

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.

JANUARY 3, 2017

A. CALL TO ORDER/ROLL CALL

B. INVOCATION: Pastor Jim Williams, Emmanuel Baptist Church

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. PRESENTATION: Road Scholar Awards

Presented by: Laila Kral, Deputy Administrator LHTAC

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

1. Approval of Council Minutes for the December 20, 2016 Council Meetings.
2. Approval of Bills as Submitted.
3. Setting of General Services and Public Works Committees meetings for January 9, 2017 at 12:00 noon and 4:00 p.m. respectively.
4. Setting of a Public Hearing for January 17, 2017 for fee changes to the Administration Department, Finance Department, Municipal Services Department, Parks and Recreation Department, Planning Department, and Water Utility Department.

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**

I. OTHER BUSINESS:

1. **Resolution No. 16-067-** An Addition to Classification and Compensation Plan to include the position of Police Information Systems and Technology Analyst Coordinator and to place it at a pay grade 15.

Staff Report by Melissa Tosi, Human Resource Director

2. **Resolution No. 16-068-** Amendment No. 1 to Agreement with HDR Engineering for the AWTF Tertiary Treatment Phase 2 project.

Staff Report by Jim Remitz, Capital Program Manager

J. PUBLIC HEARINGS:

1. (Quasi-Judicial) ZC-3-16 - Appeal of the Planning Commission's decision to deny the Zone Change request from R-12 to Neighborhood Commercial. Appellant: Brenny Ross on behalf of Arvid Lundin.

Staff Report: Tami Stroud, Planner

2. Franchise Agreements with Avista Corporation for Electrical and Natural Gas
 - a. **Council Bill No. 16-1025** – Electric Franchise Agreement with Avista Corporation.
 - b. **Council Bill No. 16-1026** – Natural Gas Franchise Agreement with Avista Corporation.

Staff Report by Michael Gridley, City Attorney

K. ADJOURNMENT:

This meeting is aired live on CDA TV Cable Channel 19



Coeur d'Alene

CITY COUNCIL MEETING

January 3, 2017

MEMBERS OF THE CITY COUNCIL:

Steve Widmyer, Mayor

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

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

December 20, 2016

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 December 20, 2016 at 6:00 p.m., there being present upon roll call the following members:

Steve Widmyer, Mayor

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

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

INVOCATION: Pastor Paul Van Noy with Candlelight Church provided the invocation.

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

AMENDMENT TO AGENDA: MOTION: Motion by McEvers, seconded by Evans to amend the agenda to remove the acceptance of Maintenance/Warranty Agreement and security for Garden Grove from **Resolution No. 16-065**, as staff was unaware of outstanding items that need to be completed before improvements can be accepted. **Motion Carried.**

PRESENTATION: SELTICE WAY PROJECT UPDATE: Deputy City Administrator Sam Taylor noted that the City has already received \$3.5 Million in funding from the urban renewal agency (ignite), and with Council approval tonight, staff will ask for the rest of the funding at tomorrow's Ignite meeting. One of the goals of the project has been to work with the adjacent property owners for funding; however, the challenge has been that there are no active projects. He noted that the project partners include ignite CDA, Post Falls Highway District, Hayden Area Regional Sewer Board and the City of Coeur d'Alene. Additionally, they have hosted approximately 14 different public interaction opportunities for this project. Matt Gillis, Sr. Project Manager with Welch-Comer, reviewed the scope of work and presented the bike lane, shared path, and roundabout drawings. He reviewed the roundabout concept for Grand Mill Boulevard and noted that he met with a Washington Department of Transportation expert in two lane roundabouts. He was able to observe how traffic and pedestrians move through the system, and that confirmed the proposed design for this project is on the right track. Mr. Gillis noted that several trees would need to be removed to allow for the footprint of the road and paths. He reviewed the project budget, including the cost drivers and constraints. Mr. Gillis requested the Council inform the project team how much public access is desired during the construction as it

has a direct effect on cost and timing of the project. He clarified that the current cost estimate is \$4,560,000, which will require additional funding. Staff and the project engineer recommend requesting the remaining funding from ignite. The project schedule includes a bid phase in February/March 2017 with construction in the spring.

DISCUSSION: Mayor Widmyer asked if the final number includes a contingency. Mr. Gillis confirmed that it includes a 10% contingency. Councilmember Edinger requested clarification regarding the location of the trees to be removed. Mr. Gillis noted that tree removal would be throughout the project area, not limited to one location. Councilmember English asked what difference to the timeline it makes between full public access and very restricted access. Mr. Gillis noted that every contractor is different but he would estimate that it could be a 2-3 month difference in project timing between the options. Councilmember Gookin stated that he likes the landscape option and future conduits for irrigation. Councilmember Gookin expressed concern that the City will have a lot of projects this coming year and that shutting down this road would likely not be an option.

MOTION: Motion by McEvers, seconded by Edinger to direct staff to seek the remaining funding needed for the Seltice Way Revitalization Project from ignite, CDA. **Motion Carried.**

CONSENT CALENDAR: **Motion** by Evans, second by McEvers to approve the consent calendar.

1. Approval of Council Minutes for the December 1, 2016 Council Meeting.
2. Approval of Bills as Submitted.
3. Approval of Minutes for the General Services Committee Meeting held December 12, 2016.
4. Setting of General Services and Public Works Committees meetings for December 27, 2016 at 12:00 noon and 4:00 p.m. respectively.
5. Setting of a Public Hearings for January 17, 2017:
 - a. (Legislative) A-6-16 - A proposed 7.46 acre annexation from County LI to City C-17 Applicant: Iron Legacy, LLC Location: W. side of Atlas Rd. S. of Hanley Avenue
 - b. (Legislative) A-7-16 - A proposed 1.51 ac. annexation from County AS to City R-3 Applicant: Lake City Engineering Location: Northern end of Victorian Drive
6. Approval of a Beer and Wine License transfer from Shoot the Moon, LLC (Chili's Grill) to Paradigm Restaurant, LLC., David A. Harper and Stephan L. Ralston; 482 W. Sunset Avenue.
7. Approval of Annual Road and Street Finance Report for year ending September 30, 2016
8. Declare the Sole Source Procurement of Project Equipment for the AWTF Tertiary Treatment Phase 2 Improvements
9. **Resolution No. 16-065** - A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AUTHORIZING THE BELOW MENTIONED CONTRACTS AND OTHER ACTIONS OF THE CITY OF COEUR D'ALENE, INCLUDING ACCEPTANCE OF GRANT DEEDS FOR RIGHT-OF-WAY PURPOSES AND APPROVAL OF TEMPORARY CONSTRUCTION EASEMENT AGREEMENTS WITH KOOTENAI HEALTH, COEUR D'ALENE EYE CLINIC, GLACIER 521, AND A

PERMANENT AND TEMPORARY CONSTRUCTION EASEMENT AGREEMENT
WITH GLACIER 700 FOR THE US 95, IRONWOOD/EMMA AVENUE
RECONSTRUCTION PROJECT; AND APPROVAL OF A FABRICATION AND
INSTALLATION SERVICES AGREEMENT WITH KEN SPIERING FOR
RIVERSTONE PUBLIC ART PROJECT “UNDERCURRENT.”

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

PUBLIC COMMENTS: City Attorney Mike Gridley clarified that the agenda item regarding the appeal of a Design Review Commission item is a quasi-judicial process. As such, he noted that it is inappropriate for any additional information or evidence presented, that was not already presented and part of the record. This means no additional public testimony/comments can be accepted regarding this item.

Dennis Hinrichsen, Coeur d’Alene, explained that a neighbor’s two Pitbull dogs attacked his companion dog this evening and feels community policing is non-existent. He said that the Police Department has not held a neighborhood watch meeting in over a year. He feels that this incident will not be resolved and that the City needs to enforce codes and regulations that are on the books. He would like to file a tort claim against the City at this time.

COUNCIL ANNOUNCEMENTS:

Councilmember Evans gave kudos to the Parks Department for creating cross-country ski trails in McEuen Park.

Councilmember English explained that his wild Christmas-themed shirt is a result of the City of Post Falls City Council’s challenge to other cities to wear decorative Christmas attire.

Councilmember Gookin expressed thanks to the Street Department for the excellent plowing of the snow. He noted that there was an increase in the budget this year for animal control services.

Councilmember Miller noted that she had a block watch meeting in August for her neighborhood and it was well attended.

Councilmember Edinger thanked the person who anonymously gave him a bouquet of flowers this evening.

Mayor Widmyer requested confirmation of the appointment of Chris Pfeiffer to the CDATV Committee.

MOTION: Motion by McEvers seconded by Miller to approve the Appointment of Chris Pfeiffer to the CDATV Committee. **Motion Carried.**

ORDINANCE NO. 3553
COUNCIL BILL NO. 16-1027

AN ORDINANCE AMENDING PROVISIONS OF CHAPTERS 2.94 AND 5.68 OF THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AS FOLLOWS; AMENDING SECTION 2.94.020 REGARDING MEMBERSHIP OF THE CHILDCARE COMMISSION; AMENDING SECTION 2.94.060 REGARDING THE DUTIES OF THE CHILDCARE COMMISSION; AMENDING SECTION 5.68.100 REGARDING APPEALS; AMENDING 5.68.140 REGARDING THE EFFECT OF VIOLATIONS; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE PUBLICATION OF A SUMMARY; AND PROVIDING FOR AN EFFECTIVE DATE.

STAFF REPORT: Deputy City Clerk Kathy Lewis explained that the Childcare Commission has requested several housekeeping amendments including a change in membership, clarification of duties to include hearing of appeals and appeals process. They are also requesting to lessen the drug charge offense to clarification that historical use of marijuana, if not a conviction within five years, will be exempt from denial of licensure. Additionally, they are requesting an amendment to make the City's revocation restrictions to be the same as the state of Idaho's code.

DISCUSSION: Councilmember Gookin asked for clarification as to why the Commission is separating out marijuana charges. Ms. Lewis clarified that the current code does not have any leeway for past convictions of drugs or drug paraphernalia, as it makes a person ineligible for licensure even if the charge was 30 years ago. This amendment would loosen that restriction to clarify that the conviction for marijuana use would no longer be an exclusion if it were older than five years. Councilmember English noted that these are changes recommended by the Childcare Commission and confirmed by Police Chief White. Councilmember Gookin stated he would vote against this as a marijuana protest as he feels it is no different from alcohol use.

MOTION: Motion by Miller, seconded by Evans, to pass the first reading of **Council Bill No. 16-1027**.

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

MOTION: Motion by Edinger, seconded by McEvers, to suspend the rules and to adopt **Council Bill 16-1027** by its having had one reading by title only.

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

ORDINANCE 3554
COUNCIL BILL NO. 16-1028

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, ADDING A NEW CHAPTER, CHAPTER 10.30, ENTITLED "SCOFFLAW VEHICLES," TO THE MUNICIPAL CODE, WHICH PROVIDES DEFINITIONS, ESTABLISHES A SCOFFLAW LIST, PROVIDES FOR NOTICE AND AN APPEAL, AND PROVIDES THE AUTHORITY TO IMMOBILIZE SCOFFLAW VEHICLES; PROVIDING REPEAL OF CONFLICTING ORDINANCES; PROVIDING SEVERABILITY; PROVIDING THE PUBLICATION OF A SUMMARY AND PROVIDING AN EFFECTIVE DATE.

STAFF REPORT: Deputy City Administrator Sam Taylor explained that after a year of review and discussion the Parking Commission is requesting a scofflaw code be adopted. When the City has a parking system in which many motorists do not follow the rules, it affects those law-abiding citizens who are following the rules and may end up missing parking opportunities. Parking is a finite resource within the City, particularly downtown. Abusers of the parking system inhibit residents and visitors from being able to take advantage of downtown amenities. The intent is to post the scofflaw list to the web and update it weekly, letters would also be sent directly to the registered vehicle owner, which would supply due process. The Diamond parking Contract would be amended to include the installing of the boot and a new fee schedule would come back to the City Council under a public hearing. Other ideas for enforcement could be a window sticker, rather than a boot, but he is not sure if that would be effective.

DISCUSSION: Mayor Widmyer asked when the tally of four or more tickets would start. Mr. Taylor stated that tickets that are sent to collection would qualify to be placed on the scofflaw list. Once the boot is installed on a vehicle, they will need to pay all outstanding tickets. The Mayor suggested that the letters be sent certified, return receipt so there is proof of receipt that they received the letter. Councilmember McEvers asked how citizens would be able to pay if they do not realize they have been booted at 11:00 p.m. Mr. Taylor explained that the towing company would take payment and unboot the car, with a hope to be able to respond within 20 minutes to an hour. Councilmember Gookin felt that the City should utilize collection enforcement for a period of time to see if compliance goes up before implementing the boot. Councilmember Evans asked approximately how many people would be on the scofflaw list beginning next week. Mr. Taylor approximated 2,000 to 3,000 would be on the list as of today. Mayor Widmyer noted that compliance is currently at 25%, the rest will go to collection, and this issue has been in discussion for at least 4-5 years and needs some teeth. He would be in favor of starting January 1 forward for accumulation of tickets, and then implement the boot. Councilmember English currently serves as the council liaison to the Parking Commission, and questioned how they plan to deal with outstanding boat tickets. Mr. Taylor explained that the registered owner's vehicle used to tow the boat would be able to receive a boot. Councilmember English explained that he personally does not like the idea of a boot but he acknowledges that the Parking Commission has been working on it for years and since they made the recommendation, he would accept it as written. Councilmember Miller expressed concern about the tight period of payment required from notification, as a 10-day window could be tight if someone is on vacation. Mr. Taylor explained that they would receive a letter for the scofflaw, as well as letters

for each ticket owed after thirty-days, so there will be multiple notifications. Councilmember Edinger says that parking has come up regularly over the years and feels that the City should do something and see what happens. Councilmember English would be more comfortable with a 20-30 day notification requirement prior to receiving the boot. Councilmember Gookin said that he would oppose this as he feels the boot is too excessive.

MOTION: Motion by Miller, seconded by English, to pass the first reading of **Council Bill No. 16-1028**, with the amendment to provide 30 days response time after notifications.

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

MOTION: Motion by McEvers, seconded by Evans, to suspend the rules and to adopt **Council Bill 16-1028** by its having had one reading by title only.

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

DECLARE THE SOLE SOURCE PROCUREMENT OF VIDEO CAMERA, AV SYSTEM FROM WESTERN SYSTEMS OF SPOKANE

STAFF REPORT: Engineering Project Assistant Kim Harrington explained that the video camera equipment is essential to storm water management as it allows for identification of debris in the storm line, illegal connections, and breaks in the line from other lines. The current video system was purchased in 2004 and is no longer functioning. Additionally, the camera technology is obsolete. Staff is requesting a sole source purchase to keep in line with the Wastewater Department's existing system. A benefit of using the same system that the Wastewater Department has is that they have specialty accessories that would be extremely valuable during special projects, and they are currently owned by the city. Examples of these items would be oversized/specialty tires and different tractors that elevate the level of the camera several feet. She noted that the purchase of this equipment was not included in budget. The funds required will be made available by utilizing Drainage Utility funds.

DISCUSSION: Councilmember McEvers explained that the Public Works Committee received this presentation and he felt it would be good for the public and the rest of the Council to see what interiors of the pipes look like and see the examples of what can go wrong. He was concerned that it was not a budgeted item, but believes this is critical to the system. Councilmember Gookin asked for clarification as to why it was not included in the budget. Ms. Harrington explained that the camera system was working at the time of budget creation, but it is no longer working.

MOTION: Motion by McEvers, seconded by Gookin to declare the Sole Source Procurement of Video Camera, AV System from Western Systems of Spokane. **Motion carried.**

RESOLUTION NO. 16-066

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AUTHORIZING AN AGREEMENT FOR FINANCING OF IMPROVEMENTS FOR THE FOUR CORNERS - MEMORIAL PARK IMPROVEMENT PROJECT WITH THE COEUR D'ALENE URBAN RENEWAL AGENCY d/b/a IGNITE CDA.

STAFF REPORT: Parks and Recreation Director Bill Greenwood noted that on October 4, 2016 Council gave staff direction to seek funding for the “companion project” to the City/County shared parking. On November 16, 2016, City of Coeur d Alene staff made a presentation to the ignite Board requesting funding on this project that was approved contingent on approval from City Council accepting \$1,019,000 to build these elements within the Memorial Park companion project area. As they discussed the companion projects, they reviewed the opportunity for land exchanges that enabled the development of a future courtyard. He will be bringing back information on the land exchange at a future meeting. He reviewed the funding options and costs included in the companion projects. Cost savings will include staff installation of some equipment. Mr. Greenwood explained that there is an area near the skate park that could be used for a pump track (which is used for bikes without use of pedals); this area will be plumbed for future irrigation. ignite will fund 62% of the project costs with the remaining costs covered by Land and Water Conservation funds and conversion funds from the tennis courts. He noted that ignite had some interest in the grandstands and they would like to seek an engineering analysis to confirm the condition of the grand stands.

DISCUSSION: Councilmember Gookin believes this project is coming together nicely and noted that a large part of the bathroom cost are fees charged by the City for wastewater and water. Councilmember Edinger noted that the Grandstand is a landmark and that there would be protests if anyone tried to tear it down. Councilmember Miller noted that this amount is for the base bid amount and does not include all the items. Discussion ensued regarding cost of brick and mortar bathroom facilities and city fees. Mayor Widmyer noted that the picnic shelter is a add alternative and the existing ones are very popular, so it will be important to prioritize it as funding allows. Mr. Greenwood mentioned that there are options off the shelf without having to have an architect design it, which could be a cost savings.

MOTION: Motion by Gookin, seconded by Evans to approve **Resolution No. 16-066**, approving an Agreement for Financing with ignite CDA for the Memorial Park companion projects.

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

RECESS: Mayor Widmyer called for a 7-minute recess at 7:46 p.m. The meeting resumed at 7:52 p.m.

(Legislative Hearing) A-5-16 - A PROPOSED 2.78 AC. ANNEXATION FROM MICHAEL KOBOLD WITH ZONING FROM COUNTY AGRICULTURAL TO CITY R-3 (RESIDENTIAL AT 3 UNITS/ACRE); LOCATED AT 1820 W. PRAIRIE

STAFF REPORT: Planner Tami Stroud noted that the applicant, Lake City Engineering, Inc. has requested the annexation of approximately 2.78 acres of land located on the south side of Prairie Avenue and west of Ramsey Road with the requested zoning of R-3 (Residential at 3 unites/acre). She reviewed the property history, location, area zoning, and area land uses. She noted that the Findings required for the annexation include the following: that this proposal is or is not in conformance with the Comprehensive Plan policies; that the public facilities and utilities are or are not available and adequate for the proposed use; that the physical characteristics of the site make or do not make it suitable for the request at this time; and that the proposal would or would not adversely affect the surrounding neighborhood with regard to traffic, neighborhood character, and/or existing land uses. Ms. Stroud noted several applicable Comprehensive Plan policies and characteristics of the site. She reviewed the allowable uses within an R-3 zone and noted that there are two items that should be included in the Annexation Agreement regarding Wastewater Sewer Master Plan deviations and Parks and Recreation multi-use pathway requirements.

APPLICANT: The Clerk swore in the applicant. Drew Dittman, Coeur d'Alene, spoke on behalf of the owner, Lake City Engineering. The property is located at Prairie and Ramsey Road. He felt that it was a bit premature to discuss project specifics. There have been conversations regarding the trail and they understand the requirement. Discussions with wastewater staff have provided a couple options for sewer connectivity and they will determine the best option at the time of development.

MOTION: Motion by McEvers, seconded by Gookin to approve the A-5-16 - A proposed 2.78 ac. annexation from Michael Kobold with zoning from County Agricultural to City R-3 (Residential at 3 units/acre); located at 1820 W. Prairie.

DISCUSSION: Councilmember Gookin asked for clarification regarding zoning prior to annexation. Ms. Stroud noted that the Planning Commission is recommending this zone with annexation.

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

(Quasi-Judicial Hearing) DR-4-16 "THE LAKE APARTMENTS" - APPEAL OF THE DESIGN REVIEW COMMISSION'S DECISION TO APPROVE THE DESIGN FOR A PROPOSED 43-UNIT APARTMENT BUILDING IN THE INFILL OVERLAY-EAST DISTRICT (DO-E). APPELLANT: RITA SIMS-SNYDER ON BEHALF OF THE EAST MULLAN HISTORIC NEIGHBORHOOD ASSOCIATION.

Mayor Widmyer read the rules of the hearing and asked if there were any conflicts of interest. Councilmember Miller noted that she was contacted by a resident, who she directed to the City

Legal and Planning Departments. Mayor Widmyer noted that he rents an office space to the developer and legal counsel has stated that it does not qualify as a conflict of interest.

STAFF REPORT: Community Planning Director Hilary Anderson reminded the Council that the only information to be considered in the decision this evening is related to the “Building Bulk and Spacing” design guideline and if the Design Review Commission (DRC) made an error in approving the design of the project and granting a design departure to allow connectors between the buildings. Ms. Anderson explained that Rita Snyder has appealed the DRC decision to approve the design for a proposed 52-unit apartment building (later reduced to 43-units), located at 821 E. Mullan Avenue located within the infill zone. The appeal specifically relates to the building bulk and spacing standards in the downtown overlay- eastside guidelines. She reviewed the history of the original request and noted that three public meetings were held as required, June 23, 2016, July 28, 2016, and September 22, 2016. Ms. Anderson noted that the developer and/or representatives provided the required information and that the code does allow for flexibility in the guidelines to meet the basic intent of the code. In response to the feedback from the DRC and comments made by the public during the three required meetings, the applicant modified the proposed connectors to be more in line with the guidance provided by the DRC, and meet the intent of the “Building Bulk and Spacing” guideline. The Applicant has stated the three buildings meet the 100’ length guideline for “Bulk and Spacing,” and still provide building separation by 29.5’ at the west wing and 42.5’ at the east wing. Based upon the feedback from the DRC, the Developer reduced the depth and height of the connectors by 4’, and added a sloped roof with a 4:12 pitch. The connectors will include the mechanical equipment and will be screened from public view. They have also increased the amount of glazing (i.e., windows) on the connectors. The connectors have been set back from the street and are placed at the rear side of the structure near the parking lot. The intent is to break up the building bulk and mass. The public will be able to see under and over the connectors and they are designed primarily with glass, to also allow sight through the connectors. The DRC approved the project with the modified design at the third meeting on September 22, 2016. She reiterated that the Council is being asked to determine if the DRC made an error or incorrectly applied the code.

DISCUSSION: Councilmember Gookin asked for clarification regarding the setbacks and frontages. Ms. Anderson explained that there is no requirement for spacing setbacks. Councilmember Edinger asked if there was consideration from the input provided from the neighborhood several years ago. Ms. Anderson explained the neighborhood association helped draft the design guidelines for this district. Councilmember McEvers asked if there was a local example of this kind of development. Ms. Anderson explained that the Ice Plant development at 11th Street was developed before the guidelines were approved, and there is no other example.

APPELLANT TESTIMONY: The Clerk swore in the appellant. Rita Snyder, Coeur d’Alene, provided pictures of the area demonstrating low scale historic homes. She indicated that the trees will all come out and demonstrated the bulk of the project in comparison to abutting single-family dwellings. She explained that although the breaks are wider than 15 feet, they are covered with a 16 foot covered walkway. She noted that their garages would sit along the alleyway, with no greenspace separation. The neighborhood association is committed to preserving older homes, and noted that this area is no longer the transition area it was when the design guidelines were created. She noted that the homeowners association was created in 2008.

The Homeowner's Association did work with the City to create the infill guidelines. She believes that the process has changed in the DRC and the public is limited to 3 minutes of public comments. Ms. Snyder believes that the intent of design review code is to encourage townhouses, cottages, and courtyard development with height limits that are compatible with the neighborhood and provide underground parking. Building breaks are important to maintain openness and not create a big wall of development. DRC guidelines are intended to protect property rights and values, and she believes this project does the opposite and feels their concerns were not addressed. There will be site conditions that will need to be addressed; however, parking, etc. could not be addressed during the DRC meetings. During the three meetings citizens spoke out that it did not fit. She believes that bulk and space were not given enough importance. She believes this is a massive building as it continues and wraps both ends of the blocks and will block light and views. Ms. Snyder believes an error was made when approved without the building breaks, and language is there to protect the neighborhood that was not enforced. The decision tonight will set the precedent for future development and she believes it is not right for this location and does not fit.

APPLICANT TESTIMONY: The Clerk swore in the applicant. Jeremy Voeller, Coeur d'Alene, thanked city staff, the DRC, and the neighborhood for working with them over the past 8 months. He felt that they did seek a lot of input on the project over that period. He explained that the standards establish that no more than 100 feet can be facing the street and that there should be a 15-foot separation between buildings. The design guidelines note this should give guidance but is not required. The proposed buildings that face the street include connectors that are set 30 feet from the street. Space between buildings is 42' and 29' that exceed the 15' minimum. The intent through the standards is to create open space between the buildings and provide light and openness between the buildings. Additionally they have a 35' building height maximum. They are required to have 525 square feet of open space between buildings; however, they are providing 840 square feet and 580 square feet, which exceed the suggestions. They are providing glazing consisting of glass that can be seen through and provide light to go through the connectors. The connectors came forward as an amenity to the building residents. The connectors will create community within the building and accessibility and mobility access to the west side of the building and protection from weather and will provided safe access. It additionally provides screening for the roof top mechanical units and provides covered parking spaces. Mr. Voeller noted that they did meet with the homeowners association twice outside of the DRC meetings. They did minimize the connectors as much as they could while still screening the mechanical units. They did minimize the east end of the building from three stories to two stories. Total allowed building square footage is 71,292 square feet and they are only developing 45,482 square feet, which is approximately 60% of what they could build.

DISCUSSION CONTINUED WITH THE APPELLANT: Councilmember Gookin asked Ms. Snyder if the bulk and scale met the 100 feet and 15 feet separation guidance, what they should look like. Ms. Snyder explained that there should be a clear separation between buildings. The break is important to allow light and view through the development. Councilmember Evans noted that within the July 28, 2016 DRC Meeting Minutes Ms. Snyder noted that she was hoping to see a project similar to the Ice Plant; however, that project does not have the building breaks. Ms. Snyder said she meant the all over bulk; in that they are only two stories and the same height as some of the larger homes rather than towering over the homes.

Councilmember Gookin asked Ms. Snyder what she would consider allowable items to be placed between the spaces between buildings. Ms. Snyder said that she believes from ground level to sky should be clear space as the intent of the breaks was to provide a visual break like a town home. Councilmember English noted that the developer is providing more open space than required. Ms. Snyder felt that after the three DRC meetings, their voice was not heard, and the only criteria they can bring forward on appeal are bulk and spacing. Her hope is that this is denied so it can be worked on more to work on other issues that are not allowed to be appealed. Councilmember Edinger asked if the homeowners association held a vote on this item. Ms. Snyder said that they mostly emailed back and forth and had a consensus, but not a large group meeting.

DISCUSSION CONTINUED WITH THE APPLICANT: Councilmember Gookin noted that the connectors are located within the recommended 15' separation and wondered how close to the street Mr. Voeller thinks should be allowable. Mr. Voeller explained that in order to maintain a break on the street side, over half the distance of set back from the front plane of the development. He believes the intent is to create a feeling of open space. He noted that the connectors provide pedestrian traffic flow between the buildings and allow people to avoid external travel in inclement weather. Additionally, based on feedback from the neighborhood they minimized the connectors to level two, rather than on both the third and second floors. Councilmember McEvers asked how they justify the scale of the development not being the same as the neighborhood. Mr. Voeller explained that they are on the west side of the downtown core to the residential to the east, and integrated a transition to the residential zone. He noted that there is a three level project near the Ice Plant and that the Ice Plant contains a continuous wall with no breaks. Councilmember Miller noted that the only design departure is the connectors and the interpretation is that the infill overlay is being complied with and in some cases the developer is proposing less than what is allowed. Mr. Voeller explained that there was a suggestion of external public space so they added the courtyard space, and began discussions regarding a public use easement.

DISCUSSION CONTINUED: Councilmember Evans asked for a review of the maps demonstrating the downtown core and the Infill Overlay East Districts. Ms. Anderson explained that multi-family is permitted outright in the zoning code so the development is not exceeding those allowable requirements. Councilmember Gookin felt the Council should consider maximum horizontal dimension of no more than 100 feet and the minimum 15 foot separation between buildings. He believes that the 100 feet measurement should include the connectors as they are part of the building because they contain mechanical systems and will be heated, etc., which would not meet the standards. Councilmember McEvers noted that the developer is only developing 60% of what they could and this design looks less obtrusive into the neighborhood. Discussion ensued regarding the buildings versus connectors. Councilmember Miller felt that the developer has presented their design to DRC and it is not for her to redesign the project, that the Council's decision is whether the DRC has made a mistake or error. She believes the developer has made a lot of concessions to fit within the neighborhood including the connectors set back, making it physically appealing, and providing a lowered tier footprint meets the criteria. Councilmember Evans agreed with Councilmember Miller, reviewed the Findings from DRC, and does not believe there is an error and the developer made many concessions.

MOTION: Motion by McEvers, seconded by English to deny the Appeal of DR-4-16 “THE LAKE APARTMENTS” - Appeal of the Design Review Commission’s decision to approve the design for a proposed 43-unit apartment building in the Infill Overlay-East District (DO-E).

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

MOTION: Motion by Gookin, seconded by Edinger to direct staff to review the Infill Overlay-East District’s 15’ separation requirement and present Council with alternatives to the 15’ separation standard.

DISCUSSION: Councilmember Evans noted that she would like neighborhood to be included in those discussion.

Motion carried.

ADJOURNMENT: **Motion** by McEvers, seconded by Gookin that there being no other business this meeting be adjourned. **Motion carried.**

The meeting recessed at 9:16 p.m.

ATTEST:

Steve Widmyer, Mayor

Renata McLeod, CMC, City Clerk

MEMORANDUM

DATE: DECEMBER 28, 2016

TO: MAYOR WIDMYER AND THE CITY COUNCIL

FROM: RENATA MCLEOD, CITY CLERK/MUNICIPAL SERVICES
DIRECTOR

RE: SETTING OF PUBLIC HEARING DATE: JANUARY 17, 2017

Several city fees are being requested to be amended including fee increases within the Administration Department, Finance Department, Municipal Services Department, Parks and Recreation Department, Planning Department, and Water Utility Department. Idaho Code requires a public hearing be held if increases are proposed for more than 5%. Fees proposed are located on the city website at <http://cdaid.org/publichearing>.

I respectfully request a hearing be scheduled for January 17, 2017.

ANNOUNCEMENTS

OTHER BUSINESS



Date: January 3, 2017

From: Melissa Tosi; Human Resources Director

Re: Personnel Rule Amendment

DECISION POINT

The City Council is being asked to authorize the following addition to the City’s current Classification and Compensation Plan.

| Current Title | Proposed Title | Current Pay Grade | Proposed Pay Grade |
|---|---|-------------------|--------------------|
| Information Systems and Technology (IT) Analyst | Information Systems and Technology (IT) Analyst Coordinator | 14 | 15 |

HISTORY

This position was reviewed and leveled by BDPA in 2013 and at that time the position was placed under Municipal Services. This fiscal year, the position was approved in the current budget and placed under the police department and the duties were updated to reflect current needs and additional responsibility.

The additional responsibilities increase the accountability of the job as assigned to the Police Department (although coordination with Municipal Services/IT is still imperative). Also, an increase in the scope of responsibility and diversity of duties is related to supervisory duties as well as additional police specific equipment such as mobile data equipment and surveillance systems.

The proposed Personnel Rule amendment was posted a minimum of ten (10) consecutive days before this City Council meeting. The amendments have been discussed with the Police Department and reviewed by BDPA. Additionally, BDPA recommends the position be placed at a pay grade 15 and will be again re-evaluated with all of our classifications through the current classification and compensation study that will be completed in 2017.

FINANCIAL ANALYSIS

The reclassification of the position (9% increase from a pay grade 14 to a pay grade 15) will not increase wage expenses for the Police Department for fiscal year 2016-2017, due to already incurred wage savings since the position has been vacant since October 1, 2016.

PERFORMANCE ANALYSIS

Authorizing this amendment will provide an updated job description and leveling for the duties and responsibilities needed for this position in the Police Department.

RECOMMENDATION

To authorize Resolution No. 16-067, approving the above noted addition to the City’s Classification and Compensation Plan.

RESOLUTION NO. 16-067

A RESOLUTION OF THE CITY OF COEUR D’ALENE, KOOTENAI COUNTY, IDAHO, AMENDING THE CLASSIFICATION AND COMPENSATION PLAN TO PROVIDE A TITLE CHANGE FOR THE POSITION “INFORMATION SYSTEMS AND TECHNOLOGY ANALYST (POLICE DEPARTMENT)” TO “INFORMATION SYSTEMS AND TECHNOLOGY (IT) ANALYST COORDINATOR (POLICE DEPARTMENT)”, AND A CLASSIFICATION CHANGE FOR SAID POSITION FROM PAY GRADE 14 TO PAY GRADE 15.

WHEREAS, the following Classification and Compensation Plan changes have been proposed by staff:

| Current Title | Proposed Title | Title Change, New Classification or Classification Change | Current Pay Grade | Proposed Pay Grade |
|--|---|--|--------------------------|---------------------------|
| Information Systems and Technology Analyst <i>(Police Department)</i> | Information Systems and Technology (IT) Analyst Coordinator <i>(Police Department)</i> | Title Change & Classification Change | 14 | 15 |

And

WHEREAS, said Classification and Compensation Plan amendments have been properly posted a minimum of ten (10) days prior to this Council Meeting; and

WHEREAS, it is deemed to be in the best interests of the City of Coeur d’Alene and the citizens thereof that such Classification and Compensation Plan amendments as noted above be adopted;

NOW, THEREFORE,

BE IT RESOLVED by the Mayor and City Council of the City of Coeur d’Alene that the Classification and Compensation Plan changes as noted above be, and are, hereby adopted.

DATED this 3rd day of January, 2017.

Steve Widmyer, Mayor

ATTEST:

Renata McLeod, City Clerk

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

ROLL CALL:

COUNCIL MEMBER EDINGER Voted _____

COUNCIL MEMBER ENGLISH Voted _____

COUNCIL MEMBER EVANS Voted _____

COUNCIL MEMBER GOOKIN Voted _____

COUNCIL MEMBER MCEVERS Voted _____

COUNCIL MEMBER MILLER Voted _____

_____ was absent. Motion _____.

COEUR D'ALENE CITY COUNCIL

STAFF REPORT

DATE: January 3, 2017

FROM: James Remitz, Wastewater Department Capital Program Manager

SUBJECT: **Coeur d'Alene AWTF Tertiary Treatment Phase 2 Project Amendment No.1 to Agreement with HDR Engineering for Construction Phase Services**

DECISION POINT: The City Council may desire to approve the proposed Amendment No.1 to the Agreement for Professional Services between City of Coeur d'Alene and HDR Engineering, Inc. for Tertiary Treatment Phase 2 Improvements dated September 15, 2015 (Resolution No. 15-048) and authorize the Mayor to execute this amendment.

Amendment No.1 will provide construction administration services during the construction of the Tertiary Treatment Phase 2 Improvements. A copy of the proposed amendment with Exhibit A, Scope of Services and Exhibit B, Compensation Schedule are included for your review.

HISTORY: Tertiary Treatment Phase 2 is the second phase of improvements that will construct tertiary treatment facilities and provide capacity for plant flows up to 5 million gallons per day (MGD). The project will 'dovetail' with the previously constructed improvements in Phase 1 that were completed in January 2015 and will provide treated wastewater effluent of a quality to meet the final discharge limits of the December 2014 National Pollutant Discharge Elimination System (NPDES) permit issued by the U.S. Environmental Protection Agency.

FINANCIAL ANALYSIS:

| | |
|--|---------------------|
| Planning and Design Engineering Services (Per September 15, 2015 Agreement) | \$ 1,710,810 |
| Amendment No. 1 Construction Phase Services | <u>\$ 2,113,441</u> |
| Total | \$ 3,824,251 |

Funding for Amendment No. 1 is budgeted in the current FY 2016/2017 Financial Plan in the Wastewater Operating Fund.

PERFORMANCE ANALYSIS: HDR Engineering, Inc. successfully completed the planning and design phases of this project and is therefore uniquely qualified to perform the construction administration services required for a project of this

size and complexity. HDR Engineering was selected for performing these construction phase services in accordance with Idaho Statute § 67-2320 (4) that allows for the City to negotiate an extended professional services contract for an associated or phased project.

RECOMMENDATION: Wastewater staff recommends approval of Amendment No. 1 to the September 15, 2015 Professional Services Agreement between the City of Coeur d'Alene and HDR Engineering, Inc., for the construction phase professional services for Tertiary Treatment Phase 2 not to exceed the amount of \$ 2,113,441, and authorize the Mayor to execute this amendment.

Attachments:

- Amendment No. 1
- Exhibit A – Scope of Services
- Exhibit B – Compensation Schedule



January 2017

Coeur d'Alene Advanced Wastewater Treatment Facility

Tertiary Treatment Phase 2 Project

January 2017





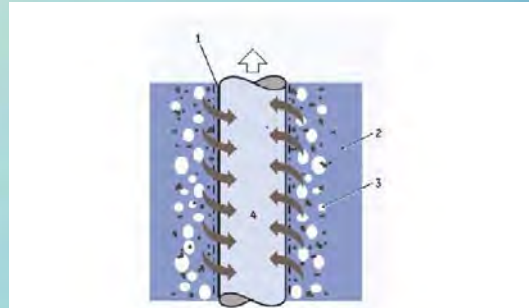
Purpose of Tertiary Treatment Phase 2

- **To provide tertiary treatment in order to comply with Discharge Permit Limits.**
- **Provide additional treatment capacity for future flows**
- **Provide process redundancy**

January 2017



Tertiary Membrane Filtration

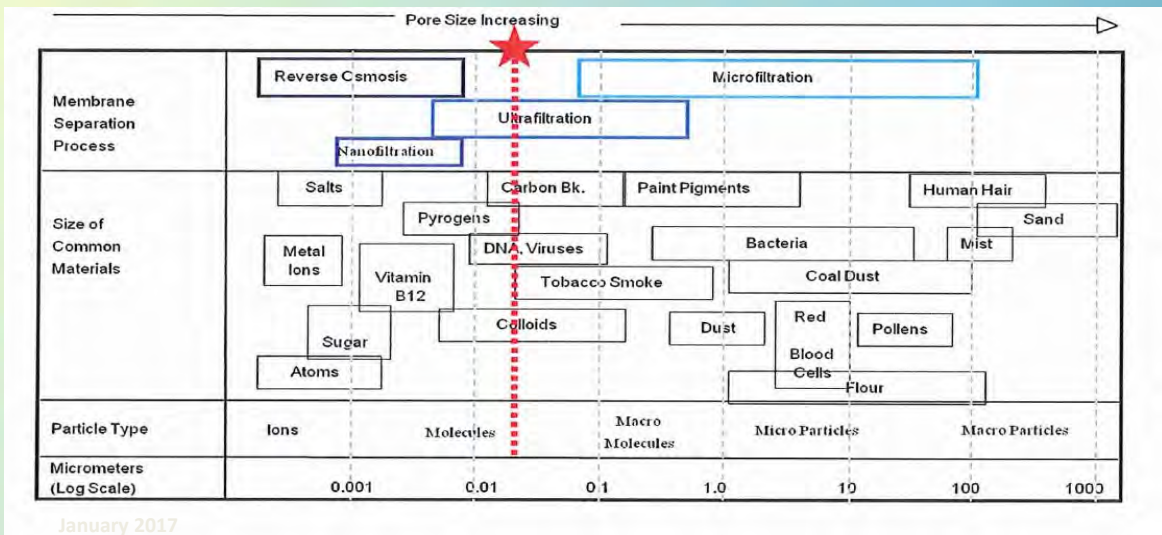


1. Membrane
 2. Feedwater (containing solids)
 3. Aeration bubbles (for fluid agitation)
 4. Permeate
Figure 4.5 - ZeeWeed Membrane Schematic

January 2017

City of
 Coeur d'Alene
 IDAHO

Membrane Pore Size Graphic



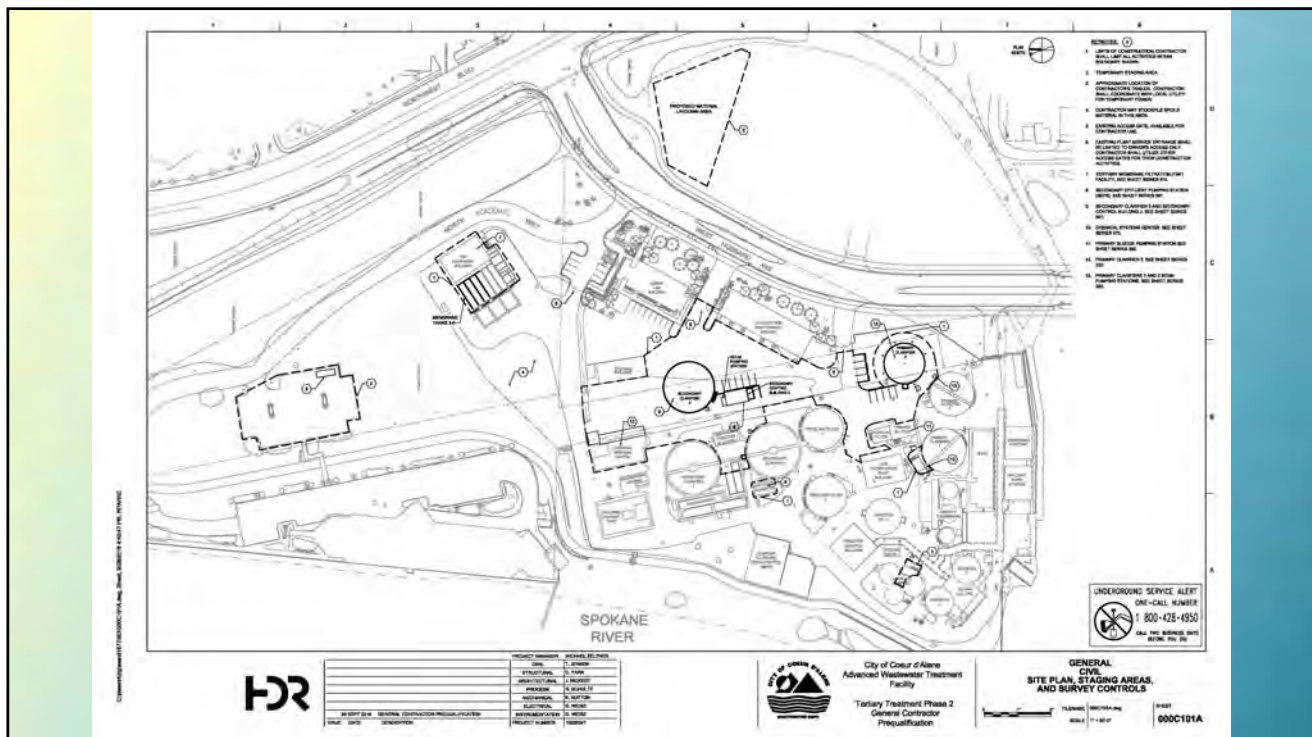
January 2017

IDAHO

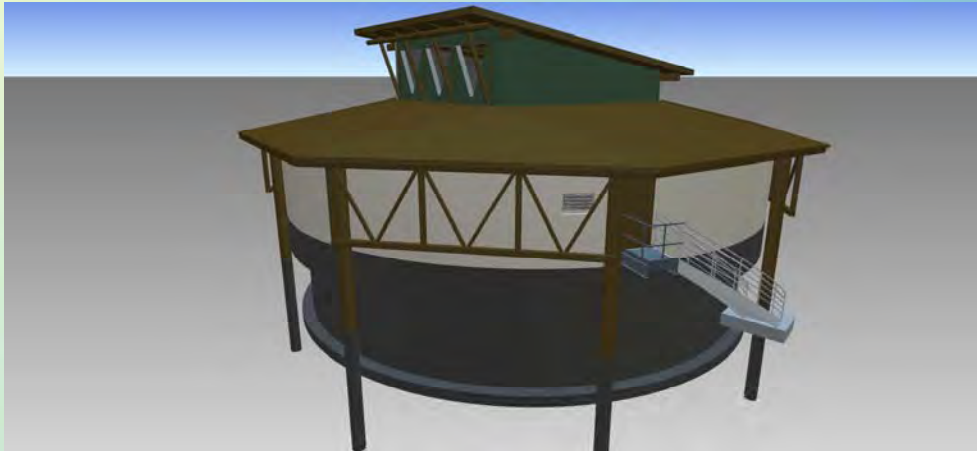
Scope of Tertiary Treatment Phase 2 Project

- Construction of tanks and installation of additional tertiary membranes at TMF
- Construction of Primary Clarifier 3
- Construction of Secondary Clarifier 3 and Secondary Control Building No. 2
- Retrofit existing Chemical System Building for additional chemical tanks and pumps

January 2017



Exterior View of Primary Clarifier #3



January 2017



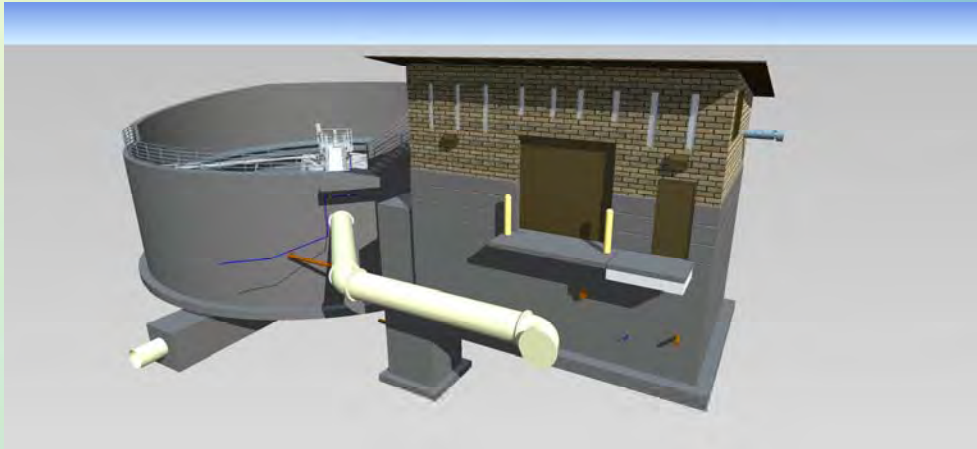
Section View Primary Clarifier # 3



January 2017



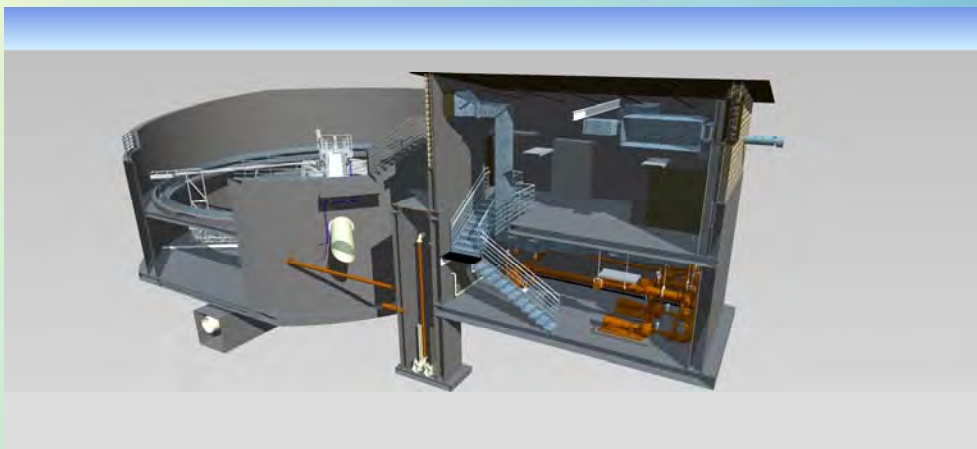
Secondary Clarifier # 3 and Secondary Control Building 2



January 2017



Section View of Secondary Clarifier # 3 and Secondary Control Building 2



January 2017



Proposed Construction Timeframe

- **Bidding and Award Phase – Nov. 2016 thru Jan. 2017**
- **Commence Construction – February 2017**
- **Substantial Construction Completion – October 2018**
- **Final Completion – December 2018**

January 2017



RESOLUTION NO. 16-068

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AUTHORIZING AMENDMENT NO. 1 TO THE AGREEMENT WITH HDR ENGINEERING FOR THE AWTF TERTIARY TREATMENT PHASE 2 PROJECT.

WHEREAS, pursuant to Resolution No.15-048, adopted the 15th day of September, 2015, the City of Coeur d'Alene entered into an Agreement with HDR Engineering for the AWTF Tertiary Treatment Phase 2 Project; and

WHEREAS, staff is recommending that the City of Coeur d'Alene authorize Amendment No. 1 to said Agreement, pursuant to terms and conditions set forth in Exhibit "A" attached hereto 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 Amendment No. 1 to said Agreement;

NOW, THEREFORE,

BE IT RESOLVED by the Mayor and City Council of the City of Coeur d'Alene that the City enter into Amendment No. 1 to the Agreement with HDR Engineering, in substantially the form attached hereto as Exhibit "A" 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 Amendment No. 1 on behalf of the City.

DATED this 3rd day of January, 2017.

Steve Widmyer, Mayor

ATTEST:

Renata McLeod, City Clerk

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

ROLL CALL:

COUNCIL MEMBER EDINGER Voted _____

COUNCIL MEMBER ENGLISH Voted _____

COUNCIL MEMBER EVANS Voted _____

COUNCIL MEMBER GOOKIN Voted _____

COUNCIL MEMBER MCEVERS Voted _____

COUNCIL MEMBER MILLER Voted _____

_____ was absent. Motion _____.

AMENDMENT NO. 1

to

PROFESSIONAL SERVICES AGREEMENT

between

CITY OF COEUR D'ALENE

and

HDR ENGINEERING, INC.

for

TERTIARY TREATMENT PHASE 2 IMPROVEMENTS

The Agreement, made and entered into the 15th day of September, 2015, 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 HDR Engineering, Inc., a Nebraska corporation, with its principal place of business at 412 E. Parkcenter Blvd., Suite 100, Boise, Idaho 83706, hereinafter referred to as the "Consultant," is hereby amended on the ____ day of January, 2017 as set forth herein.

W I T N E S S E T H:

WHEREAS, the City faces changing effluent discharge conditions in the Spokane River as a result of water quality studies conducted by the Washington State Department of Ecology and renewal of the City's effluent discharge permit by Region 10 of the Environmental Protection Agency;

WHEREAS, the City has undertaken an analysis of the implications of these regulatory actions in preparation of an "Update to the Wastewater Facility Plan Amendment";

WHEREAS, the Phase 5 improvements will complete plant expansion to 6 mgd average daily capacity while preparing for future low effluent phosphorus concentrations;

WHEREAS, the City has completed the design, construction and start-up of the Phase 5C.1 Initial TMF/Nitrification improvements;

WHEREAS, the City desires to design and construct an additional 4 mgd daily average capacity of low phosphorus improvements (Tertiary Treatment Phase 2 Improvements) required by their current permit;

WHEREAS, the City desires to advertise for and award a construction contract to a General Contractor to construct the Tertiary Treatment Phase 2 Improvements;

WHEREAS, Consultant is available and is willing to provide personnel and services to accomplish the work according to the City's schedule.

WHEREAS, the Agreement contains provisions in Section 10, for the City to authorize extra services in connection with this project; and

NOW THEREFORE, in consideration of the terms, conditions and covenants of performance contained or incorporated herein, the City and the Consultant agree that the agreement entered into on the 15th day of September, 2015, shall be amended as follows:

Section 1. Scope of Services

The scope of services is amended to revise the project budget to provide the city with office support and on-site observation during construction. The following work tasks are to be performed in accordance with the scope of work in Exhibit "A":

- Task 700 - Project Administration and Management (SDC)
- Task 800 - Construction Engineering
- Task 900 - Field Services
- Task 1000 - Application Software Programming
- Task 1100 - Commissioning
- Task 1200 - Construction Close-Out
- Task 1300 - Additional Unanticipated, Urgent, or Special Services

Section 2. Compensation

For services described in this Amendment, payment shall be made on the same basis as in the original Agreement. Direct Labor Costs used as a basis for payment shall be updated to current salary and wages paid to all Consultant's personnel engaged directly on the Project, including, but not limited to, engineers, architects, surveyors, designers, drafting personnel, specification writers, estimators, and other technical and business personnel; but does not include indirect payroll-related costs or fringe benefits.

The City shall pay Consultant's direct expenses incurred in providing services, including the cost of sub consultants, on the same basis as in the original Agreement.

The additional Fixed Fee for services in Amendment No. 1 shall be \$168,668.00 and the amended Total Fixed Fee shall be \$310,101.00.

The City's total consideration for services in Amendment No. 1, including labor costs, direct expenses and fixed fee, shall be \$2,113,441.00 and the total Agreement shall be amended not to exceed \$3,824,251.00.

Section 3. Schedule

Schedule for completion shall be amended according to the schedule presented in Exhibit "A".

CITY OF COEUR D'ALENE

HDR ENGINEERING, INC.

Steve Widmyer, Mayor

Kate Eldridge, Vice President

ATTEST:

ATTEST:

Renata McLeod, City Clerk

Zelma Z. Miller, Department Accountant

STATE OF IDAHO)
) ss.
County of Kootenai)

On this ____ day of January, 2017, before me, a Notary Public, personally appeared **Steve Widmyer** and **Renata McLeod**, known to me to be the Mayor and City Clerk, respectively, of the City of Coeur d'Alene that executed the foregoing instrument and acknowledged to me that said City of Coeur d'Alene executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.

Notary Public for Idaho
Residing at _____
My Commission expires: _____

STATE OF IDAHO)
) ss.
County of ADA)

On this _____ day of May, 2013, before me, a Notary Public, personally appeared **Kate Eldridge**, known to me to be the Vice President, of **HDR ENGINEERING, INC.**, and the persons who executed the foregoing instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.

Notary Public for Idaho
Residing at Boise, ID
My Commission Expires: _____

Amendment No. 1

EXHIBIT A

TERTIARY TREATMENT PHASE 2 IMPROVEMENTS

SCOPE OF SERVICES AND SCHEDULE FOR SERVICES DURING CONSTRUCTION

Introduction

Professional Consulting Services for the Services During Construction (SDC) of the Tertiary Treatment Phase 2 Improvements project are described in this Exhibit and are amended to the original Agreement (City of Coeur d'Alene Professional Services Agreement Resolution No. 15-048) entered into on September 15, 2015. This amendment also extends the contract completion date to December 30, 2019. Tasks included in this Contract amendment include the following and are described in more detail below:

Task 700 - Project Administration and Management (SDC)

- Sub-task 701 - Project Administration
- Sub-task 702 - Project Management
- Sub-task 703 - Quality Assurance
- Sub-task 704 - Contract Close-Out

Task 800 - Construction Engineering

- Sub-task 801 - Construction Meetings
- Sub-task 802 - Contractor's Payment Administration
- Sub-task 803 - Shop Drawing Submittals
- Sub-task 804 - Requests for Information
- Sub-task 805 - Field Orders
- Sub-task 806 - Change Proposal Requests
- Sub-task 807 - Work Change Directives
- Sub-task 808 - Construction Change Orders
- Sub-task 809 - Document Management System

Task 900 - Field Services

- Sub-task 901 - Field Observations
- Sub-task 902 - Materials Testing and Special Inspection
- Sub-task 903 - Field Staking

Task 1000 - Application Software Programming

- Sub-task 1001 - Programming and Systems Integration Services

Task 1100 - Commissioning

- Sub-task 1101 - Operations and Maintenance Manuals

Sub-task 1102 - Electronic Operations and Maintenance Manual Update
Sub-task 1103 - Systems Commissioning

Task 1200 - Construction Close-Out

Sub-task 1201 - Construction Contract Close-Out
Sub-task 1202 - Record Drawings
Sub-task 1203 - Project Completion Certification

Task 1300 - Additional Unanticipated, Urgent, or Special Services

Sub-task 1301 - Allowance for Unanticipated Services

Key Understandings

- This is a Time and Materials contract. Consultant will charge the City for actual hours worked on the project by assigned personnel and direct expenses attributed to the project.
- For cost estimating purposes, Consultant has estimated certain numbers of:
 - Shop Drawing Submittals and Re-submittals, Requests for Information, Field Orders, Change Proposal Requests, Work Change Directives, Change Orders, and Operation and Maintenance Manual Submittals and Re-submittals, and the level of effort required to address them.
 - When Consultant approaches 75 percent of the fee to address specific items, Consultant will notify the City to negotiate change in scope and fee, if necessary.
- For cost estimating purposes, Consultant has assumed a construction Notice to Proceed of February 1, 2017, and Substantial Completion and Final Completion dates of October 31, 2018 and December 31, 2018, respectively.
- Consultant has allowed for up to sixty (60) days of Contractor extension time for time related services including:
 - Sub-task 701 - Project Administration
 - Sub-task 702 - Project Management
 - Sub-task 703 - Quality Assurance
 - Sub-task 801 - Construction Meetings
 - Sub-task 802 - Contractor's Payment Administration
 - Sub-task 808 - Construction Change Orders
 - Sub-task 809 - Document Management System
 - Sub-task 901 - Field Observations
- Any time extensions granted to Contractor beyond this time frame may result in corresponding time extensions and increase in fee for Consultant.
- Direct expenses for travel, subsistence, technology, printing, photocopying, and conference calls will be billed to City with no mark-up.
- Subsistence will be billed at the current Federal Per Diem Rates for Kootenai County, Idaho.
- Consultant will explore opportunities during the project to use City resources responsibly.

- Responsibilities for jobsite safety are the sole responsibility of Contractor. The failure of Consultant to report on safety violations will neither relieve Contractor from their responsibility for safety on the project site nor shift this responsibility from Contractor to Consultant. Any unsafe activity or activities shall be halted immediately until remedial actions take place. Contractor shall resume work only if Contractor deems jobsite conditions safe to work. Consultant shall not be responsible for the health and safety of City or Contractor, their employees, subcontractors, or agents on site or in any way arising from the work on this project.
- If Contractor files a claim on the work in accordance with the General Conditions, City can amend this contract to provide associated claims and litigation services. There is no budget included in this agreement for services to assist in litigation.
- EJCDC construction forms will be utilized for Work Change Directives, Change Orders, and Field Orders and those are included in the Construction Contract. Consultant will use its standard Construction Contract Administration forms when EJCDC forms have not been included.

Scope of Services

Task 700 - Project Administration and Management (SDC)

Sub-task 701 - Project Administration

Objective

Administer the professional services during construction to a level of service and responsiveness consistent with the project schedule and budget.

Approach

This sub-task includes services related to the administration of Consultant's activities. Specific activities conducted by Consultant will include the following:

ACTIVITY 701.1 PROJECT COORDINATION MEETINGS

- Conduct up to nine (9) project coordination meetings, one per yearly quarter, with City and Consultant's principal-in-charge and project manager.
- Prepare agendas and distribute to anticipated attendees at least one (1) week prior to project coordination meetings.
- Prepare and distribute notes to attendees within three (3) days after project coordination meetings.

ACTIVITY 701.2 PROGRESS REPORTS AND INVOICES

- Prepare up to twenty-five (25) monthly project status reports that compare work accomplished with scheduled activities, provide support documentation for the

invoices, compare expenditures with task budgets, and describe changes to the scope that have occurred.

- Submit progress reports combined with invoices for the duration of the project.

Assumptions

The budget is based upon the following assumptions:

- Project duration will be up to twenty-five (25) months as detailed in the schedule.
- City will participate in meetings.
- Project coordination meetings will occur in City's administration building conference room and will last up to four (4) hours each plus travel.
- Hard copies of agendas for up to four (4) City staff plus Consultant staff will be furnished by Consultant for project coordination meetings.
- City will review and approve modifications to approach, schedule, and deliverables resulting from discussions during project coordination conference meetings.
- City will review progress reports and approve invoices.
- Invoice and progress report format will follow Consultant standard format.
- Labor costs and expenses for this contract will be tracked at the task level.
- Budget may be transferred between tasks and from sub-consultant to Consultant without an amendment to the Agreement, unless such transfers also require a change in total fee.
- Consultant may adjust labor rates to actual salary and wage increases for individuals throughout the duration of this project.
- Direct expenses for travel, subsistence, printing, photocopying, technology, and telephone conferences will be billed to City.

Deliverables

Deliverable work products consist of the following:

- Meeting agendas transmitted to City via e-mail in .pdf format prior to project coordination meetings and delivered to City in hard copy form at project coordination meetings.
- Meeting notes transmitted to City via e-mail in .pdf format following project coordination meetings.
- Monthly progress reports and invoices transmitted to City via e-mail in .pdf format.

Sub-task 702 - Project Management

Objective

Manage and coordinate project technical resources to a level of service and responsiveness consistent with the project schedule and budget established in this scope of services.

Approach

This sub-task includes services related to the management and coordination of Consultant activities. Specific activities conducted by Consultant will include the following:

ACTIVITY 702.1 PROJECT INITIATION

- Furnish City with copies of insurance certificates.
- Prepare a detailed Work Breakdown Structure (WBS) list of all activities as well as a dictionary of the WBS Items.
- Establish project in Consultant's accounting system.

ACTIVITY 702.2 PROJECT MANAGEMENT PLAN (SDC)

- Amend Project Management Plan (PMP) for Services During Construction to clearly communicate objectives, scopes, budgets, schedule, communications protocols, constraints, applicable regulations, health and safety requirements for field work, and guidelines to project team members.
- As part of the PMP, develop a Quality Management Plan (QMP) that defines the QA/QC process for this project and identifies the key reviewers. See Activity 703.1 – Quality Management Plan for this effort.
- As part of the PMP, develop a health and safety plan for use by Consultant's staff during field work.
- Submit the PMP to City for their information, if requested.
- Update PMP periodically throughout duration of project when significant events impact the scope and/or schedule of the project, and distribute the updated PMP to team members.

ACTIVITY 702.3 SUB-CONSULTANT AGREEMENTS

- Prepare sub-consultant agreement with Strata for materials testing and special inspection services associated with this project.
 - A budget of \$90,000.00 has been included for Strata.
- Prepare a sub-consultant agreement with Trindera Engineering for services during construction specific to electrical and instrumentation scopes of work as well as for systems integration services associated with this project.
 - A budget of \$295,360.00 has been included for Trindera Engineering.

ACTIVITY 702.4 MONITOR PROJECT PROGRESS

- Monitor project progress using earned value management by evaluating on a monthly basis the work completed, work remaining, schedule, budget expended, estimated cost of remaining work, and estimated cost at completion.
- Update Consultant's accounting system on a monthly basis to estimate cost of remaining work.
- Inform City in Consultant's monthly progress report (Activity 701.2 - Progress Reports and Invoices) of any budget or schedule related issues.

ACTIVITY 702.5 MANAGE PROJECT TEAM

- Communicate scope, schedule, and budget status with the project team and review technical content of work products.

Assumptions

- This task is for the administration and management of Consultant's contract.
- Sub-consultants' scopes of work will include quality assurance and quality control activities related to their deliverables.
- When field work is being performed by sub-consultants, the sub-consultant shall provide a project-specific health and safety plan for the work for which it is responsible.
- Project files, including as a minimum contractual documents, sub-consultant agreements, project coordination meeting agendas and notes, and general correspondence will be filed in the Document Management System (DMS) (Sub-task 809 - Document Management System).

Deliverables

- Project Management Plan transmitted to City via e-mail in .pdf format, if requested.

Sub-task 703 - Quality Assurance

Objective

Consistently provide professional services that satisfy statutory and regulatory requirements and the expectations of the City.

Approach

This sub-task includes services related to adherence to Consultant's Quality Policy as defined in Consultant's Quality Management System (QMS) Manual. Specific activities conducted by Consultant will include the following:

ACTIVITY 703.1 QUALITY MANAGEMENT PLAN (SDC)

- Amend Quality Management Plan (QMP) prior to commencing work.
 - The QMP will define the specific quality practices, resources, and sequence of activities that will be used to fulfill the requirements for quality relevant to this project.
 - Quality assurance (QA) components will define the systematic activities that will be completed to provide adequate confidence that deliverables will satisfactorily fulfill quality requirements. These QA components are described within this Sub-task 703 - Quality Assurance.
 - Quality control (QC) components will define the techniques and activities that will be used to verify an established level of quality has been achieved for each major deliverable.
 - Incorporate QMP in to PMP (Activity 702.2 - Project Management Plan).
- Sub-consultants will provide a sub-consultant QMP or equivalent document that identifies the specific quality practices relative to the deliverables provided by sub-consultant.
 - Consultant's Project Manager will review and approve sub-consultant's QMP prior to expenditure of sub-consultant resources.

ACTIVITY 703.2 PROJECT APPROACH AND RESOURCE REVIEW

- Conduct one project approach and resource review (PARR) with Consultant's project manager, four (4) construction team members, and up to two (2) senior construction technical experts. These reviews will serve to confirm the procedures and practices being used by the Consultant's construction administration team.

ACTIVITY 703.3 PROJECT MANAGEMENT REVIEW MEETINGS

- Conduct up to nine (9) project management review meetings, one per yearly quarter, with Consultant's local operations manager, business group manager, project manager, project controller and up to two (2) project team members. The purpose of these meetings will be to discuss project status and identify areas where actions may be required to improve project performance.
- Report any pertinent issues to City's Project Manager.

Assumptions

The budget is based upon the following assumptions:

- PARR will occur via conference call and will last up to two (2) hours.
- PARR will occur at approximately 10 percent project completion milestone.
- Project review meetings will occur in Consultant's Boise, Idaho office and will last up to one-half (0.5) hour each.

Deliverables

Deliverable work products consist of the following:

- PARR forms transmitted to City via e-mail in .pdf format, if requested.

Sub-task 704 - Contract Close-Out

Objective

Timely and organized close-out of project contractual and business activities.

Approach

This sub-task includes services related to closure of financial transactions and verification of final project records retention. Specific activities conducted by Consultant will include the following:

ACTIVITY 704.1 SUB-CONSULTANT CLOSE-OUT

- Confirm that the terms and conditions of sub-consultant agreements (Activity 702.3 - Sub-consultant Agreements) and all related service and deliverable obligations have been completed.
- Confirm receipt of completion notice from sub-consultants is included with their final invoice and status reports.

ACTIVITY 704.2 DOCUMENTATION CLOSE-OUT

- Consolidate working files into final records folders.
- Destroy duplicate, draft, and obsolete documents.
- Verify record documents are included in final records folders.

ACTIVITY 704.3 CONTRACT CLOSE-OUT

- Verify and document that the contract terms and conditions have been met and all service and deliverable obligations completed.
- Issue a contract completion notice to City.

Assumptions

The budget is based upon the following assumptions:

- Contract completion notice will be included with final progress report and invoice.

Deliverables

Deliverable work products consist of the following:

- Contract completion notice transmitted to City via e-mail in .pdf format.

Task 800 - Construction Engineering

Sub-task 801 - Construction Meetings

Objective

Track construction progress through frequent meetings with the City and Contractor.

Approach

This sub-task is for conducting meetings at initiation of construction to establish basic project protocols and procedures as well as conduct meetings throughout construction to track progress towards completion. Specific activities conducted by Consultant will include the following:

ACTIVITY 801.1 PRE-CONSTRUCTION CONFERENCE

- Identify with City and Contractor the parties to be included in the conference.
- Notify parties as to the time and place of the meeting. Include in the notification a preliminary agenda for comment and identification of specific items they may want addressed during the conference.
- Distribute final agenda and provide hard copies for participants.
- Conduct the pre-construction conference, including site walk through, with City, construction contractor and their sub-contractors and suppliers, agency officials, and Consultant construction administration team.
- Distribute meeting notes to persons in attendance, parties notified of conference but not in attendance, and the DMS.

ACTIVITY 801.2 CITY COORDINATION MEETINGS

- Conduct meetings with City to discuss project progress and City concerns.
- Utilize draft agendas for the Construction Progress Meetings (see Activity 801.3 - Construction Progress Meetings) as the agenda for City coordination meetings.
- Conduct coordination meetings every other week with City to review progress, issues, and concerns prior to Construction Progress Meetings.
- Additional participants in the meeting may include utility agencies and/or permitting agencies depending upon what is being discussed.
- Meeting notes may be incorporated into the final agenda for the Construction Progress Meetings.

ACTIVITY 801.3 CONSTRUCTION PROGRESS MEETINGS

- Conduct Construction Progress Meetings every other week with City and Contractor.
- Prepare an agenda for the Construction Progress Meetings incorporating City topics (see Activity 801.2 - City Coordination Meetings) and known issues. Other agenda items will include, but will not be limited to, project progress and schedule updates,

review of shop drawing submittal and requests for information responses, change proposal requests, quality control, scheduled training sessions, start-up and commissioning activities.

- Additional participants in the meeting may include utility agencies and permitting agencies depending upon what is being discussed.
- Distribute meeting notes to persons in attendance, parties notified of meetings but not in attendance, and the DMS.

Assumptions

- Pre-Construction Conference will occur in the Wastewater Administration Building conference room, will involve up to five (5) Consultant team members, and will last up to four (4) hours plus travel. Four (4) Consultant team members will attend in person while one (1) will participate via conference call.
- Up to ten (10) hard copies of conference agenda will be furnished by Consultant.
- Conference audio will be digitally recorded and filed in the DMS.
- City Coordination Meetings will occur in the Wastewater Administration Building conference room and via conference call for those team members not in physical attendance, will involve up to four (4) Consultant team members, and will last up to one (1) hour each. Two (2) Consultant team members will attend in person while two (2) will participate via conference call.
- Meeting notes will not be issued separately for these City Coordination Meetings.
- Up to fifty-five (55) City Coordination Meetings are included in this sub-task.
- Construction Progress Meetings will occur in the Wastewater Administration Building conference room and via conference call for those team members not in physical attendance, will involve up to five (5) Consultant team members as appropriate, and will last up to one (1) hour each. Three (3) Consultant team members will attend in person while two (2) will participate via conference call.
- Consultant will prepare an agenda for the first Construction Progress Meeting. Notes from the previous meeting will be used as the agenda for subsequent meetings updated with current issues or concerns.
- Construction Progress Meeting agendas will include current logs of outstanding shop drawing submittal and requests for information responses.
- Meeting audio will be digitally recorded and filed in the DMS.
- Up to fifty-five (55) Construction Progress Meetings are included in this sub-task.

Deliverables

- Draft Pre-Construction Conference agenda transmitted to City and Contractor via e-mail in .pdf format.

- Final Pre-Construction Conference agenda transmitted to City and Contractor via e-mail in .pdf format and up to ten (10) hard copies delivered at conference.
- Pre-Construction Conference notes transmitted to City and Contractor via e-mail in .pdf format and filed in the DMS.
- City Coordination Meeting agendas transmitted to City via e-mail in .pdf format.
- Construction Progress Meeting agenda transmitted to City and Contractor via e-mail in .pdf format prior to progress meetings and up to ten (10) hard copies delivered at meetings.
- Construction Progress Meeting notes transmitted to City and Contractor via e-mail in .pdf format and filed in the DMS.

Sub-task 802 - Contractor's Payment Administration

Objective

Timely and equitable payment to Contractor in accordance with construction contract provisions.

Approach

This sub-task includes services related to reviewing Contractor's schedule of values, reviewing Contractor's payment application against physical progress completed, and recommending payment to City. Specific activities conducted by Consultant will include the following:

ACTIVITY 802.1 REVIEW SCHEDULE OF VALUES

- Review Contractor's Schedule of Values (cost breakdown) by comparison to Engineer's Opinion of Probable Construction Cost to establish a reasonably balanced distribution of costs to the various elements of the total construction to serve as a basis for progress payments and determination of cost impact of changes.
- Transmit comments to City and Contractor.
- Meet with City and Contractor to reconcile disputed areas of apparent unbalanced costs and document reconciliation of disputed items.
- Notify Contractor with letter of acceptance after reconciliation of costs.

ACTIVITY 802.2 REVIEW CONTRACTOR'S APPLICATION FOR PAYMENT

- Review draft application for payment in comparison to progress of the work. Make notations of deficient work not recommended for payment until corrected; deletion of payment for stored materials and/or equipment which do not have approved shop drawings and/or proper invoices; reduction of value for partially completed items claimed as complete.
- Conduct review of storage areas and verify existence of invoiced materials/equipment and proper storage.
- Return a copy of the reviewed draft application to Contractor.

- Meet with Contractor to reconcile discrepancies.
- Review revised application for payment and, if acceptable, advise Contractor to submit the required number of copies.

ACTIVITY 802.3 PROCESS CONTRACTOR'S PAYMENT APPLICATION

- Execute completed application for payment indicating amount recommended for payment and transmit to City for processing of payment.
- Monitor total payments to adjust retainage amounts as specified in the Contract Documents.
- At substantial completion, and at City's direction, adjust retainage from fixed percent to only enough retainage to provide for work completion.

Assumptions

- The draft and final payment application requests will be submitted by Contractor each month on days agreed upon to meet City's processing schedule requirements.
- Consultant's recommendations for payment can be modified until final payment is approved and authorized by City.
- City is responsible for approving and authorizing payment submittals.
- Up to twenty-five (25) payment applications will be reviewed by Consultant.
- For the purposes of estimating, it is assumed that each payment application will take five (5) hours of Consultant team member time to review and process.
- City will collect certified payroll information from Contractor and conduct payroll interviews.

Deliverables

- Written comments on Schedule of Values transmitted to City and Contractor via e-mail in .pdf format.
- Documentation of reconciliation of disputed items in Schedule of Values transmitted to City and Contractor via e-mail in .pdf format.
- Contractor's Payment Application Requests transmitted to City via e-mail in .pdf format with appropriate attachments, such as invoices for stored materials.

Sub-task 803 - Shop Drawing Submittals

Objective

Facilitate the achievement of conformance to the design intent through technical review of Contractor's shop drawings by Engineers of Record.

Approach

This sub-task includes services related to receiving, reviewing, and responding to Contractor's shop drawings. Specific activities conducted by Consultant will include the following:

ACTIVITY 803.1 REVIEW CONTRACTOR'S SHOP DRAWING SUBMITTAL LOG

- Review Contractor's Shop Drawing Submittal Schedule to check that submittals for major equipment and materials are included, that submittals are coordinated with the sequence of construction activities relying on them, that adequate and reasonable turn-around times for review are provided for, and that all shop drawings can be submitted and approved prior to 50 percent completion of the construction.
- Notify Contractor with either letter of acceptance or a letter of rejection noting deficiencies and requesting correction of them and re-submittal.
- Distribute copies of approved shop drawing submittal schedule to City and design team members responsible for shop drawing reviews.

ACTIVITY 803.2 ADMINISTER SHOP DRAWING REVIEWS

- Receive, log, and maintain shop drawing submittal documents in the DMS.
- Conduct review of shop drawing submittals to confirm Contractor's compliance with administrative requirements and distribute to appropriate Consultant team member(s) for review.
- Review submittals for compliance with the specifications and provide written comments to Contractor.
- Receive and collate comments on submittal reviews performed by others, including City.
- Establish organized storage for samples and a tracking log for samples.

ACTIVITY 803.3 REVIEW CONTRACTOR'S BASELINE SCHEDULE AND UPDATES

- Review Contractor's Baseline Schedule in accordance with Contract Documents.
- Transmit review comments to City and Contractor.
- Review resubmittal.
- Notify Contractor with letter of acceptance after Engineer's comments have been addressed.
- Review Contractor's monthly schedule updates in accordance with Contract Documents and provide comments to Contractor through the Shop Drawing process.

Assumptions

- Contractor will prepare a listing of submittals and dates of expected submittal, coordinated with supply contract schedules to allow adequate time for review, resubmittal, and review to meet the construction schedule. If Contractor fails to provide the submittal schedule and/or does not provide documents in accordance

with the schedule, Consultant may be provided with additional time to review the submittal.

- Consultant will not review and comment on submittals related to temporary items and construction aides such as shoring, formwork, and dewatering. Receipt of these submittals is to confirm compliance with the contract requirements for submittal only and Consultant will not review for the content, compliance, or calculations. Consultant is not responsible for the content of the submittal.
- Consultant has not included staff or sub-consultants to review geotechnical and hazardous material issues that arise during construction other than the materials testing described in Sub-task 902 - Materials Testing and Special Inspection.
- Reviews of requests for substitution are not included in this scope. If submitted by Contractor, the request will be sent to City for approval to proceed with review. Consultant time to process, review, and respond to request will be billed to City as a separate, out-of-scope activity from which City can, at its discretion, deduct the amount from Contractor's payment application(s).
- The fee for this sub-task is based upon receiving and reviewing three hundred sixty (360) submittal items and one hundred forty (140) re-submittal items.
- Actual review time may vary depending upon the complexity of the shop drawing. It is estimated that, on average, each submittal item will take five (5) hours of Consultant team member time to review and process and each re-submittal item will take two and a half (2.5) hours of Consultant team member time to review and process.
- If a submittal is determined to be incomplete when compared against the requirements in Specification Section 01 33 00 - Submittals, it will be rejected.
- Submittal reviews following one (1) re-submittal will be billed to City as a separate, out-of-scope activity from which City can, at its discretion, deduct the amount from Contractor's payment application(s).

Deliverables

- Contractor's approved Shop Drawing Submittal Schedule transmitted to City and design team members via e-mail in .pdf format.
- Assembled comment sheets in each submittal file in the DMS.
- Shop drawing responses transmitted to Contractor and City via e-mail in .pdf format.

Sub-task 804 - Requests for Information

Objective

Facilitate responses to requests for information (RFIs) to provide Contractor with clear and certain direction for the execution of the Work.

Approach

This sub-task includes services related to receiving, reviewing, and responding to Contractor's RFIs. Specific activities conducted by Consultant will include the following:

ACTIVITY 804.1 ADMINISTER REQUEST FOR INFORMATION RESPONSES

- Receive, log, and maintain RFI documents in the DMS.
- Distribute RFIs to appropriate design team members for review.
- Return RFI responses to Contractor with copies to City and appropriate design team members.
- If the response to an RFI results in a change, then Consultant will prepare and issue a field order or change proposal request, as appropriate.

Assumptions

- Consultant's review of RFIs regarding the design will be advisory and complementary to the design intent.
- The fee for this sub-task is based upon receiving and responding up to one hundred ninety (190) RFIs.
- Actual review and response time may vary depending upon clarity and complexity of the RFI. It is estimated that, on average, it will take five (5) hours of Consultant team member time to review and respond to each RFI.

Deliverables

- Response supporting information filed in the DMS.
- RFI responses transmitted to Contractor, City, and Consultant's team members via e-mail in .pdf format.

Sub-task 805 - Field Orders

Objective

Provide coordination and review to identify the need for minor changes in the Work consistent with the design intent which do not require a change in Contract Time or Contract Price.

Approach

This sub-task includes services related to preparing, issuing, and tracking Field Orders (FOs) to communicate the details of minor changes not involving changes in Contract Time or Contract Price. Specific activities conducted by Consultant will include the following:

ACTIVITY 805.1 ADMINISTER FIELD ORDERS

- Assemble documentation from the Contract Documents and/or field conditions related to the proposed minor change and furnish to the designer for evaluation of conformance with the design intent.

- Coordinate the preparation of technical descriptions of FOs.
- Issue FO to Contractor with copies to City and appropriate design team members.
- Log FOs, including supporting information and City comments, in the DMS.
- Obtain from Contractor signed copies acknowledging Contractor's receipt of the FO and route copies to the appropriate project files.

Assumptions

- Field Orders may be generated from responses to RFIs, design changes, Contractor initiated changes, City initiated changes, or unanticipated conditions.
- The fee for this sub-task is based upon preparing and processing twenty-five (25) FOs.
- Actual preparation and processing time may vary depending upon the complexity of the FO. It is estimated that, on average, it will take two and a half (2.5) hours of Consultant team member time to prepare and process each FO.

Deliverables

- Supporting information filed in the DMS.
- FOs transmitted to Contractor, City, and Consultant team members via e-mail in .pdf format.

Sub-task 806 - Change Proposal Requests

Objective

Provide coordination and review to identify the need for changes in the Work consistent with the design intent which require changes in Contract Price and/or Contract Time.

Approach

This sub-task includes services related to preparing, issuing, negotiating pricing for, and tracking Change Proposal Requests to communicate the details of changes involving changes in Contract Time and/or Contract Price. Specific activities conducted by Consultant will include the following:

ACTIVITY 806.1 ADMINISTER CHANGE PROPOSAL REQUESTS

- Assemble documentation from the Contract Documents and/or field conditions related to the proposed change and conduct evaluation of conformance with the design intent.
- Coordinate the preparation of the technical description of the CPR and assembly of necessary graphic details and specifications.
- Issue CPR to Contractor with copies to City and appropriate design team members.
- Log CPRs, including supporting information and City comments, in the DMS.

- Review costs presented by Contractor for each CPR and conduct negotiation of pricing.
- Review negotiated CPR costs with City for City's approval.
- Issue Engineer's Decision on final CPR.
- Assemble approved CPRs periodically into Change Orders (see Sub-task 808 - Construction Change Orders).
- Track and report the status of CPRs using logs that track the dates of:
 - Date issued to Contractor for pricing.
 - Return from Contractor with pricing.
 - Engineer's review and recommendation of pricing.
 - City's acceptance.

Assumptions

- Negotiations between Consultant and Contractor are not binding until accepted by City.
- The fee for this sub-task is based upon preparing, processing, and negotiating pricing of ninety (90) CPRs.
- Actual preparation, processing, and negotiating time may vary depending upon the complexity of the CPR. It is estimated that, on average, it will take eight (8) hours of Consultant team member time to prepare, process, and negotiate pricing for each CPR.

Deliverables

- Change Proposal Request supporting information filed in the DMS.
- Change Proposal Requests transmitted to Contractor and City via e-mail in .pdf format.
- Engineer's Decision transmitted to Contractor and City via e-mail in .pdf format.

Sub-task 807 - Work Change Directives

Objective

Provide a directive to Contractor when fair and reasonable pricing for a change item cannot be negotiated or when a change item is critical to the project schedule.

Approach

This sub-task includes services related to preparing, issuing, and tracking Work Change Directives (WCD). Specific activities conducted by Consultant will include the following:

ACTIVITY 807.1 ADMINISTER WORK CHANGE DIRECTIVES

- Discuss need for issuing a WCD with City.
- Prepare WCD form and obtain required authorization from City.
- Issue WCD to Contractor.
- Review work authorization forms in field for reasonableness of staff, equipment, and materials claimed.
- Review Contractor's submitted time and material pricing after completion of work.
- Incorporate time and material pricing into original Change Proposal Request for finalization and Engineer's Decision (see Activity 806.1 - Administer Change Proposal Requests).

Assumptions

- The fee for this sub-task is based upon preparing and processing twenty five (25) WCDs.
- Actual preparation, processing, and review time may vary depending upon the complexity of the WCD. On average, it is estimated that it will take three (3) hours of Consultant team member time to prepare, process, and review each WCD.

Deliverables

- Work Change Directive supporting information filed in the DMS.
- Work Change Directives transmitted to Contractor and City via e-mail in .pdf format.

Sub-task 808 - Construction Change Orders

Objective

Coordinate the combining of change documentation into Change Orders for execution by Contractor and City.

Approach

This sub-task includes services related to compiling executed Field Orders (see Sub-task 805 - Field Orders) and Change Proposal Requests with Engineer's Decisions (Sub-task 806 - Change Proposal Requests) into an executable document. Specific activities conducted by Consultant will include the following:

ACTIVITY 808.1 ADMINISTER CHANGE ORDERS

- Identify with City the strategy and timing for compiling Change Orders.
- Evaluate the project on a continual basis to determine when proposed changes need to be finalized to avoid or minimize adverse impact to on-going construction activity.
- Combine Change Proposal Requests and Field Orders into Change Orders.

- Assemble the necessary documentation and prepare the Change Order package for circulation to City and Contractor for execution.
- Update Change Order logs and provide status reports tracking the execution of Change Orders.
- Track Change Orders through Contractor's signature, Consultant's signature recommending acceptance, and City executive action.
- Review pay requests to verify Change Order items are broken out and that payment is not made until work is complete.

Assumptions

- City has the sole responsibility to authorize any changes to the construction contract.
- The fee for this sub-task is based upon preparing and processing thirteen (13) Change Orders - one (1) every other month through substantial completion and one (1) finalizing change order. Actual preparation and processing response time may vary depending upon the complexity of the change order. It is estimated that, on average, it will take ten (10) hours of Consultant team member time to prepare and process each Change Order.
- Change Order log will be updated when a Change Order is executed.
- City will provide Consultant with copies of the fully executed change orders after signed by City and Contractor.

Deliverables

- Change Order supporting information filed in the DMS.
- Change Orders, including supporting information for each Change Order, transmitted to Contractor and City via e-mail in .pdf format.

Sub-task 809 - Document Management System

Objective

Maintain an electronic Document Management System (DMS) for managing project electronic files.

Approach

This sub-task includes services related to retaining project files in a central repository. Specific activities conducted by Consultant will include the following:

ACTIVITY 809.1 MAINTAIN DOCUMENT MANAGEMENT SYSTEM

- Maintain electronic files in the DMS, including but not limited to field reports of project activities, digital photographs, audio recordings of meetings and conferences, material testing logs, work deficiency checklists, contractor payment certifications

and correspondence between Consultant, Contractor, utility companies/agencies, other parties, and City.

- Provide logs for shop drawing transmittals, requests for information, field orders, change proposal requests, change orders, and work deficiency lists to City and Consultant team every other week.

Assumptions

- Consultant will use Consultant's Project Tracker and Bentley ProjectWise for the DMS.
- Consultant will not maintain a hard copy of documentation in addition to the DMS.
- It is estimated that, on average, it will take four (4) hours per week of Consultant team member time to maintain the DMS.

Deliverables

- Filing system index transmitted to City via e-mail in .pdf format, if requested.
- Tracking logs for shop drawing transmittals, requests for information, field orders, change proposal requests, change orders, and work deficiency checklists transmitted to City and Contractor via e-mail in .pdf format.

Task 900 - Field Services

Sub-task 901 - Field Observations

Objective

Determine substantial conformance of the completed construction with the requirements of the Contract Documents through observation of the Work.

Approach

This sub-task includes services related to providing observation of field activities. Specific activities conducted by Consultant will include the following:

ACTIVITY 901.1 CONSTRUCTION OBSERVATION

- Provide general observation including:
 - Observe, record, and report Contractor's daily work progress to determine the Work observed is in general conformance with the requirements of the Contract Documents.
 - Document activities observed making note of deficiencies and any issues requiring resolution. Maintain work deficiency log in the DMS.
 - Create daily field reports defining specified work completed, Contractor work force figures, progress made on the controlling activity established by the approved construction schedule, job site visitors, and weather conditions.

- Review approved shop drawings and apply them to the conducting of observations.
- Photograph construction to document progress or deficiencies, and log photos in the DMS.
- Conduct, or coordinate the conduct of, specified inspections and document results.
- Notify Contractor when written verification from the Materials Testing sub-consultant representative has been obtained stating that acceptable subgrade preparation is provided for structures and is ready to receive concrete for foundations and structural slabs on grade.
- Monitor the prequalification of soils and concrete materials, and coordinate in-place moisture and density testing and the sampling and testing of concrete (see Sub-task 902 - Materials Testing and Special Inspection).
- Observe and document pressure testing of interior and exterior piping systems.
- Review stored materials and/or equipment for quantity determination for Contractor payment and to verify that equipment and/or materials are adequately protected until installed. Consultant will notify Contractor if additional measures are required protect the equipment.
- Develop and provide to Contractor an on-going list of items requiring correction to encourage correction of noted construction deficiencies, including:
 - Monitor and document construction throughout the project duration and identify deficient items.
 - Provide Contractor with an updated list of non-conforming items at construction progress meetings.
 - As deficiencies are corrected, revise the list by indicating corrected status.
 - Utilize the deficiencies list to aid in identifying appropriate retainage amounts near project completion.
 - Issue Non-Conformance Reports for deficiencies not being acknowledged or addressed by Contractor with corrective measures or corrective action plans.
- On a monthly basis, prior to signing off on the monthly payment request, review Contractor's as-recorded drawings to verify the Contract Drawings are up-to-date with contract modifications and annotated to reflect actual construction.
- Review tagging of equipment to verify conformance with approved registers for equipment, valves, and other items designated to be tagged by the Contract Documents.
- Coordinate training activities between Contractor and City.
- Monitor vendor training for City's operations and maintenance personnel.

- Document any observations made of property damage or personal injury accidents within the project construction limit lines, and notify and provide a written report to City.

ACTIVITY 901.2 ENGINEER SITE VISITS

- Conduct periodic site visitations by design team member(s) and document observations by preparing Site Visitation Memorandums.
- Follow up on deficiencies noted by design team members by either requiring immediate correction or adding items to a progressive work deficiency list.

Assumptions

- Consultant's observation of the work performed under the construction contract shall not relieve Contractor from responsibility for performing work in accordance with applicable contract documents.
- Consultant shall not control or have charge of, and shall not be responsible for, construction means, methods, techniques, sequences, procedures of construction, health or safety programs or precautions connected with the work and shall not manage, supervise, control or have charge of construction.
- Consultant shall not be responsible for the acts or omissions of construction Contractor(s) or other parties on the project.
- Observations will be performed in accordance with industry-recognized standard practices.
- City agrees to include a provision in the construction contract that requires Contractor to list Consultant as an additional insured on Contractor's commercial general liability insurance.
- Contractor is responsible for compliance with permit conditions; therefore Consultant cannot ensure Contractor's compliance with the permit conditions. Consultant will only notify City of observed conditions and violations.
- Monitoring removal and/or disposal of contaminated materials is not included.
- The fee for this sub-task is based upon field observation from a single Resident Project Representative (RPR) for eight (8) weeks at twenty-four (24) hours per week during initial project ramp-up and then eighty-six (86) weeks at forty (40) hours per week. This assumes RPR will transition off the project four (4) weeks prior to Contractor achieving substantial completion as additional Consultant staff will be on-site for commissioning. Additionally, the fee includes a junior RPR at sixteen (16) hours per week during an assumed eight (8) week period of peak construction activity during each the first and second years. It is estimated that RPR field observation will generally occur eight (8) hours per day.
- Normal working hours for Consultant observation staff and Contractor will coincide with normal treatment plant hours: Monday through Friday, 7:00 am to 3:30 pm.

- Should Contractor elect to perform work outside of normal working hours, on Saturday, Sunday, or legal holiday, Consultant will require that City authorize field observation services prior to Consultant starting observation.
- If additional labor and expenses for performing observation services outside normal working hours or beyond estimate included in this sub-task are required due to increased construction duration, City will increase the fee for this activity as a separate, additional fee activity which City could recover from Contractor through a construction contract change when appropriate.
- When full time observation is not required by contractor activities, RPR will assist with other activities such as shop drawing reviews, responses to RFIs, and review of change proposal pricing, when activities are within his capabilities and expertise.
- Process design team site visits will last up to two (2) days each and a total of up to twenty-five (25) visits by one (1) Consultant team member will be conducted occurring every four weeks and will coincide with every other Construction Progress Meeting.
- Structural design team site visits to comply with International Building Code requirements will last up to three (3) days each and a total of up to eight (8) visits by one (1) Consultant team member will be conducted as follows: kick-off meeting with RPR and special inspector, prior to placement of mat foundations, prior to placement of elevated slabs, and prior to placement of roof framing.
- Electrical and instrumentation design team site visits will last up to four (4) hours each week and a total of up to one hundred (100) weeks by one (1) sub-consultant team member will be conducted every four weeks and will coincide with every other Construction Progress Meeting.

Deliverables

- Resident Project Representative's Daily Reports transmitted to City via e-mail in .pdf format, if requested.
- Engineer Site Visitation Memorandums transmitted to City via e-mail in .pdf format.
- Photographs filed in the DMS.
- Reports of property damage or personal injury accidents transmitted to City via e-mail in .pdf format.

Sub-task 902 - Materials Testing and Special Inspection

Objective

Monitor quality of work by testing construction materials and conducting special inspections.

Approach

This sub-task includes services related to conducting materials testing and special inspections. Specific activities conducted by sub-consultant will include the following:

ACTIVITY 902.1 MATERIALS TESTING AND SPECIAL INSPECTION PLAN

- Develop Materials Testing and Special Inspection Plan presenting methodology for conducting site observations and special inspections and how reporting and certifications will be presented to the local building official, including:
 - Quality control testing of construction materials.
 - Special Inspections per currently adopted Building Code.
 - Submittal of Daily Reports, materials testing information (as available), and special inspections (as available).
- Upon Substantial Completion of the project, sub-consultant will prepare a Special Inspection Certification for the project and submit to the local building official.

ACTIVITY 902.2 MATERIALS TESTING AND SPECIAL INSPECTION

- Quality control testing of construction materials may include:
 - Soil/Aggregate Observation and Testing including observation and testing of compaction during site grading, excavation, footing and slab subgrade preparation, utility trench and wall backfilling; and sampling, testing, and recommendations regarding suitability of on-site and any imported materials used for backfill.
 - Concrete Sampling and Testing including testing for slump, temperature (concrete and ambient), air content, and casting of compressive test cylinders for verification purposes.
 - Structural Masonry Testing including compression testing of pre-construction masonry prisms, grout, and mortar.
 - Hot Mix Asphalt (HMA) Observation and Testing including observation, sampling and compaction testing during HMA paving placement.
- Special Inspections per currently adopted Building Code may include:
 - Reinforcing Steel Placement and Embedded Items Special Inspection by International Code Council (ICC) certified special inspector to verify the placement of reinforcing steel and embedded items prior to the placement of concrete.
 - Concrete Observation by ICC certified special inspector to observe placement of structural concrete.
 - Structural Masonry Observation by ICC certified special inspector to observe placement of masonry units, mortar, reinforcing steel, and items embedded in masonry.

- Structural Steel Field Welding Special Inspection by a special inspector certified by either the American Welding Society (AWS-CWI) or ICC to observe welding operations during structural steel erection and connection.
- Drilled-In-Anchors (Adhesive/Expansion Anchors) Special Inspection of adhesive or expansion anchors.
- Testing shall be performed on an as-needed basis by an accredited testing laboratory approved by local building official.
- Identify non-conformance issues, prepare reports, evaluate corrective actions, perform testing, establish conformance, and prepare documentation.
- Maintain records for materials testing and special inspections in the DMS.

Assumptions

- Sub-consultant will perform testing in accordance with construction contract documents and other recognized/applicable standards.
- Consultant assumes City has conducted an on-site hazardous materials assessment and has identified all required mitigation prior to project initiation.
- Consultant has included a Sub-consultant fee of \$90,000.00 for materials testing and special inspections; however, actual cost will be based on actual time and materials required to conduct materials testing and special inspection.
- When Sub-consultant approaches 75 percent of the fee presented above, Consultant will notify the City to negotiate change in scope and fee, if necessary.

Deliverables

- Materials Testing and Special Inspection Plan transmitted to City and local building official via e-mail in .pdf format.
- Weekly summaries of Daily Reports, materials testing information, and special inspections transmitted to City and local building official via e-mail in .pdf format.
- Weekly summaries of materials testing information transmitted to Contractor via e-mail in .pdf format.

Sub-task 903 - Field Staking

Objective

Establish a horizontal and vertical survey control network around the project site for Contractor's use in performance of the work.

Approach

This sub-task includes services related to field staking. Specific activities conducted by Consultant will include the following:

ACTIVITY 903.1 FIELD STAKING

- Provide field staking to establish horizontal and vertical control at multiple points on the site for facility construction, including:
 - Establishing two (2) horizontal control points.
 - Establishing two (2) vertical control points.

Assumptions

- Control points will be established in City's existing on-site coordinate system.
- Field survey information will be developed and control points provided for project components to provide Contractor with information to complete their own on-site control and field survey of the work.
- Staking of pipelines, utility corridors, buildings, structures, access roads, parking areas, site grading, and fencing will be Contractor's responsibility.
- Control points will be set one time only. Re-setting control points for Contractor to complete the work shall be done solely at Contractor's expense.
- Consultant has included a Sub-consultant budget of \$3,000.00 for field staking.
- If Sub-consultant field surveying and staking costs exceed the fee presented above, City will increase the fee for this activity as a separate, additional fee activity.

Deliverables

- Established horizontal and vertical control points indicated by pins set and/or stakes.

Task 1000 - Application Software Programming

Sub-task 1001 - Programming and Systems Integration Services

Objective

Provide software programming services for equipment installed as part of this project.

Approach

This sub-task includes services related to providing systems programming for Contractor provided hardware and equipment. Specific activities conducted by Consultant will include the following:

ACTIVITY 1001.1 PROGRAMMING

- Conduct onsite meetings with City and Contractor to discuss the mechanics of implementing the software changes.
- Review Contractor provided equipment, electrical and instrumentation and control system submittals, and provide coordination for electrical and instrumentation systems.

- Develop Programming Schedule following receipt of Contractor's project baseline schedule to show the required programming to be completed one month before the associated construction start-up date.
- Obtain the current HMI process screens, configuration files, and databases (i.e., process database, alarm area database, picture files, etc.) for the AWTF from City.
- Manage the work provided to confirm compliance with the current wastewater treatment plant HMI software standards, quality of documentation, and scheduling.
- Develop programming for the new equipment to meet the requirements identified in the updated Final Software Pre-Design Report developed during the Phase 5B project.
- Provide plant programmable logic controllers (PLC) system integration and supervisory control and data acquisition (SCADA) system programming services for equipment provided by Contractor.
- Program operator interface terminal (OIT) and humane machine interface (HMI) process screens and database configuration.
- Merge the new or modified PLC, OIT and HMI programming with the existing PLC ladder logic and OIT and HMI graphic displays where required.
- Perform functional testing and verification of software programming. Consultant may use a software simulation package (where possible and practical) to thoroughly test the PLC, HMI and OIT software process interface. The input/output (I/O) simulator software program will be used to simulate the real I/O to be connected for this project. Only the pertinent process databases and process screens will be active in the simulator for testing to limit confusion and expedite testing.
- Conduct a review meeting to present the 90 percent software programming to City for review.
- Finalize software programming
- Provide field commissioning and software startup support.

ACTIVITY 1001.2 FACTORY ACCEPTANCE TESTING

- Conduct factory acceptance testing of Contractor provided PLC.

Assumptions

- Programming meetings will occur simultaneously with Construction Progress Meetings.
- City will provide current PLC programs, OIT and HMI process screens, configuration files, tag database(s), data files, and other required files prior to Consultant beginning the programming effort.
- Factory acceptance testing will occur within a 500 mile radius of the project site and occur over a single, continuous visit of up to five (5) days.

- Consultant has included a Sub-consultant budget of \$70,200.00 for systems integration.
- If Sub-consultant systems integration costs exceed the fee presented above, City will increase the fee for this activity as a separate, additional fee activity.

Deliverables

- Software programming loaded into new PLC.
- HMI process screens loaded into SCADA system.

Task 1100 - Commissioning

Sub-task 1101 - Operations and Maintenance Manuals

Objective

Facilitate review of Contractor provided manufacturer operations and maintenance (O&M) manuals.

Approach

This sub-task includes services related to receiving, reviewing, and tracking Contractor's O&M manuals. Specific activities conducted by Consultant will include the following:

ACTIVITY 1101.1 ADMINISTER O&M MANUAL REVIEWS

- Receive, log, and maintain O&M manual documents in the DMS.
- Conduct review of O&M manual transmittal form and manual contents to confirm Contractor's compliance with administrative requirements and distribute to appropriate Consultant team member(s) for review.
- Review manuals for compliance with the specifications.
- Receive and collate comments on manual reviews performed by others, including City.
- Provide written comments or approval to Contractor.
- Obtain from Contractor the required number of hard copies for distribution and project files.

Assumptions

- The fee for this sub-task is based upon receiving and reviewing fifty (50) submittals and fifty (50) re-submittals.
- Actual review time may vary depending upon the complexity and quality of the submittals. It is estimated that, on average, each submittal will take three (3) hours of Consultant team member time to review and process and each re-submittal will

take one and a half (1.5) hours of Consultant team members' time to review and process.

- Submittal reviews following one (1) re-submittal will be billed to City as a separate, out-of-scope activity from which City can, at its discretion, deduct the amount from Contractor's payment application(s).

Deliverables

- Assembled comment sheets in each manual file in the DMS.
- Operation and Maintenance Manual review responses transmitted to Contractor and City via e-mail in .pdf format.

Sub-task 1102 - Electronic Operations and Maintenance Manual Update

Objective

Update the existing electronic Operations and Maintenance (eO&M) Manual to address the improvements incorporated in this project.

Approach

This sub-task includes services related to developing web-based content for expansion of the existing eO&M manual. Specific activities conducted by Consultant will include the following:

ACTIVITY 1102.1 DEVELOP EO&M MANUAL

- Prepare an eO&M Manual that includes:
 - Electronic text and graphics files to reflect the improvements at the AWTF.
 - Unit process operating procedures.
 - General standard operating procedures for the key process systems included in the Tertiary Treatment Phase 2 project and identified for facility startup and operator training, and software links from the eO&M links to provide operator access to selected eO&M materials.
 - Facility and equipment descriptions, design criteria, process control narratives, design drawings, and vendor manuals.
- Develop a web application in the Microsoft ASP.net web environment that will function on a City provided Windows-based server.
 - Web Site Map Expansion.
 - Conduct a project kick-off meeting with City staff to discuss general eO&M content, system configuration and customizations, system installation and training, coordination with the design team, and the overall time schedule for development and implementation of the eO&M Manual system.
 - Develop web site map modifications in coordination with City.

- Focus on developing the high level architecture of the eO&M Manual structure to define the structure and organization.
 - Prepare a draft web site map modification for review and comment.
- Manual Content Preparation.
 - Prepare eO&M manual content for each unit process shown in the web site map.
 - Example content definitions are as follows:
 - Overview: A short description of each unit process.
 - Theory: A short description of the theory behind each unit process illustrating the design intent. Strategies for evaluating data and making process adjustments.
 - Schematic: Hyperlinks to 2D and 3D figures illustrating each unit process.
 - Design Criteria: Tabular listing of unit process sizes, loadings, and other design criteria.
 - Equipment: Hyperlinks to equipment manuals provided by equipment vendors in PDF file format.
 - Controls: A description of manual and automatic controls.
 - Procedures: A list of duties to be performed by operators when making daily process checks. General procedures for starting up and shutting down the process.
 - Safety: General safety considerations for the unit process.
 - Content definitions for this project will be specific and customized to those sub-sections agreed upon and defined by the web site map developed with City.
- Graphic Content Definition.
 - Develop 2D and 3D figures for communicating to City plant O&M staff the design intent, and how to operate the unit process.
 - Conduct a site visit near the end of construction to allow the content author to take pictures of equipment, panels, screens, and process areas for incorporation into the eO&M.
 - Incorporate the Tertiary Treatment Phase 2 record drawings into the eO&M Manual in .pdf file format and provide hyperlinks to each drawing.
- System Configuration and Customization.

- Develop specific system customizations, including screen layouts, file formats, administration and integration needs.
 - Identify technology issues related to installation on City's web server.
 - System Installation.
 - Develop the draft and final eO&M Manuals on City's server.
- Prepare and deliver a draft electronic copy of the revised text and graphics for review by City approximately one month prior to startup.
- Revise the text and graphic files and deploy one (1) final electronic version on City's server.
- Facilitate a four (4) hour training session with City plant staff on how to use and maintain the eO&M.
- Provide Idaho Department of Environmental Quality (DEQ) with a CD-ROM containing the associated electronic text and graphics files.

Assumptions

- The eO&M Manual content and format will follow previously developed eO&M standards and will provide the minimum content required for Idaho DEQ.
- Kick off meeting will occur in City's Wastewater Administration Building conference room, will involve one (1) Consultant team member, and will last up to four (4) hours.
- Detailed standard operating procedures will not be developed, except under contract amendment if directed by City operations staff. If detailed standard operating procedures are developed, they will be completed in collaboration with City staff.
- The eO&M Manual will be internally accessible via Internet Explorer and will not be accessible by the general public.
- An on-line HTML text editor (Cute Editor) will be embedded in the eO&M Manual to enable easy text editing by City without having to know HTML. Consultant owns a Cute Editor Enterprise License that allows for free distribution as long as the software is used on Consultant's eO&M application.
- The servers, hardware, and software necessary to store, view, and operate the eO&M Manual are not included in this scope. City will provide ancillary software on City's computers necessary to run the eO&M Manual, including Microsoft Internet Explorer, MS Windows, or Vista and the SQL database. The systems in-place are assumed to meet the following minimum requirements:
 - Path to and the necessary space on a City provided server at the AWTF facilities for the eO&M Manual. The server shall be a Microsoft Windows machine (running Microsoft Windows Server 2003).
 - At least a 2.0 GHz processor or better and 512 of RAM and at least 2 gigabytes of hard drive space.

- IIS (Internet Information Services 5.0 or higher).
- Microsoft.NET (pronounced dot net), Framework 1.1.
- SQL Server 2000 or later.
- AutoCAD viewer.
- City will provide Information Technology (IT) staff for maintaining eO&M Manual functionality. As the eO&M Manual will be developed using City's virtual private network (VPN), City will maintain that network connection for Consultant access throughout the course of the work.
- The figures will be developed from the conformed contract drawings but will be modified by deleting extraneous construction related information that is not pertinent to O&M personnel.
- Figures will be prepared in AutoCAD and converted to PDF file format for inclusion in the eO&M Manual.
- Graphics will be sized for the monitor size that City intends to use to access the eO&M Manual.
- A total of fifteen (15) 2D and four (4) 3D figures are anticipated.
- Site visit will involve one (1) Consultant team member and will last up to four (4) hours.
- City will provide a single set of unconflicting review comments on draft eO&M Manual within two weeks of receipt.
- Training session will occur in City's Wastewater Administration Building Conference Room, will involve one (1) Consultant team member, and will last up to four (4) hours. Consultant will schedule session such that key City staff members who maintain the eO&M Manual can attend.

Deliverables

- Kick-off meeting agenda and notes transmitted to City via e-mail in .pdf format.
- Draft eO&M Manual loaded on City's server.
- Final eO&M Manual loaded on City's server.
- Training session materials delivered to City in hard copy form, up to ten (10) copies.

Sub-task 1103 - Systems Commissioning

Objective

Assess overall performance of equipment and systems installed as part of this project.

Approach

This sub-task includes services related to training operations staff and testing the process systems to verify intended operation. Specific activities conducted by Consultant will include the following:

ACTIVITY 1103.1 OPERATOR TRAINING

- Provide pre-startup training to communicate to the plant operators the following:
 - Design criteria and process flow for each unit process.
 - Available field and SCADA equipment controls.
- Conduct operator training during the clean water testing on an informal basis in the field. The purpose of this training is to provide an opportunity to answer operator questions, to demonstrate the transition from manual control to automatic control, and to demonstrate alternate modes of operation.

ACTIVITY 1103.2 PRE-DEMONSTRATION ASSISTANCE

- Provide startup coordination between Contractor, Consultant's team and City staff during startup of the new equipment. The startup coordinator will allow the startup of new equipment to occur if, and only if, the equipment and ancillary subsystems are considered by both Contractor and Consultant to be ready for service and the manufacturer's O&M manuals are on-site and available for use by City plant staff.
- Verify pipe pressure tests and concrete water tightness tests have been conducted.
- Verify the manufacturer's field service forms have been completed for each piece of equipment.
- Verify rotating equipment has been bumped to check for proper operation and rotation.
- Verify instrument calibration and loop testing is complete.
- Observe Contractor's clean water testing. The clean water test occurs prior to startup and uses non-potable water to demonstrate the functionality of new equipment and controls.
- Review and approve equipment supplier training agendas and training material outlines as provided by Contractor. Using discretion based on experience with vendor training, enforce contract provisions for vendor training duration.
- Coordinate vendor training schedule with Contractor and plant staff.

ACTIVITY 1103.3 START-UP PLAN

- Prepare a startup plan that lists specific responsibilities for Contractor, Consultant team, systems integrator and City staff.
- Provide the written startup plan to Contractor, Consultant team, systems integrator and City staff approximately one month before startup.
- Schedule and conduct startup review meetings between Contractor, Consultant team, systems integrator and City staff approximately two weeks before startup.

ACTIVITY 1103.4 FUNCTIONAL INTEGRITY TESTING

- Coordinate with Contractor, Consultant's construction administration team, the PLC/SCADA programmer and City plant staff for process material to be introduced to the process in such a way that avoids or reduces the impact to the rest of the plant.
- Conduct startup services for each project classified system (PCS). Startup means placing the equipment into operation for its intended purpose and using the intended process material.
- Verify and document that the controls and alarms are working in conformance with the Contract Documents.
- Identify and document equipment or control deficiencies (punch list).
- Provide operational assistance to City after system start-up by Contractor and their equipment suppliers.

Assumptions

- Present the pre-startup training in a classroom setting using a lecture format supplemented with figures and graphics delivered via an overhead projector or using Microsoft PowerPoint on an LCD projector.
- Include draft copies of the Operations Manual sections or Consultant developed process presentations in the training material.
- The portion of each module pertaining to SCADA controls will be presented by Consultant SCADA programmer who programmed that system. Consultant SCADA programmer will show the actual SCADA screens for each equipment item discussed in the module. The SCADA presentation will cover manual starting, stopping and speed control of equipment, set-point adjustment, operating mode changes, alarms, data collection and trending.
- The fee for this sub-task is based upon commissioning services from a single Consultant team member for up to twelve (12) site visits of up to twenty-four (24) hours each. For PCS #11: Membrane operating system, two (2) Consultant team members will be present for up to forty (40) hours due to system complexity. Actual commissioning time may vary depending upon the complexity of the systems being commissioned or unforeseen delays. Site visits are assumed as follows:
 - Visit 1:
 - PCS #1: Primary scum pumping
 - Visit 2:
 - PCS #2: Primary Clarifier 3
 - PCS #3: Primary sludge pumping
 - Visit 3:

- PCS #4: Secondary Clarifier 3
 - PCS #5: Return secondary sludge pumping
 - PCS #6: Waste secondary sludge pumping
 - PCS #7: Secondary scum pumping
- Visit 4:
 - PCS #8: Secondary effluent pumping
- Visit 5:
 - PCS #9: Return tertiary sludge system
- Visit 6:
 - PCS #10: Membrane scour air system
- Visit 7:
 - PCS #11: Membrane operating system
- Visit 8:
 - PCS #12: 3W Water Pumping and Disinfection
- Visit 9:
 - PCS #13: Mechanical/HVAC/ventilation systems
- Visit 10:
 - PCS #14: Odor Control system
- Visit 11:
 - PCS #15: Caustic addition system
- Visit 12:
 - PCS #16: Alum addition system
 - PCS #17: Alternate coagulant addition system
- Normal working hours for Consultant, Contractor, and equipment suppliers will coincide with normal treatment plant hours: Monday through Friday, 7:00 am to 3:30 pm.
- Should Contractor or their equipment suppliers elect to perform work outside of normal working hours, on Saturday, Sunday, or legal holiday, Consultant will require that City authorize commissioning services prior to Consultant starting.
- Actual hours will be tracked and additional work will not be performed without prior approval from City.
- If additional labor and expenses for performing commissioning services outside normal working hours or beyond estimate included in this sub-task are required due

to delays from Contractor or their equipment suppliers, City will increase the fee for this activity as a separate, additional fee activity which City could recover from Contractor through a construction contract change when appropriate.

Deliverables

- Startup checklists and training materials customized for this project and up to ten (10) hard copies provided at pre-startup training session.
- Training sessions for each of the separate unit project element or process (may be consecutive or combined with other systems and held on the same day).
- Startup plans transmitted to City and Contractor via e-mail in .pdf format.

Task 1200 - Construction Close-Out

Sub-task 1201 - Construction Contract Close-Out

Objective

Achieve an orderly, well-documented and complete close-out of the construction contract.

Approach

This sub-task includes services related to closing out the construction contract. Specific activities conducted by Consultant will include the following:

ACTIVITY 1201.1 SUBSTANTIAL COMPLETION INSPECTIONS

- Receive and review Contractor's required substantial completion submittal, and determine if Project is ready for substantial completion inspection, including:
 - Develop substantial completion submittal checklist.
 - Verify submittal of required documents.
 - Review Contractor Record Drawings.
 - Review Contractor's punch list and Consultant's progressive list of incomplete and deficient items and determine if the substantial completion inspection is appropriate in accordance with Contract requirements.
 - Schedule substantial completion inspection, or notify Contractor that the Work has not progressed to point of substantial completion as defined by the Contract Documents.
- Coordinate, conduct and document the substantial completion inspection and issuance of the Certificate of Substantial Completion including:
 - Notify City and design team members of date of substantial completion inspection.

- Prepare and distribute the punch list format to the parties conducting the inspection.
- Conduct the Substantial Completion Inspection.
- Compile the punch list and identify the tentative date of substantial completion, and prepare and issue tentative Certificate of Substantial Completion to City for review and concurrence.
- If there are multiple portions of the Work with different substantial completion dates, prepare a summary of the dates of expiration of the various Correction Periods.
- Upon concurrence of City, issue the definitive Certificate of Substantial Completion and punch list setting the date of Substantial Completion.
- Review progress of corrective action on punch list items and periodically update and re-issue the punch list and issuance of the Certificate of Substantial Completion for the entire or designated portions of the Work.

ACTIVITY 1201.2 FINAL COMPLETION INSPECTION

- Receive and review Contractor's required final completion submittal.
- Coordinate and attend the final inspection meeting and physical walk-through of the Project, including:
 - Schedule the final inspection date and notify Contractor, City and Regulatory Agency.
 - Assemble the various final completion submittal documents, required by the Contract Documents, for the final inspection meeting and review them with the various parties.
 - Conduct, document and distribute the findings of the final inspection.
- Collect close-out documents required by the Contract Documents and forward the documents along with Contractors Final Application and Certificate for Payment to City for processing by City.

Assumptions

- Two (2) substantial completion inspections will occur. The first inspection will be for work associated with Milestone 1 and the second will be for the balance of work on the project.
- Substantial Completion Inspections and Final Completion Inspection will occur at the project site, will involve up to five (5) Consultant team members, and will last up to four (4) hours each plus travel.

Deliverables

- Certificates of Substantial Completion and punch lists transmitted to City and Contractor via e-mail in .pdf format.

- Certificate of Final Completion with Contractor's Final Application and Certificate for Payment transmitted to City and Contractor via e-mail in .pdf format.

Sub-task 1202 - Record Drawings

Objective

Prepare record drawings for project.

Approach

This sub-task includes services related to preparing record drawings for the project. Specific activities conducted by Consultant will include the following:

ACTIVITY 1202.1 RECORD DRAWINGS

- Consultant will monitor the status of Contractor's as-built drawings every other week at the Construction Progress Meetings.
- Consultant team members will document changes due field adjustments in the record drawings as they occur.
- Prepare final record drawings.
- Provide City with one (1) half-size hard copy set of record drawings (11 IN x 17 IN sheets).
- Provide record drawings in .pdf format for use in the eO&M Manual.

Assumptions

- Contractor will red-line a full size (22"x34") hard copy of the construction contract documents on a monthly basis to incorporate RFIs, field orders, change proposal requests, submittal data, and changes based on records received from both Consultant and City.
- Record drawings will be based on construction records provided by Contractor, City and on-site resident project representatives and will be completed within two (2) months of the date of receipt of all of the marked-up prints and other necessary data from Contractor.

Deliverables

- One (1) hard copy set of record drawings delivered to City.
- One (1) electronic copy of record drawings in .pdf format delivered to City on CD-ROM.

Sub-task 1203 - Project Completion Certification

Objective

Assist City in completion of project close-out reporting and coordination with Idaho DEQ.

Approach

This sub-task includes services related to conducting final project reviews in accordance with Idaho DEQ requirements. Specific activities conducted by Consultant will include the following:

ACTIVITY 1203.1 FINAL AGENCY CONSTRUCTION INSPECTION

- Provide City with certification documentation required for submittal to Idaho DEQ.
- Conduct a final construction inspection within sixty (60) days after final completion and review the following items:
 - The facility is complete, operating, and meets effluent limitations.
 - The facility conforms to the approved construction drawings, specifications, and change orders.
 - Construction and accounting records are adequate and available.
 - Construction impact mitigation measures and special conditions of the loan authorization have been met.
- Complete Idaho DEQ Form 11-E, the Final Construction Inspection Report, and provide a copy to City.

ACTIVITY 1203.2 ONE-YEAR CERTIFICATION

- Conduct a one-year certification including on-site inspection and process data review. Review the following items:
 - The facility is operating in accordance with the approved plans and specifications and meets effluent limitations and process performance criteria.
 - Construction warranty items have been addressed and special conditions of the project loan(s) have been met.

Assumptions

- Deficiencies discovered during the inspection will be discussed with City for City to assign correction to Contractor as a warrantable item during the correction period.

Deliverables

- Final Construction Inspection Report transmitted to City via e-mail in .pdf format.
- Final One-year Certification Memorandum transmitted to City via e-mail in .pdf format

Task 1300 - Additional Unanticipated, Urgent, or Special Services

Sub-task 1301 - Allowance for Unanticipated Services

Objective

Allow for cost of unanticipated, but necessary additional Consultant services.

Approach

This sub-task includes an allowance for unanticipated services. Specific activities conducted by Consultant will include the following:

ACTIVITY 1301.1 ALLOWANCE

- Consultant will provide additional services which are unplanned, urgent and/or critical to maintaining the project schedule and progress of the work.
- The services for this task must be specifically scoped, agreed to and authorized in writing by City prior to performing the work.
- An allowance of \$25,000 has been included for additional unanticipated, urgent or special services.

Assumptions

- Assumptions will be developed for each specific authorization.
- Additional unanticipated, urgent or special services provided by a sub-consultant and contracted through Consultant are allowed under this sub-task with appropriate Consultant mark-up.

Deliverables

- As defined in future work authorizations.

Schedule

Assuming that Notice to Proceed will be issued on February 1, 2017, the project schedule is as follows. If the NTP occurs after this date, the schedule will be moved by an equal number of days.

| Task | Description | Schedule |
|------|---|---------------------------|
| 700 | Project Administration and Management | Through March 1, 2019 |
| 800 | Construction Engineering | Through March 1, 2019 |
| 900 | Field Services | Through December 30, 2018 |
| 1000 | Application Software Programming | Through December 30, 2018 |
| 1100 | Commissioning | Through December 30, 2018 |
| 1200 | Construction Close-Out | Through December 30, 2019 |
| 1300 | Additional Unanticipated, Urgent, or Special Services | Through March 1, 2019 |

EXHIBIT B

TERTIARY TREATMENT PHASE 2 IMPROVEMENTS

COMPENSATION SCHEDULE FOR SERVICES DURING CONSTRUCTION

| Coeur d'Alene Wastewater Treatment Plant - Tertiary Treatment Phase 2 Improvements Services During Construction Fee Estimate Summary | | | | | | | | | |
|---|------------------------|--------------------------|-----------------------|-------------------|-------------------|-----------------------------|---------------------|-------------------|---------------------|
| TASK | HDR DIRECT LABOR | HDR INDIRECT LABOR | HDR TOTAL LABOR | HDR FIXED FEE | EXPENSES | SUB- CONSULT. MARK-UP | HDR NFE | SUB- CONSULT. | TOTAL |
| Task 700 - Project Administration and Management (SDC) | \$ 47,550 | \$ 83,212 | \$ 130,762 | \$ 15,691 | \$ 15,223 | \$ 767 | \$ 162,443 | \$ 15,340 | \$ 177,783 |
| Task 800 - Construction Engineering | \$ 203,130 | \$ 355,478 | \$ 558,608 | \$ 67,033 | \$ 20,934 | \$ 3,959 | \$ 650,534 | \$ 79,170 | \$ 729,704 |
| Task 900 - Field Observations | \$ 194,485 | \$ 340,348 | \$ 534,833 | \$ 64,180 | \$ 134,692 | \$ 7,250 | \$ 740,955 | \$ 145,000 | \$ 885,955 |
| Task 1000 - Application Software Programming | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 3,510 | \$ 3,510 | \$ 70,200 | \$ 73,710 |
| Task 1100 - Commissioning | \$ 50,988 | \$ 89,228 | \$ 140,216 | \$ 16,826 | \$ 31,086 | \$ 3,224 | \$ 191,352 | \$ 64,480 | \$ 255,832 |
| Task 1200 - Construction Close-Out | \$ 14,964 | \$ 26,186 | \$ 41,150 | \$ 4,938 | \$ 5,719 | \$ 650 | \$ 52,457 | \$ 13,000 | \$ 65,457 |
| Task 1300 - Additional Unanticipated, Urgent, or Special Services | \$ - | \$ - | \$ - | \$ - | \$ 25,000 | \$ - | \$ 25,000 | \$ - | \$ 25,000 |
| Design Scope of Services Remaining Fee | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ (100,000) |
| TOTAL COMPENSATION | \$ 511,116 | \$ 894,453 | \$ 1,405,569 | \$ 168,668 | \$ 232,654 | \$ 19,360 | \$ 1,826,251 | \$ 387,190 | \$ 2,113,441 |

Consultant's total compensation for professional services provided pursuant to this amendment, including labor and overhead costs and expenses, sub-consultant compensation, sub-consultant mark-up, and Consultant's fixed fee of \$168,668.00, shall not exceed \$2,113,441.00 without written authorization by City.

Consultant shall invoice City monthly for Consultant's services. Invoices shall itemize costs incurred for each task identified in the scope of work.

PUBLIC HEARINGS

CITY COUNCIL STAFF REPORT

FROM: TAMI STROUD, PLANNER
DATE: JANUARY 3, 2017
SUBJECT: APPEAL HEARING AND ZONE CHANGE REQUEST
ZC-3-16 - ZONE CHANGE FROM R-12 TO NC
LOCATION: +/- .28 ACRE PARCEL AT 3202 & 3206 N.4TH STREET AND MORE
COMMONLY KNOWN AS "LUNDIN'S VIOLINS".

APPLICANT/OWNER:

Arvid Lundin
3206 N. 4th Street
Coeur d'Alene, ID 83815

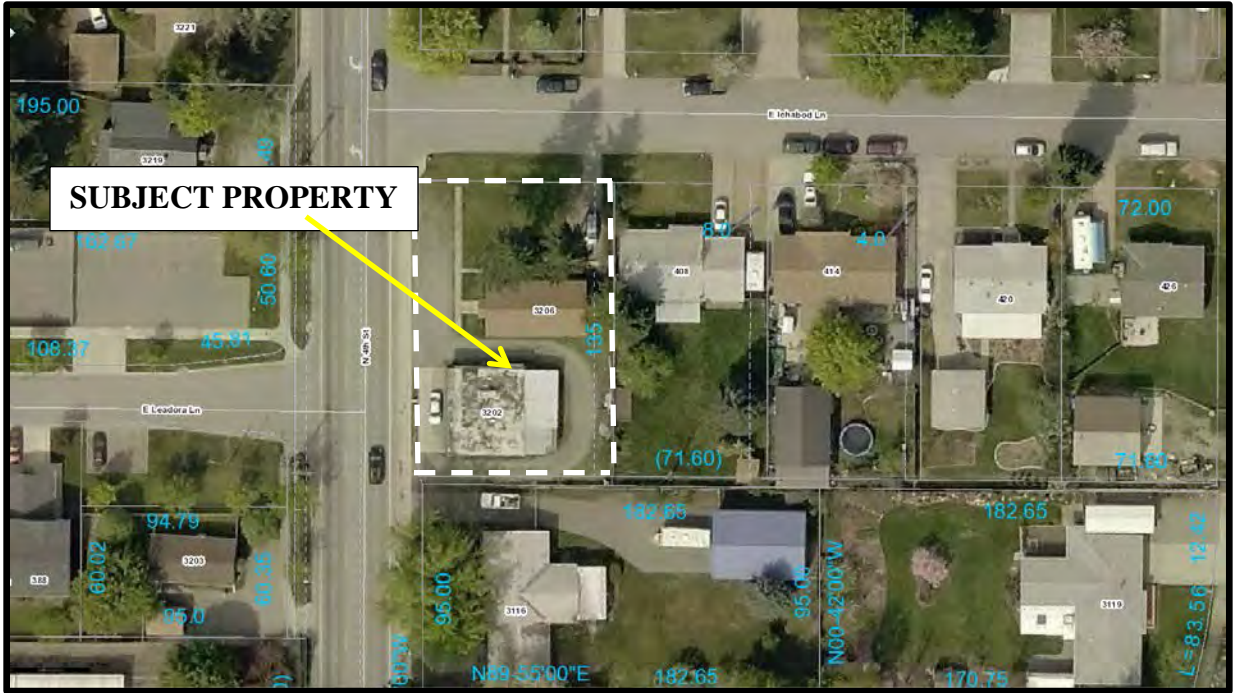
APPELLANT/APPLICANT'S REPRESENTATIVE

Brenny Ross
Northwest Solutions Investment Group
205 W. Anton Ave.
Coeur d'Alene, ID 83815

DECISION POINT:

Arvid Lundin requested approval of a Zone Change from R-12 (Residential at 12 units/acre) to NC (Neighborhood Commercial) at 3202 and 3206 N. 4th Street. The Planning Commission held a public hearing for the zone change request on November 8, 2016 and denied the request without prejudice. Brenny Ross, on behalf of Arvid Lundin of "Lundin's Violins," has filed an appeal of the Planning Commission's decision to deny the request for a zone change from the R-12 to NC zoning district.

Per Municipal Code Section 17.09.125: City Council Action on Private Party Application, Subsection C., City Council Action, the city council shall, after notice of the public hearing (as prescribed in subsection [17.09.120B](#) of this chapter), hold said public hearing on the proposal. The city council may approve, conditionally approve, refer back to the planning commission, deny or deny without prejudice. If the proposal is approved by the city council, the city attorney will prepare the documents to enact the zone change or text change ordinance. The city council also may defer action upon the consent of the applicant. A copy of the decision shall be mailed to the applicant at the address on the application. The decision shall be made within fifteen (15) days of the hearing. If the proposed amendment is referred back to the commission, the commission shall hold a public hearing as prescribed in section [17.09.120](#) of this chapter, and shall render a report to the city council within forty (40) days of such referral and the city council shall then hold a public hearing as prescribed in this section.



BACKGROUND INFORMATION:

Lundin’s Violin repair shop has been operating at the above-noted location since 2005. Prior to that, there have been a number of Service Uses on the subject property such as a hair salon, florist, radiator repair shop and several other commercial uses going back to 1963. There is also an existing single-family dwelling unit on the property.

The subject property was annexed into the City of Coeur d’Alene in 1963, with an R-1 zoning classification. In 1982, when the City implemented a new zoning ordinance, the zoning of the property was changed from R-1 to R-12 (Residential at 12 units/acre) zoning district. The R-12 zoning district closely corresponds to the former R-1 zoning district. The subject property contained a commercial use for many years before it was annexed into the City. So, even when the property came into the City in 1963, the R-1 zoning classification made the use legal nonconforming. In addition to a violin repair shop, the building has been used for a floral shop and radiator repair.

The type of business currently operated on the subject property would still be a legal nonconforming use with the approval of a NC (Neighborhood Commercial) zoning classification, but the zoning district would allow for a future purchaser to expand the commercial uses as listed in NC zoning. Of course, once a legal nonconforming use is abandoned according to Code, it may not be resumed.

In 2006, Arvid Lundin, as a co-applicant, submitted an application for a zone change from the existing R-12 zoning to C-17L (Limited Commercial). The Planning Commission denied that request, but directed staff to look at other zoning designations that would allow for the location of enterprises that mainly serve the immediate surrounding residential area and that provide a scale and character that are compatible with residential buildings.

In December of 2006, following several workshops and two public hearings, the Commission recommended the approval of the Neighborhood Commercial (NC) and Community Commercial

(CC) districts. The City Council approved the code amendment to add two new districts known as Neighborhood Commercial and Community Commercial.

Both districts include a Purpose, Permitted Uses, Maximum Building Height, Maximum Floor Area Ratio, Maximum Floor Area, Minimum Parking, Setbacks, Screening, Landscaping and Design Standards. However; the Neighborhood Commercial zone is the least intense as far as commercial zones within the city.

The Neighborhood Commercial zoning district is described as follows:

Neighborhood Commercial: The Neighborhood Commercial District is intended to allow for the location of enterprises that mainly serve the immediate surrounding residential area and that provide a scale and character that are compatible with residential buildings. It is expected that most customers would reach the businesses by walking or bicycling, rather than driving.

The Neighborhood Commercial (NC) zoning district allows for the following principal uses:

➤ **Neighborhood Commercial (NC) Zoning District:**

Uses permitted by right:

- Commercial and professional office
- Daycare
- Medical/dental
- Parks
- Personal services
- Residential
(Above the ground floor only-new construction)
- Retail

The R-12 zoning district allows for the following.

➤ **R-12 (Residential at 12 units/acre Zoning District:**

Uses permitted by right:

- Single family housing
- Duplex housing
- Pocket Housing
- Home Occupations as defined in Section 17.06-705
- Essential Services (underground)
- Administrative Offices
- Neighborhood Recreation
- Public Recreation

The R-12 zoning district would allow for the existing use to continue as a legal nonconforming use, which is considered to be “Consumer Repair Services “and defined as follows:

Activities that include the provision, principally to individuals rather than firms, of repair services such as apparel, show upholstery, furniture, and electrical appliance repair services.

Based upon the existing lot size (.28 acres or 12,196 S.F.), should the existing structures be removed, two single-family dwelling units, or one tri-plex (Pocket Housing) could be built on the subject property in R-12 zoning district.

When the zone change request went before the Planning Commission, staff recommended a condition be added to the zone change request due to an outstanding code violation. If the Planning Commission had approved the zone change request with staff's recommended condition, the applicant would have been required to obtain a building permit to bring the illegal addition on the rear of the existing structure into compliance with the Building Code. Staff understands that the appellant has obtained a demolition permit and is in the process of removing the addition; therefore, that condition would no longer be applicable.

GENERAL INFORMATION:

Mr. Lundin is in the process of selling the existing property and has requested the NC zoning district in order to legalize neighborhood-scale commercial uses on the property. The Neighborhood Commercial district (NC) is intended to allow for the location of enterprises that mainly serve the immediate surrounding residential area and that provide a scale and character that are compatible with residential buildings. It is expected that most customers would reach the businesses by walking or bicycling, rather than driving. The list of allowable uses in the NC zoning district are provided on the previous page. The comments and justification for the zone change request is attached for your review.

REQUIRED FINDINGS:

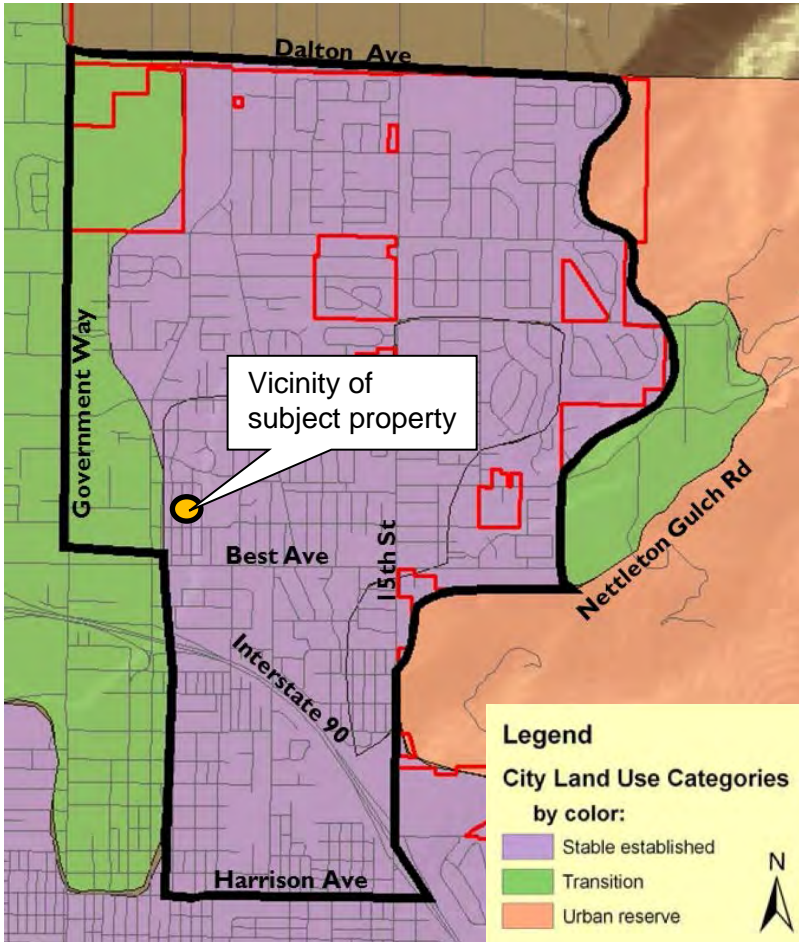
- A. **Finding #B8: That this proposal (is) (is not) in conformance with the Comprehensive Plan policies.**

2007 COMPREHENSIVE PLAN- LAND USE CATEGORY: NE PRAIRIE

- The subject property is within the existing city limits.
- The City Comprehensive Plan Map designates this area as NE Prairie: Stable Established:

(See the Comprehensive Plan Map on the next page.)

2007 COMPREHENSIVE PLAN MAP: NE PRAIRIE



Stable Established:

These areas are where the character of neighborhoods has largely been established and, in general, should be maintained. The street network, the number of building lots and general land use are not expected to change greatly within the planning period.

NE Prairie Today: Land Use- NE Prairie

This area is composed of a variety of zoning districts with a majority of residential density at three to eight units per acre (3-8:1). Lower density development becomes more prominent moving north. The NE Prairie provides a range of housing choices that includes a number of large recreation areas and small pocket parks.

Canfield Mountain and Best Hill act as the backdrop for this portion of the prairie. Much of the lower lying, less inhibitive areas have been developed. Pockets of development and an occasional undeveloped lot remain.

NE Prairie Tomorrow:

It is typically a stable established housing area with a mix of zoning districts. The majority of this area has been developed. Special care should be given to the areas that remain, such as the Nettleton Gulch area, protecting the beauty and value of the hillside and wetlands.

The characteristics of NE Prairie neighborhoods will be:

That overall density may approach three to four residential units per acre (3-4:1), however, pockets of higher density housing and multi-family units are appropriate in compatible areas. Commercial uses are concentrated in existing commercial areas along arterials with neighborhood service nodes where appropriate.

Natural vegetation is encouraged and should be protected in these areas. Pedestrian connections and street trees are encouraged in both existing neighborhoods and developing areas. Clustering of smaller lots to preserve large connected open space areas as well as views and vistas are encouraged. Incentives will be provided to encourage clustering.

COMPREHENSIVE PLAN GOALS & OBJECTIVES:

Goal #1: Natural Environment

Our Comprehensive Plan supports policies that preserve the beauty of our natural environment and enhance the beauty of Coeur d'Alene.

Objective 1.12

Community Design:

Support the enhancement of existing urbanized areas and discourage sprawl.

Objective 1.14

Efficiency:

Promote the efficient use of existing infrastructure, thereby reducing impacts to undeveloped areas.

Objective 1.16

Connectivity:

Promote bicycle and pedestrian connectivity and access between neighborhoods, open spaces, parks and trail systems.

Goal #2: Economic Environment

Our Comprehensive Plan preserves the city's quality workplaces and encourages economic growth.

Objective 2.01

Business Image and Diversity:

Welcome and support a diverse mix of quality professional, trade, business, and service industries, while protecting existing uses of these types from encroachment by incompatible land uses.

Objective 2.04

Downtown & Neighborhood Service Nodes:

Prioritize a strong, vibrant downtown and compatible neighborhood service nodes throughout the city.

Objective 2.05

Pedestrian & Bicycle Environment:

Plan for multiple choices to live, work, and recreate within comfortable walking/biking distances.

Goal #3: Home Environment

Our Comprehensive Plan preserves the qualities that make Coeur d'Alene a great place to live.

Objective 3.01

Managed Growth:

Provide for a diversity of suitable housing forms within existing neighborhoods to match the needs of a changing population.

Objective 3.05

Neighborhoods:

Protect and preserve existing neighborhoods from incompatible land uses and developments.

Objective 3.06

Neighborhoods:

Protect the residential character of neighborhoods by allowing residential/commercial/industrial transition boundaries at alleyways or along back lot lines if possible.

Objective 3.07

Neighborhoods:

Emphasize a pedestrian orientation when planning neighborhood preservation and revitalization.

Goal #4: Administrative Environment

Our Comprehensive Plan advocates efficiency and quality management in city government.

Objective 4.06

Public Participation:

Strive for community involvement that is broad-based and inclusive, encouraging public participation in the decision making process.

Evaluation: *The City Council must determine, based on the information before them, whether the Comprehensive Plan policies do or do not support the request. Specific ways in which the policy is or is not supported by this request should be stated in the finding.*

B. **Finding #B9: That public facilities and utilities (are) (are not) available and adequate for the proposed use.**

STORMWATER:

Stormwater issues are not a component of the proposed zone change, any storm issues will be addressed at the time of development on the subject property.

-Submitted by Shane Roberts, Public Works Inspector

TRAFFIC:

Without a defined use for the subject property, approximate traffic generation cannot be estimated. However, the change from an R-12 to a NC use is likely to have a minor increase in traffic generated, depending on the future use. Expected traffic could range from 6 trips during the peak hour for an office building to 14 trips in the peak hour for a medical-dental office. It is assumed that the increase in traffic would primarily be experienced on 4th Street, which is classified as an Urban Collector.

Evaluation:

The subject property is situated adjacent to a major N/S collector street with multiple signals for traffic control, and adjoining local streets that intersect these arterials. These roadways will accommodate traffic generated through the proposed zone change on the subject property.

-Submitted by Chris Bosley, City Engineer

STREETS:

The subject property is bordered by Fourth Street on the west and Ichabod Lane to the north.

Evaluation:

Both adjoining streets are developed to current standards with the exception of sidewalk on the north side of the subject property. Since there is no sidewalk installed along the south side of Ichabod Lane within 450' of the subject property, none will be required.

-Submitted by Shane Roberts, Public Works Inspector

WATER:

There is adequate capacity in the public water system to support domestic, irrigation and fire flow for the proposed zone change. There is an existing 12" water main in 4th St. and a 6" water main in Ichabod Lane.

-Submitted by Terry Pickel, Water Superintendent

SEWER:

The subject property is already connected and paying for has public sewer.

-Submitted by Mike Becker, Utility Project Manager

FIRE:

The Fire Department works with the Engineering, Water and Building Departments to ensure the design of any proposal meets mandated safety requirements for the city and its residents:

Fire department access to the site (Road widths, surfacing, maximum grade and turning radiuses), in addition to, fire protection (Size of water main, fire hydrant amount and placement, and any fire line(s) for buildings requiring a fire sprinkler system) will be reviewed prior to final plat recordation or during the Site Development and Building Permit, utilizing the currently adopted International Fire Code (IFC) for compliance. The CD'A FD can address all concerns at site and building permit submittals.

-Submitted by Bobby Gonder, Fire Prevention

Evaluation: *The City Council must determine, based on the information before them, whether or not the public facilities and utilities are adequate for the request.*

- C. **Finding #B10:** That the physical characteristics of the site (make) (do not make) it suitable for the request at this time.

PHYSICAL CHARACTERISTICS:

There are no topographical or other physical constraints that would make the subject property unsuitable for the request.

View of the *subject property* looking east on 4th Street



View of the *subject property* looking southeast on 4th Street toward violin shop



View of the subject property looking southeast on 4th Street at existing violin shop.



View of rear yard of subject property



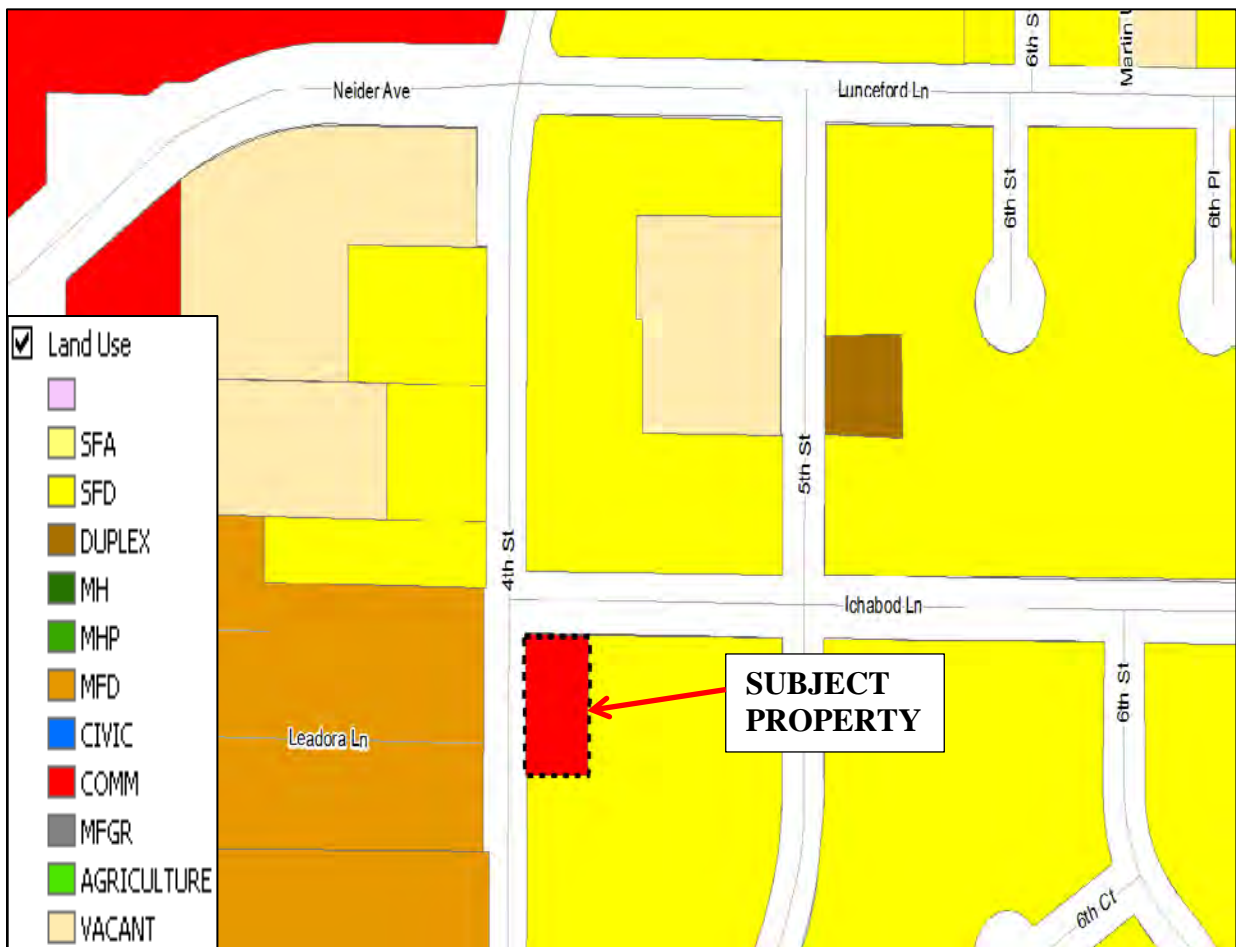
Evaluation: The City Council must determine, based on the information before them, whether or not the physical characteristics of the site make it suitable for the request at this time.

D. **Finding #B11:** That the proposal (would) (would not) adversely affect the surrounding neighborhood with regard to traffic, neighborhood character, (and) (or) existing land uses.

TRAFFIC:

- Staff comments with regard to traffic are located on pages 7 and 8 of this staff report.

GENERALIZED LAND USE PATTERN:



NEIGHBORHOOD CHARACTER:

See Finding B8 on page 4 for the characteristics of the NE Prairie neighborhoods.

Existing/adjacent land uses:

The existing land uses in the immediate area include single-family, multi-family, and commercial uses to the north on 4th Street (Costco, coffee stand, bank, and offices). The photos below show the neighborhood character surrounding the subject property.

View of property to the west "Briarwood Apartments" along 4th Street



View from the property looking northwest



View looking north of the subject property on 4th Street toward Costco, espresso stand, credit union, and offices.



ZONING:



Approval of the NC zone change request would permit the uses by right and by special use permit, but would still prohibit specific uses on the subject property as listed below:

➤ **Proposed Neighborhood Commercial (NC) Zoning District:**

Uses permitted by right:

- Commercial and professional office
- Daycare
- Medical/dental
- Parks
- Personal services
- Residential
(Above the ground floor only-new construction)
- Retail

The following uses are prohibited in NC districts:

- × Commercial parking
- × Detention facilities
- × Gasoline service stations
- × Industrial

- × Ministorage
- × Outdoor storage or display of goods, other than plants
- × Sales, repair or maintenance of vehicles, boats, or equipment
- × Warehouses

Uses permitted by special use permit:

- Religious institutions
- Schools

- × Additional Prohibited Uses: In addition to the uses listed above, any other uses that the Planning Director determines are not in conformity with the purpose and intent of the district are prohibited. The decision of the Planning Director may be appealed by following the administrative appeal procedure.

Hours of Operation

Nonresidential uses may only be open for business between the hours of six o'clock (6:00) A.M. and ten o'clock (10:00) P.M.

Floor Area

Maximum Floor Area Ratio: The floor area ratio (FAR) for nonresidential uses in an NC district is 1.0 with a total FAR of 1.5 when a ground floor permitted use is combined with a second level residential unit.

Maximum Floor Area: The maximum floor area shall not exceed four thousand (4,000) square feet for retail uses. All other nonresidential uses shall not exceed eight thousand (8,000) square feet.

Parking

Nonresidential Uses: Nonresidential uses must provide at least three (3) parking stalls per one thousand (1,000) square feet of floor area.

Permitted Residential Uses: Permitted residential uses must provide 1.5 stalls per dwelling unit.

Height & Design Standards

The maximum height for all uses in an NC district shall not exceed thirty two feet (32').

At least fifty percent (50%) of any first floor wall facing an arterial street must be glass.

If the building does not abut the sidewalk, there must be a walkway between the sidewalk and the primary entrance.

Surface parking should be located to the rear or to the side of the principal building.

Trash areas must be completely enclosed by a structure constructed of materials similar to the principal building. Dumpsters must have rubber lids.

Buildings must be designed with a residential character, including elements such as pitched roofs, lap siding, and wide window trim.

Lighting greater than one foot-candle is prohibited. All lighting fixtures shall be a "cutoff" design to prevent spillover.

Wall mounted signs are preferred, but monument signs no higher than six feet (6') are allowed. Roof mounted signs and pole signs are not permitted.

Signs shall not be internally lighted, but may be indirectly lighted.

Evaluation: *The City Council must determine, based on the information before them, whether or not the proposal would adversely affect the surrounding neighborhood with regard to traffic, neighborhood character, (and)/(or) existing land uses.*

APPLICABLE CODES AND POLICIES:

UTILITIES:

All proposed utilities within the project shall be installed underground.

STREETS:

An encroachment permit shall be obtained prior to any work being performed in the existing right-of-way.

STORMWATER:

A stormwater management plan shall be submitted and approved prior to start of any construction. The plan shall conform to all requirements of the City.

ORDINANCES & STANDARDS USED FOR EVALUATION:

2007 Comprehensive Plan
Transportation Plan
Municipal Code
Idaho Code
Wastewater Treatment Facility Plan
Water and Sewer Service Policies
Urban Forestry Standards
Transportation and Traffic Engineering Handbook, I.T.E.
Manual on Uniform Traffic Control Devices
2010 Coeur d'Alene Trails Master Plan

ACTION ALTERNATIVES:

The City Council must consider this appeal/zone change request and make separate findings to:

- Approve
- Conditionally Approve
- Refer back to the Planning Commission
- Deny
- Deny without Prejudice, or
- Defer action upon consent of the Applicant

Arvid Lundin
3206 N. 4th Street
Coeur d'Alene, ID 83815

RECEIVED

NOV 22 2016

CITY CLERK

November 22, 2016

RE: ZC-3-16: Requested zone change from R-12 to NC

Dear Mr. Mayor and honorable City Council Members:

By this letter, on behalf of Arvid Lundin, I hereby appeal to you the November 8, 2016 decision of the Coeur d'Alene Planning Commission denying the above zone change. Enclosed herewith is a copy of the Notice of Decision and the \$200.00 filing fee. Thank you for your consideration.

Very truly,



Brenny Ross
Appellant

The property that I am petitioning to have rezoned to **Neighborhood Commercial** is now zoned R-12. This property, parcel # 20685, otherwise known as 3202 N. 4th Street, has been used as a dual purpose business and home for well over 40 years. To name a few: a radiator shop, then a florist shop which opened in 1975. They also sub-leased part of the building to a beautician. I have operated Lundin's Violins here since 2005.

I would like to retire and sell this property. With the increased growth of the surrounding neighborhood from Sherman to Neider, the Neighborhood Commercial zoning would allow me to market the property for commercial uses allowed in that zoning district. Even though this is a business location, the limitations from the current R-12 zoning have all of the potential buyers going to other properties that are currently zoned commercial.

This portion of N. 4th has been utilized as a major business corridor for many years including other residences with large shop buildings on the east side of N. 4th Street. This street has become a go to location for many of the residents from here and all over North Idaho with Costco being at the forefront. Global Credit Union, the Human Bean coffee are all in close walking distance, and not to forget all the businesses south on Appleway.

In the 2007 compressive plan I feel that objective 2.04 applies to my property, with downtown and neighborhood service nodes. As stated: Prioritize a strong vibrant downtown and compatible neighborhood service nodes throughout the city.

My property has ample parking available for most types of business with access from either N. 4th or Ichabod.

1. Applicant: Arvid Lundin
Location: 3202 and 3206 N. 4th
Request: A proposed zone change from R-12 (Residential at 12 units/acre) to NC (Neighborhood Commercial) zoning district
QUASI-JUDICIAL (ZC-3-16)

Tami Stroud, Planner, presented the staff report and answered questions from the Commission.

Commissioner Messina requested if staff could explain the history on the condition included in the staff report.

Ms. Stroud explained that there is an outstanding code violation on this property regarding an expansion to the back of the violin shop where a permit was never issued for that expansion. She stated if this is approved, the applicant will need to acquire a building permit for the work done on the expansion.

Public testimony open.

Arvid Lundin, applicant, explained that he would like to retire and feels the only way to sell the property is with the approval of this zone change. He explained he has had people interested in the property, but it was passed over as the property was not properly zoned for the intended use.

Brenny Ross stated that he wants to buy the property so he can use the existing house as an office and would need the zone change since the current zone will not allow this type of use.

Brian Donnell stated that he lives two doors down from this property and remembers a few years ago, that the Planning Commission denied a property zone change because of a lack of parking. He stated since that request, he has had police investigate problems with building violations and loitering. He commented that he intends to live in this area until he retires and feels that this zone change should not be granted. He commented that there are a lot of kids who live in this area and is concerned with their safety.

Deacon Easterly commented that he has lived in this area for 20 years and explained when the city put in a traffic light at the corner of Neider and 4th, traffic increased. He commented that he lives on Ichabod and throughout the year, he has witnessed people leaving this property and speeding down their street.

Chairman Jordan inquired how this type of use would generate additional traffic if the house is intended to be used as an office, as stated from the previous testimony by Mr. Ross.

Cheri Bronstein stated that she is an employee at Lundins Violin Shop and understands the neighbors' concerns regarding traffic. She explained that their customers don't park on Ichabod Street as they have a place to park on their property. She commented that Mr. Ross, who wants to buy the property, intends to use the property as an office and should not generate a lot of traffic. She stated if the neighborhood has concerns with traffic, perhaps they could speak with staff about putting in some traffic calming devices.

Mr. Donnell inquired if staff is going to accept the testimony from Ms. Bronstein, since she lives in Post Falls.

Randy Adams, Deputy City Attorney, stated that Ms. Bronstein's testimony is valid.

Public testimony closed.

Commissioner Luttrupp inquired if the house could be rebuilt if destroyed by fire.

Ms. Stroud stated that the property would have to meet the setbacks of the current zone.

Commissioner Messina stated that he remembers when this property came before the commission many years ago, and was denied because the Commercial zone requested was too intense, and advised the applicant to apply again, because the commission was working on a new zoning designation that would allow less intense - to allow commercial business to locate within a residential neighborhood.

Chairman Jordan commented that he remembers when this property was a flower shop, and questioned if what is allowed in the Neighborhood Commercial (NC) zone is more obtrusive than what is allowed now.

Ms. Stroud explained what is allowed in the NC zone.

Commissioner Fleming commented if this zone change is approved they could still be allowed to build a 4000 sq.ft. building on the property and inquired if this is correct.

Ms. Anderson stated that within the NC zone, there is a restricted height of 32 feet.

Commissioner Messina stated they are limited to what they can put on this property based on that they would have to provide three parking spaces, which he feels they can't meet.

Commissioner Fleming feels that the current use should stay and it is not a great location for a commercial use.

Commissioner Rumpler stated that tonight's testimony has been compelling, and he realizes this is an area that is going to change and evolve. He concurs with Commissioner Fleming that granting this zone request right now may be premature.

Chairman Jordan commented that he can see both sides. He stated that if this request is not approved, the applicant can build apartments that might be a more intense use than what is proposed tonight.

Commissioner Messina commented that he is not comfortable with commercial on this side of the street.

Motion by Fleming, seconded by Rumpler, to deny without prejudice Item ZC-1-16. Motion approved.

ROLL CALL:

| | | |
|-----------------------|-------|-----|
| Commissioner Fleming | Voted | Aye |
| Commissioner Messina | Voted | Aye |
| Commissioner Luttrupp | Voted | No |
| Commissioner Rumpler | Votes | Aye |
| Commissioner Ward | Voted | Aye |

Motion to approve denial without prejudice carried by a 4 to 1 vote.

**COEUR D'ALENE PLANNING COMMISSION
FINDINGS AND ORDER**

A. INTRODUCTION

This matter having come before the Planning Commission on, November 8, 2016, and there being present a person requesting approval of ZC-3-16, a request for a zone change from R-12 (Residential at 12 units/acre) to NC (Neighborhood Commercial) zoning district.

APPLICANT: ARVID LUNDIN

LOCATION: +/- .28 ACRE PARCEL AT 3202/3206 N.4TH STREET AND MORE COMMONLY KNOWN AS "LUNDINS VIOLIN".

B. FINDINGS: JUSTIFICATION FOR THE DECISION/CRITERIA, STANDARDS AND FACTS RELIED UPON

- B1. That the existing land uses are residential and commercial.
- B2. That the Comprehensive Plan Map designation is Stable Established.
- B3. That the zoning is R-12.
- B4. That the notice of public hearing was published on, October 22, 2016, which fulfills the proper legal requirement.
- B5. That the notice of public hearing was posted on the property on October 31, 2016, which fulfills the proper legal requirement.
- B6. That notices of public hearing were mailed to all property owners of record within three-hundred feet of the subject property.
- B7. That public testimony was heard on November 8, 2016.
- B8. That this proposal is not in conformance with the Comprehensive Plan policies.
- B9. That public facilities and utilities are available and adequate for the proposed use.

- B10. That the physical characteristics of the site do not make it suitable for the request at this time because of traffic and residential on the east side of the street.
- B11. That the proposal would adversely affect the surrounding neighborhood with regard to traffic, neighborhood character, and existing land uses because will not be in conformance with the surrounding uses.

C. ORDER: CONCLUSION AND DECISION

The Planning Commission, pursuant to the aforementioned, finds that the request of ARVID LUNDIN for a zone change, as described in the application should be denied without prejudice.

Special conditions applied are as follows:

PLANNING:

Due to an outstanding code violation, the applicant will be required to obtain a building permit for the addition on the rear of the property prior to the rezone becoming final. All applicable code requirements must be met prior to final approval of the requested rezone.

Motion by Fleming, seconded by Rumpler, to adopt the foregoing Findings and Order.

ROLL CALL:

| | |
|-----------------------|-----------|
| Commissioner Fleming | Voted Yes |
| Commissioner Luttrupp | Voted No |
| Commissioner Messina | Voted Yes |
| Commissioner Rumpler | Voted Yes |
| Commissioner Ward | Voted Yes |

Commissioner Ingalls was absent.

Motion to deny without prejudice carried by a 4 to 1 vote.



CHAIRMAN BRAD JORDAN

**COEUR D'ALENE CITY COUNCIL
FINDINGS AND ORDER**

A. INTRODUCTION

This matter having come before the City Council on January 3, 2017, and there being present a person requesting approval of ITEM: ZC-3-16, a request for a zone change from R-12 (Residential at 12 units/acre) to NC (Neighborhood Commercial)

APPLICANT: ARVID LUNDIN

LOCATION: +/- .28 ACRE PARCEL AT 3202 & 3206 N.4TH STREET AND MORE COMMONLY KNOWN AS "LUNDIN'S VIOLINS".

B. FINDINGS: JUSTIFICATION FOR THE DECISION/CRITERIA, STANDARDS AND FACTS RELIED UPON

(The City Council may adopt Items B1-through7.)

- B1. That the existing land uses are residential and commercial.
- B2. That the Comprehensive Plan Map designation is Stable Established.
- B3. That the zoning is R-12.
- B4. That the notice of public hearing was published on, December 17, 2016, which fulfills the proper legal requirement.
- B5. That the notice of public hearing was posted on the property on December 26,2016, which fulfills the proper legal requirement.
- B6. That notices of public hearing were mailed to all property owners of record within three-hundred feet of the subject property.
- B7. That public testimony was heard on January 3, 2017.
- B8. That this proposal **(is) (is not)** in conformance with the Comprehensive Plan policies as follows:

B9. That public facilities and utilities **(are) (are not)** available and adequate for the proposed use. This is based on

Criteria to consider for B9:

1. Can water be provided or extended to serve the property?
2. Can sewer service be provided or extended to serve the property?
3. Does the existing street system provide adequate access to the property?
4. Is police and fire service available and adequate to the property?

B10. That the physical characteristics of the site **(do) (do not)** make it suitable for the request at this time because

Criteria to consider for B10:

1. Topography
2. Streams
3. Wetlands
4. Rock outcroppings, etc.
5. vegetative cover

B11. That the proposal **(would) (would not)** adversely affect the surrounding neighborhood with regard to traffic, neighborhood character, **(and) (or)** existing land uses because

Criteria to consider for B11:

1. Traffic congestion
2. Is the proposed zoning compatible with the surrounding area in terms of density, types of uses allowed or building types allowed
3. Existing land use pattern i.e. residential, commercial, residential w churches & schools etc.

C. ORDER: CONCLUSION AND DECISION

The City Council, pursuant to the aforementioned, finds that the request of for a zone change, as described in the application should be **(Approved) (Conditionally Approved)(Refer back to the Planning Commission) (Deny)(Deny Without Prejudice)or (Defer action upon consent of the Applicant).**

Special conditions applied are as follows:

Motion by _____, seconded by _____, to adopt the foregoing Findings and Order.

ROLL CALL:

| | |
|------------------------|-------------|
| Council Member Gookin | Voted _____ |
| Council Member Edinger | Voted _____ |
| Council Member Evans | Voted _____ |
| Council Member McEvers | Voted _____ |
| Council Member English | Voted _____ |
| Council Member Miller | Voted _____ |

Mayor Widmyer Voted _____ (tie breaker)

Council Member(s) _____ were absent.

Motion to _____ carried by a ____ to ____ vote.

MAYOR STEVE WIDMYER

City Council Meeting



January 3, 2017

**Appeal Hearing for
Zone Change Request
(ZC-3-16)**

City Council Meeting

January 3, 2017

Appeal Hearing and Zone Change Request From R-12 to NC (ZC-3-16)

APPLICANT / OWNER:

Arvid Lundin
3206 N. 4th Street
Coeur d'Alene, ID 83815

APPELLANT / APPLICANT'S REPRESENTATIVE:

Brenny Ross
205 W. Anton Avenue
Coeur d'Alene, ID 83815

REQUEST:

Zone change from R-12 (Residential at 12 units/acre)
to NC (Neighborhood Commercial)

LOCATION:

3202 & 3206 N. 4th Street and more commonly known as "Lundin's Violins"

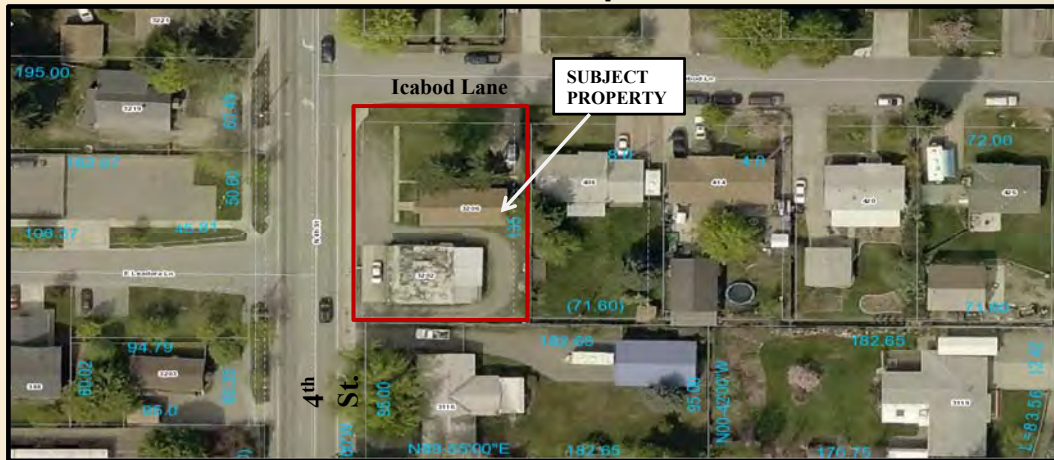
Appeal Hearing and Zone Change Request From R-12 to NC (ZC-3-16)

DECISION POINT:

Arvid Lundin requested approval of a Zone Change from R-12 (Residential at 12 units/acre) to NC (Neighborhood Commercial) at 3202 and 3206 N. 4th Street. The Planning Commission held a public hearing for the zone change request on November 8, 2016 and denied the request without prejudice.

Brenny Ross, on behalf of Arvid Lundin of "Lundin's Violins," has filed an appeal of the Planning Commission's decision to deny the request for a zone change from the R-12 to NC zoning district.

Appeal Hearing and Zone Change Request From R-12 to NC (ZC-3-16)



Appeal Hearing and Zone Change Request From R-12 to NC (ZC-3-16)

Finding #B8:

That this proposal (is) (is not) in conformance with the Comprehensive Plan policies.

Finding #B9:

That public facilities and utilities (are) (are not) available and adequate for the proposed use.

Finding #B10:

That the physical characteristics of the site (do) (do not) make it suitable for the request at this time.

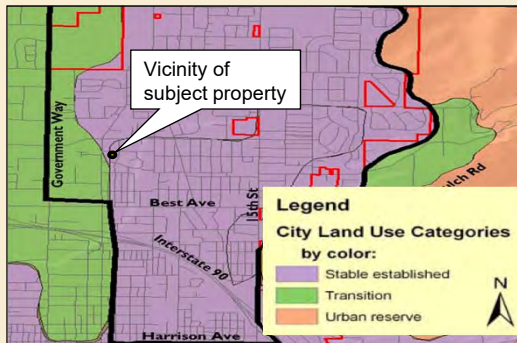
Finding #B11:

That the proposal (would) (would not) adversely affect the surrounding neighborhood with regard to traffic, neighborhood character, (and) (or) existing land uses.

Appeal Hearing and Zone Change Request From R-12 to NC (ZC-3-16)

Finding #B8:

That this proposal (is) (is not) in conformance with the Comprehensive Plan policies.



2007 Comprehensive Plan: NE Prairie

Stable Established:

These areas are where the character of neighborhoods has largely been established and, in general, should be maintained. The street network, the number of building lots, and general land use are not expected to change greatly within the planning period

Appeal Hearing and Zone Change Request From R-12 to NC (ZC-3-16)

NE Prairie–Tomorrow

It is typically a stable established housing area with a mix of zoning districts. The majority of this area has been developed. Special care should be given to the areas that remain such as the Nettleton Gulch area, protecting the beauty and value of the hillside and wetlands.

Appeal Hearing and Zone Change Request From R-12 to NC (ZC-3-16)

The characteristics of NE Prairie neighborhoods will include:

- That overall density may approach three to four residential units per acre (3-4:1), however, pockets of higher density housing and multi-family units are appropriate in compatible areas.
- Commercial uses are concentrated in existing commercial areas along arterials with neighborhood service nodes where appropriate.
- Natural vegetation is encouraged and should be protected in these areas.
- Pedestrian connections and street trees are encouraged in both existing neighborhoods and developing areas.
- Clustering of smaller lots to preserve large connected open space areas as well as views and vistas are encouraged.
- Incentives will be provided to encourage clustering.

Appeal Hearing and Zone Change Request From R-12 to NC (ZC-3-16)

Finding #B9:

That public facilities and utilities (are) (are not) available and adequate for the proposed use.

Staff comments from water, wastewater, engineering, fire and planning are located in your staff report on pages 6 and 7.

Appeal Hearing and Zone Change Request From R-12 to NC (ZC-3-16)

Finding #B10:

That the physical characteristics of the site (do) (do not) make it suitable for the request at this time.

PHYSICAL CHARACTERISTICS:

There are no topographical or other physical constraints that would make the subject property unsuitable for the request.

Appeal Hearing and Zone Change Request From R-12 to NC (ZC-3-16)



View of the existing violin repair shop along 4th Street

Appeal Hearing and Zone Change Request From R-12 to NC (ZC-3-16)



View of the subject property looking southeast on 4th Street

Appeal Hearing and Zone Change Request From R-12 to NC (ZC-3-16)



View of rear yard of subject property

Appeal Hearing and Zone Change Request From R-12 to NC (ZC-3-16)

Finding #B11:

That the proposal (would) (would not) adversely affect the surrounding neighborhood with regard to traffic, neighborhood character, (and) (or) existing land uses.

TRAFFIC:

Without a defined use for the subject property, approximate traffic generation cannot be estimated. However, the change from an R-12 to a NC use is likely to have a minor increase in traffic generated, depending on the future use. Expected traffic could range from 6 trips during the peak hour for an office building to 14 trips in the peak hour for a medical-dental office. It is assumed that the increase in traffic would primarily be experienced on 4th Street, which is classified as an Urban Collector.

Appeal Hearing and Zone Change Request From R-12 to NC (ZC-3-16)



View from the subject property looking west at "Briarwood Apartments" on 4th Street

Appeal Hearing and Zone Change Request From R-12 to NC (ZC-3-16)



View from the subject property looking northwest

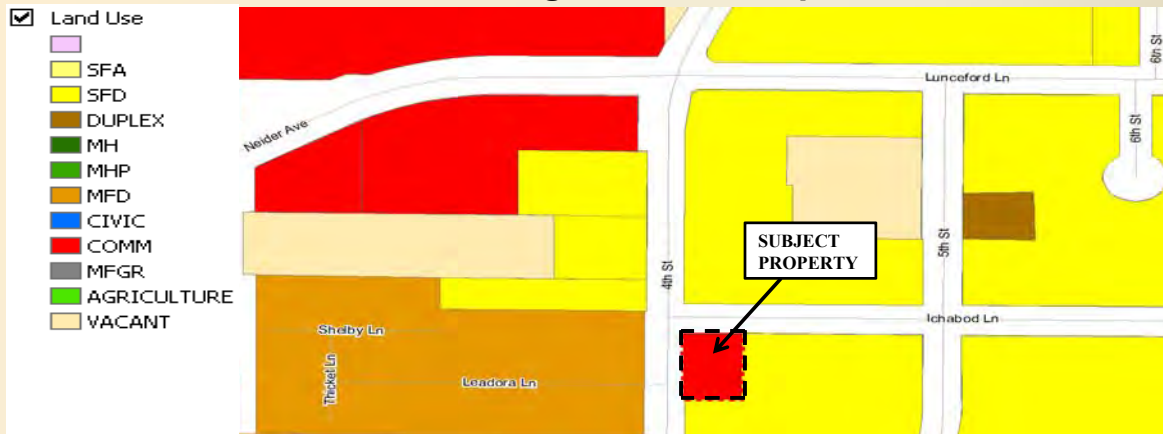
Appeal Hearing and Zone Change Request From R-12 to NC (ZC-3-16)



View from the subject property looking north toward Costco, espresso stand, bank, and offices

Appeal Hearing and Zone Change Request From R-12 to NC (ZC-3-16)

Existing Land Use Map



Appeal Hearing and Zone Change Request From R-12 to NC (ZC-3-16)

Existing and Surrounding Zoning Map



Appeal Hearing and Zone Change Request From R-12 to NC (ZC-3-16)

The following is a list of Principal uses permitted by right in the NC zoning district:

- Commercial and professional office
- Daycare
- Medical/dental
- Parks
- Personal services
- Residential (Above the ground floor only-new construction)
- Retail

Appeal Hearing and Zone Change Request From R-12 to NC (ZC-3-16)

DECISION POINT:

The City Council may take one of the following actions:

- Approve
- Conditionally Approve
- Refer back to the Planning Commission
- Deny
- Deny without Prejudice, or
- Defer action upon consent of the Applicant

**GENERAL SERVICES MEETING
STAFF REPORT**

DATE: November 21, 2016

FROM: Mike Gridley, City Attorney

SUBJECT: Electric and Natural Gas Franchise Agreements / Ordinances

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.

ORDINANCE NO. _____
COUNCIL BILL NO. 16-1025

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).

TABLE OF CONTENTS - ELECTRIC
CITY OF COEUR D'ALENE, IDAHO

| | | |
|-------------|--|----|
| SECTION 1.0 | DEFINITIONS | 1 |
| SECTION 2.0 | GRANT OF FRANCHISE | 3 |
| 2.1 | Grant | 3 |
| 2.2 | Effective Date | 3 |
| 2.3 | Term | 3 |
| 2.4 | Non-Exclusive Franchise | 3 |
| 2.5 | Notice of City's Intent to Compete with Avista | 3 |
| 2.6 | Assignment of Franchise | 3 |
| 2.7 | Franchise Taxes, Fees and Costs | 4 |
| 2.8 | Franchise Fee | 4 |
| SECTION 3.0 | AVISTA'S OPERATIONS AND MAINTENANCE | 4 |
| 3.1 | Compliance with Laws, Regulations, Codes and Standards | 4 |
| 3.2 | Facility Location by Avista and Non-Interference | 4 |
| 3.3 | Facility Location Information | 5 |
| 3.4 | Vegetation Management -- Trimming/Removal of Trees | 5 |
| 3.5 | Right of Excavation | 5 |
| 3.6 | Emergency Work | 6 |
| SECTION 4.0 | RESERVATION OF CITY'S RIGHTS AND POWERS | 6 |
| 4.1 | Reservation of Right | 6 |
| 4.2 | Necessary Construction/Maintenance by City | 6 |
| 4.3 | Expansion of Avista's Facilities. | 6 |
| 4.4 | Change of Boundaries of the City | 6 |
| 4.5 | Removal of Abandoned Facilities | 7 |
| 4.6 | Vacation of Properties by City | 7 |
| 4.7 | Pole Attachments by City | 7 |
| 4.8 | Subdivision Plats | 7 |
| SECTION 5.0 | RELOCATION OR CONVERSION OF AVISTA'S FACILITIES | 8 |
| 5.1 | Relocation of Facilities Requested by City | 8 |
| 5.2 | Relocation of Facilities Requested by Third Parties | 9 |
| 5.3 | Availability of Other Funds | 9 |
| 5.4 | Temporary Relocation of Facilities Requested by Third Parties | 9 |
| 5.5 | Conversion of Electric Distribution Facilities | 9 |
| SECTION 6.0 | INDEMNITY | 9 |
| 6.1 | Indemnification of City | 9 |
| 6.2 | Indemnification of Avista | 10 |
| SECTION 7.0 | FRANCHISE DISPUTE RESOLUTION | 10 |
| 7.1 | Non-waiver | 10 |
| 7.2 | Dispute Resolution by the Parties | 10 |
| 7.3 | Right of Enforcement | 10 |
| 7.4 | Attorneys' Fees and Costs | 11 |
| SECTION 8.0 | GENERAL PROVISIONS | 11 |
| 8.1 | Maintenance of Capacity | 11 |
| 8.2 | Franchise as Contract, No Third Party Beneficiaries | 11 |
| 8.3 | Force Majeure | 11 |
| 8.4 | Prior Franchises Superseded | 11 |
| 8.5 | Severability | 12 |
| 8.6 | Changes or Amendments | 12 |
| 8.7 | Supremacy and Governing Law | 12 |
| 8.8 | Headings | 12 |
| 8.9 | Acceptance of Franchise | 12 |
| 8.10 | Abandonment or Suspension of Franchise Rights and Obligations | 12 |
| 8.11 | Franchise Effective Date | 12 |
| | City's Language Attesting to Approval and Passage of the Ordinance | 13 |
| | Letter of Acceptance by Avista | 14 |
| | Electric Franchise Ordinance Summary for Publication | 15 |

ORDINANCE NO. _____
COUNCIL BILL NO. 16-1026

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).

TABLE OF CONTENTS - GAS
CITY OF COEUR D'ALENE, IDAHO

| | | |
|-------------|--|----|
| SECTION 1.0 | DEFINITIONS | 1 |
| SECTION 2.0 | GRANT OF FRANCHISE | 3 |
| 2.1 | Grant | 3 |
| 2.2 | Effective Date | 3 |
| 2.3 | Term | 3 |
| 2.4 | Non-Exclusive Franchise | 3 |
| 2.5 | Notice of City's Intent to Compete with Avista | 3 |
| 2.6 | Assignment of Franchise | 3 |
| 2.7 | Franchise Taxes, Fees and Costs | 3 |
| 2.8 | Franchise Fee | 4 |
| SECTION 3.0 | AVISTA'S OPERATIONS AND MAINTENANCE | 4 |
| 3.1 | Compliance with Laws, Regulations, Codes and Standards | 4 |
| 3.2 | Facility Location by Avista and Non-Interference | 4 |
| 3.3 | Facility Location Information | 5 |
| 3.4 | Vegetation Management – Removal of Trees/Vegetation Encroachment | 5 |
| 3.5 | Right of Excavation | 5 |
| 3.6 | Emergency Work | 5 |
| SECTION 4.0 | RESERVATION OF CITY'S RIGHTS AND POWERS | 5 |
| 4.1 | Reservation of Right | 5 |
| 4.2 | Necessary Construction/Maintenance by City | 6 |
| 4.3 | Expansion of Avista's Facilities | 6 |
| 4.4 | Change of Boundaries of the City | 6 |
| 4.5 | Removal of Abandoned Facilities | 6 |
| 4.6 | Vacation of Properties by City | 6 |
| 4.7 | Subdivision Plats | 7 |
| SECTION 5.0 | RELOCATION OF AVISTA'S FACILITIES | 7 |
| 5.1 | Relocation of Facilities Requested by City | 7 |
| 5.2 | Relocation of Facilities Requested by Third Parties | 8 |
| 5.3 | Availability of Other Funds | 8 |
| SECTION 6.0 | INDEMNITY | 8 |
| 6.1 | Indemnification of City | 8 |
| 6.2 | Indemnification of Avista | 8 |
| SECTION 7.0 | FRANCHISE DISPUTE RESOLUTION | 9 |
| 7.1 | Non-waiver | 9 |
| 7.2 | Dispute Resolution by the Parties | 9 |
| 7.3 | Right of Enforcement | 9 |
| 7.4 | Attorneys' Fees and Costs | 9 |
| SECTION 8.0 | GENERAL PROVISIONS | 10 |
| 8.1 | Franchise as Contract, No Third Party Beneficiaries | 10 |
| 8.2 | Force Majeure | 10 |
| 8.3 | Prior Franchises Superseded | 10 |
| 8.4 | Severability | 10 |
| 8.5 | Changes or Amendments | 10 |
| 8.6 | Supremacy and Governing Law | 10 |
| 8.7 | Headings | 11 |
| 8.8 | Acceptance of Franchise | 11 |
| 8.9 | Abandonment or Suspension of Franchise Rights and Obligations | 11 |
| 8.10 | Franchise Effective Date | 11 |
| | City's Language Attesting to Approval and Passage of the Ordinance | 12 |
| | Letter of Acceptance by Avista | 13 |
| | Gas Franchise Ordinance Summary for Publication | 14 |