

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 F - 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.

June 20, 2017

A. CALL TO ORDER/ROLL CALL

B. INVOCATION: Pastor David Warnick, New Life 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. PRESENTATIONS:

1. Proclamation- June 2017 as Bike Month

Accepted by: Monte McCully, Trails Coordinator

2. Introduction of Wastewater Superintendent Mike Anderson

Presented by: Sam Taylor, Deputy City Administrator

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

1. Approval of Council Minutes for the June 6, 2017 Council Meeting.
2. Approval of Bills as submitted and reviewed for accuracy by Finance Department
3. Approval of Financial Report

4. Approval of the General Services and Public Works Committee Meeting Minutes from the meetings held on June 12, 2017.
5. Setting of Public Works Committee meeting for June 26, 2017 at 4:00 p.m.
6. Approval of a Beer, Wine, Liquor License for Priority, LLC dba "SNUG", 311 E. Coeur d'Alene Lake Drive
7. Setting of Public Hearing – ZC-2-17, Zone Change from R-12 to R-17, 721 E. Spokane Avenue, for July 18, 2017
8. Approval of Fireworks Stands for 2017 season June 23-July 5
9. Approval of Transfer of Beer/Wine License for Kathleen Chevron, 3840 N. Government Way

10. Resolution No. 17-043

- a. Approval of School Resource Officer Agreement with Coeur d'Alene School District 271
- b. Approval of School Resource Officer Agreement with North Idaho College
- c. Approval of Request for Destruction of Police Department Records
- d. Approval of Agreement Extension with Emerge for Arts Education

As Recommended by the General Services Committee

- e. S-3-16.m: Approval of Final Plat, Acceptance of Improvements, Maintenance/Warranty Agreement, Bolivar 3rd Addition
- f. S-6-16: Approval of Final Plat, Subdivision Improvement Agreement, Prairie Trails

As Recommended by City Engineer

- g. Approval of Agreement with River's Edge Apartments, LLC for Construction and Reimbursement for Seltice Way Water and Sewer Lines and Driveway Approaches (WA Trust Site)
- h. Authorizing Surplus of 1986 Mack Fire Truck
- i. Approval of Agreement with Larry Fluett and Lilac Glen, LLC for Temporary Wastewater Tank

As Recommended by the Public Works Committee

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

H. ANNOUNCEMENTS

- 1. City Council**
- 2. Mayor**

- a. Appointments – Don Walters to the Parking Commission, and Sarah Garcia to the ignite cda Board.

I. GENERAL SERVICES COMMITTEE

1. **Council Bill No. 17-1024** – Ordinance Amendments re: Noise, Smoke & Odors
Staff Report by Mike Gridley, City Attorney
2. Out of the Shadows Theatre Grant

Staff Report by Sam Taylor, Deputy City Administrator

3. **Council Bill No. 17-1025** - Approval of Amendments to Municipal Code Chapter 5.08.160(A) Entitled Alcohol Beverage Catering Permits.
Staff Report by Renata McLeod, Municipal Services Director

J. OTHER BUSINESS

1. **Resolution No. 17-044** - Approval of Amendments to the Host Venue Agreement with World Triathlon Corporation (Ironman) and the Coeur d'Alene Chamber of Commerce.

Presented by Steve Wilson, President/CEO, Coeur d'Alene Chamber of Commerce

K. PUBLIC HEARINGS:

1. (Quasi-Judicial) ZC-1-17, A proposed zone change from LM (Light Manufacturing) to City C-17 (Commercial at 17 units/acre) zoning district at 505 W. Kathleen Avenue.
Applicant: Lake City Engineering LLC.

Staff Report Presented by Mike Behary, Planner

2. (Legislative) **Council Bill No. 17-1026** - Franchise Agreement with Newmax, LLC dba Intermax Networks

Staff Report Presented by Mike Gridley, City Attorney

L. ADJOURNMENT:



Coeur d'Alene

CITY COUNCIL MEETING

June 20, 2017

MEMBERS OF THE CITY COUNCIL:

Steve Widmyer, Mayor

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

PRESENTATIONS

PROCLAMATION

WHEREAS, for more than a century, the bicycle has provided an independent form of transportation for many Americans; and

WHEREAS, more than 100 million Americans engage in bicycling today for fun, fitness, sport recreation and transportation; and

WHEREAS, the use of bicycles for transportation and recreation benefits all citizens of Coeur d'Alene; and

WHEREAS, the City of Coeur d'Alene has worked steadily to encourage bicycling as a healthy mode of transportation and recreation; and

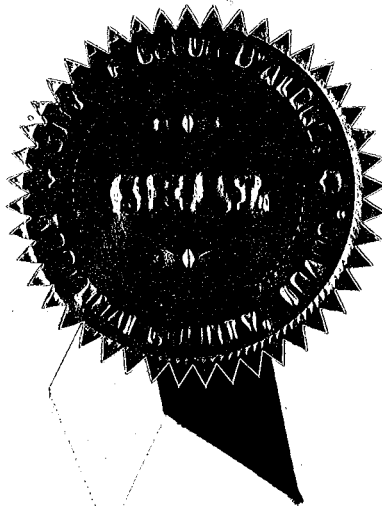
WHEREAS, each year the City of Coeur d'Alene and the league of American Bicyclists recognize National Bike Month and promote bicycling events like Bike to Work Week; and

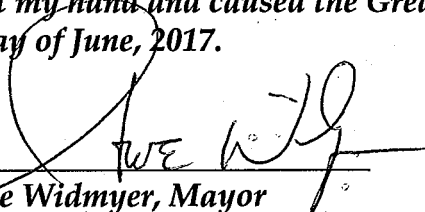
NOW, THEREFORE, I STEVE WIDMYER, Mayor of the City of Coeur d'Alene, Idaho, do hereby proclaim the month of June, 2017 as.

"BIKE MONTH"

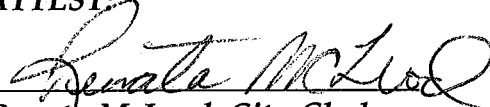
In Coeur d'Alene and encourage all citizens to ride their bikes to work during Bike to Work Week, June 5th through June 9th, 2017.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of Coeur d'Alene to be affixed this 6th day of June, 2017.




Steve Widmyer, Mayor

ATTEST:


Renata McLeod, City Clerk

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

June 6, 2017

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 June 6, 2017 at 6:00 p.m., there being present upon roll call the following members:

Steve Widmyer, Mayor

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

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

INVOCATION: Pastor J.O. Owens with Heart of the City Church provided the invocation.

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

OVERVIEW/UPDATE OF THE COEUR D'ALENE LAKE MANAGEMENT PLAN –

Laura Laumatia, Lake Management Plan Coordinator with the CDA Tribe, explained the history of the lake and impact that mining has had on areas within North Idaho. She noted that Jamie Bremer with the Idaho State Department of Environmental Quality was present and available to answer questions. Ms. Laumatia explained that lead contamination occurred within the lower Coeur d'Alene River and Lake Coeur d'Alene during the mining industry boom and currently with the seasonal run off and flooding. She described how the goal of the Lake Management Plan is to manage the metabolism of the lake to manage the heavy metals in place and to minimize human exposure and negative impacts to the values the lake provides. She noted that the EPA designated it as a superfund site in the 1980's but the area was only a small extent of the problem. In the 2001 Record of Decision it was noted that there was extensive environmental damage and included a description of the superfund site area to include the Coeur d'Alene River bed and excluded the lake. Ms. Laumatia explained the lake management plan provided an opportunity for local control of the lake heavy metals, to maintain the health of the lake by management of the lake metabolism. Ms. Bremer noted that metabolism within the lake is called the food web and described how it balances nutrients into the system. In freshwater lakes, the two primary nutrients driving metabolism are nitrogen and phosphorus. She noted that the primary purpose in the Coeur d'Alene Lake Management Plan is to reduce the nutrient inputs into the lake that drive the remobilization of metals into the water. She noted the following objectives for the plan: to improve scientific understanding; to establish and strengthen

partnerships; to develop a nutrient reduction action plan; to increase public awareness; and to establish funding mechanism. They look to their partners that make decisions on land that affect the water quality, such as the City of Coeur d'Alene stormwater management. They have identified high nutrient load areas and will focus on those priority areas. She offered to provide additional information as needed. Councilmember McEvers noted that he previously sat on the Basin Commission Board and it was overwhelming how large the affected area was and understands it is quite a cycle of run-off and clean-up. Mayor Widmyer noted that he has been contacted by citizens regarding potential cuts in funding and asked if the superfund site funds are dedicated in a trust. Ms. Laumatia confirmed there are funds within a trust; however, those funds are not available for the Lake Management Plan as the lake was excluded from the superfund site. However, the funds are available for the Coeur d'Alene River cleanup, which helps with the run-off into the lake. She noted that they are concerned about government cuts to educational program funding. Mayor Widmyer thanked both groups for their efforts.

UPDATE ON THE BOYS AND GIRLS CLUB - Executive Director Ryan Davis expressed thanks for supporting the facility within the community. He noted that they completed construction on September 6, 2016. Last year they had 3,112 members, 2,640 additional kids served through other programs, with a total of 5,752 youth served. They were open for 2,200 hours, and utilized 308 community volunteers. He listed partnerships throughout the community including service organizations, the School District, local business leaders, churches, and city staff. They have had weekly visits from officers and detectives from the Police Department to interact and build relationships. Mayor Widmyer asked what the biggest challenge is now. Mr. Davis stated that it would be fundraising since the building is built but they are not completely federally funded. Another challenge is membership of 600 -700 kids per site with a waiting list of 400 kids.

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

1. Approval of Council Minutes for the May 16, 2017 and May 25, 2017 Council Meetings.
2. Approval of Bills as submitted and reviewed for accuracy by Finance Department
3. Approval of the General Services and Public Works Committee Meeting Minutes from the meetings held on May 22, 2017.
4. Setting of General Services and Public Works Committees meetings for June 12, 2017 at 12:00 noon and 4:00 p.m. respectively.
5. Approval of a Cemetery Lot Repurchase of Lot N 102, Block V, Section Riverview from James E. Dubacher
6. Approval of a Transfer of Cemetery Lots 01, and 02, Block 71, Section G from Samuel or Christina Johnson to Nancy Johnson
7. Approval of a Repurchase of Cemetery Lot 24, Block, 15 Section A CRE from Rosalind T. Cori
8. Approval of a Transfer of Cemetery Lot 159, Block H, Section RIV from Linda Soderlund, formerly known as Linda Gable, to Connie M. or Anson M. Gable
9. Approval of a Beer and Wine License transfer from Rivelles to Martino Tuscan Grill, 2360 Old Mill Loop Road; Angelo Brunson
10. Approval of an Outdoor seating permit for Rustic CDA, LLC., located at 309 E. Sherman Avenue, Warren Heit

11. Resolution No. 17-039 - A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AUTHORIZING THE FOLLOWING CONTRACTS AND OTHER ACTIONS OF THE CITY OF COEUR D'ALENE INCLUDING FINAL PLAT, SUBDIVISION IMPROVEMENT AGREEMENT, AND SECURITY FOR SS-16-17 UNIVERSITY CITY COMMERCIAL TRACTS; AGREEMENT WITH KOOTENAI HUMANE SOCIETY; ACCEPTANCE OF BID AND CONTRACT WITH ARK COMMERCIAL ROOFING, INC., FOR REPAIRS TO WASTEWATER BUILDING; DECLARATION OF SURPLUS; ACCEPTANCE OF BID AND CONTRACT WITH POE ASPHALT PAVING, INC., FOR CHIP SEAL PROJECT; AND AGREEMENT WITH RIVER'S EDGE APARTMENTS, LLC, FOR CONSTRUCTION OF AND REIMBURSEMENT FOR SELTICE WAY WATER AND SEWER LINES, AND DRIVEWAY APPROACHES.

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

PUBLIC COMMENTS:

John Stone, Coeur d'Alene, said he wanted to address an alarming rumor that the City is canceling the Ironman contract. He expressed opposition of such a decision without an open discussion with the community. He is a two-time Ironman and believes it is important to have the event in Coeur d'Alene for the image of a healthy place to live. He felt it was not enough to have a recreational area, and would be ashamed to terminate the arrangement without community input. He noted that there are fifty or more businesses within Riverstone and every little bit helps. Mayor Widmyer noted that the City is on a support level with Ironman and that discussion took place with the Chamber and not the City, so further discussions should take place there.

ANNOUNCEMENTS:

Councilmember Miller reminded everyone to join in on the Family Day in the Park event being held this Friday at McEuen Park, where approximately 75 organizations will be present, with lots of fun and free activities for families.

Councilmember Gookin noted that he drove by the carousel and it was working. He noted that the grand opening also takes place this Friday. He thanked Councilmember McEvers' wife who gifted him a wooden bowtie.

RESOLUTION NO. 17-040

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AUTHORIZING A LEASE AGREEMENT WITH THE COEUR D'ALENE CHAMBER OF COMMERCE FOR USE OF CITY PARKING LOTS FOR THE 2017 FOURTH OF JULY HOLIDAY.

STAFF REPORT: Deputy City Administrator Sam Taylor noted that in the past the City has leased individual lots to entities that have wanted the space to display goods or conduct auctions. The current proposal is from the Chamber of Commerce, and has been recommended by the Parking Commission for approval. It would allow the Chamber to lease the City-owned parking spaces from the City for \$9.00 per space. This is an increase of \$2 per space, which is at the request of the Chamber. The total charged for this special event parking would change from \$15.00 to \$20.00. It is anticipated that this lease will generate approximately \$8,400 to the City's parking fund. The Chamber is proposing to charge \$20.00 per car for parking on the 4th of July in order to generate income to assist with the cost of the fireworks display. The estimated cost of the fireworks display is \$30,000.00. The Chamber has taken on more responsibility for the traffic control expense on that day and will be paying for 23 traffic flaggers. This would be the seventh year of this partnership.

DISCUSSION: Councilmember Gookin asked how the enforcement will occur for the area north of the Memorial Field parking lot, which is not paved and is an unpaid area. Mr. Taylor noted that the City blocked that area off today, so it will not be accessible. Additionally, as of July 5th, there will be construction equipment at that location.

MOTION: Motion by Miller, seconded by Evans to approve **Resolution No. 17-040**, approving a lease of City-owned parking lots to the Coeur d'Alene Chamber of Commerce on the 4th of July.

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

RESOLUTION NO. 17-041

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AUTHORIZING A COOPERATIVE AGREEMENT WITH PARKWOOD BUSINESS PROPERTIES AND KOOTENAI HOSPITAL DISTRICT D/B/A KOOTENAI HEALTH FOR THE MEDINA STREET AND IRONWOOD DRIVE INTERSECTION PROJECT.

STAFF REPORT: City Engineer Chris Bosley noted that Tim Martin presented the US 95 Ironwood intersection update within the past few months, at which time he noted the Medina intersection project. The plans are at 100% ready for construction. As part of Kootenai Health's transportation master plan to improve efficiency around the medical campus, Medina Street will be extended to create a signalized intersection with Ironwood Drive at the entrance to the Kootenai Health parking garage. The City has paid for the design of the intersection. Construction costs will be paid for by Parkwood Business Properties and Kootenai Health as defined in the agreement. Construction is intended to begin in the next couple of months.

DISCUSSION: Councilmember Gookin expressed concern with the traffic on Emma westbound from Medina, as the street narrows and is not being fixed with this project. Mr. Bosley said they will be looking at that in the future.

MOTION: Motion by McEvers, seconded by Gookin to approve **Resolution No. 17-041**, approving a Cooperative Agreement with Parkwood Business Properties and Kootenai Health District d/b/a Kootenai Health.

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

2017 PLANNING DEPARTMENT WORK PLAN

STAFF REPORT: Community Planning Director Hilary Anderson explained that she is seeking Council input to help prioritize the 32 projects currently assigned to the Planning Department, as described in the Council packet. There are two projects that are currently being worked on which are the vacation rental ordinance and the neighborhood compatibility ordinance. She noted some of the shared priorities between the Planning Commission and staff are the East Sherman Master Plan, the Comprehensive Plan Update, general zoning code amendments, Spokane River master planning, amendments to the Downtown Design Guidelines and development standards, as well as a few other options. She asked Council to provide their input and outlined some of the action items that could be included in each of the priority items, such as, applying for a grant for the East Sherman project and more in-depth study of the community for the Comprehensive Plan.

DISCUSSION: Mayor Widmyer asked each Councilmember to note their top three priority rankings. Councilmember Evans asked for clarity regarding the Spokane river master planning. Ms. Anderson explained that the item is a combination of the Resolution approved in 2014, that indicated a desire to work with community to ensure waterfront access and ties in well with the Atlas mill site acquisition. She noted that all of those items would fit in with the Comprehensive Plan. Councilmember English said the fast track of the real estate purchase of the mill site and the master planning is much bigger and wondered if it is dependent upon anything else. Ms. Anderson noted that master planning would need to take place if the mill site is acquired. Councilmember Miller asked if the items are weighted by the number of man hours needed to complete the projects. Ms. Anderson noted that the items are just listed, but the priorities listed on the options page are higher priorities. The Comprehensive Plan is the most significant undertaking and if started immediately then they may miss some easy wins and items that can get done quicker with a lot of benefit. The zoning code is a housekeeping matter and infill will require input and involvement from the neighborhoods. Councilmember Edinger expressed concern over the need for the vacation rental code. Ms. Anderson explained that staff brought this item forward, as they found potentially 300 units that are not legal under the current code, so this will provide a way to legalize the use. Councilmember Gookin noted that the vacation rental business does affect his neighborhood (Fort Ground) greatly and is currently not allowed under the current city code. Councilmember McEvers noted that the zoning code had an extensive revamp in 2007 and wondered how much needs to be redone, and wondered what the end product will be for East Sherman. Ms. Anderson noted that the planning efforts for East Sherman would be an aid to economic development and the plan would indicate what a mixed-use district looks like and would include the research of funding mechanisms. Councilmember McEvers noted that the infill is important due to the removal of pocket housing, and believes that the design review regulations should be revamped to be not so vague. Additionally he would

like to include heritage/historic preservation and tiny homes regulations. Mayor Widmyer noted that a lot of work has been done regarding the neighborhood compatibility ordinance and the Spokane River planning could fall into the Comprehensive Plan. Ms. Anderson agreed the Comprehensive Plan would be able to address neighborhoods, but does not set an enforceable code which would need to occur through an ordinance.

Councilmember English noted that he has also heard concerns about vacation rentals and does support a code that lets the community know who they are and provides a mechanism to determine who to contact. He would be cautious about making a neighborhood feel more special than another, and believes that the neighborhood compatibility code should be city-wide.

Councilmember McEvers questioned the format of the Comprehensive Plan as being vague. Ms. Anderson explained that the language can be strengthened, but didn't recommend getting too specific as it can affect land pricing and potential future development. Councilmember McEvers pled for the Council to consider creating a Historic Commission that consists of folks that have the passion. Councilmember Evans asked if the Commission would need to fall under Planning. Mayor Widmyer noted that the City of Boise has their commission under Art, so there is a potential for the Arts Commission to discuss historic preservation. Councilmember Gookin asked that historical preservation be included in the Comprehensive Plan. Ms. Anderson confirmed that the plan could make a recommendation to how to move it forward.

Councilmember Miller noted that Robert Singletary has brought forward information regarding a certified local government and wondered if that could aid in a solution for historic preservation. Deputy City Administrator Taylor noted that Mr. Singletary's proposal would require some staffing and funding. Councilmember Miller asked if the certified local government would provide an opportunity to receive state and federal funds. Mr. Taylor said that preservation funding might be available but no funding for staffing.

Mayor Widmyer asked Council to provide their votes for three priority items. The following were the items brought forward. The Comprehensive Plan, General Zoning Code Amendments, Revised Design Review Procedures, East Sherman Planning, Spokane River Master Planning, and Infill Design Guideline Amendments. Ms. Anderson clarified that the Spokane River planning could be included in the Comprehensive Plan, and the infill amendments can be included with the zoning code amendments.

MOTION: Motion by Evans, seconded by McEvers to adopt a Work Plan for the Planning Department with the following priorities: Comprehensive Plan (including Spokane River Master Planning and Historic Preservation), General Zoning Code Amendments (including infill regulation revisions), Revise Design Review Procedures, and East Sherman Master Plan for 2017 and early 2018. **Motion carried.**

APPEAL HEARING OF URBAN FORESTRY COMMITTEE DENIAL OF A TREE REMOVAL REQUEST AT 2015 HOGAN STREET BY TONY STEWART

The Clerk swore in those that provided testimony.

APPELLANT: Mr. Tony Stewart explained that he requested three honey locust trees be removed from the right-of-way in front of his house. He noted that the members of the committee and staff have been professional and ethical, polite, and civil and he just has a disagreement on the tree removal. On May 12, 2017, he received a denial notice from the Urban Forestry Committee. He noted that he spoke to representatives from Avista (who inspected the site on two occasions), and they noted that the large roots could possibly create a future puncture to the gas line beneath. Thereafter, staff had asked Avista for clarification. Because the trees are located above the facilities and could be damaging to the facility, an Avista representative noted concern. However, they are not showing interruption of service and cannot prove they are affecting the facilities at this time without exposing the lines. Mr. Stewart did find an 8" wide root. Under the current policies, a new development would not be allowed to place trees over a utility line. He noted that Specialty Tree Services determined that the cutting of the roots and installation of a root barrier would not be a permanent remedy to protect the sidewalk. Mr. Ken Roberge helped start the Urban Forestry Committee and would support the tree removal. Local attorney Norm Gissel is under the impression that it has the potential of a clear and present danger. The line has broken through the tree sprinkler system and Mr. Stewart believes roots are going horizontal and vertical. He would remove the trees at his own expense. The sidewalk is so disrupted; however, that he is having a hard time getting anyone to complete the repairs, so it is not currently wheelchair accessible. If the trees were removed he would replant the trees on the lawn area. Mr. Stewart noted that they are massive trees and not the best trees to abut the sidewalk.

STAFF REPORT: Urban Forestry Coordinator Katie Kosanke noted that the Urban Forestry Ordinance requires that the committee members inspect tree removal permits and make recommendations regarding removal of public trees. The inspection form developed by the Urban Forestry Committee prompts inspectors to rate trees by giving negative values for concerns regarding health, condition, site, and nuisance factors. Ability to mitigate these concerns is considered in the values given. Trees can also be assigned positive points for providing assets such as environmental benefits, wildlife values and contributions to streetscape, neighborhood and the overall urban forest. An overall score of -40 is needed for allowing a removal. The average score for the trees requested to be removed by Mr. Stewart was +5, insufficient for a removal/replacement permit. These trees are in a row of similar trees that extend throughout the entire neighborhood. The committee inspected the trees and considered the site conflicts. The committee recommended tree removal if Avista sees any safety concerns. Staff spoke with Jamie Howard at Avista who said that the trees do not present any threat currently to the underground utility lines. He mentioned that this is a common occurrence throughout the entire neighborhood. Avista is not insisting these, or any other trees (planted over the lines), be removed in the neighborhood. If approved, Avista would not assist with the removal or the replacement. She noted that she sent an email back to Avista seeking clarity, and they noted that there could be a disruption of service, but did not reiterate any issue about public safety. Avista's utility lines are located at 3-4 feet underground. Urban trees, such as these honey locusts, have a growing depth about 12-18 inches deep as indicated by the shallow rooting. The city's Water Department reported that the trees are not causing any problems with the water lines, which are located in the street. The Street Department cited some damage to the curb and the street, but noted that it is not any different than many other locations in town. Ms. Kosanke noted that although there are sidewalk conflicts (including one big lift), root pruning

could be done while retaining the trees. The new sidewalk can be slightly sloped or narrowed near the trees, which will assist in preventing future problems. Since the sidewalk problems can be resolved and Avista has confirmed the trees are not a threat to the utilities, the committee recommended to deny the request to remove the trees. The trees have taken approximately 25 years to get to their current size and are healthy and providing values to the street and neighborhood. The problems cited can be mitigated by repairing the sidewalk and making deviations to the new sidewalk. Avista confirmed that the trees do not pose a safety threat. The Urban Forestry Committee was also concerned with setting a precedent for all of the other healthy trees in the neighborhood with similar conflicts. She noted that within the current code there are several reason for trees to be planted 10 feet away from utilities, including that the tree may not need to be removed if utility work is needed. The City Council can uphold the denial of a removal permit or overturn the denial of a removal permit and allow removal of one, two or all three trees with the understanding that required replacement tree(s) from the small street tree list must be planted within the right-of-way.

Urban Forestry Committee member Tim Kastning noted that he has been to the site and stated the trees are approximately 12' in diameter (at chest height,) and at an average height for tree of that age and one root has lifted the sidewalk. He noted his 30 year background as a grower of trees, a nursery owner, a commercial spade owner, and as a certified arborist and noted that in his opinion the root system of this type of tree grows 3-4 feet into the ground and it would be highly unlikely these root systems pose any threat. He did agree that the tree root has created a conflict with the sidewalk. A large root has already severed on the house side of the tree, which will render the root unviable, so when the sidewalk is repaired no further conflict should occur. The Commission is concerned about the needs of the people of the community, and at same time wants to maintain the integrity of the urban forest and tree lined streets.

REBUTTAL: Mr. Stewart explained that he has talked several times with Avista on this matter, and he reiterated that there is a potential for future line disruption. He noted that his preference is for the trees to come out, but Avista's representative could not say that to the city. The representative did say that the lines placed in the ground 25 years ago are not as stable as the new lines. Mr. Stewart noted that he does not want the city to set a precedent, but he is troubled that there aren't exceptions to the precedent for unique situations such as this. The decision should be based on the situation. He felt that the trees are not the same throughout the neighborhood. Additionally, he noted that many citizens are upset that the City owns the trees, yet the abutting property owners must take responsibility for the trees' damage. If his property damaged someone else's he would be responsible for that and thinks the city should take on that responsibility. He noted that Mr. Kastning did not inspect the largest tree. Mr. Stewart also said that in the City of Portland, a homeowner can pick one of seven trees and the city plants it and places a root barrier for you.

DISCUSSION: Councilmember McEvers noted that the letter from Avista said they were concerned about damage to the facility, and questioned what the city's responsibility would be for that in 10-25 years. Ms. Kosanke explained that the tree roots will not get that deep as water and oxygen are at the soil level. Councilmember McEvers asked how the city's sidewalk repair program works. Ms. Kosanke noted that the Street Department manages that program and they have planned priority areas for each year. Councilmember English asked for clarity regarding

street tree ownership being the city, yet property owners maintain them. Ms. Kosanke confirmed that the trees are public trees, and the city code requires the abutting property owner to provide care and maintenance of the tree. Councilmember English asked if the Council could determine the removal of one tree and leave the rest. Ms. Kosanke confirmed that the Council could make that decision. She noted that the committee did rate all trees together, and noted that the only negative was the sidewalk lifting and that their preferred option was to retain all the trees unless Avista insisted upon removal. Ms. Kosanke noted that the sidewalk conflicts are the price that we pay to have trees along sidewalks, and the trees are really a good size. Councilmember Gookin asked if the City has ever recommended removal based on a sidewalk disruption. Ms. Kosanke noted that it only occurs if the cutting of the roots would significantly affect the health or stability of the tree. Councilmember Gookin asked what is the expected life of a tree. Ms. Kosanke estimated the life would be 60 -80 years. Councilmember Gookin asked if it is possible for a tree company to evaluate any tree in need of removal. Ms. Kosanke confirmed that a company could; however, there are some companies that aren't providing factual information and she would prefer they have a certified tree risk assessor on staff to provide a detailed report. Councilmember Miller asked if the trees lining the street are the species planted at the same time. Ms. Kosanke confirmed that the pattern appears to be honey locust and purple plum throughout the entire neighborhood. Councilmember Edinger commented that the trees belong to the city, but the resident has to take care of it and the resident says he feels the trees are a hazard and could be dangerous. However, the owner is willing to cut the tree and replace the trees. Ms. Kosanke noted that it would take 25 years to get the same benefit and regardless of whether the tree stays or goes, the sidewalk does need to be repaired and it can be repaired while retaining the tree.

Motion to deny the appeal by Gookin, died for lack of second.

DISCUSSION CONTINUED: Councilmember Miller wondered if there could be a compromise with one tree removal. Mr. Stewart explained that there are actually two trees that are most serious, the one that is raising the sidewalk and the one further north that is over the utility line. There are five total but he would recommend two removals. Mr. Stewart also noted that two years ago he received a letter from Avista that they would be replacing lines in the area, which would possibly require the trees to be removed. He further suggested that the Parks and Recreation Commission look at the ordinance to be more specific about what type of tree goes where. Councilmember Gookin asked when Mr. Stewart discovered the power lines under the trees. Mr. Stewart said that he has known for a while as he did a "Call Before You Dig" with markings approximately 3-4 years ago. He just did not realize magnitude of the problem until recently.

MOTION: Motion by McEvers seconded by Miller to allow Mr. Stewart to remove the tree that is upheaving the sidewalk and replace it with tree with less impacting and direct staff to prepare the Findings and Order.

DISCUSSION: Councilmember Miller explained that she believes that until Avista insists that a tree be removed, and not just noting that it could cause damage and/or create disruption, the City should follow the urban forestry policy. She would recommend removal of the one tree that is the most impacting. Councilmember Gookin noted that the testimony from Mr. Kastning

indicated that this tree does not have feeder roots and is not going to go down to the Avista line. He agrees that there will be an impact to sidewalks due to having street trees; however, the tree has been there 25-years and root barriers can be installed so trees should not be removed due to sidewalk upheaval. Councilmember Evans noted that she agrees on a compromise as the safety factor is a concern. She expressed great faith in committee; however, she is comfortable with a compromise. Mayor Widmyer asked for clarification as to which tree is causing the damage. Mr. Stewart noted that the tree doing the most damage is the one affecting the sidewalk and that the other tree is just closer to the utility box.

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

RESOLUTION NO. 17-042

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AUTHORIZING AN AMENDMENT TO THE GRANT OF EASEMENT - MARINA DRIVE WITH MARINA YACHT CLUB, LLC, MARK E. HALL AND ANNE C. HALL, TOGETHER WITH MATTHEW ALEXANDER HALL.

STAFF REPORT: City Attorney Mike Gridley noted that in 1996 a Grant of Easement for Marina Drive was recorded, granting an easement to the City for public ingress and egress on Marina Drive. However, the easement that was granted is inconsistent with the actual location of Marina Drive as constructed. This amendment will match the legal description of the easement with the location of the road as constructed.

MOTION: Motion by Gookin, seconded by McEvers to approve **Resolution No. 17-042**, approving an Amendment to Grant of Easement for Marina Drive with Marina Yacht Club, LLC and Mark E. Hall and Anne C. Hall.

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

COUNCIL BILL 17- 1023

AN ORDINANCE AMENDING SECTION 5.75.050 OF THE COEUR D'ALENE MUNICIPAL CODE TO MOVE THE REGULATION OF COMMERCIAL ACTIVITY ON WATERWAYS FROM SUBSECTION A TO SUBSECTION C; PROVIDING FOR THE REPEAL OF OTHER CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE PUBLICATION OF A SUMMARY OF THE ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE THEREOF.

STAFF REPORT: Parks and Recreation Director Bill Greenwood explained that there have been some recent changes to the code regarding mobile concession for commercial activity within the City of Coeur d Alene. Staff has determined a better route to protect the public waterways is through the Parks and Recreation Department due to their experience and connection to the waterways.

DISCUSSION: Councilmember Gookin asked if this amendment would allow better control of vendors along the waterfront. Mr. Greenwood confirmed that this change would work better. Councilmember Edinger noted that the Park and Recreation Commission reviewed the changes at their most recent meeting and are in favor of the proposal.

MOTION: Motion by English, seconded by Miller, to dispense with the rule and read **Council Bill No. 17-1023** once by title only.

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

MOTION: Motion by English, seconded by Miller, to adopt **Council Bill 17-1023**.

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

EXECUTIVE SESSION: Motion by McEvers, seconded by Evans to enter into Executive Session pursuant to Idaho Code 74-206A (a) - Considering a labor contract offer or to formulate a counteroffer; and (b) Receiving information about a specific employee, when the information has a direct bearing on the issues being negotiated and a reasonable person would conclude that the release of that information would violate that employee's right to privacy.

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

The City Council entered into Executive Session at 8:37 p.m. Those present were the Mayor, City Council, City Administrator, Deputy City Administrator, and City Attorney. Council returned to regular session at 9:05 p.m.

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

The meeting adjourned at 9:05 p.m.

ATTEST:

Steve Widmyer, Mayor

Renata McLeod, CMC, City Clerk

GENERAL SERVICES COMMITTEE
MINUTES
June 12, 2017
12:00 p.m., Library Community Room

COMMITTEE MEMBERS

Councilmember Ron Edinger, Chairperson
Councilmember Kiki Miller
Councilmember Amy Evans

CITIZENS

STAFF

Juanita Knight, Senior Legal Assistant
Mike Gridley, City Attorney
Steve Childers, Police Captain
Kathy Lewis, Deputy City Clerk
Sam Taylor, Deputy City Administrator
Jim Hammond, City Administrator
Troy Tymesen, Finance Director
Lee White, Police Chief

Item 1. Ordinance Amendments – Noise, Smoke & Odors.
(Council Bill No. 17-1024)

Mike Gridley is requesting amendments to the Municipal Code to regulate unreasonable or excessive noise and the unreasonable or excessive emission of smoke and odors. Mr. Gridley reported that City staff and the Police Department have received an increasing number of complaints from citizens regarding unreasonable or excessive noise as well as smoke and odors coming primarily from motor vehicles. Examples of the unreasonable or excessive noise are the noise coming from the revving of motors or the rapid acceleration of a motor vehicle. The amendments to the code are intended to regulate this unreasonable or excessive conduct while also creating the ability for the City to permit noise, smoke or odor coming from participants in permitted events. The intent of the amendments is to improve the quality of life for all citizens by regulating unreasonable or excessive noise, smoke and odor. The Police Department believes that these amendments will give them better ability to regulate and control some of the conduct that has been the cause of citizen complaints.

Council Member Miller said there are a lot of motorcycle groups that come to Coeur d'Alene. She's concerned that there will be unintended consequences with these amendments. We try to encourage tourism but this seems like we are may be innocently entrapping people. Mr. Gridley said what staff is trying to do is address the complaints of unreasonable or excessive noise. If someone violates the code they may get a warning or may be ticketed. It is the Council's decision to find middle ground between regulations; while addressing citizen concerns and supporting tourism and fun.

Council Member Evans asked if police officers will receive training on what is excessive noise and will it be at the discretion of each officer. Police Chief White said we don't have an anti-cruising ordinance. However, if someone stops at a red light and is purposely revving their engine, that could be looked at as unreasonable. If someone has made major modifications to their exhaust system to make it loud, that could be unreasonable.

Council Member Miller asked staff to do some sort of outreach to hotels, campgrounds, etc. who have these types of groups as guest to let them know of these new regulations. She also asked that a press release be done. Chief White said they will also put it on their Facebook page. Mr. Gridley suggested the local motorcycle shops be notified as well.

Council Member Edinger asked if this is going to be hard to enforce. Chief White said it will be much like any else. If we have an officer in the right place at the right time we can take action. If a citizen has documented a license plate and will assist, they can do something. He said it will be a public relations thing, getting information out to the public at the beginning of each summer.

Jim Hammond said administration and the Police Department are the recipients of the complaints about noise downtown. He noted that officers will have discretion and they don't want to site people. They will give warnings but if someone won't comply or they keep doing it, they will be sited. On the other hand, we are trying to build a downtown community that is also a residential community and we're trying to make it enjoyable for them as well.

MOTION: by Evans, seconded by Miller, to recommend that Council adopt Council Bill No. 17-1024 approving amendments to the Municipal Code regulating the creation of noise and the emission of smoke and odors, with Council Member Edinger voting NO. Motion Carried.

**Item 2. School Resource Officer Agreement with Coeur d'Alene School District 271.
(Resolution No. 17-043)**

Capt. Childers is requesting approval to continue the School Resource Officer program with School District 271 for fiscal year 2017-18. Capt. Childers said the City and SD have maintained the SRO partnership since 1999. Both the PD and SD have deemed the SRO program not only successful, but vital to providing campus safety. The partnership's success can be tangibly measured in the reduction of campus related crimes and case clearance rates. The SD has agreed to pay \$379,807.44 of the personnel costs associated with this program. This represents approximately 67% of total personnel costs (\$571,012.34) for the period when school is in session. In addition to these costs, SD 271 pays all overtime costs incurred for school related activities.

Council Member Miller asked what prompted the 'officer unavailability for an extended amount of time.' Capt. Childers said officers will take vacation or comp time. The other could be a lengthy time for injury or illness. The intent is to make sure the district is aware that PD will continue to provide an officer when needed in the event the SRO is out.

MOTION: by Miller, seconded by Evans, to recommend that Council adopt Resolution No. 17-043 approving an agreement with Coeur d'Alene School District 271 for School Resource officers for the 2017-18 fiscal year. Motion Carried.

**Item 3. School Resource Officer Agreement with North Idaho College.
(Resolution No. 17-043)**

Capt. Childers reported that the City has maintained a contract with North Idaho College to provide one School Resource Officer during the regular school year for several years. This contract is similar to previous year's contracts; however, it allows for SRO services year-round and provides updated dollar amounts for the additional months and increase in SRO wages. North Idaho College agrees to pay \$76,009 for this service, plus any overtime associated with this function. This amount covers roughly 63% of the cost of the School Resource Officer's regular wages and benefits for the person assigned to the College. This partnership with North Idaho College is extremely valuable and demonstrates our commitment to keeping our students safe.

Having an SRO at the school throughout the summer continues this partnership and is in the best interest of the College and the community.

MOTION: by Miller, seconded by Evans, to recommend that Council adopt Resolution No. 17-043 approving an agreement with North Idaho College for School Resource officers for the 2017-18 fiscal year. Motion Carried.

**Item 4. Amendment to Municipal Code 5.05.160 to allow for sampling of beer / wine at permitted special events.
(Council Bill No. 17-1025)**

Kathy Lewis is recommending approval of amendments to Municipal Code Chapter 5.17, entitled "Beer, Wine or Liquor Prohibitions within the city; exceptions." Mrs. Lewis reported that last year a request was made by a vendor of the Wednesday Farmer's Market to be able to provide samples of wine to potential buyers. The City's Municipal Code did not allow for open containers of alcohol upon city streets or rights-of-way. This year the same seller has made the request for Council consideration of an amendment to the code that would allow for an exception during permitted special events. There are currently two wine vendors at the Farmer's Market that wish to provide samples pursuant to the Idaho Code. Staff has conferred with the Downtown Association, who is supportive of the amendment. Additionally, the Police Department has reviewed the code amendment, as well as the Idaho Code, and has stated that they are comfortable with the requested exception to the open container law when it is part of a permitted special event.

Council Member Edinger asked if they will be in a certain location. Mrs. Lewis said the site would have to be roped off and the testers will stay inside the roped area until the sampling is gone. Tasters won't be allowed to walk along the street with the sampling.

Council Member Miller asked if the contained area is by State Statute or City Code. Mrs. Lewis replied City Code. Mrs. Lewis added that the vendors have trouble selling their wine without people tasting it first.

Council Member Evans asked if the roped area is the specific booth or the entire farmers market. Mrs. Lewis said the specific booth.

Council Member Edinger asked if city police would monitor this. Mrs. Lewis replied yes.

Council Member Miller asked how this applies to city parks. Mrs. Lewis said we have a different code section that applies to city parks. Council Member Miller said she is beginning to feel really concerned about having so many exceptions to the open container code and we have a whole other section that governs the same thing on different public property. She believes it's time to have more discussion on how convoluted the code is becoming on this issue. She does not have a fundamental problem with the request before them here but the enforcement, the monitoring, and inconsistencies through all of the public properties and where they are, are becoming a real struggle. It's becoming difficult for staff, officers, and citizens to make sense of.

Council Member Edinger asked if the Downtown Association and the Police Department are in support of this. Mrs. Lewis said they are, as long as it is just a taste.

MOTION: by Evans, to recommend that Council adopt Council Bill No. 17-1025 approving amendments to Municipal Code Section 5.08.160(A) to allow for beer/wine sampling at permitted special events. Motion Failed, with Council Members Miller and Edinger voting No. .

DISCUSSION: Jim Hammond asked Council Member Edinger if this item will still go forward to City Council for consideration or will it be held at this level. Council Member Edinger said as far as he’s concerned it just stays here unless somebody wants to bring it up. Council Member Evans said she believes this could have unintended consequences for some of the local vendors based on our perception of wanting to clean up our code. She does not want to prohibit vendors from doing business and offering sampling, being part of the fabric of our community which the Farmer’s Market is such a great part. This cleanup can be done at the backend at a later date. Council Member Miller said she agrees and asked if there is a way to approve this piece along with directing staff to look at cleaning up the code. Mr. Hammond said we certainly can. Council Member Edinger said this will be returned to staff to address the Council concerns and return to the July 10th General Services with recommendations.

UPDATE: 06/13/17 The Mayor placed this item on the June 20th agenda for full Council discussion.

**Item 5. Request for Destruction of Records.
(Resolution No. 17-043)**

Kathy Lewis is requesting Council approve the destruction of certain public records. Mrs. Lewis reported that the Police Department is requesting the destruction of temporary records that have been kept their minimum retainage period. Because of the lack of storage space, records are routinely reviewed to determine if the necessity of maintaining the record is warranted. Because the list of records has exceeded the time required to maintain them and their useful life has been exhausted, it is necessary to purge these files in order to maintain storage space for future records.

RECORD DESCRIPTION	TYPE OF RECORD (Perm./Semi-P/Temp)	DATES OF RECORDS (From - To)
Dispatch reel to reel tapes	Semi-perm	1976-1981
Code Enforcement Files	Temporary	2008-2013
Polygraph reports – Criminal Cases	Semi-perm	2003-2009

MOTION: by Evans, seconded by Miller, to recommend that Council adopt Resolution No. 17-043 authorizing the destruction of certain Police Department records. Motion Carried.

**Item 6. Out of the shadows Theatre Grant.
(AGENDA)**

COUNCIL MEMBER EDINGER SAID THIS ITEM WILL BE FORWARDED TO THE FULL CITY COUNCIL FOR DISCUSSION.

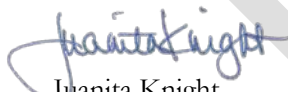
Item 7. Letter of Agreement extending the agreement with Emerge for Arts Education.
(Resolution No. 17-043)

Sam Taylor is requesting council approve an extension with Emerge for arts education via a letter of agreement. The City of Coeur d'Alene has contracted with non-profit arts organization Emerge for arts education since March 2016. As part of the FY 16-17 budget year, our current budget, the City Council adopted adequate funding for the entire fiscal year for arts education classes provided by Emerge. However, for some reason Emerge's contract ended at the end of March. In order for Emerge to continue the great work they've been doing to provide arts classes on the City's behalf, a contract extension is in order. The Arts Commission has unanimously recommended approval of a contract extension until the end of this fiscal year, September 30. With adoption of the new Arts Policy Emerge would need to participate in an application process for Community Art Partnership Grants after the next fiscal year begins. Emerge and the Arts Commission are both aware of this updated policy. As of now the RFP process has not been fully developed and is intended to be online by the beginning of the next fiscal year. This has been a strong partnership and Emerge should be commended for managing this amazing endeavor. The intent is to help provide more arts education opportunities to lower income children, though any child is allowed to participate. Emerge is to receive up to a maximum of \$1,000 per month to provide classes and it is on a reimbursable basis. Emerge provides invoices for all related class costs and the Deputy City Administrator reviews and approves reimbursement thereafter. The average request for reimbursement has been about \$600. There is ample funding available in the budget for the remainder of the fiscal year as Emerge has not sought all of its reimbursement requests throughout 2017 that it otherwise could have.

MOTION: by Miller, seconded by Evans, to recommend that Council adopt Resolution No. 17-043 authorizing an extension to the agreement with Emerge for arts education. Motion Carried.

The meeting adjourned at 12:31 p.m.

Respectfully submitted,



Juanita Knight
General Services Committee Liaison

**PUBLIC WORKS COMMITTEE
MINUTES
June 12, 2017
4:00 p.m., Library Community Room**

COMMITTEE MEMBERS PRESENT

Councilmember Woody McEvers
Councilmember Dan English
Councilmember Dan Gookin

STAFF PRESENT

Troy Tymesen, Finance Director
Mike Gridley, City Attorney
Amy Ferguson, Executive Asst.
Mike Becker, WW Utility Proj. Mgr.
Sam Taylor, Deputy City Administrator
Jim Hammond, City Administrator
Kenny Gabriel, Fire Chief
Mike Anderson, WW Superintendent
Chris Bosley, City Engineer

**Item 1 Agreement for Construction and Reimbursement for Seltice Way Water and Sewer
Lines and Driveway Approaches (WA Trust Site)**

Consent Calendar

Mike Gridley, City Attorney, presented a request for council approval of an agreement with River's Edge Apartments, LLC for construction and reimbursement for Seltice Way water and sewer lines and driveway approaches along Seltice Way adjacent to the former WA Trust property.

Mr. Gridley stated in his staff report that the property is located on the south side of Seltice Way, just east of the U.S. Bank facility. The owner is still working on plans for development of the property but would like to have certain infrastructure constructed now. It has been determined that it is in the City's and Owner's best interest to do the installation of the water and sewer lines and driveway approaches as part of the Seltice Way Revitalization project rather than later after the Seltice project is finished. This will save money and eliminate the need to disrupt the newly constructed path and right-of-way. The estimated cost of the work is approximately \$37,000. The Owner will pay the actual cost of the work to be done by the City's contractor and Welch-Comer, with reimbursement to be made within 30 days of completion of the work. There should be no financial impact on the City and the Agreement gives the City the right to withhold building permits until full payment is received.

Councilmember Gookin asked if the construction would be happening now or if this is just an agreement. Mr. Gridley said that it will be done while the project is being done and that regardless of what goes on the property, ultimately those connections need to be developed. Mr. Gridley also confirmed that they are in line with current zoning.

MOTION: Motion by English , seconded by Gookin , to recommend Council approval of Resolution No. 17-043 approving an agreement with River's Edge Apartments, LLC for Construction and Reimbursement for Seltice Way water and sewer lines and driveway approaches at the former Washington Trust site. Motion carried.

**Item 2 Surplus Fire Engine
Consent Calendar**

Fire Chief Kenny Gabriel presented a request for council authorization of the Fire Department to surplus a 1986 Mack Fire Engine and donate it to a rural fire department.

Chief Gabriel stated in his staff report that the fire engine is no longer of any value to the Department, and the engine in question has well over 100,000 miles on it and has no usable purpose in the fleet. They have asked apparatus vendors to appraise the engine and they have stated that there is no trade in value due to the age of the apparatus. Their hope is to give the engine to a smaller department where it could be of some use. Through a regular maintenance program there is still life in the engine if the department does not run a large number of calls.

Chief Gabriel commented that with the additions of the new engines, it is time for the department to get rid of equipment they don't use anymore. He confirmed that the fire engine runs and has been well-maintained, and that the City will not receive any compensation for the donation. Councilmember Gookin asked when was the last time the fire engine saw duty. Chief Gabriel responded that the fire engine ran calls this winter.

MOTION: Motion by Gookin, seconded by English, to recommend Council approval of Resolution No. 17-043 authorizing the Fire Department to surplus a 1986 Mack Fire Engine and donate it to a smaller, rural Fire Department. Motion carried.

**Item 3 Agreement for Temporary Wastewater Tank
Consent Calendar**

Mike Becker, Wastewater Utility Project Manager, requested council approval of an agreement with Larry Fluet (Developer), and Lilac Glen, LLC to install, operate and maintain, and service a wastewater line and holding tank to serve as the temporary wastewater disposal system for the Foss Duplex, until the developer extends the public sewer and connects the Foss Duplex as required of the Lilac Glen Development.

Mr. Becker stated in his staff report that Lilac Glen is a PUD located east of Interstate 90 and south of E. Pennsylvania Avenue. The PUD annexed into the City and construction plans were approved by the City to extend the public sewer main from E. Pennsylvania Avenue south within the PUD's currently unpaved N. Lilac Lane in October, 2016. The developer began clearing the Lilac Glen site and shut down for the winter.

Maralee and Charlenda Foss presently occupy existing homes within the PUD that are connected to an individual onsite septic system. In order to develop this PUD, these existing homes need to be removed and the individual onsite septic systems disconnected. At that time, the Foss Sisters intended to move into a newly constructed duplex across the future Lilac Glen Road within the PUD when made available.

The Wastewater Utility signed off on the duplex building permit based on the Applicant's proposed temporary septic system and a letter of commitment to connect the new duplex to the public sewer system when the City accepts the sewer infrastructure. The City does not issue septic permits and the Developer failed to secure a septic permit prior to construction of the duplex. Based on Idaho Rules, the Health District will not issue a septic permit for the new duplex.

Presently, this duplex has been completed but do not have a method for wastewater disposal. The Developer and his Engineer desire to move the Foss Sisters into this duplex prior to the extension of the public sanitary sewer main and they are seeking temporary provisions for wastewater disposal in order for Maralee and Charleda Foss to legally occupy the duplex.

In lieu of the immediate extension of the approved public sewer main to service the PUD, the developer proposes, at his cost, to install and maintain a holding tank and sewer line in a manner acceptable to the City to serve the wastewater disposal needs of the Foss duplex temporarily. When the City accepts the PUD's public sewer main, the developer, at his cost, will be required to connect the Foss Duplex and remove and dispose of the holding tank and line in a manner that is acceptable to the City.

Mr. Becker explained that conditions were placed in the agreement to protect the City. One of the conditions is that there is no cost that will be associated with this special concession. The City would grant a TCO similar to what they would do for a model home in a development, and the City would be held harmless from any and all liability. They are also requiring that the developer front a 150% bond to cover the cost of the sewer infrastructure, which must be installed no later than November 15th of this year. The developer will also take out a \$500,000 insurance policy to cover any liability issues.

Mr. Becker explained that the developer has had difficulties with construction this year due to the large amounts of moisture over the winter. Additionally, it is Mr. Becker's understanding that all of the checklist items have been taken care of for the developer to immediately proceed with construction, but he is asking the City to make concessions to allow the sisters to occupy the duplex while he does the construction.

Councilmember English asked if the wastewater tank was going to be above ground or underground. Mr. Becker said that the tank has to be built in a manner that the City is willing to accept it, and the City will require it to be built below ground.

Councilmember Gookin asked what is the difference between a holding tank and a septic tank. Mr. Becker said that a septic tank has a pump that goes out, and a holding tank does not. Councilmember Gookin asked about the bond amount. Mr. Becker said that the City will use some of its contractors that are currently under contract to make a cost estimate of the project, times 150%. Councilmember Gookin asked whether, if it drags on, would the City be able to draw on that bond to connect them to the sewer. Mr. Becker responded that on November 16th, the City would be able to proceed.

Councilmember Gookin said that it seems like the City is has been taken advantage of but he doesn't want hurt the occupants of the house. Mr. Becker said that he thinks the City has reached out very generously and there are enough provisions in place to protect the City from any liability. They have met with all of the players and the City Attorney, and feels that they are reaching a comfort factor that they can still work cooperatively with the developer to get this to the finish line. The timeline is aggressive, but doable. Mr. Becker also commented that the developer engineers have assured him that the developer is taking this seriously.

Councilmember Gookin commented that it is always good to see the City be willing to cooperate and do what is right for people.

MOTION: Motion by Gookin, seconded by Dan English, to recommend Council approval of Resolution No. 17-043, approving an agreement with Larry Fluet, and Lilac Glen, LLC to install, operate and maintain, and service a wastewater line and holding tank to serve as the temporary

wastewater disposal system for the Foss Duplex, until the developer extends the public sewer and connects the Foss Duplex as required of the Lilac Glenn Development. Motion carried.

The meeting adjourned at 4:18 p.m.

Respectfully submitted,

Amy C. Ferguson
Public Works Committee Liaison

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



City of Coeur d'Alene Municipal Services
 710 East Mullan Ave Coeur d'Alene ID 83814
 Ph and Fax 208.769.2229 kathylew@cdaid.org

[Office Use Only]	571.80
Amt Pd	571.70
Rec No	
Date	06/12/2017
Date to City Council:	
Lic No.	
Date Issued	

Date that you would like to begin alcohol service June 21, 2017

Check the **ONE** box that applies:

<input type="checkbox"/>	Beer only (canned and bottled) not consumed on premise	\$ 50.00 per year
<input type="checkbox"/>	Beer and Wine (canned and bottled) not consumed on premise	\$250.00 per year
<input type="checkbox"/>	Beer only (canned and bottled only) consumed on premise	\$100.00 per year
<input type="checkbox"/>	Beer and Wine (canned and bottled only) consumed on premise	\$300.00 per year
<input type="checkbox"/>	Beer only (draft, canned, and bottled) consumed on premise	\$200.00 per year
<input type="checkbox"/>	Beer and Wine (Draft, canned, and bottled) consumed on premise	\$400.00 per year
<input checked="" type="checkbox"/>	Beer, Wine, and Liquor (number issued limited by State of Id)	\$762.50 per year
Check one box below		
<input type="checkbox"/>	Transfer of ownership of a City license from _____ to _____ with current year paid For fee add the following : Beer-to go only \$6.25 Beer- Can, Bottled Consumed on premise \$12.50 Beer- Draft, can, bottled consumed on premise \$25 Wine additional \$25 Liquor additional \$25	Total \$
<input checked="" type="checkbox"/>	New Application	

Name of Applicant	Priority LLC dba "SNUG" by Brian Dowseley Sole member
Name of business where alcohol will be served	SNUG
Business Physical Address	311 E. Coeur d'Alene Lake Tr.
Business Mailing Address	PO Box 419 Boise, ID 83701
Business Contact	Business Telephone : 208 860-7293 Fax: 208 343-4188 Email address: bd@bdidlaw.com
If Corporation, partnership, LLC etc. List all members/officers	Brian Dowseley, sole member

DATE: JUNE 14, 2017
TO: MAYOR AND CITY COUNCIL
FROM: PLANNING DEPARTMENT
RE: SETTING OF PUBLIC HEARING DATE: JULY 18, 2017

Mayor Widmyer,

The Planning Department has forwarded the following item to the City Council for scheduling of a public hearing. In keeping with state law and Council policy, the Council will set the date of the public hearing upon receipt of recommendation.

<u>ITEM NO.</u>	<u>REQUEST</u>	<u>COMMISSION ACTION</u>	<u>COMMENT</u>
ZC-2-17	Applicant: Northwest Solutions Investment Group, LLC Location: 721 E. Spokane Avenue Request: A proposed zone change from R-12 (Residential at 12 units/acre) to City R-17 (Residential at 17 units/acre) zoning district	Recommended approval	QUASI-JUDICIAL

In order to satisfy the mandatory 15-day notice requirement, the next recommended hearing date will be **July 18, 2017**

Re: Fireworks Stands 2017
 From: Kathy Lewis, Deputy City Clerk



	Location	Operated by	Distributor
1	Albertsons 220 Ironwood Dr	Loren Andy Flournoy 23310 E Inlet Dr #9 Liberty Lake WA 99019	TNT Fireworks S 104 Freya White Bldg #120B Spokane WA 99202
2	Fred Meyer 560 W Kathleen	Melissa Bonanno 104 S Freya White Bldg Suite 120B Spokane WA 99202	TNT Fireworks S 104 Freya White Bldg #120B Spokane WA 99202
3	Safeway 1001 N Fourth St	Eric Campbell 4316 Saw Blade Lane #104 Coeur d'Alene ID 83814	Eric Campbell 4316 Saw Blade Lane #104 Coeur d'Alene ID 83814
4	Safeway 101 W Neider	Victoria Petersen 104 S Freya White Bldg Suite 120B Spokane WA 99202	TNT Fireworks S 104 Freya White Bldg #120B Spokane WA 99202
5	Skate Plaza 5685 N Pioneer	Rolling Thunder Fireworks Dan Holmes 29825 North 6 th Athol 83801	Thunder Fireworks 5207 187 St East Tacoma WA 98446
6	Super 1 Foods 305 W Kathleen	Ryan True 14904 North Gleneden Spokane WA 99208	TNT Fireworks S 104 Freya White Bldg #120B Spokane WA 99202
7	Silver Lake Mall 200 W Hanley	Linda Morgan 16151 N Marble Lane Hayden ID 83835	TNT Fireworks S 104 Freya White Bldg #120B Spokane WA 99202
8	Walgreens 225 W Appleway	Journey – CDA Troy Carpenter 1604 West Lee Ct CDA ID 83814	TNT Fireworks 104 S Freya White Bldg #120B Spokane WA 99202
9	Ramsey & Appleway	Eric Campbell 4316 Saw Blade Lane #105 Coeur d Alene ID 83814	TNT Fireworks 104 S Freya White Bldg #120B Spokane WA 99202
10	Runges Furniture	Eda Darwood 8505 Peach Lane Missoula MT 59801	Big Boom Fireworks 8505 Peach Lane Missoula MT 59801
11	Ramsey and Prairie	Eda Darwood 8505 Peach Lane Missoula MT 59801	Big Boom Fireworks 8505 Peach Lane Missoula MT 59801
12	Sunset Mall	Eda Darwood 8505 Peach Lane Missoula, MT 59801	Big Boom Fireworks 8505 Peach Lane Missoula, MT 59801

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

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

[Office Use Only] Amt Pd <u># 31.25</u>
Rec No _____
Date _____
Date to City Council: _____
Reg No. _____
License No. _____
Rv _____

Date that you would like to begin alcohol service _____

Check the ONE box that applies:

<input type="checkbox"/>	Beer only (canned and bottled) not consumed on premise	\$ 50.00 per year
<input type="checkbox"/>	Beer and Wine (canned and bottled) not consumed on premise	\$250.00 per year
<input type="checkbox"/>	Beer only (canned and bottled only) consumed on premise	\$100.00 per year
<input type="checkbox"/>	Beer and Wine (canned and bottled only) consumed on premise	\$300.00 per year
<input type="checkbox"/>	Beer only (draft, canned, and bottled) consumed on premise	\$200.00 per year
<input type="checkbox"/>	Beer and Wine (Draft, canned, and bottled) consumed on premise	\$400.00 per year
<input type="checkbox"/>	Beer, Wine, and Liquor (number issued limited by State of Id)	\$762.50 per year
<input checked="" type="checkbox"/>	Transfer of ownership of a City license with current year paid Beer-to go only \$6.25 Beer- Can, Bottled only COP \$12.50 Beer- Draft, can, bottled COP \$25 Wine additional \$25 Consumed on premise yes no Transfer from _____ to _____	\$ <u>31.25</u>

Business Name	<u>Kathleen Cherron</u>
Business Mailing Address	<u>17568 N Hwy 95</u>
City, State, Zip	<u>Hayden, ID, 83835</u>
Business Physical Address	<u>3840 N Government Way</u>
City, State, Zip	<u>Coeur d Alene, ID, 83815</u>
Business Contact	Business Telephone: <u>208-676-1195</u> Fax: <u>208-762-7227</u> Email address: <u>alpine@imaxmail.net</u>
License Applicant	<u>Eagle's Landing LLC</u>
If Corporation, partnership, LLC etc. List all members/officers	<u>Tom Paschane</u> <u>Henry Paschane</u>

RESOLUTION NO. 17-043

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, AUTHORIZING THE FOLLOWING DESCRIBED CONTRACTS AND OTHER ACTIONS OF THE CITY OF COEUR D'ALENE: APPROVAL OF AN AGREEMENT WITH COEUR D'ALENE SCHOOL DISTRICT 271 FOR A SCHOOL RESOURCE OFFICER; APPROVAL OF AN AGREEMENT WITH NORTH IDAHO COLLEGE FOR A SCHOOL RESOURCE OFFICER; APPROVING THE DESTRUCTION OF RECORDS IN THE POLICE DEPARTMENT; APPROVAL OF AN AGREEMENT EXTENSION WITH EMERGE FOR ARTS EDUCATION; APPROVAL OF S-3-16.M, BOLIVAR 3RD EDITION: FINAL PLAT, ACCEPTANCE OF IMPROVEMENTS, MAINTENANCE/WARRANTY AGREEMENT, AND SECURITY; APPROVAL OF S-6-16 PRAIRIE TRAILS: FINAL PLAT, SUBDIVISION IMPROVEMENT AGREEMENT, AND SECURITY; APPROVAL OF AN AGREEMENT WITH RIVER'S EDGE APARTMENTS, LLC, FOR CONSTRUCTION AND REIMBURSEMENT FOR SELTICE WAY WATER AND SEWER LINES AND DRIVEWAY APPROACHES (WA TRUST SITE); DECLARATION AS SURPLUS A 1986 MACK FIRE TRUCK FROM THE FIRE DEPARTMENT; AND APPROVAL OF AN AGREEMENT WITH LARRY FLUETT AND LILAC GLEN, LLC, FOR TEMPORARY WASTEWATER HOLDING TANK.

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

- A) Approval of an agreement with Coeur d'Alene School District 271 for a School Resource Officer;
- B) Approval of an agreement with North Idaho College for a School Resource Officer;
- C) Approving the destruction of records in the Police Department;
- D) Approval of an agreement extension with Emerge for Arts Education;
- E) Approval of S-3-16.m, Bolivar 3rd Edition: Final Plat Approval, Acceptance of Improvements, Maintenance/Warranty Agreement, and Security;
- F) Approval of S-6-16 Prairie Trails: Final Plat Approval, Subdivision Improvement Agreement and Security;
- G) Approval of an agreement with River's Edge Apartments, LLC, for Construction and Reimbursement for Seltice Way Water and Sewer Lines and Driveway Approaches (WA Trust Site);

- H) Declaration as surplus a 1986 Mack Fire Truck from the Fire Department;
- I) Approval of an agreement with Larry Fluett and Lilac Glen, LLC for Temporary Wastewater Holding Tank; and

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

NOW, THEREFORE,

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

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

DATED this 20th day of June, 2017.

Steve Widmyer, Mayor

ATTEST:

Renata McLeod, City Clerk

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

ROLL CALL:

COUNCIL MEMBER EVANS Voted _____

COUNCIL MEMBER MILLER Voted _____

COUNCIL MEMBER MCEVERS Voted _____

COUNCIL MEMBER ENGLISH Voted _____

COUNCIL MEMBER GOOKIN Voted _____

COUNCIL MEMBER EDINGER Voted _____

_____ was absent. Motion _____.

CITY COUNCIL
STAFF REPORT

DATE: August 16, 2016

FROM: Steve Childers
Captain

SUBJECT: School Resource Officer Agreement between the Coeur d'Alene School District #271 and the City of Coeur d'Alene.

Decision Point:

The Coeur d'Alene Police Department requests that the City of Coeur d'Alene enter into a contract to continue the School Resource Officer program with School District #271 for fiscal year 2017-2018.

History:

The City of Coeur d'Alene and School District #271 have maintained the SRO partnership since 1999. Both the Police Department and the School District have deemed the SRO program not only successful, but vital to providing campus safety. The partnership's success can be tangibly measured in the reduction of campus related crimes and case clearance rates.

Financial Analysis:

The school district has agreed to pay \$348,715.70 of the personnel costs associated with this program. This represents approximately 67% of total personnel costs (\$571,012.34) for the period when school is in session. In addition to these costs, District 271 pays all overtime costs incurred for school related activities.

Performance Analysis:

The SRO program has provided the police department an open communication link with students, educators and citizens that have directly resulted in solving several crimes that might not have been solved.

Decision Point:

The Coeur d'Alene Police Department requests approval of the attached contract with School District #271 to provide School Resource Officer services for the 2017-2018 school years.

AGREEMENT BETWEEN THE
COEUR D'ALENE SCHOOL DISTRICT #271

and

THE CITY OF COEUR D'ALENE

for

EMPLOYMENT OF SCHOOL RESOURCE OFFICERS
DISTRICT'S FISCAL YEAR 2017-18

THIS AGREEMENT is entered into this 20th day of June, 2017, by and between School District #271, Coeur d'Alene, Idaho, hereinafter referred to as DISTRICT, and the City of Coeur d'Alene, having its principal business office located at 710 Mullan, Coeur d'Alene, Idaho, hereinafter referred to as CITY.

WITNESSETH:

WHEREAS, safety and security on and around high school, middle school, and elementary school campuses is an essential element for a positive educational environment; and

WHEREAS, the safety and well being of students on high school, middle school, and elementary school campuses is a concern shared by both the CITY and the DISTRICT, and a coordinated effort is deemed the most effective and efficient means to provide for campus security; and

WHEREAS, the presence of uniformed police officers on school campuses, in addition to basic law enforcement services, allows for an array of police services to be provided to both students and staff such as the dissemination of information on the police department, the criminal justice system, gang intervention and prevention, and alcohol and drug abuse prevention.

NOW THEREFORE, the parties to this agreement do mutually agree as follows:

I. RESPONSIBILITIES OF CITY

1. CITY agrees to provide seven (7) School Resource Officers in order to provide a uniformed high visibility presence on and around the high school, middle school and elementary campuses, located in the City of Coeur d'Alene; In the event the School Resource Officer is unavailable for an extended period of time, periodic coverage will be maintained by another officer(s); and

2. CITY agrees to furnish normal equipment for officers who perform this service, including use of Coeur d'Alene Police Department vehicles; and
3. CITY agrees the officers will facilitate classroom and faculty presentations related to the youth and the law, at elementary schools, Coeur d'Alene High School, Lake City High School, Venture High School, Woodland Middle School, Canfield Middle School, Lakes Middle School, and the following 7 Elementary Schools – Borah, Bryan, Fernan, Ramsey, Skyway, Sorenson, and Winton. SRO's will investigate youth related criminal cases, continue to work with community agencies and parent/teacher groups, schedule security activities as needed, be the first responder in all law enforcement related matters as they occur during regularly scheduled work hours for the officer; and
4. CITY agrees to have officers attend various sporting events and other extra curricular activities as needed for pro-active enforcement and interaction; and
5. CITY agrees to document and investigate all incidents of crime as per the police department's policies and procedures.

II. RESPONSIBILITIES OF DISTRICT

1. DISTRICT agrees to provide office space, furnishings and supplies for each School Resource Officer; and
2. DISTRICT agrees to furnish any special equipment or material necessary for the performance of this service as such equipment or material shall be identified and agreed to by the parties in writing; and
3. DISTRICT agrees each officer shall be responsible primarily to their Police Department Supervisor and secondarily to the principal of the high school to which they are assigned.
4. DISTRICT agrees to pay all overtime for the School Resource Officers.

III. CONTROL AND JURISDICTION

Prevention, education and training may take place at elementary schools, Coeur d'Alene High School, Lake City High School, Venture High School, Woodland Middle School, Canfield Middle School and Lakes Middle School located in the City of Coeur d'Alene as such activity relates to the DISTRICT.

The School Resource Officers will remain under the employment, direction, and control of the Coeur d'Alene Police Department. The Resource Officers are employees of the City of

Coeur d'Alene as employee is defined under Idaho Code 6-902(4). The City of Coeur d'Alene shall remain responsible for the actions of the School Resource Officers, and shall maintain liability insurance, or self insurance as the case may be in order to protect the district from any claims under the Idaho Tort Claims Act, Idaho Code 6-901 et seq., or any other alleged act or omission of the School Resource Officers including but not limited to alleged Civil Rights violations.

The DISTRICT shall maintain liability insurance, or self-insurance as the case may be, in order to protect the City and its employees from any claims under the Idaho Tort Claims Act, or any other claim, arising out of the negligent acts or omissions of SD 271, its employees and agents, including but not limited to bodily injury or death, property damage, or alleged Civil Rights violations.

The DISTRICT shall endeavor to provide the CITY with requests for additional officers or for work assignments occurring outside regular high school or middle school hours (that are not usual police duties) prior to the beginning of the school year. DISTRICT will update the CITY at reasonable intervals in order to assist the CITY in scheduling officers. Any requests for services by the CITY outside the scope of this agreement shall be negotiated for compensation prior to the incurrence of such work assignments, the same shall be agreed to in writing.

IV. CONSIDERATION

In consideration of all services hereinbefore described, DISTRICT agrees to pay and CITY agrees to accept in full payment therefor the amount of Three Hundred Seventy-Nine Thousand Eight Hundred Seven Dollars and 44/100 (\$379,807.44) to be paid quarterly.

V. TERM, AMENDMENT, RENEWAL AND TERMINATION OF AGREEMENT

1. The term of this Agreement shall remain in effect for the 2017-18 public school fiscal year.
2. This Agreement may be amended or renewed in writing by consent of CITY and DISTRICT as permitted by law.
3. This Agreement may be terminated at any time in writing by mutual consent of CITY and DISTRICT.
4. On or before April 1, 2018, both parties shall meet to evaluate the program prior to deciding whether to continue.

VI. IDAHO LAW CONTROLS

It is expressly understood and agreed by CITY and DISTRICT that the laws of the State of Idaho shall govern them and the interpretation of this Agreement shall be initiated exclusively in the Courts of the State of Idaho.

VII. SUCCESSORS-IN-INTEREST AND ASSIGNS

All terms, conditions and provisions hereof shall inure to and shall bind the parties hereto, their respective successors in interest and assigns.

IN WITNESS THEREOF, CITY and DISTRICT have caused the Agreement to be signed in their behalf by duly authorized representative on the 20th day of June, 2017, pursuant to Resolution No. 17-043, authorized the City Mayor to sign same.

CITY OF COEUR D’ALENE

**COEUR D’ALENE SCHOOL DISTRICT
#271**

By: _____
Steve Widmyer, Mayor

By: _____
Casey Morrisroe, Chairperson

Attest:

Attest:

Renata McLeod, City Clerk

Lynn Towne, Clerk of the Board

APPROVED as to form and legality this 20th day of June, 2017.

By: _____
Michael C. Gridley, City Attorney

By: _____
Mark Lyons, Attorney for School District 271

CITY COUNCIL
STAFF REPORT

DATE: June 5, 2017, 2017

FROM: Steve Childers

SUBJECT: School Resource Officer Contract for School Year 2017-2018 with North Idaho College

Decision Point: The police department requests approval of the attached contract with North Idaho College to provide School Resource Officer services for school year 2017-2018.

History: The City has maintained a contract with North Idaho College to provide one School Resource Officer during the regular school year for several years. This contract is similar to previous year's contracts; however, it allows for SRO services year-round and provides updated dollar amounts for the additional months and increase in SRO wages. The Police Department supports this request and would utilize the existing SRO to perform this duty.

Financial Analysis: North Idaho College agrees to pay \$76,009 for this service, plus any overtime associated with this function. This amount covers roughly 63% of the cost of the School Resource Officer's regular wages and benefits for the person assigned to the College.

Performance Analysis: This partnership with North Idaho College is extremely valuable and demonstrates our commitment to keeping our students safe. Having an SRO at the school throughout the summer continues this partnership and is in the best interest of the College and the community.

Decision Point: The police department requests approval of the attached contract with North Idaho College to provide School Resource Officer services for school year 2017-2018.

AGREEMENT BETWEEN THE

NORTH IDAHO COLLEGE

and

THE CITY OF COEUR D'ALENE

for

EMPLOYMENT OF SCHOOL RESOURCE OFFICERS
NORTH IDAHO COLLEGE FISCAL YEAR 2017-2018

THIS AGREEMENT is entered into this 20th day of June, 2017, by and between North Idaho College, Coeur d'Alene, Idaho, hereinafter referred to as NIC, and the City of Coeur d'Alene, having its principal business office located at 710 Mullan, Coeur d'Alene, Idaho, hereinafter referred to as CITY.

W I T N E S S E T H:

WHEREAS, safety and security on and around the college campus is an essential element for a positive educational environment; and

WHEREAS, the safety and well-being of students, faculty, staff and administration, on NIC campus is a concern shared by both the CITY and NIC, and a coordinated effort is deemed the most effective and efficient means to provide for campus security; and

WHEREAS, the presence of uniformed police officers on the college campus, in addition to basic law enforcement services, allows for an array of police services to be provided to both students and staff such as the dissemination of information about the police department, the criminal justice system, emergency response best practices, and alcohol and drug abuse prevention.

NOW THEREFORE, the parties to this agreement do mutually agree as follows:

I. RESPONSIBILITIES OF CITY

1. CITY agrees to provide one (1) School Resource Officer in order to provide a uniformed high visibility presence on and around the NIC campus, located in the City of Coeur d'Alene; and

2. CITY agrees to furnish normal equipment for the officer who performs this service, including use of Coeur d'Alene Police Department vehicles; and

3. CITY agrees the School Resource Officer's (SRO) primary duties will be identification, prevention, enforcement, and investigation of related criminal cases on campus. The School Resource Officer (SRO) will continue to work with community agencies in emergency response procedures, schedule security activities as needed, be the first responder in law enforcement related matters as they occur during regularly scheduled work hours for the officer, and may also facilitate student, employee, and community educational presentations related to law enforcement at NIC and the populations it serves; and
4. CITY agrees to have the officer attend various sporting events and other extra curricular activities as needed for pro-active enforcement and interaction; and
5. CITY agrees to document and investigate all incidents of crime as per the police department's policies and procedures; and
6. CITY agrees that the School Resource Officer (SRO) will be on campus year round. In the event the School Resource Officer is unavailable for an extended period of time, periodic coverage will be maintained by another officer(s);

II. RESPONSIBILITIES OF NIC

1. NIC agrees to provide office space, furnishings and supplies for a School Resource Officer; and
2. NIC agrees to furnish any special equipment or material necessary for the performance of this service as such equipment or material shall be identified and agreed to by the parties in writing; and
3. NIC agrees the officer shall be responsible primarily to their Police Department Supervisor and secondarily to the President or their designee at NIC; and
4. NIC agrees to pay all overtime for the School Resource Officer.

III. CONTROL AND JURISDICTION

Prevention, education and training may take place at NIC located in the City of Coeur d'Alene as such activity relates to NIC.

The School Resource Officer will remain under the employment, direction, and control of the Coeur d'Alene Police Department. The Resource Officer is an employee of the City of Coeur d'Alene as employee is defined under Idaho Code 6-902(4). The City of Coeur d'Alene shall remain responsible for the actions of the School Resource Officer, and shall maintain liability

insurance, or self insurance as the case may be, in order to protect NIC from any claims under the Idaho Tort Claims Act, Idaho Code § 6-901 et seq., or any other claim, arising out of the negligent acts or omissions of the School Resource Officer, including but not limited to bodily injury or death, property damage, or alleged Civil Rights violations.

NIC shall maintain liability insurance, or self insurance as the case may be, in order to protect the City and its employees from any claims under the Idaho Tort Claims Act, or any other claim, arising out of the negligent acts or omissions of NIC, its employees, and agents, including but not limited to bodily injury or death, property damage, or alleged Civil Rights violations.

NIC shall endeavor to provide the CITY with requests for additional officers, or for work assignments occurring outside regular school hours (that are not usual police duties) prior to the beginning of the school year. NIC will update the CITY at reasonable intervals in order to assist the CITY in scheduling officers. Any requests for services by the CITY outside the scope of this agreement shall be negotiated for compensation prior to the incurrence of such work assignments, the same shall be agreed to in writing.

IV. CONSIDERATION

In consideration of all services hereinbefore described, NIC agrees to pay and CITY agrees to accept in full payment therefor the amount of Seventy six Thousand and nine dollars and 00/100 (\$76,009.00) to be billed on the first day of the first (July, August, September) and third (January, February, March) quarters of the year. All overtime expenses will be billed quarterly.

V. TERM, AMENDMENT, RENEWAL AND TERMINATION OF AGREEMENT

1. The term of this Agreement shall remain in effect for the 2017-2018 NIC fiscal year.
2. This Agreement may be amended or renewed in writing by consent of CITY and NIC as permitted by law.
3. This Agreement may be terminated at any time in writing by mutual consent of CITY and NIC.
4. On or before May 1, 2018, both parties shall meet to evaluate the program prior to deciding whether to continue.

VI. IDAHO LAW CONTROLS

It is expressly understood and agreed by CITY and NIC that the laws of the State of Idaho shall govern them and the interpretation of this Agreement shall be initiated exclusively in the Courts of the State of Idaho.

VII. SUCCESSORS-IN-INTEREST AND ASSIGNS

All terms, conditions and provisions hereof shall inure to and shall bind the parties hereto, their respective successors in interest and assigns.

IN WITNESS THEREOF, CITY and NIC have caused the Agreement to be signed in their behalf by duly authorized representative on the 20th day of June, 2017, pursuant to Resolution No. 17-043, authorized the City Mayor to sign same.

CITY OF COEUR D'ALENE

NORTH IDAHO COLLEGE

By: _____
Steve Widmyer, Mayor

By: _____
Rick MacLennan, President

Attest:

Attest:

Renata McLeod, City Clerk

Shannon Goodrich, Clerk of the Board

APPROVED as to form and legality this 20th day of June, 2017.

By: _____
Michael C. Gridley, City Attorney

By: _____
Mark Lyons, Attorney for North Idaho College

GENERAL SERVICES COMMITTEE

DATE: June 12, 2017
TO: City Council
FROM: RENATA MCLEOD, Municipal Services Director
RE: Request for Destruction of Records

DECISION POINT:

Would the City Council approve the destruction of certain public records?

HISTORY:

The Police Department is requesting the destruction of temporary records that have been kept their minimum retainage period. Please see the attached list for more specific information.

PERFORMANCE ANALYSIS: Because of the lack of storage space, records are routinely reviewed to determine if the necessity of maintaining the record is warranted. Because the attached list of records has exceeded the time required to maintain them and their useful life has been exhausted, it is necessary to purge these files in order to maintain storage space for future records.

DECISION POINT: To authorize staff to proceed with the destruction of records as listed pursuant to I.C. 50-908.

REQUEST FOR DESTRUCTION OF RECORDS

DEPARTMENT: Police

DATE: 06/05/2017

RECORD DESCRIPTION	TYPE OF RECORD (Perm./Semi-P/Temp)	DATES OF RECORDS (From - To)
Dispatch reel to reel tapes	Semi-perm	1976-1981
Code Enforcement Files	Temporary	2008-2013
Polygraph reports – Criminal Cases	Semi-perm	2003-2009

MEMORANDUM

DATE: June 6, 2017

FROM: SAM TAYLOR, DEPUTY CITY ADMINISTRATOR

RE: Contract Extension with Emerge for Arts Education

DECISION POINT: To approve a contract extension with Emerge for arts education via a letter of agreement

HISTORY: The City of Coeur d'Alene has contracted with non-profit arts organization Emerge for arts education since March 2015.

As part of the FY 16-17 budget year, our current budget, the City Council adopted adequate funding for the entire fiscal year for arts education classes provided by Emerge. However, for some reason Emerge's contract ended at the end of March.

In order for Emerge to continue the great work they've been doing to provide arts classes on the City's behalf, a contract extension is in order.

The Arts Commission has unanimously recommended approval of a contract extension until the end of this fiscal year, September 30.

With adoption of the new Arts Policy Emerge would need to participate in an application process for Community Art Partnership Grants after the next fiscal year begins. Emerge and the Arts Commission are both aware of this updated policy. As of now the RFP process has not been fully developed and is intended to be online by the beginning of the next fiscal year.

This has been a strong partnership and Emerge should be commended for managing this amazing endeavor. The intent is to help provide more arts education opportunities to lower income children, though any child is allowed to participate.

FINANCIAL: Emerge is to receive up to a maximum of \$1,000 per month to provide classes and it is on a reimbursable basis. Emerge provides invoices for all related class costs and the Deputy City Administrator reviews and approves reimbursement thereafter. The average request for reimbursement has been about \$600. There is ample funding available in the budget for the remainder of the fiscal year as Emerge has not sought all of its reimbursement requests throughout 2017 that it otherwise could have.

DECISION POINT/RECOMMENDATION: Staff recommends City Council authorize a contract extension through the end of the fiscal year for arts education provided by Emerge via a letter of agreement.

D R A F T

Print on letter head

June 15, 2017

Emerge CDA Inc.
2572 E. Gunnison Pl.
Coeur d'Alene, ID 83814

Dear Sir or Madam:

The purpose of this letter is to confirm our agreement regarding the provision of public art programs for the City of Coeur d'Alene.

Our prior Agreement expired on March 31, 2017. The City recognizes that it has budgeted for this work for the entire FY16-17 budget cycle and the contract ended too early. It is in the best interests of the City to continue our relationship. Therefore, we have agreed that you will provide public art programs for the purpose of stimulating and encouraging the study and presentation of fine arts, and public interest and participation therein for residents of the City and surrounding areas through the fiscal year ending September 30, 2017. It is further agreed that the terms and conditions of the prior Agreement are incorporated by reference as if set out fully herein.

Please acknowledge this agreement and return it to this office.

Sincerely,

Sam Taylor,
Deputy City Administrator

Department Head: _____

Contractor Acceptance of Terms:

Signature: _____ Date: _____

Title: _____

Cc: City of Coeur d'Alene Legal Department

CITY COUNCIL STAFF REPORT

DATE: June 20,2017
FROM: Dennis J. Grant, Engineering Project Manager
SUBJECT: **Bolivar 3rd Addition: Final Plat Approval, Acceptance of Improvements, Maintenance/Warranty Agreement and Security Approval**

DECISION POINT

Staff is requesting the following:

1. Approval of the final plat document, a thirty four (34) lot residential development.
2. Acceptance of the installed public infrastructure improvements for Bolivar 3rd Addition.
3. Approval of the Maintenance/Warranty Agreement and Security.

HISTORY

- a. Applicant: Kevin Schneidmiller, President
Greenstone-Kootenai II
1421 Meadowood Lane, Suite # 200
Liberty Lake, WA 99019
- b. Location: +/- 14.381 Acres Known as Bolivar 2nd Addition (in CDA Place)
- c. Previous Action:
 1. Final plat approval of the Bolivar Addition (39 lots) in October 2013.
 2. Final plat approval of the Bolivar 2nd Addition (32 lots) in August, 2006.

FINANCIAL ANALYSIS

The developer is installing the required warranty bond (10%) to cover any maintenance issues that may arise during the one (1) year warranty period that will commence upon this approval, and terminate, on June 20, 2018. The amount of the security provided is \$26,026.00.

PERFORMANCE ANALYSIS

The developer has installed all the required public infrastructure, and, the responsible City departments have approved the installations and found them ready to accept. Acceptance of the installed improvements will allow the issuance of all available building permits for this phase of the development, and, Certificate of Occupancy issuance upon completion. The City maintenance would be required to start after the one (1) year warranty period expires on June 20, 2018.

DECISION POINT RECOMMENDATION

1. Approve the final plat document.
2. Accept the installed public infrastructure improvements.
3. Approve the Maintenance/Warranty agreement and accompanying security.

AGREEMENT FOR MAINTENANCE/WARRANTY OF SUBDIVISION WORK

Bolivar 3rd Addition

THIS AGREEMENT is made this 20th day of June, 2017, between Greenstone-Kootenai II, Inc., whose address is 1421 Meadowwood Lane, Suite 200, Liberty Lake, WA 99019, with Kevin Schneidmiller, President, hereinafter referred to as the "**Developer**," and the City of Coeur d'Alene, a municipal corporation and political subdivision of the state of Idaho, whose address is City Hall, 710 E. Mullan Avenue, Coeur d'Alene, ID 83814, hereinafter referred to as the "**City**."

WHEREAS, the City has approved the final subdivision plat of Bolivar 3rd Addition, a thirty four (34) lot, residential development in Coeur d'Alene, situated in the Southwest ¼ of Section 27, Township 51 North, Range 4 West, B.M., Kootenai County, Idaho; and

WHEREAS, the Developer completed the installation of certain public improvements in the noted subdivision as required by Title 16 of the Coeur d'Alene Municipal Code and is required to warrant and maintain the improvements for one year;

NOW, THEREFORE,

IT IS AGREED AS FOLLOWS:

The Developer agrees to maintain and warrant, for a period of one year from the approval date of this agreement, the public improvements listed in the spreadsheet, attached as Exhibit "A", and, as shown on the construction plans entitled "Bolivar 3rd Addition", signed and stamped by Doug J. Desmond, PE, # 10886, dated August 23, 2016, incorporated herein by reference, including but not limited to: sanitary sewer system and appurtenances, potable water system and appurtenances, catch basins, stormwater drainage swales, drywells and appurtenances, concrete curb and sidewalk including ramps, asphalt paving, street luminaires, signing and monumentation as required under Title 16 of the Coeur d'Alene Municipal Code.

The Developer herewith delivers to the City, security in a form acceptable to the City, for the amount of Twenty-six Thousand Twenty-six and 00/100 Dollars (\$26,026.00) securing the obligation of the Developer to maintain and warrant the public subdivision improvements referred to herein. The security shall not be released until the 20th day of June, 2018. The City Inspector will conduct a final inspection prior to the release of the security to verify that all installed improvements are undamaged and free from defect. In the event that the improvements made by the Developer were not maintained or became defective during the period set forth above, the City may demand the funds represented by the security and use the proceeds to complete maintenance or repair of the improvements thereof. The Developer further agrees to be responsible for all costs of warranting and maintaining said improvements above the amount of the security given.

Developer's Reimbursement to the City: The Parties further agree that the City has utilized substantial staff time to prepare this agreement, which will benefit the Developer. The Parties further agree the City should be reimbursed a reasonable fee for its costs to prepare such agreement. The Parties further agree that such fee should be in the amount of Twenty Five and No/100 Dollars (\$25.00).

IN WITNESS WHEREOF, the parties have set their hands and seal the day and year first above written.

City of Coeur d'Alene

Greenstone-Kootenai II, Inc.

Steve Widmyer, Mayor

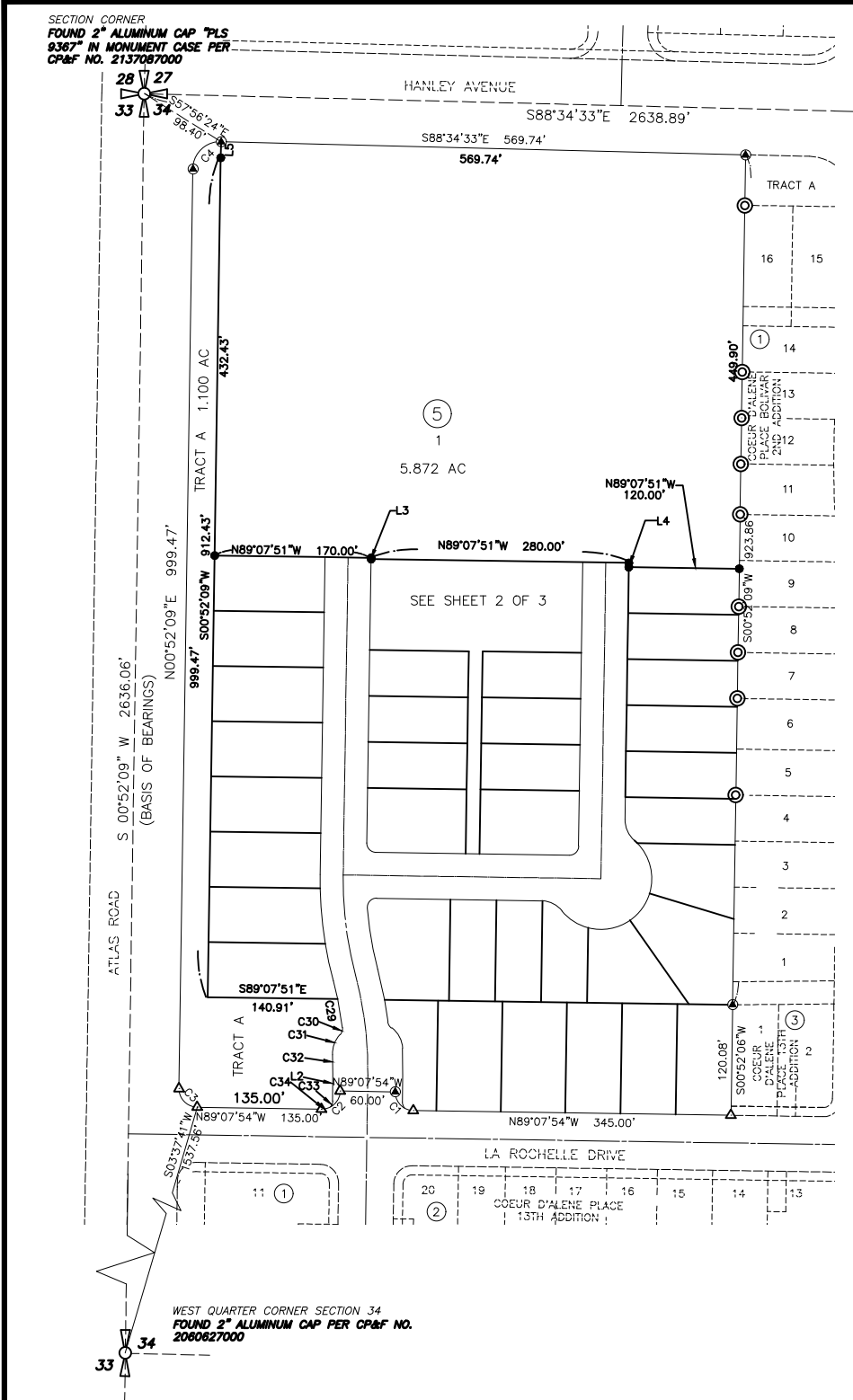
Kevin Schneidmiller, President

ATTEST:

Renata McLeod, City Clerk

EXHIBIT "A"

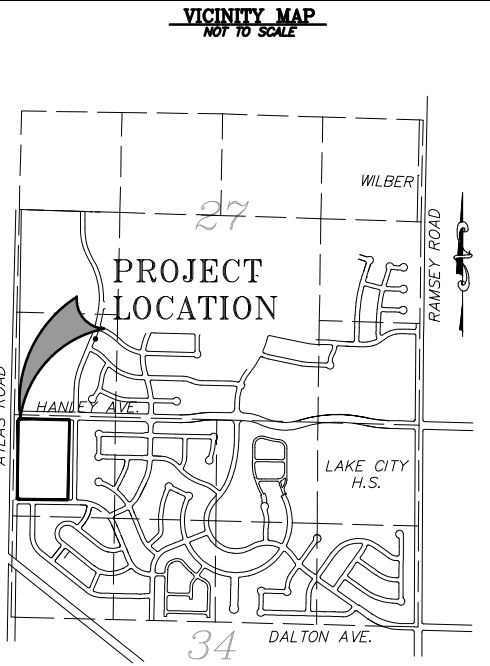
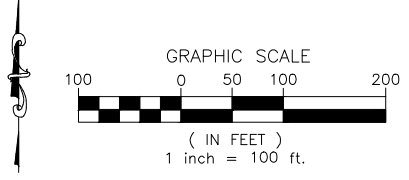
Project Name:		Bolivar 3rd Addition										
Project Number:		8-138000										
Street Names				Descartes D:	Versaille D:	per unit	cost	tax	TOTAL COST (includes Allocations)			
45	Radius	6358.5	length width culdesac area - sq ft	484 26 0 12584	330 26 1 14939							
Expenses												
9-0120	Storm Drainage		0 Single Depth DW			\$ 1,950.00	0	0				
			0 Double Depth DW			\$ 2,350.00	0	0				
			0 CMP 8"			\$ 16.50	0	0				
			0 CMP 12"	339	229	\$ 28.00	15,904	0				
			0 CMP 18"			\$ 32.00	0	0				
			0 HDPE 24"			\$ 32.00	0	0				
			0 HDPE 30"			\$ 43.00	0	0				
			0 Type I CB			\$ 1,450.00	0	0				
			0 Type II CB	6	5	\$ 2,200.00	24,200	0				
			0 Sidewalk Vaults			\$ 850.00	0	0				
			0 20' ponds	503	3458	\$ 0.97	3,842	0				
			0 Rip Rap			\$ 500.00	0	0				
			0 Splash Pads			\$ 100.00	0	0				
			0 Hydroseed	503	3458	\$ 0.15	594	0			44,540	
9-0130	Sewer		0 6" mainline			\$ 26.00	0	0				
			0 8" mainline	764	330	\$ 30.00	32,820	0				
			0 10" mainline			\$ 36.00	0	0				
			0 12" mainline			\$ 39.00	0	0				
			0 12" forced main			\$ 41.00	0	0				
			0 6" forced main			\$ 32.00	0	0				
			0 Manholes	4	1	\$ 2,900.00	14,500	0				
			0 Manholes-Main			\$ 300.00	0	0				
			0 services	17	13	\$ 850.00	25,500	0				
			0 8" cleanout			\$ 500.00	0	0				
			0 Excessive depth			\$ -	0	0				
			0 sleeving			\$ 150.00	0	0				
			0 Tie in		1	\$ 2,000.00	2,000	0				
			0 boring			\$ -	0	0			74,820	
9-0140	Water		0 6" mainline			\$ 30.00	0	0				
			0 8" mainline	764	280	\$ 32.00	33,408	0				
			0 10" mainline			\$ 36.00	0	0				
			0 12" mainline			\$ 42.00	0	0				
			0 Fire Hydrants	1	1	\$ 4,500.00	9,000	0				
			0 blow offs			\$ 750.00	0	0				
			0 air vacs			\$ 1,949.00	0	0				
			0 Services		17	\$ 2,000.00	60,000	0				
			0 irrigation service	2		\$ 15,000.00	30,000	0				
			0 irrigation sleeving		406	\$ 16.00	6,496	0				
			0 Tie In		1	\$ 2,000.00	2,000	0			140,904	
CONSTRUCTION COSTS										260,264		
Warranty Bond Amount		10%									26,026	



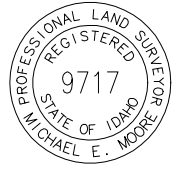
CURVE TABLE					
CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	20.00'	31.42'	28.28'	N 44°07'54" W	90°00'00"
C2	20.00'	31.42'	28.28'	S 45°52'06" W	90°00'00"
C3	20.00'	31.42'	28.28'	N 44°07'52" W	90°00'03"
C4	30.00'	47.41'	42.63'	N 46°08'48" E	90°33'18"
C5	400.00'	109.89'	109.54'	S 07°00'03" E	15°44'24"
C6	400.00'	109.88'	109.53'	N 07°00'04" W	15°44'20"
C7	10.00'	7.19'	7.04'	N 19°43'48" W	41°11'48"
C8	438.00'	29.47'	29.46'	N 01°03'33" W	3°51'18"
C9	30.00'	25.96'	25.16'	N 27°46'45" W	49°35'07"
C10	10.00'	7.95'	7.75'	N 29°47'11" W	45°34'14"
C11	425.00'	24.19'	24.19'	N 08°37'55" W	3°15'41"
C12	425.00'	34.18'	34.17'	N 12°34'00" W	4°36'29"
C13	375.00'	67.03'	66.94'	N 09°44'59" W	10°14'31"
C14	10.00'	16.66'	14.80'	N 43°05'52" E	95°27'11"
C15	30.00'	1.70'	1.70'	S 87°32'56" E	3°15'13"
C16	30.00'	24.31'	23.65'	S 62°42'33" E	46°25'34"
C17	55.00'	34.46'	33.90'	S 57°26'37" E	35°53'44"
C18	55.00'	47.57'	46.10'	N 79°49'46" E	49°33'29"
C19	55.00'	36.67'	35.99'	N 35°57'07" E	38°11'50"
C20	55.00'	58.80'	56.04'	N 13°46'34" W	61°15'32"
C21	55.00'	4.23'	4.23'	N 46°36'29" W	4°24'18"
C22	30.00'	26.01'	25.21'	N 23°58'14" W	49°40'47"
C23	10.00'	15.70'	14.14'	S 45°50'48" W	89°57'18"
C24	10.00'	15.72'	14.15'	N 44°09'12" W	90°02'42"
C25	425.00'	14.97'	14.97'	S 00°08'23" E	2°01'04"
C26	425.00'	60.39'	60.34'	S 05°13'09" E	8°08'30"
C27	425.00'	41.40'	41.38'	S 12°04'49" E	5°34'50"
C28	375.00'	20.29'	20.29'	N 13°19'13" W	3°06'03"
C29	375.00'	31.21'	31.20'	S 09°23'08" E	4°46'07"
C30	10.00'	8.70'	8.42'	S 17°54'34" W	49°49'17"
C31	30.00'	23.75'	23.13'	S 20°08'43" W	45°21'00"
C32	362.00'	21.47'	21.47'	S 00°49'50" E	3°23'53"
C33	10.00'	7.19'	7.04'	S 21°28'00" W	41°11'48"
C34	20.00'	9.93'	9.83'	S 76°38'55" W	28°26'21"
C35	20.00'	9.93'	9.83'	N 74°54'43" W	28°26'21"
C36	20.00'	21.49'	20.47'	N 29°54'43" W	61°33'39"
C37	20.00'	21.49'	20.47'	S 31°38'55" W	61°33'39"

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N 00°52'06" E	28.74'
L2	S 00°52'06" W	28.74'
L3	N 00°52'09" E	1.26'
L4	N 00°52'09" E	4.48'
L5	N 01°50'04" E	17.25'
L6	N 00°52'06" E	17.74'
L7	N 89°07'54" W	30.00'
L8	N 89°07'54" W	30.00'

BASIS OF BEARINGS
 THE BEARING OF S00°52'09"W ALONG THE WEST LINE OF SECTION 34, ACCORDING TO BOLIVAR SECOND ADDITION RECORDED IN BOOK J, PAGES 400-400B WAS HELD AS THE BASIS OF BEARINGS FOR THIS PLAT. PER IDAHO STATE PLANE COORDINATE SYSTEM, WEST ZONE, USING NAD83 (92) COORDINATES, THE CONVERGENCE ANGLE AT THE NORTHWEST CORNER OF SECTION 34 IS 00°47'56.60

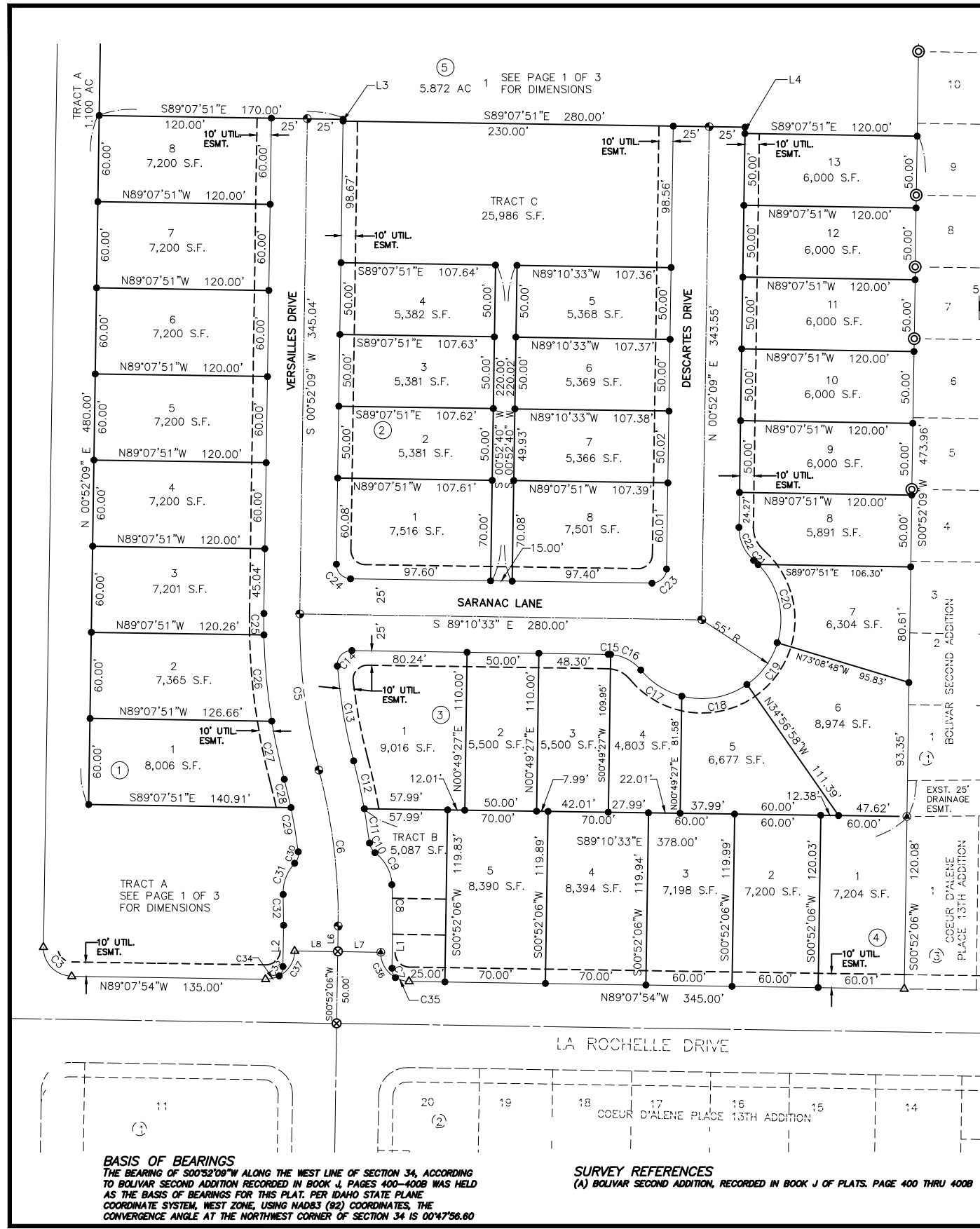


- LEGEND**
- ⊕ SET 5/8" X 30" REBAR WITH ALUMINUM CAP MARKED "MEM 9717" TO BE SET ON OR BEFORE ONE YEAR SUBSEQUENT TO THE RECORDING OF THIS PLAT IN ACCORDANCE WITH IDAHO CODES 50-1331 AND 50-1333.
 - SET 1/2" X 24" REBAR WITH YELLOW PLASTIC CAP MARKED "MEM 9717" TO BE SET ON OR BEFORE ONE YEAR SUBSEQUENT TO THE DATE OF RECORDING OF THIS PLAT IN ACCORDANCE WITH IDAHO CODES 50-1331, 50-1332 AND 50-1333.
 - ⊕ SET 5/8" X 30" REBAR WITH YELLOW OR ORANGE PLASTIC CAP MARKED "MEM 9717" OR LEAD & TAG MARKED "MEM 9717"
 - FOUND AS NOTED
 - △ FOUND 5/8" X 30" REBAR WITH ORANGE PLASTIC CAP MARKED "CLC 8695"
 - ⊕ FOUND 5/8" X 30" REBAR WITH ALUMINUM CAP MARKED "CLC 8695"
 - ⊕ FOUND 1/2" X 24" REBAR WITH ORANGE PLASTIC CAP MARKED "MEM 9717".
 - ⊕ BLOCK NUMBER
- TOTAL AREA=14.381 ACRES

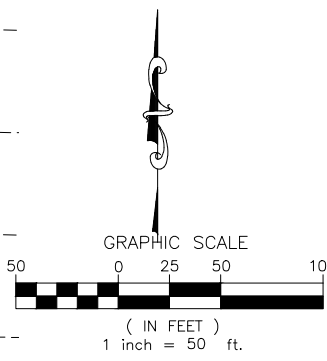


BOLIVAR THIRD ADDITION
 A RE-PLAT OF LOT 1, BLOCK 3 OF BOLIVAR SECOND ADDITION LOCATED IN THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 51 NORTH, RANGE 4 WEST, BOISE MERIDIAN, CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO

RFK LAND SURVEYING INC.				
1420 WEST GARLAND AVENUE SPOKANE, WA 99205 TEL: (509) 324-7861 FAX: (509) 327-7249 E-MAIL: rudy@rfklandsurveying.com				
DRAWN	APPROVED	SCALE	PROJECT	
MEM	RFK	AS NOTED	16-156	
DATE	DATE	SHEET	FIELD BOOK	
11/21/16	11/21/16	1 OF 3		



CURVE TABLE					
CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
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C4	30.00'	47.41'	42.63'	N 46°08'48" E	90°33'18"
C5	400.00'	109.89'	109.54'	S 07°00'03" E	15°44'24"
C6	400.00'	109.88'	109.53'	N 07°00'04" W	15°44'20"
C7	10.00'	7.19'	7.04'	N 19°43'48" W	41°11'48"
C8	438.00'	29.47'	29.46'	N 01°03'33" W	3°51'18"
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C13	375.00'	67.03'	66.94'	N 09°44'59" W	10°14'31"
C14	10.00'	16.66'	14.80'	N 43°05'52" E	95°27'11"
C15	30.00'	1.70'	1.70'	S 87°32'56" E	3°15'13"
C16	30.00'	24.31'	23.65'	S 62°42'33" E	46°25'34"
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C18	55.00'	47.57'	46.10'	N 79°49'46" E	49°33'29"
C19	55.00'	36.67'	35.99'	N 35°57'07" E	38°11'50"
C20	55.00'	58.80'	56.04'	N 13°46'34" W	61°15'32"
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- LEGEND**
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 - SET 1/2" X 24" REBAR WITH YELLOW PLASTIC CAP MARKED "MEM 9717" TO BE SET ON OR BEFORE ONE YEAR SUBSEQUENT TO THE DATE OF RECORDING OF THIS PLAT IN ACCORDANCE WITH IDAHO CODES 50-1331, 50-1332 AND 50-1333.
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 - ⊕ BLOCK NUMBER
- TOTAL AREA=14.381 ACRES

LINE TABLE		
LINE	BEARING	DISTANCE
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L2	S 00°52'06" W	28.74'
L3	N 00°52'09" E	1.26'
L4	N 00°52'09" E	4.48'
L5	N 01°50'04" E	17.25'
L6	N 00°52'06" E	17.74'
L7	N 89°07'54" W	30.00'
L8	N 89°07'54" W	30.00'



BOLIVAR THIRD ADDITION
 A RE-PLAT OF LOT 1, BLOCK 3 OF BOLIVAR SECOND ADDITION LOCATED IN THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 51 NORTH, RANGE 4 WEST, BOISE MERIDIAN, CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO

BASIS OF BEARINGS
 THE BEARING OF S00°52'09"W ALONG THE WEST LINE OF SECTION 34, ACCORDING TO BOLIVAR SECOND ADDITION RECORDED IN BOOK J, PAGES 400-400B WAS HELD AS THE BASIS OF BEARINGS FOR THIS PLAT. PER IDAHO STATE PLANE COORDINATE SYSTEM, WEST ZONE, USING NAD83 (92) COORDINATES, THE CONVERGENCE ANGLE AT THE NORTHWEST CORNER OF SECTION 34 IS 00°47'56.60

SURVEY REFERENCES
 (A) BOLIVAR SECOND ADDITION, RECORDED IN BOOK J OF PLATS, PAGE 400 THRU 400B

RFK LAND SURVEYING INC.

1420 WEST GARLAND AVENUE
 SPOKANE, WA 99205
 TEL: (509) 324-7861
 FAX: (509) 327-7249
 E-MAIL: rudy@rfklandsurveying.com

DRAWN	APPROVED	SCALE	PROJECT
MEM	RFK	AS NOTED	15-156
DATE	DATE	SHEET	FIELD BOOK
11/21/16	11/21/16	2 OF 3	

CITY COUNCIL CERTIFICATE

THIS PLAT HAS BEEN APPROVED AND ACCEPTED BY THE CITY COUNCIL OF COEUR D'ALENE, IDAHO, ON THE _____ DAY OF _____, 20__.

COEUR D'ALENE CITY CLERK

COEUR D'ALENE CITY ENGINEER

HEALTH DISTRICT APPROVAL

A SANITARY RESTRICTION, IN ACCORDANCE WITH IDAHO CODE 50-1326 TO 50-1329, IS IMPOSED ON THIS PLAT. NO BUILDINGS, DWELLINGS, OR SHELTERS SHALL BE ERRECTED UNTIL SANITARY RESTRICTION REQUIREMENTS ARE SATISFIED AND LIFTED.

THIS PLAT APPROVED THIS _____ DAY OF _____, 20__.

PANHANDLE HEALTH DISTRICT 1

SANITARY RESTRICTIONS AS REQUIRED BY IDAHO CODE, TITLE 50, CHAPTER 13 HAVE BEEN SATISFIED BASED ON A REVIEW BY A QUALIFIED LICENSED PROFESSIONAL ENGINEER (QIPE) REPRESENTING THE CITY OF COEUR D' ALENE AND THE QIPE APPROVAL OF THE DESIGN PLANS AND SPECIFICATIONS AND THE CONDITIONS IMPOSED ON THE DEVELOPER FOR CONTINUED SATISFACTION OF THE SANITARY RESTRICTIONS. BUYER IS CAUTIONED THAT AT THE TIME OF THIS APPROVAL, NO DRINKING WATER EXTENSIONS OR SEWER EXTENSIONS WERE CONSTRUCTED. BUILDING CONSTRUCTION CAN BE ALLOWED WITH APPROPRIATE BUILDING PERMITS IF DRINKING WATER EXTENSION OR SEWER EXTENSIONS HAVE SINCE BEEN CONSTRUCTED OR IF THE DEVELOPER IS SIMULTANEOUSLY CONSTRUCTING THOSE FACILITIES. IF THE DEVELOPER FAILS TO CONSTRUCT FACILITIES THEN SANITARY RESTRICTIONS MAY BE REIMPOSED, IN ACCORDANCE WITH SECTION 50-1326, IDAHO CODE, BY THE ISSUANCE OF A CERTIFICATE OF DISAPPROVAL, AND NO CONSTRUCTION OF ANY BUILDING OR SHELTER REQUIRING DRINKING WATER OR SEWER/SEPTIC FACILITIES SHALL BE ALLOWED.

PANHANDLE HEALTH DISTRICT 1

SURVEYOR'S CERTIFICATE

I, MICHAEL E. MOORE P.L.S. #9717, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF IDAHO, DO HEREBY CERTIFY THAT THE SURVEY REPRESENTED ON THIS PLAT WAS PERFORMED BY ME OR UNDER MY SUPERVISION IN ACCORDANCE WITH THE LAWS OF THE STATE OF IDAHO. INTERIOR MONUMENTS WILL BE SET 1 YEAR SUBSEQUENT TO THE RECORDING OF THIS PLAT IN ACCORDANCE WITH IDAHO CODES 50-1331 AND 50-1333.

MICHAEL E. MOORE P.L.S. #9717 DATE

KOOTENAI COUNTY TREASURER

I HEREBY CERTIFY THAT THE REQUIRED TAXES ON THE HEREBY DESCRIBED LAND HAVE BEEN PAID THROUGH _____ THIS _____ DAY OF _____, 20__.

KOOTENAI COUNTY TREASURER

COUNTY SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT I HAVE EXAMINED THIS PLAT AND APPROVE THE SAME FOR RECORDING THIS _____ DAY OF _____, 20__.

KOOTENAI COUNTY SURVEYOR

KOOTENAI COUNTY RECORDER

STATE OF IDAHO)
COUNTY OF KOOTENAI) SS

I HEREBY CERTIFY THAT THIS PLAT WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF KOOTENAI COUNTY, IDAHO, AT THE REQUEST OF _____ THIS _____ DAY OF _____, 20__.

AT _____ MINUTES PAST _____ O'CLOCK _____ M, AND DULY RECORDED IN BOOK _____, PAGE _____ AS INSTRUMENT NO. _____, FEE _____.

KOOTENAI COUNTY RECORDER



OWNER'S CERTIFICATE & DEDICATION

BE IT KNOWN THAT GREENSTONE-KOOTENAI, II INC., AN IDAHO CORPORATION AUTHORIZED TO DO BUSINESS IN THE CITY OF COEUR D'ALENE AND THE STATE OF IDAHO, AND WASHINGTON TRUST BANK ARE THE OWNERS OF THE PROPERTY DESCRIBED IN THIS CERTIFICATE AND HAS CAUSED THE SAME TO BE SUBDIVIDED INTO LOTS, BLOCKS AND TRACTS AS HEREIN SHOWN AND DOES DESIGNATE THE SAME AS BOLIVAR THIRD ADDITION, SAID PROPERTY BEING A RE-PLAT OF LOT 1, BLOCK 3 OF BOLIVAR SECOND ADDITION, RECORDED IN BOOK 4, PAGES 400 THRU 400B, LOCATED IN THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 51 NORTH, RANGE 4 WEST, BOISE MERIDIAN, CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO.

- 1.) THE CITY OF COEUR D'ALENE WILL PROVIDE WATER AND SANITARY SEWER SERVICE TO THIS DEVELOPMENT.
- 2.) THE OWNER HEREBY DEDICATES THE STREET RIGHT OF WAY OF SARANAC LANE, VERSAILLES DRIVE AND DESCARTES DRIVE AS SHOWN HEREON TO THE PUBLIC FOREVER.
- 3.) THE OWNER HEREBY GRANTS TO THE PUBLIC TEN FOOT (10') EASEMENT AS SHOWN HEREON TOGETHER WITH THE RIGHTS OF INGRESS AND EGRESS FOR THE INSTALLATION, IMPROVEMENT, OPERATION AND MAINTENANCE OF FRANCHISED UTILITIES AS SHOWN HEREON.
- 4.) TRACTS A, B AND C IDENTIFIED HEREON ARE COMMON AREAS AND SHALL BE DEEDED TO, OWNED, IMPROVED, MANAGED AND MAINTAINED BY THE COEUR D'ALENE PLACE MASTER ASSOCIATION INC., A NONPROFIT ASSOCIATION OF PROPERTY OWNERS HAVING JURISDICTION OVER THE PLATTED AREA. THE COMMON TRACTS CANNOT BE SOLD OR TRANSFERRED REGARDLESS OF ANY PROVISIONS IN THE COVENANTS TO THE CONTRARY WITHOUT THE EXPRESSED WRITTEN APPROVAL BY THE CITY OF COEUR D'ALENE. THE OWNERS HEREBY DECLARE THAT ALL SUCH COMMON AREA TRACTS SHALL BE SUBJECT TO A PERPETUAL NONEXCLUSIVE EASEMENT IN FAVOR OF THE COEUR D'ALENE PLACE MASTER ASSOCIATION INC., FOR USE AND ENJOYMENT FOR RECREATIONAL PURPOSE, SUBJECT TO SUCH PURPOSES AS DRAINAGE, INGRESS AND EGRESS EASEMENTS AND SUBJECT TO SUCH UNIFORM RULES, REGULATIONS, AND RESTRICTIONS AS MAY BE ADOPTED BY THE OWNERS ASSOCIATION FROM TIME TO TIME.

IN WITNESS WHEREOF, THE AFORESAID OWNERS HAVE CAUSED THEIR CORPORATE NAMES TO BE HEREUNTO SUBSCRIBED THIS _____ DAY OF _____, 20__.

BY:
GREENSTONE-KOOTENAI, II INC.

ACKNOWLEDGMENT
STATE OF WASHINGTON)
COUNTY OF SPOKANE) SS

ON THIS _____ DAY OF _____, 20__, BEFORE ME, _____ A NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, PERSONALLY APPEARED _____ FOR GREENSTONE-KOOTENAI, II INC THE CORPORATION THAT EXECUTED THIS INSTRUMENT OR THE PERSONS WHO EXECUTED THE INSTRUMENT ON BEHALF OF SAID CORPORATION AND ACKNOWLEDGED TO ME THAT SAID CORPORATION EXECUTED THE SAME.

NOTARY PUBLIC FOR THE STATE OF WASHINGTON RESIDING AT _____ MY COMMISSION EXPIRES _____

IN WITNESS WHEREOF, THE AFORESAID OWNERS HAVE CAUSED THEIR CORPORATE NAMES TO BE HEREUNTO SUBSCRIBED THIS _____ DAY OF _____, 20__.

BY:
WASHINGTON TRUST BANK

ACKNOWLEDGMENT
STATE OF WASHINGTON)
COUNTY OF SPOKANE) SS

ON THIS _____ DAY OF _____, 20__, BEFORE ME, _____ A NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, PERSONALLY APPEARED _____ FOR WASHINGTON TRUST BANK THAT EXECUTED THIS INSTRUMENT OR THE PERSONS WHO EXECUTED THE INSTRUMENT ON BEHALF OF SAID CORPORATION AND ACKNOWLEDGED TO ME THAT SAID CORPORATION EXECUTED THE SAME.

NOTARY PUBLIC FOR THE STATE OF WASHINGTON RESIDING AT _____ MY COMMISSION EXPIRES _____

BOLIVAR THIRD ADDITION
A RE-PLAT OF LOT 1, BLOCK 3 OF BOLIVAR SECOND ADDITION LOCATED IN THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 51 NORTH, RANGE 4 WEST, BOISE MERIDIAN, CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO

RFK LAND SURVEYING INC.

1420 WEST GARLAND AVENUE SPOKANE, WA 99205 TEL: (509) 324-7861 FAX: (509) 327-7249 E-MAIL: rudy@rfklandsurveying.com	DRAWN	APPROVED	SCALE	PROJECT
	MEM	RFK	AS NOTED	16-156
	DATE	DATE	SHEET	FIELD BOOK
	11/21/16	11/21/16	3 OF 3	

CITY COUNCIL STAFF REPORT

DATE: June 20, 2017
FROM: Dennis J. Grant, Engineering Project Manager
SUBJECT: **S-6-16 Prairie Trails: Final Plat, Subdivision Improvement Agreement and Security Approval**

DECISION POINT

Staff is requesting the following:

1. Approval of the final plat document, a thirty-two (32) lot residential development.
2. Acceptance of the furnished subdivision improvement agreement and accompanying security.

HISTORY

- a. Applicant: Drew Dittman, PE
Lake City Engineering, Inc.
126 E. Poplar Avenue
Coeur d'Alene, ID 83814
- b. Location: +/- 9.47 Acres located east of Atlas Road and south of Prairie Avenue, north and west of Sunshine Meadow.
- c. Previous Action:
 1. Preliminary plat approval, October 2016

FINANCIAL ANALYSIS

The developer is furnishing security in the amount of \$93,652.50 which covers the outstanding cost of the uninstalled infrastructure installations that are required for this development.

PERFORMANCE ANALYSIS

The developer has completed the necessary subdivision agreement and is bonding for the outstanding infrastructure items (dry wells in swale, monument installation, and landscaping) in order to receive final plat approval. The installation of the agreement and security enables the developer to receive final plat approval and sell platted lots, however, occupancies will not be allowed until all infrastructure installation has been completed, and, the improvements accepted by the City. The developer has stated that all infrastructure installations will be complete by May 21, 2018.

DECISION POINT RECOMMENDATION

1. Approve the final plat document.
2. Approve the subdivision improvement agreement and accompanying security.

AGREEMENT TO PERFORM SUBDIVISION WORK

Prairie Trail

THIS AGREEMENT is made this 20th day of June, 2017, between Miller Development Group, LLC, whose address is 2022 N. Government Way, Coeur d'Alene, ID 83814, hereinafter referred to as the "**Developer**," and the City of Coeur d'Alene, a municipal corporation and political subdivision of the state of Idaho, whose address is City Hall, 710 E. Mullan Avenue, Coeur d'Alene, ID 83814, hereinafter referred to as the "**City**."

WHEREAS, the City has approved, subject to completion of the required improvements, the subdivision plat of Prairie Trails, a thirty-two (32) lot, residential development in Coeur d'Alene, situated in the Northwest Quarter of Section 27, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, Idaho;

NOW, THEREFORE,

IT IS AGREED AS FOLLOWS:

The Developer agrees to complete the following public improvements: Storm water drainage facilities, topsoil for swales, signs, landscaping and monumentation, as required under Title 16 of the Coeur d'Alene Municipal Code, on or before the 21st day of May, 2018. Said improvements are more particularly described on the submitted estimate of probable construction costs dated May 26, 2017 attached as Exhibit "A", and, shown on the civil engineering drawings titled "Prairie Trails", dated January 31, 2017, stamped and signed by Drew C. Dittman, PE, #11138 of Lake City Engineering, Inc. whose address is 126 E. Poplar Avenue, Coeur d'Alene, ID 83814, on file in the City of Coeur d'Alene Engineering Department's office and incorporated herein by reference.

The Developer, prior to recording the plat, shall deliver to the City, security in the amount of Ninety-Three Thousand Six Hundred Fifty-Two and 50/100 Dollars (\$93,652.50) securing the obligation of the Developer to complete the subdivision improvements referred to herein. Should the Developer noted herein fail to complete the improvements within the time herein provided, the City may utilize the funds to complete or have the improvements completed. In the event the City completes the improvements as a result of the Developer's default, the Developer shall be responsible for any costs that exceed the security for the public improvements noted herein.

The Parties further agree that the City has utilized substantial staff time to prepare this agreement, which will benefit the Developer. The Parties further agree the City should be reimbursed a reasonable fee for its costs to prepare such agreement. The Parties further agree that such fee should be in the amount of Twenty Five and No/100 Dollars (\$25.00).

IN WITNESS WHEREOF, the parties have set their hands and seal the day and year first above written.

City of Coeur d'Alene

Developer

Steve Widmyer, Mayor

Chad E. Oakland, Member

ATTEST:

Renata McLeod, City Clerk

Project: Prarie Trails

Date:

5/26/2017

Bonding Estimate

Description	Quantity	Units	Unit Price	Amount	% Complete	Amount Remaining
Mobilization	1	LS	\$ 11,200.00	\$ 11,200.00	100%	\$ -
Upfront Costs Subtotal:				\$ 11,200.00		\$ -
Water Improvements						
Water tie-in	2	EA	\$ 3,500.00	\$ 7,000.00	100%	\$ -
10" Water Main	840	LF	\$ 32.00	\$ 26,880.00	100%	\$ -
8" Water Main	798	LF	\$ 25.00	\$ 19,950.00	100%	\$ -
Fire Hydrants	3	EA	\$ 4,800.00	\$ 14,400.00	100%	\$ -
1" Water Services	32	EA	\$ 1,410.00	\$ 45,120.00	100%	\$ -
Water Subtotal:				\$ 113,350.00		\$ -
Sewer Improvements						
8" Sewer	1,342	LF	\$ 21.00	\$ 28,182.00	100%	\$ -
Manholes 48"	5	EA	\$ 2,700.00	\$ 13,500.00	100%	\$ -
Sewer Services	32	EA	\$ 775.00	\$ 24,800.00	100%	\$ -
Sewer Subtotal:				\$ 66,482.00		\$ -
Hard Surface Improvements						
Ped Ramps	10	EA	\$ 1,000.00	\$ 10,000.00	100%	\$ -
Asphalt path 3" AC / 6" BC	97	SY	\$ 60.00	\$ 5,820.00	100%	\$ -
Interior 2" AC / 6" BC	5,837	SY	\$ 14.00	\$ 81,718.00	100%	\$ -
Asphalt path 2" AC / 4" BC	745	SY	\$ 22.25	\$ 16,576.25	100%	\$ -
Curb Cuts	61	EA	\$ 100.00	\$ 6,100.00	100%	\$ -
Standard Curbs	81	LF	\$ 18.50	\$ 1,498.50	100%	\$ -
Rolled Curbs	3,141	LF	\$ 14.80	\$ 46,486.80	100%	\$ -
Sidewalks	15,314	SF	\$ 4.30	\$ 65,850.20	100%	\$ -
Hard Surface Subtotal:				\$ 234,049.75		\$ -
Earthwork						
Mass Grading	1	LS	\$ 12,850.00	\$ 12,850.00	100%	\$ -
Rough Grading	6,400	CY	\$ 3.00	\$ 19,200.00	100%	\$ -
Fine Grading	1	LS	\$ 6,000.00	\$ 6,000.00	100%	\$ -
Earthwork Subtotal:				\$ 38,050.00		\$ -
Stormwater Improvements						
Single Dry Well	3	EA	\$ 2,000.00	\$ 6,000.00	85%	\$ 900.00
Double Dry Well	7	EA	\$ 2,700.00	\$ 18,900.00	85%	\$ 2,835.00
Swales w/ 4" Topsoil	1	LS	\$ 20,000.00	\$ 20,000.00	0%	\$ 20,000.00
Stormwater Subtotal:				\$ 44,900.00		\$ 23,735.00
Misc. Costs						
Signs and Barricades	1	LS	\$ 3,700.00	\$ 3,700.00	0%	\$ 3,700.00
Utility Trenching No Conduit	2,460	LF	\$ 5.50	\$ 13,530.00	100%	\$ -
Irrigation Sleeving	300	LF	\$ 6.65	\$ 1,995.00	100%	\$ -
Traffic Control	1	LS	\$ 3,500.00	\$ 3,500.00	100%	\$ -
Monumentation	1	LS	\$ 2,500.00	\$ 2,500.00	0%	\$ 2,500.00
Landscaping	1	LS	\$ 32,500.00	\$ 32,500.00	0%	\$ 32,500.00
Misc. Subtotal:				\$ 57,725.00		\$ 38,700.00
Total COST				\$ 565,756.75		

Total Amount Remaining \$ 62,435.00

150% Bond Increase \$ 31,217.50

Bond Amount \$ 93,652.50

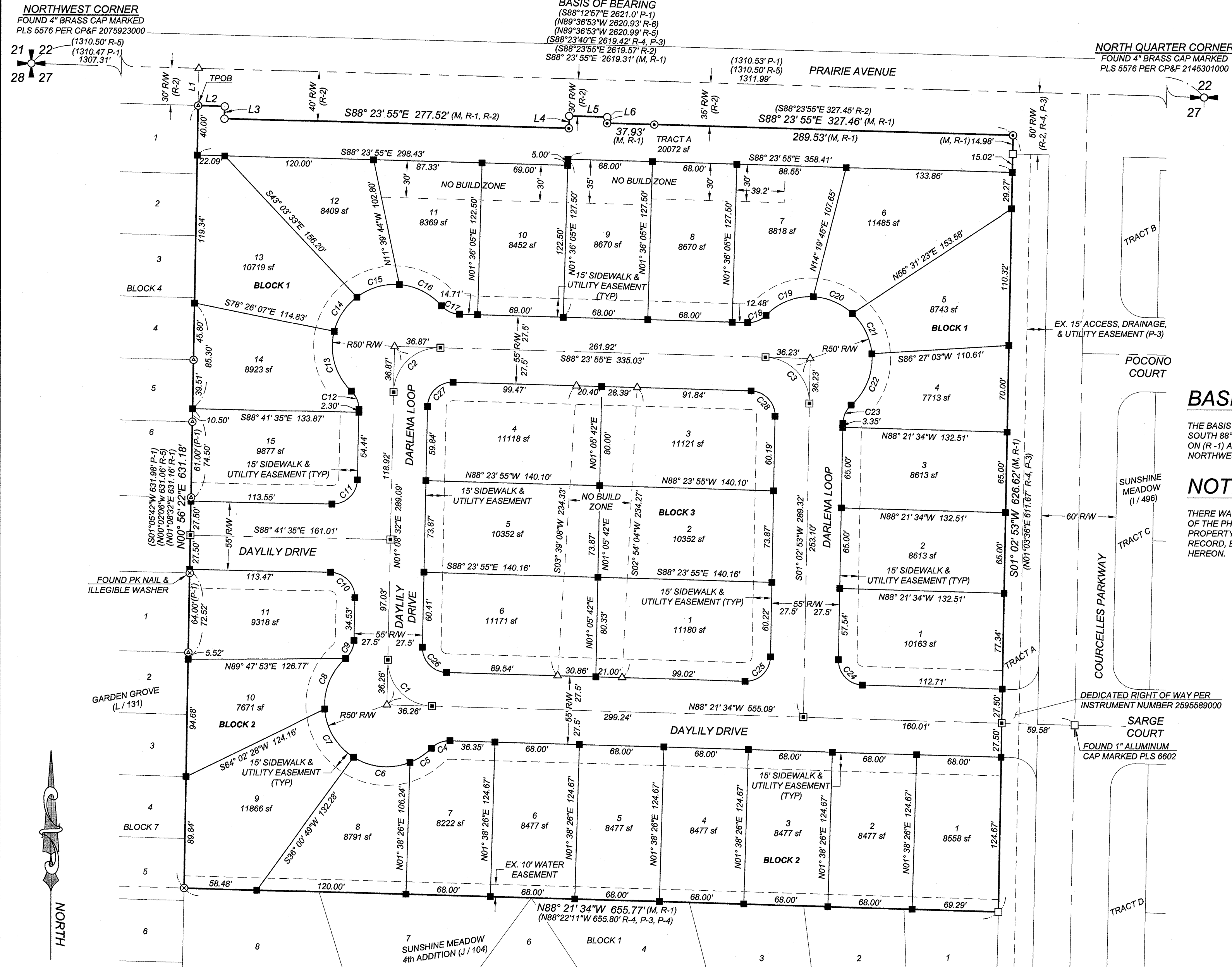
PRAIRIE TRAILS

A PORTION OF TRACT 320 OF THE AMENDED PLAT OF HAYDEN LAKE IRRIGATED TRACTS LYING IN THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 51 NORTH, RANGE 4 WEST, BOISE MERIDIAN, CITY OF COEUR D'ALENE KOOTENAI COUNTY, IDAHO

BOOK: _____ PAGE: _____
INSTRUMENT No. _____

REFERENCE DOCUMENTS

- (R-1) RECORD OF SURVEY PREPARED BY LAKE CITY ENGINEERING AND FILED AT BOOK 29 OF SURVEYS, PAGE 328, RECORDS OF KOOTENAI COUNTY, IDAHO.
- (R-2) AMENDED RECORD OF SURVEY PREPARED BY RUEN-YEAGER & ASSOCIATES, INC AND FILED AT BOOK 28 OF SURVEYS, PAGE 348, RECORDS OF KOOTENAI COUNTY, IDAHO.
- (R-3) RECORD OF SURVEY PREPARED BY RUEN-YEAGER & ASSOCIATES, INC AND FILED AT BOOK 25 OF SURVEYS, PAGE 243, RECORDS OF KOOTENAI COUNTY, IDAHO.
- (R-4) RECORD OF SURVEY PREPARED BY INLAND NORTHWEST CONSULTANTS AND FILED AT BOOK 22 OF SURVEYS, PAGE 183, RECORDS OF KOOTENAI COUNTY, IDAHO.
- (R-5) RECORD OF SURVEY PREPARED BY GEM STATE AND FILED AT BOOK 11 OF SURVEYS, PAGE 265, RECORDS OF KOOTENAI COUNTY, IDAHO.
- (R-6) RECORD OF SURVEY PREPARED BY KOOTENAI COUNTY SURVEYORS AND FILED AT BOOK 7 OF SURVEYS, PAGE 48, RECORDS OF KOOTENAI COUNTY, IDAHO.
- (P-1) PLAT OF GARDEN GROVE PREPARED BY FRAME AND SMETANA, PA AND FILED AT BOOK L OF PLATS, PAGE 131, RECORDS OF KOOTENAI COUNTY, IDAHO.
- (P-2) PLAT OF AMENDED PLAT OF HAYDEN LAKE IRRIGATED TRACTS PREPARED BY H. B. WRIGHT AND FILED AT BOOK C OF PLATS, PAGE 66 AND 67, RECORDS OF KOOTENAI COUNTY, IDAHO.
- (P-3) PLAT OF SUNSHINE MEADOW PREPARED BY INLAND NORTHWEST CONSULTANTS AND FILED AT BOOK I OF PLATS, PAGE 496, RECORDS OF KOOTENAI COUNTY, IDAHO.
- (P-4) PLAT OF SUNSHINE MEADOW 4TH ADDITION PREPARED BY INLAND NORTHWEST CONSULTANTS AND FILED AT BOOK J OF PLATS, PAGE 104, RECORDS OF KOOTENAI COUNTY, IDAHO.
- (D-1) WARRANTY DEED FILED AS INSTRUMENT NUMBER 1925202, RECORDS OF KOOTENAI COUNTY, IDAHO.
- (D-2) WARRANTY DEED FILED AS INSTRUMENT NUMBER 1925203, RECORDS OF KOOTENAI COUNTY, IDAHO.



BASIS OF BEARING

THE BASIS OF BEARING FOR THIS SURVEY IS SOUTH 88° 23' 55" EAST, SHOWN HEREON AND ON (R-1) AS THE NORTH LINE OF THE NORTHWEST QUARTER.

NOTE

THERE WAS NO ATTEMPT MADE TO SHOW ALL OF THE PHYSICAL FEATURES OF THIS PROPERTY, NOR ANY EASEMENTS NOT OF RECORD, EXCEPT FOR THOSE SHOWN HEREON.

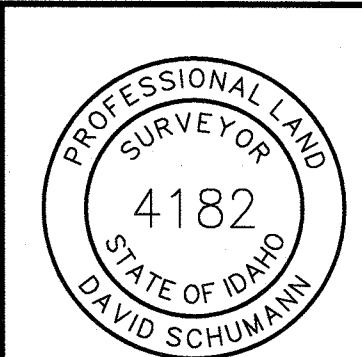
Curve Table				
Curve #	Length	Radius	Delta	Bearing
C1	57.14'	36.58'	89°30'06"	S43°36'31"E
C2	57.75'	36.58'	90°27'33"	S46°22'19"W
C3	57.11'	36.58'	89°26'48"	N43°40'31"W
C4	16.50'	20.00'	47°16'04"	S68°00'24"W
C5	20.92'	50.00'	23°58'31"	N56°21'37"E
C6	47.14'	50.00'	54°00'52"	S84°38'41"E
C7	46.91'	50.00'	53°45'15"	S30°45'38"E
C8	45.61'	50.00'	52°16'09"	S22°15'04"W
C9	16.49'	20.00'	47°14'36"	N24°45'50"E
C10	31.36'	20.00'	89°50'07"	N43°46'31"W
C11	31.47'	20.00'	90°09'53"	N46°13'29"E
C12	16.50'	20.00'	47°16'04"	N22°29'30"W
C13	52.54'	50.00'	60°12'20"	S16°01'22"E
C14	33.68'	50.00'	38°35'49"	S33°22'42"W
C15	36.35'	50.00'	41°39'02"	S73°30'08"W
C16	38.87'	50.00'	44°32'30"	N63°24'05"W
C17	16.50'	20.00'	47°16'04"	S64°45'53"E
C18	16.50'	20.00'	47°16'04"	N67°58'03"E
C19	42.18'	50.00'	48°20'26"	S68°30'14"W
C20	35.25'	50.00'	40°23'33"	N67°07'47"W
C21	36.86'	50.00'	42°14'32"	N25°48'45"W
C22	46.26'	50.00'	53°00'26"	N21°48'44"E
C23	16.50'	20.00'	47°16'04"	S24°40'55"W
C24	31.21'	20.00'	89°24'27"	S43°39'21"E
C25	31.62'	20.00'	90°35'33"	N46°20'39"E
C26	31.24'	20.00'	89°30'06"	S43°36'31"E
C27	31.58'	20.00'	90°27'33"	S46°22'19"W
C28	31.22'	20.00'	89°26'48"	N43°40'31"W

Line Table			
Line #	Length	Direction	Record Data
L1	30.00'	S0°56'26"W	(M) (30.00' P-1)
L2	21.37'	S88°23'55"E	(M) (S88°23'55"E 19.13' R-1)
L3	10.00'	S1°36'05"W	(M, R-1, R-2)
L4	10.00'	N1°36'05"E	(M, R-1, R-2)
L5	30.63'	S88°23'55"E	(M, R-1) (30.64' R-2)
L6	5.00'	S1°16'48"W	(M, R-1) (S01°07'28"W 5.00' R-2)

SCALE: 1" = 60'

LEGEND

- SET 5/8" X 24" REBAR WITH "x" ALUMINUM CAP MARKED "PLS 4182"
 - SET 1/2" X 24" REBAR WITH YELLOW PLASTIC CAP MARKED "PLS 4182"
 - ⊙ FOUND 5/8" REBAR WITH RED PLASTIC CAP MARKED "PLS 5289"
 - FOUND 5/8" REBAR WITH PLASTIC CAP MARKED "PLS 6602" OR AS NOTED
 - FOUND 5/8" REBAR WITH YELLOW PLASTIC CAP MARKED "PLS 4182"
 - ⊙ FOUND 5/8" REBAR OR AS NOTED
 - ⊙ FOUND 2.5" ALUMINUM CAP MARKED "PLS 11187"
 - △ CALCULATED POINT, NOTHING FOUND OR SET
- PROPERTY BOUNDARY LINE
 - PROPERTY LOT LINE
 - ADJACENT LOT LINE
 - EASEMENT LINE
 - CENTER LINE
 - SECTION LINE



CHECKED BY: _____ DES
DRAFTED BY: WAL/SMA
SCALE: 1" = 60'
DATE: 05/08/2017
JOB NO: LCE 16-057

1
2

PRAIRIE TRAILS

A PORTION OF TRACT 320 OF THE AMENDED PLAT OF HAYDEN LAKE IRRIGATED TRACTS LYING IN THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 51 NORTH, RANGE 4 WEST, BOISE MERIDIAN, CITY OF COEUR D'ALENE KOOTENAI COUNTY, IDAHO

BOOK: _____ PAGE: _____

INSTRUMENT No. _____

CITY COUNCIL APPROVAL

THIS PLAT HAS BEEN ACCEPTED AND APPROVED BY CITY COUNCIL OF THE CITY OF COEUR D'ALENE, IDAHO.
DATED THIS _____ DAY OF _____, 20__.

CITY OF COEUR D'ALENE - CLERK

CITY OF COEUR D'ALENE - CITY ENGINEER

KOOTENAI COUNTY RECORDER

THIS PLAT WAS RECORDED AT THE REQUEST OF MILLER DEVELOPMENT GROUP, LLC FOR RECORD IN THE OFFICE OF THE RECORDER OF KOOTENAI COUNTY, IDAHO, THIS _____ DAY OF _____, 20__, AT _____
.M. IN BOOK _____ OF PLATS, PAGES _____, AS INSTRUMENT NUMBER _____

FEE \$ _____

DEPUTY CLERK

JIM BRANNON, KOOTENAI COUNTY CLERK

COUNTY TREASURER'S CERTIFICATE

I HEREBY CERTIFY THAT THE TAXES DUE FOR THE PROPERTY DESCRIBED IN THE OWNERS CERTIFICATE AND DEDICATION HAVE BEEN PAID THROUGH _____, 20__.
DATED THIS _____ DAY OF _____, 20__.

KOOTENAI COUNTY TREASURER

COUNTY SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT I HAVE EXAMINED THE HEREIN PLAT AND CHECKED THE PLAT COMPUTATIONS AND HAVE DETERMINED THAT THE REQUIREMENTS OF THE STATE CODE PERTAINING TO PLATS AND SURVEYS HAVE BEEN MET.

DATED THIS _____ DAY OF _____, 20__.

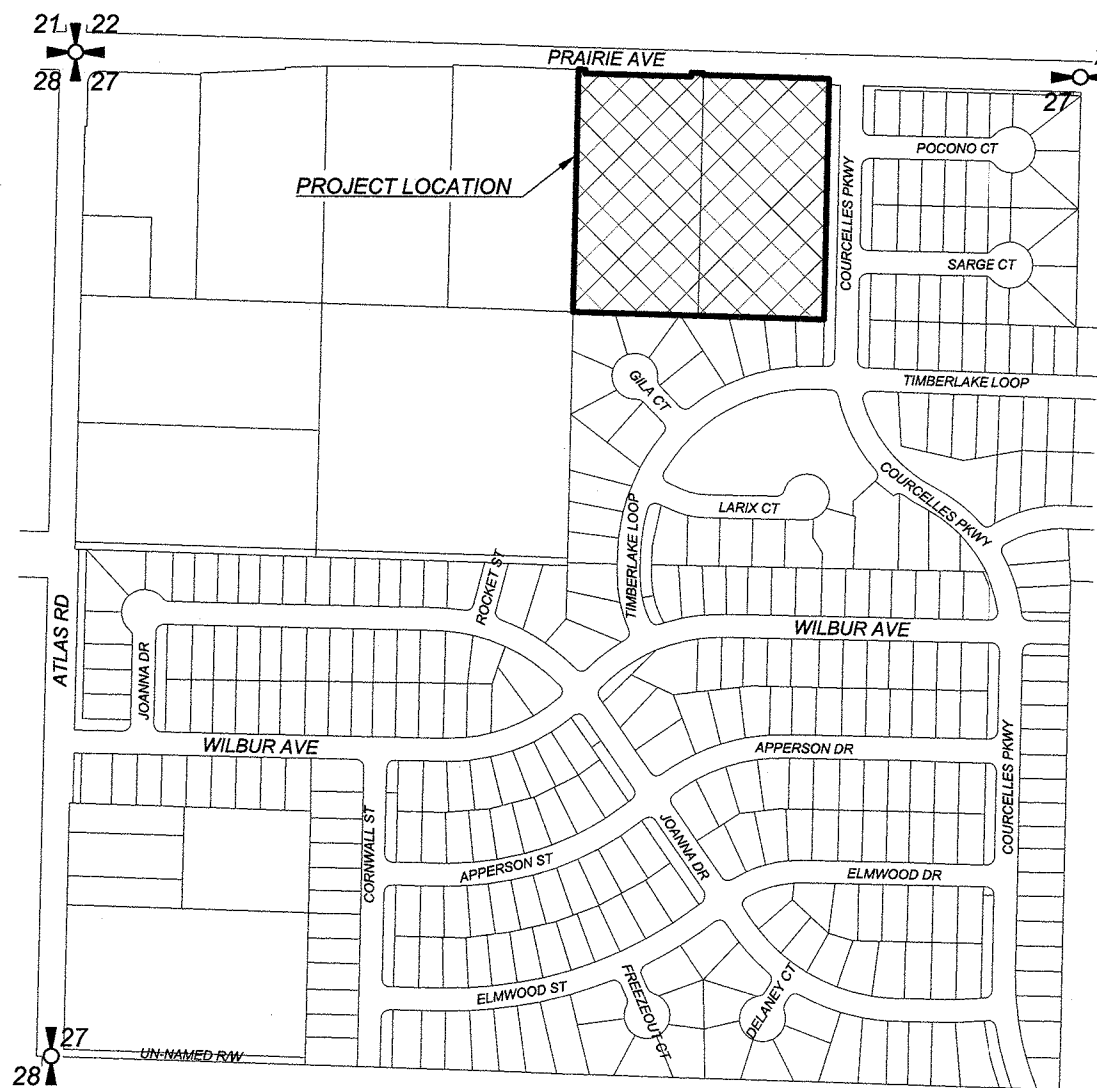


HEALTH DISTRICT APPROVAL

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

DATED THIS _____ DAY OF _____, 20__.

PANHANDLE HEALTH DISTRICT 1



NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 51 NORTH, RANGE 4 WEST, B. M.

VICINITY MAP

SCALE 1" = 500'

NOTARY PUBLIC CERTIFICATE

STATE OF IDAHO, COUNTY OF KOOTENAI, SS.
ON THIS _____ DAY OF _____, IN THE YEAR 20__, BEFORE ME _____, A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED _____, KNOWN OR IDENTIFIED TO ME TO BE THE MEMBER OF THE LIMITED LIABILITY COMPANY THAT EXECUTED THE INSTRUMENT OR THE PERSON WHO EXECUTED THE INSTRUMENT ON BEHALF OF SAID LIMITED LIABILITY COMPANY AND ACKNOWLEDGED TO ME THAT SUCH LIMITED LIABILITY COMPANY EXECUTED THE SAME.

NOTARY PUBLIC

MY COMMISSION EXPIRES ON _____

SURVEYOR'S CERTIFICATE

I, DAVID SCHUMANN, PROFESSIONAL LAND SURVEYOR #4182, STATE OF IDAHO, DO HEREBY CERTIFY THAT THE PLAT OF PRAIRIE TRAILS IS BASED UPON AN ACTUAL FIELD SURVEY OF THE LAND DESCRIBED HEREON DONE BY ME OR UNDER MY DIRECT SUPERVISION, AND THAT ALL CORNERS WILL BE SET, AS SHOWN ON THIS PLAT, ON OR BEFORE ONE YEAR FROM RECORDING OF THIS PLAT, IN ACCORDANCE WITH IDAHO CODE 50-1331 & 50-1303.

DAVID SCHUMANN, #4182

DATE

OWNER'S CERTIFICATE AND DEDICATION

BE IT FURTHER KNOWN AT THESE PRESENTS THAT MILLER DEVELOPMENT GROUP, LLC, AN IDAHO LIMITED LIABILITY COMPANY, DOES HEREBY CERTIFY THAT IT OWNS AND HAS LAID OUT THE LAND EMBRACED WITHIN THIS PLAT TO BE KNOWN AS PRAIRIE TRAILS. BEING A REPLAT OF A PORTION OF TRACT 320 OF THE AMENDED PLAT OF HAYDEN LAKE IRRIGATED TRACTS AS RECORDED IN BOOK C OF PLATS AT PAGE 67, RECORDS OF KOOTENAI COUNTY, IDAHO, LYING IN THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 51 NORTH, RANGE 04 WEST, BOISE MERIDIAN, CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 27, BEING A 4 INCH BRASS CAP MARKED PLS 5576 PER CP&F 2075923000, RECORDS OF KOOTENAI COUNTY, FROM WHICH THE NORTH QUARTER CORNER BEARS S88°23'55"E 2619.31 FEET; THENCE ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER, S88°23'55"E 1307.31 FEET; THENCE LEAVING SAID NORTH LINE, S0°56'26"W 30.00 FEET TO A 5/8 INCH REBAR WITH RED PLASTIC CAP MARKED "PLS 5289" ON THE SOUTH RIGHT OF WAY OF PRAIRIE AVENUE, SAID POINT ALSO BEING THE TRUE POINT OF BEGINNING;

THENCE ALONG SAID SOUTH RIGHT OF WAY THE FOLLOWING EIGHT COURSES:

1. S88°23'55"E 21.37 FEET TO A 5/8 INCH REBAR WITH YELLOW PLASTIC CAP MARKED "PLS 4182";
2. S01°36'05"W 10.00 FEET TO A 5/8 INCH REBAR WITH YELLOW PLASTIC CAP MARKED "PLS 4182";
3. S88°23'55"E 277.52 FEET TO A 2.5 INCH ALUMINUM CAP MARKED "PLS 11187";
4. N01°36'05"E 10.00 FEET TO A 5/8 INCH REBAR WITH YELLOW PLASTIC CAP MARKED "PLS 4182";
5. S88°23'55"E 30.63 FEET TO A 5/8 INCH REBAR WITH YELLOW PLASTIC CAP MARKED "PLS 4182";
6. S01°16'48"W 5.00 FEET TO A 2.5 INCH ALUMINUM CAP MARKED "PLS 11187";
7. S88°23'55"E 327.46 FEET TO A 2.5 INCH ALUMINUM CAP MARKED "PLS 11187";
8. S01°02'53"W 14.98 FEET TO A 5/8 INCH REBAR WITH YELLOW PLASTIC CAP MARKED "PLS 6602";

THENCE ALONG THE WEST LINE OF TRACT A OF THE PLAT OF SUNSHINE MEADOW AS RECORDED IN BOOK I OF PLATS AT PAGE 496, RECORDS OF KOOTENAI COUNTY, IDAHO, S01°02'53"W 611.64 FEET TO A 5/8 INCH REBAR WITH YELLOW PLASTIC CAP MARKED "PLS 6602" AT THE NORTHEAST CORNER OF LOT 1, BLOCK 1 OF SUNSHINE MEADOW 4TH ADDITION AS RECORDED IN BOOK J OF PLATS AT PAGE 104, RECORDS OF KOOTENAI COUNTY, IDAHO;

THENCE ALONG THE NORTH LINE OF BLOCK 1 OF SAID SUNSHINE MEADOW 4TH ADDITION PLAT, N88°21'34"W 655.77 FEET TO A 5/8 INCH REBAR AT THE NORTHWEST CORNER OF LOT 8, BLOCK 1 OF SAID SUNSHINE MEADOW 4TH ADDITION PLAT ON THE EAST LINE OF THE PLAT OF GARDEN GROVE, AS RECORDED IN BOOK L OF PLATS AT PAGE 131, RECORDS OF KOOTENAI COUNTY, IDAHO;

THENCE ALONG SAID EAST LINE OF GARDEN GROVE PLAT, N00°56'22"E 631.18 FEET TO THE TRUE POINT OF BEGINNING; SAID PARCEL CONTAINING 9.412 ACRES OF LAND, MORE OR LESS.

BE IT FURTHER KNOWN THAT:

SANITARY SEWER FOR THIS PLAT IS TO BE SUPPLIED BY THE CITY OF COEUR D'ALENE.

DOMESTIC WATER FOR THIS PLAT IS TO BE SUPPLIED BY HAYDEN LAKE IRRIGATION DISTRICT.

LOTS WITHIN THIS PLAT ARE SUBJECT TO THE COVENANTS, CODES AND RESTRICTIONS OF SUNSHINE MEADOW HOMEOWNERS' ASSOCIATION, RECORDED UNDER INSTRUMENT NUMBER 1847809, RECORDS OF KOOTENAI COUNTY, IDAHO, TOGETHER WITH ANY AND ALL AMENDMENTS MADE THEREAFTER;

RIGHTS-OF-WAY SHOWN AS DAYLILY DRIVE AND DARLENA LOOP ARE HEREBY DEDICATED TO THE PUBLIC IN THE NAME OF THE CITY OF COEUR D'ALENE;

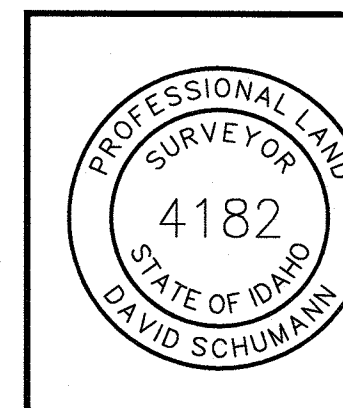
THE 15' SIDEWALK AND UTILITY EASEMENT, SHOWN HEREON, ALONG SAID DEDICATED STREETS IS HEREBY GRANTED TO THE CITY OF COEUR D'ALENE FOR THE INSTALLATION, IMPROVEMENT, OPERATION AND MAINTENANCE OF SIDEWALKS, UTILITIES AND STREET DRAINAGE FACILITIES. NO BUILDING, STRUCTURE, FENCE OR IMPROVEMENTS SHALL BE ERRECTED OR CONSTRUCTED OTHER THAN SIDEWALKS AND ASPHALT PAVING, NOR SHALL THE GROUND ELEVATION BE INCREASED OR DECREASED WITHOUT THE EXPRESS WRITTEN APPROVAL OF THE CITY OF COEUR D'ALENE.

BLOCK 3 IS SUBJECT TO A NO BUILD ZONE, AS SHOWN HEREON.

LOTS 7 THROUGH 11, BLOCK 1 ARE SUBJECT TO A NO BUILD ZONE, AS SHOWN HEREON.

BY: _____ DATE _____

MEMBER, MILLER DEVELOPMENT GROUP, LLC



CHECKED BY:	DES
DRAFTED BY:	WAL/SMA
SCALE:	N.T.S.
DATE:	05/08/2017
JOB NO:	LCE 16-057

2

2

PUBLIC WORKS STAFF REPORT

DATE: June 6, 2017
FROM: Mike Gridley – City Attorney
SUBJECT: Agreement with River’s Edge Apartments, LLC for Construction and Reimbursement for Seltice Way Water and Sewer Lines and Driveway Approaches (WA Trust site)

=====

DECISION POINT:

Should the City Council approve the Agreement with River’s Edge Apartments, LLC for Construction and Reimbursement for Seltice Way Water and Sewer Lines and Driveway Approaches along Seltice Way adjacent to the former Washington Trust property?

HISTORY:

The property is located on the south side of Seltice Way, just east of the U.S. Bank facility. The Owner is still working on plans for development of the property but would like to have certain infrastructure constructed now. It has been determined that it is in the City’s and Owner’s best interest to do the installation of the water and sewer lines and driveway approaches for the River’s Edge WA Trust parcel as part of the Seltice Way Revitalization project rather than later after the Seltice project is finished. This will save money and eliminate the need to disrupt the newly constructed path and right of way.

FINANCIAL ANALYSIS:

The estimated cost of the work is approximately \$37,000. The Owner will pay the actual cost of the work to be done by the City’s contractor and Welch-Comer, with reimbursement to be made within 30 days of completion of the work. There should be no financial impact on the City. The Agreement gives the City the right to withhold building permits until full payment is received.

PERFORMANCE ANALYSIS:

By installing this infrastructure as part of the Seltice Way project there will be less cost to the owner and less disruption to the public and the newly constructed Seltice Way.

DECISION POINT/RECOMMENDATION:

Staff recommends approving the Agreement with River’s Edge Apartments, LLC for Construction and Reimbursement for Seltice Way Water and Sewer Lines and Driveway Approaches at the former WA Trust site.

**AGREEMENT FOR CONSTRUCTION AND REIMBURSEMENT
FOR SELTICE WAY WATER AND SEWER LINES AND DRIVEWAY
APPROACHES
(WA Trust Site)**

1. Parties: The parties to this agreement are the city of Coeur d’Alene (City) and River’s Edge Apartments, LLC (Owner).
2. Purpose: The purpose of this agreement is to describe the construction of water and sewer lines and driveway approaches that will be done by the City as part of the Seltice Way revitalization project (Project) and the Owner’s responsibility for reimbursement of the cost of construction.
3. Description of Reimbursable Construction Work: As part of the Project the City agrees to do the following work for the benefit of the Owner:
 - a. Water Main – Construct potable water main line, and associated fittings, from the intersection of Seltice Way & Atlas Road west to the eastern property line of the Owner’s parcel.
 - b. Driveway Approaches – Construct two driveway approaches at locations agreed upon by both parties (a third approach is already included in the project). One approach will be a smaller concrete urban approach. The second approach will be larger and have a deceleration lane.
 - c. Thermoplastic Pavement Markings – Apply green thermoplastic pavement markings in the bike lane at the conflict points at the larger approach.
 - d. Trail Easement – Construction of the deceleration lane will require a permanent easement for the shared-use path.
 - e. Engineering Design – Engineering design by Welch-Comer Engineering as required for all items listed above. Design will be incorporated into the overall Seltice Way project.

Item	Pay Unit	Total Quan	Unit Price	Total
Water Main Pipe - Size 12-Inch - Type C905 DR 18 PVC	LF	425	\$43.50	\$18,487.50
Valve - Size 12-Inch - Type Butterfly	EA	1	\$1,178.36	\$1,178.36
Valve - Size 4-Inch - Blowoff Assembly	EA	1	\$1,335.56	\$1,335.56
2 Driveway Approaches (see note 2)	LS	1	\$6,000	\$6,000
Green Thermoplastic Pavement Marks	LS	1	\$5,000	\$5,000
Engineering Design	LS	1	\$5,000	\$5,000
			Total Cost	\$37,000

Note 1: Assumed mechanical restraints.

Note 2: Driveway and thermoplastic costs are estimated since design has not been completed.

4. Reimbursement: Owner agrees to reimburse City for the actual cost of the work as described in paragraph 3. Payment to the City by Owner shall be made within 30 days of completion of the work as certified by the Project consulting engineer.
5. Enforcement of Payment: City reserves the right to withhold building permits and/or certificates of occupancy from Owner until such time as full payment for the work is received by the City.
6. Dispute Resolution: The parties agree to work together to cooperate and resolve any issues or disputes that may arise from the Project work.
7. Amendments: This agreement may be amended or supplemented by written agreement signed by both parties or their designated representatives.

CITY OF COEUR D'ALENE

RIVER'S EDGE APARTMENTS, LLC

By: _____
Steve Widmyer, Mayor

By: _____
Name: _____

Title: _____

ATTEST:

Renata McLeod, City Clerk

City of Coeur d'Alene

FIRE DEPARTMENT

"City of Excellence"

Staff Report

Date: May 15, 2017

From: Kenny Gabriel, Fire Chief

Re: Surplus Fire Engine

DECISION POINT: Should mayor and Council allow the Fire Department to Surplus 1986 Mack Fire Engine and donate to a rural Fire Department?

HISTORY: The Fire Department has a 1986 Mack Fire Engine that is no longer of any value to the Department. We have a front line fleet on three engines with the oldest being less than one year old. The engine in question has well over 100,000 miles on it and has no usable purpose in the fleet.

FINANCIAL ANALYSIS: We have asked apparatus vendors to appraise the engine. They have stated there is no trade in value due to the age of the apparatus.

PERFORMANCE ANALYSIS: Our hope is to get the engine to a smaller Department where it could be of some use. Through a regular maintenance program there is still life in the engine if the department does not run a large number of calls.

DECISION POINT/RECOMMENDATION: Allow the Fire Department to surplus 1986 Mack Fire Engine and donate to a smaller, rural Fire Department.



PUBLIC WORKS COMMITTEE STAFF REPORT

DATE: June 7, 2017
FROM: Mike Becker, Wastewater Utility Project Manager
SUBJECT: Agreement for Temporary Wastewater Tank

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DECISION POINT:

The City Council is requested to authorize staff to execute an agreement with Larry Fluet (Developer), Scott McArthur, P.E. (Project Engineer), and Lilac Glen, LLC to install, operate and maintain, and service a wastewater line and holding tank to serve as the temporary wastewater disposal system for the Foss Duplex, until the developer extends the public sewer and connects the Foss Duplex as required of the Lilac Glen Development.

HISTORY:

Lilac Glen is a PUD located east of Interstate 90 and south of E. Pennsylvania Avenue. The PUD annexed into the City and construction plans were approved by the City to extend the public sewer main from E. Pennsylvania Avenue south within the PUD's currently unpaved N. Lilac Lane last October (2016). The developer began clearing the Lilac Glen site and shut down for the winter.

Maralee and Charlenda Foss presently occupy existing homes within the PUD that are connected to an individual onsite septic system. In order to develop this PUD, these existing homes need to be removed and the individual onsite septic systems disconnected. At that time, the Foss Sisters intended to move into a newly constructed duplex across the future Lilac Glen Road within the PUD when made available.

The Wastewater Utility signed off on the duplex building permit based on the Applicant's proposed temporary septic system and a letter of commitment to connect the new duplex to the public sewer system when the City accepts the sewer infrastructure. The City does not issue septic permits and the Developer failed to secure a septic permit prior to construction of the duplex. Based on Idaho Rules, the Health District will not issue a septic permit for the new duplex.

Presently, this duplex has been completed but do not have a method for wastewater disposal. The Developer and his Engineer desire to move the Foss Sisters into this duplex prior to the extension of the public sanitary sewer main and they are seeking temporary provisions for wastewater disposal in order for Maralee and Charleda Foss to legally occupy the duplex.

FINANCIAL:

The accompanying Draft Agreement stipulates, if approved and executed by the City, no installation, O&M, and service costs shall fall onto the City.

PERFORMANCE:

In lieu of the immediate extension of the approved public sewer main to service the PUD, the developer proposes, at his cost, to install and maintain a holding tank and sewer line in a manner acceptable to the City to serve the wastewater disposal needs of the Foss duplex temporarily. When City accepts the PUD's public sewer main, the developer, at his cost, will be required to connect the Foss Duplex and remove and dispose of the holding tank and line that is acceptable to the City. Other provisions of this agreement include:

- The developer, at his cost, will be required extend the PUD's public sewer by September 1, 2017.
- The City will grant the Foss Duplex Temporary Certificates of Occupancy (TCOs) valid until September 1, 2017.
- Prior to Issuance of TCO, the Developer will be required to provide a (150%) performance security bond or other security acceptable to the City, in the amount of the City's estimate to extend the PUD's public sewer per the approved plans.
- The Developer will be required to agree to indemnify, defend, and hold harmless the City from any and all liability, claims for the failure of the holding tank or sewer line, or the expiration of the TCO.
- The Developer, at his costs, will be required to obtain and maintain, and provide certificates of proof of (\$500,000) comprehensive public liability insurance protecting and naming the City as additional insured from any claims as a result of the provisions of this agreement.
- The Developer finalizes and submits the PUD's Final Development Plan to the City and the Planning Department approves of this plan.

RECOMMENDATION:

The City Council may wish to authorize staff to execute an agreement with Larry Fluet (Developer), Scott McArthur, P.E. (Project Engineer), and Lilac Glen, LLC to install, operate and maintain, and service a wastewater line and holding tank to serve as the temporary wastewater disposal system for the Foss Duplex, until the developer extends the public sewer and connects the Foss Duplex as required of the Lilac Glen Development.

**AGREEMENT FOR
TEMPORARY WASTEWATER TANK**

This Agreement is made and entered into this 20th day of June, 2017, by and between the **CITY OF COEUR D’ALENE**, a municipal corporation organized and existing under the laws of the state of Idaho, hereinafter referred to as the “CITY,” and **LARRY FLUET**, an individual, hereinafter referred to as “FLUET,” and **LILAC GLEN, LLC**, an Idaho limited liability company, hereinafter referred to as “LILAC GLEN.”

WHEREAS, LILAC GLEN owns parcels of real property east of Interstate 90 and north of E. Sherman Avenue in Coeur d’Alene, Idaho, with the following legal descriptions:

1. Foss Add, Tax #23111 IN Lts 4 & 5 and IN NW-SE (415 N. Lilac Lane);
2. Foss Add, Tax #23233 IN Lt 4;
3. Tax #23555 [IN NW-SE];
4. Tax #23234 [IN NW-SE] (2310 E. Pennsylvania Avenue); and
5. Tax #4713 (2220 E. Pennsylvania Avenue)

and

WHEREAS, LILAC GLEN desires to develop this property; and

WHEREAS, Maralee Foss owns real property east of Interstate 90 and north of E. Sherman Avenue in Coeur d’Alene, Idaho, currently serviced with an individual septic system, with the following legal description: Foss Add, Lts 6 & 7 Ex RW (401 N. Lilac Lane); and

WHEREAS, Charleda Foss owns real property east of Interstate 90 and north of E. Sherman Avenue in Coeur d’Alene, Idaho, with the following legal descriptions:

1. Foss Add, Lt 3 (412 N. Lilac Lane)
2. Foss Add, Lt 1 Ex RW, Lt 2, Vac ST S of Lt 7 Ex RW (312 N. Lilac Lane)

The first listed property is currently serviced by an individual septic system. The second listed property does not currently have a system of any description for wastewater disposal; and

WHEREAS, according to City policy, the development of the LILAC GLEN property requires the extension of the public sewer main from E. Pennsylvania Avenue south in the currently unpaved N. Lilac Lane; and

WHEREAS, in order to efficiently and economically develop its property, LILAC GLEN must disconnect the individual septic systems on the properties owned by Maralee and Charleda Foss, and remove certain buildings on those properties; and

WHEREAS, upon the disconnection of the individual septic systems on the properties owned by Maralee and Charleda Foss, the homes on those properties will not be suitable or legal for habitation; and

WHEREAS, Maralee and Charleda Foss intend to move into a duplex constructed on Charleda's property with a legal description of: Foss Add, Lt 1 Ex RW, Lt 2, Vac ST S of Lt 7 Ex RW; and

WHEREAS, in order for Maralee and Charleda Foss to legally occupy the duplex, a means of wastewater disposal must be provided; and

WHEREAS, Panhandle Health District has denied an application for a septic system permit for the duplex because it is a multi-family dwelling over the Rathdrum Prairie-Spokane Valley Aquifer on property less than ten (10) acres in size; and

WHEREAS, the parties desire that Maralee and Charleda Foss be allowed to occupy the duplex prior to the extension of the public sanitary sewer main to service the Lilac Glen development and the duplex.

NOW, THEREFORE, the parties agree as follows:

1. In lieu of the immediate extension of the public sanitary sewer main to service the Lilac Glen development and the Foss duplex, the CITY will allow FLUET and LILAC GLEN install a holding tank and line to serve the wastewater disposal needs of the Foss duplex temporarily.
2. The holding tank and line shall be installed in a manner acceptable to the CITY, without cost to the CITY.
3. The holding tank and line shall be operated, maintained, and serviced in a manner approved by the CITY, without cost to the CITY, and FLUET and LILAC GLEN must use a Panhandle Health District-approved pumper to pump out the holding tank on an as-needed basis.
4. When the holding tank is installed, approved by the CITY, and the Foss duplex is connected to it, the CITY will issue a Temporary Certificate of Occupancy for the Foss duplex. The Temporary Certificate of Occupancy shall be valid through November 15, 2017, and may be extended upon a showing of good cause.

5. At the time the Foss duplex connects to the public sewer, the holding tank shall be removed and disposed of in a manner acceptable to the CITY, without cost to the CITY. The line shall also be removed and disposed of in a manner acceptable to the City, without cost to the City, except as retained with the approval of the City as a private lateral.
6. LILAC GLEN and FLUET shall extend the public sanitary sewer main to service the Lilac Glen development and the Foss duplex, pursuant to the approved Lilac Glen Improvement Plan, by November 15, 2017, in accordance with CITY standards and specifications, and without cost to the CITY.
7. FLUET and/or LILAC GLEN shall provide performance security in the form of a bond acceptable to the City Attorney or cash, in the amount of One Hundred Fifty Percent (150%) of the CITY's good faith estimate of the cost to extend the public sanitary sewer main as contemplated by this Agreement and the Lilac Glen Improvement Plan. Provision of the performance security to the CITY is a condition precedent to the issuance of a Temporary Certificate of Occupancy for the Foss duplex.
8. FLUET and LILAC GLEN agree to indemnify, defend, and hold harmless the CITY from any and all liability, claims, suits, actions, losses, expenses, injuries, damages, and costs, including reasonable attorneys' fees, court costs, and expenses incurred as a result of any such claim, arising out of the performance of this Agreement and attributable to the conduct or failure to act of FLUET and/or LILAC GLEN, and their agents and employees, including, but not limited to, any claims by Maralee Foss and/or Charleda Foss for the failure of the holding tank or line, or the expiration of the Temporary Certificate of Occupancy.
9. FLUET and LILAC GLEN shall obtain and maintain such comprehensive public liability insurance as will protect the CITY from claims for damages because of bodily injury, including death, and injuries to or destruction or loss of use of property, which may arise from its obligations under this Agreement, whether such obligations be carried out by them, their volunteers, agents, or employees, or anyone directly or indirectly employed by FLUET and/or LILAC GLEN. The minimum amount of insurance shall be Five Hundred Thousand Dollars (\$500,000). The policy shall name the CITY as additional insured and shall require that the CITY be given a minimum of thirty (30) days' notice if the policy is canceled for any reason.

All insurance required under this section shall be maintained in full force and effect at the expense of FLUET and/or LILAC GLEN until the obligations under this Agreement have been fulfilled. Certificates of insurance will be provided to the CITY upon request.

10. If a court of competent jurisdiction determines that any provision of this Agreement is invalid or unenforceable, any invalidity or unenforceability will affect only that provision and will not make any other provision of this Agreement invalid or unenforceable, and this Agreement shall be modified, amended, or limited only to the extent necessary to render it valid and enforceable as agreed by the parties, and shall be interpreted in such a manner that the parties' intent be met to the greatest degree possible.

IN WITNESS HEREOF, the Parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF COEUR D' ALENE

LILAC GLEN, LLC

Steve Widmyer, Mayor

By _____
Its _____

ATTEST:

LARRY FLUET

Renata McLeod, City Clerk

By _____

ANNOUNCEMENTS

Memo to Council

DATE: June 12, 2017

RE: Appointments to Boards/Commissions/Committees

The following appointments are presented for your consideration for the June 20th Council Meeting:

DON WALTERS
SARAH GARCIA

Parking Commission (Citizen at Large)
ignite cda Board

Copies of the data sheets have been placed by your mailboxes.

Sincerely,

Amy Ferguson
Executive Assistant

cc: Renata McLeod, Municipal Services Director
Tony Berns, ignite cda Executive Director

GENERAL SERVICES COMMITTEE

CITY COUNCIL STAFF REPORT

DATE: June 7, 2017
FROM: Mike Gridley – City Attorney
SUBJECT: Amendments to Municipal Code sections 4.15.040, 5.24.010, 5.24.030(I) and chapter 10.80 regulating the creation of noise and the emission of smoke and odors

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DECISION POINT:

Should the City Council approve amendments to the Municipal Code to regulate unreasonable or excessive noise and the unreasonable or excessive emission of smoke and odors?

HISTORY:

City staff and the Police Department have received an increasing number of complaints from citizens regarding unreasonable or excessive noise as well as smoke and odors coming primarily from motor vehicles. Examples of the unreasonable or excessive noise are the noise coming from the revving of motors or the rapid acceleration of a motor vehicle. The amendments to the code are intended to regulate this unreasonable or excessive conduct while also creating the ability for the City to permit noise, smoke or odor coming from participants in permitted events.

FINANCIAL ANALYSIS:

There is no financial impact.

PERFORMANCE ANALYSIS:

The intent of the amendments is to improve the quality of life for all citizens by regulating unreasonable or excessive noise, smoke and odor. The Police Department believes that these amendments will give them better ability to regulate and control some of the conduct that has been the cause of citizen complaints.

DECISION POINT/RECOMMENDATION:

City council should approve the amendments to Municipal Code sections 4.15.040, 5.24.010, 5.24.030(I) and Chapter 10.80.

ORDINANCE NO. _____
COUNCIL BILL NO. 17-1024

AN ORDINANCE OF THE CITY OF COEUR D'ALENE, IDAHO, AMENDING SECTIONS 4.15.040, 5.24.010, AND 5.24.030(I), COEUR D'ALENE MUNICIPAL CODE, REGULATING THE CREATION OF NOISE AND EMISSION OF SMOKE AND ODORS; RE-TITLING COEUR D'ALENE MUNICIPAL CODE CHAPTER 10.80, AIR COMPRESSION BRAKES, AS CHAPTER 10.80, ADDITIONAL PROHIBITED CONDUCT; AMENDING SECTION 10.80.010 OF THE COEUR D'ALENE MUNICIPAL CODE TO INCLUDE NOISE AND ODOR AND SMOKE REGULATIONS; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE PUBLICATION OF A SUMMARY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is deemed by the Mayor and City Council to be in the best interests of the City of Coeur d'Alene that the amendments to the Coeur d'Alene Municipal Code hereinafter listed be adopted;

NOW, THEREFORE,

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

SECTION 1. *That section 4.15.040, Coeur d'Alene Municipal Code, is amended as follows:*

The following regulations govern the use of all public parking facilities as defined by section 4.05.030 of this title:

A. Parking Regulations:

1. Vehicles can only be parked within the stalls designated by markers and as nearly in the center of the designated stalls as possible.
2. Vehicles cannot be parked or left unattended on any driving isle in the parking facility.
3. Trailers cannot be left parked in any parking facility unless attached to a parked motor vehicle.

B. Other Regulations:

1. Vehicles can only be driven in a parking facility on the designated driving isles and only in the direction indicated by signs or traffic control devices.
2. Vehicles cannot be driven in a parking facility faster than five (5) miles per hour.

3. Vehicles can only be driven into or out of a parking facility at the designated entrances and exits.
4. No portion of any parking facility can be used in any manner that endangers the person or property of another, or disrupts the normal operations of the parking facility, including, but not limited to, conduct that involves the use of abusive or threatening language or gestures, ~~conduct that~~ or creates unreasonable or excessive noise or emissions, ~~or conduct that consists of~~ or results in unreasonable or excessively loud or boisterous physical behavior; or involves placing objects such as bicycles, backpacks, carts, or other items in a manner that interferes with free passage within the facility.
5. No person can distribute, throw or affix to vehicles any literature, handbills or fliers in any city parking facility.
6. No person can camp or sleep in a parking facility, either in, on or near a vehicle, between the hours of eleven o'clock (11:00) P.M. and six o'clock (6:00) A.M., unless the camping or sleeping is permitted by the city in conjunction with a special event being held on city property.
7. No person shall deface, or destroy, signage or other city property located within a parking facility.
8. Other than city authorized events, no person shall participate in gatherings within the parking facility;
9. All persons within a city parking facility shall obey posted regulations and/or the direction of an authorized parking official.
10. It is unlawful for any person to intentionally come into contact with buildings, stairs, stairways, railings, curbs, planters, benches, chairs, tables, curbs, plants or shrubbery, signs, light poles, pillars or other improvements or fixtures with any skateboard, skates, in-line skates, rollerblades, or similar device(s).

C. Exceptions:

1. The parking provisions contained in this chapter do not apply to city vehicles operated in the normal course of city business.
2. The City Clerk, upon recommendation by the City Administrator or Parks Director, or their designees, may permit activities in public parking facilities which, in association with a permitted event, creates, or has the potential to create, noises, or noxious or odorous emissions that may otherwise violate this section, subject to such reasonable conditions as the City Administrator or Parks Director, or their designees, may deem necessary and appropriate. Participants in an event

permitted hereunder shall not be in violation of this section so long as they are in compliance with the conditions of the permit.

SECTION 2. *That section 5.24.010, Coeur d'Alene Municipal Code, is amended as follows:*

It is unlawful to play, use or operate for advertising purposes or for other purposes whatsoever any device known as a sound truck, or a loudspeaker or sound amplifier, radio or phonograph, with loudspeaker or sound amplifier, or any other instrument known as a calliope, or any other instrument of any kind or character which emits loud, unnecessary, or unusual noise that is excessive, disruptive, and/or annoying to a person of reasonable sensitivities, and raucous noises and which is attached to and/or carried upon any vehicle operated or standing on any of the streets or places in the municipality unless such the firm, corporation, agent or employee, or person in charge of such vehicle has first applied to for and received permission a permit from the municipality the City Clerk, upon recommendation by the City Administrator or Parks Director, or their designees, to operate any such vehicle equipped and used as described in this section.

SECTION 3. *That section 5.24.030(I), Coeur d'Alene Municipal Code, is amended as follows:*

Amplified Sound Systems Allowed: Nothing in this section shall prohibit the ~~mayor and/or council~~ City Administrator or Parks Director, or their designees, from allowing amplified sound systems to be operated ~~pursuant to reasonable criteria established by other sections of this code, permit, resolution or other ordinance on public property in association with a special event or other permitted event or activity, subject to such reasonable conditions as the City Administrator or Parks Director, or their designees, may deem necessary and appropriate.~~ Nor shall this section apply to emergency vehicles or city vehicles being operated in their work and/or designated capacity.

SECTION 4. *That Coeur d'Alene Municipal Chapter 10.80, Air Compression Brakes, is re-titled as Chapter 10.80, Additional Prohibited Conduct.*

SECTION 5. *That Section 10.80.010, Coeur d'Alene Municipal Code, is amended as follows:*

10.80.010: USE OF AIR COMPRESSION BRAKES ADDITIONAL PROHIBITED CONDUCT:

A. The following are prohibited within the City limits:

- 1.** The use of unmuffled air compression brakes ~~by vehicles or trucks, as defined in Idaho Code title 49, chapter 1, within city limits is hereby prohibited and shall be unlawful,~~ except under emergency circumstances where the use of air compression brakes is necessary to prevent an accident or injury to persons or property.
- 2.** The operation of any automobile, motorcycle, other vehicle, engine or motor of any size, device, or thing in such a manner as to create any loud, unnecessary, or

unusual noise that is excessive, disruptive, and/or annoying to a person of reasonable sensitivities.

3. The emission of excessive or unusual noxious or odorous matter, including exhaust, smoke, and any other byproduct of engine combustion, from a vehicle.

B. Notwithstanding the prohibitions in subsection A, the City Clerk, upon recommendation by the City Administrator or Parks Director, or their designees, may permit an event which creates, or has the potential to create, noises, or emissions that may otherwise violate this section, subject to such reasonable conditions as the City Administrator or Parks Director, or their designees, may deem necessary and appropriate. Participants in an event permitted hereunder shall not be in violation of this section so long as they are in compliance with the conditions of the permit.

SECTION 6. All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

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

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

Passed under suspension of rules upon which a roll call vote was duly taken and duly enacted an Ordinance of the City of Coeur d'Alene at a regular session of the City Council on June 20, 2017.

APPROVED, ADOPTED and SIGNED this 20th day of June, 2017.

Steve Widmyer, Mayor

ATTEST:

Renata McLeod, City Clerk

SUMMARY OF COEUR D'ALENE ORDINANCE NO. _____
Amending sections 4.15.040, 5.24.010, and 5.24.030(I),
Re-titling Chapter 10.80, and Amending Section 10.80.010
of the Coeur d'Alene Municipal Code

AN ORDINANCE OF THE CITY OF COEUR D'ALENE, IDAHO, AMENDING SECTIONS 4.15.040, 5.24.010, AND 5.24.030(I), COEUR D'ALENE MUNICIPAL CODE, REGULATING THE CREATION OF NOISE AND EMISSION OF SMOKE AND ODORS; RE-TITLING COEUR D'ALENE MUNICIPAL CODE CHAPTER 10.80, AIR COMPRESSION BRAKES, AS CHAPTER 10.80, ADDITIONAL PROHIBITED CONDUCT; AMENDING SECTION 10.80.010 OF THE COEUR D'ALENE MUNICIPAL CODE TO INCLUDE NOISE AND ODOR AND SMOKE REGULATIONS; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE PUBLICATION OF A SUMMARY; AND PROVIDING FOR AN EFFECTIVE DATE. THE FULL TEXT OF THE SUMMARIZED ORDINANCE NO. _____ IS AVAILABLE AT COEUR D'ALENE CITY HALL, 710 E. MULLAN AVENUE, COEUR D'ALENE, IDAHO 83814 IN THE OFFICE OF THE CITY CLERK.

Renata McLeod, City Clerk

STATEMENT OF LEGAL ADVISOR

I, Randall R. Adams, am the Chief Civil Deputy City Attorney for the City of Coeur d'Alene, Idaho. I have examined the attached summary of Coeur d'Alene Ordinance No. _____, amending sections 4.15.040, 5.24.010, and 5.24.030(I), re-titling Chapter 10.80, and amending Section 10.80.010, Coeur d'Alene Municipal Code, and find it to be a true and complete summary of said ordinance which provides adequate notice to the public of the context thereof.

DATED this 20th day of June, 2017.

Randall R. Adams, Chief Civil Deputy City Attorney

MEMORANDUM

DATE: June 6, 2017

FROM: SAM TAYLOR, DEPUTY CITY ADMINISTRATOR

RE: Performing Arts Grant to Out of the Shadows Theatre

DECISION POINT: To approve a performing arts grant in the current fiscal year for Out of the Shadows Theatre in the amount of \$5,000.

HISTORY: Out of the Shadows Theatre is a local stage production that allows disabled actors to participate in larger theatre productions. Shadow actors accompany those actors on stage to provide support, give prompting and be a safety net throughout the production.

Last year's production was Beauty and the Beast.

Out of the Shadows Theatre is a non-profit organization. Organizers sought support from the Coeur d'Alene Arts Commission last year but the presentation was too late as the budget proposal had been solidified for the next fiscal year and, at the time, the Commission's Art Policy and the City's Percent for the Arts Ordinance did not allow for support of any type of art other than physical.

This year the City Council adopted modifications to the art ordinance and policy expanding uses of available public arts funds from all sources for other types of art, including performing arts and arts education.

To that end, Out of the Shadows Theatre again is seeking support from the City and the Arts Commission in the amount of \$5,000. Funding for this request is available from the Public Art Fund.

While the newly updated art policy requires a Request for Proposals/Qualifications process for Community Art Partnership Grants, that new grant process is not yet in place and was intended to be ready by the next fiscal year, beginning October 1. This organization needs the funds now to help secure costumes, sets and more.

The Arts Commission unanimously recommended support for this grant request at its May meeting and indicated that it would be incredibly poor form to push the request off another year when the Commission expressed support last year as well but budget timing was simply off. The Commission supports this as a one-time grant, in the current fiscal year, recognizing that future Community Art Partnership Grants must go through a process that should be ready for the next fiscal year.

FINANCIAL: Out of the Shadows Theatre practices and performs at the KROC Center, which is outside of urban renewal districts, so this production is not eligible for use of urban renewal art funds. There is currently \$75,124.28 available in the City's Public Art Fund and even with next year's proposed projects there will still be a reserve of \$30,000 should this grant be approved.

DECISION POINT/RECOMMENDATION: Staff recommends City Council authorize a one-time Performing Arts Grants to Out of the Shadows Theatre in the amount of \$5,000.

**GENERAL SERVICES COMMITTEE
M E M O R A N D U M**

DATE: June 12, 2017

FROM: RENATA MCLEOD, MUNICIPAL SERVICES DIRECTOR/CITY CLERK
KATHY LEWIS, DEPUTY CITY CLERK

RE: APPROVAL OF AMENDMENTS MUNICIPAL CODE CHAPTER 5.08.160(A)
ENTITLED ALCOHOL BEVERAGE CATERING PERMITS.

DECISION POINT:

- Recommendation of Approval of amendments to Municipal Code Chapter 5.17, entitled "Beer, Wine or Liquor Prohibitions within the city; exceptions."

HISTORY: Last year a request was made by a vendor of the Wednesday Farmer's Market to be able to provide samples of wine to potential buyers. The City's Municipal Code did not allow for open containers of alcohol upon city streets or rights-of-way. This year the same seller has made the request for Council consideration of an amendment to the code that would allow for an exception during permitted special events. There are currently two wine vendors at the Farmer's Market that wish to provide samples pursuant to the Idaho Code. Staff has conferred with the Downtown Association, who is supportive of the amendment. Additionally, the Police Department has reviewed the code amendment, as well as the Idaho Code, and has stated that they are comfortable with the requested exception to the open container law when it is part of a permitted special event. Therefore, staff is recommending the attached code amendment.

FINANCIAL: There will be a small cost to codifying this code amendment; otherwise, no other financial impacts are associated with this action.

DECISION POINT/RECOMMENDATION:

- Recommendation of Approval of amendments to Municipal Code Chapter 5.17, entitled "Beer, Wine or Liquor Prohibitions within the city; exceptions."

5.08.160: BEER, WINE OR LIQUOR PROHIBITIONS WITHIN THE CITY; EXCEPTIONS:

A. No person shall consume any beer, wine or other alcoholic beverage or possess an open container of or containing any beer, wine or other alcoholic beverage on any public property, including public streets and alleys, within the city, or at any other place in the city, including any motor vehicle moving or stationary, with the following exceptions:

1. The premises of a private residence;
2. Premises licensed for the sale of on site consumption of the particular type of alcoholic beverage involved;
3. A certified forensic laboratory when the alcoholic beverage is possessed for evidentiary purposes and/or for testing and research purposes;
4. A public law enforcement facility possessing alcoholic beverages for evidentiary purposes or for training purposes;
5. Within the indoor premises of a private business when served free of charge to customers or patrons of the business in conjunction with a specific event then taking place inside the business premises;
6. On a public sidewalk and/or other public right of way when such sidewalk or right of way is contiguous to a permitted outdoor eating facility, but only after issuance of and pursuant to the terms of a permit authorized by the city council. Criteria that must be met for a permit to issue shall be set forth by resolution of the city council.
7. On a public right of way when used on pedal bike(s) and/or nonmotorized recreational vehicles in which the passenger areas are separate from the driver areas, but only after issuance of and pursuant to the terms of a permit authorized by the city council. Criteria that must be met for a permit to issue shall be set forth by resolution of the city council.
8. Within the indoor premises of the Coeur d'Alene Public Library when served free of charge to patrons or event attendees in conjunction with a specific event hosted by the Coeur d'Alene Public Library Foundation, the Friends Of The Coeur d'Alene Public Library or other associated library organizations, pursuant to rules and policies adopted by the Coeur d'Alene library board of trustees for such events.
9. On a public sidewalk or other public right-of-way when such sidewalk or right-of-way is being used for a permitted special event; Provided, the consumption shall be for sample tasting only and the size of each sample of beer or wine shall not exceed one-and-one-half (1-½) ounces, shall be dispensed by a licensed vintner, winery, brewery, distributor, or retailer for the purpose of promoting their products to the public or conducted a tasting event, and shall take place in a specific identified tasting area in accordance with state law. Consumers shall remain in the tasting area until they have finished consuming the sample.
- ~~9-10.~~ As otherwise permitted by this code.

B. Furthermore, no person shall possess any container, whether open or not, of or containing any beer, wine or other alcoholic beverage on public property, except at those public locations and under those conditions as set out in subsection A of this section or as otherwise permitted by this code. (Ord. 3492, 2014; Ord. 3443, 2012)

ORDINANCE NO. _____
COUNCIL BILL NO. 17-1025

AN ORDINANCE AMENDING SECTION 5.08.160 OF THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, ENTITLED "BEER, WINE OR LIQUOR PROHIBITIONS WITHIN THE CITY; EXCEPTIONS"; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING SEVERABILITY; PROVIDING THE PUBLICATION OF A SUMMARY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, after recommendation by the General Services Committee, it is deemed by the Mayor and City Council to be in the best interests of the City of Coeur d'Alene that said amendments be adopted; NOW, THEREFORE,

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

SECTION 1. *That Coeur d'Alene Municipal Code Section 5.08.160 is amended to read as follows:*

**5.08.160: BEER, WINE OR LIQUOR PROHIBITIONS WITHIN THE CITY;
EXCEPTIONS:**

- A. No person shall consume any beer, wine or other alcoholic beverage or possess an open container of or containing any beer, wine or other alcoholic beverage on any public property, including public streets and alleys, within the city, or at any other place in the city, including any motor vehicle moving or stationary, with the following exceptions:
1. The premises of a private residence;
 2. Premises licensed for the sale of on site consumption of the particular type of alcoholic beverage involved;
 3. A certified forensic laboratory when the alcoholic beverage is possessed for evidentiary purposes and/or for testing and research purposes;
 4. A public law enforcement facility possessing alcoholic beverages for evidentiary purposes or for training purposes;
 5. Within the indoor premises of a private business when served free of charge to customers or patrons of the business in conjunction with a specific event then taking place inside the business premises;
 6. On a public sidewalk and/or other public right of way when such sidewalk or right of way is contiguous to a permitted outdoor eating facility, but only after issuance of and pursuant to

the terms of a permit authorized by the city council. Criteria that must be met for a permit to issue shall be set forth by resolution of the city council.

7. On a public right of way when used on pedal bike(s) and/or nonmotorized recreational vehicles in which the passenger areas are separate from the driver areas, but only after issuance of and pursuant to the terms of a permit authorized by the city council. Criteria that must be met for a permit to issue shall be set forth by resolution of the city council.
8. Within the indoor premises of the Coeur d'Alene Public Library when served free of charge to patrons or event attendees in conjunction with a specific event hosted by the Coeur d'Alene Public Library Foundation, the Friends Of The Coeur d'Alene Public Library or other associated library organizations, pursuant to rules and policies adopted by the Coeur d'Alene library board of trustees for such events.
9. On a public sidewalk or other public right-of-way when such sidewalk or right-of-way is being used for a permitted special event; provided, the consumption shall be for sample tasting only and the size of each sample of beer or wine shall not exceed one-and-one-half (1 ½) ounces, shall be dispensed by a licensed vintner, winery, brewery, distributor, or retailer for the purpose of promoting their products to the public or conducted a tasting event, and shall take place in a specific identified tasting area in accordance with state law. Consumers shall remain in the tasting area until they have finished consuming the sample.
10. As otherwise permitted by this code.

SECTION 2. All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 3. Neither the adoption of this ordinance nor the repeal of any ordinance shall, in any manner, affect the prosecution for violation of such ordinance committed prior to the effective date of this ordinance or be construed as a waiver of any license or penalty due under any such ordinance or in any manner affect the validity of any action heretofore taken by the City of Coeur d'Alene City Council or the validity of any such action to be taken upon matters pending before the City Council on the effective date of this ordinance.

SECTION 4. The provisions of this ordinance are severable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid, or unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this ordinance or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this ordinance would have been adopted if such illegal, invalid or unconstitutional provision, clause sentence, subsection, word, or part had not been included therein, and if such person or circumstance to which the ordinance or part thereof is held inapplicable had been specifically exempt therefrom.

SECTION 5. After its passage and adoption, a summary of this Ordinance, under the provisions of the Idaho Code, shall be published once in the official newspaper of the City of Coeur d'Alene, and upon such publication shall be in full force and effect.

Passed under suspension of rules upon which a roll call vote was duly taken and duly enacted an Ordinance of the City of Coeur d'Alene at a regular session of the City Council on June 20, 2017.

APPROVED, ADOPTED and SIGNED this 20th day of June, 2017.

Steve Widmyer, Mayor

ATTEST:

Renata McLeod, City Clerk

SUMMARY OF COEUR D'ALENE ORDINANCE NO. _____
Amending Section 5.08.160 entitled Beer, Wine or Liquor Prohibitions
Within The City; Exceptions

AN ORDINANCE AMENDING SECTION 5.08.160 OF THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, ENTITLED "BEER, WINE OR LIQUOR PROHIBITIONS WITHIN THE CITY; EXCEPTIONS"; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING SEVERABILITY; PROVIDING THE PUBLICATION OF A SUMMARY AND PROVIDING AN EFFECTIVE DATE. THE FULL TEXT OF THE SUMMARIZED ORDINANCE NO. _____ IS AVAILABLE AT COEUR D'ALENE CITY HALL, 710 E. MULLAN AVENUE, COEUR D'ALENE, IDAHO 83814 IN THE OFFICE OF THE CITY CLERK.

Renata McLeod, City Clerk

STATEMENT OF LEGAL ADVISOR

I, Randall R. Adams, am a Chief Deputy City Attorney for the City of Coeur d'Alene, Idaho. I have examined the attached summary of Coeur d'Alene Ordinance No. _____, Amending Section 5.08.160, Coeur d'Alene Municipal Code, and find it to be a true and complete summary of said ordinance which provides adequate notice to the public of the context thereof.

DATED this 20th day of June, 2017.

Randall R. Adams, Chief Deputy City Attorney

OTHER BUSINESS

City Council Staff Report

Date: June 6, 2017
From: Troy Tymesen, Finance Director
Subject: IRONMAN contract modifications

Decision Point:

To approve the contract modifications to the IRONMAN Host Venue Agreement.

History:

The relationship with IRONMAN, the Coeur d' Alene Chamber and the City began in 2003. The most recent revision occurred in 2015 when the 70.3 Ironman was added. The proposed revisions to the attached IRONMAN Host Venue agreement are supported by the Chamber's Board of Directors, the Downtown Association as well as the Coeur d' Alene Resort.

Financial Analysis:

The financial modifications to the agreement reduce the cost burden to the Chamber. The 140.6 IRONMAN would not continue after the scheduled race in August of this year. The contract modification shows that the Chamber would have to contribute \$25,000 for the 70.3 IRONMAN for the last three years in the contract. Currently the Chamber supports the Ironman event annually with over \$50,000. The City would maintain its level of support for the 70.3 Ironman and would not need to provide any support for the 140.6 after this year. The Coeur d' Alene Chamber of Commerce will continue to raise funds for the 70.3 through the hotel rebate program, the Convention and Visitor's Bureau, the Department of Commerce and Tourism, as well as business contributions.

Performance Analysis:

The modifications to the contract include: Ending the Coeur d' Alene full IRONMAN race in 2017. Modifying the support for the 70.3 IRONMAN to \$25,000 per year.

Decision Point/Recommendation:

To approve the contract modifications to the IRONMAN Host Venue Agreement.

RESOLUTION NO. 17-044

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO, TERMINATING THE HOST VENUE AGREEMENT WITH WORLD TRIATHLON CORPORATION AND THE COEUR D'ALENE CHAMBER OF COMMERCE ADOPTED JULY 7, 2015, PURSUANT TO RESOLUTION NO. 15-034, AND ADOPTING A NEW HOST VENUE AGREEMENT WITH WORLD TRIATHLON CORPORATION AND THE COEUR D'ALENE CHAMBER OF COMMERCE.

WHEREAS, the Deputy City Administrator of the City of Coeur d'Alene has recommended that the City of Coeur d'Alene terminate the Host Venue Agreement adopted pursuant to Resolution No. 15-034 and enter into a new Host Venue Agreement, pursuant to terms and conditions set forth in the agreement attached hereto as Exhibit "1" and made a part hereof; and

WHEREAS, it is deemed to be in the best interests of the City of Coeur d'Alene and the citizens thereof to enter into such agreement;

NOW, THEREFORE,

BE IT RESOLVED by the Mayor and City Council of the City of Coeur d'Alene that the City terminate the Host Venue Agreement with World Triathlon Corporation and the Coeur d'Alene Chamber of Commerce adopted pursuant to Resolution No. 15-034 and enter into a new Host Venue Agreement in substantially the form attached hereto as Exhibit "1" and incorporated herein by reference with the provision that the Mayor, City Administrator, and City Attorney are hereby authorized to modify said agreement to the extent the substantive provisions of the agreement remain intact.

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

DATED this 20th day of June, 2017.

Steve Widmyer, Mayor

ATTEST:

Renata McLeod, City Clerk

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

ROLL CALL:

COUNCIL MEMBER GOOKIN Voted _____

COUNCIL MEMBER MCEVERS Voted _____

COUNCIL MEMBER MILLER Voted _____

COUNCIL MEMBER EDINGER Voted _____

COUNCIL MEMBER EVANS Voted _____

COUNCIL MEMBER ENGLISH Voted _____

_____ was absent. Motion _____.



HOST VENUE AGREEMENT

IRONMAN® 70.3® Coeur d'Alene, Idaho – (2018-2020)

This Host Venue Agreement (this "Agreement") is dated as of June 20, 2017 but is hereby made effective for all purposes as of September 1, 2017 (the "Effective Date") by and among **WORLD TRIATHLON CORPORATION**, a Florida corporation having its principal business address at 2701 North Rocky Point Drive, Suite 1250, Tampa, Florida 33607 ("WTC"), the **CITY OF COEUR d'ALENE**, a body corporate and political subdivision of the State of Idaho, with its office located at 710 Mullan Avenue, Coeur d'Alene, Idaho 83814, (the "City"), and the **COEUR d'ALENE CHAMBER OF COMMERCE**, with its office located at P.O. Box 850, 105 N. 1st Street, Coeur d'Alene, Idaho 83814, (the "Chamber" and, together with the City, the "Host"). (WTC, the City, and the Chamber are sometimes referred to herein individually as a "Party" and collectively as the "Parties".)

RECITALS

WHEREAS, the Parties entered into that certain HOST VENUE SPONSORSHIP AGREEMENT, dated as of June 22, 2015 (the "Prior HVSA"), with respect to an annual IRONMAN® Coeur d'Alene triathlon and an annual IRONMAN® 70.3® Coeur d'Alene triathlon event, in each case for the years 2016-2020; and

WHEREAS, the Parties desire to terminate the Prior HVSA early, and to replace it with this Agreement which provides for, subject to the terms hereof, an annual IRONMAN® 70.3® Coeur d'Alene triathlon event for the years 2018-2020.

AGREEMENT

NOW, THEREFORE, the Parties agree as follows:

1. **Initial Matters.**

- (a) Termination of Prior HVSA. The Parties agree that the Prior HVSA will be deemed terminated effective as of September 1, 2017.
- (b) Certain Definitions. As used herein:
 - (i) "Event" means a multiple-day event at the Venue that includes, without limitation, the Race (as defined below), a vendor exposition (the "Expo"), athlete check-in, transition areas, awards ceremony, and press conference, and certain administrative, operational, and marketing functions related thereto.
 - (ii) "Race" means an IRONMAN 70.3® branded triathlon (comprising an approximately 1.2-mile swim, 56-mile bicycle ride, and 13.1 mile run) at the Venue.
 - (iii) "Venue" means in and around Coeur d'Alene, Idaho.

2. **The Event.** Subject to the terms of this Agreement:

- (a) Host authorizes WTC to prepare and conduct, subject to the terms of this Agreement, an annual IRONMAN® 70.3® Coeur d'Alene triathlon event at the Venue in each of the years 2018, 2019, and 2020 (each, a "Race Year"). WTC agrees to conduct each such Event, subject to the terms of this Agreement. WTC is and will be the owner of each Event and nothing herein constitutes a license from WTC to Host or any third party to establish or operate any Event or Race, or any other event or race.

- (b) The Parties anticipate that each Race will be in accordance with the following schedule, provided, however, that prior to January 30 of each Race Year, WTC shall confirm with Host the actual dates of that year’s Races (and any subsequent change to such dates will be by mutual agreement of the Parties):

IRONMAN <u>70.3</u> Coeur d’Alene	
Year	Race Date
2018	Sunday, June 24 th
2019	Sunday, June 30 th
2020	Sunday, June 28 th

- (c) Certain eligible top finishers at each Event will, in WTC’s sole discretion, be awarded qualifying slots for the IRONMAN 70.3[®] World Championship. With respect to each Race, the number and allocation of such slots will be determined by WTC in its sole discretion.

3. **Term.** This Agreement is effective for all purposes beginning on the Effective Date and shall automatically terminate thirty (30) days after the final Event in the final Race Year (“**Term**”), unless sooner terminated in accordance with the terms of this Agreement. If the Agreement is terminated in accordance with this Agreement prior to the expiration of the Term, the Parties shall perform their respective obligations that have accrued through and including the date of such termination.

4. **Host Support Services.**

- (a) Host shall timely provide to WTC, or for WTC’s benefit, the services, equipment, value in-kind, and personnel set forth in Exhibit B (the “Host Support Services”) for each Event. The Parties acknowledge that, as indicated in Exhibit B, certain of the Host Support Services will be provided by the City (and not by the Chamber) and certain other of the Host Support Services will be provided by the Chamber (and not by the City). Unless otherwise expressly agreed to in this Agreement, Host shall provide the Host Support Services at Host’s own cost.
- (b) To the extent Host does not timely provide any portion of the services, equipment, or items that are Host Support Services, Host shall, within 10 days after the applicable Event, reimburse WTC to the extent WTC incurs, or will incur, any costs, expenses, or fees to obtain or provide such Host Support Services.
- (c) The Host Support Services may be modified, changed, or otherwise altered from time to time by mutual agreement. WTC shall, within a reasonable time prior to the applicable Event, provide written notice to Host regarding any such proposed alterations.

5. **Financial Matters**

- (a) **Sponsorship Fees.** The Chamber shall pay (and the City shall not be responsible for paying) annual host sponsorship fees (each, a “Host Sponsorship Fee”) to WTC, in immediately available funds, in accordance with the following payment schedule and the wire transfer instructions in Exhibit A:

Race Year	Annual Amount Due	Installment Payment Amount	Due Date



2018	\$25,000.00	\$12,500.00	June 1
		\$12,500.00	August 1
2019	\$25,000.00	\$12,500.00	June 1
		\$12,500.00	August 1
2020	\$25,000.00	\$12,500.00	June 1
		\$12,500.00	August 1

- (b) Late Payment. If any amount due to WTC under this Agreement is more than 30 days past due, interest will accrue on the past-due amount at the rate that is the lesser of (i) 12% per annum and (ii) the highest rate permitted by applicable law.
- (c) Sponsorship & Expo Vendor Referrals; Revenue Share.
- (i) Sponsorship & Expo Vendor Referrals. Host shall not grant or sell sponsorships, official designations, Expo space, or any other rights at or in connection with the Event (or WTC or its brands, or any other WTC-related events) to any third parties. With respect to each Event, Chamber shall have the right to refer to WTC reputable third-party Event-specific sponsors and Expo vendors (collectively, "Chamber-Referred Third-Party Sponsorships"), provided, however, that:
- (A) Chamber shall focus on referring sponsors/Expo vendors that are (1) local, statewide, and regional companies and organizations and (2) in categories that are not endemic to triathlon or sports;
 - (B) Chamber shall not refer sponsors/Expo vendors to WTC if such sponsors/Expo vendors sell products and/or services that fall within any of the categories set forth in Exhibit F (collectively, the "Restricted Sponsorship Categories"). If Chamber refers to WTC a sponsor/Expo vendor that falls within any of the Restricted Sponsorship Categories then Chamber will not receive the Chamber Revenue Share (as defined below) with respect to such sponsor/Expo vendor. Due to occasional changes to the Restricted Sponsorship Categories, WTC reserves the right to update the Restricted Sponsorship Categories, at any time and from time to time. Upon Chamber's request, WTC shall provide to Chamber the then-applicable list of Restricted Sponsorship Categories;
 - (C) Chamber shall not communicate any Event sponsorship or Expo vendor opportunity to any potential sponsor or vendor unless such specific sponsor/Expo vendor has been pre-approved in writing by WTC;
 - (D) WTC reserves the right, in WTC's sole and absolute discretion, to reject any proposed sponsorship, sponsor, or Expo vendor including, without limitation, those referred by Chamber; and
 - (E) Host shall use best efforts to prevent third parties from purporting to be a sponsor or Expo vendor of the Event unless such party is a party to a Sponsorship and/or Expo Vendor Agreement (as defined below). Neither Chamber nor City has the authority to legally bind WTC, and neither shall represent to any third party that it has such authority. No Chamber-Referred Third-Party Sponsorship will be valid unless in a written agreement signed by

both WTC and the sponsor/Expo vendor party (a “Sponsorship and/or Expo Vendor Agreement”).

(ii) Chamber Revenue Share. If, during the period between the Effective Date and the final Event, WTC enters into a Sponsorship and/or Expo Vendor Agreement (specifically with respect to any Event) with a third-party sponsor or Expo vendor for a Chamber-Referred Third-Party Sponsorship where such sponsor or Expo vendor was referred to WTC by Chamber and was pre-approved by WTC in accordance with this Agreement, WTC shall pay to Chamber an amount equal to twenty-five percent (25%) of the Net Proceeds (as defined below) (such portion of the Net Proceeds is referred to herein as the “Chamber Revenue Share”).

(A) “Net Proceeds” means, net of applicable taxes, ninety percent (90%) of the total cash actually received and retained by WTC from the applicable Chamber-Referred Third-Party Sponsorship (it being acknowledged by the Parties that such reduction by ten percent (10%) is for purposes of covering WTC’s expected costs to activate and implement the benefits for such Chamber-Referred Third-Party Sponsorship.

(B) Based Only on Cash Proceeds. For the avoidance of doubt: Net Proceeds (1) will be based only on such cash proceeds to WTC from sponsorship sales and Expo fees from the Chamber-Referred Third-Party Sponsorship that are specific to the Event and (2) will not include the value of any in-kind contributions or budget-relieving or other services provided by the sponsor or any other party, except as may otherwise be approved in writing by WTC in each instance.

(C) Origination. Chamber will be deemed to have referred an Event-specific sponsor or Expo vendor to WTC if, in good faith, Chamber provides such sponsor/Expo vendor’s name and contact information to WTC in writing, and, prior to such notice to WTC by Chamber, WTC is neither doing business nor has any contract with such sponsor/Expo vendor (or any of its subsidiaries or affiliates), nor communicated, during the then prior 24-month period, with such sponsor/Expo vendor (or any of its subsidiaries or affiliates) regarding the possibility of doing business or entering into any contract with WTC (or any of its subsidiaries or affiliates).

(D) Other Events. For avoidance of doubt: Chamber has no right to receive the Chamber Revenue Share (or any other commission or fee) in connection with any event(s) other than the Events (e.g., IRONMAN Florida, IRONMAN 70.3 Augusta, etc.), regardless of whether Chamber referred to WTC a third-party sponsor/Expo vendor for such other event(s).

6. **WTC Obligations.**

For each Event, WTC shall fulfill the specific obligations as described in Exhibit C.

7. **Exclusivity.**

(a) During the Exclusivity Period (as defined in subsection (b) below), Host shall not produce, promote, advertise, conduct, host, permit, or contract or partner with any person or entity except WTC for, or in connection with, any other triathlon event that features any race distance longer than that of an Olympic/International distance triathlon (as defined by the International Triathlon Union); provided, however, that nothing herein shall prohibit the annual “Coeur d’Alene Triathlon & Duathlon” (the “CDA Tri/Du”) from taking place so long as the CDA Tri/Du:

- (i) Is an Olympic/International distance triathlon;
 - (ii) Occurs at least 14 days before or 14 days after any Event; and
 - (iii) Is not produced or operated by, licensed from or to, or otherwise associated with, Life Time Fitness, Rev 3, Challenge Americas or Challenge Family Triathlon, HITS Triathlon Series, Competitor Group, Inc., or any other competitor of WTC (or any affiliate or successor of any such competitor entity).
- (b) “Exclusivity Period” means the Term and, as the case may be, either:
- (i) the 18-month period following termination of this Agreement, if this Agreement is terminated by Host under the terms of Section 16(a); or
 - (ii) the 26-month period following expiration or termination of this Agreement, if (A) the Term expires, (B) this Agreement is terminated by WTC under the terms of Section 16(a), or (C) this Agreement is terminated by WTC or Host for any other reason in accordance with the terms of this Agreement.
- (c) During each Event weekend, neither the City nor the Chamber may produce, conduct, host, or permit any other event, that would interfere with the Event, that takes places anywhere in the Venue.
- (d) Except with respect to promotion of the CDA Tri/Du, Host shall ensure that no marketing, promotion, banner, reference, or the like of any third party in direct competition with WTC, either Event, or any sponsor of either Event, appears anywhere on the City’s website or the Chamber’s website homepage.

8. **Media; Broadcasts; Use of Photos/Videos.**

- (a) Subject to subsection (b) below, WTC shall retain the rights to all imagery and audiovisual works in connection with each Event, including but not limited to, television broadcast or cablecast (live or tape-delay), radio broadcast, Internet broadcast (audio or video), videotaping, filming and photography, all of which is the sole property of WTC and will not be reproduced, remarketed, or otherwise distributed or displayed without the written permission of WTC. WTC may, at its sole discretion, award any or all of these rights to third parties or to the Host.
- (b) During the Term, Host shall have a limited, non-transferable, non-sublicensable, non-exclusive license (the “Media License”) to use those certain photographs and video clips related to the Event that WTC provides to Host (the “WTC Media”), provided that:
 - (i) Such use is solely for purposes of promotion of the Event, which promotion may be in conjunction with the promotion by Host of tourism to the City;
 - (ii) Such use complies fully with all guidelines of WTC’s Media and Television departments, which guidelines may change from time to time;
 - (iii) In no event may Host use any WTC Media on any merchandise, products, or services; and
 - (iv) All WTC Media are, and shall remain, the property of WTC. Any and all rights in, to, or under the WTC Media shall enure solely to the benefit of WTC.

9. **Ambush Marketing.**

- (a) “Ambush Marketing” means marketing by a non-sponsor of any Event intending to exploit or ‘free-ride’ on the goodwill of the Event and/or gain market exposure by way of intrusive and/or associative marketing practices at or in connection with the Event.
- (b) Host shall not cause, engage in, or permit any form of Ambush Marketing, and Host shall use best efforts to prevent and stop Ambush Marketing at, near, or in connection with the Event, on property that either the City or the Chamber owns or controls, including without limitation by using best efforts to:
 - (i) Cause its employees and agents to promptly report, to WTC and the proper City authorities, any activity reasonably appearing to be Ambush Marketing.
 - (ii) Ensure, to the extent permitted by law, for 30 days prior to and during the Event, that city property designated for use by the Event and any other key advertising locations under the City’s control do not carry any form of temporary advertising or promotional material relating to the Event, except as may be approved in writing by WTC;
 - (iii) Prevent, cure, and remedy, to the extent permitted by law, the distribution of product samples, premiums, promotional literature and other commercial and non-commercial materials within the established Event perimeter or adjacent to the Event site, except where expressly authorized by WTC; and
 - (iv) To the extent permitted by law, cause all signage and other physical items of Ambush Marketing to be taken down, moved, removed, and/or confiscated within a reasonable time by law enforcement personnel; and
 - (v) Cooperate with WTC to prevent Ambush Marketing, as may reasonably be requested by WTC.

10. **Announcements and Promotions by Host.**

- (a) Subject to the terms of this Agreement, Host shall provide promotional assistance, with respect to each Event, as described in Exhibit B.
- (b) Host shall not make any announcement (whether in writing, orally, via the Internet, or otherwise) of the Event without the prior written consent of WTC (solely with respect to the content of each such announcement), which consent will not be unreasonably withheld.
- (c) Host, on its website, shall reference the Event and the fact that Host is hosting the Event.
- (d) Host shall not use the Event, or any marketing opportunity related thereto or arising out of the Event, for any purpose other than to promote the Venue and the Event in a positive light.
- (e) To the extent allowed by law, Host shall not permit any political statements, propaganda, or the like to be associated with, whether directly or indirectly, the Event or any marketing or promotion in connection with the Event.
- (f) Host shall acknowledge in writing on its advertising and/or marketing materials (in connection with the Event) the existence of this Agreement by use of the following language:

IRONMAN 70.3[®] COEUR d’ALENE is a World Triathlon Corporation event. IRONMAN[®], 70.3[®], and M-DOT[®] are registered trademarks of World Triathlon Corporation and are used here by permission.

[Empty rectangular box]

11. **Other Covenants of Host.** During the Term:

- (a) **Compliance with Law.** Host shall comply with all applicable laws, rules, and regulations with regard to its obligations under this Agreement.
- (b) **Operational Control.** In order to ensure proper and timely implementation of each Event, Host shall, and shall cause each of its representatives, agents, and contractors to, follow instructions from WTC or any other person designated by WTC regarding Event-related operational or technical issues, except to the extent that (i) police personnel require otherwise or (ii) Host reasonably believes that following WTC's instructions would likely cause undue risk to the physical safety of any person(s).
- (c) **Intellectual Property of WTC.** Host shall not infringe any intellectual property rights of WTC, including without limitation the IRONMAN mark and the design mark known as "M-DOT". Host shall use best efforts to notify WTC, within a reasonable amount of time, of any likely misuse or infringement by any person or entity of any of the Event Logos or any other intellectual property of WTC.
- (d) **Information Updates.** Host shall, upon request from WTC, promptly inform WTC as to the status of the performance of Host's obligations hereunder, including without limitation regarding the Host Support Services and each Annual Sponsorship.
- (e) **Annual Post-Event Meetings.** Within a reasonable time following the Event each Race Year, Host shall meet with WTC to "debrief" regarding such year's Event, discuss the next year's plans, and review Event details and goals.

12. **Representations and Warranties.** Each Party represents and warrants that:

- (a) It has the full right and legal authority to enter into and fully perform this Agreement in accordance with the terms and conditions contained herein.
- (b) This Agreement is a legal, valid, and binding obligation of such Party, enforceable against such Party in accordance with its terms.
- (c) Neither the execution, delivery, nor performance of this Agreement by such Party violates or will violate or cause a breach of any other agreements or obligations to which such Party is a party or to which it is bound, and no approval, consent, notice, or other action by or to any third party or any commission, board, or other governmental authority or agency is required in connection with the execution, delivery, or performance of this Agreement by such Party.

13. **License and Use of WTC Event Logos.**

- (a) WTC provides Host with the limited, non-assignable, non-transferable, non-exclusive license to use the Event Logo, as defined in Exhibit D, in all reasonable forms of advertising and marketing, subject in each instance to WTC's prior written approval. In using the Event Logo, Host shall comply with the Trademark Standards & Usage Guidelines set forth in Exhibit D. The license granted herein shall be only for the Term.
- (b) Host may use the Event Logos only in connection with advertising and/or marketing materials relating to each Event during the Term, and may not utilize any of the Event Logos on any advertising, website, press releases, programs, marketing materials, products, merchandise,

souvenirs, or other items unless pre-approved by WTC in writing, which approval may be granted or denied at WTC's sole and absolute discretion.

- (c) Host shall not authorize or license any third party to manufacture, sell, affix, or use any of the Event Logos on any product, merchandise, souvenirs, or other items.
- (d) Host acknowledges that WTC is the owner of all Event Logos, and Host shall not register any of the Event Logos, any service mark, trademark or domain name that is similar in any manner to, or that incorporates, any of the Event Logos, any of WTC's other trademarks or other intellectual property, or any mark with the word "IRON."
- (e) Any and all rights under the Event Logos, copyrights, or other intellectual property of WTC used in connection with this Agreement or any Event shall enure solely to the benefit of WTC.

14. **Indemnification; General Limitation of Liability.**

- (a) WTC will indemnify, protect, defend and hold harmless Host, its subsidiaries, and affiliates, and each of its directors, officers, employees, contractors, volunteers, representatives, and agents, from and against any and all claims, liabilities, losses, damages, injuries, demands, actions, causes of action, suits, proceedings, judgments and expenses, including without limitation, attorneys' fees, court costs, and other legal expenses, arising out of, directly or indirectly, or in connection with: (i) any breach or alleged breach of any provision of this Agreement by WTC or any representation or warranty made by WTC herein; and (ii) any act or omission to act by WTC, or any of its employees, servants, volunteers, or agents.
- (b) To the extent not prohibited by law, Host will indemnify, protect, defend and hold harmless WTC, is parent, subsidiaries, and affiliates, and each of their respective directors, officers, employees, contractors, volunteers, representatives, and agents, from and against any and all claims, liabilities, losses, damages, injuries, demands, actions, causes of action, suits, proceedings, judgments and expenses, including without limitation, attorneys' fees, court costs, and other legal expenses, arising out of, directly or indirectly, or in connection with: (i) any breach or alleged breach of any provision of this Agreement by Host or any representation or warranty made by Host; or (ii) any act or omission to act by Host, or any of its employees, servants, volunteers, or agents.
- (c) NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT: EACH PARTY'S TOTAL MAXIMUM LIABILITY FOR ANY AND ALL LOSSES, INJURY, OR DAMAGES IN ANY WAY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT AND FOR ANY OTHER CLAIM, SHALL BE LIMITED TO \$500,000.00. THE LIMITATION OF LIABILITY SET FORTH HEREIN IS FOR ANY AND ALL MATTERS FOR WHICH A PARTY MAY OTHERWISE HAVE LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, WHETHER THE CLAIM ARISES IN CONTRACT, TORT, STATUTE OR OTHERWISE, AND THIS LIMITATION OF LIABILITY IS CUMULATIVE, WITH ALL PAYMENTS FOR CLAIMS OR DAMAGES IN CONNECTION WITH THIS AGREEMENT BEING AGGREGATED TO DETERMINE SATISFACTION OF THE LIMIT. THE EXISTENCE OF ONE OR MORE CLAIMS WILL NOT ENLARGE THE LIMIT.
- (d) This Section 14 shall survive the expiration or earlier termination of this Agreement for any reason.

15. **Insurance.** Each Party shall, throughout the Term, obtain and maintain its own comprehensive general liability insurance for each Event from a reputable insurance company for, without limitation, any and all claims of bodily injury, death, property damage, and advertising liability, and any and all litigation, arbitration and settlement costs, related to any claims for or by any Event participants, volunteers, referees, officials, scorekeepers, spectators, sponsors, and staff with a minimum combined single limit equal to but not less than one million dollars

(\$1,000,000.00 USD) per occurrence for any one incident or accident, and three million dollars (\$3,000,000.00 USD) aggregate. The Parties agree to have each other Party named as an additional insured in connection with each Event. WTC acknowledges that the City may self-insure against the risks and other insurable matters referenced in this Section. Certificates (or, if self-insuring, official letters) evidencing the foregoing required insurance must be provided, upon request, to each other Party. If WTC so requests, Host shall send a copy of the applicable certificate (or, as applicable, letter) to insurance@ironman.com.

16. **Default and Remedy; Termination.**

- (a) **General.** Subject to Sections 16(b) and 16(c):
 - (i) If WTC breaches a material provision of this Agreement, Host may terminate this Agreement upon thirty (30) days' written notice to WTC (which notice shall include a description of such breach) provided that, during such thirty (30) day period following receipt of such notice, WTC fails to cure such breach.
 - (ii) If either the City or the Chamber breaches a material provision of this Agreement, WTC may terminate this Agreement upon thirty (30) days' written notice to Host (which notice shall include a description of such breach), provided that, during such thirty (30) day period following receipt of such notice, the breaching Party fails to cure such breach.
- (b) **WTC's Other Termination Rights.** Notwithstanding anything to the contrary herein, WTC shall have the right to immediately terminate this Agreement:
 - (i) for any reason or no reason, if WTC gives written notice to Host during the 90-day period following the end of any Event;
 - (ii) at any time if, after consulting with Host, WTC gives written notice to Host that WTC has determined, in its reasonable judgment, that an Event is unlikely to occur or be sufficiently profitable to WTC, whether due to: (A) failure to timely obtain any of the permits or third-party approvals for the Event or any aspect thereof; (B) an insufficient number of paid entries or sponsorships received; or (C) any condition with respect to the Venue that could jeopardize the practicability of conducting the Race as planned, or that could create a safety risk for any Race participants or other Event visitors, if such condition likely cannot be remedied prior to the Event at no cost to WTC; or
 - (iii) if Host files, or has filed against it, a petition in bankruptcy, or is adjudicated bankrupt or insolvent, or makes an assignment for the benefit of creditors, or an arrangement pursuant to any bankruptcy law.
- (c) **Host's Other Termination Rights.** Notwithstanding anything to the contrary herein, Host shall have the right to terminate this Agreement, for any reason or no reason, if Host gives written notice to WTC, in which case the termination will become effective 26 months after such written notice is received by WTC.
- (d) **Effects of Termination.**
 - (i) Expiration or termination of this Agreement for any reason will not relieve any Party from its obligation to perform under this Agreement to the extent such performance is due prior to the effective time of such termination.
 - (ii) If this Agreement is terminated by WTC under the terms of Section 16(a) or Section 16(b)(iii) all unpaid Host Sponsorship Fee amounts with respect to the Race Year in which the termination occurred shall be immediately due and payable to WTC.

- (iii) Except as may be provided otherwise herein, each Party reserves all other rights and remedies hereunder and otherwise permitted by law that have accrued prior to the effective time of such termination.

17. **Confidentiality.**

- (a) During the term of this Agreement, except for disclosure required by law, or articles of incorporation or bylaws if in the case of the Chamber, each Party (the “Receiving Party”) shall keep confidential, and other than as provided herein, shall not use or disclose, directly or indirectly, any of the terms of this Agreement, any trade secrets, confidential, or proprietary information, or any other knowledge, information, documents or materials, owned, developed or possessed by any other Party, whether in tangible or intangible form. The Receiving Party shall use best efforts to prevent the unauthorized use and disclosure of such information, and to prevent unauthorized persons or entities from obtaining or using such information. The Receiving Party further agrees to refrain from directly or indirectly taking any action that would constitute or facilitate the unauthorized use or disclosure of such information. The Receiving Party may disclose such information to its officers and employees to the extent necessary to enable the Receiving Party to perform its obligations hereunder. The Receiving Party shall be liable for any unauthorized use and disclosure of such information by any of its officers or employees. Should the Receiving Party be required to disclose such information in order to comply with applicable governmental laws, regulations, or a court order, the Receiving Party agrees to provide reasonable advance written notice to the disclosing Party and, with respect to any court or state or federal governmental agency order (a “Disclosure Order”), each of the Parties shall use its reasonable efforts to (i) secure confidential treatment (whether through protective orders or otherwise) of the information to be disclosed pursuant to such Disclosure Order and (ii) ensure that only the minimum amount of information necessary to comply with such Disclosure Order is disclosed.
- (b) Notwithstanding the foregoing, the provisions of subsection (a) above shall not apply to knowledge, information, documents or materials for which the Receiving Party can conclusively establish: (i) have entered the public domain without Receiving Party’s breach of any obligation owed to the disclosing Party; (ii) have become known to the Receiving Party prior to the disclosing Party’s disclosure of such information to such Receiving Party; (iii) are permitted to be disclosed by the prior written consent of the disclosing Party; (iv) have become known to the Receiving Party from a source other than the disclosing Party, other than by breach of any obligation of confidentiality owed to the disclosing Party; or (v) are independently developed by the Receiving Party without breach of this agreement.

18. **Information.** Host agrees to communicate to WTC all information obtained in the course of performing the Host Support Services and further agrees that all information related to the business of the Race shall be confidential, except to the extent public disclosure is required by applicable law.

19. **Assignment; Binding Effect.** This Agreement may not be assigned or transferred by any Party without the prior written consent of each other Party, except that WTC may freely assign its rights and delegate its obligations hereunder to (a) any of its subsidiaries or affiliates, (b) any purchaser of substantially all of its assets, (c) any successor by reason of merger, reorganization, change of control, or operation of law, or (d) any third-party with which WTC enters into a written event license agreement under the terms of which agreement such third-party licensee would operate, organize, promote, and conduct the Event. All of the terms of this Agreement will apply to, be binding upon, and enure to the benefit of the Parties, their successors, and permitted assigns. Subject to the immediately preceding sentence, the Parties do not intend that there be any third-party beneficiaries of or in connection with this Agreement. Except to the extent an obligation hereunder is expressly stated to be specifically the obligation of either the City or the Chamber, each of Host’s obligations hereunder are joint and several obligations of each of the City and the Chamber.

20. **Relationship of the Parties.** The Parties are acting herein as independent contractors. Nothing herein contained will create or be construed as creating a partnership, joint venture, or agency relationship between the Parties. Each Party acknowledges and agrees that it neither has nor will give the appearance or impression of having any legal authority to bind or commit any other Party in any way. Each Party will be solely responsible for all wages, income taxes, worker's compensation, and any other requirements for all personnel it supplies in connection with this Agreement.

21. **Jurisdiction and Dispute Resolution.**

- (a) **Governing Law.** Notwithstanding the place where this Agreement may be executed by any Party, this Agreement and any claim, controversy, dispute or other matter arising hereunder or related hereto (whether by contract, tort or otherwise) shall be governed in accordance with the laws of the State of Idaho, United States of America, without regard to the conflict of laws provisions thereof that would result in the application of the laws of any other jurisdiction. In any litigation arising out of or relating to this Agreement, the Parties agree that venue shall be solely in either a state court, or (if has or can obtain jurisdiction) a federal court, located in Idaho (each, an "Idaho Court").
- (b) **Mediation.** If a dispute, claim or controversy, with the exception of claims for injunctive and/or other equitable relief for intellectual property violations, unfair competition and/or the use and/or unauthorized disclosure of trade secrets or confidential information (a "Dispute") arises out of, relates to, or is in connection with this Agreement, any amendment of this Agreement or any breach of this Agreement (including without limitation regarding issues of jurisdiction, the existence, scope, validity, performance, interpretation, termination, as well as entitlement to and amount of attorneys' fees and costs to the prevailing Party) and if the Dispute cannot be settled through direct discussions between the Parties, the Parties agree first to try in good faith to settle the Dispute by mediation administered by the American Arbitration Association ("AAA") under its then current Commercial Mediation Rules before resorting to arbitration or litigation. An AAA mediator, acceptable to the Parties and knowledgeable in the field of commercial matters, shall conduct the mediation. The mediation shall take place in Coeur d'Alene, Idaho or Spokane, Washington. Each Party shall bear its own costs with respect to such mediation, except that any fees charged by such mediator or AAA in connection with such mediation shall be allocated as set forth below.
- (c) **Arbitration.** Any Dispute that cannot be settled through negotiation or mediation as set forth above shall be referred to a sole arbitrator selected by the Parties within thirty (30) days after the mediation, or, if the parties are unable or unwilling to agree to such a selection, to AAA arbitration as the sole remedy as to all matters in Dispute, administered by the AAA in accordance with applicable Arbitration Rules to include the Optional Rules for Emergency Measures of Protection and Optional Procedures for Large, Complex Commercial Disputes, as interpreted and governed by the Idaho Arbitration Code. The venue of any such arbitration shall be solely in Coeur d'Alene Idaho or Spokane, Washington. Judgment on the award rendered by the arbitrator may be entered solely in any court of competent jurisdiction. The arbitrator shall not have authority to award punitive or other damages in excess of compensatory damages and each Party irrevocably waives any claim thereto.
- (d) **Enforcement.** Other than the costs and expenses of mediation, if any Party brings any arbitration or other action under this Agreement (including, without limitation, any challenge or appeal), the prevailing Party shall be entitled to recover from each other Party reasonable attorneys' fees and costs (including, without limitation, the cost of such arbitration or other action). The Parties agree to authorize the arbitrator to determine both the entitlement and apportionment of such fees and costs.
- (e) **Mediation/Arbitration Charges.** Each Party shall initially bear an equal share of the mediator's and arbitrator's compensation and administrative charges of the mediation or arbitration and shall

make deposits with the American Arbitration Association of its share of the amounts requested by the American Arbitration Association. Failure or refusal by a Party to timely pay its share of the deposits for the mediator or arbitrator(s)' compensation and administrative charges shall constitute a waiver by that Party of its rights to be heard, present evidence, cross-examine witnesses, and assert counterclaims. Informing the mediator or arbitrator of a Party's failure to pay its share of the deposits for the mediator's or arbitrator's compensation and administrative charges for the purpose of implementing this provision shall not be deemed to affect the mediator's or arbitrator(s)' impartiality or ability to proceed with the mediation or arbitration.

- (f) **General.** The requirement for mediation and arbitration shall not be deemed a waiver of any right of termination under this Agreement and the arbitrator is not empowered to act or make any award other than based solely on the rights and obligations of the Parties prior to any such termination. The Parties, their representatives, other participants and the mediator and arbitrator shall hold the existence, content and result of mediation and arbitration in confidence. Any provisions of this Agreement not found to be in compliance with applicable law may be waived without effect to the agreement by the Parties to arbitrate as provided herein. Notwithstanding the foregoing, in the event of breach by a Party of any of its obligations hereunder, the non-breaching Party may seek injunctive or other equitable relief in a State or Federal Court for Idaho. A request by a Party to a court for interim measures shall not be deemed a waiver of the obligation to mediate and arbitrate.

22. **Rights and Remedies.** The rights and remedies provided by this Agreement are given in addition to any other rights and remedies the Party may have by law, statute, ordinance or otherwise. All such rights and remedies are intended to be cumulative, and the use of any one right or remedy by a Party shall not preclude or waive its right to any or all other rights or remedies.

23. **Force Majeure.** In the event any Party is prevented from performing any of the obligations or duties required under this Agreement by reason of any event outside of such Party's control, including, without limitation, fire, weather, unsafe conditions, volcano, explosion, flood, epidemic, acts of nature, war or other hostilities, strike, terrorism, civil commotion, domestic or foreign governmental acts, orders or regulations ("**Force Majeure Event**"), then within five (5) days after the occurrence of a Force Majeure Event, the affected Party shall deliver written notice to each other Party describing the event in reasonably sufficient detail and how the event has precluded the Party from performing its obligations hereunder. The obligations or duties of the Party that are affected by the Force Majeure Event shall be temporarily suspended during the period of such Force Majeure Event, and for a reasonable time thereafter as may be required for that Party to return to normal business operations. If, due to a Force Majeure Event, the Event is canceled and cannot reasonably be rescheduled or relocated within the Venue, no Party shall be deemed to be in breach of this Agreement solely because of such cancellation. In the case of cancellation due to a Force Majeure Event, the Parties agree to negotiate a date to reschedule the Event if practicable. If the Event is rescheduled and/or relocated within the Venue, no Party is relieved of its obligations as set forth in this Agreement. For purposes of this Agreement, the cancellation by WTC of any leg of either Race (e.g., the swim leg) will not be deemed to be a cancellation of the Event.

24. **Notices.**

- (a) All notices, requests, demands, and other communications required or permitted hereunder shall be in writing and shall be deemed to have been duly given if delivered by facsimile (with facsimile transmission receipt), e-mailed (with electronic read receipt for delivery proof), hand delivered, by certified or registered mail, or by overnight delivery service:

If to City:

City of Coeur d' Alene
 710 Mullan Avenue
 Coeur d' Alene, ID 83814
 Attention: City Clerk
 E-mail: cityclerk@cdaid.org

(Or to such other person or address as City furnishes to WTC in writing in accordance with this Section)

If to Chamber:

Coeur d' Alene Chamber of Commerce
105 N. First St. Suite 100
Coeur d' Alene, ID 83814
Attention: President
E-mail: Steve@cdachamber.com

(Or to such other person or address as Chamber furnishes to WTC in writing in accordance with this Section)

If to WTC:

World Triathlon Corporation
3407 W. Dr. Martin Luther King Jr. Blvd.
Suite 100
Tampa, Florida 33607
Attention: Chief Legal Officer
E-mail: Legal@Ironman.com

(Or to such other person or address as WTC furnishes to Host in writing in accordance with this Section)

- (b) Delivery under subsection (a) above shall be effective upon actual receipt by the Party or upon such Party's refusal to accept delivery.

25. **Waiver of Rights.** If a Party fails to enforce any of the provisions of this Agreement or any rights hereunder or fails to exercise any election provided in this Agreement, it will not be considered to be a waiver of those provisions, rights or elections or in any way affect the validity of this Agreement. Any waiver of, or the failure of a Party to exercise, any of these provisions, rights or elections will not preclude or prejudice such Party from later enforcing or exercising the same or any other provisions, rights or elections which it may have under this Agreement. Any waiver must be in a writing signed by the waiving Party.

26. **Interpretation.** The section headings included in this Agreement are for convenience of reference only and shall not affect or be utilized in construing or interpreting this Agreement. If any term, clause, or provision hereof is held invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or operation of any other term, clause or provision and such invalid term, clause or provision shall be deemed to be severed from this Agreement. This Agreement may be executed in counterparts, each of which shall be deemed an original binding document but all of which shall constitute one and the same instrument. Neither this Agreement nor any provision herein shall be construed in favor or against any Party based on which Party drafted this Agreement or such provision. Electronically-transmitted copies of this Agreement or any signature pages hereto will be deemed to be originals.

27. **No Oral Modifications.** No modifications to this Agreement shall be binding upon the Parties unless modified, amended, cancelled, renewed or extended in a writing signed by all Parties.

28. **Entire Agreement.** This Agreement (including all exhibits hereto) sets forth the entire agreement and understanding of the Parties relating to the subject matter hereof, and supersedes all prior agreements, arrangements and understandings, written or oral, between or among the Parties, except as specifically provided herein. Except as explicitly set forth herein, there are no promises, conditions, representations, understanding, interpretations or terms of any kind as conditions or inducement to the execution hereof or in effect among the Parties.

[*The Agreement continues on the following page, which is the signature page.*]



HOST VENUE AGREEMENT

The Parties have executed and delivered this Agreement as of the Effective Date.

WTC:

WORLD TRIATHLON CORPORATION

By: _____
Name: ANDREW MESSICK
Title: CHIEF EXECUTIVE OFFICER
Date: _____, 2017

CITY:

CITY OF COEUR d' ALENE

By: _____
Name: Steve Widmyer
Title: Mayor
Date: June 20, 2017

CHAMBER:

**COEUR d' ALENE CHAMBER OF
COMMERCE**

By: _____
Name:
Title:
Date: _____, 2017

ATTEST:

Renata McLeod, City Clerk

[SIGNATURE PAGE TO HOST VENUE AGREEMENT (2018-2020)]

EXHIBIT A

Wire Transfer Instructions

Host shall make all payments to WTC by wire transfer in accordance with the following:

Bank Wire Transfer to:

Bank Name	Bank of America, N.A.
Bank Address	100 33rd Street West, New York, New York
Routing Number	026009593
ACH	063100277
Account Number	898052297785
Account Name	World Triathlon Corporation

* * * * *

EXHIBIT B

Host Support Services

1. Facilities

During the period beginning at least 14 days prior to Race day and ending on the Tuesday after Race day, the City shall assist WTC and its designees with Event setup, operation, and tear-down at the facilities in and around Coeur d’Alene, Idaho. City shall assist WTC by coordinating or confirming with City officials WTC’s use of the following facilities for the Event:

- (a) Lake Coeur d’Alene for the swim course including set up and tear down.
- (b) Expo/registration/transition area in the City Park from Monday pre-Race through Tuesday post-Race; including the Parks Amphitheater, electric power, water, gazebo’s and picnic areas.
- (c) Roads within City limits for the Bike route and Run route including closed streets on Race Day in the City Area to the extent possible.
- (d) Finish line on Sherman Avenue between 1st and 2nd Streets. Set up will include a finish structure, bleachers, sound systems and tents as provided by WTC. Set up will occur Friday evening prior to the Race; tear down will occur Monday a.m.
- (e) Subject to City contractual requirements with Diamond Parking: Parking lots used for past IRONMAN[®] Coeur d’Alene events, including without limitation Independence Point, 3rd Street lot (or suitable alternative), and the Museum lot. Host shall ensure that sufficient, demarcated, and confined parking areas are available to the spectators and visitors. Clear and proper signs to the parking areas are to be placed on appropriate major roads.
- (f) Suitable roads within the City limits with permits for the bike course and run course; Host shall repair and/or remove all potholes and other potential hazards along the route.
- (g) Roads and City Park as needed for a kids race during Race week between Tuesday and Saturday.

2. Services, Equipment, Personnel

At no cost to WTC, the City or the Chamber (as indicated below) shall provide and obtain sufficient services, equipment, and personnel to assist WTC in preparing for and operating a successful Event and Race, which services, equipment, and personnel will include the following:

<u>Obligation of</u>	<u>Obligation</u>
Chamber	(a) Year-round office space at the Chamber’s building for the Volunteer Coordinator to include a telephone. WTC is responsible for paying all long distance calls and faxes. Chamber will provide desk and chairs and a computer work-station.
City	(b) Allow storage containers to be placed on City of Coeur d’Alene property. <i>WTC to cover reasonable rental costs for such containers.</i>
Chamber	(c) Host and WTC will set up a mutually acceptable booking system to block rooms for the Race, market services and said rooms to athletes, and insure space is available. Host will be responsible for the booking programs.
Chamber	(d) The Host will assist WTC with coordinating local hotels and entities to facilitate arrangements for local accommodations, travel and tourist activities.
City	(e) Police services subject to coordination by WTC in the City limits wherein the Race will take place. WTC will coordinate with the other jurisdictions. Where staffing

HOST VENUE AGREEMENT

	permits (as determined by the police department), the City shall assist with police services outside of the City to facilitate the Event.
City	(f) Necessary ambulance services (including a minimum of five (5) ambulances and adequate staff) to transport athletes on Race Day.
City	(g) All applicable permits to WTC to ensure use of all property/roads through which the Race is run in the City limits only. In addition, Host shall assist WTC in obtaining all other permits necessary for staging the Race.
City	(h) Lifeguards as needed, including a minimum of 1 lifeguard for every 50 registered athletes on Race day.
City and Chamber	(i) Volunteer medical staff, which shall include doctors, other medical professionals and massage therapists to adequately staff the Event medical facility on Race day.
City	(j) Assist in coordinating with the County to provide search and rescue during the swim portion of the Race.
Chamber	(k) Provide additional boat support at the request of WTC.
City	(l) Assist WTC in securing electricity access as needed for the Venue areas, including generators, wiring, and electricians on site during Race week.
City	(m) If WTC chooses to host an additional event, assist WTC to acquire necessary permits and approval for a kids' running or triathlon activity during Race week.
City	(n) Assist with obtaining City permits for the Expo to begin Thursday (of Race week) and continue through the following Monday.
City	(o) Assist in coordination with city official for all parking and traffic control.
City	(p) Coordinate, as necessary, so WTC maintains adequate trash removal of designated dumpsters.
City	(q) Assist WTC by providing any available traffic control equipment necessary to supplement equipment provided by WTC.
City	(r) Road Sweeper within City limits.
City	(s) Unless reasonably required and unavoidable, Host shall not begin and/or effect any structural, engineering, beautification, or related works during the Event or the week prior to the Event.

3. Promotion

Host shall assist WTC with promotion, media coverage, public awareness, and advocacy of and for the Event. As a part of such obligations, the City shall (a) place WTC-approved Event flags, banners, and posters (and other branding) in the Venue and the areas surrounding the Venue for a minimum of 2 weeks prior to each Race, (b) assist WTC in acquiring manpower and hardware for hanging Event flags and Race banners, and (c) coordinate the placement of posters, to be supplied by WTC, in stores and retail locations. WTC will provide any such flags, banners, posters (and other branding) at its sole cost.

Host agrees to have visible and noticeable URL link (hyperlink) from its website to WTC's website. Such URL link shall link to a page on WTC's website associated with and dedicated to the staging and hosting of the Event.

* * * * *

EXHIBIT C

WTC Services

For each Event, WTC shall comply with and provide the following, at no cost to Host:

1. General

- (a) WTC shall plan and conduct each Event as a professionally-executed sporting event. WTC shall supervise all aspects of the Event including media, operations, marketing, promotions, branding, facility decoration, venue appearance, merchandising, licensing and all pre-Event, in-Event and post-Event activities. WTC shall appoint an Event Director for each Event who will supervise all aspects of production before, during, and after the Event.
- (b) Provide an annual influx of approximately 3,000 athletes, media, staff, VIPs and spectators requiring a multiple-night stay over in the Venue.
- (c) Provide to **City** an Event sponsor package to include:
 - (i) signage at the Event branded with City's logo(s),
 - (ii) Expo booth space, provided that City complies fully with the "Expo Village Vendor Rules and Regulations" set forth in Exhibit E to this Agreement,
 - (iii) inclusion of City's logo(s) on the Event-specific website under the domain www.Ironman.com, and
 - (iv) one (1) Race entry and ten (10) VIP packages.
- (d) Provide to **Chamber** an Event sponsor package to include:
 - (i) signage at the Event branded with Chamber's logo(s),
 - (ii) Expo booth space, provided that Chamber complies fully with the "Expo Village Vendor Rules and Regulations" set forth in Exhibit E to this Agreement,
 - (iii) inclusion of Chamber's logo(s) on the Event-specific website under the domain www.Ironman.com, and
 - (iv) one (1) Race entry and ten (10) VIP packages.
- (e) WTC shall donate a total of \$15,000.00 (the "Annual Donation") to one or more local not-for-profit organizations. Notwithstanding the foregoing, the Parties acknowledge that if WTC obtains permission from the Foundation (as defined below) then WTC shall have the option to have all or part of the Annual Donation be made instead by The Ironman Foundation Inc., a Florida not-for-profit corporation (the "Foundation"). The Parties further acknowledge that if the Foundation so elects to make the Annual Donation then all terms and conditions (e.g., distribution allocation, recipients, etc.) of the Annual Donation shall be determined by the Foundation (and in the sole and absolute discretion of the Foundation's Board of Directors). The Parties further acknowledge that the Foundation is not owned or controlled by WTC.

2. Race Administration

All administrative matters related to the implementation including, but not limited to:

- (a) Establishing, administering, maintaining, and securing the Event Expo;
- (b) Providing a Race Director, a Volunteer Director (to the extent Host does not provide a person who is approved by WTC under the terms set forth in Exhibit B), and key Race personnel as determined by WTC;
- (c) Providing a site plan to the City a minimum of two weeks prior to the Race, which plan will

HOST VENUE AGREEMENT

include, but not necessarily be limited to: placement of tents, Porta-potties and other amenities necessary for the Race.

- (d) Obtaining a written assumption of risk, waiver and release in favor of Host from each triathlete, Event participant, Event volunteer, and Expo exhibitor, in a form reasonably acceptable to Host;
- (e) Assisting the Volunteer Director in the management of the volunteers; and
- (f) The preparation of all documentation for the Race, including applications, brochures, and all print materials; and
- (g) Attending a pre-setup meeting with the City to ensure that placement of tents, Porta-potties and other amenities necessary for the Race are appropriate.

3. **Media**

The following media for promotion of the Race:

- (a) Live content of the Race under the domain www.Ironman.com;
- (b) Inclusion of Host's logo on Event-specific website and print materials for the Race;
- (c) Reasonable marketing of Host's accommodation facilities.

4. **Local Suppliers**

WTC shall use reasonable efforts to use local suppliers for implementation of the Race.

5. **Technical Duties**

- (a) Race equipment and manpower;
- (b) Registrations - supplies and set-up;
- (c) Courses - Design, supplies, and volunteer coordination start/finish course;
- (d) Race announcers;
- (e) Aid station - design and supplies;
- (f) All manpower, educators, Race manuals;
- (g) Transition supplies/setup;
- (h) Awards (presentations), related videos;
- (i) Plans for parking, security, and police coordination;
- (j) Ordering Race supplies;
- (k) Finish line - design, supplies, setup and teardown;
- (l) Media coordination;
- (m) Prize money to attract a pro field;
- (n) Traffic control supplies, including but not limited to, detour signs, barricades, and "no parking" signs;
- (o) Porta-Potties within the Park and along the Race route. Porta-Potties in the Park shall be open to public from Wednesday prior to Race day through the Monday after Race day; and
- (p) Police coordination, security and parking plans including posting uniformed security personnel at the gate at the Park entrance from Wednesday through Saturday to ensure only authorized vehicles enter the Park. WTC security will be instructed to monitor the Park for vandalism or improper conduct and report the same to City Staff.

6. **Other**

WTC shall reimburse the City for reasonable costs to repair damage to the City's park caused by Event athletes, spectators, vendors, or staff, provided the City (i) provides documented costs therefor and (ii) clearly marks all utilities in such park. However, WTC shall not be responsible for reimbursement for (i) ordinary wear and tear, (ii) damage cause by negligence or misconduct of the Host or any person or group unaffiliated with the Event, or (iii) damage to any utilities not clearly marked by the City.

* * * * *

EXHIBIT D

TRADEMARK STANDARDS & USAGE GUIDELINES: EVENT-SPECIFIC LOGOS

Event Logos

Each Event will feature one or more IRONMAN 70.3[®] branded logos customized by WTC for such Event (each, an “Event Logo”). WTC will design, create, and provide each Event Logo.

The following is an example of such a logo for a previous event:



General

The Event Logos must be used consistently and not altered. Modifications, variations, and incorrect uses of any Event Logo dilute the IRONMAN[®] and IRONMAN[®] 70.3[®] brands and create consumer confusion, and are therefore not permitted. You play a vital role in protecting the integrity of WTC’s intellectual property, including the Event Logos. Please familiarize yourself with the following TRADEMARK STANDARDS & USAGE GUIDELINES, which you are required to follow when using any Event Logo.

Pre-Approval Requirement

Without exception, all proposed uses of Event Logos must be submitted to WTC for review **PRIOR TO USAGE**. All approval requests for use of any Event Logo, must be submitted, along with a high resolution PDF image of the proposed use, to approvals@ironman.com for review through WTC’s “Basecamp” approval process. Please allow at least ten (10) business days for all approval requests to be answered. Any proposed use or item submitted that is not approved by WTC in writing within fifteen (15) days shall be deemed disapproved.

Trademark Claim Notice

Notice must be given to the public that WTC claims ownership of the Event Logos. Therefore, the following legal notice must clearly appear, in no smaller than 6pt typeface, on all printed materials, products, websites and all other items on which any Event Logo is used:

IRONMAN[®], 70.3[®], and the “M-Dot” logo are registered trademarks of World Triathlon Corporation. Used herein by permission.

Please adhere to the following regarding use of the terms “IRONMAN[®]” and “IRONMAN[®] 70.3[®]”

- IRONMAN[®] must be a single word, never hyphenated, and never capitalized as “IronMan”.
- IRONMAN[®] 70.3[®] must be two (2) separate words separated by no more and no less than one (1) character space.
- IRONMAN[®] is a brand name – an identifier of a specific source of goods and services. It is not an indicator of distance. “IRONMAN” must never be used as a standalone term or to denote distance (e.g., never as “Ironman distance”, “Iron distance”, “half ironman”, “half ironman distance”, or “half iron distance”).
- 70.3[®] is a brand name – an identifier of a specific source of goods and services. It is not an indicator of distance. “70.3” must never be used as a standalone term or to denote distance (e.g., never as “70.3 miles”).
- IRONMAN[®] should never be abbreviated as “IM.”
- IRONMAN[®] 70.3[®] should never be abbreviated as “IM70.3.”
- Stand-alone references to “an Ironman” or “a 70.3” are improper. Please add “triathlon” to such phrases (e.g., “an IRONMAN[®] 70.3[®] triathlon”).
- Do not use “iron” (or any foreign translation thereof) as a prefix for, or component of, any words – whether displayed as one word (e.g., “ironwoman”, “ironfamily”, or “ironmate”), as two separate words (e.g., “iron woman”, “iron family”, or “iron mate”), or as a hyphenated word (e.g., “iron-woman”, “iron-family”, or “iron-mate”). (Exceptions include IRONMAN[®], IRONKIDS[®], and IRON GIRL[®], all of which are trademarks owned by WTC.)

* * * * *

EXHIBIT E

EXPO VILLAGE VENDOR RULES AND REGULATIONS

These rules are subject to change from year to year.

WTC shall provide prior written notice to Host of any rule changes.

1. Acceptance of Terms. These Expo Vendor Rules & Regulations (the “Event Expo Rules”) apply to each Expo in connection with the Event(s). Host (hereafter “Exhibitor”) agrees to be bound by these Event Expo Rules and to any amendments hereto that WTC may from time to time establish.
2. Availability. Applications for space at any Expo are accepted on a first-come, first-served basis. WTC reserves the right to, in WTC’s sole and absolute discretion: (a) accept or reject any application for any Expo space and/or athlete kit insert on an event-by-event basis; and (b) relocate and/or rearrange exhibit space at any Expo at any time. For the avoidance of doubt, Exhibitor acknowledges that booth preference within any Expo is not guaranteed.
3. General Restrictions. Exhibitor may not assign, transfer, share, sublet, or apportion in whole or in part any allotted Expo space. Exhibitor may promote only Exhibitor’s business, products (or products that Exhibitor is otherwise authorized to promote), and/or services at the Expo, and such promotion must occur solely from within the Expo space assigned to Exhibitor by WTC. Exhibitor may not represent more than one (1) brand at any Expo without the prior written approval of WTC. Prior to the Expo, Exhibitor must provide to WTC a written description of all of Exhibitor’s proposed activities, samples, products, and giveaway items, all of which will be subject to the prior written approval of WTC. For the avoidance of doubt, Exhibitor may conduct direct sales of approved products only from within the Expo space assigned to Exhibitor by WTC. Exhibitors may not spread out beyond their activation footprint to conduct sales and/or sample to Expo or event attendees.
4. Safety; Security. WTC will not be responsible for the safety of exhibits, exhibit material, and/or Exhibitor’s property (including without limitation Exhibitor’s merchandise) against theft, fires, accident, or any other cause before, during, or after the Expo. Exhibitor understands that the Expo may be held outdoors and that the Exhibitor is responsible for the safety of its exhibit during inclement weather. Although it is anticipated that security personnel will be on duty during non-Expo hours, all property of Exhibitor remains the Exhibitor’s sole responsibility. Exhibitor agrees to make provisions for the safekeeping of its exhibit material, merchandise, etc., before, during, and after the Expo.
5. Prohibited Activities and Products. WTC reserves the right to remove Exhibitor and its accompanying exhibit material from the Expo in the event that an activity or presentation is deemed, in WTC’s sole and absolute discretion, inappropriate or detrimental to WTC or the professional nature of the Expo. In no event may Exhibitor use, or permit to be used, any Expo for, in connection with, or to promote any goods, products, services or methods that are (a) on the World Anti-Doping Agency’s (“WADA”) prohibited list or that are, in WTC’s sole discretion, on WADA’s monitoring program, (b) violate or conflict with the IRONMAN® Anti-Doping Program, or (c) are deemed, in WTC’s sole discretion, to be detrimental or harmful to WTC, any WTC Affiliate, the applicable event, the event host venue, any participant or athlete, or the sports of triathlon, swimming, cycling, running or mountain biking. WTC reserves the right to prohibit Exhibitor from exhibiting, keeping, or promoting in the Expo space any goods, products, services or methods that WTC reasonably determines do any of the foregoing or that were not approved by WTC in writing prior to such Expo. In addition, the following goods, products and services are not allowed to be sold, promoted, displayed, or otherwise made available by Exhibitor at any Expo: (x) any Prohibited Merchandise (as defined below); (y) any goods, products, or services that are prohibited at any Expo by such Expo’s host venue; or (z) any other product, good, or service that conflicts with any other sponsor or Exhibitor to whom WTC has granted exclusivity (or other preferential right) with respect to such good, product, or service category in connection with the Expo or the applicable event (including without limitation, the following: (i) any energy drinks (e.g., Red Bull®); (ii) sunglasses with a per-item selling price equal to or less than \$100.00 USD; and (iii) any type of watch, wrist instrument, or heart rate monitor). If Exhibitor has the right hereunder to provide promotional materials or gift items for placement in any athlete, volunteer, VIP, or media kits at any Event, and Exhibitor desires to provide a product sample for placement therein, Exhibitor may only provide product samples of any product that is a vitamin, supplement, or sports nutrition product (a “Supplement Product”) if such Supplement Product has received one of the following third party certifications: (1)



the NSF Certified for Sport® (www.nsfspport.com); (2) LCG Informed-Sport (www.informedsport.com); or (3) LCG Informed-Choice (www.informedchoice.com). WTC reserves the right to require a specific third party certification for any Supplement Product sample provided by Exhibitor for placement in kits based on WTC’s evaluation of the Supplement Product and its product manufacturing process, and associated assessment of potential risk. If Exhibitor elects to provide any certified Supplement Product for placement in kits, Exhibitor shall submit to WTC proof of the third party registration (or proof of engagement and/or qualification for third party certification) when submitting the Supplement Product to WTC for approval. WTC reserves the right to deny (in its sole discretion) the placement of any Supplement Product in any kit. During the Term, Exhibitor shall ensure ongoing compliance with all certification requirements for any Supplement Product provided to WTC for placement in any kit and shall immediately report any failure of compliance to WTC.

6. No Merchandise, Intellectual Property or Media Rights. Unless otherwise expressly authorized to do so pursuant to a separate written license agreement with WTC, Exhibitor shall not sell, promote, produce, display, or otherwise make available any merchandise, goods, products, or services that are event-branded, Expo-branded, WTC-branded, WTC Affiliate-branded, or branded or marked using (a) IRONMAN®, IRONMAN® 70.3®, the “M-Dot”, ‘140.6’ or ‘70.3,’ (b) any sponsorship designation (or that suggest endorsement by WTC), (c) the name or logo of any WTC or WTC Affiliate race or event, (d) any other intellectual property of WTC or any WTC Affiliate (including without limitation the Iron Girl®, IRONKIDS®, Velothon, or Cape Epic marks or names), or (e) any words or marks that refer to, or are suggestive of, or confusingly similar to, the logo, name, location, date or race distance for any WTC or WTC Affiliate race or event, or any intellectual property of WTC or WTC Affiliate (including without limitation the word “IRON”) (collectively, “Prohibited Merchandise”). Unless otherwise expressly authorized to do so pursuant to a separate written license agreement with WTC, in no event may Exhibitor use any photos or video footage or content of any WTC or WTC Affiliate race or event (including such event’s Expo), or any photos or video footage or content including any sponsorship designation, any WTC or WTC Affiliate race or event name or logo, or any other intellectual property of WTC or any WTC Affiliate (in each case, whether such footage is owned, or was taken or produced, by WTC, a WTC Affiliate, Exhibitor, or any third party) in any way in any media (including without limitation in any television or Internet broadcast, documentary, movie, web series, or mini-series).

7. Late Arrivals. Exhibitor shall promptly notify WTC if Exhibitor anticipates arriving (or setting up) at the Expo location later than the date or time communicated by WTC as the proper move-in/set-up window. If Exhibitor arrives after the proper move-in/set-up window, WTC reserves the right to (a) re-assign Exhibitor’s specific space to a third party to ensure a professional appearance of the Expo (including without limitation having a contiguous row of occupied Expo spaces (i.e., no “gaps”) on every day of the Expo), (b) assign Exhibitor to a replacement space, and/or (c) require Exhibitor to move-in/set-up only after the Expo is closed for the day (i.e., “after hours”).

8. Tear-Down; Clean-Up. Exhibitor shall remove all exhibits and materials from the Expo only during the time period(s) established by WTC. Exhibitor must leave its Expo space clean (free and clear of all trash and other debris) and in substantially the same condition as when Exhibitor took possession of such space. If Exhibitor fails to do so, WTC may: (a) impose a reasonable fee (which Exhibitor hereby agrees to pay, and hereby authorizes WTC to charge the credit card, if any, provided by Exhibitor to WTC for payment of such fees); and (b) terminate or restrict Exhibitor’s rights at future events. For the avoidance of doubt, Exhibitor may not pack up or dismantle its exhibit except during the permitted tear-down time determined by WTC. WTC will not store or ship any items or otherwise be held liable for any property left by Exhibitor after the Expo. Exhibitor must make all post-Expo storage or shipping arrangements in advance of the applicable event.

9. Cancellations or Changes by Exhibitor. The cancellation of any Expo space reservation by Exhibitor will result in a complete forfeiture by Exhibitor of the total amount(s) due for such Expo space reservation; provided, however, that if Exhibitor notifies WTC in writing of Exhibitor’s intention to cancel such reservation at least thirty-one (31) days prior to the opening date of such cancellation’s Expo, Exhibitor may transfer such Expo space reservation to another WTC event, reasonably acceptable to WTC, that is scheduled to occur during the same calendar year as the cancelled reservation.

10. Other Changes. If for any reason WTC determines that the location of the Expo should be changed or the dates of the Expo postponed or changed, no refund will be made and WTC shall assign to the Exhibitor, in lieu of the original space, such other space as WTC deems appropriate, and the Exhibitor agrees to use such space in accordance with these Event Expo Rules. Except to the extent expressly set forth herein, WTC will not be financially or otherwise liable to Exhibitor if the Expo is cancelled, postponed, or relocated.

* * * * *

EXHIBIT F

RESTRICTED SPONSORSHIP CATEGORIES

COMPRESSION APPAREL	RACE REGISTRATION
WETSUIT	WATCH/TIMING
SUNGLASSES	GPS/FITBIT
MEDALS	ON-COURSE NUTRITION
FOOTWEAR	CHARITY
ENERGY BAR	RACE PHOTOGRAPHY
ENERGY GEL	SUNSCREEN
ISOTONIC / SPORTS BEVERAGE	INSOLES
ENERGY DRINKS	RECOVERY SANDAL
RECOVERY BEVERAGE	RECYCLING/GARBAGE/WASTE MANAGEMENT
SUPPLEMENTS	ONLINE TRAINING PLATFORM
CELL PHONE CASE	BEER
HEADPHONES	HOTEL
LIFESTYLE APPAREL	TRAVEL PARTNER
PERFORMANCE APPAREL	

PUBLIC HEARINGS

CITY COUNCIL STAFF REPORT

FROM: MIKE BEHARY, PLANNER

DATE: JUNE 20, 2017

SUBJECT: ZC-1-17 ZONE CHANGE FROM LM TO C-17

LOCATION: +/- 4.1 ACRE PORTION OF A PARCEL LOCATED AT 505 W.
KATHLEEN AVENUE

APPLICANT/OWNER:
Confluent Development, LLC
2240 Blake Street, Suite 200
Denver, CO 80205

ENGINEER:
Lake City Engineering, Inc.
126 E. Poplar Avenue
Coeur d'Alene, ID 83814

DECISION POINT:

Confluent Development, LLC is requesting approval of a zone change from LM (Light Manufacturing) to C-17 (Commercial at 17 units/acre) zoning district.

PLANNING COMMISSION:

At their regular monthly meeting on May 9, 2017, the Planning Commission unanimously recommended approval for the zone change request.

BACKGROUND INFORMATION:

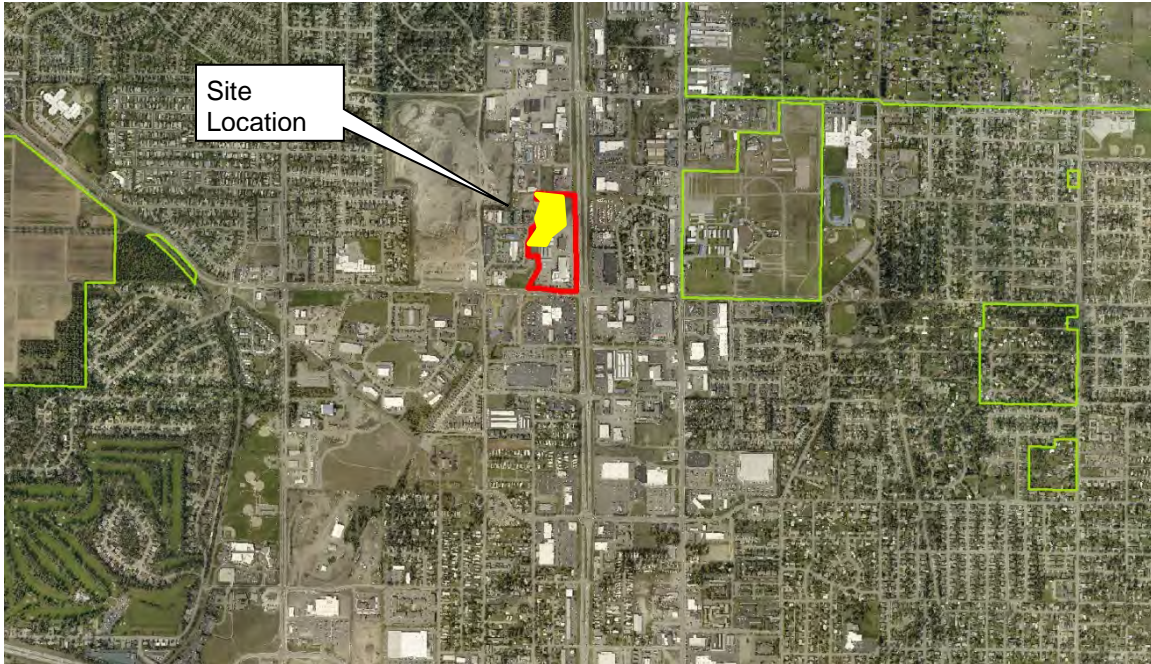
The property is located on the northwest corner of US Highway 95 and Kathleen Avenue. Coeur d' Alene Charter Academy School is located southwest of the subject site. There is an existing retail sales facility on the subject site and the property has been used for retail sales of building supplies for many years. The northern and northwestern portions of the property at 505 W. Kathleen Avenue are currently undeveloped.

Prior to 1983, the subject site was located within the unincorporated area of the County. In 1983, the City of Coeur d'Alene applied for a large area of land to be annexed into the City in conjunction with zoning in Item ZC-11-83A. The total land area that was annexed consisted of 680 acres. The annexation and zoning request was approved by City Council on September 20, 1983. This subject site was just a small portion of the land that was annexed into the City at that time. As part of the designation of zoning for the property, two different zoning districts (C-17 and LM) were assigned to the site. The property has had split zoning since 1983.

The majority of the property is zoned C-17 and the smaller portion is zoned LM. There is a total of 11.7 acres that is zoned C-17 with 4.1 acres zone LM on this property. The applicant has indicated they would like to correct the split zoning issue with this parcel and to have one uniform zoning district over the whole parcel. The applicant has indicated they envision some type of retail use that will be located at this site.

However, it should be noted that the applicant's proposed retail use of the property is not tied to the requested zone change. If the subject site is approved to be changed to the C-17 Commercial District, then all permitted uses in the C-17 Commercial District would be allowed on this site.

LOCATION MAP:



AERIAL PHOTO:



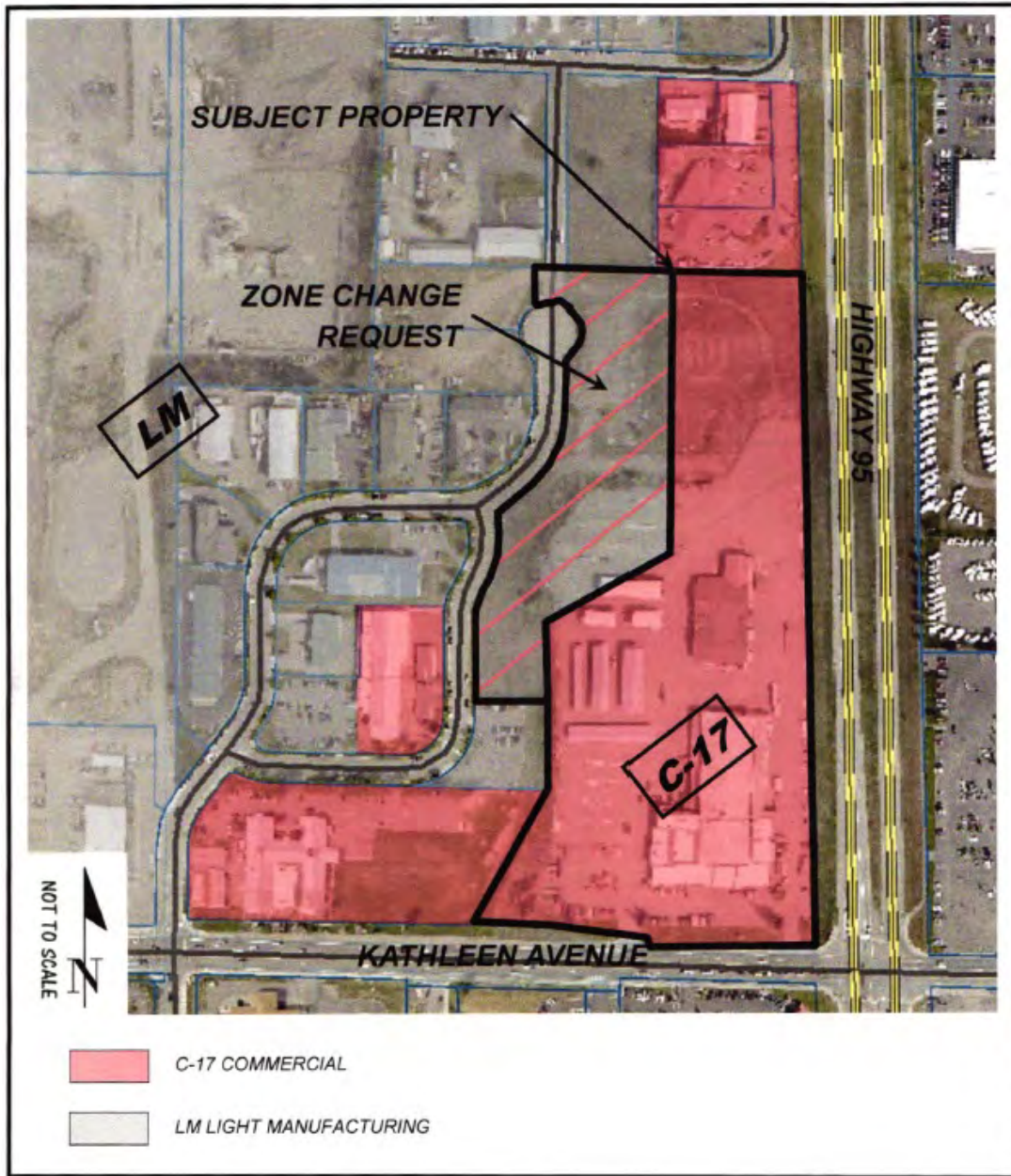
BIRDS EYE AERIAL PHOTO - 1:



BIRDS EYE AERIAL PHOTO - 2:



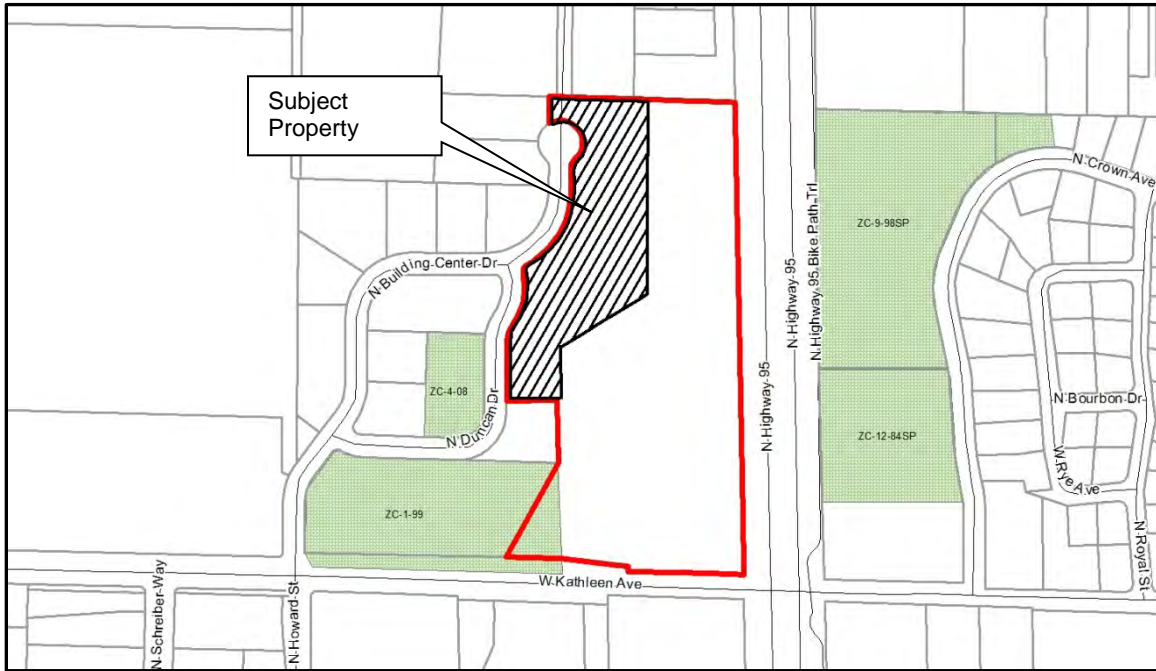
APPLICANT'S EXHIBIT OF PROPOSED ZONE CHANGE:



PRIOR LAND USE ACTIONS:

Planning Commission and City Council approved a zone change request in items ZC-1-84SP and ZC-9-98SP east of the subject property from R-12 to C-17L in 1984 and in 1998 respectively. Two more zone changes were approved by the Planning Commission and City Council in 1999 and in 2008 to change the zoning from LM to C-17 on the property to the west and south of the subject property in item ZC-1-99 and in ZC-4-08. As seen in the map provided below, the area is in transition with a multitude of approved zone changes in the vicinity of the subject property.

PRIOR LAND USE ACTIONS MAP:



Zone Changes:

ZC-12-84SP	R-12 to C-17L	Approved
ZC-9-98SP	R-12 to C-17L	Approved
ZC-1-99	LM to C-17	Approved
ZC-4-08	LM to C-17	Approved

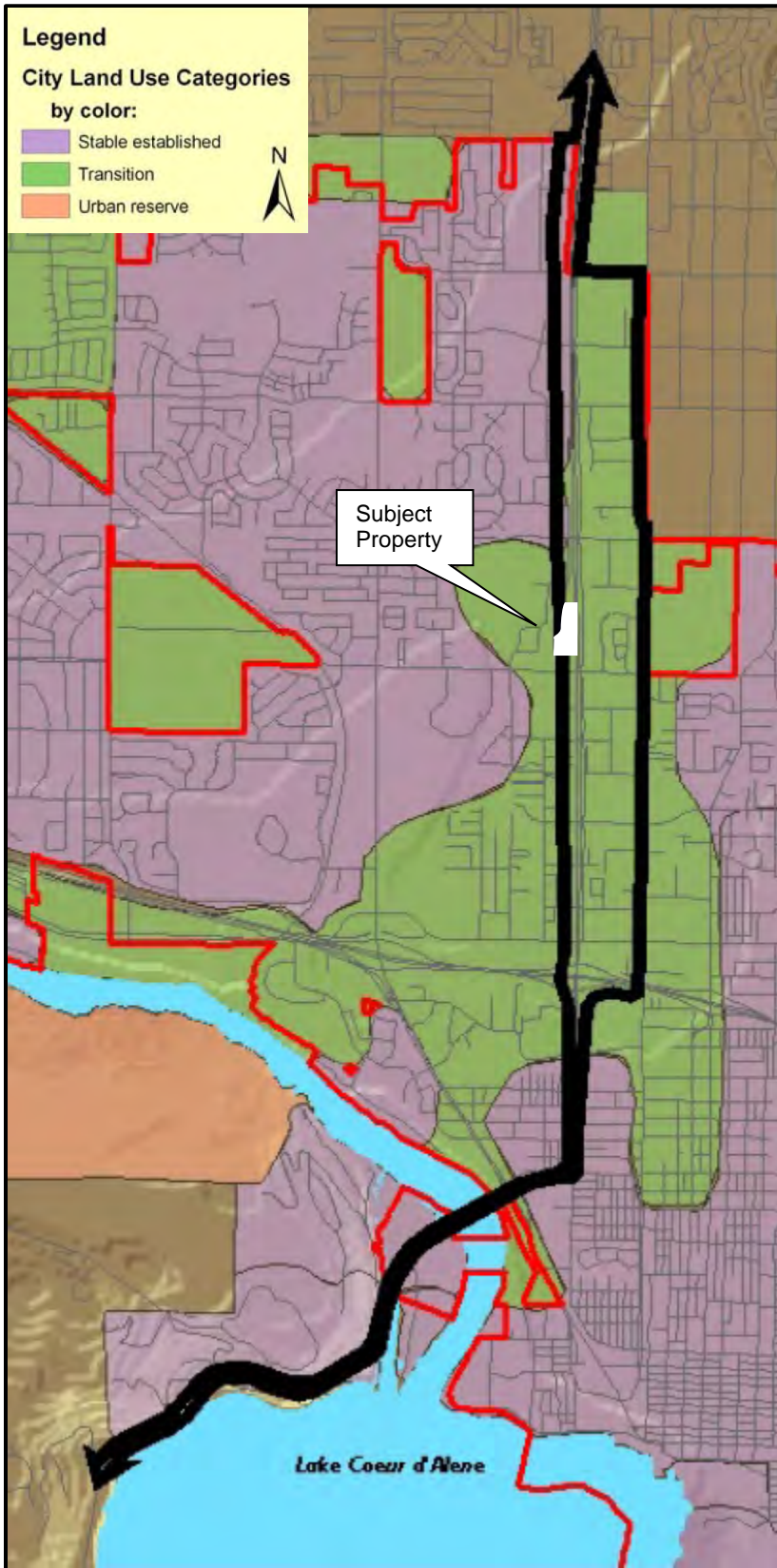
REQUIRED FINDINGS:

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

2007 COMPREHENSIVE PLAN- LAND USE CATEGORY:

- The subject property is within the existing city limits.
- The City Comprehensive Plan designates this area in the US 95 Corridor.

Comprehensive Plan Map: US 95 Corridor



Transition Areas:
These areas are where the character of neighborhoods is in transition and should be developed with care. The street network, the number of building lots and general land use are expected to change greatly within the planning period.

US 95 Corridor Tomorrow:

The City of Coeur d'Alene will be working during the next planning period until the year 2027 with the Idaho Department of Transportation (IDT) to design an efficient transportation system through the city.

The characteristics of the US 95 Corridor neighborhoods will be:

- Ensuring that access to businesses along the highway corridor is protected.
- Ensuring the city is not divided by this highway.
- Designing a system for the safe and efficient traffic flow through the city with a separate arterial for through traffic.
- Encouraging retention and planting of native variety, evergreen trees.
- Anticipating that US 95 traffic will be possibly diverted to a future bypass.
- Careful planning is needed to the south of Coeur d'Alene due to the continued development of Blackwell Island.
- Careful planning is needed to the south of Coeur d'Alene because access to these areas is limited to the US 95 bridge over the Spokane River.
- Retaining and expanding landscaping along both I-90 and US 95.
- Provide for pedestrian and bicycle traffic.

COMPREHENSIVE PLAN GOALS & OBJECTIVES THAT APPLY:

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.

Goal #2: Economic Environment

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

Objective 2.01 – Business Image & Diversity:

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

Objective 3.05 - Neighborhoods:

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

Objective 3.16 – Capital Improvements:

Ensure infrastructure and essential services are available for properties in development.

Objective 4.01 - City Services:

Make decisions based on the needs and desires of the citizenry.

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. City Code requires a stormwater management plan to be submitted and approved prior to any construction activity on the site.

- Submitted by Chris Bosley, City Engineering

STREETS:

The subject property is bordered by Kathleen Avenue to the south and US 95 to the east. This existing roadway is a fully developed (full curb/sidewalk) street section. Any required improvements will be addressed through the building permit process at the time of development on the subject property. The Engineering Department has no objection to the zone change as proposed.

- Submitted by Chris Bosley, City Engineering

WATER:

Water infrastructure already exists and is capable of supporting the proposed zone change. The Water Department has no objections to the zone change as proposed.

-Submitted by Terry Pickel, Water Superintendent

SEWER:

Presently, public sewer is within Building Center Drive and the City's Wastewater Utility has the wastewater system capacity and willingness to serve the subject site. The Wastewater Utility has no objections to the zone change request as proposed.

-Submitted by Mike Becker, Utility Project Manager

PARKS:

The Parks Department has no requirements for this development. The Parks Department has no objection to this zone change as proposed.

-Submitted by Monte McCully, Trails Coordinator

FIRE:

The Fire Department works with the Engineering and Water 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 building permit or site development, utilizing the currently adopted International Fire Code (IFC) for compliance. The City of Coeur d'Alene Fire Department can address all concerns at site and building permit submittals. The Fire Department has no objection to the zone change as proposed.

-Submitted by Bobby Gonder, Fire Inspector

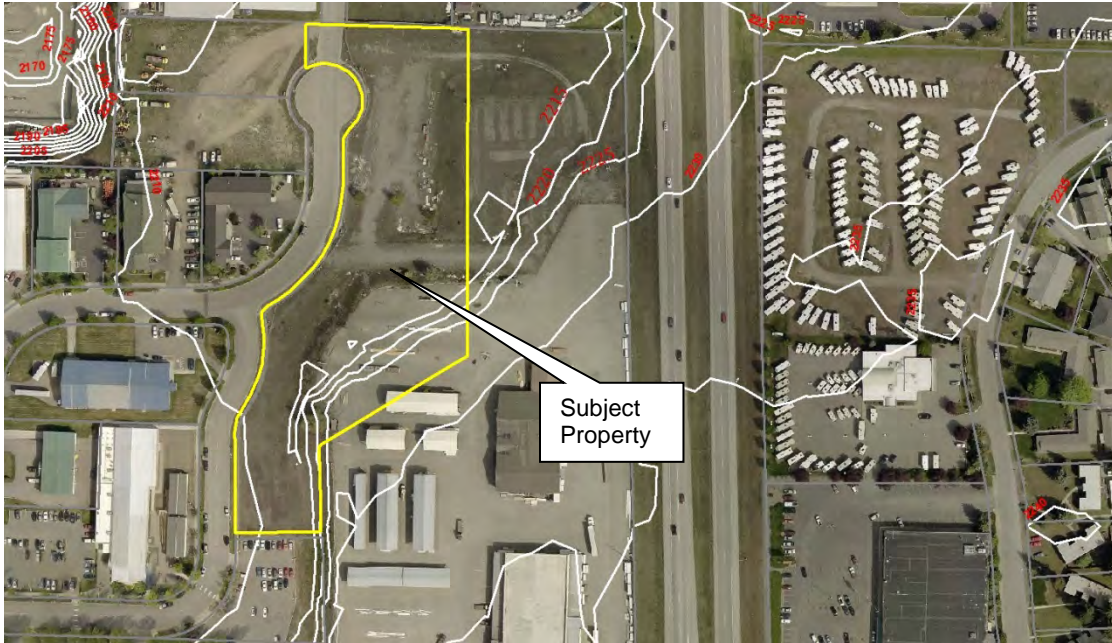
Evaluation: The City Council must determine, based on the information before them, whether or not the public facilities and utilities are adequate for the request.

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

PHYSICAL CHARACTERISTICS:

The site is generally flat with an approximate 15 foot drop in elevation towards the north and west part of the property. There are no topographical or physical constraints that would make the subject property unsuitable to change the zoning from LM to C-17.

TOPOGRAPHIC MAP:



SITE PHOTO - 1: Center portion of property looking north.



SITE PHOTO - 2: Center portion of property looking south.



SITE PHOTO - 3: Northeast portion of property looking west.



SITE PHOTO - 4: Northwest portion of property looking southeast.



SITE PHOTO - 5: Northwest portion of property looking south.



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:

Without a defined use for the subject property, approximate traffic generation cannot be estimated. However, the change from a LM zone use to a C-17 zone use at this location is expected to be minor in terms of the amount of vehicle traffic generated. The subject property is currently adjacent to C-17 zoned property. Depending on the ultimate placement and design of the site access points, the adjacent roadway (Kathleen Avenue) will accommodate traffic generated through the proposed zone change on the subject property. This will be addressed through the building permit process at the time of development.

-Submitted by Chris Bosley, City Engineering

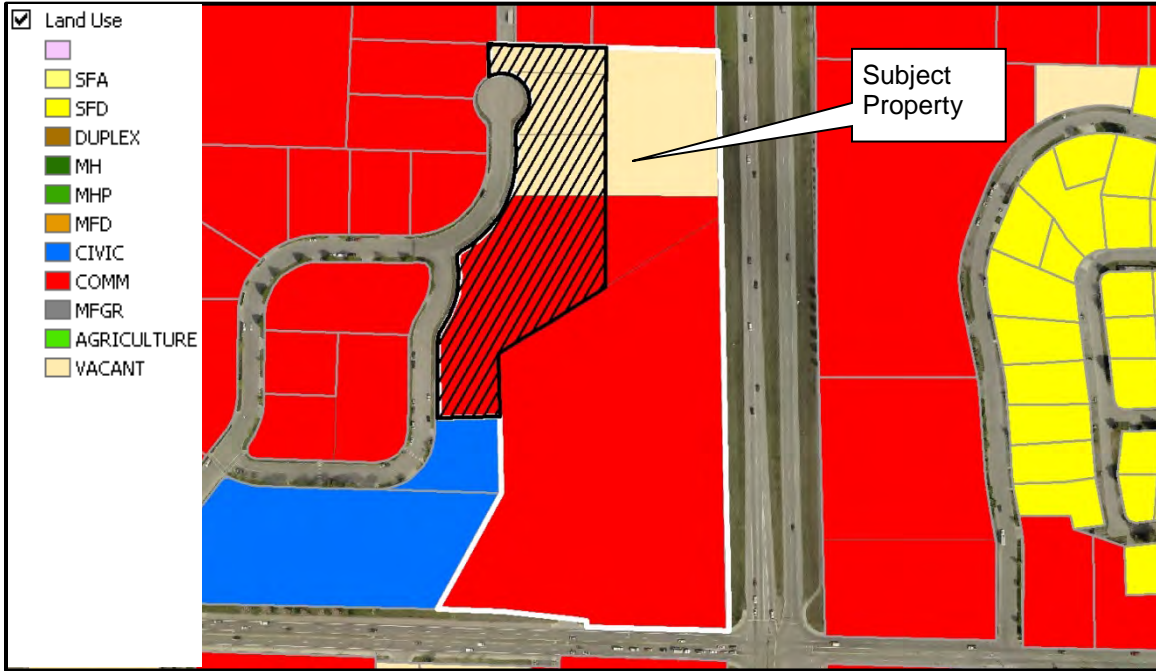
NEIGHBORHOOD CHARACTER: 2007 Comprehensive Plan: US 95 Corridor Today US Highway 95 has become a high impact gateway into the community as well as the major north-south highway through north Idaho. It is also the main arterial that connects communities to the north of Coeur d'Alene to I-90 and is the state's principal route to Canada. Northwest Boulevard and I-90 are major intersections within city limits. Large scale native trees along this corridor help to offset the negative impacts associated with a major thoroughfare. Presently the highway is a bottleneck for both local and through traffic.

SURROUNDING LAND USES AND ZONING:

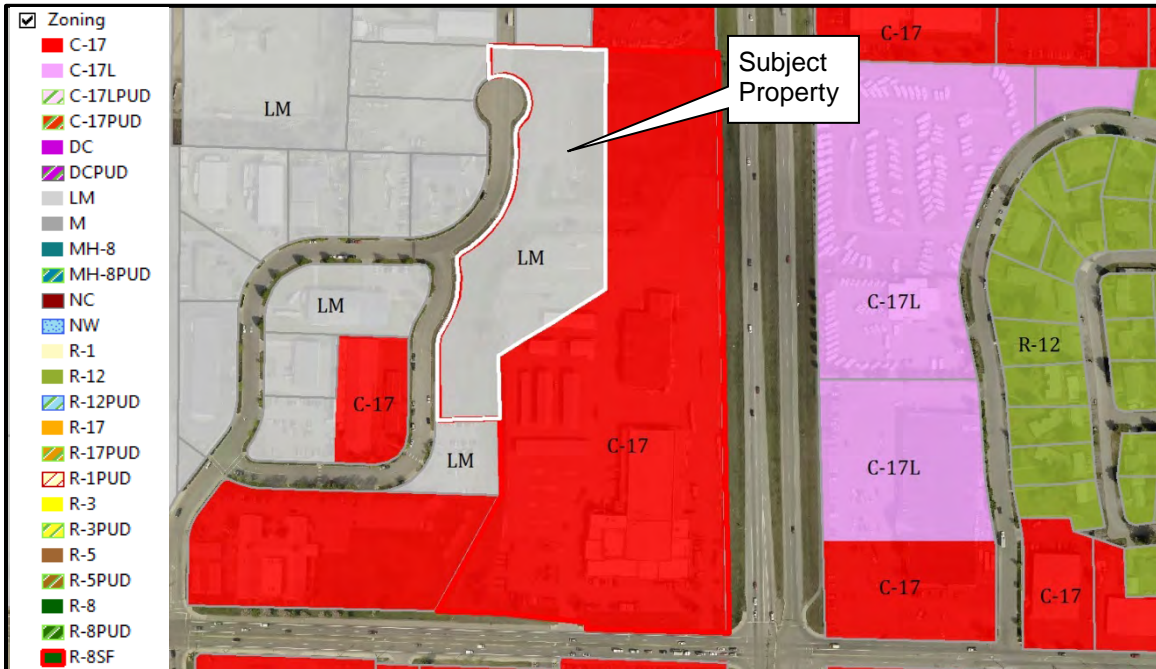
The properties to the north of the subject site have commercial uses. The properties to the west also have commercial uses located on them. The properties to the south are used as an elementary school and a parking lot for the school. The property to the east is used for commercial retail sales as a building supply facility which is part of the larger parcel that the subject site is part of. (See Land Use Map on page 13)

The properties to the north of the subject site are zoned LM and C-17 Commercial. The properties to the west of the subject site are zoned LM and C-17 Commercial. The property to the east is zoned C-17 Commercial. The property to the south is zoned LM. (See Zoning Map on page 13)

GENERALIZED LAND USE PATTERN:



ZONING MAP:



Approval of the zone change request would allow the uses by right to change from LM uses to C-17 uses (as listed below).

Existing LM Zoning District:

The LM district is intended to include manufacturing, warehousing, and industry that is conducted indoors with minimal impact on the environment. This district should be located close to major or principal arterials and is suitable as a buffer zone for heavy industry. In this district, development of manufacturing land uses in an industrial park and away from residential or sensitive areas is encouraged.

Principal permitted uses in an LM district shall be as follows:

- Agricultural supplies and commodity sales.
- Auto and accessory sales.
- Automobile parking.
- Automobile parking when serving an adjacent business.
- Automobile renting.
- Automotive fleet storage.
- Automotive repair and cleaning.
- Building maintenance service.
- Commercial film production.
- Commercial kennel.
- Construction and retail sales.
- Custom manufacture.
- Essential service.
- Farm equipment sales.
- Finished goods wholesale.
- General construction service.
- Laundry service.
- Light manufacture.
- Ministorage facilities.
- Unfinished goods wholesale.
- Veterinary hospital.
- Warehouse/storage.
- Wholesale bulk liquid fuel storage

Permitted uses by special use permit in an LM district shall be as follows

- Administrative offices.
- Adult entertainment.
- Banks and financial establishments.
- Business supply retail sales.
- Business support service.
- Commercial recreation.
- Communication service.
- Consumer repair service.
- Convenience sales.
- Convenience service.
- Criminal transitional facility.
- Department stores.
- Extensive impact.
- Extractive industry.
- Finished goods retail.
- Food and beverage stores
- Funeral service.
- Group assembly.
- Home furnishing retail sales.
- Hotel/motel.
- Personal service establishments.
- Professional offices.
- Retail gasoline sales.
- Specialty retail sales.
- Veterinary office or clinic.
- Wireless communication facility.

Proposed C-17 Zoning District:

The C-17 district is intended as a broad spectrum commercial district that permits limited service, wholesale/retail and heavy commercial in addition to allowing residential development at a density of seventeen (17) units per gross acre. This district should be located adjacent to arterials; however, joint access developments are encouraged.

Principal permitted uses in a C-17 district shall be as follows:

- Administrative offices.
- Agricultural supplies and commodity sales.
- Automobile and accessory sales.
- Automobile parking when serving an adjacent business or apartment.
- Automobile renting.
- Automobile repair and cleaning.
- Automotive fleet storage.

- Automotive parking.
- Banks and financial institutions.
- Boarding house.
- Building maintenance service.
- Business supply retail sales.
- Business support service.
- Childcare facility.
- Commercial film production.
- Commercial kennel.
- Commercial recreation.
- Communication service.
- Community assembly.
- Community education.
- Community organization.
- Construction retail sales.
- Consumer repair service.
- Convenience sales.
- Convenience service.
- Department stores.
- Duplex housing (as specified by the R-12 district).
- Essential service.
- Farm equipment sales.
- Finished goods wholesale.
- Food and beverage stores
- Funeral service.
- General construction service.
- Group assembly.
- Group dwelling - detached housing.
- Handicapped or minimal care facility.
- Home furnishing retail sales.
- Home occupations.
- Hospitals/healthcare.
- Hotel/motel.
- Juvenile offenders facility.
- Laundry service.
- Ministorage facilities.
- Multiple-family housing (as specified by the R-17 district).
- Neighborhood recreation.
- Noncommercial kennel.
- Nursing/convalescent/rest homes for the aged.
- Personal service establishments.
- Pocket residential development (as specified by the R-17 district).
- Professional offices.
- Public recreation.
- Rehabilitative facility.
- Religious assembly.
- Retail gasoline sales.
- Single-family detached housing (as specified by the R-8 district).
- Specialty retail sales.
- Veterinary office

Permitted uses by special use permit in a C-17 district shall be as follows:

- Adult entertainment sales and service.
- Auto camp.
- Criminal transitional facility.
- Custom manufacturing.
- Extensive impact.
- Residential density of the R-34 district
- Underground bulk liquid fuel storage
- Veterinary hospital.
- Warehouse/storage.
- Wireless communication facility

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:

1. All proposed utilities within the project shall be installed underground.
2. All water and sewer facilities shall be designed and constructed to the requirements of the City of Coeur d'Alene. Improvement plans conforming to City guidelines shall be submitted and approved by the City Engineer prior to construction.
3. All water and sewer facilities servicing the project shall be installed and approved prior to issuance of building permits.

STREETS:

4. Street improvement plans conforming to City guidelines shall be submitted and approved by the City Engineer prior to construction.
5. All required street improvements shall be constructed prior to issuance of, or, in conjunction with, building permits.
6. An encroachment permit is required to be obtained prior to any work being performed in the existing right-of-way.

STORMWATER:

7. 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.

PROPOSED CONDITIONS:

None

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 will need to consider this request and make separate findings to approve, deny or deny without prejudice.

HWY 95 & KATHLEEN AVE ZONE CHANGE REQUEST

PROJECT NARRATIVE

Coeur d'Alene, Idaho

April 3, 2017



*3909 N. Schreiber Way, Suite 4
Coeur d'Alene, Idaho 83815
Phone/Fax: 208-676-0230*

INTRODUCTION

The project proponent, Confluent Development, LLC through its project representative Lake City Engineering, Inc., is requesting a change to the zoning designation for approximately 4.1 acres from LM (Light Manufacturing) to C-17 (Commercial). The subject parcel is currently split-zoned, with a small portion being LM and the remainder being C-17. The property is located at the northwest corner of the intersection of US Highway 95 and Kathleen Avenue, and is presently the home to Stock Building Supply. It is bordered on the South by Kathleen Avenue, the East by US Highway 95, and the West by Building Center Drive and Duncan Drive.

SUBJECT PARCEL

The property being requested for a zone change is shown below in Figure 1 and is as follows:

Parcel No:	C-0350-001-010-A
Total Area:	15.8 acres
LM Zone Area:	4.1 acres
C-17 Zone Area:	11.7 acres
Address:	505 W. Kathleen Avenue Coeur d'Alene, Idaho 83815
Current Owner:	Stock Building Supply West, Inc. PO Box 52427 Atlanta, GA 30355
Contract Buyer:	Confluent Development, LLC 2240 Blake Street Denver, CO 80205
Applicant:	Lake City Engineering, Inc. 3909 N. Schreiber Way, Suite 4 Coeur d'Alene, Idaho 83815

EXISTING CONDITIONS

There is a large commercial building/warehouse, several outbuildings and outdoor lumber storage currently on the southern two-thirds of the subject property, and the northern one-third is vacant. Access to the subject property is from two entrances located on Kathleen Avenue. Domestic water and sanitary sewer services are both provided by the City of Coeur d'Alene. The existing site conditions are shown below in Figure 1.



Figure 1: Existing Conditions

ZONING CLASSIFICATION

The property is currently zoned LM and C-17 within the City of Coeur d'Alene. The surrounding properties to the South and North are zoned C-17, and to the West is zoned LM. The current uses on the property are in conformance with both the LM and C-17 zones; however, the applicant is requesting that the portion of the subject property zoned LM be changed to C-17 to be consistent with the remainder of the property. Figure 2 shows the current zoning classifications of the subject property.

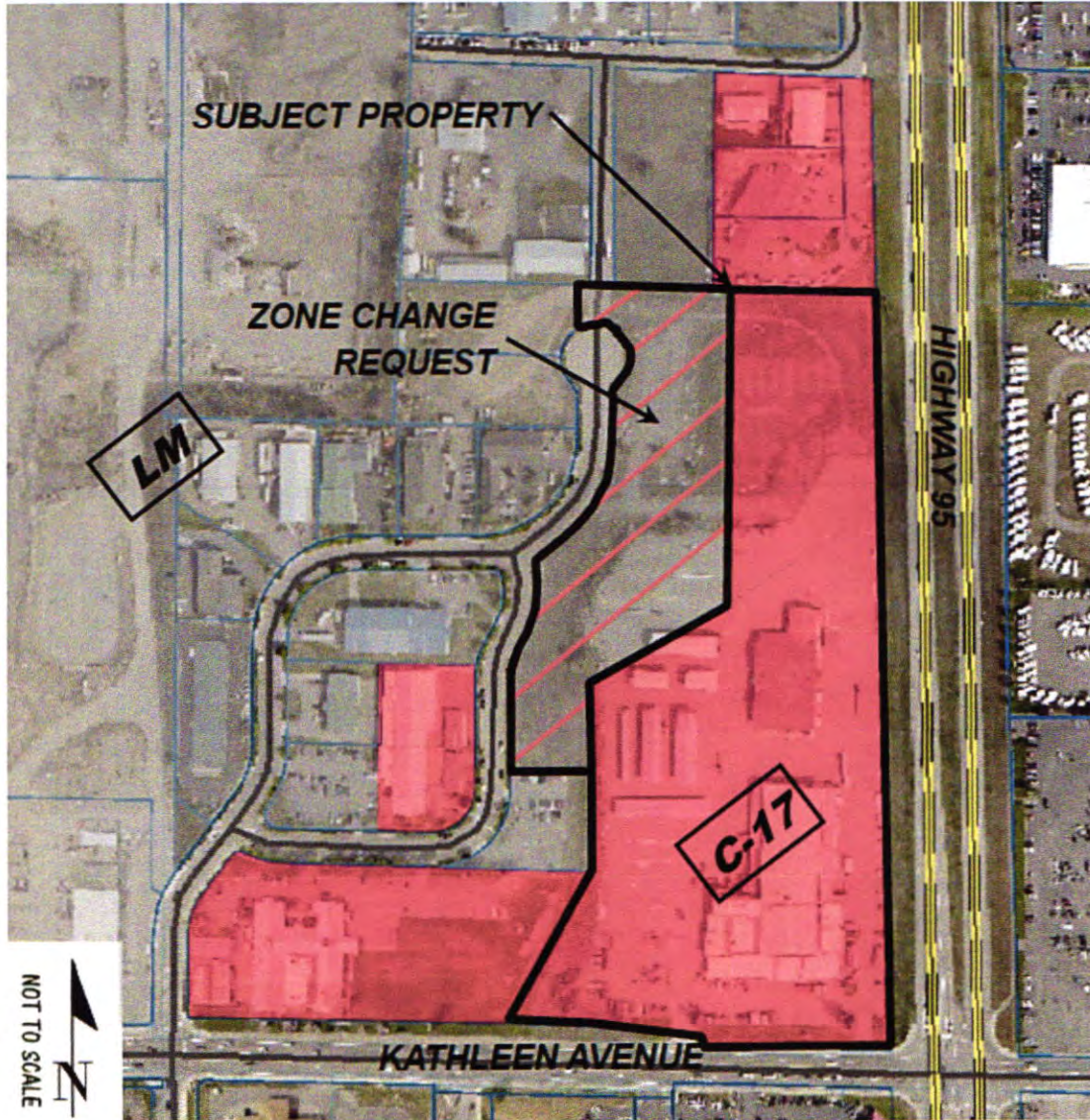


Figure 2: Zoning Map

COMPREHENSIVE PLAN ANALYSIS

The City of Coeur d'Alene Comprehensive Plan identifies the subject property as being in the *Transition* Land Use category, while lying in both the *US 95 Corridor* and the *Ramsey-Woodland* specific areas. By definition, the *Transition* area is where the neighborhood is in transition and should be developed with care, and the street network, number of building lots, and general land use are expected to change. The proposed zoning of C-17 would be consistent with the Comprehensive Plan.

The City of Coeur d'Alene Comprehensive Plan is the guiding document for all land use development decisions. It is important that land use decisions meet and/or exceed the goals,

policies and objectives as outlined in the Comprehensive Plan. The project proponent believes that the following Goals and Objectives (shown in *italics*) as outlined in the Comprehensive Plan are applicable to the requested annexation and zone classification:

Objective 1.12 - Community Design: Support the enhancement of existing urbanized areas and discourage sprawl.

The subject property is currently partially developed and is located in the central part of the City adjacent to a major thoroughfare. The proposed zone change will allow for the development of this property to match that of the surrounding land uses.

Objective 1.14 - Efficiency: Promote the efficient use of existing infrastructure, thereby reducing impacts to undeveloped areas.

Existing utilities including sanitary sewer and domestic water are currently extended to this property in Kathleen Avenue and Building Center Drive. These utilities are readily available and have the capacity to serve future development. This property is already included in the Sewer, Water and Transportation Master Plans for the City, and will be developed in accordance with the same.

Objective 2.01 - Business Image & 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.

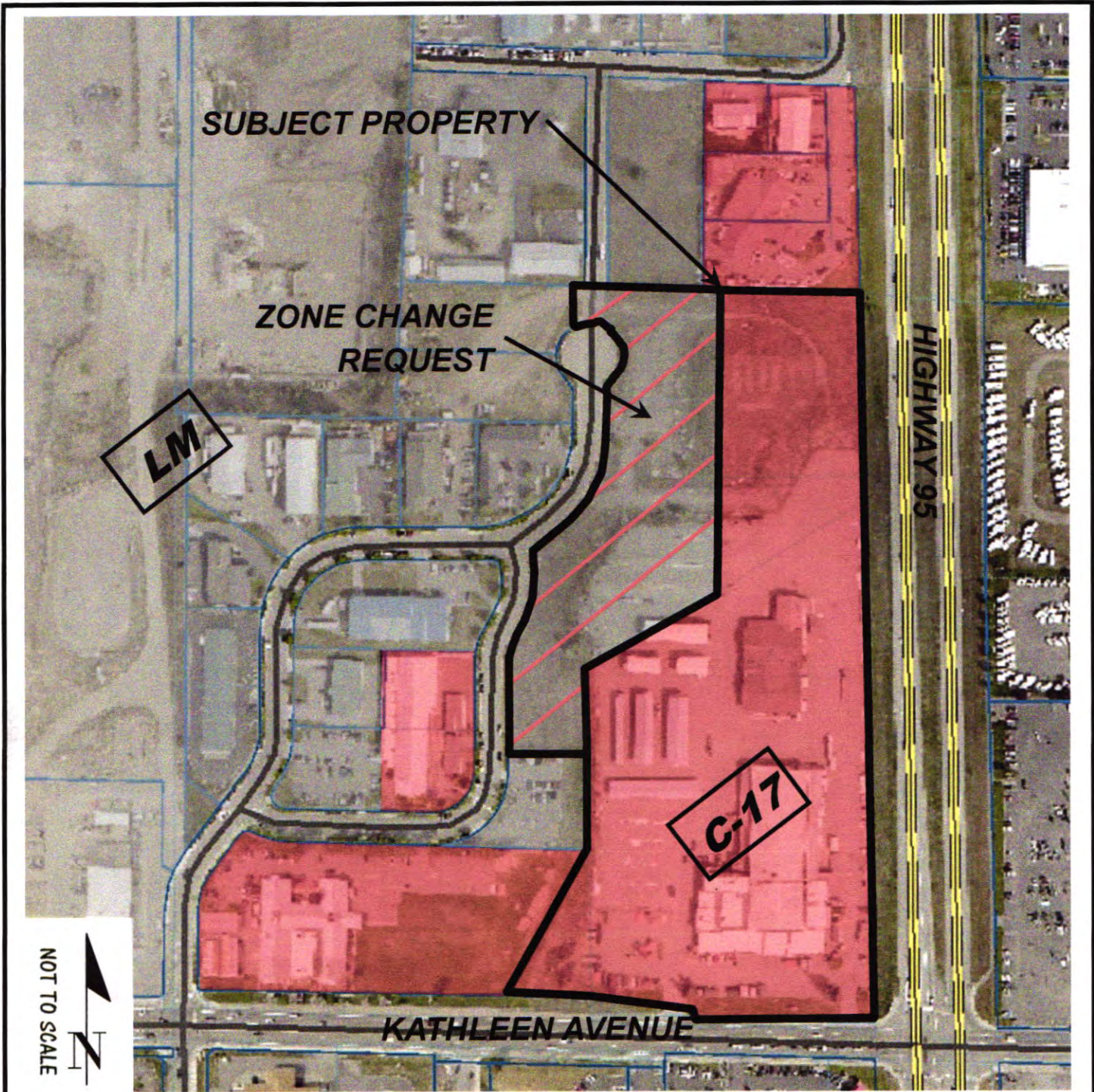
This zone change would allow for future commercial growth in this area and development of the subject property to its highest and best use. The surrounding land uses are generally in conformance and compatible with the proposed C-17 zoning designation.

Objective 2.02 - Economic & Workforce Development: Plan suitable zones and mixed use areas, and support local workforce development and housing to meet the needs of business and industry.

The re-development of this property within the C-17 zone would create additional jobs and workforce while meeting the needs of local business and industry.

Objective 4.02 - City Services: Provide quality services to all of our residents (potable water, sewer and stormwater systems, street maintenance, fire and police protection, street lights, recreation, recycling, and trash collection).

The subject property is currently served by City Services that have adequate capacity and willingness to serve future growth due to the proposed zone change.



C-17 COMMERCIAL



LM LIGHT MANUFACTURING



3909 N. SCHREIBER WAY, STE 4
 COEUR D'ALENE, IDAHO 83815
 208.676.0230

ZONE CHANGE REQUEST

HWY 95 & KATHLEEN AVENUE

DRAFTED BY: DCD

SCALE: DCD

DATE: 03/29/17

JOB NO: 17-034

FILE: 17-034/.ZONECHANGEEXHIBIT.PDF

2. Applicant: Lake City Engineering, LLC.
Location: 505 W. Kathleen Avenue
Request: A proposed zone change from LM (Light Manufacturing) to C-17 (Commercial at 17 units/acre) zoning district.
QUASI-JUDICIAL, (ZC-1-17)

Mike Behary, Planner, presented the staff report and stated that Confluent Development, LLC is requesting approval of a zone change from LM (Light Manufacturing) to C-17 (Commercial at 17 units/acre) zoning district.

Mr. Behary provided the following statements:

- The property is located on the northwest corner of US Highway 95 and Kathleen Avenue. Coeur d'Alene Charter Academy School is located southwest of the subject site.
- There is an existing retail sales facility on the subject site and the property has been used for retail sales of building supplies for many years.
- The northern and northwestern portions of the property at 505 W. Kathleen Avenue are currently undeveloped.
- In 1983, the City of Coeur d'Alene applied for a large area of land to be annexed into the City in conjunction with zoning in Item ZC-11-83A.
- The total land area that was annexed consisted of 680 acres. The annexation and zoning request was approved by City Council on September 20, 1983. This subject site was just a small portion of the land that was annexed into the City at that time.
- As part of the designation of zoning for the property, two different zoning districts (C-17 and LM) were assigned to the site. The property has had split zoning since 1983.
- The majority of the property is zoned C-17 and the smaller portion is zoned LM. There is a total of 11.7 acres that is zoned C-17 with 4.1 acres zoned LM on this property. The applicant has indicated they would like to correct the split zoning issue with this parcel and to have one uniform zoning district over the entire parcel.
- The applicant has indicated they envision some type of retail use that will be located at this site.
- He showed a copy of the site location on a map and various photos of the property.
- He noted the various zone changes that were approved around this property.
- The Comprehensive Plan designates this area as Transition.
- He went through the required findings for this project.
- He noted that on page 8 of the staff report are comments from various City Departments.
- He showed a map of the various land uses surrounding this property and noted constraints.
- He stated that there are no conditions.
- Mr. Behary concluded his presentation and asked if the commission had any questions.

Commission Comments:

There were no questions for staff.

Public Testimony open.

Drew Dittman, applicant representative, provided the following statements:

- This is a request to rezone the property from LM to Commercial.
- He showed a photo of the building and noted that it's the former Stock Building at the corner of Kathleen and 95.
- He explained that this is a 16 acre parcel with 4 acres zoned LM and is asking for the zone change more for "housekeeping" so the entire parcel is zoned C-17.
- He feels that C-17 is the appropriate zone since this parcel is surrounded by commercial properties.
- Mr. Dittman concluded his presentation and asked if the commission had any questions.

There were no questions for the applicant.

Public Testimony closed.

Discussion:

Motion by Ingalls, seconded by Fleming, to approve Item ZC-1-16. Motion approved.

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

A. INTRODUCTION:

This matter having come before the Planning Commission on May 9, 2017, and there being present a person requesting approval of a zone change from LM (Light Manufacturing) to C-17 zoning district

APPLICANT: CONFLUENT DEVELOPMENT, LLC

LOCATION: +/- 4.1 ACRE PART OF PARCEL LOCATED AT 505 W. KATHLEEN AVENUE

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

- B1. That the existing land uses are Commercial and Residential.
- B2. That the Comprehensive Plan Map designation is Transition.
- B3. That the zoning is LM.
- B4. That the notice of public hearing was published on April 22, 2017, which fulfills the proper legal requirement.
- B5. That the notice of public hearing was posted on the property on April 25, 2017, 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 May 9, 2017.
- B8. That this proposal is in conformance with the Comprehensive Plan policies as follows:
 - Objective 1.14 - Efficiency: Promote the efficient use of existing infrastructure, thereby reducing impacts to undeveloped areas.
 - Objective 2.01 – Business Image & Diversity: Welcome and support a diverse mix of quality professional, trade, business, and services industries, while protecting existing uses of these types from encroachment by incompatible land uses.
 - Objective 4.01 - City Services: Make decisions based on the needs and desires of the citizenry.
- B9. That public facilities and utilities are available and adequate for the proposed use. This is based on information in the staff report.

- B10. That the physical characteristics of the site do make it suitable for the request at this time based on the applicants testimony.
- B11. That the proposal would not adversely affect the surrounding neighborhood in regards to traffic, neighborhood character, or existing land uses because the applicant intends to clean up the property and that there was no public testimony that disapproved.

C. ORDER: CONCLUSION AND DECISION

The Planning Commission, pursuant to the aforementioned, finds that the request of CONFLUENT DEVELOPMENT, LLC for a zone change, as described in the application should be approved.

Special conditions applied are as follows:

None.


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

ROLL CALL:

Commissioner Fleming	Voted Yes
Commissioner Ingalls	Voted Yes
Commissioner Luttrupp	Voted Yes
Commissioner Mandel	Voted Yes

Commissioner Ward and Rumpler were absent.

Motion to approve carried by a 4 to 0 vote.


CHAIRMAN TOM MESSINA

City Council Meeting



June 20, 2017

ZC-1-17 Zone change from LM to C-17
505 W Kathleen +/- 4.1 Acres

APPLICANT:

Confluent Development, LLC
2240 Blake Street, Suite 200
Denver, CO 80205

REQUEST:

Zone change from LM (Light Manufacturing) to C-17
(Commercial at 17 units/acre) zoning district.



ZC-1-17 Zone change from LM to C-17
505 W Kathleen +/- 4.1 Acres

LOCATION:

Property is located at 505 W Kathleen Avenue

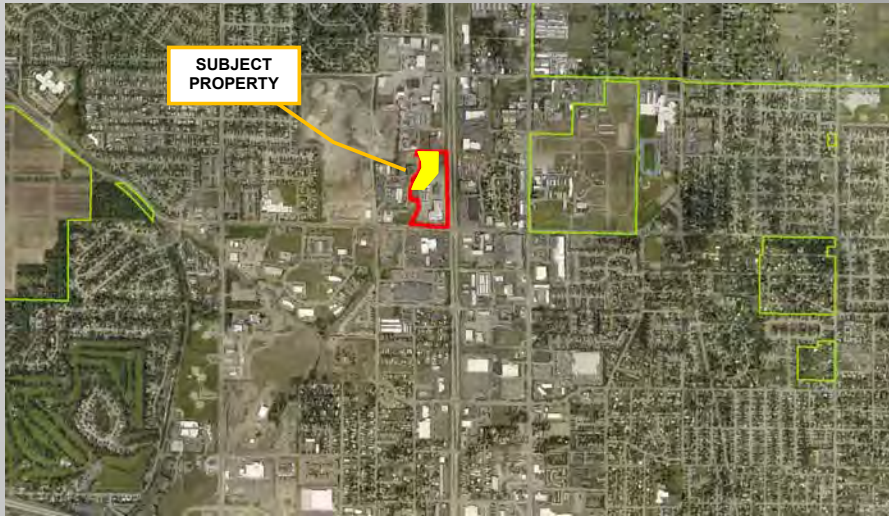
LEGAL NOTICE:

Published in the CDA Press on June 3, 2017



ZC-1-17 Zone change from LM to C-17
505 W Kathleen +/- 4.1 Acres

Location Map



ZC-1-17 Zone change from LM to C-17
505 W Kathleen +/- 4.1 Acres

Aerial Photo



ZC-1-17 Zone change from LM to C-17
505 W Kathleen +/- 4.1 Acres

Birds Eye - View



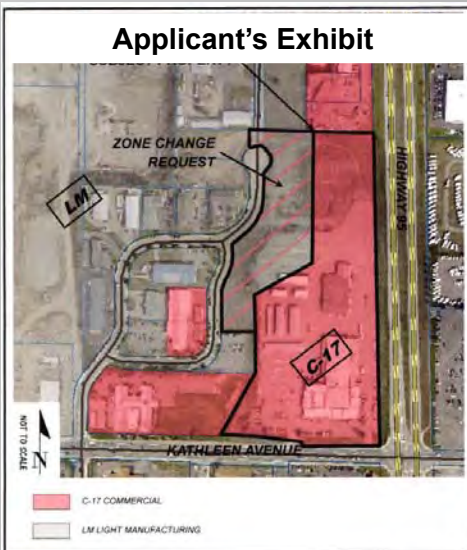
ZC-1-17 Zone change from LM to C-17
505 W Kathleen +/- 4.1 Acres

Birds Eye - View



ZC-1-17 Zone change from LM to C-17
505 W Kathleen +/- 4.1 Acres

Applicant's Exhibit



ZC-1-17 Zone change from LM to C-17
505 W Kathleen +/- 4.1 Acres

Finding #B8:

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

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.

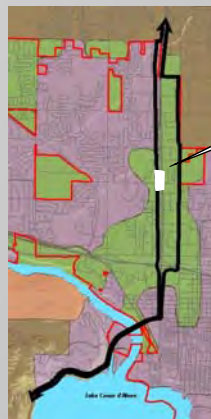
Finding #B11:

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

ZC-1-17 Zone change from LM to C-17
505 W Kathleen +/- 4.1 Acres

Finding #B8:

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



2007 Comprehensive Plan:

US 95 Corridor

Legend
City Land Use Categories
by color:

- Stable established
- Transition
- Urban reserve



ZC-1-17 Zone change from LM to C-17
505 W Kathleen +/- 4.1 Acres

COMPREHENSIVE PLAN OBJECTIVES:

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 3.16 Public Safety:

Ensure infrastructure and essential services are available for properties in development.



ZC-1-17 Zone change from LM to C-17
505 W Kathleen +/- 4.1 Acres

Finding #B9:

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

- City staff from Engineering, Streets, Water, Fire, Parks, and Wastewater Departments have reviewed the application request in regards to public utilities and public facilities.
- Each department has indicated that there are adequate public facilities and public utilities available to serve the proposed request.
- No objection to this zone change request as proposed.



ZC-1-17 Zone change from LM to C-17
505 W Kathleen +/- 4.1 Acres

Finding #B10:

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

PHYSICAL CHARACTERISTICS:

The site is generally flat with an approximate 15 foot drop in elevation towards the north and west part of the property. There are no topographical or physical constraints that would make the subject property unsuitable to change the zoning from LM to C-17.



ZC-1-17 Zone change from LM to C-17
505 W Kathleen +/- 4.1 Acres

Topographic Map



ZC-1-17 Zone change from LM to C-17
505 W Kathleen +/- 4.1 Acres

Site Photo - 1



ZC-1-17 Zone change from LM to C-17
505 W Kathleen +/- 4.1 Acres

Site Photo - 2



ZC-1-17 Zone change from LM to C-17
505 W Kathleen +/- 4.1 Acres

Site Photo - 3



ZC-1-17 Zone change from LM to C-17
505 W Kathleen +/- 4.1 Acres

Site Photo - 4



ZC-1-17 Zone change from LM to C-17
505 W Kathleen +/- 4.1 Acres

Site Photo - 5



ZC-1-17 Zone change from LM to C-17
505 W Kathleen +/- 4.1 Acres

Finding #B11:

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

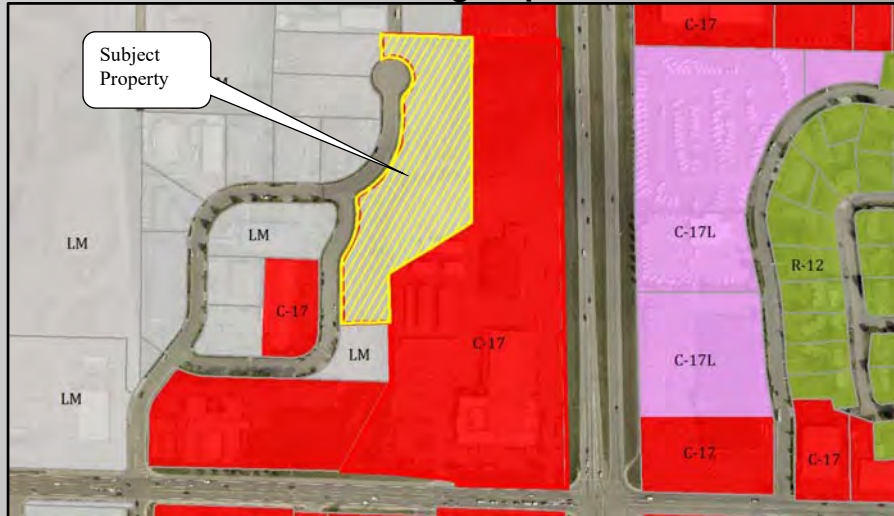
Traffic:

Without a defined use for the subject property, approximate traffic generation cannot be estimated. However, the change from a LM zone use to a C-17 zone use at this location is expected to be minor in terms of the amount of vehicle traffic generated. The subject property is currently adjacent to C-17 zoned property. Depending on the ultimate placement and design of the site access points, the adjacent roadway (Kathleen Avenue) will accommodate traffic generated through the proposed zone change on the subject property. This will be addressed through the building permit process at the time of development.

-Submitted by Chris Bosley, City Engineer

ZC-1-17 Zone change from LM to C-17
505 W Kathleen +/- 4.1 Acres

Zoning Map



ZC-1-17 Zone change from LM to C-17
505 W Kathleen +/- 4.1 Acres

Proposed C-17 Zoning District:

The C-17 district is intended as a broad spectrum commercial district that permits limited service, wholesale/retail and heavy commercial in addition to allowing residential development at a density of seventeen (17) units per gross acre.

This district should be located adjacent to arterials; however, joint access developments are encouraged.



ZC-1-17 Zone change from LM to C-17
 505 W Kathleen +/- 4.1 Acres

The following is a list of a few of the Principal uses that are permitted in the C-17 district:

- Administrative offices.
- Automobile sales.
- Banks and financial institutions.
- Business supply retail sales.
- Business support service.
- Commercial kennel.
- Department stores.
- Farm equipment sales.
- Food and beverage stores
- General construction service.
- Home furnishing retail sales.
- Hospitals/healthcare.
- Hotel/motel.
- Juvenile offenders facility.
- Ministorage facilities.
- Professional offices.
- Retail gasoline sales.
- Specialty retail sales.
- Veterinary office



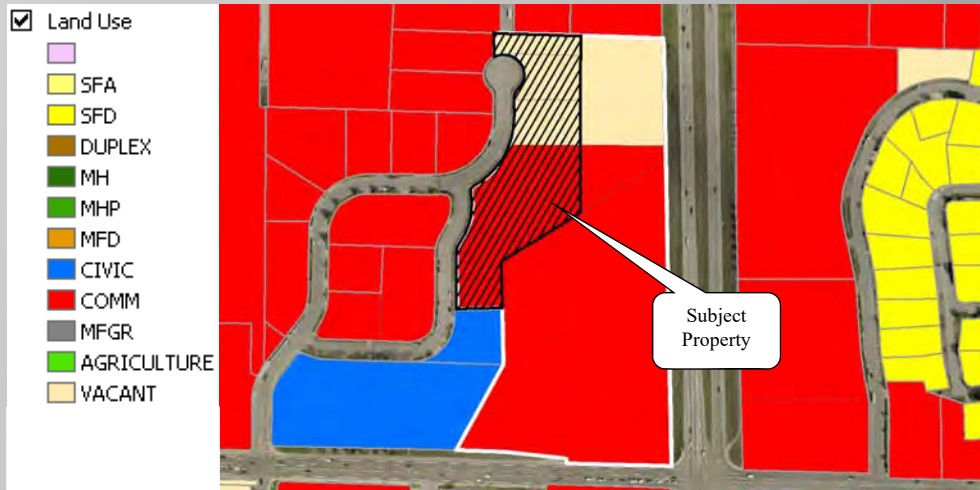
ZC-1-17 Zone change from LM to C-17
 505 W Kathleen +/- 4.1 Acres

Zone Changes - Map



ZC-1-17 Zone change from LM to C-17
505 W Kathleen +/- 4.1 Acres

Land Use Map



ZC-1-17 Zone change from LM to C-17
505 W Kathleen +/- 4.1 Acres

DECISION POINT: Zone Change

Consider the requested zone change from LM (Light Manufacturing) to C-17 (Commercial at 17 units/acre) on approximately 4.1 acres.



ZC-1-17 Zone change from LM to C-17
505 W Kathleen +/- 4.1 Acres

ACTION ALTERNATIVES:

The City Council will need to consider this request and make appropriate findings to:

- Approve
- Deny
- Deny without prejudice.



ZC-1-17 Zone change from LM to C-17
505 W Kathleen +/- 4.1 Acres



**CITY COUNCIL
STAFF REPORT**

DATE: June 20, 2017

FROM: Mike Gridley – City Attorney

SUBJECT: Franchise Agreement with Newmax, LLC dba Intermax Networks

DECISION POINT:

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

HISTORY:

Intermax is a local company based in Coeur d'Alene. Intermax has approached the city to obtain a franchise agreement that would allow Intermax to construct and maintain a fiber optic telecommunications system in the city's rights of way. The requirements of the proposed franchise agreement with Intermax are similar to those in other city franchise agreements with Fatbeam, Time-Warner, Avista and others. The proposed franchise would be for 10 years.

FINANCIAL ANALYSIS:

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

PERFORMANCE ANALYSIS:

The addition of Intermax cable to Coeur d'Alene may increase competition among telecom providers and ISP's which could benefit citizens by lowering the cost of telecommunications services and providing greater access to the Internet. The franchise agreement also provides for a fee that may generate significant revenue to the city over time.

DECISION POINT/RECOMMENDATION:

City Council should approve the 10 year franchise agreement with Newmax, LLC dba Intermax Networks.

ORDINANCE NO. ____
COUNCIL BILL NO. 17-1026

AN ORDINANCE OF THE CITY OF COEUR D'ALENE, IDAHO, GRANTING A NON-EXCLUSIVE FRANCHISE TO NEWMAX, LLC, DBA INTERMAX NETWORKS ("INTERMAX"), TO CONSTRUCT, OPERATE AND MAINTAIN A FIBER-OPTIC TELECOMMUNICATIONS SYSTEM, WITH ALL NECESSARY FACILITIES, WITHIN THE CITY OF COEUR D'ALENE, IDAHO (THE "CITY"); SETTING FORTH PROVISIONS, TERMS AND CONDITIONS ACCOMPANYING THE GRANT OF THIS FRANCHISE; PROVIDING FOR CITY REGULATION OF CONSTRUCTION, OPERATION, MAINTENANCE AND USE OF THE TELECOMMUNICATIONS SYSTEM; PRESCRIBING PENALTIES FOR THE VIOLATIONS OF ITS PROVISIONS; AND SETTING AN EFFECTIVE DATE.

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

SECTION 1 - DEFINITIONS

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

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

1.2 "City" shall mean City of Coeur d'Alene, Idaho, and all the incorporated territory within as of the effective date of this Franchise and any other areas later added thereto by annexation or other means.

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

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

1.5 "Days" shall mean calendar days.

1.6 "Facility(ies)" means all wires, lines, cables, towers, antenna, conduits, equipment and supporting structures, and/or any other tangible component of INTERMAX's Telecommunications System, located in the City's rights-of-way, utilized by INTERMAX in the operation of activities authorized by this Franchise. The abandonment by INTERMAX of any Facilities as defined herein shall not act to remove the same from this definition.

1.7 "FCC" shall mean the Federal Communications Commission.

1.7a Fiber-optic communication is a method of transmitting information from one place to another by sending pulses of light through an optical fiber. The light forms an electromagnetic carrier wave that is modulated to carry information. (source of definition Wikipedia)

1.8 "Franchise" shall mean the right granted by the Franchise Ordinance and conditioned as set forth herein by which the City authorizes INTERMAX to erect, construct, reconstruct, operate, dismantle, test, use and maintain a Telecommunications System in the City. The franchise granted herein shall be a non-exclusive franchise.

1.9 "Franchise Service Area" shall mean that area within the incorporated City limits in which INTERMAX shall extend its services.

1.10 "Grantee" shall refer to, as incorporated or used herein, Newmax, LLC, dba Intermax Networks.

1.11 "Gross Operating Revenues" shall have a meaning consistent with any existing or future City Code. Gross Operating Revenues shall include compensation in whatever form, from any source, directly earned by INTERMAX or any affiliate of INTERMAX or any other person who would constitute an operator of INTERMAX's Telecommunications System under applicable local, state and/or federal law, derived from the provision of Telecommunications Services on the Fiber-optic system originating or terminating in the City and/or charged to a circuit location in the City regardless of where the circuit is billed or paid.

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

1.13 "Permittee" means any person who has been granted a permit by the assigned permitting authority.

1.14 "Permitting Authority" means the head of the City division or department authorized to process and grant permits required to perform work in the City's rights-of-way, or the head of any agency authorized to perform this function on the City's behalf. Unless

otherwise indicated, all references to the Permitting Authority shall include the designee of the department, division or agency head.

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

1.16 "Penalties" means any and all monetary penalties provided for in this Franchise.

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

1.18 "Street" or "Streets" shall mean the surface of and the space above and below the right-of-way of any public street, road, highway, freeway, easement, lane, path, alley, court, sidewalk, parkway or driveway now or hereafter existing as such within all incorporated areas of the City.

1.19 "Telecommunications Services" shall mean:

A. Services interconnecting interexchange carriers, competitive carriers, and/or wholesale telecommunications providers for the services described in Section 1.12;

B. Services connecting interexchange carriers and/or competitive carriers to telephone companies providing local exchange services for the services described in Section 1.12;

C. Services connecting interexchange carriers or competitive carriers to any entity, other than another interexchange carrier, competitive carriers, or telephone company providing local exchange services for the services described in Section 1.12;

D. Services interconnecting any entities, other than interexchange carriers, competitive carriers, or telephone companies providing local exchange services for the services described in Section 1.12;

E. Other telecommunications services as authorized by the Federal Communications Commission or the Idaho Public Utilities Commission; and

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

1.20 "Telecommunications System" means all wires, cables, ducts, conduits, vaults, poles, towers, antenna, and other necessary Facilities owned or used by INTERMAX for the purpose of providing Telecommunications Services and located in, under and above the City streets and/or rights-of-way, excluding ducts, conduits and vaults leased from another City franchisee, licensee or permittee.

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

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

SECTION 2 - FRANCHISE

2.1 Grant of Franchise. The City hereby grants to Newmax, LLC, dba Intermax Networks, a non-exclusive franchise which authorizes INTERMAX, subject to the terms of the Franchise Ordinance, to construct a Telecommunications System and offer Telecommunications Services in, along, among, upon, across, above, over, under or in any matter connected with the rights-of-way located in the City and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain or retain in, on, over, under, upon, across or along any rights-of-way or extensions thereof and additions thereto, such poles, towers, antenna, wires, cables, conductors, ducts, conduits, vaults, utility access covers, pedestals, amplifiers, appliances, attachments and other related property or equipment as may be necessary or appurtenant to the Telecommunications System. Said franchise shall constitute both a right and an obligation to provide the services of a Telecommunications System as required by the provisions of this Ordinance.

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

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

2.4 Authority Granted.

A. Subject to local, state and federal law, this Franchise grants the authority, right and privilege to INTERMAX to operate and maintain a Telecommunications System including the lines, equipment, conduits, towers, antenna and other facilities necessary for the provision of Network Telephone Service, as defined in Section 1.12 of this Franchise and other Telecommunications Services as defined herein, in, upon, along, above, over and under the streets and rights-of-way in the City.

B. INTERMAX's right to operate and maintain its Telecommunications System is subject to the terms, conditions and requirements of the Franchise Ordinance, this Franchise and the City Charter and INTERMAX's right to construct, erect, install or modify its Telecommunications System is specifically subject to the requirement that INTERMAX obtain permits as set forth in this Franchise.

C. INTERMAX expressly acknowledges and agrees, by acceptance of this Franchise, that its rights under this Franchise are subject to the police power of the City to adopt and enforce general ordinances necessary to the safety, health and welfare of the public and INTERMAX agrees to comply with all such applicable general laws and ordinances enacted by the City pursuant to such police power. The City, by the granting of this Franchise, does not render or to any extent lose, waive, impair or lessen the lawful powers and rights now or hereafter vested in the City to regulate the use of its rights-of-way and tax, regulate or license the use thereof, and INTERMAX, by its acceptance of this Franchise, acknowledges and agrees that all lawful powers and rights, whether regulatory or otherwise, as are or may be from time to time vested in or reserved to the City, shall be in full force and effect and INTERMAX shall be subject to the exercise thereof by the City at any time.

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

E. In return for promises made and subject to the stipulations and conditions stated herein, the City grants to INTERMAX permission to use the City's rights-of-way to provide Telecommunications Services to persons within the Franchise Service Area. To the extent of the City's interests, permission is similarly granted to INTERMAX to use areas outside the City's rights-of-way, which are reserved by regulation, practice or dedication for public telephone utilities, but in such areas, INTERMAX's use is also subject to conditions now or hereafter recognized by the City as generally applicable to telecommunications or underground conduit utilities.

2.5 Limits on Permission.

A. As used in Section 2.4, E, "Telecommunications Services" means such services as those defined in Section 1.19 of this Franchise provided by INTERMAX to persons within the City. Permission is not granted to use the City rights-of-way for any other purpose, including but not limited to providing cable television service as defined in 47 USC § 522 or distribution of multi-channel video programming or any other video programming. INTERMAX stipulates that this Franchise extends no such rights or privileges for cable television services but shall permit internet data service which may include streaming services.

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

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

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

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

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

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

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

and waste water facilities and including constructing, altering, paving, widening, grading, or excavating such streets.

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

2.7 Periodic Public Review of Franchise.

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

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

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

D. After completion of each such review described herein, if the City is satisfied INTERMAX has substantially complied with this Franchise during the previous five years and is satisfied the public interest will be served by extending the term of this Franchise, it may, with the consent of INTERMAX, extend the term set forth in Section 2.2 of this Franchise by five additional years. .

2.8 Franchise Renewal or New Franchise.

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

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

2.9 Renegotiation. In the event that any provision of this Franchise becomes invalid or unenforceable and the City or INTERMAX expressly finds that such provision constituted a consideration material to entering into this Franchise, or in the event of significant change in the law regulating this Franchise or change in municipal authority to act under the terms of this Franchise, or in the event of significant change or advancement in technology governing INTERMAX's functions, the City and INTERMAX may mutually agree to renegotiate any or all of the terms of this Franchise. The party seeking renegotiation shall serve on the other party written notice of an offer to renegotiate. In the event the other party accepts the offer to renegotiate, the parties shall have one hundred twenty (120) days to conduct and complete the renegotiation. Nothing in this Franchise shall be construed to require acceptance by either the City or INTERMAX of an offer to renegotiate.

2.10 Revocation.

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

(1) The City determines INTERMAX is in violation of any material provision of this Franchise and fails to correct the violation after written notice of the violation and proposed forfeiture and a reasonable opportunity thereafter to correct the violation as noted in Section 9.2 of this Franchise; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Extend this Franchise, as provided for herein, for up to a total of five (5) years, though nothing in this provision shall be construed to require such extension;

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

(3) Invite additional franchise applications or proposals;

(4) Terminate this Franchise without further action; and

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

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

2.14 Survival of Terms. Sections 4.9, 6.3, 7 and 10 of this Franchise shall continue in effect as to INTERMAX notwithstanding any expiration, forfeiture or revocation of this Franchise.

SECTION 3 - ENFORCEMENT AND ADMINISTRATION BY THE CITY

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

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

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

- (1) It has relied upon its own investigation and understanding of the power and authority of the City to grant and enforce this Franchise and that it has no objection to the exercise of the City's power and authority therein;
- (2) It has not been induced to enter into this Franchise arrangement by any understanding or promise or other statement, whether verbal or written, by or on behalf of the City concerning any term or condition of this Franchise that is not specifically included herein;
- (3) It has carefully read the terms and conditions contained herein and INTERMAX is willing to and does accept all the obligations of such terms and conditions to the extent not inconsistent with state or federal law and further agrees that it will not set up as against the City any claim that any provision of this Franchise is unreasonable, arbitrary, invalid or void subject to its rights herein; and

(4) The matters contained in INTERMAX's application and all subsequent applications or proposals for renewals of this Franchise, and as stated in any and all other presentations to the City, except as inconsistent with law, regulations or local ordinance, are incorporated into this Franchise as though set out verbatim.

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

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

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

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

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

- (1) Mark on the surface all of its locatable underground Facilities within the area of the proposed excavation;
- (2) Notify the excavator of any unlocatable underground Facilities in the area of the proposed excavation; or

(3) Notify the excavator that the Company does not have any underground Facilities in the vicinity of the proposed excavation.

4.1.2 Rights-of-Way Occupancy.

(1) Nothing in this Franchise shall give the Company the right to attach its Telecommunication System to structures or poles owned by the City without consent of the City.

(2) The Company shall:

(a) Locate and install all transmission lines, equipment and structures so as to cause minimum interference with the rights and reasonable convenience of property owners;

(b) Keep and maintain all transmission lines, equipment and structures in a safe condition, and in good order and repair;

(c) Employ professional care;

(d) Place any fixtures in any right-of-way in such manner as not to interfere with the usual travel of the right-of-way or cause unsafe conditions of any sort;

(e) Submit a traffic control plan to the City for approval and receive such approval at least 48 hours prior to commencing construction except in the case of emergency. Such traffic control plan shall be available for public inspection on the construction site at all times; and

(f) Notify adjacent property owners, businesses, residents, and others specified by the City prior to construction and major maintenance projects.

(3) The Company shall not make street cuts or curb cuts unless absolutely necessary, and only after a permit has been obtained from the City under such conditions as the City shall in its sole discretion determine.

(4) Before beginning any excavation or other construction activity on a right-of-way that crosses or abuts any private property, the Company shall clearly mark with non-polluting water-soluble spray paint the excavation area. After such excavation or other construction activity, the Company shall restore such property to not less than the City's standards.

(5) The Company shall locate, mark, and map any of its installed cable or Cable System for the City at no expense to the City. The Company shall install underground warning tape at least twelve (12) inches above all fiber optic cable where such installation is done by means of open trenching. Where cable is placed by boring or plowing, all fiber

optic cable will be accompanied by a metallic tracer wire and all coaxial trunk and feeder cable shall serve as its own tracer for locating purposes.

4.2 Construction or Alteration.

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

4.2.2 Schedule and Maps.

A. Prior to beginning installation, construction, alteration or maintenance of the Telecommunications System, INTERMAX shall provide the City with an initial work schedule for work to be conducted in City streets and rights-of-way and the estimated total cost of such work. INTERMAX shall, upon request, provide information to the City regarding its progress in completing or altering the Telecommunications System.

B. Upon completion of construction or alteration of the Telecommunications System, INTERMAX shall provide the City with a map showing the location of its installed Telecommunications System, as built. Such "as-built" maps shall be in a form acceptable to the City.

C. INTERMAX shall provide a map to the City's Engineering Department, or its successor, showing the location of INTERMAX's optical fibers in City streets and rights-of-way on a scale of 3500 feet per inch or in whatever standard scale the City adopts for general use:

- (1) One year after the effective date of this Franchise; and
- (2) Annually thereafter.

4.2.3 Good Engineering.

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

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

4.3 Facilities Placement.

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

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

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

4.3.4 Non-Interference. INTERMAX shall exert its best efforts to construct and maintain the Telecommunications System so as not to interfere with other uses of City streets or rights-of-way. INTERMAX shall, where possible in the case of aboveground lines, make use of existing poles and other facilities available to INTERMAX. INTERMAX shall individually notify all residents affected by any proposed installation, construction, alteration or maintenance of the Telecommunications System of such work where and when such notification is reasonably possible.

4.3.5 Undergrounding. The City finds that overhead lines and aboveground wire facilities and installations in the streets or rights-of-way and other franchised areas adversely impact upon the public use and enjoyment of property in the City, including an aesthetic impact. Therefore, INTERMAX shall place underground all of its transmission lines

that are located or are to be located above or within City streets or rights-of-way in the following cases where:

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

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

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

4.5 Relocation.

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

B. If the City requires INTERMAX to remove or relocate its facilities located within City streets or rights-of-way, the City will make a reasonable effort to provide INTERMAX with an alternate location for its facilities within City streets or rights-of-way.

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

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

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

F. If INTERMAX fails, neglects or refuses to remove or relocate its facilities as directed by the City, or in emergencies or where public health and/or safety or property is endangered, the City may do such work or cause it to be done and the cost, including all direct, indirect and/or consequential costs and expenses incurred by the City due to INTERMAX's failure, neglect or refusal thereof shall be paid solely by INTERMAX. If INTERMAX fails, neglects or refuses to remove or relocate its facilities as directed by another franchisee or utility, that franchisee or utility may do such work or cause it to be done, and if INTERMAX would

have been liable for the cost of performing such work, the cost, including all direct, indirect and/or consequential costs and expenses incurred by such franchisee or utility thereof to the party performing the work or having the work performed shall be paid solely by INTERMAX.

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

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

4.6 Movement of Buildings. INTERMAX shall, upon request by any person holding a building permit, franchise or other approval issued by the City, temporarily remove, raise or lower its transmission or other wires appurtenant to the Telecommunications System to permit the movement of buildings. The expense for such removal, raising or lowering shall be paid by the person requesting the same and INTERMAX shall be authorized to require such payment in advance. The City shall require all building movers to provide not less than seven (7) business day's notice to INTERMAX for such temporary wire changes.

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

4.8 Restoration.

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

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

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

D. The City hereby reserves the right, after providing reasonable notice to INTERMAX, to remove and/or repair any work done by INTERMAX which, in the

determination of the City, is inadequate. The cost thereof, including the cost of inspection and supervision, shall be paid solely by INTERMAX.

E. Should INTERMAX fail, neglect, refuse or delay in performing any obligation here or elsewhere stated, or where the City deems necessary to protect the public right-of-way or to avoid liability, risk or injury to the public or the City, the City may proceed to perform or cause to have performed such obligation, including any remedial or preventative action deemed necessary, at INTERMAX's sole expense and liability, but no action or inaction by the City shall relieve INTERMAX of its obligation to hold the City harmless as set forth in Section 7.6 of this Franchise. Prior to undertaking corrective effort, the City shall make a reasonable effort to notify INTERMAX, except no notice is needed if the City declares an emergency or determines a need for expedient action. This remedy is supplemental and not alternative to any other municipal right.

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

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

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

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

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

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

J. INTERMAX shall perform all restoration work promptly.

4.9 City Right to Require Removal of Property.

A. At the expiration of the term for which this Franchise is granted, providing no extension or renewal is granted by the City, or upon the forfeiture or revocation of this Franchise, as provided for in this Franchise, the City shall have the right to require INTERMAX to remove, at INTERMAX's sole expense, all or any part of the Telecommunications System from all City streets and rights-of-way within the Franchise Service Area, where the abandoned Facilities interfere with reasonable uses of City streets and rights-of-way. If INTERMAX fails to do so, the City may perform the work and collect the cost thereof from INTERMAX. The

actual cost thereof, including direct and indirect administrative costs, shall be a lien upon all plant and property of INTERMAX effective upon filing of the lien with the Kootenai County Recorder.

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

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

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

4.10 Emergency Repairs. In the event that emergency repairs to the Telecommunications System are necessary, INTERMAX shall notify the City of the need for such repairs. INTERMAX may immediately initiate such emergency repairs and shall apply for appropriate permits the next business day following discovery of the emergency.

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

4.12 After-Acquired Facilities. INTERMAX expressly acknowledges and agrees, by acceptance of this Franchise, that any Telecommunications System Facilities located within City

streets or rights-of-way which are subsequently acquired by INTERMAX or upon addition or annexation to the City of any area in which INTERMAX retains or acquires any such Facilities (if acquired prior to this original Franchise grant) and which would have been subject to this Franchise and the permitting authority related thereto shall immediately be subject to the provisions of this Franchise and all permits related thereto.

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

SECTION 5 - SYSTEM DESIGN AND STANDARDS

5.1 Initial Telecommunications System Construction.

5.1.1 Construction Schedule. A detailed construction schedule, which shall be subject to City approval, shall be submitted by INTERMAX to the City's Telecommunications Division no later than forty-five (45) days prior to the commencement of construction. For the purposes of this Franchise, "commencement of construction," as finally determined by the City if necessary, shall mean the beginning of installation of any part of the Telecommunications System including, but not limited to, strand mapping, system design, the construction of any facility, building or structure, or the stringing of any wire or the laying of any conduit, or the installation of any active or passive electronic equipment to facilitate the activation of the Telecommunications System.

5.2 Technical Standards. The technical standards used in the design, construction, alteration, maintenance and operation of the Telecommunications System shall comply, at a minimum, with the applicable technical standards promulgated by the Federal Communications Commission ("FCC") or the Idaho Public Utilities Commission ("IPUC"), as now or hereafter constituted or amended, and any and all other applicable federal, state or local law, regulations or technical standards which may currently or may subsequently concern any services which INTERMAX provides or may provide using the Telecommunications System. The City may establish reasonable technical standards for the performance of the Telecommunications System if the FCC or IPUC permit it to do so or if the FCC or IPUC standards are repealed in whole or in part.

5.3 Performance Testing. INTERMAX shall perform all tests of the Telecommunications System as required by and at the intervals as required by the FCC and/or any and all federal, state and local law or regulations, and all other tests reasonably necessary to determine compliance with technical standards required by this Franchise.

SECTION 6 - CUSTOMER SERVICE POLICIES

6.1 City Reservation of Rights. The City reserves the right to enforce any and all customer service and consumer protection standards at any time that such standards are established by state or federal law or regulation as applicable to telecommunications system operations should such right be granted to the City by such state or federal law or regulation.

6.2 Response to Customers. INTERMAX shall promptly respond to all requests from customers of the Telecommunications System for service, repair, installation, information or any other such reasonable and appropriate requests and shall render effective service, make repairs promptly and interrupt service only for good cause and for the shortest time possible as required by state and/or federal law or regulation. INTERMAX shall promptly respond to complaints from customers of the Telecommunications System and shall attempt to promptly resolve such complaints as required by state and/or federal law or regulation.

6.3 City Franchise Contact Identified. INTERMAX shall provide all appropriate and pertinent contact information for the person identified by the City as responsible for handling questions and complaints for the City regarding INTERMAX's operation in City streets and rights-of-way to any and all customers of the Telecommunications System and any interested persons. Said information shall be provided to such customers in a format acceptable to the City.

6.4 Notice of Change in Services. Throughout the term of this Franchise, INTERMAX shall provide the City written notice of any intended deletions, additions or other modifications to the Telecommunications Services authorized by this Franchise to be provided by INTERMAX.

6.5 Complaints. INTERMAX hereby acknowledges the City's interest in the prompt resolution of all complaints made to the City regarding INTERMAX's operation in City streets and rights-of-way and INTERMAX shall work in close cooperation with the City to resolve such complaints.

6.6 Regulation of Rates and Charges. The City expressly reserves the right to regulate rates and charges for Telecommunications Services and equipment in accordance with and to the extent provided by applicable federal or state laws, rules or regulations.

SECTION 7 - COMPENSATION AND FINANCIAL PROVISIONS

7.1 Fees.

7.1.1 Payment of Franchise Fee.

A. For the reason that the Rights-of-Way to be used by the Company in the operation of its Telecommunications System within the boundaries of the City are valuable public properties acquired and maintained by the City at great expense to its taxpayers, and that the grant to the Company to use the said Rights-of-Way is a valuable property right without which the Company would be required to invest substantial capital in Rights-of-Way costs and

acquisitions, and because the City will incur costs in regulating and administrating the Franchise, the Company shall pay to the City quarterly an amount equal to five percent (5%) of the Company's Gross Revenues derived from the operation of the Fiber-Optic Telecommunications System to provide Telecommunications Services in the City. In the event that the City may lawfully increase the percentage of Franchise fees collected from the Company, but not effective before expiration of the initial term, then the Franchise fees will be increased automatically after the giving of thirty (30) days prior written notice to the Company.

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

7.1.2 Other Fees.

A. INTERMAX shall pay the City all reasonable costs of granting, enforcing or reviewing the provisions of this Franchise as ordered by the City Administrator or designee, whether as a result of accrued in-house staff time or out-of-pocket expenses or administrative costs. Such obligation further includes municipal fees related to receiving and approving permits, licenses or other required approvals, inspecting plans and construction, or relating to the preparation of a detailed statement.

B. Upon request of INTERMAX, the City will submit proof of any charges or expenses incurred as defined in Section 7.1.2, A of this Franchise. Said charges or expenses shall be paid by INTERMAX no later than thirty (30) days after INTERMAX's receipt of the City's billing thereof.

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

7.2 Payments.

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

7.3 Financial Records.

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

to the rules and regulations of the FCC, IPUC and other regulatory agencies, and other like materials INTERMAX and/or any parent company of INTERMAX which directly relate to the operation of this Franchise.

B. Access to the aforementioned records referenced in Section 7.3, A shall not be denied by INTERMAX to representatives of the City on the basis that said records contain "proprietary" information. However, to the extent allowed by Idaho law, the City shall protect the trade secrets and other confidential information of INTERMAX and/or any parent company of INTERMAX.

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

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

7.4 Auditing.

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

7.5 Insurance.

7.5.1 Coverages. INTERMAX shall maintain, throughout the term of this Franchise, liability insurance insuring INTERMAX, its officers, employees and agents, with regard to all claims and damages specified in Section 7.5 herein, in the minimum amounts as follows:

(1) **Commercial Liability Insurance.**

On or before the date this Franchise is fully executed by the parties, INTERMAX shall provide the City with a certificate of insurance as proof of commercial liability insurance with a minimum liability limit of One Million Dollars (\$1,000,000) combined single limit bodily injury and property damage. This coverage will have a per job

aggregate endorsement and Idaho stop gap coverage. Said certificate of insurance shall clearly state who the provider is, the amount of coverage, the policy number, and when the policy and provisions provided are in effect. Said policy shall be in effect for the duration of this Franchise. The policy shall name the City, its elected and appointed officials, officers, agents and employees as additional insureds, and shall contain a clause that the insurer will not cancel or change the insurance without first giving the City thirty (30) calendar days prior written notice (any language in the clause to the effect of "but failure to mail such notice shall impose no obligation or liability of any kind upon the company" shall be crossed out and initialed by the insurance agent). The insurance shall be with an insurance company or companies rated A-VII or higher in Best's Guide and admitted in the State of Idaho. If INTERMAX uses any contractors and/or subcontractors to perform any of the work referenced in this Franchise, such contractors and/or subcontractors shall maintain the same minimum limits of liability and comply with all other provisions discussed above in this subsection entitled "Commercial Liability Insurance."

(2) **Commercial Automobile Liability Insurance.**

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

(3) **Umbrella Liability Insurance.**

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

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

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

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

7.5.4 Failure to Procure. INTERMAX acknowledges and agrees, by acceptance of this Franchise, that failure to procure and maintain the insurance coverages as detailed in Section 7.5.1 of this Franchise shall constitute a material breach of this Franchise, as provided for in Section 2.10, B, 3) of this Franchise. In the event of such failure to procure and maintain the referenced insurance coverages, the City may immediately suspend INTERMAX's operations under this Franchise, terminate or otherwise revoke this Franchise and/or, at its discretion, procure or renew such insurance in order to protect the City's interests and be reimbursed by INTERMAX for all premiums in connection therewith.

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

liability of INTERMAX under this Franchise either to the full amount of the performance bond or otherwise, except as otherwise provided herein.

7.7 Indemnity, No Estoppel, No Duty.

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

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

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

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

SECTION 8 – REPORTING REQUIREMENTS

All reports required under Section 8 of this Franchise may be requested by the City to be provided by INTERMAX in hard copy and/or electronic format compatible with City databases, including, but not limited to, the GIS system.

8.1 Quarterly Reports. Within thirty (30) calendar days after the end of the reporting quarter, INTERMAX shall submit to the City a completed form reporting any and all revenues for the previous quarter. Said reports shall be verified by an officer or other authorized representative of INTERMAX. Said reports shall contain an accurate statement in summarized form, as well as in detail, of INTERMAX's gross revenues and the computation basis and method. These reports shall be in a form reasonably required by the City. The City may, from time to time, make such reasonable amendments to the forms as are required to ensure that all gross revenues are reported clearly and accurately.

8.2 Annual Reports. Not later than one hundred-twenty (120) days following the end of INTERMAX's fiscal year each year, INTERMAX shall present, at its sole expense, a written report to the City which shall include:

(1) A full annual report on the customer revenue for the System within the corporate limits of the City of Coeur d'Alene. The report shall be certified by an officer or other authorized representative of INTERMAX to be an accurate reflection of INTERMAX's books and records.

(2) A current list of all of INTERMAX's officers and directors or partners, if any, including postal addresses, telephone numbers and, where applicable, electronic mail addresses.

(3) The names and business postal addresses, telephone numbers and, where applicable, the electronic mail addresses of the Telecommunications System's local manager and engineer.

(4) Complete and accurate maps of the Telecommunications System including the location of Facilities.

(5) A description of future plans by INTERMAX to expand or alter the Telecommunications System and/or expand or alter services provided over the Telecommunications System.

8.3 Monitoring and Compliance Reports. Only upon request of the City, but no more than once per year, INTERMAX shall provide a written report of any and all technical

performance tests for the Telecommunications System required by the FCC, IPUC or any other governmental agency having jurisdiction over the Telecommunications System.

8.4 Additional Reports. INTERMAX shall prepare and furnish to the City or any other entity exercising lawful regulatory authority in connection with this Franchise, at the times and in the form prescribed by the City or such other regulatory entity, such additional reports with respect to INTERMAX's operations, affairs, transactions or property, as may be reasonably necessary and appropriate to the performance of the rights, functions or duties of the City or such other regulatory entity in connection with this Franchise.

8.5 Communication with Regulatory Agencies. INTERMAX shall simultaneously file with the City a copy of each petition, application, tariff, report or any other communication related to the Telecommunications System transmitted by INTERMAX to, or received by INTERMAX from, any federal, state or other regulatory commissions or agencies having competent jurisdiction to regulate the construction or operation of the Telecommunications System, including, specifically, the FCC and the IPUC. In addition, INTERMAX and its affiliates shall within ten (10) days of any communication transmitted by INTERMAX to, or received by INTERMAX from, any judicial or regulatory agency regarding any alleged or actual violation of a law, regulation or other requirement related to the Telecommunications System, provide the City a copy of the communication, whether specifically requested by the City to do so or not.

8.6 Preservation of Confidential Information. The City shall protect information provided to the City by INTERMAX designated as confidential or proprietary by INTERMAX, given such information had been so designated at the time it was provided to the City, to the maximum extent permissible under Idaho state law as it may now or hereafter exist.

SECTION 9 – REMEDIES AND PROCEDURE FOR REMEDYING FRANCHISE VIOLATIONS

9.1 Remedies for Franchise Violations.

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

(1) Drawing upon or foreclosing all or any part of any security provided under this Franchise, including without limitation the Faithful Performance Bond provided for under Section 7.6 herein; PROVIDED, however, such drawing or foreclosure shall be only in such a manner and in such amount as the City reasonably determines is necessary to remedy the violation or default. Should the City take such action as described herein, INTERMAX shall be responsible for all direct and actual costs related to such action, including, but not limited to, legal and administrative costs incurred by the City;

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

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

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

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

9.2 Procedure for Remediating Franchise Violations.

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

9.2.2 INTERMAX's Right to Cure or Respond. INTERMAX shall have thirty (30) days from receipt of notice by the City of any alleged noncompliance with any term or condition of this Franchise to:

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

(2) Cure such violation or default or, in the event that by the nature of the violation or default such violation or default cannot be cured within a thirty (30) day period, initiate reasonable steps to remedy such violation or default and notify the City of the steps being taken and the projected date such remedy will be completed.

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

9.3 Enforcement. In the event the City, after such hearing as described in subsection 9.2.3 of this Franchise has been conducted, upholds its determination that INTERMAX has violated or defaulted on any provision of this Franchise, the City may impose any of the remedies set out in Section 9.1, A of this Franchise.

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

9.5 Acts of Nature. INTERMAX shall not be held in violation, default or noncompliance with the provisions of this Franchise, nor suffer any enforcement or penalty related thereto, where such violation, default or noncompliance is caused by acts of nature, power outages or other events reasonably beyond its ability to control. However, INTERMAX shall take all reasonable steps necessary to provide service despite such occurrences.

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

SECTION 10 – MISCELLANEOUS PROVISIONS

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

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

Notices to the City shall be addressed to the following:

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

Notices to INTERMAX shall be addressed to the following:

Newmax, LLC, dba Intermax Networks
7400 Mineral Drive, Suite 300
Coeur d'Alene, ID 83815
Attn: Mike Kennedy
Facsimile Number: 208-762-8308

10.3 Compliance with Laws. INTERMAX shall comply with all federal and state laws and regulations, including regulations of any administrative agency thereof, as well as the general ordinances, resolutions, rules and regulations of the City, pursuant to the City's lawful authority, heretofore or hereafter adopted or established during the entire term of this Franchise. In the event any valid and superior law, rule or regulation of any governing authority or agency having jurisdiction contravenes the provisions of this Franchise subsequent to its adoption, then the provisions of this Franchise shall be superseded only to the limited extent that the provisions hereof are in conflict and contrary to any such law, rule or regulation. Nothing in this Franchise shall limit the City's right of eminent domain under state law. Nothing in this Franchise shall be deemed to waive the requirements of any lawful code or resolution of the City regarding permits, fees to be paid or manner of construction.

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

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

10.6 Guarantee of Performance. INTERMAX hereby agrees that it enters into this Franchise voluntarily and in order to secure and in consideration of the grant from the City of a ten-year franchise. Performance pursuant to the terms and conditions of this Franchise is guaranteed by INTERMAX.

10.7 Force Majeure.

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

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

efforts to remedy as soon as possible, under the circumstances, INTERMAX's inability, by reason of Force Majeure, to carry out its responsibilities and duties under this Franchise.

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

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

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

10.11 Franchise Ordinance Acceptance. INTERMAX shall execute and return to the City, within sixty (60) days after the date of adoption of the Franchise Ordinance by the Coeur d'Alene City Council, three (3) original Franchise Agreements, by which INTERMAX acknowledges that it has carefully read the terms and conditions of the Franchise Ordinance and accepts all of the terms and conditions of the Franchise Ordinance and this Franchise and agrees to abide by the same. In accepting this Franchise, INTERMAX shall indicate that it has relied upon its own investigation of all relevant facts, that it has had the assistance of counsel, that it was not induced to accept this Franchise, that the Franchise Ordinance represents the entire agreement between INTERMAX and the City and that INTERMAX accepts all reasonable risks related to the interpretation of the Franchise Ordinance and this Franchise. The executed Franchise Agreements shall be returned to the City accompanied by the Letter of Credit as required in Section 7.6 of this Franchise and evidence of insurance as required in Sections 7.5.1 and 7.5.2 of this Franchise. In the event INTERMAX fails to submit a Franchise Agreement as provided for herein, or fails to provide the required accompanying documents, this Franchise shall be null and void.

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

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

SECTION 11 – TRANSFER OF OWNERSHIP OR CONTROL

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

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

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

C. The proposed assignee must show its legal and technical qualifications and its financial responsibility as determined by the City Council and must agree to comply with all the provisions of the Franchise. Unless the Company and the City Council otherwise agree on an extension of time, the City Council shall be deemed to have consented to a proposed transfer or assignment in the event it has not acted within one hundred twenty (120) days following receipt of a completed FCC Form 394, or other replacement form in the future that fulfills the same requirements, and any information required by the terms of the Franchise or applicable federal, state or local law.

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

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

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

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

H. Standards. The City may inquire into the legal, technical and financial qualifications of the prospective controlling party or transferee, and the Company shall assist the City in so inquiring. The City may condition said sale or transfer upon such terms and conditions as it deems reasonably appropriate; provided, however, the City shall not

unreasonably withhold its approval and any such terms and conditions so attached shall be related to the legal, technical, and financial qualifications of the prospective controlling party or transferee and to the resolution of outstanding and unresolved issues of noncompliance with the terms and conditions of this Franchise by the Company.

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

Passed under suspension of rules upon which a roll call vote was duly taken and duly enacted an Ordinance of the City of Coeur d'Alene at a regular session of the City Council on June 20, 2017.

CITY OF COEUR D'ALENE

NEWMAX, LLC, DBA INTERMAX NETWORKS

Steve Widmyer, Mayor

By: _____
Its: Michael R. Kennedy, President

ATTEST:

Renata McLeod, City Clerk

STATE OF IDAHO)
) ss.
COUNTY OF KOOTENAI)

On this ____ day of _____, 2017, before me, a Notary Public in and for said State, personally appeared **Michael R. Kennedy**, known to me to be President of **Newmax, LLC, dba Intermax Networks**, the corporation that executed the within Instrument, known to me to be the person who executed the within Instrument on behalf of the corporation therein named as Company and acknowledged to me that such corporation executed the within Instrument pursuant to its by-laws or a resolution of its directors.

WITNESS my hand and official seal.

Dated this _____ day of _____, 2017.

Print Name: _____

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

My commission expires: _____

INFORMATION SECTION

Including

Correspondence

Board, Commission, Committee Minutes

RECEIVED


JUN 9 2017

CITY OF COEUR D'ALENE
Treasurer's Report of Cash and Investment Transactions

CITY CLERK

FUND	BALANCE 4/30/2017	RECEIPTS	DISBURSE- MENTS	BALANCE 5/31/2017
<u>General-Designated</u>	\$1,182,745	\$58,363	\$120	\$1,240,988
<u>General-Undesignated</u>	12,622,198	1,741,263	3,851,800	10,511,661
<u>Special Revenue:</u>				
Library	198,173	23,416	131,025	90,564
CDBG	(0)		4,959	(4,959)
Cemetery	(12,879)	36,219	42,737	(19,397)
Parks Capital Improvements	469,447	10,573	9,851	470,169
Impact Fees	2,839,607	57,796	200	2,897,203
Annexation Fees	385,697	98,165		483,862
Insurance	-			-
Cemetery P/C	1,625,326	5,190	10,309	1,620,207
Jewett House	18,476	512	1,362	17,626
Reforestation	25,271	2,059	796	26,534
Street Trees	208,822	9,433	2,007	216,248
Community Canopy	958	751		1,709
CdA Arts Commission	-			-
Public Art Fund	75,124	48		75,172
Public Art Fund - ignite	516,963	329		517,292
Public Art Fund - Maintenance	95,309	61	728	94,642
<u>Debt Service:</u>				
2015 G.O. Bonds	973,347	11,970		985,317
LID Guarantee	(0)			(0)
LID 149 - 4th Street				
<u>Capital Projects:</u>				
Street Projects	192,492	122	137,908	54,706
<u>Enterprise:</u>				
Street Lights	31,769	45,256	10,119	66,906
Water	1,870,693	316,665	424,435	1,762,923
Water Capitalization Fees	4,769,739	78,003		4,847,742
Wastewater	5,326,297	772,010	684,897	5,413,410
Wastewater-Reserved	910,653	27,500		938,153
WWTP Capitalization Fees	5,893,143	146,676		6,039,819
WW Property Mgmt	60,668			60,668
Sanitation	682,539	345,554	252,163	775,930
Public Parking	128,335	14,205	42,228	100,312
Drainage	726,698	87,522	58,539	755,681
Wastewater Debt Service	1,020,675	648		1,021,323
<u>Fiduciary Funds:</u>				
Kootenai County Solid Waste Bil	194,946	209,367	194,571	209,742
LID Advance Payments	250			250
Police Retirement	1,304,618	14,300	20,182	1,298,736
Sales Tax	4,225	2,232	4,225	2,232
BID	170,345	3,609		173,954
Homeless Trust Fund	393	320	393	320
GRAND TOTAL	\$44,513,061	\$4,120,137	\$5,885,554	\$42,747,644

I HEREBY SWEAR UNDER OATH THAT THE AMOUNTS REPORTED ABOVE, ON THE CASH BASIS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.


Troy Tymeseff, Finance Director, City of Coeur d'Alene, Idaho

CITY OF COEUR D'ALENE
 BUDGET STATUS REPORT
 EIGHT MONTHS ENDED
 May 31, 2017

RECEIVED

JUN 9 2017

CITY CLERK

FUND OR DEPARTMENT	TYPE OF EXPENDITURE	TOTAL BUDGETED	SPENT THRU 5/31/2017	PERCENT EXPENDED
Mayor/Council	Personnel Services	\$231,305	\$145,709	63%
	Services/Supplies	11,400	6,974	61%
Administration	Personnel Services	328,000	220,058	67%
	Services/Supplies	51,120	38,380	75%
Finance	Personnel Services	683,506	445,526	65%
	Services/Supplies	481,780	441,958	92%
Municipal Services	Personnel Services	1,153,286	764,421	66%
	Services/Supplies	507,013	371,516	73%
	Capital Outlay			
Human Resources	Personnel Services	233,632	142,280	61%
	Services/Supplies	93,025	42,942	46%
Legal	Personnel Services	1,114,688	732,163	66%
	Services/Supplies	92,653	53,751	58%
Planning	Personnel Services	545,298	351,597	64%
	Services/Supplies	39,350	15,544	40%
	Capital Outlay			
Building Maintenance	Personnel Services	365,580	202,389	55%
	Services/Supplies	155,606	72,121	46%
	Capital Outlay			
Police	Personnel Services	11,962,404	7,601,723	64%
	Services/Supplies	1,092,115	841,915	77%
	Capital Outlay	5,950	239,708	4029%
Fire	Personnel Services	8,811,284	5,796,151	66%
	Services/Supplies	546,653	303,374	55%
	Capital Outlay	320,000	2,921,197	913%
General Government	Services/Supplies	94,725	95,609	101%
	Capital Outlay		142,519	
Byrne Grant (Federal)	Services/Supplies		24,076	
	Capital Outlay		46,644	
COPS Grant	Personnel Services	190,189	96,451	51%
CdA Drug Task Force	Services/Supplies	30,710	11,500	37%
	Capital Outlay			
Streets	Personnel Services	2,321,133	1,625,931	70%
	Services/Supplies	645,980	498,615	77%
	Capital Outlay	57,000	45,335	80%


CITY OF COEUR D'ALENE
 BUDGET STATUS REPORT
 EIGHT MONTHS ENDED
 May 31, 2017

FUND OR DEPARTMENT	TYPE OF EXPENDITURE	TOTAL BUDGETED	SPENT THRU 5/31/2017	PERCENT EXPENDED
Engineering Services	Personnel Services	434,701	288,697	66%
	Services/Supplies	857,860	84,702	10%
	Capital Outlay			
Parks	Personnel Services	1,423,537	910,686	64%
	Services/Supplies	536,450	231,621	43%
	Capital Outlay	44,000	39,490	90%
Recreation	Personnel Services	550,809	276,375	50%
	Services/Supplies	157,430	79,548	51%
	Capital Outlay	5,000		
Building Inspection	Personnel Services	865,887	571,529	66%
	Services/Supplies	41,206	17,287	42%
	Capital Outlay			
Total General Fund		<u>37,082,265</u>	<u>26,838,012</u>	<u>72%</u>
Library	Personnel Services	1,208,298	781,474	65%
	Services/Supplies	199,850	129,497	65%
	Capital Outlay	160,000	88,688	55%
CDBG	Services/Supplies	606,873	60,147	10%
Cemetery	Personnel Services	186,235	123,283	66%
	Services/Supplies	100,500	57,365	57%
	Capital Outlay	30,000	27,800	93%
Impact Fees	Services/Supplies	760,039	365,200	48%
Annexation Fees	Services/Supplies	193,000	193,000	100%
Parks Capital Improvements	Capital Outlay	146,500	19,777	13%
Cemetery Perpetual Care	Services/Supplies	157,500	104,390	66%
Jewett House	Services/Supplies	25,855	7,773	30%
Reforestation	Services/Supplies	2,000	1,211	61%
Street Trees	Services/Supplies	100,000	34,855	35%
Community Canopy	Services/Supplies	1,500	1,162	77%
Public Art Fund	Services/Supplies	231,300	48,527	21%
		<u>4,109,450</u>	<u>2,044,149</u>	<u>50%</u>
Debt Service Fund		<u>937,407</u>	<u>128,165</u>	<u>14%</u>

CITY OF COEUR D'ALENE
BUDGET STATUS REPORT
EIGHT MONTHS ENDED
May 31, 2017

FUND OR DEPARTMENT	TYPE OF EXPENDITURE	TOTAL BUDGETED	SPENT THRU 5/31/2017	PERCENT EXPENDED
Seltice Way	Capital Outlay	675,000	176,030	26%
Seltice Way Sidewalks	Capital Outlay	325,000		
Traffic Calming	Capital Outlay	25,000		
Govt Way - Hanley to Prairie	Capital Outlay	4,334,000	1,407,580	32%
Levee Certification	Capital Outlay	30,000	25,759	86%
I-90 Curb Ramps	Capital Outlay			
15th Street	Capital Outlay	20,000		
Medina Avenue	Capital Outlay		43,028	
Kathleen Avenue Widening	Capital Outlay	330,039		
Margaret Avenue	Capital Outlay	65,000		
Ironwood	Capital Outlay	400,000	430,079	108%
		<u>6,204,039</u>	<u>2,082,476</u>	<u>34%</u>
Street Lights	Services/Supplies	622,000	305,201	49%
Water	Personnel Services	1,951,906	1,277,053	65%
	Services/Supplies	4,376,100	997,695	23%
	Capital Outlay	3,225,000	490,691	15%
Water Capitalization Fees	Services/Supplies	1,950,000		
Wastewater	Personnel Services	2,609,284	1,684,036	65%
	Services/Supplies	7,205,619	1,629,133	23%
	Capital Outlay	12,496,100	2,285,368	18%
	Debt Service	2,178,063	768,622	35%
WW Capitalization	Services/Supplies	2,500,000		
Sanitation	Services/Supplies	3,359,286	1,959,273	58%
Public Parking	Services/Supplies	253,546	123,826	49%
	Capital Outlay	121,000	103,614	
Drainage	Personnel Services	110,381	76,323	69%
	Services/Supplies	637,130	182,922	29%
	Capital Outlay	400,000	89,306	22%
Total Enterprise Funds		<u>43,995,415</u>	<u>11,973,063</u>	<u>27%</u>
Kootenai County Solid Waste		2,500,000	1,451,241	58%
Police Retirement		173,200	115,317	67%
Business Improvement District		210,000	55,000	26%
Homeless Trust Fund		5,200	3,381	65%
Total Fiduciary Funds		<u>2,888,400</u>	<u>1,624,939</u>	<u>56%</u>
TOTALS:		<u>\$95,216,976</u>	<u>\$44,690,804</u>	<u>47%</u>

I HEREBY SWEAR UNDER OATH THAT THE AMOUNTS REPORTED ABOVE, ON THE CASH BASIS, ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE



 Troy Tymesen, Finance Director, City of Coeur d'Alene, Idaho

RECEIVED


JUN 9 2017

CITY CLERK

City of Coeur d Alene
Cash and Investments
5/31/2017

Description	City's Balance
U.S. Bank	
Checking Account	2,852,441
Checking Account	30,295
Investment Account - Police Retirement	1,282,197
Investment Account - Cemetery Perpetual Care Fund	1,615,842
Wells Fargo Bank	
Federal Home Loan Bank	1,000,000
Community 1st Bank	
Certificate of Deposit	1,002,015
Certificate of Deposit	205,219
Idaho Independent Bank	
Secure Muni Investment	249,323
Idaho Central Credit Union	
Certificate of Deposit	249,995
Idaho State Investment Pool	
State Investment Pool Account	34,007,544
Spokane Teacher's Credit Union	
Certificate of Deposit	250,648
Cash on Hand	
Finance Department Petty Cash	500
Treasurer's Change Fund	1,350
Police Change Fund	75
Library Change fund	180
Cemetery Change Fund	20
Total	<u><u>42,747,644</u></u>

I HEREBY SWEAR UNDER OATH THAT THE AMOUNTS REPORTED ABOVE ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.



Troy Kymesen, Finance Director, City of Coeur d'Alene, Idaho