

RESOLUTION 75-52

BE IT HEREBY RESOLVED by the Common Council of the City of Bloomington, Indiana, that adjustments in the appropriations of the following budgets of the Utilities Department may be made as follows:

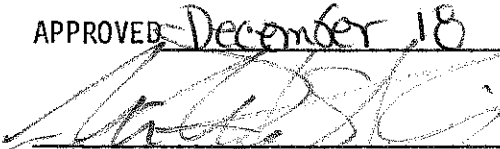
WATER UTILITY

From:	401.1	Source of Supply Expense	\$10,000
	401.4	Transmission & Distribution Expense	25,000
	408	Taxes Other Than Income	10,000
	409	Income Tax	5,000
		TOTAL	\$50,000
To:	401.2	Pumping Expense	\$ 8,000
	401.3	Water Treatment Expense	7,000
	401.7	Administrative & General Expense	35,000
		TOTAL	\$50,000

SEWER UTILITY

From:	502.1	Collection System Expense	\$21,500
	502.2	Pumping Expense	4,000
	507.1	Taxes Other Than Income	4,500
		TOTAL	\$30,000
To:	502.3	Wastewater Treatment Expense	\$16,000
	502.7	Administrative & General Expense	14,000
		TOTAL	\$30,000

APPROVED December 18, 1975

  
 Brian C. De St. Croix, President  
 Bloomington Common Council

APPROVED December 23, 1975

  
 Francis X. Mc Closkey, Mayor  
 City of Bloomington

RESOLUTION

December 15, 1975

WHEREAS, the Utilities Service Board of the City of Bloomington, Indiana having received, discussed and approved a staff report on Budget Transfers in the 1975 Operation and Maintenance Budget of the Water and Sewer Utilities,

NOW BE IT THEREFORE RESOLVED that the Utilities Service Board does hereby forward to the Common Council of the City of Bloomington, Indiana a request for the following Budget Transfers: To be made to the 1975 Operation and Maintenance Budget of the Water and Sewer Utilities:

Section 1 - (Water Utility)

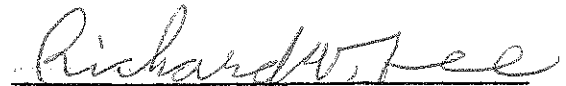
From:	401.1	Source of Supply Expense	\$10,000
	401.4	Transmission & Distribution Exp.	25,000
	408	Taxes Other Than Income	10,000
	409	Income Tax	5,000
		TOTAL	<u>\$50,000</u>
To:	401.2	Pumping Expense	\$ 8,000
	401.3	Water Treatment Expense	7,000
	401.7	Administrative & General Exp.	35,000
		TOTAL	<u>\$50,000</u>

Section 2 - (Sewer Utility)


From:	502.1	Collection System Expense	\$21,500
	502.2	Pumping Expense	4,000
	507.1	Taxes Other Than Income	4,500
		TOTAL	<u>\$30,000</u>
To:	502.3	Wastewater Treatment Exp.	\$16,000
	502.7	Administrative & General Exp.	14,000
		TOTAL	<u>\$30,000</u>

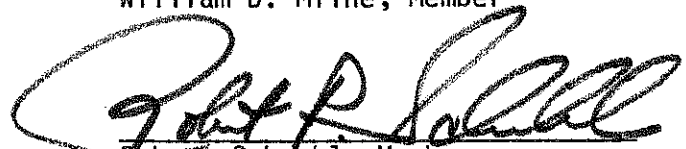
  
Aileen L. Schaller, President

  
David Dilcher, Member

  
Richard W. Fee, Member

  
Hugh J. Martin, Member

  
William B. Milne, Member

  
Robert Schmuhl, Member

CITY OF BLOOMINGTON UTILITIES

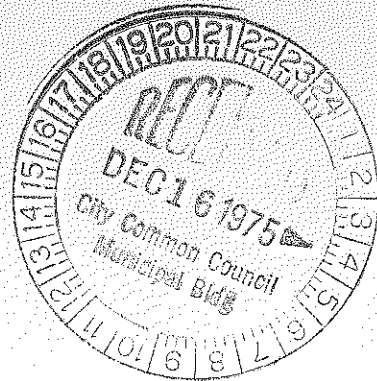
Interdepartmental Memo

TO: John Komoroske FROM: George E. Phipps *GA*  
DEPT. Council Aide DEPT. Business Office  
SUBJ. Budget Transfers DATE: December 16, 1975

Attached is the USB's resolution forwarding the request for Budget transfers. Also included is a Resolution on your format.

I will try to get an analysis to you early tomorrow.

*PUT A FEW THINGS  
+ MAKE SUFFICIENT  
QUANTITIES*



The Bloomington Human Rights Commission, having held a public hearing on the Final Proposed Draft (Revised) of the CONTRACT COMPLIANCE REGULATIONS on March 13, 1975, hereby adopts said Proposed Draft, as modified, as the official CONTRACT COMPLIANCE REGULATIONS of the Bloomington Human Rights Commission, governing the enforcement of Chapter 2.60.050 of the Bloomington Municipal Code. Evidence of such adoption shall be the signatures of a majority of the Commission herein.

The Official

CONTRACT COMPLIANCE  
REGULATIONS OF THE  
BLOOMINGTON HUMAN  
RIGHTS COMMISSION

As passed on March 13, 1975

By the Bloomington Human Rights  
Commission:

And as approved by resolution  
of the Common Council on

September 4, 1975.

Commissioner Jarrals

Commissioner Gilliam

Jonathan Eagleson  
Commissioner Eagleson

William J. Gephart  
Commissioner Gephart

Commissioner Smith

Commissioner Hayes

Ray Walker  
Commissioner Walker

William R. Webster  
Commissioner Webster

Michael Schenk  
Commissioner Schenk

James Ruff  
Commissioner Ruff

Vicente Taliaferro  
Commissioner Taliaferro

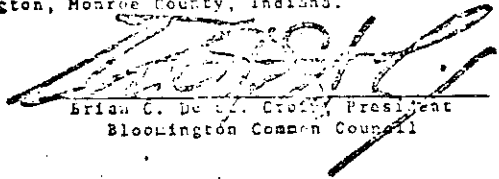
(vacant seat)

WHEREAS, it is the public policy of the City of Bloomington, Indiana, to provide equal employment opportunity to all individuals regardless of race, religion, color, sex, national origin and ancestry, and

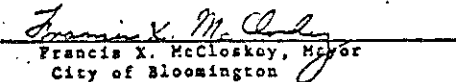
WHEREAS, it is the public policy of the City of Bloomington, Indiana, to provide for such equal employment opportunity with regard to the expenditure of public monies,

NOW, THEREFORE BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, INDIANA, that the Common Council hereby approves the Official Contract Compliance Regulations of the Bloomington Human Rights Commission, as passed by a majority of that Commission at a public hearing on March 13, 1975.

Passed and adopted this 4 day of September 1975 by the Common Council of the City of Bloomington, Monroe County, Indiana.

  
 Brian C. DeLoe, President  
 Bloomington Common Council

Passed this 11 day of September 1975 by the Mayor.

  
 Francis X. McCloskey, Mayor  
 City of Bloomington

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RULE 1  
DEFINITIONS

(5) Section 1.1 Definitions

When used in these regulations, unless the context clearly requires otherwise, the following terms shall have meaning as indicated:

- (A) The term "City contract" shall mean any contract in which the City of Bloomington, Indiana, or one of its agencies, commissions, boards, departments, units, branches or subdivisions, is a party.
- (B) The term "Contract Compliance Officer" shall mean a person employed by the City of Bloomington, who is responsible to the Bloomington Human Rights Commission for duties described in these regulations and who shall exercise the authority of the Bloomington Human Rights Commission as specified in these regulations.
- (C) The term "contractor" shall mean any other party to a City contract besides the City of Bloomington, Indiana, or one of its agencies, commissions, boards, units, departments, branches or subdivisions.
- (D) The term "affirmative action" shall include, but not be limited to the issuance of a statement of policy regarding equal employment opportunity and its communication to all personnel involved in recruitment, hiring, training, assignment and promotion; active efforts to review the qualifications of all applicants regardless of race, religion, color, sex, national origin or ancestry; recruiting, hiring, training, upgrading and the like, regardless of race, religion, color, sex, national origin and ancestry.

- (E) The term "Contract Compliance Committee" shall mean a standing committee composed of three or more current members of the Bloomington Human Rights Commission, who shall be appointed to said Committee by the Chairman of the Bloomington Human Rights Commission with the approval of a majority of the Commission. This Committee may take official action pursuant to these regulations by a simple majority vote of a quorum of said Committee, and such action shall represent in law a final determination on behalf of the Bloomington Human Rights Commission.

§1.2 Words Not Defined

Words appearing in these regulations which are not defined by these regulations but are defined by the Official Rules and Regulations of the Bloomington Human Rights Commission or the Bloomington Human Rights Ordinance, shall have the meaning as defined in that Ordinance or those rules unless the context clearly requires otherwise.

RULE 2  
COVERAGE

§2.1 Exemptions

(A) Dollar Amount Limitation

Only those City contracts for goods or services in excess of a value of (\$10,000) ten thousand dollars shall be covered by the provisions of these regulations and Chapter 2.60.050 of the Bloomington Municipal Code.

(B) Federal Funding Irrelevant To Coverage

The fact that federal funds are used to pay all or any part of the City's obligation under any City contract shall be of no consideration in determining

coverage of these regulations and Chapter 2.60.050 of the Bloomington Municipal Code.

## §2.2 Application of These Regulations

These regulations govern all proceedings by the Bloomington Human Rights Commission under Chapter 2.60.050 of the Bloomington Municipal Code.

### RULE 3

#### EQUAL OPPORTUNITY CONTRACT PROVISION

## §3.1 Equal Opportunity Contract Provision Required

### (A) When Required

In all City contracts covered by §2.1(A) of these regulations, there must be a contractual provision, entitled "Equal Opportunity," which provision shall be binding upon all parties who sign such contracts. Provided that all parties shall have notice of said provision prior to signing any City contract which binds them to said provision.

### (B) Language Required

All provisions of City contracts which are entitled "Equal Opportunity" shall consist of at least the following language, without modification of any kind, to wit:

- (a) (The Contractor or contractors) promise(s) to take affirmative action to insure that applicants are employed and that employees are treated during employment in a manner which provides equal employment opportunity and tends to eliminate inequality based upon race, religion, color, sex, national origin or ancestry. The meaning of the term "affirmative action" as used in this provision shall include, but not be limited to the issuance of a statement of policy regarding equal employment opportunity and its communication to all personnel involved in recruitment, hiring, training, assignment and promotion; active efforts to review the qualifications of all applicants regardless of race, religion, color, sex, national origin or ancestry; recruiting, hiring, training, upgrading and the like, regardless of race, religion, color, sex, national origin or ancestry.

- (b) (The contractor or contractors) promise(s) to make good faith effort(s) to comply with the provisions and goals of the affirmative action plan submitted to and approved by the Bloomington Human Rights Commission. Such good faith effort(s) shall include but not be limited to making records, documents and all other written material relevant to said compliance efforts reasonably available for inspection and duplication by Commissioners or agents of the Bloomington Human Rights Commission, by providing for on-site inspection of any work being done pursuant to this contract by Commissioners or agents of the Bloomington Human Rights Commission, and conforming to all of the processes required by the Contract Compliance Regulations of the Bloomington Human Rights Commission.

- (c) (The contractor's or contractors') breach of either (a) or (b) of the above provision shall be a material breach of the contract, for which the (City of Bloomington, Indiana, or one of its agencies, commissions, boards, departments, units, branches or subdivisions) shall be entitled, at its option: (1) to cancel, terminate, or suspend the contract in whole or in part; (2) to declare (the contractor or contractors) ineligible for future contracts with the City of Bloomington, Indiana, or any of its agencies, commissions, boards, departments, units, branches or subdivisions, for a period of (time); (3) to recover liquidated damages in the amount of (a specified sum of money).

### (C) Federal Language Required

All provisions of City contracts which are entitled "Equal Opportunity" may also contain additional terms required by the government of the United States or any agency or department of that government.

### RULE 4

#### AFFIRMATIVE ACTION PLANS

## §4.1 Prior to Award of Contract

### (A) Notice of Requirements

For every City contract reasonably expected to be covered under §2.1(A) of these regulations, there shall be notice given to bidders that an acceptable bid must include an affirmative action plan, and that the Contract Compliance Officer shall be available to answer questions about and assist in the formulation of an affirmative action plan, and such notice shall include the name, address and telephone number of the



Contract Compliance Officer. Such notice shall appear each and every time and in the same place and manner in which a notice for an opportunity to bid on the City contract appears.

(B) Submission of Plans

All those persons who bid on City contracts reasonably expected to be covered by §2.1(A) of these regulations shall be required to submit, along with their bid and prior to the end of the bidding time limit, an affirmative action plan describing in detail the good faith efforts they intend to make, as well as the efforts they have already made, to comply with the "Equal Opportunity" provision of the contract, including but not limited to affirmative action and goals and timetables regarding any future affirmative action.

(C) Review of Plans

The Contract Compliance Officer shall inspect all of the affirmative action plans submitted under §4.1(B) of these regulations and make a determination as to the acceptability or unacceptability of said plans. If the Contract Compliance Officer finds said plans to be acceptable, he or she shall cause such finding to be made in writing and to be submitted to the Mayor of the City of Bloomington. Such findings of acceptability shall have the same force and effect in law as a finding of acceptability by the Bloomington Human Rights Commission, without the need for any further processing by the Commission. The Contract Compliance Officer may also submit a written statement to the Mayor, as to which of any of the acceptable affirmative action plans is superior to the others, along with the reasons for the superiority. If the Contract Compliance Officer finds any plan submitted to be unacceptable, he or

she shall make this finding in writing, stating the reason(s) why the plan is unacceptable, and cause such finding to be presented to the Contract Compliance Committee. The Contract Compliance Committee shall consider the finding of unacceptability made by the Contract Compliance Officer and shall either;

- (1) Approve said finding in writing and inform the Mayor of the City of Bloomington of the findings of both the Contract Compliance Officer and the Contract Compliance Committee on behalf of the Bloomington Human Rights Commission. A copy of said findings shall also be sent to the contractor who submitted the unacceptable affirmative action plan, by certified mail, along with a notice as to said contractor's right to appeal, as stated in §5.3(A) of these regulations.
- (2) Overrule said finding in writing and inform the Mayor of the City of Bloomington that said plan is found acceptable by the Bloomington Human Rights Commission.

(D) Criteria for Review

The Contract Compliance Officer and the Contract Compliance Committee, in making acceptable or unacceptable findings for the Bloomington Human Rights Commission pursuant to their duties under §4.1(C) of these regulations, shall consider the following factors in evaluating the plans submitted under §4.1(B) of these regulations:

- (1) Was the plan submitted in accordance with these regulations? [See §4.1(A) and §4.1(B)].
- (2) What is the past performance of the bidder regarding his living up to or failure to live up to his obligations as a contractor in a City contract covered by these regulations?
- (3) Any and all past or current affirmative action taken by the bidder which is stated in the body of the plan.
- (4) Any and all future affirmative action promised in the body of the plan, but only if such promised affirmative action is accompanied by projected goals and timetables for implementation.

The Contract Compliance Officer and Contract Compliance Committee, in determining the acceptability or unacceptability of an affirmative action plan, may not require that a bidder take affirmative action

measures which are not similar to those measures which the City of Bloomington is required to take in its affirmative action with regard to its own employees, as established by the Mayor's Office and as specified by resolution of the Common Council of the City of Bloomington, in order for the bidder to have an acceptable affirmative action program.

(E) Violations

The City of Bloomington and any of its agencies, commissions, boards, departments, units, branches or subdivisions, shall not enter into or be a party to any City contract covered under §2.1(A) of these regulations until the following two conditions are met; (1) The bidder or bidders have submitted their affirmative action plans to the Contract Compliance Officer, in accordance with the provisions of these regulations and, (2) The Contract Compliance Officer or the Contract Compliance Committee, has notified the Mayor of the City of Bloomington, in accordance with the provisions of these regulations, that the bidder or bidders chosen as contractor or contractors have submitted acceptable affirmative action plans. The entering into or becoming a party to a City contract covered by §2.1(A) of these regulations, by the City of Bloomington or one of its agencies, commissions, boards, departments, units, branches or subdivisions, with a contractor who has not submitted an affirmative action plan to the Contract Compliance Officer, in accordance with these regulations, or with a contractor whose affirmative action plan is found unacceptable by the Contract Compliance Officer and the Contract Compliance Committee on behalf of the Bloomington Human Rights Commission, in accordance with these regulations, shall constitute violations of Chapter

2.60.050 of the Bloomington Municipal Code. The entering into or becoming a party to a City contract covered by §2.1(A) of these regulations, by the City of Bloomington or one of its agencies, commissions, boards, departments, units, branches or subdivisions, with a contractor whose affirmative action plan has not yet been found acceptable by the Contract Compliance Officer or the Contract Compliance Committee, in accordance with these regulations, shall constitute a violation of Chapter 2.60.050 of the Bloomington Municipal Code. The entering into or becoming a party to a City contract covered by §2.1(A) of these regulations by the City of Bloomington or any of its agencies, commissions, boards, departments, units, branches or subdivisions, with a contractor who has failed to pledge compliance with an "Equal Opportunity" provision of said City contract, as outlined in exact detail in §3.1(B) of these regulations, shall constitute a violation of Chapter 2.60.050 of the Bloomington Municipal Code. Any violation of Chapter 2.60.050 of the Bloomington Municipal Code shall cause a City contract to become null and void.

(F) Enforcement of Violations

The Bloomington Human Rights Commission, by a vote of a simple majority of a quorum of Commission members, may order its Director to seek injunctive relief in a Circuit or Superior Court of Monroe County against the City of Bloomington and any party to a City contract which is in violation of these regulations. Such relief may include, but not be limited to, asking the Court to void the contract and to order the re-bidding of the contract in conformity with these regulations and Chapter 2.60.050 of the Bloomington Municipal Code.

§4.2 Subsequent to Award of Contract

(A) Pre-Signature Conference

Prior to signing a City contract covered under §2.1(A) of these regulations, the contractor who is the successful bidder, and whose affirmative action plan has been found acceptable by the Contract Compliance Officer or the Contract Compliance Committee, in accordance with these regulations, shall be required to meet with the Contract Compliance Officer. At such a meeting the Contract Compliance Officer shall provide to the contractor who is the successful bidder, a copy of these regulations and a copy of the "Equal Opportunity" provision contained in the City contract which said contractor will be signing. The Contract Compliance Officer will, at that time, be available for any questions regarding said contractor's rights and responsibilities under these regulations and the "Equal Opportunity" provision of the City contract.

(B) Review by Contract Compliance Officer

After a City contract covered under §2.1(A) of these regulations has been awarded, the Contract Compliance Officer and other agents as may be necessary and appropriate shall be authorized by the Bloomington Human Rights Commission to review the contractor's or contractors' compliance with the "Equal Opportunity" provision of the contract, in accordance with the terms of said provision. Should the Contract Compliance Officer, in the course of such review, have reasonable suspicion to believe that the contractor is not making a good faith effort to comply with the affirmative action plan submitted with the bid or that the contractor is not complying with any other term of the "Equal Opportunity" provision, he or she shall make such charge known, with informal but written specifications, to the Contract Compliance Committee.

(C) Review by the Contract Compliance Committee

The Contract Compliance Committee shall review all charges made known to them by the Contract Compliance Officer under §4.2(B) of these regulations. Such review shall include, but not be limited to, the written specifications of the Contract Compliance Officer. The Contract Compliance Committee shall make a written finding that the contractor is or is not in full compliance with all of the terms of the "Equal Opportunity" provision of the City contract. For purposes of making this determination, the Contract Compliance Committee shall hold a public hearing in which the Director of the Bloomington Human Rights Commission, the Contract Compliance Officer and the contractors involved or their representatives may testify and submit written arguments and documents to the Commission or a designated committee thereof. The contractor shall be notified by certified mail at least three days in advance of this hearing as to the date, time, place and subject matter of the hearing. The contractor's failure to attend such a hearing in person or by counsel shall automatically result in a finding by the Contract Compliance Committee that the contractor is not complying with the "Equal Opportunity" provision in the City contract.

(D) The Committee Finding

When the Contract Compliance Committee has reached a decision after a public hearing held pursuant to §4.2(C) of these regulations, they shall submit their finding in writing to the Mayor of the City of Bloomington, Indiana, and shall send a copy of said finding to the contractor and the counsel of said contractor, if any, by certified mail, and if said finding should be that the contractor has failed to make a good faith effort to comply with the

affirmative action plan submitted with the bid or that the contractor is not complying with any other term of the "Equal Opportunity" provision in a City contract, they shall include along with said finding a notice to the Mayor and the City Attorney of the City of Bloomington, and the contractor and his counsel, if any, that the Committee believes that the City may exercise its option to:

(1) Cancel, terminate or suspend the contract in whole or in part; (2) Declare the contractor or contractors ineligible for future contracts with the City of Bloomington for a specified period of time; (3) Recover liquidated damages in the amount of (a specified sum of money). A notice of the contractor's right to appeal said finding of non-compliance pursuant to §5.3(A) of these regulations shall also be included in the material sent to the persons who are to receive said findings.

**(E) Other Commission Action**

Should the Contract Compliance Officer, in the course of reviewing the contractor's or contractors' compliance with the "Equal Opportunity" provision of any contract covered under §2.1(A) of these regulations, discover a potential violation of the public policy as expressed in Chapter 2.60 of the Bloomington Municipal Code, he or she shall bring such matter to the attention of the Director of the Bloomington Human Rights Commission, and the Director, should he or she have a reasonable suspicion to believe that the public policy expressed in Chapter 2.60 of the Bloomington Municipal Code is being violated, shall have the power to initiate a complaint on behalf of the Commission, which complaint shall be processed in conformity with the Official Rules and Regulations of the Bloomington Human Rights Commission and Chapter 2.60 of the Bloomington Municipal Code.

**RULE 5  
GENERAL INFORMATION**

**§5.1 Adoption and Amendment**

**(A) When Effective**

These regulations shall be adopted by a simple majority of the Bloomington Human Rights Commission at a public hearing, and amendments thereto must be adopted by a simple majority of the Commission at a public hearing. These regulations and any amendments thereto become effective when adopted by a simple majority of the Bloomington Human Rights Commission at a public hearing and approved by resolution of the Common Council of the City of Bloomington.

**(B) Authority**

These regulations are adopted and promulgated pursuant to the authority as set forth in Chapter 2.60.070 of the Bloomington Municipal Code and Chapter 2.60.050 of the Bloomington Municipal Code.

**(C) Availability**

Copies of these regulations shall be available to the public at the Commission's Office in reasonable quantity.

**§5.2 Construction and Partial Invalidity**

**(A) How to Construe**

These regulations shall be liberally construed to accomplish the purposes of Chapter 2.60.050 of the Bloomington Municipal Code.

**(B) Partial Invalidity**

If any provision of these regulations or the application of a provision to any person or circumstance shall be held invalid, the remainder of these regulations or

the application of a provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

### §5.3 Judicial Review

#### (A) Who May Seek Review

Any party to a City contract covered by these regulations who is aggrieved by a determination made by the Commission shall be entitled to judicial review of such determination, if a petition for such review is filed in Circuit or Superior Court of Monroe County, Indiana, within fifteen (15) days of the receipt of the notice of such determination by the aggrieved party.

### §5.4 Non-Applicability

#### (A) When These Regulations Do Not Apply

These regulations shall not apply to City contracts which are monitored for non-discrimination pursuant to the regulations of the U.S. Department of Housing and Urban Development, under Title I of the Housing and Community Development Act of 1974 (Pub. L. 93-383). Provided that the terms of this section shall be the exclusive exception to §2.1(B) of these regulations.