



City Council Meeting

Agenda

680 Park Avenue
Idaho Falls, ID 83402

Thursday, February 10, 2022

7:30 PM

City Council Chambers

While Coronavirus (COVID-19) is still a public health risk, the City will follow Eastern Idaho Public Health (EIPH) recommendations. EIPH currently recommends observance of The Centers for Disease Control and Prevention (CDC) guidelines.

Welcome.

City Council Meetings are open to any member of the public. All are welcome to observe (either in person or via the City's website livestream). Note that not all agenda items include the opportunity for public comment. Also, please be aware that amendments to this agenda may be made by Council during the meeting upon passage of a motion that states a good faith reason why the desired change was not included in the original agenda posting. To participate personally, we ask you to follow these City guidelines.

Regularly scheduled Council meetings are live-streamed and archived on the City website (idahofalls.gov). If communication aids, services, or other physical accommodations are needed to facilitate participation or access for this meeting, please contact City Clerk Kathy Hampton at 208-612-8414 or ADA Coordinator Lisa Farris at 208-612-8323. They can help accommodate special needs.

1. **Call to Order.**
2. **Pledge of Allegiance.**
3. **Consent Agenda.**

Any item may be removed from the Consent Agenda at the request of any member of the Council for separate consideration.

A. **Municipal Services**

- 1) **Treasurer's Report for December 2021** **21-389**

A monthly Treasurer's Report is required pursuant to Resolution 2018-06 for City Council review and approval. For the month-ending December 2021, total cash, and investments total \$122.2M. Total receipts received and reconciled to the general ledger were reported at \$16.7M, which includes revenues of \$15.7M and interdepartmental transfers of \$1M. Total disbursements reconciled to the general ledger were reported at \$18.7M, which includes salary and benefits of \$6.2M, operating costs of \$11.5M and interdepartmental transfers of \$1M. As reported in the investment report, the total investments reconciled to the general ledger were reported at \$113.1M.

Attachments: MS_December 2021 Treasurer's Report.pdf

- 2) **Quote, Software and License Renewal for Information Technology** **21-390**

This purchase renews software and licenses for the city's use of Artic Wolf software and professional services to monitor network traffic. The quote includes access to the Artic Wolf managed risk platform to monitor network vulnerabilities.

Attachments: MS_VLCM Artic Wolf Quote for Municipal Services.pdf

3) Minutes from Council Meetings 21-399

January 24, 2022 City Council Work Session and Executive Session; January 27, 2022 City Council Meeting; and January 27, 2022 Special Meeting-Executive Session

Attachments: 20220124 Work Session and Executive Session - Unapproved.pdf
20220127 Council Meeting - Unapproved.pdf
20220127 Executive Session - Unapproved.pdf

4) License Applications, all carrying the required approvals***Recommended Action:***

Approve, accept, or receive all items on the Consent Agenda according to the recommendations presented (or take other action deemed appropriate).

4. Regular Agenda.**A. Municipal Services****1) Quotes IF-22-17 and IF-22-18, Cayenta Customer Information System (Utility Billing) Upgrade 21-391**

The city implemented the Cayenta Customer Information System (Utility Billing) October 1, 2016, with 2012 Microsoft Structure Query Language (SQL) servers. The 2012 version of SQL will no longer be supported beyond July 2022 and IT staff recommends the city transition to the 2019 version of SQL to maintain Microsoft support through January 2030. The first task of the proposed CIS upgrade is the update the city's SQL servers from 2012 to 2019.

The second task will upgrade the CIS system from version 7.9.0 to 9.1 and provide the city an opportunity to build upon the improved customer information platform configured within version 9.1, including options for future add-on enhanced customer convenience modules including pre-pay and time-of-use. The city's field operations team consisting of representatives familiar with the Cayenta system from Municipal Services, Idaho Falls Power and Public Works tested a demo of the 9.1 version and evaluated the benefits to upgrading to version 9.1 in conjunction with the SQL server upgrade. The evaluation process also included contacting organizations that have completed or in the process of completing the CIS upgrade to version 9.1. The consensus of the field operations team is to upgrade to Cayenta's version 9.1.

The quote from Cayenta for \$105,820 is provide support and technical assistance to upgrade and migrate version 9.1 to the city's 2019 SQL servers. The quote from BDM Squared is for project management consulting services. BDM Squared was recommended by one of the entities city staff interviewed as a Cayenta reference. The field operations team evaluated the benefits of outsourcing project management services, and the consensus of the team was outsourcing project management services to an experienced consultant would allow the team to focus on system testing and implementation.

Recommended Action:

Accept and approve the quotes received from Cayenta, a Division of N. Harris Computer Corporation for \$105,820 and BDM Squared Professional Services for \$63,875 for a combined total of \$169,695 or take other action deemed appropriate.

Attachments: MS_Idaho Falls - Cayenta v9 Upgrade - Jan 26 2022 update.pdf
MS_Cayenta CIS Upgrade to V9 Scope of Work.pdf
MS_BDM2_CIF_Cayenta Upgrade Proposal-Best and Final.pdf

B. Idaho Falls Power

- 1) Pole Attachment License Agreement Renewal with Cable One Inc. dba Sparklight **21-398**

This reciprocal License Agreement will govern attachments on poles owned by the other entity. The agreement establishes rules for work coordination between the two entities, sets requirements for make-ready work and establishes fees associated with pole attachments. This supersedes the 2005 agreement with Cable One, Inc.

Recommended Action:

Approve this renewal agreement with Sparklight, a Delaware corporation, and give authorization for the Mayor and City Clerk to execute the necessary documents (or take other action deemed appropriate).

Attachments: 2022 IFP-Sparklight Pole License Agmnt final f.pdf

C. Police Department

- 1) Police Personnel Manual Updates **21-374**

These changes were proposed to make possible a new patrol schedule and to facilitate the training of new employees. The City Council reviewed these updates on Monday December 6 during a work session. All IFPD employees were sent notice of these changes on Tuesday December 7 starting the 30-day review period. Two general meetings were conducted at IFPD where all employees were invited to talk about the changes and give input. All police officer briefings were attended by either myself or one of the Captains to talk with Officers about the proposed changes. A meeting was held with the FOP leadership to talk about the proposed changes as well. The FOP leadership sent a letter outlining some concerns. I responded with a letter outlining why, in my opinion, the concerns were already resolved through the Police Personnel Manual (PPM) language or they were a management decision. In subsequent conversation with the FOP leadership and with most employees of the Department those concerns appear to have been resolved. The 30-day review/comment period has now passed and the Council may now approve the updates to the PPM.

Recommended Action:

To approve the resolution updating the Police Personnel Manual and give authorization for the Mayor and City Clerk to execute the documents (or take other action deemed appropriate).

Attachments: Police Policy Manual Resolution 2022.pdf
Police Personnel Manual (1.31.22 clean).pdf
Police Personnel Manual (1.31.22).pdf

5. Announcements.

6. Adjournment.

Memorandum

File #: 21-389

City Council Meeting

FROM: Josh Roos, City Treasurer
DATE: Monday, January 31, 2022
DEPARTMENT: Municipal Services

Subject

Treasurer's Report for December 2021

Council Action Desired

- ☐ Ordinance
 ☐ Resolution
 ☐ Public Hearing
☒ Other Action (Approval, Authorization, Ratification, etc.)

Accept and approve the Treasurer's Report for the month-ending December 2021 or take other action deemed appropriate.

Description, Background Information & Purpose

A monthly Treasurer's Report is required pursuant to Resolution 2018-06 for City Council review and approval. For the month-ending December 2021, total cash, and investments total \$122.2M. Total receipts received and reconciled to the general ledger were reported at \$16.7M, which includes revenues of \$15.7M and interdepartmental transfers of \$1M. Total disbursements reconciled to the general ledger were reported at \$18.7M, which includes salary and benefits of \$6.2M, operating costs of \$11.5M and interdepartmental transfers of \$1M. As reported in the investment report, the total investments reconciled to the general ledger were reported at \$113.1M.

Alignment with City & Department Planning Objectives



The monthly Treasurer's Report supports the good governance community-oriented result by providing sound fiscal management and enable trust and transparency.

Interdepartmental Coordination

Not applicable.

Fiscal Impact

Not applicable.

Legal Review

Not applicable.

Total Fund Cash & Investment

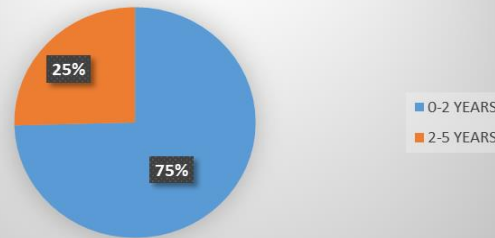
- *General Fund
 - \$5,285,358.50 is designated for ARPA funding
 - \$1,050,000.00 is designated for snow removal
 - \$1,702,760.23 is designated for reserves
- *Golf & Fiber Fund
 - Transfers will be done this next period that will increase the fund amounts.

FUND	BEGINNING CASH & INVESTMENTS	Interest Earned	TOTAL RECEIPTS	TOTAL DISBURSEMENTS	ENDING BALANCE CASH & INVESTMENTS
GENERAL *	\$13,304,673.82	\$16,707.88	\$3,264,001.93	\$5,140,063.52	\$11,428,612.23
STREET	\$3,314,485.16	\$3,864.16	\$124,055.40	\$796,740.71	\$2,641,799.85
RECREATION	\$854,361.92	\$996.05	\$103,905.91	\$245,196.68	\$713,071.15
LIBRARY	\$3,649,797.27	\$4,255.08	\$84,724.24	\$355,501.29	\$3,379,020.22
AIRPORT PFC FUND	\$734,598.03	\$856.42	\$104,157.54	\$1,003.65	\$837,751.92
MUNICIPAL EQUIP. REPLCMT.	\$4,592,460.44	\$5,354.07	\$2,071,111.98	\$6,274.49	\$6,657,297.93
EL. LT. WEATHERIZATION FD	\$3,652,119.23	\$4,257.79	\$156,496.11	\$9,732.03	\$3,798,883.31
BUSINESS IMPRV. DISTRICT	\$83,009.03	\$96.78	\$433.84	\$113.41	\$83,329.46
GOLF	(\$294,271.08)	(\$343.07)	\$120,144.24	\$244,531.23	(\$418,658.07)
SELF-INSURANCE FD.	\$3,343,604.86	\$4,014.69	\$190,940.54	\$63,861.45	\$3,470,683.95
HEALTH & ACCIDENT INSUR.	\$4,630,064.04	\$6,034.84	\$16,534.59	\$6,325.86	\$4,640,272.77
EMERGENCY MEDICAL SERVICES	(\$681,878.03)	(\$794.96)	\$616,888.29	\$599,909.71	(\$664,899.45)
WILDLAND	\$870,166.20	\$1,014.47	\$6,232.48	\$33,882.42	\$842,516.26
MUNICIPAL CAPITAL IMP.	\$2,255,477.76	\$2,629.53	\$22,872.39	\$108,472.96	\$2,169,877.19
STREET CAPITAL IMPROVEMENT	\$865,716.67	\$1,009.29	\$43,568.75	\$1,242.79	\$908,042.63
BRIDGE & ARTERIAL STREET	\$835,302.23	\$973.83	\$9,596.53	\$7,101.24	\$837,797.52
SURFACE DRAINAGE	\$185,361.40	\$216.10	\$5,988.69	\$1,869.87	\$189,480.22
TRAFFIC LIGHT CAPITAL IMPRV.	\$1,295,578.11	\$1,510.44	\$31,295.88	\$22,692.39	\$1,304,181.60
PARKS CAPITAL IMPROVEMENT	(\$186,118.04)	(\$216.98)	\$0.00	\$76,695.53	(\$262,813.57)
ZOO CAPITAL IMPROVEMENT	\$416,692.34	\$485.80	\$1,966.07	\$20,961.03	\$397,697.38
CIVIC AUDITORIUM CAPITAL IMP.	\$204,706.07	\$238.65	\$731.03	\$279.68	\$205,157.42
GOLF CAPITAL IMP. *	(\$1,412,674.47)	(\$1,646.95)	\$12,283.99	\$56,679.37	(\$1,457,069.85)
POLICE CAPITAL IMPROVEMENT	(\$1,659,585.07)	(\$1,934.81)	\$0.00	\$1,934.81	(\$1,661,519.88)
AIRPORT	\$1,153,517.64	\$707.89	\$616,704.69	\$1,199,169.60	\$571,052.73
WATER	\$16,428,371.83	\$19,152.85	\$1,394,732.54	\$547,196.29	\$17,275,908.08
SANITATION	\$5,688,189.55	\$6,631.52	\$528,815.36	\$466,005.15	\$5,750,999.76
IDAHO FALLS POWER	\$32,929,018.94	\$37,361.92	\$5,689,382.51	\$6,463,908.00	\$32,154,493.45
FIBER*	(\$1,281,360.87)	(\$1,493.86)	\$167,717.59	\$1,153,713.96	(\$2,267,357.24)
WASTEWATER	\$28,368,967.01	\$33,073.68	\$1,350,330.46	\$1,067,046.33	\$28,652,251.14
TOTAL ALL FUNDS	\$124,140,351.99	\$145,013.10	\$16,735,613.57	\$18,698,105.45	\$122,177,860.11

December 2021 Investments Maturity

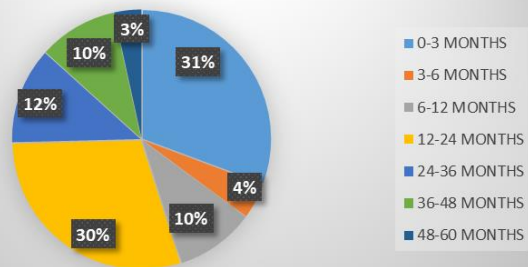
MONTH	AMOUNT	%
0-3 MONTHS	\$34,690,800.15	30.67%
3-6 MONTHS	\$5,017,900.85	4.44%
6-12 MONTHS	\$11,219,938.75	9.92%
12-24 MONTHS	\$33,464,486.14	29.58%
24-36 MONTHS	\$13,655,078.90	12.07%
36-48 MONTHS	\$11,186,439.72	9.89%
48-60 MONTHS	\$3,891,522.96	3.44%
Total	\$113,126,167.47	100.00%

Years to Maturity

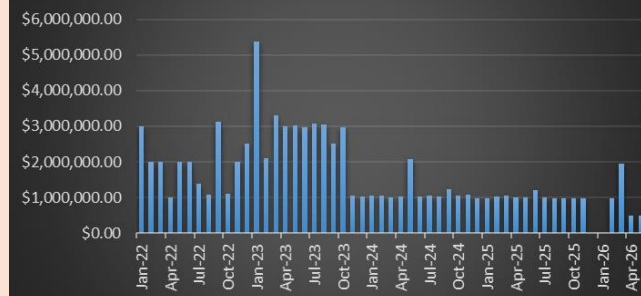


- COIF Investment Policy states that no more than 25 percent of the portfolio may be invested beyond 24 months.

Months to Maturity



Cash Flow



- Currently the City is at 25 percent of the portfolio is invested beyond 24 months.

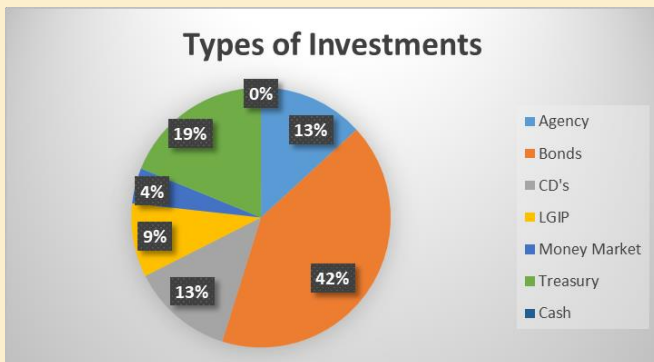
December 2021 Types of Investments

TYPE	AMOUNT	%
Agency	\$14,918,230.10	13%
Bonds	\$47,105,217.92	42%
CD's	\$14,411,087.90	13%
LGIP	\$10,372,970.94	9%
Money Market	\$5,005,649.61	4%
Treasury	\$21,279,330.50	19%
Cash	\$33,680.50	0.03%
Total	\$113,126,167.47	100.00%

BROKER	AMOUNT	%
LPL	\$259,437	0.23%
LGIP	\$10,372,971	9.17%
Wells Fargo	\$77,661,298.95	68.65%
DA Davidson	\$529,223.43	0.47%
WAFED	\$5,266,512.92	4.66%
Lookout CU	\$274,736.72	0.24%
Key Bank	\$5,653,614.02	5.00%
Idaaho Central CU	\$4,414,202	3.90%
Bank of Idaho	\$6,631,039	5.86%
Bank of Commerce	\$2,063,132	1.82%
Total	\$113,126,167.47	100.00%

- COIF Investment Policy states that no more than 50% of the portfolio may be invested in one type of security.

- Total Cash & Investment December 2021: \$122M
- City Investment Portfolio December 2021: \$113M



- Total Cash & Investment December 2020: \$123
- City Investment Portfolio December 2020: \$114M

Memorandum

File #: 21-390

City Council Meeting

FROM: Pam Alexander, Municipal Services Director
DATE: Monday, January 31, 2022
DEPARTMENT: Municipal Services

Subject

Quote, Software and License Renewal for Information Technology

Council Action Desired

- ☐ Ordinance ☐ Resolution ☐ Public Hearing
☒ Other Action (Approval, Authorization, Ratification, etc.)

Approve the quote from VLCM for a total of \$91,895.58 or take other action deemed appropriate.

Description, Background Information & Purpose

This purchase renews software and licenses for the city's use of Artic Wolf software and professional services to monitor network traffic. The quote includes access to the Artic Wolf managed risk platform to monitor network vulnerabilities.

Alignment with City & Department Planning Objectives



This purchase supports the good governance community-oriented result by protecting the city's information technology resources.

Interdepartmental Coordination

Review of the information technology plan has been conducted with all necessary city departments to ensure coordination of project activities.

Fiscal Impact

Funds for this purchase are budgeted in the 2021/22 Municipal Services Department, Information Technology budget.

Legal Review

The City Attorney concurs that the desired Council action is within state statute.



VLCM
852 E Arrowhead Ln
Salt Lake City, Utah 84107
United States
(P) 8012629277

Quotation (Open)

Date

Jan 20, 2022 11:11 AM MST

Modified Date

Jan 26, 2022 02:01 PM MST

Quote #

408735 - rev 1 of 1

Description

Arctic Wolf Renewal 2022

SalesRep

McArthur, Dorothy
(P) 8012629277

Customer Contact

Nilsson, Joseph
jnilsson@ci.idaho-falls.id.us

Customer

City of Idaho Falls (14113)
Nilsson, Joseph
308 Constitution
Idaho Falls, ID 83402
United States
(P) 208-612-8244
(F) 208-612-8103

Bill To

City of Idaho Falls
ACCOUNTS, PAYABLE
308 Constitution
Idaho Falls, ID 83402
United States
(P) 208-612-8244
(F) 208-612-8103

Ship To

City of Idaho Falls
ACCOUNTS, PAYABLE
308 Constitution
Idaho Falls, ID 83402
United States
(P) 208-612-8244
(F) 208-612-8103

#	Image	Description	Part #	Tax	Qty	Unit Price	Total
Annual Subscription Dates: 3/13/2022 - 3/12/2023							
1		Arctic Wolf MDR user license	AW-MDR-USER	Yes	350	\$104.95	\$36,732.50
2		Arctic Wolf MDR server license	AW-MDR-SE	Yes	150	\$66.65	\$9,997.50
3		Arctic Wolf 200 Series Sensor	AW-MDR-2XX-S	Yes	4	\$1,499.27	\$5,997.08
4		Arctic Wolf MDR Log Retention - 1 year	AW-MDR-1YR	Yes	500	\$8.33	\$4,165.00
5		Arctic Wolf MDR Office 365 user license	AW-MDR-O365	Yes	625	\$13.02	\$8,137.50
6		Arctic Wolf Managed Risk user license	AW-MR-USER	Yes	350	\$62.48	\$21,868.00
7		Arctic Wolf Managed Risk server license	AW-MR-SE	Yes	150	\$33.32	\$4,998.00
8		Arctic Wolf Platform	AW-PLATFORM	Yes	500	\$0.00	\$0.00

Expires 2/14/2022

Subtotal: \$91,895.58
Tax (.0000%): \$0.00
Shipping: \$0.00
Total: \$91,895.58

This proposal is subject to acceptance of VLCMs standard terms and conditions, which are available for review at www.vlcmtech.com/terms
VLCM may charge up to a 3% convenience fee for credit card transactions.

Memorandum

File #: 21-399

City Council Meeting

FROM: Kathy Hampton, City Clerk
DATE: Thursday, February 3, 2022
DEPARTMENT: Municipal Services

Subject

Minutes from Council Meetings

Council Action Desired

- ☐ Ordinance
 ☐ Resolution
 ☐ Public Hearing
☒ Other Action (Approval, Authorization, Ratification, etc.)

Approve the minutes as described below (or take other action deemed appropriate).

Description, Background Information & Purpose

January 24, 2022 City Council Work Session and Executive Session; January 27, 2022 City Council Meeting; and January 27, 2022 Special Meeting-Executive Session

Alignment with City & Department Planning Objectives



- ☐
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The minutes support the Good Governance community-oriented result by providing assurance of regulatory and policy compliance to minimize and mitigate risk.

Interdepartmental Coordination

N/A

Fiscal Impact

N/A

Legal Review

N/A

January 24, 2022 Council Work Session - Unapproved

The City Council of the City of Idaho Falls met in Council Work Session, Monday, January 24, 2022, in the Council Chambers in the City Annex Building located at 680 Park Avenue in Idaho Falls at 3:00 p.m.

Call to Order and Roll Call

There were present:

Mayor Rebecca L. Noah Casper
Council President Michelle Ziel-Dingman
Councilor John Radford
Councilor Thomas Hally
Councilor Jim Freeman (via WebEx)
Councilor Jim Francis
Councilor Lisa Burtenshaw (via WebEx)

Also present:

Rick Cloutier, Airport Director
Steve Laflin, Idaho Falls Airport Association (IFAA) (via WebEx)
Brad Cramer, Community Development Services Director
Duane Nelson, Fire Chief (via WebEx)
Eric Day, Division Fire Chief
Malory Johnson, Eastern Idaho Public Health Healthcare Education Specialist
Ryan Tew, Human Resources Director
Julie Combe, Human Resources Manager
Pamela Alexander, Municipal Services Director
Josh Roos, Treasurer
PJ Holm, Parks and Recreation Director
Michael Kirkham, Assistant City Attorney
Randy Fife, City Attorney
Kathy Hampton, City Clerk

Mayor Casper called the meeting to order at 3:03 p.m. with the following items:

Acceptance and/or receipt of minutes:

It was moved by Councilor Francis, seconded by Council President Dingman, that council receive the recommendations from the January 4, 2022 meeting of the Planning and Zoning (P&Z) Commission pursuant to the Local Land Use Planning Act (LLUPA). The motion carried with the following vote: Aye – Councilors Freeman, Francis, Hally, Radford, Burtenshaw, Dingman. Nay – none.

It was then moved by Councilor Radford, seconded by Councilor Francis, to add an agenda item to hold a vote to suspend public comment for a date certain in February. He believes discussion will occur in the next few weeks regarding public comment and he believes it would make sense to suspend the public comment until that time. Mayor Casper stated she intends to have a public comment discussion at the February 7 City Council Work Session. Following brief discussion, Councilor Radford amended the motion for a decision at the February 24 City Council Meeting. He stated the good faith reason is for timeliness. Councilor Francis seconded the amended motion. The motion carried with the following vote: Aye – Councilors Dingman, Burtenshaw, Radford, Hally, Francis, Freeman. Nay – none.

January 24, 2022 Council Work Session - Unapproved

Calendars, Announcements, Reports, and Updates:

January 24, City Council Work Session

January 26, Bonneville Metropolitan Planning Organization (BMPO) Policy Board

January 27, Idaho Falls Power (IFP) Board Meeting, and City Council Meeting

Mayor Casper noted there are miscellaneous calendar items for February including the Idaho Falls Police Department (IFPD) Annual Awards Banquet on February 11. She also noted Council President Dingman will be presiding at the January 27 City Council Meeting.

Association of Idaho Cities (AIC) –

Mayor Casper briefly reviewed the January 20, Officials Day at the Capitol. She also stated there is a fix for House Bill 389 regarding Urban Renewal Districts, noting valuation will not be part of the 8% growth cap. She indicated additional discussion will need to occur regarding property taxes. She briefly reviewed other discussion topics with the AIC. She noted AIC Academy Training will occur April 12.

Legislature –

Mayor Casper stated the city has contracted with Capstone Government Relations, this is the same lobbyist firm that is working for AIC. She also stated additional legislative issues include Emergency Medical Services (EMS) Supplementary payment, records retention, and definition of public records.

Community –

Mayor Casper stated the Department of Energy (DOE) has allocated \$62B in funds for community entities.

Liaison Reports and Councilmember Concerns:

Councilor Hally recommended the councilmembers read a recent Post Register article regarding tax policy. He also believes contingency funds may be important for any extra costs in the upcoming budget.

Councilor Radford stated councilmembers should review the IFP survey results for future discussion. He also shared comments regarding the tax policy.

Council President Dingman stated the preliminary passenger numbers for the Idaho Falls Regional Airport (IDA) are 26% higher than 2019 with approximately 90,000 more passengers. She believes the investment in new flights is paying off.

Councilor Francis stated the Sister Cities Adult Delegation is anticipating visiting Idaho Falls this summer, and the Youth Delegation is anticipating visiting Japan pending the Coronavirus (COVID-19) situation. He also stated the Sister Cities gifts are on exhibit at the library. Councilor Francis stated he recently met with School District 91 Superintendent Dr. James Shank to begin the liaison assignment.

Councilor Freeman had no items to report.

Councilor Burtenshaw had no items to report.

Mayor Casper announced Human Resources (HR) has hired Jim Jernigan as a new Safety Coordinator.

Airport/Discussion and Direction--Idaho Heritage Trust Grant:

Mayor Casper reminded the Council, per discussion at the December 21 Airport Leadership Workshop, the IFAA had applied for a grant for historic preservation for the previous Red Baron hangar, however, she indicated complications have come up regarding this grant. Director Cloutier stated the grant is a \$15,000 matching grant. He noted the grant does not clearly identify who is responsible for the match, and there were concerns as the grant recipient was not identified, although the Idaho Heritage Trust is listed in the grant. Mr. Fife clarified the recipient

January 24, 2022 Council Work Session - Unapproved

is the public. Director Cloutier believes the grant obligations conflict with Federal Aviation Administration (FAA) obligations/assurances. He briefly reviewed these conflicts. He noted IDA is the only airport in Idaho with a historic district. Mr. Fife explained Idaho Heritage Trust is a non-profit organization. Director Cloutier believes it's bad timing for this grant at this time. He also believes there should be a plan moving forward, including the IFAA, tenants, and other agencies, for the council to make a good, educated decision. Per Councilor Radford, Director Cloutier stated Aeromark provides a month-to-month lease for the Red Baron Hangar. Brief discussion followed regarding the Red Baron Hangar and a master plan for IDA. Per Mayor Casper, Director Cloutier stated a master plan discussion is occurring with the committee. Also per Mayor Casper, Mr. Laflin stated the IFAA believed they followed the correct steps for this grant and the plan for the Red Baron Hangar. He noted the Red Baron Hangar is listed in the historical national registry. He believes repair of the roof is the logical first step. He noted this would be the fourth grant for this building. He also believes this grant is considerably larger than the typical historical grant, and any future grants may not be accepted if this grant is not submitted. He briefly reviewed other previous grants received for the city. Council President Dingman believes additional discussion needs to occur with the IDA Board regarding the grant. Following additional explanation, Mr. Fife recommended this grant not be signed at this time. Mayor Casper expressed her appreciation to the IFAA for being proactive, and she is hopeful the master plan process will lend itself to partnership. Director Cloutier believes the FAA grant assurances are more important than the \$15,000 grant. He also clarified \$30,000 would have to be spent, from city money, in order to receive up to the \$15,000 grant funding. Mayor Casper confirmed the grant will not be signed at this time.

Community Development Services/Discussion: Comprehensive Plan Adoption and Area of Impact Concerns:

Director Cramer stated new features/changes to the Comprehensive (Comp) Plan must go to the P&Z. He also stated, due to the number of residential zoning requests in industrial areas, a housing language change has been included in the Comp Plan – *“Although the City’s goal is to increase and diversify the housing stock, there are places where residential is not an appropriate land use, even if the plan map may indicate that it could be. When considering requests for zones which allow housing, the city will consider issues recommended by the Department of Housing and Urban Development. These include a close examination of the site and surrounding land uses to identify environmental issues such as toxic sites, dumps, incinerators, hazardous materials, noise pollution, and other issues and land uses which may be incompatible with residential uses.”* Director Cramer stated the largest/main reason for delay of the approval of the Comp Plan is in regard to impact fees. He also stated, per State Statute, impact fees are required in Comp Plan amendments, although only a reference to impact fees is required, inclusion of impact fees in the Comp Plan does not mean the city has to adopt these fees. He explained these changes in the Capital Facilities Plan. He indicated the P&Z recommended approval of the Comp Plan which will be presented to City Council on February 10 for adoption. Director Cramer stated he believes county concerns included the city adopting a plan as well as wanting a review of the Area of Impact (AOI). He also believes a plan is in place per previous work/discussions with citizens. He noted there is a different process for areas outside of the city. Councilor Hally believes *‘and other issues and land uses which may be incompatible with residential uses’* is loose. Director Cramer stated the language is taken from Community Development Block Grant (CDBG) and Department of Housing and Urban Development (HUD). He noted *‘similar’* could be added to the language (*‘and other similar issues’*). Per Councilor Radford, Director Cramer agrees it makes sense to coordinate and collaborate with the county, he believes this will happen. He indicated he will be attending a county P&Z meeting in the near future. Mayor Casper reiterated approval of this item will be included on the February 10 City Council Meeting agenda. General comments followed.

Fire/Briefing: Overdose Harm Reduction Program:

Division Chief Day stated following discussion at the September 20, 2021 City Council Work Session regarding the Opioid Settlement, Health and Human Services (HSS) almost simultaneously announced their Overdose Harm

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Reduction Program. He indicated this is a 4-point plan – prevention, harm reduction, treatment, and support. He stated Ms. Johnson reached out to incorporate some of the programs. Division Chief Day stated the overdose rescue kit is a leave-behind rescue kit that would be supplied to non-fatal overdose situations. He also stated this program is completely independent of the opioid settlement, and this is no cost to the city. Division Chief Day explained the EMS response information, stating Ms. Johnson is able to track this information for hot spots in the community. He also stated Ms. Johnson is working with many entities to provide the access of Narcan to the public. Per Mayor Casper, Division Chief Day stated he will provide heat maps for distribution to the council. Also per Mayor Casper, Division Chief Day stated the policy was created from other agencies as well as HSS. He also stated this is one (1) component of addressing the opioid crisis, noting a lot of opioid overdoses are not from illicit drug use. He noted this kit will be available for accidental overdose or illegal drug use. Per Councilor Freeman, Ms. Johnson stated the Narcan expiration is approximately three (3) years. She noted the boxes of Narcan will be replaced as they are expiring. She described the contents of the bag. She also noted bags have been placed around the community. Per Councilor Radford, Ms. Johnson stated this will help with any type of opioid overdose. Council President Dingman expressed her appreciation for this proactive approach.

Human Resources/Discussion: Personnel Manual Changes:

Director Tew reviewed the following key changes:

-Definitions and Terms for “Work Week” and “Hours of Work”. Discussion followed regarding clarification of employees who perform work thirty-five or more hours. Due to no previous issues, this will be amended at a future time.

-XV. Flexible Work Schedule. Director Tew stated this was due to COVID. Mayor Casper believes this amendment may be needed for on-going arrangements, not just COVID-related issues. Per Councilor Burtenshaw, Director Tew believes XV.B.3.a. required some side bars. Councilor Burtenshaw believes approval/permission should be limited to the discretion of the director or the supervisor. Director Tew stated approval by the director is included in XV.B.4. Modifications will be made per additional discussion.

-XVII. Holidays. Director Tew stated Juneteenth has been added and the day after Thanksgiving will now be a holiday each year.

-XVIII. Vacations. Director Tew stated there had been an exception in the policy for certain cases if the director approves the request to go beyond the 240-hour maximum. He indicated this was useful during the initial phase of COVID, however, there have been no requests in the previous two (2) years. He also indicated this is problematic as the system does not allow for individual exceptions. Councilor Francis questioned if an adjustment should be made for vacations, noting he is unsure of the actual goal. Director Tew stated council previously requested a cut-off as vacation should be used as intended and not saved up. Per Mayor Casper, Director Tew stated any vacation hours beyond 240 are immediately lost/stopped in TimeClocks Plus (TCP). Discussion followed regarding the configuration of TCP. Councilor Francis believes an analysis needs to be performed regarding the vacation cap. Mayor Casper stated any future changes would not preclude the proposed amendments. Director Tew also stated vacation and sick leave cannot be used prior to being accrued.

-XXI. FMLA, XXIII Accident on Duty, and XXXVI. Drug Free Workplace. Director Tew briefly explained these sections. Mayor Casper stated these amendments will require a 30-day comment period for employees prior to approval. Director Tew stated all employees will be notified of the changes by email with mechanisms provided to those employees with no email.

Municipal Services/Quarterly Financial Presentation:

Mr. Roos briefly reviewed the Market Review stating the Fed's dropped the rates to zero (0) during COVID. He indicated three (3) different rate hikes are anticipated in the current year with three (3) additional rate hikes in 2023. He explained the Fed's New Dot Plot graph. He indicated this will help with savings and investments. Mr. Roos

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stated inflation rates have significantly increased this year which is the largest 12-month increase since 1982, and it is anticipated these rates will last into the middle of 2022. He also stated the unemployment rate has dropped to 3.9%, which is the lowest since February 2020. He noted the unemployment rate in Idaho is 2.6%. Mr. Roos reviewed the Treasury Yield. He noted these rates have been increasing, which is good for the city. He also noted the previous year was .145%, the current rate is just over 1%. He also reviewed city comparison to the local government investment pool. Mr. Roos reviewed and explained December 2021 Types of Investments, the brokers used for these investments, Cash and Investments, and December 2021 Investments Maturity. He stated the three (3) main objectives in the policy are safety, liquidity, and yield. Mr. Roos reviewed Cash Flow Report as compared to the previous year for City Cash and General Fund Cash. Mr. Roos reviewed the Treasurer's Report which will now include funds comments as well as interest earned/paid out. He explained General Fund which includes \$5.3M designated for the American Rescue Plan Act (ARPA) funding (received in May 2021, has not been spent yet), \$1M designated for snow removal (has not been transferred yet), \$1.7M designated for cash reserves, and a pending transfer to the Golf and Fiber Fund. He also briefly explained the Golf Fund, the EMS Fund, and the Police Facility Fund. Per Councilor Radford, Mr. Roos stated the \$1.7M reserves is due to previous year savings and the Coronavirus Aid, Relief, and Economic Security (CARES) Act money, and this is a new account. He also reviewed the Cash Flow Report (City Cash and General Fund Cash) for the previous two (2) years.

Director Alexander reviewed the following with general comments throughout:

First Quarter Ending December 31, 2021 - City-wide Revenue –

2021/2022 Budget = \$234,444,041

Actual (December 31) = \$39,594,929

Percentage Received = 17%

Director Alexander stated the property tax revenue will be received by month end, and the majority of Miscellaneous Revenue is for enterprise projects as well as grants.

First Quarter Ending December 31, 2021 - City-wide Actual Expenditures –

2021/2022 Budget = \$294,891,737

Actual (December 31) = \$65,628,251

Percentage Received = 22%

Director Alexander noted there will be larger salaries/wages and benefits in the months that have three (3) payroll periods. She also noted Miscellaneous Expense includes a variety of departments that have set aside money for projects that are not included in the expenditures categories.

Fiscal Year Ending December 31, 2021 - General Fund Revenue –

2021/2022 Budget = \$53,588,052

Actual (December 31) = \$6,201,099

Percentage Received = 12%

Director Alexander stated this was budgeted conservatively.

Fiscal Year Ending December 31, 2021 - General Fund Expenditures –

2021/2022 Budget = \$54,100,969

Actual (December 31) = \$12,652,389

Percentage Received = 23%

Director Alexander stated this includes encumbrances.

First Quarter – Highlights

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- External Audit
- Cayenta Customer Information System Upgrade

Parks and Recreation (P&R)/Briefing: Noise Park Use Agreements:

Director Holm presented the following with general comments throughout:

Types of Use Agreements managed by P&R:

- Joint Use Agreements (no cost to city)
- User Group Agreements (per game and per hour)
- Facility Rental Agreements (facility rental + \$1 per paid admission)
- Facility Lease Agreements (includes \$1 per paid admission)

Motocross Track at Idaho Falls Raceway –

Director Holm reminded the council of the 80+ supporters who appeared at the July 8, 2021 City Council Meeting expressing their desire to open the track. He stated several discussions have occurred with this group regarding an agreement. He explained ‘clubbing up’, stating this was the only option for the motocross community. He indicated the motocross community has ‘clubbed up’ and has created Idaho Falls Motocross Association (IFMA) as a 501(C)3 including a Board of Directors and by-laws. Director Holm stated he has been working with legal staff and IFMA to create a facility lease agreement that will work for both parties. He noted this agreement will be modeled to the Idaho Falls Stock Car Association agreement. He believes this will be a good agreement. He reviewed the proposed lease agreement which includes a 5-year term ending in February of 2027, \$1 per paid rider or spectator fee, IFMA parameters and responsibilities, and city responsibilities. Director Holm stated this item will be included on the January 27 City Council Meeting agenda for approval. Per Councilor Radford, Director Holm stated the city’s insurance will cover the facility, the IFMA must have insurance as a user group for their operations. Councilor Radford, Councilor Francis, and Council President Dingman expressed their appreciation for this effort. Director Holm stated BMX has also approached P&R for use at the Idaho Falls Raceway at Noise Park, although he indicated other property is being looked at for this user group.

Discussion: Connecting Us, Sustaining Progress (CUSP) Reports:

Mayor Casper stated per discussion with Councilor Francis, it was suggested a separate meeting be held for the CUSP reports. Councilor Radford suggested a doodle poll to determine a preferred time. Mayor Casper requested additional feedback from the council.

Amended Agenda Item - Public Comment:

Councilor Radford believes the suspension should be short-term and time specific which would allow the council time for discussion on how to conduct the forum around hearing from the public that is meaningful. It was determined the date certain for approval could be February 22. Per Mr. Fife, Councilor Radford clarified this is only specific to the general public comment portion of the agenda, this does not affect any public hearing requirements. It was then moved by Councilor Radford, seconded by Councilor Francis, to suspend public comment in the general public comment portion until February 22. The motion carried by the following vote: Aye – Councilors Burtenshaw, Francis, Hally, Radford, Dingman. Nay – Councilor Freeman.

It was then moved by Councilor Francis that council move into Executive Session (at 6:29 p.m.). The Executive Session is being called pursuant to the provisions of Idaho Code Section 74-206(1)(b) to consider the evaluation, dismissal or disciplining of, or to hear the complaints or charges brought against a public officer, employee, staff member or individual agent. The Executive Session will be held in the City Annex Conference Room. At the

January 24, 2022 Council Work Session - Unapproved

conclusion of the Executive Session, the Council will not reconvene into Council Work Session. Mayor Casper stated there was a request to stay in the Council Chambers to maintain the social distancing. Councilor Francis amended the motion to stay in the Council Chambers. The motion was seconded by Council President Dingman. The motion carried by the following vote: Aye – Councilors Dingman, Francis, Burtenshaw, Freeman. Nay – Councilors Radford, Hally.

The City Council of the City of Idaho Falls met in Executive Session, Monday, January 24, 2022 in the City Council Chambers in the City Annex Building located at 680 Park Avenue in Idaho Falls, Idaho at 6:30 p.m.

There were present:

Mayor Rebecca L. Noah Casper
Councilor Thomas Hally
Council President Michelle Ziel-Dingman
Councilor John Radford
Councilor Jim Francis
Councilor Lisa Burtenshaw (via WebEx)
Councilor Jim Freeman (via WebEx)

Also present:

Bud Cranor, Mayor's Office Chief of Staff (via WebEx)
Bryce Johnson, Police Chief (via WebEx)
Randy Fife, City Attorney
Ryan Tew, Human Resources Director
Michael Kirkham, Assistant City Attorney

The Executive Session was called pursuant to the provisions of Idaho Code Section 74-206(1)(b) to consider the evaluation, dismissal or disciplining of, or to hear the complaints or charges brought against a public officer, employee, staff member or individual agent.

There being no further business, the meeting adjourned at 7:11 p.m.

Kathy Hampton, City Clerk

Rebecca L. Noah Casper, Mayor



City Council Meeting

Minutes - Draft

680 Park Avenue
Idaho Falls, ID 83402

Thursday, January 27, 2022

7:30 PM

City Council Chambers

1. Call to Order.

Present: Council President Michelle Ziel-Dingman, Councilor John Radford, Councilor Jim Francis, and Councilor Lisa Burtenshaw

Absent: Mayor Rebecca L Noah Casper, and Councilor Thomas Hally

Via WebEx: Councilor Jim Freeman

2. Pledge of Allegiance.

Council President Dingman lead those present in the Pledge of Allegiance.

3. Consent Agenda.

A. Municipal Services

- 1)** Quote IF-22-012, Purchase Mower for Public Works
This purchase will replace unit #9113, a 2007 Jacobsen Hydro mower that has reached its useful life and scheduled for replacement.
- 2)** Bid IF-22-04, Purchase of Water Pipe Inventory for Public Works
This purchase will replenish water pipe inventory for Public Works, Water Division.
- 3)** Minutes from Council Meetings
January 13, 2022 City Council Meeting and January 14, 2022 County-City Growth Discussion
- 4)** License Applications, all carrying the required approvals

Recommended Action:

It was moved by Councilor Burtenshaw, seconded by Councilor Francis, to approve, accept, or receive all items on the Consent Agenda according to the recommendations presented. The motion carried by the following vote: Aye - Councilors Burtenshaw, Dingman, Freeman, Francis, Radford. Nay - none.

4. Regular Agenda.

A. Municipal Services

- 1)** Quote IF-22-013, Purchase Two 2022 Ford F-150 Lightning (Electric) Crew Cabs for Idaho Falls Power
As a regular Ford customer, the City of Idaho Falls had the opportunity to reserve the two F-150 electric

crew cabs from Summit Ford, locally owned by Teton Auto Group. These addition-to-the-fleet vehicles will be used to demonstrate and better understand the benefits of electric power pickup trucks for not only the utility and City, but also for the community at large.

Municipal Services Director Pamela Alexander stated a discount was received as the city is a Ford account holder. Council President Dingman stated this item was discussed at the January Idaho Falls Power (IFP) Board Meeting. She also stated these are highly reliable and useful vehicles.

It was moved by Councilor Burtenshaw, seconded by Councilor Radford, to accept the quote to purchase two new 2022 Ford F-150 Lightning (Electric) Crew Cabs for Idaho Falls Power from Summit Ford for a total of \$80,061.34. The motion carried by the following vote: Aye - Councilors Burtenshaw, Radford, Dingman, Freeman, Francis. Nay - none.

2) Quote IF 22-G, Purchase One Loader Mount Snow Blower for Public Works

Public Works leased the Loader Mount Snow Blower from SWS Equipment for the purposes of testing the unit's operational compatibility in the field. After testing the unit for approximately four months, Public Works is leveraging costs savings available by purchasing the unit outright. The purchase of the Loader Mount Snowblower is an addition to the Public Works fleet.

It was moved by Councilor Burtenshaw, seconded by Councilor Radford, to accept the quote received to purchase one Loader Mount Snow Blower for Public Works from SWS Equipment, LLC, for a total of \$131,980.25. The motion carried by the following vote: Aye - Councilors Dingman, Burtenshaw, Francis, Freeman, Radford. Nay - none.

B. Idaho Falls Power

1) IFP 22-06 Conduit Purchase for Idaho Falls Power

Idaho Falls Power (IFP) solicited bids from qualified vendors to purchase annual conduit inventory for electric and fiber service. Adhering to IFP construction timelines, D&S Electric Supply, Irby, GenPac and Border States were the lowest responsive, responsible bidders. Based on construction projections and unit bid prices, the base value is \$316,589.35 with a 5% tolerance of \$15,829.47 for a total cost of \$332,418.82.

IFP Director Bear Prairie explained the bid process. He stated project delays could occur due to the delay of lead time. He expressed his appreciation to HD Fowler for being open and honest regarding the extended lead time. Council President Dingman noted this item was also discussed at the January IFP Board Meeting.

It was moved by Councilor Radford, seconded by Councilor Freeman, to approve the bid awards to D&S Electric Supply, Irby, GenPac and Border States for the unit prices shown as bid, for a not-to-exceed amount of \$332,418.82. The motion carried by the following vote: Aye - Councilors Francis, Dingman, Freeman, Radford, Burtenshaw. Nay - none.

C. Parks & Recreation

1) Lease Agreement Between City of Idaho Falls and the Idaho Falls Motocross Association.

This agreement, if approved, would allow the Idaho Falls Motocross Association to utilize the Noise Park facilities and bring together owners and users of motorcycles for fun and safe organized riding and racing. It would also allow them to assist in and encourage the continued maintenance and improvements at the Idaho Falls Raceway.

Council President Dingman stated this agreement was discussed at the January 24 City Council Work Session. Parks and Recreation (P&R) Director PJ Holm stated P&R has been working with this group for an extended length of time. Councilor Radford expressed his appreciation to the effort of all involved. He believes it's good to have facilities that can stay open and function.

It was moved by Councilor Radford, seconded by Councilor Francis, to approve the agreement between the City of Idaho Falls and the Idaho Falls Motocross Association. The motion carried by the following vote: Aye - Councilors Burtenshaw, Dingman, Radford, Freeman, Francis. Nay - none.

D. City Attorney

1) 2022 Records Destruction Resolution

The proposed Resolution would authorize the destruction of certain temporary records which have no intrinsic, historical, or other value. Prior to the destruction of these records, Idaho Code § 50-907 requires that the destruction of temporary records be ordered by the Council. This resolution meets the requirement to order the destruction of the records specifically listed in the resolution.

Mr. Fife stated cities are required to keep documents they create for a minimum of two (2) years. He stated those documents are then categorized into various categories. He noted if there is a document that must be kept only one (1) copy is required which can be kept electronically.

It was moved by Councilor Radford, seconded by Councilor Francis, to approve the 2022 Records Destruction Resolution to destroy certain temporary records, pursuant to Idaho Code § 50-907. The motion carried by the following vote: Aye - Councilors Francis, Radford, Dingman, Burtenshaw, Freeman. Nay - none.

RESOLUTION NO. 2022-01

A RESOLUTION OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, PROVIDING FOR THE CLASSIFICATION AND DESTRUCTION OF CERTAIN TEMPORARY PUBLIC RECORDS PURSUANT TO IDAHO CODE § 50-907; PROVIDING THIS RESOLUTION TO BE EFFECTIVE UPON ITS PASSAGE AND APPROVAL AND PUBLICATION ACCORDING TO LAW.

E. Community Development Services

1) Final Plat and Reasoned Statement of Relevant Criteria and Standards, McNeil Business Park Division No. 2, 1st Amended.

Attached is the application for the Final Plat and Reasoned Statement of Relevant Criteria and Standards for the McNeil Business Park Division No. 2, 1st Amended. The Planning and Zoning Commission considered this item at its July 6, 2021, meeting and recommended approval by unanimous

vote. Staff concurs with this recommendation.

Councilor Francis stated Community Development Services Director Brad Cramer confirmed an opaque fence and landscaping will be required along the buffer zone.

It was moved by Councilor Francis, seconded by Councilor Burtenshaw, to accept the Final Plat for McNeil Business Park Division No. 2, 1st Amended and give authorization for the Mayor, City Engineer, and City Clerk to sign said Final Plat. The motion carried by the following vote: Aye - Councilors Freeman, Radford, Burtenshaw, Francis, Dingman. Nay - none.

It was moved by Councilor Francis, seconded by Councilor Burtenshaw, to approve the Reasoned Statement of Relevant Criteria and Standards for the Final Plat for McNeil Business Park Division No. 2, 1st Amended and give authorization for the Mayor to execute the necessary documents. The motion carried by the following vote: Aye - Councilors Radford, Francis, Dingman, Burtenshaw, Freeman. Nay - none.

- 2)** Public Hearing-Part 1 of 2 of the Annexation and Initial Zoning-Annexation Ordinance and Reasoned Statement of Relevant Criteria and Standards for 2.446 acres, Southwest ¼ of Section 26, Township 2 North, Range 38 East.

Attached is part 1 of 2 of the application for Annexation and Initial Zoning of LC, Limited Commercial which includes the Annexation Ordinance and Reasoned Statement of Relevant Criteria and Standards for 2.446 acres, Southwest ¼ of Section 26, Township 2 North, Range 38 East. The Planning and Zoning Commission considered this item at its December 7, 2021, meeting and recommended approval by a unanimous vote. Staff concurs with this recommendation.

Council President Dingman opened the public hearing and ordered all items presented be submitted into the record. She requested applicant presentation.

Barry Bane, Connect Engineering, appeared. Mr. Bane stated the parcel is completely surrounded by the city. He believes the LC Zone complies with the Comprehensive (Comp) Plan. He noted there is high-density residential to the south, and commercial, identified by a masonry wall, along the north side. He also noted buffering will be required. Mr. Bane stated he understands there will be residential noise although he believes LC will fit. He also believes it gives good flexibility for the area. Per Councilor Burtenshaw, Mr. Bane believes development to the south will match the other area.

Council President Dingman requested staff presentation.

Director Cramer appeared. He presented the following:

Slide - Comprehensive Plan Future Land Use Map

Director Cramer stated this area includes high-density residential and commercial.

Slide - Photo of site

Director Cramer stated this is infill development.

Per Councilor Radford, Director Cramer stated the property to the east is city property. He noted this was different ownership.

Council President Dingman requested public testimony. No one appeared. Council President Dingman

closed the public hearing.

Councilor Francis believes this fits with the desire of infill, he also believes LC is the perfect transition zone for a livable, walkable concept. Councilor Burtenshaw stated she is pleased to see this area be developed. She agreed with Councilor Francis' comments. Councilor Radford also agrees this is good infill. He is hopeful this becomes a walkable, livable area. Council President Dingman agreed with the other councilors' comments.

It was moved by Councilor Francis, seconded by Councilor Burtenshaw, to approve the ordinance annexing 2.446 acres, Southwest ¼ of Section 26, Township 2 North, Range 38 East under a suspension of the rules requiring three complete and separate readings and request that it be read by title and published by summary. The motion carried by the following vote: Aye - Councilors Francis, Dingman, Freeman, Radford, Burtenshaw. Nay - none.

At the request of Council President Dingman, the City Clerk read the ordinance by title only:

ORDINANCE NO. 3436

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE ANNEXATION OF APPROXIMATELY 2.446 ACRES DESCRIBED IN EXHIBIT A OF THIS ORDINANCE, AMENDING THE LEGAL DESCRIPTION OF THE CITY WITH THE APPROPRIATE COUNTY AND STATE AUTHORITIES; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

Following brief discussion, Director Cramer clarified this area is Section 16, not Section 26.

Based on scrivener's error, Councilor Francis amended the original motion to read Section 16 instead of Section 26. The motion was seconded by Councilor Burtenshaw. The motion carried by the following vote: Councilors Burtenshaw, Radford, Freeman, Dingman, Francis. Nay – none.

At the request of Council President Dingman, the City Clerk re-read the ordinance by title only:

ORDINANCE NO. 3436

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE ANNEXATION OF APPROXIMATELY 2.446 ACRES DESCRIBED IN EXHIBIT A OF THIS ORDINANCE, AMENDING THE LEGAL DESCRIPTION OF THE CITY WITH THE APPROPRIATE COUNTY AND STATE AUTHORITIES; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

It was moved by Councilor Francis to approve the Reasoned Statement of Relevant Criteria and Standards for the annexation of 2.446 acres, Southwest ¼ of Section 16, Township 2 North, Range 38 East and give authorization for the Mayor to execute the necessary documents. The motion was amended to amend any relevant documents that reflect Section 16, not Section 26. The motion was seconded by Councilor Burtenshaw. The motion carried by the following vote: Councilors Freeman, Francis, Radford, Burtenshaw, Dingman. Nay – none.

- 3) Public Hearing-Part 2 of 2 of the Annexation and Initial Zoning of LC, Limited Commercial, Initial Zoning Ordinance and Reasoned Statement of Relevant Criteria and Standards, 2.446 acres, Southwest ¼ of Section 16, Township 2 North, Range 38 East.

Attached is part 2 of 2 of the application for Annexation and Initial Zoning of LC, Limited Commercial which includes the Initial Zoning Ordinance and Reasoned Statement of Relevant Criteria and Standards for 2.446 acres, Southwest ¼ of Section 16, Township 2 North, Range 38 East. The Planning and Zoning Commission considered this item at its December 7, 2021, meeting and recommended approval of LC, Limited Commercial by a unanimous vote. Staff concurs with this recommendation and recommends approval.

It was moved by Councilor Francis, seconded by Councilor Burtenshaw, to assign a Comprehensive Plan Designation of "Higher Density" and approve the ordinance establishing the initial zoning for LC, Limited Commercial as shown in the Ordinance exhibits under a suspension of the rules requiring three complete and separate readings and request that it be read by title and published by summary, that the City limits documents be amended to include the area annexed herewith, and that the City Planner be instructed to reflect said annexation, amendment to the Comprehensive Plan, and initial zoning on the Comprehensive Plan and Zoning Maps located in the Planning office. The motion carried by the following vote: Aye - Councilors Dingman, Radford, Francis, Burtenshaw, Freeman. Nay - none.

At the request of Council President Dingman, the City Clerk read the ordinance by title only:

ORDINANCE NO. 3437

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE INITIAL ZONING OF APPROXIMATELY 2.446 ACRES DESCRIBED IN EXHIBIT A OF THIS ORDINANCE AS LC; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

It was moved by Councilor Francis, seconded by Councilor Burtenshaw, to approve the Reasoned Statement of Relevant Criteria and Standards for the Initial Zoning of LC, Limited Commercial and give authorization for the Mayor to execute the necessary documents. The motion carried by the following vote: Aye - Councilors Radford, Freeman, Burtenshaw, Francis, Dingman. Nay - none.

5. Announcements.

Council President Dingman reminded the public that general public comment has been suspended through February 22.

It was then moved by Councilor Burtenshaw, seconded by Councilor Francis, that Council go into Executive Session (at 8:02 p.m.) called pursuant to the provisions of Idaho Code Section 74-206(1)(f) to communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated, but imminently likely to be litigated, and Council will not return to open session. The motion carried with the following vote: Councilors Burtenshaw, Dingman, Freeman, Francis, Radford.

s/ Kathy Hampton

s/ Rebecca L. Noah Casper

January 27, 2022 Special Meeting, Executive Session - Unapproved

The City Council of the City of Idaho Falls met in Executive Session, Thursday, January 27, 2022 in the City Council Chambers in the City Annex Building located at 680 Park Avenue in Idaho Falls, Idaho at 8:12 p.m.

There were present:

Mayor Rebecca L. Noah Casper (via WebEx)
Council President Michelle Ziel-Dingman
Councilor John Radford
Councilor Jim Francis
Councilor Lisa Burtenshaw
Councilor Jim Freeman (via WebEx)

Also present:

Randy Fife, City Attorney
Pamela Alexander, Municipal Services Director

The Executive Session was called pursuant to the provisions of Idaho Code Section 74-206(1)(f) to communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated, but imminently likely to be litigated.

There being no further business, the meeting adjourned at 8:58 p.m.

Kathy Hampton, City Clerk

Rebecca L. Noah Casper, Mayor



Memorandum

File #: 21-391

City Council Meeting

FROM: Pam Alexander, Municipal Services Director
DATE: Thursday, February 3, 2022
DEPARTMENT: Municipal Services

Subject

Quotes IF-22-17 and IF-22-18, Cayenta Customer Information System (Utility Billing) Upgrade

Council Action Desired

- ☐ Ordinance ☐ Resolution ☐ Public Hearing
☒ Other Action (Approval, Authorization, Ratification, etc.)

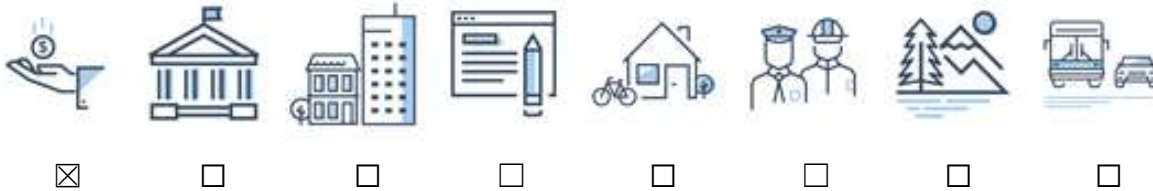
Accept and approve the quotes received from Cayenta, a Division of N. Harris Computer Corporation for \$105,820 and BDM Squared Professional Services for \$63,875 for a combined total of \$169,695 or take other action deemed appropriate.

Description, Background Information & Purpose

The city implemented the Cayenta Customer Information System (Utility Billing) October 1, 2016, with 2012 Microsoft Structure Query Language (SQL) servers. The 2012 version of SQL will no longer be supported beyond July 2022 and IT staff recommends the city transition to the 2019 version of SQL to maintain Microsoft support through January 2030. The first task of the proposed CIS upgrade is the update the city's SQL servers from 2012 to 2019.

The second task will upgrade the CIS system from version 7.9.0 to 9.1 and provide the city an opportunity to build upon the improved customer information platform configured within version 9.1, including options for future add-on enhanced customer convenience modules including pre-pay and time-of-use. The city's field operations team consisting of representatives familiar with the Cayenta system from Municipal Services, Idaho Falls Power and Public Works tested a demo of the 9.1 version and evaluated the benefits to upgrading to version 9.1 in conjunction with the SQL server upgrade. The evaluation process also included contacting organizations that have completed or in the process of completing the CIS upgrade to version 9.1. The consensus of the field operations team is to upgrade to Cayenta's version 9.1.

The quote from Cayenta for \$105,820 is provide support and technical assistance to upgrade and migrate version 9.1 to the city's 2019 SQL servers. The quote from BDM Squared is for project management consulting services. BDM Squared was recommended by one of the entities city staff interviewed as a Cayenta reference. The field operations team evaluated the benefits of outsourcing project management services, and the consensus of the team was outsourcing project management services to an experienced consultant would allow the team to focus on system testing and implementation.

Alignment with City & Department Planning Objectives

The SQL server and Cayenta CIS upgrade supports the good governance community-oriented result through managing and investing in financial and technology resources.

Interdepartmental Coordination

Review of the SQL server and Cayenta CIS upgrade have been conducted with Idaho Falls Power and Public Works department directors and staff department representatives.

Fiscal Impact

Funds for the SQL server and CIS upgrade are budgeted in the 2021/22 Municipal Services Department, Information Technology budget.

Legal Review

The City Attorney concurs that the desired Council action is within State Statute.

Idaho Falls – Cayenta v9 upgrade – Jan 26 2022 update

Updates to Sep 27, 2021, proposal.

Internal or 3rd Party Upgrade Project Manager?	Originally assumed internal Idaho Falls upgrade PM - revised plan is to bring in an external PM.
--	--

We have found that having our PM interact with a 3rd Party Project Manager requires additional time from our Project Manager. The original proposal was for 6 hours per week. The revised proposal is for 8 hours per week.

Services Component 1: Monthly Services							
Item	Description	Group	Qty	Unit	Hours	Hours	Total
1.01	Monthly Project Manager Services Represents 8 hours per week	PM	4	Months	32	128	\$28,160.00

This changes the overall project from \$98,780 to \$105,820.

Grand Total	481	\$105,820.00
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Summary

License Fees	\$0.00
Services Fees (Fixed)	\$101,420.00
Services Fees (T&M)	\$4,400.00
Total Fees	\$105,820.00
Billable Hours	481

STATEMENT OF WORK

Between



City of Idaho Falls
308 Constitution Way
Idaho Falls, Idaho 83402

And



Cayenta, A Division of
N. Harris Computer Corporation 4200
North Fraser Way, Suite 201. Burnaby,
BC V5J 5K7
Canada

For

Cayenta V9 Upgrade

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The purpose of this Statement of Work is to set forth in detail the Software and Services deliverables to be provided by HARRIS, the milestones, schedule and acceptance criteria for such deliverables, the process for changes in scope and the respective responsibilities of HARRIS and CLIENT in connection with this Statement of Work. HARRIS will be the Prime Contractor for all application software and Services being provided under the Contract with CLIENT.

IN WITNESS WHEREOF, a duly authorized representative of each party has executed this Statement of Work on the Effective Date:

City of Idaho Falls

**CAYENTA, a division of N. Harris
Computer Corporation**

Name:

(Signature)

Name:

(Signature)

Name:

(Print)

Name:

(Print)

Title:

Title:

Date:

Date:

Executive Summary & Overview

City of Idaho Falls (CLIENT) is embarking on an upgrade of Cayenta software to version 9 (the latest release available). Under the direction of the CLIENT Project Owner, the CLIENT Project Manager will drive and oversee the project in coordination with the HARRIS Project Manager.

CLIENT has requested to engage Cayenta (HARRIS) for value-added services related to the upgrade outlined in the Deliverables. These services are not included in the Software and Maintenance Fees.

During the project, if CLIENT needs to make any changes to the Upgrade Environment, the changes need to be approved by the HARRIS project team. Changes to the configuration or interfaces that are not advised by the HARRIS project team also need to be fully documented in CayStone.

The ongoing operation for the Solution will be the responsibility of the CLIENT following the project Go-live date with the support of HARRIS. The CLIENT will transition to HARRIS Support after completion of the Transition period as outlined in the Deliverables below.

HARRIS and CLIENT agree to schedule and begin the project within 90 days of signature.

Customer Profile

Products installed (CIS, FMS, WMS, HCM)	CIS, CSS, MWM (Service Orders)
Current Version (e.g. - 7.7.0)	7.9.0
Oracle or SQL Server Database (& version)	SQL 2012
Number of CIS Accounts (approx.)	27,500
Number of Users (approx.)	150
FMS Modules	NA (CentralSquare Naviline)
HCM Modules	NA (CentralSquare Naviline)
WMS Modules	NA (Fleet Focus)
Cayenta Managed Solutions (CMS)	NA
Cognos (version?, Planet Press?, TM1?)	Cognos 11.0.12
Custom Cayenta Reports	Bill Print; Revenue Report #1; Revenue Report #2
CF scripting (or In-house built scripts)	NA
Budget Prep	NA
Time Entry (TE)	NA
Customer Self Service (CSS)	Gen3
Employee Self Service (ESS)	NA
Vendor Self Service (VSS)	NA
Cayenta Dashboard	NA
Cognos Analytics for Excel (CAFÉ)	NA
Cayenta Analytics (for Utilites)	NA
Cayenta Link using Excel (CLUE)	NA
Custom Portals	1) AMI Meter Reads Import 2) Meter Export 3) GIS Sync
Custom Interfaces	NA
3rd party integration	Information Outsource (Bill Print) ESRI (GIS) Mailables+4 (Address validate) Adcomp (Payments) Connexo (Meter Management)
Number of Environments (CayTest, CayGold, CayProd?)	Two
Internal or 3rd Party Upgrade Project Manager?	Originally assumed internal Idaho Falls upgrade PM - revised plan is to bring in an external PM.
Known Constraints (e.g. Must be live by, etc.)	Wish to be live by July 01 2022

Table of Services

Below is a summary list of the deliverables for the project. The Deliverables section itemizes each deliverable in detail regarding specific scope, responsibilities for HARRIS and CLIENT as well as acceptance criteria.

Component Group	Deliverable #	Deliverable Name	Hours	Cost
Consulting Services	1.01	Project Planning & Setup	64	\$14,080.00
	1.02	CayStone Project Setup & Training	6	\$1,320.00
	1.03	Testing - Cycle 1 (4 weeks)	116	\$25,520.00
	1.04	Testing - Cycle 2 (4 weeks)	116	\$25,520.00
	1.05	Mock Go Live	34	\$7,480.00
	1.06	Go Live Services	42	\$9,240.00
	1.07	Support Transition & Project Close (1 week)	39	\$8,580.00
		Consulting Services Total	417	\$91,740.00
Technical Services	2.01	CAYPROD90 Environment Build	16	\$3,520.00
	2.02	CAYTEST90 Environment Build	8	\$1,760.00
	2.03	Cognos 11 Upgrade	8	\$1,760.00
		Technical Services Total	32	\$7,040.00
Product Services	3.01	Core Portals & Statistics Training	4	\$880.00
	3.02	CIS - New Feature Overview Training	8	\$1,760.00
		Product Services Total	12	\$2,640.00
BI Services	4.01	Custom Cognos reports Migration	20	\$4,400.00
		BI Services Total	20	\$4,400.00
		Project Total	481	\$105,820.00

Deliverables

Below is a detailed listing of all deliverables in scope of this project. With each deliverable is specific responsibilities to be performed by HARRIS and CLIENT respectively as part of completion of this deliverable. Acceptance criteria for each deliverable specifies the criteria by which CLIENT will accept the deliverable upon completion by HARRIS. Upon satisfying the acceptance criteria for the deliverable will make the deliverable eligible to be billed as defined in the [Payment Milestones](#) section of this document.

Deliverable ID	1.01
Deliverable Type	Fixed Price
Deliverable Name	Project Planning & Setup
Deliverable Description	HARRIS and CLIENT project managers will develop the project schedule. HARRIS will provision the tools needed for project execution including CayStone, SharePoint and Smartsheet. HARRIS will schedule and facilitate the project kick-off meeting
HARRIS Responsibilities	<ul style="list-style-type: none"> • Develop project schedule • Review schedule with CLIENT • Create CayStone project & provide access to CLIENT stakeholders • Schedule and facilitate project kick-off meeting
CLIENT Responsibilities	<ul style="list-style-type: none"> • Participate in schedule development • Review & approve project schedule • Provide stakeholder list to HARRIS • Participate in project kick-off meeting
Deliverable Acceptance Criteria	Project schedule is delivered Access granted to stakeholders in CayStone Kick-off meeting is held
Deliverable ID	1.02
Deliverable Type	Fixed Price
Deliverable Name	CayStone Project Setup & Training
Deliverable Description	HARRIS will set up the CayStone project to be used for testing management and incident tracking throughout the project as well as deliver a training session on how to use CayStone
HARRIS Responsibilities	<ul style="list-style-type: none"> • Create the CayStone project • Ensure standard HARRIS test cases are included in the CayStone project • Grant access to CLIENT team members • Deliver training to CLIENT team members on how to use CayStone
CLIENT Responsibilities	<ul style="list-style-type: none"> • Add test cases required for testing to the test cases in the CayStone project • Attend CayStone training
Deliverable Acceptance Criteria	CLIENT users have access to the CayStone project and training session has been delivered to CLIENT team members.

Deliverable ID	1.03
Deliverable Type	Fixed Price
Deliverable Name	Testing - Cycle 1 (4 weeks)
Deliverable Description	HARRIS will provide testing support services to CLIENT during test execution by CLIENT for a four (4) week testing cycle
HARRIS Responsibilities	<ul style="list-style-type: none"> • Incident remediation, prioritizing work based on marked priority in the incident according to criteria defined in this document • Providing clarifications and guidance on new feature testing
CLIENT Responsibilities	<ul style="list-style-type: none"> • Execute testing per test sets as defined in CayStone • Log incidents as issues arise with testing, ensuring that appropriate screenshots, verbiage and reproduction steps are documented in the CayStone incidents • Conduct validation testing on remediated incidents in a timely manner
Deliverable Acceptance Criteria	Testing support services will be considered delivered after the fourth week of testing by CLIENT
Deliverable ID	1.04
Deliverable Type	Fixed Price
Deliverable Name	Testing - Cycle 2 (4 weeks)
Deliverable Description	HARRIS will provide testing support services to CLIENT during test execution by CLIENT for a four (4) week testing cycle
HARRIS Responsibilities	<ul style="list-style-type: none"> • Incident remediation, prioritizing work based on marked priority in the incident according to criteria defined in this document • Providing clarifications and guidance on new feature testing
CLIENT Responsibilities	<ul style="list-style-type: none"> • Execute testing per test sets as defined in CayStone • Log incidents as issues arise with testing, ensuring that appropriate screenshots, verbiage and reproduction steps are documented in the CayStone incidents • Conduct validation testing on remediated incidents in a timely manner
Deliverable Acceptance Criteria	Testing support services will be considered delivered after the fourth week of testing by CLIENT
Deliverable ID	1.05
Deliverable Type	Fixed Price
Deliverable Name	Mock Go Live
Deliverable Description	HARRIS will conduct a mock-go live prior to the go-live, ensuring the cutover checklist is sufficient to ensure a successful cutover at go-live.

HARRIS Responsibilities	<ul style="list-style-type: none"> • Prepare mock go-live checklist • Review mock go-live checklist with CLIENT • Execute HARRIS-assigned tasks per the checklist • Make any necessary changes to checklist based on mock go-live execution
CLIENT Responsibilities	<ul style="list-style-type: none"> • Review mock go-live checklist and add any additional tasks for CLIENT • Execute CLIENT-assigned tasks per the checklist • Provide feedback on mock go-live execution for the purpose of checklist revision
Deliverable Acceptance Criteria	Completion of mock go-live activities per the mock go-live checklist
Deliverable ID	1.06
Deliverable Type	Fixed Price
Deliverable Name	Go Live Services
Deliverable Description	HARRIS and CLIENT will execute the assigned tasks, per the go-live cutover checklist, over the planned one (1) day go-live time frame.
HARRIS Responsibilities	<ul style="list-style-type: none"> • Execute HARRIS-assigned tasks per the go-live cutover checklist • HARRIS will be available on go-live weekend to perform HARRIS-assigned tasks per the go-live cutover checklist.
CLIENT Responsibilities	<ul style="list-style-type: none"> • Execute CLIENT-assigned tasks per the go-live cutover checklist • CLIENT will be available on go-live weekend to perform CLIENT-assigned tasks per the go-live cutover checklist.
Deliverable Acceptance Criteria	Completion of go-live activities per the go-live checklist and CLIENT can access and use the CAYPROD90 environment for production purposes
Deliverable ID	1.07
Deliverable Type	Fixed Price
Deliverable Name	Support Transition & Project Close (1 week)
Deliverable Description	<p>HARRIS transitions CLIENT from assigned Project Team back to Cayenta Support and formally closes the project. The period of post go-live support provided by the Project Team will be one (1) weeks from the date of go-live.</p> <p>Acceptance of this deliverable signifies the acceptance of the project and official project close.</p>
HARRIS Responsibilities	<ul style="list-style-type: none"> • Facilitate handover meeting from Project Team to Cayenta Support • Deliver Support Transition document to CLIENT and Cayenta Support • Remediate P1 & P2 priority incidents
CLIENT Responsibilities	<ul style="list-style-type: none"> • Attend handover meeting • Validate & close P1 & P2 priority incidents
Deliverable Acceptance Criteria	<p>HARRIS provides Support Transition document</p> <p>All P1 & P2 incidents logged for the project have been remediated</p>

Deliverable ID	2.01
Deliverable Type	Fixed Price
Deliverable Name	CAYPROD90 Environment Build
Deliverable Description	HARRIS will set up the new CAYPROD90 environment which will be the primary environment used for testing during the project as well as the new production system after go-live.
HARRIS Responsibilities	<ul style="list-style-type: none"> • Install the Cayenta software • Conduct an environment audit, including technical and functional validation of the environment
CLIENT Responsibilities	<ul style="list-style-type: none"> • Provide required hardware & infrastructure necessary to host the CAYPROD90 environment as well as any other required infrastructure items • Provide access to the infrastructure to HARRIS Technical Resources
Deliverable Acceptance Criteria	CLIENT project team is granted access to and can log into the CAYPROD90 environment.
Deliverable ID	2.02
Deliverable Type	Fixed Price
Deliverable Name	CAYTEST90 Environment Build
Deliverable Description	HARRIS will set up the new CAYTEST90 environment which will be the new test system after go-live.
HARRIS Responsibilities	<ul style="list-style-type: none"> • Install the Cayenta software • Conduct an environment audit, including technical and functional validation of the environment
CLIENT Responsibilities	<ul style="list-style-type: none"> • Provide required hardware & infrastructure necessary to host the CAYTEST90 environment as well as any other required infrastructure items • Provide access to the infrastructure to HARRIS Technical Resources
Deliverable Acceptance Criteria	CLIENT project team is granted access to and can log into the CAYTEST90 environment.
Deliverable ID	2.03
Deliverable Type	Fixed Price
Deliverable Name	Cognos 11 Upgrade
Deliverable Description	HARRIS will install the Cognos 11 platform for use in the new upgrade version of the Cayenta software
HARRIS Responsibilities	<ul style="list-style-type: none"> • Perform a new installation of the Cognos 11 platform
CLIENT Responsibilities	<ul style="list-style-type: none"> • Provide the required server infrastructure for HARRIS to perform the install • Ensure HARRIS technical personnel have proper access to server infrastructure to perform the installation

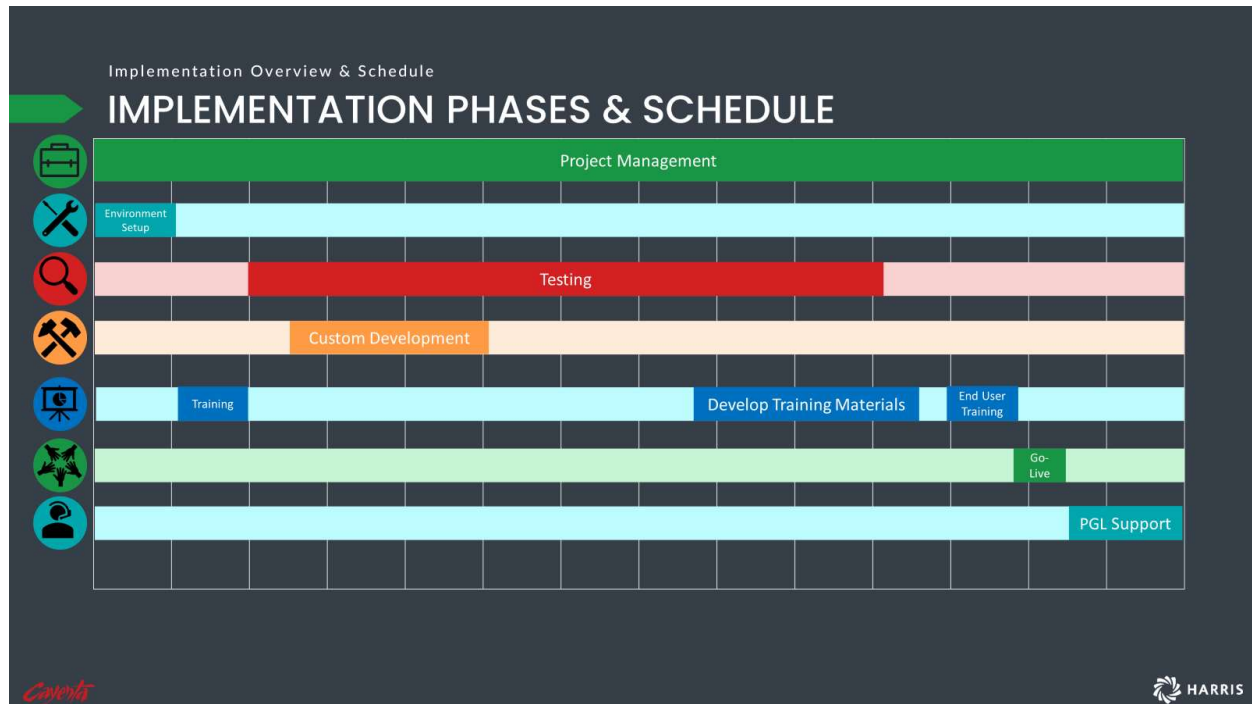
Deliverable Acceptance Criteria	CLIENT project team are provided access to the Cognos 11 environment
Deliverable ID	3.01
Deliverable Type	Fixed Price
Deliverable Name	Core Portals & Statistics Training
Deliverable Description	HARRIS will provide an overview training session on how to use portals including core portals, online vs. batch processing, column modifications and export capabilities.
HARRIS Responsibilities	<ul style="list-style-type: none"> • Facilitate overview training session
CLIENT Responsibilities	<ul style="list-style-type: none"> • Attend overview training session
Deliverable Acceptance Criteria	The overview training session has been delivered.
Deliverable ID	3.02
Deliverable Type	Fixed Price
Deliverable Name	CIS - New Feature Overview Training
Deliverable Description	HARRIS will provide two overview sessions on the new features included in the V9 upgrade.
HARRIS Responsibilities	<ul style="list-style-type: none"> • Facilitate overview training sessions
CLIENT Responsibilities	<ul style="list-style-type: none"> • Attend overview training sessions
Deliverable Acceptance Criteria	HARRIS delivers the overview training sessions
Deliverable ID	4.01
Deliverable Type	T&M
Deliverable Name	Custom Cognos reports Migration
Deliverable Description	HARRIS will perform services as required to migrate custom Actuate reports to the Cognos platform
HARRIS Responsibilities	<ul style="list-style-type: none"> • Perform services as requested
CLIENT Responsibilities	<ul style="list-style-type: none"> • Provide written approval to proceed with requested work

Deliverable Acceptance Criteria	CLIENT will be invoiced monthly for hours expended. Hours invoiced will not exceed 20 without written approval from CLIENT
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Methodology & Schedule

Methodology

Cayenta follows a practiced and proven methodology for delivering projects to our customers. Below is an overview of our project phases.



Project Management

HARRIS will provide a project manager to the project to oversee the HARRIS team and to work with the CLIENT project manager. The HARRIS project manager will be responsible for the following items:

- Develop and maintain the project schedule, collaborating with CLIENT project manager
- Schedule and facilitate weekly PM meetings
- Schedule and facilitate weekly team meetings
- Develop go-live cutover checklist, collaborating with HARRIS and CLIENT project teams
- Ownership of the Change Control process as outlined in the [Change Control section](#) of this document

Environment Setup

HARRIS will create the environments required for the project, as defined in this document in the [Project Environments](#) section. This requires CLIENT to ensure that any server infrastructure required by HARRIS is provisioned and accessible by the HARRIS team.

Testing

Application testing will be the most critical phase of this project and allows CLIENT to ensure a level of comfort with the delivered solution prior to going live. HARRIS will provide testing support commensurate with the services outlined in the Deliverables section of this document.

CLIENT will test the application and configured solution delivered by HARRIS. CLIENT agrees to use the CayStone testing platform, provided by HARRIS free of charge to plan test cases/test sets, track all testing progress via updating of executed test cases/test sets and log incidents for all defects found. Should CLIENT decide to forego the use of CayStone for these purposes (i.e., using alternate means to plan and track testing and incidents), HARRIS may initiate the change control process (per the [Change Control section](#) of this document) to determine schedule and/or budget impacts to the project.

Training

HARRIS will provide training on the new features of the solution early in the project in advance of the testing phase. This training will include an overview of the new features and products in scope of the project as well as CayStone training for those testers who are not familiar with it. CLIENT will be responsible for the development of customized end user training materials as well as the delivery of the end user training.

Go Live

HARRIS and CLIENT will work collaboratively to prepare a go-live cutover checklist, drawing on templates that HARRIS will provide. It will be a shared responsibility between HARRIS and CLIENT to ensure that all tasks are documented and assigned appropriately. A mock go-live will be conducted approximately 4-6 weeks before the planned go-live to ensure that the cutover checklist is fully comprehensive with respect to the go-live tasks. HARRIS and CLIENT will schedule the go-live to take place over a weekend or a mutually agreeable timeframe.

Post Go-Live and Transition Support

HARRIS project team will continue to support CLIENT during the defined post go-live period (as indicated in the [Deliverables](#) section of this document) as well in this time engage Cayenta Support by preparing a Support Transition document, outlining the details of the implementation relevant to the Cayenta Support team taking on stewardship of CLIENT support needs going forward. A transition meeting including the HARRIS project team, CLIENT and Cayenta Support will be facilitated by HARRIS as part of this transition.

Project Environments

CLIENT agrees to provision infrastructure required to support the following net new environments required for the project.

Environment Name	Purpose
CAYPROD90	To be used as the primary environment for the project during testing as well as the production environment upon go-live

CAYTEST90	To be used as the test environment on the new platform after go-live
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Payment Milestones

Below is a list of the payment milestones for this project. CLIENT agrees to pay the milestones upon completion of the mapped deliverables according to the defined acceptance criteria in this document for each deliverable.

MP#	Payment Milestone Description	Invoice Amount	Deliverable ID	Deliverable Name
MP01	Project Planning & Setup	\$14,080.00	1.01	Project Planning & Setup
MP02	CayStone Project Setup & Training	\$1,320.00	1.02	CayStone Project Setup & Training
MP03	Testing - Cycle 1 (4 weeks)	\$25,520.00	1.03	Testing - Cycle 1 (4 weeks)
MP04	Testing - Cycle 2 (4 weeks)	\$25,520.00	1.04	Testing - Cycle 2 (4 weeks)
MP05	Mock Go Live	\$7,480.00	1.05	Mock Go Live
MP06	Go Live Services	\$9,240.00	1.06	Go Live Services
MP07	Support Transition & Project Close (1 week)	\$8,580.00	1.07	Support Transition & Project Close (1 week)
MP08	CAYPROD90 Environment Build	\$3,520.00	2.01	CAYPROD90 Environment Build
MP09	CAYTEST90 Environment Build	\$1,760.00	2.02	CAYTEST90 Environment Build
MP10	Cognos 11 Upgrade	\$1,760.00	2.03	Cognos 11 Upgrade
MP11	Core Portals & Statistics Training	\$880.00	3.01	Core Portals & Statistics Training
MP12	CIS - New Feature Overview Training	\$1,760.00	3.02	CIS - New Feature Overview Training
	Fixed Price Total	\$101,420.00		
T&M	Custom Cognos reports Migration	\$4,400.00	4.01	Custom Cognos reports Migration
	T&M Total	\$4,400.00		
	Project Total	\$105,820.00		

Overall Terms & Termination

Terms and Conditions

1. All license fees and related support and maintenance fees shall be billed upon signing the Statement of Work, unless otherwise noted in this document.
2. Pricing is fixed for scope as defined by this document unless it is noted as Time and Material in the Table of Services and excludes any applicable taxes.
3. Additional services deemed out of scope (per this document) will be billed at \$220 per hour and will require documentation from HARRIS and the CLIENT and compliance with the [Change Control Process](#).
4. CLIENT will provide a direct connection to the Server on which the database resides.
5. CLIENT will provide any necessary infrastructure for the project.
6. Both HARRIS and CLIENT will ensure members are available on dates agreed to and scheduled.
7. Change Orders will be created for any tasks that are requested outside the scope of the project and will follow the [Change Control Process](#).
8. HARRIS reserves the right to alter/enhance APIs (as well as decommission, and in some cases replace APIs). Work to update Custom Portals is not covered by Standard Support and if needed is billable and may require a Change Order (if the time is not already built into the project plan). Additionally, any 3rd party costs to update interfaces which call Cayenta APIs are the responsibility of CLIENT.
9. Additional full data refreshes after the start of the project will be an additional cost and will be managed through the change control process
10. All project work is planned as remote
11. Hardware costs are priced/managed directly by CLIENT.
12. HARRIS reserves the right to pause work upon notification to CLIENT if HARRIS invoices become aged greater than 60 days.
13. In the event CLIENT terminates this Agreement, CLIENT shall be invoiced for work done to date as of notification and CLIENT will pay all outstanding Fees and other amounts owing to Harris under this Agreement.

Termination

Unless HARRIS and/or CLIENT exercises its right to terminate this Statement of Work due to material breach or default, HARRIS must provide, and the CLIENT must purchase, Services from HARRIS for the items defined within this Statement of Work.

The CLIENT obligations include the following:

1. Complete payment for services performed and expenses incurred prior to termination including:
 - a. Any amount previously invoiced but unpaid.
 - b. Fees for services performed through termination date which have not been invoiced; and
 - c. Any approved Travel and Living costs incurred.

If HARRIS terminates this Statement of Work without cause, then it shall:

1. Provide notice of 10 calendar days for termination without cause.
2. Refund to the CLIENT any fees that have not been earned under this Statement of Work through the termination date.

Under no circumstances shall HARRIS be liable for any special, indirect, consequential, punitive, or incidental damages of any kind, including but not limited to loss of revenue, loss of profits, loss of business opportunity, loss of data arising out of or in connection with this scope statement, even if HARRIS has been advised of the possibility of such damages. In any event, HARRIS shall not be liable to pay any amount, in the aggregate, that is greater than the fees received by HARRIS under this Statement of Work.

Appendix A: Incident Priority Definitions

HARRIS and CLIENT agree to use the following priority definitions when prioritizing incidents logged during the project.

Priority 1 – Critical

- System Down (Software Application, Hardware, Operating System, Database)
- Application errors without workarounds that prevent testers from testing
- Incorrect calculation errors impacting a majority of data
- Aborted postings or error messages preventing data integration and update
- Performance issues of severe nature impacting critical processes
- Performance issues impacting critical processes
- Critical incidents assigned back to CLIENT need to be validated within a business day.

Note: the existence of a reasonable work-around precludes a Priority 1 or Priority 2 issue in mostcases.

Priority 2 - High

- Application errors that have workarounds impacting business, but the workaround is either complex or time consuming and significantly affects productivity after go-live.
- Calculation errors impacting a minority of records
- Report generation failures impacting critical processes
- Report calculation issues
- Data Security issues
- Printer related issues (related to interfaces with our software and not the printer itself)
- High Priority incidents assigned back to CLIENT need to be validated within 2- 3 business days.

Priority 3 – Medium

- Application errors/issues that have workarounds impacting business, but the workaround is either complex or time consuming
- Report formatting issues
- Issues with workarounds for large majority of accounts
- Some recommendations for enhancements on application changes
- Performance issues not impacting critical processes
- Usability issues
- Medium Priority incidents assigned back to CLIENT need to be validated within 5 business days.

Appendix B: Change Control Process

The "Change Control Process" governs changes to the Project parameters (scope, schedule, budget, quality, risk) during the life of the Project. Change Orders can be requested by HARRIS or CLIENT; however, all Change Orders must be approved in writing by both HARRIS and CLIENT before any changes are formally accepted into the project.

No Change Order shall become effective unless mutually agreed to in writing by both parties. No work, other than estimating, will be performed on a Change Order by HARRIS until sign off has been obtained by the parties. There will not be fees charged by HARRIS to provide estimates for Change Orders.

To effectively control changes to the project, HARRIS uses an industry standard Change Control process to assess all impacts of a potential project change. The Change Control process is described below:

Change Request Submission

CLIENT and/or HARRIS identify a need for a change to the project and submit a request. It is expected that the party raising the request will provide as much relevant information as possible at the time of raising the request to support proper impact assessment activities.

Such a request must be in writing and identify the business and other reasons for the requested change and the impact it would have if the change were agreed upon, which may include Budget, Deliverables, Milestone Payments, Schedule, Risks, and Resources.

Change Request Assessment

HARRIS and CLIENT Project Managers will assess the potential change and the impact on budget, schedule, quality, resources, and risks. Where applicable, options will be defined and documented.

Change Order (document)

The HARRIS Project Manager will prepare a formal Change Order document and submit it to CLIENT for review. The Change Order document will contain at a minimum:

- Business reason/justification for the change
- Detailed description of the change
- Impact assessment of the change
- Any payment milestone revisions impacted by the change (projected billing dates and invoice amounts)
- Project impacts of not approving the change

Any Deliverables that have already been completed and accepted by the CLIENT that are subsequently altered because of a Change Order must be appropriately revised, pursuant to the Change Order, with the change number and date noted. An updated version of such a Deliverable will then be signed and stored with the project documentation.

CLIENT and HARRIS will review the Change Order for approval or rejection.

Change Order Review Period

After any request for a Change Order is made, the parties will have five (5) business days, or any additional, mutually agreed upon period, to consider the request (the "Change Order Review Period").

The Change Order Review Period will commence the day the Change Order request is received in writing by the party being asked for the Change Order. During the Change Order Review Period, HARRIS will provide the CLIENT with all information material to the requested Change Order, regardless of which party initiated the Change Order, including but not limited to any additional fees that would be incurred, the impacts on the relevant Deliverables, and any alteration of the MS Project Schedule that would result if the Change Order were agreed to. HARRIS will also, during the Change Order Review Period, provide a time and materials or a Fixed Price cost based on the CLIENT's desired pricing model.

During the Change Order Review Period, the CLIENT will provide HARRIS with any information reasonably requested by HARRIS to evaluate any Change Order requested by CLIENT.

Change Order Approval

If both the CLIENT and HARRIS agree to the change, all relevant terms shall be documented in the Change Order. Any charges not already specified in the Statement of Work, or which are different than those in this Statement of Work will be noted in the Change Order. Any additional services performed by HARRIS because of a Change Order will require the payment to HARRIS of additional fees as agreed.

Upon approval, CLIENT and HARRIS will sign the Change Order document and have the executed copy stored in the project document repository

Change Order Rejection

If agreement on a requested Change Order does not occur by the end of the Change Order Review Period, the change order is considered rejected. At this point, either party may initiate the conflict resolution process set forth in this Statement of Work regarding the requested Change Order, unless the change solely regards a Deliverable that was completed and accepted before the request for the Change Order was made.

Change Request/Change Order Log

HARRIS will maintain an ongoing log of all Change Orders during the life of the project. This will be accessible to CLIENT.

Conflict Resolution Process

HARRIS recommends three levels for conflict escalation:

1. Project Managers to
2. Sponsors/Director to
3. Executive (VP, EVP, GM).

One representative from HARRIS and representatives from CLIENT are designated at each level. All issues must be in written form – providing details, impacts and alternative resolutions. If the parties are unable to resolve a dispute through this informal process, then they will follow the formal Dispute Resolution process that is set forth in the Software Implementation Services Agreement.

BDM SQUARED PROFESSIONAL SERVICES



City of Idaho Falls

Cayenta CIS Upgrade

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QUALIFICATIONS (Knowledge, Expertise, Capabilities)

BDM Squared History and Background

BDM Squared is an LLC with offices in Atlanta, Georgia US, Tampa, Florida US and Hamilton, Bermuda. Founded in 2016, BDM Squared is a minority-owned, woman-owned management consultancy firm. BDM Squared is a certified Georgia Department of Transportation (DOT) Disadvantaged Business Entity (DBE), State of Georgia certified Minority Business Enterprise (MBE) and National Minority Business Development Center Minority Business Enterprise (MBE).

We are a premier professional services consultancy providing *our clients* with Project Management as a Service, Business Process Management and Direct Placement for Project Managers, Business Analysts and QA Testers. **We bring:**

- ✓ **A *proven methodology*** for success that provides transparency, risk mitigation and continuity
- ✓ Expert, ***certified project managers*** with years of relevant project/program management experience
- ✓ ***Governance and oversight*** to ensure transparency, methodology compliance and overall project success
- ✓ ***Continuity***, Risk Mitigation and Compliance
- ✓ **A High Value Proposition** with complete end to end project services covering Resourcing, PMO

We focus on project success from our client's perspective by managing the internal and external stakeholders, vendor deliverables, and dependencies for large projects. This gives our client's the peace of mind needed to delegate the details that will make their project a success.

Our clients usually come to us when they do not have the time and resources needed to successfully plan and manage major initiatives. These problems leave our clients and their teams overwhelmed with unforeseen tasks that find their way into their already busy schedules. Most of our clients also tend to bear the pressure that comes with reporting to the board or senior leadership team.

Why BDM Squared - Key Differentiator

BDM Squared takes a collaborative approach to project management. When you engage to BDM Squared to manage a project you get our core team expertise. Included in the cost of every BDM Squared project engagement is a Project Manager who is responsible for managing the day-to-day project management tasks and a Project Governance & Oversight Manager responsible for project oversight to ensure the project adheres to the project methodology and to act as a backup for the project manager. The Project Governance and Oversight manager ensures continuity in the project management experience for every project.

Our Promise

We understand the risks associated with investing in a new initiative. Our job is to help your organization receive the full benefits that the project is intended to realize.



Client Centric

- Primary objective is client success
- Governance and reporting to fit our client's needs
- Gain a competitive edge by delivering on time



Dedicated

- Resource on-boarding, retention and exiting
- Ensure the project contributes to long-term business goals



Project Focused

- PMP, Agile, Prince II, Scaled Agile methodologies
- Align the project with the financial capacity and strategy of the organization

Key Clients/Projects

BELCO

ercot

EQUIFAX

 **AT&T**

xerox

BANK OF AMERICA

BCAA
BERMUDA CIVIL AVIATION AUTHORITY

 **EarthLink**

SYBASE
An SAP Company

 **Digitel**

MCKESSON

 **Midwest Energy, Inc.**

 **EDS**
an HP company



Certifications



Client References/Project Examples

Bermuda Electric Company (BELCo)

Project Description:

Midwest Energy Cayenta Billing System upgrade from version 7.6 to 9.0 project

The logo for the Bermuda Electric Company (BELCO) is displayed on a green rectangular background. The word "BELCO" is written in white, bold, sans-serif capital letters.

Project Complexities:

- Lack of internal resources to perform requirements gathering and process documentation.
- Organizational changes that require process redesign.

BDM Squared Solution

Acting as Client project manager to manage their Cayenta Billing System upgrade from version 7.6 to 9.0 project coordinating the efforts of all impacted stakeholders, vendors, and resources. Manage the day-to-day project management activities to coordinate the project interdependencies across at least seven (7) systems/platforms to ensure successful integration and on time/on budget delivery. Provided regular status updates to project sponsors and key stakeholders.

Contact: Joanne MacFarlane, Corp. Apps Management

Phone: 441.325.1434

Email: jmacfarlane@ascendant.bm

Bermuda Government, Ministry of Immigration



Project Description:

The Bermuda Government Ministry of National Security was seeking a suitably qualified information technology professional or firm to provide governance and project management for the Border Security Management System implementation for the Bermuda Department of Immigration. This system implementation was critically important to national security and the position of the Country of Bermuda on the world stage. This Border Management System would be the system through which all to international travelers are processed through Customs and immigration to enter the country.

Project Complexities:

- Implementation of a system with multiple local and international interdependencies
- Lack of project management resources in the organization to manage a project of this complexity.

BDM Squared Solution

BDM Squared leveraged our team to provide project management support to the Department of Immigration managing the vendor relationships, coordinating interdependencies across Customs, Immigration, the Executive/Private Jet Facility, Yacht Processing and Cruise Ship Processing. BDM Squared successfully managed the initiative to deploy the new Border Management System in the current terminal and coordinated with the vendors to ensure implementation in of the Border Management System and eGates in the new Airport

Contact: Permanent Secretary Collin Anderson

Phone: 441.705.0439

Email: cjanderson@gov.bm

Bermuda Civil Aviation Authority (BCAA)



Project Description:

The Bermuda Civil Aviation Authority is seeking a suitably qualified information technology professional or firm to lead in the preparation of a Request for Proposal to replace its aircraft information and records database.

Project Complexities:

- Lack of internal resources to perform requirements gathering and process documentation.
- Organizational changes that require process redesign.

BDM Squared Solution

BDM Squared has assisted BCAA with requirements elucidation, future state process and workflow documentation and RFP Preparation. Tracked and managed RFP preparation, vendor evaluation, and vendor selection process from initiation through selection. Created all scorecards and selection tools, consolidated results and facilitated selection process with selection committee.

Contact: Delia Basden, Chief Financial Officer

Phone: 441.299.8620

Email: djbasden@bcaa.bm

Midwest Energy

Project Description:

Midwest Energy Cayenta Billing System upgrade from version 7.6 to 9.0 project



Primary Points of Contact

BDM Squared will provide a consistent, accessible, single of point of contact for the State of West Virginia. Below are the key resources that will screen and evaluate all resources to be placed with the State of West Virginia:

Project Governance & Oversight – Provide oversight and ensure methodology is being followed from project start thru production launch. The BDM Squared Project Governance & Oversight Manager will work with the BDM Squared project manager to create the overall project action plan and project schedule. Manage client relationship and act as an escalation point for the client to resolve issues. The Engagement Manager continuously audits the project management approach and implementation and makes corrections where necessary.

- *Missy Pitcher, MPA, PMP, CSM, MCTS, SA* – President & CEO, BDM Squared Professional Services Limited a Bermuda Professional Services firm providing project management expertise to facilitate project success from the client perspective. Mrs. Pitcher is also CEO of CMIT Solutions of Atlanta Northeast an IT Managed Services company that helps small to mid-sized businesses to improve productivity by leveraging technology. Before becoming a full-time business owner and entrepreneur, Mrs. Pitcher spent over 25 years implementing strategic, enterprise-level technology projects and programs for major corporations both nationally and internationally. She is a well-rounded professional who has spent her career bridging the gap between business and technology. Mrs. Pitcher has a Master of Public Administration from California State University. She is also a Certified Project Management Professional, Certified Scrum Master and Scaled Agilest.
- *Sabrina Scott, Bachelor Business Administration (BBA)* – Sabrina is an experienced project manager and business analyst. She has participated in several software conversions and system implementations from Request for Proposal, Requirements Gathering, Training, and Testing through War Room and Go Live Site Support. Sabrina has managed or provided governance multiple Cayenta Upgrade/Sliverblaze projects. She consistently provides excellent customer service, demonstrates leadership skills and is proactive in taking initiative to satisfy the customer and meet company objectives. She has Big 4 consulting experience with Cap Gemini, Ernst & Young, Sprint, and Nextel

Lead Project Manager - Responsible for developing, in conjunction with the Engagement Manager and Client Project Sponsor, a definition of the project. The Project Manager will manage the day-to-day project activities then ensures that the project is delivered on time, to budget and to the required quality standard (within agreed specifications). The PM will ensure the project is effectively resourced and manage relationships with a wide range of groups (including all project contributors).

- *LaShun Barron, PhD candidate* – Lashun is an experience project manager with over 15 years experience. Most recently managing a Cayenta CIS Upgrade for Midwest Energy. She is a Professional Project Manager with knowledge and experience across various platforms to include, Telecom, IT Infrastructure, Data Center and SDLC projects. Additionally, LasShun is an adjunct college professor of technology.

OPERATIONAL PLAN/METHODOLOGY

Approach

In keeping with best practice, we recommend implementation in two phases.

The first phase would be a discovery phase wherein we gather requirements, understand current processes and document future state process flows/workflow automation, and develop an implementation plan for the overall project implementation.

The second phase being the actual implementation including development/configuration, system integration and user acceptance testing, user training and production launch and support.

Phase 1 – Project Initiation & Discovery

The primary deliverable from this phase will be a complete, implementation ready definition of your business requirements and implementation strategy. This phase will consist of the following:

- Project familiarization – a good working relationship is critical to a successful implementation. As part of our project initiation process **BDM Squared** will schedule introductory meeting with key project team as part of the kick-off preparation.
- Kick-off – Joint meeting with City of Idaho Falls, Vendor and **BDM Squared** team to:
 - Reaffirm the project goals.
 - Assemble the team and communicate the scope of the project, roles and responsibilities.
 - Gain commitment required by all teams for resources required for the project.
 - Review and approve the project schedule, workplan and deliverable.
- Review and evaluate RFP, vendor contract and vendor statement of work – **BDM Squared** team will work with City of Idaho Falls to validate requirements outlined in the RFP against the vendor contract and statement of work to ensure all requirements defined in RFP are captured in the contract and statement of work.
- Scope Definition – Work with City and Vendor to confirm scope. Leveraging experience and lessons learned from previous projects to make recommendations for key components in the scope of work to be provided by the Vendor.
- Create Project Charter – **BDM Squared** will work with The City of Idaho Falls and Vendor to create the overall project charter defining the scope, roles & responsibilities, objective and people participating in the project. **BDM Squared** will work with City resources to obtain approval for the Project Charter.
- Implementation Planning – **BDM Squared** team will work with the City of Idaho Falls, Vendor and any integration vendor resources to create a detailed implementation plan and project schedule for the overall initiative.
 - Work with external vendors to build and obtain approval for statements of work, cost estimates and project plans.
 - Work with internal and external stakeholders and teams to identify tasks and deliverables for the project plan.
 - Obtain commitment from all impacted stakeholders for project implementation.

Phase 2 – Project Management Implementation

Phase 2 will be the actual development, configuration, validation and deployment to the production environment. This phase will require commitment from client resources to provide input and feedback during the design, development, and user testing process. This phase will consist of the following:

- Kick-off – Joint meeting with The City of Idaho Falls, Vendor and **BDM Squared** team to communicate the scope of the project, the commitment required by both teams, the escalation and approval process and timeline for the initiative.
- Process Flow and Procedure documentation – work with The City of Idaho Falls and selected vendor to document process flow and standard operating procedures for the new fare collection system.
- Project/Program Management – **BDM Squared** will act as overall program manager coordinating the efforts all impacted stakeholders, vendors and resources:
 - Track and manage tasks and deliverables to ensure on time/on budget delivery for project.
 - Manage change control process for changes in requirements, scope or timeline through the project.
 - Provide regular status updates to project sponsors and key stakeholders.
 - Obtain approval for all deliverables and phase transition.
- Change Management Planning & Implementation – work with The City of Idaho Falls resources to ensure impacted resources are aware of the change and prepared for the impact to their job.
- System Design, Development & Configuration – Provide project/program management and governance for the development/configuration effort to ensure on time delivery of all configuration, customization, and data imports.
- Test Planning, Management & Execution – work with client to create and execute an appropriate test management plan including planning, execution, monitoring, issue management, and reporting.
- Quality Assurance (QA) – Plan, manage and monitor system, integration, and user testing to ensure requirements are met and system is fully functional.
- User Acceptance Testing (UAT) – track and manage user acceptance process including defect tracking and management.
- Communication Planning - BDM Squared will perform communication planning and assist with the execution of Communication plan to ensure all stakeholders are appropriately informed.
- Training – Plan, manage and monitor The City of Idaho Falls team training activities and ensure adherence to training plan.
- Production Deployment and validation application to production and production validation.
 - Deployment Planning
 - Manage production deployment.
 - Concurrently track and manage full implementation validation in new airport.
- Project Closeout and Lessons Learned – perform administrative closeout activities for the project.
 - Ensure all project documentation is available in the project repository.
 - Hold lessons learned session with key project stakeholders.
 - Final requirements traceability review and project signoff.
- Ongoing Support – BDM Squared will work with vendor(s) to define ongoing support model strategy and prepare City of Idaho Falls for support relationship.

BASE COSTS AND SCOPE OF PROJECT

Project Costs

The fee for the **BDM Squared's** Project Management/Business Analysis services will be \$87,500. This rate includes:

Cayenta CIS Upgrade Resource Cost		
Resource	Cost	Total Resource Hours
Project Manager	\$ 63,875	365
Project Governance & Oversight	Included	75
Totals/Months	\$ 63,875	440

Below is a high-level overview of the function for each resource above.

- **BDM Squared Project Manager**
 - Responsible for developing, in conjunction with the Engagement Manager and Client Project Sponsor, a definition of the project. The Project Manager will manage the day-to-day project activities then ensures that the project is delivered on time, to budget and to the required quality standard (within agreed specifications). The PM will ensure the project is effectively resourced and manage relationships with a wide range of groups (including all project contributors).
- **BDM Squared Project Governance and Oversight Manager**
 - Provide oversight and ensure methodology is being followed from project start thru production launch. The **BDM Squared** Project Governance & Oversight Manager will work with the **BDM Squared** project manager(s) to create the overall project action plan and project schedule. Manage client relationship and act as an escalation point for the client to resolve issues. The Project Governance & Oversight manager continuously audits the project management approach and implementation and makes corrections where necessary.

Resource Allocation Plan

Cayenta Upgrade Resource Allocation Plan		On-boarding		Planning, Caystone Setup, Discovery				Test Case Execution, Defect Resolution, User Acceptance, Integration Testing								Deployment Planning, Training & Communication				Go/No Go & Launch	
Resource	Total Hours	7-Mar	14-Mar	21-Mar	28-Mar	4-Apr	11-Apr	18-Apr	25-Apr	2-May	9-May	16-May	23-May	30-May	6-Jun	13-Jun	20-Jun	27-Jun	4-Jul	11-Jul	
Project Manager	365	5	5	30	30	30	30	15	15	15	15	15	15	15	25	25	20	20	20	20	
Project Governance & Oversight	75	5	5	5	5	5	5	3	2	2	2	2	2	2	5	5	5	5	5	5	
Totals/Project Months	440	1				2				3				4				5			

Assumptions

Below are the assumptions being made in the creation of this proposal:

- This will be a 4-month project. If project exceeds 4 months a change control will be submitted for approval for additional time and/or cost.
- The project will be a collaborative effort with **BDM Squared** and City of Idaho Falls. **BDM Squared** will work in close coordination with City of Idaho Falls designated point/points of contact.
- The **BDM Squared** resources have appropriate authority to control and execute the project activities to ensure projects are on target.
- Project Manager proposed is contingent upon resource availability at the time of award. If resource is unavailable, a resource with comparable experience will be engaged.
- **BDM Squared** will perform most of the work remotely. BDM Squared will be leveraging remote technologies such as Zoom and Teams to maintain the project communication cadence. Key tasks related to project kick off, training, site visits and designated deliverable approval may be performed at the City facilities. All travel will be approved by City of Idaho Falls prior to scheduling.
- City of Idaho Falls resources/SMEs impacted by projects will show maximum will, collaboration, and availability to ensure project success and progress.

Memorandum

File #: 21-398

City Council Meeting

FROM: Bear Prairie, General Manager
DATE: Wednesday, February 2, 2022
DEPARTMENT: Idaho Falls Power

Subject

Pole Attachment License Agreement Renewal with Cable One Inc. dba Sparklight

Council Action Desired

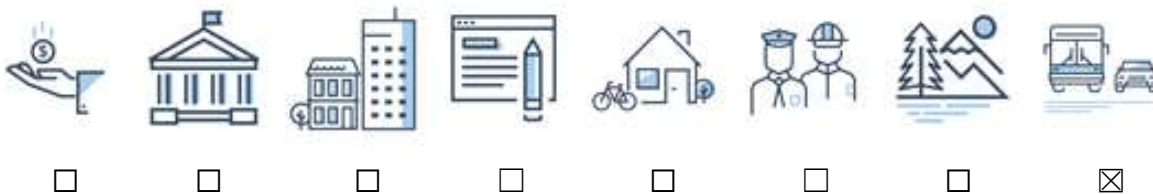
- ☐ Ordinance
 ☐ Resolution
 ☐ Public Hearing
☒ Other Action (Approval, Authorization, Ratification, etc)

Approve this renewal agreement with Sparklight, a Delaware corporation, and give authorization for the Mayor and City Clerk to execute the necessary documents (or take other action deemed appropriate).

Description, Background Information & Purpose

This reciprocal License Agreement will govern attachments on poles owned by the other entity. The agreement establishes rules for work coordination between the two entities, sets requirements for make-ready work and establishes fees associated with pole attachments. This supersedes the 2005 agreement with Cable One, Inc.

Alignment with City & Department Planning Objectives



This action supports our readiness for reliable public infrastructure by developing and enforcing effective design standards that incorporate comprehensive infrastructure planning for electric and internet connectivity. This action also addresses a weakness component identified in the IFP Strategic Plan.

Interdepartmental Coordination

Legal Services concurs that this action is appropriate and has incorporated the associated fees into the city fee ordinance.

Fiscal Impact

This action has no fiscal impact to the budget.

Legal Review

Legal Services has reviewed and approved this agreement.

POLE ATTACHMENT LICENSE AGREEMENT BETWEEN CITY OF IDAHO FALLS, IDAHO AND SPARKLIGHT

THIS POLE ATTACHMENT LICENSE AGREEMENT BETWEEN CITY OF IDAHO FALLS, IDAHO AND SPARKLIGHT (hereinafter “Agreement”), is made this _____ day of _____, 2022, by and between CITY OF IDAHO FALLS, IDAHO, a municipal corporation of the State of Idaho, and its Electric Light Division d/b/a Idaho Falls Power, (hereinafter “IFP”), whose address is P.O. Box 50220, Idaho Falls, Idaho 83405, and Cable One, Inc. d/b/a Sparklight, a Delaware corporation (hereinafter “SPARKLIGHT”), whose address is 210 E. Earll Dr., Phoenix, AZ 85012. IFP and SPARKLIGHT may each be referred to at times herein individually as a “party” or collectively as the “parties”; references to “LICENSEE” and “OWNER” refer to either party interchangeably as the context may require.

BACKGROUND:

- A. The parties own and maintain Poles in the State of Idaho.
- B. Each party desires to place and maintain on the other party’s Poles, Attachments located in the State of Idaho for use in the party’s business and operations.
- C. In accordance with the terms and conditions of this Agreement, each party is willing to permit the other party to place and maintain Attachments to its respective Poles.

RECITALS

WHEREAS, LICENSEE proposes to install and maintain LICENSEE’s Facilities and associated electric or communication equipment on OWNER’S Poles to provide electric or Communication Services to the public; and

WHEREAS, OWNER is willing, when it may lawfully do so and in accordance with the regulations in the State of Idaho, to issue one or more Permits authorizing the placement or installation of LICENSEE’S Attachments on OWNER Poles, provided that OWNER may refuse, on a nondiscriminatory basis, to issue a Permit where there is insufficient Capacity or for reasons relating to safety, reliability, generally applicable engineering purposes, and/or any other Applicable Standard; and

WHEREAS, therefore, in consideration of the mutual covenants, terms and conditions set out below the parties agree as follows:

AGREEMENT

Article 1—Definitions

For the purposes of this Agreement, the following terms, phrases, words, and their derivations, shall have the meaning given below, unless more specifically defined within a specific Article or Paragraph of this Agreement. When not inconsistent with the context, words used in the present tense include the future and past tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words “shall” and

“will” are mandatory and “may” is permissive. Words not defined shall be given their common and ordinary meaning.

- 1.1 **Affiliate:** when used in relation to LICENSEE, means another entity that owns or controls, is owned or controlled by, or is under common ownership or control with LICENSEE.
- 1.2 **Applicable Standards:** means all applicable engineering and safety standards governing the installation, maintenance, and operation of facilities and the performance of all work in or around Owner Facilities and includes the most current versions of National Electric Safety Code (“NESC”), the National Electrical Code (“NEC”), and the regulations of the Occupational Safety and Health Administration (“OSHA”), IFP Service Policy, each of which is incorporated by reference in this Agreement, and/or other reasonable safety and engineering requirements of OWNER or other federal, state, or local authority with jurisdiction over Owner Facilities.
- 1.3 **Attaching Entity:** means any public or private entity, other than OWNER, LICENSEE or LICENSEE Affiliate, that, pursuant to a license agreement with OWNER, places an Attachment on OWNER’s Pole to provide Communications Service.
- 1.4 **Attachment(s):** means a wire or cable facility and appurtenant equipment utilized to provide Communications Service or electric service placed directly on Poles or Overlashed onto an existing Attachment. "Attachment" does not include any of the following: a Riser, J-hook, any grounds, multi-grounded neutral, or service drop where the drop is only attached to a single Pole and where Licensee has an existing Attachment on such Pole, or any additional mutually agreeable facilities.
- 1.5 **Capacity:** means the ability of a Pole to accommodate an Attachment based on Applicable Standards, including space and loading considerations.
- 1.6 **Climbing Space:** means that portion of a Pole’s surface and surrounding space that is free from encumbrances to enable OWNER employees and contractors to safely climb, access, and work on Owner Facilities and equipment.
- 1.7 **Communications Facilities:** means wireline or wireless facilities, including but not limited to, fiber optic, copper, and/or coaxial cables, wireless antennas, receivers or transceivers, including any and all associated equipment, utilized to provide Communications Service.
- 1.8 **Communications Service:** means the transmission or receipt of voice, video, data, broadband Internet, or other forms of digital or analog signals over Communications Facilities.
- 1.9 **LICENSEE:** The party, including its parent, subsidiaries or Affiliates, successor or assigns, granted a license by OWNER under this Agreement.
- 1.10 **LICENSEE’s Facilities:** means cable, wires, conductors, fiber optics, insulators, connectors, fasteners, transformers, capacitors, switches, batteries, amplifiers, devices,

structures, material, machines, appurtenances, articles, apparatus of any sort, and all other items related to a party's electrical or communication distribution system, including without limitation all support equipment such as guy wires, anchors, anchor rods, grounds and other accessories.

- 1.11 Make-Ready Work:** means all work that OWNER reasonably determines to be required to accommodate LICENSEE's Facilities and/or to comply with all Applicable Standards. Such work includes, but is not limited to, rearrangement and/or transfer of Owner Facilities or existing Attachments, inspections, engineering work, permitting work, tree trimming (other than tree trimming performed for normal maintenance purposes), or pole replacement and construction but does not include LICENSEE's routine maintenance
- 1.12 Occupancy:** means the use or reservation of space for Attachments on an OWNER Pole.
- 1.13 OWNER** - The party owning or controlling the Pole.
- 1.14 Overlash:** means to place an additional wire or cable onto an existing Attachment owned by LICENSEE.
- 1.15 Pedestals/Vaults/Enclosures:** means above- or below-ground housings that are not attached to OWNER Poles but are used to enclose a cable/wire splice, power supplies, amplifiers, passive devices, and/or to provide a service connection point (see Appendix D Specifications).
- 1.16 Permit:** means written or electronic authorization (see Appendix C) by OWNER for LICENSEE to make or maintain Attachments to specific OWNER Poles pursuant to the requirements of this Agreement. LICENSEE's Attachments made prior to the effective date (Existing Attachments) shall be deemed Permitted Attachments hereunder.
- 1.17 Pole:** means a pole owned by OWNER that is used for the distribution of electricity and/or Communications Service and is capable of supporting Attachments for LICENSEE's Facilities.
- 1.18 Post-Construction Inspection:** means the inspection by OWNER to verify that the Attachments have been made in accordance with Applicable Standards and the Permit.
- 1.19 Pre-Construction Survey:** means all work or operations required by Applicable Standards and/or OWNER to determine the Make-Ready Work necessary to accommodate LICENSEE's Facilities on a Pole. Such work includes, but is not limited to, field inspection. The Pre-Construction Survey shall be coordinated with OWNER and include LICENSEE's representative. All Pre-Construction Surveys, when complete, shall be agreed upon by both parties.
- 1.20 Reserved Capacity:** means Capacity or space on a Pole that OWNER has identified and reserved for its own future utility requirements at the time of the Permit grant, pursuant to a reasonable projected need or business plan.
- 1.21 Riser:** means metallic or plastic encasement materials placed vertically on the Pole to guide

and protect wires and cables.

- 1.22 Tag:** means to place distinct markers on wires and cables, coded by color or other means specified by OWNER and/or applicable federal, state or local regulations, that will readily identify the owner and be legible from the ground.
- 1.23 Owner Facilities:** means all personal property and real property owned by OWNER, including Poles, and related facilities.

Article 2—Scope of Agreement

- 2.0 Grant of License.** Subject to the provisions of this Agreement, OWNER grants LICENSEE a revocable, nonexclusive license authorizing LICENSEE to install and maintain Attachments to OWNER's Poles.
- 2.1 Parties Bound by Agreement.** LICENSEE and OWNER agree to be bound by all provisions of this Agreement, except insofar as governed by federal law, this Agreement shall be construed in accordance with, and its performance shall be governed by, the applicable laws in effect (without reference to choice of law) in the State of Idaho.
- 2.2 Permit Issuance Conditions.** OWNER will issue one (1) or more Permit(s) to LICENSEE only when OWNER determines, in its sole reasonable judgment, which shall not be unreasonably withheld, that (i) it has sufficient Capacity to accommodate the requested Attachment(s), (ii) LICENSEE meets all requirements set forth in this Agreement, and (iii) such Permit(s) comply with all Applicable Standards.
- 2.3 Reserved Capacity.** Access to space on OWNER Poles will be made available to LICENSEE with the understanding that certain Poles may be subject to Reserved Capacity. At the time of Permit issuance, OWNER shall notify LICENSEE if Capacity on particular Pole(s) is being designated as Reserved Capacity. For Attachments made with notice of such a Reservation of Capacity, on giving LICENSEE at least sixty (60) calendar days prior written notice. The allocation of the cost of any such Make-Ready Work (including the transfer, rearrangement, or relocation of third-party Attachments) shall be determined in accordance with Article 9. LICENSEE shall not be required to bear any of the costs or rearranging or replacing its Attachment(s), if such rearrangement or replacement is required as a result of an additional attachment or the modification of an Existing Attachment sought by any other Attaching Entity.
- 2.4 No Interest in Property.** No use, however lengthy, of any Owner Facilities, and no payment of any fees or charges required under this Agreement, shall create or vest in LICENSEE, any easement or other ownership or property right of any nature in any portion of Owner Facilities. Neither this Agreement, nor any Permit granted under this Agreement, shall constitute an assignment of any of OWNER's rights to Owner Facilities. Notwithstanding anything in this Agreement to the contrary, LICENSEE shall, at all times, be and remain a licensee only.
- 2.5 LICENSEE's Right to Attach.** Unless otherwise specified in this Agreement, nothing other than a Permit issued pursuant to Article 6, shall be construed as granting LICENSEE

any right to attach LICENSEE's Facilities to any specific Pole.

- 2.6 OWNER's Rights over Poles.** The parties agree that this Agreement does not in any way limit OWNER's right to locate, operate, maintain, or remove its Poles in the manner that will best enable it to fulfill its statutory service requirements or to comply with any federal, state, or local legal requirement.
- 2.7 Expansion of Capacity.** OWNER will take reasonable steps to expand Pole Capacity when necessary to accommodate LICENSEE's request for Attachment. Notwithstanding the foregoing sentence, nothing in this Agreement shall be construed to require OWNER to install, retain, extend, or maintain any Pole for use when such Pole is not needed for OWNER's own service requirements.
- 2.8 Other Agreements.** Except as expressly provided in this Agreement, nothing in this Agreement shall limit, restrict, or prohibit OWNER from fulfilling any agreement or arrangement regarding its Poles into which OWNER has previously entered, or may enter in the future, with others not party to this Agreement.
- 2.9 Permitted Uses.** This Agreement is limited to the uses specifically stated in the recitals set forth above and no other use shall be allowed without OWNER's express written consent to such use. Nothing in this Agreement shall be construed to require OWNER to allow LICENSEE to use OWNER's Poles after the termination of an individual Permit(s) or this Agreement, subject to the provisions of Article 11 and Article 23 of this Agreement, unless required to do so by applicable law or regulation.
- 2.10 Overlapping.** The following provisions apply to Overlapping:
- 2.10.1** LICENSEE shall be permitted, without the pole OWNER's prior approval, to overlap their own or third parties' pole attachments with telecommunications wires, including, for example, fiber-optic cable, fiber space closures, and similar incidental equipment. Notice to be provided within ten days of the overlapping. There shall be no separate attachment fee for an overlap.
- 2.10.2** Authorized Overlapping to accommodate Attachments of LICENSEE or its Affiliate(s) shall not increase the Annual Attachment Fee paid by LICENSEE pursuant to Appendix A, Item 1. LICENSEE or LICENSEE's Affiliate shall, however, be responsible for all Make Ready Work and other charges associated with the Overlapping. LICENSEE shall not have to pay a separate Annual Attachment Fee for such Overlapped Attachment.
- 2.10.3** At LICENSEE's request, OWNER may allow Overlapping to accommodate facilities of a third party, not affiliated with LICENSEE. In such circumstances, the third party must enter into a License Agreement with OWNER, obtain Permit(s), and pay a separate Attachment fee (Appendix A, Item 1) as well as the actual and reasonable costs of all necessary Make-Ready Work required to accommodate the Overlapping. OWNER shall not grant such Permit(s) to third parties allowing Overlapping of LICENSEE's Communications Facilities without

LICENSEE's written consent. Authorized Overlashing shall not increase the fees and charges paid by LICENSEE pursuant to Appendix A, Item 1. Nothing in this Agreement shall prevent LICENSEE from seeking a contribution from an Overlashing third party to defray fees and charges paid by LICENSEE.

2.10.4 Make Ready Work procedures set forth in Article 7 shall apply, as necessary, to all Overlashing.

2.11 Enclosures. LICENSEE shall not place Pedestals, Vaults, and/or other Enclosures on or within four feet (4') of any Pole or other OWNER facilities without OWNERS prior written permission. If permission is granted, all such installations shall be per the Specifications and Drawings in Appendix D of this Agreement. Such permission shall not be unreasonably withheld. If OWNER installs or relocates OWNER facilities within four (4') feet from LICENSEE's existing Pedestal, Vault, and/or Enclosure, LICENSEE shall not be in violation per Article 4.5 of this Agreement.

Article 3—Fees and Charges

3.1 Payment of Fees and Charges. LICENSEE shall pay to OWNER the fees and charges specified in Appendix A and shall comply with the terms and conditions specified in this Agreement.

3.2 Payment Period. Unless otherwise expressly provided, LICENSEE shall pay any undisputed invoice it receives from OWNER pursuant to this Agreement within sixty (60) calendar days after receipt of the invoice. OWNER will issue the invoice by July 30th and will consider the payment delinquent if not received by October 30th.

3.3 Billing of Attachment Fee. OWNER shall invoice LICENSEE for the per-Pole Fee annually. OWNER will submit to LICENSEE an invoice for the annual rental period not later than July 30th of each year. The initial annual rental period shall commence upon the execution of this Agreement and conclude on September 30th of the same or next year, and each subsequent annual rental period shall commence on the following October 1st and conclude on September 30th of the subsequent year. The per-Pole Fee due from LICENSEE to OWNER for each period shall be based on the total number of OWNER's Poles on which LICENSEE was issued and/or holds Permit(s) for Attachments during such annual rental period, including any previously authorized and valid Permits. The total sums owed will be detailed on the invoice. If requested, OWNER will provide calculations and underlying data used to determine the annual Pole fee.

3.4 Refunds. Except as described in Article 4.7, no fees and charges specified in Appendix A shall be refunded on account of any surrender of a Permit granted under this Agreement, or shall any refund be owed if a Pole is not used or abandoned by OWNER.

3.5 Late Charge. If OWNER does not receive payment for any undisputed fee or other amount owed within sixty (60) calendar days after it is due, LICENSEE shall pay interest to OWNER at the rate of one percent (1%) per month, or the maximum interest allowed by law, whichever is greater, on the amount due.

- 3.6 Payment for Work.** LICENSEE will be responsible for payment of all actual and reasonable costs to OWNER for all work that OWNER or OWNER's contractors perform pursuant to this Agreement to accommodate LICENSEE's Facilities.
- 3.7 Advance Payment.** At its sole reasonable discretion, OWNER may require that LICENSEE pay in advance all estimated reasonable costs, including, but not limited to, construction, inspections, and Make-Ready Work expenses, in connection with the initial installation or rearrangement of LICENSEE's Facilities pursuant to the procedures set forth in Articles 6 and 7 below.
- 3.8 True-Up.** Whenever OWNER, in its discretion, requires advance payment of estimated expenses prior to undertaking an activity on behalf of LICENSEE and the actual and reasonable cost of the activity exceeds the advance payment of estimated expenses, LICENSEE agrees to pay OWNER for the difference in cost, provided that OWNER documents such costs with sufficient detail to enable LICENSEE to verify the charges. OWNER's final invoice may not exceed one hundred twenty percent (**120%**) of the estimated expenses and LICENSEE will not be required to pay more than one hundred twenty percent (**120%**) of such estimated expenses. To the extent that OWNER's actual and reasonable cost of the activity is less than the estimated cost, OWNER shall refund to LICENSEE the difference in cost.
- 3.9 Determination of Charges.** Wherever this Agreement requires LICENSEE to pay for work done or contracted by OWNER, the charge for such work shall include all actual and reasonable material, labor, and engineering and applicable overhead costs. OWNER shall bill its services based upon actual and reasonable costs, and such costs will be determined in accordance with OWNER's cost accounting systems used for recording capital and expense activities. If LICENSEE was required to perform work and fails to perform such work in the time specified, necessitating completion of the work by OWNER, LICENSEE shall pay OWNER the actual and reasonable cost or costs of such work. OWNER shall not be liable for any loss or damage for undertaking work pursuant to this section unless caused by the sole negligence of OWNER, provided, however, that Licensee's failure to act shall not be considered a form of negligence.
- 3.10 Work Performed by OWNER.** Wherever this Agreement requires OWNER to perform any work, OWNER, at its sole reasonable discretion, may utilize its employees or contractors, or any combination of the two, to perform such work.
- 3.11 Default for Nonpayment.** Nonpayment of any amount not disputed in writing due under this Agreement beyond ninety (90) days shall constitute a default of this Agreement.

Article 4—Specifications

- 4.1 Installation/Maintenance of LICENSEE's Facilities.** When a Permit is issued pursuant to this Agreement, LICENSEE's Facilities shall be installed and maintained in accordance with the requirements and specifications of Appendix D. All of LICENSEE's Facilities must comply with all Applicable Standards. LICENSEE shall be responsible for the installation and maintenance of its facilities. LICENSEE shall, at its own expense, make and maintain

its Attachment(s) in safe condition and good repair, in accordance with all Applicable Standards. Notwithstanding anything in this Agreement to the contrary, LICENSEE shall not be required to update or upgrade its Attachments if they met Applicable Standards at the time they were made, unless such updates or upgrades are required by the NESC or NEC.

- 4.2 Tagging.** LICENSEE shall Tag all of its fiber optic Attachments installed after the execution of this Agreement as specified in Appendix D and/or applicable federal, state, and local regulations upon installation of such Attachments. Prior authorized fiber optic Attachments shall be Tagged if LICENSEE physically performs an operation or maintenance function on a prior authorized fiber optic Attachment after the effective date of this Agreement. OWNER failure to provide proper Tagging for Attachments that are installed after the execution of this Agreement will be considered a violation of the Applicable Standards.
- 4.3 Interference.** LICENSEE shall not allow LICENSEE's Facilities to impair the ability of OWNER or any third party to use OWNER's Poles, nor shall LICENSEE allow LICENSEE's Facilities to interfere with the operation of any Owner Facilities. The attachment rights subsequently granted by OWNER to other Attaching Entities pursuant to licenses, permits, or rental agreements shall not limit nor interfere with any prior attachment rights granted to the LICENSEE hereunder or result in further rearrangement or make ready costs without reimbursement.
- 4.4 Protective Equipment.** LICENSEE and its employees and contractors shall utilize and install adequate protective equipment to ensure the safety of people and facilities consistent with Applicable Standards. Sparklight as LICENSEE shall, at its own expense, install protective devices designed to handle the electric voltage and current carried by IFP's facilities in the event of a contact with such facilities as specified in Applicable Standards.
- 4.5 Violation of Specifications.** If LICENSEE's Communications Facilities, or any part of them, are installed, used, or maintained in violation of this Agreement, and LICENSEE has not corrected or disputed the violation(s) within ninety (90) calendar days from receipt of written notice of the violation(s) from OWNER, or such other time that has been agreed to by the parties, OWNER, at its option, may correct such conditions. OWNER will notify LICENSEE in writing prior to performing such work whenever practicable. When OWNER reasonably believes, however, that such violation(s) pose an immediate threat to the safety of any person, interfere with the performance of OWNER's service obligations, or present an immediate threat to the physical integrity of OWNER facilities, OWNER may perform such work and/or take such action as it deems necessary without first giving written notice to LICENSEE. As soon as practicable afterward, OWNER will advise LICENSEE of the actual work performed or the action taken. If LICENSEE was at fault for the violation, LICENSEE shall be responsible for all actual and reasonable costs incurred by OWNER in taking action pursuant to this Paragraph.
- 4.6 Restoration of OWNER Service.** OWNER's service restoration requirements shall take precedence over any and all work operations of LICENSEE on OWNER's Poles.
- 4.7 Effect of Failure to Exercise Access Rights.** If LICENSEE does not exercise any access right granted pursuant to this Agreement and/or applicable Permit(s) within one hundred

eighty (180) calendar days of the effective date of such right and any extension to such Permit(s), OWNER may, use the space scheduled for LICENSEE's Attachment(s) for its own needs or make the space available to other Attaching Entities. In such instances, OWNER shall endeavor to make other space available to LICENSEE, upon written or electronic application under Article 6, as soon as reasonably possible and subject to all requirements of this Agreement, including the Make-Ready Work provisions. If OWNER uses the space for its own needs or makes the space available to other parties, then from the date that OWNER or a third party begins to use such space, LICENSEE may obtain a refund on the portion of any Attachment Fees that it has paid in advance for that space. For purposes of this paragraph, LICENSEE's access rights shall not be deemed effective until any necessary Make-Ready Work has been performed.

- 4.8 Removal of Nonfunctional Attachments.** At its sole expense, LICENSEE shall remove any of its Attachments or any part thereof that becomes nonfunctional and no longer fit for service (Nonfunctional Attachment) as provided in this Paragraph 4.8.. Except as otherwise provided in this Agreement, LICENSEE shall remove Nonfunctional Attachments within one (1) year of the Attachment becoming nonfunctional, unless LICENSEE receives written notice from OWNER that removal is necessary to accommodate OWNER's or another Attaching Entity's use of the affected Pole(s), in which case LICENSEE shall remove the Nonfunctional Attachment within sixty (60) days of receiving the written notice.

Article 5—Private and Regulatory Compliance

- 5.1 Necessary Authorizations.** Before LICENSEE occupies any of OWNER's Poles, LICENSEE shall obtain from the appropriate public or private authority, or from any property owner or other appropriate person, any required authorization to construct, operate, or maintain LICENSEE's Facilities on public or private property. OWNER retains the right to require evidence that appropriate authorization has been obtained before any Permit is issued to LICENSEE. LICENSEE's obligations under this Article 5 include, but are not limited to, its obligation to obtain and pay for all necessary approvals to occupy public/private rights-of-way and easements and all necessary licenses and authorizations to provide the services that it provides over LICENSEE's Facilities. LICENSEE shall defend, indemnify, and hold harmless OWNER for all losses, costs, and expenses, including reasonable attorney's fees, that OWNER may incur as a result of claims by governmental bodies, owners of private property, or other persons, that LICENSEE does not have sufficient rights or authority to attach LICENSEE's Facilities on OWNER's Poles.
- 5.2 Lawful Purpose and Use.** LICENSEE's Facilities must at all times serve a lawful purpose, and the use of such facilities must comply with all applicable federal, state and local laws.
- 5.3 Forfeiture of OWNER's Rights.** No Permit granted under this Agreement shall extend, or be deemed to extend, to any of OWNER's Poles to the extent that LICENSEE's Attachment would result in a forfeiture of OWNER's rights. Further, if any of LICENSEE's existing facilities, whether installed pursuant to a valid Permit or not, would

cause such forfeiture, LICENSEE shall upon receipt of written notice from OWNER: (i) provide OWNER with a written response that is taking corrective action to remedy the underlying issue creating the claimed potential for forfeiture; or (ii) promptly remove its Facilities. If LICENSEE does not take corrective action or challenge the basis for forfeiture, and subsequently fails to remove its facilities, OWNER may at its option perform such removal at LICENSEE's expense not sooner than the expiration of thirty (30) calendar days from OWNER's issuance of the written notice.

- 5.4 Effect of Consent to Construction/Maintenance.** Consent by OWNER to the construction or maintenance of any Attachments by LICENSEE shall not be deemed consent, authorization, or acknowledgment that LICENSEE has obtained all required Authorizations with respect to such Attachment.

Article 6—Permit Application Procedures

- 6.1 Permit Required.** Except for service drops, LICENSEE shall not make any Attachments to any of OWNER's Poles without first applying for and obtaining a Permit pursuant to the applicable requirements of Appendix B and C. LICENSEE shall not be required to obtain Permits for Attachment(s) existing as of the effective date of this Agreement. Such grandfathered Attachments shall, however, be subject to the Attachment Fees specified in Appendix A. In the event that a service drop constitutes the initial Attachment to a given Pole, LICENSEE will be required to follow the Permitting process set forth in this Article 6. LICENSEE will be allowed thirty (30) days after the Attachment is made to initiate the Permitting process.
- 6.2 Permits for Overlashing.** As set out in Paragraph 2.10 Permits may be required for any Overlashing allowed under this Agreement and LICENSEE, LICENSEE's Affiliate or other third party, as applicable, shall pay any necessary Make-Ready Work costs to accommodate such Overlashing.
- 6.3 Professional Certification.** Unless otherwise waived in writing by OWNER, as part of the Permit application process and at LICENSEE's sole expense, a qualified employee or contractor of LICENSEE must participate in the Pre-Construction Survey and certify that LICENSEE's Facilities can be and were installed on the identified Poles in compliance with the standards in Paragraph 4.1 and in accordance with the Permit. LICENSEE's qualified employee's qualifications must include experience performing such work, or substantially similar work, on electric transmission or distribution systems. OWNER, at its discretion, may waive the requirements of this Paragraph with respect to service drops.
- 6.4 OWNER Review of Permit Application.** Upon receipt of a properly executed Application for Permit (Appendix C), which shall include the Pre-Construction Survey, certified per Paragraph 6.3 above, and detailed plans for the proposed Attachments in the form specified in Appendix C, OWNER will review the Permit application and discuss any issues with LICENSEE, including engineering or Make-Ready Work requirements associated with the Permit application. OWNER acceptance of the submitted design documents does not relieve LICENSEE of full responsibility for any errors and/or

omissions in the engineering analysis. Unless otherwise agreed, the Permit application process shall be consistent with the following timeline:

- 6.4.1 Review Period.** OWNER shall review and respond to properly executed and complete Permit applications for routine installations as promptly as is reasonable with a maximum response time of within thirty (30) days of receipt. For Permit applications seeking Attachments to fifty (50) or more Poles, OWNER and LICENSEE will negotiate a mutually satisfactory longer time frame, not to exceed sixty (60) days, to complete the Permit application review. OWNER's response will provide a written explanation as to why the Application is being denied, in whole or in part, and if approved provide an estimate of the costs of all Make-Ready Work if necessary.
 - 6.4.2** Upon receipt of OWNER's Make-Ready estimate, LICENSEE shall have fourteen (14) business days after receipt to approve the estimate and if advance payment of Make-Ready Work is required, will provide payment within forty-five (45) days of receipt of an invoice for the estimated Make-Ready Work.
 - 6.4.3** OWNER will complete routine Make-Ready Work within thirty (30) days of approval and/or receipt of advance payment of Make-Ready Work if required. If there are extenuating circumstances that make the necessary Make-Ready more complicated or time-consuming, including, but not limited to, the number of Poles, seasonal weather conditions, lead time on materials not in inventory, OWNER shall identify those factors in the Make-Ready estimate and the parties shall agree upon a reasonable timeframe for completion.
 - 6.4.4** Make-Ready Work for Attachments of wireless Communications Facilities located above the electric space, if authorized under this Agreement, shall be provided on a reasonable, timely basis but are not subject to a specific time period.
 - 6.4.5** OWNER may toll the time period for completion of Make-Ready Work by written notice in order to respond to severe storms, natural disasters, or other emergency situations.
- 6.5 Permit as Authorization to Attach.** Upon completion of any necessary Make-Ready Work and receipt of payment for such work, OWNER will sign and return the Permit application, which shall serve as authorization for LICENSEE to make its Attachment(s). If no Make-Ready Work is required, OWNER will issue Permit(s) within thirty (30) days of receipt of a Permit application.

Article 7—Make-Ready Work/Installation

- 7.1 Estimate for Make-Ready Work.** If OWNER determines that it can accommodate LICENSEE's request for Attachment(s), including Overlapping of an existing Attachment, it will, advise LICENSEE of any estimated Make-Ready Work charges necessary to accommodate the Attachment, within the thirty (30) day timeframe provide in Article 6.4.1.

- 7.2 Payment of Make-Ready Work.** Upon completion of the Make-Ready Work, OWNER shall invoice LICENSEE for OWNER's actual cost of such Make-Ready Work. Alternatively, OWNER, at its discretion, may require payment in advance for Make-Ready Work based upon the estimated cost of such work. The costs of the work shall be in accordance with Paragraph 3.9 and trued up in accordance with Paragraph 3.8.
- 7.3 Who May Perform Make-Ready Work.** Make-Ready Work shall be performed only by OWNER and/or a contractor authorized by OWNER to perform such work. If OWNER cannot perform the Make-Ready Work to accommodate LICENSEE's Facilities within thirty (30) calendar days of LICENSEE's agreement to Make-Ready Work estimate, LICENSEE may request the ability to use a qualified contractor to perform such work and shall specify when such work would be performed. In all instances, qualified contractors, if allowed, must be pre-approved by OWNER for such work if they have not been previously pre-approved by OWNER.
- 7.4 Scheduling of Make-Ready Work.** In performing all Make-Ready Work to accommodate LICENSEE's Facilities, OWNER will endeavor to include such work in its normal work schedule. If LICENSEE requests that the Make-Ready Work be performed on a priority basis or outside of OWNER's normal work hours, LICENSEE will pay any resulting increased costs. Nothing in this Agreement shall be construed to require OWNER to perform LICENSEE's work before other scheduled work or OWNER service restoration.
- 7.5 Notification of Make-Ready Work.** Before starting Make-Ready Work, OWNER shall notify all Attaching Entities of the date and location of the scheduled work and shall afford all such Attaching Entities an opportunity to make any modifications to their existing Attachments at their own cost in connection with the Make-Ready Work.
- 7.6 Written Approval of Installation Plans Required.** With the exception of service drops, before making any Attachments to OWNER's Poles, LICENSEE must obtain OWNER's written approval of detailed plans for the Attachments. Such detailed plans shall accompany a Permit application as required under Paragraph 6.4.
- 7.7 LICENSEE's Installation/Removal/ Maintenance Work.**
- 7.7.1** All of LICENSEE's installation, removal, and maintenance work, by either LICENSEE's employees or authorized contractors, shall be performed at LICENSEE's sole cost and expense, in a good and workmanlike manner, and must not adversely affect the structural integrity of OWNER's Poles, or other Facilities or other Attaching Entity's facilities or equipment. LICENSEE shall not be responsible for the cost and expense of any removal or maintenance work on LICENSEE's facilities that were originally installed per Applicable Standards. All such work is subject to the insurance requirements of Article 18.
- 7.7.2** All of LICENSEE's installation, removal, and maintenance work, either by its employees or authorized contractors, shall comply with all applicable regulations specified in Paragraph 4.1. LICENSEE shall assure that any person installing, maintaining, or removing its facilities is fully qualified and familiar with all

Applicable Standards, the provisions of Article 17, and the Minimum Design Specifications contained in Appendix D.

Article 8—Transfers

- 8.1 **Required Transfers of LICENSEE's Facilities.** If OWNER reasonably determines that a transfer of LICENSEE's Facilities is necessary, OWNER will require LICENSEE to perform such transfer at its own expense within sixty (60) calendar days after receiving written notice from OWNER that the Attaching Entities with attachments above LICENSEE have completed the transfer of their facilities, or perform the transfer itself, using its personnel, and/or contractors. If LICENSEE fails to transfer its Facilities within sixty (60) calendar days after receiving such written notice from OWNER, OWNER shall have the right to transfer LICENSEE's Facilities using its personnel and/or contractors. The costs of such transfers shall be apportioned as specified under Article 9. OWNER shall not be liable for damage to LICENSEE's Facilities except to the extent provided in Paragraph 16. The written advance notification requirement of this Paragraph shall not apply in emergency situations. In emergency situations, OWNER shall provide such advance oral notice as is practical, given the urgency of the particular situation. OWNER shall then provide written notice of any such actions taken within ten (10) days following the occurrence. At the option of the parties, OWNER can be contracted to perform all such transfer work as part of the normal course of business. OWNER will bill LICENSEE at OWNER's actual and reasonable cost. If the parties choose this option a separate transfer agreement must be executed between OWNER and LICENSEE.
- 8.2 **Pole Removal.** The last party attached to a pole shall be responsible for removal, disposal, and liability of such pole. Should LICENSEE be the last party attached to the pole and the facilities are moved by the OWNER pursuant to Article 8.1, LICENSEE shall compensate OWNER for removal of the pole.

Article 9—Modifications and/or Replacements

- 9.1 **LICENSEE's Action Requiring Modification/Replacement.** If any Pole to which LICENSEE desires to make Attachment(s) is unable to support or accommodate the additional facilities in accordance with all Applicable Standards, OWNER will notify LICENSEE of the necessary Make-Ready Work, and associated costs, to provide adequate Pole space, including, but not limited to, replacement of the Pole and/or rearrangement or transfer of OWNER's Facilities, as well as the existing facilities of other Attaching Entities. If LICENSEE elects to go forward with the necessary changes, LICENSEE shall pay to OWNER the actual and reasonable cost of the Make-Ready Work, performed by OWNER, in accordance with Paragraph 3.9 or performed by the existing Attaching Entity to accommodate the new Attachment of LICENSEE. OWNER, in its discretion, may require advance payment.

The attachment rights subsequently granted by OWNER to other Attaching Entities pursuant to licenses, permits, or rental agreements shall not limit nor interfere with prior attachment rights granted to LICENSEE hereunder or result in further rearrangement or make-ready costs without reimbursement to LICENSEE.

OWNER shall require such Attaching Entities to compensate LICENSEE for actual and reasonable costs incurred in rearranging any of LICENSEE's Attachments necessary to provide clearance, as required in this Agreement, for such Attaching Entities attachments.

9.2 Treatment of Multiple Requests for Same Pole or Conduit. If OWNER receives Permit applications for the same Pole from two or more prospective licensees within sixty (60) calendar days of the initial request, and accommodating their respective requests would require modification or replacement of the Pole, OWNER will allocate among such licensees the applicable costs associated with such modification or replacement.

9.3 Guying. The use of guying to accommodate LICENSEE's Attachments shall be provided by, and at the expense of, LICENSEE and to the satisfaction of OWNER, as specified in Appendix D. LICENSEE shall not attach its guy wires to OWNER's anchors without prior written permission of OWNER. If permission is granted, Make-Ready Work charges may apply.

9.4 Allocation of Costs. The costs for any rearrangement or transfer of LICENSEE's Facilities or the replacement of a Pole (including any related costs for tree cutting or trimming required to clear the new location of OWNER's cables or wires) shall be allocated to OWNER and/or LICENSEE and/or other Attaching Entity on the following basis:

9.4.1 If OWNER intends to modify or replace a Pole solely for its own requirements, it shall be responsible for the costs related to the modification/replacement of the Pole. LICENSEE shall not be responsible for costs associated with the rearrangement or transfer of LICENSEE's Facilities, unless and to the extent the rearrangement or transfer is necessary in connection with OWNER's reacquisition of Reserved Capacity from LICENSEE. Prior to making any such modification or replacement, OWNER shall provide LICENSEE written notification of its intent in order to provide LICENSEE a reasonable opportunity to modify or add to its existing Attachment. Should LICENSEE decide to do so, it must seek OWNER's written permission in accordance with this Agreement. If LICENSEE elects to add to or modify its facilities, LICENSEE shall bear the total incremental costs incurred by OWNER in making the space on the Poles accessible to LICENSEE.

9.4.2 If the modification or replacement of a Pole is necessitated by the requirements of LICENSEE, LICENSEE shall be responsible for all costs caused by the modification or replacement of the Pole as well as the costs associated with the transfer or rearrangement of any other Attaching Entity's Communications Facilities. After receipt of an approved Permit application from OWNER, LICENSEE shall submit evidence, in writing, that it has made arrangements to reimburse all affected Attaching Entities for their costs caused by the transfer or rearrangement of their Facilities. OWNER shall not be obligated in any way to enforce or administer LICENSEE's responsibility for the costs associated with the transfer or rearrangement of another Attaching Entity's facilities pursuant to this Paragraph 9.4.2.

- 9.4.3** If the modification or the replacement of a Pole is the result of an additional Attachment or the modification of an existing Attachment sought by an Attaching Entity other than OWNER or LICENSEE, the Attaching Entity requesting the additional or modified Attachment shall bear the entire cost of the modification or Pole replacement, as well as the costs for rearranging or transferring LICENSEE's Facilities. LICENSEE shall cooperate with such third-party Attaching Entity to determine the costs of moving LICENSEE's Facilities.
- 9.4.4** If the Pole must be modified or replaced for reasons unrelated to the use of the Pole by Attaching Entities (e.g., storm, accident, deterioration), OWNER shall pay the costs of such modification or replacement and LICENSEE shall pay the costs of rearranging or transferring its facilities.
- 9.4.5** If the entity which replaces the pole is not the original pole OWNER, and they choose to not reimburse the cost of replacement, the Entity that pays for the cost of installation of a new pole, except the cost of the transfer of facilities, will assume ownership of the new pole.
- 9.5 Pole Removal.** In the event the Licensee does not comply with Article 8.1 and the Licensee is the last attacher to a pole, the Licensee will be responsible for removal, disposal, and liability of such pole.
- 9.6 OWNER Not Required to Relocate.** Nothing in this Agreement shall be construed to require OWNER to relocate its Attachments or to modify or replace its Poles for the benefit of LICENSEE.

Article 10—Abandonment or Removal of Owner Facilities

- 10.1 Notice of Abandonment or Removal of Owner Facilities.** If OWNER desires at any time to abandon or remove any Owner Facilities to which LICENSEE's Facilities are attached, it shall give LICENSEE notice in writing to that effect at least ninety (90) calendar days prior to the date on which it intends to abandon or remove such Owner's Facilities. Notice may be limited to sixty (60) calendar days if OWNER is required to remove or abandon its Owner Facilities as the result of the action of a third party and the lengthier notice period is not practical. Such notice shall indicate whether OWNER is offering LICENSEE an option to purchase the Pole(s). If, following the expiration of the 90-day period, LICENSEE has not yet removed and/or transferred all of its facilities and has not agreed to purchase OWNER's Facilities pursuant to Paragraph 10.2, OWNER shall have the right, subject to any applicable laws and regulations, to remove or transfer LICENSEE's Facilities at LICENSEE's expense. OWNER shall give LICENSEE prior written notice of any such removal or transfer of LICENSEE's Facilities.
- 10.2 Option to Purchase Abandoned Poles.** Should OWNER desire to abandon any Pole, OWNER may, in its sole but reasonable discretion, grant LICENSEE the option of purchasing such Pole at a price which is the value in place, at that time, of such abandoned Pole, less cost of removal. LICENSEE must notify OWNER in writing within thirty (30) calendar days of the date of OWNER's written notice of abandonment that LICENSEE

desires to purchase the abandoned Pole. Thereafter, LICENSEE must also secure and deliver proof of all necessary governmental approvals and easements allowing LICENSEE to independently own and access the Pole within forty-five (45) calendar days. Should LICENSEE fail to secure the necessary governmental approvals, or should OWNER and LICENSEE fail to enter into an agreement for LICENSEE to purchase the Pole within forty-five (45) calendar days, LICENSEE must remove its Attachments as required under Paragraph 10.1. If OWNER grants LICENSEE an option to purchase a Pole OWNER wished to abandon and LICENSEE agrees to purchase such Pole, OWNER will convey the Pole to LICENSEE by bill of sale. Nothing in this Agreement shall be construed as requiring OWNER to sell LICENSEE Poles that OWNER intends to remove or abandon.

- 10.3 Underground Relocation.** If OWNER moves any portion of its aerial system underground and purchase of the Poles under Article 10.2 is not an option, LICENSEE shall remove its facilities from any affected Poles within one hundred twenty (120) calendar days of receipt of written notice from OWNER and must either relocate its affected Facilities underground with OWNER or find other means to accommodate its Facilities, including, but not limited to, placement of its own pole(s). If LICENSEE does not remove its Attachments within one hundred twenty (120) days, OWNER shall have the right to remove or transfer LICENSEE's Communications Facilities at LICENSEE's expense.

Article 11—Removal of LICENSEE's Facilities

11.1 Removal on Expiration/Termination. At the expiration or other termination of an individual Permit(s), LICENSEE shall remove its Facilities from the affected Poles at its own expense. If LICENSEE fails to remove such Facilities within one hundred eighty (180) calendar days of expiration or termination or the individual Permits, or some greater period as allowed by OWNER, OWNER shall have the right, but not the obligation, to remove or transfer such Facilities at LICENSEE's expense. If this Agreement expires or is terminated in its entirety and LICENSEE and OWNER are not negotiating a new license agreement to replace it, LICENSEE shall have five (5) years from the date of expiration or termination of this Agreement to remove its facilities from OWNER Poles and will make its best efforts to remove at least twenty percent (20%) of its facilities during each year of such five (5) year period. LICENSEE shall pay OWNER an annual Pole Attachment fee for each Pole bearing its Attachments until all of its Attachments have been removed from the Pole.

Article 12—Termination of Permit

12.1 Automatic Termination of Permit. Any Permit issued pursuant to this Agreement shall automatically terminate when LICENSEE ceases to have authority to construct and operate LICENSEE's Facilities on public or private property at the location of the particular Pole(s) covered by the Permit. Notwithstanding the foregoing, to the extent LICENSEE is actively pursuing a challenge of the revocation of any such permission, LICENSEE may remain on the particular Pole(s) until such time all appeals and remedies are exhausted.

12.2 Surrender of Permit. LICENSEE may at any time surrender any Permit for

Attachment(s) and remove its facilities from the affected Pole(s), provided, however, that before commencing any such removal, LICENSEE must notify OWNER of the proposed date(s) and time(s) during which such work will be completed. All such work is subject to the insurance requirements of Article 18. No refund of any fees or costs will be made upon removal. If LICENSEE surrenders such Permit pursuant to the provisions of this Article, but fails to remove its Attachments from OWNER's Facilities within the time frame set forth in the approved plan above, OWNER shall have the right, but not the obligation, to remove or transfer LICENSEE's Attachments at LICENSEE's expense.

Article 13—Inspection of LICENSEE's Facilities

- 13.1 Inspections.** OWNER may conduct an inspection of Attachments at any time. Within one hundred eighty (180) calendar days of receiving written notice from OWNER, LICENSEE shall correct all Attachments that OWNER identifies as being out of compliance with Applicable Standards. If OWNER finds that twenty percent (20%) or more of LICENSEE's Attachments are either in non-compliance or not permitted, LICENSEE shall pay its pro-rata share of the costs of the inspection as it applies to LICENSEE's Attachments.
- 13.2 Notice.** OWNER will give LICENSEE one hundred eighty (180) calendar days advance written notice of such inspections, except in those instances in which safety considerations justify the need for such inspection without delay. Upon receipt of notice, LICENSEE will notify OWNER if it wishes to participate in the inspection.
- 13.3 No Liability.** Inspections performed under this Article 13, or the failure to do so, shall not operate to impose upon OWNER any liability of any kind whatsoever or to relieve LICENSEE of any responsibility, obligations, or liability, whether assumed under this Agreement or otherwise existing.
- 13.4 Inventory.** OWNER may conduct an inventory of Attachments made to its Poles no more frequently than once every five (5) years. OWNER shall give LICENSEE at least one hundred eighty (180) calendar days prior written notice of an initial meeting to plan the inventory. At such meeting, OWNER, LICENSEE and all other Attaching Entities shall participate in, among other things, review of the predicted costs to perform the inventory, the selection of an independent contractor for conducting the inventory, as well as the scheduling, scope, extent and reporting of the inventory results. All the data from the inventory shall be made available to the participating parties in an electronic format. The inventory data shall be delivered in a format that is usable by each party as specified by each party. Any party to the inventory shall make any objections to the inventory results with one hundred eighty (180) days of receipt of the inventory data or such objections are waived. To the extent that the respective parties may desire to include items in the inventory that are beneficial only to the requesting party, the additional costs for such items shall be the sole responsibility of the Party requesting them. LICENSEE shall reimburse OWNER for its pro-rata share of the costs of the inventory that are attributable to counting Poles containing LICENSEE's Attachments within forty-five (45) days of receipt of an invoice.

- 13.5 Attachment Records.** Notwithstanding the above inventory provisions, LICENSEE shall furnish to OWNER annually an up-to-date electronic map depicting the locations of its Attachments. If a map is not available, LICENSEE will provide a list in an electronic format specified by OWNER.

Article 14—Unauthorized Occupancy or Access

- 14.1 Unauthorized Access Fee.** Except as otherwise provided in Article 6.1 with respect to Existing Attachments (which are grandfathered in), if any of LICENSEE's Attachments are found occupying any Pole for which no Permit has been issued, OWNER, without prejudice to its other rights or remedies under this Agreement, may assess an unauthorized access fee, as specified in Appendix A, Item 2. LICENSEE shall pay such fee within forty-five (45) calendar days of receiving an invoice thereof.
- 14.2 No Ratification of Unauthorized Use.** No act or failure to act by OWNER with regard to any un-authorized use shall be deemed as ratification of the unauthorized use. Unless the parties agree otherwise, a Permit for a previously unauthorized Attachment shall not operate retroactively or constitute a waiver by OWNER of any of its rights or privileges under this Agreement or otherwise, and LICENSEE shall remain subject to all obligations and liabilities arising out of or relating to its unauthorized use.

Article 15—Reporting Requirements

- 15.1** Upon receipt of request by Utility, but not more than annually, LICENSEE shall report Attachments per Article 13.5.

Article 16—Liability and Indemnification

- 16.1 Risk of Loss.** LICENSEE assumes all risk and responsibility for all loss and expense whatsoever incurred by OWNER, joint owners or existing Attaching Entities resulting from damages to Owner Facilities or the associated equipment of OWNER, joint owners or existing Attaching Entities, or the premises surrounding any Owner Facilities, caused by LICENSEE's use of Owner Facilities or otherwise arising in connection with the exercise of the rights of LICENSEE under this Agreement. LICENSEE must immediately report to OWNER the occurrence of any damage or loss.
- 16.2 Indemnification.** The indemnification, hold harmless and defense obligations set forth below in Sections 16.2.1 and 16.2.2: (a) are in addition to any other such obligations set forth elsewhere in this Agreement; and (b) will survive the expiration or termination of this Agreement, or the revocation of any applicable license.
- 16.2.1 LICENSEE Indemnification.**
- 16.2.1.1** LICENSEE will indemnify, hold harmless and defend each OWNER indemnitee from and against any and all damages arising out of a claim by a third party against an OWNER indemnitee for: (a) injury to persons (including libel, slander or death) arising from or related to the act or omission of LICENSEE or it

agents; (b) loss of or damage to tangible or intangible property arising from or related to the act or omission of LICENSEE or its agents; (c) violations of any applicable law by LICENSEE or its agents; or (d) arising from or related to the payment of compensation, employment taxes and benefits in connection with work performed on OWNER OR LICENSOR Facilities by LICENSEE or its agents. The indemnification, hold harmless and defense obligations under this Section 16.2.1.1 do not apply to damages resulting from the negligent act or omission or intentional misconduct of OWNER or its agents, or the violation of any applicable law by OWNER OR LICENSOR or its agents.

16.2.1.2 LICENSEE will indemnify, hold harmless and defend each OWNER indemnitee from and against any damages arising from or related to the erection, construction, placement, modification, rearrangement, transfer, maintenance, operation, authorized or unauthorized presence, use or removal of LICENSEE equipment, or by its proximity to the facilities of all existing Attaching Entities, or by any act or omission of LICENSEE or its agents in the vicinity of Owner Facilities. This includes any taxes, special charges by others, claims and demands for damages for copyright or patent infringement, for libel and slander, for unauthorized use of television or radio broadcast programs and other program material.

16.2.2 OWNER Indemnification.

16.2.2.1 OWNER will indemnify, hold harmless and defend LICENSEE and its parent, subsidiaries, Affiliates and their respective directors, officers, employees and agents (LICENSEE and the foregoing, each a “LICENSEE Indemnitee”) from and against any and all damages arising out of a claim by a third party against a LICENSEE Indemnitee for: (a) injury to persons (including libel, slander or death) arising from or related to the act or omission of OWNER or its agents; (b) loss of or damage to tangible or intangible property arising from or related to the act or omission of OWNER or its agents; (c) violations of any applicable law by OWNER or its agents; or (d) arising from or related to the payment of compensation, employment taxes and benefits in connection with work performed on Owner Facilities by OWNER or its agents. The indemnification, hold harmless and defense obligations under this Section 16.2.2.1 do not apply to damages resulting from the negligent act or omission or intentional misconduct of LICENSEE or its agents, or the violation of any applicable law by LICENSEE or its agents.

16.2.2.2 OWNER will indemnify, hold harmless and defend each LICENSEE Indemnitee from and against any damages arising from or related to OWNER’s erection, construction, placement, maintenance, operation, use, work on or removal of Owner Facilities, or by any act or omission of OWNER or its agents in the

vicinity of LICENSEE Attachments and LICENSEE equipment.

- 16.3 Claims Notification.** When a party becomes aware of a claim, demand or suit that is subject to the provisions of Sections 16.2.1 and 16.2.2, or any other claim, demand or suit related to indemnity, duty to defend or hold harmless provisions stated elsewhere in this Agreement (each a “Claim”), the party to be indemnified, defended or held harmless (“Indemnified Party”) must promptly give notice of the Claim to the other party (“Indemnifying Party”), accompanied by a copy of any written documentation regarding the matter, including copies of accident reports, petitions, summons, complaints and statements. The Indemnifying Party will defend such Claim with its own counsel and at its own expense, and has the right to control the settlement or defense, except that the Indemnifying Party will not enter into any settlement that imposes any liability or obligation on the Indemnified Party without the Indemnified Party’s prior consent, which consent will not be unreasonably withheld, conditioned or delayed. The parties will reasonably cooperate in the settlement or defense of any such Claim, and to the extent legally possible, give each other full access to all relevant information. The Indemnified Party’s own counsel may, at the Indemnified Party’s own cost and expense, participate with the Indemnifying Party and its counsel in the defense or settlement of any such Claim.
- 16.4 Damages Limitation.** Neither party is liable to the other for any indirect, special, consequential, punitive or exemplary damages, such as damages for loss of anticipated profits or revenue or other economic loss, for any claim or cause of action arising out of or related to this Agreement, whether arising in contract, tort or otherwise, except for claims for which a party has an obligation of indemnity under this Agreement, or arising from any grossly negligent, willful or fraudulent act or omission.
- 16.5 Environmental Hazards.** LICENSEE represents and warrants that its use of OWNER’s Poles will not generate any Hazardous Substances, that it will not store or dispose on or about OWNER’s Poles or transport to OWNER’s Poles any Hazardous Substances and that LICENSEE’s Facilities will not constitute or contain and will not generate any Hazardous Substance in violation of federal, state, or local law now or hereafter in effect, including any amendments. “Hazardous Substance” shall be interpreted broadly to mean any substance or material designated or defined as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic or radioactive substance, or emits radio frequency radiation above occupational limits, or other similar terms by any federal, state, or local laws, regulations or rules now or hereafter in effect, including any amendments. LICENSEE and its agents, contractors, and subcontractors shall defend, indemnify, and hold harmless OWNER and its respective officials, officers, board members, council members, commissioners, representatives, employees, agents, and contractors against any and all liability, costs, damages, fines, taxes, special charges by others, penalties, punitive damages, or expenses (including reasonable attorney’s fees and all other costs and expenses of litigation) arising from or due to the release, threatened release, storage, or discovery of any Hazardous Substances on, under, or adjacent to OWNER’s Poles to the

extent caused by LICENSEE's use of OWNER's Poles.

Should OWNER's Poles be declared to contain Hazardous Substances, OWNER shall be responsible for the disposal of their Pole. If the source or presence of the Hazardous Substance is solely attributable to particular parties, such costs shall be borne solely by those parties. Notwithstanding the above, OWNER agrees to defend, indemnify and hold harmless LICENSEE for any claims against LICENSEE related to Hazardous Substances or conditions to the extent caused or created by OWNER.

- 16.6 Municipal Liability Limits.** No provision of this Agreement is intended, or shall be construed, to be a waiver for any purpose by OWNER of any applicable state limits on municipal liability or governmental immunity.
- 16.7** If either party institutes an action in a court of competent jurisdiction to enforce the terms of this Agreement, and judgment is rendered in one party's favor, the losing party shall pay the prevailing party's reasonable attorney's fees and expenses, including the cost of appeal.

Article 17—Duties, Responsibilities, and Exculpation

- 17.1 Duty to Inspect.** LICENSEE acknowledges and agrees that OWNER does not warrant the condition or safety of OWNER's Facilities, or the premises surrounding the Facilities, and LICENSEE further acknowledges and agrees that it has an obligation to inspect OWNER's Poles and/ or premises surrounding the Poles for open and obvious dangers, prior to commencing any work on OWNER's Poles or entering the premises surrounding such Poles. LICENSEE's responsibility is limited to open and obvious dangers, and only to the extent necessary to perform LICENSEE's work. Any obligation of OWNER with respect to the condition of safety of its facilities separate from the Agreement shall remain solely the obligation of OWNER.
- 17.2 Knowledge of Work Conditions.** By executing this Agreement, LICENSEE warrants that it has acquainted, or will fully acquaint, itself and its employees and/or contractors and agents with the conditions relating to the work that LICENSEE will undertake under this Agreement and that it fully understands or will acquaint itself with the facilities, difficulties, and restrictions attending the execution of such work.
- 17.3 DISCLAIMER. OWNER MAKES NO EXPRESS OR IMPLIED WARRANTIES WITH REGARD TO OWNER'S POLES, ALL OF WHICH ARE HEREBY DISCLAIMED, AND OWNER MAKES NO OTHER EXPRESS OR IMPLIED WARRANTIES, EXCEPT TO THE EXTENT EXPRESSLY AND UNAMBIGUOUSLY SET FORTH IN THIS AGREEMENT. OWNER EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**
- 17.4 Duty of Competent Supervision and Performance.** The parties further understand and agree that, in the performance of work under this Agreement, LICENSEE and its agents, employees, contractors, and subcontractors will work near electrically energized lines,

transformers, or other OWNER facilities. The parties understand and intend that energy generated, stored, or transported by OWNER facilities will not be interrupted during the continuance of this Agreement, except in emergencies endangering life or threatening grave personal injury or property. LICENSEE shall ensure that its employees, agents, contractors, and subcontractors have the necessary qualifications, skill, knowledge, training, and experience to protect themselves, their fellow employees, agents, contractors, and subcontractors; employees, agents, contractors, and subcontractors of OWNER; and the general public, from harm or injury while performing work permitted pursuant to this Agreement. In addition, LICENSEE shall furnish its employees, agents, contractors, and subcontractor's competent supervision and sufficient and adequate tools and equipment for their work to be performed in a safe manner. LICENSEE agrees that in emergency situations in which it may be necessary to de-energize any part of OWNER's equipment, LICENSEE shall ensure that work is suspended until the equipment has been de-energized and that no such work is conducted unless and until the equipment is made safe.

OWNER shall ensure that its employees, agents, contractors and subcontractors have the necessary qualifications, skill, knowledge, training and experience to protect themselves, their fellow employees, employees of LICENSEE and the general public, from harm or injury while performing work permitted pursuant to this Agreement. In addition, OWNER shall furnish its employees, agents, contractors and subcontractor competent supervision and sufficient and adequate tools and equipment for their work to be performed in a safe manner.

- 17.5 Requests to De-energize.** If OWNER de-energizes any equipment or line at LICENSEE's request and for its benefit and convenience in performing a particular segment of any work, LICENSEE shall reimburse OWNER in full for all actual and reasonable costs and expenses incurred, in accordance with Paragraph 3.9, in order to comply with LICENSEE's request. Before OWNER de-energizes any equipment or line, it shall provide, upon request, an estimate of all costs and expenses to be incurred in accommodating LICENSEE's request.
- 17.6 Interruption of Service.** If a party causes an interruption of service by damaging or interfering with any equipment of the other party, the party causing the interruption of service shall immediately do all things reasonable to avoid injury or damages, direct and incidental, resulting therefrom and shall notify the other party immediately.
- 17.7 Duty to Inform.** LICENSEE further warrants that it understands the imminent dangers (INCLUDING SERIOUS BODILY INJURY OR DEATH FROM ELECTROCUTION) inherent in the work necessary to make installations on OWNER's Poles by LICENSEE's employees, agents, contractors, or subcontractors, and LICENSEE accepts the duty and sole responsibility to notify and inform LICENSEE's employees, agents, contractors, or subcontractors of such dangers, and to keep them informed regarding same.

Article 18—Insurance

- 18.1 Policies Required.** The parties recognize and agree that OWNER is a subdivision of the City of Idaho Falls, Idaho, a municipal corporation in the State of Idaho, and, therefore, OWNER is

subject to all Idaho laws, including the Idaho Constitution and Idaho State Code. Title 6, Chapter 9, of the Idaho Code (the Idaho Tort Claims Act) limits OWNER liability. The Idaho Tort Claims Act requires notice of tort claim as a prerequisite to suit for liability for tort claims. Article VIII, Section 4, of the Idaho Constitution prohibits a city from loaning or giving its credit in any amount for any purpose whatsoever to another entity. Additionally, Article VIII, Section 4, prohibits the City from becoming responsible for any debt, contract, or liability of any individual associated with a corporation in or out of the state of Idaho. Nothing in the Article 18 shall obligate OWNER to alter, in any way, its obligations under the Idaho State Code. At all times during the term of this Agreement, Parties shall keep in force and effect all insurance policies as described below:

- 18.1.1 Workers Compensation and Employers' Liability Insurance.** Statutory workers' compensation benefits and employers' liability insurance with a limit of liability no less than that required by Idaho law at the time of the application of this provision for each accident. This policy shall be endorsed to include a waiver of subrogation. Each party shall require subcontractors and others not protected under its insurance to obtain and maintain such insurance.
 - 18.1.2 Commercial General Liability Insurance.** Policy will be written to provide coverage for, but not limited to, the following: premises and operations, products and completed operations, personal injury, blanket contractual coverage, broad form property damage, independent contractor's coverage with limits of liability not less than \$2,000,000 general aggregate, \$2,000,000 products/completed operations aggregate, \$2,000,000 personal injury, \$2,000,000 each occurrence.
 - 18.1.3 Automobile Liability Insurance.** Business automobile policy covering all owned, hired and non-owned private passenger autos and commercial vehicles used in connection with work under this Agreement. Limits of liability not less than \$1,000,000 each occurrence, \$1,000,000 aggregate.
 - 18.1.4 Umbrella Liability Insurance.** Coverage is to be in excess of the sum employers' liability, commercial general liability, and automobile liability insurance required above. Limits of liability not less than \$4,000,000 each occurrence, \$4,000,000 aggregate.
 - 18.1.5 Property Insurance.** Each party will be responsible for maintaining property insurance on its own facilities, buildings, and other improvements, including all equipment, fixtures, structures, fencing, or support systems that may be placed on, within, or around OWNER's Facilities to protect fully against hazards of fire, vandalism and malicious mischief, and such other perils as are covered by policies of insurance commonly referred to and known as "extended coverage" insurance or self-insure such exposures.
- 18.2 Qualification; Priority; Contractors' Coverage.** The insurer must be authorized to do business under the laws of the State of Idaho and have an "A-VII" or better rating in Best's Guide. Such insurance policy or policies will be endorsed to provide primary coverage in the event of any overlapping coverage carried by the other party (subject to the insurable

indemnification provisions of this Agreement). All contractors and all of their subcontractors who perform work on behalf of either party shall carry, in full force and effect, workers' compensation and employers' liability, comprehensive general liability, and automobile liability insurance coverages of the type required to obtain under this Article 18 with the same limits.

- 18.3 Evidence of Insurance; Other Requirements.** Prior to the execution of this Agreement and prior to each insurance policy expiration date during the term of this Agreement, each party will make available to the other party a memorandum of insurance or other proof of insurance evidencing the coverages required by this Article 18. The evidence of insurance shall include workers' compensation and property insurance waivers of subrogation required by this Agreement. It shall be the duty of each party to assure that the other party shall be given thirty (30) calendar days advance written notice of cancellation or nonrenewal of insurance during the term of this Agreement on any or the required coverages that are not replaced. Each party, its council members, board members, commissioners, agencies, officers, officials, employees and representatives (collectively, "Additional Insureds") shall be included as Additional Insureds under all of the policies, except workers' compensation and property insurance, which shall be so stated on the evidence of insurance. All policies shall be written on an occurrence and not on a claims-made basis. Each party shall defend, indemnify and hold harmless the other party and Additional Insureds from and against payment of any deductible and payment of any premium on any policy required under this Article. ~~Evidence of CENTURYLINK's insurance is available at www.centurylink.com/moi.~~
- 18.4 Limits.** The limits of liability set out in this Article 18 may be increased or decreased by mutual consent of the parties, which consent will not be unreasonably withheld by either party, in the event of any factors or occurrences, including substantial increases in the level of jury verdicts or judgments or the passage of state, federal, or other governmental compensation plans, or laws that would materially increase or decrease each party's exposure to risk.
- 18.5 Prohibited Exclusions.** No policies of insurance required to be obtained by either party or its contractors or subcontractors shall contain provisions that: (1) exclude coverage of liability assumed by this Agreement except as to infringement of patents or copyrights or for libel and slander in program material, (2) exclude coverage of liability arising from excavating, collapse, or underground work, (3) exclude coverage for injuries to a party's employees or agents directly caused by the negligence of the other party, or (4) exclude coverage of liability for injuries or damages caused by either party's contractors or the contractors' employees, or agents. This list of prohibited provisions shall not be interpreted as exclusive.
- 18.6 Deductible/Self-insurance Retention Amounts.** Each party shall be fully responsible for any deductible or self-insured retention amounts contained in its insurance program or for any deficiencies in the amounts of insurance maintained.

Article 19—Authorization Not Exclusive

OWNER shall have the right to grant, renew, and extend rights and privileges to others not party to this Agreement by contract or otherwise, to use OWNER's Facilities covered by this Agreement. Such rights shall not interfere with the rights granted to LICENSEE by the specific Permits issued pursuant to this Agreement.

Article 20—Assignment

- 20.1 Limitations on Assignment.** LICENSEE shall not assign or otherwise transfer its rights or obligations under this Agreement, nor any part of such rights or obligations, without the prior written consent of OWNER, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, LICENSEE shall have a right to assign or transfer this Agreement, in whole or in part and without consent to (i) any entity that controls, is controlled by, or is under common control with LICENSEE, and (ii) any entity that purchases all or substantially all of LICENSEE's assets located in Idaho Falls, Idaho.
- 20.2 Assignee/Transferee and LICENSEE.** Where consent to an assignment or transfer is required, no assignment or transfer will be effective until the assignee or transferee becomes a signatory to this Agreement and assumes all obligations of LICENSEE arising hereunder.

Article 21—Failure to Enforce

Failure of OWNER or LICENSEE to take action to enforce compliance with any of the terms or conditions of this Agreement or to give notice or declare this Agreement or any authorization granted hereunder terminated shall not constitute a waiver or relinquishment of any term or condition of this Agreement, but the same shall be and remain at all times in full force and effect until terminated, in accordance with this Agreement.

Article 22 Issue Resolution Process

- 22.1 Dispute Resolution.** Except for an action seeking a temporary restraining order or an injunction or to compel compliance with this dispute resolution procedure, the parties can invoke the dispute resolution procedures in this Article at any time to resolve a controversy, claim, or breach arising under this Agreement. Each party will bear its own costs for dispute resolution activity.
- 22.2 Initial Meeting.** At either party's written request, each party will designate knowledgeable, responsible, senior representatives to meet and negotiate in good faith to resolve a dispute. The representatives will have discretion to decide the format, frequency, duration, and conclusion of these discussions. The parties will conduct any meeting in-person or via conference call, as reasonably appropriate.
- 22.3 Executive Meeting.** If ninety (90) days after the first in-person meeting of the senior representatives, the parties have not resolved the dispute to their mutual satisfaction, each party will designate executive representatives at the director level or above to meet and negotiate in good faith to resolve the dispute. To facilitate the negotiations, the parties may agree in writing to use mediation or another alternative dispute resolution procedure.

- 22.4 Unresolved Dispute.** If after sixty (60) days from the first executive-level, in-person meeting, the parties have not resolved the dispute to their mutual satisfaction; either party may invoke any legal means available to resolve the dispute, including enforcement of the default and termination procedures set out in Article 23.
- 22.5 Confidential Settlement.** Unless the parties otherwise agree in writing, communication between the parties under this Article will be treated as confidential information developed for settlement purposes, exempt from discovery and inadmissible in litigation.
- 22.6 Business as Usual.** During any dispute resolution procedure or lawsuit, the Utilities will continue providing services to each other and performing their obligations under this Agreement.

Article 23—Termination of Agreement

- 23.1** OWNER shall have the right, pursuant to the procedures set out in this Article 23, to terminate any Permit issued under it, whenever LICENSEE is in default of any material term or condition of this Agreement applicable to such Permit, including, but not limited to, the following circumstances:
- 23.1.1** Construction, operation, or maintenance of LICENSEE's Facilities in violation of law, or in aid of any unlawful act or undertaking; or
 - 23.1.2** Construction, operation, or maintenance of LICENSEE's Facilities after any authorization required of LICENSEE has lawfully been denied or revoked by any governmental authority or any private holder of easements or other rights; or
 - 23.1.3** Construction, operation, or maintenance of LICENSEE's Facilities without the insurance coverage required under Article 18.
- 23.2** Notwithstanding the foregoing, OWNER will not terminate an individual Permit or this Agreement without first notifying LICENSEE in writing, of any defaults by LICENSEE under this Agreement. LICENSEE shall take immediate corrective action to remedy or eliminate any such defaults within sixty (60) calendar days, or such longer period as the parties may mutually agree, and shall confirm in writing to OWNER when the cited condition or conditions have ceased or been corrected, or are in the process of being corrected.
- 23.3** If LICENSEE contests the existence of the default, it may invoke the dispute resolution procedures of Article 22.
- 23.4** If the parties are unable to resolve the dispute and LICENSEE fails to discontinue or correct a default in a timely manner or fails to give the required confirmation, OWNER shall notify LICENSEE in writing of such failure. If LICENSEE has not taken corrective action to remedy or eliminate the condition within thirty (30) days following LICENSEE's receipt of this second notice from OWNER, OWNER may terminate this Agreement or any Permit(s) granted under it thirty (30) calendar days after issuance of the

second written notice. In the event of termination of this Agreement or any of LICENSEE's rights, privileges, or authorizations, OWNER may seek removal of LICENSEE's Facilities pursuant to the terms of Article 11. LICENSEE shall be liable to OWNER for all fees and charges accrued pursuant to the terms of this Agreement until LICENSEE's Facilities are actually removed.

Article 24—Term of Agreement

24.1 This Agreement shall become effective upon its execution and shall continue in effect for an initial term of ten (10) years and, unless terminated by either party after the initial term, shall automatically be renewed for successive one (1) year terms. Either party may terminate this Agreement at the end of the initial term or a successor term by giving written notice of intent to terminate the Agreement at the end of the then-current term. Such a notice must be given least one hundred eighty (180) calendar days prior to the end of the then-current term.

24.2 Even after the termination of this Agreement, each party's indemnity obligations shall continue with respect to any claims or demands related to this Agreement.

Article 25—Amending Agreement

This Agreement shall not be amended, changed, or altered except in writing and with approval by authorized representatives of both parties.

Article 26—Notices

26.1 Wherever in this Agreement notice or other communications is required or permitted to be given by either party to the other, such notice shall be in writing and shall be effective when delivered by certified mail with return receipt requested, with postage prepaid, or sent via overnight delivery by a nationally recognized carrier and except where specifically provided for elsewhere, properly addressed as follows:

If to IFP, at: General Manager
Idaho Falls Power
P.O. Box 50220
Idaho Falls, ID 83405

If to SPARKLIGHT, at:

Legal Notices:

Cable One, Inc. d/b/a Sparklight

210 E. Earll Dr.

Phoenix, AZ 85012

Attn: General Counsel

Email: legal@cablone.biz

And

Cable One, Inc. d/b/a Sparklight

1525 Sherry Dr.

Idaho Falls, ID 83401

Attn: General Manager

Email: Maury.Lee@sparklight.biz

Billing:

Cable One, Inc. d/b/a Sparklight

210 E. Earll Dr.

Phoenix, AZ 85012

Attn: Accounts Payable

Email: AP.Inquiries@cableone.biz

or to such other address as either party, from time to time, may give the other party in writing.

26.2 The above notwithstanding the parties may agree to utilize electronic communications such as Notify® for notifications related to the Permits application and approval process and necessary transfer or Pole modifications.

26.3 Both parties shall maintain an emergency telephone number for reporting damage to facilities or other situations requiring immediate communications between the parties. Sparklight's 24-hour emergency telephone numbers are _____ and _____ IFP 24-hour emergency number is (208) 612-8437.

Article 27—Entire Agreement

This Agreement and its appendices constitute the entire agreement between the parties concerning Attachments of LICENSEE's Facilities on OWNER's Poles within the geographical service area covered by this Agreement. Unless otherwise expressly stated in this Agreement, all previous agreements, whether written or oral, between OWNER and LICENSEE are superseded and of no further effect. Any Attachments existing prior to the execution of this Agreement are authorized and in conformity with Applicable Standards.

Article 28—Severability and Change in Law

If any provision or portion thereof of this Agreement is or becomes invalid under any applicable statute or rule of law, and such invalidity does not materially alter the essence of this Agreement to either party, such provision shall not render unenforceable this entire Agreement. Rather, the parties intend that the remaining provisions shall be administered as if the Agreement did not include the invalid provision.

The terms, conditions, and rates of this Agreement were composed in order to effectuate the legal requirements and/or parameters in effect at the time the Agreement was produced. In the event that any of the terms, conditions, and/or rates herein, or any of the laws or regulations that were the basis or rationale for such terms, conditions, and/or rates in this Agreement are invalidated, modified or stayed by any state or federal regulatory or legislative bodies or courts of competent jurisdiction, the Parties shall expend diligent efforts to arrive at a written amendment regarding the appropriate conforming modifications to the Agreement.

Article 29—Governing Law

29.1 All matters relating to this Agreement shall be governed by the laws (without reference to choice of law) of the state of Idaho or any regulatory agency of competent jurisdiction.

29.2 OWNER and LEESEE will adhere to the provisions of Title 7, of the Civil Rights Act of 1964, 42 U.S.C. § 2000(e), et seq., and all equal opportunity employment laws and regulations promulgated by the United States Equal Employment Opportunity Commission, the Idaho Department of Labor, City of Idaho Falls, and the Idaho Human Rights Commission, in its hiring and recruitment policies for such new full-time jobs.

Article 30—Incorporation of Recitals and Appendices

The recitals stated above and all appendices to this Agreement are incorporated into and constitute part of this Agreement and shall not be modified without mutual agreement in accordance with Article 25.

Article 31—Omitted

Article 32—Force Majeure

32.1 If either OWNER or LICENSEE is prevented or delayed from fulfilling any term or provision of this Agreement by reason of fire, flood, earthquake, or like acts of nature, wars, revolution, civil commotion, explosion, acts of terrorism, embargo, acts of the government in its sovereign capacity, material changes of laws or regulations, labor difficulties, including without limitation, strikes, slow-downs, picketing or boycotts, unavailability of equipment of vendor, or any other such cause not attributable to the negligence or fault of the party delayed in performing the acts required by the Agreement, then performance of such acts shall be excused for the period of the unavoidable delay, and the affected party shall endeavor to remove or overcome such inability as soon as reasonably possible.

32.2 OWNER shall not impose any charges on LICENSEE stemming solely from LICENSEE

s inability to perform required acts during a period of unavoidable delay as described in Paragraph 32.1, provided that LICENSEE presents OWNER with a written description of such force majeure within a reasonable time after occurrence of the event or cause relied on, and further provided that this provision shall not operate to excuse LICENSEE from the timely payment of any fees or charges due OWNER under this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate on the day and year first written above.

CITY OF IDAHO FALLS, IDAHO

Electric Light Division d/b/a Idaho Falls Power (“IFP”)

By _____

Rebecca L. Noah Casper, Mayor

ATTEST:

Kathy Hampton, City Clerk

STATE OF IDAHO)
) ss.
County of Bonneville)

On this _____ day of _____, 2022, before me, the undersigned, a notary public for Idaho, personally appeared Rebecca L. Noah Casper, known to me to be the Mayor of the City of Idaho Falls, Idaho, the municipal corporation that executed the foregoing document, and acknowledged to me that she is authorized to execute the same for and on behalf of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Notary Public for Idaho

Residing at Idaho Falls

My Commission Expires: _____

(SEAL)

CABLE ONE, INC. D/B/A SPARKLIGHT

By:_____

Name: Juli Blanda

Its: Vice President

ATTEST:

By:_____

Its:_____

STATE OF LOUISIANA)

) ss:

Parish of Ouachita)

On this _____ day of _____, 2022, before me, the undersigned, a notary public, in and for said State, personally appeared _____, known or identified to me to be the _____ of Sparklight, and whose name is subscribed to the within instrument and acknowledged to me that he is authorized to execute the same for and on behalf of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

Notary Public for Louisiana

Residing at:_____

My Commission Expires:_____

(SEAL)

Appendix A—Fees and Charges

Pole Attachment Fees and Charges

Effective Date: 23 November 2021

1. Annual Pole Attachment Fee:

To be set at the FCC Cable Rate – Calculated to be \$18.41 based on 2019 historical data.

For contractual purposes the rate to be \$18.41 effective 1 October 2021 as set by the City of Idaho Falls Fee Resolution. The rate can be modified once a year per the FCC Telecom Formula with a written notice of 60 days. If the parties cannot mutually agree upon the new rate, the LICENSEE will pay the new rate and use Article 22 resolution process to arrive at a mutually agreeable rate.

2. Non-Recurring Fees:

Joint Use Application	As set from time to time by Idaho Falls City Council Resolution
Make Ready Work Charges	See Article 3 of Agreement
Miscellaneous Charges	See Article 3 of Agreement [or Attach Fee Schedule for Work Performed for LICENSEE]
Inspection Fees	See Article 13 of Agreement
Unauthorized Attachment Penalty	Annual attachment fee, per occurrence

Appendix B—

Pole Attachment Permit Application Process

The following procedure is to be followed by each LICENSEE seeking to make new Attachments on OWNER's Poles, or Overlashing to existing Pole tenant facilities on OWNER's Poles. Note that no entity may make any Attachments to OWNER's Poles or overlash to existing Pole tenant facilities on OWNER's Poles without having first entered into a binding Pole Attachment Licensing Agreement with OWNER. Third parties seeking to overlash to an existing Pole tenant facility must also have a written overlash agreement with the Pole tenant to be overlashed. The overlash agreement must be provided to OWNER at the time of application.

1. LICENSEE shall submit OWNER's latest joint use application form to OWNER, or for larger projects in a format that is mutually agreeable to both Parties. The application will, at a minimum, define the following:
 - Poles for which LICENSEE is requesting attaching to or for which they are requesting a modification to the existing attachment.
 - All requested Make-ready work.
 - All clearances
2. OWNER shall review the application and approve, request additional information, or reject with written reasons for rejection.
3. At the attacher's expense, OWNER will review the completed Permit application and discuss any issues with LICENSEE.
4. Upon receipt of written authorization, OWNER will proceed with Make-Ready Work according to the specific agreed-upon installation plans and the terms of the Agreement, including payment for the Make-Ready Work charges as set out by OWNER and agreed to by LICENSEE.
5. Upon completion of the Make-Ready Work, OWNER will sign and return the application for Permit authorizing LICENSEE to make its Attachment(s) in accordance with agreed-upon installation plans. At OWNER's discretion, payment of an estimated cost of Make-ready may be required prior to any work being conducted.
6. Unless waived in writing by OWNER, LICENSEE's, OWNER-approved employee, or contractor shall submit written notification to OWNER that installation of the Attachment(s) is complete. OWNER shall complete the Post-Construction Inspection to determine that the installation was done in accordance with the provisions of the Permit. The Post-Construction Inspection shall be submitted within ninety (90) calendar days after installation is complete.

Appendix C— Application for Permit

Appendix D—

Special Specifications for LICENSEE's Attachments to OWNER Poles

1. **LICENSEE, when making Attachments shall be made in accordance with the Applicable Standards, as defined in Paragraph 1.2 of this Agreement. Following are engineering and construction practices of special note.**
2. **Clearances**
3. **Vertical Risers:** Unless otherwise directed by OWNER, all Risers, including those providing 120/240 volt power for LICENSEE's equipment enclosure, shall be placed on the quarter faces of the Pole and must be installed in sealed conduit on stand-off brackets. A two- (2) inch clearance in any direction from cable, bolts, clamps, metal supports, and other equipment shall be maintained.
4. **Climbing Space:** A clear Climbing Space must be maintained at all times on the face of the Pole. All Attachments must be placed so as to allow and maintain a clear and proper Climbing Space on the face of OWNER Pole. LICENSEE's cable/wire Attachments shall be placed on the same side of the Pole as those of other Attaching Entities. In general, all other Attachments and Risers should be placed on Pole quarter faces.
5. **Pedestals and Enclosures:** Every effort should be made to install Pedestals, Vaults and/or Enclosures at a minimum of four (4') feet from Poles or other IFP facilities IFP facilities are to be installed or relocated a minimum of four (4') feet from SPARKLIGHT's existing Pedestals, Vaults and/or Enclosures.

A. Down Guys and Anchors

1. No Attachment shall be installed on OWNER's Pole until all required guys and anchors are installed. No Attachment may be modified, added to, or relocated in such a way as is reasonably likely to materially increase the stress or loading on OWNER Poles until all required guys and anchors are installed. **Placing pulling strain on OWNER's poles prior to supporting the pole is cause to immediately stop work.**
2. LICENSEE shall be responsible for procuring and installing all anchors and guy wires to support the additional stress placed on OWNER's Poles by LICENSEE's Attachments. Anchors must be guyed adequately.
3. Anchors and guy wires must be installed on each OWNER Pole where an angle or a dead-end occurs. LICENSEE shall make guy attachments to Poles at or below its cable/wire Attachment.
4. LICENSEE may not attach guy wires to the anchors of OWNER or third-party user without the anchor owner's specific prior written consent.
5. SPARKLIGHT's down guys, if needed, shall be bonded, to the vertical ground wires of IFP's Pole where a ground wire is available, in accordance to NESC rule 92C. If there is no vertical ground present at the pole, the connections to the system neutral are to be made by OWNER as an item of Make-Ready Work. OWNER will determine if guys should be grounded or insulated.

B. Certification of LICENSEE's Design

1. LICENSEE's Attachment Permit application must be signed certifying that LICENSEE's aerial cable/wire design fully complies with the NESC and OWNER's Construction Standards and any other applicable federal, state or local codes and/or requirements.
2. This certification shall include the confirmation that the design is in accordance with pole strength requirements of the NESC, taking into account the effects of OWNER's Facilities and other Attaching Entities' facilities that exist on the Poles without regard to the condition of the existing facilities.

C. Miscellaneous Requirements

- 1. Cable Bonding:** SPARKLIGHT's messenger cable shall be bonded according to NESC rule 92C1 and 215C as a minimum, or at every pole with a vertical ground. If no vertical ground exists on a pole to be bonded, OWNER shall install a pole ground as an item of Make-Ready Work
- 2. Tagging:** All LICENSEE's fiber cables that are permitted after the effective date of this Agreement, shall be identified with a band-type cable Tag or other identification acceptable to OWNER at each Attachment within twelve (12") inches of the Pole. The Tag shall be consistent with industry standards and shall include at least the following: LICENSEE name, which can be read by observation from the ground.

D. OWNER Construction Drawings and Specifications

- 1.** Refer to the IFP Construction Drawings, and obtain additional construction specifications from IFP in accordance with IFP Service Policy

Memorandum

File #: 21-374

City Council Meeting

FROM: Chief Bryce Johnson with HR Director Ryan Tew
DATE: Thursday, January 6, 2022
DEPARTMENT: Police Department

Subject

Police Personnel Manual Updates

Council Action Desired

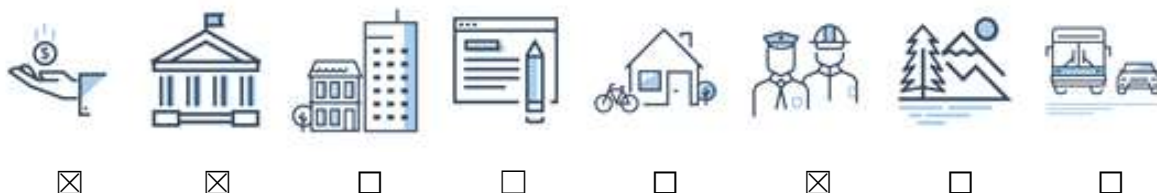
- ☐ Ordinance ☒ Resolution ☐ Public Hearing
☐ Other Action (Approval, Authorization, Ratification, etc)

To approve the resolution updating the Police Personnel Manual and give authorization for the Mayor and City Clerk to execute the documents (or take other action deemed appropriate).

Description, Background Information & Purpose

These changes were proposed to make possible a new patrol schedule and to facilitate the training of new employees. The City Council reviewed these updates on Monday December 6 during a work session. All IFPD employees were sent notice of these changes on Tuesday December 7 starting the 30-day review period. Two general meetings were conducted at IFPD where all employees were invited to talk about the changes and give input. All police officer briefings were attended by either myself or one of the Captains to talk with Officers about the proposed changes. A meeting was held with the FOP leadership to talk about the proposed changes as well. The FOP leadership sent a letter outlining some concerns. I responded with a letter outlining why, in my opinion, the concerns were already resolved through the Police Personnel Manual (PPM) language or they were a management decision. In subsequent conversation with the FOP leadership and with most employees of the Department those concerns appear to have been resolved. The 30-day review/comment period has now passed and the Council may now approve the updates to the PPM.

Alignment with City & Department Planning Objectives



These changes will help us better utilize police staffing to cover calls for service.

Interdepartmental Coordination

This update to the PPM was coordinated with Human Resources, Municipal Services, and the Law Department.

Fiscal Impact

For now, this will not have a fiscal impact. We anticipate a lowering of overtime costs with the new patrol schedule. There are many variables in this analysis so we will need to see what actually happens to be sure.

Legal Review

These updates were collaborated on with the Law Department.

RESOLUTION NO. 2022-

A RESOLUTION OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, ADOPTING THE IDAHO FALLS POLICE DEPARTMENT PERSONNEL MANUAL (JANUARY 2022); AND PROVIDING THAT THIS RESOLUTION BE EFFECTIVE UPON ITS PASSAGE, APPROVAL, AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the City of Idaho Falls, Idaho, has adopted a Personnel Policy Manual that guides the relationship between the City and its employees; and

WHEREAS, as a result of collaborative input from Police Department employees, the Council desires to adopt a revised Police Department Personnel Manual applicable to City employees within the Police Department; and

WHEREAS, Police Department Personnel Manual change includes clarification on hours of service and overtime policies; and

WHEREAS, the Council desires that adoption of this Police Personnel Manual (January 2022) establishes and preserves the relationship between Police Department employees and the City, as indicated in the Police Department Personnel Manual and the City Personnel Manual.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF IDAHO FALLS, IDAHO, AS FOLLOWS:

1. The City Council hereby adopts the Idaho Falls Police Department Manual (January 2022) as it appears in Exhibit “A”, attached hereto.

ADOPTED and effective this ____ day of February, 2022.

ATTEST:

CITY OF IDAHO FALLS, IDAHO

Kathy Hampton, City Clerk

Rebecca L. Noah Casper, Ph.D., Mayor

(SEAL)

STATE OF IDAHO)
) ss:
County of Bonneville)

I, KATHY HAMPTON, CITY CLERK OF THE CITY OF IDAHO FALLS, IDAHO, DO
HEREBY CERTIFY:

That the above and foregoing is a full, true and correct copy of the
Resolution entitled, “A RESOLUTION OF THE CITY OF IDAHO
FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF
IDAHO, ADOPTING THE IDAHO FALLS POLICE DEPARTMENT
PERSONNEL MANUAL (JANUARY 2022); AND PROVIDING THAT
THIS RESOLUTION BE EFFECTIVE UPON ITS PASSAGE,
APPROVAL, AND PUBLICATION ACCORDING TO LAW.”

Kathy Hampton, City Clerk

(SEAL)



PERSONNEL MANUAL

January 2022

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I. Purpose

In recognition of the unique role played by the Idaho Falls Police Department (IFPD) in service to the community, this Policy is intended to increase general efficiency, to promote harmonious and collaborative relations within the Department, and to protect the rights, well-being, safety, and security of Department employees.

This Police Personnel Policy is the result of collaboration among City employees and is intended to promote the highest ideals and values of the Department. This Policy is not and shall not be considered or interpreted as a collective bargaining agreement between the City and any employee or group of employees, whether formally or informally organized. The Council has reviewed and approved this Policy.

II. Application and Interpretation of this Policy

A. The provisions of this Police Personnel Policy shall apply to all Idaho Falls Police Department employees except where it is specifically indicated that the provision applies only to certain Department employees. Additionally, the City Personnel Policy manual shall continue to apply to all Police Department employees, except where a provision of this Police Personnel Policy is more specific, in which case a Police Department employee shall be subject to this Police Personnel Policy. The City Director of Human Resources is authorized by the Council to interpret which Personnel Policy shall be applied to a Police Department employee if an uncertainty or dispute arises about the application of this Police Personnel Policy.

B. Calculating Time.

“Day” as used in this Policy, shall mean one (1) twenty-four (24) hour calendar day beginning at midnight and ending twenty-four (24) hours later, whether or not the City is open for business. When time is calculated for a deadline, counting begins on the day following the date a document is required to be submitted or an event is due to occur. Where a due date falls on a day that the City is officially closed for business (e.g., a weekend or official or declared Holiday), the due date is on the first date that the City is open for business following the due date.

III. Changes

Changes may be made to this Police Personnel Policy by the Council at the recommendation of the Police Department, Police Department employees, Human Resources, or Elected Officials. Department employees shall be given thirty (30) days advanced notification about proposed changes and given the opportunity, either orally or in writing, to offer comment regarding proposed changes to the Council.

IV. Management Decisions and Expectations

“Management”, as used in this Policy includes the Chief of Police, Captains, the Communications Manager, the Animal Control Director, and Lieutenants. The Police Department management staff possesses and retains the sole authority to operate and lead the Department. This authority includes, but is not limited to, the following examples:

1. Determining the mission of IFPD
2. Setting standards of Department service to be offered the public
3. Exercising control and discretion over its organization and operation
4. Disciplining or discharging non-probationary Police Officers for cause
5. Directing the work force
6. Hiring, assigning, or transferring employees
7. Determining the methods, means, and number of employees needed to carry out Department objectives
8. Introducing new or improved methods, police policies, or equipment
9. Changing existing police policies, methods, or equipment
10. Relieving employees because of lack of work
11. Taking whatever actions necessary to carry out the objective of the Department in situations of emergency
12. Establishing positions of employment and classifications for positions
13. Establishing performance standards and/or revising performance standards to determine acceptable performance levels of employees

V. Employee Expectations

1. Expectations.

- A. Employees may present their views to the Management of the Department and to the City at any time. Additionally, the Chief of Police will meet with employees (including employees from all Department Bureaus and all levels of employment in the Department) in at least three (3) separate meetings to listen to employee views and suggestions during the months of February and March of each year.

At the request of the Chief of Police or Department employees, a Human Resource Department representative will attend these meetings.

The Chief of Police will present the results of these meetings in writing to the Mayor and Department employees by April 10th annually. Any Department employee may present their ideas or concerns to the Mayor and Council if they disagree with the written recommendations as contained in the Chief's report

2. Investigations.

- A. Employees may be accompanied and assisted by a representative of their choice at all times when subject to investigation of alleged acts of misconduct. No representative shall be a person who is the subject of the same investigation. Employees shall be granted a reasonable amount of time to obtain such representation prior to any internal investigation or pre-disciplinary hearing.

Employees' access to representation does not apply to performance based, informal, routine, or unplanned discussions between employees and their supervisors.

- B. Procedures set out in this Policy will be followed by the Department during investigative interviews. Such procedures do not apply to routine, initial inquiries, coaching, counseling, instruction, or direction given to employees by their supervisors.

Prior to an internal investigative interview, employees will be advised of the following:

- a. The nature of the matter being investigated

- b. The specific allegation(s) of misconduct, if any, against the employee being interviewed
- c. The date, time, and location of the matter that gave rise to the allegation(s),
- d. All rights and obligations pertaining to the *Garrity* rule
- e. The employee's access to representation, as provided in Section 2. A. above

The interview will specifically and narrowly focus on the job related conduct of the employee.

- C. The Investigator. Persons conducting the interview will not use offensive language or threaten disciplinary action. An employee who refuses to respond to questions or submit to interviews will be informed that failure to answer questions narrowly and directly related to job-related conduct may result in disciplinary action.

Persons conducting the interview shall not be a person with significant personal, first-hand knowledge of the facts giving rise to the investigation.

Except for the Chief of Police, persons making the final disposition in an investigation may not be the person who made the initial allegations(s), either directly or indirectly.

- D. Dispositions and Time limits. Employees shall be notified in writing of the final disposition of an investigation, including a disposition of each allegation, and the disciplinary action to be administered, if applicable, within ninety (90) days following the date the Department received the allegations that form the basis of the investigation. An extension may be granted by the Chief. The employee shall be notified in writing of any such extension, the reason for the extension, and the anticipated investigation conclusion date.

In the event an employee is notified that a final disposition of an investigation includes a finding of misconduct which may result in time off without pay, demotion, or termination, a pre-disposition hearing will be held no sooner than fourteen (14) days and no later than thirty (30) days following hand delivery to the employee of notice of the pre-disposition hearing date, time, and location unless

another date for the pre-disposition hearing is otherwise mutually agreed by the employee and the Department.

- E. Access and entries into Employee Personnel Files. Employees shall, upon reasonable notice, be provided access to their own individual Internal Affairs files (only after such investigation is completed) or Personnel files.

A document adverse to an employee's employment may not be entered in their Personnel file (which is a file different from and does not include any Internal Affairs files) without the employee having first read and signed the document.

The adverse entry may be made, after the employee reads the document, even if the employee refuses to sign it. The employee's refusal to sign shall be noted on the adverse document. The employee will have fourteen (14) days from the date the employee reads and is asked to sign the adverse document within which to file a written response or comment to any adverse document entered in their personnel file. The employee's written response, if any, shall be attached to and accompany the adverse document but the adverse document shall remain in the Personnel file.

VI. Hours of Service and Overtime

The Fair Labor Standards Act (FLSA) and its regulations outline the Department's legal obligations to pay minimum wages and overtime. Nothing in this Section VI alters the calculation of employee step and grade classification, wage rate, or overtime rate.

Compensation for the employee in this Section VI, where applicable, is in addition to the regular step and grade hourly rate of pay that includes any additional hourly compensation due to longevity, language facility, and the like (referred to in this Section VI. as the employee's "hourly base rate").

1. FLSA Work Periods. Department employee overtime shall be calculated with the following FLSA work periods:
 - a. Sworn Police officers assigned to the Patrol Bureau shall have their overtime calculated on an FLSA Section 7(k) twenty-eight (28) day work period and overtime shall begin to accrue after one hundred sixty (160) hours.

- b. Sworn Police officers assigned to any assignment outside of the Patrol Bureau shall have their overtime calculated on an FSLA Section 7(k) fourteen (14) day period and overtime shall begin to accrue after eighty (80) hours.
 - c. Department employees who are not sworn police officers shall have their overtime calculated on an FSLA seven (7) day work period and overtime shall begin to accrue after forty (40) hours.
-
- 2. Changes in regular work days off. If the Department fails to give an employee at least fourteen (14) calendar days' prior notice of a change to the employee's regular days off, the Department will pay the employee for all time worked at a rate of one and one-half times the employee's hourly base rate. The fourteen (14) calendar days' notice required by this subsection shall not apply to a Sworn Police Officer who has not graduated from the field training program or to a Dispatch employee who had not graduated from the communication training program.
 - 3. Changes in Scheduled Hours. If IFPD fails to give employees at least fourteen (14) calendar days' prior notice of a change to the employee's scheduled hours, the Department will pay the employee for all time worked outside the regularly scheduled hours at the rate of one and one-half times the employee's hourly base rate. This Subsection VI.3. applies to **Sworn Police Officers, Dispatch employees, and Animal Control Enforcement Officers** only. The fourteen (14) calendar days' notice required by this subsection shall not apply to a Sworn Police Officer who has not graduated from the field training program or to a Dispatch employee who had not graduated from the communication training program.
 - 4. Unscheduled House (Shift Extensions). All approved unscheduled hours worked by employees, such as shift extensions, shall be paid at the rate of one and one-half times the employee's hourly base rate. This Subsection VI.4. applies to **Sworn Police Officers** and **Dispatch employees** only.
 - 5. Grant and Billable Details. An employee who works an extra shift, outside of their regularly scheduled hours pursuant to a grant or billable work detail (such as airport

operations, DUI saturation grants, seatbelt enforcement grants, school resource functions, etc.), shall be paid actual hours worked at a rate of one and one-half times the employee's hourly base rate. This Subsection VI.5. applies to **Sworn Police Officers** and **Dispatch employees** only.

6. Compensation for Court/Administrative Proceedings. Employees shall receive compensation for a court or administrative proceeding appearance as a witness subpoenaed by the City, the State of Idaho, the United States or a party to a legal proceeding when the appearance is related to the employee's official duties as follows.

Court or administrative proceeding appearances made while on-duty shall constitute normal hours of work and will be compensated accordingly.

Employees who are required to attend court or other administrative proceedings in person while off-duty will be paid a minimum of four (4) hours at the rate of one and one-half times the employee's hourly base rate. If the off-duty required personal attendance is for more than four (4) hours, then the employee shall be paid with actual time worked at the rate of one and one-half times the employee's hourly base rate. If the off-duty attendance may be accomplished by telephone or teleconference, the employee will be paid a minimum of two (2) hour at the rate of one and one-half times the employee's hourly base rate.

If the court or other administrative proceeding starts immediately at the end of the employee's regular scheduled work shift or starts before the employee's shift ends and extends past when the employee's shift is scheduled to end, the employee will be paid for the actual time worked past the end of their shift at the rate of one and one-half the employee's hourly base rate.

If the prosecutor or subpoenaing authority does not cancel the employee's appearance request forty-eight (48) hours before the court or administrative hearing is scheduled, the employee will be paid as described in this Section VI. 6, as long as they were physically able to attend the court or administrative hearing on time. It is the employee's responsibility to call the prosecutor or subpoenaing authority not less than

forty-eight (48) hours prior to the scheduled court or administrative proceeding to see whether their appearance is still required.

7. Standby. Standby is when an employee's off duty activities are restricted in such a way that they are available for an immediate return to work. Employees who are placed on standby shall be compensated with two (2) hours at the employee's hourly base rate for each twenty-four (24) hour "day" they are on standby status. This Subsection VI.7. applies to **Detectives** only.
8. Callout. Employees who have been released from their scheduled work shift and have been directed to perform work by an appropriate Bureau head or designated representative without at least twenty-four (24) hours advance notice or scheduling shall receive a minimum of two (2) hours compensation at one and one half times the employee's hourly base rate.

Off-duty employees who are directed to perform work at the employee's current physical location shall receive a minimum of one (1) hour compensation at one and one half times their wage rate.

9. Compensatory Time. Employees may request compensatory time off in lieu of pay for overtime, and such compensatory time may be allowed, subject to approval of the Bureau Commander.

Employees shall not accrue more than one hundred twenty (120) hours of compensatory time. Employees who have accrued one hundred twenty (120) hours of compensatory time off, shall, for additional overtime hours worked, be compensated with pay at one and one half time their regular rate of pay.

Utilization of compensatory time. Employees may use their compensatory time when staffing is sufficient to take time off. When there is not sufficient staffing to take time off, compensatory time can only be used if there is someone willing to cover the time for the employee. The Department will attempt to find someone willing to cover the time and will not order someone else to work so that an employee can take compensatory time off.

Employees may cash in up to eighty (80) hours of their accrued compensatory time at the end of each year by notifying the Office of the Chief between April 1 and April 30 and shall be converted in October of the same year.

10. Out of Classification work. When an employee is assigned to work temporarily for forty (40) hours or more at a position in a higher pay classification, the employee shall be compensated as if they had been moved to that higher pay classification but only during the duration of the temporary assignment. The employee will have no expectation that the temporary out of classification assignment is a promotion or is permanent.

VII. Vacation and Holidays

1. Definitions applicable to this Section VII:

Holiday: Any of the eleven (11) official City-observed holidays scheduled each year where the City is closed for normal business operations.

Holiday Substitute Compensation (HSC): Compensation for work performed on all or part of a Holiday, pursuant to this Policy, which is taken by the employee in time off rather than in pay. HSC may be earned and taken by an employee on an hour-by-hour basis up to the full value of that employee's Holiday pay, regardless of whether the employee is scheduled to work a shift of 8, 10, or 12 hours that falls partly or wholly on a Holiday. HSC can be used only when shift staffing levels are above minimum, as solely determined by Management. No employee may carry a balance of more than one-hundred twenty (120) hours of HSC at any time.

Investigations and Special Operations Bureau: A Department Bureau comprised of Major Crimes detectives, Special Investigations Unit detectives, Crime Scene and Lab technician, School Resource officers, DARE officers, Airport officers, SWAT Team selections, Bomb Squad selections, and Crowd Control Team selections.

Seniority: Cumulative time of service in the Police Department, based upon date of hire.

Time on Team Seniority: The cumulative, consecutive time of service in a given Department, Bureau, or subdivision based on the date of assignment to such Department, Bureau, or subdivision.

Sworn Personnel: A sworn police officer

Non-Sworn personnel: An employee of the Police Department who is not a sworn police officer

2. Vacation Time. Vacation time is an important benefit for Police Department employees. Vacation time can help reduce stress and improve employee performance. Employees will accrue vacation at different rates based on years of service and as calculated using the method set out in the City Personnel Manual.
3. Shift Bidding.
 - a. Patrol Bureau sworn personnel assigned to Patrol Bureau will have the opportunity to bid for use of accrued vacation time annually when the Patrol Bureau shift bid is being conducted. The shift bid is done by Department Seniority. Each officer will have the opportunity during the shift bidding process to use up to, but no more than their yearly accrual of vacation time. At the conclusion of the shift bidding process and throughout that same calendar year, any vacation time that has carried over from previous years may be used on a first come, first served basis, and only when mandatory minimum staffing requirements are met for those effected shifts.

Lieutenants and Sergeants assigned to the Patrol Bureau will bid for vacation time by Department seniority according to the date of promotion with respect to their rank. This Subsection VII.3.a. applies to the **Patrol Bureau Sworn Police Officers** employees only.

b. Investigations and Special Operations Bureau sworn police officer personnel assigned to the Investigations Bureau will have the opportunity to bid for vacation time annually based on their Time on Team Seniority. Officers assigned to the Investigations Bureau may bid up to, but no more than their yearly accrual of vacation time during this process. At the conclusion of the vacation bid process any vacation time that has carried over from previous years may be used on a first come first served basis according to minimum staffing requirements within the Investigations Bureau.

Lieutenants and Sergeants assigned to the Investigation and Special Operations Bureau will bid for vacation time by Department Seniority according to the date of promotion with respect to their rank. This Subsection VII.3.b. applies to the **Investigation and Special Operations Bureau Sworn Police Officers employees** only.

4. Compensation related to a Holiday.
 - A. Holiday compensation is due to every employee, whether that employee works on the Holiday or is scheduled to be off on the Holiday, at that employee's customary rate of pay for the Holiday (i.e., as extra day time off duty pay).
 - B. Holiday compensation shall be applied in any one (1) of the following ways for each Holiday, as applicable:
 1. If a Holiday falls on an employee's regular work day and the employee takes the Holiday off, the employee shall receive no additional compensation for that Holiday.
 2. If a Holiday falls on an employee's regular, scheduled day off, and the employee does not work on that scheduled day off, the employee will earn only Holiday Substitute Compensation (HSC) and will not earn pay for the Holiday.
 3. If a Holiday falls on an employee's regular, scheduled work day and the employee is required to work the Holiday, the employee has the option of HSC and/or pay for the Holiday time worked, in hourly increments and in any combination of HSC or pay chosen by the employee. Such compensation is in addition to the employee's hourly base rate.

VIII. Promotions

Promotions in the Department shall be upon job performance and competitive examinations. All candidates for a promotion must meet the job requirements for the position during the testing cycle. Candidates will not be eligible for promotion until the minimum time requirements for the position have been met. Written examination(s) may

be given as often as needed, as determined by the Chief, in order to establish a viable eligibility list. A minimum written test score appropriate for each examination will be determined and announced at least fourteen (14) days prior to the examination date. Notice of openings for promotions shall be posted on the Department of Human Resources web page at least fourteen (14) days prior to the date upon which the written examination for the position shall be conducted. This Subsection VIII applies to **Sworn Police Officers** only.

Tests and consideration for promotional placement may include a written examination, assessment center, and staff evaluations. The methods used and weight to be given grades in each area utilized will be determined by the Chief and announced at least fourteen (14) days prior to the date upon which the examination is to be given.

Where two (2) or more applicants for promotion receive identical grades, their ranking on the eligible list shall be determined by preference given to employment seniority.

The total number of persons allowed to participate in the Department assessment process shall be determined in advance by the Chief. If there are more applicants than the number of positions available for testing in the assessment process, the candidates receiving the highest written exam scores shall be selected for participation in the assessment.

The finished candidate for promotion ranking will form an eligibility list for promotion to the position and will apply to all current openings existing at the time the list is established. The Chief will select, at the Chief's discretion, from the top three (3) candidates on the promotional eligibility list for a period of one (1) year following the initial promotions. Any promotion(s) made following the initial promotions for openings existing at the time the list is established will be subject to and dependent upon an interview and re-evaluation by the Chief of Police based upon the candidate's then-current performance and any pending internal investigations. At the Chief's sole discretion, the promotional eligibility list may be utilized for promotions for up to one (1) additional year following the expiration of the initial one (1) year period the promotion eligibility was established.

IX. Seniority

Seniority shall be applied as described in Section VII for shift bidding and vacation bidding, and as described in Section VIII for breaking ties in promotions. Seniority shall not be used for any other purpose in this Police Personnel Policy.

X. Grievance Procedure

Purpose.

The purpose of this grievance procedure is to maintain a productive, cooperative, efficient and experienced work force, thereby enhancing the public welfare; to not unjustifiably terminate or treat employees inappropriately; to afford the City administrative staff and employees opportunity to resolve errors, disputes, without the need for judicial intervention. This grievance procedure is the exclusive procedure to be applied to Department non-probationary sworn officers. All other Department employees shall utilize grievance procedures set out in Section XXIX of the City Personnel Policy Manual.

Grievance Defined.

“Grievance” is any complaint by a regular employee who is subject to this Grievance Procedure and related to the following:

1. A disciplinary action applied to an employee,
2. Action taken by an employee which results in unfair or discriminatory treatment, inequity, or arbitrary or capricious action relative to another employee, based on a legally protected status,
3. Any interpretation or dispute regarding the terms and conditions of this Policy, or
4. Retaliation or recrimination as result of any action by a superior that violates public policy or law.

No Retaliation.

An employee who files a grievance shall be free from restraint, interference, discrimination, or reprisal by the City, its officers or employees, for having filed a grievance.

Privacy.

All documents, records and information generated, compiled or kept in conjunction with a grievance shall be exempt from disclosure to the public to the extent allowed by the Idaho Code (especially Title 74, Chapter 1 commonly known as the “Idaho Public Records Act”). An employee who files a grievance may obtain copies of records related to a grievance pursuant to the Idaho Public Records Act.

Commencing a Grievance.

Every employee is encouraged not to file a grievance until after he or she has made a reasonable effort to resolve the subject matter of the grievance with his or her immediate supervisor or other person against whom the grievance could be filed. Examples of reasonable effort include: meeting informally with the person(s) affected to discuss the matter; engaging a supervisor to assist in resolving a matter; suggesting a compromise or resolution; self-assessment; reviewing a policy with a peer or supervisor to clarify expectations.

A grievance shall be commenced by filing the grievance with the Chief of Police. Such grievance shall be in writing and shall contain the following:

1. The name and job classification of the grievant;
2. The date of the alleged action(s) or omission(s) which form the basis of the grievance;
3. A statement of the facts, materials, and arguments supporting the grievance;
4. A list of all articles, sections, or rules of the Department, City policy, or law which are alleged to have been violated; and
5. The remedy or resolution sought.

Failure of the City to comply with the time limits specified in this grievance process shall automatically and immediately advance the grievance to the next Step in the grievance process. Failure of a grievant to comply with the time limits specified in this grievance policy automatically and immediately results in the denial of the grievance.

The time limits herein stated may be extended only by prior written mutual agreement of the parties.

Grievance Process:

Step 1. Chief's review. The grievance process shall be initiated by submitting the written grievance to the Chief of Police within fourteen (14) days following the disputed grievance action or inaction or the date that the employee knew or should have known of the action or inaction, whichever is earlier. This requirement is meant to encourage prompt reporting and resolution of the matter grieved.

Within fourteen (14) days following the Chief's receipt of the written grievance, the Chief shall meet with the grievant (and his or her representative, if requested) to discuss the grievance. The Chief shall provide a written response to the grievant within fourteen (14) days following such meeting.

Step 2. Mayor's review. If the grievant does not agree with the Chief's response in Step 1, the grievance may be submitted by the grievant to the Mayor within fourteen (14) days following the Chief's response.

Within fourteen (14) days following receipt of the grievance and materials from Step 1, the Mayor shall provide a written response to the grievant.

Step 3. Independent Review. If the grievant does not agree with the Mayor's response in Step 2, the grievance may be submitted for independent third-party review in the following manner:

Within twenty one (21) days following the grievant's receipt of the Mayor's response in Step 2, the grievant shall deliver a written request for independent review to the City Human Resources (HR) Director. The grievant and the HR Director shall meet to select an independent reviewer from a list of qualified reviewers within fourteen (14) days following the receipt of the demand from the grievant for such review.

The HR Director shall maintain a list of not less than five (5) qualified independent reviewers. If the parties are unable to agree upon an independent reviewer, the HR Director and grievant shall alternately strike a name from the list (the first to strike a name shall be determined by coin flip) until the name of only one (1) individual from the list remains. The remaining person shall be the independent reviewer for the grievance.

The independent reviewer shall be selected and engaged within fourteen (14) days following a meeting between the grievant and HR Director to select a reviewer. The review

will commence within fourteen (14) days following the reviewer's receipt of grievance material provided by the HR Director. The failure of the reviewer to commence and to complete review within the time periods established shall result in selection of a new reviewer, who will proceed with the process outlined in this Step 3 until a review is completed.

The scope of review by the independent reviewer in Step 3 shall be limited to whether the action taken against the grievant was or resulted in something unfair, discriminatory, inequitable, arbitrary, or capricious, based upon 1. a legally protected status, or 2. whether any Department or City policy was vague, subject to misinterpretation, or erroneously or wrongly applied to the grievant. The reviewer shall have no authority to rule contrary to, expand upon, or eliminate any terms or conditions of a Department policy or City Personnel policy.

The grievant and the City may submit materials and/or testimony in support of their relative positions, the weight, materiality, and persuasiveness of which shall be determined solely by the reviewer. The reviewer may request additional information or clarification of any party or person and may independently research the matter; however, the reviewer shall have no authority to compel production of any information nor have the authority to compel the presence or testimony of any person. The reviewer shall not attribute any adverse motive or inference to materials not proffered by the grievant or the City.

The reviewer shall be requested to provide the parties with a written statement of relevant criteria and standards and a decision justifying the reviewer's decision regarding the grievance within thirty (30) days of commencement of the review.

An informal group comprised of the Chief of Police, a representative from the HR Department and a representative from the City Attorney's office will meet to confer about the reviewer's decision within fourteen (14) days following the City's receipt of the decision (to consider it and to take action, if any, deemed appropriate).

XI. Boot and Uniform Cleaning Allowance

All Department employees who are required by the Chief to maintain and be in an official Department uniform as part of their employment shall receive four hundred fifty dollars (\$450) annually to be paid on the first pay period of July, if employed on such date. This

Subsection XI applies to **Sworn Police Officers, Animal Control, and Parking Enforcement employees** only.

XII. Career Path

Subject to approval and funding by the Council, the Department will develop and promote a Career Path Program whose purpose is to develop highly motivated, educated and skilled non-probationary Police Officers, Sergeants, Lieutenants, and Captains. This Program is intended to encourage and reward these employees for improving and expanding their law enforcement skills. The Career Path Program will be designed to be available to participants who have received an overall acceptable or better on their two (2) most recent performance evaluations. The Career Path Program will be proposed to consist of four (4) categories of achievement: education, leadership academy, physical fitness, and skills. This Subsection XII applies to **Sworn Police Officers** only.



PERSONNEL MANUAL

~~August 2020~~ January 2022

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I. Purpose

In recognition of the unique role played by the Idaho Falls Police Department (IFPD) in service to the community, this Policy is intended to increase general efficiency, to promote harmonious and collaborative relations within the Department, and to protect the rights, well-being, safety, and security of Department employees.

This Police Personnel Policy is the result of collaboration among City employees and is intended to promote the highest ideals and values of the Department. This Policy is not and shall not be considered or interpreted as a collective bargaining agreement between the City and any employee or group of employees, whether formally or informally organized. The Council has reviewed and approved this Policy.

II. Application and Interpretation of this Policy

A. The provisions of this Police Personnel Policy shall apply to all Idaho Falls Police Department employees except where it is specifically indicated that the provision applies only to certain Department employees. Additionally, the City Personnel Policy manual shall continue to apply to all Police Department employees, except where a provision of this Police Personnel Policy is more specific, in which case a Police Department employee shall be subject to this Police Personnel Policy. The City Director of Human Resources is authorized by the Council to interpret which Personnel Policy shall be applied to a Police Department employee if an uncertainty or dispute arises about the application of this Police Personnel Policy.

B. Calculating Time.

“Day” as used in this Policy, shall mean one (1) twenty-four (24) hour calendar day beginning at midnight and ending twenty-four (24) hours later, whether or not the City is open for business. When time is calculated for a deadline, counting begins on the day following the date a document is required to be submitted or an event is due to occur. Where a due date falls on a day that the City is officially closed for business (e.g., a weekend or official or declared Holiday), the due date is on the first date that the City is open for business following the due date.

III. Changes

Changes may be made to this Police Personnel Policy by the Council at the recommendation of the Police Department, Police Department employees, Human Resources, or Elected Officials. Department employees shall be given thirty (30) days advanced notification about proposed changes and given the opportunity, either orally or in writing, to offer comment regarding proposed changes to the Council.

IV. Management Decisions and Expectations

“Management”, as used in this Policy includes the Chief of Police, Captains, the Communications Manager, the Animal Control Director, and Lieutenants. The Police Department management staff possesses and retains the sole authority to operate and lead the Department. This authority includes, but is not limited to, the following examples:

1. Determining the mission of IFPD
2. Setting standards of Department service to be offered the public
3. Exercising control and discretion over its organization and operation
4. Disciplining or discharging non-probationary Police Officers for cause
5. Directing the work force
6. Hiring, assigning, or transferring employees
7. Determining the methods, means, and number of employees needed to carry out Department objectives
8. Introducing new or improved methods, police policies, or equipment
9. Changing existing police policies, methods, or equipment
10. Relieving employees because of lack of work
11. Taking whatever actions necessary to carry out the objective of the Department in situations of emergency
12. Establishing positions of employment and classifications for positions
13. Establishing performance standards and/or revising performance standards to determine acceptable performance levels of employees

V. Employee Expectations

1. Expectations.

- A. Employees may present their views to the Management of the Department and to the City at any time. Additionally, the Chief of Police will meet with employees (including employees from all Department Bureaus and all levels of employment in the Department) in at least three (3) separate meetings to listen to employee views and suggestions during the months of February and March of each year.

At the request of the Chief of Police or Department employees, a Human Resource Department representative will attend these meetings.

The Chief of Police will present the results of these meetings in writing to the Mayor and Department employees by April 10th annually. Any Department employee may present their ideas or concerns to the Mayor and Council if they disagree with the written recommendations as contained in the Chief's report

2. Investigations.

- A. Employees may be accompanied and assisted by a representative of their choice at all times when subject to investigation of alleged acts of misconduct. No representative shall be a person who is the subject of the same investigation. Employees shall be granted a reasonable amount of time to obtain such representation prior to any internal investigation or pre-disciplinary hearing.

Employees' access to representation does not apply to performance based, informal, routine, or unplanned discussions between employees and their supervisors.

- B. Procedures set out in this Policy will be followed by the Department during investigative interviews. Such procedures do not apply to routine, initial inquiries, coaching, counseling, instruction, or direction given to employees by their supervisors.

Prior to an internal investigative interview, employees will be advised of the following:

- a. The nature of the matter being investigated

- b. The specific allegation(s) of misconduct, if any, against the employee being interviewed
- c. The date, time, and location of the matter that gave rise to the allegation(s),
- d. All rights and obligations pertaining to the *Garrity* rule
- e. The employee's access to representation, as provided in Section 2. A. above

The interview will specifically and narrowly focus on the job related conduct of the employee.

- C. The Investigator. Persons conducting the interview will not use offensive language or threaten disciplinary action. An employee who refuses to respond to questions or submit to interviews will be informed that failure to answer questions narrowly and directly related to job-related conduct may result in disciplinary action.

Persons conducting the interview shall not be a person with significant personal, first-hand knowledge of the facts giving rise to the investigation.

Except for the Chief of Police, persons making the final disposition in an investigation may not be the person who made the initial allegations(s), either directly or indirectly.

- D. Dispositions and Time limits. Employees shall be notified in writing of the final disposition of an investigation, including a disposition of each allegation, and the disciplinary action to be administered, if applicable, within ninety (90) days following the date the Department received the allegations that form the basis of the investigation. An extension may be granted by the Chief. The employee shall be notified in writing of any such extension, the reason for the extension, and the anticipated investigation conclusion date.

In the event an employee is notified that a final disposition of an investigation includes a finding of misconduct which may result in time off without pay, demotion, or termination, a pre-disposition hearing will be held no sooner than fourteen (14) days and no later than thirty (30) days following hand delivery to the employee of notice of the pre-disposition hearing date, time, and location unless

another date for the pre-disposition hearing is otherwise mutually agreed by the employee and the Department.

- E. Access and entries into Employee Personnel Files. Employees shall, upon reasonable notice, be provided access to their own individual Internal Affairs files (only after such investigation is completed) or Personnel files.

A document adverse to an employee's employment may not be entered in their Personnel file (which is a file different from and does not include any Internal Affairs files) without the employee having first read and signed the document.

The adverse entry may be made, after the employee reads the document, even if the employee refuses to sign it. The employee's refusal to sign shall be noted on the adverse document. The employee will have fourteen (14) days from the date the employee reads and is asked to sign the adverse document within which to file a written response or comment to any adverse document entered in their personnel file. The employee's written response, if any, shall be attached to and accompany the adverse document but the adverse document shall remain in the Personnel file.

VI. Hours of Service and Overtime

The Fair Labor Standards Act (FLSA) and its regulations outline the Department's legal obligations to pay minimum wages and overtime. Nothing in this Section VI alters the calculation of employee step and grade classification, wage rate, or overtime rate. Compensation for the employee in this Section VI, where applicable, is in addition to the regular step and grade hourly rate of pay that includes any additional hourly compensation due to longevity, language facility, and the like (referred to in this Section VI. as the employee's "hourly base rate").

~~1. FLSA Work Periods. Sworn police officers shall fall under the FLSA fourteen (14) day, eighty (80) hour work period for overtime consideration.~~

~~1. All other police department employees shall fall under the FLSA seven (7) day, forty (40) hour work week for overtime compensation.~~ Department employee overtime shall be calculated with the following FLSA work periods:

- a. Sworn Police officers assigned to the Patrol Bureau shall have their overtime calculated on an FSLA Section 7(k) twenty-eight (28) day work period and overtime shall begin to accrue after one hundred sixty (160) hours.
 - b. Sworn Police officers assigned to any assignment outside of the Patrol Bureau shall have their overtime calculated on an FSLA Section 7(k) fourteen (14) day period and overtime shall begin to accrue after eighty (80) hours.
 - c. Department employees who are not sworn police officers shall have their overtime calculated on an FSLA seven (7) day work period and overtime shall begin to accrue after forty (40) hours.
2. Changes in regular work days off. If the Department fails to give an employee at least fourteen (14) calendar days' prior notice of a change to the employee's regular days off, the Department will pay the employee for all time worked at a rate of one and one-half times the employee's hourly base rate. The fourteen (14) calendar days' notice required by this subsection shall not apply to a Sworn Police Officer who has not graduated from the field training program or to a Dispatch employee who had not graduated from the communication training program.
 3. Changes in Scheduled Hours. If IFPD fails to give employees at least fourteen (14) calendar days' prior notice of a change to the employee's scheduled hours, the Department will pay the employee for all time worked outside the regularly scheduled hours at the rate of one and one-half times the employee's hourly base rate. This Subsection VI.3. applies to **Sworn Police Officers, Dispatch employees, and Animal Control Enforcement Officers** only. The fourteen (14) calendar days' notice required by this subsection shall not apply to a Sworn Police Officer who has not graduated from the field training program or to a Dispatch employee who had not graduated from the communication training program.
 4. Unscheduled House (Shift Extensions). All approved unscheduled hours worked by employees, such as shift extensions, shall be paid at the rate of one and one-half times the employee's hourly base rate. This Subsection VI.4. applies to **Sworn Police Officers** and **Dispatch employees** only.

5. Grant and Billable Details. An employee who works an extra shift, outside of their regularly scheduled hours pursuant to a grant or billable work detail (such as airport operations, DUI saturation grants, seatbelt enforcement grants, school resource functions, etc.), shall be paid actual hours worked at a rate of one and one-half times the employee's hourly base rate. This Subsection VI.5. applies to **Sworn Police Officers** and **Dispatch employees** only.

6. Compensation for Court/Administrative Proceedings. Employees shall receive compensation for a court or administrative proceeding appearance as a witness subpoenaed by the City, the State of Idaho, the United States or a party to a legal proceeding when the appearance is related to the employee's official duties as follows.

Court or administrative proceeding appearances made while on-duty shall constitute normal hours of work and will be compensated accordingly.

Employees who are required to attend court or other administrative proceedings in person while off-duty will be paid a minimum of four (4) hours at the rate of one and one-half times the employee's hourly base rate. If the off-duty required personal attendance is for more than four (4) hours, then the employee shall be paid with actual time worked at the rate of one and one-half times the employee's hourly base rate. If the off-duty attendance may be accomplished by telephone or teleconference, the employee will be paid a minimum of two (2) hour at the rate of one and one-half times the employee's hourly base rate.

If the court or other administrative proceeding starts immediately at the end of the employee's regular scheduled work shift or starts before the employee's shift ends and extends past when the employee's shift is scheduled to end, the employee will be paid for the actual time worked past the end of their shift at the rate of one and one-half the employee's hourly base rate.

If the prosecutor or subpoenaing authority does not cancel the employee's appearance request forty-eight (48) hours before the court or administrative hearing is scheduled, the employee will be paid as described in this Section VI. 6, as long as they were

physically able to attend the court or administrative hearing on time. It is the employee's responsibility to call the prosecutor or subpoenaing authority not less than forty-eight (48) hours prior to the scheduled court or administrative proceeding to see whether their appearance is still required.

7. Standby. Standby is when an employee's off duty activities are restricted in such a way that they are available for an immediate return to work. Employees who are placed on standby shall be compensated with two (2) hours at the employee's hourly base rate for each twenty-four (24) hour "day" they are on standby status. This Subsection VI.7. applies to **Detectives** only.
8. Callout. Employees who have been released from their scheduled work shift and have been directed to perform work by an appropriate Bureau head or designated representative without at least twenty-four (24) hours advance notice or scheduling shall receive a minimum of two (2) hours compensation at one and one half times the employee's hourly base rate.

Off-duty employees who are directed to perform work at the employee's current physical location shall receive a minimum of one (1) hour compensation at one and one half times their wage rate.

9. Compensatory Time. Employees may request compensatory time off in lieu of pay for overtime, and such compensatory time may be allowed, subject to approval of the Bureau Commander.

Employees shall not accrue more than one hundred twenty (120) hours of compensatory time. Employees who have accrued one hundred twenty (120) hours of compensatory time off, shall, for additional overtime hours worked, be compensated with pay at one and one half time their regular rate of pay.

Utilization of compensatory time. Employees may use their compensatory time when staffing is sufficient to take time off. When there is not sufficient staffing to take time off, compensatory time can only be used if there is someone willing to cover the time for the employee. The Department will attempt to find someone willing to cover the

time and will not order someone else to work so that an employee can take compensatory time off.

Employees may cash in up to eighty (80) hours of their accrued compensatory time at the end of each year by notifying the Office of the Chief between April 1 and April 30 and shall be converted in October of the same year.

10. Out of Classification work. When an employee is assigned to work temporarily for forty (40) hours or more at a position in a higher pay classification, the employee shall be compensated as if they had been moved to that higher pay classification but only during the duration of the temporary assignment. The employee will have no expectation that the temporary out of classification assignment is a promotion or is permanent.

VII. Vacation and Holidays

1. Definitions applicable to this Section VII:

Holiday: Any of the eleven (11) official City-observed holidays scheduled each year where the City is closed for normal business operations.

Holiday Substitute Compensation (HSC): Compensation for work performed on all or part of a Holiday, pursuant to this Policy, which is taken by the employee in time off rather than in pay. HSC may be earned and taken by an employee on an hour-by-hour basis up to the full value of that employee's Holiday pay, regardless of whether the employee is scheduled to work a shift of 8, 10, or 12 hours that falls partly or wholly on a Holiday. HSC can be used only when shift staffing levels are above minimum, as solely determined by Management. No employee may carry a balance of more than one-hundred twenty (120) hours of HSC at any time.

Investigations and Special Operations Bureau: A Department Bureau comprised of Major Crimes detectives, Special Investigations Unit detectives, Crime Scene and Lab technician, School Resource officers, DARE officers, Airport officers, SWAT Team selections, Bomb Squad selections, and Crowd Control Team selections.

Seniority: Cumulative time of service in the Police Department, based upon date of hire.

Time on Team Seniority: The cumulative, consecutive time of service in a given Department, Bureau, or subdivision based on the date of assignment to such Department, Bureau, or subdivision.

Sworn Personnel: A sworn police officer

Non-Sworn personnel: An employee of the Police Department who is not a sworn police officer

2. Vacation Time. Vacation time is an important benefit for Police Department employees. Vacation time can help reduce stress and improve employee performance. Employees will accrue vacation at different rates based on years of service and as calculated using the method set out in the City Personnel Manual.
3. Shift Bidding.
 - a. Patrol Bureau sworn personnel assigned to Patrol Bureau will have the opportunity to bid for use of accrued vacation time annually when the Patrol Bureau shift bid is being conducted. The shift bid is done by Department Seniority. Each officer will have the opportunity during the shift bidding process to use up to, but no more than their yearly accrual of vacation time. At the conclusion of the shift bidding process and throughout that same calendar year, any vacation time that has carried over from previous years may be used on a first come, first served basis, and only when mandatory minimum staffing requirements are met for those effected shifts.

Lieutenants and Sergeants assigned to the Patrol Bureau will bid for vacation time by Department seniority according to the date of promotion with respect to their rank. This Subsection VII.3.a. applies to the **Patrol Bureau Sworn Police Officers** employees only.

b. Investigations and Special Operations Bureau sworn police officer personnel assigned to the Investigations Bureau will have the opportunity to bid for vacation time annually based on their Time on Team Seniority. Officers assigned to the Investigations Bureau may bid up to, but no more than their yearly accrual of vacation time during this process. At the conclusion of the vacation bid process any vacation time that has

carried over from previous years may be used on a first come first served basis according to minimum staffing requirements within the Investigations Bureau.

Lieutenants and Sergeants assigned to the Investigation and Special Operations Bureau will bid for vacation time by Department Seniority according to the date of promotion with respect to their rank. This Subsection VII.3.b. applies to the **Investigation and Special Operations Bureau Sworn Police Officers employees** only.

4. Compensation related to a Holiday.
 - A. Holiday compensation is due to every employee, whether that employee works on the Holiday or is scheduled to be off on the Holiday, at that employee's customary rate of pay for the Holiday (i.e., as extra day time off duty pay).
 - B. Holiday compensation shall be applied in any one (1) of the following ways for each Holiday, as applicable:
 1. If a Holiday falls on an employee's regular work day and the employee takes the Holiday off, the employee shall receive no additional compensation for that Holiday.
 2. If a Holiday falls on an employee's regular, scheduled day off, and the employee does not work on that scheduled day off, the employee will earn only Holiday Substitute Compensation (HSC) and will not earn pay for the Holiday.
 3. If a Holiday falls on an employee's regular, scheduled work day and the employee is required to work the Holiday, the employee has the option of HSC and/or pay for the Holiday time worked, in hourly increments and in any combination of HSC or pay chosen by the employee. Such compensation is in addition to the employee's hourly base rate.

VIII. Promotions

Promotions in the Department shall be upon job performance and competitive examinations. All candidates for a promotion must meet the job requirements for the position during the testing cycle. Candidates will not be eligible for promotion until the minimum time requirements for the position have been met. Written examination(s) may be given as often as needed, as determined by the Chief, in order to establish a viable eligibility list. A minimum written test score appropriate for each examination will be determined and announced at least fourteen (14) days prior to the examination date. Notice of openings for promotions shall be posted on the Department of Human Resources web page at least fourteen (14) days prior to the date upon which the written examination for the position shall be conducted. This Subsection VIII applies to **Sworn Police Officers** only.

Tests and consideration for promotional placement may include a written examination, assessment center, and staff evaluations. The methods used and weight to be given grades in each area utilized will be determined by the Chief and announced at least fourteen (14) days prior to the date upon which the examination is to be given.

Where two (2) or more applicants for promotion receive identical grades, their ranking on the eligible list shall be determined by preference given to employment seniority.

The total number of persons allowed to participate in the Department assessment process shall be determined in advance by the Chief. If there are more applicants than the number of positions available for testing in the assessment process, the candidates receiving the highest written exam scores shall be selected for participation in the assessment.

The finished candidate for promotion ranking will form an eligibility list for promotion to the position and will apply to all current openings existing at the time the list is established. The Chief will select, at the Chief's discretion, from the top three (3) candidates on the promotional eligibility list for a period of one (1) year following the initial promotions. Any promotion(s) made following the initial promotions for openings existing at the time the list is established will be subject to and dependent upon an interview and re-evaluation by the Chief of Police based upon the candidate's then-current performance and any pending

internal investigations. At the Chief's sole discretion, the promotional eligibility list may be utilized for promotions for up to one (1) additional year following the expiration of the initial one (1) year period the promotion eligibility was established.

IX. Seniority

Seniority shall be applied as described in Section VII for shift bidding and vacation bidding, and as described in Section VIII for breaking ties in promotions. Seniority shall not be used for any other purpose in this Police Personnel Policy.

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All documents, records and information generated, compiled or kept in conjunction with a grievance shall be exempt from disclosure to the public to the extent allowed by the Idaho Code (especially Title 74, Chapter 1 commonly known as the "Idaho Public Records Act"). An employee who files a grievance may obtain copies of records related to a grievance pursuant to the Idaho Public Records Act.

Commencing a Grievance.

Every employee is encouraged not to file a grievance until after he or she has made a reasonable effort to resolve the subject matter of the grievance with his or her immediate supervisor or other person against whom the grievance could be filed. Examples of reasonable effort include: meeting informally with the person(s) affected to discuss the matter; engaging a supervisor to assist in resolving a matter; suggesting a compromise or resolution; self-assessment; reviewing a policy with a peer or supervisor to clarify expectations.

A grievance shall be commenced by filing the grievance with the Chief of Police. Such grievance shall be in writing and shall contain the following:

1. The name and job classification of the grievant;
2. The date of the alleged action(s) or omission(s) which form the basis of the grievance;
3. A statement of the facts, materials, and arguments supporting the grievance;
4. A list of all articles, sections, or rules of the Department, City policy, or law which are alleged to have been violated; and
5. The remedy or resolution sought.

Failure of the City to comply with the time limits specified in this grievance process shall automatically and immediately advance the grievance to the next Step in the grievance process. Failure of a grievant to comply with the time limits specified in this grievance policy automatically and immediately results in the denial of the grievance.

The time limits herein stated may be extended only by prior written mutual agreement of the parties.

Grievance Process:

Step 1. Chief's review. The grievance process shall be initiated by submitting the written grievance to the Chief of Police within fourteen (14) days following the disputed grieved action or inaction or the date that the employee knew or should have known of the action or inaction, whichever is earlier. This requirement is meant to encourage prompt reporting and resolution of the matter grieved.

Within fourteen (14) days following the Chief's receipt of the written grievance, the Chief shall meet with the grievant (and his or her representative, if requested) to discuss the grievance. The Chief shall provide a written response to the grievant within fourteen (14) days following such meeting.

Step 2. Mayor's review. If the grievant does not agree with the Chief's response in Step 1, the grievance may be submitted by the grievant to the Mayor within fourteen (14) days following the Chief's response.

Within fourteen (14) days following receipt of the grievance and materials from Step 1, the Mayor shall provide a written response to the grievant.

Step 3. Independent Review. If the grievant does not agree with the Mayor's response in Step 2, the grievance may be submitted for independent third-party review in the following manner:

Within twenty one (21) days following the grievant's receipt of the Mayor's response in Step 2, the grievant shall deliver a written request for independent review to the City Human Resources (HR) Director. The grievant and the HR Director shall meet to select an independent reviewer from a list of qualified reviewers within fourteen (14) days following the receipt of the demand from the grievant for such review.

The HR Director shall maintain a list of not less than five (5) qualified independent reviewers. If the parties are unable to agree upon an independent reviewer, the HR Director and grievant shall alternately strike a name from the list (the first to strike a name shall be

determined by coin flip) until the name of only one (1) individual from the list remains. The remaining person shall be the independent reviewer for the grievance.

The independent reviewer shall be selected and engaged within fourteen (14) days following a meeting between the grievant and HR Director to select a reviewer. The review will commence within fourteen (14) days following the reviewer's receipt of grievance material provided by the HR Director. The failure of the reviewer to commence and to complete review within the time periods established shall result in selection of a new reviewer, who will proceed with the process outlined in this Step 3 until a review is completed.

The scope of review by the independent reviewer in Step 3 shall be limited to whether the action taken against the grievant was or resulted in something unfair, discriminatory, inequitable, arbitrary, or capricious, based upon 1. a legally protected status, or 2. whether any Department or City policy was vague, subject to misinterpretation, or erroneously or wrongly applied to the grievant. The reviewer shall have no authority to rule contrary to, expand upon, or eliminate any terms or conditions of a Department policy or City Personnel policy.

The grievant and the City may submit materials and/or testimony in support of their relative positions, the weight, materiality, and persuasiveness of which shall be determined solely by the reviewer. The reviewer may request additional information or clarification of any party or person and may independently research the matter; however, the reviewer shall have no authority to compel production of any information nor have the authority to compel the presence or testimony of any person. The reviewer shall not attribute any adverse motive or inference to materials not proffered by the grievant or the City.

The reviewer shall be requested to provide the parties with a written statement of relevant criteria and standards and a decision justifying the reviewer's decision regarding the grievance within thirty (30) days of commencement of the review.

An informal group comprised of the Chief of Police, a representative from the HR Department and a representative from the City Attorney's office will meet to confer about the reviewer's decision within fourteen (14) days following the City's receipt of the decision (to consider it and to take action, if any, deemed appropriate).

XI. Boot and Uniform Cleaning Allowance

All Department employees who are required by the Chief to maintain and be in an official Department uniform as part of their employment shall receive four hundred fifty dollars (\$450) annually to be paid on the first pay period of July, if employed on such date. This Subsection XI applies to **Sworn Police Officers, Animal Control, and Parking Enforcement employees** only.

XII. Career Path

Subject to approval and funding by the Council, the Department will develop and promote a Career Path Program whose purpose is to develop highly motivated, educated and skilled non-probationary Police Officers, Sergeants, Lieutenants, and Captains. This Program is intended to encourage and reward these employees for improving and expanding their law enforcement skills. The Career Path Program will be designed to be available to participants who have received an overall acceptable or better on their two (2) most recent performance evaluations. The Career Path Program will be proposed to consist of four (4) categories of achievement: education, leadership academy, physical fitness, and skills. This Subsection XII applies to **Sworn Police Officers** only.