

**AGENDA  
CITY OF ST. CHARLES, IL  
GOVERNMENT SERVICES COMMITTEE MEETING  
RITA PAYLEITNER, CHAIRMAN**

**MONDAY, SEPTEMBER 25, 2017, 7:00 P.M  
CITY COUNCIL CHAMBERS  
2 E. MAIN STREET, ST. CHARLES, IL 60174**

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. ADMINISTRATIVE**
  - a. Electric Reliability Report – Information only.
  - b. Active River Project Update – Information only.
  - c. Tree Commission Minutes – Information only.
- 4. PUBLIC WORKS DEPARTMENT**
  - a. Consideration to approve Franchise Agreement and Pole Attachment Agreement with Metronet to Provide Fiber Optic Communication Services, Including High-Speed Fiber Internet, Phone, and IPTV to St. Charles.
  - b. Recommendation to reject all Bids for Substation Recloser.
  - c. Recommendation to award RFP for Renaux Manor Storm Sewer Design Engineering.
  - d. Update Presentation for the New Police Facility – Information only.
- 5. FIRE DEPARTMENT**
  - a. Recommendation to approve the Purchase of Replacement Self Contained Breathing Apparatus for the Fire Department from MSA.
- 6. FINANCE DEPARTMENT**
  - a. Recommendation to award Utility Rate Study to Burns McDonnell Engineering.

**7. EXECUTIVE SESSION**

- Personnel –5 ILCS 120/2(c)(1)
- Pending Litigation – 5 ILCS 120/2(c)(11)
- Probable or Imminent Litigation – 5 ILCS 120/2(c)(11)
- Property Acquisition – 5 ILCS 120/2(c)(5)
- Collective Bargaining – 5 ILCS 120/2(c)(2)
- Review of Executive Session Minutes – 5 ILCS 120/2(c)(21)

**8. ADDITIONAL ITEMS FROM MAYOR, COUNCIL, STAFF OR CITIZENS**

**9. ADJOURNMENT**

*ADA Compliance*

Any individual with a disability requesting a reasonable accommodation in order to participate in a public meeting should contact the ADA Coordinator, Jennifer McMahon, at least 48 hours in advance of the scheduled meeting. The ADA Coordinator can be reached in person at 2 East Main Street, St. Charles, IL, via telephone at 630 377 4446 or 800 526 0844 (TDD), or via e-mail at [jmcmahon@stcharlesil.gov](mailto:jmcmahon@stcharlesil.gov). Every effort will be made to allow for meeting participation. Notices of this meeting were posted consistent with the requirements of 5 ILCS 120/1 et seq. (Open Meetings Act).



**AGENDA ITEM EXECUTIVE SUMMARY**

Agenda Item number: 3.a.

Title: Electric Reliability Report – Information Only

Presenter: Tom Bruhl

Meeting: Government Services Committee

Date: September 25, 2017

Proposed Cost: \$

Budgeted Amount: \$

Not Budgeted:

**Executive Summary** *(if not budgeted please explain):*

For Information Only.

**Attachments** *(please list):*

\* August 2017 Outage Report \* August 2017 Streetlight Repair Report

**Recommendation/Suggested Action** *(briefly explain):*

For Information Only

**City of St. Charles  
August 2017 Outages**

OUTAGE No.	DATE	TIME OFF	TIME ON (Min)	AREA AFFECTED	CIRCUIT No.	CAUSE/RESPONSE	NO. OF CUST.	OUTAGE MINUTES	MAJOR CATEGORY	SUB CATEGORY
1	8/3/2017	2:11 PM	0	E. Main St. from Dunham to Fieldgate.	534	Vehicle hit switchgear. Automatic reclose.	35	0	Others	Vehicle
1	8/3/2017	2:11 PM	49	E. Main St. from Fieldgate to Kirk.	534	Vehicle hit switchgear. Automatic reclose.	12	588	Others	Vehicle
2	8/5/2017	12:00 PM	30	1220 & 1225 Brook St.	214	Shut off power to replace bad connection on secondary main. Replaced connection and restored power.	2	60	Equipment	Connector
3	8/11/2017	9:07 AM	68	417 Stone Dr.	514	12kv tap burned apart at the pole. Shut off power completely, replaced connectors and restored power.	1	68	Equipment	Connector
4	8/26/2017	4:05 AM	0	Harvest Hills, Renaux, Rt. 38, Meijer, Prairie, Westfield Park, IYC, Tri-Com.	56931	Loss of ComEd 56931. Instantaneous breaker operation - no sustained. No city action required.	2896	0	ComEd	56931
5	8/28/2017	4:58 PM	0	SW side of town, Renaux, Harvest Hills, Prairie, Westfield Park, Randall Rd., Rt. 38, Meijer.	56931	Loss of ComEd 56931. Auto reclose. No city action required. Lightning caused momentary outage.	2896	0	ComEd	56931
6	8/29/2017	1:06 PM	39	Harvest Hills, Renaux, IYC, Prairie, Randall, Rt. 38, Sub 8, Bay 2, Sub 6.	56931	Lightning arresters on ComEd line. ComEd 56931 tripped and reclosed twice, then locked out for a sustained 39 minute outage. Restored power internally from 13150.	2896	112,944	ComEd	56931
7	8/30/2017	8:25 AM	243	1001 E. Main St.	332	Termination burned up at riser pole. Replaced conductors from riser pole to transformer. Restored power.	6	1,458	Equipment	Cable
<b>Total of Interrupted Minutes</b>									<b>115,118</b>	
<b>Total SAIDI*</b>								<b>7.368</b>		
<b>Total of ComEd Interrupted Minutes</b>									<b>112944</b>	
<b>Total SAIDI without ComEd</b>								<b>0.139</b>		
<b>*System Average Interruption Duration Index (SAIDI)</b>										

## Streetlight Repair Report

Expectation: Streetlights will be repaired within 10 days of notification

<b>Month Light Was Reported</b>	<b>Number of Lights Reported</b>	<b>Average Days to Repair</b>
April	48	30.3
May	45	10.5
June	22	4.0
July	166	6.1
August	63	4.4

### August repair exceptions:

Three lights took longer than 10 days to fix due to the complexity of the required repair



**AGENDA ITEM EXECUTIVE SUMMARY**

Agenda Item number: 3.b

Title: Active River Project Update – Information Only

Presenter: Chris Adesso

Meeting: Government Services Committee

Date: September 25, 2017

Proposed Cost: \$ N/A

Budgeted Amount: \$ N/A

Not Budgeted:

**Executive Summary** *(if not budgeted please explain):*

The Active River Task Force wishes to provide the Council Committee updates on the status of topics pertaining to the Active River Project/Concept. The Task Force offers the attached information to the Committee. A member of the Task Force will be available at each of the Government Services Committee meetings to respond to any questions or comments that the Council Committee may have.

**Attachments** *(please list):*

\* August 7, 2017 – Task Force Meeting Minutes \* August 21, 2017 – Task Force Meeting Minutes

**Recommendation/Suggested Action** *(briefly explain):*

None – For information only.

**MINUTES  
ACTIVE RIVER TASK FORCE MEETING  
ST. CHARLES  
JOHN RABCHUK, CHAIRMAN  
AUGUST 7, 2017**

**Members Present:** Chair. John Rabchuk, Chris Adesso, Trish Beckjord, Holly Cabel, Jim Enck

**Members Absent:** Chris Bong, Rick Brems, Monica Meyers, John Wessel

**Others Present:** Tony Zehnder, Isabel Soderlind

**1. Call Meeting to Order**

The meeting was convened by John Rabchuk at 8:07 a.m.

**2. Minutes Review and Approval**

Motion was made to accept and place on file the minutes of the July 24, 2017 Active River Task Force meeting minutes.

Motion by Trish Beckjord second by Jim Enck, to accept and place the minutes on file.

Voice vote: Ayes: unanimous; Nays – None Absent: C. Bong, R. Brems, M. Myers, J. Wessel

Motion carried at 8:07 a.m.

**3. Planning For Delegation to Greenville, South Carolina**

The City of St. Charles has been busy making arrangements for the delegation traveling to Greenville, South Carolina.

**A. Members Attending the Delegation:**

City Officials: Mark Koenen, Rita Tungare, Lora Vitek, Ed Bessner, Ron Silkaitis

St. Charles Park District Officials: Holly Cabel, Cathy Camm, Bob Carne

River Corridor: John Rabchuk

Other potential attendees: Tom Anderson, Rick Hitchcock, John Collins, Craig Larsen and John Hoscheit

Holly Cabel mentioned that Greg Chismark also expressed an interest in the site visit. John Rabchuk will extend an invitation to Mr. Chismark.

**B. Site Visit**

Site visit is tentatively scheduled for October 4-5, 2017. Per John Rabchuk the Greenville city representatives have been very accommodating and the site visit

should focus on answering questions on the larger picture of the project e.g., how was the project organized? How was the project funded? Who “owns” it? etc. The specific features of the project will be determined by the topographical and environmental factors of the Fox River as it flows through St. Charles.

The delegation will depart on Wednesday, October 4. There will be a three hour meeting on Thursday morning, October 5, followed by a guided tour. City, Park District and business community leaders will be involved in the meeting(s). The delegation will be flying back Thursday afternoon.

### **C. Questions to Ask During the Visit To Greenville:**

John Rabchuk proposed some questions for the Greenville visit. He requested other pertinent questions be forwarded to him so they can put on a comprehensive list.

- How did they get the community to buy into the vision of Falls Park and the other key elements of their downtown rebirth?
- They pulled financial resources from the state, federal, city, Furman University, the hospital, the business community and a large number of private donors. How did that happen?
- They must have had naysayers - how did they address them? How did they handle the riparian rights issues along the river, as they have far more land owners involved than we do?
- How do they measure the impact of the Falls Park project on the community? What are the advantages and the disadvantages? Would they have done anything any differently?
- How did they organize to operate and maintain the park once it was built?
- My understanding is that they have multiple entities involved, so who coordinates the actual efforts and responsibilities?
- While Falls Park was certainly an important element of their downtown rebirth, what are the other key components and how was the overall vision created and managed?

Are there other questions we should be asking?

Trish Beckjord wondered if Falls Park fell under the jurisdiction of the park district. How is the park district involved?

John Rabchuk mentioned that Falls Park had TIFF Districts. They also conducted some private fundraising but he was not sure how these were organized.

Rick Brems was not present at this meeting but John was aware that Rick was gathering information from Columbus, Georgia project. Uptown Columbus is an organization that has teamed up with the Business Improvement District to offer residents and visitors unique experiences in shopping, dining, tourism and entertainment along the Chattahoochee River. John believes the Park District & City may support this organization, similar to the St. Charles Downtown Partnership. In some ways the Columbus, Georgia project is different in that the river is 5 miles long and the river was more of the focus of the project.

John mentioned Mr. Brems was currently in Charlestown, South Carolina and

drove through Greenville. Rick Brems contacted John and mentioned he was very impressed with Greenville.

John Rabchuk recently emailed Mark Koenen and the Mayor regarding the Greenville visit. He mentioned the emphasis of the visit was not to focus on the actual features of the project but more on the financial funding for the project and the impact on the economic development of the downtown.

As a comparison, Trish Beckjord suggested Rick Brems gather similar information from the various river projects. How would these other projects answer these questions we are asking at Greenville?

Please take a minute to view the Greenville website  
<https://gis.greenvillesc.gov/downtownreborn/index.html>

#### **4. Marketing, Publicity and Community Outreach**

##### **A. Active River Website Design**

Per John Rabchuk, the River Corridor and the City have agreed to split the cost for an Active River Project website. Tony Zehnder and Phil Held are involved in this project.

Ideas were discussed for the website:

- Create a Frequently Asked Questions page for the public to view.
- Create links to other similar projects, e.g., Columbus, Georgia, Providence River Relocation Project in Providence, Rhode Island, etc.

<http://www.exploresouthernhistory.com/gacolriverwalk.html>

[https://www.rudybruneraward.org/wp-content/uploads/2016/08/06\\_providence.pdf](https://www.rudybruneraward.org/wp-content/uploads/2016/08/06_providence.pdf)

Arends, Inc. of Batavia, Illinois, is designing the website plus a new site for River Corridor Foundation. John Rabchuk will be meeting with the developer soon. They hope the website will be up and running by September 1, 2017.

Holly Cabel requested the link to the new site be placed on the Park District website.

The Task Force discussed utilizing the new Active River Project website for input from the community. What are their suggestions for the project? Could a list of features be listed and the community check off their favorite features e.g., bike trails, kayaking, walking trails, Splash Park, etc.?

##### **B. Presentation to St. Charles Chamber of Commerce**

The St. Charles Chamber of Commerce Active River Project presentation on Friday, July 28, 2017, went well. Rick Brems presented to approximately twenty people. The presentation was well received.

##### **C. Presentation to St. Charles Exchange Club**

This presentation will occur Tuesday, August 22, 2017, from 7:00 to 7:20 a.m., at the Colonial Café on Randall Road.

**D. Feasibility Study Presentation on Thursday, August 10.**

Greg Chismark is also scheduled to give a 15-20 minute presentation of the Feasibility Study to the Conservation Foundation Kane County Advisory Group on Thursday, August 10, at 9:00 a.m. at Hickory Knolls.

The Pottawatomie Park presentation on July 24 went very well. There was a good size group with many questions being asked regarding the project.

**5. Member Organization Updates**

**A. St. Charles Park District**

Holly Cable mentioned the St. Charles Park District was working on Shoreline project. A Request for Quotes was conducted and the Park District will be interviewing vendors next week.

The Boy Scout Island needs additional work on the ramp and parking lot. Some additional repairs are needed due to the recent flooding.

Holly mentioned issues on the river regarding motorized boats versus non-motorized boats have come up, but this is nothing unusual. The St. Charles Park District does not have jurisdiction on the river. If there are any boater issues on the river the public should call the Conservation Police. They regulate the behavior of boaters on the river. Holly added that the Park District does regulate the number of non-motorized boat rentals (paddle boats and kayaks) on the river so they don't overwhelm the area.

**B. City of St. Charles**

Chris Adesso mentioned the Bob Leonard Walk is cleaned up and opened after last week's flooding.

The City and Park District cleaned up various areas for the Color Run race this past weekend. Jim Enck was there and stated there was a good turnout. Everyone seemed to be enjoying the race. Maybe more events like this should be considered for future fundraisers. The "Tug of War" across the river might also be a good fundraiser.

The group then began to discuss the City's current budget for the Active River Project. John Rabchuk mentioned \$2,300 will be going toward the Active River Project website, but could the remaining funds be utilized for other smaller scale projects.

Chris Adesso mentioned the City has several Active River Project related projects to complete:

- Approximately \$25,000 budgeted to finish the Wind Emotions site. B&L will start landscaping the area soon.
- Maintenance Work on the Freedom Trail. The Freedom Trail from the Municipal Building to Pottawatomie is uneven and needs to be remedied. For now the he brick pavers will be removed and a temporary asphalt path will be installed. Chris hopes the City will be completing this project before the Scarecrow Fest in October.

- The City has also committed to pay for the base for the Oie “Key” sculpture.

The group discussed the funding process of projects utilizing the City’s budgeted dollars this fiscal year. If the River Corridor Foundation (RCF) is interested in utilizing some of the funds, the RCF should review the River Corridor Master Plan projects and discuss one of those potential projects with Mark Koenen.

Highlights of the discussion:

- Monies currently budgeted for projects need to be utilized within the same fiscal year. Keep in mind any project over \$25,000 needs City Council approval.
- If the City is managing the project, the City would need to solicit the services according to the purchasing policies of the City. This would include the following:
  - A person would need to be designated as a project manager.
  - The goal of the project would need to be relayed to a City staffer.
  - A solicitation document (RFP/RFQ) would need to be created.
  - The services would need to be approved by City Council and the funds could be expended.
- Reimbursement of a project managed by another group. If the project is under \$25,000, that could be processed as a reimbursement. This would be similar to the project the City and Park District worked together on recently.
- Another option would be for the RCF to apply for another Riverboat Grant, “matching” funds and utilizing a Reimbursement Voucher. This would be similar to the Wind Emotions project. Would the River Corridor Foundation however need to solicit bids for the project? If the City was doing a reimbursement voucher they would want to know if this vendor was the best person for the job. Were they the lowest bid? If not, why were they chosen?

### **C. River Corridor Foundation**

Chris Adesso mentioned the River Corridor Brick Program was presented to Government Services Committee on July 24. The program should be approved at tonight’s Council meeting without any issues. The Brick Program will be promoted more in the near future.

## **6. Update on Potential Corporate/Philanthropic Funding Sources**

### **A. No future meetings have been scheduled at this time.**

John Rabchuk has continued to communicate with the potential corporate/philanthropic funding sources. John has emailed the Feasibility Study information to them and has extended them an invitation to Greenville, South Carolina. They still are still very interested in the project.

**7. Other**

None.

**8. Adjourn**

The next meeting is scheduled for August 21 at 8:00 a.m. at the Baker Community Center. Motion to adjourn by Trish Beckjord, 2<sup>nd</sup> by Jim Enck.

Voice vote: Ayes: unanimous; Nays – None Absent: C. Bong, R. Brems, M. Myers, J. Wessel

Meeting was adjourned at 9:20 a.m.

**MINUTES  
ACTIVE RIVER TASK FORCE MEETING  
ST. CHARLES  
JOHN RABCHUK, CHAIRMAN  
AUGUST 21, 2017**

**Members Present:** Chair. John Rabchuk, Chris Adesso, Rick Brems, Holly Cabel, Jim Enck

**Members Absent:** Trish Beckjord, Chris Bong, Monica Meyers, John Wessel

**Others Present:** Ed Werneke, Tony Zehnder, Isabel Soderlind

**1. Call Meeting to Order**

The meeting was convened by John Rabchuk at 8:04 a.m.

**2. Minutes Review and Approval**

Motion was made to accept and place on file the minutes of the August 7, 2017 Active River Task Force meeting minutes.

Motion by Tony Zehnder second by Rick Brems, to accept and place the minutes on file.

Voice vote: Ayes: unanimous; Nays – None Absent: T. Beckjord, C. Bong, M. Meyers, J. Wessel

Motion carried at 8:05 a.m.

**3. Planning For Delegation to Greenville, South Carolina**

The City of St. Charles has been busy making arrangements for the delegation traveling to Greenville, South Carolina.

**A. Members Attending the Delegation:**

City Officials: Mark Koenen, City Administrator; Rita Tungare, Community & Economic Development Director; and Aldermen Lora Vitek, Ed Bessner and Ron Silkaitis

St. Charles Park District Officials: Holly Cabel, St. Charles Park District Director; Cathy Camm, Superintendent of Finance & Administration; Bob Carne, President of the St. Charles Park District Board of Commissioners

River Corridor: John Rabchuk

Other potential civic/business leaders: Greg Chismark and John Wills from WBK and Rich Hitchcock, President at Hitchcock Design Group, have confirmed that they will be attending.

John Rabchuk has not received a confirmation from Tom Anderson or Craig Larsen. He will also try to contact John Collins.

## **B. Site Visit**

The site visit is scheduled for October 4-5, 2017. The delegation will arrive to Greenville on the evening of Wednesday, October 4. There will be a three hour meeting on Thursday morning, October 5, with city staff, park district and civic/business leaders. Meeting will be followed up with a guided tour of Falls Park led by Mayor Knox White.

The following video links have great background information on the project:

- Ted-Talk from Mayor White concerning Falls Park project  
<https://youtu.be/2L8HPajQ730>
- See new Greenville City website  
<https://gis.greenvillesc.gov/downtownreborn/index.html>

Rich Brems recently traveled through Greenville. He mentioned that he was very impressed with the city and their project. He took a lot of photographs and shared them with everyone at the meeting. The population ranges from 45,000 to 57,000 with the area booming in the last 13 to 15 years.

## **4. Marketing, Publicity and Community Outreach**

### **A. Update on the Active River Website Design**

Rick Brems spoke with Arends, Inc., who is designing the interactive River Corridor and Active River Project websites. At this time, they are going through and sorting through all the information that Rick has sent them regarding the project. The contractor hopes to have the site up and running shortly after Labor Day.

Arends, Inc. is being paid monthly and will be responsible for maintaining and updating the website. Additional information and updates will be forwarded to Arends and they will post the information on the website within 48 hours. Information can be sent to Rick Brems, Phil Held or Tony Zehnder and they will forward it to Arends.

In addition, Rick has been speaking with a drone pilot to get some current pictures/videos of the river with the expectation that these can be added to the website.

### **B. Presentation to St. Charles Exchange Club**

There will be a 20 minute presentation of the Active River Project to approximately 20 members of the St. Charles Exchange Club tomorrow, Tuesday, August 22, 2017, from 7:00 to 7:20 a.m., at the Colonial Café located on Randall Road.

## **5. Member Organization Updates**

### **A. St. Charles Park District**

Holly Cabel stated the Request for Quotes (RFQ) has been completed for the shoreline restoration and stabilization project at Pottawatomie Park Golf Course. The St. Charles Park District received twenty-one RFQ submissions and they have narrowed it down to WBK. This is just the phase plan and not the

implementation.

Holly Cabel also mentioned the construction at Boy Scout Island has begun. The Park District however has discovered some under water damage to the launch and it will need to be fixed. They do hope to complete this project sometime this fall.

John Rabchuk took a moment to commend the City and the Park District for all their efforts cleaning up many areas of the city. Many areas had flooded and needed to be cleaned up for this year's Bob Leonard Walk event.

John Rabchuk also mentioned Mark Koenen, the City of St. Charles and the St. Charles Park District have had ongoing meetings investigating and researching the funding aspects of this project. While John Rabchuk did not have any specific information regarding the meetings, he stated that they have been very positive and the group has been moving forward on this initiative.

**B. City of St. Charles**

Chris Adesso mentioned new plantings have been installed at the Wind Emotions site. Contractors are also working on the Freedom Walk from the Municipal Building to the Police Station. Bricks were removed and replaced with asphalt.

At the last meeting, this group discussed utilizing any funds remaining in the Active River Project budget for a small project. Mark Koenen mentioned all monies are being utilized by the City for various Active River related projects, e.g., removal of bricks and pouring of asphalt on the Freedom Walk, the creation of an Active River Project website, the trip to Greenville, landscaping of the Wind Emotions site, etc.

**C. River Corridor Foundation**

**i. Community River Day Concept**

John Rabchuk and Mark discussed the opportunity to expand the Bob Leonard Walk/Run and Colonial Café Kids Color Run with other events being held throughout the same day. This could include:

- Tug of War Across the Fox River
- Bratwurst Festival
- Craft Beer Fest
- Breakfast at Pottawatomie Park

John Rabchuk has researched "Tug of War Across the River" events and sand pits would be needed on both sides of the river. The group discussed if this type of event was even feasible and potential locations to hold the event.

**6. Update on Potential Corporate/Philanthropic Funding Sources**

**A. Dunham Foundation Meeting Request**

John Rabchuk recently received an invitation to a meeting from the Dunham Foundation. The meeting invite is extended to potential grant applicants to discuss the grant process and procedures. The meeting is scheduled for early September.

When John met with them back in May, they encouraged him to apply for a \$250,000 grant. Robert Vaughn is the executive director of the foundation and he appears to be very intrigued by the Active River Project.

John hopes the approval of this grant will open the door for other potential corporate and philanthropic sources to contribute to the project. These funds will be used for the overall design engineering of the Active River Project which is in the \$1,000,000 to \$2,000,000 range.

## **B. Update on Other Potential Corporate Funding Source**

John Rabchuk continues to keep in touch with other corporate funding sources and they continue to be very responsive to the Active River Project especially with the Greenville, South Carolina trip being planned.

## **7. Other**

### **A. Plaque Donations for Planters**

Tom Anderson has a family that would like to purchase four (4) memorial plaques. The plaques would be placed on all four sides of the planters at the “If I Could Fly” sculpture site on the Bob Leonard Walk. The cost for each plaque is \$500 for a total of \$2,000. The large cement containers will hold annuals and perennials and maintained by the City.

Chris Adesso reminded everyone that City Council just approved the River Corridor Memorial Brick Program the beginning of August. He mentioned these plaques may also need to be approved.

John Rabchuk will discuss this with Mark Koenen and send Chris Adesso all the necessary information regarding the plaques and the application for the website.

### **B. Pottawatomie Garden Club Bench Donation**

The River Corridor has also received a request for at least one bench from the Pottawatomie Garden Club. The River Corridor does not have any additional memorial benches or pads at this point in time; therefore they would need to be approved independently. It may be possible to incorporate the Memorial Planter Plaques and Benches to the Memorial Brick program. Location options for the benches were discussed:

- Gratitude Sculpture location - It was noted that it may not be the most conducive site due to the orientation of the sculpture.
- Bob Leonard Walk - At this point in time, there aren't any potential spots on the Bob Leonard Walk.
- Wind Emotions - This site is not conducive to a bench at the present time.

Other potential options:

The St. Charles Park District already has a memorial bench program;  
Pottawatomie Garden Club could submit an application to the Park District.

Camp Kane Heritage Foundation is also making improvements around the site of the Jones Law Office, which is on City property. They will be adding brick pavers and a new flag pole. There is the potential of placing a bench on that site.

## **8. Adjourn**

The next meeting is scheduled for September 18 at 8:00 a.m. at the Baker Community Center. Motion to adjourn by Jim Enck 2<sup>nd</sup> by Tony Zehnder.

Voice vote: Ayes: unanimous; Nays – None Absent: T. Beckjord, C. Bong, M. Meyers, J. Wessel

Meeting was adjourned at 8:48 a.m.



**AGENDA ITEM EXECUTIVE SUMMARY**

Agenda Item number: 3.c

Title: Tree Commission Minutes – Information only

Presenter: AJ Reineking

Meeting: Government Services Committee

Date: September 25, 2017

Proposed Cost: \$ N/A

Budgeted Amount: \$ N/A

Not Budgeted:

**Executive Summary** *(if not budgeted please explain):*

A duty of the Tree Commission is to advise and consult with the Government Services Committee. The July 13, 2017 Tree Commission meeting minutes are attached.

**Attachments** *(please list):*

\* Tree Commission Minutes – July 2017 meeting minutes.

**Recommendation/Suggested Action** *(briefly explain):*

For information only.

**MINUTES  
CITY OF ST. CHARLES  
TREE COMMISSION MEETING  
RALPH GRATHOFF, CHAIRMAN  
July 13, 2017**

**Members Present:** Chair. Ralph Grathoff, Kathy Brens, Jon Duerr, Suzi Myers, Pam Otto, Caroline Wilfong, Ron Ziegler

**Members Absent:** Valerie Blaine, Raymond Hauser

**Others Present:** Chris Adesso, Jeremy Craft, Marcelline D'Argento, Yvette Policastro

**Visitors Present:** Loren Nagy

**1. Call to Order & Pledge of Allegiance**

The meeting was convened by Chair. Grathoff at 7:05 p.m.

**2. Introduction of Visitors, Comments and Concerns**

Mr. Nagy expressed concern regarding mulch needed around City parkway trees and provided example photos of the trees. Mr. Craft explained that in accordance with the City's Urban Forestry Management Plan ("UFMP") City crews are currently mulching all parkway trees [see 4.A. below].

Comm. Brens expressed her appreciation for the City's prompt response for the removal of a large tree branch that fell in a recent storm. Comm. Brens also reported there is a private planting/bush obstructing the traffic view on the southwest corner of 3rd Avenue and Illinois Avenue. Mr. Craft will address this issue.

**3. Minutes Review and Approval**

Motion to approve and place into the public record the minutes of the May 11, 2017 Tree Commission meeting. Motion by Comm. Brens, second by Comm. Duerr to approve the minutes. Voice vote: unanimous; nays – none. Motion carried at 7:13 p.m.

**4. Old Business**

**A.** Mr. Craft updated the Commission regarding placement of mulch around all City parkway trees pursuant to the UFMP. The goal is to have mulching completed within three to five years.

**B.** Mr. Craft reported the arbor team had been focusing on downtown beautification and landscape work in preparation for the visit by the America in Bloom ("AIB") judges. On Friday, July 14, 2017, their focus will return to trees.

**C.** Mr. Craft informed the Commission that contracted services for tree removals had been awarded to Skyline Tree Service, Inc. and DeMar Tree Service. With the reduction of the Ash tree population due to the Emerald Ash Borer ("EAB") infestation, Chair. Grathoff asked if the City was still removing many trees. Mr. Craft explained there are a number of old Norway Maples and Crimson King Maples that require removal.

**D.** Mr. Craft reported on 2017 fall planting. The City is selecting fifteen different species for planting, and approximately two hundred (200) trees will be planted this fall. Chair. Grathoff verified that the City does not intend to plant many Maple trees due to an over-population of these trees already in the parkways. Mr. Craft confirmed.

**5. New Business**

Comm. Duerr requested the status of the Tree Commission's transition to a Natural Resources Commission ("NRC"). Mr. Adesso reported there is no change in the status of this transition as staff will need additional time to work on revisions to City Code. Chair. Grathoff reiterated the NRC will have eleven members with

its primary focus continuing to be maintaining the City's designation as a Tree City USA community and other tree-related activities. Mr. Adesso added the NRC will continue the Tree Commission's role as an advisory body to the City's Public Works Department, unless the NRC is requested by the City's Government Services Committee to expand its role with regard to a specific topic or action. Chair. Grathoff requested input from the Commissioners regarding key initiatives and possibly increasing the frequency of meetings. Comm. Otto suggested more frequent meetings might be necessary because the NRC would be addressing a greater number of topics. Comm. Myers agreed monthly meetings would be best. Mr. Nagy commented more frequent meetings would facilitate progress, for example, if a topic was introduced, then researched, then reported the next month. Mr. Adesso noted the AIB judges asked if the Tree Commission's transition to a NRC was still under consideration. Comm. Myers commented the City of Geneva has a NRC that conducts open meetings. Mr. Adesso explained the Geneva NRC is not sanctioned by the City of Geneva, and is one hundred percent volunteer based and self-sustaining.

Chair. Grathoff asked if AIB has a sustainability focus. Comm. Otto explained AIB has different award evaluation criteria including "environmental efforts." Comm. Otto noted that some businesses have become involved with AIB including Clarke on South Tyler Road. Clarke has completed several environmental related initiatives including the installation of a solar array, an electric car charging station and employee gardens where produce is grown to share and to take home; cooking classes are also offered. Additionally, Clarke's facility produces almost zero waste.

Chair. Grathoff inquired about the native species planted around the pond / basin by the Jewel store on the east side of the City. Mr. Adesso explained all the plantings are native, and this was the City's first conversion from landscape to native plantings. Kane County now requires native species are planted for all future projects. Mr. Adesso explained the basin was severely eroded, and turf was replaced with native plantings, some rock and a vegetative log system.

Comm. Otto reported a honeybee ordinance was passed by the City Council. The ordinance imposes a two hive limit per residence, and provides protection for beekeepers.

## **6. Committee Reports**

### **A. Education Committee**

Comm. Myers shared several newspaper articles and materials regarding tree-related topics including "Local activists discuss methods of saving trees" and "Sound off" [copies of the articles/materials are included with these minutes].

### **B. Langum Park Clean-Up**

Comm. Otto stated she will have a report on the clean-up of Langum Park in October or November. Comm. Brens suggested the possibility of involving community service persons in the clean-up effort. Comm. Wilfong asked about the best time for woods clean up. Comm. Otto responded that late fall or early winter is best because herbaceous plants are dormant, trees are not actively growing. Also poison ivy is currently growing in Langum Park woods. Comm. Otto explained the clean-up work needed includes trail chipping and removal of black cherry to free up century Oak trees; plant rescue could be done in the spring.

7. **Communications - Approval of Public Services Division Tree Activity Reports May and June 2017**  
Motion by Comm. Myers to approve the above-referenced reports and place into the public record, second by Comm. Brens. Voice vote: unanimous; nays – none. Motion carried at 7:45 p.m.
  
8. **Additional Items**
  - A. **Commissioners**

Mr. Nagy informed the Commission about an Illinois Landscape Contractors Association event at the Chicago Botanic Garden in October regarding Building Sustainable Landscapes.

Comm. Wilfong suggested AIB could be promoted during the City’s annual Arbor Day celebration with the goal of participation by school children, boy/girl scouts and parent teacher organizations (PTOs). Comm. Otto noted AIB promotes community engagement. This is the City’s third year participating in AIB, and each year there is increased participation. Comm. Myers suggested getting garden shops involved early in the season to promote AIB and the types of flowers/plants chosen by AIB for the year. The stores could order more of the featured flowers and post signs to support AIB. Comm. Brens suggested using the Arcada marquee to announce and display AIB information. Mr. Nagy suggested that both sun and shade flower varieties be offered.
  
  - B. **City Staff**

Mr. Adesso noted the community’s support of AIB and thought some of the ideas could also be implemented for Arbor Day. For example, children from St. Charles’ schools created many red geranium pictures that were displayed in storefront windows on Main Street; perhaps artwork/pictures for Arbor Day 2018 could be similarly displayed in the windows; and possibly the Arcada theater marquee could announce Arbor Day.
  
  - C. **Visitors**

None
  
9. **Adjournment**

Motion by Comm. Myers to adjourn the meeting, second by Comm. Ziegler. Voice vote: unanimous; nays – none. Motion carried at 7:57 p.m.

# Opinion

Monday, October 22, 2001

R. Michael Sheppard  
Publisher

Donald J. Lyons *Managing Editor*  
Mark C. Foster *News Editor*

*"Let the people know the facts, and the country will be safe."*  
— A. Lincoln

## ed for 'tree police' when common sense is guide

is trees not, real- sen- cent rise hout xt city ably ers vay e and

**O**n those few occasions in which we are literally "above the fray," we marvel at what we see. And we suspect others would do the same.

This time, in being above the fray, we simply mean being at a high point somewhere in the tri-cities area, be it Johnson's Mound or Settler's Hill. Or it could be on the top floor of a tall building, or in a plane going overhead.

Sometimes it may be as simple as being on the top of the Ferris Wheel when it stops.

From those lofty points, we marvel at what we see. And what we see is trees. Lots of them.

At ground level, we don't always get an appreciation for how heavily wooded this part of the state is. We know we rake a lot of leaves in late fall, and we know that the older portions of our communities have the more established trees.

What we don't always grasp is how many trees remain, even in our most developed areas.

But it doesn't take long to realize that if we

weren't inclined to take care of those trees, they could soon disappear.

The most volatile battles between developers and residents take place with projects that call for the removal of several trees. There was much squawking when St. Charles residents watched trees go down in the Royal Fox area, in the Viewpointe development at the former Mount St. Mary High School location, and during the widening of Main Street from downtown to west of Thompson Middle School.

So it is wise for our cities to establish tree ordinances through the city government process, as well as having tree commissions in place.

The St. Charles Tree Commission, for example, this week revealed it would like to hire a full-time arborist and possibly share such a person with Geneva and Batavia.

Commission member Jim Driessen recently told city officials that the city has some 14,000 trees on city property, and it would be wise to have someone who knows and understands trees to help watch over them.

Creating tree ordinances and tree commissions quite simply helps assure that trees won't be neglected or thought of as easy prey for the development bulldozer.

It also, however, means that city residents can learn more about caring for the trees on their property and maybe, just maybe, not being so quick to just yank one out.

No one wants "tree police" patrolling the neighborhoods, and residents shouldn't think that rules about what they can or can't do with their trees is somehow restrictive.

Common sense is the rule regarding trees more often than not, and most officials realize, as Driessen said, that "99.9 percent of our citizens exercise good judgment about trees."

In the next breath, he says that city workers are probably the worst offenders when cutting away limbs for telephone and power lines.

If we all show we care about the beauty around us, the view above the fray will remain a site to behold.



**My Little View of Life**  
George R. Moskoff



by Christopher Petersen  
Staff writer

The move to save Geneva's "urban forest" took another small step forward last weekend with a forum held during the Geneva Forum's Winter Chautauqua at Peck Farm Park.

Theresa Ellis, a member of the group Citizens for Trees, said that since the group began in an effort to save four oak trees on the site of the future Dodson Place development, she has received overwhelming feedback from people who have shared their love of trees with her.

"You understand there is this incredible connection between cit-

izens and their trees," Ellis said. She pointed to an effort by the Geneva Garden Club in 1932 to preserve trees near the Chicago Northwestern train station, saying trees are an important part of the life of a town.

"If we destroy the past, in a sense we do destroy the future of this little town," Ellis said. "If that doesn't appeal to commerce, I don't know what does."

Ellis said that these days, the issue has grown from one that could be addressed by a small group into one that needs a regulatory body to monitor it and all the disparate interests involved.

"It's a political issue now, and it should be handled that way," she

said, referring to the efforts of the Strategic Plan Advisory Committee, which is in the process of creating a new tree ordinance.

If and when Geneva does get a new tree ordinance established, they might take a page from St. Charles. St. Charles 5th Ward Alderman and owner of Thornapple Landscapes Peter Grathoff took part in the panel discussion, sharing his experiences and insight as a member of St. Charles' Tree Commission. As a resident of the Fox Valley since 1961, Grathoff said there has been a noticeable change in the landscape of the area.

See Trees Page 6

## Trees

Continued from Page 3

"Over the years, I've noticed the town appear, where 25 years ago all you could see except for maybe a church steeple was foliage," Grathoff said. "It's one of those things that sneaks up on you."

Grathoff explained the efforts St. Charles took to be certified as a "Tree City" by the National Arbor Day Foundation, which involved setting up the city's Tree Commission and taking a survey of all trees on public property.

Grathoff said the commission has had success in deciding what kinds of trees are planted in St. Charles. Grathoff said the commission has made some developers refrain from planting short-lived trees in favor of slower-growing, longer-lasting specimens. A list of which trees are prohibited from being planted in the city was easier to draft than a list of trees the city wants planted, Grathoff said.

The St. Charles Tree Commission has also held some successful fund-raisers for the care of the city's trees, raising \$1,400 last year with a "Pennies for Trees" program where schoolchildren donate

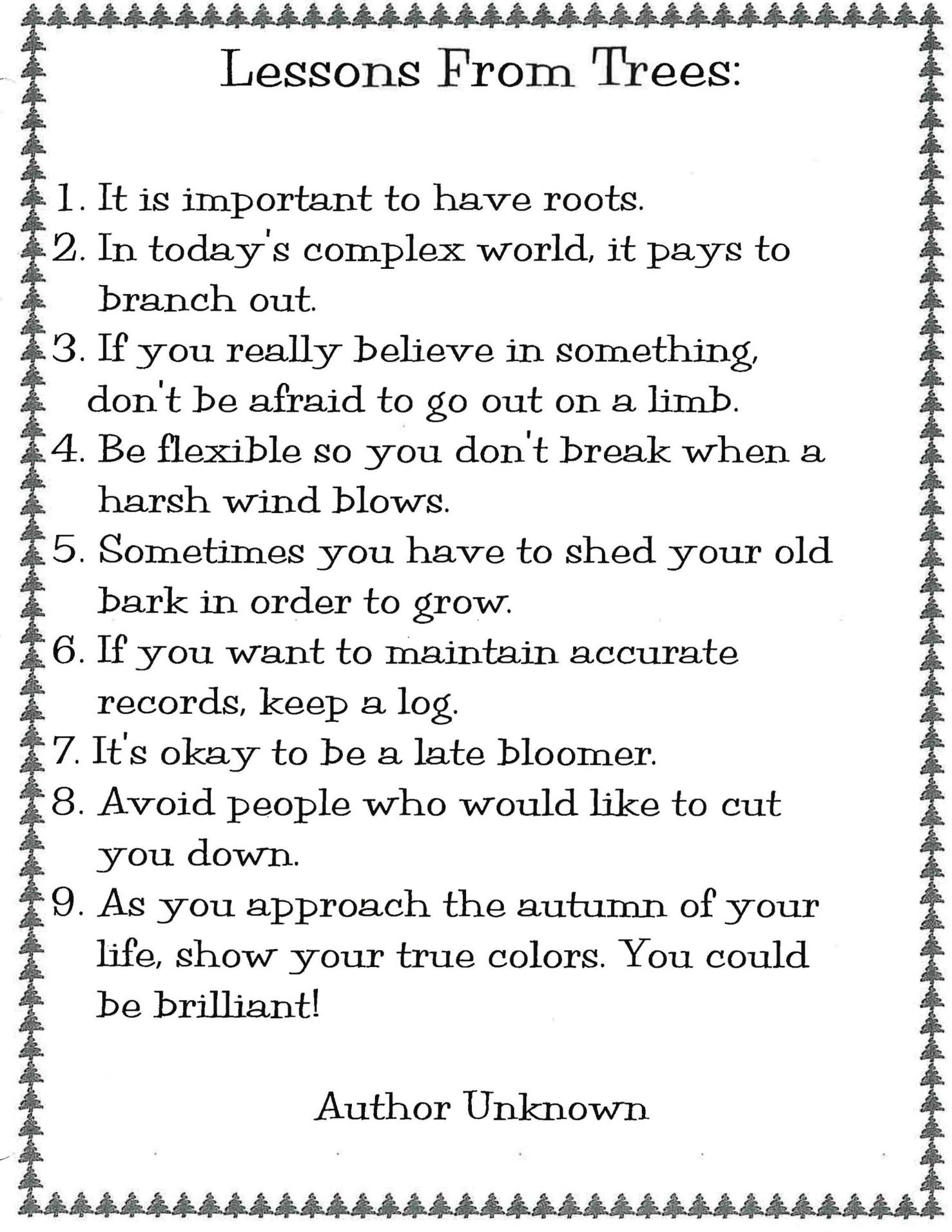
loose change that goes to planting new trees.

Karla Lynch, a member of SPAC's tree subcommittee, said they were following St. Charles' lead in one way. "They established a tree committee first before writing the ordinance," Lynch said.

The SPAC group includes representatives of local business, city staff and concerned citizens. Lynch said she would like to see a tree committee in Geneva serve in more of an advisory capacity to existing city departments, rather than set policy itself.

"They could have several roles without regulating," Lynch said.

St. Charles is in the midst of drafting its own tree ordinance, Grathoff said, that would likely be modeled after the tree ordinance in Lake Forest. The issue of protecting trees on private property became an issue when former TV star Mr. T cut down a number of trees on his Lake Forest property. However, Grathoff admitted that prohibiting people from cutting down trees on their private property is a delicate subject. "Do I have a right as a citizen to protect my environment?" Grathoff said. "It's a balancing act."



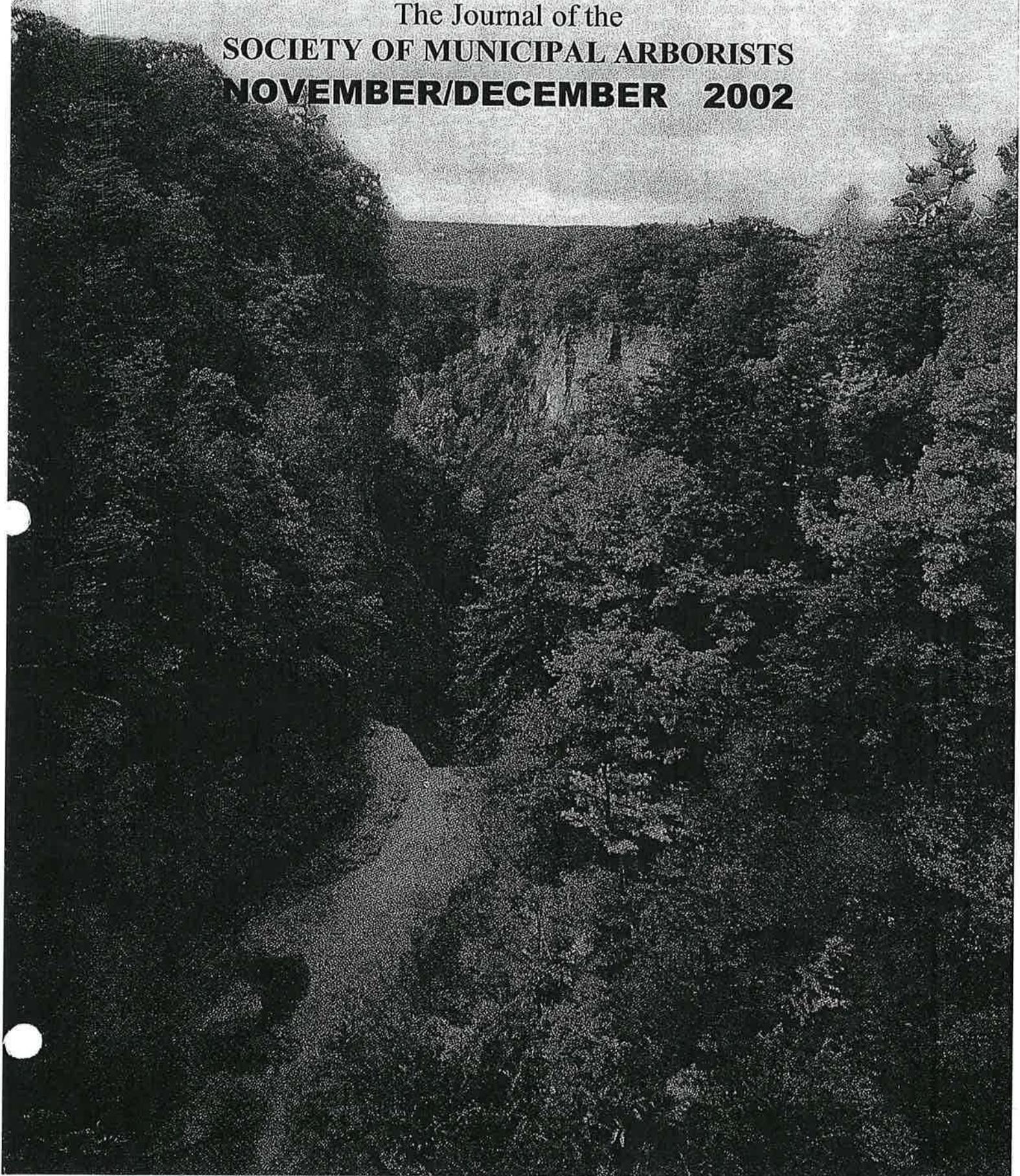
## Lessons From Trees:

1. It is important to have roots.
2. In today's complex world, it pays to branch out.
3. If you really believe in something, don't be afraid to go out on a limb.
4. Be flexible so you don't break when a harsh wind blows.
5. Sometimes you have to shed your old bark in order to grow.
6. If you want to maintain accurate records, keep a log.
7. It's okay to be a late bloomer.
8. Avoid people who would like to cut you down.
9. As you approach the autumn of your life, show your true colors. You could be brilliant!

Author Unknown

# CITY TREES

The Journal of the  
**SOCIETY OF MUNICIPAL ARBORISTS**  
**NOVEMBER/DECEMBER 2002**



## City of the Month

# St. Charles, Illinois

St. Charles is a community of 27,500 people located 45 miles west of Chicago. Their trees are maintained in-house and contractually. An inventory was conducted in the spring of 1998 and again in 2002. The following chart will illustrate the differences between these two years.

Item	1998	2002
inventory	14,084	17,000
planting sites	1,455	1,652
tree genera	40	50
tree species	86	116
% maples	43	36
% ash	29	26
% locust	9	9
trees in good condition	11,134	13,273
trees in fair condition	2,457	3,350
trees in poor condition or dead	493	288
recommendations for removal	208	0
priority pruning required	84	0
recommendations for pruning	583	74

The municipal environment as a whole is in good shape. The biggest drawback the city seems to face is the high rate of clay soil in new subdivisions. St. Charles now tries to inspect all tree sites before planting. In bad areas, the sidewalks are narrowed and ramped sidewalks go up and over the roots to buy time. In narrow parkways, they replace the curbs and have started using root barriers.

St. Charles has started an intensive program of mulching all trees on city owned property and trying to educate residents on proper mulching. All new trees are required to be mulched. Parkways vary from 4' to 25' in width. Some areas of St. Charles have electric lines above ground. Many of these areas had the lines put up after the trees and the wrong species are now under the power lines. This practice has been changed.

The St. Charles forestry program is still relatively young. Up until a few years ago, requests came in for trimming or inspections, the contractor was notified and they would take care of it about 80% of the time. In 1998, the city conducted its tree inventory, established a tree commission, and became a "Tree City USA".

In the following year, the contractor started trimming all streets due to have construction during that year. Besides the start of getting on a scheduled cycle, it also cut down on the damage that was incurred due to construction. The

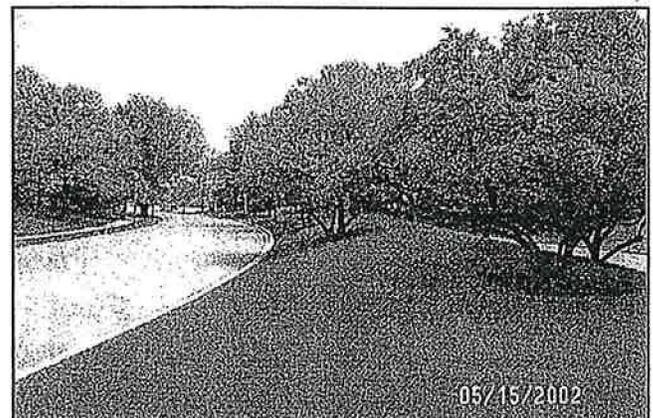
in-house crew of four people began a program of proactive trimming of all small trees. One full time individual was hired to enter all updates and inspections of new subdivisions in an effort to keep the inventory up to date.

During the winter months, all the employees trim when weather permits. The contractor now trims year-round. The goal is to be able to put the entire town on a seven-year pruning cycle within the next 3 to 5 years. By that time the entire town will have pruned once. Keeping the pruning on a cycle will reduce the amount of sucker growth and will also reduce the trimming costs.

Tree planting in St. Charles has completed two years of a long term tree-planting program. Last year the city planted 200 new trees plus replaced removals. The forestry program is studying the species that are being planted with efforts focused on using species that are salt tolerant along the main salt routes in St. Charles. Other efforts are focused on finding trees that are suitable for the downtown area along with working with developers to make sure they are using more diversification than they have in the past. A developer must also replace any dead or dying trees before they become the city's responsibility. Besides a concerted effort to diversify, the city has taken a small parcel of city land and is working to convert it into an arboretum.

St. Charles' urban forest is in relatively good condition with room for new planting. The maintenance of trees is an important consideration, both in addressing the immediate priority requirements as well as establishing an on-going maintenance program. There are indications that many of the trees have not had much maintenance for some time. Routine pruning should address this. Scheduled maintenance for structural characteristics is best done when the trees are young and when the trees are healthy and this allows for the tree conditions to be monitored so that risks of hazard situations do not develop.

*This article was prepared from the Forestry Department Accreditation application presented by the Forestry Department of St. Charles*



# Sound Off

Saturday, October 28, 2000

## More leaves

I can't believe they're planting trees on the tree banks. Seems there's always a piece in the paper about how much it's costing the city to pick up leaves. And more trees? Hah.

Saturday, November 4, 2000

## Stop intruding

This message is directed to the St. Charles Tree Commission. I've lived in my house over 30 years and if I would have wanted a tree in my parkway, trust me, I would have planted one there, just as I've planted other trees in my yard. Now you tell me I have to go out and buy a hose to replace the one that rotted a few years ago so that I can water once a week over the next few years the tree I didn't want. You also tell me I'm supposed to drive to the city public works garage and get wood chips next spring to put around the tree I didn't want, to hold in the moisture I'm supposed to be putting them there with the hose I have to go out and buy. And we haven't even addressed the leaves that will be generated that you're going to need

me to go out and rake once the tree starts growing leaves. I'm a senior citizen and I don't think I should have to. I always thought it was the Republicans who believed that government should not intrude in other people's lives.

**AGENDA ITEM EXECUTIVE SUMMARY**

Agenda Item number: 4.a

Title: Consideration to Approve Franchise Agreement and Pole Attachment Agreement with Metronet to Provide Fiber Optic Communication Services, Including High-Speed Fiber Internet, Phone, and IPTV to St. Charles

Presenter: Tom Bruhl

Meeting: Government Services Committee

Date: September 25, 2017

Proposed Cost: N/A

Budgeted Amount: N/A

Not Budgeted: **Executive Summary** *(if not budgeted please explain):*

At the February Government Services Meeting, Kathy Scheller presented information about Metronet; a fiber optic company headquartered in Evansville, Indiana and the services they provide as well as methods they have deployed in other communities to provide fiber services. More specifically, MetroNet provides fiber optic high-speed internet, TV, and phone services to businesses and homes. Their vision is to provide a world-class communications infrastructure to regional communities for the 21<sup>st</sup> century and beyond.

The Government Services Committee was interested in continuing the discussion and negotiations with Metronet.

St. Charles staff has been working with Metronet collaboratively to develop a franchise agreement and a pole attachment agreement to facilitate their ability and desire to provide fiber services in St. Charles.

The franchise agreement was modeled from the existing Comcast franchise agreement, and has been reviewed by the City Attorney. The pole attachment agreement was modeled off of the recent agreement the City signed with Wide Open West (WOW), and has also been reviewed by the City Attorney.

Staff suggests consideration of awarding the franchise agreement as it would be a benefit to our citizens in offering a competitive choice for these services, and would not be a significant detriment to the right-of-way where their facilities would be placed.

Consideration of the pole attachment agreement includes a small amount of revenue for the Electric Utility from the annual attachment fees, with the addition of another wire running on the poles.

**Attachments** *(please list):*

\* Franchise Agreement \* Pole Attachment Agreement

**Recommendation/Suggested Action** *(briefly explain):*

Consideration to approve a Franchise Agreement and Pole Attachment Agreement with Metronet.



"Cable System" or "System," has the meaning set forth in 47 U.S.C. § 522 of the Cable Act, and means Grantee's facilities, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment, that is designed to provide Cable Service which includes Video Programming and which is provided to multiple Subscribers within the Franchise Area, but such term does not include (i) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (ii) a facility that serves Subscribers without using any public right-of-way, (iii) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, as amended, except that such a facility shall be considered a Cable System (other than for purposes of section 621(c) of the Cable Act) to the extent such facility is used in the transmission of Video Programming directly to Subscribers; unless the extent of such use is solely to provide Interactive On-Demand Services; (iv) an open video system that complies with section 653 of the Cable Act; or (v) any facilities of any electric utility used solely for operating its electric utility systems.

"Channel" or "Cable Channel" means a portion of the electromagnetic frequency spectrum which is used in a Cable System and which is capable of delivering a television channel as a television channel is defined by the Federal Communications Commission by regulation.

"City" means the City of St. Charles, Illinois or the lawful successor, transferee, designee, or assignee thereof.

"Customer" or "Subscriber" means a Person who lawfully receives and pays for Cable Service with the Grantee's express permission.

"FCC" means the Federal Communications Commission or successor governmental entity thereto.

"Electric Utility" means the electric service utility owned and operated by the City of St. Charles including, but not limited to, its personal and real property, buildings, fixtures, equipment, poles and all other infrastructure and improvements thereof pursuant to State of Illinois Constitutional and Statutory Authority including, but not limited to, the Municipal Ownership Act of 1913 and 65 ILCS 5/11-117-1 to 11-117-14 and 11-119-1 to 11-119-5.

"Franchise" means the initial authorization, or renewal thereof, issued by the City, whether such authorization is designated as a franchise, agreement, permit, license, resolution, contract, certificate, ordinance or otherwise, which authorizes the construction or operation of the Cable System.

"Franchise Agreement" or "Agreement" shall mean this Agreement and any amendments or modifications hereto.

"Franchise Area" means the present legal boundaries of the City as of the Effective Date, and shall also include any additions thereto, by annexation or other legal means as provided in this Agreement.

"Grantee" shall mean CMN-RUS, Inc.

"Gross Revenue" means the Cable Service revenue received by the Grantee from the operation of the Cable System in the Franchise Area to provide Cable Services, calculated in accordance with generally accepted accounting principles. Cable Service revenue includes monthly Basic Cable Service, cable programming service regardless of Service Tier, premium and pay-per-view video fees, late fees, advertising and home shopping revenue, installation fees and equipment rental fees. Gross revenues shall also include such other revenue sources from Cable Service delivered over the Cable System as may now exist or hereafter develop, provided that such revenues, fees, receipts, or charges may be lawfully included in the gross revenue base for purposes of computing the City's permissible franchise fee under the Cable Act, as amended from time to time. Gross Revenue shall not include refundable deposits, bad debt, investment income, programming launch support payments, third party advertising sales commissions and agency fees, nor any taxes, fees or assessments imposed or assessed by any governmental authority. Gross Revenues shall include amounts collected from Subscribers for Franchise Fees pursuant to *City of Dallas, Texas v. F.C.C.*, 118 F.3d 393 (5<sup>th</sup> Cir. 1997), and amounts collected from non-Subscriber revenues in accordance with the Court of Appeals decision resolving the case commonly known as the "Pasadena Decision," *City of Pasadena, California et. al., Petitions for Declaratory Ruling on Franchise Fee Pass Through Issues, CSR 5282-R, Memorandum Opinion and Order, 16 FCC Red. 18192 (2001)*, and *In re: Texas Coalition of Cities for Utility Issues v. F.C.C.*, 324 F.3d 802 (5th Cir. 2003).

"Initial Franchise Service Area" means that portion of the Franchise Area set forth in Exhibit A.

"Person" means any natural person or any association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for-profit or not-for profit, but shall not mean the City.

"Public, Educational and Governmental (PEG) Access Channel" shall mean a video Channel designated for non-commercial use by the City, the public, and/or educational institutions such as public or private schools, but not "home schools," community colleges, and universities.

"Public, Educational and government (PEG) Access Programming" shall mean non-commercial programming produced by any City residents or organizations, schools and government entities and the use of designated facilities, equipment and/or Channels of the Cable System in accordance with 47 U.S.C. 531 and this Agreement.

"Public Way" shall mean, pursuant and in addition to Chapter 13.22 of the City Code of Ordinances, the surface of, and the space above and below, any street, alley, other land or waterway, dedicated or commonly used for pedestrian or vehicular traffic or other similar purposes, including, but not limited to, public utility easements and other easements dedicated for compatible uses, now or hereafter held by the City in the Franchise Area, to the extent that the City has the right and authority to authorize, regulate, or permit the location of facilities other than those of the City. Public Way shall not include any real or personal City property that is not specifically described in this definition and shall not include City buildings, fixtures, and other structures and improvements, regardless of whether they are situated in the Public Way. Public

Way shall not include any portion of the Electric Utility regulated pursuant to Ordinance 1984M-16.

“Qualified Household” shall mean any single family residential home where a resident has agreed in writing to Grantee’s standard terms and conditions of service including, if applicable, any reasonable deposit requirements and standard installation fees, as a condition of requesting Cable Service from Grantee.

"Standard Installation" means those installations to Subscribers that are located up to one hundred twenty-five (125) feet from the existing distribution system (Cable System).

"Video Programming" or "Programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

## **SECTION 2: Grant of Authority**

2.1. Pursuant to Section 621(a) of the Cable Act, 47 U.S.C. § 541 (a), and 65 ILCS 5/11-42-11(a) of the Illinois Municipal Code, the Illinois Constitution, and Chapter 13.22 of the City Code of Ordinances, the City hereby grants to the Grantee a nonexclusive Franchise authorizing the Grantee to construct and operate a Cable System in the Public Ways within the Franchise Area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in any Public Way such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the Cable System, and to provide such services over the Cable System as may be lawfully allowed.

2.2. Term of Franchises The term of the Franchise granted hereunder shall be five (5) years from the Effective Date, unless the Franchise is renewed or is lawfully terminated in accordance with the terms of this Franchise Agreement and/or applicable law. From and after the Effective Date of this Franchise Agreement, the Parties acknowledge that this Franchise Agreement is intended to be the sole and exclusive Franchise Agreement between the Parties pertaining to the Grantee's Franchise for the provision of Cable Service.

2.3. Renewal. Any renewal of this Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, as amended, and any applicable State law which may exist at the time of renewal and which is not superseded by the Cable Act.

2.4. Police Powers. Nothing in this Franchise Agreement shall be construed as an abrogation by the City of any of its police powers to adopt and enforce generally applicable ordinances deemed necessary for the health, safety, and welfare of the public, and the Grantee shall comply with all generally applicable laws and ordinances enacted by the City pursuant to such police power.

2.5. Reservation of Authority. Nothing in this Franchise Agreement shall (A) abrogate the right of the City to perform any public works or public improvements of any description, (B) be construed as a waiver of any codes or ordinances of general applicability promulgated by the City, or (C) be construed as a waiver or release of the rights of the City in and to the Public Ways

2.6 Competitive Equity.

2.6.1. In the event the City grants an additional Franchise to use and occupy any Public Way for the purposes of operating a Cable System, the additional Franchise shall only be granted in accordance with the Illinois Level Playing Field Statute, 65 ILCS 5/11-42-11.

2.6.2. In the event an application for a new cable television franchise or other similar authorization is filed with the City proposing to serve the Franchise Area, in whole or in part, the City shall to the extent permitted by law promptly notify the Grantee, or require the Grantee to be notified, and include a copy of such application.

**SECTION 3: Construction and Maintenance of the Cable System**

3.1. Except as may be otherwise provided in this Franchise Agreement, Grantee shall comply with all generally applicable provisions of Chapter 13.22, entitled "Construction of Utility Facilities in the Rights-of-Way" of the St. Charles City Code, as may be amended from time to time.

3.2. Aerial and Underground Construction. As of the Effective Date, if all of the transmission and distribution facilities of all of the respective public or municipal utilities in any area of the Franchise Area are underground, the Grantee shall place its Cable Systems' transmission and distribution facilities underground, provided that such underground locations are actually capable of accommodating the Grantee's cable and other equipment without technical degradation of the Cable System's signal quality. In any region(s) of the Franchise Area where the transmission or distribution facilities of the respective public or municipal utilities are both aerial and underground, the Grantee shall have the discretion to construct, operate, and maintain all of its transmission and distribution facilities or any part thereof, aerially or underground. Nothing in this Section shall be construed to require the Grantee to construct, operate, or maintain underground any ground-mounted appurtenances such as customer taps, line extenders, system passive devices, amplifiers, power supplies, pedestals, or other related equipment.

3.3. Undergrounding and Beautification Projects.

3.3.1 In the event the City requires users of the Public Way who operate aerial or underground facilities to relocate such facilities underground, Grantee shall participate in the planning for relocation of its facilities. For public improvement work initiated by the City or other governmental body, including electric utility projects, Grantee shall relocate its facilities at its own expense in a timely fashion in coordination with the project. For projects initiated by a non-governmental third party, Grantee is responsible for collection of any relocation costs from the initiating third party.

3.3.2. The Grantee shall not be required to relocate its facilities unless it has been afforded at least sixty (60) days' notice of the necessity to relocate its facilities. Upon adequate notice the Grantee shall provide a written estimate of the cost associated with the work

necessary to relocate its facilities. In instances where a third party is seeking the relocation of the Grantee's facilities or where the Grantee is entitled to reimbursement pursuant to the preceding Section, the Grantee shall not be required to perform the relocation work until it has received payment for the relocation work.

#### **SECTION 4.: Service Obligations**

4.1. Initial Service Obligations. As of the Effective Date of this Agreement, Grantee's Cable System has been designed to provide, and, upon completion of construction, will be capable of providing, Cable Service to residential Customers throughout the Initial Franchise Service Area. After completion of construction, the Grantee shall continue to make Cable Service available in the Initial Service Area throughout the term of this Agreement and Grantee shall extend its Cable System and provide service consistent with the provisions of this Franchise Agreement. Construction of Licensee facilities to provide services in the Initial Franchise Service Area shall be completed within three years of the signing of this agreement.

4.2. General Service Obligation. The Grantee shall make Cable Service available beyond the Initial Franchise Service Area to every residential household within the Franchise Area where a minimum of fifteen (15) Qualified Households have requested Cable Services within 1200 feet of the Grantee's distribution cable (e.g. a Standard Installation).

4.2.1. The Grantee may elect to provide Cable Service to areas not meeting the above density and distance standards. The Grantee may impose an additional charge in excess of its regular installation charge for any service installation requiring a drop or line extension in excess of a Standard Installation. Any such additional charge shall be computed on a time plus materials basis plus a reasonable rate of return.

4.3. Programming. The Grantee agrees to provide cable programming services in the following broad categories:

Children	General Entertainment	Family Oriented
Ethnic/Minority	Sports	Weather
Educational	Arts, Culture and Performing Arts News & Information	

Pursuant and subject to federal law, all Video Programming decisions, excluding PEG Access Programming, are at the sole discretion of the Grantee.

4.4.1 Technical Standards. The Grantee shall comply with all applicable technical standards of the FCC as published in 47 C.F.R., Part 76, Subpart K, as amended from time to time. The Grantee shall cooperate with the City in conducting inspections related to these standards upon reasonable prior written request from the City based on a significant number of Subscriber complaints.

4.4.2 Installation standards. The Grantee shall comply with the National Electrical Safety Code (NESC) of current version for all installations. For underground service installations, cables shall be buried of adequate depth and shall be buried within 10 calendar days of installation, weather permitting.

4.4.3 Aerial Drop Removal Requests. Should a customer no longer wish to take service from Grantee, upon customer request, aerial service drops shall be removed within 30 days of request.

4.4.4 Pole Attachment Agreement. The details related to pole attachments shall be contained in a separate pole attachment agreement.

4.4.5 Customer communication. During the construction phase of the project, Grantee shall maintain a publicly accessible website for customer concerns, complaints, and comments. After the construction phase, Grantee shall establish a clear and effective communication channel for customer requests.

4.5. Annexations and New/Planned Developments. In cases of annexation the City shall use reasonable efforts to provide the Grantee written notice of such annexation. In cases of new construction, planned developments or property development where undergrounding or extension of the Cable System is required, the City shall use reasonable efforts to provide or cause the developer or property owner to provide notice of the same. To the extent notices are provided, such notices shall be provided at the time of notice to all non-City utilities or other like occupants of the City's Public Way. If advance notice of such annexation, new construction, planned development or property development is not provided, the Grantee shall be allowed an adequate time to prepare, plan and provide a detailed report as to the timeframe for it to construct its facilities and provide the services required under this Franchise Agreement.

4.6. Service to School Buildings and Governmental Facilities.

4.6.1. The City and the Grantee acknowledge the provisions of 220 ILCS 5/22-501(f), and to the extent requested by any eligible governmental entity, the Grantee shall provide complimentary Basic Cable Service and a free Standard Installation at one outlet to all eligible buildings as defined in said state statute. Eligible buildings shall not include buildings leased to non-governmental third parties or buildings such as storage facilities at which government employees are not regularly stationed.

4.6.2. Long Drops. The Grantee may impose an additional charge in excess of its regular installation charge for any service installation requiring a drop or line extension in excess of a Standard Installation. Any such additional charge shall be computed on a time plus materials basis to be calculated on that portion of the installation that exceeds a Standard Installation.

4.7. Emergency Alerts. At all times during the term of this Franchise Agreement, the Grantee shall provide and maintain an "Emergency Alert System" ("EAS") consistent with applicable Federal law and regulation — including 47 C.F.R., Part 11 and the "State of Illinois Emergency Alert System State Plan" — as may be amended from time to time. Should the City become qualified and authorized to activate the EAS, the Grantee shall provide instructions on the access and use of the EAS by the City to the City on an annual basis. The City agrees to indemnify and hold the Grantee harmless from any damages or penalties arising out of the negligence of the City, its employees or agents in using such system.

4.8. Customer Service Obligations. The City and Grantee acknowledge that the customer service standards and customer privacy protections are set forth in the Cable and Video Customer Protection Law, 220 ILCS 5/22-501 *et seq.* Enforcement of such requirements and standards and the penalties for non-compliance with such standards shall be consistent with the Cable and Video Customer Protection Law, 220 ILCS 5/22-501 *et seq.*

**SECTION 5: Oversight and Regulation by City**

5.1. Franchise Fees. The Grantee shall pay to the City a Franchise Fee in an amount equal to five percent (5%) of annual Gross Revenues received from the operation of the Cable System to provide Cable Service in the Franchise Area; provided, however, that Grantee shall not be compelled to pay any higher percentage of fees than any other video service provider, under state authorization or otherwise, providing service in the Franchise Area. The payment of Franchise Fees shall be made on a quarterly basis and shall be due forty-five (45) days after the close of each calendar quarter. If mailed, the Franchise Fee shall be considered paid on the date it is postmarked. Each Franchise Fee payment shall be accompanied by a report prepared by a

representative of the Grantee showing the basis for the computation of the franchise fees paid during that period. Any undisputed Franchise Fee payment which remains unpaid in whole or in part, after the date specified herein shall be delinquent. For any delinquent Franchise Fee payments, Grantee shall make such payments including interest at the prime lending rate as quoted by JPMorgan Chase & Company or its successor, computed from time due until paid. Any undisputed overpayments made by the Grantee to the City shall be credited upon discovery of such overpayment until such time when the full value of such credit has been applied to the Franchise Fee liability otherwise accruing under this Section.

5.1.1. The Parties acknowledge that, at present, the Cable Act limits the City to collection of a maximum permissible Franchise Fee of five percent (5%) of Gross Revenues. In the event that a change in the Cable Act would allow the City to increase the Franchise Fee above five percent (5%), the City shall determine by adoption of an appropriate ordinance if the City should collect the additional amount. Following the determination, the City shall notify the Grantee of its intent to collect the increased Franchise Fee and Grantee shall have a reasonable time (not to be less than ninety (90) days from receipt of notice from the City) to effectuate any changes necessary to begin the collection of such increased Franchise Fee or notify the Grantee of its intent to not collect the increased fee. In the event that the City increases said Franchise Fee, the Grantee shall notify its Subscribers of the City's decision to increase said fee prior to the implementation of the collection of said fee from Subscribers as required by law.

5.1.2. In the event a change in state or federal law requires the City to reduce the franchise fee percentage that may be collected, the parties agree the Grantee shall reduce the percentage of franchise fees collected to the lower of: i) the maximum permissible franchise fee percentage; or ii) the lowest franchise fee percentage paid by any other Cable Operator granted a Cable Franchise by the City pursuant to the Cable Act, and Section 11-42-11 of the Illinois Municipal Code; provided that: (a) such amendment is in compliance with the change in state or federal law; (b) the City approves the amendment by ordinance; and (c) the City notifies Grantee at least ninety (90) days prior to the effective date of such an amendment.

5.1.3. Taxes Not Included. The Grantee acknowledges and agrees that the term "Franchise Fee" does not include any tax, fee, or assessment of general applicability (including any such tax, fee, or assessment imposed on both utilities and Cable Operators on their services but not including a tax, fee, or assessment which is unduly discriminatory against Cable Operators or Cable Subscribers).

5.2. Franchise Fees Subject to Audit. The City and Grantee acknowledge that the audit standards are set forth in the Illinois Municipal Code at 65 ILCS 5/11-42-11.05 (Municipal Franchise Fee Review; Requests For Information). Any audit shall be conducted in accordance with generally applicable auditing standards.

5.3. Proprietary Information. Notwithstanding anything to the contrary set forth in this Agreement, the Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature, with the exception of the information directly related to an audit of Franchise Fees as set forth in Section 5.2. The City agrees to treat any information disclosed by the Grantee as confidential and only to disclose it to those employees, representatives, and agents of the City that have a need to know in order to enforce this Franchise

Agreement and who agree to maintain the confidentiality of all such information. For purposes of this Section, the terms "proprietary or confidential" include, but are not limited to, information relating to the Cable System design, customer lists, marketing plans, financial information unrelated to the calculation of Franchise Fees or rates pursuant to FCC rules, or other information that is reasonably determined by the Grantee to competitively sensitive. Grantee may make proprietary or confidential information available for inspection but not copying or removal by the Franchise Authority's representative. In the event that the City has in its possession and receives a request under the Illinois Freedom of Information Act (5 ILCS 140/1 *et seq.*), or similar law for the disclosure of information the Grantee has designated as confidential, trade secret or proprietary, the City shall notify Grantee of such request and cooperate with Grantee in opposing such request. Grantee shall indemnify and defend the City from and against any claims arising from the City's opposition to disclosure of any information Grantee designates as proprietary or confidential. Compliance by the City with an opinion or directive from the Illinois Public Access Counselor or the Illinois Attorney General under the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.*, or with a decision or order of a court with jurisdiction over the City, shall not be a violation of this Section.

#### **SECTION 6: Transfer of Cable System or Franchise or Control of Grantee**

6.1.. Neither the Grantee nor any other Person may transfer the Cable System or the Franchise without the prior written consent of the City, which consent shall not be unreasonably withheld or delayed.

6.2. No transfer of control of the Grantee, defined as an acquisition of fifty-one percent (51%) or greater ownership interest in Grantee, shall take place without the prior written consent of the City, which consent shall not be unreasonably withheld or delayed.

6.3. No consent shall be required, however, for (i) a transfer in trust, by mortgage, hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or in the Cable System in order to secure indebtedness, or (ii) a transfer to an entity directly or indirectly owned or controlled by Metronet Holdings, LLC

6.4. The Grantee, and any proposed transferee under this Section 6, shall submit a written application to the City containing or accompanied by such information as is required in accordance with applicable law and FCC regulations, specifically including a completed Form 394 or its successor, and in compliance with the processes established for transfers under FCC rules and regulations, including Section 617 of the Cable Act, 47 U.S.C. §537. Within thirty (30) days after receiving a request for consent, the City shall, in accordance with FCC rules and regulations, notify the Grantee in writing of the additional information, if any, it requires to determine the legal, financial and technical qualifications of the transferee or new controlling party. If the City has not taken final action on the Grantee's request for consent within one hundred twenty (120) days after receiving such request, consent shall be deemed 'granted. As a condition to granting of any consent, the City may require the transferee to agree in writing to assume the obligations of the Grantee under this Franchise Agreement.

6.5. Any transfer of control resulting from or after the appointment of a receiver or receivers or trustee or trustees, however denominated, designated to take over and conduct the business of the grantee, whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of a one hundred twenty (120) day period, shall be treated as a transfer of control pursuant to 47 U.S.C. §537 and require the City's consent thereto in the manner described in Section 6 above.

#### **SECTION 7: Insurance and Indemnity**

7.1. Insurance. Throughout the term of this Franchise Agreement, the Grantee shall, at its own cost and expense, maintain such insurance and provide the City certificates of insurance in accordance with Chapter 13.22 of the St. Charles City Code.

7.2. Indemnification. The Grantee shall indemnify, defend and hold harmless the City, its officers, employees, and agents (the "Indemnitees") from and against any injuries, claims, demands, judgments, damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense, arising in the course of the Grantee constructing and operating its Cable System within the City. This duty shall survive for all claims made or actions filed within one (1) year following either the expiration or earlier termination of this Agreement. The City shall give the Grantee timely written notice of its obligation to indemnify and defend the City after the City's receipt of a claim or action pursuant to this Section. For purposes of this Section, the word "timely" shall mean within a time period that does not cause prejudice to the respective positions of the Grantee and/or the City. If the City elects in its own discretion to employ additional counsel, the costs for such additional counsel for the City shall be the responsibility of the City.

7.2.1. The Grantee shall not indemnify the City for any liabilities, damages, costs or expense resulting from any conduct for which the City, its officers, employees and agents may be liable under the laws of the State of Illinois.

7.2.2. Nothing herein shall be construed to limit the Grantee's duty to indemnify the City by reference to the limits of insurance coverage described in this Agreement.

#### **SECTION 8: Public, Educational and Governmental (PEG) Access**

8.1. PEG Capacity. The Grantee shall provide capacity for the City's noncommercial Public, Educational and Governmental ("PEG") Access Programming through Grantee's Cable System consistent with the requirements set forth herein. The City's PEG Access Programming shall be provided consistent with Section 611 of the Cable Act, as amended from time to time. As of the Effective Date of this Agreement, the City shares (1) PEG channel with the City of Geneva, Illinois. The City may request, and Grantee shall provide, that the shared PEG Channel referenced above be split so that the City has the exclusive use of said channel upon one hundred eighty (180) days advance written notice by the City. Any cost for the activation of the split Channel shall be paid for by the City.

8.1.1 At its sole discretion, the City may request, and the Grantee shall provide, one (1) additional Government Access Channel, upon one hundred eighty (180) days advanced written notice and sufficient proof that the current Channel is inadequate for all programming

offered. "Sufficient proof" shall include a verified program log of all original, non-repeat, first-run, non-character generated, locally produced programs that are carried on the existing Channels for the prior six month period during the times of noon to midnight. In the event that eighty percent (80%) of the programming on the Channels meets the criteria of being original, non-repeat, first-run, non-character generated, locally produced programming, Grantee shall provide a second Channel. Any cost for the activation of the additional Channel shall be paid for by the City. The Grantee may offer the City's entire PEG Access Programming on its basic digital tier of service.

8.2. The Grantee does not relinquish its ownership of or ultimate right of control over 'a Channel by designating it for PEG use. However, the PEG Channels are, and shall be, operated by the City, and the City may at any time allocate or reallocate the usage of the PEG Channels among and between different non-commercial uses and Users. The City shall be responsible for the editorial control of the Video Programming on the PEG Channels except to the extent permitted in 47 U.S.C. §531(e).

8.3. Origination Point. At such time that the City determines that it wants to establish capacity to allow its residents who subscribe to Grantee's Cable Service to receive PEG Access Programming originated from Schools and/or City facilities (other than those having a signal point of origination at the time of the execution of this Agreement); or at such time that the City determines that, it wants to change or upgrade a location from which PEG Access Programming is originated; the City will give the Grantee written notice detailing the point of origination and the capability sought by the City. The Grantee agrees to submit a cost estimate to implement the City's plan within a reasonable period of time. After an agreement to reimburse the Grantee for its expenditure, the Grantee will implement any necessary system changes within a reasonable period of time.

8.4. PEG Signal Quality. Provided PEG signal feeds are delivered by the City to the designated signal input point without material degradation, the PEG Channel delivery system from the designated signal input point shall meet the same FCC technical standards as the remainder of the Cable System set forth in this Agreement.

8.5. PEG Capital Support. At its sole discretion, the City may designate PEG access capital projects to be funded by the City. The City shall send written notice of the City's desire for Grantee to collect as an external charge a PEG Capital Fee of up to thirty-five cents (\$0.35) per customer per month charge to be passed on to each Subscriber pursuant Section 622(g)(2)(C) of the Cable Act (47 U.S.C. §542(g)(2)(C)). The Grantee shall collect the external charge over a period of twelve (12) months, unless some other period is mutually agreed upon in writing, and shall make the PEG capital payments from such sums at the same time and in the same manner as Franchise Fee payments. The notice shall include a detailed and itemized description of the intended utilization of the PEG Capital Fee for PEG Access Channel facilities and/or equipment and the Grantee shall have the opportunity to review and make recommendations upon the City's plan prior to agreeing to collect and pay to the City the requested amount. The capital payments shall be expended for capital costs associated with PEG access. Consistent with the description of the intended utilization of the PEG Capital Fee, the City shall be permitted to hold all or a portion of the PEG Capital Fee from year to year as a designated fund to permit the City to make large capital expenditures, if necessary, as long as the City spends the entire amount collected by

the end of the term of this Agreement. Moreover, if the City chooses to borrow from itself or a financial institution revenue for large PEG capital purchases or capital expenditures, the City shall be permitted to make periodic repayments using the PEG Capital Fee. Said PEG Capital Fee shall be imposed within one hundred twenty days (120) of the City's written request

8.5.1. For any payments owed by Grantee in accordance with this Section 8.5 which are not made on or before the due dates, Grantee shall make such payments including interest at an annual rate of the prime lending rate as quoted by JPMorgan Chase & Company. or its successor, computed from time due until paid. Any undisputed overpayments made by the Grantee to the City shall be credited upon discovery of such overpayment until such time when the full value of such credit has been applied to the Franchise Fee liability otherwise accruing under this section.

8.5.2. Grantee and City agree that the capital obligations set forth in this Section are not "Franchise Fees" within the meaning of 47 U.S.C. § 542.

8.6. Grantee Use of Unused Time. Because the City and Grantee agree that a blank or underutilized PEG Access Channel is not in the public interest, in the event the City does not completely program a Channel, Grantee may utilize a Channel for its own purposes. Grantee may program unused time on the Channels subject to reclamation from the City upon no less than sixty (60) days' notice. Except as otherwise provided herein, the programming of the PEG Access Channel with text messaging, or playback of previously aired programming shall not constitute unused time. Text messaging containing out of date or expired information for a period of thirty (30) days shall be considered unused time. A programming schedule that contains playback of previously aired programming that has not been updated for a period of ninety (90) days shall be considered unused time. Unused time shall be considered to be a period of time, in excess of six (6) hours, where no community produced programming of any kind can be viewed on a PEG Access Channel. Unused time shall not include periods of time where programming cannot be viewed that are caused by technical difficulties, transition of broadcast media, signal testing, replacement or repair of equipment, or installation or relocation of facilities.

## **SECTION 9: Enforcement of Franchise**

9.1. Notice of Violation or Default. In the event the City believes that the Grantee has not complied with a material term of the Franchise, it shall notify the Grantee in writing with specific details regarding the exact nature of the alleged noncompliance or default.

9.2. Grantee's Right to Cure or Respond. The Grantee shall have thirty (30) days from the receipt of the City's written notice: (A) to respond to the City, contesting the assertion of noncompliance or default; or (B) to cure such default; or (C) in the event that, by nature of the default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the City of the steps being taken and the projected date that the cure will be completed.

9.3. Enforcement. Subject to applicable federal and state law, and following notice and an opportunity to cure and respond pursuant to the provisions of Section 9.2 above, in the event the City determines that the Grantee is in default of any material provision of the Franchise, the City may:

9.3.1. seek specific performance of any provision that reasonably lends itself to such remedy or seek other relief available at law, including declaratory or injunctive relief; or

9.3.2. in the case of a substantial or frequent default of a material provision of the Franchise, declare the Franchise Agreement to be revoked in accordance with the following:

(i) The City shall give written notice to the Grantee of its intent to revoke the Franchise on the basis of a pattern of noncompliance by the Grantee. The notice shall set forth with specificity the exact nature of the noncompliance. The Grantee shall have ninety (90) days from the receipt of such notice to object in writing and to state its reasons for such objection. In the event the City has not received a response from the Grantee or upon receipt of the response does not agree with the Grantee's proposed remedy or in the event that the Grantee has not taken action to cure the default, it may then seek termination of the Franchise at a public hearing. The City shall cause to be served upon the Grantee, at least ten (1.0) days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to request termination of the Franchise.

(ii) At the designated hearing, the City shall give the Grantee an opportunity to state its position on the matter, present evidence and question witnesses, after which the City shall determine whether or not the Franchise shall be terminated. The public hearing shall be on the record. A copy of the transcript shall be made available to the Grantee at its sole expense. The decision of the City shall be in writing and shall be delivered to the Grantee in a manner authorized by Section 10.2. The Grantee may appeal such determination to any court with jurisdiction within thirty (30) days after receipt of the City's decision.

9.4. Remedies Not Exclusive. In addition to the remedies set forth in this Section 9, the Grantee acknowledges the City's ability pursuant to Section 4.8 of this Franchise Agreement to enforce the requirements and standards, and the penalties for non-compliance with such standards, consistent with the Illinois Cable and Video Customer Protection Law; and, pursuant to Section 3.1 of this Franchise Agreement and Chapter 13.22 of the St. Charles City Code, to enforce the Grantee's compliance with the City's requirements regarding "Construction of Utility Facilities in the Rights-Of-Way." Notwithstanding the foregoing, nothing in this Agreement shall be interpreted to permit the City to exercise such rights and remedies in a manner that permits duplicative recovery from, or payments by, the Grantee. Such remedies may be exercised from time to time and as often and in such order as may be deemed expedient by the City.

## **SECTION 10: Miscellaneous Provisions**

10.1. Force Majeure. The Grantee shall not be held in default under, or in noncompliance with, the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default (including termination, cancellation or revocation of the Franchise), where such noncompliance or alleged defaults occurred or were caused by strike, riot, war, earthquake, flood, tidal wave, unusually severe rain or, snow storm, hurricane, tornado

or other catastrophic act of nature, labor disputes, failure of utility service necessary to operate the Cable System, governmental, administrative or judicial order or regulation or other event that is reasonably beyond the Grantee's ability to anticipate or control. This provision also covers work delays caused by waiting for utility providers to service or monitor their own utility poles on which the Grantee's cable or equipment is attached, as well as unavailability of materials or qualified labor to perform the work necessary. Non-compliance or default shall be corrected within a reasonable amount of time after force majeure has ceased.

10.2. Notice. Any notification that requires a response or action from a party to this franchise within a specific time-frame, or that would trigger a timeline that would affect one or both parties' rights under this franchise, shall be in writing and shall be sufficiently given and served upon the other party by hand delivery, first class mail, registered or certified, return receipt requested, postage prepaid, or by reputable overnight courier service and addressed as follows:

To the City:

City of St. Charles  
2 E. Main Street  
St. Charles, Illinois 60174  
ATTN: City Administrator

To the Grantee:

CMN-RUS, Inc.  
8837 Bond Street  
Overland Park, KS 66214  
ATTN: Legal Department

Recognizing the widespread usage and acceptance of electronic forms of communication, mails and faxes will be acceptable as formal notification related to the conduct of general business amongst the parties to this contract, including but not limited to programming and price adjustment communications. Such communication should be addressed and directed to the person of record as specified above. Either party may change its address and addressee for notice by notice to the other party under this Section.

10.3. Entire Agreement. This Franchise Agreement embodies the entire understanding and agreement of the City and the Grantee with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and communications, whether written or oral. Except for ordinances 'adopted pursuant to Sections 2.4 and 2.5 of this Agreement, all ordinances or parts of ordinances related to the provision of Cable Service that are in conflict with or otherwise impose obligations different from the provisions of this Franchise Agreement are superseded by this Franchise Agreement.

10.3.1. The City may adopt a cable television/video service provider regulatory ordinance that complies with applicable law, provided the provisions of any such ordinance adopted subsequent to the Effective Date of this Franchise Agreement shall not apply to the Grantee during the term of this Franchise Agreement.

10.4. Severability. If any section, subsection, sentence, clause, phrase, or other portion of this Franchise Agreement is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full

force and effect. If any material provision of this Agreement is made or found to be unenforceable by such a binding and final decision; either party may notify the other in writing that the Franchise has been materially altered by the change and of the election to begin negotiations to amend the Franchise in a manner consistent with said proceeding or enactment; provided, however, that any such negotiated modification shall be competitively neutral, and the parties shall be given sufficient time to implement any changes necessitated by the agreed-upon modification.

10.5. Governing Law. This Franchise Agreement shall be deemed to be executed in the State of Illinois, and shall be governed in all respects, including validity, interpretation and effect, and construed in accordance with, the laws of the State of Illinois and/or Federal law, as applicable.

10.6. Venue. Except as to any matter within the jurisdiction of the federal courts or the FCC, all judicial actions relating to any interpretation, enforcement, dispute resolution or any other aspect of this Agreement shall be brought in the Circuit Court of the State of Illinois, Kane, County, Illinois. Any matter brought pursuant to the jurisdiction of the federal court shall be brought in the United States District Court of the Northern District of Illinois.

10.7. Modification. Except as provided in Sections 5.1.1 and 5.1.2, no provision of this Franchise Agreement shall be amended or otherwise modified, in whole or in part, except by an instrument, in writing, duly executed by the City and the Grantee, which amendment shall be authorized on behalf of the City through the adoption of an appropriate ordinance or resolution by the City, as required by applicable law.

10.8. No Third-Party Beneficiaries. Nothing in this Franchise Agreement is intended to confer third-party beneficiary status on any person, individual, corporation or member of the public to enforce the terms of this Franchise Agreement.

10.9. No Waiver of Rights. Nothing in this Franchise Agreement shall be construed as a waiver of any rights, substantive or procedural, Grantee may have under Federal or state law unless such waiver is expressly stated herein.

10.10. Validity of Franchise Agreement. The parties acknowledge and agree in good faith on the validity of the provisions, terms and conditions of this Franchise Agreement, in their entirety, and that the Parties have the power and authority to enter into the provisions, terms, and conditions of this Agreement.

10.11. Authority to Sign Agreement. Grantee warrants to the City that it is authorized to execute, deliver and perform this Franchise Agreement. The individual signing this Franchise Agreement on behalf of the Grantee warrants to the City that s/he is authorized to execute this Franchise Agreement in the name of the Grantee.

IN WITNESS WHEREOF, this Franchise Agreement has been executed by the duly authorized representatives of the parties as set forth below, as of the date set forth below

**For the City of St. Charles:**

**For CMN-RUS, Inc.**

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

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

Name: \_\_\_\_\_

Name: \_\_\_\_\_

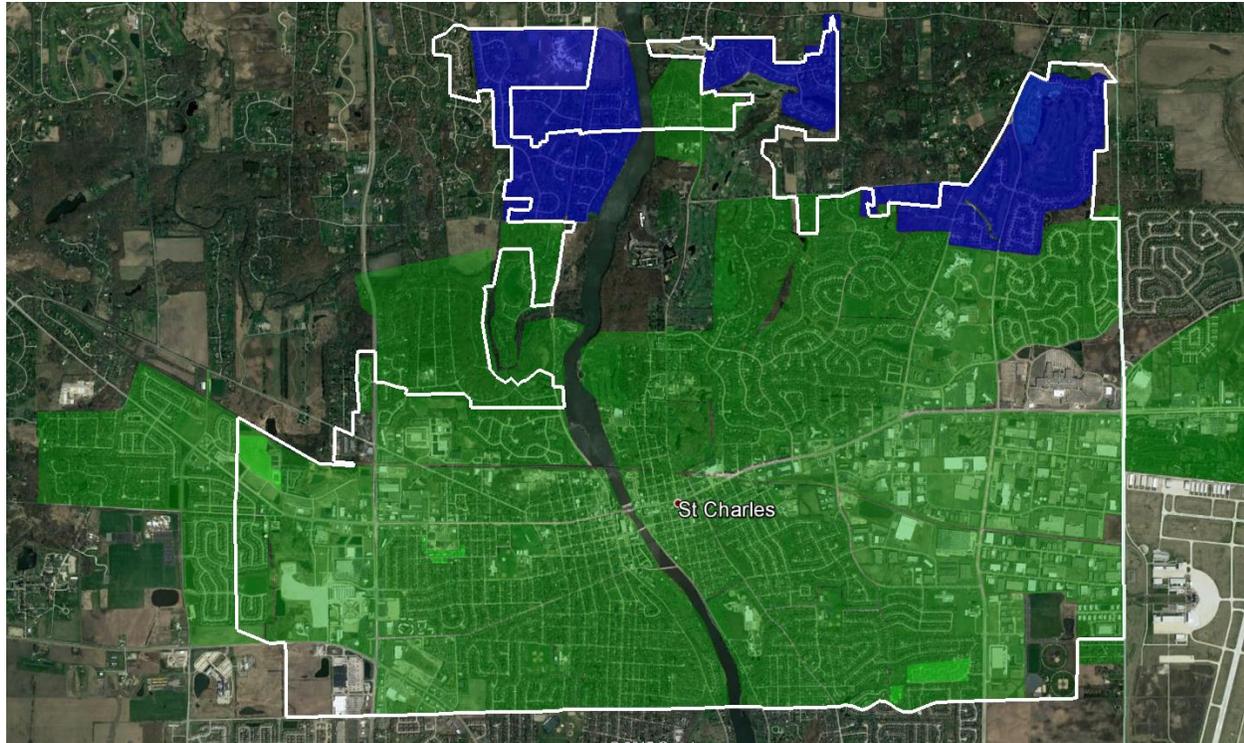
Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## EXHIBIT A



### Legend

Green – Subject to final network design optimization, areas that Grantee will buildout as part of the Initial Franchise Area. For avoidance of doubt, if Grantee is unable to obtain rights to use private property on reasonable terms, Grantee will not be able to buildout those areas even if they are colored green on the above map.

Blue – Areas that Grantee will buildout if an acceptable customer pre-selection level is reached. Grantee commits to marketing and providing a pre-selection process for potential customers to sign up for services in these area.

### Notes

Upon the completion of final network design optimization, Grantee shall provide Grantor with a final map to incorporate into this Exhibit A. The final map may be different from the map set forth above based on actual engineering data, but shall not be substantially different.

## JOINT USE POLE ATTACHMENT AGREEMENT

This Agreement made this \_\_\_\_\_ day of October, 2017 (hereinafter the “Effective Date”) by and between THE CITY OF ST. CHARLES, a municipal corporation of the State of Illinois, hereinafter referred to as “Owner”, and METRO FIBERNET, LLC, a Nevada limited liability company, hereinafter referred to as “Licensee”.

### WITNESSES:

WHEREAS, the City of St. Charles and Licensee desire to establish joint use of poles owned by the City of St. Charles under the terms and conditions set forth below:

WHEREAS, among the purposes of this Agreement are to reduce the number of dual pole lines utilized by both parties and to provide better economy of service to customers of both parties; and

WHEREAS, the conditions determining such joint use shall depend upon the service requirements to be met by each party, including considerations of safety and economy.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties hereto, their successors and assigns, do hereby agree as follows:

### Section 1. Scope of Agreement.

- A. Poles. This Agreement covers all jointly-used poles within the corporate limits as now or hereafter existing of the City of St. Charles and/or its electrical service area as such corporate limits and/or electrical service areas may be amended from time to time. This Agreement includes all electric distribution poles which are: (a) presently owned by the Owner, or (b) as hereafter erected by the Owner, or (c) as may be purchased from time to time by the Owner from the Licensee in accordance with the procedures hereinafter set forth. The Owner reserves the right to exclude from joint use such poles which, in the Owner’s judgment, are necessary for its sole use. This Agreement shall not exempt the Licensee from the requirements of the Owner’s Subdivision Control Ordinance or such ordinances that relate to subdivisions.
- B. Red Gate Road Bridge. Owner agrees that Licensee may place a four-inch diameter (4”) Schedule 40 PVC Conduit, to be attached to East and West bridge abutments, and run along the entire course, of the Red Gate Road Bridge across the Fox River, between IL State Highway 31 and IL State Highway 25 (hereinafter the “Bridge”). The conduit would be placed directly underneath the road surface of the Bridge, adjacent to Owner’s existing six-inch (6”) conduits, and be supported horizontally on existing St. Charles Power Services conduit hangers. Licensee would place Metronet fiber optic cable inside the conduit, which would be a part of Licensee’s network that serves St. Charles. Owner agrees that it will not charge Licensee any fees to place its facilities on the Bridge; however, a permit submittal showing the details of the attachment to the bridge shall be required prior to placement of the conduit.

## Section 2. Code Specifications.

The joint use, construction and maintenance of poles covered by this Agreement shall be in conformity with all applicable engineering and safety standards governing the installation, maintenance, and operation of facilities and the performance of all work in or around electric City Facilities and includes the most current versions of National Electrical Safety Code (“NESC”), the National Electrical Code (“NEC”), and the regulations of the Occupational Safety and Health Administration (“OSHA”), each of which is incorporated by reference in this Agreement, and/or other reasonable safety and engineering requirements of City or other federal, state, or local authority with jurisdiction over City Facilities. Any joint use pole which does not conform to the most stringent standards as set forth above shall be brought to the attention of Owner by Licensee, or vice versa, as the case may be, and corrected not later than sixty (60) days after notice of discovery of such non-conformity, Acts of God excepted. However, in the event Owner shall have scheduling conflicts, Owner shall be given such additional time as may be required, and shall set forth a proposed schedule therefor. If Licensee attachment is the sole cause of the non-conformity with standards, Licensee shall be responsible for the cost to bring the attachment into conformance. Owner will only be responsible for costs related to conformance as if the Licensee was not attached to the pole. Resolutions of any disputes related to the costs of work related to standard conformity shall be resolved by the Licensee removing their attachment from the pole within 30 days of notification.

## Section 3. Placing, Transferring or Rearranging of Pole Attachments.

- A. Definitions. For the purposes of this Section, the following terms will have the meaning ascribed herein:
- a. The term "Make Ready Costs" as used in this Agreement means the just and reasonable actual costs incurred performing work necessary to provide adequate space and pole strength for licensees proposed attachment per the National Electrical Safety Code (NESC), directly and exclusively associated with accommodating Licensee's attachments, and promptly following Licensee's written request, Owner shall provide to Licensee detail of such costs sufficient for Licensee to verify the reasonableness of the costs or charges.
  - b. The term "Make Ready Estimate" as used in this Agreement means Owner's estimate of Make Ready Costs prepared for Owner pursuant to Section 3.B below.
  - c. The term "Make Ready Work" means all work, as determined by Owner, required to accommodate licensee's attachments and to meet the National Electric Safety Code (“NESC”) or other reasonable requirements of Owner, including rearrangements and/or transfer of existing facilities.
- B. Whenever the Licensee desires to reserve space on any pole which Licensee is not already using, Licensee shall make written application to the Owner specifying in such application (1) the location of the pole in question, (2) the number or kind of attachments which it desires to place thereon, (3) engineering calculations

supporting the adequacy of the existing pole to support the attachments or the requirements for proposed changes to achieve structural adequacy, (4) any Make Ready Work proposed to complete such attachment in conformance with all NESC safety codes, and (5) the proposed completion date for any Make Ready Work. Licensee shall submit such application upon a form as depicted in Exhibit A. Within twenty (20) business days after receipt of such application, the Owner shall notify the Licensee, in writing, of its Make Ready Estimate.

- C. Upon notice that the Make Ready Estimate has been accepted by Licensee, Owner shall proceed with the Make Ready Work covered by the Make Ready Estimate. The Parties agree that Owner will perform Make Ready work within the power zone and work related to City fiber on the poles designated by Licensee, and Licensee will manage and perform Make Ready Work and adjustments and transfers necessary in the communications zone on such poles, other than such work related to City fiber. Owner shall undertake commercially reasonable efforts to complete its Make Ready Work by the estimated completion date. Nothing shall preclude the Parties from making other mutually agreeable arrangements for contracting for or otherwise accomplishing the necessary Make Ready Work. Upon completion of all Make Ready Work, Owner shall send to Licensee an itemized statement for the actual costs of the Make Ready Work. Owner shall provide an itemized invoice within thirty (30) days after completion of the Make Ready Work and Licensee shall pay such costs within forty-five (45) days from the date the invoice is received by Licensee, provided however that to the extent Licensee in good faith disputes the costs detailed in the invoice, Licensee will remit payment for the undisputed costs as set forth herein.

Upon completion of the Make Ready Work and payment of the Make Ready Costs, Owner shall advise Licensee that such poles are available for attachment.

- D. In the event that Owner determines that any pole has inadequate capacity to accommodate Licensee's attachments and must be replaced solely to make capacity for Licensee attachments, Licensee agrees to reimburse Owner for the (1) actual cost of the new pole; (2) the actual cost of transferring Owner's facilities to the new pole; and (3) any other actual costs incurred by Owner in such replacement, such as the expense of removing the old pole.
- E. Except as otherwise provided herein, Owner and Licensee shall each place, rearrange, transfer, remove and maintain its respective attachments, including any necessary tree trimming or cutting, at its own expense and shall at all times perform such work within sixty (60) days of notice by the other party, Acts of God excepted. Licensee shall be responsible for the costs of pole replacements related to pole breakage due to foreign object contact with only their facilities. For example if a tree falls and makes contact only with the Licensee facilities and such causes pole breakage, the Licensee shall be responsible for the entire cost the Owner incurs to restore with no depreciation credited. Should the contact be due to negligence, for example a garbage truck or dump truck driving over allowed

height catches the Licensee cable causing pole/s to break, the Owner shall replace the poles, Licensee shall reimburse Owner for costs, and Licensee shall be responsible for recovering from the negligent party.

- F. Subject to resolving any safety, reliability or engineering concerns in advance, and without Licensee’s prior approval but upon prior notice to Owner, Licensee may overlash facilities on its own attachments or the attachments of any third party that authorizes Licensee to overlash.
- G. Without Owner’s prior written approval, Licensee may place service drops from the poles covered by this Agreement. Owner agrees that service drops are not considered compensable additional attachments after Licensee is already paying to be attached to said pole.
- H. Licensee shall place a marker/indicator identifying cable ownership near their attachment point at each pole, visible from the ground, for the purpose of positively identifying ownership during audits or emergencies. The marker should have the emergency contact phone number on it.

Section 4. Standard Space.

- A. For the purposes of this Agreement Licensee’s “standard space” shall be defined as that area of the poles reserved for Licensee’s attachments as set forth below. Note that third party attachments may already exist within the Licensee’s Standard Space. In the event that there is inadequate space within Licensee space due to existing attachments, and the pole needs to be replaced with a taller pole, the cost for this work shall be borne by the Licensee.

Pole Size	Setting Depth	Licensee’s Standard Space	Point of Beginning of Standard Space from Top of Pole
35’	6’	4’	13-1/3’
40’ (1)(5)	6’	4’	20-1/3’
45’ (1)	6-1/2’	4’	20-1/3’
40’ (2)(3)	6’	4’	13-1/3’
45’ (2)(3)	6-1/2’	4’	13-1/3’
40’ (4)	6’	2’	13-1/3’

- (1) Equipment pole for Owner.
- (2) Non-equipment pole for Owner.
- (3) Equipment pole for Third Party User
- (4) Street crossing poles.
- (5) For only poles accessible by pedestrian traffic, provided that at alley locations Licensee’s standard space shall commence 18-1/3 feet from the top of the pole.

- B. For the purposes of this Agreement, all other space upon any pole, other than Licensee's standard space, shall be deemed Owner's standard space.
- C. Where existing equipment (as of the date of this Agreement) of either Owner or Licensee is located in the other's standard space, it shall so remain until the opportunity arises to relocate it without undue burden or expense. In the interim, any new or additional equipment shall be installed to conform with the location of existing equipment. When either party requires full use of its standard space for installation of new or replacement equipment, the other party will cooperate with the requesting party to relocate its equipment within forty-five (45) days after the request. In emergency service situations, the party whose equipment must be relocated will complete such relocation as soon as practicable.
- D. Owner retains and shall have the unrestricted right to use or license Owner's standard space, provided such use complies with the provisions of Section 2 herein.
- E. In the event of third party attachments to poles covered by this Agreement, communication attachments shall be required to be made above the standard space of Licensee and such attachments shall maintain a minimum one foot (1') clearance from other licensee's facilities and shall be on the same side of pole as other licensee's facilities, unless specifically authorized by Owner.
- F. From and after the date of this Agreement, any subsequent third party attaching to a joint use pole shall reimburse Owner or Licensee their respective costs for changing the location of their facilities, erecting or replacing poles, or relocating or readjusting their facilities in order to accommodate said third party's facilities. Provided, however, where either Owner or Licensee are then in violation of any Code or Order under Section 2 herein at the time of said third party attachment, Owner or Licensee shall relocate that portion of their non-conforming facility without charge.

#### Section 5. Erecting, Replacing or Relocating Poles.

- A. Whenever it is necessary to change the location of a jointly-used pole, by reason of any State, Municipal, or other governmental requirement, or the requirements of a private property owner, the Owner first shall give written notice thereof to Licensee, specifying when the relocated pole is available for attachment. The Licensee at its expense, shall, at the time so specified, transfer its attachments to the newly-located pole.
- B. Whenever a new pole is erected solely to address Licensee requirements within the territory covered by this Agreement, either as an additional pole line, or as an extension of an existing pole line, or as replacement of existing pole(s), Licensee shall first notify the Owner, in writing (at least forty-five days prior to such need),

with written plans showing the proposed location and character of the new poles. Licensee shall be responsible for the costs of the new pole or poles and said shall be payable prior to commencement of the work. Owner is not required to erect additional poles or extending pole lines that do not benefit Owner.

- C. The cost of erecting new or replacement joint use poles related to normal maintenance, relocation, or end of life, shall be borne by the Owner. However, each party shall place, at its sole expense, its own attachments on the new joint use poles and place any necessary supports to sustain any unbalanced loads caused by their respective attachments. In cases of replacement of existing joint use poles Licensee shall, within sixty (60) days after receipt of written notice from Owner, transfer its facilities. In case of emergency or immediate need, Licensee may be required to transfer on shorter notice. Should the Licensee fail to relocate to a replaced pole within the 60 days, a penalty of \$50 per day shall be assessed by the Owner to the Licensee. Accrued penalty charges shall be billed by the Owner to the Licensee after the attachment is relocated, and remittance shall be due to the Owner consistent with Section 9, paragraph C.
- D. Whenever the Licensee requires a change in location of a jointly-used pole, the Licensee shall first give written notice to Owner specifying the time requirements of such proposed relocation, and the Owner shall, if it does not wish to discontinue the existing pole from joint use as herein provided, relocate such pole by the date specified or within 180 days thereafter in the application for relocation. The cost of relocating such pole by the Owner and the transfer of Owner's attachments thereon shall be at the sole expense of Licensee. In the event of emergency situations, the provisions calling for written notification may be waived, by the Director of Public Works or his delegated nominee, provided prior verbal notice is given to the Director of Public Works.
- E. Whenever it is necessary to replace a defective pole, the procedures set forth in paragraph A of this Section 5 shall be employed.
- F. A replacement pole shall be set by the Owner, in the original position, within reasonable distance of the original pole position, or in the position agreed upon between the Owner and the Licensee.
- G. Whenever it is necessary to change a location of a jointly-used pole, or to erect a new pole, or to relocate or readjust Owner's or Licensee's facilities upon these poles due to the requirements of a subsequent Licensee's needs or third party need, Owner and Licensee shall bill their respective costs therefore (rearrangement costs, plant loss, net removal costs, transfer cost, etc.) to said new Licensee or third party. Owner shall give Licensee sixty (60) days' notice of such relocation. Licensee transfer to any new pole set due to relocation for subsequent licensee or third party will be subject to paragraph C of this Section 5.

Section 6. Right of Way for Licensee's Attachments.

Licensee hereby acknowledges and agrees that Owner has tendered no assurance, guarantee or warranty as to Licensee's legal right, title or interest to be located within any easement or right of way area upon which joint use poles are located; and, in the event, objections are made to Licensee's use of said poles, and Licensee is unable to resolve said objections within a reasonable time, the Owner may, upon thirty (30) days' written notice to Licensee, or in the event of emergency, on shorter written or verbal notice followed by written notice, require Licensees to remove its attachments from the subject poles at Licensee's sole expense. However, on any new additions or extensions of pole lines, the Owner shall: (1) attempt to secure right-of-way permits applicable to both parties, or (2) notify the Licensee that the Owner is unable to obtain joint right-of-way, but Owner shall not be required to utilize power of eminent domain.

Section 7. Maintenance of Poles and Attachments.

Licensee shall, at its own expense, maintain its attachments upon joint use poles in a safe and serviceable condition. Licensee further agrees that it shall maintain and repair its attachments so as not to interfere with Owner's use or maintenance of said poles. Moreover, in the event that Owner determines that any of Licensee's facilities are in an unsafe condition, Licensee, at its own expense, shall relocate or replace said facilities, or transfer them to substituted poles, or perform such other work in connection with said facilities that may be required to place them in a safe condition. However, in the case of emergencies, Owner may temporarily relocate Licensee's facilities to substituted poles, and the cost of such relocation, shall be reimbursed by the Licensee to Owner.

Section 8. Abandonment of Jointly-Used Poles.

- A. Licensee may abandon the use of a jointly-used pole at any time by first giving written notice thereof to the Owner and thereafter removing Licensee's attachments within ninety (90) days of said written notice. Written notice shall be in the form shown in Exhibit B.
  
- B. In the event that Owner intends to remove all of its attachments and to terminate joint use of any pole, Owner shall first give Licensee written notice thereof and shall thereafter remove such attachments within ninety (90) days of said written notice. In such event, at the sole discretion of the Owner, if Owner desires to sell said pole or poles, and if Licensee wishes to purchase them, Licensee shall pay the Owner \$1.00 per pole. Transfer of ownership will be by means of a Bill of Sale, in the format of Exhibit C attached hereto, and shall be deemed completed when Owner has removed all Owner facilities from the pole and transmits Bill of Sale to Licensee. When bill of sale is completed, Licensee takes complete ownership and responsibility for said pole, except that Owner will be responsible for any events and occurrences relating to each pole prior to the date of sale. Owner has the right to not sell any pole and to request Licensee to remove their attachment from a pole that the Owner wishes to permanently remove. Such

removal request shall be issued from Owner to Licensee with at least 180 days notice. Licensee attachments which continue to exist on such poles after 180 days notice shall be subject to the same \$50/pole/day penalty as noted in Section 5C.

#### Section 9. Rentals and Other Payments.

- A. There shall be a rental fee for each pole attached to or reserved by the Licensee. The rental period for joint use poles shall be one (1) year. The Owner shall, before January 10<sup>th</sup> each year, issue a report showing the number of poles to which Licensee has made attachments or reserved therefore as of January 1 of the existing year. Unless Licensee establishes a different number within twenty (20) calendar days after receiving such report, payment for such number shall be due forty-five (45) days following the issuance of the statement by the Owner. In the event of a dispute, Licensee shall specifically designate, in writing, the locations under dispute and until resolved, such disputed pole quantities will be exempt from rental payment until resolved and then payment shall be processed immediately. However, failure to give the report prior to the date mentioned shall not deprive Owner of rental fees. All poles not under dispute shall be paid for at the annual fee.
- B. The amount of the annual rental fee for pole attachments shall be \$13 per pole in the first year of this agreement. Subsequent years pole attachment fees will escalate from the \$13 per pole per year fee at a rate of 2% per year.
- C. Payments for other amounts due under this Agreement shall be invoiced upon completion of the work and payable by the Licensee within forty-five (45) days' receipt thereof and shall accrue a late payment penalty of 1-1/2% per month on the unpaid balance from the billing date for any late payment.

#### Section 10. Defaults.

If Licensee shall default in any of its obligations under this contract, Licensee will have thirty (30) days after receipt of written notice of default from Owner to cure such default, provided that if Licensee begins to cure but is not reasonably able to complete the cure within 30 days after written notice, Owner agrees not to terminate this Agreement or take any other action against Licensee until such time as Licensee has had a reasonable opportunity to complete the cure. If such default continues thirty (30) days after notice with no cure or if Licensee has not reasonably started to cure, all rights of Licensee hereunder shall be suspended, including its right to occupy jointly-used poles. If such default shall continue for a period of thirty (30) days after such suspension, the Owner hereunder may: (1) terminate this Agreement if such default affects all Attachments; or (2) terminate Licensee's right to occupy the pole(s) as to which such default occurred. Such termination shall not extinguish Licensee's obligation to pay for liability already incurred.

#### Section 11. Alternative Dispute Resolution.

The Parties hereto plan to use due diligence and use their best efforts and work together to implement this Agreement and amicably resolve their differences. However, the Parties understand that issues and conflicts may arise where they reach an impasse. The Parties acknowledge their desire to reach a working solution by using good faith attempts to resolve such issues and conflicts. Any claim or controversy related to or arising out of the Agreement, whether in contract or in tort ("Dispute"), will be resolved on a confidential basis, according to the following process, which either Party may start by delivering to the other Party a written notice describing the Dispute and the amount involved ("Demand").

After receipt of a Demand, authorized representatives of the Parties will meet at a mutually agreed upon time and place to try to resolve the Dispute by negotiation. If the Dispute remains unresolved 30 days after receipt of the Demand, either Party may start binding arbitration. The arbitration will be held in Kane County, Illinois. The Parties will use their best efforts to conclude the arbitration as expediently as possible but in no event later than 60 days following commencement of any proceeding, provided there is no interim relief or court action sought that would delay the parties from resolving the Dispute within such 60 day period. If such interim relief or court action is sought, then the Parties will use their best efforts to conclude the arbitration within 60 days following the final decision of the court in such action. The arbitration will be before a three-arbitrator panel. Each party will select one partial arbitrator, in its sole discretion, to represent its interest at its sole expense. The partial arbitrator may be an employee, director, officer or principal of the party. The final arbitrator, who shall be impartial, will be selected by the two partial arbitrators. In the event the two partial arbitrators shall fail to select an impartial arbitrator, either party may apply to a court of law to have a judge select an impartial arbitrator. The three arbitrators by majority ruling may adopt such procedures as they deem efficient and appropriate for making the determinations submitted to them for adjudication, and the Parties agree that no court shall have the power to interfere with the proceedings and judgments of the arbitrators. No statements by, or communications between, the Parties during negotiation or mediation, or both, will be admissible for any purpose in arbitration. Each party shall bear its internal expenses and its attorney's fees and expenses, and jointly share the cost of the impartial arbitrator; provided. No interest shall be applied to any arbitration award. It is the intent of the Parties to first allow the arbitrators an opportunity to meet and negotiate a decision. However, if an agreement cannot be reached through negotiation, then the decision(s) of a majority of the arbitrators shall be final and binding on the Parties.

Notwithstanding the foregoing, either party hereto may resort to a court by applying for interim relief, without the requirement to post a bond or security, if such party reasonably determines that such relief is necessary because claims for money are not adequate to prevent irreparable injury to it or to a third party. The venue for any such proceeding shall be in Kane County, Illinois.

#### Section 12. Indemnification.

The Licensee shall indemnify, defend and hold harmless the Owner from any and all third party claims, damages, judgments, losses, costs and expenses (including attorneys' fees), for physical injury or damage to tangible property that arises directly out of Licensee's use of poles pursuant to this Agreement; provided, that notice in writing shall be immediately given to the Licensee of any claim or suit against the Owner which, by the terms hereof, the Licensee shall be obligated to defend, or against which the Licensee has hereby agreed to save and keep harmless the Owner and provided further that the Owner shall furnish to the Licensee all

information in its possession relating to said claim or suit, and cooperate with the Licensee in the defense of said claim or suit. The governing body of the Owner may, if it so desires, assist in defending any such claim or suit, but solely under the direction of the Licensee or its attorneys and the Licensee shall not be required to reimburse the Owner for expenses incurred by it in case of the election so to assist.

Contractors performing work on behalf of the Licensee shall provide the Owner with a Certificate of Insurance to cover all locations of the work being done on behalf of the Licensee, and shall name the City of St. Charles as additional insured. Certificates of Insurance shall be filed no later than 10 days prior to commencement of work. Policies shall contain a non-cancellation clause provision preventing cancellation without 30 days written prior notice to City (ten (10) days in the event of nonpayment of premiums by Licensee). Certificates of Insurance shall be completed on the ACCORD 25-S form.

The Owner requires the Licensee to provide and maintain insurance consistent with Exhibit D.

Section 13. Service of Notices.

All written notices required under this Agreement shall be given by posting the same in first class mail to Owner as follows:

Director of Public Works  
City of St. Charles  
2 East Main Street  
St. Charles, Illinois 60174

and to Licensee as follows:

Metro Fibernet, LLC  
Attn: Kevin Stelmach  
3701 Communications Way  
Evansville, Indiana 47715

With a copy to:

Metro Fibernet, LLC  
Attn: John Campbell, General Counsel  
8837 Bond St.  
Overland Park, Kansas 66214

or to such address as the parties hereto may from time to time specify.

#### Section 14. Term of Agreement.

Subject to the provisions of Section 10 herein, this Agreement shall continue in force and effect for a period of ten (10) years from and after the Effective Date of this Agreement (the “Initial Term”), and thereafter from year to year (each year a “Renewal Term”) unless terminated by either party by giving written notice not less than one (1) year prior to the end of the Initial Term or any Renewal Term. Notwithstanding any such termination, this Agreement shall remain in full force and effect with respect to all poles jointly used by the parties at the time of such termination.

#### Section 15. Assignment of Rights.

Except as otherwise provided in this Agreement, Licensee shall not assign any of its rights or interests hereunder, or in any of the jointly used poles or attachments covered by this Agreement, to any firm, corporation, or individual, without the written consent of Owner, which consent shall not be unreasonably withheld, except that Licensee may, without the prior consent of the Owner, assign all of its rights under this Agreement to: (i) a parent, subsidiary, or Affiliate of Licensee; (ii) a purchaser of all or substantially all of Licensee’s assets related to this Agreement; or (iii) a third party participating in a merger, acquisition, sale of assets or other corporate reorganization in which Licensee is participating. This Agreement shall bind and inure to the benefit of the parties and their respective successors and permitted assigns. For the purposes of the Section, “Affiliate” means, any entity that controls or is controlled by Licensee, or is under common control Licensee. Nothing herein contained shall prevent or limit the right of Licensee to mortgage any or all of its property, rights, privileges, and franchises, or lease or transfer any of them to another corporation organized for the purpose of conducting a business of the same general character as that of Licensee, or enter any merger or consolidation and, in the case of the foreclosing of such mortgage or in the case of such lease, transfer, merger, or consolidation, its rights and obligations hereunder shall pass to, and be acquired and assumed by the purchaser on foreclosure, the transferee, lessee, assignee, merging or consolidating company, as the case may be. Subject to all of the terms and conditions of this Agreement, Licensee may permit any corporation or company conducting a business of the same general character as that of Licensee and owned, operated, leased, and controlled by it, associated or affiliated with it in interest, or connected with it, to all or any part of the space allotted hereunder on any pole covered by this Agreement for the attachments used by Licensee, in the conduct of its said business. All such attachments maintained on any such pole shall be considered as the attachments of Licensee, and the rights, obligations and liabilities of such assignee under this Agreement, with respect to such attachments, shall be the same if it were the actual owner thereof. Notwithstanding any of the provisions in this section, Licensee shall not be released from any of its obligations hereunder.

#### Section 16. Scope of Right of Licensee.

No use by Licensee of Owner’s poles under the terms of this Agreement, however extended, shall create or vest in Licensee any ownership or property rights in said poles, but Licensee’s rights herein shall be and remain a mere license. For poles upon which Licensee has reserved space, nothing herein contained shall be construed to compel Owner to maintain any of such poles for any period longer than demanded by Owner’s own service requirements.

Further, the terms and conditions of this Agreement shall not apply to any pole solely owned and used by Licensee.

Section 17. Waiver of Terms or Conditions.

The failure of either party to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, and the same shall be and remain at all times in full force and effect.

Section 18. Existing Contracts or Agreements.

Any existing agreements between these parties, whether verbal or written, covering the joint use or joint ownership of poles are by mutual consent, hereby abrogated and annulled.

IN WITNESS WHEREOF, each Party has caused this Agreement to be duly executed effective as of the effective date shown on the first page of this Agreement.

Witness:	<b>THE CITY OF ST. CHARLES</b>
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

Witness:	<b>METRO FIBERNET, LLC</b>
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____



**EXHIBIT A**

POLE ATTACHMENT APPLICATION AND PERMIT

Permit No. \_\_\_\_\_

Date \_\_\_\_\_

Mr. \_\_\_\_\_

CITY OF ST. CHARLES MUNICIPAL ELECTRIC UTILITY

\_\_\_\_\_

In accordance with the terms and conditions of the agreement between our respective companies dated \_\_\_\_\_, application is hereby requested for permission to make attachments to \_\_\_\_\_ City poles as indicated on the sketch attached hereto.

By \_\_\_\_\_

\_\_\_\_\_

PERMIT

Permission is hereby granted to make the attachments described in the above application subject to all terms and conditions referred to above and in said agreement, and further subject to acceptance by the applicant of the obligation to pay the amount shown below for changes or rearrangements of poles or equipment as indicated below or on a statement attached hereto, and the applicable rental charges for the present year in progress:

Estimated amount to be paid for above charges \$ \_\_\_\_\_ W.O. No. \_\_\_\_\_

Rental charge for year in progress: \_\_\_\_\_ by \_\_\_\_\_ =\$ \_\_\_\_\_

No. of City Poles

Rate

Rental Charge

The cost of rearrangements provided is an estimate based on preliminary engineering. Such cost shall be reconciled upon completion of the job to establish the actual cost for the work performed by the City. Applicant is responsible for the actual cost and will be issued a refund within 60 days of reconciliation of the job, if the estimated cost exceeded the actual cost. Should the actual cost exceed the estimated cost, Applicant shall be issued a bill with explanation of the actual costs and the reason or reasons that the actual cost was greater than the estimate. Such bill shall be payable , in accordance with Section 9, Paragraph C.

Above charges accepted:

\_\_\_\_\_ CITY OF ST. CHARLES MUNICIPAL ELECTRIC UTILITY

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

Date: \_\_\_\_\_

\_\_\_\_\_ APPLICANT

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

Date: \_\_\_\_\_

PERPETUAL INVENTORY RECORD

City poles in use to date \_\_\_\_\_

City poles added by this permit \_\_\_\_\_

Total City poles in use \_\_\_\_\_

**EXHIBIT B**

**NOTIFICATION OF POLE ATTACHMENT REMOVAL**

Removal Notice No. \_\_\_\_\_

Date \_\_\_\_\_

Mr. \_\_\_\_\_

CITY OF ST. CHARLES MUNICIPAL ELECTRIC UTILITY

\_\_\_\_\_

In accordance with the terms and conditions of the agreement between our respective companies dated \_\_\_\_\_, notification of removal of attachments to \_\_\_\_\_ City poles on the City of \_\_\_\_\_ as indicated on the sketch hereto is hereby given:

By \_\_\_\_\_

Date \_\_\_\_\_

Notice of Acknowledged

Date \_\_\_\_\_ City of ST. CHARLES

By \_\_\_\_\_

INVENTORY

City poles in use to date \_\_\_\_\_

City poles discontinued by this notice- \_\_\_\_\_

Total City poles in use \_\_\_\_\_

**EXHIBIT C**

BILL OF SALE FOR POLE

DATE: \_\_\_\_\_

COMPANY, in consideration of payment of:

\$ \_\_\_\_\_

has taken ownership of the pole/poles identified on the attached drawing.

City of St. Charles certifies that all electric utility and other licensee attachments have been removed from said pole/poles and hereby relinquishes ownership.

\_\_\_\_\_ CITY OF ST. CHARLES MUNICIPAL ELECTRIC UTILITY

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

Date: \_\_\_\_\_

\_\_\_\_\_ COMPANY

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

Date: \_\_\_\_\_

PERPETUAL INVENTORY RECORD

City poles in use to date \_\_\_\_\_

City poles deleted by this sale \_\_\_\_\_

Total City poles in use \_\_\_\_\_



City of St. Charles  
Certificate of Insurance Requirements

All Contractors, Manufacturers/Distributors, and Suppliers shall be required to carry and evidence insurance coverage with a standard Acord Certificate of Insurance with minimum limits applicable. Sample attached.

1. Minimum Insurance Requirements and Limits

	<i>Coverage</i>		<i>Limits</i>
A.	Automobile Liability	\$1,000,000	Combined single limit
B.	Commercial General Liability	\$1,000,000	Per occurrence
		\$2,000,000	General aggregate

All Commercial General Liability policies must include Blanket Contractual coverage and Broad Form Vendors' Liability coverage.

C.	Workers' Compensation (Employers' Liability)	\$500,000	Per accident
		\$500,000	Disease limit
		\$500,000	Each Disease
D.	Umbrella Liability	\$5,000,000	Limit

2. Cancellation or Alteration

The policies of insurance required by this exhibit shall provide that they cannot be cancelled or altered in any way changing coverage except after 30 days' prior written notice by certified mail to owner.

3. Workers' Compensation and General Liability Waiver of Subrogation in favor of the City.

4. Insurance Certificates

- A. Must be submitted ten (10) days prior to any work being performed to allow review of certificates.
- B. Certificates not meeting requirements must be revised and resubmitted within fifteen (15) days or the subcontractor will not be allowed on the jobsite.

5. Additional Insured and Broad Form Vendors' Liability in favor of the City.

The City must be named as an Additional Insured with the following wording appearing on the Certificate of Insurance: "The City of St. Charles and any official, trustee, director, officer, or employee of the City (plus any holder or mortgage as designated by the City) as to any and all projects, as an Additional Insured for the Commercial General Liability as respects any and all projects for any work being performed and this coverage will be primary and noncontributory."

6. Minimum Insurance Carrier

All contractors, manufacturers/distributors, and suppliers' insurance carriers must comply with the minimum A.M Best rating of A-VI for all insurance carriers.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY)

**PRODUCER**

Arthur J. Gallagher & Co.  
The Gallagher Centre  
Two Pierce Place  
Itasca, IL 60143-3141

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND, OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

**INSURERS AFFORDING COVERAGE****INSURED**

ABC Subcontractors  
739 High Street  
Small Town, IL 48970

INSURER A:

INSURER B:

INSURER C:

INSURER D:

INSURER E:

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS								
	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> BROAD FORM VENDORS <input checked="" type="checkbox"/> UNDERGROUND EXPLOSION AND COLLAPSE HAZARD GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC				EACH OCCURRENCE	\$ 1,000,000							
					FIRE DAMAGE (Any one fire)	\$ 50,000							
					MED EXP (Any one person)	\$ 5,000							
					PERSONAL & ADV INJURY	\$ 1,000,000							
					GENERAL AGGREGATE	\$ 2,000,000							
					PRODUCTS - COMP/OP AGG	\$ 1,000,000							
						\$							
	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NONOWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000							
					BODILY INJURY (Per person)	\$							
					BODILY INJURY (Per accident)	\$							
					PROPERTY DAMAGE (Per accident)	\$							
	<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT	\$							
					OTHER THAN AUTO ONLY: EA ACCT	\$							
					AGG	\$							
	<b>EXCESS LIABILITY</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$				EACH OCCURRENCE	\$ 5,000,000							
					AGGREGATE	\$ 5,000,000							
						\$							
						\$							
	<b>WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY</b>				<table border="1"> <tr> <td>WC STATUTORY LIMITS</td> <td>OTHER</td> </tr> <tr> <td>E.L. EACH ACCIDENT</td> <td>\$ 500,000</td> </tr> <tr> <td>E.L. DISEASE - EA EMPLOYEE</td> <td>\$ 500,000</td> </tr> <tr> <td>E.L. DISEASE - POLICY LIMIT</td> <td>\$ 500,000</td> </tr> </table>	WC STATUTORY LIMITS	OTHER	E.L. EACH ACCIDENT	\$ 500,000	E.L. DISEASE - EA EMPLOYEE	\$ 500,000	E.L. DISEASE - POLICY LIMIT	\$ 500,000
WC STATUTORY LIMITS	OTHER												
E.L. EACH ACCIDENT	\$ 500,000												
E.L. DISEASE - EA EMPLOYEE	\$ 500,000												
E.L. DISEASE - POLICY LIMIT	\$ 500,000												
	<b>OTHER</b>												

**DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS**

The City of St. Charles and any official, trustee, director, officer, or employee of the City (plus any holder or mortgage as designated by the City) as to any and all projects, as an Additional Insured for the Commercial General Liability as respects any and all projects for any work being performed and this coverage will be primary and noncontributory.

**CERTIFICATE HOLDER**

ADDITIONAL INSURED; INSURER LETTER:

**CANCELLATION**

City of St. Charles  
2 E. Main St.  
St. Charles, IL 60174

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES  
AUTHORIZED REPRESENTATIVE



**AGENDA ITEM EXECUTIVE SUMMARY**

Agenda Item number: 4.b

Title:

Recommendation Reject All Bids from Substation Recloser Bid

Presenter:

Tom Bruhl

Meeting: Government Services Committee

Date: September 25, 2017

Proposed Cost: N/A

Budgeted Amount: N/A

Not Budgeted:

**Executive Summary** *(if not budgeted please explain):*

Purchasing went out for bids for substation reclosers. Two firms provided bids. One proposal did not meet critical equipment specifications and the other provided an incomplete bid offering only an accessory option.

Purchasing and Electric are going to re-write the specification to highlight all technical and commercial requirements related to bidding and re-issue the bid.

**Attachments** *(please list):*

\* Bid Tabulation \* Recommendation Memo

**Recommendation/Suggested Action** *(briefly explain):*

Recommendation to reject all bids for Substation Reclosers

<b>Sub 9 12kV recloser bidders</b>	<b>Bid result</b>
ABB - Wesco	Does not meet technical requirements
SEL - Astar	Incomplete - relay accessory only bid



# Memo

Date: 1 September 2017

To: Tom Bruhl, Electric Services Manager

From: Erika Drennan, Substation Engineer

## **Re: Recloser and Breaker Bid Results**

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Please consider the below findings and recommendation related to the two bids received for the reclosers at Legacy Substation and for the replacement program.

Note that there are two different applications/specifications that were specified in the Request for Bid.

### **Bid #1 included proposals for both applications:**

#### 12kV Feeder Recloser Specification:

- The submitted device uses a 24 pin connector, which is not compatible with our existing equipment. Using the ABB equipment would require new control cabinets and new different relays. The specification clearly called for a 14 pin connector.
- The base of the ABB recloser is wider in both the X and the Y directions, as evidenced by the submitted drawings. While the proposal from ABB states that mounting frame matches the City's existing standard recloser footprint, the provided drawing confirms that it is not compatible. For a retrofit application, the ABB proposal would require an unacceptable amount of customized field work.
- The bushings of the ABB are in an L shape, as opposed to all being on the top of the device. Replacing an existing recloser with the proposed device would require bus re-configuration that would be expensive and very time consuming, potentially extending outage time.

#### 12kV Main Specification:

- The submitted device is larger than our existing equipment and would not be compatible with our existing installations.
- The proposal included a relay that was not one of the options in the specification.
- The proposed relay does not support the specified Ethernet communication.

**Bid #2 included a proposal for the control relay only:**

Bid #2 provided a control relay as an alternative to the relay offered by any other bidder. The relay is a significant component of the recloser, but as an accessory to the recloser, this bid is only valid against other acceptable bids.

Summary/Recommendation:

Bid #1 does not meet core fit, form, and function requirements of our specification and is not acceptable.

Bid #2 for an accessory alternative does not have pertinence or relevance without an acceptable recloser proposal.

The recommendation is to reject all bids, revise the specification to better clarify the applications, and rebid. Revised specifications will include the necessity to meet all of the fit, form, and function requirements for reclosers proposed for our replacement program. Additionally, for the new Legacy Substation installation, the revised specifications will explain that if non-compatible equipment is proposed, the City will evaluate their proposal with respect to the new strategic spare equipment that will need to be purchased to support a substation with components incompatible with our existing stations and existing inventory of strategic spare equipment.



**AGENDA ITEM EXECUTIVE SUMMARY**

Agenda Item number: 4.c

Title: Recommendation to Execute an Agreement for Renaux Manor Storm Sewer Replacement Design Engineering Services

Presenter: AJ Reineking

Meeting: Government Services Committee

Date: September 25, 2017

Proposed Cost: \$36,100

Budgeted Amount: \$50,000

Not Budgeted:

**Executive Summary** *(if not budgeted please explain):*

For the last several years, the Public Services Division has been monitoring and attempting to remedy a calcium buildup within the storm sewer in the Renaux Manor subdivision. The western edge of the subdivision is built in an area of high groundwater, and the working hypothesis is that the ground water is heavy in dissolved bedrock solids which are solidifying in the storm sewer after infiltration through the storm sewer pipe, manholes and also via residential sump pumping into the City’s storm sewer. The result is that approximately 2,835 linear feet of reinforced concrete pipe (RCP) ranging in diameter from 10” to 42” is being constricted by as much as 50%.

The project location includes:

- Deville Lane from Picasso Drive to St. Germain Place;
- The rear yard north of Deville Lane from the west end of the subdivision past Picasso Drive to Renaux Boulevard, and
- The rear yards of Matisse Drive from Picasso Drive to Renaux Boulevard.

All sewer lines accumulating the calcium buildup are reinforced concrete pipes, and buildup is primarily occurring around the joints. The private PVC sump lines that are tributary to the mains are not experiencing the same buildup, presumably due to the lack of porous surface in the pipe.

After attempts to both mechanically and chemically clean the lines, staff has reached the conclusion that the buildup is too solid and the pipe must be replaced with a non-porous SDR 26 pipe to avoid continued buildup and constriction, and to also facilitate the ease of cleaning.

The City issued an RFP with a scope to include the following:

1. Review the existing conditions and testing data and confirm the course of action.
2. Identify the best routing for a new storm sewer to be installed.
3. Develop a set of plans and specifications for the bidding and construction of the sewer replacement.

The City received eight responses to the RFP with Gerald L. Heinz & Associates, Inc. of East Dundee, IL being identified as the most responsive, responsible proposer. Gerald L. Heinz has performed similar sewer projects in the past and has provided a list of very favorable references.

**Attachments** *(please list):*

\* Proposal Price Tabulation

**Recommendation/Suggested Action** *(briefly explain):*

Recommendation to execute an agreement with Gerald L. Heinz & Associates, Inc. for Design Engineering services for the Renaux Manor Storm Sewer Replacement Project in an amount not to exceed \$36,100.

Renaux Storm Sewer Replacement Design Engineering Services  
 Proposal Price Tabulation  
 GSC: 9/25/2017

Gerald L. Heinz & Associates, Inc. East Dundee, IL	\$ 36,100.00
M Squared Engineering, LLC Cedarburg, WI	\$ 41,300.00
ESI Consultants, Ltd. Naperville, IL	\$ 41,853.24
Atlas Engineering Group, LTD Northbrook, IL	\$ 49,967.50
Baxter & Woodman Crystal Lake, IL	\$ 58,410.00
Ruekert Mielke Downers Grove, IL	\$ 59,949.00
Cemcon, LTD Aurora, IL	\$ 81,480.00
WBK Engineering* St. Charles, IL	\$ 26,403.00

\*Firm failed to convey understanding of project scope.



**AGENDA ITEM EXECUTIVE SUMMARY**

Agenda Item number: 4.d

Title: Update Presentation for the New Police Facility

Presenter: Peter Suhr & Jim Keegan

Meeting: Government Services Committee

Date: September 25, 2017

Proposed Cost: N/A

Budgeted Amount: N/A

Not Budgeted:

**Executive Summary** *(if not budgeted please explain):*

On September 5, 2017, the City Council unanimously approved the recommendation to build the new Police Facility on the former Valley Shopping Center site. Now that we have passed that significant milestone, staff is focused on the next steps of the project including design and construction of the facility. Staff would like the opportunity to update the Committee on the following items for your information:

- Recently Completed Tasks (ie. Hired Architect/ Consultants, Due Diligence Work, Etc.)
- Project Schedule
- Project Phases (Design – Construction)
- Project Team
- Construction Delivery Method (Construction Management Services)

**Attachments** *(please list):*

None

**Recommendation/Suggested Action** *(briefly explain):*

None. Presentation Only.

**AGENDA ITEM EXECUTIVE SUMMARY**

Agenda Item number: 5.a

Title:

Recommendation to approve the Purchase of Replacement Self Contained Breathing Apparatus for the Fire Department

Presenter:

Fire Chief Joseph Schelstreet

Meeting: Government Services Committee

Date: September 25, 2017

Proposed Cost: \$414,000

Budgeted Amount: \$414,000

Not Budgeted: **Executive Summary** *(if not budgeted please explain):*

The Fire Department has concluded a lengthy replacement process for its current inventory of Self Contained Breathing Apparatus (SCBA). A memorandum describing this process is included in the packet. This replacement purchase has been included in the capital budget for several years and the Fire Department is now ready to execute the purchase. The current SCBA have reached the end of their service life and the equipment will no longer meet the applicable National Fire Protection Association Standard after April of 2018.

In order to allow sufficient time for delivery, installation of the appropriate hardware on the fire apparatus and the training of personnel, the department recommends approval of the winning bid from MSA, through Air One Equipment.

**Attachments** *(please list):*

- \* Memorandum from Chief Schelstreet
- \* Master RFP Scoring Sheet
- \* Field Testing Sheet
- \* Winning RFP response
- \* Winning Score Sheet

**Recommendation/Suggested Action** *(briefly explain):*

Recommendation to approve the Purchase of Replacement Self Contained Breathing Apparatus for the Fire Department from MSA.



# Memo

Date: 9/21/2017

To: Mayor Rogina  
Members of the City Council

From: Chief Joseph Schelstreet

Re: Purchase of Replacement Self Contained Breathing Apparatus for the Fire Department

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The current Self Contained Breathing Apparatus, or SCBA, units utilized by the Fire Department are rapidly coming to the end of their service life. These devices provide fresh breathing air to the firefighters during fires, hazardous materials incidents and other times that potentially toxic atmospheres are present. In April of 2018, they will no longer meet the applicable standard and will need to be replaced. This project was actually budgeted for several years ago in anticipation of the coming end of life and as part of the normal equipment replacement program. The agenda item before you tonight represents the culmination of the replacement process.

More than a year ago, the Fire Department formed a committee of members to research available SCBA that *met* the NFPA standard and whose manufacturers were willing to take place in a field testing process. Four different manufacturers participated in the field testing and all were put through the same process and firefighting evaluations. Twenty different Fire Department personnel field tested and scored each device. The scoring results are part of your packet.

After the scoring was completed, department members provided feedback related to the performance of each unit to the committee so that the resulting RFP could include the positive aspects of each device and eliminate the weak areas of the same.

All four manufacturers were sent the RFP and invited to submit proposals. The department received two responses with MSA receiving the highest score in the evaluation, as well as being determined as having the best value due to the warranty and extremely low life cycle cost. Further evaluation confirmed that MSA indeed had the superior product, with multiple references, and will serve the department well over their projected life span of up to 15 years. Moreover, the dealership is located nearby in South Elgin so they are a local vendor. Obtaining service work, parts and other follow up will be convenient.

Additional factors separating the vendors include the following:

- ◆ The MSA proposal is the lowest cost
- ◆ The Avon proposal did not provide warranty information or references
- ◆ The Avon proposal did not offer the ability to upgrade to the 5500 psi cylinders
- ◆ The Avon proposal did not offer the accountability system

The two vendors that did not respond were contacted to inquire as to why. The responses indicated that they did not believe that their product would stand up to the requirements of the RFP as well as the MSA unit and, even though there was an allowance for acceptable alternatives to be submitted when their product did not meet the letter of the specification, they still chose not to respond. I would like to highlight that, one of the vendors who chose not to respond, actually was the lead in the scoring for the individual test results and one of the vendors who did respond took advantage of the submittal of allowances within the RFP and all were accepted as part of their proposal.

The evaluation of the RFP responses included a determination of the type and number of options and ancillary equipment that were required. All non-essential equipment was eliminated. Upon approval, further negotiation will take place with the vendor to drill down to the lowest possible price. At this time, I will take any questions, otherwise, I am requesting approval of the award of the SCBA purchase as detailed in your packet to Air One Equipment for a not to exceed price of \$414,000.

## Self Contained Breathing Apparatus RFP Evaluation Scorecard

Potential Vendor:

Reviewer:

		YES	NO
Compliance with NFPA 1981 (2018 Edition)			
Criteria	Score	Comments/Notes	
<b>Field Testing Performance</b> Scoring 40 Points Possible			
<b>Cost of Purchase</b> Scoring 20 Points Possible			
<b>Warranty</b> Scoring 15 Points Possible			
<b>Annual Cost for Operation</b> Scoring 15 Points Possible			
<b>Delivery</b> Scoring 5 Points Possible			
<b>References</b> Scoring 5 Points Possible			
<b>Total Score:</b>			

## Self Contained Breathing Apparatus RFP Evaluation Scorecard

Potential Vendor: AIR ONE - MSA

Reviewer: CHIEF, AC SURANUSON, LT PETERSON, B. HANSEN, J. S. SOLAK

		YES	NO
Compliance with NFPA 1981 (2018)		X	
Criteria	Score	Comments/Notes	
Field Testing Performance Scoring 40 Points Possible	37.52		
Cost of Purchase Scoring 20 Points Possible	17.97		
Warranty Scoring 15 Points Possible	14	1 ADDITIONAL POINT IF RE-SUBMITTED FOR DATE OF DELIVERY	
Annual Cost for Operation Scoring 15 Points Possible	13	CLARIFICATION ON ANNUAL COST OF OPERATION	
Delivery Scoring 5 Points Possible	5	CONFIRMATION OF <del>120</del> OR LESS DELIVERY 90	
References Scoring 5 Points Possible	5		
<b>Total Score:</b>		92.49	

RECHARGABLE BATTERY PACK INCLUDED

## SCFD SCBA RFP Evaluation

8/3/2017

<b>SCBA</b>		<b>Scott</b>	<b>MSA</b>	<b>Interspiro</b>	<b>Avon</b>
<b>Criteria</b>	Possible Pts				
<b>Field Testing Performance</b>	40	30.88	37.52	39.41	24.01
<b>Cost of Purchase</b>	20	0	17.97	0	17
<b>Warranty</b>	15	0	14	0	0
<b>Annual Cost of Operations</b>	15	0	13	0	10
<b>Delivery</b>	5	0	5	0	4
<b>References</b>	5	0	5	0	0
<b>Sub-Total</b>	100	<b>30.88</b>	<b>92.49</b>	<b>39.41</b>	<b>55.01</b>
<b>Proposal Submitted</b>		No	Yes	No	Yes
<b>Final Score</b>	100	<b>0</b>	<b>92.49</b>	<b>0</b>	<b>55.01</b>

# SCBA Field Testing Results

## Individual Test Results

Participants		Scores					Total	Final Score
		1	2	3	4	5		
Scott	29	0	3	11	11	4	29	
Converted Points		0	12	33	44	20	109	3.76
MSA	28	0	2	4	14	8	28	
Converted Points		0	4	12	56	40	112	4.00
Interspiro	23	0	0	1	8	14	23	
Converted Points		0	0	3	32	70	105	<b>4.57</b>
Avon	20	0	5	11	4	0	20	
Converted Points		0	10	33	16	0	59	2.95

## Head to Head Overall Comparison

Participants		Scores				Total	Final Score
		1	2	3	4		
Scott	22	4	12	3	3	22	
Converted Points		4	24	9	12	49	2.23
MSA	22	2	3	8	9	22	
Converted Points		2	6	24	36	68	<b>3.09</b>
Interspiro	22	3	3	7	9	22	
Converted Points		3	6	21	36	66	3.00
Avon	21	12	4	4	1	21	
Converted Points		12	8	12	4	36	1.71

**CITY OF ST. CHARLES  
REQUEST FOR PROPOSAL  
SELF-CONTAINED BREATHING APPARATUS**

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**City of St. Charles  
Fire Department  
112 N. Riverside Avenue  
St. Charles, Illinois 60174  
630-377-4457**

**CITY OF ST. CHARLES  
REQUEST FOR PROPOSAL  
SELF-CONTAINED BREATHING APPARATUS**

**Section 1 – Project Description**

***Introduction***

The City of St. Charles is seeking proposals from qualified vendors for the Self-Contained Breathing Apparatus purchase (“SCBA”) and related components for its Fire Department. For the purpose of this RFP and the anticipated Agreement, "City" means the City of St. Charles and the selected Proposer that is awarded the Agreement is the “Proposer.” The selected Proposer will be invited to enter into an agreement with the City in the form of a Purchase Order, to be provided by the City (“Agreement”), to provide the items in accordance with the Project Scope section of this RFP. The St. Charles City Council has the ultimate authority to approve any proposal and to authorize execution of the purchase order.

***Scope of Service***

The following specification represents the St. Charles Fire Department's minimum requirements for the purchase of Self-Contained Breathing Apparatus (SCBA). Alternate products offered must meet or exceed these requirements. Vendors who are interested in proposing "equal or better than" alternate products shall include detailed information on the proposed product with their proposal submittal. The overall safety of the Fire Department's firefighters and the perceived efficiency of its operations will weigh heavily in the final determination of the acceptability of alternate products during the review process and the Fire Department's decision shall be final. Failure to comply with any or all sections or conditions of this RFP will be grounds to discard any or all proposals at the sole discretion of the City.

Prior to August, 2017 the Department will purchase the following quantities of SCBA, spare cylinders, face pieces, and accessories:

48	Self-Contained Breathing Apparatus with 45-minute, 4500-PSI quick-connect cylinder, face piece, integrated pass device, voice amplifier system and universal RIT connection.
48	Additional 45-minute, 4500-PSI quick-connect cylinders.
6	Self-Contained Breathing Apparatus with 60-minute, 4500-PSI quick-connect cylinder, face piece, integrated pass device, voice amplifier system and universal RIT connection.
12	Additional 1-hour, 4500-PSI quick-connect cylinder.
12	Additional face pieces.
8	RIT Pack systems with bag, regulator, hoses and 1-hour, 4500-PSI quick-connect cylinder.
6	Confined Space Rescue-Supplied Air Respirators (SAR) Pack with harness and minimum 10 -minute quick-connect escape cylinder.
1	PortaCount Pro+ Respirator Fit Tester machine with required software, equipment, and adapters to fit testing of SCBA masks and N95 masks.
1	PosiChek machine, most recent model, with required software, equipment, and adapters to perform annual, flow, and bench testing of the SCBA.
<i>*Note</i>	<i>All Cylinders to include SCFD required factory labeling of cylinders with fire department name, logo, and numbering.</i>

**CITY OF ST. CHARLES  
REQUEST FOR PROPOSAL  
SELF-CONTAINED BREATHING APPARATUS**

The final quantity purchased may, however, be more or less than this figure based on the awarded contract price for each item and needs determination.

<b>Components</b>	<b>Required Features</b>
NFPA Standard	All requirements of NFPA 1981 Standard on Open Circuit Self Contained Breathing Apparatus (SCBA) for Emergency Services 2018 edition and NFPA 1982 Standard on Personal Alert Safety systems (PASS) 2018 edition are incorporated into this document by reference.
Safety Equipment Institute (SEI)	SEI certification is mandatory and must currently be listed on the SEI website.
SCBA Model	Must propose the latest model SCBA offered by the manufacturer. Must meet all requirements of NFPA 1981 – 2018 edition.
Face Piece	Multiple sizes to fit all wearers must be available.
Head Strap Configuration	A minimum of four adjustment points. Made of fire resistant synthetic web design. User replaceable without special tools.
Heads-Up Display Features	To be located in/on 2nd stage. Able to be programmable by purchaser. Must feature visual indicators viewable by wearer and to others who are observing the wearer's face piece.
Nose Cup Sizes	Multiple sizes must be available.
Voice Amplifier	Included with every SCBA as a standard feature. To be integrated into SCBA. No electronics, modules, air regulators or batteries to be located in/on face piece is preferred. Breathing noise reduction/removal to be provided by technology provided.
Cylinder(s)	45-minute, 4500-PSI cylinder. Composite construction. Quick-connect coupling 60-minute, 4500-PSI cylinder. Composite construction. Quick-connect coupling.
<b>Frame/Backpack</b>	
Cylinder Retention Strap Configuration	Strong band to secure cylinder with locking mechanism.
Indicator Lights	Must be provided to indicate the status of heads up display and PASS alarm. To be visible from top/front, bottom/rear, and both sides.
Power Supply	Secured and integral to frame. Single battery location is preferred.
<b>Harness</b>	
Material	Composite or aluminum acceptable.
Waist Belt Connection Type	Seat belt type and style. Push to connect. Single hand operation to disconnect. Waist band swivels at connection to frame. Height of waist strap and padding is adjustable. Chest strap provided.
Shoulder straps	Shoulder straps connect to frame, not waist strap. Hoses are contained in shoulder straps. Shoulder strap adjustment hardware features metal "D" or "V" location for connection of accessories.

**CITY OF ST. CHARLES  
REQUEST FOR PROPOSAL  
SELF-CONTAINED BREATHING APPARATUS**

First Stage / High Pressure Connection Second Stage Regulator / Breathing Valve	Quick-connect coupling. The St. Charles Fire Department issues each member a face piece sized and fit tested to that member. As department members may respond on various apparatus during any given shift, the ability to move an assigned face piece from one apparatus to another apparatus and then connect it to any given SCBA at time of dispatch is mandatory. This event cannot take minutes or even several seconds; it must be momentary requiring no more than a few seconds. Connection to face piece must be push in or quarter-turn and require only a single hand to be performed. Disconnection from face piece must be push in or quarter- turn and require only a single hand to be performed. Heads up display electronics, indicator lights, and the like are integrated into the second stage or breathing valve.
Gauge/PASS	Analog gauge. Color graphical display. To be programmable by purchaser.
Buddy Breathing Feature Electrical Power	List with optional accessories. All electrical power should be provided by a single power source. No accessory or feature should use a power source separate from the central power supply. This power source may use a rechargeable battery or disposable batteries. All batteries should be of the same type such as all "AA" cells or all "C" cells. If disposable batteries are utilized in the bid, a statement of battery life and replacement schedule must be included and the total of all annual costs of batteries must be included in the bid package.
Warranty	15 years on all components except consumables and rechargeable batteries. All warranties to be listed in detail as part of the bid package.
Local Vendor	Located in the greater Chicagoland area.
Service and Repair Program	Mobile service to be available and provided. Service and repair facility to be located in the greater Chicagoland area. Shipment of items under warranty to and from the repair facility is to be at the expense of the vendor.
Training	The Proposer will provide, at no cost to the department, the following training: Three (3) in-service training sessions, 1 for the entirety of each shift, to provide General SCBA orientation, instruction, use, and safety training for SCBA operation. Training in SCBA maintenance and repair for up to Nine (9) Department members. Maintenance training shall be to technician level for members of the Department, so they will be able to maintain the first and second-stage regulators, PASS device, hoses, gauges, straps, face pieces and associated equipment. Training on the Port-A-Count for SCBA testing and on the Posi-Check for fit testing shall be included for up to Nine (9) members included above.

**CITY OF ST. CHARLES  
REQUEST FOR PROPOSAL  
SELF-CONTAINED BREATHING APPARATUS**

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In addition, the Department seeks separate pricing for the following desired options to be considered for purchase at the time of the SCBA purchase. Quantities to be determined based on pricing and available funding. Pricing options should include quantity breakdowns or pricing, if applicable.

Quantity	Item
	Spectacle kit (without lenses)
	Portable 2-way radio interface with SCBA
	Integrated thermal imaging system
	CBRN Air Purifying Respirators (APR) filter adapter
	Multi-gas/vapor filter cartridges for use with
	Buddy breathing hoses and applicable adapters
	Protective face piece bag
	Upgrade to 45 -minute, 5500-PSI quick-connect cylinders
	Upgrade to 60 -minute, 5500-PSI quick-connect cylinders
	Accountability base station, including all software and hardware
	Accountability Tags - RFID or other (specify)
	Accountability tag reader/writer
	100 foot sections of supplied air lines with fitting that are compatible with SAR packs. (3 each color: Blue, Red, Green, Yellow, Orange, & Purple)

**Section 2 – Submittal Requirements**

All proposals must be signed by an authorized officer of the Proposer. Proposals that contain omissions, erasures, alterations, conditional quotes, or that contain irregularities of any kind may be rejected.

The proposal should contain, without limitation, the following information at a minimum:

**A. Contact Information.**

1. Name of Proposer; and
2. Office address, main telephone and fax numbers, e-mail address, and website address.

**B. List of Qualifications and Certifications, and Required Licensing.**

The Proposer shall provide the following:

1. General information about the Proposer, its history, and services;
2. The resume of the owner/supervisor of the Proposer and the person that would be responsible for overseeing and completing the Services, including these individuals' certifications, degrees and experience.

**CITY OF ST. CHARLES  
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**C. Letter**

All Proposers shall include a letter indicating that all information in the proposal is true and complete and signed by the authorized owner, partner, officer of the corporation, or manager of the limited liability company submitting the proposal, with said signature duly notarized by a notary public.

**D. References**

The Proposer shall provide a list of at least three public agencies for which the Proposer has provided same generation SCBA in the greater Chicagoland area. The proposal must include the contact information for these references.

**Section 3 – Proposer Registration**

All Proposers or prospective Proposers that register with the City of St. Charles prior to the deadline for the submission of proposals will be informed of said clarifications, corrections, or changes. To register, Proposers must email their contact information to Michael Shortall, [mshortall@cityofstcharles.gov](mailto:mshortall@cityofstcharles.gov)

**Section 4 – Submittal Procedures**

**A. Questions and Clarifications.**

All questions regarding this RFP should be directed in writing to Assistant Chief Scott Swanson, [sswanson@stcharlesil.gov](mailto:sswanson@stcharlesil.gov). Questions will be accepted until 2:00 p.m. CST on Tuesday, June 6, 2017. All questions and responses will be compiled and submitted to all Proposers electronically in one general response memorandum by Friday, June 16, 2017. In order to enable the City to equitably respond to proposer questions, the City requests that prospective Proposers register in advance with the City via e-mail at [mshortall@cityofstcharlesil.gov](mailto:mshortall@cityofstcharlesil.gov)

**B. RFP Submittals**

All proposals shall be submitted in an opaque sealed envelope on or before the time stated and shall bear the name of the individual, firm, or corporation submitting the proposal. The envelope must state the project name: “Self-Contained Breathing Apparatus”. Four (4) copies of the proposal must be submitted to:

Michael Shortall  
Purchasing Manager  
City of St. Charles  
2 East Main Street  
St. Charles, Illinois, 60174

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Proposals must be received no later than 2:00 p.m. CST on Monday, June 26, 2017. Proposals will not be opened publically. Proposals submitted after this time will not be opened. No oral, telephone, e-mail or facsimile proposals will be considered.

**C. Standard Terms and Conditions**

Proposals submitted are offers only, and the decision to accept or reject is a function of quality, reliability, capability, reputation, and expertise of the Proposers submitting proposals. Issuance of this RFP does not obligate the City of St. Charles to pay any costs incurred by a Proposer in its submission of a proposal or making any necessary studies or designs for the preparation of that proposal, or for procuring or contracting for the services to be furnished under this RFP.

A Proposer may withdraw its proposal, either personally or by written request, at any time prior to the scheduled deadline for submittals. No proposal shall be withdrawn for 90 days after the date set for opening proposals. Proposals shall be subject to acceptance during this period.

The City of St. Charles reserves the right to accept the proposal that is, in its judgment, the best and most favorable to the interests of the City of St. Charles, the St. Charles Fire Department, and to the public; to reject the low price proposal; to accept any item of any proposal; to reject any and all proposals; and to waive irregularities and informalities in any proposal submitted or in the RFP process; provided, however, that the waiver of any prior defect or informality shall not be considered a waiver of any future or similar defect or informality. Proposers should not rely upon, or anticipate, such waivers in submitting their proposal.

The City of St. Charles reserves the right to negotiate specifications, terms, and conditions which may be necessary or appropriate to the accomplishment of the purpose of the RFP. The City of St. Charles may require the entire proposal be made an integral part of the resulting contract. This implies that all responses, supplemental information, and other submissions provided by the Proposer during discussions or negotiations will be held by the City of St. Charles as contractually binding on the successful Proposer.

**Section 5 – Evaluation of Proposals**

Professional staff from the St. Charles Fire Department will evaluate all properly submitted proposals. The Fire Department staff will then grade and rank all properly submitted proposals based on their responsiveness to the Project Scope, field evaluation testing, and the total cost of the services. The Fire Department will then select the top preferred Proposer, with whom the Agreement, on a form to be provided by the City of St. Charles, will be negotiated. The St. Charles City Council has the ultimate authority to approve any proposal and to authorize execution of the negotiated Agreement. The City of St. Charles reserves the right to make clarifications, corrections, or changes in this RFP at any time prior to the deadline for the submission of proposals.

**CITY OF ST. CHARLES  
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Proposal Evaluation Criteria will include:

Compliance with NFPA 1981 – 2018 Edition	
Field Evaluation Performance	40%
Cost of Purchase	20%
Warranty	15%
Annual Cost of Operations	15%
Delivery	5%
References	5%

**Section 6 – Anticipated Project Timeline**

• RFP Released	May 22, 2017
• Questions Due	June 6, 2017 @ 2:00 p.m. CST
• Issuance of Responses to Questions	June 16, 2017
• RFP Due Date	June 26, 2017 @ 2:00 p.m. CST
• Selection of Proposer	June 30, 2017
• Anticipated Approval of Agreement/Purchase Order by	August 7, 2017

**Section 7 – Attachments**

Attachment A-	Price Sheet
Attachment B-	Vendor Questionnaire
Attachment C-	Equal Employment Opportunity Statement
Attachment D-	Detail Exception Sheet
Attachment E-	Optional Equipment
Attachment F-	Reference Form

**CITY OF ST. CHARLES  
REQUEST FOR PROPOSAL  
SELF-CONTAINED BREATHING APPARATUS**

**Attachment A – Price Sheet**

**Required Equipment**

Quantity	Item	Unit Price	Extended Price
48	Self-Contained Breathing Apparatus with 45- minute, 4500-PSI quick-connect cylinder, face piece, integrated pass device, voice amplifier system and universal RIT connection	\$ 4725 <sup>00</sup>	\$ 226,800 <sup>00</sup>
48	Additional 45-minute, 4500-PSI quick-connect cylinders	725 <sup>00</sup>	34,800 <sup>00</sup>
6	Self-Contained Breathing Apparatus with 1- hour, 4500-PSI quick-connect cylinder, face piece, integrated pass device, voice amplifier system and universal RIT connection	4925 <sup>00</sup>	29,550 <sup>00</sup>
12	Additional 1-hour, 4500-PSI quick-connect cylinders	925 <sup>00</sup>	11,100 <sup>00</sup>
12	Additional face pieces	210 <sup>00</sup>	2,520 <sup>00</sup>
8	RIT Pack systems with bag, regulator, hoses and 1-hour, 4500-PSI quick-connect cylinder.	3800 <sup>00</sup>	30,400 <sup>00</sup>
6	Confined Space Rescue-Supplied Air Respirators (SAR) Pack with harness and minimum 10 -minute quick-connect escape cylinder	895 <sup>00</sup>	5,370 <sup>00</sup>
1	PortaCount Pro+ Respirator Fit Tester machine with required software, equipment, and adapters to fit testing of SCBA masks and N95 masks.	15,000 <sup>00</sup>	15,000 <sup>00</sup>
1	PosiChek machine, most recent model, with required software, equipment, and adapters to perform annual, flow, and bench testing of the SCBA.	9995 <sup>00</sup>	9995 <sup>00</sup>

Note - All Cylinders to include SCFD required factory labeling of cylinders with fire department name, logo, and numbering.

**Optional Equipment**

Quantity	Item	Unit Price	Extended Price
1	Spectacle kit (without lenses)	\$ 75 <sup>00</sup>	\$ 75,00
1	Portable 2-way radio interface with SCBA	N/C	-
1	Integrated thermal imaging system	1200 <sup>00</sup>	1200 <sup>00</sup>
1	CBRN Air Purifying Respirators (APR) filter adapter	75 <sup>00</sup>	75 <sup>00</sup>
1	Multi-gas/vapor filter cartridges for use with	55 <sup>00</sup>	55 <sup>00</sup>
1	Buddy breathing hoses and applicable adapters	365 <sup>00</sup>	365 <sup>00</sup>
1	Protective face piece bag	35 <sup>00</sup>	35 <sup>00</sup>
1	Upgrade to 45 -minute, 5500-PSI quick-connect cylinders	300 <sup>00</sup>	300 <sup>00</sup>
1	Upgrade to 60 -minute, 5500-PSI quick-connect cylinders	300 <sup>00</sup>	300 <sup>00</sup>
1	Accountability base station, including all software and hardware	1250 <sup>00</sup>	1250 <sup>00</sup>
1	Accountability Tags - RFID or other (specify)	350 <sup>00</sup>	350 <sup>00</sup>
1	Accountability tag reader/writer	25 <sup>00</sup>	25 <sup>00</sup>
1	100 foot sections of supplied air lines with fitting that are compatible with SAR packs. (3 each color: Blue, Red, Green, Yellow, Orange, & Purple)	410 <sup>00</sup>	410 <sup>00</sup>

**CITY OF ST. CHARLES  
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**Attachment B - Vendor Questionnaire**

**Proposer Name** AIR ONE EQUIPMENT, INC

**Contact Person** MARTIN SVIHRA

**Address** 360 PRODUCTION DRIVE  
SOUTH ELGIN, IL 60177

**Phone Number** 847-289-9000

**SCBA Manufacturer** MSA

**Contact Person** JOHN RICCIARDI

**Address** MSA  
1000 CRANBERRY WOODS DRIVE  
CRANBERRY TOWNSHIP, PA 16066

**Phone Number** 724-776-8600

**Number of Years in Business**

**Proposer** 27

**SCBA Manufacturer** 103

**Has Your Company/Firm Ever Refused a Contract?** NO

**If yes, please submit details** \_\_\_\_\_

**List Location(s) of Facility/Office Near St. Charles**

360 PRODUCTION DRIVE, SOUTH ELGIN, IL 60177

**List Number of People Employed in each Facility/Office Listed Above**

31

**CITY OF ST. CHARLES  
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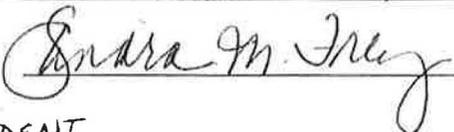
**Attachment C: Equal Employment Opportunity Statement**

It is the policy of AIR ONE EQUIPMENT, INC to provide equal employment opportunity to all persons regardless of race, color, religion, sex, national origin, ancestry, age, marital status, disability or any other protected class status in accordance with applicable federal and state law. Accordingly, we will take Affirmative Action to ensure that we will:

Recruit, hire and promote in all job classifications regardless of race, color, religion, sex, national origin, ancestry, age, marital status, disability or any other protected class status in accordance with applicable federal and state law.

Make promotional decisions that are in accordance with principles of equal opportunity by imposing only valid requirements for promotional opportunities. Incorporate our equal employment opportunity policy in all personnel actions such as compensation, benefits, transfers, layoffs, returns from layoffs, company sponsored training, education and tuition assistance. Conduct social and recreational programs sponsored by our agency without regard to race, color, religion, sex, national origin, ancestry, age, marital status, disability or any other protected class status in accordance with applicable federal and state law.

Firm name: AIR ONE EQUIPMENT, INC

Authorized signature: 

Title: PRESIDENT

Date: 6/22/2017





**CITY OF ST. CHARLES  
REQUEST FOR PROPOSAL  
SELF-CONTAINED BREATHING APPARATUS**

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**Attachment F: Reference Form**

Provide a minimum of three (3) references for similar projects of comparable complexity from within the last four (4) years. The City of St. Charles and the St. Charles Fire Department reserve the right to contact these references.

Furthermore, the City of St. Charles and the St. Charles Fire Department reserve the right to consider its own experience with any service provider, vendor, contractor, or other business that currently has contracts, has previously had contracts, or has participated in our product, equipment, or apparatus evaluations. The City of St. Charles and the St. Charles Fire Department will consider the quality, durability, safety, and performance of all labor, parts, materials, products, services, equipment, and apparatus.

Agency Name	CHICAGO FIRE DEPARTMENT
Address	3510 SOUTH MICHIGAN, 2ND FLOOR
City	CHICAGO
Contact Name	PAUL FOERTSCH
Contact Title/Rank	DISTRICT CHIEF
Telephone Number	312-520-8221
E-mail Address	PAUL.FOERTSCH@CITYOFCHICAGO.ORG
Description of the work: SCBA quantity/type, cylinders, other products, services, and training	MSA G1, RT4 1101, 45 MINUTE 4500PSI CYLINDER
Date of the Contract	MAY 2017
SCBA Delivery Date	JUNE 2017
SCBA In-Service Date	NOVEMBER 2017
Approximate Value of the Contract	\$ 3,600,000 <sup>est</sup>

Additional Information:

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**CITY OF ST. CHARLES  
REQUEST FOR PROPOSAL  
SELF-CONTAINED BREATHING APPARATUS**

Agency Name	PROSPECT HEIGHTS FIRE DEPARTMENT
Address	10 EAST CAMP McDONALD ROAD
City	PROSPECT HEIGHTS
Contact Name	DREW SMITH
Contact Title/Rank	CHIEF
Telephone Number	847-253-8060
E-mail Address	DSMITH@PHFIRE.COM
Description of the work: SCBA quantity/type, cylinders, other products, services, and training	MSA G1, QTY 34, 30 MINUTE 4500PSIG CYLINDERS,
Date of the Contract	JULY, 2016
SCBA Delivery Date	SEPTEMBER, 2016
SCBA In-Service Date	OCTOBER, 2016
Approximate Value of the Contract	\$ 210,000 <sup>00</sup>

Additional Information:

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Agency Name	HUNTLEY FIRE PROTECTION DISTRICT
Address	11808 CORAL STREET
City	HUNTLEY
Contact Name	KEN CAUDLE
Contact Title/Rank	CHIEF
Telephone Number	847-669-5066
E-mail Address	KCAUDLE@HUNTLEYFPD.ORG
Description of the work: SCBA quantity/type, cylinders, other products, services, and training	MSA G1, QUANTITY 61, 45 MINUTE 4500 PSIG CYLINDERS
Date of the Contract	NOVEMBER, 2015
SCBA Delivery Date	FEBRUARY, 2016
SCBA In-Service Date	MARCH, 2016
Approximate Value of the Contract	\$ 373,000 <sup>00</sup>

Additional Information:

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360 Production Drive  
South Elgin, IL 60177-2637  
Telephone: 847-289-9000  
Fax: 847-289-9001  
E-mail: airone@aoe.net

June 26, 2017

City of St. Charles  
Fire Department  
112 N. Riverside Avenue  
St. Charles, IL 60174

Dear Mr. M. Shortall,

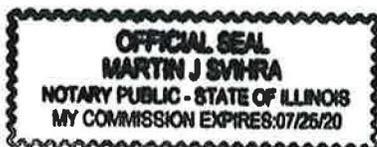
Air One Equipment, Inc. would like to state its willingness to submit this bid proposal. We have read and understood all bid process requirements and are willing to meet all of the specifications and requirements stated. All information in our proposal is true and complete.

Air One Equipment, Inc. meets all State of Illinois requirements, including any and all applicable statutes and administrative rules and regulations, to qualify as an approved vendor by the State of Illinois. Air One Equipment, Inc. qualifies as a women owned business.

If you need any further clarification, please contact us. We will be glad to furnish all necessary documentation and information.

Sincerely,

Sandra M. Frey, President





360 Production Drive  
South Elgin, IL 60177-2637  
Telephone: 847-289-9000  
Fax: 847-289-9001  
E-mail: [airone@aoe.net](mailto:airone@aoe.net)

City of St. Charles  
Fire Department  
112 N. Riverside Avenue  
St. Charles, IL 60174

Dear Mr. M. Shortall,

Founded in 1990, Air One Equipment, Inc. is a family owned and operated full-line fire and safety equipment distributor. Our sales and service staff work out of a modern 8,000 square foot facility in South Elgin, Illinois. We pride ourselves on continuing to provide exceptional service after the sale, both on the products we sell and the way we treat our customers. With over 350 years of combined experience in the fire service industry, our sales and factory trained service staff are able to assist you in choosing and maintaining the equipment you need to safely perform your job. Contact **"The House That Service Built!"** to see how we can service you in the future.

Main Office:  
Air One Equipment, Inc.  
360 Production Drive  
South Elgin, IL 60177  
(847) 289-9000  
F. (847) 289-9001  
[www.aoe.net](http://www.aoe.net)  
[airone@aoe.net](mailto:airone@aoe.net)

Service Capabilities:

- Five mobile service vehicles
- 24/7 emergency service
- Eight service personnel with over 100 years of service related experience
- Air One Equipment, Inc. has over one million dollars in inventory of parts and equipment
- David Frey (owner/vice-president) has forty one plus years of experience in breathing air industry
- Over 300 MSA users and over 100 customer conversions in Northeast Illinois since 1990.
- Company motto is "The House That Service Built!"

MSA's mission is to see to it that men and women may work in safety and that they, their families, and their communities may live in health throughout the world. MSA is an organization fully committed to protecting the health and safety of their customers, and they spend countless hours developing, testing and evaluating their products to ensure they achieve their goals. MSA was founded in 1914 and has grown to include more than 5,000 employees across the world, protecting workers in more than 140 countries.

Sincerely,



Sandra M. Frey, President



City of St Charles RFP Response

Section 2 – B. 2: Service Contacts & Resume:

Warranty and Service Manager:                      **Matt Frey      (847) 289-9000                      email: [mfrey@aoe.net](mailto:mfrey@aoe.net)**  
*Matt Has over 10 years with the company, is a fully trained and certified SCBA technician, DOT hydrotesting specialist, HURST repair technician, and has extensive experience in servicing the equipment in the field.*

G1 Warranty and Training Coordinator:                      **Matt Frey      (847) 289-9000                      email: [mfrey@aoe.net](mailto:mfrey@aoe.net)**  
*See above*

Sales & Account Manager    **Tim Sarhage      (815) 693-6695                      email: [tsarhage@aoe.net](mailto:tsarhage@aoe.net)**  
*Tim has 20 years experience with the company in the Sales division. He has been trained extensively in MSA products and has vast experiencing in servicing customers after the sale. Tim was also on both the MSA Voice of Distributor and Voice of Customer Councils on MSA and was involved in the concept and design of the G1 Breathing Apparatus.*

## MSA G1 SCBA **Limited Warranty**

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MSA - The Safety Company (MSA) warrants MSA G1 SCBA (SCBA) to be free from defects in materials and/or faulty workmanship for a period of fifteen (15) years from the date of sale by MSA. This warranty applies to all components of the SCBA including all accessories and optional equipment purchased and supplied at the time of the original sale of the SCBA, *except* consumable parts, as defined by the terms of sale. MSA's obligation under this warranty is limited to the repair or replacement, at MSA's option, of the SCBA or components shown to be defective in either workmanship or materials.

No agent, employee or representative of MSA may bind MSA to any affirmation, representation or modification of the warranty concerning the goods sold under this contract.

MSA shall be released from all obligations under this warranty in the event that repairs or modifications are made by persons other than its own or authorized service personnel, or if the warranty claim results from accident, alteration, misuse, or abuse.

**THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED, IMPLIED, OR STATUTORY INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN ADDITION, MSA EXPRESSLY DISCLAIMS ANY LIABILITY FOR ECONOMIC, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES IN ANY WAY CONNECTED WITH THE SALE OR USE OF MSA PRODUCTS, INCLUDING, BUT NOT LIMITED TO, LOSS OF ANTICIPATED PROFITS.**

ID 0105-176-MC / July 2014  
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[www.MSA\*\*safety\*\*.com](http://www.MSA<b>safety</b>.com)

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**AGENDA ITEM EXECUTIVE SUMMARY**

Agenda Item number: 6.a

Title:

Recommendation to award Utility Rate Study to Burns McDonnell Engineering

Presenter:

Chris Minick, Finance Director

Meeting: Government Services Committee

Date: September 25, 2017

Proposed Cost: \$80,000

Budgeted Amount: \$ 100,000

Not Budgeted:

**Executive Summary** *(if not budgeted please explain):*

The City last performed a utility rate study during 2011. At that time the City’s rate structure was inadequate to meet operational and capital needs in all 3 utilities and as a result of the rate study, a plan was formulated to return the utilities to operating solvency over the next several years.

The City has executed significant elements of that plan and the financial performance for all 3 utilities has stabilized significantly. Due to significant pending capital projects for the Wastewater Fund, there may be a few more years of rate increases that will be necessary to provide adequate funding to meet the identified infrastructure needs to comply with EPA standards. In addition, the City needs to assure that there is a plan in place to meet the minimum reserve threshold of 25% of annual operating expenses for all 3 utilities. To that end, there is a need to update the utility rate study.

The primary goal of the rate study is to provide a guideline for a 5-year rate structure to assure that all of the operating, capital, and reserve requirements are provided for. A secondary feature of the study will be to make any prudent recommendations regarding creation or combining of various customer classes based on an analysis of costs by customer class and industry practices. Additional operational and rate recommendations may also be made if conditions warrant. Also, an analysis of connection fees for the utilities will be performed.

The City sent an RFP for a rate study to various qualified firms and 4 responses were received. The RFP’s were reviewed and scored by a team of 4 individuals representing the Finance and Public Works Departments. The scoring summary sheet is attached. The Committee selected Burns McDonnell Engineering and is recommending award of the rate study to Burns McDonnell at a combined cost not to exceed \$80,000 for all 3 utilities.

Burns McDonnell has significant experience with electric, water and wastewater rate studies performing several for local, regional, and national communities. They are familiar with IMEA and its operations and have performed rate studies for the City of Naperville for several years. In addition they have done rate analysis and System Renewal and Replacement Plans and Studies for Mt Prospect, Joliet and the City of DeKalb in the local area. In addition, Burns McDonnell will prepare a customized Excel spreadsheet model that City Staff can keep and update in the interim years when a rate study is not performed. This was a key functionality from the last rate study and Staff has made extensive use of the prior model provided by RW Beck.

**Attachments** *(please list):*

\* Scoring Summary Sheet \* Selection Rationale Memo

**Recommendation/Suggested Action** *(briefly explain):*

Recommendation to award Utility Rate Study to Burns McDonnell Engineering in the amount of \$80,000 for the Electric, Water, and Wastewater Utilities of the City of St. Charles.

## Utility Rate Study RFP

### Vendor: Baker Tilly

	Avg	Overall Rank	Cost
Technical Approach/Methodology	90.63		
Qualifications & Experience	67.50		
Understanding of Project Requirements/Scope	80.00		
Proposed Schedule	71.25		
Quality of References	35.00		
Quality & Completeness of Proposal	40.00		
	<b>384.38</b>	<b>3</b>	<b>\$54,990</b>

### Vendor: Burns McDonnell

	Avg	Overall Rank	Cost
Technical Approach/Methodology	100.00		
Qualifications & Experience	90.00		
Understanding of Project Requirements/Scope	75.00		
Proposed Schedule	71.25		
Quality of References	42.50		
Quality & Completeness of Proposal	40.00		
	<b>418.75</b>	<b>1</b>	<b>\$80,000</b>

### Vendor: M&FSG/PSE

	Avg	Overall Rank	Cost
Technical Approach/Methodology	90.63		
Qualifications & Experience	87.50		
Understanding of Project Requirements/Scope	75.00		
Proposed Schedule	67.50		
Quality of References	45.00		
Quality & Completeness of Proposal	36.25		
	<b>401.88</b>	<b>2</b>	<b>\$87,758</b>

### Vendor: Utility Financial Solutions LLC

	Avg	Overall Rank	Cost
Technical Approach/Methodology	84.38		
Qualifications & Experience	72.50		
Understanding of Project Requirements/Scope	85.00		
Proposed Schedule	67.50		
Quality of References	32.50		
Quality & Completeness of Proposal	28.75		
	<b>370.63</b>	<b>4</b>	<b>\$54,000</b>

September 12, 2017

To: Rita Payleitner, Chair  
Members of the Government Services Committee

From: Chris Minick, Finance Director

Subject: Rate Study Firm Selection Rationale

Staff is recommending that the Utility Rate Study project be awarded to Burns McDonnell Engineering at a total cost not to exceed \$80,000. Burns McDonnell was not the lowest cost proposal submitted; however, staff believes that it is the proposal that offers the most value for the fees expended. The scoring committee consisting of Julie Herr, Tim Wilson, Tom Bruhl, and me, is unanimous in recommending award of the study project to Burns McDonnell.

When the responses were received and scored, there was a clear delineation in the pricing and in the scores-2 responses were in the \$50,000-\$55,000 range with scores of approximately 375, and 2 responses were in the \$80,000 range with scores over 400 (on a scale of 500 points). Fees were not reviewed until all responses were reviewed by the committee. The scoring committee felt that any of the firms can do the requisite technical work related to the rate study, and they all had the same basic approach to the study itself. However, there were some distinct differentiators within the proposal responses that led the scoring committee to the ultimate decision to recommend award of the study to Burns McDonnell, even though they were not the lowest cost respondent.

One of the lower cost respondents did not include a spreadsheet modeling tool in their deliverables. The City currently uses a spreadsheet modeling tool that was provided as part of the prior rate study performed by RW Beck. The spreadsheet model has been an essential component of the annual budget and rate setting process since the completion of the prior rate study in 2011. Obtaining a new, updated spreadsheet model is a primary benefit of the rate study process. Additionally, the quality of the sample report and the proposal response submitted by this proposer were not as polished in appearance or quality as the other responses provided.

The other lower cost respondent did not provide a sample rate study report for an electric rate study. They did include a report related to a water and sewer rate study performed, but the remainder of the respondents included examples of a rate study that they had included for both an electric utility and a water and sewer utility. Additionally, the report provided was not as user friendly and easy to understand as the other reports submitted by other respondents. It was written more as an accounting style of a financial report with tables of numbers. Other respondents' report samples included the essential numbers and relevant amounts, but were also supported by more visual representations such as color graphs, color charts, tables, and other supporting documentation that appealed to a wider audience and were in a more user friendly format than the financial style report. Additionally, this response seemed to focus a bit too much on the numbers rather than taking into account the operational and engineering considerations for improvements that can be a secondary benefit of the rate study process.

Due to the factors identified above, these two firms were ranked 3<sup>rd</sup> and 4<sup>th</sup> in the scoring summary.

The other two firms' proposals were more advantageous to the City. The reports were more user friendly and had a more polished appearance, each firm also indicated that it would provide the spreadsheet modeling tool as a component of the fees charged, and the recommended respondent, Burns McDonnell had very beneficial Illinois, regional, and national experience noted in the response. Additionally, of the remaining firms, Burns McDonnell's fees proposed are of a lower cost than the other respondent.

Burns McDonnell has served as a consultant to the City of Naperville for many years and is therefore familiar with the IMEA. They have provided Naperville with rate studies in the past and have assisted and evaluated service and billing enhancements for the Naperville electric utility such as Time of Use (TOU) billing and automated metering. We anticipate that these elements will be evaluated for our electric utility. Additionally, Burns McDonnell has done water and sewer rate studies and system replacement analysis for Mt Prospect, Joliet, and DeKalb. They also have experience performing water and sewer rate studies in other parts of the country. As a result, we have communicated our expectation that they will evaluate our customer classes in all three utilities and make appropriate suggestions for changes if and as those changes are warranted.

Staff also believes that bringing in a fresh perspective is a benefit in a rate study type of analysis. Burns McDonnell has not performed significant work on behalf of the City or our utilities in the recent past and therefore can offer a fresh perspective about the City's utilities' billing practices and operations.

Once all of the discussion was held and all of the factors, costs, and fees were accounted for, we came to a unanimous consensus as the selection committee that Burns McDonnell's proposal offers the best value for the City and recommend award of the Utility Rate Study to Burns McDonnell at a cost not to exceed \$80,000.