

**HIGHLINE WATER DISTRICT
King County, Washington**

RESOLUTION 14-1-28D

RESOLUTION AUTHORIZING THE GENERAL MANAGER TO ENTER INTO AN AGREEMENT WITH S & B, INC. FOR SCADA SYSTEM SUPPORT SERVICES CONTRACT #14-50-02 FOR CALENDAR YEARS 2014-2015

WHEREAS, the Consultant shall act as the District's integrator for new capital improvement projects and upgrades related to the District's facilities (wells, treatment plant, reservoirs and/or pump stations). For these projects the Consultant shall review all submittals and provide written comments back to the District and/or its other consultants in a timely manner.

WHEREAS, the Consultant shall perform all maintenance and upgrades to the SCADA system and historical data archives (Wonderware InSQL). This work shall include all hardware, software, communications and instrumentation improvements, including testing and simulation work, necessary to keep the system operating at optimum performance.

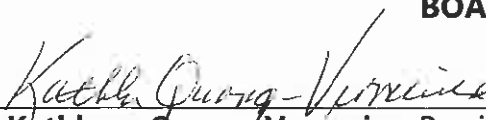
WHEREAS, the Consultant shall provide written updates of all maintenance and upgrades made to the SCADA system and historical data archives (Wonderware InSQL).

NOW THEREFORE, BE IT RESOLVED:

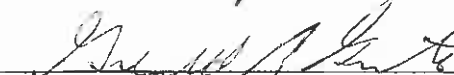
The General Manager or designee is authorized to enter into an agreement with S & B, Inc. for SCADA System Support Services for calendar years **2014-2015** for a not-to-exceed amount of **\$15,000** per year.

ADOPTED BY THE BOARD OF COMMISSIONERS of Highline Water District, King County, Washington, at an open public meeting held this **28th** day of **January 2014**.

BOARD OF COMMISSIONERS



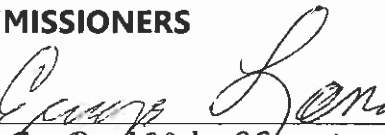
Kathleen Quong-Vermeire, President



Gerald R. Guite, Commissioner



Vince Koester, Commissioner



George Landon, Secretary



Daniel Johnson, Commissioner

HIGHLINE WATER DISTRICT

CONSULTANT AGREEMENT FOR SERVICES 2014-2015

This Agreement is entered into between **Highline Water District**, a municipal corporation and special purpose district organized and existing under the laws of the State of Washington, herein called the "District", located at 23828 30th Ave. S, Kent, WA 98032, and **S&B Inc.**, a Washington corporation herein called the "Consultant", located at 13200 S.E. 30th ST, Bellevue, WA 98005, in consideration of the mutual benefits, terms and conditions hereinafter specified.

1. Project Designation.

The Consultant is retained to provide maintenance and system support services related to the District's Telemetry Control & Management System (SCADA).

2. Scope of Work

The Consultant shall provide the following services and supplies:

- a. The Consultant shall act as the District's integrator for new capital improvement projects and upgrades related to the District's facilities (wells, treatment plant, reservoirs and/or pump stations). For these projects the Consultant shall review all submittals and provide written comments back to the District and/or its other consultants in a timely manner.
- b. The Consultant shall perform all maintenance and upgrades to the SCADA system and the Consultant's proprietary historical data archives (Wonderware InSQL). The work shall include all hardware, software, communications and instrumentation improvements, including testing and simulation work, necessary to keep the system operating at optimum performance. The Consultant shall respond to District service requests as outlined in Section 4.
- c. The Consultant shall provide a written quarterly update of all maintenance and upgrades made to the SCADA and DMS systems. The update shall be in the Microsoft WORD format.

3. Payment

The Consultant shall be paid by the District for completed work and for services rendered under this Agreement as follows:

Payment for the work provided by the Consultant shall be made provided that the total number of payments to the Consultant shall not exceed \$15,000.00 annually without express written modification of the Agreement signed by the District.

The Consultant may submit payment requests to the District once per month during the progress of the work for partial payment for that portion of the project completed to-date. Such payment request will be verified by the District and, upon approval thereof, payment shall be made to the Consultant in the amount approved.

Under this Agreement, final payment of any balance due the Consultant of the total contract price earned will be made promptly upon completion, verification and acceptance of the work by the District.

Payment provided in this section shall be full compensation for work performed, services rendered, and for all materials, supplies, equipment and incidentals necessary to complete the work.

The Consultant's records and accounts pertaining to this Agreement are to be kept available for inspection by representatives of the District and the State for a period of three (3) years after final payments. Copies shall be made available upon request.

4. Response Criteria

a. Service Requests

The Consultant will use commercially reasonable efforts to respond using digital (email) or telephone communications, to service requests from District within the next business day. The District shall use e-mail as the primary form of notification because it provides a written account of the request. E-mail's shall be sent to **service@sb-inc.com**. S&B's initial response may result in resolution of the District's request or it will form the basis for determining what additional actions may be required to achieve technical resolution of the District's request.

The nature of the service request will determine if a site visit is required to correct the problem. For hardware replacement, S&B shall perform the site visit no later than 5 working days. Software/Design Services are not included as part of this Agreement.

b. Emergency Response.

S&B shall respond in accordance to a District request as noted in the Service Request section. However, in the event of an emergency, which is defined as the failure of the Telemetry Control & Management System (SCADA) that eliminates the District's ability to control any of it's facilities (wells, treatment plant, reservoirs and/or pump stations), S&B shall perform it's site visit to provide technical resolution of the failure within the next business day after being contacted by the District.

5. Protection of Consultant Trade Secrets

The District understands the SCADA and historical data archives software is copyrighted by the Consultant and contains valuable trade secrets of the Consultant. By signing this Agreement, the District shall abide by the Consultant's corresponding requirements as outlined in Attachment "C".

6. Contact Personnel

The contact person for the Consultant shall be Randy Stead and the backup person shall be Jim Swanson, and can be reached at (425) 644-1700. The contact person for the District shall be Jeremy DelMar at (206) 592-8904 and the backup contact shall be Mike Becker at (206) 592-8920. District contact email addresses are included below:

Jeremy DelMar: jdelmar@highlinewater.org
Mike Becker: mbecker@highlinewater.org
Jon Seibel: jseibel@highlinewater.org

7. Compliance with Laws.

The Consultant shall, in performing the services contemplated by this Agreement, faithfully observe and comply with all federal, state and local laws, ordinances and regulations, applicable to the services to be rendered under this Agreement.

8. Indemnification.

The Consultant shall indemnify, defend and hold harmless the District, its officers, agents and employees from and against any and all claims, losses or liability, including attorney's fees, arising from injury or death to persons or damage to property occasioned by any act, omission or failure of the Consultant, its officers, agents and employees in performing the work required by the Agreement. With respect to the performance of this Agreement and as to claims against the District, its officers, agents and employees, the Consultant expressly waives its immunity under Title 51 of the Revised Code of Washington (RCW), the Industrial Insurance Act, for injuries to its employees, and agrees that the obligation to indemnify, defend and hold harmless provided for in this paragraph extends to any claim brought by or on behalf of any employee of the Consultant. This waiver is mutually negotiated by the parties. This paragraph shall not apply to any damage resulting from the sole negligence of the District, its agents and employees. To the extent any of the damages referenced by this paragraph were caused by or resulted from the concurrent negligence of the District, its agents or employees, this obligation to indemnify, defend and hold harmless is valid and enforceable only to the extent of the negligence of the Consultant, its officers, agents and employees. The provisions of this Section shall survive the expiration or termination of this Agreement or the retention of the Consultant pursuant to it.

9. Insurance.

- a. Throughout the Consultant's performance of this Agreement, the Consultant will maintain in force the following types and amounts of insurance:
- Comprehensive vehicle liability insurance covering personal injury and property claims arising from the use of motor vehicles with combined single limits of One Million Dollars (\$2,000,000).
 - Commercial General Liability Insurance written on an occurrence basis with limits of no less than One Million Dollars (\$2,000,000) combined single limit per occurrence. Coverage shall include, but not be limited to: blanket contractual, products/completed operations; broad form property damage; explosion, collapse and underground (XCU) if applicable; and employer's liability; and
 - Professional liability insurance (Errors and Omissions insurance) with limits no less than One Million Dollars (\$2,000,000).
 - The insurance policies shall: (1) state that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability; (2) be primary to any insurance maintained by the District, except as respects losses attributable to the sole negligence of the District; and (3) shall state that the District will be given thirty (30) days prior written notice of any cancellation, suspension, or material change in coverage.
- b. The District shall be named as an additional insured on the Commercial General Liability Insurance policy with regard to work and services performed by or on behalf of the Consultant, and a copy of the endorsement naming the District as an additional insured shall be attached to the Certificate of Insurance referenced below in paragraph (c) of this Section.
- c. Before commencing work under this Agreement, the Consultant shall provide to the District a Certificate of Insurance evidencing the insurance described above in paragraphs "a" through "d" of this Section. The District reserves the right to request and to receive a certified copy of all required insurance policies.
- d. Nothing in this Section, including without limitation the specification of minimum insurance limits, shall constitute or be construed or interpreted to constitute a limit on the Consultant's liability to the District. Any payment of deductible or self-insured retention shall be the sole responsibility of the Consultant.

10. Independent Contractor.

The Consultant and the District agree that the Consultant is an independent contractor with respect to the services provided pursuant to this Agreement. Nothing in this Agreement shall be considered to create the relationship of employer or employee between the parties hereto. Neither the Consultant nor any employee of the Consultant shall be entitled to any benefits accorded to District employees by virtue of the services provided under this Agreement. The District shall not be responsible for withholding or otherwise deducting federal income tax or social security, or for contributing to the State Industrial Insurance program, otherwise assuming the duties of an employer with respect to the Consultant or any employee of the Consultant.

11. Covenant Against Contingent Fees.

The Consultant warrants that if he has employed or retained any company or person, other than a bonafide employee working solely for the Consultant, to solicit or secure this contract, payment from the District will be based on time and material charges only. The cost of the work shall not include any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the District shall have the right to annul this contract without liability, or at its discretion to deduct from the contract price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

12. Discrimination Prohibited.

The Consultant, with regard to the work performed by it under this Agreement, will not discriminate on the grounds of race, color, national origin, religion, creed, age, sex or the presence of any physical or sensory handicap in the selection and retention of employees or procurement of materials or supplies.

13. Use of Subcontractors.

The Consultant may subcontract or assign any portion of the services to be provided to the District pursuant to this Agreement provided the Consultant has first obtained the express written consent of the District.

14. Non-Waiver.

Waiver or forbearance by the District of any provision of this Agreement or any time limitation provided for in this Agreement shall be limited to the single instance of waiver or forbearance and shall not constitute an agreement by the District to waive or forbear in the future with

respect to similar instances, nor shall any such waiver or forbearance constitute a waiver or forbearance with respect to any other provision of this Agreement.

15. Termination.

The District may, at its sole option and at any time, terminate its retention of the Consultant under this Agreement upon giving the Consultant ten (10) days written notice of termination. Upon termination by the District pursuant to this paragraph, the District shall have no obligation to the Consultant under this Agreement other than to pay the Consultant for services performed prior to the date the notice of termination was given; provided, however, that nothing in this paragraph shall operate or be construed as a waiver by the District of any claims against the Consultant arising from such work or of any right of set-off.

In the event of the death of a member, partner, principal, or officer of the Consultant, or of any of the Consultant's supervisory personnel assigned to the Project, the District may, at its sole option, elect to terminate its retention of the Consultant under this Agreement or to have the work completed by surviving members of the Consultant. In the event the District elects to have the work completed by surviving members of the Consultant, the Consultant, for and on behalf of its members, partners, principals, hereby agrees to complete the work under the terms of this Agreement.

16. Dispute Resolution.

- a. Mediation: If any dispute, controversy, or claim arises out of or relates to this Agreement, the parties agree first to attempt to settle the dispute by non-binding mediation with the assistance of a recognized professional mediation service. The parties shall bear equally all expenses, exclusive of attorneys' fees, associated with the mediation.
- b. Litigation: Thereafter, any dispute, controversy, or claim not resolved by mediation shall be resolved by litigation with venue in King County, Washington. The laws of the State of Washington shall govern this Agreement and all obligations of the parties under it.

17. Attorneys' Fees and Costs.

In the event either party shall bring suit against the other to enforce any provision of this Agreement, the prevailing party in such suit shall be entitled to recover its costs, including reasonable attorney's fees incurred in such suit from the losing party.

18. Notices.

Notices to the Highline Water District shall be sent to the following address:

General Manager
HIGHLINE WATER DISTRICT
23828 30th Ave S
Kent, WA 98032

Notices to the Consultant shall be sent to the following address:

Randy Stead, President
S&B Inc.
13200 SE 30th St
Bellevue, WA 98005

19. Integrated Agreement.

This Agreement, together with Attachments A, B and C, or addenda, represents the entire and integrated Agreement between the District and the Consultant and supersedes all prior negotiations, representations or agreements, written or oral. This Agreement may be amended only by a written instrument signed by both the District and the Consultant.

20. Effective Date.

The effective date of this Agreement shall be the date that the Agreement is signed by an authorized representative of the District and shall be in effect until December 31, 2015.

HIGHLINE WATER DISTRICT (Owner)	S&B Inc. (Consultant)
By: _____ Matt Everett	By: _____ Randy Stead
Title: General Manager	Title: President
Date: _____	Date: _____

ATTACHMENT "A"

GENERAL TERMS AND CONDITIONS - INSTRUMENT SYSTEMS

1. SCOPE

These terms and conditions apply to the sale of all instrument systems assembled by S & B, Inc. (Seller) and any inconsistent terms and conditions in Purchaser's purchase order are not binding on Seller, unless accepted, or these terms and conditions are modified by an authorized S&B, Inc. representative.

2. ACCEPTANCE

Purchase orders received from Purchaser to no bind Seller unless accepted by an Officer of Seller, either by acknowledgment, written acceptance, promise to ship, or shipment of the instrument systems communicated to Purchaser. Acceptance is expressly made conditional on Purchaser's assent to Seller's Material Terms and Conditions which are additional to or different from Purchaser's terms, unless Seller agrees otherwise in writing.

3. PRICE AND PAYMENT

Unless other specified, quoted selling prices are FOB Seller's factory or its supplier's shipping point, with freight allowed to destination and are subject to change if not accepted within 30 days from the quotation date. The quotation may be withdrawn at any time prior to acceptance or extended beyond 30 days. Invoices are due and payable NET 30 days, unless otherwise specified, at the company offices at 13200 SE 30th Street, Bellevue, WA. 98005. Late payment of invoices are subject to interest. Invoices shall be rendered according to the following schedule.

<u>Benchmark</u>	<u>% of Total Price</u>
• Upon Notice from Purchaser that all drawings have been approved for fabrication	20%
• Upon Notice from Seller that the instrument system is ready for factory tests.	Additional 50%
• Upon Notice from Seller that the instrument system has been shipped or that factory tests are complete and equipment is being held for convenience of customer.	Additional 25%
• Upon Notice of Acceptance from Purchaser or 180 days from Notice of Shipment, whichever occurs first.	Final 5%

If Purchaser defaults in any payment when due, Seller may at its option, and in addition to its remedies under the U.C.C. without incurring any liability thereof to Purchaser or Purchaser's customers, declare all payments for work completed immediately due and payable with maximum legal interest thereon from due date and stop all further work and shipments until all past due payments have been made and/or require that any further deliveries be paid for prior to shipment.

4. ITEMS INCLUDED

The price quoted includes only the instrument system specified, and does not include actual installation, accessory or associated materials such as wiring, piping, etc., not

ATTACHMENT "A"

GENERAL TERMS AND CONDITIONS - INSTRUMENT SYSTEMS

specifically included. Equipment prices quoted include installation information and start-up assistance provided by the Seller's field engineer or technician. Such services will be provided in a mutually agreeable manner and time. Seller will provide, upon request, at Seller's established current rates, an experienced Project Engineer or Service Technician to provide on-site superintendence of the equipment installation. Responsibility for proper operation of equipment, if not installed by Seller or installed in accordance with Seller's instructions, rests entirely with Purchaser.

5. TAXES

Any federal, state or local sales, or use or other taxes applicable to this transaction are not included in the price quoted, and unless a valid certificate of exemption is provided, any such tax shall be added to the price and is for the Purchaser's account.

6. SHIPMENTS AND DELIVERY

Any shipment or delivery dates recited herein represent Seller's best estimate. No liability, direct or indirect, is assumed by Seller for failure to ship or deliver on such dates. In any event, delivery dates are based upon the effective date of the contract and prompt receipt by Seller of all necessary information and instructions from Purchaser, including approved submittal drawings. Seller shall have the right to make partial shipments, and invoices covering the same shall be due and payable by Purchaser in accordance with the payment terms hereof.

In the event that the instrument system specified herein is to be shipped outside the United States, Purchaser shall obtain all necessary import licenses and permits required to clear the shipment for entry into the foreign country and pay all duties, tolls and imports.

If Purchaser requests postponement of shipments or causes a delay in shipment, the entire purchase price shall be due and payable upon Notice from Seller that the instrument system is ready for shipment, and thereafter any storage, or other charge Seller incurs, shall be for Purchaser's account, including interest on any unpaid balance at the maximum legal rate. All claims for damage, delay or storage for FOB Seller's plant shall be made directly against the carrier of the Purchaser. When shipments are FOB destination, Purchaser shall inspect the instrument system shipped and notify Seller of any damage or shortage within 5 days of receipt. Failure to notify Seller shall constitute acceptance of Purchaser, relieving Seller of any liability for shipping damages or shortages.

7. RISK OF LOSS AND SECURITY INTEREST

Unless shipments of instrument systems are made FOB destination, all risk of loss or damage shall pass to the Purchaser upon delivery to a carrier for shipment. Purchaser shall protect and maintain Seller's title, including adequate insurance for Seller's benefit, and right of repossession to the instrument system specified herein or in any change order until the full purchase price has been paid in full and will not encumber or permit others to encumber such systems by any security instruments.

ATTACHMENT "A"

GENERAL TERMS AND CONDITIONS - INSTRUMENT SYSTEMS

Purchaser acknowledges that as security for payment of the purchase price, Seller will retain and Purchaser has granted, a security interest in all instrument systems sold to Purchaser. Seller shall have all of its rights and remedies as a Seller and secured party under the U.C.C. or other appropriate law. No waiver by Seller or any default shall constitute a waiver of any subsequent or further default. Seller may retain as liquidated damages any partial payments made and may peaceably repossess the equipment from the Purchaser's premises without prejudice to any further claims it may have. In the event legal action is brought to enforce the provisions of any order accepted by it, Seller shall be entitled to recover its court costs and reasonable attorney fees.

ATTACHMENT "B"

SCOPE OF WORK

SECTION I - DESIGN

This work shall begin upon receipt of the NOTICE TO PROCEED identifying the specific work to be completed. This work shall include the following:

1. Electrical design for the Master Telemetry Unit (MTU) and Remote Units (RTUs) in the system including power distribution, communications, and instrumentation. Schematics and point-to-point wiring shall be in sufficient detail to facilitate electrical assembly of the system. Provide motor control centers (MCCs) design with digital network interface to RTU and MTU units.
2. Mechanical design for the MTU, RTUs and MCCs in the system, including panel design, panel layout, and assembly details sufficient to facilitate mechanical assembly of the complete system.
3. Hardware configuration and software development for the MTU and RTU programmable control system. Drawings shall include major components, cabling and interfaces. Software shall include printouts of all applicable programs and copies of all software on magnetic media.
4. Interconnecting drawings showing connections to existing or proposed field elements (motor starters, valves, meters, etc.).
5. Hardware configuration and software development for the graphic display computers using Wonderware InTouch development software and Wonderware InSQL historical data archives. Graphics and report pages shall be provided in S& B standard formats for each station monitored. Documentation shall be provided on magnetic media.

SECTION II - SYSTEM INTEGRATION

Incoming Inspection and Testing

S&B shall perform incoming inspection and sample testing as required for all components which are to be incorporated into the panels and electronic assemblies for the system.

Mechanical Configuration and Assembly

S&B shall assemble all components at its facility following the approved design drawings and specifications provided in Section I. All assembly shall be directed and supervised by a qualified systems engineer.

ATTACHMENT "B"

SCOPE OF WORK

Individual Assembly and Testing

Following assembly, each RTU, panel and major subsystem shall be fully tested. Where applicable, software shall be loaded and debugged.

System Simulation

To the degree possible, the entire telemetry, control and management reporting system shall be simulated at the S&B facility. The complete Control Center system shall be tested as a unit and all inputs simulated prior to delivery. District personnel shall witness simulation and approve test results prior to delivery.

Supervision of System Installation

The District or its selected installer shall be responsible for installing both the pre-assembled system components and those components which are to be mounted separately. In addition to providing the drawings and specifications for the system, S&B shall provide specific instructions to the installers, prior to power-up, and assist as required to insure installation is correct.

Communication Testing and Simulation

Prior to start up of the system, all communication facilities shall be tested by S&B. Signals shall be simulated and circuit performance verified prior to system start-up. S&B shall act as an agent for the District to order all telephone circuits, coordinate all technical requirements, and to verify circuit performance. All costs for communication facilities shall be the District responsibility.

Final Acceptance Tests

S&B shall conduct acceptance tests and provide operator training.

Work shall begin as soon as practical following **NOTICE TO PROCEED** from District Management.

ATTACHMENT "C"

S&B END USER LICENSE AGREEMENT

ACCEPTING THIS DOCUMENTATION AND USING THE SOFTWARE PROVIDED CONSTITUTES YOUR ACCEPTANCE OF THESE TERMS.

S&B, Inc. (S&B), the developer of this fully integrated Software Package grants you a personal, non-transferable, non-exclusive license to use the Software and Documentation enclosed in this package, but only on the computers on which it is originally installed, or if a computer malfunctions, then temporarily installed on a back-up computer.

The Software and Documentation are copyrighted by S&B and contain valuable trade secrets of S&B. You may not make any copies of the Software or Documentation, except a necessary back-up copy; you may not transfer the Software or Documentation or otherwise make it available to anyone else; and you may not disassemble, decompile, update, revise or enhance the Software.

The Software and Documentation are warranted against functional defects found during a period of one year after delivery. S&B's sole obligation shall be to correct any such defect in a manner so chosen by S&B at its sole discretion.

The media on which the Software is recorded shall be replaced without charge by S&B, Inc. if the media should prove defective within one year after delivery.

This warranty (1) does not extend to defects arising from changes made to the Software and the hardware with which it is intended to operate, **(2)** will be rendered void by any evidence of tampering with the Software, and **(3)** does not extend to any hardware components, subsystems peripherals, or other non-S&B developed software, whether or not supplied by S&B.

Except as provided above, the Software and Documentation are licensed to you (and any hardware delivered by S&B is delivered to you) **"AS IS"** with the original manufacturer's warranty. **S&B DISCLAIMS ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OR MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

S&B shall have no liability for any lost profits or direct, indirect, incidental, consequential, or other damages arising from the use of the Software or Documentation or any associated hardware.

WARRANTY REGISTRATION NO.: _____ **Effective Date:** _____

Issued To: Highline Water District, Kent, Washington

Receipt of Documentation Acknowledged By: _____

Date: _____

Agenda Item No.: 5.3
Agenda Date: 1/28/2014
Reviewed By: M.E.

Subject: Authorize SCADA Support Services Contract #14-50-02 with S&B Inc.

CATEGORY	
<i>Executive</i>	<input type="checkbox"/>
<i>Administrative</i>	<input type="checkbox"/>
<i>Engineering/Operations</i>	<input checked="" type="checkbox"/>

FINANCIAL						
<i>Expenditures?</i>	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>
<i>Budgeted?</i>	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>
		<i>Amount:</i>		\$	<u>15,000.00</u>	<i>Annually</i>

ATTACHMENTS:

1. Resolution 14-1-28D
2. Contract #14-50-02

COMMENTS:

Consultant shall perform all maintenance and upgrades to the SCADA system and historical data archives (Wonderware InSQL). This work shall include all hardware, software, communications and instrumentation improvements, including testing and simulation work, necessary to keep the system operating at optimum performance.

Staff recommends approval of this resolution.