



**GENERAL SERVICES COMMITTEE**  
with  
**Council Members Edinger, Evans & Miller**  
**November 21, 2016, 12:00 p.m.**  
**AGENDA**

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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.

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1. Declaration of Surplus – Steve Moran, Fleet Manager
2. Electric and Natural Gas Franchise Agreements/Ordinances – Mike Gridley, City Attorney
3. Award of Bid for Linden Well Pump Rehabilitation Project – Terry Pickel, Water Superintendent

Library Community Room  
702 Front Street

*The City will make reasonable accommodations for anyone attending this meeting who require special assistance for hearing, physical or other impairments. Please contact Juanita Knight, the committee liaison at (208) 769-2348 at least three days in advance of the meeting date and time.*



# Coeur d'Alene Police Department

*Protect and Serve with Excellence*

3818 SCHREIBER WAY  
COEUR D'ALENE, IDAHO 83815  
(208) 769-2321  
www.cdapolicy.org

## GENERAL SERVICES COMMITTEE STAFF REPORT

**DATE:** November 9<sup>th</sup>, 2016  
**FROM:** Steve Moran – Fleet Manager  
**SUBJECT:** Declaration of Surplus Vehicles

### Decision Point

Should the City Council authorize the declaration of four (4) City owned vehicles as surplus and sell the vehicles at auction?

### History

These vehicles have reached the end of their useful life. Due to vehicle condition, maintaining the vehicles would be cost prohibitive. A complete list of the vehicles to be declared surplus is attached below.

### Financial Impact

There is no financial impact to the City, other than minimal costs of transportation to Post Falls for auction. The auctioneer receives a 20% commission for sales between \$500 and \$999, 15% commission for sales up to \$1000 and 10% for sales over \$1000.

Any proceeds from the sale of these surplus vehicles will be returned to the General Fund.

### Decision Point/Recommendation

Staff recommends the City Council authorize the declaration of four (4) vehicles assigned to the Police Department as surplus and sell the vehicles at auction.

### Vehicle Surplus List

2002 Chevrolet Tahoe - 1GNEK13V12J232639	143,000 miles	P865
2007 Ford Crown Vic - 2FAFP71W87X146777	101,000 miles	P1175
2008 Chevrolet Impala - 2G1WS553181268469	133,000 miles	P1241
1993 GMC Van - 1GKEL19W6PB500998	82,000 miles	P1658

**GENERAL SERVICES MEETING  
STAFF REPORT**

DATE: November 21, 2016

FROM: Mike Gridley, City Attorney

SUBJECT: Electric and Natural Gas Franchise Agreements / Ordinances

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**DECISION POINT:**

Council is asked to adopt Ordinances granting Electric and Natural Gas Franchise agreements with Avista Corporation.

**HISTORY:**

Avista Corporation has had franchise agreements with the City for many years. The franchise agreements allow Avista to use the City's right-of-ways for their transmission facilities (line, poles, equipment, pipes) that supply electricity and natural gas to most of the citizens of Coeur d'Alene. The existing franchise agreements are expiring and these new agreements will replace them.

**FINANCIAL ANALYSIS:**

Avista pays the City 5% of the annual gross revenue collected by Avista from its customers for electricity and natural gas consumed within the City.

**PERFORMANCE ANALYSIS:**

These agreements are substantially the same as the existing agreements. We have negotiated the right for the City to hang its own fiber optic cable on Avista poles and have clarified the expenses that Avista will pay when utilities need to be relocated for City projects. The agreements are for twenty-five (25) years.

**QUALITY OF LIFE ANALYSIS:**

These agreements basically maintain the status quo for citizens and the City and grant Avista 25 year franchise agreements.

**DECISION POINT/RECOMMENDATION:**

Council should adopt the Ordinances granting Electric and Natural Gas Franchise agreements with Avista Corporation.

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**CITY OF COEUR D'ALENE, IDAHO**  
**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE GRANTING AVISTA CORPORATION, d/b/a AVISTA UTILITIES, A WASHINGTON CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE NONEXCLUSIVE RIGHT, PRIVILEGE, AUTHORITY AND FRANCHISE TO LOCATE, CONSTRUCT, INSTALL, OWN, OPERATE, MAINTAIN, REPAIR, AND REPLACE POLES, ELEVATED AND UNDERGROUND WIRES, CABLES AND APPURTENANCES FOR THE TRANSMISSION, CONTROL AND DISTRIBUTION OF ELECTRICITY WITHIN THE CITY.**

Avista Corporation dba Avista Utilities ("Avista"), a Washington Corporation authorized to do business within the state of Idaho, has filed with the City of Coeur d'Alene, State of Idaho (the "City") a written application for a renewal of its Franchise to locate, construct, operate and maintain poles, wires, underground cables and appurtenances over, under, along and across all of City's rights of way and public property in the City for the purposes of the transmission, control and distribution of electricity within the City; and the City has determined it is in the interest of persons and businesses in this jurisdiction to have access to Avista's services;

**THEREFORE, THE CITY OF COEUR D'ALENE DOES ORDAIN:**

**SECTION 1.0 DEFINITIONS**

For the purposes of this Franchise the following terms, phrases, words and their derivations have the meaning given in this Section. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Words not defined will be given their common and ordinary meaning.

**Avista:** means Avista Corporation, dba Avista Utilities, a Washington corporation, and its respective successors, assigns, agents and contractors.

**City:** means the City of Coeur d'Alene, a municipal corporation of the State of Idaho, and its respective successors and assigns.

**Commission:** means the Idaho Public Utilities Commission or such successor regulatory agency having jurisdiction over investor-owned public utilities in the State of Idaho.

**Days:** means business days.

**Effective Date:** means the date of legal publication of this Ordinance, upon which the rights, duties and obligations of this Franchise will come into effect, and the date from which the time requirement for any notice, extension and/or renewal will be measured.

**Facilities:** means, collectively, any and all electric transmission, and distribution systems and appurtenances owned by Avista, now and in the future in the Franchise Area, including but not limited to poles, towers, overhead and underground wires and cables, conduits, services, vaults, transformers, meters, meter-reading devices, fences, vehicular protection devices, communication and control systems and other equipment, appliances, fixtures, attachments, appurtenances and other items necessary, convenient, or in any way appertaining to any and all of the foregoing for the purposes of transmission, distribution, and control of electricity, whether the same be located above or below ground.

**Franchise:** means the grant by the City of rights, privileges and authority embodied in this Ordinance.

**Franchise Area:** means the surface and space above and below all public property and rights-of-way owned or held by the City, including, without limitation, rights-of-way for:

- public roads, streets, avenues, alleys, bridges, tunnels, easements, and highways that may hereafter be laid out, platted, dedicated, acquired or improved;
- all City-owned utility easements dedicated for the placement and location of various utilities, provided such easements would permit Avista to fully exercise the rights granted under this Franchise within the area covered by the easement; and
- any other specifically designated City-owned property.

**Maintenance, maintaining, or maintain:** means, without limit, repairing, replacing, upgrading, examining, testing, self-inspecting, and removing Avista Facilities, vegetation management, digging and excavating, and restoration of affected Right-of-way surfaces.

**Parties:** means City and Avista collectively.

**Party:** means either City or Avista individually.

**Person:** means a business entity or natural person.

**Right-of-way:** means the surface of and the space along, above, and below any street, road, highway, freeway, bridge, tunnel, lane, sidewalk, alley, utility easement and/or Right-of-way now or hereafter held or administered by the City.

**State:** means the State of Idaho.

**Tariff:** means the rate schedules, rules, and regulations relating to utility service, filed with and approved by the Commission during the term of this Franchise in effect upon execution and throughout the term of this Franchise.

## **SECTION 2.0 GRANT OF FRANCHISE**

### **2.1 Grant**

City hereby grants to Avista the right, power, privilege and authority to enter upon all roads, rights of way, streets, alleys, highways, public places or structures, lying within the Franchise Area to locate, construct, operate and maintain its Facilities for the purpose of controlling, transmitting and distributing electricity, as may be necessary to provide electric service.

### **2.2 Effective Date**

This Ordinance will be effective as of the date of approval, passage and publication as required by law.

### **2.3 Term**

The rights, privileges and Franchise granted to Avista will extend for a term of twenty-five (25) years from the Effective Date, and shall continue year-to-year thereafter, until it is otherwise renewed for another twenty-five (25) **year term**, or terminated by either Party, with not less than 180 days prior written notice to the other Party.

### **2.4 Non-Exclusive Franchise**

This Franchise is not an exclusive Franchise. This Franchise shall not prohibit the City from granting other franchises within the Franchise Area that do not interfere with Avista's rights under this Franchise. City may not, however, award an electric franchise to another party under more favorable or less onerous terms than those of this Franchise without this Franchise being amended to reflect such more favorable or less onerous terms.

### **2.5 Notice of City's Intent to Compete with Avista**

In consideration of Avista's undertaking pursuant to this Franchise, the City agrees that in the event the City intends to engage in the business of providing Electric service during the life of this Franchise or any extension of this Franchise, in competition with Avista, the City will provide Avista with six (6) months' notice of such action.

### **2.6 Assignment of Franchise**

Avista shall have the right to assign its rights, benefits and privileges under this Franchise. Any assignee shall, within thirty (30) days of the date of any assignment, file written notice of the assignment with the City together with its written acceptance of all terms and conditions of this Franchise. As permitted by law and Commission regulation, Avista shall have the right, without notice to or consent of the City, to mortgage or hypothecate its rights, benefits and privileges in and under this Franchise as security for indebtedness.

## **2.7 Franchise Taxes, Fees and Costs**

Avista shall pay all permitting, license fees, costs and/or utility privilege taxes which it might be required to pay in connection with the issuance, maintenance, existence, continuation, or use of this Franchise, to the extent permitted by State law or City ordinance now in effect or enacted during the term of this Franchise. The City reserves the right to designate the time and manner of payment of such fees, costs or taxes owed by Avista in connection with this Franchise. To the extent that any Franchise fees, taxes or other costs are imposed on Avista, City shall impose equivalent charges, fees, taxes or costs upon any other franchisee in a comparable business or otherwise competing with Avista.

## **2.8 Franchise Fee**

As compensation for the Franchise granted by this ordinance, Avista shall pay to the City an amount equal to five percent (5%) of the annual gross revenue collected by Avista from its customers for electricity consumed within the City in accordance with Chapter 3, Title 50, Idaho Code, to be paid quarterly. Gross revenue will be computed by deducting from the total electric billings of Avista the total net write-off of uncollectible accounts. If Grantee fails to pay the Franchise fee to the City within thirty (30) days of the end of each calendar quarter, Grantee shall pay a penalty in the amount of five percent (5%) of the amount due.

## **SECTION 3.0 AVISTA'S OPERATIONS AND MAINTENANCE**

### **3.1 Compliance with Laws, Regulations, Codes and Standards**

In carrying out any authorized activities under the privileges granted by this Franchise, Avista shall meet accepted industry standards and codes and shall comply with all applicable laws, regulations and ordinances of any governmental entity with jurisdiction over Avista's Facilities and operations in the Franchise Area. This includes all applicable, laws, regulations and ordinances existing as of the Effective Date or may be subsequently enacted by any governmental entity with jurisdiction over Avista's operations within the Franchise Area. The City shall have the right to make and enforce reasonable rules and regulations pertaining to the conduct of Avista's operations within the Franchise Area. Prior to the adoption by the City of any new rule, procedure or policy affecting Avista's operations under the Franchise, the City shall provide Avista a written draft document for comment with a response period of not less than thirty days. Service shall be supplied to the City and its inhabitants in accordance with Avista's rules and regulations and Tariffs currently or subsequently filed with and approved by the Commission.

### **3.2 Facility Location by Avista and Non-Interference**

Avista shall have the discretion to determine the placement of its Facilities as may be necessary to provide safe and reliable electric service, subject to the following non-interference requirements. All construction, installation, repair or relocation of Avista's Facilities performed by Avista in the Franchise Area will be done in such a manner as not to interfere with the existing con-

struction and maintenance of other utilities including drains, drainage ditches and structures, irrigation ditches and structures located therein, nor with the grading or improvement of the Franchise Area.

### **3.3 Facility Location Information**

Avista shall provide the City, upon the City's reasonable request, Facility location information in electronic or hard copy showing the location of its Facilities at specific locations within the Franchised Area, to the extent such information is reasonably available. Avista does not warrant the accuracy of any such Facility location information provided and, to the extent the location of Facilities are shown, such Facilities may be shown in their approximate location. With respect to any excavations within the Franchise Area undertaken by or on behalf of Avista or the City, nothing stated in this Franchise is intended (nor shall be construed) to relieve either party of their respective obligations arising under the State one-call law with respect to determining the location of existing underground utility facilities in the vicinity of such excavation, prior to commencing work.

### **3.4 Vegetation Management -- Trimming/Removal of Trees**

State law requires electric utilities to comply with the National Electric Safety Code, including the guidance in the Code for the trimming or removal of vegetation interfering or potentially interfering with energized power lines. The right of Avista to maintain its Facilities and appurtenances under this Franchise shall accordingly include the right, as exercised in Avista's professional discretion, to utilize an integrated vegetation management program to minimize the likelihood that vegetation encroaching (either above or below the ground) on Avista's facilities can lead to power outages and other threats to public safety and welfare. Avista or its agents may, without recourse or payment of compensation, inhibit the growth of, prune, or remove any trees and vegetation which overhangs or encroaches upon its Facilities and/or electric transmission and distribution corridors within the Franchise Area, whether such trees or vegetation originate within or outside of the Right-of-way. Nothing contained in this Section shall prevent Avista, when necessary from pruning or removing any trees which overhang the Franchise Area and may interfere with Avista's Facilities.

### **3.5 Right of Excavation**

For the purpose of implementing the privileges granted under this Franchise, and after any required notification is made to the City, Avista is authorized to make any necessary excavations in, under and across the streets, alleys, roads, rights of way and public grounds within the Franchise Area. Such excavation shall be carried out with reasonable dispatch and with as little interference with or inconvenience to the public as may be feasible. Avista shall remove all debris stemming from excavation and construction. The Right-of-way surface shall be restored by Avista to its original state of improvement after excavation, in accordance with applicable City and Avista specifications.

### **3.6 Emergency Work**

In the event of an emergency requiring immediate action by Avista to protect the public health and safety or for the protection of its Facilities, or the property of the City or other persons in the Franchise Area, Avista may immediately proceed with excavation or other Right-of-way work, with concurrent notice to the City to the extent possible.

## **SECTION 4.0 RESERVATION OF CITY'S RIGHTS AND POWERS**

### **4.1 Reservation of Right**

The City, in granting this Franchise, does not waive any rights which it may now have or may subsequently acquire with respect to road rights-of-way or other property of City under this Franchise, and this Franchise shall not be construed to deprive the City of any such powers, rights or privileges which it now has or may hereafter acquire to regulate the use of and to control the City's roads, rights of way and other public property covered by this Franchise. Nothing in the terms of this Franchise shall be construed or deemed to prevent the City from exercising at any time any power of eminent domain granted to it under the laws of this State.

### **4.2 Necessary Construction/Maintenance by City**

The construction, operation and maintenance of Avista's Facilities authorized by this Franchise shall not preclude the City, its agents or its contractors, from grading, excavating, or doing other necessary road work contiguous to Avista's Facilities; provided that Avista shall be given not less than ten (10) business days' notice of said work, except in events of emergency when there exists an unforeseen and substantial risk or threat to public health, safety, welfare, or waste of resources, in which case the City will make reasonable efforts to contact Avista prior to doing said work; and provided further that the City, its agents and contractors shall be liable for any damages, including any consequential damages to third parties, caused by said work to any Facilities belonging to Avista.

### **4.3 Expansion of Avista's Facilities.**

Facilities in the City's Franchise Area that are incidental to the Franchise Area, or that have been, or are at any future time acquired, newly constructed, leased, or utilized in any manner by Avista shall be subject to all provisions of this Franchise.

### **4.4 Change of Boundaries of the City**

Any subsequent additions or modifications of the boundaries of the City, whether by annexation, consolidation, or otherwise, shall be subject to the provisions of this Franchise as to all such areas. The City shall notify Avista of the scope of any change of boundaries when the change is approved and becomes effective or in accordance with applicable state laws, and shall affirm, authorize and ratify all prior installations authorized by permits or other action not previously covered by this Franchise.

#### **4.5 Removal of Abandoned Facilities**

During the Term of this Franchise, or upon a revocation or non-renewal of this Franchise, the City may direct Avista to remove designated abandoned Facilities from the Franchise Area at its own expense and as soon as practicable, but only where such abandoned Facilities constitute a demonstrated threat to public health and safety. Avista shall not be required to remove, or pay for the removal of facilities it has previously abandoned to another franchisee, or utility under a joint use agreement, or Person granted permission to access Avista's facilities.

#### **4.6 Vacation of Properties by City**

If, at any time, the City shall vacate any road, right of way or other public property which is subject to rights granted by this Franchise, such vacation shall be subject to the reservation of a perpetual easement to Avista for the purpose of constructing, reconstructing, operating, repairing, upgrading and maintaining Avista's Facilities on the affected property. The City shall, in its vacation procedure, reserve and grant said easement to Avista for Avista's Facilities and shall also expressly prohibit any use of the vacated properties which will interfere with Avista's full enjoyment and use of said easement.

#### **4.7 Pole Attachments by City**

City shall be permitted, upon reasonable notice to Avista to attach its traffic control, fire and police communications signal cables, and fiber-optic cables for the City's own use, to Avista's poles in the Franchise Area, provided that the City signs and meets all conditions of a Joint Use Master License Agreement ("Joint Use Agreement") with Avista. Per the Joint Use Agreement, Avista will not charge a pole rental fee for City's non-revenue producing pole attachments that are dedicated for the public's benefit. All pole attachments by the City are at the City's own risk and must be attached in strict accordance with standard safety practices, codes and Avista specifications.

If there is not sufficient space available on Avista's structures such structures may be changed, altered, or rearranged at the expense of the City so as to provide proper clearance and capacity for City facilities. Such City facilities shall be subject to removal or repositioning by Avista at the City's expense to the extent necessary for utility worker safety and the proper construction, maintenance, operation or repair of Avista's Facilities and appurtenances. City assumes all responsibility for the installation and maintenance of City's facilities installed on Avista's Facilities.

#### **4.8 Subdivision Plats**

Upon receipt of an application and prior to final City approval of any new subdivision, the City shall mail notification of such application and final approval to Grantee.

## **SECTION 5.0 RELOCATION OR CONVERSION OF AVISTA'S FACILITIES**

### **5.1 Relocation of Facilities Requested by City**

Upon request of the City, Avista shall, at its sole expense unless otherwise provided herein, relocate its Facilities as necessary within the Franchise Area or other City-owned property as specifically designated by the City for such purpose. For purposes of this provision, all reasonable efforts shall be made by the City, with input from Avista, to minimize the impacts of potential relocation. The City shall provide Avista reasonable notice of any intended or expected requirement or request to relocate Avista's Facilities. Said notice shall not be less than ninety (90) calendar days prior to any such relocation and, depending on the circumstances, may be greater than ninety (90) calendar days if necessary to allow Avista sufficient time for relocation. In cases of emergency, or where not otherwise reasonably foreseeable by the City, the notice requirements in this Section may be shortened by discussion and agreement between the Parties. The City shall use reasonable efforts to cause any such relocation to be consistent with any applicable long-term development plan(s) of the City. If, at any time, the City shall cause or require the alteration or the improvement of any road, right of way or other public property which is subject to rights granted by this Franchise within the Franchise Area, Avista shall, upon written notice from the City change the location or readjust the elevation of its system and other Facilities so that the same shall not interfere with such work and so that such equipment and Facilities shall conform to such new grades or routes as may be established.

In the event a relocation forces Avista off City's existing Public Right(s) of Way then the City shall accommodate such relocation by securing an acceptable, alternate location for utilities and removing any obstructions, including, without limitation, trees, vegetation, or other objects that may interfere with the installation, operation, repair, upgrade or maintenance of Avista's Facilities on the affected Property.

If the City requires the subsequent relocation of any of Avista's Facilities within three (3) years from the date of relocation of such Facilities or installation of new Facilities, regardless of the cause for either the initial or subsequent relocation, the City shall bear the entire cost of such subsequent relocation. Avista agrees to relocate all Facilities promptly within a reasonable time. Upon notice from the City, the parties agree to meet and determine a reasonable relocation time, which shall not exceed the time normally needed for construction projects of the nature of the City's relocation request unless otherwise mutually agreed.

Notwithstanding the above, Avista shall not be required to relocate facilities of other entities that were (i) granted access to Avista's Facilities through a Joint Use Agreement or (ii) abandoned to another franchisee. Such relocation of these types of facilities shall be in accordance with Section 5.2 below.

This Section shall not apply to Facilities in place pursuant to private easement held by Avista, regardless of whether such Facilities are also located within the Franchise Area. In the event the City requests relocation of Facilities that are in place pursuant to an existing easement, said

relocation shall be treated in the same manner as a relocation requested by third parties under Section 5.2, below, with the City bearing the expense of relocation.

## **5.2 Relocation of Facilities Requested by Third Parties**

City acknowledges that Avista is obligated to provide electric service and related line extension, relocation or conversion of Facilities for the benefit of its Customers and to require compensation for such services on a non-preferential basis in accordance with applicable Tariffs.

If Facilities are to be relocated at the request of or for the primary benefit of a third party, the City shall not require Avista to relocate its Facilities until such time as a suitable location can be found and the third party has entered into an agreement to reimburse Avista for its reasonable costs of relocation.

## **5.3 Availability of Other Funds**

In the event federal, state or other funds are available in whole or in part for utility relocating purposes, the City agrees to use reasonable efforts to apply for such funds, provided such funds do not interfere with the City's right to obtain the same or similar funds, or otherwise create any expense or detriment to the City. The City may recover all costs, including internal costs, associated with obtaining such funds.

## **5.4 Temporary Relocation of Facilities Requested by Third Parties**

At the request of any Person holding a valid permit or other written permission from the City, and upon reasonable advance notice and payment by the permit holder of Avista's expenses of such temporary change, Avista will temporarily raise, lower or remove its Facilities as necessary to accommodate a permittee of the City desiring to move over-sized structures or equipment along or across the Right-of-Way in the Franchise Area.

## **5.5 Conversion of Electric Distribution Facilities**

City, subject to applicable laws, rules, regulations and tariffs, may request that Avista convert from above ground to below ground wires, for the distribution of electricity underground after joint review with Avista and mutual agreement that such installation is feasible, practical and required for the public interest and safety. The incremental cost of such conversion of existing Facilities shall be borne and paid by the City or other party requesting the same, subject to law and such rules, regulations, and Tariffs of the Commission. It is expressly agreed by both Parties that this Section 5.5 does not apply to any conversion of transmission (69KV or above) infrastructure.

# **SECTION 6.0 INDEMNITY**

## **6.1 Indemnification of City**

Avista agrees to defend and indemnify the City, its appointed and elected officers and employees or agents, from any and all liabilities, claims, causes of action, losses, damages and ex-

penses, including costs and reasonable attorney's fees, that the City may sustain, incur, become liable for, or be required to pay, as a consequence of or arising from the negligent acts or omissions of Avista, its officers, employees or agents in connection with Avista's obligations under this Franchise; provided, however, that this indemnification provision shall not apply to the extent that said liabilities, claims, damages and losses were caused by or result from the negligence of the City, elected officers and employees or agents.

## **6.2 Indemnification of Avista**

To the extent permitted by law, City agrees to defend and indemnify Avista, its officers and employees, from any and all liabilities, claims, causes of action, losses, damages and expenses, including costs and reasonable attorney's fees, that Avista may sustain, incur, become liable for, or be required to pay, as a consequence of or arising from the negligent acts or omissions of the City, its appointed and elected officers and employees or agents in connection with City's obligations under this Franchise; provided, however, that this indemnification provision shall not apply to the extent that said liabilities, claims, damages, losses and so forth were caused by or result from the negligence of Avista, its employees or agents.

## **SECTION 7.0 FRANCHISE DISPUTE RESOLUTION**

### **7.1 Non-waiver**

Failure of a Party to declare any breach or default of this Franchise immediately upon the occurrence thereof, or delay in taking any action in connection therewith, shall not waive such breach or default, but the Party shall have the right to declare any such breach or default at any time. Failure of a Party to declare one breach or default does not act as a waiver of the Party's right to declare another breach or default. In addition, the pursuit of any right or remedy by the City shall not prevent the City from thereafter declaring a revocation and forfeiture for breach of the conditions of the Franchise.

### **7.2 Dispute Resolution by the Parties**

Disputes regarding the interpretation or execution of the terms of this Franchise that cannot be resolved by Department counterparts representing the Parties, shall be submitted to the City's Attorney and an attorney representing Avista for resolution. If a mutually satisfactory or timely resolution cannot then be reached by the above process, prior to resorting to a court of competent jurisdiction, the Parties shall submit the dispute to a non-binding alternate dispute resolution process agreed to by the Parties.

### **7.3 Right of Enforcement**

No provision of this Franchise shall be deemed to bar the right of the City or Avista to seek judicial relief from a violation of any provision of the Franchise to recover monetary damages for such violations by the other party or to seek enforcement of the other Party's obligations under this Franchise by means of specific performance, injunctive relief or any other remedy at law or

in equity pursuant to Section 7.4. Any litigation between the City and Avista arising under or regarding this Franchise shall occur, if in the state courts, in a court of competent jurisdiction, and if in the federal courts, in the United States District Court for the District of Idaho.

#### **7.4 Attorneys' Fees and Costs**

Each Party shall pay for its own attorneys' fees and costs incurred in any dispute resolution process or legal action arising out of the existence of this Franchise.

### **SECTION 8.0 GENERAL PROVISIONS**

#### **8.1 Maintenance of Capacity**

In consideration of the rights, privileges and powers herein granted to it, Avista, its successors and assigns, shall at all times keep and maintain a plant of sufficient size and capacity to supply the City of Coeur d'Alene and the inhabitants of the City of Coeur d'Alene, with such an amount of electricity as they may reasonably require, and shall, in the absence of accident or misfortune from some cause beyond its control, furnish a continuous twenty-four (24) hour service, and should the said plant or any part thereof become broken, injures or destroyed, the same shall be replaced as soon as it is reasonably practical.

#### **8.2 Franchise as Contract, No Third Party Beneficiaries**

This Franchise is a contract between the Parties and binds and benefits the Parties and their respective successors and assigns. This Franchise does not and is not intended to confer any rights or remedies upon any persons, entities or beneficiaries other than the Parties.

#### **8.3 Force Majeure**

In the event that Avista is delayed in or prevented from the performance of any of its obligations under the Franchise by circumstances beyond Avista's control (Force Majeure) including, without limitation, third party labor disputes, fire, explosion, flood, earthquake, power outage, acts of God, war or other hostilities and civil commotion, then Avista's performance shall be excused during the period of the Force majeure occurrence. Avista will use all commercially reasonable efforts to minimize the period of the disability due to the occurrence. Upon removal or termination of the occurrence Avista will promptly resume performance of the affected Franchise obligations in an orderly and expeditious manner.

#### **8.4 Prior Franchises Superseded**

As of the Effective Date this Franchise shall supersede all prior electric franchises for the Franchise Area previously granted to Avista or its predecessors by City, and shall affirm, authorize and ratify all prior installations authorized by permits or other action not previously covered by franchise. Termination of the prior Franchise shall not, however, relieve the Parties from any obligations which accrued under said Franchise prior to its termination, including but not limited to, any outstanding indemnity, reimbursement or administrative fee payment obligations.

## **8.5 Severability**

The Franchise is granted pursuant to the laws of the State of Idaho relating to the granting of such rights and privileges by City. If any article, section, sentence, clause, or phrase of this Franchise is for any reason held illegal, invalid, or unconstitutional, such invalidity shall not affect the validity of the Franchise or any of the remaining portions. The invalidity of any portion of this Franchise shall not abate, reduce, or otherwise affect any obligation required of Avista.

## **8.6 Changes or Amendments**

Changes or amendments to this Franchise shall not be effective until lawfully adopted by the City and agreed to by Avista.

## **8.7 Supremacy and Governing Law**

This Agreement shall be interpreted, construed and enforced in all respects in accordance with the laws of the State of Idaho. In the event of any conflict between this Franchise and any City ordinance, regulation or permit, the provisions of this Franchise shall control. In the event of a conflict between the provisions of this Franchise and Avista's applicable Tariff on file with the Commission, the Tariff shall control.

## **8.8 Headings**

The headings or titles in this Franchise are for the purpose of reference only and shall not in any way affect the interpretation or construction of this Franchise.

## **8.9 Acceptance of Franchise.**

Avista shall, within thirty (30) days after passage of this Ordinance, file with the City Clerk, its acceptance of the terms and conditions of this Franchise.

## **8.10 Abandonment or Suspension of Franchise Rights and Obligations**

Avista may at any time abandon the rights and authorities granted hereunder, provided that six (6) months' written notice of intention to abandon is given to City. In addition, pursuant to Section 8.6 and in the event a conflict exists between the terms of this Franchise and Avista's Tariff with the Commission that cannot be resolved, Avista may suspend or abandon the rights and obligations of this Franchise upon reasonable notice to the City.

## **8.11 Franchise Effective Date**

The Effective Date of this Franchise shall be \_\_\_\_\_, 20\_\_, after passage, approval and legal publication of this ordinance as provided by law, and provided that it has been duly accepted by Avista as specified above.

**City's Language Attesting to Approval and Passage of the Ordinance**

PASSED by the City Council on \_\_\_\_\_, 2016

ATTEST:

\_\_\_\_\_  
Renata McLeod, City Clerk, City of Coeur d'Alene

APPROVED by me on \_\_\_\_\_, 2016.

\_\_\_\_\_  
Steve Widmyer, Mayor, City of Coeur d'Alene

Date of Publication: \_\_\_\_\_, 2016

**Letter of Acceptance by Avista**

HONORABLE MAYOR AND CITY COUNCIL  
CITY OF COEUR D'ALENE, COUNTY OF KOOTENAI, IDAHO

**IN RE: City of Coeur d'Alene Ordinance No. \_\_\_\_\_**

**“Granting a Franchise to Avista Corporation for the Construction, Operation and Maintenance of Facilities For The Transmission, Control And Distribution Of Electricity Within The City.”**

Avista Corporation dba Avista Utilities, for itself, its successors and assigns, hereby accepts the terms and conditions of the Franchise Agreement contained in the subject Ordinance and files this written acceptance with the City of Coeur d'Alene. This acceptance is executed on \_\_\_\_\_, 20\_\_\_\_.

Avista Corporation dba Avista Utilities

By: \_\_\_\_\_  
Dennis Vermillion  
President, Avista Utilities

**Copy Received for the City of \_\_\_\_\_**

On: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
City Representative - Name

**Electric Franchise Ordinance Summary for Publication**

**NOTICE: CITY OF COEUR D'ALENE  
PROPOSED FRANCHISE ORDINANCE NO. \_\_\_\_\_ SUMMARY**

Ordinance No. \_\_\_\_\_ will grant Avista Corporation dba Avista Utilities a non-exclusive public utility franchise to locate, construct, install, own, maintain, repair, reconstruct, operate and use facilities within the City's public right of way [the Franchise Area] for the purposes of the transmission, control and distribution of electricity within the City for a term of 25 years. Avista agrees to meet accepted industry standards and conform with applicable federal and state laws, as well as the regulations of the appropriate state regulatory body with jurisdiction, in the conduct of its operations under the Franchise. The City reserves the right to make reasonable rules and regulations pertaining to the conduct of Avista's operations within the Franchise Area. Avista must not interfere with any existing facilities of other utilities. Avista is authorized to make necessary excavations within the Franchise Area; excavations must be carried out with reasonable dispatch, and the area restored, with as little interference to the public as may be reasonable. Avista must relocate its facilities in the franchise area at the City's request. Avista may operate a vegetation management program in connection with franchised activities. Provisions are made for informal dispute resolution.

(Final Reading of Ordinance \_\_\_\_\_ is anticipated to be held before the \_\_\_\_\_ City Council on \_\_\_\_\_, 20\_\_\_\_ at x:xx pm in the City Council Chambers).

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CITY OF COEUR D'ALENE, IDAHO  
ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE GRANTING AVISTA CORPORATION, d/b/a AVISTA UTILITIES, A WASHINGTON CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE NONEXCLUSIVE RIGHT, PRIVILEGE, AUTHORITY AND FRANCHISE TO LOCATE, CONSTRUCT, INSTALL, OWN, MAINTAIN, REPAIR, REPLACE, EXTEND, OPERATE AND USE FACILITIES IN, UPON, OVER, UNDER, ALONG, AND ACROSS THE FRANCHISE AREA FOR PURPOSES OF THE TRANSMISSION, DISTRIBUTION AND SALE OF GAS.**

Avista Corporation dba Avista Utilities ("Avista"), a Washington Corporation, which is authorized to do business within the state of Idaho, has filed with the City of Coeur d'Alene, State of Idaho (the "City") a written application for a renewal of its Franchise to locate, construct, operate, maintain and use such plants, works, underground pipelines, equipment and appurtenances over, under, along and across all of City's rights of way and public property in the City for the purposes of the transmission, distribution and sale of Gas; and the City has determined it is in the interest of persons and businesses in this jurisdiction to have access to Avista's services;

**THEREFORE, THE CITY OF COEUR D'ALENE DOES ORDAIN:**

**SECTION 1.0 DEFINITIONS**

For the purposes of this Franchise the following terms, phrases, words and their derivations shall have the meaning given in this Section. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Words not defined shall be given their common and ordinary meaning.

**Avista:** means Avista Corporation, dba Avista Utilities, a Washington corporation, and its respective successors and assigns, agents and contractors.

**City:** means the City of Coeur d'Alene, a municipal corporation of the State of Idaho, and its respective successors, assigns, agents and contractors.

**Commission:** means the Idaho Public Utilities Commission or such successor regulatory agency having jurisdiction over investor-owned public utilities in the State of Idaho.

**Days:** means business days.

**Effective Date:** means the date of legal publication of this Ordinance, upon which the rights, duties and obligations of this Franchise shall come into effect, and the date from which the time requirement for any notice, extension and/or renewal shall be measured.

**Facilities:** means, collectively, any and all gas transmission, and distribution systems and appurtenances owned by Avista, now and in the future in the Franchise Area, including but not limited to, Gas plants, Gas pipes, pipelines, mains, laterals, conduits, services, regulators, valves, meters, meter-reading devices, fences, vehicular protection devices, communication and control systems and other equipment, appliances, fixtures, attachments, appurtenances and other items necessary, convenient, or in any way appertaining to any and all of the foregoing for the purposes of transmission, distribution, storage and sale of Gas.

**Franchise:** means the grant by the City of rights, privileges and authority embodied in this Ordinance.

**Franchise Area:** means the surface and space above and below all public property and rights-of-way owned or held by the City, including, without limitation, rights-of-way for:

- public roads, streets, avenues, alleys, bridges, tunnels, City-owned easements, and highways that may hereafter be laid out, platted, dedicated, acquired or improved; and
- all City-owned utility easements dedicated for the placement and location of various utilities, provided such easements would permit Avista to fully exercise the rights granted under this Franchise within the area covered by the easement.

**Gas:** means natural, manufactured, renewable and/or mixed gases.

**Maintenance, maintaining, or maintain:** means, without limit, repairing, replacing, upgrading, examining, testing, inspecting, and removing Avista Facilities, vegetation management, digging and excavating, and restoration of affected Right-of-way surfaces.

**Parties:** means City and Avista collectively.

**Party:** means either City or Avista individually.

**Person:** means a business entity or natural person.

**Right-of-way:** means the surface of and the space along, above, and below any street, road, highway, freeway, bridge, tunnel, lane, sidewalk, alley, City-owned utility easement and/or right-of-way now or hereafter held or administered by the City.

**State:** means the State of Idaho.

**Tariff:** means the rate schedules, rules, and regulations relating to utility service, filed with and approved by the Commission in effect upon execution and throughout the term of this Franchise.

## **SECTION 2.0 GRANT OF FRANCHISE**

### **2.1 Grant**

City hereby grants to Avista the right, power, privilege and authority to enter upon all roads, rights-of-way, streets, alleys, highways, public places or structures, lying within the Franchise Area to locate, construct, operate and maintain its Facilities for the purpose of controlling, transmitting and distributing Gas, as may be necessary to provide Gas service.

### **2.2 Effective Date**

This Ordinance will be effective as of the date of approval, passage and publication as required by law.

### **2.3 Term**

The rights, privileges and Franchise granted to Avista will extend for a term of twenty-five (25) years from the Effective Date, and shall continue year-to-year thereafter, until it is otherwise renewed for another twenty-five (25) year term, or terminated by either Party, with not less than 180 days prior written notice to the other Party.

### **2.4 Non-Exclusive Franchise**

This Franchise is not an exclusive Franchise. This Franchise shall not prohibit the City from granting other franchises within the Franchise Area that do not interfere with Avista's rights under this Franchise. City may not, however, award a Gas Franchise to another party under more favorable or less onerous terms than those of this Franchise without this Franchise being amended to reflect such more favorable or less onerous terms.

### **2.5 Notice of City's Intent to Compete with Avista**

In consideration of Avista's undertaking pursuant to this Franchise, the City agrees that in the event the City intends to engage in the business of providing Gas service during the life of this Franchise or any extension of this Franchise, in competition with Avista, the City will provide Avista with six (6) months' notice of such action.

### **2.6 Assignment of Franchise**

Avista shall have the right to assign its rights, benefits and privileges under this Franchise. Any assignee shall, within thirty (30) days of the date of any assignment, file written notice of the assignment with the City together with its written acceptance of all terms and conditions of this Franchise. As permitted by federal and state law and Commission regulation, Avista shall have the right, without notice to or consent of the City, to mortgage or hypothecate its rights, benefits and privileges in and under this Franchise as security for indebtedness.

### **2.7 Franchise Taxes, Fees and Costs**

Avista shall pay all permitting, license fees, costs and/or utility privilege taxes which it might be required to pay in connection with the issuance, maintenance, existence, continuation, or use of

this Franchise, to the extent permitted by state law or City ordinance now in effect or enacted during the term of this Franchise. The City reserves the right to designate the time and manner of payment of such fees, costs or taxes owed by Avista in connection with this Franchise. To the extent that any Franchise fees, taxes or other costs are imposed on Avista, City shall impose equivalent charges, fees, taxes or costs upon any other franchisee in a comparable business or otherwise competing with Avista.

## **2.8 Franchise Fee**

As compensation for the Franchise granted by this ordinance, Avista shall pay to the City an amount equal to five percent (5%) of the annual gross revenue collected by Avista from its customers for natural gas consumed within the City in accordance with Chapter 3, Title 50, Idaho Code, to be paid quarterly. Gross revenue will be computed by deducting from the total natural gas billings of Avista the total net write-off of uncollectible accounts. If Grantee fails to pay the Franchise fee to the City within thirty (30) days of the end of each calendar quarter, Grantee shall pay a penalty in the amount of five percent (5%) of the amount due.

## **SECTION 3.0 AVISTA'S OPERATIONS AND MAINTENANCE**

### **3.1 Compliance with Laws, Regulations, Codes and Standards**

In carrying out any authorized activities under the privileges granted by this Franchise, Avista shall meet accepted industry standards and codes and shall comply with all applicable laws, regulations and ordinances of any governmental entity with jurisdiction over Avista's Facilities in the Franchise Area. This includes all applicable, laws, regulations and ordinances existing as of the Effective Date or may be subsequently enacted by any governmental entity with jurisdiction over Avista's operations within the Franchise Area. The City shall have the right to make and enforce reasonable rules and regulations pertaining to the conduct of Avista's operations within the Franchise Area. Prior to the adoption of any new rule, procedure or policy, Avista shall be provided a written draft document for comment with a response period of not less than thirty days. Service shall be supplied to the City and its inhabitants in accordance with Avista's rules and regulations and Tariffs currently or subsequently filed with and approved by the Commission.

### **3.2 Facility Location by Avista and Non-Interference**

Avista shall have the discretion to determine the placement of its Facilities as may be necessary to provide safe and reliable Gas service, subject to the following non-interference requirements. All construction, installation, repair or relocation of Avista's Facilities performed by Avista in the Franchise Area will be done in such a manner as not to interfere with the construction and maintenance of other utilities, drains, drainage and irrigation ditches and structures, and City-owned property within the Franchise Area.

### **3.3 Facility Location Information**

Avista shall provide the City, upon the City's reasonable request, Facility location information in electronic or hard copy showing the location of its Facilities at specific locations within the Franchised Area, to the extent such information is reasonably available. Avista does not warrant the accuracy of any such Facility location information provided and, to the extent the location of Facilities are shown, such Facilities may be shown in their approximate location. With respect to any excavations within the Franchise Area undertaken by or on behalf of Avista or the City, nothing stated in this Franchise is intended (nor shall be construed) to relieve either party of their respective obligations arising under the State one-call law with respect to determining the location of existing underground utility facilities in the vicinity of such excavations prior to commencing work.

### **3.4 Vegetation Management – Removal of Trees/Vegetation Encroachment**

The right of Avista to maintain its Facilities shall include the right, as exercised in Avista's professional discretion to minimize the likelihood that encroaching (either above or below the ground) vegetation can interfere with or limit access to Avista's Facilities, or pose a threat to public safety and welfare. Avista or its agents may, without recourse or payment of compensation, accordingly remove or limit the growth of vegetation which encroaches upon its Facilities and/or Gas transmission and distribution corridors within the Franchise Area.

### **3.5 Right of Excavation**

For the purpose of implementing the privileges granted under this Franchise, and after any required notification is made to the City, Avista is authorized to make any necessary excavations in, under and across the streets, alleys, roads, rights-of-way and public grounds within the Franchise Area. Such excavation shall be carried out with reasonable dispatch and with as little interference with or inconvenience to the public as may be feasible. Avista shall remove all debris stemming from excavation and construction. The Right-of-way surface shall be restored by Avista after excavation, in accordance with applicable City and Avista specifications.

### **3.6 Emergency Work**

In the event of an emergency requiring immediate action by Avista to protect the public health and safety or for the protection of its Facilities, or the property of the City or other persons in the Franchise Area, Avista may immediately proceed with excavation or other Right-of-way work, with concurrent notice to the City to the extent possible.

## **SECTION 4.0 RESERVATION OF CITY'S RIGHTS AND POWERS**

### **4.1 Reservation of Right**

The City, in granting this Franchise, does not waive any rights which it may not have or may subsequently acquire with respect to road rights-of-way or other property of City under this

Franchise, and this Franchise shall not be construed to deprive the City of any such powers, rights or privileges which it now has or may hereafter acquire to regulate the use of and to control the City's roads, rights-of-way and other public property covered by this Franchise. Nothing in the terms of this Franchise shall be construed or deemed to prevent the City from exercising at any time and any power of eminent domain granted to it under the laws of this State.

#### **4.2 Necessary Construction/Maintenance by City**

The construction, operation and maintenance of Avista's Facilities authorized by this Franchise shall not preclude the City, its agents or its contractors, from grading, excavating, or doing other necessary road work contiguous to Avista's Facilities; provided that Avista shall be given not less than ten (10) business days' notice of said work, except in events of emergency when there exists an unforeseen and substantial risk or threat to public health, safety, welfare, or waste of resources, in which case the City will make reasonable efforts to contact Avista prior to doing said work; and provided further that the City, its agents and contractors, shall be liable for any damages, including any consequential damages to third parties, caused by said work to any Facilities belonging to Avista.

#### **4.3 Expansion of Avista's Facilities**

Facilities in the City's Franchise Area that are incidental to the Franchise Area, or that have been, or are at any future time acquired, newly constructed, leased, or utilized in any manner by Avista shall be subject to all provisions of this Franchise.

#### **4.4 Change of Boundaries of the City**

Any subsequent additions or modifications of the boundaries of the City, whether by annexation, consolidation, or otherwise, shall be subject to the provisions of this Franchise as to all such areas. The City shall notify Avista of the scope of any change of boundaries when the change is approved and becomes effective or in accordance with applicable state laws, and shall affirm, authorize and ratify all prior installations authorized by permits or other action not previously covered by this Franchise.

#### **4.5 Removal of Abandoned Facilities**

During the Term of this Franchise, or upon a revocation or non-renewal of this Franchise, the City may direct Avista to remove designated abandoned Facilities from the Franchise Area at its own expense and as soon as practicable, but only where such abandoned Facilities constitute a demonstrated threat to public health and safety. Avista shall not be required to remove, or pay for the removal of facilities it has previously abandoned to another franchisee, or utility under a joint use agreement, or Person granted permission to access Avista's facilities.

#### **4.6 Vacation of Properties by City**

If, at any time, the City shall vacate any road, right-of-way or other public property which is subject to rights granted by this Franchise, such vacation shall be subject to the reservation of a

perpetual easement to Avista for the purpose of constructing, reconstructing, operating, repairing, upgrading and maintaining Avista's Facilities on the affected property. The City shall, in its vacation procedure, reserve and grant said easement to Avista for Avista's Facilities and shall also expressly prohibit any use of the vacated properties which will interfere with Avista's full enjoyment and use of said easement.

#### **4.7 Subdivision Plats**

Upon receipt of an application and prior to final City approval of any new subdivision, the City shall mail notification of such application and final approval to Grantee.

### **SECTION 5.0 RELOCATION OF AVISTA'S FACILITIES**

#### **5.1 Relocation of Facilities Requested by City**

Upon request of the City, Avista shall, at its sole expense unless otherwise provided herein, relocate its Facilities as necessary within the Franchise Area as specifically designated by the City for such purpose. For purposes of this provision, all reasonable efforts shall be made by the City, with input from Avista, to minimize the impacts of potential relocation. The City shall provide Avista reasonable notice of any intended or expected requirement or request to relocate Avista's Facilities. Said notice shall not be less than ninety (90) calendar days prior to any such relocation and, depending on the circumstances, may be greater than ninety (90) calendar days if necessary to allow Avista sufficient time to arrange for relocation. In cases of emergency, or where not otherwise reasonably foreseeable by the City, the notice requirements of this Section may be shortened by discussion and agreement between the Parties. The City shall use reasonable efforts to cause any such relocation to be consistent with any applicable long-term development plan(s) of the City.

In the event a relocation forces Avista off City's existing Public Right(s) of Way then the City shall accommodate such relocation by securing an acceptable, alternate location for utilities and removing any obstructions, including, without limitation, trees, vegetation or other objects that may interfere with the installation, operation, repair, upgrade or maintenance of Avista's Facilities on the affected Property.

If the City requires the subsequent relocation of any of Avista's Facilities within three (3) years from the date of relocation of such Facilities or installation of new Facilities, regardless of the cause for either the initial or subsequent relocation, the City shall bear the entire cost of such subsequent relocation.

Avista agrees to relocate all Facilities promptly within a reasonable time. Upon notice from the City, the parties agree to meet and determine a reasonable relocation time, which shall not exceed the time normally needed for construction projects of the nature of the City's relocation request unless otherwise mutually agreed.

Notwithstanding the above, Avista shall not be required to relocate facilities of other entities that were abandoned to another franchisee. Such relocation of these types of facilities shall be accordance with Section 5.2 below.

This Section shall not apply to Facilities in place pursuant to private easement held by Avista, regardless of whether such Facilities are also located within the Franchise Area. In the event the City requests relocation of Facilities that are in place pursuant to an existing easement, said relocation shall be treated in the same manner as a relocation requested by third parties under Section 5.2, below, with the City bearing the expense of relocation.

## **5.2 Relocation of Facilities Requested by Third Parties**

City acknowledges that Avista is obligated to provide gas service and related line extension or relocation of Facilities for the benefit of its customers and to require compensation for such services on a non-preferential basis in accordance with applicable Tariffs.

If Facilities are to be relocated at the request of or for the primary benefit of a third party, the City shall not require Avista to relocate its Facilities until such time as a suitable location can be found and the third party has entered into an agreement to reimburse Avista for its reasonable costs of relocation

## **5.3 Availability of Other Funds**

In the event federal, state or other funds are available in whole or in part for utility relocating purposes, the City agrees to use reasonable efforts to apply for such funds, provided such funds do not interfere with the City's right to obtain the same or similar funds, or otherwise create any expense or detriment to the City. The City may recover all costs, including internal costs, associated with obtaining such funds.

# **SECTION 6.0 INDEMNITY**

## **6.1 Indemnification of City**

Avista agrees to defend and indemnify the City, its appointed and elected officers and employees or agents, from any and all liabilities, claims, causes of action, losses, damages and expenses, including costs and reasonable attorney's fees, that the City may sustain, incur, become liable for, or be required to pay, as a consequence of or arising from the negligent acts or omissions of Avista, its officers, employees or agents in connection with Avista's obligations under this Franchise; provided, however, that this indemnification provision shall not apply to the extent that said liabilities, claims, damages and losses were caused by or result from the negligence of the City, elected officers and employees or agents.

## **6.2 Indemnification of Avista**

To the extent permitted by law, City agrees to defend and indemnify Avista, its officers and employees, from any and all liabilities, claims, causes of action, losses, damages and expenses,

including costs and reasonable attorney's fees, that Avista may sustain, incur, become liable for, or be required to pay, as a consequence of or arising from the negligent acts or omissions of the City, its appointed and elected officers and employees or agents in connection with City's obligations under this Franchise; provided, however, that this indemnification provision shall not apply to the extent that said liabilities, claims, damages, losses and so forth were caused by or result from the negligence of Avista, its employees or agents.

## **SECTION 7.0 FRANCHISE DISPUTE RESOLUTION**

### **7.1 Non-waiver**

Failure of a Party to declare any breach or default of this Franchise immediately upon the occurrence thereof, or delay in taking any action in connection therewith, shall not waive such breach or default, but the Party shall have the right to declare any such breach or default at any time. Failure of a Party to declare one breach or default does not act as a waiver of the Party's right to declare another breach or default. In addition, the pursuit of any right or remedy by the City shall not prevent the City from thereafter declaring a revocation and forfeiture for breach of the conditions of the Franchise.

### **7.2 Dispute Resolution by the Parties**

Disputes regarding the interpretation or execution of the terms of this Franchise that cannot be resolved by department counterparts representing the Parties, shall be submitted to the City's Attorney and an attorney representing Avista for resolution. If a mutually satisfactory or timely resolution cannot then be reached by the above process, prior to resorting to a court of competent jurisdiction, the Parties shall submit the dispute to a non-binding alternate dispute resolution process agreed to by the Parties.

### **7.3 Right of Enforcement**

No provision of this Franchise shall be deemed to bar the right of the City or Avista to seek judicial relief from a violation of any provision of the Franchise to recover monetary damages for such violations by the other party or to seek enforcement of the other Party's obligations under this Franchise by means of specific performance, injunctive relief or any other remedy at law or in equity pursuant to Section 7.4. Any litigation between the City and Avista arising under or regarding this Franchise shall occur, if in the state courts, in a court of competent jurisdiction, and if in the federal courts, in the United States District Court for the District of Idaho.

### **7.4 Attorneys' Fees and Costs**

Each Party shall pay for its own attorneys' fees and costs incurred in any dispute resolution process or legal action arising out of the existence of this Franchise.

## **SECTION 8.0 GENERAL PROVISIONS**

### **8.1 Franchise as Contract, No Third Party Beneficiaries**

This Franchise is a contract between the Parties and binds and benefits the Parties and their respective successors and assigns. This Franchise does not and is not intended to confer any rights or remedies upon any persons, entities or beneficiaries other than the Parties.

### **8.2 Force Majeure**

In the event that Avista is delayed in or prevented from the performance of any of its obligations under the Franchise by circumstances beyond Avista's control (Force Majeure) including, without limitation, third party labor disputes, fire, explosion, flood, earthquake, power outage, acts of God, war or other hostilities and civil commotion, then Avista's performance shall be excused during the period of the Force Majeure occurrence. Avista will use all commercially reasonable efforts to minimize the period of the disability due to the occurrence. Upon removal or termination of the occurrence Avista will promptly resume performance of the affected Franchise obligations in an orderly and expeditious manner.

### **8.3. Prior Franchises Superseded**

As of the Effective Date this Franchise shall supersede all prior gas franchises for the Franchise Area previously granted to Avista or its predecessors by City, and shall affirm, authorize and ratify all prior installations authorized by permits or other action not previously covered by franchise. Termination of the prior Franchise shall not, however, relieve the Parties from any obligations which accrued under said Franchise prior to its termination, including but not limited to, any outstanding indemnity, reimbursement or administrative fee payment obligations.

### **8.4 Severability**

The Franchise is granted pursuant to the laws of the State of Idaho relating to the granting of such rights and privileges by City. If any article, section, sentence, clause, or phrase of this Franchise is for any reason held illegal, invalid, or unconstitutional, such invalidity shall not affect the validity of the Franchise or any of the remaining portions. The invalidity of any portion of this Franchise shall not abate, reduce, or otherwise affect any obligation required of Avista.

### **8.5 Changes or Amendments**

Changes or amendments to this Franchise shall not be effective until lawfully adopted by the City and agreed to by Avista.

### **8.6 Supremacy and Governing Law**

This Agreement shall be interpreted, construed and enforced in all respects in accordance with the laws of the State of Idaho. In the event of any conflict between this Franchise and any City ordinance, regulation or permit, the provisions of this Franchise shall control. In the event of a conflict between the provisions of this Franchise and Avista's applicable Tariff on file with the Commission, the Tariff shall control.

## **8.7 Headings**

The headings or titles in this Franchise are for the purpose of reference only and shall not in any way affect the interpretation or construction of this Franchise.

## **8.8 Acceptance of Franchise.**

Avista shall, within thirty (30) days after passage of this Ordinance, file with the City Clerk, its acceptance of the terms and conditions of this Franchise.

## **8.9 Abandonment or Suspension of Franchise Rights and Obligations**

Avista may at any time abandon the rights and authorities granted hereunder, provided that six (6) months' written notice of intention to abandon is given to City. In addition, pursuant to Section 8.6 and in the event a conflict exists between the terms of this Franchise and Avista's Tariff with the Commission that cannot be resolved, Avista may suspend or abandon the rights and obligations of this Franchise upon reasonable notice to the City.

## **8.10 Franchise Effective Date**

The Effective Date of this Franchise shall be \_\_\_\_\_, 20\_\_\_\_, after passage, approval and legal publication of this ordinance as provided by law, and provided that it has been duly accepted by Avista as specified above.

**City's Language Attesting to Approval and Passage of the Ordinance**

PASSED by the City Council on \_\_\_\_\_, 2016

ATTEST:

\_\_\_\_\_  
Renata McLeod, City Clerk, City of Coeur d'Alene

APPROVED by me on \_\_\_\_\_, 2016.

\_\_\_\_\_  
Steve Widmyer, Mayor, City of Coeur d'Alene

Date of Publication: \_\_\_\_\_, 2016

**Letter of Acceptance by Avista**

HONORABLE MAYOR AND CITY COUNCIL  
CITY OF COEUR D'ALENE, COUNTY OF KOOTENAI, IDAHO

**IN RE: City of Coeur d'Alene, Ordinance No. \_\_\_\_\_**

**“Granting a Franchise to Avista Corporation for the Construction, Operation and Maintenance of Natural Gas Facilities Within the City.”**

Avista Corporation dba Avista Utilities, for itself, its successors and assigns, hereby accepts the terms and conditions of the Franchise Agreement contained in the subject Ordinance and files this written acceptance with the City of Coeur d'Alene. This acceptance is executed on \_\_\_\_\_, 20\_\_\_\_.

Avista Corporation dba Avista Utilities

By: \_\_\_\_\_  
Dennis Vermillion  
President, Avista Utilities

**Copy Received for the City of Coeur d'Alene**

On: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
City Representative - Name

**Gas Franchise Ordinance Summary for Publication**

**NOTICE: CITY OF COEUR D'ALENE  
PROPOSED FRANCHISE ORDINANCE NO. \_\_\_\_\_ SUMMARY**

Ordinance No. \_\_\_\_\_ will grant Avista Corporation dba Avista Utilities a non-exclusive public utility franchise to locate, construct, install, own, maintain, repair, reconstruct, operate and use facilities within the City's public right of way [the Franchise Area] for the purposes of the transmission, control and distribution of natural gas within the City for a term of 25 years. Avista agrees to meet accepted industry standards and conform with applicable federal and state laws, as well as the regulations of the appropriate state regulatory body with jurisdiction, in the conduct of its operations under the Franchise. The City reserves the right to make reasonable rules and regulations pertaining to the conduct of Avista's operations within the Franchise Area. Avista must not interfere with any existing facilities of other utilities. Avista is authorized to make necessary excavations within the Franchise Area; excavations must be carried out with reasonable dispatch, and the area restored, with as little interference to the public as may be reasonable. Avista must relocate its facilities in the franchise area at the City's request. Avista may remedy encroachment of vegetation in connection with franchised activities. Provisions are made for informal dispute resolution.

(Final Reading of Ordinance \_\_\_\_\_ is anticipated to be held before the Coeur d'Alene City Council on \_\_\_\_\_, 20\_\_ at \_\_\_\_\_ [am / pm] in the City Council Chambers).

**PUBLIC WORKS COMMITTEE  
STAFF REPORT**

**DATE:** November 21, 2016  
**FROM:** Terry Pickel, Water Superintendent  
**SUBJECT:** Award of Bid for Linden Well Pump Rehabilitation Project

=====

**DECISION POINT:** Staff requests that Council authorize bid award and a contract to Specialty Pump Service as sole bidder for rehabilitation of the pump at the Linden Well.

**HISTORY:** The Linden well was drilled in 1966 to a depth of 270 feet by Holman Drilling Inc. with a tested production capacity of nearly 3100 gpm. The production well is 20" in diameter and cased or screened to the bottom. Screens were installed from 216 feet to 261 feet for water production producing a specific capacity of approximately 70 gallons per foot. The well was put into production the following year and has consistently produced a rate of approximately 2500 gpm. The Linden well was planned for rehab in 2015 however it was delayed a year due to an unanticipated vibration problem with the 4<sup>th</sup> St. Well requiring immediate attention.

**FINANCIAL ANALYSIS:** The Water Department has budgeted \$80,000 through the operations and maintenance budget and no additional engineering services are required for this project. The sole base bid received is for the amount of \$52,254.00 from Specialty Pump Services. Options were included in the bid packet for potential replacement of the pump columns, stainless steel shafts, brass spider bearings and the 350 Hp electric motor in the event undue wear is detected. Exercising all options would bring the total bid to \$88,908.00, approximately 10% over budget. While staff anticipates there may be a need to replace at least some of the pump column based on previous history, it is not anticipated to have to replace everything. Therefore, staff is proposing approval for the base bid of \$52,254.00 plus the desired replacement of the 350 Hp motor for the sum of \$67,672.00 and a contract not to exceed the budget amount of \$80,000.00 should additional replacements be required.

**PERFORMANCE ANALYSIS:** Staff proposes to have the pump assembly removed, cleaned and inspected, replace the pump bowls and any necessary parts. Options were included in the bid should any of the assembly components exhibit undue wear. An option was also included for replacement of the existing 350 Hp electric motor with a new premium efficiency motor. The stainless steel shafts shall be inspected and straightened as necessary to ensure factory tolerances. Once removal is approved to begin, staff anticipates that the project should be complete within 120 business days barring any unanticipated problems such as damaged or defective equipment or materials. Staff will check with Avista to see if any potential rebates are available for the motor upgrade.

**REQUESTED ACTION:** Staff requests that the Council approve award of the bid for the Linden Well Pump Rehabilitation Project to Specialty Pump Service, Inc. as the sole successful bidder for the sum of \$67,672.00 and a contract not to exceed the budget amount of \$80,000.00.

## BID GUARANTY BOND

KNOW ALL PERSONS BY THESE PRESENTS:

THAT Specialty Pump Service Inc, hereinafter called the Principal, and Travelers Casualty & Surety Company of America, hereinafter called the Surety, are jointly and severally held and firmly bound unto the City of Coeur d'Alene, hereinafter called the Obligee, each in the penal sum of five (5%) percent of the total amount of the bid of the principal for the work, this penal sum not to exceed 5% of Bid Amount dollars (\$ 5% of Bid Amount ) of lawful money of the United States for the payment whereof unto the Obligee, the principal and Surety jointly and severally bind themselves forever firmly by these presents.

WHEREAS, the Principal is herewith submitting its offer for the fulfillment of Obligee's contract for the City of Coeur d'Alene Linden Well Pump Rehab project.

NOW, THEREFORE, the condition of this obligation is such that if the Principal is awarded the contract, and if the Principal, within the time specified in the bid documents for such contract, enters into, executes, and delivers to the Obligee an agreement in the form provided herein complete with evidences of insurance, and if the Principal within the time specified in the bid gives to the Obligee the performance and payment bonds on the form provided herein, then this obligation shall be void; otherwise, the Principal and Surety will pay unto the Obligee (1) the full penal sum thereof to be applied against the expenses of preparation and printing of the plans and specifications, estimates of costs and publication of notice.

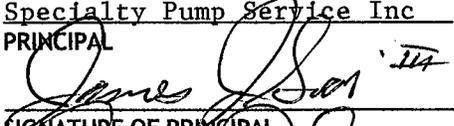
AND IT IS HEREBY DECLARED AND AGREED that the Surety shall be liable under this obligation as Principal, and that nothing of any kind or nature whatsoever shall operate as a discharge or a release of liability of the Surety other than payment of its obligations hereunder.

IT IS HEREBY FURTHER DECLARED AND AGREED that this obligation shall be binding upon and inure to the benefit of the Principal, the Surety, and the Obligee and their respective heirs, executors, administrators, successors and assigns.

SIGNED AND SEALED this 8th day of November, 2016.

\_\_\_\_\_  
(SEAL)

Specialty Pump Service Inc  
PRINCIPAL

  
SIGNATURE OF PRINCIPAL

\_\_\_\_\_  
TITLE OF SIGNATORY

\_\_\_\_\_  
(SEAL)

Travelers Casualty & Surety Company of America  
SURETY

  
SIGNATURE FOR SURETY

Shellie Duncan, Attorney-in-Fact  
TITLE OF SIGNATORY



POWER OF ATTORNEY

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company

Attorney-In Fact No. 230416

Certificate No. 006954410

KNOW ALL MEN BY THESE PRESENTS: That Farmington Casualty Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company are corporations duly organized under the laws of the State of Connecticut, that Fidelity and Guaranty Insurance Company is a corporation duly organized under the laws of the State of Iowa, and that Fidelity and Guaranty Insurance Underwriters, Inc., is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint

Stacy Breithaupt, Derek Collett, Zac Wheat, Pat McNamara, and Shellie Duncan

of the City of Spokane, State of Washington, their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 25th day of August, 2016.

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company



State of Connecticut
City of Hartford ss.

By: [Signature]
Robert L. Raney, Senior Vice President

On this the 25th day of August, 2016, before me personally appeared Robert L. Raney, who acknowledged himself to be the Senior Vice President of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal.
My Commission expires the 30th day of June, 2021.



[Signature]
Marie C. Tetreault, Notary Public

**BID PROPOSAL**  
**LINDEN WELL PUMP REHABILITATION**  
**for**

**City of Coeur d'Alene Water Department**

From: Specialty Pump Services Inc.

To: The Honorable Mayor and Council

Date: Nov. 14<sup>th</sup> 2016

Location: City Hall, 710 Mullan Avenue, Coeur d'Alene, Idaho 83814

1. The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with the OWNER in the form included in the Bid Documents to perform the WORK as specified or indicated in said Bid Documents.

2. Bidder accepts all of the terms and conditions of the Bid Documents, including without limitation those in the Notice of Advertisement for Bids and Instructions to Bidders, dealing with the disposition of the Bid Security.

3. This Bid will remain open for the period stated in the Notice of Advertisement for Bids unless otherwise required by law. Bidder will enter into an Agreement within the time and in the manner required in the Notice of Advertisement for Bids and the Instructions to Bidders.

4. Bidder has examined copies of all the Bid Documents including addenda (if any, receipt of all of which is hereby acknowledged).

5. Bidder is familiar with the nature and extent of the Bid Documents, locality, the legal requirements (federal, state and local laws, ordinances, rules, and regulations), and the conditions affecting cost, and progress and has made such independent investigations, as Bidder deems necessary.

6. This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; Bidder has not solicited or induced any person, firm or corporation to refrain from bidding; and Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over OWNER.

To all the foregoing, and including all Bid Schedule(s) and information required of Bidder contained in this Bid Proposal said Bidder further agrees to complete the WORK required under the Bid Documents, and to accept in full payment therefore the Bid Price based on the Total Bid Price(s) named in the afore-mentioned Bidding Schedule(s).

The party by whom this proposal is submitted and by whom the contract will be entered into in case the award is made to him:

Bidder (state whether business is a Corporation, a partnership, or an Individual)

Specialty Pump Services Inc.

Bidder's Address:

4712 S Thor  
Spokane, WA. 99223

State of Incorporation:

Washington State.

Bidder's Phone Number: 509-534-3382

Corporate Address:

Bidder's Fax Number: 509-443-1761

4712 S Thor  
Spokane, WA. 99223

Dated: 11/14/2016

Signature:

James J. Succi III

(SEAL)

Name of Authorizing Official:

James J. Succi III

Title: President

Attested By:

Derek Succi

Title: foreman

### BASE BID SCHEDULE

PAY ITEM NO.	ITEM DESCRIPTION	EST QNT	UNIT	UNIT PRICE	TOTAL PRICE
BASE BID - WATER DEPT. LINDEN WELL PUMP REHABILITATION					
1.	REMOVE / INSTALL MOTOR, PUMP & EQUIPMENT	1	LS	17950.00	\$17,950.00
2.	REMOVAL, CLEANING, INSPECTION AND INSTALLATION OF 22 SECTIONS OF 12" COLUMN PIPES.	22	LS	2475.00	\$2475.00
3.	REMOVAL, CLEANING, INSPECTION AND POSSIBLE STRAIGHTENING OF 10' x 1 15/16" AISI 416 STAINLESS STEEL SHAFT AND COUPLINGS	20	EA	1450.00	\$1450.00
4.	REMOVAL, CLEANING, INSPECTION AND POSSIBLE STRAIGHTENING OF 5' x 1 15/16" AISI 416 STAINLESS STEEL SHAFT AND COUPLINGS	2	EA	225.00	\$225.00
5.	REMOVAL, CLEANING AND INSPECTION OF SPIDERS AND INSTALLATION OF NEW BUSHINGS.	21	EA	1450.00	\$1450.00
6.	REMOVAL AND REPLACEMENT PUMP BOWL ASSEMBLY CAPABLE OF MINIMUM OF 2500 GPM AT 360' TDH	1	EA	12804.00	\$12,804.00
7.	REPLACEMENT OF EXISTING HEAD SHAFT WITH 5' X 1 15/16 AISI 416 STAINLESS STEEL SHAFT	1		1675.00	\$1675.00
8.	INSPECTION AND REPLACEMENT OF BEARINGS FOR 350 HP GE MOTOR	1	LS	8800.00	\$8800.00
9.	VIDEO INSPECTION OF WELL CASING(S) AND WELL SCREEN(S) FOR STRUCTURAL INTEGRITY USING COLOR CAPABLE VIDEO EQUIPMENT.	1	LS	1500.00	\$1500.00

10.	REPLACEMENT OF 200' of 1" PVC TRANSDUCER TUBING	1	LS	875.00	\$875.00
11.	CHLORINATE WELL, PUMP EQUIPMENT AND LINES, AND PUMP TO WASTE. CITY TO ACQUIRE BAC-T SAMPLE	1	LS	1800.00	\$1800.00
12.	START UP SERVICES TO INCLUDE FINAL CONNECTIONS, TESTING AND DOCUMENTATION	1	LS	1250.00	\$1250.00

**TOTAL BASE BID** Fifty Two Thousand Two Hundred Fifty Four &  $\frac{00}{100}$  Dollars (\$52,254.00)  
(use words)

**ALTERNATIVE BID SCHEDULE #1**

A.1	REPLACEMENT OF 350Hp PREMIUM EFFICIENCY MOTOR IN LIEU OF #8	1	LS	24218.00	\$24,218.00
A.2	REPLACEMENT OF 20 - 10' COLUMN PIPES AND 2 - 5' COLUMN PIPES IN LIEU OF #2	22	EA	9292.00	\$9292.00
A.3	REPLACEMENT OF 20 - 10' X 1 15/16" AISI 416 STAINLESS STEEL PUMP SHAFT AND COUPLINGS AND 2 - 5' X 1 15/16" AISI 416 STAINLESS STEEL SHAFT IN LIEU OF #3	22	EA	10,972.00	\$10,972.00
A.4	REPLACEMENT OF SPIDER BEARINGS WITH RUBBER INSERTS SUITABLE FOR 1 15/16" AISI 416 STAINLESS STEEL SHAFTS IN LIEU OF #5	21	EA	6572.00	\$6572.00

**TOTAL OPTIONAL BID** Eighty Eight Thousand Nine Hundred Eight &  $\frac{00}{100}$  Dollars (\$88,908.00)  
(use words)





**AFFIDAVIT OF QUALIFICATIONS**

The Bidder is required to fill out this form completely and submit it with the Bid Proposal. Use additional sheets if necessary.

STATE OF Washington )  
COUNTY OF Spokane ) ss.

COMES NOW, James J Soccia Specialty Pump Service, being duly sworn, states as follows:

**FINANCIAL**

1. Have you ever failed to complete a contract on account of insufficient resources?  
NO

If yes, please explain:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Will any portion of the work be financed by a financial institution or other entity?  
NO If so, by whom? NO

What amount will be financed? NO

3. Have you ever been denied a bond for a construction project? NO

If yes, please explain:

\_\_\_\_\_

4. Have you made arrangements with a surety company authorized to do business in Idaho to provide the required bonds? yes

If yes, with what company?

Wheat & Associates. - Travelers

Do you understand that your bond must be approved by the City Attorney?

yes.

**EXPERIENCE**

1. List below the last four (4) public contracts for commercial buildings over \$100,000 you have performed. Please include the agency, a contact person, and a phone number. Indicate your latest project.

If you have not worked for a public agency in the area, list the last four (4) projects you have had.

DESCRIPTION OF PROJECT	AGENCY	CONTACT PERSON	TELEPHONE #
<u>4<sup>th</sup> St Well Rehab</u>	city of CDA.	Terry Pickel	208-769-2211
<u>Kinney Well Rehab.</u>	Liberty Lake water & Sewer	Mike West	509-768-4413
<u>Well 142 Rehab.</u>	city of Cheney	Dan	509-981-3358
<u>Landings Well</u>	City of CDA.	Terry Pickel	208-769-2211

2. List the name and qualifications of the project superintendent you propose to use on this project.

Name:

Jim Socci

How long with company?

16 1/2

How long as superintendent?

16 1/2

Previous employer:

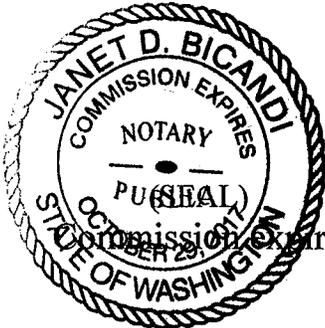
Dickerson Pump & Irr.

How long with previous employer?

13 years.

James J. Davis  
SIGNATURE OF OFFICER

SUBSCRIBED AND SWORN to before me this 9 day of November, 2016.



Janet D. Bicandi  
Notary Public for Idaho Washington  
Residing at Spokane

Commission expires 10-29-17

**NON-COLLUSION AFFIDAVIT**

(THIS FORM TO BE EXECUTED BY EACH BIDDER AND SUBMITTED WITH BID)

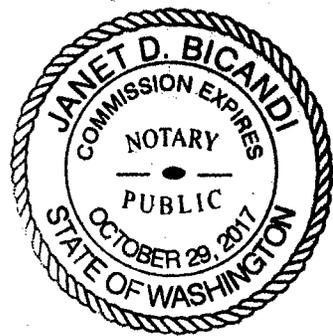
State of Washington )  
County of Spokane ) ss.

James J. Soccia, being first duly sworn, deposes and says that he/she is President  
(sole owner, a partner, president, secretary, etc.)

of Specialty Pump Services Inc.,  
the party making the foregoing bid, that such Bid is not made in the interest of or on behalf of any undisclosed person, partnership, company association, organization, or corporation; that such Bid is genuine and not collusive or sham; that said Bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, nor that anyone shall refrain from bidding; that said Bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of said Bidder or of any other bidder, nor to fix any overhead, profit, or cost advantage against the public body awarding the contract or anyone interested in the proposed contract; that all statements contained in such Bid are true; and, further, that said Bidder has not, directly or indirectly, submitted its bid price or any breakdown thereof, nor the contents thereof, nor divulged information or data relative thereto, nor paid and will not pay any fee in connection therewith to any corporation, partnership, company, association, organization, bid depository, nor to any member or agent thereof, nor to any other individual except to such person or persons as have a partnership or other financial interest with said bidder in his/her general business.

Signed: James J. Soccia  
Title: President

Subscribed and sworn to before me this 9 day of November, 2016.



[Signature]  
Notary Public in and for the State  
of Washington  
Residing at: Spokane  
My Commission expires: 10-29-17