterns and potential impacts to other site uses (cured compost storage).
- Develop preliminary site grading and storm water piping.
- Review and select preferred blower and aeration piping equipment and configuration.
- Develop design memorandum summarizing storm water handling, and equipment selections for IDEQ submittal.
- Evaluate options for building construction to accommodate expansion for 6 additional 18'x70' beds.
- Review and select materials for side walls and back stops
- Develop a preliminary opinion of probable cost based on historical average construction costs (on a square foot basis), adjusted for project construction year per the Construction Cost Index with 25% construction contingency.
- Review preliminary design with CLIENT. Following the concept review meeting, Wastewater Utility will provide comments prior to starting final design phase.

SUBTASK 003: FINAL DESIGN

This task is intended to complete design of the Facility improvements and develop final contract documents. Specific tasks include:

- Develop 95% design drawings including plan and profile of storm water piping, plan and section views of building and compost beds, structure and aeration detail drawings, and reference to applicable City engineering standard details.
- Prepare a final opinion of probable cost based on historical construction costs adjusted for construction year prices per the Construction Cost Index with 20% construction contingency.
- Conduct an internal Quality Control/ Quality Assurance review of the Final Design.
- Review 95% design drawings with CLIENT. CLIENT shall conduct a review of the design and identify issues to address.
- Review CLIENT comments to the 95% Design and prepare final design drawings and technical specifications for bidding purposes. CLIENT comments are expected to be minor in nature due to the previous review step; consequently, substantial revisions, separate bidding schedules, or development of additive alternates requested by the CLIENT will be completed under Task 500: Management Reserve upon specific authorization by the CLIENT. The Bid Documents will be based on City engineering standard drawings, the 2017 ISPWC technical specifications (as adopted and modified within the City standards), and supplemental technical specifications as required for the project. If the following items are requested, the work will be completed as Additional Services: preparation of separate bid schedules or additive alternates; designing or incorporating CLIENT designs for site utilities.
- Conduct an internal Quality Control/ Quality Assurance review of the Bid Documents.
- Provide 20 printed sets of the Bid Documents, including half-sized drawings (11x17), bid forms, contract forms, and technical specifications, for distribution to City departments, regulatory agencies, plan agencies, affected utilities, and interested bidders.

TASK 200: CONSTRUCTION SUPPORT SERVICES

- This task includes construction support, but is not scoped at this time. An additional scope/fee will be developed as requested by the CLIENT.

TASK 300: MANAGEMENT RESERVE

The Services outlined hereinafter are not currently anticipated and shall only be provided by the ENGINEER when requested and authorized by Supplemental Agreement by the CLIENT. Such authorization shall also state the negotiated amount and method of compensation by the CLIENT. When authorized, the ENGINEER will:

- Develop additional site layouts
- Develop opinions of cost for overall CLIENT selected site layout
- Update compost mix designs based on projected TMF sludge
- Site tour of existing facilities with in-floor aeration
- Biofilter modification/sizing analysis
- Review the existing Geotechnical report and identify additional locations for test pits to evaluate subsurface conditions within the project location 4. In particular, the CLIENT is concerned about potential unsuitable fill from historical activities. The geotechnical evaluation will include the following:
 - Conduct a site visit to mark exploration locations.
 - Coordinate with CLIENT to use CLIENT supplied excavation equipment to accomplish up to three borings to a depth of between 10-15 feet or until refusal and obtain soil samples for laboratory testing (if needed)
 - Perform laboratory testing to estimate soil characteristics and engineering parameters for use in design and incorporation into the bid documents. (if needed)
 - Summarize field and laboratory findings in a letter providing geotechnical opinions regarding soil, groundwater, and bedrock conditions. The summary letter will include exploration logs, laboratory test results and a site plan.
- Additional meetings or public outreach as requested by CLIENT

- Market evaluation of compost demand
- Evaluation of alternative biosolids disposal options
- Bidding and construction support services
- Other additional services specifically requested by CLIENT

SCHEDULE OF SERVICES

Predicated upon timely receipt of CLIENT-provided information, typical review periods, and active direction during work, J-U-B anticipates the following schedule for the Services listed:

| Task | Days | Compensation and Type |
|--|------------------|--------------------------|
| Task 000: PROJECT ADMINISTRATION AND MEETINGS | | \$6,940 Lump Sum |
| Task 100: DESIGN SERVICES | 135 ^A | \$58,610 Lump Sum |
| Task 200: CONSTRUCTION SERVICES | TBD | \$ TBD T&M ^B |
| Task 300: ADDITIONAL SERVICES | 135 ^A | \$2,000 T&M ^B |

^A From Notice to Proceed. Expected to be May 15, 2018

^B At standard JUB billing rates

BASIS OF FEE

| Task No. | Sub-Task No. | Task | Project Manager | Lead Engineer | Design Engineer | Senior Engineer QA/QC | Structural Engineer | Site Engineer | Surveyor | Survey Tech | Survey | CAD Design | Clerical | Expenses + Electrical Engineer | Subtask Total |
|---|--------------------------------|---|-----------------|---------------|-----------------|-----------------------|---------------------|---------------|----------|-------------|--------|------------|----------|--------------------------------|--|
| 000 PROJECT ADMINISTRATION AND CLIENT MEETINGS | | | | | | | | | | | | | | | \$6,940 |
| | | Project administration | 2 | | 6 | | | | | | | | | | |
| | | Client meetings (4) | 12 | 2 | 12 | 2 | 2 | | | | | | 2 | \$100 | |
| | | Monthly status updates | 2 | | 6 | | | | | | | | | | |
| 100 DESIGN SERVICES | | | | | | | | | | | | | | | \$58,610 |
| | -001 TOPOGRAPHIC SURVEY | | | | | | | | | | | | | | |
| | | Topographic Survey | 1 | | 2 | | | | 6 | 16 | 14 | | | \$200 | |
| | -002 CONCEPT DESIGN | | | | | | | | | | | | | | |
| | | Design Criteria and preliminary building layout | 2 | 4 | 24 | | 16 | | | | | 8 | | | |
| | | Potential structure location with Water Department | 2 | | | | | | | | | | | | |
| | | 1-2 potential site plans including vehicle travel patterns | 2 | 2 | 4 | | | 16 | | | | 8 | | | |
| | | Preliminary site grading and storm water piping | 1 | 2 | 16 | | | 4 | | | | 8 | | | |
| | | Preferred blower and aeration piping equipment and configuration. | 1 | 8 | 8 | | | | | | | 8 | | \$2,500 | |
| | | Design Memorandum | 1 | 2 | 4 | | | | | | | | 2 | | |
| | | Building expansion evaluation | 1 | 2 | 16 | | 8 | | | | | | | | |
| | | Preliminary opinion of probable cost | 1 | | 8 | | 2 | | | | | | | | |
| | | QC review | 1 | | | 4 | | | | | | | | | |
| | -003 FINAL DESIGN | | | | | | | | | | | | | | |
| | | 95% design drawing development | 2 | 20 | 32 | | 8 | 8 | | | | 64 | | | |
| | | 95% specification development | 4 | 10 | 40 | | 8 | | | | | | 24 | \$2,500 | |
| | | Update final documents with CLIENT comments | 2 | | | | | | | | | | 8 | | |
| | | Final QC review | 2 | | | 8 | | | | | | | | | |
| | | Print final documents | | | | | | | | | | 8 | | \$500 | |
| 200 CONSTRUCTION SERVICES - TBD | | | | | | | | | | | | | | | \$0 |
| | | To Be Determined | | | | | | | | | | | | | |
| 300 ADDITIONAL SERVICES | | | | | | | | | | | | | | | \$1,630 |
| | | Geotechnical evaluation | 2 | | 2 | | | | | | | | | \$1,000 | \$1,630 |
| | Summary | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | TASK 000 - PROJECT ADMINISTRATION AND CLIENT MEETINGS |
| | | | | | | | | | | | | | | | TASK 100 - DESIGN SERVICES |
| | | | | | | | | | | | | | | | TASK 200 - CONSTRUCTION SERVICES - TBD |
| | | | | | | | | | | | | | | | TASK 300 - ADDITIONAL SERVICES |
| | | | | | | | | | | | | | | TOTAL | \$67,180 |

OTHER BUSINESS

CITY COUNCIL STAFF REPORT

DATE: May 1, 2018

FROM: Mike Gridley – City Attorney

SUBJECT: Franchise Agreement with Mobilitie, LLC

DECISION POINT:

Should the city approve a 10 year franchise agreement with Mobilitie, LLC allowing Mobilitie to use the city's rights of way to construct and operate a telecommunications system in Coeur d'Alene?

HISTORY:

Mobilitie has approached the city to obtain a franchise agreement that would allow it to construct and maintain a telecommunications system in the city's rights of way. The requirements of the proposed franchise agreement with Mobilitie are similar to those in other city franchise agreements with Intermax, Fatbeam, Time-Warner and Avista. The proposed franchise would be for 10 years.

FINANCIAL ANALYSIS:

The financial impact would be similar to other franchise agreements. In exchange for the use of the city's rights of way, Mobilitie will pay to the city five per cent (5%) of its annual gross revenues derived from the operation of its telecommunications system to provide telecommunication services in the City. There would be some staff time involved in reviewing the location of their facilities and issuing building permits as the system is constructed. This would probably not be a significant financial impact.

PERFORMANCE ANALYSIS:

The addition of Mobilitie to Coeur d'Alene may increase competition among telecommunication providers which could benefit citizens by lowering the cost of telecommunications services by providing greater access to telecommunication services. The franchise agreement also provides for a franchise fee that will generate revenue to the city.

DECISION POINT/RECOMMENDATION:

City Council should approve the 10 year franchise agreement with Mobilitie, LLC.

ORDINANCE NO. ____

AN ORDINANCE of the City of Coeur d'Alene, Idaho granting a non-exclusive franchise to Mobilitie, LLC, a Nevada limited liability company, authorized to do business in the state of Idaho (the "Grantee"), to construct, operate and maintain a Telecommunications System (defined below), with all necessary facilities, within the City of Coeur d'Alene, Idaho (the "City"); setting forth provisions, terms and conditions accompanying the grant of this Franchise (defined below); providing for City regulation of construction, operation, maintenance and use of the Telecommunications System; prescribing penalties for the violations of its provisions; and setting an Effective Date (defined below). The City and Grantee may be referred to herein individually as a "Party" or collectively as the "Parties".

BE IT ORDAINED BY THE CITY OF COEUR D'ALENE that a Franchise is hereby granted to Mobilitie, LLC as the Grantee, to operate and maintain a Telecommunications System in the City of Coeur d'Alene, Idaho, upon the following express terms and conditions:

SECTION 1 - DEFINITIONS

1.1 (A) Captions. Throughout this Franchise, captions to Sections are intended solely to facilitate reading and to reference the Sections and provisions of this Franchise. The captions shall not affect the meaning and interpretation of this Franchise.

1.1 (B) Definitions. For the purposes of this Franchise the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, words in the singular number include the plural number and the use of any gender shall be applicable to all genders whenever the sense requires. The words "shall" and "will" are mandatory and the word "may" is permissive. Where a term in this Franchise is not defined in this Section and there exists a definition for the term in the Telecommunications Act of 1996, Pub. Law No. 104-104, 110 Stat. 56 (1996) (the "Telecommunications Act"), the Telecommunications Act definition shall apply. Other terms in this Franchise that are not defined in this Section shall be given their common or ordinary meaning.

1.2 "Administrator" shall mean the City official appointed by the Mayor of the City of Coeur d'Alene to run its day to day operations.

1.3 "Carriers" shall have the meaning set forth in Section 2.4.

1.4 "City" shall mean City of Coeur d'Alene, Idaho, and all the incorporated territory within its boundaries as of the Effective Date of this Franchise and any other areas later added thereto by annexation or other means.

1.5 "City Council" shall mean the City Council of the City of Coeur d'Alene, Idaho.

1.6 "Customer" means any person(s) who legally receives any one or more of the services provided by the Grantee utilizing the Telecommunications System.

1.7 "Days" shall mean calendar days.

1.8 "Effective Date" means the date Ordinance No. ____ is approved by the City.

1.9 "Facility(ies)" means all wires, lines, cables, ducts, fiber, poles, towers, antenna, transmitters, conduits, vaults, control boxes, power sources, other wireless transmission devices, equipment and supporting structures, and/or any other tangible component and other necessary items of the Grantee's Telecommunications System, located in the City's Rights-of-Way, utilized by the Grantee in the operation of activities authorized by this Franchise. The abandonment by the Grantee of any Facilities as defined herein shall not act to remove the same from this definition.

1.10 "FCC" shall mean the Federal Communications Commission.

1.11 "Franchise" shall mean the right granted by the City in Ordinance No. ____, and conditioned as set forth herein by which the City authorizes the Grantee to erect, construct, reconstruct, install, reinstall, upgrade, relocate, modify, repair, replace, operate, dismantle, test, use, maintain and/or retain a Telecommunications System in the City. The franchise granted herein shall be a non-exclusive franchise.

1.12 "Franchise Ordinance" means Ordinance No. ____, of the City granting this Franchise.

1.13 "Franchise Service Area" shall mean that area within the incorporated City limits of Coeur D'Alene now or in the future in which the Grantee shall extend its services.

1.14 "Grantee" shall refer to, as incorporated or used herein, Mobilitie, LLC, a Nevada limited liability company, authorized to do business in the state of Idaho.

1.15 "Gross Revenues" shall mean all revenues received by the Grantee from the operation of the Facilities including, but not limited to all rents, payments, fees, and other amounts actually collected from any third party and received by the Grantee and allocable to the period within the term pursuant to any sublease, sublicense, or other agreement for Telecommunications Services as defined in Section 1.26 provided with respect to the Facilities, but exclusive of (1) any payments, reimbursements, or pass-throughs from the third party to the Grantee for utility charges, taxes, and other pass-through expenses, or in connection with maintenance work performed or equipment installed by the Grantee; (2) site acquisition, construction management, or supervision fees related to the installation of the Facilities; and (3) contributions of capital by any third party to reimburse the Grantee for installation of Facilities.

1.16 "IPUC" shall mean the Idaho Public Utilities Commission.

1.17 “**Laws**” has the meaning set forth in Section 7.3.

1.18 “**Network Telephone Service**” means the provision of transmission services capable of providing voice and data networking, video conferencing, distance learning, and security or similar communication or transmission services for hire via a local network, channel or similar communication or transmission system. Network Telephone Service includes intrastate or interstate services and specifically excludes cable television or open video system service, broadcast services or other multi-channel video services.

1.19 “**Performance Bond**” has the meaning set forth in Section 5.6.

1.20 “**Permittee**” means any person who has been granted a permit by the assigned permitting authority.

1.21 “**Permitting Authority**” means the head of the City division or department authorized to process and grant permits required to perform work in the City's Rights-of-Way, or the head of any agency authorized to perform this function on the City's behalf. Unless otherwise indicated, all references to the Permitting Authority shall include the designee of the department, division or agency head.

1.22 “**Person**” means any individual, sole proprietorship, corporation, partnership, association, joint venture or other form of organization of any kind and the lawful trustee, successor, assignee, transferee or personal representative thereof.

1.23 “**Penalties**” means any and all monetary penalties provided for in this Franchise.

1.24 “**Right-of-Way**” or “**Rights-of-Way**” shall mean the surface of and the space above and below any public street, road, highway, freeway, easement, lane, path, alley, court, sidewalk, parkway, driveway or other public ways of any type now or hereafter existing as such within all incorporated areas of the City. No reference in this Franchise to a “Right-of-Way” shall be deemed to be a representation or guarantee by the City that its interests or other rights in such property are sufficient to permit its use for the installation and maintenance of a Telecommunications System, and the Grantee shall be deemed to gain only those rights which the City has the right and power to give and only to the extent necessary to carry out the purposes of this Franchise.

1.25 “**Street**” or “**Streets**” shall mean the surface of and the space above and below the Right-of-Way of any public street, road, highway, freeway, easement, lane, path, alley, court, sidewalk, parkway, driveway or other public ways of any type now or hereafter existing as such within all incorporated areas of the City.

1.26 “**Telecommunications Services**” shall mean:

A. Services interconnecting interexchange carriers, competitive carriers, and/or wholesale telecommunications providers for the services described in Section 1.18;

B. Services connecting interexchange carriers and/or competitive carriers to telephone companies providing local exchange services for the services described in Section 1.18;

C. Services connecting interexchange carriers or competitive carriers to any entity, other than another interexchange carrier, competitive carriers, or telephone company providing local exchange services for the services described in Section 1.18;

D. Services interconnecting any entities, other than interexchange carriers, competitive carriers, or telephone companies providing local exchange services for the services described in Section 1.18;

E. Other telecommunications services as authorized by the FCC or the IPUC;
and

F. Telecommunications Services include intrastate and interstate services and specifically exclude cable television or open video system services, broadcast services or other multi-channel video services.

1.27 "Telecommunications System" means all wires, lines, cables, ducts, fiber, poles, towers, antenna, transmitters, conduits, vaults, control boxes, power sources other wireless transmission devices, equipment, supporting structures and/or any other tangible component and other necessary Facilities owned or used by the Grantee for the purpose of providing Telecommunications Services and located in, on, under and above the City streets and/or Rights-of-Way, excluding ducts, conduits and vaults leased from another City franchisee, licensee or permittee.

1.28 "Term" has the meaning set forth in Section 2.2 below.

1.29 "IPUC" shall mean the Idaho Public Utilities Commission.

1.30 "Year", "Annual" or "Annually" means the period consisting of a full calendar year, beginning January 1 and ending December 31, unless otherwise provided for in this Franchise.

SECTION 2 - FRANCHISE

2.1 Grant of Franchise. The City hereby grants to the Grantee, a non-exclusive franchise which authorizes the Grantee, subject to the terms of the Franchise Ordinance, to construct a Telecommunications System and offer Telecommunications Services in, along, among, upon, across, above, over, under or in any matter connected with the Rights-of-Way located in the City and for that purpose to erect, construct, reconstruct, install, reinstall, upgrade, relocate, modify, repair, replace, operate, dismantle, test, use, maintain and/or retain in, on, over, under, upon, across or along any Rights-of-Way or extensions thereof and additions thereto, such wires, lines, cables, ducts, fiber, poles, antenna, transmitters, conductors, conduits, vaults, control

boxes, power sources, utility access covers, pedestals, amplifiers, appliances, attachments and other related property or equipment as may be necessary or appurtenant to the Telecommunications System. Said Franchise shall constitute both a right and an obligation to provide the services of a Telecommunications System as required by the provisions of the Franchise Ordinance.

2.2 Franchise Term. The term of this Franchise shall be ten (10) years from the Effective Date unless extended in accordance with the provisions in Sections 2.7 and 2.12 of this Franchise or terminated sooner in accordance with this Franchise (the “Term”). This provision does not affect the City's right to revoke this Franchise for cause, because of a breach of any promise, condition or stipulation stated herein.

2.3 Franchise Non-Exclusive. The Franchise granted herein shall be non-exclusive. The City specifically reserves the right to grant, at any time, such additional franchises for a Telecommunications System as it deems appropriate provided, however, such additional grants shall not operate to materially modify, impede, impact, revoke or terminate any rights previously granted to the Grantee. The grant of any additional franchise shall not of itself be deemed to constitute a modification, revocation or termination of rights previously granted to the Grantee. Any additional franchise granted pursuant to this Franchise shall confer and impose substantially similar rights and obligations. In establishing the rights and obligations pursuant to a franchise, consideration shall be given to the services to be provided, the area to be served, the commitments made by the applicant to the City, the regulatory authority of the City and the investment proposed by such applicant. In no event will the City impose discriminatory rights or obligations on any franchise applicant.

2.4 Authority Granted.

A. Subject to local, state and federal law, this Franchise grants the authority, right and privilege to the Grantee to operate and maintain a Telecommunications System including the wires, lines, cables, ducts, fiber, poles, towers, antenna transmitters, conduits, vaults, control boxes, power sources other wireless transmission devices, equipment, supporting structures, any other tangible and other necessary Facilities owned or used by the Grantee necessary for the provision of Network Telephone Service, as defined in Section 1.18 of this Franchise and other Telecommunications Services as defined herein, in, upon, along, above, over and under the streets and Rights-of-Way in the City. The Parties agree and acknowledge that certain Facilities deployed by the Grantee pursuant to the Franchise may be owned and/or operated by Licensee's third-party wireless carrier customers (“Carriers”) and installed and maintained by the Grantee pursuant to agreements between the Grantee and such Carriers. Such Facilities shall be treated as the Grantee's Facilities for all purposes under this Franchise provided that (i) the Grantee remains responsible and liable for all performance obligations under the Franchise with respect to such Facilities; (ii) the City's sole point of contact regarding such Facilities shall be the Grantee.

B. The Grantee's right to erect, construct, install, upgrade, relocate, reinstall, dismantle, test, use operate and maintain its Telecommunications System is subject to the terms, conditions and requirements of the Franchise Ordinance, this Franchise and the City charter and

the Grantee's right to erect, construct, install or modify its Telecommunications System is specifically subject to the requirement that the Grantee obtain permits as set forth in this Franchise.

C. The Grantee expressly acknowledges and agrees, by acceptance of this Franchise, that its rights under this Franchise are subject to the police power of the City to adopt and enforce general ordinances necessary to the safety, health and welfare of the public and the Grantee agrees to comply with all such applicable general laws and ordinances enacted by the City pursuant to such police power. The City, by the granting of this Franchise, does not render or to any extent lose, waive, impair or lessen the lawful powers and rights now or hereafter vested in the City to regulate the use of its Rights-of-Way and tax, regulate or license the use thereof, and the Grantee, by its acceptance of this Franchise, acknowledges and agrees that all lawful powers and rights, whether regulatory or otherwise, as are or may be from time to time vested in or reserved to the City, shall be in full force and effect and the Grantee shall be subject to the reasonable exercise thereof by the City at any time in case of emergencies involving public safety and/or health and welfare. In all other cases the City shall give the Grantee fifteen (15) days written notice of any reasonable exercise of any police power of the City.

D. The Grantee expressly acknowledges and agrees, by acceptance of this Franchise, that lines, equipment, conduits and other facilities and appurtenances in the City Rights-of-Way which are subsequently acquired by the Grantee and which, if acquired prior to this original franchise grant, would have been subject to this Franchise and the permitting authority related thereto, shall be subject to the provisions of this Franchise and all permits related thereto.

E. In return for promises made and subject to the stipulations and conditions stated herein, the City grants to the Grantee permission to use and access the City's Rights-of-Way to erect, construct, reconstruct, install, reinstall, upgrade, relocate, modify, repair, replace, operate, dismantle, test, use, maintain and/or retain in, on, over, under, upon, across or along any Rights-of-Way or extensions thereof and additions thereto, such poles, towers, antenna, wires, cables, conductors, ducts, conduits, vaults, utility access covers, pedestals, amplifiers, appliances, attachments and other related property or equipment as may be necessary or appurtenant to the Telecommunications System to provide Telecommunications Services to persons within the Franchise Service Area. To the extent of the City's interests, permission is similarly granted to the Grantee to use areas outside the City's Rights-of-Way, which are reserved by regulation, practice or dedication for public telephone utilities, but in such areas, the Grantee's use is also subject to conditions now or hereafter recognized by the City as generally applicable to telecommunications or underground conduit utilities.

2.5 Limits on Permission.

A. As used in Section 2.4, E, "Telecommunications Services" means such services as those defined in Section 1.26 of this Franchise provided by the Grantee to persons within the City. Permission is not granted to use the City Rights-of-Way for any other purpose, including but not limited to providing cable television service as defined in 47 USC § 522 or

distribution of multi-channel video programming or any other video programming. The Grantee stipulates that this Franchise extends no such rights or privileges.

B. Permission does not extend to areas outside those listed in Section 2.4, E of this Franchise, or otherwise to any area outside the authority of the City to extend franchised-use permission, such as buildings or private areas not reserved for utilities. The Grantee is solely responsible to make its own arrangements for any access to such places.

C. This Franchise does not extend permission to municipal buildings or other municipally owned or controlled structures. For such locations, the Grantee shall make specific arrangements directly with the municipal department or division controlling such building or other structure.

D. Permission granted by this Franchise is non-exclusive. The Grantee stipulates the City may grant similar permission to others.

E. The Grantee shall not permit installations by others in the Franchise Service Area without assuring they have the necessary skills, certifications, insurance, bonds, and permits. The Grantee is responsible for determining if the requirements of the City have been met. The Grantee remains responsible for all third party installation, maintenance, and repair of the Telecommunications System for compliance with this Franchise.

F. No privilege or exemption is granted or conferred by this Franchise except as may be specifically prescribed.

G. Any privilege claimed under this Franchise in any street or Right-of-Way shall be subordinate to any prior lawful occupancy or any subsequent exercise of City police power. The grant of this Franchise shall not impart to the Grantee any fee title property rights in or on any public or private property to which the Grantee does not otherwise have title.

H. **Limited Rights.** This Franchise is intended to convey limited rights and interests only as to those Rights-of-Way in which the City has an actual interest. It is not a warranty of title or interest in any Right-of-Way; it does not provide the Grantee with any interest in any particular location within the Right-of-Way; and it does not confer rights other than as expressly provided in the grant hereof. This Franchise does not deprive the City of any powers, rights or privileges it now has, or may later acquire in the future, to use, perform work on or to regulate the use of and to control the City's Rights-of-Way covered by this Franchise, including without limitation the right to perform work on its roadways, streets or appurtenant drainage facilities, water and waste water facilities and including constructing, altering, paving, widening, grading, or excavating such streets.

2.6 Franchise Service Area. The Franchise Service Area shall be that area within the present or future city limits of the City of Coeur d'Alene, Idaho.

2.7 Periodic Public Review of Franchise.

A. The City shall, at five (5)-year intervals, conduct a comprehensive, public review of this Franchise. The first review shall begin upon the fifth anniversary of the effective date of this Franchise and occur every five (5) years thereafter. One purpose of such reviews shall be to ensure that this Franchise continues to effectively serve the public in light of new developments in telecommunications law and regulation, telecommunications technology, local regulatory environment and community needs and interests. Another purpose of such reviews shall be to accurately and completely evaluate compliance by the Grantee with this Franchise and to identify any violations by the Grantee of any provision(s) of this Franchise. Both the City and the Grantee agree to make a full and good faith effort to participate in such reviews in a manner that accomplishes the goals stated.

B. During such reviews, the City may require the Grantee to make available records, documents and other information necessary for the effective completion of such reviews and may inquire in particular whether the Grantee is supplying services equivalent to those proposed by the Grantee during the process leading to the granting of this Franchise.

C. The periodic reviews described in this Section may be, but need not be, made coincident with reviews involved in the consideration of the Grantee requests for Franchise renewal, Franchise extension or approval of transfer of ownership of the Telecommunications System. Nothing in this Section shall be construed to prohibit the City and the Grantee from engaging in a continuous review of the performance of the Grantee. The City may also, at any time, conduct a public hearing on any issue related to compliance by the Grantee with this Franchise or any permit related thereto.

D. After completion of each such review described herein, if the City is satisfied the Grantee has substantially complied with this Franchise during the previous five (5) years it may, with the consent of Grantee, extend the Term set forth in Section 2.2 of this Franchise by five (5) additional years. As long as Grantee remains in compliance with the terms and conditions of this Agreement it may extend the Term of the Agreement for additional five (5) year terms by providing written notice to the City of such extension at least thirty (30) days prior to the expiration of the Term then in place. In no event, however, shall the total Term of this Franchise, including any extensions, exceed twenty-five (25) years unless otherwise agreed to in writing by the City and the Grantee.

2.8 Franchise Renewal or New Franchise.

A. The City may establish appropriate requirements for new franchises or franchise renewals consistent with federal, state, and local law.

B. Nothing in this Franchise shall be construed to require renewal of this Franchise.

2.9 Renegotiation. In the event that any provision of this Franchise becomes invalid or unenforceable and the City or the Grantee expressly finds that such provision constituted a consideration material to entering into this Franchise, or in the event of significant change in the law regulating this Franchise or change in municipal authority to act under the terms of this

Franchise, or in the event of significant change or advancement in technology governing the Grantee's functions, the City and the Grantee may mutually agree to renegotiate any or all of the terms of this Franchise. The party seeking renegotiation shall serve on the other party written notice of an offer to renegotiate. In the event the other party accepts the offer to renegotiate, the parties shall have one hundred twenty (120) days to conduct and complete the renegotiation. Nothing in this Franchise shall be construed to require acceptance by either the City or the Grantee of an offer to renegotiate.

2.10 Revocation.

A. In addition to any rights set out elsewhere in this Franchise, the City reserves the right to declare a forfeiture or otherwise revoke this Franchise and all rights and privileges pertaining thereto in the event that:

(1) The City determines the Grantee is in material violation of any provision of this Franchise and fails to correct the violation after written notice of the violation and proposed forfeiture and a reasonable opportunity thereafter to correct the violation as noted in Section 6.2 of this Franchise; or

(2) The Grantee is found by a court of competent jurisdiction to have engaged in any actual or attempted fraud or deceit upon the City, persons or customers; or

(3) The Grantee becomes insolvent, unable or unwilling to pay its debts as they become due, or is adjudged a bankrupt; or

(4) The Grantee fails, refuses, neglects or is otherwise unable to obtain and/or maintain any permit required by any federal or state regulatory body regarding the Grantee's construction, maintenance, and operation of its Telecommunications System.

B. For purposes of this Section, the following are material provisions of this Franchise, allowing the City, without limitation, to exercise its rights under this Section or as set forth elsewhere in this Franchise:

(1) The invalidation, failure to pay or any suspension of the Grantee's payment of any fees or taxes due the City under this Franchise;

(2) Any failure by the Grantee to submit timely reports regarding the calculation of any gross revenue-based fees or taxes due the City under this Franchise;

(3) Any failure by the Grantee to maintain the liability insurance required under this Franchise;

(4) Any failure by the Grantee to maintain and provide the City a copy of a Performance Bond as required under this Franchise;

(5) Any failure by the Grantee to otherwise fully comply with the requirements of this Franchise.

C. Upon occurrence of one or more of the events set out above, following sixty (60) days written notice to Grantee of the occurrence and the proposed forfeiture and an opportunity for the Grantee to be heard, the City may, by ordinance or other appropriate document, declare a forfeiture. In a hearing of Grantee, Grantee shall be afforded due process rights as if the hearing were a contested case hearing subject to Idaho law, including the right to cross-examine witnesses and to require that all testimony be on the record. Findings from the hearing shall be written and shall stipulate the reasons for the City's decision. If forfeiture is lawfully declared, all rights of Grantee under this Franchise shall immediately be divested without a further act upon the part of the City.

2.11 Receivership. The City shall have the right to declare a forfeiture or otherwise revoke this Franchise one hundred eighty (180) days after the appointment of a receiver, or trustee, to take over and conduct the business of Grantee, whether in receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have vacated prior to the expiration of said one hundred eighty (180) days, or unless:

(1) Within one hundred eighty (180) days after his/her election or appointment, such receiver or trustee shall have been approved by the City and shall fully have complied with all the provisions of this Franchise and remedied all defaults thereunder; and

(2) Such receiver or trustee, within said one hundred eighty (180) days, shall have executed an agreement, duly approved by the City as well as the court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this Franchise.

2.12 Expiration. Upon expiration of this Franchise, the City shall have the right, at its own election, to:

(1) Extend this Franchise, as provided for herein, though nothing in this provision shall be construed to require such extension;

(2) Renew this Franchise, in accordance with applicable valid law;

(3) Invite additional franchise applications or proposals;

(4) Terminate this Franchise without further action; and

(5) Take such other action as the City deems appropriate.

2.13 Other Codes and Ordinances. Nothing in this Franchise shall be deemed to waive the requirements of the other lawful codes and ordinances of the City regarding permits,

fees to be paid or manner of construction, specifically including regulations contained in Municipal Code Section 17.08.800, et seq. concerning Wireless Communication Facilities.

2.14 Survival of Terms. Sections 4.9, 5 and 7 of this Franchise shall continue in effect as to Grantee notwithstanding any expiration, forfeiture or revocation of this Franchise.

SECTION 3 - ENFORCEMENT AND ADMINISTRATION BY THE CITY

3.1 City Jurisdiction and Supervision. The City, through its Administrator or designee, shall have continuing regulatory jurisdiction and supervision over the operation and enforcement of this Franchise and may from time to time adopt such reasonable rules and regulations as it may deem necessary for the conduct of the business contemplated herein. All questions of application, interpretation, conflict or ambiguity arising out of or in connection with this Franchise are to be determined by the Administrator or designee, except only where otherwise specifically stated, or in the event that a different person or body may be designated by the City through written notice to Grantee.

3.2 Grantee to Have No Recourse. Subject to state and federal law, Grantee shall have no recourse other than non-monetary declaratory or injunctive relief against the City and shall be awarded no monetary recovery whatsoever for any incidental or consequential damages, including but not limited to lost profits, arising out of any provision or requirement of this Franchise, nor from the City's regulation under this Franchise, nor from the City's exercise of its authority to grant additional franchises.

3.3 Acceptance of Power and Authority of City. Grantee expressly acknowledges by acceptance of this Franchise that:

(1) It has relied upon its own investigation and understanding of the power and authority of the City to grant and enforce this Franchise and that it has no objection to the exercise of the City's power and authority therein;

(2) It has not been induced to enter into this Franchise arrangement by any understanding or promise or other statement, whether verbal or written, by or on behalf of the City concerning any term or condition of this Franchise that is not specifically included herein;

(3) It has carefully read the terms and conditions contained herein and Grantee is willing to and does accept all the obligations of such terms and conditions to the extent not inconsistent with state or federal law and further agrees that it will not set up as against the City any claim that any provision of this Franchise is unreasonable, arbitrary, invalid or void subject to its rights herein; and

(4) The matters contained in Grantee's application and all subsequent applications or proposals for renewals of this Franchise, and as stated in any and all other

presentations to the City, except as inconsistent with law, regulations or local ordinance, are incorporated into this Franchise as though set out verbatim.

3.4 Acts Discretionary, Reservation of Authority. All City acts undertaken pursuant to this Franchise shall be deemed discretionary, guided by the provisions of this Franchise and considerations of the public health, safety, aesthetics and convenience. Grantee stipulates and agrees that this Franchise is subject to the City charter of the City of Coeur d'Alene. Grantee understands the charter's provisions are incorporated herein, where applicable. Grantee agrees that the City reserves all municipal powers now or hereafter granted by law, including without limitation, the power to tax and license, regulate activities of land use, protect the public health and safety and regulate and control use of the public Right-of-Way.

3.5 Delegation of Authority to Regulate. The City reserves the right to delegate its regulatory authority wholly or in part to the federal government, state government and/or to agents of the City, including but not limited to an agency which may be formed to regulate several City franchises.

SECTION 4 - OPERATION IN STREETS AND RIGHTS-OF-WAY

4.1 Use of Streets. Grantee may, subject to terms of this Franchise, erect, construct, reconstruct, install, reinstall, upgrade, relocate, modify, repair, replace, operate, dismantle, test, use, maintain and/or retain in, on, over, under, upon, across and along the City streets and Rights-of-Way such lines, cables, conductors, ducts, conduits, vaults, utility access covers, amplifiers, appliances, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of a Telecommunications System within the City. All installation, construction, alteration and/or maintenance of any and all Telecommunications System Facilities within City streets and Rights-of-Way incident to Grantee's provision of Telecommunications Services shall, regardless of who performs installation, construction, alteration and/or maintenance, be and remain the responsibility of Grantee.

4.1.1 Location of Facilities. The Grantee shall be a member of the Kootenai County 1 Call Utility Council. Within forty-eight (48) hours after any City department, franchisee, licensee, permittee notifies the Grantee of a proposed street excavation, the Grantee shall, at the Grantee's expense:

- (1) Mark on the surface all of its locatable underground Facilities within the area of the proposed excavation;
- (2) Notify the excavator of any unlocatable underground Facilities in the area of the proposed excavation; or
- (3) Notify the excavator that the Grantee does not have any underground Facilities in the vicinity of the proposed excavation.

4.1.2 Rights-of-Way Occupancy:

- (1) Nothing in this Franchise shall give the Grantee the right to attach its Facilities to structures or poles owned by the City without consent of the City.
- (2) The Grantee shall:
 - (a) Locate and install all transmission lines, equipment and structures so as to cause minimum interference with the rights and reasonable convenience of property owners;
 - (b) Keep and maintain all transmission lines, equipment and structures in a safe condition, and in good order and repair;
 - (c) Employ professional care;
 - (d) Place any fixtures in any Right-of-Way in such manner as not to interfere with the usual travel of the Right-of-Way or cause unsafe conditions of any sort;
 - (e) Submit a traffic control plan to the City for approval and receive such approval at least forty-eight (48) hours prior to commencing construction except in the case of emergency. Such traffic control plan shall be available for public inspection on the construction site at all times; and
 - (f) Notify adjacent property owners, businesses, residents, and others specified by the City prior to construction and major maintenance projects.
- (3) The Grantee shall not make street cuts or curb cuts unless absolutely necessary, and only after a permit has been obtained from the City under such conditions as the City shall in its sole discretion determine.
- (4) Before beginning any excavation or other construction activity on a Right-of-Way that crosses or abuts any private property, the Grantee shall clearly mark with non-polluting water-soluble spray paint the excavation area. After such excavation or other construction activity, the Grantee shall restore such property to not less than the City's standards.
- (5) The Grantee shall locate, mark, and map any underground Facilities for the City at no expense to the City. The Grantee shall install underground warning tape at least twelve (12) inches above all fiber optic cable where such installation is done by means of open trenching. Where cable is placed by boring or plowing, all fiber optic cable will be accompanied by a metallic tracer wire and all coaxial trunk and feeder cable shall serve as its own tracer for locating purposes.

4.2 Construction or Alteration.

4.2.1 Permits. Grantee shall in all cases comply with all lawful City ordinances and regulations regarding the acquisition of permits and other such items as may be reasonably required in order to install, construct, alter and maintain the Telecommunications System. Grantee shall apply for and obtain all permits necessary for installation, construction, alteration and/or maintenance of any such Facilities, and for excavation and laying of any Telecommunications System Facilities within City streets and Rights-of-Way. Grantee shall pay all applicable fees due for any such permits.

4.2.2 Good Engineering.

A. Grantee promises all of its property and Facilities shall be constructed, operated and maintained in good order and condition in accordance with good engineering practice. In connection with the civil works of Grantee's Telecommunications System, such as, but not limited to, trenching, paving, compaction and locations, Grantee promises to comply with the edition of the American Public Works Association Standard Specifications which is in current or future use by the City, together with the City's Supplemental Specifications thereto, all as now or hereafter amended.

B. Grantee promises that the Telecommunications System shall comply with the applicable federal, state and local laws, the National Electric Safety Code and the Idaho "Rules Governing the Use of National Electric Code," where applicable.

4.3 Facilities Placement.

4.3.1 General Standards. The Telecommunications System shall be constructed and maintained in such manner as not to obstruct, hinder, damage or otherwise interfere with sewers, water pipes, other utility fixtures or any other property of the City, or any other pipes, wires, conduits or other facilities that may have been installed in City streets or Rights-of-Way by or under the City's authority. Grantee shall maintain a minimum underground horizontal separation of five (5) feet from City water facilities and ten (10) feet from above-ground City water facilities; PROVIDED, that for development in new areas, the City, together with Grantee and other utility purveyors or authorized users of City streets or Rights-of-Way, will develop and follow the City's determination of a consensus for guidelines and procedures for determining specific utility locations, subject additionally to this Franchise.

4.3.2 Limited Access. Grantee must follow the City's requirements for the placement of Facilities in City streets and Rights-of-Way, including City requirements for location of facilities in specific City streets and Rights-of-Way, and must in any event install Facilities in a manner that minimizes interference with the use of City streets and Rights-of-Way by others, including others that may have or may install telecommunications facilities in City streets and Rights-of-Way. The City may require that Grantee install Facilities at a particular time, at a specific place and/or in a particular manner as a condition of access to a particular City street or Right-of-Way and the City may exclude Grantee's access to a particular street or Right-of-Way in accordance with City requirements for placement of Facilities.

4.3.3 Consistency with Designated Use. Notwithstanding the grant to use City streets and Rights-of-Way contained in this Franchise, no street or Right-of-Way shall be used by Grantee if the City, in its sole opinion, determines that such use is inconsistent with the terms, conditions or provisions by which such street or Rights-of-Way were created or dedicated or presently used under state and local laws.

4.3.4 Non-Interference. Grantee shall exert its best efforts to construct and maintain the Telecommunications System so as not to interfere with other uses of City streets or Rights-of-Way. Grantee shall, where possible in the case of aboveground lines, make use of existing poles and other facilities available to Grantee.

4.3.5 Undergrounding. The City finds that overhead lines and aboveground wire facilities and installations in the streets or Rights-of-Way and other franchised areas adversely impact upon the public use and enjoyment of property in the City, including an aesthetic impact. Therefore, Grantee shall place underground all of its transmission lines that are located or are to be located above or within City streets or Rights-of-Way in the following cases where:

- (1) All existing utilities are located underground;
- (2) Transmission or distribution facilities of the local exchange carrier and/or the electric utility are underground or hereafter placed underground;
- (3) Statute, ordinance, policy or other regulation of the City requires utilities to be placed underground;
- (4) Grantee is unable to obtain pole clearance;
- (5) Underground easements are obtained from developers of new residential areas; or
- (6) Utilities are overhead but residents prefer same to be located underground (such undergrounding to be provided at residents' expense).

Grantee hereby states it is familiar with and understands local procedures, custom and practice relating to the one-number locator service program. Consistent with any general municipal undergrounding policy or program now or hereafter developed, the City may require Grantee's participation in municipally imposed undergrounding or related requirements as a condition of Grantee's installation or continued maintenance of overhead wireline facilities authorized under this Franchise. Grantee hereby agrees to coordinate its underground installation and planning activities with the City's underground plan and policies.

4.4 Coordination with Other Users. Grantee shall coordinate its activities with other utilities and users of City streets and Rights-of-Way scrupulously to avoid unnecessary cutting, damage or disturbance of such streets and Rights-of-Way and shall conduct its planning, design, installation, construction, alteration and maintenance of the Telecommunications System

at all times so as to maximize the life and usefulness of the paving and municipal infrastructure. In addition, the City may determine with respect to franchised uses, in the exercise of reasonable discretion, when and where reasonable accommodation shall be made by Grantee to the City for public needs or, where requested, other third party needs, how such accommodation should be made and a reasonable apportionment of any expenses of same; PROVIDED, that this Franchise creates no third party beneficial interests or accommodation. Notwithstanding the foregoing, it remains the responsibility of Grantee to anticipate and avoid conflicts with other City streets or Rights-of-Way occupants or users, other utilities, franchisees or permittees. The City assumes no responsibility for such conflicts. Further, Grantee shall give appropriate notices to any other City streets or Rights-of-Way occupants or users, other utilities, franchisees, permittees, divisions of the City or other units of government owning or maintaining facilities which may be affected by Grantee's planning, design, installation, construction, alteration or maintenance of the Telecommunications System.

4.5 Relocation.

A. The City shall have the right during the Term of this Franchise, as it may be extended, renewed or otherwise altered in accordance with this Franchise, to require Grantee to change the location of its Telecommunications System within City streets and Rights-of-Way when required for the public safety and welfare. If the City or any government entity elects or requires a third party to alter, repair, realign, abandon, improve, vacate, reroute or change the grade of any street, public way or other public property; or to construct, maintain or repair any public improvement; or to replace, repair, install, maintain or otherwise alter any cable, wire, towers, antenna, wire conduit, pipe, line, pole, wire holding structure, structure or other facility, including a facility used for the provision of utility or other services or transportation of drainage, sewage or other liquids, Grantee shall, upon request, except as otherwise hereinafter provided, at no expense to the City, remove or relocate as necessary its poles, wires, cables, underground conduits, vaults, pedestals, utility access covers and any other Facilities which it has installed.

B. If the City requires Grantee to remove or relocate its Facilities located within City streets or Rights-of-Way, the City will provide Grantee with an alternate location for its Facilities within City streets or Rights-of-Way.

C. The City shall provide Grantee with the standard notice given under the circumstances to other franchisees, licensees or permittees.

D. If during the Term of this Franchise, as it may be extended, renewed or otherwise altered in accordance with this Franchise, another entity which holds a franchise or any utility requests Grantee to remove or relocate its Telecommunications System Facilities to accommodate the construction, maintenance or repair of the requesting party's facilities, or the more efficient use of such facilities, or to "make ready" the requesting party's facilities for use by others, or because Grantee is using a facility which the requesting party has a right or duty to remove, Grantee shall do so. The parties involved may decide among themselves who is to bear the cost of removal or relocation; PROVIDED, that the City shall not be liable for any such cost(s).

E. Any person requesting Grantee to remove or relocate its Facilities shall give Grantee no less than ninety (90) days advance written notice advising Grantee of the date or dates removal or relocation is to be undertaken; PROVIDED, that no advance written notice shall be required in emergencies or in cases where public health and/or safety or property is endangered.

F. If Grantee fails, neglects or refuses to remove or relocate its Facilities as directed by the City, or in emergencies or where public health and/or safety or property is endangered, the City may do such work or cause it to be done and the cost, including all direct costs and expenses incurred by the City due to Grantee's failure, neglect or refusal thereof shall be paid solely by Grantee. If Grantee fails, neglects or refuses to remove or relocate its Facilities as requested by another franchisee or utility which is lawfully required by the City, that franchisee or utility may do such work or cause it to be done, and if Grantee would have been liable for the cost of performing such work, the cost, including all direct, indirect and/or consequential costs and expenses incurred by such franchisee or utility thereof to the party performing the work or having the work performed shall be paid solely by Grantee.

G. If Grantee causes any damage to private property or public property in the process of removing or relocating its Facilities, Grantee shall pay the owner of the property for such damage.

H. Grantee does hereby promise to protect and save harmless the City, its officers, agents and employees from any customer or third party claims for service interruption or other losses in connection with any removal or relocation of Grantee's Telecommunications System Facilities.

I. Grantee shall have the right to remove any of its Facilities at any time at its sole discretion; provided, however, that it shall comply with all requirements of this Agreement when removing any Facilities.

4.6 Movement of Buildings. Grantee shall, upon request by any person holding a building permit, franchise or other approval issued by the City, temporarily remove, raise or lower its transmission or other wires appurtenant to the Telecommunications System to permit the movement of buildings. The expense for such removal, raising or lowering shall be paid by the person requesting the same and Grantee shall be authorized to require such payment in advance. The City shall require all building movers to provide not less than three (3) business day's notice to Grantee for such temporary wire changes.

4.7 Tree Trimming. Grantee, with twenty-four (24) hour notice to the property owner, shall have the authority to trim or cause to have trimmed trees upon and overhanging streets, alleys, sidewalks and Rights-of-Way so as to prevent the branches of such trees from coming in contact or otherwise interfering with the Telecommunications System; PROVIDED, that the cost for such trimming of trees shall be paid solely by Grantee.

4.8 Restoration.

A. Whenever Grantee damages or disturbs any area in or near City streets, Rights-of-Way, paved area or public improvement, Grantee shall, at its sole cost, expense and liability, restore such area in or near City streets, Rights-of-Way, paved area or public improvement to at least its prior condition, or the City standard, whichever is greater, to the satisfaction of the City.

B. Whenever any opening is made by Grantee in a hard surface pavement in any City street or Right-of-Way, Grantee shall refill, restore, patch and repave entirely all surfaces opened as determined necessary by the City in order to maintain and preserve the useful life thereof.

C. For pavement restorations, any patch or restoration shall be thereafter properly maintained in good condition and repair by Grantee until such time as the area is resurfaced or reconstructed.

D. The City hereby reserves the right, after providing reasonable notice to Grantee, to remove and/or repair any work done by Grantee which, in the determination of the City, is inadequate. The cost thereof, including the cost of inspection and supervision, shall be paid solely by Grantee.

E. Should Grantee fail, neglect, refuse or delay in performing any obligation here or elsewhere stated, or where the City deems necessary to protect the public Right-of-Way or to avoid liability, risk or injury to the public or the City, the City may proceed to perform or cause to have performed such obligation, including any remedial or preventative action deemed necessary, at Grantee's sole expense and liability, but no action or inaction by the City shall relieve Grantee of its obligation to hold the City harmless as set forth in Section 5.7 of this Franchise. Prior to undertaking corrective effort, the City shall make a reasonable effort to notify Grantee, except no notice is needed if the City declares an emergency or determines a need for expedient action. This remedy is supplemental and not alternative to any other municipal right.

F. Whenever Grantee damages or disturbs any area in or near City streets, Rights-of-Way, paved area or public improvement, Grantee stipulates that the City may, without limitation:

(1) Require Grantee to repave an entire lane or greater affected area within any cut or disturbed location; and/or

(2) Require Grantee to common trench with any other underground installation in City streets or Rights-of-way, with cost sharing to be negotiated between the parties involved, or in the absence of agreement, as directed by the City in a non-discriminatory manner.

G. All requirements of this Section pertaining to public property shall also apply to the restoration of private easements and other private property.

H. If Grantee causes any damage to private property in the process of restoring Facilities, Grantee shall pay the owner of the property for such damage.

I. All of Grantee's work under this Section shall be done in strict compliance with all applicable rules, regulations and ordinances of the City.

J. Grantee shall perform all restoration work promptly.

4.9 City Right to Require Removal of Property.

A. At the expiration of the Term for which this Franchise is granted, providing no extension or renewal is granted by the City, or upon the forfeiture or revocation of this Franchise, as provided for in this Franchise, the City shall have the right to require Grantee to remove, at Grantee's sole expense, all or any part of the Telecommunications System from all City streets and Rights-of-Way within the Franchise Service Area, where the abandoned Facilities interfere with reasonable uses of City streets and Rights-of-Way. If Grantee fails to do so, the City may perform the work and collect the cost thereof from Grantee. The actual cost thereof, including direct and indirect administrative costs, shall be a lien upon all plant and property of Grantee effective upon filing of the lien with the Kootenai County Recorder.

B. Any order by the City Council to remove any of Grantee's Telecommunications System Facilities shall be mailed to Grantee not later than thirty (30) calendar days following the date of expiration of this Franchise. Grantee shall file written notice with the Clerk of the City Council not later than thirty (30) calendar days following the date of expiration or termination of this Franchise of its intention to remove any Telecommunications System Facilities intended to be removed and a schedule for removal by location. The schedule and timing of removal shall be subject to approval and regulation by the City. Removal shall be completed no later than twelve (12) months following the date of expiration of this Franchise.

C. Grantee shall not remove any underground Facilities which require trenching or other opening of City streets or Rights-of-Way along the extension of the Facilities to be removed, except as hereinafter provided. Grantee may voluntarily remove any underground Facilities from City streets and Rights-of-Way which have been installed in such a manner that they can be removed without trenching or other opening of City streets and Rights-of-Way along the extension of the Facilities to be removed.

D. Subject to applicable law, Grantee shall remove, at its sole cost and expense, any underground Facilities by trenching or opening City streets and Rights-of-Way along the extension thereof or otherwise which is ordered to be removed by the City based upon a determination, in the sole discretion of said City, that removal is required in order to eliminate or prevent a hazardous condition. Underground Facilities in City streets and Rights-of-Way that are not removed shall be deemed abandoned and title thereto shall be vested in the City.

4.10 Emergency Repairs. In the event that emergency repairs to the Telecommunications System are necessary, Grantee shall notify the City of the need for such

repairs. Grantee may immediately initiate such emergency repairs and shall apply for appropriate permits the next business day following discovery of the emergency.

4.11 City Right of Inspection. The City shall have the right to inspect and approve all installation, construction, alteration or maintenance work performed by Grantee within the Franchise Service Area and to make such tests as it deems necessary to ensure compliance with the terms and conditions of this Franchise and other pertinent provisions of law, the cost commercially reasonable tests thereof to be paid solely by Grantee, but no action or inaction by the City shall create any duty or obligation by the City to inspect, test or approve any installation, construction, alteration or maintenance work performed by Grantee. In addition, the City may require Grantee to furnish certification from a qualified independent engineer that Grantee's Facilities are constructed in accordance with good engineering practice and are reasonably protected from damage and injury.

4.12 After-Acquired Facilities. Grantee expressly acknowledges and agrees, by acceptance of this Franchise, that any Telecommunications System Facilities located within City streets or Rights-of-Way which are subsequently acquired by Grantee or upon addition or annexation to the City of any area in which Grantee retains or acquires any such Facilities (if acquired prior to this original Franchise grant) and which would have been subject to this Franchise and the permitting authority related thereto shall immediately be subject to the provisions of this Franchise and all permits related thereto.

4.13 Information. Grantee hereby promises to maintain and supply to the City, at Grantee's sole expense, any information requested by the City to coordinate municipal functions with Grantee's activities within City streets and Rights-of-Way. Grantee shall provide such information, upon request, either in hard copy and/or electronic format compatible with the City's data base system, as now or hereafter existing, including the City's geographic information service (GIS) data base. Grantee shall keep the City informed of its long-range plans so as to allow coordination with the City's long-range plans.

SECTION 5 - COMPENSATION AND FINANCIAL PROVISIONS

5.1 Fees.

5.1.1 Payment of Franchise Fee.

A. For the reason that the Rights-of-Way to be used by the Grantee in the operation of its Telecommunications System within the boundaries of the City are valuable public properties acquired and maintained by the City at great expense to its taxpayers, and that the grant to the Grantee to use the said Rights-of-Way is a valuable property right without which the Grantee would be required to invest substantial capital in Rights-of-Way costs and acquisitions, and because the City will incur costs in regulating and administering the Franchise, the Grantee shall pay to the City quarterly an amount equal to five percent (5%) of the Grantee's Gross Revenues derived from the operation of the Telecommunications System to provide Telecommunications Services in the City. In the event that the City may lawfully increase the percentage of Franchise fees collected from the Grantee, but not effective before expiration of

the initial Term, then the Franchise fees will be increased automatically after the giving of thirty (30) days prior written notice to the Grantee.

B. In the event the Franchise is revoked or otherwise terminated prior to its expiration date, the Grantee shall file with the City, within ninety (90) days of the date of revocation or termination, a verified revenue statement showing the Gross Revenues received by it since the end of the previous year and shall make adjustments at that time for the Franchise fees due up to the date of revocation or termination.

5.1.2 Other Fees.

A. Grantee shall pay the City all reasonable costs of granting, enforcing or reviewing the provisions of this Franchise as ordered by the Administrator or designee, whether as a result of accrued in-house staff time or out-of-pocket expenses or administrative costs. Such obligation further includes municipal fees related to receiving and approving permits, licenses or other required approvals, inspecting plans and construction, or relating to the preparation of a detailed statement. Any fees to be paid pursuant to this subsection shall not exceed One Thousand Dollars (\$1,000.00) in one-time fees nor more than Three Hundred Dollars (\$300.00) for each individual site permit.

B. Upon request of Grantee, the City will submit proof of any charges or expenses incurred as defined in Section 5.1.2, A of this Franchise. Said charges or expenses shall be paid by Grantee no later than thirty (30) days after Grantee's receipt of the City's billing thereof.

C. Grantee shall pay all other taxes and fees applicable to its operations and activities within the City, all such obligations also being a condition of this Franchise. Such payments shall not be deemed franchise fees or payments in lieu thereof.

5.2 Payments.

A. Grantee shall make all required payments in the form, intervals and manner requested by the City Finance Director and shall furnish the City any and all information related to the City's revenue collection functions reasonably requested.

5.3 Financial Records.

A. Grantee shall manage all of its operations in accordance with a policy of keeping books and records open and accessible to the City. The City shall have the right, as necessary or desirable for effectively administering and enforcing this Franchise, to inspect during normal business hours upon thirty (30) days prior written notice to Grantee, all books, records, maps, plans, financial statements, service complaint logs, performance test results, records required to be kept by Grantee and/or any parent company of Grantee pursuant to the rules and regulations of the FCC, IPUC and other regulatory agencies, and other like materials Grantee and/or any parent company of Grantee which directly relate to the operation of this Franchise.

B. Access to the aforementioned records referenced in Section 5.3, A shall not be denied by Grantee to representatives of the City on the basis that said records contain "proprietary" information. However, to the extent allowed by Idaho law, the City shall protect the trade secrets and other confidential information of Grantee and/or any parent company of Grantee.

C. Grantee hereby agrees to meet with a representative of the City upon request to review its methodology of record keeping, financial reporting, and other procedures, the understanding of which the City deems necessary for understanding the meaning of such reports and records.

D. The City agrees to request access to only those books and records, in exercising its rights under this Franchise, which it deems reasonably necessary for the enforcement and administration of this Franchise.

5.4 Auditing.

A. The City or its authorized agent may during normal business hours upon thirty (30) days prior written notice to Grantee, conduct an independent audit of the revenues of Grantee in order to verify the accuracy of payments made to the City. Grantee and each parent company of Grantee shall cooperate fully in the conduct of such audit. In case of audit, the City director of budget and finance may require Grantee to furnish a verified statement of compliance with Grantee's obligations or in response to any questions. Said certificate may be required from an independent certified public accountant at Grantee's sole expense. All audits will take place on Grantee's premises or at offices furnished by Grantee, which shall be a location within the City of Coeur d'Alene. Grantee agrees, upon request of the City Finance Director, to provide copies of all documents filed with any federal, state or local regulatory agency, to mail to the City on the same day as filed, postage prepaid, affecting any of Grantee's Facilities or business operations in City.

5.5 Insurance, Indemnity and Waiver of Liability.

5.5.1 Coverages. Grantee shall maintain, throughout the Term of this Franchise, liability insurance insuring Grantee, its officers, employees and agents, with regard to all claims and damages specified in Section 5.5 herein, in the minimum amounts as follows:

(1) **Commercial Liability Insurance.** On or before the date this Franchise is fully executed by the Parties, Grantee shall provide the City with a certificate of insurance as proof of commercial liability insurance with a minimum liability limit of One Million Dollars (\$1,000,000) combined single limit bodily injury and property damage. This coverage will have a per job aggregate endorsement and Idaho stop gap coverage. Said certificate of insurance shall clearly state who the provider is, the amount of coverage, the policy number, and when the policy and provisions provided are in effect. Said policy shall be in effect for the duration of this Franchise. The policy shall name the City, its elected and appointed officials, officers, agents and employees as

additional insureds, and shall contain a clause that the insurer will not cancel or change the insurance without first giving the City thirty (30) calendar days prior written notice (any language in the clause to the effect of "but failure to mail such notice shall impose no obligation or liability of any kind upon the company" shall be crossed out and initialed by the insurance agent). The insurance shall be with an insurance company or companies rated A-VII or higher in Best's Guide and admitted in the State of Idaho. If Grantee uses any contractors and/or subcontractors to perform any of the work referenced in this Franchise, such contractors and/or subcontractors shall maintain the same minimum limits of liability and comply with all other provisions discussed above in this subsection entitled "Commercial Liability Insurance."

(2) **Commercial Automobile Liability Insurance.** On or before the date this Franchise is fully executed by the Parties, Grantee shall provide the City with a certificate of insurance as proof of commercial automobile liability insurance with a minimum liability limit of One Million Dollars (\$1,000,000) combined single limit bodily injury and property damage. Said certificate of insurance shall clearly state who the provider is, the amount of coverage, the policy number, and when the policy and provisions provided are in effect. Said policy shall be in effect for the duration of this Franchise. The policy shall name the City, its elected and appointed officials, officers, agents and employees as additional insureds, and shall contain a clause that the insurer will not cancel or change the insurance without first giving the City thirty (30) calendar days prior written notice (any language in the clause to the effect of "but failure to mail such notice shall impose no obligation or liability of any kind upon the company" shall be crossed out and initialed by the insurance agent). The insurance shall be with an insurance company or companies rated A-VII or higher in Best's Guide and admitted in the State of Idaho. If Grantee uses any contractors and/or subcontractors to perform any of the work referenced in this Franchise, such contractors and/or subcontractors shall maintain the same minimum limits of liability and comply with all other provisions discussed above in this subsection entitled "Commercial Automobile Liability Insurance."

(3) **Umbrella Liability Insurance.** Grantee and its contractors and/or subcontractors shall maintain umbrella liability insurance coverage, in an occurrence form, over underlying commercial liability and automobile liability. On or before the date this Franchise is fully executed by the Parties, Grantee shall provide the City with a certificate of insurance as proof of umbrella coverage with a minimum liability limit of Three Million Dollars (\$3,000,000). The insurance shall be with an insurance company or companies rated A-VII or higher in Best's Guide and admitted in the State of Idaho.

Providing coverage in the amounts as set forth above shall not be construed to relieve Grantee from liability in excess of those limits.

5.5.2 Proof of Insurance. Grantee shall file with the City copies of all certificates of insurance showing up-to-date coverages, additional insured coverages and evidence of payment of premiums as set forth above. Grantee shall file and maintain a certificate of insurance along with written evidence of payment of the required premiums with the manager of the City Telecommunications Division, or his or her designee.

5.5.3 Alteration of Insurance. Insurance coverages, as required by this Franchise, shall not be changed, cancelled or otherwise altered without approval of the City. Grantee shall provide the City no less than thirty (30) days prior written notice of any such proposed change, cancellation or other alteration. The City may, at its option, review all insurance coverages. If it is determined by the City that circumstances require and that it is reasonable and necessary to increase insurance coverage and liability limits above such coverage and limits as are set forth in this Franchise, in order to adequately cover the risks of the City, Grantee and Grantee's officers, agents and employees, the City may require additional insurance to be acquired by Grantee. Should the City exercise its right to require additional insurance, the City will provide Grantee with written notice.

5.5.4 Failure to Procure. Grantee acknowledges and agrees, by acceptance of this Franchise, that failure to procure and maintain the insurance coverages as detailed in Section 5.5.1 of this Franchise shall constitute a material breach of this Franchise, as provided for in Section 2.10, B, 3) of this Franchise. In the event of such failure to procure and maintain the referenced insurance coverages, the City may immediately suspend Grantee's operations under this Franchise, terminate or otherwise revoke this Franchise and/or, at its discretion, procure or renew such insurance in order to protect the City's interests and be reimbursed by Grantee for all premiums in connection therewith.

5.6 Performance Bond. Prior to the effective date of this Franchise, Grantee shall furnish to the City proof of the posting of a "Performance Bond" running to the City, with good and sufficient surety approved by the City, in the penal sum of Twenty-Five Thousand Dollars (\$25,000), conditioned that Grantee shall well and truly observe, fulfill and perform each term and condition of this Franchise. Grantee shall pay all premiums charged for said Performance Bond. Said Performance Bond shall be effective to continue obligation for the Term of this Franchise, including any extensions, and thereafter until Grantee or any successor or assign of Grantee has liquidated all of its obligations with the City that may have arisen from the acceptance of this Franchise by Grantee or from its exercise of any privilege herein granted. Said Performance Bond shall contain a provision stating that said Performance Bond shall not be terminated or otherwise allowed to expire without thirty (30) days prior written notice having been provided to the City. The form and content of said Performance Bond and any associated documents shall be approved in advance by the City Attorney, or his or her designee. Grantee shall provide a duplicate copy of said Performance Bond to the City and said duplicate copy shall be kept on file at the City Telecommunications Division office or its successor(s). Neither the provisions of this Section nor any Performance Bond accepted by the City pursuant thereto, nor any damages or other amounts recovered by the City thereunder, shall be construed to excuse faithful performance by Grantee or to limit liability of Grantee under this Franchise either to the full amount of the Performance Bond or otherwise, except as otherwise provided herein.

5.7 Waiver of Claims. Grantee waives any and all claims, demands, causes of action and rights it may assert against the City on account of any loss, damage, or injury to any of Grantee's Facilities unless caused by the gross negligence of the City or its employees, contractors or agents. City waives any and all claims, demands, causes of action and action and rights it may assert against the Grantee on account of any loss, damage, or injury to the City within the Franchise Service Area

and Rights of Way unless caused by the gross negligence of the Grantee or its employees, contractors or agents.

5.8 Indemnity, No Estoppel, No Duty.

A. Grantee shall, at its sole expense, protect, defend, indemnify and hold harmless the City, its elected officials, and in their capacity as such, the officials, agents, officers and employees of the City from any and all claims, lawsuits, demands, actions, accidents, damages, losses, liens, liabilities, penalties, fines, judgments, awards, costs and expenses arising directly or indirectly from or out of, the performance or non-performance, by reason of any negligent act or omission of Grantee, whether singularly or jointly with others, its representatives, permittees, employees, contractors or subcontractors, whether or not such acts or omissions were authorized or contemplated by this Franchise or applicable law, including but not limited to the construction, installation, maintenance, alteration or modification of the Telecommunication System; arising from actual or alleged injury to persons or property, including the loss of use of property due to an occurrence, whether or not such property is physically damaged or destroyed; arising out of or alleged to arise out of any claim for damages for Grantee's invasion of privacy, defamation of any person, firm or corporation, or the violation or infringement of any copyright, trademark, trade name, service mark or patent, or of any other right of any person, firm or corporation; arising out of or alleged to arise out of Grantee's failure to comply with any and all provisions of any statute, regulation or resolution of the United States, State of Idaho or any local agency applicable to Grantee and its business. Nothing herein shall be deemed to prevent the Parties indemnified and held harmless herein from participating in the defense of any litigation by their own counsel at such Party's expense. Such participation shall not under any circumstances relieve Grantee from its duty of defense against liability or of paying any judgment entered against such Party. Notwithstanding any provision of this Section to the contrary, Grantee shall not be obligated to indemnify, defend or hold the City harmless to the extent any claim, demand, lien, damage or liability arises out of or in connection with grossly negligent acts or omissions of the City. The City shall, at its sole expense, protect, defend, indemnify and hold harmless the Grantee and such agents, officers and employees of the Grantee from any and all claims, lawsuits, demands, actions, accidents, damages, losses, liens, liabilities, penalties, fines, judgments, awards, costs and expenses arising directly or indirectly from or out of, the performance or non-performance, by reason of any negligent act or omission of the City, whether singularly or jointly with others, its representatives, permittees, employees, contractors or subcontractors, whether or not such acts or omissions were authorized or contemplated by this Franchise or applicable law, including but not limited to the construction, installation, maintenance, alteration or modification of the Telecommunication System; arising from actual or alleged injury to persons or property, including the loss of use of property due to an occurrence, whether or not such property is physically damaged or destroyed; arising out of or alleged to arise out of any claim for damages for the City's invasion of privacy, defamation of any person, firm or corporation, or the violation or infringement of any copyright, trademark, trade name, service mark or patent, or of any other right of any person, firm or corporation; arising out of or alleged to arise out of the City's failure to comply with any and all provisions of any statute, regulation or resolution of the United States, State of Idaho or any local agency applicable to the City. Nothing herein shall be deemed to prevent the Parties indemnified and held harmless herein from participating in the defense of any litigation by their own counsel at such Party's

expense. Such participation shall not under any circumstances relieve the City from its duty of defense against liability or of paying any judgment entered against such Party. Notwithstanding any provision of this Section to the contrary, the City shall not be obligated to indemnify, defend or hold the Grantee harmless to the extent any claim, demand, lien, damage or liability arises out of or in connection with grossly negligent acts or omissions of the Grantee.

B. Whenever any judgment is recovered against the City or any other indemnitee for any such liability, costs, or expenses, such judgment shall be conclusive against Grantee, not only as to the amount of such damage, but as to its liability, provided Grantee actually knew, or should have known, of the pendency of such suit. Under such circumstances, Grantee may also request the opportunity to defend or participate in the suit with legal counsel of its choice, at its expense, said request not to be unreasonably denied.

C. No action, error or omission, or failure to act by the City, its agents, officers, officials or employees, in connection with administering its rights, duties or regulatory functions related to this Franchise shall be asserted by Grantee, directly, indirectly or by way of seeking indemnification or as an assertion that the City has waived or is estopped to assert any municipal right hereunder, against the City, its boards, departments, divisions, officers, officials or employees.

D. It is not the intent of this Franchise to acknowledge, create, imply or expand any duty or liability of the City with respect to its role as a franchising authority, in the exercise of its police powers or for any other purpose. Any City duty nonetheless deemed created shall be a duty to the general public and not to any specific party, group or entity.

SECTION 6 – REMEDIES AND PROCEDURE FOR REMEDYING FRANCHISE VIOLATIONS

6.1 Remedies for Franchise Violations.

A. In addition to the remedies set forth elsewhere in this Franchise, the City shall have the right to assert any or all of the following remedies in the event Grantee violates or defaults on, as determined by the City, any provision of this Franchise:

(1) Drawing upon or foreclosing all or any part of any security provided under this Franchise, including without limitation the faithful Performance Bond provided for under Section 5.6 herein; PROVIDED, however, such drawing or foreclosure shall be only in such a manner and in such amount as the City reasonably determines is necessary to remedy the violation or default. Should the City take such action as described herein, Grantee shall be responsible for all direct and actual costs related to such action, including, but not limited to, legal and administrative costs incurred by the City;

(2) Commence an action at law for monetary damages or seek other equitable relief;

(3) In the case of substantial violation or default, as determined by the City, of a material provision of this Franchise, declare this Franchise to be revoked;

(4) Seek specific performance of any provision of this Franchise, which reasonably lends itself to such remedy, as an alternative to seeking damages.

B. In determining which remedy or remedies, as set forth herein, are appropriate, the City shall take into consideration the nature and extent of the violation or default, the remedy needed to prevent such violations or defaults from occurring in the future, whether Grantee has a history of previous violations of the same or similar kind and such other considerations as are appropriate under the circumstances.

6.2 Procedure for Remedying Franchise Violations.

6.2.1 Notice of Violation. In the event the City determines Grantee has not complied with any term or condition of this Franchise, the City shall notify Grantee in writing of the exact nature of the alleged noncompliance.

6.2.2 Grantee's Right to Cure or Respond. Grantee shall have ninety (90) days from receipt of notice by the City of any alleged noncompliance with any term or condition of this Franchise to:

(1) Respond to the City contesting the assertion of noncompliance; or

(2) Cure such violation or default or, in the event that by the nature of the violation or default such violation or default cannot be cured within a ninety (90) day period, initiate reasonable steps to remedy such violation or default and notify the City of the steps being taken and the projected date such remedy will be completed.

6.2.3 Public Hearing. In the event Grantee fails to respond to a notice, as described herein, or in the event Grantee fails to cure such violation or default pursuant to the procedures set forth herein, the City shall schedule a public hearing to investigate any alleged violation or default. The City shall provide Grantee twenty (20) calendar days' notice of the time and place of such hearing and provide Grantee an opportunity to be heard at such hearing.

6.3 Enforcement. In the event the City, after such hearing as described in subsection 6.2.3 of this Franchise has been conducted, upholds its determination that Grantee has violated or defaulted on any provision of this Franchise, the City may impose any of the remedies set out in Section 6.1, A of this Franchise.

6.4 Failure to Enforce. Grantee shall not be relieved of any of its obligations to comply promptly with any provision of this Franchise by reason of any failure of the City to enforce prompt compliance, and the City's failure to enforce shall not constitute a waiver of rights or acquiescence in Grantee's conduct.

6.5 Acts of Nature. Grantee shall not be held in violation, default or noncompliance with the provisions of this Franchise, nor suffer any enforcement or penalty related thereto,

where such violation, default or noncompliance is caused by acts of nature, power outages or other events reasonably beyond its ability to control. However, Grantee shall take all reasonable steps necessary to provide service despite such occurrences.

6.6 Alternative Remedies. Nothing in this Franchise shall be deemed to bar the right of the City or Grantee to seek or obtain judicial relief from any violation of this Franchise or any rule, regulation, requirement or directive promulgated thereunder. Neither the existence of other remedies identified in this Franchise nor the exercise thereof shall be deemed to bar or otherwise limit the right of the City to recover monetary damages for such violation by Grantee, or to seek and obtain judicial enforcement of Grantee's obligations under this Franchise by means of specific performance, injunctive relief or mandate, or any other judicial remedy at law or in equity.

SECTION 7 – MISCELLANEOUS PROVISIONS

7.1 Posting and Publication. Grantee shall assume the cost of posting and publication of this Franchise as such posting and publication is required by law, and such is payable upon Grantee's filing of acceptance of this Franchise.

7.2 Service of Notice. Except as otherwise specifically provided herein, any notice required or permitted to be given under this Franchise shall be deemed sufficient if provided in writing and when (1) delivered personally to the following addressee(s) or deposited with the United States Postal Service, postage paid, certified or registered mail; (2) sent by overnight or commercial air courier; or (3) sent by facsimile transmission addressed as follows, or to such other address as the receiving party hereafter shall specify in writing:

Notices to the City shall be addressed to the following:

Coeur d'Alene City Hall
710 E. Mullan Ave.
Coeur d'Alene, ID 83814-3958
Attn: City Clerk
Facsimile Number: 208-769-2366

Notices to Grantee shall be addressed to the following:

Mobilitie, LLC
Asset Management
660 Newport Center Drive
Suite 200
Newport Beach, CA 92660
(877) 999-7070
WestAssetMgmt@mobilitie.com

and Mobilitie, LLC
Legal Department

660 Newport Center Drive
Suite 200
Newport Beach, CA 92660
(877) 999-7070
legal@mobilitie.com

SAMPLE

7.3 Compliance with Laws. Grantee shall comply with all federal and state laws and regulations, including regulations of any administrative agency thereof, as well as the general ordinances, resolutions, rules and regulations of the City, pursuant to the City's lawful authority, heretofore or hereafter adopted or established during the entire term of this Franchise. In the event any valid and superior law, rule or regulation of any governing authority or agency having jurisdiction contravenes the provisions of this Franchise subsequent to its adoption, then the provisions of this Franchise shall be superseded only to the limited extent that the provisions hereof are in conflict and contrary to any such law, rule or regulation. Nothing in this Franchise shall limit the City's right of eminent domain under state law. Nothing in this Franchise shall be deemed to waive the requirements of any lawful code or resolution of the City regarding permits, fees to be paid or manner of construction. If any federal, state, or local laws or regulations (including, but not limited to, those issued by the Federal Communications Commission or its successor agency) and any binding judicial interpretations thereof (collectively, "Laws") that govern any aspect of the rights or obligations of the parties under the Franchise shall change after the Effective Date and such change makes any aspect of such rights or obligations inconsistent with the then-effective Laws, then the parties agree to promptly amend the Franchise as reasonably required to accommodate and/or ensure compliance with any such legal or regulatory change.

7.4 Governing Law and Venue. This Franchise shall be governed by and construed in accordance with the laws of the State of Idaho, and venue for any litigation arising out of or in connection with privileges extended herein is stipulated to be in Kootenai County, Idaho.

7.5 Severability. If any section, subsection, sentence, clause, phrase or portion of this Franchise is for any reason declared by a court of competent jurisdiction to be void, invalid or unenforceable, such portion shall be deemed a separate, distinct and independent provision and such declaration shall not affect the validity of the remaining portions thereof. In such event, the City and Grantee shall negotiate in good faith to modify this Franchise as may be necessary to meet the requirements of the law and/or to effectuate the intention of this Franchise. In the event that such modifications are barred by any legal requirements governing any party, the City and Grantee shall use their best efforts to otherwise avoid prejudice to the respective parties' interests and to implement changes to effectuate the intent in entering into this Franchise.

7.6 Force Majeure.

A. For the purposes of this Section, the term "Force Majeure" shall mean acts of God, landslides, earthquakes, lightning, fires, hurricanes, volcanic activity, storms, floods, washouts, droughts, civil disturbances, acts of terrorism or of the public enemy, partial or entire failure of utilities, strikes, explosions, lockouts or other industrial disturbances, insurrections, public riots or other similar events which are not reasonably within the control of the parties hereto.

B. If Grantee is wholly or partially unable to carry out its obligations under this Franchise as a result of a Force Majeure, Grantee shall provide the City prompt notice of such Force Majeure, describing the same in reasonable detail, and Grantee's obligations under this Franchise, other than for payment of moneys due, shall not be deemed in violation or default

for the duration of the Force Majeure. Grantee agrees to use its best efforts to remedy as soon as possible, under the circumstances, Grantee's inability, by reason of Force Majeure, to carry out its responsibilities and duties under this Franchise.

7.7 City Right of Intervention. If the City otherwise has the right to intervene, Grantee expressly acknowledges and agrees, by acceptance of this Franchise, not to oppose such intervention by the City in any suit or proceeding to which Grantee is a party related to this Franchise.

7.8 Consent. Wherever the consent or approval of either Grantee or the City is specifically required in this Franchise, such consent or approval shall not be unreasonably withheld.

7.9 No Third Party Beneficiaries. There shall be no third party beneficiaries of this Franchise.

7.10 Franchise Ordinance Acceptance. Grantee shall execute and return to the City, within sixty (60) days after the date of adoption of the Franchise Ordinance by the Coeur d'Alene City Council, three (3) originals of this Franchise document, by which Grantee acknowledges that it has carefully read the terms and conditions of the Franchise Ordinance and accepts all of the terms and conditions of the Franchise Ordinance and this Franchise and agrees to abide by the same. In accepting this Franchise, Grantee shall indicate that it has relied upon its own investigation of all relevant facts, that it has had the assistance of counsel, that it was not induced to accept this Franchise, that the Franchise Ordinance represents the entire agreement between Grantee and the City and that Grantee accepts all reasonable risks related to the interpretation of the Franchise Ordinance and this Franchise. The executed Franchise documents shall be returned to the City accompanied by the Performance Bond required in Section 5.6 of this Franchise and evidence of insurance as required in Sections 5.5.1 and 5.5.2 of this Franchise. In the event Grantee fails to submit a Franchise document as provided for herein, or fails to provide the required accompanying documents, this Franchise shall be null and void.

7.11 Previous Rights Abandoned. This Franchise supersedes any and all other rights, privileges, powers, immunities and authorities owned, possessed, controlled or exercisable by Grantee pursuant to any previous franchise in the City.

7.12 Effective Date. This Franchise and the Franchise Ordinance shall be effective thirty (30) days after its adoption by the City Council, approval by the mayor, acceptance by Grantee and publication as required by law.

SECTION 8 – TRANSFER OF OWNERSHIP OR CONTROL

A. This Franchise shall not be assigned or transferred, leased or disposed of either in whole or in part by voluntary sale or involuntary sale, merger or consolidation, either legal or equitable or any right, interest or property therein, pass to or vest in any person, or entity without the prior written consent of the City Council, which consent shall not be unreasonably

withheld. No consent will be required for a transfer in trust, mortgage, or other hypothecation as a whole or in part to secure an indebtedness.

B. The Grantee shall promptly notify the City of any actual or proposed change in, or transfer of, or disposition of or acquisition by any other party of, control of the Grantee. The word "control" as used herein is not limited to major stockholders but includes actual working control in whatever manner exercised. Every change, transfer, or acquisition of control of the Grantee shall make the Franchise subject to cancellation unless and until the City Council shall have consented thereto, which consent will not be unreasonably withheld. For the purpose of determining whether it shall consent to such change, transfer, disposition, or acquisition of control, the City Council may inquire into the qualifications of the prospective controlling party, and the Grantee shall assist the City Council in any such inquiry.

C. The consent or approval of the City Council to any transfer of the Franchise shall not constitute a waiver or release of the right of the City in and to the Rights-of-Way, and any transfer shall by its terms, be expressly subordinate to the terms and conditions of this Franchise.

D. By its acceptance of this Franchise, the Grantee specifically agrees that any such transfers occurring without prior approval of the City Council shall constitute a violation of this Franchise by the Grantee. In no event shall a transfer of ownership or change of control be approved without the successor in interest becoming a signatory to this Franchise.

E. For the purpose of this Section, a change of control of the Grantee shall be defined as any acquisition of the Grantee or the Grantee's parent's voting stock by a person or group of persons acting in concert which results in that person or group of persons owning more than fifty percent (50%) of the voting stock of the Grantee or Grantee's parent.

F. Within thirty (30) days of any transfer or sale and upon request, if approved or deemed granted by the City, the Grantee shall file with the City a copy of the deed, agreement, or other written instrument evidencing such sale or transfer of ownership or control, certified and sworn to as correct by the Grantee.

G. Standards. The City may inquire into the legal, technical and financial qualifications of the prospective controlling party or transferee, and the Grantee shall assist the City in so inquiring. The City may condition said sale or transfer upon such terms and conditions as it deems reasonably appropriate; provided, however, the City shall not unreasonably withhold its approval and any such terms and conditions so attached shall be related to the legal, technical, and financial qualifications of the prospective controlling party or transferee and to the resolution of outstanding and unresolved issues of noncompliance with the terms and conditions of this Franchise by the Grantee.

H. Common Control Exemption. Notwithstanding anything to the contrary in this Section, the prior written approval of the City Council shall not be required for any sale, assignment or transfer of the Franchise, Telecommunications System or ownership to an entity controlling, controlled by, or under the same common control as the Grantee.

PASSED BY THE CITY COUNCIL and signed and approved this ____ day of April, 2018.

CITY OF COEUR D'ALENE

MOBILITIE, LLC

Steve Widmyer, Mayor

By: _____

Attest:

City Clerk

STATE OF _____)
 _____) ss.
 COUNTY OF _____)

On this ____ day of April, 2018, before me, a Notary Public in and for said State, personally appeared _____, known to me to be President of Grantee, the corporation that executed the within Instrument, known to me to be the person who executed the within Instrument on behalf of the corporation therein named as Grantee and acknowledged to me that such corporation executed the within Instrument pursuant to its by-laws or a resolution of its directors.

WITNESS my hand and official seal.

Dated this _____ day of _____, 2018.

Print Name: _____

NOTARY PUBLIC in and for the State of _____, residing at _____

My commission expires: _____

**CITY COUNCIL
STAFF REPORT**

DATE: 4-1-18
FROM: Kyle Marine, Assistant Water Superintendent
SUBJECT: Declaration of surplus property. 601 W Neider ave

DECISION POINT: Staff is requesting that Water Department property located at 601 W Neider Ave. be declared surplus, that a minimum value of \$40,000 for the parcel is set and to sell the property by auction/bid as required by State Code.

HISTORY: The Water Department fund owns a .825 acre parcel, or 35,937 sf, that originally was the site of a proposed future well. A test well was drilled there in 2000 to determine whether we should proceed with a future well at this site. Unfortunately, soil conditions within this portion of the aquifer contain very fine sand which would require as a minimum a complicated sand filter and due to the fine sand, a considerably reduced yield, making a future well site here not practical. The property has sat vacant since that time. The lot does have street frontage access onto Fruitland Lane and is zoned MH-8. It has an existing water service on the Neider frontage, a sewer service on the Fruitland frontage as well as a 6" test well.

FINANCIAL ANALYSIS: The property brings no revenue into the fund and is a liability. Its estimated value is \$ 48,000. Staff would propose setting the starting bid to meet the costs of the sale, estimated to be \$40,000. This is the same as the "place holder" value put on the property by the County assessor.

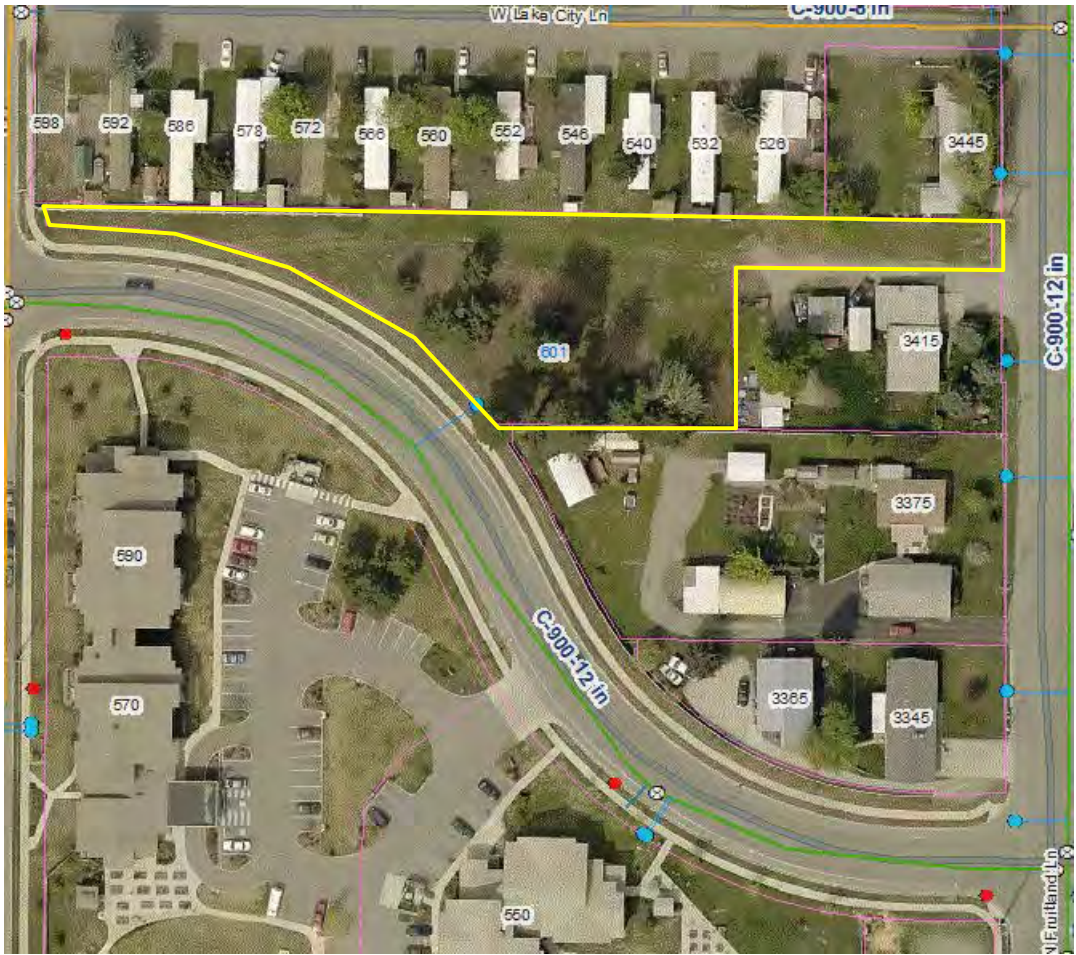
PERFORMANCE ANALYSIS: By transferring the property to private ownership, we can get rid of a parcel that currently brings no value to the City and that may also create a potential liability.

DECISION POINT/RECOMMENDATION: Staff requests that City Council declare the subject property surplus, setting a minimum value of \$40,000, directs that a public hearing be held of the City's intent to sell the parcel, and authorize staff to sell the property by auction, as required by State Code.

Subject parcel

(601 W Neider)





RESOLUTION NO. 18-027

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, DECLARING THAT REAL PROPERTY LOCATED AT 601 W. NEIDER AVENUE, COEUR D'ALENE, IDAHO, IS NOT BEING USED FOR PUBLIC PURPOSES AND THAT IT SHOULD BE DEEMED SURPLUS; SETTING A MINIMUM PRICE OF \$40,000 FOR THE PROPERTY; AND AUTHORIZING THE SALE OF THE PROPERTY AT PUBLIC AUCTION.

WHEREAS, the Water Department has recommended that the Mayor and City Council of the City of Coeur d'Alene declare that the real property owned by the City and located at 601 W. Neider Avenue, Coeur d'Alene, Idaho (Lot 1, Block 2, Clark Addition) (the "Property"), is not being used for a public purpose and that it should be deemed to be surplus property; and

WHEREAS, the Water Department has recommended that the Council set the minimum price for the Property at \$40,000, based upon a study of similar properties conducted in 2016 by Architects West; and

WHEREAS, the Council has determined that the Property is not being used for a public purpose; and

WHEREAS, the Council has determined that the recommended minimum price is fair and reasonable; and

WHEREAS, the Council has determined that the Property should be sold at public auction to the highest bidder, pursuant to Idaho Code § 50-1403, with a minimum bid of \$40,000; and

WHEREAS, the Mayor and City Council have determined that it is in the best interest of the City and the Citizens thereof to sell the Property;

NOW THEREFORE,

BE IT RESOLVED by the Mayor and City Council of the City of Coeur d'Alene that the Property be offered for sale at public auction;

BE IT FURTHER RESOLVED that the Property be sold to the highest bidder submitting a bid of at least \$40,000;

BE IT FURTHER RESOLVED that said public auction be held at the front entrance of City Hall at 710 Mullan Avenue, Coeur d'Alene, Idaho, on a date and at a time determined by the Water Department, and pursuant to published notice in two (2) issues, one (1) week apart, in the Coeur d'Alene Press, a daily newspaper of general circulation published within the City of Coeur d'Alene, and the official newspaper thereof; and

BE IT FURTHER RESOLVED that the Mayor and City Clerk be and they are hereby authorized to execute a deed and other documents as may be necessary on behalf of the City conveying said property to the highest bidder in the event bids are not rejected.

DATED this 1st day of May, 2018.

Steve Widmyer, Mayor

ATTEST:

Renata McLeod, City Clerk

Motion by _____, Seconded by _____, to adopt the foregoing resolution.

ROLL CALL:

COUNCIL MEMBER EVANS Voted _____

COUNCIL MEMBER MCEVERS Voted _____

COUNCIL MEMBER MILLER Voted _____

COUNCIL MEMBER EDINGER Voted _____

COUNCIL MEMBER GOOKIN Voted _____

COUNCIL MEMBER ENGLISH Voted _____

_____ was absent. Motion _____.