

**LAUDERDALE CITY COUNCIL MEETING AGENDA  
TUESDAY, OCTOBER 10, 2006  
7:30 P.M. CITY HALL**

FILE

The City Council is meeting as a legislative body to conduct the business of the City according to ROBERT'S RULES OF ORDER AND THE STANDING RULES OF ORDER AND BUSINESS OF THE CITY COUNCIL. Unless so ordered by the Mayor, citizen participation is limited to the times indicated and always within the prescribed rules of conduct for public input at meetings.

**1. ROLL – 7:30 pm.**

*Council members:*

Gill-Gerbig _____	Hawkinson _____
Doherty _____	Christensen _____
Mayor Dains _____	

**2. APPROVAL OF THE AGENDA - 7:32 p.m.**

**3. APPROVALS – 7:05 p.m.**

- A. Approve minutes for 9/26/2006 City Council Meeting
- B. Approve claims totaling \$84,846.55

**4. OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE COUNCIL ON ITEMS NOT ON THE AGENDA –**

Any member of the public may speak at this time on any item NOT on the agenda. In consideration of the public attending the meeting for specific items on the agenda, this portion of the meeting will be limited to fifteen (15) minutes. Individuals are requested to limit their comments to four (4) minutes or less. If the majority of the Council determines that additional time on a specific issue is warranted, then discussion on that issue shall be continued under Additional Items at the end of the agenda. Before addressing the City Council, members of the public are asked to step up to the microphone, give their name, address and state the subject to be discussed. All remarks shall be addressed to the Council as a whole and not to any member thereof. No person other than members of the Council and the person having the floor shall be permitted to enter any discussion without permission of the presiding officer. Your participation, as prescribed by the Council's ROBERT'S RULES OF ORDER AND THE STANDING RULES OF ORDER AND BUSINESS OF THE CITY COUNCIL, is welcomed and your cooperation is greatly appreciated.

**5. CONSENT**

- A. Planning agreement with Don Brauer and Associates for work on Larpenteur Avenue.

**6. SPECIAL ORDER OF BUSINESS/RECOGNITIONS/PROCLAMATIONS**

**7. INFORMATIONAL PRESENTATIONS****8. PUBLIC HEARINGS**

Public hearings are conducted so that the public affected by a proposal may have input into the decision. During hearings, all affected residents will be given an opportunity to speak pursuant to the ROBERT'S RULES OF ORDER AND THE STANDING RULES OF ORDER AND BUSINESS OF THE CITY COUNCIL.

**9. REPORTS**

- A. Halloween Party

**10. DISCUSSION****11. ACTION**

- A. Resolution 101006A adopting Administrative Fine for 2006
- B. Extend Recycling contract with Eureka for 2 more years.

**12. ITEMS REMOVED FROM THE CONSENT AGENDA****13. ADDITIONAL ITEMS****14. SET AGENDA FOR NEXT MEETING**

- A. Administrator Update
- B. Halloween Party Update

**15. WORK SESSION**

- A. Administrator Update

**16. CLOSED SESSION – LABOR NEGOTIATIONS****17. ADJOURNMENT**

*MINUTES OF THE LAUDERDALE CITY COUNCIL  
TUESDAY, SEPTEMBER 26, 2006  
7:30 p.m. Lauderdale City Hall, 1891 Walnut Street*

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Mayor Dains called the meeting to order at 7:30 p.m. and asked administrator Heck to call the roll. Council members present: Karen Gill-Gerbig, Denise Hawkinson, Karen Doherty, Clay Christensen and Mayor Jeff Dains.

Also present for the meeting: Brian B. Heck, City Administrator; Heather Butkowski, Deputy City Clerk; and Jim Bownik, Assistant to the City Administrator.

Mayor Dains asked if there were any additions or deletions to the agenda. Administrator Heck requested the addition of rental license administrative fees be added to the work session agenda.

**Councilmember Gill-Gerbig moved to approve the agenda as amended. The motion was seconded by council member Hawkinson and carried.**

Mayor Dains asked if there were any comments or changes to the council meeting minutes of September 6, 2006. There were none.

**Council member Christensen moved and council member Doherty seconded approval of the September 6 meeting minutes. The motion carried.**

Mayor Dains asked if there were any questions on the claims. There were none.

**Council member Gill-Gerbig moved approval of the claims in the amount of \$72,338.59. Council member Doherty seconded the motion and it carried.**

The mayor stated it was the time established for members of the public to address the council with issues not present on the agenda. There being none, the meeting continued.

Mayor Dains asked if there were items members of the council wished to remove from the consent agenda. Mayor Dains removed payment to Allied Black Top for seal coating.

**Council member Gill-Gerbig moved approval of the consent agenda approving the agreement with city engineering firm to provide assistance in completing the city's renewal permit for storm water discharge at an estimated cost of \$4,000, and approving the step increase for Heather Butkowski, deputy city clerk. Motion seconded by council member Hawkinson and carried.**

Alex Stanovich from Eureka Recycling provided the council with an update on the recycling program, the outlook regarding markets and future program costs. Mr. Stanovich said Lauderdale has an excellent program. He said the city is their only customer that provides service to 100% of the multifamily units. He said the city collects

233 pounds of recyclables per year per unit. In St. Paul, 239 pounds per year per unit is collected and in Roseville, the amount is 139 pounds.

The curbside program generates 630 pound per year per household where Roseville collects 640 pounds and St. Paul is at 500 pounds. He said the city has received \$14,711 in revenue sharing, about \$750 per month.

He then discussed with the council how the city might increase the recycling rate. He suggested that more material might be collected if the city provided an additional bin to each household. He indicated that when the bin gets full, some might just toss the material away. He said it would cost the city approximately \$3,000 to provide an additional bin.

Mayor Dains stated residents could purchase or use their own containers as some currently do.

Mr. Stanovich said Eureka is willing to sign a two year extension to the current contract at the same rate and terms. The mayor asked about going to weekly collection and asked for a proposal from Eureka for the additional cost.

Jim Bownik provided information to the council on planning progress for the annual city Halloween party. He said it will go from 5:00 p.m. to 7:00 p.m. There will be candy bags, games, and food for all who attend and the party is free of charge. He said the city is accepting donations of candy and money to cover the costs of the party.

Heather Butkowski provided the council with an update and next steps for the comprehensive plan task force. She said the last meeting focused on the issue of volunteerism at it relates to maintaining and improving the community park. She said there was not much discussion about the land at Walsh Lake or the piece off of Walnut/Ione. There was discussion on issues relating to bike and pedestrian routes. Some members are going to conduct an informal survey.

Council member Karen Gill-Gerbig outlined the vegetation study underway by the University of Minnesota. She wants residents to be aware of the study and the graduate students who are working on the study. She hopes residents will cooperate with the students and let them onto property to view and record data for the study. She feels the study will provide good data which the city might be able to use in the applying for potential grants.

Jim Bownik and Stewart Khran from BRAA provided information on the tennis and basketball court bids. Bownik told the council the city received 8 bids. The low bid came in at \$165,910 for the tennis courts and basketball courts.

The mayor voiced some concern regarding the bid process and asked if there are any concerns with the bidder. Council member Doherty stated the cost quoted for demolition and disposal of the existing fence and structures seems too low. Stewart stated many

bidders miss details in their bids. He stated they caught an addition error in another bid so he didn't feel the oversight by the low bidder was or is a reflection on the bidder's ability to do the work required. He addressed council member Doherty's concern by stating we look at the bottom line total. How a bidder structures the costs is not relevant. The bidder is tied to the overall cost.

The Mayor used the seal coating project as an example in his frustration with low bids. He wants this project, which the city has been saving for for over 10 years, to get done right. He asked who will do project management. Stewart said the engineers will inspect the work to make sure things are done right to the best of their ability, but they do not assume responsibility for project shortcomings.

Council member Gill-Gerbig suggested staff do more work on evaluating the background of the three lowest bidders and bring back a recommendation for the next meeting. Heck stated that generally in a bid situation, the city is required to award to the lowest qualified bidder. The city engineer reviewed the bids and determined this company is the lowest qualified bidder.

Council member Christensen asked if the omission of the first two pages of the bid is a problem. He's concerned about the bidders' attention to detail. Stewart said the failure to provide the two pages is not necessarily an issue. He went on to say the company had delivered the missing pages the same day at just after 4:00.

The Mayor asked about low bidder #2. Bownik stated there were some questions and concerns about this bidder.

Following additional discussion, council member Christensen offered Resolution 092606-A for consideration.

**Council member Christensen moved adoption of Resolution 092606-A accepting Nadeau Excavating as the low bidder and awarding the contract to them for the construction of the tennis courts and trail as well as alternate 1, construction of basketball courts. Council member Hawkinson seconded the motion and the resolution passed with council members Gill-Gerbig, Hawkinson, Doherty, Christensen, and Mayor Dains all voting yes.**

Mayor Dains began the discussion about his dissatisfaction with the seal coating project. He said that after the discussion regarding doing work on Mondays, the contractor came back and swept the streets on a Monday and didn't post "No Parking" signs. He said the sweeping crew knocked on residents' doors requesting they move their vehicles. He said he doesn't want to do business with this contractor again.

Heck said he spoke to Harlan Olson, inspector from Bonestroo, on Friday before the sweeping and reminded Harlan that the contractor needed to put up "No Parking" signs on Sunday and that the contractor shouldn't come into the city to sweep until late morning early afternoon. Heck stated he also spoke to Harlan on Tuesday and Harlan

reported the contractor was in the city most of the day Monday sweeping and they completed the job.

**Council member Gill-Gerbig made a motion to authorize payment to Allied Construction in the amount of \$37,445.20 for seal coating. Motion seconded by council member Christensen. The motion carried with council members Gill-Gerbig, Doherty, and Christensen voting yes and council member Hawkinson and mayor Dains voting no.**

The council moved into the work session at 9:14 p.m.

Jessica Cook of Ehlers and Associates was present to discuss Larpenteur Avenue development issues and provided a summary of the meeting with Don Brauer and Pete Musty. She discussed the proposal Don submitted for his firm to provide planning assistance.

Jessica then presented three possible ways the city could proceed with the redevelopment of the area. The options ranged from "hands off," where the city worked with each individual owner on issues related to use and zoning to develop their property, to "hands on" where the city contracted with a development group to acquire the property and redevelop the sites. Jessica said that the risk to the city increases as it moves from one end of the continuum to the other.

Following additional discussion, the council endorsed the concept of working with Don Brauer to help in planning and concept design.

Heck provided background on the findings relating to the issues raised by the resident at 1931 Carl regarding damage he believed was caused during the street, alley, and utility improvements in 2002.

It was the consensus of the council to send a letter to the resident informing him the city would provide retaining wall material but he is responsible for the wall's proper installation, including meeting setbacks and permit requirements.

Bownik discussed the issue of vacant lift station property. He stated that a resident asked if the city were willing to return a segment of their property where a lift station stood. He said the resident has been maintaining the area since the lift station removal. Bownik also stated the removal of the lift station include some removal of the structure below grade.

Mayor Dains asked if there was a written letter requesting the return of the property. Bownik stated at this time the request was just verbal. Bownik added that he is not sure how the property was conveyed to the city, but the small segment has its own PIN. He explained that if it was purchased by the city, there would be requirements for its "sale."

Following additional discussion, the council directed staff to request a written request from the individual and to conduct preliminary investigation as to how the property came into possession of the city.

Council member Gill-Gerbig addressed her desire to work with other agencies to develop a possible cooperative use of the Lauderdale Nature Area. She mentioned the Bell Museum that is relocating to the corner of Cleveland and Larpentour.

Following additional discussion on the nature area, the consensus of the council was to authorize council member Gill-Gerbig to begin to discuss the nature area with other entities.

The Council moved into closed session to discuss labor negotiations at 10:40 p.m.

The Council moved back into regular session at 11:37 p.m.

**Council member Gill-Gerbig moved to adjourn. Motion second by council member Christensen and carried.**

The council adjourned at 11:38 p.m.





CITY OF LAUDERDALE  
Claims for Approval  
October 10, 2006 City Council Meeting

Payroll

10/6/06 Payroll: Direct Deposit # 500225-500229	\$6,704.75
10/6/06 Payroll: Payroll Liabilities, e-payments 94E-96E	\$5,294.61

Vendor Claims

10/10/06 Claims: Check # 18327-18350	\$72,847.19
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**Subtotal of Claims From Above** **\$84,846.55**

**Total Claims for Approval** **\$84,846.55**

## CITY OF LAUDERDALE

## Paid Register

Check Number	Employee Number	Employee Name	Pay Period	Pay Group Description	Check Amount	Check Date	Status
500225	000000011	BOWNIK, JAMES	20	BI-WEEKLY	\$1,218.07	10/6/2006	Outstanding
500226	000000007	BUTKOWSKI, HEATHER	20	BI-WEEKLY	\$1,098.47	10/6/2006	Outstanding
500227	000000001	HECK, BRIAN	20	BI-WEEKLY	\$2,004.13	10/6/2006	Outstanding
500228	000000002	HINRICHS, DAVID C	20	BI-WEEKLY	\$1,322.05	10/6/2006	Outstanding
500229	000000005	HUGHES, JOSEPH A	20	BI-WEEKLY	\$1,062.03	10/6/2006	Outstanding
					<u>\$6,704.75</u>		

**CITY OF LAUDERDALE**  
**Payments**

Current Period: OCTOBER 2006

Batch Name	100606paytax				
Payment		Computer Dollar Amt	\$5,294.61	Posted	
Refer	469 ICMA RETIREMENT TRUST - 457	Ck# 000094E	10/6/2006		
Cash Payment	G 101-21705 ICMA RETIREMENT		10/6/06 payroll		\$1,569.22
Invoice					
Transaction Date	10/5/2006	Due 0	NORTH STAR CHEC 10100	<b>Total</b>	<b>\$1,569.22</b>
Refer	470 NORTH STAR BANK, CHECKING S	Ck# 000095E	10/6/2006		
Cash Payment	G 101-21703 FICA WITHHOLDING.		10/6/06 payroll taxes		\$1,713.80
Invoice					
Cash Payment	G 101-21701 FEDERAL TAXES		10/6/06 payroll taxes		\$769.16
Invoice					
Transaction Date	10/5/2006	Due 0	NORTH STAR CHEC 10100	<b>Total</b>	<b>\$2,482.96</b>
Refer	471 PERA	Ck# 000096E	10/6/2006		
Cash Payment	G 101-21704 PERA		10/6/06 payroll		\$1,242.43
Invoice					
Transaction Date	10/5/2006	Due 0	NORTH STAR CHEC 10100	<b>Total</b>	<b>\$1,242.43</b>
<b>Fund Summary</b>				<b>BATCH Total</b>	<b>\$5,294.61</b>
101	10100 NORTH STAR CHECKING		\$5,294.61		
			\$5,294.61		

Pre-Written Checks	\$5,294.61
Checks to be Generated by the Compute	\$0.00
<b>Total</b>	<b>\$5,294.61</b>

**CITY OF LAUDERDALE**  
**\*Check Detail Register©**

OCTOBER 2006

			Check Amt	Invoice	Comment
<b>10100 NORTH STAR CHECKING</b>					
Paid Chk#	018327	10/10/2006		1714 MALVERN STREET	
	E 101-43400-442	MISC	\$64.00		rental housing license refund
		<b>Total 1714 MALVERN STREET</b>	<b>\$64.00</b>		
Paid Chk#	018328	10/10/2006		1889 EUSTIS STREET	
	E 101-43400-442	MISC	\$64.00		rental housing license refund
		<b>Total 1889 EUSTIS STREET</b>	<b>\$64.00</b>		
Paid Chk#	018329	10/10/2006		ALLIED BACKTOP	
	E 401-48401-328	STREET REPAIR	\$37,445.20		'06 seal coating project
		<b>Total ALLIED BACKTOP</b>	<b>\$37,445.20</b>		
Paid Chk#	018330	10/10/2006		BIFFS, INC.	
	E 101-45200-427	PORTA POTTY RENTAL	\$83.91		9/06 portable restroom
		<b>Total BIFFS, INC.</b>	<b>\$83.91</b>		
Paid Chk#	018331	10/10/2006		BUTKOWSKI, HEATHER	
	E 101-41200-331	TRAVEL EXPENSE	\$12.15		9/06 travel expenses
	E 101-41500-331	TRAVEL EXPENSE	\$28.35		9/06 travel expenses
		<b>Total BUTKOWSKI, HEATHER</b>	<b>\$40.50</b>		
Paid Chk#	018332	10/10/2006		CINTAS	
	E 601-49000-425	CLOTHING	\$28.65		pw uniforms
	E 601-49000-425	CLOTHING	\$28.65		pw uniforms
		<b>Total CINTAS</b>	<b>\$57.30</b>		
Paid Chk#	018333	10/10/2006		CITY OF ST ANTHONY	
	E 101-42100-319	POLICE CONTRACT	\$21,271.17		10/06 police services
		<b>Total CITY OF ST ANTHONY</b>	<b>\$21,271.17</b>		
Paid Chk#	018334	10/10/2006		DEPT OF LABOR AND INDUSTRY	
	E 101-43400-308	TRAINING/CONFERENCES	\$35.00		DH training
		<b>Total DEPT OF LABOR AND INDUSTRY</b>	<b>\$35.00</b>		
Paid Chk#	018335	10/10/2006		EAST HENNEPIN AUTO SERVICE INC	
	E 601-49000-212	MOTOR FUELS	\$3.78		9/06 motor fuel
	E 101-43100-212	MOTOR FUELS	\$34.02		9/06 motor fuel
		<b>Total EAST HENNEPIN AUTO SERVICE INC</b>	<b>\$37.80</b>		
Paid Chk#	018336	10/10/2006		EUREKA RECYCLING	
	E 101-41200-201	GENERAL SUPPLIES	\$87.74		20 reams office paper
		<b>Total EUREKA RECYCLING</b>	<b>\$87.74</b>		
Paid Chk#	018337	10/10/2006		GLENWOOD INGLEWOOD	
	E 101-41200-208	WATER DELIVERY	\$69.69		9/06 cooler rental + water
		<b>Total GLENWOOD INGLEWOOD</b>	<b>\$69.69</b>		
Paid Chk#	018338	10/10/2006		HECK, BRIAN	

**CITY OF LAUDERDALE**  
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OCTOBER 2006

			Check Amt	Invoice	Comment
E 101-41200-331	TRAVEL EXPENSE		\$25.07		9/06 travel expenses
	<b>Total HECK, BRIAN</b>		<b>\$25.07</b>		
<hr/>					
Paid Chk# 018339	10/10/2006	HUGHES & COSTELLO			
E 101-42300-355	MISC PRINTING/PROCESS SER		\$329.12		10/06 retainer and fees
E 101-42300-305	LEGAL FEES		\$850.00		10/06 retainer and fees
	<b>Total HUGHES &amp; COSTELLO</b>		<b>\$1,179.12</b>		
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Paid Chk# 018340	10/10/2006	KENNEDY & GRAVEN			
E 101-41400-355	MISC PRINTING/PROCESS SER		\$6.35		8/06 legal fees
E 101-41400-305	LEGAL FEES		\$895.50		8/06 legal fees
	<b>Total KENNEDY &amp; GRAVEN</b>		<b>\$901.85</b>		
<hr/>					
Paid Chk# 018341	10/10/2006	LMCIT			
E 101-41100-361	GENERAL LIABILITY		\$3,527.60		8/06-8/07 liability/auto/prope
E 101-41200-361	GENERAL LIABILITY		\$3,086.65		8/06-8/07 liability/auto/prope
E 101-41100-361	GENERAL LIABILITY		\$345.00		8/06-8/07 open meeting law ins
E 601-49000-361	GENERAL LIABILITY		\$2,204.75		8/06-8/07 liability/auto/prope
	<b>Total LMCIT</b>		<b>\$9,164.00</b>		
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Paid Chk# 018342	10/10/2006	MINNESOTA STATE TREASURER			
E 101-43400-443	SURCHARGE REPORT		\$48.16		3q06 permits surcharge report
	<b>Total MINNESOTA STATE TREASURER</b>		<b>\$48.16</b>		
<hr/>					
Paid Chk# 018343	10/10/2006	PARK HARDWARE HANK			
E 101-45200-228	MISC REPAIRS MAINT SUPPLIE		\$2.97		misc supplies for park
	<b>Total PARK HARDWARE HANK</b>		<b>\$2.97</b>		
<hr/>					
Paid Chk# 018344	10/10/2006	PARK SERVICE			
E 601-49000-212	MOTOR FUELS		\$13.17		9/06 motor fuels
E 101-43100-212	MOTOR FUELS		\$118.58		9/06 motor fuels
	<b>Total PARK SERVICE</b>		<b>\$131.75</b>		
<hr/>					
Paid Chk# 018345	10/10/2006	POSTMASTER			
E 101-41600-203	POSTAGE		\$300.00		Nov/Dec 2006 newsletter
	<b>Total POSTMASTER</b>		<b>\$300.00</b>		
<hr/>					
Paid Chk# 018346	10/10/2006	RAMSEY COUNTY, PROP REC & REV			
E 101-42100-442	MISC		\$513.14		9/06 dispatch services
	<b>Total RAMSEY COUNTY, PROP REC &amp; REV</b>		<b>\$513.14</b>		
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Paid Chk# 018347	10/10/2006	RAPIT PRINTING			
E 101-41600-353	NEWSLETTER PRINTING		\$640.29		Sept-Oct newsletter
	<b>Total RAPIT PRINTING</b>		<b>\$640.29</b>		
<hr/>					
Paid Chk# 018348	10/10/2006	STEICHENS SPORTING GOODS			
E 404-48404-527	GENERAL PARK IMPROVEMEN		\$372.75		2 protective 4'x50' nets for r
	<b>Total STEICHENS SPORTING GOODS</b>		<b>\$372.75</b>		

**CITY OF LAUDERDALE**  
**\*Check Detail Register©**

OCTOBER 2006

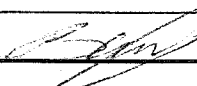
	Check Amt	Invoice	Comment
<b>Paid Chk# 018349    10/10/2006    WASTE MANAGEMENT</b>			
E 101-43100-384    REFUSE DISPOSAL	\$69.64		10/06 waste pick up
<b>Total    WASTE MANAGEMENT</b>	<b>\$69.64</b>		
<b>Paid Chk# 018350    10/10/2006    XCEL ENERGY, CITY HALL</b>			
E 101-45200-381    ELECTRIC	\$50.70		9/06 gas & electric utilities
E 101-43100-381    ELECTRIC	\$152.10		9/06 gas & electric utilities
E 101-43100-383    GAS UTILITIES	\$29.50		9/06 gas & electric utilities
E 101-45200-383    GAS UTILITIES	\$9.84		9/06 gas & electric utilities
<b>Total    XCEL ENERGY, CITY HALL</b>	<b>\$242.14</b>		
<b>10100    NORTH STAR CHECKING</b>	<b>\$72,847.19</b>		

Fund Summary

	10100 NORTH STAR CHECKING
101 GENERAL	\$32,750.24
401 CAPITAL IMPROVEMENT STREETS	\$37,445.20
404 PARK IMPROVEMENT	\$372.75
601 SEWER UTILITIES	\$2,279.00
	<b>\$72,847.19</b>

# LAUDERDALE COUNCIL ACTION FORM

TYPE OF REQUEST	
Consent	<input type="checkbox"/>
Action	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Information	<input type="checkbox"/>
Work session	<input type="checkbox"/>

METTING DATE <u>October 10, 2006</u>
AGENDA NUMBER <u>5A</u>
DESCRIPTION <u>Development planning agreement with Don Brauer and Associates.</u>


BACKGROUND OR PAST COUNCIL ACTION
The council is currently working with land owners and Ehlers and associates on a redevelopment planed for the Southwest corner of Larpenteur and Eustis. This area consists of four parcels along Larpenteur from Eustis to Highway 280 and the NewMech site directly south of the four parcels. The NewMech site extends from Eustis to Highway 280. At the last work session, Jessica Cook a consultant from Ehlers and Associates discussed a few options on how the council could proceed with this project. She also recommended the City contract with Don Brauer to provide site planning and concept information on how the site could be used based on the options discussed. Don Brauer worked with the city and Ehlers on a project involving the apartments on the Southeast corner of Larpenteur and Eustis.

OPTIONS
1. Approve the contract agreement 2. Not approve the contract agreement

STAFF RECOMMENDATION
Staff recommends approving the agreement as presented.

COUNCIL ACTION

MOTION BY \_\_\_\_\_

SECOND \_\_\_\_\_

STAFF ACTION

September 25, 2006

City of Lauderdale  
1891 Walnut Street  
Lauderdale, MN 55113

RE: Proposal For Professional Services....  
PRELIMINARY Redevelopment Capacity Study  
Larpenter-Eustis ... Southwest Corner

This letter proposal will serve, when approved, as a contract for professional planning services between the City of Lauderdale (LAUDERDALE), and the Brauer Group Inc. (BRAUER) for preparation of a Preliminary Redevelopment Capacity Study for the five properties in the southwest quadrant of Eustis and Larpenter (PROJECT).

LAUDERDALE and BRAUER agree as follows:

#### A. SCOPE OF SERVICES

BRAUER will provide professional architectural, engineering, and planning services required to:

1. **Investigate** ... the proposed PROJECT site and adjacent developments, review existing photos, topography, plats, records, comprehensive planning, the three redevelopment options outlined in the Ehlers matrix and basic assumptions for each, and related documentation provided by LAUDERDALE, in order to understand the limitations and parameters for redevelopment resulting in a site and context graphic and text presentation.
2. **Prepare and Present** ... three (3) Capacity Study Plan options as defined in the Ehlers matrix, that will describe and illustrate potential land uses, building location, types (with photos or sketches of up to nine precedent building types), floor areas, building massing, street access, parking facilities, public improvements, and special considerations required, with graphics and text in: (a) DRAFT form; and (b), FINAL form.
3. **Meetings and Presentations** ... with City staff, Fiscal Consultants, and City Council for review and feedback before advancing to the next phase of the work: (a) Upon completion of the Investigation phase (A-1); (b) Upon preparation of the DRAFT Capacity Plans (A-2a and A-3(a), and; (c) Upon completion of FINAL Capacity Plans and report with massing based cost estimates (A-2b and A-3(b).



4. **Additional Professional Services** ... including more specific public and owner/developer construction cost estimates, additional alternative capacity plan options, additional report and/or presentation graphics, additional meetings, and other services as requested and authorized.

**B. FEES FOR PROFESSIONAL SERVICES**

1. **LAUDERDALE** ... agrees to pay BRAUER for professional services provided and billed under this agreement for professional services described under paragraphs: A1 and A-3(a), a lump sum fee in the amount of \$4,000.00 (Four Thousand Dollars); for completion of services described under paragraphs A-2(a), and A-3(b), a lump sum fee in the amount of \$5,000.00 (Five Thousand Dollars); and for completion of services under paragraphs A-2(b) and A-3(c), a lump sum fee in the amount of \$3,500.00 (Three Thousand Five Hundred Dollars).
2. **LAUDERDALE AND BRAUER** ... agree to negotiate lump sum and/or hourly fees for additional services as requested and authorized.

**C. PAYMENTS TO BRAUER**

1. **Invoices** ... will be submitted for work completed or time charged for work under this agreement through the last day of each month, and are payable within 30 days of the billing date.

**D. LAUDERDALE RESPONSIBILITIES**

1. **Lauderdale** ... will provide, make available, or allow access to all data and information about the site and adjacent properties, the PROJECT, and related developments, will provide space and facilities for meetings, and will provide all legal and fiscal services as needed.

**E. TERM, TERMINATION**

1. **The TERM** ... of this agreement shall be concurrent with the work authorized (estimated to be 60 calendar days from the date of receipt of basic information).
2. **TERMINATION** ... may be accomplished by written notice by either party at any time, and shall be effective upon payment in full for services provided up to the date of receipt of notice of termination.

F. APPROVAL

(BRAUER)  
The Brauer Group, Inc.  
Edina, MN

(LAUDERDALE)  
City of Lauderdale  
Lauderdale, MN

By \_\_\_\_\_  
Donald G. Brauer, P.E.

By \_\_\_\_\_  
Title \_\_\_\_\_

Date \_\_\_\_\_, 2006

And \_\_\_\_\_  
Title \_\_\_\_\_

Date: \_\_\_\_\_, 2006

Lauderdaleproposal092506

## LAUDERDALE COUNCIL ACTION FORM

### Action Requested

Consent \_\_\_\_\_  
 Public Hearing \_\_\_\_\_  
 Discussion \_\_\_\_\_  
 Action \_\_\_\_\_ X \_\_\_\_\_  
 Resolution \_\_\_\_\_  
 Work Session \_\_\_\_\_

Meeting Date October 10, 2006

ITEM NUMBER 11A- Administrative Fine

STAFF INITIAL HAB

APPROVED BY ADMINISTRATOR 

### DESCRIPTION OF ISSUE AND PAST COUNCIL ACTION:

I sent an e-mail to the League asking for advice on administrative fines. One of their staff attorneys responded with the following:

“State statute sets a maximum that a City can use as a fine - \$1,000.00 for a misdemeanor and \$300.00 for a petty misdemeanor. Certainly the City can set the fine at less than these maximums. Unlike licensing fees, the City does not need to directly correlate the fine to its costs. Fines are meant to penalize in addition to helping the City recoup its costs. As a result, I believe any rationally supported amount below the maximums set by statute would be upheld. For example, the City could adopt a resolution along with its fee schedule/fine schedule, stating the city's findings in regard to the fees. The findings could state that the fines are meant to compensate the city for its costs, penalize the violator, reflect the severity of the infringement, etc.”

### OPTIONS:

1. Adopt resolution 101006A setting an administrative fine of \$1,000 for rental housing license violations.
2. Have staff draft a new resolution setting an administrative fine of a lesser amount.
3. Do not use administrative fines as a penalty for rental housing license infractions.

### STAFF RECOMMENDATION:

1. Adopt resolution 101006A setting an administrative fine of \$1,000 for rental housing license violations.

### COUNCIL ACTION:

RESOLUTION NO. 101006A

THE CITY OF LAUDERDALE  
COUNTY OF RAMSEY  
STATE OF MINNESOTA

RESOLUTION ESTABLISHING 2006 ADMINISTRATIVE FINE

WHEREAS, the City Council of the City of Lauderdale recognizes the need to add an administrative fine to the City's current charges for licenses, permits, administrative services, and penalties; and

WHEREAS, any changes to these fees and fines must be set by resolution, pursuant to City of Lauderdale City Code;

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Lauderdale, Minnesota that the administrative fine for a rental housing license violation will be \$1,000.00. This fine compensates the city for costs incurred while enforcing the rental housing ordinance, penalizes violators, and reflects the severity of the infringement.

CITY OF LAUDERDALE )  
COUNTY OF RAMSEY )  
STATE OF MINNESOTA )

ss

I, Brian Heck, being duly qualified and City Administrator for the City of Lauderdale, Ramsey County, Minnesota, do hereby certify that the above is a true and correct copy of a Resolution duly adopted by the City Council of the City of Lauderdale on October 10, 2006 as the same appears in the minutes of said meeting on file and of record in City Offices.

Dated this 10<sup>th</sup> day of October, 2006.


(ATTEST)

\_\_\_\_\_  
Jeffrey Dains, Mayor

(SEAL)

\_\_\_\_\_  
Brian W. Bakken Heck

**LAUDERDALE COUNCIL  
ACTION FORM**

<p style="text-align: center;"><b>ACTION REQUESTED</b></p> <p>Consent _____</p> <p>Presentation _____</p> <p>Public Hearing _____</p> <p>Discussion _____</p> <p>Action _____ <u>X</u></p> <p>Resolution _____</p> <p>Work session _____</p>	<p>MEETING DATE <u>October 10, 2006</u></p> <p>ITEM NUMBER <u>11B</u> <u>Eureka Recycling Contract Extension</u></p> <p>STAFF INITIAL <u>Jim</u></p> <p>APPROVED BY ADMINISTRATOR </p>
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**DESCRIPTION OF ISSUE AND PAST COUNCIL ACTION:**

Alex Danovitch from Eureka was at the last meeting to talk to the council about their company, Lauderdale's recycling program, and a contract extension. Eureka is willing to extend the contract for one or two years at the current contract pricing, terms, and conditions. The city currently pays \$2.00 per household per month for recycling.

If the council would like to consider weekly collection, that could begin at the first of the year. The city would pay \$2.40 per household per month for weekly collection.

If the city chooses not to move to weekly collection, we would continue to educate the residents on the use of additional bins.

The following items are attached:

- 1) Letter from Eureka about extending the contract.
- 2) Letter from Eureka about weekly collection.
- 3) Current contract for recycling collection with Eureka.

**OPTIONS:**

- 1) Approve a contract extension with Eureka for one or two years at the current contract pricing, terms, and conditions.
- 2) Approve a contract extension with Eureka for one or two years, but switch to weekly collection.
- 3) Do not approve a contract extension with Eureka and direct staff to send out Request for Proposals (RFPs) for recycling services.

**STAFF RECOMMENDATION:**

Approve a contract extension with Eureka for **two** years at the current contract pricing, terms, and conditions.

**COUNCIL ACTION:**



Our mission is to reduce waste today through innovative resource management and to reach a waste-free tomorrow by demonstrating that waste is preventable, not inevitable.

September 12, 2006

City of Lauderdale  
1891 Walnut St.  
Lauderdale, MN 55113

Dear Jim:

Our current contract is up for recycling services on December 31, 2006. We would like to use the options offered in the contract to extend our services for another one or two years. We are pleased to offer the City of Lauderdale the ability to hold the current price and revenue share steady with no increases for the length of the contract extension.

We have enjoyed our partnership with the City of Lauderdale. Lauderdale residents are great recyclers with one of the highest set out rates per household in the metro area. As of September 1, 2006, Lauderdale residents have recycled over 388 tons of materials and Eureka Recycling has paid back to Lauderdale \$14,711.90 in revenue share for the value of those materials.

Throughout our tenure in Lauderdale, we have added new materials including clothes and linens, as well as pop and beer boxes. We have set up a fantastic multifamily recycling program to ensure that every resident of Lauderdale has access to the city's program, no matter what type of household they live in. In addition, Eureka Recycling has conducted extensive education and outreach to residents in both multifamily and single family households. Beyond our annual mailing, we reach Lauderdale residents every day through corrective tags, newsletter articles, and conversations with residents who call our recycling hotline. By investing in the residents of Lauderdale, we have been able to maintain an extraordinary residual rate of less than 2%, ensuring that at least 98% of the material collected in the City of Lauderdale is truly recycled back into new products. Without the partnership we've developed with Lauderdale residents and city staff, this would not be possible.

We look forward to continuing this partnership in the years to come. Again, we are happy to extend the current contract for either one or two years at the current pricing, terms, and conditions. Please let me know if you have any questions or need more information.

Sincerely,

Alex Danovitch  
Director of Business Development



Our mission is to reduce waste today through innovative resource management and to reach a waste-free tomorrow by demonstrating that waste is preventable, not inevitable.

October 5, 2006

Jim Bownik  
Assistant to the City Administrator  
City of Lauderdale  
1891 Walnut Street  
Lauderdale, MN 55113

## RE: Switch to Weekly Recycling Collection in Lauderdale

Dear Jim:

Eureka Recycling is committed to working with the City of Lauderdale to provide a cost-effective and sustainable recycling program that maximizes the amount of materials residents recycle. This document is meant to clarify the terms and conditions surrounding a switch to weekly collection of recycling in Lauderdale.

### Collection Method

Recycling collections will continue in the same two-stream method that is currently used in the City of Lauderdale. The day of the week that residents set out materials will be every Monday (the same as the current program). The types of materials that residents can recycle will remain the same as the current program.

### Pricing and Contract Terms

The cost for recycling collection per household will increase to \$2.40 upon the start of weekly collection on January 1, 2007. The contract will be extended for 2 years at this price through December 31, 2008.

### Late Set Outs

Once Lauderdale has made the transition to weekly collection it will be especially important for residents to have their materials at the curb by 7 a.m.

As with every decision Eureka Recycling makes about recycling programs, we very carefully balance the cost, convenience, and environmental impact of all aspects of weekly collection. Returning to collect late set-outs is costly, both in terms of fuel and staff time, and reduces the environmental benefit of weekly recycling collection. Therefore, Eureka Recycling will not return to a residence to pick up recycling set out after 7 a.m.

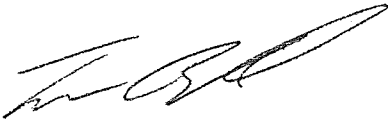
Residents who set their recycling out after 7 a.m. and miss the truck will be asked to hold their materials until the following week. We have not found this to be an unreasonable inconvenience since residents have the opportunity, and option, to set out their recycling every week. If a resident misses a collection day, they only need to store two week's worth of recycling until the next collection day (as opposed to one month's worth of recycling in bi-weekly collection program). Residents who do not wish to hold their materials for a week can call the recycling hotline for drop-off options.

**Education campaign**

Eureka Recycling will promote the change to weekly collection to residents of Lauderdale through an enhanced annual mailing to be sent to residents in January 2007. We will also work with city staff to provide newsletter articles and assist with other city sponsored promotions.

If you have any questions, please contact me at (651) 222-7678.

Sincerely,



Tim Brownell  
COO & Co-President



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# **CITY OF LAUDERDALE**

## **AGREEMENT FOR RECYCLING SERVICES**

Agreement made as of January 1<sup>st</sup>, 2005 through December 31<sup>st</sup> 2006 between the City of Lauderdale (thereafter the "City") and Eureka Recycling (thereafter the "Contractor"), a Minnesota non-profit organization.

The City and the Contractor agree as follows:

### **I. DEFINITIONS**

These specifications define the requirements of the Comprehensive recycling Collection Program for the City of Lauderdale:

1.1 Recyclables – defined as newsprint and inserts, unsorted glass (food and beverage containers), unsorted aluminum, steel, bimetal, and "tin" cans (food and beverage containers), unsorted plastic bottles (PETE & HDPE), household office paper/mail, magazines, boxboard, corrugated cardboard, mixed paper, and phone books.

The parties, by separate agreement, may later include the following items as recyclable: other plastic polymers, automobile batteries, yard waste, compostable materials and other materials as mutually agreed upon between the City and the Contractor.

1.2 Method of Collection – a two sort (rigids and fibers) collection of materials plus textiles.

1. Rigids- Glass Food and Beverage Containers, Metal Food and Beverage Containers, Plastic Bottles with a Neck.
2. Fibers- Mixed Mail, Newspaper, Catalogs, Magazines, Phone Books, Boxboard (dry food boxes only), Corrugated Cardboard (flattened and no more than 3 x 3 feet).
3. Textiles- Linens, tablecloths, sheets, shoes, belts, etc.

1.3 Recycling Containers – Collection of recyclable materials shall be from City approved recycling containers. City shall supply recycling containers to the residents. The recycling containers remain the property of the City. Additional containers can be used if marked “save” by the resident.

1.4 Recycling Collection – Defined as the picking up of all recyclables placed at or near curbside, properly prepared, and packaged at certified dwelling units (CDUs) and other City-designated collection stops in the City.

1.5 Certified Dwelling Unit (CDU) – Defined as a single family home or residential units in duplexes (and all multiple unit dwellings up to and including eight-plexes), condominiums or townhouses. The City and the Contractor may designate residential units in structures not listed here as CDUs upon mutual agreement.

1.6 Collection District – Defined as a specific geographic area of the City established for the purpose of having recycling collection for all CDUs and other City designated recycling collection stops in the district on the same day.

1.7 Contractor – means the company performing the recycling collection services within the City, operating under a signed agreement with the City.

1.8 Collection Vehicle – Defined as any vehicle owned or operated by the Contractor for collection of recyclables within the corporate boundaries of the City.

1.9 Collection Hours – Defined as the time period during which collection of recyclables is authorized in the City. 7:00 a.m. – 5 p.m.

1.10 Holidays – Means any of the following: New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

1.11 Scheduled Collection Day – Means the day or days of the week on which recycling collection by the contractor is to occur, which the City has designated as every other Monday.

1.12 Curbside – Means near the edge of the public or private street from which the CDU gains its access.

1.13 Market Demand – Means the economic and technical capacity of markets to use recyclable material to make new products.

1.14 Markets – Means any person or company that buys (or charges) for recycling of specified materials and may include, but are not limited to: end markets, intermediate processors, brokers and other recycling material reclaimers.

1.15 Process Residuals – Means the normal amount of material that can not be economically recycled due to material characteristics such as size, shape, color, cross-material contamination, etc. and must be disposed as mixed municipal solid waste. Process residuals do not include clean, separated products that are normally processed for shipments to markets as commodities but are low-value because of market demand conditions.

## **II. SERVICES TO BE PERFORMED**

2.1 The Contractor shall collect the recyclable materials every other week as established by the City and in the corporate boundaries of the City at each CDU deemed acceptable by the City.

2.2 The Contractor shall not be required to make regular collections on holidays; provided, however, that collection occurs the day immediately following the scheduled pickup day or the next business day as agreed upon per holiday by the City and Contractor.

2.3 In extreme circumstances, collection may be suspended to protect public safety and/or the safety of the Contractor's employees. In case of such an event, the Contractor will contact the appropriate City officials prior to suspension of recycling collections.

2.4 The contractor shall be responsible to pay for and distribute a minimum of one promotional piece of recycling education material each year of the contract with the first publication to be focused on a calendar of collection days, materials collected, and method of collection for distribution to occur by the second week in January. The Contractor shall submit a draft of any public education literature for approval by the City, at least one (1) month prior to printing and release of any such literature.

## **III. COLLECTION**

3.1 Frequency of Collection – Curbside collection shall occur every other week. Collection will occur as needed for multi-family units (apartments) south of Larpenteur. (Collection Boundaries and Multi-Family List are Attached)

3.2 Collection Hours – Collection shall commence no earlier than 7 am. Contractor shall maintain sufficient equipment and personnel to assure that all collection operations are completed by 5 pm on the scheduled collection day, Monday. Residents will be required to have their recyclables placed at the collection site (curbside or otherwise arranged by multi-family dwellings) before 7 am on the scheduled collection day.

3.3 Late Collection (Hours) – If the Contractor determines that the collection of recyclables will not be completed by 5 pm on the scheduled day it shall notify the Recycling Coordinator by 4:30 pm and request an extension of the collection hours. The Contractor shall inform the Recycling Coordinator of the area not completed and the reason for non-completion and the expected time of completion. If the Recycling Coordinator cannot be reached, the Contractor will contact City Hall staff or whoever is available and report the problems immediately to the Recycling Coordinator on the next business day.

3.4 Collection Sort – The Contractor shall collect and process the curbside material within the form of a two-sort system. Any change in the mixing of recyclable materials during recycling collection or processing shall be done only with written amendments to this agreement and approved by the City Council. Failure to receive City approval for any such changes to the two-sort collection/processing system prior to implementation for the City collections or material processing shall be considered by the City as a breach of this Agreement subject to termination.

3.5 Materials Ownership – All materials placed for collection shall be owned by and the responsibility of the occupants of residential properties until the Contractor handles them. Upon handling of the containers and recyclable materials by the Contractor, the recyclable materials become the property and responsibility of the Contractor.

3.6 Containers – Containers marked “save” shall be acceptable for recyclables containers and left for the resident’s reuse.

3.7 Containers Handling – Handling of containers should be managed by picking them up, emptying their contents into the collection vehicles, and taking responsible care to place them back in the original location.

3.8 Collections Specifications Unacceptable – Should the Contractor determine that materials do not meet the specifications outlined herein, making them unacceptable for collection the Contractor must leave a tag (pre-printed as approved by the City) describing the unacceptable sort to the resident. The Contractor must then report these occurrences during the next business day to the City.

3.9 Missed Collections – The Contractor shall have a duty to pickup missed collections. Missed collections called in before 12 pm on the collection day will be collected that day. Calls after 12 pm will be collected on the following day before 4 pm. Missed collections called in before 11:00 on the day after collections will be collection that day before 4 pm. Calls received after 11:00 am will be collected on the following business day before 4 pm. The same policy will apply for missed collections called in two days or more after collection. (Calls called in are either customer calls direct to the Contractor or calls called to the Contractor by the City.)

3.10 Concern for Materials Recycled – The Contractor shall use every best effort to ensure that all recyclable materials collected in Lauderdale are not placed in landfills or incinerators but are distributed to the appropriate markets for reuse and recycling. Any unacceptable materials or garbage will be delivered to the appropriate facilities and documented as such. All weight tickets, etc. shall be maintained at the Contractor’s office for review. The Contractor will report facility residual rates to the City once yearly. All costs associated with disposal will be borne by the Contractor. The contractor will at all times be under the duty to minimize recyclable materials ending up in landfills or incinerators, and, in consultation with the City, at all times attempt to find and use the lowest cost but most environmentally sound method of disposal.

In the event that the market for a particular recyclable material ceases to exist, or becomes economically depressed such that it becomes economically unfeasible to continue collection of the particular material, the City will have the right to cause the Contractor to cease the collection of that particular recyclable material.

If the Contractor requests to cease collection of a particular recyclable material or is directed to do so by Ramsey County and the City directs to the contrary, the City agrees to bear the cost incurred by the Contractor to market or dispose of such recyclable material by landfill, incineration or other method.

The Contractor will negotiate in good faith to establish a rate of recovery for all recyclable materials collected in Lauderdale under this agreement.

3.11 Reporting Requirements – Contractor will keep accurate records consisting of an approved weight slip with the date, time, collections route, driver's name, vehicle number, tare weight, gross weight, and net weight. Collection vehicles will be weighed after completion of a route or at the end of the day, whichever occurs first. A copy of each weight ticket shall be included as part of the billing sent to the City each month. The Contractor will also include a report of the total tons collected, including estimated amounts of each type of material delivered to each market. The Contractor will also report amount and location of all materials stored for more than 30 days.

3.12 Compliance – Collection and transportation of all recyclables shall be accomplished in accordance with all existing laws and ordinances, and future amendments thereto, of the State of Minnesota and local governing bodies.

3.13 Collection Clean-ups – Contractor shall adequately clean up any material spilled or blown during the course of collection and/or hauling operations. All collection vehicles shall be equipped with at least one broom and one shovel for use in cleaning material spillage. The contractor shall have no responsibility to remove or clean up any items which are not recyclable materials or were blown all over the neighborhood before arrival.

3.14 Resident Complaints – The Contractor shall provide the City with a list of all customer complaints received within ten (10) working days, including a description of how each was resolved.

3.15 City Hall Collections – The Contractor will provide containers and recycling service for City facilities free of charge. Collection will occur as scheduled (biweekly) by the City and will be dependent on the amount of materials generated.

3.16 Estimating Materials – The Contractor shall conduct at least one materials composition analysis of the City's recyclables each year to estimate the relative amount of weight of each recyclable commodity by grade. The results of this analysis shall include : (1) percent by weight of each recyclable commodity by grade as collected from the City; (2) relative change compared to the previous year's composition; and (3) a description of the methodology used to calculate the composition, including number of samples, dates weighed, and City route(s) used for sampling.

3.17 Estimating Process Residuals – The Contractor shall provide a written description of the means to estimate process residuals derived from the City's recyclables. This written description shall be reviewed and approved in writing by the City. This written description shall be updated by the Contractor immediately after any changes to the processing facilities used by the Contractor.

#### **IV. CONTRACTOR'S OPERATIONS**

4.1 The Contractor shall establish and maintain an operating facility with an office and continuous supervision for accepting complaints and customer calls. The office shall be in service with continuous supervision from the hours of 8:00 am until 5 pm on all days of collection as specified in the agreement. Address and telephone number of such office and any changes therein shall be given to the City in writing.

4.2 Personnel – The Contractor shall maintain sufficient personnel and equipment to fulfill the requirements and specifications of this agreement.

4.3 Management – The Contractor shall notify the City of any change in Supervisory, Operations, or daily Managers associated with this collection process. New personnel must be introduced to the City.

4.4 Access to Records – The Contractor shall provide access to the City or any of its duly authorized representatives to review any books, documents, papers, and records of the Contractor related to performance of this agreement for the purpose of duties or other examination verifying compliance with its terms.

#### **V. CONTRACTOR'S EQUIPMENT**

5.1 Contractor's vehicles shall be marked with the name of the Contractor and phone number and be equipped with a (1) two-way radio, (2) first aid kit, (3) approved 2A10BC dry chemical fire extinguisher, (4) warning flashers, (5) warning alarms to indicate movement in reverse, (6) sign in rear of vehicle stating "this vehicle makes frequent stops," (7) and a broom and shovel for cleaning up spills.

#### **VI. PAYMENT**

6.1 Compensation – The City will compensate the Contractor for the collection of recyclable materials from residential units. During this contract, the City will pay to the Contractor, on a monthly basis, \$2.00 per household and approved CDU.

6.2 Revenue Share – Contractor shall, on a monthly basis, rebate an amount to the City based on the following formula:

A 50% per ton payment of all paper grades including office & school paper, corrugated cardboard, newspaper, mail, and boxboard collected from the City based on the published index *Official Board Markets (OBM) "Yellow Sheet,"* Chicago region for Old Newspapers(ONP) #8, high side of range.

A 50% per ton payment of aluminum collected from the City based on the published index *American Metal Market, (AMM), Aluminum (1<sup>st</sup> issue of the month).* High-side nonferrous Scrap Prices: Scrap metals, Domestic aluminum producers, Buying prices for processed used aluminum cans in carloads lots, f.o.b. shipping point, Used beverage can scrap.

Each month the Contractor shall provide, together with the monthly rebate to the City, adequate documentation of the corresponding monthly estimate of tons of all paper grades and tons of aluminum collected from the City even in the case the City were to receive no rebate for the month. Also, the Contractor shall provide copies of the referenced OBM market index and AMM market index.

6.3 Monthly Statements – The Contractor will submit a monthly statement for services rendered. The City will pay within 60 days of receipt of the Contractor's monthly statements.

6.4 CDU Yearly Review – Yearly the City and the Contractor will review additions or subtractions from the total CDU count. Should the Contractor request more frequent review, the City will assist in this count and discussion.

## **VII. NON-PERFORMANCE**

7.1 Minnesota law governs any disputes and all disputes will be subject to the jurisdiction of the Ramsey County District Court.

7.2 The parties agree that, in addition to any other remedies available to it, the City may withhold payment from the Contractor in the amounts specified below as liquidated damages for failure of the Contractor to fulfill its obligation under this agreement. These are liquidated damages not penalties. Further, the City and Contractor agree that proving damages due to the circumstances listed below would be difficult to ascertain and would cause considerable delay and expense. Instead of requiring such proof, the City and Contractor agree to liquidated damages (not a penalty) in the following amounts:

- 1) Failure to clean up recyclables spilled by Contractor within six (6) hours of oral or written notification -- \$50.00 per incident.
- 2) Failure to complete City-wide collection (50% or more) by 5 p.m. without permission for extension from the Recycling Coordinator and/or other City employee with exception of severe weather and street construction -- \$2,500 per incident.
- 3) A missed block is defined as a block where residents from at least three (3) households within two intersections of that block report that their material was out before 7:00 a.m., the material was not picked up and the addresses did not appear on the records of unacceptable setouts -- \$250.00 per incident.
- 4) Failure to pick up missed collections -- \$50.00 per incident.
- 5) Failure to file reports and/or provide scale receipts -- \$750 per incident.
- 6) Failure to maintain vehicle in a manner which prevents nuisances such as leaky seals or hydraulics -- \$100.00 per incident.

- 7) Commingling of fiber products with rigid products either in the collection vehicle or in processing -- \$750 per incident.
- 8) Failure or neglect to provide notice to resident upon recyclables refused for collection for cause -- \$50.00 per incident.
- 9) Failure to pickup multi-family units as needed -- \$50.00
- 10) In addition to above, failure or neglect to correct chronic problems will be considered a Breach of Contract -- \$50.00 per incident.

A chronic problem shall be construed to be three or more occurrences of items 1, 4,5,6 & 8 immediately above within any period of six consecutive months whether or not remedied within 24-hours or six hours in the case of spilled solid waste.

The City will notify the Contractor in writing documenting the history of the account and reason for the fine. The Contractor will then have the opportunity to address and remedy the issue at which point the City can determine if a fine is the appropriate course of action. Contractor must maintain an escrow account of \$2500 with the City to be used for payment of any liquidated damages. Any unused portion of the deposit will be renewed to the Contractor at the end of the contract period.

## **VIII. INSURANCE**

- 8.1 Prior to commencement of this agreement, the Contractor shall furnish the City with certificates of insurance for comprehensive general liability, automobile liability and property damage insurance. Any losses to person or property connected with the collection of recyclable materials through this project shall be the responsibility of the Contractor.

## **IX. INDEMNIFICATION**

- 9.1 The Contractor hereby agrees to indemnify and hold harmless the City and its employees, officers, and agents from and against all claims, damages, losses or expenses, including attorneys' fees and other costs of defense, for which it may be held liable, arising out of or resulting from the assertion against the City of any claims, debts, or obligations in consequence of the performance of this agreement by the Contractor, its employees, agents or subcontractors.



**X. TERM AND TERMINATION**

10.1 Term – The term of this agreement shall be from January 1, 2005 through December 31, 2006.

10.2 Extension – The Contractor and City agree to review this operating agreement and upon mutual agreement reserve the options of two one-year extensions. This action must be approved by the City Council.

10.3 Termination – If in the City's sole discretion, the Contractor or subcontractor fails to perform this agreement diligently and on schedule or fails to reach mutual agreement where the terms of this agreement so specify, the City shall have the right to terminate this agreement. Prior to termination, the City shall give thirty (30) days written notice identifying the basis of the intent to terminate. After the notice of intent to terminate has been served, both parties will attempt to reconcile their differences during the 30-day notice period. If after the 30 day notice period the basis of the intent to terminate has not been cured to the satisfaction of the City, either party may conclusively terminate this agreement upon five (5) business days written notice serviced by certified mail, return receipt requested upon the other party, at the party's last known address.

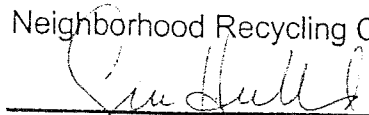
10.4 Upon failure of the Contractor to fulfill any of its obligations under the agreement, the City may hire such persons, or assign City employees and equipment, as are necessary to cure or mitigate Contractor's failure; the costs of such action may be charged and deducted from monies due the Contractor, collected from the Contractor, or collected by other legal recourse.

10.5 Contractor may terminate this Agreement for cause upon sixty (60) days written notice.

**XI. ASSIGNMENT**

11.1 This agreement is assignable only by agreement of the parties. If the Contractor is sold in whole or in part, the City reserves the right to negotiate a new agreement with any purchasers of the Contractor or its assets. The City reserves the right to declare this agreement null and void within thirty (30) days of such a sale and to negotiate a new agreement for recycling collection services with the new owner of the Contractor or its assets, or through a competitive bidding process.

Neighborhood Recycling Corporation DBA Eureka Recycling



11-30-2004

Susan Hubbard, CEO

Date

City of Lauderdale



11/23/04

Jeffrey Dains, Mayor

Date



11-23-04

Richard Getschow, City Administrator

Date