

AGENDA
ONTARIO CITY COUNCIL - CITY OF ONTARIO, OREGON
Monday, October 21, 2013, 7:00 p.m., M.T.

- 1) **Call to order**
Roll Call: Norm Crume _____ Jackson Fox _____ Charlotte Fugate _____ Dan Jones _____
Larry Tuttle _____ Ron Verini _____ LeRoy Cammack _____

2) **Pledge of Allegiance**

This Agenda was posted on Wednesday, October 16, 2013, and a study session was held on Thursday, October 17, 2013. Copies of the Agenda are available at the City Hall Customer Service Counter and on the city's website at www.ontariooregon.org.

3) **Motion to adopt the entire agenda**

4) **Consent Agenda: Motion Action Approving Consent Agenda Items**

- A) Minutes of Regular Meeting of October 7, 2013 1-8
B) Approval of the Bills

5) **Department Head Updates: Thursday**

- 6) **Public Comments:** Citizens may address the Council on items not on the Agenda. Out of respect to the Council and others in attendance, please limit your comment to three (3) minutes. This time limit will be enforced. Please state your name and city of residence for the record.

7) **New Business:**

- A) Resolution #2013-131: Establish Grant/Donation Procedures 9-16
B) Ordinance #2685-2013: Amend OMC 3-11-4 re TOT Allocations (Percentage Set Aside for Public Safety) First Reading 17-20
C) Sewer Utility Misbillings for SRCl 21-42

8) **Discussion Items:**

- A) Credit Card Payments via Telephone - Mike Long
B) Door Hangers for Delinquent Utility Shut-Offs - Mike Long
C) City Hall Roof Repair - Brad Howlett
D) Ontario Swim Team Coach - Brad Howlett
E) Aquatic Center Update - Brad Howlett
F) 9-1-1 Consolidation Update - Mark Alexander

9) **Correspondence, Comments and Ex-Officio Reports**

10) **Adjourn**

MISSION STATEMENT: TO PROVIDE A SAFE, HEALTHFUL AND SOUND ECONOMIC ENVIRONMENT, PROGRESSIVELY ENHANCING OUR QUALITY OF LIFE

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**ONTARIO CITY COUNCIL MEETING MINUTES
Monday, October 7, 2013**

The meeting of the Ontario City Council was called to order by Mayor LeRoy Cammack at 7:00 p.m. on Monday, October 7, 2013, in the Council Chambers of City Hall. Council members present were LeRoy Cammack, Norm Crume, Jackson Fox, Charlotte Fugate, Dan Jones, Larry Tuttle, and Ron Verini.

Members of staff present were Jay Henry, Tori Barnett, Mark Alexander, Mike Long, Bob Walker, Larry Sullivan, Jared Gammage, and Justin Allison. The meeting was recorded, and copies are available at City Hall.

Norm Crume led everyone in the Pledge of Allegiance.

AGENDA

Jackson Fox moved, seconded by Dan Jones, to adopt the Agenda as presented. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Tuttle-yes; Verini-yes; Jones-yes; Cammack-yes. Motion carried 7/0/0.

CONSENT AGENDA

Mayor Cammack recused himself from the voting on 4B, as he hadn't attended the meeting of April 1, 2013, and therefore wouldn't be voting on the adoption of the minutes for that meeting.

Ron Verini moved, seconded by Jackson Fox, to approve Consent Agenda Item A: Minutes of the Regular Meeting of September 16, 2013; and Item C: Approval of the Bills. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Tuttle-yes; Verini-yes; Jones-yes; Cammack-yes. Motion carried 7/0/0.

Ron Verini moved, seconded by Jackson Fox, to approve Consent Agenda Item B: Minutes of the Regular Meeting of April 1, 2013. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Tuttle-yes; Verini-yes; Jones-yes; Cammack-recuse. Motion carried 6/0/0/1.

PUBLIC COMMENT

Ruth Rolland, Ontario, stated: *I want to talk about fairness and dignity. There is dignity and honor in every kind of work. The work performed by each of us connects us to one another. Outside City Hall this evening, there are working people carrying signs to inform our community, and to remind City Council, that the city still has not finished a fair and mutually negotiated labor agreement with the employees of the City of Ontario Public Works Department. The Public Works employees continue to do their jobs every day, with internal self-respect, and they step up to their work responsibilities with true blue-collar dignity to keep city services going to the residents, the businesses, and the visitors to our city. Sadly, up to this point, the city leadership has treated them more as a commodity than as human beings. The Public Works employees want a chance to finish the negotiations that City Council disrupted when they voted to impose the city's implemented offer. In a sense, the city has treated the Public Works employees the same way that the United States Congress is handling the federal budget – they just shut everything down. Yes, it's true that the city has the legal basis that enables them do such a thing, but what gets damaged in the process, and to what purpose, and was the spirit of that law considered, or was it used as a weapon? For this city, what does it do to Ontario's reputation to be known as the city where their leaders claim they want good jobs to come in, but they tend to treat working people badly, with no willingness to work things out? No respect for working people. The Public Works employees want a chance to reach a fair conclusion to the negotiation of their labor contract. It is still their hope that the City Council will decide it's time to say to these employees that you recognize that they should have a fair, mutually negotiated, labor agreement with the city. Thank you.*

NEW BUSINESS

Application to Operate a Taxicab Service

Make Alexander, Police Chief, stated 'Taxi U' taxi service owned by Theodore Griffin, applied for a license to operate a taxicab service within the City of Ontario. Ontario Municipal Code Title 3, Chapter 6 required anyone wishing to operate a taxicab business to complete an application for a license to operate a taxicab. That application would be brought before the Council for approval or rejection. The application outlined that there would be a background investigation done by the police department, and they could disclose that information, if necessary, and the applicant authorized the investigation. Based on that, it was discovered that the applicant had an extensive driving record through the State of Idaho that included violations, crimes and suspensions.

Larry Sullivan, City Attorney, stated he had found a city code he hadn't seen before, and had not had a chance to discuss it with the Chief, but Section 1-14.4 indicated that the police department would report only that the applicant did or did not have a criminal history. The ordinance didn't allow the police department or the Council to make further inquiries as to the nature of that criminal history. If the Council had questions about that, the ordinance provided that they could require the applicant to request a written criminal history from the Oregon State Police identification Services. If the Council wanted to learn more, the applicant had to make a separate application, instead of having the criminal history discussed in the meeting.

Chief Alexander asked if the code differentiated between criminal history and driving record.

Mr. Sullivan stated it read "*the Police Department will report only that the applicant does or does not have a criminal history.*" Criminal history was something that would be punishable under Oregon law by jail time, or a fine over \$1,000. It could include traffic offenses if those were classified as either misdemeanors or felonies.

Mayor Cammack stated the Council would only know that if the applicant furnished that report.

Mr. Sullivan stated that based on the information provided by Chief Alexander, if the Council wanted more information on this applicant, the applicant would have to complete an application for a formal written criminal history from OSP.

Chief Alexander verified the statute specified Oregon?

Mr. Sullivan stated it did.

Chief Alexander suggested this item be tabled pending further discussion. However, finishing up his report on this applicant, there were some issues for this applicant, and the police department was recommending a denial of this application.

Councilor Jones asked if this needed to be tabled, or could the Council take action.

Mr. Sullivan state the Council could take action if they believed they had enough information to make an informed decision. The Council had the discretion to deny or approve the application regardless of the history of the applicant.

Ted Griffin, Boise, applicant, stated he wanted to offer a taxi service in Ontario. There was currently one taxi in town, and patrons were not happy with it. He would bring several years of taxi and chauffeur experience from each of his drivers. He only applied for himself, but if there was an ordinance that said each driver had to be approved by the city, he was okay with that. He currently had a business in Boise, and he didn't think it was a matter of doing anything but offering a service. Ontario was growing, and needed more transportation options. That's what they wanted to do, a 7/24 service. He had plans to expand to other things, such as a shuttle service to the Boise airport, as there was currently no shuttle. Also, this wasn't just for Ontario, it would include Parma, Fruitland, Caldwell, this whole area. His obstacle was in being approved by Ontario.

Councilor Jones asked how many vehicles Mr. Griffin had, and how many would be in Ontario.

Mr. Griffin stated he had one ready now, and would wait to see if more were needed. He anticipated having the need for a second vehicle fairly soon. They would be stationed in Ontario.

Mayor Cammack asked if Mr. Griffin had any objection to obtaining the report from OPS.

Mr. Griffin stated no; however he wanted to let them know he received a DUII about five years ago. Other than that, he hadn't had any real problems. That should expire in around 45 days.

Councilor Fox stated on the application regarding criminal record, Mr. Griffin had only put down he had a few traffic violations. Why hadn't he written down the DUII?

Mr. Griffin stated when he was filling out the application, he had been told by "the lady" to just go back about three years. He spoke to a lady up front, and asked what timeframe was needed, his whole life, last five years, or what, and he was told about three years, so that's what he did. He wasn't trying to be sneaky. He wanted to be legal, and he wanted his drivers legal.

Mr. Sullivan stated there were a few other provisions in the code. One section read that felony convictions for crimes against persons, as well as any controlled substances offenses, shall be grounds for not approving a driver's application. A conviction for driving under the influence within five years prior to the application would be grounds for not approving the driver's application. Mr. Griffin had acknowledged that he had a DUII conviction within five years from the date of application, but that it would expire within the next 45 days. That would be grounds for denial. He would have to withdraw his current application and reapply after the DUII fell off. Although, if he had any controlled substance offences, that would be grounds for denial. Under the code violations, misdemeanors, and felonies would be included, and it would be any violation of the law, regardless of whether or not it was punishable by jail time.

Chief Alexander suggested Mr. Griffin obtain his complete Idaho driving record, along with his criminal history from out of state. There was a public website that information could be accessed through. Anyone could pull that up, so the Council could view on their own.

Mr. Sullivan stated if there was any information presented to the Council that came from a source other than OSP, and the applicant acknowledged the information was accurate, the Council had the right to consider the information.

Jackson Fox moved, seconded by Norm Crume, to table this action and take staff's recommendation to obtain a written request from Mr. Griffin, as well as the Ontario Chief of Police's request, regarding his Idaho driving and criminal history. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-yes; Verini-yes; Cammack-yes. Motion carried 7/0/0.

Mayor Cammack suggested to Mr. Griffin that he get with Chief Alexander to make sure he understood what was needed to have this action ready by the next meeting, for himself and each of his drivers.

Mr. Griffin stated he probably wouldn't be doing the driving in Ontario, as he had other drivers who would be transporting the Ontario people. Would that make a difference? He was okay with not getting an Ontario taxi license.

Mr. Sullivan stated each driver had to follow the code.

TOT: Possible Change in Distribution of Funds

Larry Sullivan, City Attorney, stated this report was for a discussion of the Council's options for reallocating any portion of the 52.5% transient occupancy taxes currently allocated to street maintenance activities by City Code Section 3-11-4. The Council had no obligation to change the 52.5% currently dedicated to street maintenance, so one option was to leave the allocation unchanged.

If the Council decided to do a reallocation, there were no restrictions on the Council's ability to reallocate all or any portion of the TOT funds dedicated to street maintenance activities, so long as the Council did so through an ordinance amendment. One option discussed by the Council at the October 3, 2013, work session would be to split the 52.5% percentage between street maintenance and public safety, so that each activity would receive 26.25% of the TOT funds annually.

Although Code Section 3-11-4 currently made the allocation by percentages, the Council also had the option to make specific dollar allocations, if it chose to do so. For instance, the Council could amend the ordinance to allocate a specific sum of money, \$240,000 for example, annually to street maintenance activities, with the balance of the 52.5% going to the General Fund. With this approach, the percentage going to the General Fund would change annually, depending on the amount of TOT funds received by the city in any given year.

Another option would be to make no specific allocation of the 52.5% at all, with Code Section 3-11-4 simply stating that the amount would be allocated annually by resolution of the Council. Under this option, Code Section 3-11-4 could require a separate resolution each year, or it could authorize the Council to make a resolution that would remain in effect indefinitely until changed by a new resolution.

Councilor Crume stated if some money was diverted to a special account, for example, called "Public Safety" what would that encompass?

Mr. Sullivan stated it would be up to the Council. There should be a discussion regarding what items the Council wanted in or out of that category. Was it Police and Fire only, or maybe it would include some Public Works projects.

Councilor Crume asked about titling it Public Safety, but requiring a majority consensus from the Council on how to expend the funds.

Mr. Sullivan stated that meant it would have to be determined by the Council for discussion and vote every time prior to any funds being expended.

Mayor Commack suggested leaving it broader, like Public Safety, and then let the Budget Committee decide. That budget was approved by the Council. They could make changes later, as it was already in the budget.

Councilor Tuttle stated it couldn't just go into the General Fund. It would need a separate fund.

Mike Long, Finance Director, stated he would want a specific category, to make it clear on how the funds were used. It might not even go into the General Fund, so maybe a special reserve fund. The Council could decide from there to not expend unless reviewed by the Council or the full Budget Committee. If it was not all spent, it would carry over to subsequent years.

Mayor Cammack asked what percentage they were thinking about.

Councilor Verini stated he wanted 26.25%.

Councilor Jones voiced his disagreement with this action. He had been studying the Street Fund, and from the 2011-2012 Budget, it read that *the Street Division maintains the city's largest capital investment, which is 122.48 lane miles of improved streets; 1.76 lane miles of unimproved streets; and 9.0 miles of alleys. Routine maintenance within the Street Department includes street sign repair, installation, repainting all established pavement markings, excavation and repair to deteriorating streets, gravel, road grading, street sweeping, tree trimming, crack sealing, chip sealing, storm drain maintenance, and sanding and plowing snow covered streets during the winter months.* The Street Fund was receiving, as projected revenue within the 2013-2014 budget, the current TOT of approximately \$315K annually. There were also declining state tax revenues coming in. However, within the General Fund, they were seeing an increase in Franchise Fees. Over the previous actual number against adopted budget, they predicted a \$500K increase in Franchise Fees going into the General Fund. If the city landed a data

center, that would double in just power fees. They talked about safety, and the streets were a safety issue, too, along with Police and Fire. For example, the Street Department's budget was \$950K for the current fiscal year, the Fire Department was \$1.2M, and the Police was \$2.5M, which didn't include 9-1-1. There was also the possibility of savings due to a consolidation with the County for 9-1-1. He was seeing an increase in revenue to the General Fund, but a decrease in revenue to the Street Fund. Also, while driving around, he started paying closer attention to the streets, and he was alarmed. The streets were deteriorating. The Capital Improvements list had \$66K identified for street projects. Back in the 2007-2009 Budget, there had been 80 miles identified, valued at \$1.5M per mile, for replacement value, with alleys and side streets at \$1.3M. Just the arteries coming into the city were in horrible condition. With Alameda, even with some portions in the County, it was an artery that had no borrow pits and no sidewalks, and the streets were narrow. There was SE 2nd Street or Sunset. Then NW 4th Avenue, the artery going to the beltline, was vastly deteriorating. There were some County properties that needed to annex in, but that project alone, in five years, was going to be a real issue. Dorian was another issue. Also, on SW 4th Avenue, there were two traffic lights that needed to be replaced. The one on Verde should have been replaced years ago. The traffic light at the base of the hospital was probably the most used ADA ramp crossing in Ontario, and light poles were in the middle of the ramp. He was for a strong Police Department and a strong Fire Department, but he was also for rebuilding and repairing the city's infrastructure. In talking about the current budget of \$315K going into the Street Fund, with a possible payment of \$320K annually from the past issue, they should create a Street Project Reserve Fund, and take both those funds combined for approximately \$500K annually, and put those funds in that Reserve Fund so it could be identified for projects. Bottom line, he could not support leaving that money in the General Fund, and asked the Council to consider the creation of a Street Project Reserve Fund.

Councilor Verini agreed that a lot of that was true, but bottom line was that Councilor Jones put public safety as number one in his argument, but public safety was different things to different people. It was street striping, or the condition of the streets, but it was also, in the Police Department's venue, a Gang Officer, or a Drug Task Force Officer, or a Police Captain, and in the Fire Department, they were currently short one full-time Firefighter. Those were all public safety issues. With what Councilor Jones said, maybe the Council should put it all under one umbrella – the \$241K payback to the Streets, and allocate as needed between Police, Fire, or Streets. Then take the additional 52.5% and also put that under that same umbrella.

Councilor Jones stated it was apples and oranges. He was talking about infrastructure and Councilor Verini talked of employee expenses. The Council had to take a portion of the revenues, and they had to begin rebuilding the city's infrastructure.

Councilor Verini stated they had discussed that, the approximately \$241K going into Streets annually. But in this case, they were talking about splitting the 52.5%, half going into the Street Fund, and taking half of that 52.5% and designating it for public safety, which could end up going towards streets. They were all working for the safety of the community. This was a way of addressing that issue where everyone benefited.

Mr. Long stated the payback to the Street Fund would be \$237,157 annually, for 10 years.

Councilor Crume stated the original discussion was about paying back the misallocation, or not, and what to do with the TOT funds moving forward. Originally, he had been in favor of splitting the payback, the \$2.4M, over 10 years, and taking all the money going forward into a Public Safety Fund, for Police, Fire, or Public Works. Someone stated the streets could get by, but what happened at the end of those 10 years? Then his idea wasn't as fair. It made sense to do this fairly by paying back the \$2.4M over 10 years, and then split the new money going half to the Public Safety Fund and half to the Street Fund. That would be about \$150K a year the Streets would lose out. He believed they needed something titled "Public Safety", but he knew they were down one Firefighter, and three Police Officers. This community didn't currently have what was needed in regards to the police force – it couldn't be done with the current staffing levels. Money was only part, but it was in the equation. With the Mayor's suggestion of splitting the TOT 50/50, it made sense. No one was going to get all they wanted – they needed to compromise. He struggled with a title for the Fund, but he wanted to include it would require direction from the Council on what those funds would be expended on.

Councilor Fox stated he might be on board if the Fund was title appropriate as a Reserve Fund. He didn't want to just leave it as a Public Safety Fund.

Mayor Cammack suggested it be titled a Public Safety Reserve Fund.

Ron Verini moved, seconded by Charlotte Fugate, that the Mayor and City Council direct the City Attorney to prepare an ordinance to amend City Code Section 3-11-4 by reallocating the 52.5% currently dedicated to street maintenance activities as follows: 26.25% to a special reserve fund named Public Safety, to be allocated at the direction of the Council, and 26.25% to Street Maintenance, in addition to any amendments to Section 3-11-4 approved by the City Council under its "Old Business" discussion. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-yes; Verini-yes; Cammack-yes. Motion carried 7/0/0.

OLD BUSINESS

TOT: Potential Repayment Plan of Misallocated Funds

Larry Sullivan, City Attorney, stated this report was for a discussion of the Council's options for dealing with the city's past noncompliance with City Code Section 3-11-4 caused by the misallocation of transient occupancy tax (TOT) funds in the 2003-2012 budget years. Staff understood the Council intended to tie any amendments to Code Section 3-11-4 dealing with the repayment of street maintenance funds to language separately approved by the Council for future TOT allocations. The repayment options previously discussed by the Council included:

Option A- No Repayment.

Option A explicitly waived the requirement that the city allocate any funds to correct prior TOT misallocations. Proposed language to add to Code Section 3-11-4 to accomplish Option A:

The City shall not be required to use any tax proceeds received prior to January 1, 2013, for street maintenance activities. Nor shall the City be required to allocate any other funds for street maintenance activities in order to correct transient occupancy tax misallocations occurring prior to January 1, 2013.

The effect of such an ordinance would be to eliminate any claims against the city for its prior noncompliance with Code Section 3-11-4.

Option B- 10 Year Repayment.

As an alternative to Option A, Option B corrected the misallocation by spending \$2.4M from the General Fund on street maintenance activities over a period of 10 years. If the Council favored this approach, the Council could accomplish this by amending Code Section 3-11-4 to add the following language:

In order to correct transient occupancy tax misallocations that occurred before December 31, 2012, the City shall spend not less than \$2,400,000 for street maintenance activities using tax revenues other than transient occupancy tax revenues. This shall be accomplished by dedicating at least \$240,000 annually, commencing in the 2013-2014 budget year, for street maintenance activities, until the full amount of \$2,400,000 has been spent for that purpose.

Option B1- 10 Year Repayment with Authorization for Street Maintenance Reserve Fund.

At the Council work session on October 3, 2013, it was proposed allocating the street maintenance money be repaid from the General Fund to a Street Maintenance Reserve Fund, which would be used as a source of matching funds for future projects in which a match from the city was required. This could be accomplished by approving Option B plus adding the language in bold:

In order to correct transient occupancy tax misallocations that occurred before December 31, 2012, the City shall spend not less than \$2,400,000 for street maintenance activities using tax revenues other than transient occupancy tax revenues. This shall be accomplished by dedicating at least \$240,000 annually, commencing in the 2013-2014 budget year, for street maintenance activities, until the full amount of \$2,400,000 has been spent for that purpose. **All or any portion of the dedicated funds may be placed into a street maintenance reserve fund to provide matching funds for future street projects, so long as none of dedicated funds are used for any purpose other than street maintenance.**

Option B2- 10 Year Repayment with Flexible Extensions.

In various discussions about dedicating general tax revenues to street maintenance, Council members expressed concerns about the effect that this would have on the city's ability to provide essential services, such as fire and police services. One way to address this in the ordinance might be to allow the Council to pass resolutions allocating less than \$240,000 in any year in which the funds were needed for essential city services. This could be accomplished by approving Option B plus adding the language in bold:

In order to correct transient occupancy tax misallocations that occurred before December 31, 2012, the City shall spend not less than \$2,400,000 for street maintenance activities using tax revenues other than transient occupancy tax revenues. This shall be accomplished by dedicating at least \$240,000 annually, commencing in the 2013-2014 budget year, for street maintenance activities, until the full amount of \$2,400,000 has been spent for that purpose. **If at any time the Council finds that, in order to pay for essential City services, the funding of street maintenance activities may be reduced below the \$240,000 required herein, the Council may by resolution make such a reduction without violating this Ordinance. The effect of such a resolution shall not be to relieve the City of its obligation to spend \$2,400,000 on street maintenance activities as required in this Ordinance, but it may extend the period of time over which that amount is spent.**

With this approach, if in one year the Council spent only 8% of the required \$2,400,000 on street maintenance activities, it would not have to spend 12% the subsequent year to make up for the shortfall unless it chose to do so. If the Council favored Option B, it could also approve Option B1 and/or B2 if it chose to do so.

Councilor Crume stated on Option B2, the wording read that "the city shall spend not less than \$2.4M; why couldn't it just read just \$2.4M? It almost implied they city could pay back more. Also, it read "this shall be accomplished by dedicating at least \$240K annually." It should just say "this shall be accomplished by dedicating \$240K", or the number that Mike Long provided.

Mr. Sullivan stated he added that language because it was hard to hit a specific target. If the Council wanted to spend money on several projects, and the projects cost different amounts, it wouldn't be a violation of the Statute to allocate that amount. It was the same for both of Councilor Crume's comments. However, for example, if one year the Council only wanted to spend \$210K for Streets, but the following year they wanted to spend more because it was shorted the year before, they could increase the amount to \$260K.

Councilor Verini stated combining B1 and B2 gave the Council the most flexibility to use the funds as they needed in Streets.

Councilor Tuttle stated the Council could change the ordinance any time they wanted to. This discussion dealt with the city paying back the money to Streets that was misallocated. The Council could adjust accordingly for the income to the city. The main issue was paying the money back. Option B was the way to go.

Mayor Cammack preferred B2, as it added flexibility. It wouldn't require an ordinance change. The Council could decide if they needed more money somewhere. It was the same as B1, but added some emergency flexibility. It would still come back before Council.

Councilor Crume stated on B2, if numbers fluctuated in payback, B2 said in 10 years the \$2.4M had to be paid back.

Mr. Sullivan stated it read that the total amount of \$2.4M had to be paid back, but under B2, it could be 11 years, or 12. It didn't necessarily obligate the city to make up for any shortfalls during the 10-year period that might occur.

Councilor Crume asked about including language that it be paid off in the 10-yr time frame, regardless of how it was done. B2 gave flexibility, but he wanted to ensure it was paid off in 10-years.

Councilor Jones stated they had a city budget of \$33M, and the city couldn't pay that \$240K annual payment over ten years? If they couldn't, the city was in trouble.

Councilor Fox wanted the exact number provide by Mr. Long, something like \$237K.

Mayor Cammack stated it would be specified and included in the enacting ordinance.

Norm Crume moved, seconded by Dan Jones, that the City Council pay back to the Street Fund over a 10-year period of time, the exact amount to be dictated by Finance Director Mike Long, to be paid back in equal payments per year out of the General Fund, to pay back the approximate \$2.4M to the Street Fund. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-yes; Verini-yes; Cammack-yes. Motion carried 7/0/0.

CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

- Councilor Verini reported that at the Chamber Forum that day, Representative Cliff Bentz discussed the Special Session in Salem. He spoke of SB861, which discussed the reduction of COLA, which passed. Also, HB3601, which read that 10¢ from cigarettes would go towards mental health issues. Representative Bentz now has the opportunity to bring two bills to the Legislature. He was bringing forward the Industrial Lands Bill, which was extremely important, and they needed to support that. But, give some thought to what second Bill he could present.

ADJOURN

Jackson Fox moved, seconded by Ron Verini, that the meeting be adjourned. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Tuttle-yes; Verini-yes; Cammack-yes. Motion carried 7/0/0.

APPROVED:

ATTEST:

LeRoy Cammack, Mayor

Tori Barnett, MMC, City Recorder

AGENDA REPORT
October 21, 2013

TO: Mayor and City Council

FROM: Michael Long, Finance Director

THROUGH: Jay Henry, City Manager

SUBJECT: RESOLUTION #2013-131: ESTABLISHING THE CITY OF ONTARIO GRANT/DONATION PROCEDURES

DATE: October 11, 2013

SUMMARY:

Attached are the following documents:

- Resolution # 2013-131
- Grant/Donation Request Application

The purpose of this agenda item is to establish procedures when entities request grants/donations from the City of Ontario.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The City Council at times receives requests from entities for a grant or donation of the City's funds. There has not been any procedure for the process and accountability by the entity when requesting funds from the City. The City Council needs to have a report from the entity regarding accounting and recording of results for how that grant/donation provided to the Community was used.

FINANCIAL IMPLICATIONS:

The financial implication is that the City Council will receive a report and have it on record as to how the proceeds were used in providing service to the Community.

RECOMMENDATION:

Staff recommends the City Council adopt Resolution #2013-131.

PROPOSED MOTION:

I move the City Council adopt Resolution #2013-131, A Resolution Establishing the City of Ontario Grant/Donation Procedures.

RESOLUTION #2013-131

A RESOLUTION ESTABLISHING THE CITY OF ONTARIO GRANT/DONATION PROCEDURES

WHEREAS, the City of Ontario receives requests for grants/donations from entities;
and

WHEREAS, the grants/donations over \$1,000 need to be accounted for by the entities receiving the funds to report back to the City how the funds were used; and

WHEREAS, the establishment of a grant/donation procedure for grants over \$1,000 so the entities can make an accounting of the use of the funds to the City Council.

NOW THEREFORE, BE IT HEREBY RESOLVED by the Ontario City Council, to establish the following procedures for grant/donated funds over \$1,000 to entities:

1. Applications shall be submitted to the City Manager
2. Applications shall be due by February 1st of each year
3. Applications shall contain the organization applying, address, contact person, phone number, Tax ID number or SSN, whether it is tax-exempt under State or Federal law, email address, title of project, brief description, and signature of applicant
4. List project plan – a. what is the main focus of the project, b. when will the project occur, c. when will the project be completed, d. how will you measure your success, and e. describe any in-kind or volunteer assistance you expect to receive in support of the project
5. Fill out a grant budget form
6. The grant or donation request must go through the Budget Committee process to receive approval
7. Application request will be added to the “requested” budget for the coming fiscal year presented to the Budget Committee for approval
8. If approved, submitted to the City Council for “adoption”
9. Grants over \$1,000, the proposer will enter into an agreement with the City of Ontario to furnish the service/project as specified in accordance with the grant/donation application
10. When grant has been expended and completed, a completed budget/actual form accounting for the grant funds will be turned in
11. If policy is not followed by applicant, future grants will not be granted

EFFECTIVE DATE: Effective immediately upon passage.

PASSED AND ADOPTED by the City Council of the City of Ontario this ____ day of _____ 2013, by the following vote:

AYES:

NAYES:

ABSENT:

APPROVED by the Mayor this ____ day of _____, 2013.

LeRoy Cammack, Mayor

ATTEST:

Tori Barnett, MMC, City Recorder

CITY OF ONTARIO
GRANT/DONATION REQUEST APPLICATION



Submit Application to:

City Manager
City of Ontario
444 SW 4th Street
Ontario, Oregon 97914

APPLICATIONS DUE BY FEBRUARY 1ST EACH YEAR

HOW TO APPLY

Applications are available at the Front Counter at City Hall, 444 SW 4th Street, Ontario, Oregon 97914. Also, the application is available from the Finance Director. Grant applications must be submitted on these forms or a form you have produced which replicates the form. Please send application to:

City Manager
City of Ontario
444 SW 4th Street
Ontario, Oregon 97914

Applications are due each year by February 1st.

Application request then will be added to the "Requested" budget for the coming fiscal year presented to the Budget Committee for approval, and then, if approved, submitted to the Ontario City Council for "Adoption".

The grant or donation request must go through the Budget Committee process to receive approval.



GRANT/DONATION APPLICATION

DATE: _____

Organization Applying: _____

Address: _____

City, State, Zip: _____

Contact Person: _____

Phone Number: _____

Tax ID # or SSN: _____ Tax Exempt under State / Federal Law: Yes No

Email Address: _____

Title of Project: _____

Brief Description of Project: _____

The undersigned, as proposer, declares that he/she has carefully examined the requirements of the Ontario's Grant/Donation Application packet and agrees, if the application is funded, that proposer will enter into an agreement with the City of Ontario to furnish the service/project as specified, in accordance with the grant/donation application attached. **If policy is not followed by applicant, future grants will not be granted.**

Signature of Applicant _____ Date _____

Signature of Mayor _____ Date _____

City of Ontario Grant/Donation Application Description

PROJECT DESCRIPTION

Project Plan:

1. What is the main focus of this project?

2. When will the project occur?

3. When will the project be completed?

4. How will you measure your success?

5. Describe any in-kind or volunteer assistance you expect to receive in support of this project.

City of Ontario Grant Budget/Actual Form

DESCRIPTION	GRANT (BUDGET)	COMMITTED PENDING	ACTUAL	BALANCE	COMMENTS/EXPLANATIONS
INCOME:					
City Grant Request				0.00	Grant from City of Ontario
Cash Match -					
Source:				0.00	
Source:				0.00	
Source:				0.00	
Other Funding Sources -					
Source:				0.00	
Source:				0.00	
Source:				0.00	
TOTAL INCOME	0.00	0.00	0.00	0.00	
EXPENDITURES:					
Wages/Salaries					
Payroll Costs					
Payroll Expenses					
Material and Supplies					
Capital Purchases					
Administrative Costs					
TOTAL EXPENDITURES	0.00	0.00	0.00	0.00	
DIFFERENCE	0.00	0.00	0.00	0.00	

When the GRANT has been expended and completed, GRANTEE will turn in the completed budget/actual form to the GRANTOR accounting for the grant funds.

AGENDA REPORT
October 21, 2013

TO: Mayor and City Council

FROM: Larry Sullivan, City Attorney

THROUGH: Jay Henry, City Manager

SUBJECT: ORDINANCE NO. 2685-2013, AMENDING CITY CODE SECTION 3-11-4 TO ALLOCATE A PERCENTAGE OF FUTURE TRANSIENT ROOM TAX REVENUES FOR PUBLIC SAFETY AND TO CORRECT PAST TRANSIENT ROOM TAX MISALLOCATIONS -FIRST READING

DATE: October 14, 2013

SUMMARY:

Attached is the following document:

- Ordinance No. 2685-2013

PRIOR COUNCIL ACTION:

October 7, 2013 The City Council approved two motions to amend Code Section 3-11-4 to include public safety as a transient room tax expenditure and to set aside street maintenance funds annually to correct prior misallocations.

BACKGROUND:

Proposed Ordinance No. 2685-2013 implements the two motions unanimously approved by the Council to amend Code Section 3-11-4 dealing with transient revenue tax distributions. The first amendment is to Section 3-11-4(A). It reduces the percentage distributed to street maintenance activities from 52.5% to 26.25%, and reallocates that same percentage, 26.25%, to a public safety account, to be spent as directed by the Council.

The second amendment creates a new subsection (B) to Code Section 3-11-4. It is intended to correct misallocations to transit room taxes that occurred between 2005 and 2012. Finance Director Mike Long has done a new calculation of the amount misallocated, which is \$2,026,480. This is less than the amount discussed with the Council at the October 7, 2013, meeting. It reduces the amount necessary to be set aside for street maintenance activities each year of the ten-year repayment period to \$202,648.

RECOMMENDATION:

Staff recommends the Council approve a first reading of Ordinance No. 2685-2013.

PROPOSED MOTION:

I move the City Council approve Ordinance No. 2678-2013, AN ORDINANCE AMENDING CITY CODE SECTION 3-11-4 TO ALLOCATE A PERCENTAGE OF FUTURE TRANSIENT ROOM TAX REVENUES FOR PUBLIC SAFETY AND TO CORRECT PAST TRANSIENT ROOM TAX MISALLOCATIONS, on First Reading by Title Only.

ORDINANCE NO. 2685-2013

**AN ORDINANCE AMENDING CITY CODE SECTION 3-11-4
TO ALLOCATE A PERCENTAGE OF FUTURE TRANSIENT ROOM TAX
REVENUES FOR PUBLIC SAFETY AND TO CORRECT PAST
TRANSIENT ROOM TAX MISALLOCATIONS**

- WHEREAS,** City Code Section 3-11-4 sets forth the formula for distribution of tax revenues generated by the transient room tax imposed in Section 3-11-3, and allocates 52.5% of transient room tax revenues to street maintenance activities; and
- WHEREAS,** From July 1, 2005, to December 31, 2012, the City failed to follow that formula by misallocating 52.5% of the transient room tax revenues for activities other than street maintenance activities; and
- WHEREAS,** The misallocation resulted in a reduction in street maintenance expenditures in the cumulative amount of \$2,026,480 between the years 2005 and 2012; and
- WHEREAS,** In order to correct that misallocation, it is in the best interest of the City to allocate \$202,648 annually from non-transient room tax revenues for street maintenance activities for ten years, commencing with the 2013-2014 budget year, until the full amount misallocated has been restored; and
- WHEREAS,** The City's 2013-2014 approved budget includes that amount in the Street Fund for street maintenance activities; and
- WHEREAS,** It is in the best interest of the City to use a portion of future transient room tax revenues for public safety activities, and to establish a public safety reserve fund for that purpose.

NOW THEREFORE, The Common Council For The City Of Ontario Ordains As Follows:

Section 1. Section 3-11-4 of Chapter 11 of Title 3 of the Ontario City Code is hereby amended by deleting that portion that is stricken and adding those portions that are underlined:

3-11-4 - Distribution of proceeds.

(A) Every operator liable for the collection and remittance of the tax imposed by Section 3-11-3, may withhold three and seventy-five one hundredths percent (3.75%) of the net tax due under that Section to cover the operators expense in the collection and remittance of said tax. The balance of the funds collected and remitted to the City shall be distributed as follows:

Twelve and five tenths percent (12.5%) of the gross tax collected shall go to the Ontario Parks and Recreation and/or community enhancement projects.

~~Fifty-two and five tenths percent (52.5%)~~ Twenty-six and twenty-five hundredths percent (26.25%) shall be dedicated to street maintenance activities.

Twenty-six and twenty-five hundredths percent (26.25%) shall be deposited into a public safety reserve account to be spent for public safety activities as directed by the City Council.

Twenty-two and five tenths percent (22.5%) shall be divided with thirty thousand dollars (\$30,000.00), to be distributed in monthly payments of two thousand five hundred dollars (\$2,500.00) each to a grant fund to be administered by a Visitor and Convention Board created pursuant to the Agreement to Provide Tourism Promotion Services between the City of Ontario and the Chamber of Commerce dated September 3, 1997, and the balance to go to the Ontario Chamber of Commerce for tourist promotion, subject to the Chamber's performance in accordance with the terms and conditions of the Agreement to Provide Tourism Promotion Services between the City of Ontario and the Chamber of Commerce dated September 3, 1997.

Twelve and five tenths percent (12.5%) shall be placed in a dedicated fund to be held for distribution pursuant to an agreement to be negotiated between the City of Ontario, Four Rivers Cultural Center (FRCC) and the Hotel Operators and approved by the Ontario City Council.

(B) In order to correct transient room tax misallocations in the amount of \$2,026,480 that occurred between July 1, 2005, and December 31, 2012, the City shall budget \$202,648 annually for street maintenance activities for ten years, starting in the 2013-2014 budget year. This is in addition to the 26.25% of transient room tax revenues allocated to street maintenance activities under subsection (A) of this Ordinance. This is also in addition to any unexpended street maintenance funds carried over from prior budget years.

PASSED AND ADOPTED by the Common Council of the City of Ontario this ____ day of _____, 2013, by the following vote:

AYES:

NAYS:

ABSENT:

APPROVED by the Mayor this ____ day of _____, 2013.

ATTEST:

Leroy Cammack, Mayor

Tori Barnett, MMC, City Recorder

AGENDA REPORT
October 21, 2013

TO: Mayor and City Council

FROM: Larry Sullivan, City Attorney

THROUGH: Jay Henry, City Manager

SUBJECT: SEWER UTILITY MISBILLINGS FOR SRCI

DATE: October 14, 2013

SUMMARY:

Attached are the following documents:

- 1997 Agreement between the City and the Department of Corrections (DOC) for sewer service to the Snake River Correctional Institute (SRCI); and
- January 11, 2013, email from Delhie Block to Jay Henry estimating the amount misbilled for sewer services from the City for SRCI for the years 1994-2012.

BACKGROUND:

In 1990 and in 1997, the City entered into contracts with DOC to construct and maintain sewage delivery and sewage treatment systems for SRCI. The original 1990 contract was amended in 1997 to accommodate SRCI's expansion.

On page 5 of the 1997 contract, Section 3.1(b) obligates DOC to pay to the City a monthly sewer payment based on the residential equivalent rate (ERU) charged to City residents for sewer service established by a City ordinance enacted in 1994, including any subsequent changes to that rate; and an annual "BOD and TSS surcharge" calculated using the formula in Exhibit A to the 1997 contract.

In January, 2013, Public Works employee Delhie Block circulated an email among City staff estimating that the City had underbilled DOC by \$1.9 Million in the years 1994-2012, for its monthly bills and its annual surcharge bills. The method used by Delhie Block was not intended to provide a precise number; it primarily relied on averages calculated over a period of months and years, rather than relying on the City's actual monthly bills sent to DOC for the months and years in question. In addition, there were no billing records for the years 1994 through 2001, so Delhie Block used averages obtained from more recent records, on the assumption that the City also underbilled DOC during those earlier years.

Delhie Block's calculations strongly suggest that the City substantially underbilled DOC for its sewer charges over a long period of time. In the legal opinion of City Attorney Larry Sullivan, DOC is liable for those underbillings and the City may send corrected bills to DOC for any months and years in which DOC was underbilled. However, in the City Attorney's opinion, Delhie Block's email does not provide a sufficient legal basis for making a formal demand upon DOC because the email was not intended to provide a precise calculation showing the amount that DOC owes to the City. Larry Sullivan recommends that corrected bills be prepared showing the amounts that should have been paid in each of the relevant months and years. Finance Department staff members are working on calculating the actual amounts underbilled for each of the relevant months and years.

The City no longer has the billing records for the years 1994 through 2001, and will have to obtain those records from another source if it is going to make a claim against DOC for any underbilling during those years. The City may be able to obtain those billing records by doing a public records request on the State of Oregon. If the City obtains those billing records, it will do the same calculations as are being done for later years.

RECOMMENDATION:

Staff recommends the Council authorize staff to take steps reasonably necessary to produce correct sewer utility billings for the Department of Corrections for the years 1994 through 2012, to the extent records are available to do so.

PROPOSED MOTION:

I move that the Mayor and City Council authorize staff to take steps reasonably necessary to produce correct sewer utility billings for the Department of Corrections for the years 1994 through 2012, to the extent records are available to do so.

**AGREEMENT FOR THE CONSTRUCTION AND OPERATION
OF A SEWAGE DELIVERY AND TREATMENT FACILITY
FOR THE PROVISION OF SEWAGE SERVICE TO THE
SNAKE RIVER CORRECTIONAL INSTITUTE**

DATED: This 20th day of October, 1997

BETWEEN: THE CITY OF ONTARIO, an Oregon municipal corporation, hereinafter "City"

AND: THE STATE OF OREGON, acting by and through The Department of Corrections, hereinafter "DOC"

RECITALS:

1. DOC has a present and continuing requirement for sewage service for the Snake River Correctional Institute (SRCI) located near Ontario, Oregon; and
2. DOC and City entered into an Agreement for the Construction and Operation of a Sewage Delivery and Treatment Facility for the Provision of Sewage Service to the Snake River Correctional Institute on November 18, 1990, (the "Original Agreement.")
3. The Original Agreement contemplated expansion of the City's Sewage Treatment Facility to accommodate 3,000 inmates located at SRCI, but did not require the City to treat sewage for an inmate population of greater than 650.
4. DOC is expanding SRCI and plans for the location of up to 3,000 inmates there on or after June of 1999, in accordance with the Population Schedule.
5. DOC desires the City to design, construct, acquire and otherwise bring into operation an upgrade to its sewage delivery and treatment facility and to operate and maintain a sewage delivery system to provide service to SRCI for up to 3,000 inmates; and
6. DOC has agreed to pay to the City costs incurred by the City associated with said upgrade of the City's treatment facility which are allocable to the expanded capacity needs for SRCI, including, without limitation, design, construction, financing, maintenance, operation and replacement of said sewage treatment facility and all component parts thereof; and to design and construct at DOC's cost the sewage delivery system compatible with the City of Ontario systems and capable of transmitting sewage generated by the expanded SRCI facility.
7. The city acknowledges that it is in the long-term best interest of the community to upgrade the City's treatment facility; and
8. Oregon Revised Statutes, ORS Chapter 190.110(1) authorizes units of local government and state government to enter into inter-governmental agreements for the performance of their duties or for the exercise of powers conferred upon them.

NOW, THEREFORE, in consideration of the foregoing and of the mutual terms, conditions, covenants and warranties contained hereinafter, the parties agree as follows:

Article 1
DEFINITIONS

1.1 "Agreement" shall mean this "Agreement for the Provision of Sewage Service to the Snake River Correctional Institute" dated as of the ____ day of August, 1997, between the City and DOC, and any and all amendments supplements hereto.

1.2 "Bonds" or "Bond Issue" shall mean those revenue bonds issued by the City for purposes of funding the costs of designing, constructing, acquiring and otherwise bringing into operation the Original Project.

1.3 "BOD₅" shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, as specified in STANDARD METHODS FOR THE EXAMINATION OF WATER AND WASTEWATER - SEVENTEENTH EDITION published jointly by the American Public Health Association, by the American Waterworks Association, and by the Water Pollution Control Federation, in five (5) days at twenty degrees (20°) C., and expressed in milligrams per liter.

1.4 "City" shall mean the City of Ontario.

1.5 "Debt Service" shall mean all sums necessary for the payment of the Bonds in accordance with the terms and provisions of the Bond Issue, including principal and interest.

1.6 "DOC" shall mean the State of Oregon, acting by and through the Department of Corrections.

1.7 "Environmental Law" shall mean any federal, state or local statute, ordinance or regulation pertaining to health, industrial hygiene, or the environment, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act, 42 USC §9601, *et seq.* ("CERCLA"); the Resource Conservation and Recovery Act, 42 USC §6901, *et seq.* ("RCRA"); the Toxic Substances Control Act, 15 USC §2601, *et seq.* ("TSCA"); the Federal Insecticide, Fungicide and Rodenticide Act, 7 USC §136 *et seq.* ("FIFRA"); the Federal Water Pollution Control Act, 33 USC §1251, *et seq.* ("Clean Water Act"); the Safe Drinking Water Act, 42 USC §300, *et seq.*; the Solid Waste Disposal Act, 42 USC §6901, *et seq.*; the Emergency Planning and Community Right To Know Act, 42 USC §11001, *et seq.*; Oregon Environmental Clean-up Laws, ORS 466.605, *et seq.*; Air and Water Pollution Control, ORS 468; and all rules existing or hereafter adopted and guidelines promulgated pursuant to the foregoing.

1.8 "Operation Costs" shall mean all costs incurred by the City in connection with the operation, maintenance, odor control, replacement, upgrading, or otherwise bringing into conformance with any applicable rule, regulation, statute or standard, the City's Sewer Treatment/Effluent Disposal Facilities or any component part thereof, now or in the future. Operation Costs are paid by the sewer users paying the monthly sewer charges at rates established pursuant to Ordinance No. 2327.

1.9 "Ordinance" shall mean all existing or hereafter amended or enacted ordinances of the City of Ontario.

1.10 "Original Agreement" shall mean the AGREEMENT FOR THE CONSTRUCTION AND OPERATION OF A SEWAGE DELIVERY AND TREATMENT FACILITY FOR THE PROVISION OF SEWAGE SERVICE TO THE SNAKE RIVER CORRECTIONAL INSTITUTE, between the City of Ontario and the State of Oregon, acting by and through the Department of Corrections, dated December 18, 1990.

1.11 "Original Project" shall mean the Sewage Treatment Facility and Pipeline System built by the parties pursuant to the Original Agreement.

1.12 "Pipeline System" shall mean the pretreatment headworks, sewer lines and sewerage lift stations designed, constructed, acquired and otherwise brought into operation by the DOC, connecting the Prison Facility to the City's Sewage Treatment Facility for the purposes of collection and conveyance of Prison Facility sewage to the City's sewage treatment lagoons, together with all easements, properties or rights of way containing said system. Said lines originate at the Point of Delivery and terminate at the downstream side of the headworks facility where said lines enter the sewer treatment lagoons, but shall not include any overflow ponds which may be constructed on the Prison Facility site.

1.13 "Point of Delivery" shall mean the location of the interface between that section of the treatment, collection, and conveyance system which is operated and maintained by the City and that section of the treatment, collection, and conveyance system which is operated and maintained by the DOC; and, which point is more specifically identified as the inlet to the pretreatment headworks at the control gate to be installed by DOC, located approximately 4.9 miles north and west of City wastewater treatment facility.

1.14 "Population Schedule" shall mean in accordance with the schedule published by ODOC dated May 9, 1997, total inmate beds at the SRCI of: up to 1,178 no later than July 1, 1997; up to 1,216 no later than December 1, 1997; up to 1,844 no later than March 1, 1998; up to 2,004 no later than July 1, 1998; up to 2,164 no later than September 1, 1998; up to 2,324 no later than November 1, 1998; up to 2,484 no later than February 1, 1999; up to 2,676 no later than April 1, 1999; and up to 2,996 no later than July 1, 1999.

1.15 "Prison Facility" shall mean the Snake River Correctional Institution (SRCI), limited to no more than 3,000 inmates and further limited to, except as agreed to in writing, specifically exclude any industry which would cause SRCI to exceed the projected Total Flows and Loading or which would significantly change the character of the sewage being discharged to the Sewage Treatment Facility or add any component not typically found in domestic sewage.

1.16 "Project" shall mean the Sewage Treatment Facility upgrades and additions to be built by the City to accommodate 3000 inmates at SRCI as more specifically set forth in the Population Schedule and limited to the projected Total Flows and Loading.

1.17 "Project Costs" shall mean all costs incurred by the City in the design, construction, acquisition and otherwise bringing into operation the Sewage Treatment Facility, including, without limitation, design engineering, construction, construction administration, City staff time, travel expenses, administrative costs and legal fees, but does not include the feasibility analysis costs, for which DOC has already been billed.

1.18 "Service" shall mean the provision of sewage treatment services by the City pursuant to this Agreement up to the projected Total Flows and Loading.

1.19 "Sewage Treatment Facility" shall mean the integrated sewage treatment and effluent disposal facility constructed by the City to accommodate sewage treatment Service for City residents, businesses, industry and the Prison Facilities, including without limitation, the sewage lagoons and any associated structures, chlorination/dechlorination equipment, the laboratory building and all associated equipment, the effluent disposal lands together with all effluent irrigation pumps, center pivots and other equipment and the sewer outfall line to the Snake River.

1.20 "Total Flows and Loading" shall mean the projected flows and loading for 3000 inmates as set forth in Table 1 of the Oregon Department of Corrections Snake River Correctional Institution Sewage Treatment Facility Pre-Design Report published by David Evans and Associates on March 28, 1997, more particularly: projected average flow of 0.708 mgd; projected average BOD₅ loading of 1,288 ppd; and, projected average TSS loading of 1,312 ppd. Averages as set forth herein shall be determined on a monthly basis.

1.21 "Toxic Substance" and/or "Hazardous Waste" shall mean all substances, materials and waste that are, or that become, regulated under, or that are classified as hazardous or toxic under any Environmental Law.

Article 2 AGREEMENT TO CONSTRUCT SEWAGE TREATMENT FACILITY AND TO PROVIDE SERVICE

2.1 Statement of Purpose and intent. DOC cannot operate a prison without sewage treatment. The only alternative to this Agreement was construction by DOC of its own sewage treatment facility. DOC considered this alternative and concluded that it is in the best long term interests of the citizens of the State of Oregon for the City of Ontario to provide the Prison Facility with Sewage Service. The intent of the parties to this Agreement is that the City shall provide Service and that DOC shall pay all costs incurred by the City in providing Service, including, without limitation, DOC's share of the Project Costs, Operation Costs assessed on Prison Facility sewage treated by City in accordance with City's current residential equivalent rates, and Debt Service. As its share of the Project Costs, to provide the City with the additional Service capacity to serve the expanded Prison Facility, DOC shall pay Ontario \$1,343,000.00.

2.2 Agreement to Provide Service. The City hereby agrees to provide Service to DOC for the maximum numbers of inmates (and associated personnel, contractors, visitors, volunteers)

specified on the Population Schedule at the times set forth on the Population Schedule up to the Total Flows and Loading. The City shall have no duty or obligation to provide Service in excess of an inmate capacity greater than that called for by the Population Schedule or in excess of One Hundred and Fifteen percent (115%) of the projected average Total Flows and Loading until such time as an amendment or supplement to this Agreement is entered into between the parties hereto in a form acceptable to the City, and further subject to the Oregon Department of Environmental Quality's approval and to the availability of funding to defray the costs of constructing any additional facilities necessary to provide Service.

2.3 Sole Source. It is understood and agreed between the parties hereto that during the term of this Agreement the City shall be the sole provider of Service to the Prison Facility. This provision shall not be construed to preclude DOC from building pre-treatment or treatment facilities on site to treat any sewage the City refuses to treat under this Agreement.

2.4 Agreement to Upgrade Pipeline System. DOC hereby agrees, at DOC's sole cost and expense, to upgrade the Pipeline System as necessary in DOC's discretion to accommodate the Population Schedule. Unless the Pipeline System is conveyed to City and accepted by City as provided in Article 8 herein, DOC shall be solely responsible for labor and expense to maintain and upkeep the Pipeline System.

Article 3 TERMS AND CONDITIONS OF SERVICE

3.1 Payment. DOC covenants and agrees to pay within thirty (30) days of receipt of a billing from the City each of the following on a monthly basis:

(a) An amount equal to the Debt Service;

(b) As the sole reimbursement for Operation Costs, a residential equivalent rate based upon costs and rates charged during the term hereof to residents of the City of Ontario as set forth in Article II, Ordinance No. 2327 as implemented by Resolution No. 94-117 as said rates currently exist, or may hereafter be amended or replaced plus any applicable BOD and TSS surcharge as described in Exhibit A and Attachment 1, attached hereto and herein incorporated by this reference.

3.2 DOC's Share of Project Costs. DOC shall pay \$1,343,000.00 representing DOC's share of the Project Costs. Payment shall be made by DOC to City no later than September 30, 1997.

3.3 Late Charge. A late charge of 1 percent (1%) per month or any fraction thereof shall be assessed on all sums payable pursuant to Sections 3.1 & 3.2 hereof that are not paid when due.

3.4 DOC's Obligations and Remedies. The DOC shall be obligated to pay the sums set forth in Section 3.1 and to perform and observe all other covenants and agreements of the DOC contained herein. Both parties acknowledge that it is the DOC's responsibility to make all

payments on a continuous basis, providing the City acts in good faith to continually provide Service. It is understood that the City may be restrained from providing service for technical reasons, by court action, or by regulatory decree. In such case, the DOC's obligation for payment of the Debt Service remains unchanged. However, should the City fail to provide service for other reasons than technical, regulatory or legal constraint, the DOC reserves the right to suspend all payments. However, nothing herein shall be construed to release City from the performance of its obligations hereunder; and if City should fail to perform any such obligation, the DOC may institute such legal action against City as the DOC may deem necessary to compel the performance of such obligation.

3.5 Five Percent Rate Reductions. The parties hereto agree that on or before July 1, 1998, the City shall reduce rates to its entire sewage customer base by an amount equal to five percent (5.0%) of the rate in effect on the date of this Agreement and on or before July 1, 1999, by an additional five percent (5.0%) of the rate then in effect. Nothing herein shall bind the City to make said rate reductions if the flows and revenues from the Prison Facilities are significantly below those projected in the Facilities Plan Update, performed by Cascade Earth Sciences on behalf of the City of Ontario, together with Addendum No. 1, dated June, 1997. In addition, the City covenants to make further system wide rate reductions at such time as the City's reserves reach levels which satisfy legal, regulatory and replacement fund requirements, plus a reasonable operating contingency in accordance with standard utility practices and a contingency for planned upgrades to the system. The City agrees to assess the ability to provide such additional reductions on or before July 1, 2000, and annually thereafter.

3.6 Measurement of BOD₅. DOC agrees that the BOD₅ and TSS empirical test utilizing standardized laboratory procedures outlined in *Standard Methods* will be performed by City staff and that the measurements which are the results of those tests will be sufficient and satisfactory data for inclusion in the rate calculation as set forth in Exhibit A. Data samples will be collected and analyzed in accordance with the following schedule and practice:

(a) The City shall collect samples at the Point of Delivery a minimum of three (3) times each full month of operation. To the greatest extent possible, each sample will be taken on a different day of the week and at a different time of the day;

(b) The City shall begin analysis of the samples, utilizing standard laboratory procedures, within six (6) hours of sample collection;

(c) The City shall identify each sample by identification code and shall record the date and time when the sample was collected, the date and time when the sample test was begun, and the results of the test when complete;

(d) The City shall average the results of the monthly samples for use in the residential equivalent rates, as set forth in Exhibit A; and

(e) The City shall maintain records of BOD₅ tests for a minimum of two (2) years and shall make those records available to the DOC for examination.

Article 4

CAPITAL IMPROVEMENTS AND EXPENDITURES MADE TO CONFORM TO LAW

4.1 Court and/or Government Action. The parties hereto acknowledge and agree that the Project being constructed pursuant to this Agreement is intended to comply with all laws, rules, regulations and other requirements of law. The parties further acknowledge, however, that Project standards and regulations may change dramatically during the life of this Agreement and that governmental agency action and/or orders or judgments obtained through court litigation may require significant modification, upgrading, refurbishment and/or replacement of the Project. The parties hereto covenant and agree to mutually cooperate in the defense, resolution and/or settlement of any action, claim or proceeding brought against the City or DOC in connection with the Project and/or the provision of Service, and the parties agree, to the extent permitted by Article XI, Section 7 of the Oregon Constitution, to indemnify each other against any liability for damage to life or property arising from the parties' actions under this Agreement, provided that the obligation to indemnify each other shall not arise except as permitted by the Oregon Tort Claims Act nor exceed the limits therein, as applicable, and, provided further, that neither party shall be required to indemnify the other for any such liability arising out of the negligent or wrongful acts of employees or agents of said other party.

4.2 Responsibility for Costs. In the event that any action, claim or proceeding is brought against the City, as described in Section 4.1, the outcome of which imposes a requirement or obligation upon the City to make modifications, upgrades, refurbishments or reconstructions to the Project, to the extent such modifications, upgrades, refurbishments or reconstructions affect portions of the project affecting or serving only the Prison Facilities, DOC shall pay the costs of any such modification, upgrade, refurbishment or reconstruction. To the extent such modifications, upgrades, refurbishments or reconstructions, including without limitation the installation of a LEMNA System, affect portions of the Sewage Treatment Facilities which benefit the City's sewer service customers in general the entire costs of any such modification, upgrade, refurbishment or reconstruction shall be paid from assessments to the rates charged to the entire rate base of the City, including the Prison Facility.

4.3 Ownership. The City shall retain ownership of all improvements made to the Sewage Treatment Facilities.

Article 5 TERM

The term of this Agreement shall commence as of the 1st day of October, 1997, and shall continue for a period of twenty years, through the 30th day of September, 2017.

Article 6 REPRESENTATIONS, COVENANTS AND WARRANTIES

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6.1 Covenants of City. City represents, covenants and warrants as follows:

(a) To the best of its knowledge City has full power and authority to enter into and carry out the provisions of this Agreement and all documents and instruments contemplated hereunder;

(b) To the best of its knowledge, the execution of this Agreement and consummation of the transactions contemplated herein will not violate or be in conflict with any law, rule, regulation or order, or any agreement to which it is a party or under which it is bound;

(c) This Agreement has been authorized by all necessary actions;

(d) This Agreement is a valid and binding obligation of the City and enforceable in accordance with its terms;

(e) Through a combination of existing capacity and the expansion comprising the Project, the Sewage Treatment Facility will have sufficient treatment capacity to provide Services to DOC in compliance with the Population Schedule.

6.2 Covenants of DOC. DOC represents, covenants and warrants as follows:

(a) To the best of its knowledge, DOC has full power and authority to enter into and carry out the provisions of this Agreement and all documents and instruments contemplated hereunder;

(b) To the best of its knowledge, execution of this Agreement and consummation of the transactions contemplated herein will not violate or be in conflict with any law, rule, regulation or order, or any agreement to which it is a party or under which it is bound;

(c) This Agreement has been authorized by all necessary actions;

(d) This Agreement constitutes a valid and binding obligation of DOC and enforceable in accordance with its terms;

(e) DOC has sufficient funds currently available and authorized for expenditure to finance the costs of the Agreement within DOC's biennial appropriation or limitation. City understands and agrees that DOC's payment of the amounts under this contract attributable to work performed after the last day of the current biennium is contingent on DOC receiving from the Oregon Legislative Assembly appropriations, limitations, or other expenditure authority sufficient to allow DOC, in the exercise of its reasonable administrative discretion, to continue to make payments under this Agreement. In the event the Oregon Legislative Assembly fails to approve appropriations, limitations, or other expenditure authority sufficient to allow DOC, in the exercise of its reasonable administrative discretion, to continue to make payments under this Agreement, DOC may terminate this Agreement and have no further liability to make payments to City under this Agreement. DOC represents, covenants and warrants that it shall use its best

efforts to apply for and obtain sufficient appropriations to make all payments required under this Agreement.

(f) That it waives any right of eminent domain or condemnation with respect to the Project or any portion thereof;

(g) That it shall follow and observe all rules, regulations and ordinances effecting the discharge of effluents to the Sewage Treatment Facility, without limitation of the foregoing, DOC covenants and agrees that grease discharges to the Sewage Treatment Facility shall not exceed one hundred (100) parts per million;

(h) That it shall not permit or allow the discharge of any Toxic Substance, Hazardous Waste or Infectious Wastes or Biohazard container containing Infectious Wastes into the Sewage Treatment Facility, except as otherwise specifically provided in State Statute. As used herein, Infectious Wastes shall be as defined in ORS 459.386 and Biohazard container shall be a container for the disposal of infectious wastes as set forth in ORS 459.390(7);

(i) That prior to the further expansion or addition of uses to the Prison Facility which would increase the sewer flows and/or loading beyond the Total Flows and Loading parameters, or would change the character of the sewage treated by the City, it agrees to negotiate with City for the additional sewage treatment and disposal services required, and should DOC and City be unable to come to agreement, DOC will make other arrangements for the needed additional sewage treatment and disposal services.

Article 7 DISCLAIMER OF WARRANTIES

City makes no warranty or representation, either express or implied as to the value, design, condition, merchantability or fitness for any particular purpose, or fitness for the use contemplated of the Project or any component part thereof, or any other representation or warranty with respect to the Project or any component thereof. In no event shall the City be liable for incidental, indirect, special or consequential damages, in connection with or arising out of this Agreement, or DOC's use of the Project.

Article 8 CONSTRUCTION AND CONVEYANCE OF PIPELINE SYSTEM BY DOC TO CITY

8.1 Construction of Pipeline System. DOC covenants and agrees that it shall cause the Pipeline System to be constructed in accordance with plans, specifications and standards acceptable to the City and acceptable to regulatory authorities regulating such systems. The City has reviewed plans for the Pipeline System upgrades and returned the plans to DOC with comments before the date of this Agreement. The City agrees that further plan review by the City is necessary only to review DOC's responses and changes in response to the City's earlier

comments, and that the City will, to the extent reasonable, expedite its review and approval of such plans.

8.2 Conveyance. Upon provision to the City by DOC of as-built drawings, operations and maintenance manuals, and such other documentation as the City reasonably deems necessary evidencing construction of the Pipeline System in accordance with the plans, specifications and standards approved by the City, DOC shall convey the Pipeline System to the City free and clear of all liens or encumbrances. DOC shall also transfer and convey to City all guaranties and warranties, manufacturer, contractor, or otherwise. DOC shall convey the Pipeline System and all easements associated therewith to the City by bargain and sale deed, which shall be effective upon City's formal acceptance through City Council action.

8.3 Use of Pipeline System. The pipeline shall be for the primary use of the prison. The City shall not permit any other hookups to the Pipeline System which may be reasonably anticipated to interfere with DOC's use of the Pipeline System.

Article 9 ENVIRONMENTAL LAWS

9.1 Compliance. City covenants and agrees that it shall be responsible, through its rate base, for all costs incurred by the City for complying with Environmental Laws in connection with the Project, except for costs associated with the Pipeline System prior to conveyance of the Pipeline System to the City, or for any costs associated with or created by conditions at SRCL, which shall be the sole responsibility of DOC.

9.2 Decommissioning and Clean-Up Costs. DOC covenants and agrees that upon termination of this Agreement, or upon early retirement of the Project or any portion thereof, it shall be responsible for all costs of decommissioning the Project, including clean-up costs required or ordered under any Environmental Law in proportion to its then current utilization of the Project.

9.3 Indemnity. To the extent permitted by Article XI, Section 7 of the Oregon Constitution, DOC agrees to indemnify and hold harmless the City against any liability for damages in any way related to or arising from a violation or a claimed violation of any Environmental Law caused by actions (or omissions to act) at the Prison Facilities. Provided that DOC's obligation to indemnify the City shall not in any way be deemed to be a waiver of the tort liability limits under the Oregon Tort Claims Act or its applicability where appropriate, and, provided further, that DOC shall not be required to indemnify the City for any such liability arising out of the negligent or wrongful acts of employees or agents of the City.

Article 10 EVENTS OF DEFAULT AND REMEDIES

10.1 Events of Default Defined. The following shall be "events of default" under this Agreement, and the terms "event of default" and "default" shall mean, whenever they are used in this Agreement, with respect to the Project, any one or more of the following events:

(a) Failure by DOC or City to make any payment required hereunder on or prior to the date on which such payment is required.

(b) Failure by DOC or City to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in clause (a) of this Section, for a period of 30 days after written notice specifying such failure and requesting that it be remedied has been given to defaulting party by the other party unless the parties shall agree, in writing, to an extension of time for such remedy. Provided, however, that if the breaching party shall proceed to undertake the necessary curative action which, if begun and prosecuted with due diligence, cannot be completed within a period of 30 days, then such period shall be increased without such written extension to such extent as shall be necessary to enable said party, with due diligence, to begin and complete such curative action.

(c) Failure of the legislative assembly to appropriate sufficient funds to enable DOC to make the payments required pursuant to this Agreement.

(d) Failure of City to provide Services in compliance with the Population Schedule.

10.2 Remedies on Default. Whenever any event of default referred to in Section 10.1 hereof shall have happened and be continuing with respect to the terms, covenants and conditions of this Agreement, the party not in default shall have the right, at its option and without further demand or notice, to take one or any combination of the following remedial steps:

(a) In the event of default on the part of DOC, the City, without terminating this Agreement, and without any liability to DOC or the State of Oregon, its agents, inmates and/or employees, may, so long as said default continues, cease accepting and processing of the Prison Facility's sewage by closing all control gates at the Point of Delivery;

(b) In the event of a default by City, the DOC, without terminating this Agreement, and without any liability to the City, may, so long as said default continues, cease making all payments hereunder.

(c) Specifically enforce the terms and provisions of this Agreement by suit in equity; or

(d) Take whatever action at law or in equity which may appear necessary or desirable to collect any payments then due and thereafter to become due during the term of this Agreement with respect to the Project, or enforce performance and observance of any obligation, agreement or covenant under this Agreement.

10.3 No Remedy Exclusive. No remedy herein conferred upon or reserved to DOC or City is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or

in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle DOC or City to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice other than such notice as may be required in this Article or by law.

10.4 Arbitration. Upon mutual agreement between DOC and City, any disputed matter may be submitted to arbitration. The arbitration may be either binding or non-binding, and if binding arbitration is agreed to it shall be governed by the provisions of ORS 36.300 to 36.365. If the DOC and City have agreed to binding arbitration of disputed issues, either party, if dissatisfied with the arbitrator's decision and award, may file exceptions pursuant to ORS 36.355. Exceptions shall be limited to the causes set forth in ORS 36.355(1).

10.5 Agreement to Pay Attorneys Fees and Expenses. In the event either party to this Agreement should default under any of the provisions hereof and the non-defaulting party should employ attorneys or incur other expenses for the collection of monies or the enforcement or performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it will, on demand therefor, pay to the non-defaulting party the reasonable fee of such attorneys, both at trial and on appeal. The amount of the attorneys fees shall be fixed by the trial court and the appellate court in the event an appeal is taken.

10.6 No Additional Waiver implied by One Waiver. In the event any agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Article 11 NO ASSIGNMENT

Neither party to this Agreement shall convey, transfer or assign any interest hereunder without first obtaining the written consent of the other party. Any attempted sale, assignment or transfer, voluntarily or by operation of law, shall be void and of no force or effect, and shall constitute a breach of this Agreement. However, consent is hereby given by both parties to assignment of income by Oregon Department of Energy.

Article 12 ADMINISTRATIVE PROVISIONS

12.1 Notices. Any notice or other communication required or permitted hereunder shall be sufficiently given if delivered or sent by registered or certified mail, postage and registration or certified charges prepaid, addressed as follows:

To City: City of Ontario

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444 S.W. 4th Street
Ontario, OR 97914
Phone: (541)881-3223
FAX: (541)889-7121
Attn: City Manager

To DOC: Oregon Department of Corrections
2575 Center St. N.E.
Salem, OR 97310
Phone: (503)945-9090
FAX: (503)373-1173
Attn: Dave Cook, Director

and shall be deemed to have been given as of the date so delivered or mailed, and the address of a party may be changed by notice delivered or mailed by the changing party to the other party as above stated.

12.2 Binding Effect. The provisions of this Agreement shall be specifically enforceable. This Agreement shall inure to the benefit of and shall be binding upon not only the parties hereto but also upon the respective heirs, successors, representatives and assigns of the parties pursuant to the terms hereof, provided, however, that nothing contained in this Section shall alter the restrictions of the above relating to assignment.

12.3 Captions. The Table of Contents and the captions appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections of this Agreement, nor in any way affect this Agreement.

12.4 Use of Pronouns. In construing this Agreement, whenever the context requires it, the singular number includes the plural and the plural the singular, and the masculine, feminine and neuter gender shall each include the masculine, feminine, or neuter as the context requires.

12.5 Entire Agreement. This Agreement contains the entire understanding of the parties. There are no conditions, representations, warranties, covenants or undertakings other than those expressly set forth herein.

12.6 Counterpart Execution. This Agreement may be executed in counterparts and the said counterparts, when assembled, shall constitute one and the same instrument.

12.7 Severability. In the event any provisions of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

12.8 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon.

12.9 Survival of Covenants. The covenants and agreements contained herein shall survive full performance and/or termination of this Agreement. Without limitation of the foregoing, it is specifically understood and agreed that the provisions of Article 9 relating to environmental laws and Section 9.3 relating to indemnification shall survive the full performance and/or termination of this Agreement.

12.10 Right of Access and Inspection. To ensure compliance with this Agreement, DOC covenants to allow inspection of the Prison Facility from time to time by City upon the giving of reasonable notice of intent to make such an inspection at least forty-eight (48) hours before undertaking inspection.

12.11 No Third Party Beneficiaries. DOC and City are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

Article 13 CONTINGENCIES

13.1 Regulatory Approvals. The parties hereto covenant and agree that the City's obligation to perform hereunder including the issuance of Bonds, letting of contracts, and commencing construction is subject to approval of the design, plans, and specifications for the Project by all governmental agencies having jurisdiction over the Project, or any portion thereof, including without limitation, the Oregon Department of Environmental Quality, which approvals the City will use good faith efforts to obtain.

IN WITNESS WHEREOF, this Agreement has been executed as of the day and year first above written.

THE CITY OF ONTARIO

THE STATE OF OREGON, acting by and
through THE DEPARTMENT OF
CORRECTIONS

By: Robert Switzer

By: Bonnie de Ho

Title: Robert Switzer, Mayor

Title: Deputy Director

EXHIBIT "A"
SEWER RATES AS OF AUGUST 1, 1997

The sewer rates are charged on the basis of "Equivalent Residential Units" (ERU)

Each ERU is charged \$28.08 per month.

An ERU is defined as:

7,700 Gallons flow per month with the following limits:

BOD ₅ -	no more than 180 mg/l	(1.5 pounds per 1000 gallons)
TSS -	no more than 150 mg/l	(1.25 pounds per 1000 gallons)

On September 1, each year during the term of this Agreement the City will review the Prison Facility's average BOD₅ and TSS discharges for the preceding year. If on average, the Prison Facility exceeds the limits on BOD₅ and/or TSS by 75% for the preceding year a surcharge in accordance with the formula as set forth in the "Attachment 1" will be applied to all excess BOD₅ and/or TSS (excess shall mean over 180 mg/l BOD₅ and/or 150 mg/l TSS). The surcharge, if any, will be billed in the monthly bill for October of each year and DOC agrees to pay said bill within 30 days of the date of billing.

ATTACHMENT 1

FORMULAS FOR CALCULATING BOD₅ AND TSS SURCHARGES

R = The current monthly billing rate per ERU (\$)

Q = Total Flow Measured in Previous Year gallons

BOD₅ = Average BOD₅ Concentrations measured over previous year milligrams per liter

TSS = Average TSS Concentration measured over previous year milligrams per liter

$$\text{Annual BOD}_5 \text{ Surcharge} = \frac{(.3)(R)(Q)(\text{BOD}_5 - 180 \text{ mg/l})}{(7700 \text{ gal})(180 \text{ mg/l})}$$

$$\text{Annual TSS Surcharge} = \frac{(.2)(R)(Q)(\text{TSS} - 150 \text{ mg/l})}{(7700 \text{ gal})(150 \text{ mg/l})}$$

Jay Henry - SRCI Projected Revenue Difference

From: Delhie Block
To: Bob Walker
Date: 1/11/2013 9:05 AM
Subject: SRCI Projected Revenue Difference
CC: Anita Zink; Jay Henry; Michael Long
Attachments: 1994 & 2005 SRCI MoBillRateDiff.pdf; 1994 & 2005 SRCI SurchBillRateDiff.pdf

Bob,

I have attached the sheets that I created this past year, in effort to capture the revenue that we have forgone as it relates to SRCI only. There are two sheets, one that demonstrates the monthly billing difference and the second is to demonstrate the annual surcharge billing.

TOTAL SRCI REVENUE FOREGONE FOR BOTH MONTHLY & ANNUAL BILLING:

~\$114,294 PER YEAR
 ~1.9 M TOTAL

MONTHLY BILLING:

~\$71,836 PER YEAR
 ~\$1.3 M TOTAL

ANNUAL SURCHARGE BILLING:

~\$42,458 PER YEAR
 ~\$638,231 TOTAL

Please note the description of how I calculated each:

MONTHLY BILLING:

I used the most recent 9 months and created an average difference in revenue from those. Then, I used the average to calculate our estimated the **annual monthly billing revenue at \$71,836 per year that has been foregone.**

If you take the annual revenue that we have forgone (\$71,836) & multiply it by (2012 - 1994) 18 years; you arrive at \$1,293,048 or/rather **\$1.3M** in total; **for the monthly billing alone.**

ANNUAL SURCHARGE:

I used the average of the years 2012 to 2001 **\$42,548 average annual surcharge revenue foregone;** to calculate the 6 years missing (2001-1994).

I used the only available data back to 2001 to create the average annual difference in revenue from those figures to be **\$382,938 actual total surcharge revenue foregone for the years 2012-2001.** Then,

If you take the annual revenue that we have forgone for the 12 years of actual data at \$382,938 and add the average (\$42,548) for each of the remaining 6 years (for a total of 18 years); you arrive at **\$638,231** in total **for the Annual Surcharge Billing alone.**

Sincerely,
Delhie Block
City of Ontario, Public Works
Water & Wastewater Superintendent
wtp: (541) 889-8011
wwtp: (541) 889-9102

2012 MONTHLY BILLING:			
	CURRENT	W/1994 RATE	DIFFERENCE:
JAN	\$ 40,945.57	\$ 46,723.66	\$ 5,778.09
FEB	\$ 37,576.98	\$ 42,879.71	\$ 5,302.73
MAR	\$ 39,937.28	\$ 45,573.09	\$ 5,635.81
APR	\$ 39,937.28	\$ 45,573.09	\$ 5,635.81
MAY	\$ 42,636.74	\$ 48,653.48	\$ 6,016.74
JUN	\$ 42,682.57	\$ 48,705.78	\$ 6,023.21
JUL	\$ 47,380.26	\$ 54,066.40	\$ 6,686.14
AUG	\$ 47,306.93	\$ 53,982.72	\$ 6,675.79
SEPT	\$ 43,388.37	\$ 49,511.18	\$ 6,122.81
9 MONTH TOTAL	\$ 381,791.98	\$ 435,669.11	\$ 53,877.13
MO. AVERAGE	\$ 42,421.33	\$ 48,407.68	\$ 5,986.35
EST. 12 MO. TOTALS:	\$ 509,055.97	\$ 580,892.15	\$ 71,836.17

ANNUAL SURCHARGE BILLING:			
	CURRENT	W/1994 RATE	DIFFERENCE:
2012	\$ 294,764.14	\$ 336,360.21	\$ 41,596.07
2011	\$ 257,443.14	\$ 293,772.61	\$ 36,329.47
2010	\$ 272,889.07	\$ 311,398.21	\$ 38,509.14
2009	\$ 301,975.71	\$ 344,589.45	\$ 42,613.74
2008	\$ 304,980.76	\$ 348,018.57	\$ 43,037.81
2007	\$ 320,673.09	\$ 365,925.34	\$ 45,252.25
2006	\$ 360,213.24	\$ 411,045.26	\$ 50,832.02
2005	\$ 323,348.59	\$ 368,978.40	\$ 45,629.81
2004	\$ 277,349.22	\$ 316,487.76	\$ 39,138.54
2003	\$ 263,710.13	\$ 300,923.97	\$ 37,213.84
2002	\$ 308,984.27	\$ 352,587.04	\$ 43,602.77
2001	\$ 345,835.02	\$ 394,638.04	\$ 48,803.02
12 YEAR TOTAL	\$ 3,632,166.38	\$ 3,096,575.81	\$ 382,938.85
Monthly Average	\$ 25,223.38	\$ 28,672.00	\$ 3,545.73
Annual Average:	\$ 302,680.53	\$ 344,063.98	\$ 42,548.76
EST. SINCE 1994 TOTALS:	\$ 3,632,166.38	\$ 4,128,767.75	

**Data only available back to 2001, used ann.avg. to calc back from 2001 to 1994*