



# City Council Agenda

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City of Idaho Falls  
Regular Council Meeting  
501 S Holmes Ave

**Thursday**  
**July 13, 2023**  
**7:30 p.m.**

**Mayor**

Rebecca Casper

**City Council**

Michelle Ziel-Dingman  
Council President

John Radford  
Council Seat 5

Jim Freeman  
Council Seat 6

Tom Hally  
Council Seat 3

Jim Francis  
Council Seat 4

Lisa Burtenshaw  
Council Seat 2



Livestream at [www.idahofallsidaho.gov/429/Live-Stream](http://www.idahofallsidaho.gov/429/Live-Stream)

# PUBLIC PARTICIPATION

Welcome to the Idaho Falls City Council Meeting.

Regularly scheduled City Council meetings are open to the general public. City Council meetings are also live-streamed and archived on [the City website](#). Please be aware that the meeting agenda will differ from the published version if amendments to the agenda are made by the Council during the meeting.

The Council encourages public input. While a general public comment option is not required by Idaho law, the Idaho Falls City Council welcomes general public input as part of regular City Council meetings. General public comment will be allowed for up to 20 minutes. However, citizens are always welcome to contact their Council representatives via e-mail or telephone, as listed on [the City website](#). The Council is committed to an atmosphere that promotes equal opportunity, civility, mutual respect, property decorum and freedom from discrimination or harassment.

Those who wish to address City Council during the council meetings are encouraged to adhere to the guidelines below.

## Public Comment Guidelines

Speakers are encouraged to:

- State their name and city of residence.
- Focus comments on matters within the purview of the City Council.
- Limit comments to three (3) minutes or less.
- Refrain from repeating information already presented to preserve time for others to speak. Large groups are encouraged to select one or two speakers to represent the voice of the entire group.
- Practice civility and courtesy. City leaders have the right and the responsibility to maintain order and decorum during the meeting. Time may be curtailed for those speakers whose comments are profane or disruptive in nature.
- Refrain from comments on issues involving matters currently pending before the City's Planning and Zoning Commission or other matters that require legal due process, including public hearings, City enforcement actions, and pending City personnel disciplinary matters.
- Comments that pertain to activities or performance of individual City employees should be shared directly with the City's Human Resources Director (208-612-8248), the City's Legal Department (208-612-8178) or with the Office of the Mayor (208-612-8235).

## Public Hearing Guidelines

- In-person Comment. Because public hearings must follow various procedures required by law, please wait to offer your comments until comment is invited/indicated. Please address comments directly to the Council and try to limit them to three (3) minutes.
- Written Comment. The public may provide written comments via postal mail sent to City Hall or via email sent to the City Clerk at [IFClerk@idahofalls.gov](mailto:IFClerk@idahofalls.gov). Comments will be distributed to the members of the Council and become a part of the official public hearing record. Written testimony must be received no later than forty-eight (48) hours prior to the date of the hearing to ensure inclusion in the permanent City record.
- Remote Comment. When available, the public may provide live testimony remotely via the WebEx meeting platform using a phone or a computer. Those desiring public hearing access should send a valid and accurate email address to [virtualattend@idahofalls.gov](mailto:virtualattend@idahofalls.gov) no later than twenty-four (24) hours prior to the date of the hearing so log-in information can be sent prior to the meeting. Please indicate which public hearing the testimony is intended for on the agenda. Please note that this remote option will not be available for all meetings.

**If communication aids, services, or other physical accommodations are needed to facilitate participation or access for this meeting, please contact the City Clerk at (208) 612-8414 or the ADA Coordinator at (208) 612-8323 not less than 48 hours prior to the meeting. They will help accommodate special needs wherever possible.**





# City Council Meeting

## Agenda

501 S Holmes Ave  
Idaho Falls, ID 83402

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Thursday, July 13, 2023

7:30 PM

Idaho Falls Civic Center

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### City Council Agenda:

1. Call to Order.

2. Pledge of Allegiance.

3. Public Comment.

Please see guidelines above.

4. Consent Agenda.

A. Municipal Services

1) Renewal of Server Backup Storage Software and Subscription Services for Information Technology **23-200**

**Attachments:** Renewal of Server Backup Storage Software and Subscription Services for MSD

2) Treasurer's Report for April 2023 **23-202**

**Attachments:** April Treasurer's Report

3) Treasurer's Report for May 2023 **23-203**

**Attachments:** May Treasurer's Report

B. Public Works

1) Iona Bonneville Sewer District (IBSD) - Request for Sewer Service Area Expansion **23-205**

**Attachments:** 2023-06-28 - IBSD Exhibit A

C. Idaho Falls Power

1) 23-192 Downtown Alley Upgrade Project - Rogers - Portion I **23-204**

**Attachments:** estimate for Rodgers Building Alley Rebuild.pdf

2) Idaho Falls Power Board Meeting Minutes - May and June Meetings **23-172**

**Attachments:** 2023 May and June Board Meeting Minutes.pdf

**D. Office of the City Clerk**

- 1) License Applications, all carrying the required approvals

A Consent Agenda item may be moved to the Regular Agenda for separate consideration if requested by a Council member. Other changes to this agenda may require the approval of a majority of Council.

**Action Item:**

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

**5. Regular Agenda.****A. Public Works**

- 1) Microtransit Professional Services Agreement Renewal with Idaho Falls Downtowner LLC **23-206**

Previously, proposals for a turn-key operation to design, launch, operate, market, and maintain a demand response rideshare service pilot project were received and evaluated; through a competitive process and Idaho Falls Downtowner LLC's proposal was accepted. Downtowner has performed the agreed-upon services for the previous year. The contract allows for automatic renewal and . Staff recommends renewing the Agreement.

**Action Item:**

Approve the proposed Professional Services Agreement between the City of Idaho Falls and Idaho Falls Downtowner LLC and give authorization for the Mayor and City Clerk to execute the necessary documents (or take other action deemed appropriate).

**Attachments:** 2023 Microtransit Agreement Signed

**B. Municipal Services**

- 1) Comprehensive Annual Financial Audit Services for Fiscal Year Ending September 30, 2023 **23-201**

The purpose of this request is to establish a contract with Eide Bailly to provide certified public accounting and financial auditing services to the City of Idaho Falls for the fiscal year ending September 30, 2023. The comprehensive annual financial audit services will include: audit of the combined financial statements of the Electric Light and Fiber funds; review and issuance of the combined financial statements prepared by Eide Bailly; and an audit of the combined financial statements. Eide Bailly will also audit compliance over major federal award programs as of and for the fiscal year ending September 30, 2023. The estimated total cost of \$150,000 includes increased rates of approximately 15% for audit work performed after January 1, 2024.

**Action Item:**

Accept and approve a professional services contract with Eide Bailly for comprehensive annual financial audit services for an estimated amount of \$150,000 (or take other action deemed appropriate).

**Attachments:** City of Idaho Falls 2023 Engagement Letter  
City of Idaho Falls 2023 Governance Planning Letter  
Electric Light Fund & Fiber Fund 2023 Engagement Letter  
Electric Light Fund & Fiber Fund 2023 Governance Planning Letter

**C. City Attorney**

- 1) Approval of CM/GC Contract for Airport Terminal Expansion and Renovation Project - Clayco, Inc. **23-207**

As part of the Airport's ongoing efforts to expand and improve the Airport's terminal, the City sought requests for proposals to select the best-qualified Construction Manager - General Contractor ("CM/GC") to perform pre-construction services-including developing the expansion project design, optimizing material and construction costs, and coordinating construction scheduling and phasing-and construction services. Clayco, Inc., was selected as the most qualified proposer and, pursuant to Idaho Code § 67-2320, City staff negotiated the proposed agreement.

**Action Item:**

Approve the CM/GC Contract with Clayco, Inc., and direct the Mayor and staff to execute the necessary documents. (or take other action deemed appropriate.)

**Attachments:** A133-2019 - Draft - (Clayco 6.19.23).pdf

- 2) Ordinance Restructuring Title 3 and Rescinding Code Section 3-2-9 regulating ambulance operations. **23-208**

Title 3, governing the City's various Departments, has been rewritten to be more consistent across Departments, to promote flexibility based upon City and Department needs, and to clarify duties and responsibilities. In addition, the Ordinance rescinds City regulation of ambulances because State licensure and regulation adequately addresses ambulance activities.

**Action Item:**

Approve the Ordinance restructuring Title 3 and rescinding Code Section 3-2-9 regulating ambulance operations under a suspension of the rules requiring three complete and separate readings, request that it be read by title and published by summary (or consider the Ordinance on the first reading and that it be read by title, reject the Ordinance, or take other action deemed appropriate).

**Attachments:** Ordinance - Title 3 - 6.8.23.pdf

**D. Community Development Services**

- 1) Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards, Hidden Bridge Subdivision **23-199**

Attached is the application for the Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards for Hidden Bridge Subdivision. The Planning and Zoning Commission

considered this item at its December 6, 2022, meeting and unanimously voted to recommend approval for the final plat to the Mayor and City Council as presented. Staff concurs with this recommendation.

**Action Item:**

1. Approve the Development Agreement for the Final Plat for Hidden Bridge Subdivision and give authorization for the Mayor and City Clerk to sign said agreement (or take other action deemed appropriate).
2. Accept or Approve the Final Plat for Hidden Bridge Subdivision and give authorization for the Mayor, City Engineer, and City Clerk to sign said Final Plat (or take other action deemed appropriate).
3. Approve the Reasoned Statement of Relevant Criteria and Standards for the Final Plat for Hidden Bridge Subdivision and give authorization for the Mayor to execute the necessary documents (or take other action deemed appropriate).

**Attachments:**    Zoning Map  
                          Aerial  
                          Final Plat  
                          Staff Report  
                          PC Minutes  
                          Reasoned Statement.docx  
                          Development Agreement

- 2)**      Legislative Public Hearing-Part 1 of 2 of the Annexation and Initial Zoning-Annexation Ordinance and Reasoned Statement of Relevant Criteria and Standards for 1.703 acres of Part of the SE ¼ of Section 9, Township 2 North, Range 38 East. **23-195**

Attached is part 1 of 2 of the application for Annexation and Initial Zoning of HC, Highway Commercial which includes the Annexation Ordinance and Reasoned Statement of Relevant Criteria and Standards for 1.703 acres of Part of the SE ¼ of Section 9, Township 2 North, Range 38 East. The Planning and Zoning Commission considered this item at its June 6, 2023, meeting and unanimously voted to recommended approval of the annexation with initial zoning of HC to the Mayor and City Council as presented.

**Action Item:**

1. Approve the Ordinance annexing 1.703 acres of Part of the SE ¼ of Section 9, Township 2 North, Range 38 East and assign a Comprehensive Plan Designation of "Mixed Use Centers and Corridors" and under a suspension of the rules requiring three complete and separate readings and request that it be read by title and published by summary (or consider the Ordinance on the first reading and that it be read by title, reject the Ordinance, or take other action deemed appropriate).
2. Approve the Reasoned Statement of Relevant Criteria and Standards for the annexation of 1.703 acres of Part of the SE ¼ of Section 9, Township 2 North, Range 38 East and give authorization for the Mayor to execute the necessary documents (or take other action deemed appropriate).

**Attachments:** Zoning  
Aerial  
Comp Plan  
Staff Report  
PC Minutes.docx  
Ordinance  
Exhibit A  
Map Exhibit.pdf  
Reasoned Statement Annexation

- 3)** Legislative Public Hearing-Part 2 of 2 of the Annexation and Initial Zoning of HC, Highway Commercial, Initial Zoning Ordinance and Reasoned Statement of Relevant Criteria and Standards for 1.703 acres of Part of the SE ¼ of Section 9, Township 2 North, Range 38 East. **23-196**

Attached is part 2 of 2 of the application for Annexation and Initial Zoning of HC, Highway Commercial which includes the Initial Zoning Ordinance and Reasoned Statement of Relevant Criteria and Standards for 1.703 acres of Part of the SE ¼ of Section 9, Township 2 North, Range 38 East. The Planning and Zoning Commission considered this item at its June 6, 2023, meeting and unanimously voted to recommended approval of the annexation with initial zonings of HC to the Mayor and City Council as presented. Staff concurs with this recommendation.

**Action Item:**

1. Approve the Ordinance establishing the initial zoning for HC, Highway 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 (or consider the Ordinance on the first reading and that it be read by title, reject the Ordinance, or take other action deemed appropriate).
2. Approve the Reasoned Statement of Relevant Criteria and Standards for the initial zoning of HC, Highway Commercial and give authorization for the Mayor to execute the necessary documents (or take other action deemed appropriate).

**Attachments:** Zoning Map  
Aerial  
Comp Plan Map  
Ordinance  
Exhibit A  
Map Exhibit.pdf  
Reasoned Statement

- 4)** Legislative Public Hearing-Part 1 of 2 of the Annexation and Initial Zoning-Annexation Ordinance and Reasoned Statement of Relevant **23-197**



Criteria and Standards for 169.043 acres in the SE ¼ of Section 6, Township 2 North, Range 38 East.

Attached is part 1 of 2 of the application for Annexation and Initial Zoning of HC, Highway Commercial, LC, Limited Commercial, R3A, Residential Mixed Use and the Controlled Airport Overlay Zone which includes the Annexation Ordinance and Reasoned Statement of Relevant Criteria and Standards for 169.043 acres in the SE ¼ of Section 6, Township 2 North, Range 38 East. The Planning and Zoning Commission considered this item at its April 4, 2023, meeting and voted to recommended approval of the annexation with initial zoning of R3A, LC, and HC as presented to the Mayor and City Council with a vote of 5 to 1.

**Action Item:**

1. Approve the Ordinance annexing 169.043 acres in the SE ¼ of Section 6, Township 2 North, Range 38 East, assign a Comprehensive Plan Designation of “General Urban”, and under a suspension of the rules requiring three complete and separate readings, request that it be read by title and published by summary (or consider the Ordinance on the first reading and that it be read by title, reject the Ordinance, or take other action deemed appropriate).
2. Approve the Reasoned Statement of Relevant Criteria and Standards for the annexation of 169.043 acres in the SE ¼ of Section 6, Township 2 North, Range 38 East and give authorization for the Mayor to execute the necessary documents (or take other action deemed appropriate).

**Attachments:**    Zoning  
                          Aerial  
                          Comp Plan  
                          Staff Report  
                          Land Use Tables  
                          Airport Land Use  
                          IF Annexation letter  
                          PC Minutes.docx  
                          Ordinance  
                          Exhibit A and Map Exhibit  
                          Reasoned Statement Annexation

- 5) Legislative Public Hearing-Part 2 of 2 of the Annexation and Initial Zoning of HC, Highway Commercial, LC, Limited Commercial, R3A, Residential Mixed Use, and the Controlled Development Airport Overlay Zone, Initial Zoning Ordinance and Reasoned Statement of Relevant Criteria and Standards for 169.043 acres in the SE ¼ of Section 6, Township 2 North, Range 38 East.

**23-198**

Attached is part 2 of 2 of the application for Annexation and Initial Zoning of HC, Highway Commercial, LC, Limited Commercial, R3A, Residential Mixed use, and the Controlled Development Airport Overlay Zone which includes the Initial Zoning Ordinance and Reasoned Statement of Relevant Criteria and Standards for 169.043 acres in the SE ¼ of Section 6, Township 2 North, Range 38 East. The Planning and Zoning Commission considered this item at its April 6, 2023, meeting and voted to recommended

approval of the annexation with initial zonings of HC, LC, R3A, and the Controlled Development Airport Overlay Zone to the Mayor and City Council as presented.

**Action Item:**

1. Approve the Ordinance establishing the initial zoning for HC, Highway Commercial, LC, Limited Commercial, R3A, Residential Mixed use, and the Controlled Development Airport Overlay Zone 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 (or consider the Ordinance on the first reading and that it be read by title, reject the Ordinance, or take other action deemed appropriate).
2. Approve the Reasoned Statement of Relevant Criteria and Standards for the initial zoning of HC, Highway Commercial, LC, Limited Commercial, R3A, Residential Mixed Use, and the Controlled Development Airport Overlay Zone and give authorization for the Mayor to execute the necessary documents (or take other action deemed appropriate).

**Attachments:**    Zoning Map  
                          Aerial  
                          Comp Plan Map  
                          Ordinance  
                          Proposed Zoning  
                          Exhibit A and Map Exhibit  
                          Reasoned Statement

6.     **Announcements.**

7.     **Adjournment.**

# Memorandum

File #: 23-200

City Council Meeting

**FROM:** Pam Alexander, Municipal Services Director  
**DATE:** Tuesday, July 4, 2023  
**DEPARTMENT:** Municipal Services

## Subject

Renewal of Server Backup Storage Software and Subscription Services for Information Technology

## Council Action Desired

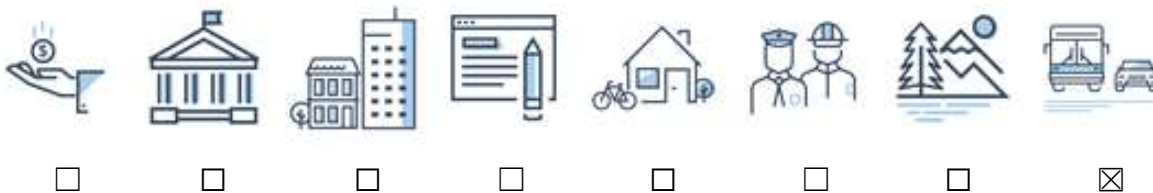
- ☐ Ordinance ☐ Resolution ☐ Public Hearing  
☒ Other Action (Approval, Authorization, Ratification, etc.)

Approve the renewal of software and subscription services from the State of Idaho statewide contract with CompuNet, Inc. for a total of \$115,244.62 (or take other action deemed appropriate).

## Description, Background Information & Purpose

This request is to renew the backup storage software and subscription services for information technology appliance support for the next 3 years. The support services provide backup and replication of city data and restoration of files that are deleted or compromised.

## Alignment with City & Department Planning Objectives



This request supports the reliable public infrastructure community-oriented result by maintaining professional support services for the city's information technology assets.

## Interdepartmental Coordination

This request has been reviewed with all necessary departments.

## Fiscal Impact

Funds for the renewal are budgeted in the 2022/23 Municipal Services Department Information Technology budget.

## Legal Review

The City Attorney has reviewed the terms of the agreement and concurs that the desired Council action is within State Statute.

## Cohesity Renewal 2023-2026

**Quote Information:****Quote #:** BB212583

Version: 1

Quote Date: 06/05/2023

Expiration Date: 08/03/2023

**Prepared for:****City of Idaho Falls**

Joseph Nilsson

2086128118

jnilsson@idahofalls.gov

**Bill To:****City of Idaho Falls**

Accounts Payable

308 Constitution Way PO Box

50220

Idaho Falls, ID 83405

accountspayable@idahofallsidah  
o.gov**Ship To:****City of Idaho Falls**

Joseph Nilsson

308 Constitution Way

PO Box 50220

Idaho Falls, ID 83405

### Support

Manufacturer Part Number	Product Details	Qty	List Price	Price	Ext. Price
Cohesity DataPlatform Standard Edition Subscription (1TB). Intelligent web-scale software for consolidating secondary data with multi-protocol access (NFS, S3 & SMB), replication, access management, monitoring, Rest API, encryp.. - Term - 36 Months					
SUB-DATAPLAT-STD-3YR	COHESITY DATAPLATFORM STANDARD EDITION SUBSCRIPTION (1TB). INTELLIGENT WEB-SCALE SOFTWARE FOR CONSOLIDATING SECONDARY DATA WITH MULTI-PROTOCOL ACCESS SN: PR1596585999400, Start Date 8/4/2023 End Date 8/3/2026	64	\$0.00	\$536.26	\$34,320.64
Cohesity DataProtect Add-On Subscription (1 TB). Backup software for virtual and physical environments. Subscription per TB of backend storage used for backup. - Term - 36 Months					
SUB-DATAPROTECT-3YR	COHESITY DATAPROTECT ADD-ON SUBSCRIPTION (1 TB). BACKUP SOFTWARE FOR VIRTUAL AND PHYSICAL ENVIRONMENTS. SUBSCRIPTION PER TB OF BACKEND STORAGE USED FOR BACKUP. SN: PR1596585999910, Start Date 8/4/2023 End Date 8/3/2026	44	\$0.00	\$715.00	\$31,460.00
Cohesity DataPlatform Standard Edition Subscription (1TB). Intelligent web-scale software for consolidating secondary data with multi-protocol access (NFS, S3 & SMB), replication, access management, monitoring, Rest API, encryp.. - Term - 36 Months					

## Support

Manufacturer Part Number	Product Details	Qty	List Price	Price	Ext. Price
SUB-DATAPLAT-STD-3YR	COHESITY DATAPLATFORM STANDARD EDITION SUBSCRIPTION (1TB). INTELLIGENT WEB-SCALE SOFTWARE FOR CONSOLIDATING SECONDARY DATA WITH MULTI-PROTOCOL ACCESS SN: PR1596586001209, Start Date 8/4/2023 End Date 8/3/2026	64	\$0.00	\$536.26	\$34,320.64
Premium (24x7) Support for C4500-SFP-4-INFO; Subject to the Cohesity Support Maintenance Terms and Conditions. - Term - 36 Months					
CS-P-C4500-SFP-4	PREMIUM (24X7) SUPPORT FOR C4500-SFP-4-INFO; SUBJECT TO THE COHESITY SUPPORT MAINTENANCE TERMS AND CONDITIONS. SN: BAA2920CTY140, Start Date 8/4/2023 End Date 8/3/2026	1	\$0.00	\$7,571.67	\$7,571.67
Premium (24x7) Support for C4500-SFP-4-INFO; Subject to the Cohesity Support Maintenance Terms and Conditions. - Term - 36 Months					
CS-P-C4500-SFP-4	PREMIUM (24X7) SUPPORT FOR C4500-SFP-4-INFO; SUBJECT TO THE COHESITY SUPPORT MAINTENANCE TERMS AND CONDITIONS. SN: BAA2920CTY068, Start Date 8/4/2023 End Date 8/3/2026	1	\$0.00	\$7,571.67	\$7,571.67
Subtotal:					<b>\$115,244.62</b>

## Quote Summary

Description	Amount
Support	\$115,244.62
Total:	\$115,244.62

Taxes, shipping, handling and other fees may apply. We reserve the right to cancel any order arising from pricing or other errors. If Customer is purchasing a subscription-based product, Customer agrees to pay all charges for the complete term of the subscription. By signing below or issuing a Purchase Order, Customer agrees to CompuNet's standard terms and conditions, which can be reviewed [here](#), provided, that if Customer and CompuNet are parties to a currently effective Master Product Purchase and Services Agreement (MSA), the terms and conditions of such MSA shall control and shall supersede these standard terms and conditions. Your electronic signature, per the Electronic Signature Act, is considered equivalent to your signed and faxed signature, and allows you to accept and place your order. This Quote becomes binding and noncancelable upon Customer's return to CompuNet of acceptance. A copy of this acceptance and the attached proposal document will be sent to your email address to complete your order acceptance. You are NOT required to electronically sign your order, you may fax or email your signed proposal to your Account Executive.



## City of Idaho Falls

Signature: \_\_\_\_\_

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

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

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

PO Number: \_\_\_\_\_

# Memorandum

File #: 23-202

City Council Meeting

**FROM:** Mark Hagedorn, City Treasurer  
**DATE:** Wednesday, July 5, 2023  
**DEPARTMENT:** Municipal Services

## Subject

Treasurer's Report for April 2023

## Council Action Desired

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

Accept and approve the Treasurer's Report for the month-ending April 2023 (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 April 2023, cash and investments totaled \$173.1M. Total receipts received and reconciled to the general ledger were reported at \$23.6M, which includes revenues of \$16.9M and interdepartmental transfers of \$6.7M. Total distributions reconciled to the general ledger were reported at \$20.8M, which includes salary and benefits of \$6.1M, operating costs of \$8.1M, capital acquisition/construction costs of \$3.9M and interdepartmental transfers of \$2.7M. As reported in the attached investment report, total investments reconciled to the general fund were reported at \$165.4M.

## 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.



City-Wide Actual Cash & Investments by Fund

FY 2022-2023 April

#	FUND	Beginning Cash & Investments	Interest Earned	Total Receipts	Total Disbursements	Ending Cash & Investments
1	GENERAL	26,592,529	37,689	8,267,592	8,232,950	26,627,172
10	STREET	8,848,639	11,693	154,810	446,952	8,556,497
11	RECREATION	275,150	364	195,588	179,347	291,391
12	LIBRARY	4,439,748	5,867	54,116	253,943	4,239,920
13	AIRPORT PFC FUND	2,157,556	2,851	98,040	-	2,255,596.26
14	MUNICIPAL EQUIP. REPLCMT.	-	-	-	-	-
15	EL. LT. WEATHERIZATION FD	-	-	-	-	-
16	BUSINESS IMPRV. DISTRICT	68,863	91	219	38,500.00	30,581.93
18	GOLF	(699,398)	(924)	475,556	270,026	(493,868)
19	RISK MANAGEMENT	3,977,601	5,256	317,021	213,894.84	4,080,727.20
20	SELF-INSURANCE FD.	4,573,516	6,043	13,020	400.00	4,586,136
21		13,197.50	17.44	36,783	-	49,980.07
23	EMERGENCY MEDICAL SERVICES	817,619	1,080	1,073,624	680,140	1,211,103
24	WILDLAND	877,336	1,159	2,498	54,642.78	825,191.26
32	POLICE IMPACT FEES	86,937	115	13,397	-	100,335
33	FIRE IMPACT FEES	31,102	41	5,019	-	36,121.49
34	PARKS IMPACT FEES	80,551	106	9,963	-	90,514
35	STREETS IMPACT FEES	351,279	464	50,191	-	401,470.16
41	MUNICIPAL CAPITAL IMP.	2,781,521	3,676	16,448	-	2,797,969
42	STREET CAPITAL IMPROVEMENT	959,115	1,267	67,775	55,765.75	971,123.30
43	BRIDGE & ARTERIAL STREET	980,605	1,296	6,434	-	987,039
45	SURFACE DRAINAGE	165,284	218	947	-	166,230.15
46	TRAFFIC LIGHT CAPITAL IMPRV.	1,244,293	1,644	40,747	-	1,285,041
47	PARKS CAPITAL IMPROVEMENT	(160,741)	(212)	100,000	212.40	(60,953.10)
49	ZOO CAPITAL IMPROVEMENT	509,120	673	56,551	-	565,671
50	CIVIC AUDITORIUM CAPITAL IMP.	205,694	272	586	-	206,279.69
51	GOLF CAPITAL IMP.	165,359	219	58,925	-	224,285
52	POLICE CAPITAL IMPROVEMENT	(52,606.74)	-	53,787	912,048.81	(910,868.72)
60	AIRPORT	688,200	909	1,197,022	636,208	1,249,014
61	WATER	20,495,222	27,082	1,077,905	646,953.06	20,926,173.69
62	SANITATION	6,274,513	8,291	483,644	326,800	6,431,357
64	IDAHO FALLS POWER	54,750,738	71,850	6,636,453	6,796,515.41	54,590,674.90
67	FIBER	190,329	252	1,756,913	517,147	1,430,095
68	WASTEWATER	28,714,491	37,943	1,250,713	549,905.75	29,415,298.72
TOTAL		170,403,362	227,292	23,572,287	20,812,352	173,163,297

FY 2021-2022  
April

Ending Cash & Investments
24,644,309
5,132,098
293,845
3,686,290
1,197,575.76
-
3,726,384.92
107,444.98
(305,458)
3,665,577.64
4,526,127
-
(92,265)
657,471.75
-
-
-
-
2,577,001
833,495.39
859,958
194,214.41
1,339,885
(100,840.30)
403,050
200,553.20
(2,226)
(772,107.24)
(496,697)
18,938,682.41
6,000,640
35,973,485.08
598,475
30,056,991.64
143,843,962



## City-Wide Anticipated Revenue to Actual by Fund

FY 2022-2023 April

#	Fund	Adjusted Budget	April 2023 Receipts	YTD Total Receipts	Difference- Unrealized Revenue	% of Actual to Budget
1	GENERAL FUND	64,377,027	3,931,857	37,473,148	(26,903,879)	58.21%
10	STREET FUND	8,285,900	142,402	6,305,457	(1,980,443)	76.10%
11	RECREATION FUND	2,522,188	200,269	1,547,407	(974,781)	61.35%
12	LIBRARY FUND	2,946,465	54,073	1,818,312	(1,128,153)	61.71%
13	AIRPORT PFC FUND	-	98,040	384,455	384,455	-
14	MERF Fund	-	-	-	-	-
15	EL PUBLIC PURPOSE FUND	-	-	-	-	-
16	BUS IMP DISTRICT	115,000	219	58,100	(56,900)	50.52%
18	GOLF FUND	3,402,314	463,044	1,099,288	(2,303,026)	32.31%
19	RISK MANAGEMENT FUND	2,266,553	251,718	2,043,234	(223,319)	90.15%
20	HEALTH INSURANCE FUND	50,000	13,020	79,418	29,418	158.84%
21	AIRPORT CFC FUND	-	36,783	49,980	49,980	-
23	EMERGENCY MEDICAL SERVICE	8,310,404	770,558	5,953,596	(2,356,808)	71.64%
24	WILDLAND FIRE	1,500,000	2,498	697,676	(802,324)	46.51%
32	POLICE IMPACT FEES	843,077	13,397	68,999	(774,078)	8.18%
33	FIRE IMPACT FEES	452,282	5,019	23,199	(429,083)	5.13%
34	PARKS & REC IMPACT FEES	900,706	9,963	57,677	(843,029)	6.40%
35	STREETS IMPACT FEES	2,500,000	50,191	272,338	(2,227,662)	10.89%
41	MUNICIPAL CAP IMP	1,290,618	16,448	549,412	(741,206)	42.57%
42	STREET CAP IMP	4,491,000	35,253	508,004	(3,982,996)	11.31%
43	BRIDGE & ARTERIAL FUND	-	32,025	215,217	215,217	0.00%
45	SURFACE DRAINAGE FUND	-	1,138	10,930	10,930	0.00%
46	TRAFFIC LIGHT CAP IMP	436,600	40,747	308,167	(128,433)	70.58%
47	PARKS CAP IMP	90,000	99,788	280,736	190,736	311.93%
48	FIRE CAP IMP	401,524	4,332	247,112	(154,412)	61.54%
49	ZOO CAP IMP	1,850,000	56,551	217,976	(1,632,024)	11.78%
50	CIVIC AUDITORIUM CAP IMP	400,000	586	6,569	(393,431)	1.64%
51	GOLF CAP IMP	291,600	58,925	109,161	(182,439)	37.44%
52	POLICE CAP IMP	30,000,000	53,787	7,521,288	(22,478,712)	25.07%
60	AIRPORT FUND	27,732,166	1,146,841	10,088,239	(17,643,927)	36.38%
61	WATER FUND	13,609,500	1,175,609	8,138,048	(5,471,452)	59.80%
62	SANITATION FUND	5,300,000	514,850	3,498,877	(1,801,123)	66.02%
64	ELECTRIC LIGHT FUND	66,607,920	6,696,987	46,621,459	(19,986,461)	69.99%
67	FIBER	3,750,000	273,386	1,888,866	(1,861,134)	50.37%
68	WASTEWATER	12,650,000	1,376,218	8,619,760	(4,030,240)	68.14%
	TOTAL	267,372,844	17,626,521	146,762,105	(120,610,739)	54.89%

FY 2021-2022 April

Adjusted Budget	YTD Total Receipts	Difference- Unrealized Revenue	% of Actual to Budget
53,588,052	33,654,761	(19,933,291)	62.80%
7,940,709	4,808,728	(3,131,981)	60.56%
3,434,554	1,182,389	(2,252,165)	34.43%
3,641,394	2,087,235	(1,554,159)	57.32%
-	654,748	654,748	-
2,419,100	-	(2,419,100)	-
1,208,000	249,990	(958,010)	20.69%
90,000	60,885	(29,115)	67.65%
3,010,540	1,387,542	(1,622,998)	46.09%
1,955,503	901,678	(1,053,825)	46.11%
50,000	(82,803)	(132,803)	-165.61%
-	-	-	-
7,097,114	4,543,946	(2,553,168)	64.03%
1,200,000	820,142	(379,858)	68.35%
-	-	-	-
-	-	-	-
-	-	-	-
-	-	-	-
810,618	438,773	(371,845)	54.13%
307,000	91,193	(215,807)	29.70%
160,000	75,379	(84,621)	47.11%
41,500	12,059	(29,441)	29.06%
436,596	196,460	(240,136)	45.00%
65,000	1,105,416	1,040,416	1700.64%
401,524	265,220	(136,304)	66.05%
2,000,000	58,819	(1,941,181)	2.94%
200,000	(4,035)	(204,035)	-2.02%
291,600	143,795	(147,805)	49.31%
30,000,000	1,154,366	(28,845,634)	3.85%
14,947,300	2,115,863	(12,831,437)	14.16%
11,762,500	8,043,905	(3,718,595)	68.39%
5,214,000	3,495,797	(1,718,203)	67.05%
68,045,982	37,364,329	(30,681,653)	54.91%
1,251,455	1,264,977	13,522	101.08%
12,874,000	7,565,851	(5,308,149)	58.77%
234,444,041	113,657,408	(120,786,633)	48.48%





General Fund Revenue to Actual

FY 2022-2023 April

Description	Adjusted Budget	YTD Total Receipts	Difference- Unrealized Revenue	% of Actual to Budget
TAXES AND FRANCHISES	33,960,945	20,845,450	13,115,495	61.38%
LICENSES & PERMITS REVENUE	1,562,026	722,567	839,459	46.26%
FEDERAL GRANTS	3,370,000	538,249	2,831,751	15.97%
STATE GRANTS	4,631,918	1,266,061	3,365,857	27.33%
STATE SHARED REVENUES	9,617,693	6,681,154	2,936,539	69.47%
LOCAL SHARED REVENUES	3,030,792	1,897,202	1,133,590	62.60%
PAYMENT IN-LIEU-TAX	4,727,834	2,754,989	1,972,845	58.27%
CHARGES FOR SERVICES- GENERAL	584,350	281,289	303,061	48.14%
CHARGES FOR SERVICES-STREET&ROADWAY	-	-	-	-
CHARGES FOR SERVICES-ZOO	851,650	61,222	790,428	7.19%
CHARGES FOR SERVICES-PARKS	362,500	94,272	268,228	26.01%
CHARGES FOR SERVICES-CEMETERY	190,000	71,240	118,760	37.49%
CHARGES FOR SERVICES-ANIMAL CONTROL	116,000	57,636	58,364	49.69%
CHARGES FOR SERVICES-COMMUNITY FACILITIES	127,500	94,774	32,726	74.33%
FINES & FORFEITURES	255,600	98,688	156,912	38.61%
INTEREST INCOME	230,000	351,465	(121,465)	152.81%
RENTALS & LEASES	101,000	54,098	46,902	53.56%
REFUNDS	202,887	73,715	129,172	36.33%
CONTRIBUTIONS--PRIVATE SOURCES	110,085	258,578	(148,493)	234.89%
OTHER MISCELLANEOUS REV.	344,247	202,839	141,408	58.92%
MERF DEPRECIATION	-	1,067,675	(1,067,675)	-
OTHER FINANCING SOURCES	-	(17.00)	-	-
GENERAL FUND TOTAL	64,377,027	37,473,148	26,903,862	58.21%

FY 2021-2022 April

Adjusted Budget	YTD Total Receipts	Difference- Unrealized Revenue	% of Actual to Budget
32,239,503	19,770,272	12,469,231	61.32%
1,388,500	1,030,226	358,274	74.20%
355,555	14,712.00	340,843	4.14%
2,154,325	516,254	1,638,071	23.96%
7,257,712	6,141,158	1,116,554	84.62%
2,305,546	1,531,109	774,437	66.41%
4,635,075	2,695,376	1,939,699	58.15%
535,500	416,050	119,450	77.69%
-	160	(160)	-
722,253	92,743	629,510	12.84%
370,000	116,543	253,457	31.50%
175,000	86,100	88,900	49.20%
116,000	45,811	70,189	39.49%
128,000	31,701	96,299	24.77%
258,000	109,770	148,230	42.55%
130,000	(523,605)	653,605	-402.77%
111,000	41,970	69,030	37.81%
212,000	192,698	19,302	90.90%
360,550	122,712	237,838	34.03%
588,533	511,741	76,792	86.95%
-	781,258.34	(781,258.34)	-
(455,000)	(70,000)	(385,000)	15.38%
53,588,052	33,654,761	19,933,291	62.80%



## City-Wide Expenditures-Budget to Actual by Fund

FY 2022-2023 April

#	Fund	Adjusted Budget	March 2023 Expenses	YTD Total Expenses	% of Actual to Budget	Encumbrances	YTD Total Expenses w/ Encumbrances	Difference-Remaining Expense
1	GENERAL FUND	67,084,118	4,201,091	32,648,063	48.67%	4,971,400	37,619,463	29,464,655
10	STREET FUND	10,017,196	485,100	3,537,624	35.32%	2,471,762	6,009,385	4,007,811
11	RECREATION FUND	2,522,348	193,552	1,294,773	51.33%	52,493	1,347,265	1,175,083
12	LIBRARY FUND	2,983,203	385,624	1,554,259	52.10%	178,679	1,732,938	1,250,265
13	AIRPORT PFC FUND	-	-	-	-	-	-	-
14	MERF Fund	-	-	-	-	-	-	-
15	EL PUBLIC PURPOSE FUND	-	-	-	-	-	-	-
16	BUS IMP DISTRICT	115,000	38,500	140,500	122.17%	-	140,500	(25,500)
18	GOLF FUND	3,449,920	265,885	1,548,746	44.89%	191,915	1,740,661	1,709,259
19	RISK MANAGEMENT FUND	4,228,629	163,404	1,435,802	33.95%	36,066	1,471,868	2,756,761
20	HEALTH INSURANCE FUND	100,000	400	400.00	-	-	400.00	99,600
23	EMERGENCY MEDICAL SERVICE	8,797,818	635,367	5,562,252	63.22%	144,719	5,706,970	3,090,848
24	WILDLAND FIRE	1,493,964	85,511	147,822	9.89%	8,311	156,133	1,337,831
32	POLICE IMPACT FEES	843,077	-	-	-	-	-	843,077
33	FIRE IMPACT FEES	452,282	-	-	-	-	-	452,282
34	PARKS & REC IMPACT FEES	900,706	-	-	-	-	-	900,706
35	STREETS IMPACT FEES	2,500,000	-	-	-	-	-	2,500,000
41	MUNICIPAL CAP IMP	2,000,000	-	27,003.53	-	43,280	70,283	1,929,717
42	STREET CAP IMP	4,657,998	32,762	326,390	7.01%	58,400	384,790	4,273,208
43	BRIDGE & ARTERIAL FUND	585,282	97,648	137,433.50	23.48%	47,849	185,282	400,000
45	SURFACE DRAINANGE FUND	250,000	-	-	-	3,410	3,410	246,590
46	TRAFFIC LIGHT CAP IMP	990,000	109,133	385,632.80	38.95%	21,324	406,957	583,043
47	PARKS CAP IMP	16,897	3,348	7,029.32	-	822,160	829,190	(812,293)
48	FIRE CAP IMP	-	-	-	-	-	-	-
49	ZOO CAP IMP	1,863,320	-	129,425	6.95%	49,292	178,717	1,684,603
50	CIVIC AUDITORIUM CAP IMP	600,000	-	-	-	-	-	600,000
51	GOLF CAP IMP	316,698	-	18,998	6.00%	74,036	93,034	223,664
52	POLICE CAP IMP	30,000,000	1,737,988	7,298,727	24.33%	11,831,647	19,130,374	10,869,626
90	CONTINGENCY	16,553,047	-	-	-	-	-	16,553,047
60	AIRPORT FUND	27,859,859	1,242,532	11,618,975	41.71%	3,345,718	14,964,693	12,895,166
61	WATER FUND	23,129,218	515,224	3,924,223	16.97%	10,419,345	14,343,568	8,785,650
62	SANITATION FUND	5,837,496	316,267	2,685,467	46.00%	762,037	3,447,503	2,389,993
64	ELECTRIC LIGHT FUND	78,784,577	5,419,514	40,094,091	50.89%	5,740,839	45,834,929	32,949,648
67	FIBER	7,543,209	710,413	3,858,826	51.16%	1,340,546	5,199,372	2,343,837
68	WASTEWATER	26,940,440	738,708	5,010,561	18.60%	17,597,162	22,607,723	4,332,717
	TOTAL	333,416,302	17,377,970	123,393,021	37.01%	60,212,389	183,605,409	149,810,893

Based on Months

58.33%

Based on Payroll

57.69%

FY 2021-2022 April

Adjusted Budget	YTD Total Expenses	% of Actual to Budget
56,191,428	27,529,762	48.99%
9,603,761	3,927,643	40.90%
3,487,819	1,885,062	54.05%
4,464,135	2,048,124	45.88%
-	-	-
-	-	-
1,208,000	104,596	8.66%
85,000	60,000	70.59%
3,116,067	1,353,518	43.44%
3,914,496	761,934	19.46%
60,000	20,000	33.33%
6,936,750	3,871,338	55.81%
1,039,132	212,688	20.47%
-	-	-
-	-	-
-	-	-
-	-	-
1,080,831	237,775	22.00%
1,000,000	79,873	7.99%
350,000	172,209	49.20%
50,000	80,831	161.66%
545,000	98,129.80	18.01%
292,919	353,432	120.66%
-	-	-
2,000,000	60,168	3.01%
200,000	-	-
275,000	728,751.07	265.00%
30,000,000	773,337.33	2.58%
18,840,670	(10,000.00)	-0.05%
14,982,017	3,889,815	25.96%
18,547,021	4,276,733	23.06%
6,333,350	2,949,610	46.57%
82,487,907	35,069,053	42.51%
6,293,260	2,958,741	47.01%
21,507,174	4,400,043	20.46%
294,891,737	97,893,168	33.20%



## City-Wide Expenditures-Budget to Actual by Category

FY 2022-2023 April

	Category	Adjusted Budget	April 2023 Expenses	YTD Total Expenses	% of Actual to Budget	Encumbrances	YTD Total Expenses w/ Encumbrances	Difference-Remaining Expense
	Salaries and Wages	58,366,391	4,286,584	31,293,231	53.62%	-	31,293,231	27,073,160
	Benefits	26,128,971	1,888,241	13,577,007	51.96%	43,565	13,620,572	12,508,399
	Current Operating Expense	130,067,833	7,896,860	55,104,349	42.37%	10,294,961	65,399,310	64,668,523
	Capital Outlay	121,862,799	3,957,561	25,363,319	20.81%	47,704,737	73,068,056	48,794,743
	Depreciation	9,095,501	516,029	4,730,342	52.01%	2,169,125.87	6,899,468	2,196,033
	Debt Service	2,061,000	13,559	880,399	42.72%		880,399	1,180,601
	Interfund Transfers	(14,166,193)	(1,180,865)	(7,555,627)	53.34%		(7,555,627)	(6,610,566)
	TOTAL	333,416,302	17,377,970	123,393,021	37.01%	60,212,389	183,605,409	149,810,893

Based on Months


58.33%

Based on Payroll

57.69%


FY 2021-2022 April

Adjusted Budget	YTD Total Expenses	% of Actual to Budget
53,679,889	28,587,642	53.26%
24,149,008	12,798,744	53.00%
113,597,805	42,622,487	37.52%
105,346,296	17,397,261	16.51%
3,953,400	2,287,483	57.86%
3,134,765	910,111	29.03%
(8,969,426)	(6,710,561)	74.82%
294,891,737	97,893,168	33.20%

<div>  <div>General Fund Expenditures- Budget to Actual by Department</div> </div>								
FY 2022-2023 April								
#	Department	Adjusted Budget	April 2023 Expenses	YTD Total Expenses	% of Actual to Adj. Budget	Encumbrance	YTD Total Expenses w/ Encumbrances	Difference-Remaining Expense
1	MAYOR & COUNCIL	793,402	39,562	371,816	46.86%	40,472	412,287	381,115
1	LEGAL	504,370	34,938	222,682	44.15%	10,494	233,176	271,194
1	MUNICIPAL SERVICES	6,969,895	278,017	2,501,701	35.89%	1,704,447	4,206,148	2,763,747
1	COMMUNITY DEVELOPMENT	4,510,809	183,723	2,132,958	47.29%	994,864	3,127,822	1,382,987
1	HUMAN RESOURCES	469,025	57,372	263,999	56.29%	63,664	327,663	141,362
1	POLICE	23,097,698	1,593,699	11,798,785	51.08%	401,676	12,200,461	10,897,237
1	FIRE	14,811,357	1,071,132	8,676,933	58.58%	460,145	9,137,078	5,674,279
1	PARKS	12,401,932	759,793	5,064,531	40.84%	1,017,084	6,081,615	6,320,317
1	GENERAL FUND PUBLIC WORKS	3,525,630	182,854	1,614,659	45.80%	278,554	1,893,212	1,632,418
	TOTAL	67,084,118	4,201,091	32,648,063	48.67%	4,971,400	37,619,463	29,464,655

Based on Months 58.33%  
Based on Payroll 57.69%

FY 2021-2022 April		
Adjusted Budget	YTD Total Expenses	% of Actual to Adj. Budget
863,012	213,160	24.70%
423,563	88,910	20.99%
5,049,336	2,696,649	53.41%
3,780,153	1,585,090	41.93%
390,102	186,745	47.87%
20,141,629	10,170,658	50.50%
13,406,241	7,846,394	58.53%
10,066,468	4,133,052	41.06%
2,070,924	609,104	29.41%
56,191,428	27,529,762	48.99%

<div>  General Fund Expenditures- Budget to Actual by Category </div>								
FY 2022-2023 April								
	Category	Adjusted Budget	April 2023 Expenses	YTD Total Expenses	% of Actual to Adj. Budget	Encumbrance	YTD Total Expenses w/ Encumbrances	Difference- Remaining Expense
	Salaries and Wages	33,556,078	2,495,988	17,971,102	53.56%	-	17,971,102	15,584,976
	Benefits	15,575,528	1,114,540	7,872,167	50.54%	31,986	7,904,153	7,671,375
	Current Operating Expense	23,831,610	1,357,151	10,431,925	43.77%	4,304,894	14,736,819	9,094,791
	Capital Outlay	2,413,304	22,918	804,531	33.34%	377,396	1,181,928	1,231,376
	Depreciation	3,423,791	296,904	2,479,945	72.43%	257,124	2,737,069	686,722
	Debt Service	2,000,000		480,847	24.04%	-	480,847	1,519,153
	Interfund Transfers	(13,716,193)	(1,086,410)	(7,392,455)	53.90%	-	(7,392,455)	(6,323,738)
	TOTAL	67,084,118	4,201,091	32,648,063	48.67%	4,971,400	37,619,463	29,464,655

Based on Months 58.33%  
Based on Payroll 57.69%

FY 2021-2022 April		
Adjusted Budget	YTD Total Expenses	% of Actual to Adj. Budget
30,551,277	16,645,282	54.48%
14,471,036	7,547,079	52.15%
17,447,083	6,896,628	39.53%
2,952,158	1,763,686	59.74%
1,339,300	781,258	58.33%
2,000,000	501,798	25.09%
(12,569,426)	(6,605,969)	52.56%
56,191,428	27,529,762	48.99%



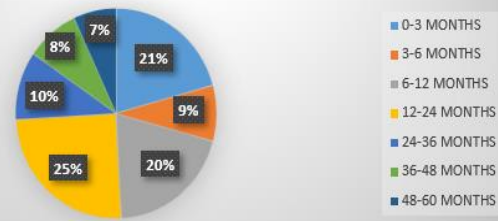
# April 2023 Investments Maturity

MONTH	AMOUNT	%
0-3 MONTHS	\$34,148,710.77	20.63%
3-6 MONTHS	\$14,092,107.64	8.52%
6-12 MONTHS	\$32,864,625.99	19.86%
12-24 MONTHS	\$41,103,993.40	24.84%
24-36 MONTHS	\$17,369,959.72	10.50%
36-48 MONTHS	\$14,058,909.25	8.50%
48-60 MONTHS	\$11,354,182.16	6.86%
Over 60 MONTHS	\$502,655.58	0.30%
Total	\$165,495,144.51	100.00%



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

Months to Maturity

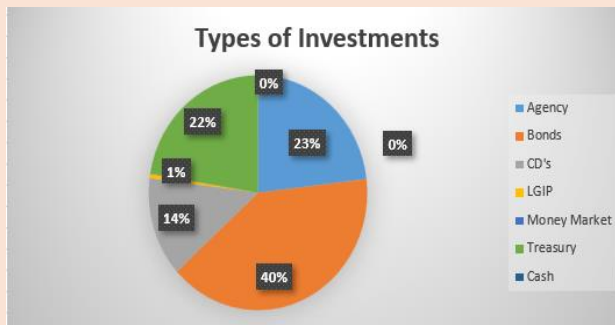


- Currently the City has 26 percent of the portfolio invested beyond 24 months.

# April 2023 Types of Investments

TYPE	AMOUNT	%
Agency	\$38,301,485.75	23%
Bonds	\$66,489,483.12	40%
CD's	\$22,673,514.25	14%
LGIP	\$959,126.72	1%
Money Market	\$112,432.80	0%
Treasury	\$36,952,331.94	22%
Cash	\$6,769.93	0.00%
Total	\$165,495,144.51	100.00%

BROKER	AMOUNT	%
LGIP	\$959,127	0.58%
Wells Fargo	\$156,928,918.53	94.82%
Bank of Commerce	\$1,004,714.25	0.61%
Key Bank	\$6,759.93	0.00%
Idaaho Central CU	\$4,586,782	2.77%
EICU	\$2,008,843	1.21%
Total	\$165,495,144.51	100.00%



- COIF Investment Policy states that no more than 50% of the portfolio may be invested in one type of security.
- Yearly Investment Comparison
  - City Investment Portfolio
    - 2022: \$134.9M
    - 2023: \$165.5M
  - Total Cash & Investment
    - 2022: \$146.5M
    - 2023: \$175.3M

# Memorandum

File #: 23-203

City Council Meeting

**FROM:** Mark Hagedorn, City Treasurer  
**DATE:** Wednesday, July 5, 2023  
**DEPARTMENT:** Municipal Services

## Subject

Treasurer's Report for May 2023

## Council Action Desired

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

Accept and approve the Treasurer's Report for the month-ending May 2023 (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 May 2023, ending cash and investments totaled \$173.1M. Total receipts received and reconciled to the general ledger were reported at \$22.0M, which includes revenues of \$15.3M and interdepartmental transfers of \$6.7M. Total distributions reconciled to the general ledger were reported at \$22.0M, which includes salary and benefits of \$6.2M, operating costs of \$7.7M, capital acquisition/construction costs of \$5.5M, and interdepartmental transfers of \$2.6M. As reported in the attached investment report, the total investments reconciled to the general ledger were reported at \$163.5M.

## 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.



City-Wide Actual Cash & Investments by Fund

FY 2022-2023 May

#	FUND	Beginning Cash & Investments	Interest Earned	Total Receipts	Total Disbursements	Ending Cash & Investments
1	GENERAL	26,627,172	82,261	3,982,779	6,444,547	24,165,404
10	STREET	8,556,497	26,327	1,635,951	640,370	9,552,078
11	RECREATION	291,391	897	152,963	160,721	283,633
12	LIBRARY	4,239,920	13,045	38,043	323,531	3,954,432
13	AIRPORT PFC FUND	2,255,596	-	174,692	461,368	1,968,920
14	MUNICIPAL EQUIP. REPLCMT.	-	-	-	-	-
15	EL. LT. WEATHERIZATION FD	-	-	-	-	-
16	BUSINESS IMPRV. DISTRICT	30,582	94	375	38	30,919
18	GOLF	(493,868)	(1,520)	651,032	437,573	(280,409)
19	RISK MANAGEMENT	4,080,727	12,556	231,695	370,454	3,941,969
20	SELF-INSURANCE FD.	4,586,136	14,111	14,111	5,697	4,594,550
21	AIRPORT CFC FUND	49,980	-	31,531	62	81,449
23	EMERGENCY MEDICAL SERVICES	1,211,103	3,726	823,862	576,914	1,458,051
24	WILDLAND	825,191	2,539	2,539	36,533	791,197
32	POLICE IMPACT FEES	100,335	309	37,795	125	138,005
33	FIRE IMPACT FEES	36,121	111	7,708	45	43,785
34	PARKS IMPACT FEES	90,514	278	10,012	112	100,413
35	STREETS IMPACT FEES	401,470	1,235	145,824	499	546,796
41	MUNICIPAL CAPITAL IMP.	2,797,969	8,609	13,275	3,476	2,807,769
42	STREET CAPITAL IMPROVEMENT	971,123	2,988	4,067	366,715	608,475
43	BRIDGE & ARTERIAL STREET	987,039	3,037	121,786	149,904	958,921
45	SURFACE DRAINAGE	166,230	511	3,488	3,183	166,535
46	TRAFFIC LIGHT CAPITAL IMPRV.	1,285,041	3,954	41,159	110,729	1,215,470
47	PARKS CAPITAL IMPROVEMENT	(60,953)	(188)	-	11,884	(72,837)
49	ZOO CAPITAL IMPROVEMENT	565,671	1,740	45,959	15,703	595,928
50	CIVIC AUDITORIUM CAPITAL IMP	206,280	635	635	256	206,658
51	GOLF CAPITAL IMP.	224,285	690	70,909	279	294,915
52	POLICE CAPITAL IMPROVEMENT	(910,869)	-	914,931	831,704	(827,641)
60	AIRPORT	1,249,014	3,843	1,021,925	1,296,620	974,319
61	WATER	20,926,174	64,386	1,358,841	760,791	21,524,223
62	SANITATION	6,431,357	19,788	712,313	474,695	6,668,975
64	IDAHO FALLS POWER	54,590,675	166,819	7,108,497	7,048,563	54,650,609
67	FIBER	1,430,095	4,400	1,351,753	351,024	2,430,824
68	WASTEWATER	29,415,299	90,505	1,320,132	1,182,752	29,552,678
TOTAL		173,163,297	527,687	22,030,581	22,066,866	173,127,013

FY 2021-2022  
May

Ending Cash & Investments
22,403,260
5,079,705
186,296
3,838,658
1,330,521
-
3,723,434
107,798
(243,310)
3,828,456
4,540,999
-
392,587
659,032
-
-
-
2,573,288
849,285
868,204
196,178
1,373,587
(100,458)
381,094
201,212
32,555
1,230
(785,411)
19,449,698
6,123,657
36,776,267
433,505
30,748,452
144,969,781



## City-Wide Anticipated Revenue to Actual by Fund

FY 2022-2023 May

#	Fund	Adjusted Budget	May 2023 Receipts	YTD Total Receipts	Difference- Unrealized Revenue	% of Actual to Budget
1	GENERAL FUND	64,377,027	2,087,687	39,560,834	(24,816,193)	61.45%
10	STREET FUND	8,285,900	1,288,878	7,594,335	(691,565)	91.65%
11	RECREATION FUND	2,522,188	153,096	1,700,503	(821,685)	67.42%
12	LIBRARY FUND	2,946,465	29,036	1,847,349	(1,099,116)	62.70%
13	AIRPORT PFC FUND	-	(286,676)	97,779	97,779	-
14	MERF Fund	-	-	-	-	-
15	EL PUBLIC PURPOSE FUND	-	-	-	-	-
16	BUS IMP DISTRICT	115,000	337	58,438	(56,562)	50.82%
18	GOLF FUND	3,402,314	643,480	1,742,768	(1,659,546)	51.22%
19	RISK MANAGEMENT FUND	2,266,553	(35,064)	2,008,169	(258,384)	88.60%
20	HEALTH INSURANCE FUND	50,000	8,414	87,832	37,832	175.66%
21	AIRPORT CFC FUND	0	31,469	81,449	81,449	-
23	EMERGENCY MEDICAL SERVICE	8,310,404	848,600	6,802,196	(1,508,208)	81.85%
24	WILDLAND FIRE	1,500,000	1,514	699,190	(800,810)	46.61%
32	POLICE IMPACT FEES	843,077	37,670	106,669	(736,408)	12.65%
33	FIRE IMPACT FEES	452,282	7,663	30,862	(421,420)	6.82%
34	PARKS & REC IMPACT FEES	900,706	9,900	67,577	(833,129)	7.50%
35	STREETS IMPACT FEES	2,500,000	145,325	417,664	(2,082,336)	16.71%
41	MUNICIPAL CAP IMP	1,290,618	9,799	559,211	(731,407)	43.33%
42	STREET CAP IMP	4,491,000	1,782	509,786	(3,981,214)	11.35%
43	BRIDGE & ARTERIAL FUND	0	(4,989)	210,228	210,228	0.00%
45	SURFACE DRAINAGE FUND	0	(2,661)	8,269	8,269	0.00%
46	TRAFFIC LIGHT CAP IMP	436,600	39,563	347,729	(88,871)	79.64%
47	PARKS CAP IMP	90,000	(188)	280,548	190,548	311.72%
48	FIRE CAP IMP	401,524	2,318	249,429	(152,095)	62.12%
49	ZOO CAP IMP	1,850,000	45,257	263,233	(1,586,767)	14.23%
50	CIVIC AUDITORIUM CAP IMP	400,000	378	6,947	(393,053)	1.74%
51	GOLF CAP IMP	291,600	70,631	179,792	(111,808)	61.66%
52	POLICE CAP IMP	30,000,000	912,049	8,433,337	(21,566,663)	28.11%
60	AIRPORT FUND	27,732,166	839,943	10,928,182	(16,803,984)	39.41%
61	WATER FUND	13,609,500	1,119,789	9,257,837	(4,351,663)	68.02%
62	SANITATION FUND	5,300,000	531,380	4,030,257	(1,269,743)	76.04%
64	ELECTRIC LIGHT FUND	66,607,920	5,378,948	52,000,407	(14,607,513)	78.07%
67	FIBER	3,750,000	279,667	2,168,534	(1,581,466)	57.83%
68	WASTEWATER	12,650,000	1,173,073	9,792,833	(2,857,167)	77.41%
	TOTAL	267,372,844	15,368,067	162,130,172	(105,242,672)	60.64%

FY 2021-2022 May

Adjusted Budget	YTD Total Receipts	Difference- Unrealized Revenue	% of Actual to Budget
53,588,052	35,185,079	(18,402,973)	65.66%
7,940,709	5,141,794	(2,798,915)	64.75%
3,434,554	1,272,776	(2,161,778)	37.06%
3,641,394	2,406,109	(1,235,285)	66.08%
-	787,693	787,693	-
2,419,100	-	(2,419,100)	0.00%
1,208,000	311,714	(896,286)	25.80%
90,000	61,238	(28,762)	68.04%
3,010,540	1,802,065	(1,208,475)	59.86%
1,955,503	1,029,705	(925,798)	52.66%
50,000	(67,930)	(117,930)	-135.86%
7,097,114	5,516,111	(1,581,003)	77.72%
1,200,000	822,302	(377,698)	68.53%
0	0	0	0.00%
0	0	0	0.00%
0	0	0	0.00%
0	0	0	0.00%
810,618	452,520	(358,098)	55.82%
307,000	106,983	(200,017)	34.85%
160,000	110,010	(49,990)	68.76%
41,500	16,426	(25,074)	39.58%
436,596	236,329	(200,267)	54.13%
65,000	1,105,799	1,040,799	1701.23%
401,524	268,167	(133,357)	66.79%
2,000,000	80,939	(1,919,061)	4.05%
200,000	(3,376)	(203,376)	-1.69%
291,600	178,576	(113,024)	61.24%
30,000,000	1,927,703	(28,072,297)	6.43%
14,947,300	2,449,570	(12,497,730)	16.39%
11,762,500	9,228,481	(2,534,019)	78.46%
5,214,000	4,058,885	(1,155,115)	77.85%
68,045,982	43,636,024	(24,409,958)	64.13%
1,251,455	1,470,254	218,799	117.48%
12,874,000	8,761,433	(4,112,567)	68.06%
234,444,041	128,353,377	(106,090,664)	54.75%



## General Fund Revenue to Actual


FY 2022-2023 May

Description	Adjusted Budget	YTD Total Receipts	Difference- Unrealized Revenue	% of Actual to Budget
TAXES AND FRANCHISES	33,960,945	21,041,775	12,919,170	61.96%
LICENSES & PERMITS REVENUE	1,562,026	839,274	722,752	53.73%
FEDERAL GRANTS	3,370,000	1,059,806	2,310,194	31.45%
STATE GRANTS	4,631,918	1,345,196	3,286,722	29.04%
STATE SHARED REVENUES	9,617,693	6,681,154	2,936,539	69.47%
LOCAL SHARED REVENUES	3,030,792	1,968,951	1,061,841	64.96%
PAYMENT IN-LIEU-TAX	4,727,834	3,148,559	1,579,275	66.60%
CHARGES FOR SERVICES- GENERAL	584,350	515,534	68,816	88.22%
CHARGES FOR SERVICES-STREET&ROADWAY	0	215	(215)	0.00%
CHARGES FOR SERVICES-ZOO	851,650	214,001	637,649	25.13%
CHARGES FOR SERVICES-PARKS	362,500	148,916	213,584	41.08%
CHARGES FOR SERVICES-CEMETERY	190,000	85,960	104,040	45.24%
CHARGES FOR SERVICES-ANIMAL CONTROL	116,000	66,305	49,695	57.16%
CHARGES FOR SERVICES-COMMUNITY FACILITIES	127,500	94,774	32,726	74.33%
FINES & FORFEITURES	255,600	110,118	145,482	43.08%
INTEREST INCOME	230,000	407,392	(177,392)	177.13%
RENTALS & LEASES	101,000	67,688	33,312	67.02%
REFUNDS	202,887	75,949	126,938	37.43%
CONTRIBUTIONS--PRIVATE SOURCES	110,085	263,976	(153,891)	239.79%
OTHER MISCELLANEOUS REV.	344,247	205,108	139,139	59.58%
MERF DEPRECIATION	-	1,220,200	(1,220,200)	-
OTHER FINANCING SOURCES	-	(18.00)	-	-
GENERAL FUND TOTAL	64,377,027	39,560,834	24,816,175	61.45%

FY 2021-2022 May

Adjusted Budget	YTD Total Receipts	Difference- Unrealized Revenue	% of Actual to Budget
32,239,503	19,982,874	12,256,629	61.98%
1,388,500	1,155,141	233,359	83.19%
355,555	16,433.34	339,122	4.62%
2,154,325	555,248	1,599,077	25.77%
7,257,712	6,141,524	1,116,188	84.62%
2,305,546	1,792,227	513,319	77.74%
4,635,075	3,081,216	1,553,859	66.48%
535,500	474,064	61,436	88.53%
0	160	(160)	0.00%
722,253	202,060	520,193	27.98%
370,000	126,092	243,908	34.08%
175,000	103,370	71,630	59.07%
116,000	54,698	61,302	47.15%
128,000	63,245	64,755	49.41%
258,000	137,377	120,623	53.25%
130,000	(443,753)	573,753	-341.35%
111,000	51,249	59,751	46.17%
212,000	235,227	(23,227)	110.96%
360,550	120,389	240,161	33.39%
588,533	513,371	75,162	87.23%
-	892,866.66	(892,866.66)	-
(455,000)	(70,000)	(385,000)	15.38%
53,588,052	35,185,079	18,402,973	65.66%



<div>  <div>City-Wide Expenditures-Budget to Actual by Category</div> </div>								
FY 2022-2023 May								
	Category	Adjusted Budget	May 2023 Expenses	YTD Total Expenses	% of Actual to Budget	Encumbrances	YTD Total Expenses w/ Encumbrances	Difference-Remaining Expense
	Salaries and Wages	58,366,391	4,366,751	35,659,982	61.10%	-	35,659,982	22,706,409
	Benefits	26,128,971	1,888,621	15,465,688	59.19%	43,565	15,509,254	10,619,717
	Current Operating Expense	130,067,833	6,875,650	62,060,018	47.71%	10,294,961	72,354,978	57,712,855
	Capital Outlay	121,862,799	5,511,566	30,874,885	25.34%	47,704,737	78,579,622	43,283,177
	Depreciation	9,095,501	846,368	5,576,710	61.31%	2,169,125.87	7,745,836	1,349,665
	Debt Service	2,061,000	-	880,399	42.72%		880,399	1,180,601
	Interfund Transfers	(14,166,193)	(964,496)	(8,520,123)	60.14%		(8,520,123)	(5,646,070)
	TOTAL	333,416,302	18,524,459	141,997,559	42.59%	60,212,389	202,209,947	131,206,355

FY 2021-2022 May		
Adjusted Budget	YTD Total Expenses	% of Actual to Budget
53,679,889	32,649,254	60.82%
24,149,008	14,583,647	60.39%
113,597,805	48,712,454	42.88%
105,346,296	23,755,181	22.55%
3,953,400	2,614,267	66.13%
3,134,765	910,111	29.03%
(8,969,426)	(7,952,574)	88.66%
294,891,737	115,272,339	39.09%


Based on Months

66.67%

Based on Payroll


65.38%



<div>  <div>General Fund Expenditures- Budget to Actual by Category</div> </div>								
FY 2022-2023 May								
	Category	Adjusted Budget	May 2023 Expenses	YTD Total Expenses	% of Actual to Adj. Budget	Encumbrance	YTD Total Expenses w/ Encumbrances	Difference- Remaining Expense
	Salaries and Wages	33,556,078	2,514,062	20,485,165	61.05%	-	20,485,165	13,070,913
	Benefits	15,575,528	1,096,057	8,968,223	57.58%	22,478	8,990,701	6,584,827
	Current Operating Expense	23,831,610	1,418,419	11,874,076	49.82%	3,893,206	15,767,282	8,064,328
	Capital Outlay	2,413,304	113,197	917,729	38.03%	425,646	1,343,375	1,069,929
	Depreciation	3,423,791	152,525	2,632,470	76.89%	257,124	2,889,594	534,197
	Debt Service	2,000,000		480,847	24.04%	-	480,847	1,519,153
	Interfund Transfers	(13,716,193)	(961,953)	(8,354,408)	60.91%	-	(8,354,408)	(5,361,785)
	TOTAL	67,084,118	4,332,308	37,004,103	55.16%	4,598,453	41,602,556	25,481,562


Based on Months 66.67%  
Based on Payroll 65.38%

FY 2021-2022 May		
Adjusted Budget	YTD Total Expenses	% of Actual to Adj. Budget
30,551,277	18,996,608	62.18%
14,471,036	8,595,028	59.39%
17,433,083	8,070,662	46.30%
2,979,037	1,844,066	61.90%
1,339,300	892,867	66.67%
2,000,000	501,798	25.09%
(12,569,426)	(7,755,585)	61.70%
56,204,307	31,145,444	55.41%

<div>  <div>General Fund Expenditures- Budget to Actual by Department</div> </div>								
FY 2022-2023 May								
#	Department	Adjusted Budget	May 2023 Expenses	YTD Total Expenses	% of Actual to Adj. Budget	Encumbrance	YTD Total Expenses w/ Encumbrances	Difference-Remaining Expense
1	MAYOR & COUNCIL	793,402	48,889	420,704	53.03%	41,508	462,213	331,189
1	LEGAL	504,370	22,610	245,291	48.63%	5,584	250,876	253,494
1	MUNICIPAL SERVICES	6,969,895	298,924	2,801,322	40.19%	1,632,663	4,433,985	2,535,910
1	COMMUNITY DEVELOPMENT	4,510,809	275,537	2,408,495	53.39%	925,599	3,334,094	1,176,715
1	HUMAN RESOURCES	469,025	24,028	288,027	61.41%	72,786	360,814	108,211
1	POLICE	23,097,698	1,508,822	13,307,608	57.61%	364,277	13,671,884	9,425,814
1	FIRE	14,811,357	1,122,191	9,806,009	66.21%	496,377	10,302,386	4,508,971
1	PARKS	12,401,932	844,621	5,925,302	47.78%	847,058	6,772,360	5,629,572
1	GENERAL FUND PUBLIC WORKS	3,525,630	186,686	1,801,344	51.09%	212,602	2,013,946	1,511,684
	TOTAL	67,084,118	4,332,308	37,004,103	55.16%	4,598,453	41,602,556	25,481,562

Based on Months 66.67%  
Based on Payroll 65.38%

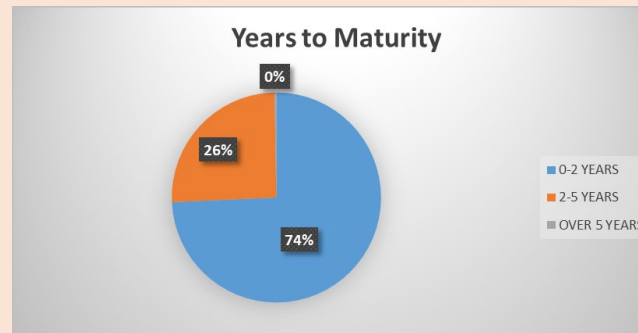
FY 2021-2022 May		
Adjusted Budget	YTD Total Expenses	% of Actual to Adj. Budget
863,012	261,007	30.24%
423,563	324,377	76.58%
5,049,336	3,065,830	60.72%
3,780,153	1,899,781	50.26%
390,102	210,513	53.96%
20,141,629	11,412,138	56.66%
13,406,241	8,822,507	65.81%
10,079,347	4,857,458	48.19%
2,070,924	291,833	14.09%
56,204,307	31,145,443	55.41%

<div>  <div>City-Wide Expenditures-Budget to Actual by Fund</div> </div>								
FY 2022-2023 May								
#	Fund	Adjusted Budget	May 2023 Expenses	YTD Total Expenses	% of Actual to Budget	Encumbrances	YTD Total Expenses w/ Encumbrances	Difference-Remaining Expense
1	GENERAL FUND	67,084,118	4,332,308	37,004,103	55.16%	4,598,453	41,602,556	25,481,562
10	STREET FUND	10,017,196	444,942	3,985,349	39.79%	2,878,039	6,863,388	3,153,808
11	RECREATION FUND	2,522,348	168,426	1,467,007	58.16%	38,784	1,505,791	1,016,557
12	LIBRARY FUND	2,983,203	212,153	1,766,522	59.22%	401,418	2,167,940	815,263
13	AIRPORT PFC FUND	-	-	-	-	-	-	-
14	MERF Fund	-	-	-	-	-	-	-
15	EL PUBLIC PURPOSE FUND	-	-	-	-	-	-	-
16	BUS IMP DISTRICT	115,000	-	140,500	122.17%	-	140,500	(25,500)
18	GOLF FUND	3,449,920	449,417	2,013,731	58.37%	227,273	2,241,004	1,208,916
19	RISK MANAGEMENT FUND	4,228,629	134,286	1,570,088	37.13%	30,055	1,600,143	2,628,486
20	HEALTH INSURANCE FUND	100,000	-	400.00	0.00	-	400.00	99,600
23	EMERGENCY MEDICAL SERVICE	8,797,818	554,875	6,117,989	69.54%	141,124	6,259,113	2,538,705
24	WILDLAND FIRE	1,493,964	525	148,347	9.93%	86,548	234,895	1,259,069
32	POLICE IMPACT FEES	843,077	-	-	-	-	-	843,077
33	FIRE IMPACT FEES	452,282	-	-	-	-	-	452,282
34	PARKS & REC IMPACT FEES	900,706	-	-	-	-	-	900,706
35	STREETS IMPACT FEES	2,500,000	-	-	-	-	-	2,500,000
41	MUNICIPAL CAP IMP	2,000,000	5,481	32,484.78	-	37,799	70,283	1,929,717
42	STREET CAP IMP	4,657,998	355,991	682,380	14.65%	57,321	739,702	3,918,296
43	BRIDGE & ARTERIAL FUND	585,282	-	137,433.50	0.23	47,849	185,282	400,000
45	SURFACE DRAINANGE FUND	250,000	-	-	-	3,410	3,410	246,590
46	TRAFFIC LIGHT CAP IMP	990,000	9,961	395,593.71	39.96%	11,363	406,957	583,043
47	PARKS CAP IMP	16,897	26,346	33,375.68	-	827,035	860,411	(843,514)
48	FIRE CAP IMP	-	-	-	-	-	-	-
49	ZOO CAP IMP	1,863,320	15,000	144,425	7.75%	34,292	178,717	1,684,603
50	CIVIC AUDITORIUM CAP IMP	600,000	-	-	-	-	-	600,000
51	GOLF CAP IMP	316,698	-	18,998	6.00%	74,036	93,034	223,664
52	POLICE CAP IMP	30,000,000	1,254,418	8,553,145	28.51%	10,577,229	19,130,374	10,869,626
90	CONTINGENCY	16,553,047	-	-	-	-	-	16,553,047
60	AIRPORT FUND	27,859,859	977,535	12,596,551	45.21%	2,894,265	15,490,816	12,369,043
61	WATER FUND	23,129,218	951,334	4,875,617	21.08%	11,028,031	15,903,648	7,225,570
62	SANITATION FUND	5,837,496	486,158	3,172,352	54.34%	628,938	3,801,290	2,036,206
64	ELECTRIC LIGHT FUND	78,784,577	5,317,180	45,422,626	57.65%	5,749,160	51,171,786	27,612,791
67	FIBER	7,543,209	1,128,722	4,987,548	66.12%	2,031,511	7,019,059	524,150
68	WASTEWATER	26,940,440	1,696,857	6,730,992	24.98%	17,438,676	24,169,668	2,770,772
	TOTAL	333,416,302	18,521,916	141,997,559	42.59%	59,842,610	201,840,169	131,576,133

FY 2021-2022 May		
Adjusted Budget	YTD Total Expenses	Difference-Remaining Expense
56,204,307	31,145,443	55.41%
9,603,761	4,013,563	41.79%
3,487,819	2,126,791	60.98%
4,464,135	2,214,630	49.61%
-	-	-
-	-	-
1,208,000	125,264	10.37%
85,000	60,000	70.59%
3,116,067	1,712,738	54.96%
3,914,496	727,890	18.59%
60,000	20,000	33.33%
6,936,750	4,302,014	62.02%
1,039,132	213,289	20.53%
-	-	-
-	-	-
-	-	-
-	-	-
1,080,831	128,043	11.85%
1,000,000	67,700	6.77%
350,000	24,879	7.11%
50,000	808	1.62%
545,000	104,296.50	19.14%
292,919	318,187	108.63%
-	-	-
2,000,000	104,243	5.21%
200,000	-	-
275,000	728,751.07	265.00%
30,000,000	773,337.33	2.58%
18,827,791	-	-
14,982,017	4,295,227	28.67%
18,547,021	4,580,822	24.70%
6,333,350	3,378,131	53.34%
82,487,907	45,736,546	55.45%
6,293,260	3,368,706	53.53%
21,507,174	5,001,042	23.25%
294,891,737	115,272,339	39.09%

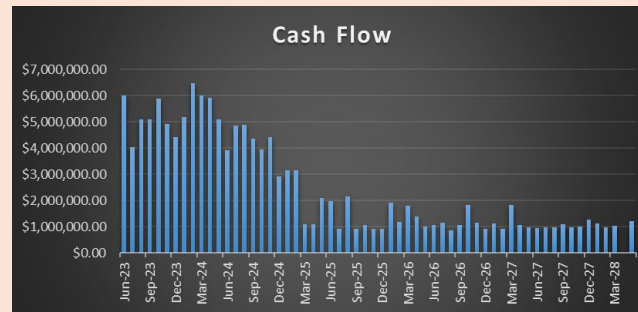
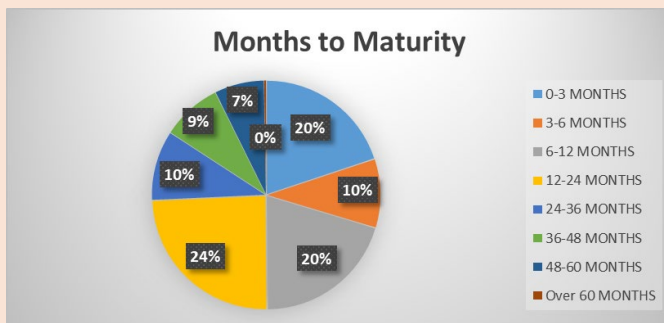
# May 2023 Investments Maturity

MONTH	AMOUNT	%
0-3 MONTHS	\$ 32,533,395	19.90%
3-6 MONTHS	15,898,136	9.72%
6-12 MONTHS	33,057,862	20.22%
12-24 MONTHS	39,957,459	24.44%
24-36 MONTHS	16,152,281	9.88%
36-48 MONTHS	13,911,336	8.51%
48-60 MONTHS	11,500,144	7.03%
Over 60 MONTHS	484,220	0.30%
<b>Total</b>	<b>\$ 163,494,834</b>	<b>100.00%</b>



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

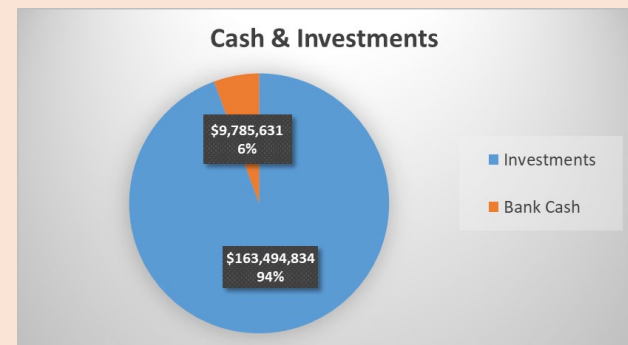
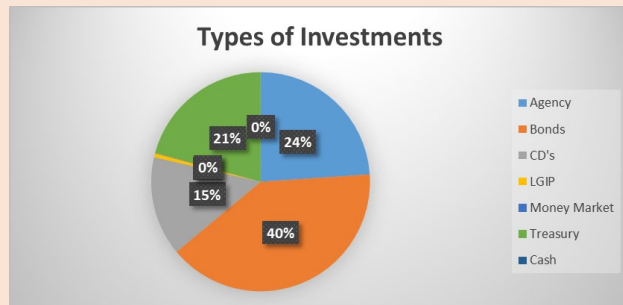
- Currently the City has 26 percent of the portfolio invested beyond 24 months.



# May 2023 Types of Investments

TYPE	AMOUNT	%
Agency	\$ 39,137,213	23.94%
Bonds	65,436,644	40.02%
CD's	23,945,657	14.65%
LGIP	962,709	0.59%
Money Market	111,366	0.07%
Treasury	33,901,233	20.74%
Cash	10	0.00%
<b>Total</b>	<b>\$ 163,494,834</b>	<b>100.00%</b>

BROKER	AMOUNT	%
LGIP	\$ 962,709	0.59%
Wells Fargo	154,928,022	94.76%
Bank of Commerce	1,008,477	0.62%
Key Bank	-	0.00%
Idaaho Central CU	4,586,782	2.81%
EICU	2,008,843	1.23%
<b>Total</b>	<b>\$ 163,494,834</b>	<b>100.00%</b>



- COIF Investment Policy states that no more than 50% of the portfolio may be invested in one type of security.
- Yearly Investment Comparison
  - City Investment Portfolio
    - 2022: \$134.4M
    - 2023: \$163.5M
  - Total Cash & Investment
    - 2022: \$145.1M
    - 2023: \$173.0M

# Memorandum

File #: 23-205

City Council Meeting

**FROM:** Chris H. Fredericksen  
**DATE:** Thursday, July 6, 2023  
**DEPARTMENT:** Public Works

## Subject

Iona Bonneville Sewer District (IBSD) - Request for Sewer Service Area Expansion

## Council Action Desired

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

Approve the request to expand the Sewer Service Area for IBSD (or take other action deemed appropriate).

## Description, Background Information & Purpose

Public Works has received a request from the IBSD to increase the District's sewer service area boundary by 13.31 acres. The proposed expansion includes property located east of 25<sup>th</sup> E and north of Logo Way, as depicted in Exhibit A.

Section 8 of the Cooperative Agreement for Sewage Collection and Treatment between Idaho Falls and the District requires that enlargements to the sewer service area be approved by the City of Idaho Falls. The City had previously requested that the District not expand its sewer service area unless alternative means were secured for sewage to reach the Wastewater Treatment Plant. Currently, the Sunnyside Sanitary Sewer Trunk line carries all flow from the District to the Plant. The District did reduce its service area in response to our request and is approximately 14.50 acres smaller than when originally requested by the City.

The District's sewer service area would still be approximately 1.19 acres smaller than it was in 2016, if this request is approved.

## Alignment with City & Department Planning Objectives



This request conforms to the community-oriented results of well-planned growth and development and environmental sustainability.

## Interdepartmental Coordination

N/A

**Fiscal Impact**

Expansion of the sewer service area will have no out-of-pocket expense to the city.

**Legal Review**

N/A

2023-44



# Exhibit A

June 28, 2023

1" = 250'





# Memorandum

File #: 23-204

City Council Meeting

**FROM:** Bear Prairie, General Manager  
**DATE:** Thursday, July 6, 2023  
**DEPARTMENT:** Idaho Falls Power

## Subject

23-192 Downtown Alley Upgrade Project - Rogers - Portion I

## Council Action Desired

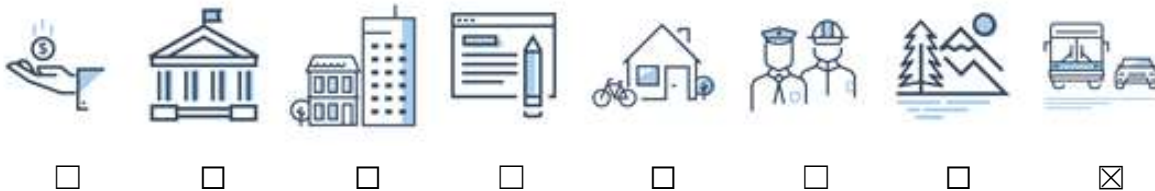
- ☐ Ordinance ☐ Resolution ☐ Public Hearing  
☒ Other Action (Approval, Authorization, Ratification, etc.)

Approve the quote with KM Service Company, LLC for portion I of the Rogers downtown alley upgrade for a not to exceed amount of \$117,874.12 (or take other action deemed appropriate).

## Description, Background Information & Purpose

IFP solicited bids from qualified contractors to demolish and construct the necessary alley upgrade work, but no bids were received. On Jun 29, 2023, City Council approved IFP going to the open market to secure contractors independently to perform the various elements of the project. KM Service Company submitted a quote for the underground dirt work for half of the alley for \$98,228.43 plus a 20% contingency of \$19,645.69 for a total of \$117,874.12. IFP is continuing to solicit quotes for the other half of the alley and the electrical wiring portion of the project.

## Alignment with City & Department Planning Objectives



This action supports our readiness for reliable public infrastructure by upgrading the electric services in the downtown alleyways, ensuring long-term reliability. This action also supports the reliability elements of the IFP Strategic Plan.

## Interdepartmental Coordination

n/a

## Fiscal Impact

This work is included in the 2022/23 Idaho Falls Power CIP budget.

## Legal Review

The City Attorney Department agrees that this action is appropriate.

**1418 W. Colorado**  
**P.O. Box 3609**  
**Idaho Falls, ID 83403-3609**

Date	Estimate #
6/28/2023	2276

Name / Address
Idaho Falls Power Att: John Morgan P.O. Box 50220 Idaho Falls, ID 83405-0220

Job / Address
Rogers Building Alley Rebuild Idaho Falls, ID

Terms	Project
	Net 30

Description	QTY	COST	TOTAL
Install Composite Hand Hole	4	950.00	3,800.00
Install Sectionalizing Cab	1	1,600.00	1,600.00
Install Transformer Base	2	1,900.00	3,800.00
Place 6" X 7' Bollards & Paint	8	1,200.00	9,600.00
Trench & Place ducts in the trench - Remove & Place Rd Base	190	150.00	28,500.00
Asphalt Remove & Replace 250' X 5' X .30 = 1250 sq ft	1,250	24.25	30,312.50
Asphalt cut	500	5.50	2,750.00
3/4 Roadbase = 100 ydsDelivered & Placed	110	25.25	2,777.50
4" PVC -490'	49	136.51	6,688.99
4" Sweeps	27	134.60	3,634.20
4" Galvanized	3	159.60	478.80
2" pvc	18	52.46	944.28
2" sweeps	12	60.36	724.32
Bollards 6" X 7'	8	327.23	2,617.84

Total	\$98,228.43
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Signature \_\_\_\_\_

# Memorandum

File #: 23-172

City Council Meeting

**FROM:** Bear Prairie, General Manager  
**DATE:** Thursday, May 25, 2023  
**DEPARTMENT:** Idaho Falls Power

## Subject

Idaho Falls Power Board Meeting Minutes - May and June Meetings

## Council Action Desired

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

Approve Idaho Falls Power Board Meeting minutes from May 10 and June 14, 2023 (or take other action deemed appropriate).

## Description, Background Information & Purpose

The Idaho Open Meeting Law requires the governing body of a public agency provide for the taking of written minutes for all public meetings.

## Alignment with City & Department Planning Objectives



The action is in accordance with Idaho Code § 74-205(1) and supports good governance by demonstrating sound management and enabling trust and transparency.

## Interdepartmental Coordination

n/a

## Fiscal Impact

n/a

## Legal Review

n/a

### **May 10, 2023 Unapproved**

The Idaho Falls Power Board of the City of Idaho Falls met Wednesday, May 10, 2023, at the Idaho Falls Power Boardroom, 140 S. Capital, Idaho Falls, Idaho at 7:48 a.m.

#### **Call to Order, Roll Call, and Announcements:**

There were present:

Mayor Rebecca L. Noah Casper

Board Member Michelle Ziel-Dingman

Board Member Tom Hally

Board Member Jim Francis

Board Member Jim Freeman

Board Member Lisa Burtenshaw (joined via Zoom)

Board Member John Radford (arrived at 7:49 a.m.)

Also present:

Bear Prairie, Idaho Falls Power (IFP) General Manager

Stephen Boorman, IFP Assistant General Manager (AGM)

Darrin Blaisdell, IFP GIS Supervisor

Richard Malloy, IFP Engineering and Compliance Manager

Randy Fife, City of Idaho Falls Attorney

Linda Lundquist, IFP Board Secretary

Mayor Casper called the meeting to order at 7:48 a.m.

#### **Calendar, Announcements, Events and Updates**

Mayor Casper stated that she had been in attendance at the Idaho National Laboratory's (INL's) Net-Zero Fair. She said it appeared they are currently focused on solving some of the grid-related their issues/net-zero goals without the collaboration of local partners. General Manager (GM) Prairie explained that because the utility has been short on energy, coupled with high, wholesale market pricing, he challenged the utility's energy services division to assess energy efficiencies in all city buildings. They found that not only could the city garage save almost \$18,000 per year and the ice arena about \$8,000 per year in energy charges by upgrading to light-emitting diodes (LEDs) with IFP's rebate program, but that their lighting will be far brighter and of better/higher quality. He explained how they initially declined the upgrades due to budget constraints, even though the LED upgrade paid for themselves in under two years. GM Prairie explained that he then offered additional energy efficiency (EE) funding to set up a loan program for them where they would pay back the loan with the monthly energy savings. The garage and ice rink were pleased to obtain better lighting without providing the upfront funding. There was general support from the Board for this approach and appreciation was expressed for IFP supporting EE efforts at other city locations. Board Member Hally asked if most businesses have converted to more efficient lighting and GM Prairie said that a lot of businesses have, and explained that he's doubled the EE budget for the next fiscal year and plans to add additional staff to support the program if needed. Board Member Freeman asked about the progress of converting street lighting to LED. GM Prairie said the utility is about half way through upgrading the entire city and plans to have it completed in the next two years. Board Member Francis asked if there are other city buildings that could benefit from upgrading their lighting and GM Prairie said that he expects there are and will extend the loan program where needed. He asked the Board to let him know as they see other city buildings that might qualify for upgraded lighting. He said the utility is keeping pace with new construction and installing conduit where possible in order to stay ahead of future electric vehicle (EV) demand. GM Prairie reported that the American Public Power Association (APPA) continues to focus on getting more transformers and combating the new efficiency standards proposed by the Department of Energy (DOE) that will only cause further supply chain problems. He said there is heavy regulation reform expected from Senator Manchin's work and licensing reform focused on National Environmental Policy Act (NEPA). GM

### May 10, 2023 Unapproved

Prairie said there appears to be support in Congress for smaller hydro plants with an easier avenue to relicensing. He reported that transmission is moving toward with forty percent (40%) higher buildout costs and Board Member Radford said he thinks the city might be better off with small modular reactors (SMRs) to accommodate future demand for EVs and GM Prairie explained that power lines still need to get built to carry nuclear energy and pointed out that a grid can't be run efficiently off resources that only run thirty to forty percent (30-40%) of the time on an intermittent basis controlled by weather or sun. He said that Fitch reaffirmed IFP as an AA stable rating and pointed out that the utility has a very strong credit rating relative to utilities of the same size and pointed out two factors that could reduce credit ratings; financial margins and unacceptable capital risks related to the Carbon Free Power Project (CFPP). Mayor Casper reported that instead of the Terra Power project in Kemmerer, Wyoming breaking ground last week, they announced a two-year delay owing to delays in obtaining the specialized fuel (HALEU) for the reactors. GM Prairie also expressed that their timeline might have been too aggressive to get designed, built and certified by the Nuclear Regulatory Commission (NRC). Mayor Casper reminded the Board that there will not be a July Board meeting. She encouraged all to finalize travel plans for the upcoming, out-of-town Idaho Consumer-Owned Utilities Association (ICUA--July) and the Utah Associated Municipal Power Systems (UAMPS--August) annual summer conferences. GM Prairie announced that there will be some heavy fiber marketing this summer and provided mailer samples. Board Member Radford reported that funds are being administered through the DOE to address supply chain issues, transformers, energy tax credits and upgrading hydropower.

### Board Policy No. 2 – City Council Acting as IFP Board

Board Member Francis requested a typo correction and pointed out that the updated policy does not reference evaluation of the general manager, gives latitude to the Board if the Mayor does not run the meeting, and further clarifies the Board's and Council's roles. Mr. Fife explained that per state statute, City Council always presides over issues when acting as the Board.

It was moved by Board Member Radford and seconded by Board Member Freeman to approve Board Policy No. 2 – *City Council Acting as IFP Board* with the corrected typo. The motion passed unanimously, with Board Member Burtenshaw indicating her vote via text message.

### Q2 Financial Review

Chief Financial Officer Josh Roos reviewed IFP's *statement of net position* and pointed out that the designated cash moved from \$22 to \$38 million due to rate stabilization, capital improvements and energy efficiency. He noted that Municipal Equipment Replacement Fund (MERF) will be moved into the designated fund and that power is earning five to six percent (5-6%) interest on all investments. He explained the collections account process and that the liability fund was drawn down due to the payout of the bond. CFO Roos explained that the October 2022 rate change resulted in increased revenues of about \$2.5 million. Board Member Francis asked how the certified clean energy (CCE) is shown and CFO Roos said it's under energy efficiency and noted there are currently 12 CCE customers with another advertising flyer going out in the June utility billing. GM Prairie reviewed the *customer past due graph* and pointed out that it's showing some stabilization and explained that there weren't a lot of disconnects/reconnects due to the cold spring and policy not allowing disconnects below freezing temperatures. He said the disconnect policy may need to be reviewed at some point to address times when night temperatures dip below freezing but days warm up. He noted that prepay is the solution to force late payers onto a prepayment plan, which in his view can likely be only accomplished with a different computer information system (CIS) software package. Software issues are currently being discussed/evaluated by a software consulting working group. Board Member Burtenshaw asked how customers are being accommodated that pay the same amount every month regardless of the amount owed, and who potentially end up with a large credit and CFO Roos explained that when customers reach a \$1,000 credit, he contacts them to advise he will be issuing them a refund check.

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CFO Roos reviewed Idaho Falls Fiber's (IFF's) *statement of net position* and pointed out that it's a little low on cash, but to expect a transfer soon as fiber is in its final construction phase this year; yielding about a \$16.2 million loan, plus interest and payable to power. GM Prairie explained that it's a benefit to fiber by having power pay the bulk of the upfront costs because the power work has to be completed regardless of fiber going in and pointed out that it's a \$20 million capital investment in city infrastructure. Mayor Casper inquired about the anticipated payback time and GM Prairie said that repayment is on track for about 10 years, and explained that the payback time is relative to take rates. He stated that he'd like to continue driving the rates down with more subscription and plans to heavily advertise as Century Link and Sparklight are competing for the business and added that these actions could increase the take rates and thereby decrease the payback time. CFO Roos pointed out that the fiber revenue has doubled since March 2022.

GM Prairie reviewed the quarter two power supply and reported that retail sales were good but that wholesale prices were high due to extremely cold and dry weather in the Northwest region and added that the Canadian Rockies have struggled with late season storms. Board Member Freeman mentioned the Alberta fires, which resulted in the recent smoky skies in Idaho Falls. GM Prairie said the SLICE product was shorter than planned with pricing at \$140 per megawatt-hour (MWh), which is \$2 million over last year's pricing, but noted that the utility is expected to be on track with the budget and added that the Bonneville Power Administrations (BPA) is currently at \$30 MWh. He said the Upper Plant posted a low number for February, due to the plant being offline for repairs until July. He explained that the turbine is in Pennsylvania for refurbishment and learned last week that there are additional repairs needed and is planning on two to three additional months of generation loss over the summer (Lost generation is about \$20-\$25 thousand per day at the current energy prices.) GM Prairie said the utility continues to have strong demand and customer growth and noted the heavy load was down a bit. He said he didn't sell off much light load in the spring and as it turned out, was needed so not selling was a good decision. He reviewed the net power supply forecast and pointed out the higher energy costs have been sustained over longer periods and appears to be worse than the 2001 Energy Crisis. He noted an above normal snowpack and stream flows in the upper snake basin but said that two years of drought may come into play, with quick and heavy melt leading to possible flooding. GM Prairie said that above-average temperatures are predicted for the Northwest, and locally, should expect average precipitation.

### FY22 Reliability Review

Geographic Information System (GIS) Supervisor, Darrin Blaisdell said the utility looks at a five-year trend and is focused on larger city outages and planned outages and pointed out that all things considered (using four different software technologies) the indices show the utility is very reliable. GM Prairie reminded the Board that last year, the utility acquired about 800 Rocky Mountain Power (RMP) assets and noted that many of the assets were drastically subpar compared to IFP standards. He gave an example of a very large project where the utility is digging up Sunnyside Trailer Court and replacing the electric and adding fiber, and noted that these situations hurt IFP's reliability numbers. Mayor Casper asked how the utility compares statewide and nationally and Mr. Blaisdell said that it's hard to quantify and compare IFP to other utilities because utilities are all unique and pointed out that most utilities IFP's size don't usually have generation. GM Prairie added that other parts of the country also have to consider weather as a major reliability factor, which can skew the numbers and noted the important thing to consider is the metrics to determine if we're seeing more outages or if it is just because we have twenty percent (20%) more customers than the year before. Board Member Freeman said he's noticed that when there are outages, that they seem to be much shorter. Mr. Blaisdell explained how enterprise software interacts to move and share data and gave examples of how fragile the system can be when different software is used (software that is not intended to work together) to produce reports and customer billing. He pointed out that the system breaks down frequently and staff spends much of their time creating work-arounds to produce desired results. He said the utility is considering other outage management systems that will have better touch points when working with other city systems and stressed the importance of a more integrated system (enterprise software) to save on staff

### May 10, 2023 Unapproved

time and to better serve customers. There was a discussion on current city software and how the working group of consultants will be evaluating city processes and interdependent departments to determine the best path forward, respective to enterprise software.

#### Peaking Plant Update

GM Prairie reported that the INL is working to get their electrolyzer request for proposals (RFPs) out and despite funding that may be set aside for IFP collaboration, he feels that the INL is pushing for the General Electric (GE) turbine to be installed in INL's desert operations instead of in town. He added there is high demand with increased costs and long lead-times for the 22 megawatt (MW) GE turbines engines that range in cost from \$17-22 million and noted they are built in California where the state is giving incentives to build natural gas peaking plants. Richard Malloy, IFP Engineering and Compliance Manager said that he's been in contact with representatives at GE who seem tepid in contracting with IFP for a turbine engine. GM Prairie explained that there may be a good alternative option to the GE engine with Caterpillar (CAT) who builds smaller (2.5 MW), reciprocating internal combustion engines (RICE) units that are more turn-key and also have retrofitting for hydrogen. He explained that if generation is kept below 15 MW, it could be put straight into distribution without the added time and cost of building a new \$8 million substation (like is needed for the GE 22 MW turbine engine). He said that CAT currently has several units available that another customer didn't need and explained that IFP could put in a non-binding, no-deposit hold on four or five of the units while initiating a complete RFP. Board Member Radford asked about the expected payback timeframe and GM Prairie said it would depend on the resources but that he will run a proforma and added that Utah Municipal Power Agency (UMPA), a UAMPS equivalent bought a plant from Constellation (an electricity and gas supplier) in the last year and said the plant is paying for itself to where it's making money. In contrast, UAMPS was short and IFP continues to be short over peak times and instead of generating electricity, IFP is buying electricity. Board Member Ziel-Dingman commented that IFP seems quite nimble when compared with the INL and GE and said she understands that lead-times are an issue. Mayor Casper said the city needs to do what is best for the city and Board Member Hally said he agrees and all Board Members give their consent for GM Prairie to move forward with a non-binding CAT option and broader RFP.

#### FY24 Capital Plan Review

Stephen Boorman, IFP Assistant General Manager (AGM) explained that over the next month, IFP will continue to refine the budget and reported that 50 budget sheets were completed on the Capital Improvement (CIP) and are included at the end of the packet. He explained that many of the projects are multi-year projects and pointed out a few big dollar items like the hydro relicensing, Upper Plant refurbishment, peaking plant and Paine Substation feeders. AGM Boorman said if any funding is awarded to projects to expect the budget to be reopened. Board Member Francis commented that he likes the budget sheets as it seems to help prioritize projects and Board Member Hally commented that if projects get delayed that the delay often costs more money. AGM Boorman added that sometimes the delays are also because IFP doesn't have enough employees to complete the projects. Board Member Freeman asked how the CIP projects are factored into rate setting and GM Prairie said he establishes a 10-year CIP where \$8 million annually is set aside, and explained that due to inflation and higher costs for materials the current cost is about \$17 million.

#### Hydro Insurance Renewal Review/Discussion

GM Prairie reviewed the hydro insurance plan proposed by the same carrier that has been contracted for over 22 years, with no claims submitted in 20. He commented that with the insurance market stabilizing, there was a new bidder this year but remarked that they came in about \$40,000 higher than the proposal before the Board. GM Prairie explained that the business interruption line item for about \$30,000, ensures that the utility gets paid for *loss of production* (after 90 days) and pointed out that most of the utility's outages run shorter now and are usually transformer issues that can be swapped out for spares, which are



**May 10, 2023 Unapproved**

housed at all the plants. He recommends self-insuring this item on next year's policy, as the value may not be worth the cost for this risk. GM Prairie explained that rates have increased due to inflation, cost of construction, and an increased value of assets (plants) and expects to put \$500,000 in the 2024 fiscal year budget. He reminded the Board that Federal Emergency Management Agency (FEMA) requires the utility to carry a market value policy that will payout in a catastrophe before qualifying for FEMA reimbursement.

**BPA 2028 Contract Update**

GM Prairie reported that BPA's preference contract ends Oct. 1, 2028 and reiterated the importance/value of a 20-year preference contract to IFP. He reported that the Public Power Council's (PPC's) Executive Committee, where he serves as the new Board's Chair for the next two years, has been working to get BPA to do what the customers want/need but said the process continues to be a frustration for him and the committee because BPA doesn't seem to be listening to their customers, despite BPA's ongoing communication, regional presentations and listening sessions. GM Prairie said that PPC has submitted consensus position comments to BPA centered on a compromise of increasing the federal system from 7000 MW to 7250 MW. He cautioned that BPA has a finite system and warned that there may be better outcomes for some utilities, but not others and feels that the new contract shouldn't be inferior to the current one.

**Utility Reports**

*Fiber* – GM Prairie said that fiber is ramping up for a big summer construction season and previewed the planned summer advertising at the airport.

**Organizational Membership Reports**

*Utah Associated Municipal Power Systems (UAMPS)* – GM Prairie gave a brief update of the CFPP and Board member Francis noted there were no new subscribers.

There being no further business, the meeting adjourned at 11:52 a.m.

s/ Linda Lundquist

Linda Lundquist, BOARD SECRETARY

s/ Rebecca L. Noah Casper

Rebecca L. Noah Casper, MAYOR

### **June 14, 2023 Unapproved**

The Idaho Falls Power Board of the City of Idaho Falls met Wednesday, June 14, 2023, at the Idaho Falls Power Boardroom, 140 S. Capital, Idaho Falls, Idaho at 7:45 a.m.

#### **Call to Order, Roll Call, and Announcements:**

There were present:

Mayor Rebecca L Noah Casper  
Board Member Michelle Ziel-Dingman  
Board Member Tom Hally  
Board Member Jim Francis  
Board Member Jim Freeman  
Board Member John Radford

Also present:

Bear Prairie, Idaho Falls Power (IFP) General Manager  
Stephen Boorman, IFP Assistant General Manager (AGM)  
Josh Roos, IFP Chief Financial Officer (CFO)  
Randy Fife, City of Idaho Falls Attorney  
Linda Lundquist, IFP Board Secretary

Mayor Casper called the meeting to order at 7:50 a.m.

#### **Calendar, Announcements, Events and Updates**

Mayor Casper reviewed the IFP announcements and mentioned an upcoming Energy Communities Alliance (ECA) workshop on power purchase agreements. Board Member Radford reported that American Public Power Association's (APPA) continues to focus on hydropower power funding opportunities, permitting reform, and energy tax credits and mentioned that the APPA seemed happy with the recently passed debt ceiling deal. Chief Financial Officer (CFO) Roos gave a status update on IFP's grant applications and announced an upcoming IFP Community Engagement as part of IFP's commitment to community outreach and General Manager (GM) Prairie added that it would be great to engage with the community on energy efficiency (EE) and other low-income programs. Board Member Radford shared approval that IFP and Idaho Falls Fiber (IFF) had a presence at a recent community event.

GM Prairie explained upcoming memos that will be put before City Council including the Gannett Fleming professional services contract addressing the Upper Plant's recent high hazard status rating. Assistant General Manager (AGM) Boorman explained the Paine feeder materials request and mentioned that contractors will be doing the excavation work while IFP crews will pull the wire and buildout the overhead section through the gravel pit and GM Prairie added that there are multiple suppliers awarded due to the desire to select the lowest pricing. He said there were no bids for the downtown alley work and would like to get Board approval to go out on the open market and potentially put contractors together that can complete the complex project. Board Member Francis said he was excited that downtown development is happening and GM Prairie agreed and explained the benefits to customers of undergrounding services in downtown alleyways, eliminating safety hazards and replacing aging equipment. He announced that utility customers can request free home energy kits on IFP's website. GM Prairie requested approval to put out a sealed bid for an aging bucket truck that has not been successful in meeting the \$60,000 minimum bid on auction sites. Attorney Fife and the Board gave their consent with no opposition to the proposed action.

#### **Board Policy No. 1 – Payment in Lieu of Taxes (PILOT)**

GM Prairie explained the reason for clarifying some of the language in the policy. Board Member Francis asked if money could be set aside for lighting in city parks and parking lots and Board Member Radford said he was supportive of lighting around the river and wonders why IFP appears to be paying for traffic

### June 14, 2023 Unapproved

expenses. GM Prairie said that IFP takes care of traffic (even though it is not an IFP responsibility for providing electricity but a general fund obligation) on behalf of Public Works/Streets and explained that the cost is then subtracted from the PILOT payment that is owed to the general fund; resulting in traffic costs being paid for by the general fund. He explained that IFP maintains the system because IFP has the tools and technical abilities to provide the service and at a lower cost than Public Works is able to do it. GM Prairie said that IFP works closely with Public Works since it is their budget and system capital plan. Board Member Burtenshaw asked if lights were Parks' responsibility and GM Prairie said that Parks doesn't have capital projects of this nature and that he has offered to set up work orders to help with the design and lighting for the Parks Division. Board Member Radford asked why it appears that IFP pays for all the streetlights and GM Prairie pointed out that streetlighting cost allocations *are* being directly paid for by streets through the streetlighting rate which they pay power bills on and pointed out that it covers one hundred percent (100%) of the cost of the service provided. Mayor Casper said this line of inquiry would be more relevant in a Parks and Rec budget discussion. GM Prairie concluded that IFP is still paying above average for PILOT based on his best estimates and the May 2022 APPA PILOT survey and noted that if IFP was investor-owned, the percentage would be closer to four percent (4%). Board Member Francis said IFP is in a range that is predictable and makes sense to him. GM Prairie said he was thankful to have invested in the city's traffic system a few years back so as to avoid gridlock on the city roads today. He pointed out that traffic signals and software are expensive and take people, infrastructure and fiber optics to run them efficiently, and added that software is much more affordable than building more roads to move people through town. GM Prairie also pointed out that fiber revenue has been added into PILOT so they pay a PILOT at the same rate as the power utility.

It was moved by Board Member Radford and seconded by Board Member Freeman to approve Board Policy No. 1 – *Payment in Lieu of Taxes*' proposed clarification revision. The motion passed unanimously.

### Budget Review

GM Prairie explained how he worked to cut the budget without sacrificing IFP's strategic goals and built it around several factors that include: inflation pressures on materials and labor (which affect overall capital project costs); wholesale power supply costs remaining high and volatile; retail sales remaining strong; and customer and fiber growth equals increased hiring. He pointed out that the capital improvement plan (CIP) used to be around \$6-8 million but that now for the same work is estimated to be \$14-16 million due to inflationary pressures. GM Prairie reviewed the multi-year agreement contracts and AGM Boorman pointed out that IFP gets better rates with these types of contracts. Attorney Fife explained that contracts stand on their own and are periodically rebid on the market in search for lower rates and additional contractors that perform the work. Mayor Casper commented that IFP is leading the way on organizing contracts/vendors in this way and requested that GM Prairie share the template with other city directors. Board Member Radford asked for clarification on payments to Utopia instead of revenue and GM Prairie explained the expenditure is for optical network terminal (ONT) boxes that are purchased through Utopia's joint power's agreement (JPA) for new residential fiber installations. He reviewed the utility's expected retirements and backfilling plan, which include increasing staff by four additional positions in the next fiscal year. AGM Boorman explained how the utility is sending transformers for refurbishment instead of scrap metal to help combat the supply chain issues and increased cost of transformers. GM Prairie said he is expanding the EE budget and reminded the Board of the audits that are currently underway to save the city and customers money on lighting and other EE programs. He explained the power supply costs are anticipated to be high over the summer pointed out the \$3 million loss of operation expense due to additional machine work required on the Upper Plant's turbine, which has been in Pennsylvania since March. GM Prairie cautioned a dangerously elevated probability of rolling blackouts/brownouts in the West due to load growth and needed resource development as pointed out in the Pacific Northwest Utilities Conference Committee (PNUCC) regional assessment that was included in the packet. He advised that if the large Department of

### June 14, 2023 Unapproved

Energy (DOE) Grid Resilience and Innovation Partnership (GRIP) grant gets awarded to IFP over the summer and fall that the budget would need to be reopened.

#### Capital Plan Review

AGM Boorman reminded the Board that the trimmed down budget is mostly what has already been presented. Board Member Burtenshaw asked if the Yellowstone peaking plant will be going out to bond and if that was to be the official name and GM Prairie said there is \$11 million now and next year will be \$5-6 million more but cautioned that the figures are based on a larger plant and the CFO Roos will be adjusting the budget. GM Prairie said a request for proposals (RFP) will go out in a few weeks and the outcome will be brought before City Council for next steps/further direction. Board Member Francis said at some point there needs to be a conversation about battery backup if the Idaho National Laboratory (INL) won't be involved with the peaking plant project. GM Prairie said that he continues to look at portfolio diversity and has been exploring geothermal technologies. Board Member Hally asked if the five-year costs are being underestimated and GM Prairie said the utility requires over 150 MW of generation and needs to be back in the phase of building resources at less than market cost. Board Member Francis asked if carbon capture is part of the RFP and said he wants to have a discussion about where the money is being put and GM Prairie said that part of the RFP requirements will be for current technologies and added that the utility has applied for air quality permits. Board Member Burtenshaw asked about the Rails-to-Trails/IFP parking project and AGM Boorman said that Parks and Public Works are working together on the design. There was a discussion about improvements at hydro plants and GM Prairie said that according to the Federal Energy Regulatory Commission (FERC) it's the responsibility of the utility to provide improvements such as boat ramps and added that if there are recreational opportunities that could/should be added to IFP's projects that the utility will have an obligation to pay for them as well and said he plans to communicate with the Parks director in regular coordination meetings.

#### Cost of Service and Projected Rates

GM Prairie explained why a cost of service analysis (COSA) is used for rate design and reviewed the proposed rate and fee changes that will include the new electric vehicle (EV) charging station fees (for point of sale chargers) and the need to change how multi-family dark fiber drop rates are done. He announced the proposed net collective rate increase will be one point ninety one percent (1.91%) and said he thought there could be a \$4-8 million swing this year with the market volatility and that \$7 million could be pulled from the rate stabilization fund in the event things turned against our favor in power supply. Board Member Burtenshaw said she sees the rate stabilization fund as a cushion if all the money gets spent and views the power cost adjustment (PCA) as something that could get turned into a charge. GM Prairie reviewed the PCA historically and reminded the Board that the \$6 million overage last year went to increase the fund to \$25 million and stated that: per policy, if the fund dips below \$17 million that a PCA surcharge could be utilized to bring in additional revenue and noted that was when it was a \$20M target, so the bands may need revised also. Mayor Casper asked if the rate change was to be less than two percent (2%), would customers be fine with it and Board Members Ziel-Dingman and Freeman agreed that amount wasn't going to get anyone too worked up. GM Prairie said that investor-owned utilities plan to increase their rates by double digits over the next several years to pay for their new wind and solar generation, transmission builds and overall cost increases.

#### Utility Reports

*Federal and State Regulation/Litigation* – GM Prairie updated the Board on the four lower snake river dams situation and said that the current administration in the White House doesn't like the outcome of the last four years and \$50 million worth of studies and appears to be dismissing all the scientific research and even told National Oceanic and Atmospheric Administration (NOAA) fisheries to stop talking about the issue and fall in line with their Council of Environmental Quality (CEQ) position. He explained that the industry, however, is standing on the side of science and is sending letters en masse to the federal administration and

**June 14, 2023 Unapproved**

that he would like the support of the Board to send a letter from IFP. Mayor Casper and the Board gave consent to sending a letter in support of the science.

There being no further business, the meeting adjourned at 11:51 a.m.

s/ Linda Lundquist

Linda Lundquist, BOARD SECRETARY

s/ Rebecca L. Noah Casper

Rebecca L. Noah Casper, MAYOR

# Memorandum

File #: 23-206

City Council Meeting

**FROM:** Chris H Fredericksen  
**DATE:** Friday, July 7, 2023  
**DEPARTMENT:** Public Works

## Subject

Microtransit Professional Services Agreement Renewal with Idaho Falls Downtowner LLC

## Council Action Desired

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

Approve the proposed Professional Services Agreement between the City of Idaho Falls and Idaho Falls Downtowner LLC and give authorization for the Mayor and City Clerk to execute the necessary documents (or take other action deemed appropriate).

## Description, Background Information & Purpose

Previously, proposals for a turn-key operation to design, launch, operate, market, and maintain a demand response rideshare service pilot project were received and evaluated; through a competitive process and Idaho Falls Downtowner LLC's proposal was accepted. Downtowner has performed the agreed-upon services for the previous year. The contract allows for automatic renewal and . Staff recommends renewing the Agreement.

## Alignment with City & Department Planning Objectives



This Agreement is in conformance with community-oriented results of a livable community and reliable public transportation.

## Interdepartmental Coordination

Interdepartmental coordination will take place as required in support of this service.

## Fiscal Impact

The Agreement specifies a not-to-exceed cost of \$1,627,828 to provide scoped services. This cost is budgeted and will be reimbursed, requiring no financial contribution by the City of Idaho Falls.

**Legal Review**

The Legal Department prepared the Agreement.

2023-043

**AGREEMENT FOR PROFESSIONAL SERVICES RELATED TO  
MICROTRANSIT PUBLIC TRANSPORTATION SERVICES BETWEEN THE  
CITY OF IDAHO FALLS, IDAHO, AND IDAHO FALLS DOWNTOWNER, LLC**

THIS AGREEMENT FOR PROFESSIONAL SERVICES RELATED TO MICROTRANSIT PUBLIC TRANSPORTATION SERVICES BETWEEN THE CITY OF IDAHO FALLS, IDAHO, AND IDAHO FALLS DOWNTOWNER, LLC ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by and between the City of Idaho Falls, Idaho, a municipal corporation of the State of Idaho, P.O. Box 50220, Idaho Falls, Idaho 83405 ("CITY"), and Idaho Falls Downtowner, LLC, a Florida Limited liability Company, 210 NE 4th Avenue, Delray Beach, Florida 33483 ("CONTRACTOR").

**W I T N E S S E T H:**

WHEREAS, CITY desires to implement a flexible public transportation microtransit service pilot project that provides on-demand/all-in-one services to the general public in Idaho Falls; and

WHEREAS, CITY issued a RFP # IF-22-02 on December 22, 2021, inviting the public to submit proposals to provide a turnkey service, to include all necessary technology, labor, and vehicles for complete operations management for microtransit service; and

WHEREAS, CONTRACTOR's proposal was evaluated as the highest scoring proposal; and

WHEREAS, CONTRACTOR desires to provide all described elements of such a microtransit service within CITY's service area.

NOW, THEREFORE, be it agreed, for and in consideration of the mutual covenants and promises between the Parties hereto, as follows:

**SECTION I: SCOPE OF WORK**

CONTRACTOR shall provide all services, technology, labor, marketing, and vehicles necessary to develop and implement a flexible public transit service pilot project in the form of a on-demand microtransit service ("Microtransit Services"). CONTRACTOR shall provide Microtransit Services to the general public within the geographic limits of the City of Idaho Falls, Idaho. Microtransit Services completed by the CONTRACTOR shall include the following:

**A. Service Area.**

1. CONTRACTOR's service area shall include the geographic limits of CITY. All passenger trips shall begin and end within the service area. The service area may, from time to time, be expanded through annexation undertaken pursuant to the requirements in the Idaho Code. In addition, the Parties may from time to time administratively expand the service area through mutual written agreement.



2. CONTRACTOR shall schedule Microtransit Services six (6) days per week for fourteen (14) hours per day. The Parties may, from time to time, administratively adjust this schedule by mutual written agreement.

B. Customer Service. CONTRACTOR's Microtransit Services shall include the following customer service characteristics:

1. A local field manager who shall be identified to CITY who shall coordinate customer support locally in the Idaho Falls geographic area.
2. CONTRACTOR shall provide timely and responsive customer support, including to users and to CITY. This customer service shall be available during all hours of operation.
3. CONTRACTOR shall provide reasonable accommodations, consistent with the Americans with Disabilities Act, to users of the Microtransit Services. Reasonable accommodations under this Agreement include, but are not limited to, to door-to-door assistance upon user request. Specifically, CONTRACTOR shall ensure that CONTRACTOR or CONTRACTOR's employees or agents shall assist users who request accommodation or assistance from the door of their home (or main entrance, if a multi-unit building) to the door of the vehicle. CONTRACTOR shall provide accommodations which include helping disabled users to enter and exit the vehicle, assisting with bags and with stairs, as necessary. Permitting users to travel with a service animal also shall constitute a reasonable accommodation.
4. CONTRACTOR shall hire, train, and supervise all vehicle operators. CONTRACTOR shall also ensure all vehicle operators and vehicles are appropriately licensed and in compliance with all applicable laws and regulations, including all relevant regulations, policies and procedures as noted in the most current Federal Transit Administration (FTA) Master Agreement. CONTRACTOR shall provide all vehicle operators with training on serving and accommodating persons with disabilities prior to engaging in work. Disability training shall include training on how to accommodate users with oxygen assistance devices and how to load and unload an oxygen assistance device. CONTRACTOR shall conduct a background check on all vehicle operators that is at least as restrictive as the requirements in Idaho Falls City Code § 4-15-16.
5. CONTRACTOR shall provide to CITY current versions of its employment policies, including its drug and alcohol policy and background check policy. CONTRACTOR shall ensure that its drug and alcohol policy (testing policy) complies with all FTA requirements, including 49 CFR Part 655.

C. Level of Service.

1. CONTRACTOR shall meet the following level of service parameters (as indicated in the table below) ninety-five percent (95%) of the time. CONTRACTOR shall provide a monthly level of service parameters report to CITY for all items listed in the table below.

ITEM	DESCRIPTION	Level of Service
Average wait time	Amount of time between service request and service provision	15 minutes
Average trip time	Amount of time between pick up and drop off.	15 minutes
System Uptime	Uptime of website and app	98%
Customer service	Question/complaint response	24 hours
Safety	Accident/incident reports	In the event of injury or police involvement, report within 24 hours
Missed trips	Percent of trips missed	No more than 0.5 percent missed trips

The Parties may, from time to time, administratively adjust these level of service parameters, after considering demand and other key variables, by written agreement.

2. Individual wait times shall not exceed thirty (30) minutes. CONTRACTOR shall provide an expedited report when the total level of service includes more than five percent (5%) of wait times that exceed thirty (30) minutes.
3. CONTRACTOR shall provide the vehicle fleet necessary for the Microtransit Services. The fleet shall include, at a minimum, four (4) vehicles in service at all times. CONTRACTOR shall add addition vehicles if necessary to meet the above level of service parameters. CONTRACTOR shall ensure that the vehicles fleet is maintained, cleaned, stored, and fueled. The Parties may, from time to time, administratively adjust the minimum vehicle service levels.
4. Each vehicle shall have a minimum capacity for four (4) adult passengers with seat belts.
5. All vehicles will be equipped with the necessary data and voice connectivity, hardware, and software tools to receive customer trip requests on-demand, and passenger pick-up and/or drop-off locations as assigned by the central trip-dispatching platform.
6. All vehicles shall be equipped with a dash camera. In addition, if CONTRACTOR accepts cash, voucher, token, punch cards, or similar physical fees, all vehicles shall include a cash box camera.

7. CONTRACTOR shall provide equivalent wheelchair accessible vehicle services upon user request. CONTRACTOR shall either provide an entire vehicle service fleet that is wheelchair-accessible, or ensure that a portion of the fleet be wheelchair accessible vehicles and that there is always a sufficient number of wheelchair accessible vehicles available during service hours to deliver the target level of service as required under this Agreement.
  8. CONTRACTOR may, at CITY's request, be required by CITY to affix or attach signage or advertisements on the interior and exterior of the vehicles. In addition, CITY may require CONTRACTOR to provide or display brochures, pamphlets, or leaflets. CITY may also require CONTRACTOR to install interior physical or electronic displays. CONTRACTOR shall not attach signage or advertisements to the interior or exterior of the vehicle without CITY's written consent and approval.
- D. Software. CONTRACTOR shall create and maintain a software platform that provides automated scheduling and dispatching of transportation services. The software shall allow customers to book trips, cancel trips, pay for trips, request assistance, ask questions, make complaints, request refunds, or receive general support. CONTRACTOR shall also provide a telephone-based "dial-a-ride" option that provides an alternative, equitable method for the public to have access to Microtransit Services provided by CONTRACTOR. Telephone-based options shall not require internet or smartphone for the general public to access Microtransit Services provided by CONTRACTOR. In addition, the software shall include the following components, at a minimum:
1. Compatibility with General Transit Feed Specifications datasets (GTFS-Flex).
  2. An administrative portal to CITY that shall provide to CITY, on demand, comprehensive, real-time performance data collection dashboard. The data collection dashboard shall include, at a minimum, metrics on ridership, customer service and satisfaction, and financial performance. The Parties may, from time to time, administratively adjust the metrics to be included on the data collection dashboard by mutual written agreement.
  3. A smartphone user app that is compatible with both iOS and Android.
  4. An electronic fare payment system that is compliant with Title VI of the Civil Rights Act of 1964.
  5. The ability to clearly display for a user the fee cost of trip in advance of booking the trip.
  6. The ability to clearly display or describe to the user the vehicle or vehicle information so that a user can clearly identify the Microtransit Service vehicle prior to booking a trip.
  7. The ability to coordinate passenger pre-registration, scheduling, and dispatch processes for paratransit vehicles and services.
  8. The ability to apply different rate structures based on rider characteristics or qualifications (i.e., persons with disabilities, elderly, students, veterans, etc.).

9. The ability to request a wheelchair accessible vehicle on-demand.

E. Microtransit User Fees.

1. User fees for Microtransit Service shall be set by CITY, from time to time. User fees shall be remitted back to CITY without deduction.
2. CONTRACTOR shall ensure that gratuities, tips, or donations shall in no way be solicited by the CONTRACTOR or its drivers. No tips shall be solicited for services provided either via the app, business cards, decals, tip jars, or in any manner.

F. Program Management.

1. CONTRACTOR shall have the primary responsibility to market Microtransit Services to be provided under this Agreement. However, the Parties shall cooperate and agree to any marketing or promotion prior to marketing deployment.
2. CITY shall have the right to independently market or post information about the Microtransit Service provided under this Agreement.
3. CONTRACTOR shall routinely collaborate with the City of Idaho Falls Transit Coordinator, the Idaho Transportation Department, the Greater Idaho Falls Transit Service (GIFT), and the Bonneville Metropolitan Planning Organization on an as needed basis. CONTRACTOR shall, upon request, make additional coordination efforts with the City of Idaho Falls Transit Coordinator.
4. CONTRACTOR shall be responsible for adhering to all regulatory policies, permitting requirements, and approvals pre-launch and while operational, including all relevant regulations, policies and procedures as noted in the most current Federal Transit Administration (FTA) Master Agreement. CONTRACTOR shall be required to understand and adhere to all regional, state, and federal regulations including the needs of riders under the Americans with Disabilities Act, Title VI of the Civil Rights Act of 1964, and the Federal Executive Order on Environmental Justice.
5. In addition to any other reporting requirement in this Agreement, CONTRACTOR shall submit a monthly report, due at the end of each month, which shall include the following at a minimum:
  - a. Days of operation;
  - b. Unlinked passenger trips, including ADA unlinked trips;
  - c. Passenger miles traveled;
  - d. Peak number of transportation units operating;
  - e. Actual odometer/transportation unit miles;

- f. Actual revenue miles per transportation unit miles;
- g. Actual transportation unit hours;
- h. Actual transportation unit revenue hours;
- i. Unique rider accounts;
- j. Percentage of rides shared;
- k. Wait times, to include average wait times, mean wait times, and outliers;
- l. Ride times to include average ride times, mean ride times, and outliers;
- m. Experience ratings;
- n. Wheelchair rides;
- o. No shows;
- p. Percentage of rides more than five (5) minutes outside informed timing;
- q. Breakdown of rides per fare group;
- r. Self-identified ADA, senior citizen, student, veteran ride numbers, and ride data.

The Parties may, from time to time, administratively agree to change the items to be included in the monthly reports required under this paragraph by written agreement.

## **SECTION II:**

### **A. Independent Contractor.**

The contracting Parties warrant by their signature that no employer/employee relationship is established between CONTRACTOR and CITY by the terms of this Agreement. It is understood by the Parties hereto that CONTRACTOR is an independent contractor and as such neither it nor its employees, if any, are employees of CITY for purposes of tax, retirement system, or social security (FICA) withholding.

### **B. Fees and Conditions for Professional Services.**

1. Payment for all services described in this Agreement is provided in accordance with the cost described in Section II.B.2. of this Agreement.
2. The not-to-exceed cost for CONTRACTOR's services for Project as described in Section I, Scope of Work, shall be one million six hundred twenty-seven thousand eight hundred twenty-eight dollars (\$1,627,828), to be divided as follows:

- a. Fixed costs in the not-to-exceed amount of seven hundred sixty-nine thousand four hundred sixty-one dollars (\$769,461) to be paid in equal payments on Months 1, 4, 7, and 10 of the Agreement. Fixed costs under this Agreement shall include costs for onsite management, vehicle leases, insurance, maintenance, cleaning, storage, staffing, dispatch, vehicle devices and technology, and all other program management and software cost. In the event that CITY provides CONTRACTOR with vehicle parking spaces, the total fixed cost shall be reduced by twenty-four thousand dollars (\$24,000).
  - b. Variable costs invoiced each month of service at the total vehicle hours at the hourly rate of twenty-six dollars and thirty cents (\$26.30) an hour, up to a not-to-exceed amount of seven hundred forty-four thousand nine hundred four dollars (\$744,904). Total vehicle hours shall only include time that a vehicle is ready and capable of providing transportation service. CONTRACTOR shall not invoice for vehicle hours where the vehicle was undergoing maintenance, refueling/recharging, or being stored.
  - c. Fuel costs at the actual cost incurred, up to a not-to-exceed amount of one hundred thirteen thousand four hundred sixty-three dollars (\$113,463), without written approval.
3. Payment is due upon receipt of CONTRACTOR's statement(s). The Parties acknowledge that CONTRACTOR shall invoice variable and fuel costs in accordance with this Agreement. CONTRACTOR's invoices shall note how many hours were charged at the variable rate and shall include the actual fuel costs.

C. Term of Agreement.

This Agreement shall become effective upon signature. This Agreement shall expire on March 1, 2024. The Parties agree that the Agreement shall automatically renew for another one (1) year term, for a maximum five (5) year period (2029), unless either Party has notified the other in writing on or before February 28 of the expiring year. Within thirty (30) days of the automatically renewed term, the Parties shall meet and agree to an updated estimated variable and estimated fuel costs for the renewed term.

**SECTION III:**

A. Termination of Agreement.

This Agreement may be terminated by CONTRACTOR upon thirty (30) days written notice, should CITY fail to substantially perform in accordance with its terms through no fault of CONTRACTOR.

CITY may terminate this Agreement with thirty (30) days notice without cause and without further liability to CONTRACTOR except as designated by this section. In the event of termination, CONTRACTOR shall be paid for services performed to termination date, based



upon the work completed. All work including reports, shall become the property of, and shall be surrendered to, CITY.

B. Extent of Agreement.

This Agreement may be amended only by written instrument signed by both Parties hereto.

C. Termination of Project.

If any portion of the services covered by this Agreement shall be suspended, abated, abandoned, or terminated, CITY shall pay CONTRACTOR for the services rendered to the date of such suspended, abated, abandoned, or terminated work; the payment to be based, insofar as possible, on the amounts established in this Agreement or, where the Agreement cannot be applied, the payment shall be based upon a reasonable estimate as mutually agreed upon between the two (2) Parties as to the percentage of the work completed.

D. Fund Availability.

Financial obligations of CITY, payable after the current fiscal year, are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available. This Agreement contemplates CITY utilizing local, state, or federal funds to meet its obligations herein, this Agreement shall be contingent upon the availability of those funds for payment pursuant to the terms of this Agreement.

E. CONTRACTOR's Duty of Care.

In performance of professional services, CONTRACTOR will use that degree of care and skill ordinarily exercised under similar circumstances by members of its profession; and no other warranty, either expressed or implied, is made in connection with rendering CONTRACTOR's services.

F. CONTRACTOR's Insurance.

CONTRACTOR shall maintain Automobile Insurance and Statutory Workmen's Compensation Insurance coverage, Employer's Liability, Professional Liability Insurance, and Comprehensive General Liability Insurance coverage. The Professional Liability Insurance and Comprehensive General Liability Insurance shall have minimum limits of one million dollars (\$1,000,000) per occurrence.

The Comprehensive Automobile Liability required under this section shall have, at a minimum, combined single limits for bodily injury and property damage of not less than one million dollars (\$1,000,000.00) each occurrence and one million dollars (\$1,000,000.00) aggregate with respect to each CONTRACTOR's owned, hired, and non-owned vehicles assigned to or used in performance of the Scope of Work. The policy shall contain a severability of interests provision. If the CONTRACTOR has no owned automobiles, the

requirements of this Section shall be met by each employee of the CONTRACTOR providing services to CITY under this Agreement.

CONTRACTOR's insurance shall be endorsed to include CITY and CITY's employees, elected officials, and officers as additional insureds.

G. Indemnification.

CONTRACTOR agrees, to the fullest extent permitted by law, to indemnify and hold harmless CITY against damages, liabilities and costs arising from the negligent acts of CONTRACTOR in the performance of professional services under this Agreement, to the extent that CONTRACTOR is responsible for such damages, liabilities and costs on a comparative basis of fault and responsibility between CONTRACTOR and CITY. CONTRACTOR shall not be obligated to indemnify CITY for CITY's negligence.

H. Jurisdiction and Venue.

It is agreed that this Agreement shall be construed under and governed by the laws of the State of Idaho. In the event of litigation concerning it, it is agreed that proper venue shall be the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Bonneville.

I. Binding of Successors.

CITY and CONTRACTOR each bind themselves, their partners, successors, assigns, and legal representatives to the other parties to this Agreement and to the partner, successors, assigns, and legal representatives of such other parties with respect to all covenants of this Agreement.

J. Modification and Assignability of Agreement.

This Agreement contains the entire agreement between the Parties concerning the professional services, and no statements, promises, or inducements made by either party, or agents of either party, are valid or binding unless contained herein. This Agreement may not be enlarged, modified, or altered except upon written agreement signed by the Parties hereto. CONTRACTOR may not subcontract or assign its rights (including the right to compensation) or duties arising hereunder without the prior written consent and express authorization of CITY. Any such subcontractor or assignee shall be bound by all of the terms and conditions of this Agreement as if named specifically herein.

K. CITY's Representatives.

CITY shall designate a representative authorized to act in behalf of CITY. The authorized representative shall examine the documents of the work as necessary, and shall render decisions related thereto in a timely manner so as to avoid unreasonable delays.



L. Ownership and Publication of Materials and CITY's Right to Use Delivered Materials.

CITY and CONTRACTOR agree that CITY, with this Agreement, acquires the right to use all written materials, including but not limited to reports, information, data, images, diagrams, plans, and any other written documents prepared and delivered to CITY by CONTRACTOR pursuant to this Agreement, and CITY shall have the authority to release, publish, or otherwise use any written materials delivered to CITY, in whole or in part. The use of written materials (s) may include, but is not limited to, electronic and print promotion of CITY sponsored programs or functions. Written materials(s) may be provided to other entities, such as newspapers or other publishers, for inclusion in print advertisements, without cost to CITY or payment to CONTRACTOR for use of such written materials. Any re-use of written materials shall be at CITY's sole risk and without liability to CONTRACTOR. In addition, through this Agreement, CITY and CONTRACTOR agree that CITY shall own all electronic data collected by CONTRACTOR in providing the Microtransit Services in the Scope of Work. All electronic data collected by CONTRACTOR in providing the Microtransit Services under this Agreement shall be delivered to CITY upon request. CONTRACTOR shall not sell or distribute the electronic data collected under this Agreement.

Nothing in this section shall be constructed to entitle CITY to any materials, software, or data not collected pursuant to this Agreement that are owned by CONTRACTOR which were not delivered or received by CITY, even if those materials were used by CONTRACTOR to produce the written materials delivered to CITY or if the written materials delivered to CITY were used to develop, improve, or add value to anything CONTRACTOR does not deliver or release to CITY.

The Parties acknowledge that any written materials received by CITY are subject to public disclosure under the Idaho Public Records Law, Chapter 1 of Title 74 of the Idaho Code.

M. Costs and Attorney Fees.

In the event either party incurs legal expenses to enforce the terms and conditions of this Agreement, apart from any costs incurred during any mediation required by this Agreement, the prevailing party is entitled to recover reasonable attorney's fees and other costs and expenses.

N. No Exclusive Relationship Created.

Nothing in this Agreement shall be interpreted or constructed to create an exclusive relationship with CONTRACTOR. Nor shall this Agreement be interpreted to bestow upon CONTRACTOR any exclusive right to provide Microtransit Services for CITY.

O. Non-discrimination.

CONTRACTOR shall not discriminate against any employee or applicant for employment on the basis of race, color, religion, creed, political ideals, sex, age, marital status, physical,

or mental handicap, gender identity/expression, sexual orientation, or national origin. In addition, CONTRACTOR shall not discriminate against any Microtransit Services user on the basis of race, color, religion, creed, political ideals, sex, age, marital status, physical, or mental handicap, gender identity/expression, sexual orientation, or national origin.

N. Anti-Boycott Against Israel Act.

Pursuant to Idaho Code section 67-2346, if payments under this AGREEMENT exceed one hundred thousand dollars (\$100,000) and CONTRACTOR employs ten (10) or more persons, CONTRACTOR certifies that it is not currently engaged in, and will not for the duration of this AGREEMENT engage in, a boycott of goods or services from Israel or territories under its control. The terms in this Paragraph that are defined in Idaho Code § 67-2346 shall have the meaning defined therein.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date indicated above.

“CITY”

City of Idaho Falls, Idaho

“CONTRACTOR”

Idaho Falls Downtowner, LLC

By \_\_\_\_\_  
Rebecca L. Noah Casper, Ph. D., Mayor

By  \_\_\_\_\_  
Travis Gleason, Manager

STATE OF IDAHO            )  
  ) ss.  
County of Bonneville        )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned, a notary public for Idaho, personally appeared Rebecca L. Noah Casper, Ph.D., known to me to be the Mayor of the City of Idaho Falls, Idaho, a municipal corporation that executed the foregoing document, and acknowledged to me that they are 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.

(Seal)

\_\_\_\_\_  
Notary Public of Idaho  
Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

STATE OF Florida        )  
  ) ss:  
County of Volusia        )

On this 28 day of June, 2023, before me, the undersigned, a notary public, in and for said State, personally appeared Travis Gleason, known or identified to me to be the Manager of Idaho Falls Downtowner, LLC, and whose name is subscribed to the within instrument and acknowledged to me that they are authorized to execute the same for and on behalf of Idaho Falls Downtowner, LLC.

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

(Seal)

Sandra K. Phelps  
Notary Public of ~~Idaho~~ Florida  
Residing at: New Smyrna Beach, FL  
My Commission Expires: 08-11-2026



SANDRA K PHELPS  
Commission # HH 289417  
Expires August 11, 2026

# Memorandum

File #: 23-201

City Council Meeting

**FROM:** Pam Alexander, Municipal Services Director  
**DATE:** Wednesday, July 5, 2023  
**DEPARTMENT:** Municipal Services

## Subject

Comprehensive Annual Financial Audit Services for Fiscal Year Ending September 30, 2023

## Council Action Desired

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

Accept and approve a professional services contract with Eide Bailly for comprehensive annual financial audit services for an estimated amount of \$150,000 (or take other action deemed appropriate).

## Description, Background Information & Purpose

The purpose of this request is to establish a contract with Eide Bailly to provide certified public accounting and financial auditing services to the City of Idaho Falls for the fiscal year ending September 30, 2023. The comprehensive annual financial audit services will include: audit of the combined financial statements of the Electric Light and Fiber funds; review and issuance of the combined financial statements prepared by Eide Bailly; and an audit of the combined financial statements. Eide Bailly will also audit compliance over major federal award programs as of and for the fiscal year ending September 30, 2023. The estimated total cost of \$150,000 includes increased rates of approximately 15% for audit work performed after January 1, 2024.

## Alignment with City & Department Planning Objectives



This request supports the good governance community-oriented result by fostering sound fiscal management and enables trust and transparency of public funds.

## Interdepartmental Coordination

Review of the professional services contract and terms has been conducted with all necessary city departments to ensure coordination of audit activities.

## Fiscal Impact

Funds for the comprehensive annual financial auditing services are included within the 2022/23 and 2023/24 Municipal Services/Finance Division operating budgets.

**Legal Review**

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



May 31, 2023

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

You have requested that we audit the financial statements of the governmental activities, the business-type activities, the discretely presented component unit, each major fund, and the aggregate remaining fund information of City of Idaho Falls (City) as of September 30, 2023, and for the year then ended, and the related notes to the financial statements, which collectively comprise the City's basic financial statements.

In addition, we will audit the City's compliance over major federal award programs for the period ended September 30, 2023. We are pleased to confirm our acceptance and our understanding of this audit engagement by means of this letter.

Our audits will be conducted with the objectives of our expressing an opinion on each opinion unit and an opinion on compliance regarding the entity's major federal award programs. The objectives of our audit of the financial statements are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with auditing standards generally accepted in the United States of America (GAAS) and in accordance with *Government Auditing Standards*, will always detect a material misstatement when it exists. Misstatements, including omissions, can arise from fraud or error and are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

The objectives of our compliance audit are to obtain sufficient appropriate audit evidence to form an opinion and report at the level specified in the governmental audit requirement about whether the entity complied in all material respects with the applicable compliance requirements and identify audit and reporting requirements specified in the governmental audit requirement that are supplementary to GAAS and Government Auditing Standards, if any, and perform procedures to address those requirements.

Accounting principles generally accepted in the United States of America (U.S. GAAP), as promulgated by the Governmental Accounting Standards Board (GASB), require that supplementary information listed below be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the required supplementary information (RSI) in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist primarily of inquiries of management regarding their methods of measurement and presentation and comparing the information for consistency with management's responses to our inquiries. We will not express an opinion or provide any form of assurance on

the RSI. The following RSI is required by accounting principles generally accepted in the United States of America. This RSI will be subjected to certain limited procedures but will not be audited:

- Management's Discussion and Analysis
- Schedule of Employer's Share of Net Pension Liability (Asset)
- Schedule of Employer's Contributions

Supplementary information other than RSI will accompany the City's basic financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the basic financial statements and certain additional procedures, including comparing and reconciling the supplementary information to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and additional procedures in accordance with auditing standards generally accepted in the United States of America. We intend to provide an opinion on the following supplementary information in relation to the financial statements as a whole:

- Combining and Individual Fund Statements and Schedules
- Schedule of Expenditures of Federal Awards
- Schedule of Passenger Facility Charges Collected and Expended

#### **Schedule of Expenditures of Federal Awards**

We will subject the schedule of expenditures of federal awards to the auditing procedures applied in our audit of the basic financial statements and certain additional procedures, including comparing and reconciling the schedule to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and additional procedures in accordance with auditing standards generally accepted in the United States of America. We intend to provide an opinion on whether the schedule of expenditures of federal awards is presented fairly in all material respects in relation to the financial statements as a whole.

Also, the document we submit to you will include the following other additional information that will not be subjected to the auditing procedures applied in our audit of the financial statements:

- Introductory Section
- Statistical Section

#### **Data Collection Form**

Prior to the completion of our engagement, we will complete the sections of the Data Collection Form that are our responsibility. The form will summarize our audit findings, amounts and conclusions. It is management's responsibility to submit a reporting package including financial statements, schedule of expenditure of federal awards, summary schedule of prior audit findings and corrective action plan along with the Data Collection Form to the federal audit clearinghouse. The financial reporting package must be text searchable, unencrypted, and unlocked. Otherwise, the reporting package will not be accepted by the federal audit clearinghouse. We will assist you in the electronic submission and certification. You may request from us copies of our report for you to include with the reporting package submitted to pass-through entities.

The Data Collection Form is required to be submitted within the *earlier* of 30 days after receipt of our auditors' reports or nine months after the end of the audit period, unless specifically waived by a federal cognizant or

oversight agency for audits. Data Collection Forms submitted untimely are one of the factors in assessing programs at a higher risk.

### **Audit of the Financial Statements**

We will conduct our audits in accordance with GAAS, the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States of America, the audit requirements of Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). As part of an audit of financial statements in accordance with GAAS and in accordance with *Government Auditing Standards*, Uniform Guidance and/or any state or regulatory audit requirements we exercise professional judgment and maintain professional skepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. However, we will communicate to you in writing concerning any significant deficiencies or material weaknesses in internal control relevant to the audit of the financial statements that we have identified during the audit.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Conclude, based on the audit evidence obtained, whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the City's ability to continue as a going concern for a reasonable period of time.

Because of the inherent limitations of an audit, together with the inherent limitations of internal control, an unavoidable risk that some material misstatements or noncompliance may not be detected exists, even though the audit is properly planned and performed in accordance with GAAS and *Government Auditing Standards* of the Comptroller General of the United States of America. Please note that the determination of abuse is subjective, and *Government Auditing Standards* does not require auditors to detect abuse.

Our responsibility as auditors is limited to the period covered by our audit and does not extend to any other periods.

We will issue a written report upon completion of our audit of the City's basic financial statements. Our report will be addressed to the governing body of the City. Circumstances may arise in which our report may differ from its expected form and content based on the results of our audit. Depending on the nature of these circumstances, it may be necessary for us to modify our opinions, add an emphasis-of-matter or other-matter paragraph(s) to our auditor's report, or if necessary, withdraw from the engagement. If our opinions on the basic financial statements are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or to issue a report as a result of this engagement.



In accordance with the requirements of *Government Auditing Standards*, we will also issue a written report describing the scope of our testing over internal control over financial reporting and over compliance with laws, regulations, and provisions of grants and contracts, including the results of that testing. However, providing an opinion on internal control and compliance over financial reporting will not be an objective of the audit and, therefore, no such opinion will be expressed.

### **Audit of Major Program Compliance**

Our audit of the City's major federal award program(s) compliance will be conducted in accordance with the requirements of the Single Audit Act, as amended; and the Uniform Guidance and will include tests of accounting records, a determination of major programs in accordance with the Uniform Guidance, and other procedures we consider necessary to enable us to express such an opinion on major federal award program compliance and to render the required reports. We cannot provide assurance that an unmodified opinion on compliance will be expressed. Circumstances may arise in which it is necessary for us to modify our opinion or withdraw from the engagement.

The Uniform Guidance requires that we also plan and perform the audit to obtain reasonable assurance about whether the material noncompliance with applicable laws and regulations, the provisions of contracts and grant agreements applicable to major federal award programs, and the applicable compliance requirements occurred, whether due to fraud or error, and express an opinion on the entity's compliance based on the audit. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS, *Government Auditing Standards*, and the Uniform Guidance will always detect material noncompliance when it exists. The risk of not detecting material noncompliance resulting from fraud is higher than for that resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Noncompliance with the compliance requirements is considered material if there is a substantial likelihood that, individually or in the aggregate, it would influence the judgment made by a reasonable user of the report on compliance about the entity's compliance with the requirements of the federal programs as a whole.

As part of a compliance audit in accordance with GAAS and, in accordance with *Government Auditing Standards*, we exercise professional judgment and maintain professional skepticism throughout the audit. We also identify and assess the risks of material noncompliance, whether due to fraud or error, and design and perform audit procedures responsive to those risks.

Our procedures will consist of determining major federal programs and performing the applicable procedures described in the U.S. Office of Management and Budget *OMB Compliance Supplement* for the types of compliance requirements that could have a direct and material effect on each of the entity's major programs, and performing such other procedures as we considers necessary in the circumstances. The purpose of those procedures will be to express an opinion on the entity's compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to the Uniform Guidance.

Also, as required by the Uniform Guidance, we will obtain an understanding of the entity's internal control over compliance relevant to the audit in order to design and perform tests of controls to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each of the entity's major federal award programs. Our tests will be less in scope than would be necessary to render an opinion on these controls and, accordingly, no opinion will be expressed in our report. However, we will communicate to you, regarding, among other matters, the planned scope and timing of the audit and any significant deficiencies and material weaknesses in internal control over compliance that we have identified during the audit.

We will issue a report on compliance that will include an opinion or disclaimer of opinion regarding the entity's major federal award programs, and a report on internal controls over compliance that will report any significant deficiencies and material weaknesses identified; however, such report will not express an opinion on internal control.

### **Management Responsibilities**

Our audit will be conducted on the basis that management and, when appropriate, those charged with governance, acknowledge and understand that they have responsibility:

1. For the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America;
2. For the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error;
3. For identifying, in its accounts, all federal awards received and expended during the period and the federal programs under which they were received;
4. For maintaining records that adequately identify the source and application of funds for federally funded activities;
5. For preparing the schedule of expenditures of federal awards (including notes and noncash assistance received) in accordance with the Uniform Guidance;
6. For designing, implementing, and maintaining effective internal control over federal awards that provides reasonable assurance that the entity is managing federal awards in compliance with federal statutes, regulations, and the terms and conditions of the federal awards;
7. For identifying and ensuring that the entity complies with federal laws, statutes, regulations, rules, provisions of contracts or grant agreements, and the terms and conditions of federal award programs and implementing systems designed to achieve compliance with applicable federal statutes, regulations, and the terms and conditions of federal award programs;
8. For disclosing accurately, currently, and completely, the financial results of each federal award in accordance with the requirements of the award;
9. For identifying and providing report copies of previous audits, attestation engagements, or other studies that directly relate to the objectives of the audit, including whether related recommendations have been implemented;
10. For taking prompt action when instances of noncompliance are identified;
11. For addressing the findings and recommendations of auditors, for establishing and maintaining a process to track the status of such findings and recommendations and taking corrective action on reported audit findings from prior periods and preparing a summary schedule of prior audit findings;
12. For following up and taking corrective action on current year audit findings and preparing a corrective action plan for such findings;
13. For submitting the reporting package and data collection form to the appropriate parties;
14. For making the auditor aware of any significant contractor relationships where the contractor is responsible for program compliance;
15. To provide us with:
  - a. Access to all information of which management is aware that is relevant to the preparation and fair presentation of the financial statements including disclosures, and relevant to federal award programs, such as records, documentation, and other matters;
  - b. Additional information that we may request from management for the purpose of the audit; and
  - c. Unrestricted access to persons within the entity and others from whom we determine it necessary to obtain audit evidence.

16. For including the auditor's report in any document containing financial statements that indicates that such financial statements have been audited by us, including
  - i. A written acknowledgement of all the documents that management expects to issue that will be included in the annual report and the planned timing and method of issuance of that annual report; and
  - ii. A final version of the annual report (including all the documents that, together, comprise the annual report) in a timely manner prior to the date of the auditor's report;
17. For adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the current year period(s) under audit are immaterial, both individually and in the aggregate, to the financial statements as a whole;
18. For acceptance of nonattest services, including identifying the proper party to oversee nonattest work;
19. For maintaining adequate records, selecting and applying accounting principles, and safeguarding assets;
20. For informing us of any known or suspected fraud affecting the entity involving management, employees with significant role in internal control and others where fraud could have a material effect on compliance;
21. For the accuracy and completeness of all information provided;
22. For taking reasonable measures to safeguard protected personally identifiable and other sensitive information; and
23. For confirming your understanding of your responsibilities as defined in this letter to us in your management representation letter.

With regard to the schedule of expenditures of federal awards referred to above, you acknowledge and understand your responsibility (a) for the preparation of the schedule of expenditures of federal awards in accordance with the Uniform Guidance, (b) to provide us with the appropriate written representations regarding the schedule of expenditures of federal awards, (c) to include our report on the schedule of expenditures of federal awards in any document that contains the schedule of expenditures of federal awards and that indicates that we have reported on such schedule, and (d) to present the schedule of expenditures of federal awards with the audited financial statements, or if the schedule will not be presented with the audited financial statements, to make the audited financial statements readily available to the intended users of the schedule of expenditures of federal awards no later than the date of issuance by you of the schedule and our report thereon.

With regard to the supplementary information referred to above, you acknowledge and understand your responsibility (a) for the preparation of the supplementary information in accordance with the applicable criteria, (b) to provide us with the appropriate written representations regarding supplementary information, (c) to include our report on the supplementary information in any document that contains the supplementary information and that indicates that we have reported on such supplementary information, and (d) to present the supplementary information with the audited financial statements, or if the supplementary information will not be presented with the audited financial statements, to make the audited financial statements readily available to the intended users of the supplementary information no later than the date of issuance by you of the supplementary information and our report thereon.

As part of our audit process, we will request from management and, when appropriate, those charged with governance, written confirmation concerning representations made to us in connection with the audit.

We understand that your employees will prepare all confirmations we request and will locate any documents or invoices selected by us for testing.

If you intend to publish or otherwise reproduce the financial statements and make reference to our firm, you agree to provide us with printers' proofs or masters for our review and approval before printing. You also agree to provide us with a copy of the final reproduced material for our approval before it is distributed.

### **Nonattest Services**

With respect to any nonattest services we perform, we agree to perform the following:

- Complete the auditee's portion of the Data Collection Form.
- Prepare the combined financial statement for the Electric Light Fund and Fiber Fund.
- Assist, as needed, with the implementation of GASB Statement No. 96, Subscription Based Information Technology Arrangements. If assistance requested is significant, we will enter into a separate consulting engagement with a separate fee.
- Prepare the journal entry for the Net Pension Liability (Asset) amounts in accordance with GASB Statement No. 68 from the PERSI reports you provide to us.

We will not assume management responsibilities on behalf of the City. The City's management understands and agrees that any advice or recommendation we may provide in connection with our audit engagement are solely to assist management in performing its responsibilities.

The City's management is responsible for (a) making all management decisions and performing all management functions; (b) assigning a competent individual to oversee the services; (c) evaluating the adequacy of the services performed; (d) evaluating and accepting responsibility for the results of the services performed; and (e) establishing and maintaining internal controls, including monitoring ongoing activities.

Our responsibilities and limitations of the nonattest services are as follows:

- We will perform the services in accordance with applicable professional standards.
- The nonattest services are limited to the services previously outlined above. Our firm, in its sole professional judgment, reserves the right to refuse to do any procedure or take any action that could be construed as making management decisions or assuming management responsibilities.

### **Fees and Timing**

Jodi Daugherty is the engagement partner for the audit services specified in this letter. Responsibilities include supervising services performed as part of this engagement and signing or authorizing another qualified firm representative to sign the audit report. We expect to begin our single audit in November 2023 (if possible) and begin the year-end fieldwork in January 2024. As discussed, when fieldwork is performed in the January-March timeframe, our fees increase by 15%.

Our fees are based on the amount of time required at various levels of responsibility, plus actual out-of-pocket expenses, including administrative charges. Invoices are payable upon presentation. We estimate that our fee for the audit will be \$86,625. Our fee for the audit of one major federal program will be \$11,600 (if completed by December 31), or \$13,200 if completed after January 1, 2024. Additional major programs will be billed at \$9,200 - \$11,220 for each program depending on the complexity of the program(s) and when the work occurs. In addition, we estimate fees to be \$1,000 for the preparation of the journal entry in accordance with GASB Statement No. 68.

Our fees are based on the amount of time required at various levels of responsibility, plus actual out-of-pocket expenses, including administrative charges. Invoices are payable upon presentation. We estimate that our fees will be as follows:

Audit of the financial statements	\$ 86,625
Audit of one major program	
If work performed <u>before</u> December 31	11,600
If work performed <u>after</u> December 31	13,200
Audit of additional major programs	
If work performed <u>before</u> December 31	9,200
If work performed <u>after</u> December 31	11,200
Preparation of GASB 68 journal entry for 3 plans	1,150

GASB No. 96, *Subscription Based Information Technology Arrangements (SBITA)*, became effective for fiscal years beginning after June 15, 2022. The requirements of this standard will result in material changes to most governmental entity’s financial statements, both with respect to financial statement presentation and related disclosures. Our fees related to the performance of audit procedures related to your implementation of this standard will be dependent upon the number and nature of the City’s SBITAs.

Hourly rates by level at June 30, 2023, are as follows for worked performed by December 31, 2023. **After January 1, 2024, rates increase by 15%:**

Partner	\$ 485
Manager	\$ 230
Senior Associate	\$ 190
Associate	\$ 150

If the City decides to have us prepare the City’s financial statements, we estimate our fees to be as follows:

First year set up fee	\$15,000 - \$18,000
First year report preparation	25,000

We will notify you immediately of any circumstances we encounter that could significantly affect this initial fee estimate. Whenever possible, we will attempt to use the City’s personnel to assist in the preparation of schedules and analyses of accounts. This effort could substantially reduce our time requirements and facilitate the timely conclusion of the audit. Further, we will be available during the year to consult with you on financial management and accounting matters of a routine nature.

The ability to perform and complete our engagement consistent with the estimated fee included above depends upon the quality of your underlying accounting records and the timeliness of your personnel in providing information and responding to our requests. To assist with this process, we will provide you with a Prepared-by-Client (PBC) request that identifies the information required to perform our engagement, as well as a planned timeline for the engagement. A failure to provide this information in an accurate and timely manner may result in an increase in our fees and/or a delay in the completion of our engagement.

We may be requested to make certain audit documentation available to outside parties, including regulators, pursuant to authority provided by law or regulation or applicable professional standards. If requested, access to such audit documentation will be provided under the supervision of Eide Bailly LLP’s personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the outside party, who may intend, or decide, to distribute the copies of information contained therein to others, including other governmental agencies. We will be compensated for any time and expenses, including time and expenses of legal counsel, we

may incur in making such audit documentation available or in conducting or responding to discovery requests or participating as a witness or otherwise in any legal, regulatory, or other proceedings as a result of our Firm's performance of these services. You and your attorney will receive, if lawful, a copy of every subpoena we are asked to respond to on your behalf and will have the ability to control the extent of the discovery process to control the costs you may incur.

Should our relationship terminate before our audit procedures are completed and a report issued, you will be billed for services to the date of termination. All bills are payable upon receipt. A service charge of 1% per month, which is an annual rate of 12%, will be added to all accounts unpaid 30 days after billing date. If collection action is necessary, expenses and reasonable attorney's fees will be added to the amount due.

## **Other Matters**

During the course of the engagement, we will only provide confidential engagement documentation to you via Eide Bailly's secure portal or other secure methods, and request that you use the same or similar tools in providing information to us. Should you choose not to utilize secure communication applications, you acknowledge that such communication contains a risk of the information being made available to unintended third parties. Similarly, we may communicate with you or your personnel via e-mail or other electronic methods, and you acknowledge that communication in those mediums contains a risk of misdirected or intercepted communications.

Should you provide us with remote access to your information technology environment, including but not limited to your financial reporting system, you agree to (1) assign unique usernames and passwords for use by our personnel in accessing the system and to provide this information in a secure manner; (2) limit access to "read only" to prevent any unintentional deletion or alteration of your data; (3) limit access to the areas of your technology environment necessary to perform the procedures agreed upon; and (4) disable all usernames and passwords provided to us upon the completion of procedures for which access was provided. We agree to only access your technology environment to the extent necessary to perform the identified procedures.

Regarding the electronic dissemination of audited financial statements, including financial statements published electronically on your website or elsewhere, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in these sites or to consider the consistency of other information in the electronic site with the original document.

Professional standards prohibit us from being the sole host and/or the sole storage for your financial and non-financial data. As such, it is your responsibility to maintain your original data and records and we cannot be responsible to maintain such original information. By signing this engagement letter, you affirm that you have all the data and records required to make your books and records complete.

We may use third party service providers and/or affiliated entities (including Eide Bailly Shared Services Private Limited) (collectively, "service providers") in order to facilitate delivering our services to you. Our use of service providers may require access to client information by the service provider. We will take reasonable precautions to determine that they have the appropriate procedures in place to prevent the unauthorized release of confidential information to others. We will remain responsible for the confidentiality of client information accessed by such service provider and any work performed by such service provider.

Neither of us may use or disclose the other's confidential information for any purpose except as permitted under this engagement letter or as otherwise necessary for Eide Bailly to provide the services. Your confidential information is defined as any information you provide to us that is not available to the public. Eide Bailly's confidential information includes our audit documentation for this engagement. Our audit documentation shall

at all times remain the property of Eide Bailly LLP. The confidentiality obligations described in this paragraph shall supersede and replace any and all prior confidentiality and/or nondisclosure agreements (NDAs) between us.

We agree to retain our audit documentation or work papers for a period of at least eight years from the date of our report.

Further, we will be available during the year to consult with you on financial management and accounting matters of a routine nature.

You agree to share all facts that may affect your financial statements, even if you first become aware of those facts after the date of the auditor's report but before the date your financial statements are issued.

At the conclusion of our audit engagement, we will communicate to the Mayor and City Council the following significant findings from the audit:

- Our view about the qualitative aspects of the entity's significant accounting practices;
- Significant difficulties, if any, encountered during the audit;
- Uncorrected misstatements, other than those we believe are trivial, if any;
- Disagreements with management, if any;
- Other findings or issues, if any, arising from the audit that are, in our professional judgment, significant and relevant to those charged with governance regarding their oversight of the financial reporting process;
- Material, corrected misstatements that were brought to the attention of management as a result of our audit procedures;
- Representations we requested from management;
- Management's consultations with other accountants, if any; and
- Significant issues, if any, arising from the audit that were discussed, or the subject of correspondence, with management.

*Government Auditing Standards* require that we provide, upon request, a copy of our most recent external peer review report and any subsequent review reports to the party contracting for the audit. Accordingly, we will provide a copy of our most recent peer review report at your request.

## **MEDIATION**

Any disagreement, controversy or claim arising out of or related to any aspect of our services or relationship with you (hereafter a "Dispute") shall, as a precondition to litigation in court, first be submitted to mediation. In mediation, the parties attempt to reach an amicable resolution of the Dispute with the aid of an impartial mediator. Mediation shall begin by service of a written demand. The mediator will be selected by mutual agreement. If we cannot agree on a mediator, one shall be designated by the American Arbitration Association ("AAA"). Mediation shall be conducted with the parties in person in Boise, Idaho. Each party will bear its own costs in the mediation. The fees and expenses of the mediator will be shared equally by the parties. Neither party may commence a lawsuit until the mediator declares an impasse.

## **LIMITED INDEMNITY**

Eide Bailly LLP and its partners, affiliates, officers and employees (collectively "Eide Bailly") shall not be responsible for any misstatements in your financial statements that we may fail to detect as a result of misrepresentations or concealment of information by any of your owners, directors, officers or employees.

You shall indemnify and hold Eide Bailly harmless from any claims, losses, settlements, judgments, awards, damages and attorneys' fees arising from any such misstatement or concealment of information.

If through no fault of Eide Bailly we are named as a party to a dispute between you and a third party, you shall indemnify and hold Eide Bailly harmless against any losses, damages, settlements, judgments, awards, and the costs of litigation (including attorneys' fees) we incur in connection with the dispute.

Eide Bailly shall not be entitled to indemnification under this agreement unless the services were performed in accordance with professional standards in all material respects.

#### **LIMITATION OF LIABILITY**

The exclusive remedy available to you for any alleged loss or damages arising from or related to Eide Bailly's services or relationship with you shall be the right to pursue claims for actual damages that are directly caused by Eide Bailly's breach of this agreement or Eide Bailly's violation of applicable professional standards. In no event shall Eide Bailly's aggregate liability to you exceed two times fees paid under this agreement, nor shall Eide Bailly ever be liable to you for incidental, consequential, punitive or exemplary damages, or attorneys' fees.

#### **TIME LIMITATION**

You may not bring any legal proceeding against Eide Bailly unless it is commenced within twenty-four (24) months ("Limitation Period") after the date when we delivered our report, return, or other deliverable under this agreement to you, regardless of whether we do other services for you or that may relate to the audit. The Limitation Period applies and begins to run even if you have not suffered any damage or loss or have not become aware of a possible Dispute.

#### **GOVERNING LAW AND VENUE**

Any Dispute between us, including any Dispute related to the engagement contemplated by this agreement, shall be governed by Minnesota law. Any unresolved Dispute shall be submitted to a federal or state court located in Minneapolis, Minnesota.

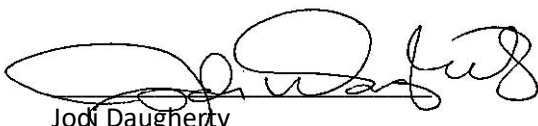
#### **ASSIGNMENTS PROHIBITED**

You shall not assign, sell, barter or transfer any legal rights, causes of actions, claims or Disputes you may have against Eide Bailly to any person.

Please sign and return the attached copy of this letter to indicate your acknowledgment of, and agreement with, the arrangements for our audit of the financial statements including our respective responsibilities.

We appreciate the opportunity to be your certified public accountants and look forward to working with you and your staff.

Respectfully,



Jodi Daugherty  
Partner



\*\*\*\*\*

RESPONSE:

This letter correctly sets forth our understanding.

Acknowledged and agreed on behalf of City of Idaho Falls by:

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

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



May 31, 2023

To the Mayor and City Council  
City of Idaho Falls  
Idaho Falls, Idaho

This letter is provided in connection with our engagement to audit the financial statements and to audit compliance over major federal award programs of City of Idaho Falls (City) as of and for the year ended September 30, 2023. Professional standards require that we communicate with you certain items including our responsibilities with regard to the financial statement audit, the compliance audit, and the planned scope and timing of our audits, including significant risks we have identified.

### **Our Responsibilities**

As stated in our engagement letter dated May 31, 2023, we are responsible for conducting our audit in accordance with auditing standards generally accepted in the United States of America (GAAS), *Government Auditing Standards* of the Comptroller General of the United States of America, the requirements of the Single Audit Act, as amended; and the provisions of the audit requirements of Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance), for the purpose of forming and expressing opinions on the financial statements and on major federal award program compliance. Our audits do not relieve you or management of your respective responsibilities.

Our responsibility as it relates to the schedule of expenditures of federal awards is to evaluate its presentation for the purpose of forming and expressing an opinion as to whether it is presented fairly in all material respects in relation to the financial statements as a whole.

Our responsibility relating to other information, whether financial or nonfinancial information (other than financial statements and the auditor's report thereon), included in the City's annual report includes only the information identified in our report. We have no responsibility for determining whether the introductory section or statistical section are properly stated. We require that we receive the final version of the annual report (including all the documents that, together, comprise the annual report) in a timely manner prior to the date of the auditor's report, or if that is not possible as soon as practicable and, in any case, prior to the City's issuance of such information.

## Planned Scope of the Audit

Our audits will include examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. Our audit is designed to provide reasonable, but not absolute assurance about whether the financial statements as a whole are free of material misstatement, whether due to error, fraudulent financial reporting, misappropriation of assets, or violations of laws or governmental regulations. Because of this concept of reasonable assurance and because we will not examine all transactions, there is a risk that material misstatements may exist and not be detected by us.

Our audit procedures will also include determining major federal programs and performing the applicable procedures described in the U.S. Office of Management and Budget *OMB Compliance Supplement* for the types of compliance requirements that could have a direct and material effect on each of the entity's major programs.

Because of the inherent limitations of an audit, together with the inherent limitations of internal control, an unavoidable risk that some material misstatements or material noncompliance may not be detected exists, even though the audit is properly planned and performed in accordance with U.S. GAAS, *Government Auditing Standards* of the Comptroller General of the United States of America, the requirements of the Single Audit Act, as amended; and the provisions of the Uniform Guidance.

Our audits will include obtaining an understanding of the entity and its environment, including its internal control, sufficient to assess the risks of material misstatement of the financial statements, the risk of material noncompliance in the major federal award programs, and as a basis for designing the nature, timing, and extent of further audit procedures, but not for the purpose of expressing an opinion of the effectiveness of the entity's internal control over financial reporting. However, we will communicate to you at the conclusion of our audit, any material weaknesses or significant deficiencies identified. We will also communicate to you:

- Any violation of laws or regulations that come to our attention;
- Our views related to qualitative aspects of the entity's significant accounting practices, including accounting policies, accounting estimates, and financial statement disclosures;
- Significant difficulties, if any, encountered during the audit;
- Significant unusual transactions, if any;
- The potential effects of uncorrected misstatements on future-period financial statements; and
- Other significant matters that are relevant to your responsibilities in overseeing the financial reporting process.

Professional standards require us to design our audit to provide reasonable assurance that the financial statements are free of material misstatement whether caused by fraud or error. In designing our audit procedures, professional standards require us to evaluate the financial statements and assess the risk that a material misstatement could occur. Areas that are potentially more susceptible to misstatements, and thereby require special audit considerations, are designated as "significant risks." Although we are currently in the planning stage of our audit, we have preliminarily identified the following significant risks that require special audit consideration.

- Management override of controls
- Improper revenue recognition for both exchange and non-exchange revenue amounts
- Recording and reconciling of capital asset amounts
- Implementation of GASB 96, *Subscription-based Information Technology Arrangements*

We expect to begin our audit in January 2024.

This information is intended solely for the information and use of the Mayor and City Council and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully,

A handwritten signature in black ink that reads "Eric Sully LLP". The signature is written in a cursive, flowing style.

Boise, Idaho



May 31, 2023

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

The following represents our understanding of the services we will provide to City of Idaho Falls.

You have requested that we audit the combined financial statements of the Electric Light Fund and Fiber Fund (the Funds) of the City of Idaho Falls, as of September 30, 2023, and for the year then ended, and the related notes, which collectively comprise the Funds' combined financial statements. We are pleased to confirm our acceptance and our understanding of this audit engagement by means of this letter.

The objectives of our audit are to obtain reasonable assurance about whether the combined financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with auditing standards generally accepted in the United States of America (GAAS) and in accordance with *Government Auditing Standards*, will always detect a material misstatement when it exists. Misstatements, including omissions, can arise from fraud or error and are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

Accounting principles generally accepted in the United States of America (U.S. GAAP), as promulgated by the Governmental Accounting Standards Board (GASB) require that certain information be presented to supplement the combined financial statements. Such information, although not a part of the basic financial statements, is required by the GASB, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the required supplementary information (RSI) in accordance with auditing standards generally accepted in the United States of America (U.S. GAAS). These limited procedures will consist primarily of inquiries of management regarding their methods of measurement and presentation and comparing the information for consistency with management's responses to our inquiries. We will not express an opinion or provide any form of assurance on the RSI. The following RSI is required by U.S. GAAP. This RSI will be subjected to certain limited procedures but will not be audited:

- Schedule of City's Share of the Net Pension Liability (Asset)
- Schedule of the City's Contributions

Supplementary information other than RSI will accompany the Funds' combined financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the basic financial statements and perform certain additional procedures, including comparing and reconciling the supplementary information to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and additional procedures in accordance with U.S.

GAAS. We intend to provide an opinion on the following supplementary information in relation to the basic financial statements as a whole:

- Combining Schedule of Net Position
- Combining Schedule of Revenues, Expenses, and Changes in Net Position

### **Auditor Responsibilities**

We will conduct our audit in accordance with GAAS and in accordance with *Government Auditing Standards*. As part of an audit in accordance with GAAS and in accordance with *Government Auditing Standards*, we exercise professional judgment and maintain professional skepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. However, we will communicate to you in writing concerning any significant deficiencies or material weaknesses in internal control relevant to the audit of the financial statements that we have identified during the audit.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Conclude, based on the audit evidence obtained, whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Funds' ability to continue as a going concern for a reasonable period of time.

Because of the inherent limitations of an audit, together with the inherent limitations of internal control, an unavoidable risk that some material misstatements may not be detected exists, even though the audit is properly planned and performed in accordance with U.S. GAAS and in accordance with *Government Auditing Standards*. Please note that the determination of abuse is subjective, and *Government Auditing Standards* does not require auditors to detect abuse.

### **Compliance with Laws and Regulations**

As previously discussed, as part of obtaining reasonable assurance about whether the basic financial statements are free of material misstatement, we will perform tests of the Funds' compliance with the provisions of applicable laws, regulations, contracts, and agreements. However, the objective of our audit will not be to provide an opinion on overall compliance, and we will not express such an opinion.

### **Management Responsibilities**

Our audit will be conducted on the basis that management and, when appropriate, those charged with governance, acknowledge and understand that they have responsibility:

- a. For the preparation and fair presentation of the basic financial statements in accordance with accounting principles generally accepted in the United States of America;

- b. For the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of basic financial statements that are free from material misstatement, whether due to error fraudulent financial reporting, misappropriation of assets, or violations of laws, governmental regulations, grant agreements, or contractual agreements; and
- c. To provide us with:
  - i. Access to all information of which management is aware that is relevant to the preparation and fair presentation of the basic financial statements such as records, documentation, and other matters;
  - ii. Additional information that we may request from management for the purpose of the audit;
  - iii. Unrestricted access to persons within the entity from whom we determine it necessary to obtain audit evidence.
- d. For identifying and ensuring that the entity complies with the laws and regulations applicable to its activities;
- e. For adjusting the basic financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the current period under audit are immaterial, both individually and in the aggregate, to the basic financial statements as a whole; and
- f. For acceptance of nonattest services, including identifying the proper party to oversee nonattest work;
- g. For maintaining adequate records, selecting and applying accounting principles, and safeguarding assets.
- i. For informing us of any known or suspected fraud affecting the entity involving management, employees with significant role in internal control and others where fraud could have a material effect on the financials; and
- j. For the accuracy and completeness of all information provided.

With regard to the supplementary information referred to above, you acknowledge and understand your responsibility (a) for the preparation of the supplementary information in accordance with the applicable criteria, (b) to provide us with the appropriate written representations regarding supplementary information, (c) to include our report on the supplementary information in any document that contains the supplementary information and that indicates that we have reported on such supplementary information, and (d) to present the supplementary information with the audited basic financial statements, or if the supplementary information will not be presented with the audited basic financial statements, to make the audited basic financial statements readily available to the intended users of the supplementary information no later than the date of issuance by you of the supplementary information and our report thereon.

As part of our audit process, we will request from management and, when appropriate, those charged with governance, written confirmation concerning representations made to us in connection with the audit.

### **Nonattest Services**

With respect to any nonattest services we perform, we agree to perform the following:

- Prepare or assist with preparing financial statements in conformity with U.S. generally accepted accounting principles based on information provided by you.

We will not assume management responsibilities on behalf of the Funds. The Funds' management understands and agrees that any advice or recommendation we may provide in connection with our audit engagement are solely to assist management in performing its responsibilities.

The Funds' management is responsible for (a) making all management decisions and performing all management functions; (b) assigning a competent individual to oversee the services; (c) evaluating the adequacy of the services performed; (d) evaluating and accepting responsibility for the results of the services performed; and (e) establishing and maintaining internal controls, including monitoring ongoing activities.

Our responsibilities and limitations of the nonattest services are as follows:

- We will perform the services in accordance with applicable professional standards.
- The nonattest services are limited to the services previously outlined above. Our firm, in its sole professional judgment, reserves the right to refuse to do any procedure or take any action that could be construed as making management decisions or assuming management responsibilities.

## **Reporting**

We will issue a written report upon completion of our audit of the Funds' basic financial statements. Our report will be addressed to the governing body of the Funds. Circumstances may arise in which our report may differ from its expected form and content based on the results of our audit. Depending on the nature of these circumstances, it may be necessary for us to modify our opinions, add an emphasis-of-matter or other-matter paragraph(s), to our auditor's report, or if necessary, withdraw from the engagement. If our opinions on the basic financial statements are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or to issue a report as a result of this engagement.

In accordance with the requirements of *Government Auditing Standards*, we will also issue a written report describing the scope of our testing over internal control over financial reporting and over compliance with laws, regulations, and provisions of grants and contracts, including the results of that testing. However, providing an opinion on internal control and compliance over financial reporting will not be an objective of the audit and, therefore, no such opinion will be expressed.

## **Other**

We understand that your employees will prepare all confirmations we request and will locate any documents or support for any other transactions we select for testing.

If you intend to publish or otherwise reproduce the basic financial statements and make reference to our firm, you agree to provide us with printers' proofs or masters for our review and approval before printing. You also agree to provide us with a copy of the final reproduced material for our approval before it is distributed.

Regarding the electronic dissemination of audited financial statements, including financial statements published electronically on your website or elsewhere, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in these sites or to consider the consistency of other information in the electronic site with the original document.

Professional standards prohibit us from being the sole host and/or the sole storage for your financial and non-financial data. As such, it is your responsibility to maintain your original data and records and we cannot be responsible to maintain such original information. By signing this engagement letter, you affirm that you have all the data and records required to make your books and records complete.



**Provisions of Engagement Administration, Timing and Fees**

During the course of the engagement, we will only provide confidential engagement documentation to you via Eide Bailly’s secure portal or other secure methods, and request that you use the same or similar tools in providing information to us. Should you choose not to utilize secure communication applications, you acknowledge that such communication contains a risk of the information being made available to unintended third parties. Similarly, we may communicate with you or your personnel via e-mail or other electronic methods, and you acknowledge that communication in those mediums contains a risk of misdirected or intercepted communications.

Should you provide us with remote access to your information technology environment, including but not limited to your financial reporting system, you agree to (1) assign unique usernames and passwords for use by our personnel in accessing the system and to provide this information in a secure manner; (2) limit access to “read only” to prevent any unintentional deletion or alteration of your data; (3) limit access to the areas of your technology environment necessary to perform the procedures agreed upon; and (4) disable all usernames and passwords provided to us upon the completion of procedures for which access was provided. We agree to only access your technology environment to the extent necessary to perform the identified procedures.

Jodi Daugherty is the engagement partner for the audit services specified in this letter. Responsibilities include supervising services performed as part of this engagement and signing or authorizing another qualified firm representative to sign the audit report. We expect to begin our audit in January 2024.

Our fees are based on the amount of time required at various levels of responsibility, plus actual out-of-pocket expenses, including administrative charges. Invoices are payable upon presentation. We estimate that our fee for the audit will be:

- Option 1 – Review and issuance of the combined financial statements prepared by City Staff      \$3,700
- Option 2 – Review and issuance of the combined financial statements prepared by Eide Bailly      \$7,850

We will notify you immediately of any circumstances we encounter that could significantly affect this initial fee estimate. Whenever possible, we will attempt to use the Funds’ personnel to assist in the preparation of schedules and analyses of accounts. This effort could substantially reduce our time requirements and facilitate the timely conclusion of the audit. Further, we will be available during the year to consult with you on financial management and accounting matters of a routine nature.

The ability to perform and complete our engagement consistent with the estimated fee included above depends upon the quality of your underlying accounting records and the timeliness of your personnel in providing information and responding to our requests. To assist with this process, we will provide you with a Prepared-by-Client (PBC) request that identifies the information required to perform our engagement, as well as a planned timeline for the engagement. A failure to provide this information in an accurate and timely manner may result in an increase in our fees and/or a delay in the completion of our engagement.

We may be requested to make certain audit documentation available to outside parties, including regulators, pursuant to authority provided by law or regulation or applicable professional standards. If requested, access to such audit documentation will be provided under the supervision of Eide Bailly LLP’s personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the outside party, who may intend, or decide, to distribute the copies of information contained therein to others, including other governmental agencies. We will be compensated for any time and expenses, including time and expenses of legal counsel, we may incur in making such audit documentation available or in conducting or responding to discovery requests or participating as a witness or otherwise in any legal, regulatory, or other proceedings as a result of our Firm’s performance of these services. You and your attorney will receive, if lawful, a copy of every subpoena we are

asked to respond to on your behalf and will have the ability to control the extent of the discovery process to control the costs you may incur.

Should our relationship terminate before our audit procedures are completed and a report issued, you will be billed for services to the date of termination. All bills are payable upon receipt. A service charge of 1% per month, which is an annual rate of 12%, will be added to all accounts unpaid 30 days after billing date. If collection action is necessary, expenses and reasonable attorney's fees will be added to the amount due.

We may use third party service providers and/or affiliated entities (including Eide Bailly Shared Services Private Limited) (collectively, "service providers") in order to facilitate delivering our services to you. Our use of service providers may require access to client information by the service provider. We will take reasonable precautions to determine that they have the appropriate procedures in place to prevent the unauthorized release of confidential information to others. We will remain responsible for the confidentiality of client information accessed by such service provider and any work performed by such service provider.

Neither of us may use or disclose the other's confidential information for any purpose except as permitted under this engagement letter or as otherwise necessary for Eide Bailly to provide the services. Your confidential information is defined as any information you provide to us that is not available to the public. Eide Bailly's confidential information includes our audit documentation for this engagement. Our audit documentation shall at all times remain the property of Eide Bailly LLP. The confidentiality obligations described in this paragraph shall supersede and replace any and all prior confidentiality and/or nondisclosure agreements (NDAs) between us.

You agree to share all facts that may affect your financial statements, even if you first become aware of those facts after the date of the auditor's report but before the date your financial statements are issued.

We agree to retain our audit documentation or work papers for a period of at least eight years from the date of our report.

At the conclusion of our audit engagement, we will communicate to the Mayor and City Council the following significant findings from the audit:

- Our view about the qualitative aspects of the entity's significant accounting practices;
- Significant difficulties, if any, encountered during the audit;
- Uncorrected misstatements, other than those we believe are trivial, if any;
- Disagreements with management, if any;
- Other findings or issues, if any, arising from the audit that are, in our professional judgment, significant and relevant to those charged with governance regarding their oversight of the financial reporting process;
- Material, corrected misstatements that were brought to the attention of management as a result of our audit procedures;
- Representations we requested from management;
- Management's consultations with other accountants, if any; and
- Significant issues, if any, arising from the audit that were discussed, or the subject of correspondence, with management.

*Government Auditing Standards* require that we provide, upon request, a copy of our most recent external peer review report and any subsequent review reports to the party contracting for the audit. Accordingly, we will provide a copy of our most recent peer review report at your request.

## **MEDIATION**

Any disagreement, controversy or claim arising out of or related to any aspect of our services or relationship with you (hereafter a “Dispute”) shall, as a precondition to litigation in court, first be submitted to mediation. In mediation, the parties attempt to reach an amicable resolution of the Dispute with the aid of an impartial mediator. Mediation shall begin by service of a written demand. The mediator will be selected by mutual agreement. If we cannot agree on a mediator, one shall be designated by the American Arbitration Association (“AAA”). Mediation shall be conducted with the parties in person in Boise, Idaho. Each party will bear its own costs in the mediation. The fees and expenses of the mediator will be shared equally by the parties. Neither party may commence a lawsuit until the mediator declares an impasse.

## **LIMITED INDEMNITY**

Eide Bailly LLP and its partners, affiliates, officers and employees (collectively “Eide Bailly”) shall not be responsible for any misstatements in your financial statements that we may fail to detect as a result of misrepresentations or concealment of information by any of your owners, directors, officers or employees. You shall indemnify and hold Eide Bailly harmless from any claims, losses, settlements, judgments, awards, damages and attorneys’ fees arising from any such misstatement or concealment of information.

If through no fault of Eide Bailly we are named as a party to a dispute between you and a third party, you shall indemnify and hold Eide Bailly harmless against any losses, damages, settlements, judgments, awards, and the costs of litigation (including attorneys’ fees) we incur in connection with the dispute.

Eide Bailly shall not be entitled to indemnification under this agreement unless the services were performed in accordance with professional standards in all material respects.

## **LIMITATION OF LIABILITY**

The exclusive remedy available to you for any alleged loss or damages arising from or related to Eide Bailly’s services or relationship with you shall be the right to pursue claims for actual damages that are directly caused by Eide Bailly’s breach of this agreement or Eide Bailly’s violation of applicable professional standards. In no event shall Eide Bailly’s aggregate liability to you exceed two times fees paid under this agreement, nor shall Eide Bailly ever be liable to you for incidental, consequential, punitive or exemplary damages, or attorneys’ fees.

## **TIME LIMITATION**

You may not bring any legal proceeding against Eide Bailly unless it is commenced within twenty-four (24) months (“Limitation Period”) after the date when we delivered our report, return, or other deliverable under this agreement to you, regardless of whether we do other services for you or that may relate to the audit. The Limitation Period applies and begins to run even if you have not suffered any damage or loss or have not become aware of a possible Dispute.

## **GOVERNING LAW AND VENUE**

Any Dispute between us, including any Dispute related to the engagement contemplated by this agreement, shall be governed by Minnesota law. Any unresolved dispute shall be submitted to a federal or state court located in Minneapolis, Minnesota.

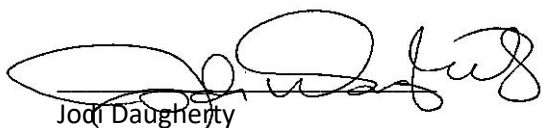
**ASSIGNMENTS PROHIBITED**

You shall not assign, sell, barter or transfer any legal rights, causes of actions, claims or disputes you may have against Eide Bailly to any person.

Please sign and return the attached copy of this letter to indicate your acknowledgment of, and agreement with, the arrangements for our audit of the financial statements including our respective responsibilities.

We appreciate the opportunity to be your certified public accountants and look forward to working with you and your staff.

Respectfully,

  
Jodi Daugherty  
Partner

\*\*\*\*\*

**RESPONSE:**

This letter correctly sets forth our understanding.

Acknowledged and agreed on behalf of City of Idaho Falls by:

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

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



May 31, 2023

To the Mayor and City Council  
City of Idaho Falls  
Idaho Falls, Idaho

This letter is provided in connection with our engagement to audit the combined financial statements of the Electric Light Fund and Fiber Fund (the Funds) of the City of Idaho Falls as of and for the year ended September 30, 2023. Professional standards require that we communicate with you certain items including our responsibilities with regard to the financial statement audit and the planned scope and timing of our audit, including significant risks we have identified.

### **Our Responsibilities**

As stated in our engagement letter dated May 31, 2023, we are responsible for conducting our audit in accordance with auditing standards generally accepted in the United States of America and, in accordance with *Government Auditing Standards*, for the purpose of forming and expressing an opinion about whether the financial statements that have been prepared by management, with your oversight, are prepared, in all material respects, in accordance with accounting principles generally accepted in the United States of America. Our audit does not relieve you or management of your respective responsibilities.

### **Planned Scope of the Audit**

Our audit will include examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. Our audit is designed to provide reasonable, but not absolute, assurance about whether the financial statements as a whole are free of material misstatement, whether due to error, fraudulent financial reporting, misappropriation of assets, or violations of laws or governmental regulations. Because of this concept of reasonable assurance and because we will not examine all transactions, there is a risk that material misstatements may exist and not be detected by us.

Our audit will include obtaining an understanding of the entity and its environment, including its internal control, sufficient to assess the risks of material misstatement of the financial statements and as a basis for designing the nature, timing, and extent of further audit procedures, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control over financial reporting. However, we will communicate to you at the conclusion of our audit, any material weaknesses or significant deficiencies identified. We will also communicate to you:

- Any violation of laws or regulations that come to our attention;
- Our views relating to qualitative aspects of the entity's significant accounting practices, including accounting policies, accounting estimates, and financial statement disclosures;

- Significant difficulties, if any, encountered during the audit;
- Disagreements with management, if any, encountered during the audit;
- Significant unusual transactions, if any;
- The potential effects of uncorrected misstatements on future-period financial statements; and
- Other significant matters that are relevant to your responsibilities in overseeing the financial reporting process.

Professional standards require us to design our audit to provide reasonable assurance that the financial statements are free of material misstatement whether caused by fraud or error. In designing our audit procedures, professional standards require us to evaluate the financial statements and assess the risk that a material misstatement could occur. Areas that are potentially more susceptible to misstatements, and thereby require special audit considerations, are designated as “significant risks.” Although we are currently in the planning stage of our audit, we have preliminarily identified the following significant risks that require special audit consideration.

- Management override of controls
- Improper revenue recognition for both exchange and non-exchange revenue amounts
- Recording and reconciling of capital asset amounts

We expect to begin our audit in January 2024.

This information is intended solely for the information and use of the Mayor and City Council and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully,



Boise, Idaho

# Memorandum

File #: 23-207

City Council Meeting

**FROM:** Michael Kirkham, Assistant City Attorney  
**DATE:** Friday, July 7, 2023  
**DEPARTMENT:** City Attorney

## Subject

Approval of CM/GC Contract for Airport Terminal Expansion and Renovation Project - Clayco, Inc.

## Council Action Desired

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

Approve the CM/GC Contract with Clayco, Inc., and direct the Mayor and staff to execute the necessary documents. (or take other action deemed appropriate.)

## Description, Background Information & Purpose

As part of the Airport's ongoing efforts to expand and improve the Airport's terminal, the City sought requests for proposals to select the best-qualified Construction Manager - General Contractor ("CM/GC") to perform pre-construction services-including developing the expansion project design, optimizing material and construction costs, and coordinating construction scheduling and phasing-and construction services. Clayco, Inc., was selected as the most qualified proposer and, pursuant to Idaho Code § 67-2320, City staff negotiated the proposed agreement.

## Alignment with City & Department Planning Objectives



This project supports the reliable public infrastructure and transportation community-oriented result by creating a safe and secure airport for users of the airport.

## Interdepartmental Coordination

Airport and City Attorney Departments coordinated in the development of the proposed agreement.

## Fiscal Impact

The Terminal Expansion and Renovation Project will be funded by a series of Federal Aviation Administration (FAA) Airport Improvement Program (AIP) grants.

**Legal Review**

The City Attorney Department has reviewed and heled to prepare the proposed agreement.



# DRAFT AIA® Document A133® – 2019

## **Standard Form of Agreement Between Owner and Construction Manager as Constructor** where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

**AGREEMENT** made as of the « » day of June in the year 2023  
(In words, indicate day, month, and year.)

**BETWEEN** the Owner:  
(Name, legal status, address, and other information)

Idaho Falls Regional Airport  
2140 N. Skyline Drive  
Idaho Falls, Idaho 83402

and the Construction Manager:  
(Name, legal status, address, and other information)

Clayco  
C/o Mac Glinn  
35 East Wacker Drive, Suite 1300  
Chicago, IL 60601

for the following Project:  
(Name, location, and detailed description)

Idaho Falls Regional Airport - Terminal South and Central Expansion and Renovation.»

The project is a multi-phased expansion and renovation of the existing terminal and concourse areas of the airport. The primary focus is to update and enlarge the ticket lobby, central lobby, airline ticket offices, and outbound baggage areas as well as opening up sightlines and improving passenger flow throughout the building. The building will expand to the south and west to allow for updates to occur and plan for future projected growth.

The Architect:  
(Name, legal status, address, and other information)

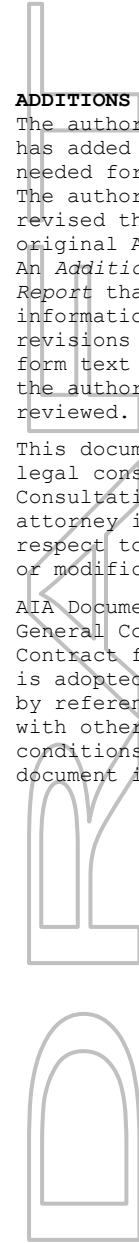
Alliance  
400 Clifton Avenue  
Minneapolis, MN 55403

**The Owner and Construction Manager agree as follows.**

**ADDITIONS AND DELETIONS:**  
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201™-2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.



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### EXHIBIT A GUARANTEED MAXIMUM PRICE AMENDMENT

### EXHIBIT B INSURANCE AND BONDS

## ARTICLE 1 INITIAL INFORMATION

**§ 1.1** This Agreement is based on the Initial Information set forth in this Section 1.1.

*(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")*

**§ 1.1.1** The Owner's program for the Project, as described in Section 4.1.1:

*(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)*

The Owner expects to fund the project through multiple Federal Aviation Administration (FAA) Airport Improvement Program (AIP) grants. The project is anticipated to be phased to meet the available grant funding. The FAA AIP grants will make the Project subject to certain federal requirements to be determined, including the Davis-Bacon Act, the Buy American Act, and Disadvantaged Business Enterprise (DBE) requirements. Such requirements should be anticipated by the Construction Manager and will be addressed by amendment once funding has been confirmed.

**§ 1.1.2** The Project's physical characteristics:

*(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)*

The project includes work described as Priority 1A in the Terminal Expansion Planning Study Report prepared by Alliance and T-O Engineers dated May 2022, which by reference is incorporated into this Agreement as a scope of

work. This project will expand the outbound baggage area, ticketing lobby, central lobby, ground floor passenger hold room, and associated support spaces. The project will also renovate these areas as well as the airline ticket offices. The project also includes work on the buildings' Mechanical, Electrical, Communication, and Plumbing systems.

§ 1.1.3 The Owner's budget for the Guaranteed Maximum Price, as defined in Article 6:  
(Provide total and, if known, a line item breakdown.)

The anticipated budget is \$45 million based on the availability of federal grants and local funds.

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

April 7, 2023 SD Pricing Package for Priority 1A

June 30, 2023 60% GMP DD Package for Priority 1A – Phase 1 Early Work Package

.2 Construction commencement date:

Priority 1A - Phase 1 October 2023

.3 Substantial Completion date or dates:

TBD

.4 Other milestone dates:

« »TBD

§ 1.1.5 The Owner's requirements for accelerated or fast-track scheduling, or phased construction, are set forth below:  
(Identify any requirements for fast-track scheduling or phased construction.)

« »Priority 1A will be broken down into separate phasing packages. Phase 1 will consist of an early enabling site package as well as the terminal expansion at the south and west sides of the building. Phase 2 will include renovation of the existing outbound baggage areas, airline ticket offices, and ticket lobby spaces. Phase 3 will include the renovations to the central area of the terminal and an expansion area to the east. This contract is for services through Schematic Design of Priority 1A and services through Design Development and Construction Documents for Priority 1A – Phase 1 work.

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:  
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

«TBD »

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Construction Manager shall complete and incorporate AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E234–2019 is incorporated into this agreement, the Owner and Construction Manager shall incorporate the completed E234–2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 Other Project information:  
(Identify special characteristics or needs of the Project not provided elsewhere.)

The project work must be phased to allow airport operations at all times.

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:

*(List name, address, and other contact information.)*

Rick Cloutier  
Executive Director  
Idaho Falls Regional Airport  
2140 N. Skyline Drive  
Idaho Falls, Idaho 83402« »

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Construction Manager's submittals to the Owner are as follows:  
*(List name, address and other contact information.)*

« »

§ 1.1.10 The Owner shall retain the following consultants and contractors:  
*(List name, legal status, address, and other contact information.)*

.1 Civil Engineer:

Ardurra Group  
2471 South Titanium Place  
Boise, ID 83642  
www.ardurra.com

.2 Other, if any:

*(List any other consultants retained by the Owner, such as a Project or Program Manager.)*

« »

§ 1.1.11 The Architect's representative:  
*(List name, address, and other contact information.)*

Eric Peterson, Principal  
Alliance  
400 Clifton Avenue  
Minneapolis, MN 55403

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:  
*(List name, address, and other contact information.)*

Clayco  
C/o MacAdam Glinn  
35 East Wacker Drive, Suite 1300  
Chicago, IL 60601

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:  
*(List any Owner-specific requirements to be included in the staffing plan.)*

«To be determined, if any. »

§ 1.1.14 The Owner's requirements for subcontractor procurement for the performance of the Work:  
*(List any Owner-specific requirements for subcontractor procurement.)*

The procurement of subcontractors shall be in accordance with Idaho Code Title 54, Chapter 45, Section 54-4511. Subcontractors shall hold a valid Idaho Public Works Contractor's license prior to award of any subcontract.

**§ 1.1.15** Other Initial Information on which this Agreement is based:

«/N/A »

**§ 1.2** The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation. The Owner shall adjust the Owner's budget for the Guaranteed Maximum Price and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

**§ 1.3** Neither the Owner's nor the Construction Manager's representative shall be changed without ten days' prior notice to the other party.

**ARTICLE 2 GENERAL PROVISIONS**

**§ 2.1 The Contract Documents**

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15.

**§ 2.2 Relationship of the Parties**

The Construction Manager covenants with Owner to cooperate with Owner and Architect and utilize the Construction Manager's skill and judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Construction Manager acknowledges that Owner has a separate contract with the Architect related to the Project. Both the Construction Manager and the Architect shall be given direction by Owner. The Construction Manager agrees to support the Owner's efforts to create a collaborative and cooperative relationship among the Construction Manager, Architect, other Project consultants, and Owner. The parties, through their respective staffs, commit to attempt, in good faith, to negotiate any disagreements between Owner, Architect, and Construction Manager quickly, fairly, and amicably. If such attempts fail to resolve the matter within fifteen (15) days of the first attempt to resolve the disagreement, the Owner's representative, a representative from the Architect, and a representative from CM/GC shall meet to discuss and resolve the disagreement within fifteen (15) days of such failure to resolve the disagreement. If that fails to resolve the matter, the dispute shall be submitted to non-binding mediation. Any dispute that cannot be resolved by meditation shall then be considered by the parties pursuant to Section 12.2 of this Agreement.

The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

**§ 2.3 General Conditions**

**§ 2.3.1** For the Preconstruction Phase, AIA Document A201™-2017, General Conditions of the Contract for Construction, shall apply as follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 1.8, Building Information Model Use and Reliance; Section 2.2.4, Confidential Information; Section 3.12.10, Professional Services; Article 8, Time, Section 10.3, Hazardous Materials; Section 15.1.7, Waiver of Consequential Damages. The term "Contractor" as used in A201-2017 shall mean the Construction Manager.

**§ 2.3.2** For the Construction Phase, the general conditions of the contract shall be as set forth in A201-2017, which document is incorporated herein by reference. The term "Contractor" as used in A201-2017 shall mean the Construction Manager.

## **ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES**

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201-2017 referenced in Section 2.3.1. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

### **§ 3.1 Preconstruction Phase**

#### **§ 3.1.1 Extent of Responsibility**

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services. The Owner and Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require. Nothing in this Paragraph shall be construed to relieve the Construction Manager from the responsibility to apply for and receive all required building permits, licenses, and inspections required by any local, state, or federal government with jurisdiction over the Work unless identified as the responsibility of the Owner.

**§ 3.1.2** The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

#### **§ 3.1.3 Consultation**

**§ 3.1.3.1** The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.

**§ 3.1.3.2** The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase.

**§ 3.1.3.3** The Construction Manager shall assist the Owner and Architect in establishing building information modeling and digital data protocols for the Project, using AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

#### **§ 3.1.4 Project Schedule**

When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities; and identify items that affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; and the occupancy requirements of the Owner.

#### **§ 3.1.5 Phased Construction**

The Construction Manager, in consultation with the Architect, shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.

### **§ 3.1.6 Cost Estimates**

**§ 3.1.6.1** Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare, for the Architect's review and the Owner's approval, preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume, or similar conceptual estimating techniques. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

**§ 3.1.6.2** As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design, price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for corrective action.

**§ 3.1.6.3** If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.

**§ 3.1.7** As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.

**§ 3.1.8** The Construction Manager shall provide recommendations and information to the Owner and Architect regarding equipment, materials, services, and temporary Project facilities.

**§ 3.1.9** The Construction Manager shall provide a staffing plan for Preconstruction Phase services for the Owner's review and approval.

**§ 3.1.10** If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

### **§ 3.1.11 Subcontractors and Suppliers**

**§ 3.1.11.1** If the Owner has provided requirements for subcontractor procurement in section 1.1.14, the Construction Manager shall provide a subcontracting plan, addressing the Owner's requirements, for the Owner's review and approval.

**§ 3.1.11.2** The Construction Manager shall develop bidders' interest in the Project.

**§ 3.1.11.3** The processes described in Article 9 shall apply if bid packages will be issued during the Preconstruction Phase.

### **§ 3.1.12 Procurement**

The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

### **§ 3.1.13 Compliance with Laws**

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of local, state, and federal governing bodies, agencies, and authorities applicable to its performance under

this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities (the “Applicable Laws”) Repeated or significant violation of any of Applicable Laws by the Construction Manager shall be deemed material and shall subject the Construction Manager to termination of this Agreement for cause. No pleas of misunderstanding or ignorance on the part of the Construction Manager will in any way serve to modify the provisions of this requirement. The Construction Manager and its surety shall indemnify and save harmless Owner and its elected officials, employees, agents, and representatives against any claim or liability arising from or based on the violation of any such laws, codes, ordinances, or regulations, whether by the Construction Manager, its employees, or its subcontractors.

In the event that the Construction Manager is requested or directed to perform work, or amend work previously accomplished, due to unforeseen or unanticipated changes or additions to current laws or regulations, such work shall be deemed a change in scope of the work and shall be cause to amend this Agreement in respect to maximum cost by mutually agreeable amounts commensurate with the change in conditions.

#### **§ 3.1.14 Other Preconstruction Services**

Insert a description of any other Preconstruction Phase services to be provided by the Construction Manager, or reference an exhibit attached to this document

*(Describe any other Preconstruction Phase services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)*

«Comprehensive deliverables will be developed by the Construction Manager and approved by the Owner. »

#### **§ 3.2 Guaranteed Maximum Price Proposal**

**§ 3.2.1** When the design, plans, and specifications are sufficiently complete to make the final cost estimates and prior to awarding any subcontracts, the Construction Manager shall prepare and fix, for the Owner’s review and acceptance, the Guaranteed Maximum Price. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager’s estimate of the Cost of the Work, the Construction Manager’s contingency described in Section 3.2.4, and the Construction Manager’s Fee described in Section 6.1.2. In the event the Owner does not accept the Construction Manager’s Guaranteed Maximum Price proposal, the Owner may elect to terminate this Agreement and such termination shall be deemed a termination for convenience in accordance with Section 14.4 of the General Conditions.

**§ 3.2.2** To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.

**§ 3.2.3** The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;
- .3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager’s contingency set forth in Section 3.2.4; and the Construction Manager’s Fee;
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
- .5 A date by which the Owner must accept the Guaranteed Maximum Price.

**§ 3.2.4** In preparing the Construction Manager’s Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager’s exclusive use to cover those costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order.

**§ 3.2.5** The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information



presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

**§ 3.2.6** If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

**§ 3.2.7** The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the execution of the Guaranteed Maximum Price Amendment, unless the Owner provides prior written authorization for such costs.

**§ 3.2.8** The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.

**§ 3.2.9** The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed. The Construction Manager shall execute a Change Order for new or changes to sales, consumer, use and similar taxes for the Work to the extent of the impact to the Contract Sum, Contract Time, and/or the scope of the Work.

**§ 3.2.10** The Guaranteed Maximum Price shall be guaranteed by the Construction Manager and shall be subject only to modification for Changes in the Work and delays caused by Owner, Architect or Owner's separate contractors, as provided in this Agreement.

### **§ 3.3 Construction Phase**

#### **§ 3.3.1 General**

**§ 3.3.1.1** For purposes of Section 8.1.2 of A201–2017, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

**§ 3.3.1.2** The Construction Phase shall commence upon the Owner's execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price proposal, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.

#### **§ 3.3.2 Administration**

**§ 3.3.2.1** The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect.

**§ 3.3.2.2** Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201–2017.

#### **§ 3.3.2.3 Monthly Report**

The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner.

#### **§ 3.3.2.4 Daily Logs**

The Construction Manager shall keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

#### **§ 3.3.2.5 Cost Control**

The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect, and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 3.3.2.3 above.

### **ARTICLE 4 OWNER'S RESPONSIBILITIES**

#### **§ 4.1 Information and Services Required of the Owner**

**§ 4.1.1** The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

**§ 4.1.2** Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. After execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request such information as set forth in A201-2017 Section 2.2.

**§ 4.1.3** The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

**§ 4.1.4 Structural and Environmental Tests, Surveys and Reports.** During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

**§ 4.1.4.1** The Owner shall furnish tests, inspections, and reports, required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

**§ 4.1.4.2** The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

**§ 4.1.4.3** The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

**§ 4.1.5** During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under

the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 4.1.6 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

#### § 4.2 Owner's Designated Representative

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201–2017, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 4.2.1 **Legal Requirements.** The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

#### § 4.3 Architect

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B133™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect's scope of services in the agreement.

### ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

#### § 5.1 Compensation

§ 5.1.1 For the Construction Manager's Preconstruction Phase services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager as follows:

*(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)*

\$360,000 plus reimbursables.

§ 5.1.2 The hourly billing rates for Preconstruction Phase services of the Construction Manager and the Construction Manager's Consultants and Subcontractors, if any, are set forth below.

*(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

« »Refer to attached IDA Precon Cost Breakdown.pdf

§ 5.1.2.1 Hourly billing rates for Preconstruction Phase services include all costs to be paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, and shall remain unchanged unless the parties execute a Modification.

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within seven ( 7 ) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

#### § 5.2 Payments

§ 5.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid one ( 1 » ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager. (Insert rate of monthly or annual interest agreed upon.)

5 % « »

## ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

### § 6.1 Contract Sum

§ 6.1.1 The Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract after execution of the Guaranteed Maximum Price Amendment. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Construction Manager's Fee.

### § 6.1.2 The Construction Manager's Fee:

*(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)*

4.5%

### § 6.1.3 The method of adjustment of the Construction Manager's Fee for changes in the Work:

For Change Orders, Construction Manager's Fee shall be adjusted by 5% of the net increases or decreases (respectively) in the Cost of the Work reflected in any Change Order, together with any markup for insurance.

### § 6.1.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

15%

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed one hundred percent ( 100 %) of the standard rental rate paid at the place of the Project.

### § 6.1.6 Liquidated damages, if any:

*(Insert terms and conditions for liquidated damages, if any.)*

If Construction Manager fails to achieve Substantial Completion of the Work on or before the date which is thirty (30) calendar days after the scheduled date of Substantial Completion of the Work, liquidated damages equal to \$1,500.00 shall be assessed for each day beyond the date which is thirty (30) days after the scheduled date of Substantial Completion (as may be amended from time to time in accordance with the Contract Documents) subject to Excusable Delays (as defined in Section 8.3 of the General Conditions), provided that liquidated damages payable hereunder shall not exceed 50% of the Contractor's Fee in the aggregate. Construction Manager acknowledges that in the event that it fails to achieve Substantial Completion by such dates (as extended for permitted extensions of the Contract Time pursuant to the Contract Documents), Owner will incur substantial damages and the extent of such damages shall be impracticable or extremely difficult to determine. Nonetheless, the parties acknowledge that on the date of this Agreement, the amount of liquidated damages set forth above represents a good faith estimate on the part of Construction Manager and Owner as to the actual potential damages that Owner will incur as a result of any delay by Construction Manager in achieving Substantial Completion by the foregoing deadline. THE PAYMENT OF SUCH AMOUNT AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO THE OWNER PURSUANT TO APPLICABLE LAW AND SHALL BE OWNER'S SOLE AND EXCLUSIVE REMEDY FOR ANY DELAYS UNDER THE DESIGN-BUILD DOCUMENTS. If delays in the commencement or completion of the Work occur by reasons of an Excusable Delay, as defined in Section 8.2.1 of the Agreement, the dates established for the commencement and completion of the Work will be postponed by the aggregate duration of the Excused Delays, subject to Sections 8.2 and 14 of this Agreement. Notwithstanding anything to the contrary herein or in the Contract Documents, nothing in this Section 6.1.6 shall modify, waive or alter Owner's right to seek additional or other damages for any other breaches of contract or failure to perform in accordance with the Contract Documents provided however no other damages for delay shall be payable under any other provisions of the Contract Documents.

### § 6.1.7 Other:

*(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)*

None.

## **§ 6.2 Guaranteed Maximum Price**

The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, subject to additions and deductions by Change Order as provided in the Contract Documents. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner.

### **§ 6.2.1 Contingency**

The Guaranteed Maximum Price will include a Construction Manager construction contingency to be mutually agreed upon in the Guaranteed Maximum Price Amendment (the “Construction Contingency”), which Construction Contingency shall be available for Construction Manager’s exclusive use at Construction Manager’s reasonable discretion for unanticipated costs it has incurred that are not the basis for a Change Order under the Contract Documents. The Construction Manager shall be entitled to use the Construction Contingency for items that are included as a “Cost of the Work” and by way of example and not limitation: (a) overtime or acceleration of Subcontractors, suppliers, shipping companies and freight forwarders; (b) correction of defect, damaged or nonconforming Work; (c) Subcontractor defaults; (d) insurance deductibles for claims related to the Project; and (d) delay events that do not entitle Construction Manager to an adjustment to the Contract Time, the Contract Sum and/or the Guaranteed Maximum Price. The Construction Manager shall provide a Construction Contingency Log to the Owner no less than monthly describing the purpose for the use of the Construction Contingency, the amount of the use of the Construction Contingency and if requested, reasonable documentation.

## **§ 6.3 Changes in the Work**

**§ 6.3.1** The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Construction Manager may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

**§ 6.3.1.1** The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

**§ 6.3.2** Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

**§ 6.3.3** Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201–2017, as they refer to “cost” and “fee,” and not by Articles 6 and 7 of this Agreement. Adjustments to subcontracts awarded with the Owner’s prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

**§ 6.3.4** In calculating adjustments to the Guaranteed Maximum Price, the terms “cost” and “costs” as used in Article 7 of AIA Document A201–2017 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term “fee” shall mean the Construction Manager’s Fee as defined in Section 6.1.2 of this Agreement.

**§ 6.3.5** If no specific provision is made in Section 6.1.3 for adjustment of the Construction Manager’s Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 6.1.3 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager’s Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

## **ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE**

### **§ 7.1 Costs to Be Reimbursed**

**§ 7.1.1** The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost.

§ 7.1.3 Costs shall be at rates not higher than the standard rates paid at the place of the Project, except with prior approval of the Owner.

## § 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops or offices.

§ 7.2.2 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior approval.

§ 7.2.2.1 Wages or salaries of the Construction Manager's supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, and limited to the personnel and activities listed below:

*(Identify the personnel, type of activity and, if applicable, any agreed upon percentage of time to be devoted to the Work.)*

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§ 7.2.3 Wages and salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3.

§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

## § 7.3 Subcontract Costs

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts and this Agreement, including any subcontracts between Construction Manager and any of its affiliates for the performance of the Work. To the extent required by Owner, or with Owner's prior written approval, the costs of any Subcontractor payment and performance bonds, or the alternative costs of a Subcontract default insurance program (for enrolled Subcontractors).

## § 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ 7.4.1 Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction.

§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

## § 7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ 7.5.1 Costs of transportation, storage, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools, that are not fully consumed, shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value.

**§ 7.5.2** Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8, shall be subject to the Owner's prior approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

**§ 7.5.3** Costs of removal of debris from the site of the Work and its proper and legal disposal.

**§ 7.5.4** Costs of the Construction Manager's site office, including general office equipment and supplies.

**§ 7.5.5** Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

**§ 7.5.6** Costs to establish temporary utility service for water, telephone, gas, heat, internet and electrical power connections to the site, including costs to establish connection with existing services and portable toilet facilities, as reasonably necessary or required.

**§ 7.6 Miscellaneous Costs**

**§ 7.6.1** Premiums for that portion of insurance (except worker's compensation and builder's risk insurance) calculated as one and one tenth percent (1.1%) of the Cost of the Work, required by the Contract Documents.

**§ 7.6.1.1.1** Premiums for Builder's Risk and Worker's Compensation insurance applicable to the Work.

**§ 7.6.1.1.2** Premiums for Construction Manager's (or Subcontractor's) payment and performance bonds to the extent that such bonds are required by this Agreement.

**§ 7.6.1.1** Costs for self-insurance, for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

**§ 7.6.1.2** Costs for insurance through a captive insurer owned or controlled by the Construction Manager, with the Owner's prior approval.

**§ 7.6.2** Sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Construction Manager is liable.

**§ 7.6.3** Fees and assessments for the building permit, and for other permits, licenses, and inspections, for which the Construction Manager is required by the Contract Documents to pay.

**§ 7.6.4** Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201-2017 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

**§ 7.6.5** Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.

**§ 7.6.5.1** The cost of defending suits or claims for infringement of patent rights arising from requirements of the Contract Documents, payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims, and payments of settlements made with the Owner's consent, unless the Construction Manager had reason to believe that the required design, process, or product was an infringement of a copyright or a patent, and the Construction Manager failed to promptly furnish such information to the Architect as required by Article 3 of AIA Document A201-2017. The costs of legal defenses, judgments, and settlements shall not be included in the Cost of the Work used to calculate the Construction Manager's Fee or subject to the Guaranteed Maximum Price.

**§ 7.6.6** Costs for communications services, electronic equipment, and software, directly related to the Work and located at the site, with the Owner's prior approval.

§ 7.6.7 Costs of document reproductions and delivery charges.

§ 7.6.8 Deposits lost for causes other than the Construction Manager's negligence or failure to fulfill a specific responsibility in the Contract Documents.

§ 7.6.9 Legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Construction Manager, reasonably incurred by the Construction Manager after the execution of this Agreement in the performance of the Work and with the Owner's prior approval, which shall not be unreasonably withheld.

§ 7.6.10 Expenses incurred in accordance with the Construction Manager's standard written personnel policy for relocation and temporary living allowances of the Construction Manager's personnel required for the Work, with the Owner's prior approval.

§ 7.6.11 That portion of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

## § 7.7 Other Costs and Emergencies

§ 7.7.1 Other costs incurred in the performance of the Work, with the Owner's prior approval.

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201–2017.

§ 7.7.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Construction Manager, Subcontractors, or suppliers, provided that such damaged or nonconforming Work was not caused by the negligence of, or failure to fulfill a specific responsibility by, the Construction Manager, and only to the extent that the cost of repair or correction is not recovered by the Construction Manager from insurance, sureties, Subcontractors, suppliers, or others.

§ 7.7.4 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2017 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9.

## § 7.8 Related Party Transactions

§ 7.8.1 For purposes of this Section 7.8, the term "related party" shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Construction Manager; (2) any entity in which any stockholder in, or management employee of, the Construction Manager holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Construction Manager; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Construction Manager.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails to authorize the transaction in writing, the Construction Manager shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9.

§ 7.8.3 Construction Manager discloses that Lamar Johnson Collaborative ("LJC"), Forum Studio, Inc. ("Forum"), Ventana DBS LLC ("Ventana"), Construction Design and Engineering, Inc. (CDE) and Concrete Strategies, LLC ("CSI") are affiliates of the Construction Manager. If any of these affiliates and the Construction Manager enter into a Contract, the contract sum of such Contract will include a fee for overhead and profit to them respectively.

Construction Manager further discloses that Consolidated Distribution Company, LLC ("CDC"), is an affiliate of the Construction Manager. Through its centralized procurement operations, CDC seeks to obtain materials and equipment at lower pricing than might otherwise be achieved by purchases made by Contractors or Subcontractors. If Construction



Manager determines that materials or equipment may be purchased from CDC at pricing lower than the cost which would otherwise be incurred to purchase such materials or equipment from Contractors or Subcontractors, Construction Manager may make such purchases from CDC. If Construction Manager determines that materials or equipment may be purchased from CDC at pricing lower than the cost which would otherwise be incurred to purchase such materials or equipment from or Contractors or Subcontractors, Construction Manager, with the Owner's prior approval, may make such purchases from CDC. If the Construction Manager, or a Contractor or Subcontractor, purchases materials or equipment from CDC, then (a) the purchase price shall include a fee for overhead and profit to CDC, and (b) notwithstanding anything to the contrary in the Agreement, CDC may retain any volume discount manufacturer cash rebates or cash refunds received by CDC.

Construction Manager also discloses that from time-to-time Clayco may source short-term trade labor from CSI for work unrelated to any subcontract issued to CSI and that pursuant to a Master Shared Services Agreement between Clayco and CSI, the costs incurred by CSI in supplying such trade labor would be reimbursed as a Cost of the Work in accordance with the Contract Documents.

Construction Manager shall comply with all Owner requirements for subcontractor proposals for the Work.

### **§ 7.9 Costs Not To Be Reimbursed**

**§ 7.9.1** The Cost of the Work shall not include the items listed below:

- .1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 14;
- .2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;
- .3 Expenses of the Construction Manager's principal office and offices other than the site office;
- .4 Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;
- .5 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- .6 Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- .7 Any cost not specifically and expressly described in Sections 7.1 to 7.7;
- .8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and
- .9 Costs for services incurred during the Preconstruction Phase.

## **ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS**

**§ 8.1** Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if (1) before making the payment, the Construction Manager included the amount to be paid, less such discount, in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager. Trade discounts, rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained.

**§ 8.2** Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work.

## **ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS**

**§ 9.1** Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall deliver such bids to the Architect and Owner with an indication as to which bids the Construction Manager intends to accept. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and,

subject to Section 9.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

**§ 9.1.1** When a specific subcontractor or supplier (1) is recommended to the Owner by the Construction Manager; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

**§ 9.2** Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee, the Construction Manager shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Article 10.

## **ARTICLE 10 ACCOUNTING RECORDS**

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be reasonably satisfactory to the Owner and in accordance with GAAP as consistently applied by Construction Manager in the ordinary course of business. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

**§ 10.1 Limited Audit.** Notwithstanding the foregoing, or anything to the contrary in the Contract Documents, Owner shall have no audit rights with respect to any lump sum pricing, unit pricing and any stipulated rates for insurance and/or Stipulated Labor Rates under this Agreement shall be subject to audit only as follows: (i) Owner may audit the number of hours charged by the Contractor for labor but not the stipulated rates; (ii) Owner may audit the Costs of the Work against which the Contractor's stipulated insurance rates, if any, have been applied, but not the stipulated insurance rates; and/or (iii) Owner may audit the quantities as to which any unit pricing has been applied but not the unit price itself. The Owner agrees, on behalf of itself and any of its accounting or audit professionals, that all information disclosed during an audit shall be held as confidential and shall not be disclosed to third parties (except the Owner's Project lender(s) and investors and except as otherwise required by law or judicial process). In furtherance thereof, the Owner agrees it and its professionals shall execute a confidentiality and non-disclosure agreement reasonably acceptable to Contractor before performing any audit hereunder.

Notwithstanding the foregoing, the parties acknowledge and agree that the Owner expects that the Project is expected to be funded through multiple Federal Aviation Administration (FAA) Airport Improvement Program (AIP) grants. Construction Manager shall permit the FAA or any other agency of the United States of America to have access to Construction Manager's books, documents, papers and records which are directly pertinent to the Project for the purpose of making an audit of grant funds, as stated and required by the Federal Aviation Administration Contract Provisions, Attachment B.

## **ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES**

### **§ 11.1 Progress Payments**

**§ 11.1.1** Based upon Applications for Payment submitted to the Architect by the Construction Manager, and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum, to the Construction Manager, as provided below and elsewhere in the Contract Documents.

§ 11.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

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§ 11.1.3 Provided that an Application for Payment is received and approved by the Architect not later than the 1<sup>st</sup> day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the 1<sup>st</sup> day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than thirty ( 30 ) days after the Architect receives and approves the Application for Payment.

*(Federal, state or local laws may require payment within a certain period of time.)*

§ 11.1.4 With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that payments already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Construction Manager's Fee.

§ 11.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Construction Manager's Fee.

§ 11.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 11.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 11.1.5.3 When the Construction Manager allocates costs from a contingency to another line item in the schedule of values, the Construction Manager shall submit supporting documentation to the Architect.

§ 11.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work and for which the Construction Manager has made payment or intends to make payment prior to the next Application for Payment, by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 11.1.7 In accordance with AIA Document A201–2017 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 11.1.7.1 The amount of each progress payment shall first include:

- .1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;
- .2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and
- .4 The Construction Manager's Fee, computed upon the Cost of the Work described in the preceding Sections 11.1.7.1.1 and 11.1.7.1.2 at the rate stated in Section 6.1.2 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the

Cost of the Work included in Sections 11.1.7.1.1 and 11.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 11.1.7.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017;
- .5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner’s auditors in such documentation; and
- .6 Retainage withheld pursuant to Section 11.1.8.

#### § 11.1.8 Retainage

§ 11.1.8.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

*(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)*

5%

§ 11.1.8.1.1 The following items are not subject to retainage:

*(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)*

« »

§ 11.1.8.2 Reduction or limitation of retainage, if any, shall be as follows:

*(If the retainage established in Section 11.1.8.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)*

Professional design or engineering fees, general conditions and requirements costs, supply only contracts with material suppliers and insurance shall not be subject to retainage.

§ 11.1.8.3 Except as set forth in this Section 11.1.8.3, upon Substantial Completion of the Work, the Construction Manager may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 11.1.8. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

*(Insert any other conditions for release of retainage, such as upon completion of the Owner’s audit and reconciliation, upon Substantial Completion.)*

Owner may continue to withhold 150% of the reasonable value of all incomplete items of Work as noted in the Certificate of Substantial Completion and all amounts Owner is entitled to withhold pursuant to the Contract Documents.

§ 11.1.9 If final completion of the Work is materially delayed through no fault of the Construction Manager, the Owner shall pay the Construction Manager any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 11.1.10 Except with the Owner’s prior written approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and suitably stored at the site.

§ 11.1.11 The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors, and the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

**§ 11.1.12** In taking action on the Construction Manager's Applications for Payment the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager, and such action shall not be deemed to be a representation that (1) the Architect has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 11.1.4 or other supporting data; (2) that the Architect has made exhaustive or continuous on-site inspections; or (3) that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

## **§ 11.2 Final Payment**

**§ 11.2.1** Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when

- .1 the Construction Manager has fully performed the Contract, except for the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
- .3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2.

**§ 11.2.2** Within 30 days of the Owner's receipt of the Construction Manager's final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

**§ 11.2.2.1** If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors' findings to the Architect.

**§ 11.2.2.2** Within seven days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Article 9 of AIA Document A201–2017. The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document A201–2017. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

**§ 11.2.2.3** If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201–2017. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

**§ 11.2.3** The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

<< >>

**§ 11.2.4** If, subsequent to final payment, and at the Owner's request, the Construction Manager incurs costs, described in Sections 7.1 through 7.7, and not excluded by Section 7.9, to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager for such costs, and the Construction Manager's Fee applicable thereto, on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If adjustments to the Contract Sum are provided for in Section 6.1.7, the amount of those adjustments shall be recalculated, taking into account any reimbursements made pursuant to this Section 11.2.4 in determining the net amount to be paid by the Owner to the Construction Manager.

## **§ 11.3 Interest**

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.  
(Insert rate of interest agreed upon, if any.)

5 % « »

## ARTICLE 12 DISPUTE RESOLUTION

### § 12.1 Initial Decision Maker

§ 12.1.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 12 and Article 15 of A201–2017. However, for Claims arising from or relating to the Construction Manager’s Preconstruction Phase services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 12.1.2 of this Agreement shall not apply.

§ 12.1.2 The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017 for Claims arising from or relating to the Construction Manager’s Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.

(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

« »  
« »  
« »  
« »

### § 12.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

[ « » ] Arbitration pursuant to Article 15 of AIA Document A201–2017

[ «X» ] Litigation in a court of competent jurisdiction

If the Owner and Construction Manager do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

## ARTICLE 13 TERMINATION OR SUSPENSION

### § 13.1 Termination Prior to Execution of the Guaranteed Maximum Price Amendment

§ 13.1.1 If the Owner and the Construction Manager do not reach an agreement on the Guaranteed Maximum Price, the Owner may terminate this Agreement upon not less than seven days’ written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than seven days’ written notice to the Owner.

§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement. In no event shall the Construction Manager’s compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.3 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days’ written notice to the Construction Manager for the Owner’s convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days’ written notice to the Owner, for the reasons set forth in Article 14 of A201–2017.

§ 13.1.4 In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of

termination. In no event shall the Construction Manager's preconstruction compensation under this Section exceed the compensation set forth in Section 5.1.

**§ 13.1.5** If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.4:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

**§ 13.1.6** The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.5.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

**§ 13.1.6.1** If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

## **§ 13.2 Termination or Suspension Following Execution of the Guaranteed Maximum Price Amendment**

### **§ 13.2.1 Termination**

The Contract may be terminated by the Owner or the Construction Manager as provided in Article 14 of AIA Document A201–2017.

### **§ 13.2.2 Termination by the Owner for Cause**

**§ 13.2.2.1** If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201–2017, the amount, if any, to be paid to the Construction Manager under Article 14 of AIA Document A201–2017 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201–2017.

**§ 13.2.2.2** The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as

the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.

### § 13.2.3 Termination by the Owner for Convenience

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Construction Manager a termination fee as follows:

*(Insert the amount of or method for determining the fee, if any, payable to the Construction Manager following a termination for the Owner's convenience.)*

« »

### § 13.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017; in such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Article 14 of AIA Document A201–2017, except that the term “profit” shall be understood to mean the Construction Manager’s Fee as described in Sections 6.1 and 6.3.5 of this Agreement.

## ARTICLE 14 MISCELLANEOUS PROVISIONS

§ 14.1 Terms in this Agreement shall have the same meaning as those in A201–2017. Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

### § 14.2 Successors and Assigns

§ 14.2.1 The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 14.2.2 of this Agreement, and in Section 13.2.2 of A201–2017, neither party to the Contract shall assign its rights in the Contract (including the right to compensation) without the express and written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract. Any assignee shall be bound by all terms and conditions of this Agreement as if named specifically herein.

§ 14.2.2 The Owner may, without consent of the Construction Manager, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner’s rights and obligations under the Contract Documents. The Construction Manager shall execute all consents reasonably required to facilitate the assignment.

### § 14.3 Insurance and Bonds

#### § 14.3.1 Preconstruction Phase

The Construction Manager shall maintain the following insurance for the duration of the Preconstruction Services performed under this Agreement. If any of the requirements set forth below exceed the types and limits the Construction Manager normally maintains, the Owner shall reimburse the Construction Manager for any additional cost.

§ 14.3.1.1 Commercial General Liability with policy limits of not less than «one million dollars» (\$ 1,000,000 ) for each occurrence and one million dollars (\$ 1,000,000 ) in the aggregate for bodily injury and property damage.

§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of not less than one million dollars (\$ 1,000,000 ) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 14.3.1.3 The Construction Manager may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 14.3.1.1 and 14.3.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.



§ 14.3.1.4 Workers' Compensation at statutory limits and Employers Liability with policy limits not less than one million dollars (\$ 1,000,000 ) each accident, one million dollars (\$ 1,000,000 ) each employee, and one million dollars (\$ 1,000,000 ) policy limit.

§ 14.3.1.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than five million dollars (\$ 5,000,000 ) per claim and five million dollars (\$ 5,000,000 ) in the aggregate.

§ 14.3.1.6 Other Insurance

*(List below any other insurance coverage to be provided by the Construction Manager and any applicable limits.)*

Coverage

Limits

§ 14.3.1.7 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 14.3.1.

§ 14.3.2 Construction Phase

After execution of the Guaranteed Maximum Price Amendment, the Owner and the Construction Manager shall purchase and maintain insurance as set forth in AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, Exhibit B, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 14.3.2.1 The Construction Manager shall provide bonds as set forth in AIA Document A133™-2019 Exhibit B, and elsewhere in the Contract Documents.

§ 14.4 Notice in electronic format, pursuant to Article 1 of AIA Document A201-2017, may be given in accordance with AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

*(If other than in accordance with AIA Document E203-2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)*

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§14.5 Public Records Acknowledgement. The Construction Manager and Owner acknowledge that any written materials received by Owner are subject to public disclosure under the Idaho Public Records Law, Chapter 1 of Title 74 of the Idaho Code. As such, the Construction Manager agrees that Owner, with this Agreement, acquires the right to use all written materials, including but not limited to reports, information, data, images, diagrams, plans, and any other written documents, prepared for and actually delivered to Owner by Construction Manager. Owner shall have the authority to release, publish, or otherwise use any written materials delivered to Owner, in whole or in part. Written materials(s) may be provided to other entities, without cost to Owner or payment or notice to the Construction Manager. Any re-use of written materials shall be at Owner's sole risk and without liability to the Construction Manager.

Nothing in this section shall be constructed to entitle Owner to any materials owned by the Construction Manager which were not delivered or received by Owner, even if those materials were used by the Construction Manager to produce the written materials delivered to Owner or if the written materials delivered to Owner were used to develop, improve, or add value to anything the Construction Manager does not deliver to Owner.

§ 14.5 Conflict of Interest. The Construction Manager covenants that it presently has no interest, and will not acquire any interest, direct or indirect, in the Project which would conflict in any manner or degree with the performance of its services hereunder. The Construction Manager further covenants that, in performing this Agreement, it will employ no

person who has any such interest. Should any conflict of interest arise during the performance of this Agreement, the Construction Manager shall immediately disclose such conflict to Owner.

**§ 14.6 Jurisdiction and Venue.** It is agreed that this Agreement shall be construed under and governed by the laws of the State of Idaho. In the event of litigation concerning it, it is agreed that proper venue shall be the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Bonneville, or the United States District Court for the District of Idaho."

**§ 14.7 Indemnification** The Construction Manager agrees, to the fullest extent permitted by law, to indemnify and hold harmless Owner, its elected officials, officers, employees, and agents against all damages liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the Construction Manager or its subcontractor's performance of this Agreement, neglect in safeguarding the work, use of unacceptable materials in construction, any act or omission, neglect, or misconduct of the Construction Manager or its subcontractors, any claims or amounts recovered from the Construction Manager's infringements of patent, trademark or copyright, or from any claims or amounts arising or recovered under the Workmen's Compensation Act or any other law, ordinance, order or decree.

Within the limits of the Idaho Tort Claims Act and the Idaho Constitution, Owner agrees to indemnify, defend, and hold harmless the Construction Manager and its officers, agents, and employees against all liability, loss, and costs arising from actions, suits, claims, or demands for the acts or omission of Owner and its elected officials, officers, employees and agents, in performance of this Agreement. The Parties acknowledge that the City's limits of liability, with respect to claims covered by the Idaho Tort Claims Act, Idaho Code § 6-926.

Neither party shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence or for the negligence of others.

**§ 14.8 Non-Discrimination.** The Construction Manager shall not discriminate against any employee or applicant for employment on the basis of race, color, religion, creed, political ideals, sex, age, marital status, physical, or mental handicap, gender identity/expression, sexual orientation, or national origin. Nothing in this section shall require The Construction Manager to go beyond the reasonable accommodation requirements of the Americans with Disabilities Act in regards to accommodating any employee or applicant for employment.

**§ 14.9 Independent Contractor** The parties agree that no employer-employee relationship is established between the Construction Manager and Owner by the terms of this Agreement. It is understood by the parties that the Construction Manager is an independent contractor and as such neither it nor its employees, agents, representatives or subcontractors, if any, are employees of Owner for the purposes of tax, retirement system, or social security (FICA) withholding.

**§ 14.10 Anti-Boycott Against Israel Act.** Pursuant to Idaho Code section 67-2346, if payments under this Agreement exceed one hundred thousand dollars (\$100,000) and the Construction Manager employs ten (10) or more persons, Construction Manager certifies that it is not currently engaged in, and shall not for the duration of this Agreement engage in, a boycott of goods or services from Israel or territories under its control. The terms in this Paragraph that are defined in Idaho Code section 67-2346 shall have the meaning defined therein.

« »

## ARTICLE 15 SCOPE OF THE AGREEMENT

**§ 15.1** This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

**§ 15.2** The following documents comprise the Contract Documents:

- .1 AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
- .2 AIA Document A133™-2019, Exhibit A, Guaranteed Maximum Price Amendment, if executed
- .3 AIA Document A133™-2019, Exhibit B, Insurance and Bonds

- .4 AIA Document A201™–2017, General Conditions of the Contract for Construction, notwithstanding the forgoing, the following sections of AIA Document A201™–2017, General Conditions of the Contract for Construction, are specifically excluded from the Contract Documents:

- .1 Paragraph 3.1 “Governing Law” and all references to that paragraph in the Contract Documents.
- .2 Paragraph 3.18 “Indemnification” and all references to that paragraph in the Contract Documents.
- .3 Sections 15.3 and 15.4 of Article 15 “Claims and Disputes,” and all references to those sections in the Contract Documents.

- .5 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:  
(Insert the date of the E203-2013 incorporated into this Agreement.)

« »

- .6 Other Exhibits:  
(Check all boxes that apply.)

- [ « » ] AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, dated as indicated below:  
(Insert the date of the E234-2019 incorporated into this Agreement.)

« »

- [ « » ] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

- .7 Other documents, if any, listed below:

Priority 1A in the Terminal Expansion Planning Study Report prepared by Alliaance and T-O Engineers dated May 2022

Attachment B: Required Federal Contract Provisions for the Construction Contract.

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Construction Manager’s bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

« »

**§ 15.3 Conflict with Contract Documents.** In the event that there exists a conflict between any of the Contract Documents and this document, the terms of this document shall control.

This Agreement is entered into as of the day and year first written above.

OWNER (Signature)

« »« »

(Printed name and title)

CONSTRUCTION MANAGER (Signature)

« »« »

(Printed name and title)

TEL 202

# Memorandum

File #: 23-208

City Council Meeting

**FROM:** Randall Fife  
**DATE:** Monday, July 10, 2023  
**DEPARTMENT:** City Attorney

## Subject

Ordinance Restructuring Title 3 and Rescinding Code Section 3-2-9 regulating ambulance operations.

## Council Action Desired

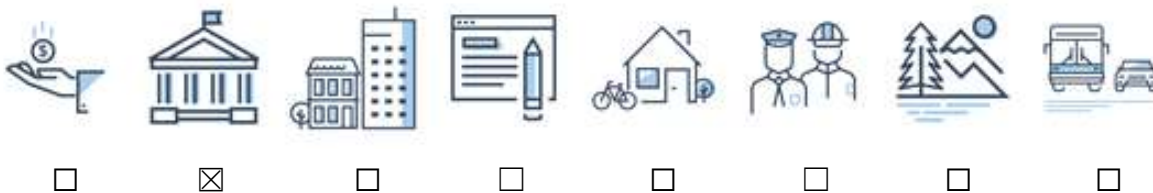
☒ Ordinance ☐ Resolution ☐ Public Hearing  
☐ Other Action (Approval, Authorization, Ratification, etc.)

Approve the Ordinance restructuring Title 3 and rescinding Code Section 3-2-9 regulating ambulance operations under a suspension of the rules requiring three complete and separate readings, request that it be read by title and published by summary (or consider the Ordinance on the first reading and that it be read by title, reject the Ordinance, or take other action deemed appropriate).

## Description, Background Information & Purpose

Title 3, governing the City's various Departments, has been rewritten to be more consistent across Departments, to promote flexibility based upon City and Department needs, and to clarify duties and responsibilities. In addition, the Ordinance rescinds City regulation of ambulances because State licensure and regulation adequately addresses ambulance activities.

## Alignment with City & Department Planning Objectives



The Ordinance promotes good governance by simplifying and making consistent the language that regulates Departments, while also building in Department flexibility.

## Interdepartmental Coordination

All City Departments participated in this Title 3 rewrite.

## Fiscal Impact

None.

**Legal Review**

The Ordinance was drafted by the Legal Department

## **ORDINANCE NO.**

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; AMENDING TITLE 3, STANDARDIZING AND SIMPLIFYING LANGUAGE AND INTERNAL CITY DEPARTMENTAL STRUCTURE; DELETION OF SECTION 3-2-9 REGULATING THE LICENSING OF AMBULANCE SERVICES; PROVIDING SEVERABILITY, CODIFICATION, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

WHEREAS, City organization and functions are regularly reviewed to promote efficiency, good governance, tax savings, and good service; and

WHEREAS, Title 3 of the City Code organized internal City Departmental structure in a formal manner that does facilitate organizational flexibility that allows the City to timely anticipate or respond to internal and external “customer” needs; and

WHEREAS, nothing in this Ordinance alters or diminishes the powers and responsibilities of the Council to establish City policies through ordinances, directives, and/or resolutions; and

WHEREAS, the day-to day administrative and supervisory role of a modern Mayor (as well as the authority of the Council over Directors and the City budget and policies) will continue to provide needed oversight and accountability of the various Department Directors; and

WHEREAS, Department Directors and other employee job descriptions have been and continue to be collated, reviewed, updated, managed, and modernized by the Human Resource Department, which makes their inclusion in Title 3 no longer necessary; and

WHEREAS, development of the City Personnel Manual; the Idaho Falls Police Department Personnel Manual; internal Department policies and procedures; collective bargaining agreements; Council Ordinances and Resolutions; and applicable Federal and State laws and regulations will continue to govern and inform decisions related to City governance following the streamlining of Title 3; and

WHEREAS, because the State’s ambulance services licensing regulation is sufficient to address City interests, the Ordinance eliminates City regulation and oversight of ambulance services (Section 3-2-9 of the Code); and

WHEREAS, adoption of this Ordinance will not result in any disruption or discontinuation of any essential City function and will not result in any increased costs to the City or to taxpayers.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY

OF IDAHO FALLS, IDAHO, THAT:

**SECTION 1:** Title 3, Chapter 1 of the City Code of the City of Idaho Falls, Idaho, is hereby rescinded in its entirety and immediately replaced with the following:

3-1-1: **ESTABLISHMENT OF POLICE DEPARTMENT:** The Police Department is hereby established as an administrative department of the City.

3-1-2: **APPOINTMENT OF THE CHIEF OF POLICE; MANAGEMENT:** The Police Department shall be managed by the Chief of Police, who shall be appointed by the Mayor, subject to confirmation by a vote of at least four (4) members of the Council. The Chief of Police may be removed by the Mayor, with or without cause, subject to a confirming vote of at least four (4) members of the Council, or by the Council on its own initiative, upon a unanimous vote of the full Council.

3-1-3: **RESPONSIBILITIES OF DEPARTMENT:** The Police Department shall have the following general responsibilities and authority:

- (A) The Chief of Police shall be the chief administrative officer of the Police Department and all officers and employees of the Department shall be under the Chief's immediate supervision, direction and control, including code enforcement, parking, emergency dispatch, and animal control enforcement, prevention, and other related activities;
- (B) Organization of the Police Department as is deemed to be in the best interests of the City, including organizing the Police Department into divisions, groups, or subgroups;
- (C) The Department shall ensure the laws of the State of Idaho and Ordinances of the City are obeyed and executed and shall have such other powers and duties prescribed herein or granted or imposed by law;
- (D) Preparation and presentation of the annual operating and capital budget of the Department;
- (E) Administration of the operating budget of the Department in accordance with the annual appropriation Ordinance adopted by the Council; and
- (F) Administration, management, and assumption of such other duties, programs, and policies as may be directed by the Mayor and Council.

3-1-4: **POLICE OFFICERS:** The Chief of Police and every police officer before entering upon their duties shall subscribe to the official oath set forth in Chapter 9, Title 1 of this Code. All police officers shall be subject to the direction of the Mayor, Council and Chief of Police. All police officers shall perform all duties of police officers, preserve order and peace, ensure all laws are enforced, and carry out the lawful instructions of the Chief in all matters pertaining to the enforcement of laws, the protection of persons and property within the City, and internal established policy, procedure, and regulation, including those contained in the Idaho Falls Personnel Policy Manual, the Idaho Falls Police Policy Manual, and the Idaho Falls Police Department Policy and Procedures.



3-1-5: **REMOVAL OF POLICE OFFICERS:** Any officer who neglects or refuses to report any violation of law by any other officer of the police force or who fails to observe the rules or regulations of the Police Department, may be removed from office or employment. Such removal shall be in accordance with the Idaho Falls Personnel Policy, relevant laws, Ordinances, and Police Department rules and regulations, including the Idaho Falls Personnel Policy. A non-probationary police officer shall be removed from office, suspended, demoted, or discharged only for cause, based upon the preponderance of evidence and materials considered.

3-1-6: **LIMITATION OF OUTSIDE EMPLOYMENT:** No member of the Police Department shall engage in any other employment or undertaking which is reasonably likely to interfere with the performance of their duties or which will bring disrespect upon the City or the Department. Before engaging in any outside employment or undertaking, all members of the Police Department shall comply with the current Personnel Policy and Department Policy.

3-1-7: **POWERS OF POLICE OFFICERS:** All police officers may exercise, to the fullest extent permitted by law, all authority, including extraterritorial authority, conferred upon them pursuant to Idaho Code.

3-1-8: **NO PRIVATE DUTY:** Nothing in this Chapter shall create a private right, duty or obligation of the City in favor of any person, or give rise to any private right of action, on account of any failure by the City or any employee of the Police Department to perform the duties prescribed herein.

**SECTION 2:** Title 3, Chapter 2 of the City Code of the City of Idaho Falls, Idaho, is hereby rescinded in its entirety and immediately replaced with the following:

3-2-1: **ESTABLISHMENT OF FIRE DEPARTMENT:** The Fire Department is hereby established as an administrative department of the City.

3-2-2: **APPOINTMENT OF FIRE CHIEF; MANAGEMENT:** The Fire Department shall be managed by the Fire Chief. The Fire Chief shall be appointed by the Mayor, subject to confirmation by at least four (4) members of the Council. The Fire Chief may be removed by the Mayor, with or without cause, subject to a confirmation by a vote of at least four members of the Council, or by the Council upon its own initiative upon a unanimous vote of the full Council.

3-2-3: **RESPONSIBILITIES OF DEPARTMENT:** The Fire Department shall have the following responsibilities and authority:

- (A) Organization of the Fire Department as is deemed to be in the best interests of the City, including organizing the Fire Department into Divisions, groups, or subgroups;
- (B) Management of the Fire Department and the equipment and property belonging thereto; supervision and direction of the Department in preventing and fighting fires; preventing conditions hazardous to life, property or public welfare in occupancy of structures or premises; reducing fire hazards in the structure or on the premises from occupancy or operation; matters related to the construction, extension, repair alteration or removal of fire

suppression or alarm systems; and conditions affecting the safety of fire fighters and emergency responders during emergency operations;

- (C) Provision, management regulation, and coordination of Emergency Medical Services (EMS) operations, equipment and personnel, including coordination of associated dispatch services, contacts with other agencies, and mutual aid agreements; and
- (D) Reporting to the Mayor and Council, as requested;
- (E) Appointment of a Fire Code Official for the purpose of administering and enforcing the International Fire Code, as adopted and amended;
- (F) General authority and responsibilities specified within the International Fire Code, as amended as necessary for the implementation, administration, and enforcement of the Fire Code, including the authority to appoint inspectors as necessary to administer the Fire Code Official's duties under the Fire Code;
- (G) Preparation and presentation of the annual operating and capital budget of the Department;
- (H) Administration of the operating budget of the Department in accordance with the annual appropriation Ordinance adopted by the Council; and
- (I) Administration, management, and assumption of such other duties, programs, and policies as may be directed by the Mayor and Council.

3-2-4: **LIMITATION OF OUTSIDE EMPLOYMENT:** No member of the Fire Department shall engage in any other employment or undertaking which is reasonably likely to interfere with the performance of their duties or which will bring disrespect upon the City or the Department. Before engaging in any outside employment or undertaking, all members of the Fire Department shall comply with the current Personnel Policy and Department Policy.

3-2-5: **NO PRIVATE DUTY:** Nothing in this Chapter shall create a private right, duty or obligation of the City in favor of any person, or give rise to any private right of action, on account of any failure by the City or any employee of the Fire Department to perform the duties prescribed herein.

**SECTION 3:** Title 3, Chapter 3 of the City Code of the City of Idaho Falls, Idaho, is hereby rescinded in its entirety and immediately replaced with the following:

3-3-1: **ESTABLISHMENT OF MUNICIPAL SERVICES DEPARTMENT:** The Department of Municipal Services is hereby established as an administrative department of the City.

3-3-2: **APPOINTMENT OF MUNICIPAL SERVICES DIRECTOR; MANAGEMENT:** The Department of Municipal Services shall be managed by a Municipal Services Director who shall be appointed by the Mayor, subject to confirmation by at least four (4) members of the Council. The Director may be removed by the Mayor, with or without cause, subject to confirmation by a vote of at least four (4) members of the Council, or by the Council upon its own initiative upon a unanimous vote thereof.

3-3-3:     **RESPONSIBILITIES OF DEPARTMENT:** The Municipal Services Department shall have the following responsibilities and authority:

- (A) Organization of the Municipal Services Department as is deemed to be in the best interests of the City, including organizing the Municipal Services Department into divisions, groups, or subgroups;
- (B) Management and supervision of all City shops, garages, including all equipment and vehicles; administering and maintaining all public buildings and other real or personal property owned or leased by the City; and administering and controlling the purchase of all equipment and supplies used by the various departments and divisions throughout the City;
- (C) Preparation, supervision and control of the annual budget, supervision of the general account of the City, maintaining and keeping records of all insurance coverage, in cooperation with the Clerk; accounting for all City utility revenue; accounting for all moneys belonging to the City, filing proper reports and financial statements;
- (D) Custody of all moneys belonging to the City and rendering of a monthly report under oath showing the state of the balance of all monies and funds belonging to the City; managing and depositing all City funds; and having charge of all funds and records of Local Improvement Districts; investing all public funds in a sound, prudent and lawful manner and keeping a record of all unpaid checks or warrants of the City in cooperation with the Clerk; keeping a record of all outstanding bonds against the City in cooperation with the Clerk, showing the amount of each, to whom the bonds were issued and when any bonds are purchased, paid or cancelled; collecting all utility revenue, and performing all other duties imposed upon the office by law;
- (E) Maintenance of all financial records in cooperation with the Clerk, in accordance with generally accepted accounting practices, audit requirements, and as required by law, regulations, and City policy;
- (F) Operation and maintenance of all computer and electronic media record-keeping equipment for the Department; administration and supervision of all data entry, computer programming and other record-keeping or electronic data retrieval operations of the Department;
- (G) Coordination of operation and maintenance of City Information Technology departments, as appropriate;
- (H) Administration of the operating budget of the Department in accordance with the annual appropriation Ordinance adopted by the Council; and
- (I) Administration, management, and assumption of such other duties, programs, and policies as may be directed by the Mayor and Council.

3-3-4:     **NO PRIVATE DUTY:** Nothing in this Chapter shall create a private right, duty or obligation of the City in favor of any person, or give rise to any private right of action, on account

of any failure by the City or any employee of the Municipal Services Department to perform the duties prescribed herein.

**SECTION 4:** Title 3, Chapter 4 of the City Code of the City of Idaho Falls, Idaho, is hereby rescinded in its entirety and immediately replaced with the following:

3-4-1:     **ESTABLISHMENT OF IDAHO FALLS POWER DEPARTMENT:** Idaho Falls Power (or “IFP” and formerly known as the “Electric Light Division”) is hereby established as an administrative department of the City.

3-4-2:     **APPOINTMENT OF IDAHO FALLS POWER DEPARTMENT DIRECTOR; MANAGEMENT:** Idaho Falls Power shall be managed by the Director of Idaho Falls Power. The Director shall be appointed by the Mayor, subject to confirmation by at least four (4) members of the Council. The Director may be removed by the Mayor, with or without cause, subject to a confirmation by a vote of at least four members of the Council, or by the Council upon its own initiative upon a unanimous vote of the full Council.

3-4-3:     **RESPONSIBILITIES OF DEPARTMENT:** The Idaho Falls Power Department shall have the following responsibilities and authority:

- (A) Establishment of technical standards, methods and procedures for the Department and assuring the same are properly executed;
- (B) Employment, assignment, or reassignment all personnel within the Department and ensuring that all equipment is efficiently used and maintained;
- (C) Formulating and recommending to the Mayor and Council all policies and procedures for the planning, design, construction, maintenance and improvement of all hydroelectric generating facilities and electric distribution and transmission lines and equipment;
- (D) Constructing, operating and maintaining all electric distribution and transmission lines and facilities, hydroelectric generating plants and all equipment and facilities necessary to generate, transmit and distribute electrical energy to the customers of Idaho Falls Power;
- (E) Constructing, operating, and maintaining all poles, conduit, fiber optic cables, electronics, physical facilities and financial obligations necessary to provide fiber optic broadband access for the City and its wholesale and retail customers.
- (F) Administering and enforcing all rules, regulations, ordinances and statutes pertaining to the distribution of electrical energy to customers of Idaho Falls Power, and establishing all rates, fees and tariffs charged to such customers;
- (G) Administering all covenants, terms and conditions on all ordinances providing for the issuance of bonds to construct any hydroelectric generating facility owned by the City, insofar as the same pertain to the construction, operation and maintenance thereof;
- (H) Installing, operating, and maintaining all traffic signalization equipment owned or operated

by the City;

- (I) Performing all actions, duties or responsibilities as may be necessary for the sound, reasonable and prudent operation of Idaho Falls Power;
- (J) Preparation and presentation of the annual operating and capital budget of the Department;
- (K) Administration of the operating budget of the Department in accordance with the annual appropriation Ordinance adopted by the Council; and
- (L) Administering, managing, and assumption of such other duties, programs, and policies as may be directed by the Mayor and Council.

3-4-4: NO PRIVATE DUTY: Nothing in this Chapter shall create a private right, duty or obligation of the City in favor of any person, or give rise to any private right of action, on account of any failure by the City or any employee of the Idaho Falls Power Department to perform the duties prescribed herein.

**SECTION 5:** Title 3, Chapter 5 of the City Code of the City of Idaho Falls, Idaho, is hereby rescinded in its entirety and immediately replaced with the following:

3-5-1: ESTABLISHMENT OF PUBLIC WORKS DEPARTMENT: The Department of Public Works is hereby established as an administrative department of the City.

3-5-2: APPOINTMENT OF PUBLIC WORKS DIRECTOR; MANAGEMENT: The Department of Public works shall be managed by a Public Works Director, who shall be appointed by the Mayor, subject to confirmation by a vote of at least four (4) members of the Council. The Director may be removed by the Mayor, with or without cause, subject to a confirming vote of at least four (4) members of the Council, or by the Council on its own initiative, upon a unanimous vote of the full Council.

3-5-3: RESPONSIBILITIES OF DEPARTMENT: The Public Works Department shall have the following responsibilities and authority:

- (A) Organization of the Public Works Department as is deemed to be in the best interests of the City, including organizing the Public Works Department into divisions, groups, or subgroups;
- (B) Establishing technical standards, methods and procedures for the Department and ensuring that they are properly executed;
- (C) Employment, assignment or reassignment all personnel within the Department, resolution of all disputes between any division of the Department, and resolution of conflicting demands for labor and equipment;
- (D) Carrying out public works construction projects approved by the Mayor and Council according to design and time schedules within allocated budgets;

- (E) Formulation and implementation policies and procedures for the planning, design, construction, maintenance, repair, and improvement of all public works owned or operated by the City, except as otherwise provided in this Code;
- (G) Constructing, operating, and maintaining all public streets, sidewalks, alleys, bridges, highways and rights-of-way, including the placement and operation of street regulatory and informational signs;
- (H) Constructing, operating, and maintaining the City wastewater system, facilities, and appurtenances; including wastewater collection and treatment, sanitary sewers, pumping stations, storm sewers, drains, ditches, culverts, streams, effluent, and water courses under the jurisdiction of the City;
- (I) Administering all rules, regulations and ordinances pertaining to the construction, maintenance and operation of all streets, sidewalks, rights-of-way, easements, wastewater sanitation facilities, waterlines and pumps, and communication lines and subdivision improvements;
- (J) Making of all surveys, maps, public works plans, drawings, utility construction/maintenance in the right-of-way, and other documents required for the construction, maintenance and operation of all public works owned or operated by the City;
- (K) Preparation of contract drawings, specifications and cost estimates for all public works construction and maintenance and the administration of such construction, including field inspections;
- (L) Constructing, operating, and maintaining all public water supply and distribution facilities;
- (M) Collecting and disposing of all refuse and the cleaning of all streets and alleys, including the removal of snow therefrom;
- (N) Collecting, maintaining, and distributing mapping and geographic information including aerial photography, cadastral, water, wastewater, storm, sanitation, snow, street, traffic, and related data;
- (O) Preparation and presentation of the annual operating and capital budget of the Department;
- (P) Administration of the Operating budget of the Department in accordance with the annual appropriation Ordinance adopted by the Council; and
- (Q) Administration, management, and assumption of such other duties, programs, and policies as may be directed by the Mayor and Council.

3-5-4: NO PRIVATE DUTY: Nothing in this Chapter shall create a private right, duty or obligation of the City in favor of any person, or give rise to any private right of action, on account of any failure by the City or any employee of the Public Works Department to perform the duties

prescribed herein.

**SECTION 6:** Title 3, Chapter 6 of the City Code of the City of Idaho Falls, Idaho, is hereby rescinded in its entirety and immediately replaced with the following:

3-6-1:     **ESTABLISHMENT OF THE PARKS AND RECREATION DEPARTMENT:** The Parks and Recreation Department is hereby established as an administrative department of the City.

3-6-2:     **APPOINTMENT OF THE PARKS AND RECREATION DEPARTMENT DIRECTOR; MANAGEMENT:** The Parks and Recreation Department shall be managed by the Parks and Recreation Director, under the supervision and control of the Mayor and Council. The Director shall be appointed by the Mayor, subject to confirmation by a vote of at least four (4) members of the Council. The Director may be removed by the Mayor, with or without cause, subject to a confirming vote of at least four (4) members of the Council, or by the Council on its own initiative upon a unanimous vote thereof.

3-6-3:     **RESPONSIBILITIES OF DEPARTMENT:** The Parks and Recreation Department shall have the following responsibilities and authority:

- (A) Maintaining, operating, and controlling all public parks, playgrounds, cemeteries, swimming pools, community centers, gymnasiums, rodeo grounds, athletic fields, golf courses, skate parks, tennis courts, pickleball courts, amusement parks, recreational bike and pedestrian trails and pathways; and the Idaho Falls Zoo at Tautphaus Park, all of which are owned by the City;
- (B) Establishing and administering all budgets for the operation of the Department and collecting all revenues accruing to the City relating to recreational facilities or lands owned by the City; and
- (C) Administering all public recreational activities, programs, leagues, tournaments, and events sponsored and/or owned by the City;
- (D) Preparation and presentation of the annual operating and capital budget of the Department;
- (E) Administration of the operating budget of the Department in accordance with the annual appropriation Ordinance adopted by the Council; and
- (F) Administration, management, and assumption of such other duties, programs, and policies as may be directed by the Mayor and Council.

3-6-4:     **NO PRIVATE DUTY ESTABLISHED:** Nothing in this Chapter shall create a private right, duty or obligation of the City in favor of any person, or give rise to any private right of action, on account of any failure by the City or any employees of the Parks and Recreation Department to perform the duties prescribed herein.

**SECTION 7:** Title 3, Chapter 7 of the City Code of the City of Idaho Falls, Idaho, is hereby rescinded in its entirety and immediately replaced with the following:

3-7-1: ESTABLISHMENT OF AIRPORT DEPARTMENT: The Airport Department (or “Idaho Falls Regional Airport” or “IFRA” or the “Airport” and formerly known as “Fanning Field” or “Idaho Falls Municipal Airport”) is hereby established as an administrative department of the City.

3-7-2: APPOINTMENT OF AIRPORT DEPARTMENT DIRECTOR; MANAGEMENT: The Airport Department shall be managed by the Airport Director. The Airport Director shall be appointed by the Mayor, subject to confirmation by a vote of at least four (4) members of the Council. The Airport Director may be removed by the Mayor, with or without cause, subject to a confirming vote of at least four members of the Council, or by the Council upon its own initiative upon a unanimous vote of the full Council.

3-7-3: RESPONSIBILITIES OF DEPARTMENT: The Airport Department shall have the following responsibilities and authority;

- (A) Supervising and managing all uses, operations and maintenance of all facilities, appurtenances, structures and equipment at the Idaho Falls Regional Airport;
- (B) Administration and enforcement of all rules, regulations, Ordinances and statutes of the City, the State of Idaho and the United States of America, insofar as the same may be applicable to the operation of the Airport;
- (C) Recommending and advising the Council regarding Airport development, federal and state grants, budgets, policies, operations and design, and construction of new facilities;
- (D) Supervision and control of all employees of the Airport Department;
- (E) Administration of the budget of the Airport Department and administration and ensuring the collection of all revenues, fees, tariffs and charges derived from the operation of the Department;
- (F) Provision of the safe, efficient, and convenient operation of the Airport and the facilities, structures and improvements thereon;
- (G) Preparation and presentation of the annual operating and capital budget of the Department;
- (H) Administration of the operating budget of the Department in accordance with the annual appropriation Ordinance adopted by the Council; and
- (I) Administration, management, and assumption of such other duties, programs, and policies as may be directed by the Mayor and Council.

3-7-4: RULES AND REGULATIONS: The Council may adopt reasonable operational rules and regulations for the Airport and for the safe and efficient operation thereof. Such rules and regulations shall be posted in a conspicuous place at the Airport and shall be published in pamphlet form and shall be distributed free of charge to all persons requesting the same.



3-7-5: NO PRIVATE DUTY: Nothing in this Chapter shall create a private right, duty or obligation of the City in favor of any person, or give rise to any private right of action, on account of any failure by the City or any employee of the Airport Department to perform the duties prescribed herein.

**SECTION 8:** Title 3, Chapter 8 of the City Code of the City of Idaho Falls, Idaho, is hereby rescinded in its entirety and immediately replaced with the following:

3-8-1: ESTABLISHMENT OF COMMUNITY DEVELOPMENT SERVICES DEPARTMENT: The Department of Community Development Services is hereby established as an administrative department of the City.

3-8-2: APPOINTMENT OF COMMUNITY DEVELOPMENT SERVICES DEPARTMENT DIRECTOR; MANAGEMENT: The Community Development Services Department shall be managed by the Community Development Services Director who shall be appointed by the Mayor, subject to confirmation by at least four (4) members of the Council. The Director may be removed by the Mayor, with or without cause, subject to confirmation by a vote of at least four (4) members of the Council, or by the Council upon its own initiative upon a unanimous vote thereof.

3-8-3: RESPONSIBILITIES OF DEPARTMENT: The Community Development Services Department shall have the following responsibilities and authority:

- (A) Enforcing all City, City-adopted, and City-utilized codes, policies, and practices, and all supplements and amendments thereto and all other international, State, and uniform codes and Ordinances relating to the construction of any building or structure within the City and any health or safety regulations applicable thereto, except for the International Fire Code (which is administered by the Fire Department);
- (B) Preparing and administering the Comprehensive Plan and any Ordinances, regulations, or policies necessary to implement the same;
- (C) Issuing and enforcing permits issued pursuant to such Codes for which the Department is responsible and the performance of inspections required thereby;
- (D) Establishing and planning all public streets, alleys and thoroughfares within the City, the naming of such streets and thoroughfares, and the issuance of building numbers for structures located thereupon in cooperation with other City Departments;
- (E) Coordinating and administering all laws, statutes, and regulations pertaining to any census of the City or other procedure or analysis conducted for the purpose of determining the population of the City;
- (F) Coordinating and administering any matter involving the Idaho Falls Redevelopment Agency or other similar board or commission whose responsibilities encompass the urban revitalization or growth of the City; and

- (G) Preparation and presentation of the annual operating and capital budget of the Department;
- (H) Administration of the operating budget of the Department in accordance with the annual appropriation Ordinance adopted by the Council; and
- (I) Administration, management, and assumption of such other duties, programs, and policies as may be directed by the Mayor and Council.

3-8-4: **NO PRIVATE DUTY ESTABLISHED:** Nothing in this Chapter shall create a private right, duty or obligation of the City in favor of any person, or give rise to any private right of action, on account of any failure by the City or any employees of the Community Development Services Department to perform the duties prescribed herein.

**SECTION 9:** Title 3, Chapter 9 of the City Code of the City of Idaho Falls, Idaho, is hereby rescinded in its entirety and immediately replaced with the following:

3-9-1: **ESTABLISHMENT OF HUMAN RESOURCES DEPARTMENT:** The Human Resources Department is hereby established as an administrative department of the City.

3-9-2: **APPOINTMENT OF HUMAN RESOURCES DEPARTMENT DIRECTOR; MANAGEMENT:** The Human Resources Department shall be managed by the Director of Human Resources. The Director of Human Resources shall be appointed by the Mayor, subject to confirmation by a vote of at least four (4) members of the Council. The Director of Human Resources may be removed by the Mayor, with or without cause, subject to a confirming vote of at least four (4) members of the Council, or by the Council upon its own initiative upon a unanimous vote thereof.

3-9-3: **RESPONSIBILITIES OF DEPARTMENT:** The Director of Human Resources shall have the following responsibilities and authority:

- (A) Assisting the Mayor and Departments in the recruitment of qualified officers and employees and in the classification of personnel;
- (B) Overseeing, administering, and providing recommendations with regards to programs related to employee wages and benefits;
- (C) Overseeing and providing guidance on employee leave programs (i.e., Family Medical Leave Act (FMLA), military leave, etc.)
- (D) Making recommendations to the Mayor, Council, and other City Departments regarding the City Personnel policy, policies related to City employment, collective bargaining agreements, and assist the other Departments in the administration, management and enforcement thereof;
- (E) Providing oversight and guidance on employee discipline, termination, and investigations, including cases of discrimination and harassment;

- (F) Overseeing programs related to the Drug and Alcohol-Free Workplace Policy;
- (G) Administering Worker's Compensation and all death-on-duty programs;
- (H) Assisting the Mayor and Departments in the processing of grievances filed by City employees;
- (I) Overseeing and making recommendations regarding employee benefit programs, including without limitation, health insurance, life insurance, retiree benefits, deferred compensation plans, PERSI programs and benefits, cafeteria plans or other compensation plans or benefits approved by the Council;
- (J) Assisting the Clerk in the maintenance of general employee personnel files and other personnel-related administrative records;
- (K) Administration and management of labor relations, affirmative action programs and Title VII programs as directed by the Mayor and Council and assisting and training the other Departments in their duties, obligations and responsibilities with respect thereto;
- (L) Establishing, promoting, and fostering appropriate employee safety programs and policies;
- (M) Making recommendations to and assisting the Council and the City staff in the preparation of the annual appropriation ordinance and budget, insofar as employee wages, benefits and claims may impact such ordinance and budget;
- (N) Preparation and presentation of the annual operating and capital budget of the Department;
- (O) Administration of the operating budget of the Department in accordance with the annual appropriation Ordinance adopted by the Council; and
- (P) Administration, management, and assumption of such other duties, programs, and policies as may be directed by the Mayor and Council.

3-9-4: **NO PRIVATE DUTY ESTABLISHED:** Nothing in this Chapter shall create a private right, duty or obligation of the City in favor of any person, or give rise to any private right of action, on account of any failure by the City or any employees of the Human Resources Department to perform the duties prescribed herein.

**SECTION 10:** Title 3, Chapter 10 of the City Code of the City of Idaho Falls, Idaho, is hereby rescinded in its entirety and immediately replaced with the following:

3-10-1: **ESTABLISHMENT OF LEGAL DEPARTMENT:** The Legal Department is hereby established as an administrative department of the City.

3-10-2: **APPOINTMENT OF CITY ATTORNEY; MANAGEMENT:** The City Attorney shall be appointed by the Mayor, subject to confirmation by a vote of at least four (4) members of the Council. The City Attorney may be removed by the Mayor, with or without cause, subject to a

confirming vote of at least four (4) members of the Council, or by the Council upon its own initiative upon a unanimous vote thereof. The Legal Department shall be managed by the City Attorney.

**3-10-3: RESPONSIBILITIES OF LEGAL DEPARTMENT:** The Legal Department shall have the following responsibilities and authority:

- (A) Provision of independent legal advice to the City and representation of the City in all disputes, suits, or proceedings in which the City is involved;
- (B) Performance of duties as may be prescribed by the Idaho Code, Ordinances and Resolutions duly passed;
- (C) Prosecution of violations of City Ordinances, Idaho Code, traffic infractions, and Idaho Code misdemeanors committed within City limits by exercise of the same powers as the County prosecutor including, but not limited to, granting immunity to witnesses;
- (D) Provision of a wide range of independent legal-related advice, support, and information to the Mayor, City, the Council, City staff, City boards, committees, and commissions, the Idaho Falls Public Library, and others, in accordance with federal, State, and City legislation and Council direction;
- (E) Organization and oversight of work of outside legal counsel and determining the scope of outside legal services, as needed;
- (G) Participation in negotiation, mediation, and resolution of sensitive, significant, controversial, and/or complex legal matters;
- (H) Drafting and review of opinions, Resolutions, Ordinances, contracts, and other legal documents and instruments;
- (I) Oversight of the preparation of the City codification of general laws;
- (J) Preparation and presentation of the annual operating and capital budget of the Department;
- (K) Administration of the operating budget of the Department in accordance with the annual appropriation Ordinance adopted by the Council; and
- (L) Administration, management, and assumption of such other duties, programs, and policies as may be directed by the Mayor and Council.

**3-10-4: NO PRIVATE DUTY ESTABLISHED:** Nothing in this Chapter shall create a private right, duty, or obligation of the City in favor of any person, or give rise to any private right of action, on account of any failure by the City or any employees of the Legal Department to perform the duties prescribed herein.

**SECTION 11. Savings and Severability Clause.** The provisions and parts of this Ordinance are

intended to be severable. If any section, sentence, clause, or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this Ordinance.

**SECTION 12.** Codification Clause. The Clerk is instructed to immediately forward this Ordinance to the codifier of the official municipal code for proper revision of the Code.

**SECTION 13.** Publication and Effective Date. This Ordinance, or a summary thereof in compliance with Idaho Code, shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

PASSED by the City Council and APPROVED by the Mayor of the City of Idaho Falls, Idaho, this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

ATTEST:

CITY OF IDAHO FALLS, IDAHO

\_\_\_\_\_  
CORRIN WILDE, CITY CLERK

\_\_\_\_\_  
REBECCA L. NOAH CASPER, Ph.D., MAYOR

(SEAL)

STATE OF IDAHO                    )  
  ) ss:  
County of Bonneville            )

I, CORRIN WILDE, 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 Ordinance entitled, "AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; AMENDING TITLE 3, STANDARDIZING AND SIMPLIFYING LANGUAGE AND INTERNAL CITY DEPARTMENTAL STRUCTURE; DELETION OF SECTION 3-2-9 REGULATING THE LICENSING OF AMBULANCE SERVICES; PROVIDING SEVERABILITY, CODIFICATION, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE."

---

CORRIN WILDE, CITY CLERK

(SEAL)

# Memorandum

**File #:** 23-199

**City Council Meeting**

**FROM:** Wade Sanner, Director  
**DATE:** Tuesday, June 27, 2023  
**DEPARTMENT:** Community Development Services

## Subject

Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards, Hidden Bridge Subdivision

## Council Action Desired

- ☐ Ordinance
 ☐ Resolution
 ☐ Public Hearing

☒ Other Action (Approval, Authorization, Ratification, etc.)

1. Approve the Development Agreement for the Final Plat for Hidden Bridge Subdivision and give authorization for the Mayor and City Clerk to sign said agreement (or take other action deemed appropriate).
2. Accept or Approve the Final Plat for Hidden Bridge Subdivision and give authorization for the Mayor, City Engineer, and City Clerk to sign said Final Plat (or take other action deemed appropriate).
3. Approve the Reasoned Statement of Relevant Criteria and Standards for the Final Plat for Hidden Bridge Subdivision and give authorization for the Mayor to execute the necessary documents (or take other action deemed appropriate).

## Description, Background Information & Purpose

Attached is the application for the Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards for Hidden Bridge Subdivision. The Planning and Zoning Commission considered this item at its December 6, 2022, meeting and unanimously voted to recommend approval for the final plat to the Mayor and City Council as presented. Staff concurs with this recommendation.

## Alignment with City & Department Planning Objectives



A successful Plat should be consistent with the Comprehensive Plan and Zoning Ordinance, which includes policies and goals related to Growth, Sustainability, Transportation, and Livable Communities.

## Interdepartmental Coordination

The Final Plat was reviewed by staff from Fire, Idaho Falls Power, BMPO, Water, Planning, Sewer, and Engineering,

Survey.

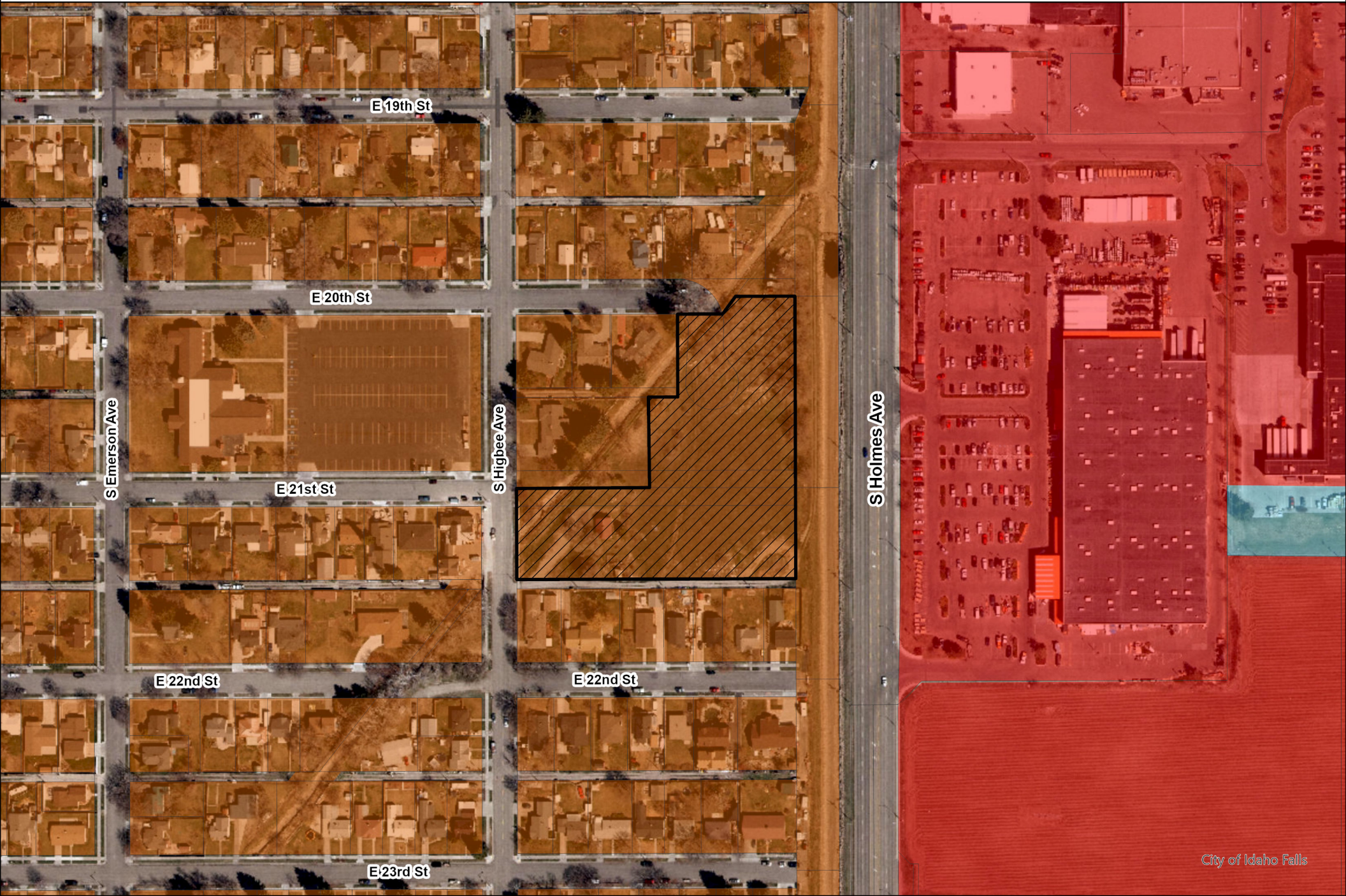
**Fiscal Impact**

NA

**Legal Review**

This application has been reviewed by the City Attorney's Office and is consistent with applicable law.



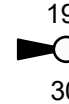








NORTH QUARTER CORNER OF SECTION 30,  
FOUND ALUMINUM CAP MONUMENT  
PURSUANT TO CP&F INSTRUMENT No. 1456376



N 89°49'05" E 2630.13'

2535.01'



NORTHEAST CORNER OF SECTION 30,  
FOUND ALUMINUM CAP MONUMENT  
PURSUANT TO CP&F INSTRUMENT No. 1638497

## HIDDEN BRIDGE SUBDIVISION

A SUBDIVISION OF THE CITY OF IDAHO FALLS, BONNEVILLE COUNTY, IDAHO  
BEING A RE-PLAT OF THE FIRST AMENDED PLAT OF THE BRODBECKS ADDITION  
FILED UNDER INSTRUMENT No. 1221016, LOTS 4-22, BLOCK 17, AND PORTIONS  
OF VACATED STREETS AND ALLEYS IN BRODBECKS ADDITION  
BEING PART OF THE NORTHEAST 1/4 OF SECTION 30,  
TOWNSHIP 2 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN

### NOTES

- ALL LOT LINES COMMON TO A PUBLIC RIGHT-OF-WAY HAVE A FIFTEEN FOOT (15') PERMANENT PUBLIC UTILITY EASEMENT.
- APPROXIMATE CANAL RIGHT-OF-WAY DETERMINED FROM THE TOE OF SLOPE OF THE BERM OF GUSTAFSON LATERAL, SEE CANAL RIGHT-OF-WAY CERTIFICATE.
- APPROXIMATE CANAL RIGHT-OF-WAY DETERMINED BY OFFSETTING THE TOE OF SLOPE OF THE BERM OF THE IDAHO CANAL SIXTEEN FEET (16') WESTERLY AND TYING IT INTO THE TOE OF SLOPE OF AN EXISTING ACCESS ROAD CUT INTO THE BERM OF THE IDAHO CANAL, SEE CANAL RIGHT-OF-WAY CERTIFICATE.

PLAT OF BRODBECKS ADDITION  
BLOCK 15

21ST STREET

PLAT OF BRODBECKS ADDITION  
BLOCK 18

HIGBEE AVENUE

HIDDEN BRIDGE LANE

EXISTING ALLEY WAY

LOT 1

LOT 2

LOT 3

LOT 4

LOT 5

LOT 6

LOT 7

LOT 8

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**STAFF REPORT**  
**Final Plat Hidden Bridge Subdivision**  
**July 13, 2023**



Community  
Development  
Services

**Applicant:** Connect Engineering

**Project Manager:** Naysha Foster

**Location:** Generally located north of 22<sup>nd</sup> St, east of S Higbee Ave, south of E 19<sup>th</sup> St, west of S Holmes

**Size:** Approx. 3.311 acres

**Total Lots:** 28

**Buildable Lots:** 27

**Common Lots:** 1

**Existing Zoning:** TN

North: TN

South: TN

East: LC

West: TN

**Existing Land Uses:**

Site: Vacant

North: Residential

South: Residential

East: Commercial

West: Residential/Church

**Future Land Use Map:**

Urban Core

**Attachments:**

1. Subdivision and Zoning Ordinance Requirements
2. Comprehensive Plan Policies
3. Maps and aerial photos
4. Final Plat

**Requested Action:** To **approve** the final plat for Hidden Bridge Subdivision.

**History:** This property was annexed as part of the original townsite back in 1907. In 2003 the property was replatted as the 1<sup>st</sup> Amended Brodbeck Addition. Also, in 2003 a CUP was granted for single family attached to be constructed. A PUD was approved in 2009. A final plat was applied for to replat as Hidden Bridge that expired. In 2018 as part of the City-wide initiated zone change, the property was rezoned from R-1 to TN. In 2019 the 1<sup>st</sup> Amended Plat of the Brodbeck Addition was vacated.

**Staff Comments:** the final plat application was submitted on October 18, 2022. The plat consists of 28 total lots. 27 buildable lots and 1 common lot, which will contain the storm water retention pond. A 60 foot right-of-way will be dedicated for a local street. The existing alley on the southern portion of the property will be incorporated into the dedicated right of way and will still allow vehicle access for properties to the south. The local street will access 20<sup>th</sup> St to the north, a local street and S Higbee a residential collector, to the southwest. The minimum lot size in the TN zone is 3,000 square feet, however a lot upon which an attached dwelling is located does not need to meet minimum lot dimensions if front and rear setbacks can be met. The block is approximately 588 feet which does not exceed the maximum of 1,300 nor is less than minimum standard of 400 feet. This plat is not in the airport land use overlay zone.

**Staff Recommendation:** Staff has reviewed the plat and finds that it complies with the subdivision ordinance and the development standards of the TN zone. Staff and the Planning and Zoning Commission recommend approval of the final plat.

10-1-5: GENERAL SUBDIVISION STANDARDS:

(I) Cross Sections:

(1) Final geometric design of street sections shall be approved at the time improvement drawings are submitted for approval by the City. Traffic counts and traffic impact studies, when required, shall be performed by the developer and submitted to the City for review and approval.

A traffic study is not required for this final plat as it does not meet the threshold to conduct one.

**Subdivision Ordinance:** Boxes with an “X” indicated compliance with the ordinance

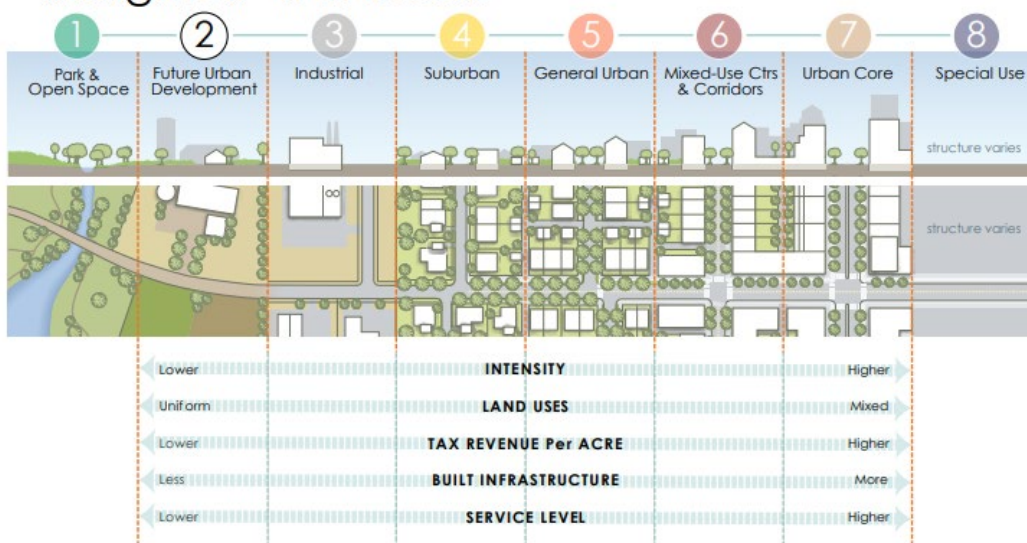
REQUIREMENTS	Staff Review
Requirements listed in Section 10-1:	
Building envelopes sufficient to construct a building.	X
Lot dimensions conform to the minimum standards of Zoning Ordinance.	X
Lots have full frontage on, and access to, a dedicated street.	X
Residential lots do not have direct access to arterial streets.	X
Direct access to arterial streets from commercial or industrial lots shall be permitted only where it can be demonstrated that: 1) The direct access will not impede the flow of traffic on the arterial or otherwise create an unsafe condition; 2) There is no reasonable alternative for access to the arterial via a collector street; 3) There is sufficient sight distance along the arterial from the proposed point of access; 4) The proposed access is located so as not to interfere with the safe and efficient functioning of any intersection; and 5) The developer or owner agrees to provide all improvements, such as turning lanes or signals, necessitated for the safe and efficient uses of the proposed access.	N/A
Adequate provisions shall be made for soil preservation, drainage patterns, and debris and waste disposal and collection.	X
Sidelines of lots shall be at, or near, right angles or radial to the street lines. All corner lots shall have a minimum radius of twenty feet on the property line.	X
All property within the subdivision shall be included within a lot or area dedicated for public use.	X
All corner lots zoned RP through R-3, inclusive, shall be a minimum of ten percent larger in area than the average area of all similarly zoned lots in the plat or subdivision under consideration.	N/A
All major streets in subdivision must conform to the major street plan of the City, as set forth in Comprehensive Plan.	N/A
The alignment and width of previously platted streets shall be preserved unless topographical conditions or existing buildings or structures required otherwise.	X
Residential lots adjoining arterial streets shall comply with: 1) Such lots shall have reverse frontage on the arterial streets, 2) such lots shall be buffered from the arterial street by any effective combination of the following: lot depth, earth berms, vegetation, walls or fences, and structural soundproofing, 3) Minimum lot depth shall be 150 ft except where the use of berms, vegetation, and structures can be demonstrated to constitute an effective buffer, 4) Whenever practical, existing roadside trees shall be saved and used in the arterial buffer, 5) Parking areas shall be used as part of the arterial buffer for high density residential uses, 6) Annexation and	X



development agreement shall include provisions for installation and continued maintenance of arterial buffers.	
Planning Director to classify street on basis of zoning, traffic volume, function, growth, vehicular & pedestrian safety, and population density.	Hidden Bridge Lane: Local Street

## Comprehensive Plan:

### ImaginELF Transects



#### 7. Urban Core

**Snapshot:** The Urban Core Transect denotes the central area which functions as the City core and areas within or in close proximity to Downtown and South Downtown. The Urban Core also includes legacy residential subdivisions platted in a traditional grid pattern. These subdivisions tend to be characterized by taller structures, mixed-use buildings, pedestrian-oriented movement of people, commercial and entertainment enterprises. All housing types, civic buildings, town squares and transit stations are typical, but vary between neighborhoods.

**Local examples:** Downtown, Original Townsite, Highland Park Addition, Crows Addition, Brodbeck's Addition, Riverside Addition

## Zoning Ordinance:

### 11-3-3: PURPOSE OF RESIDENTIAL ZONES

(E) TN Traditional Neighborhood Zone. This zone provides a residential zone which is characterized by a walkable, traditional residential neighborhood pattern with small lots and residences, a mix of housing types, and a grid street pattern with rear alleys. This Zone is situated in the historic neighborhoods within the central part of the City and in other locations where a traditional neighborhood character with a gridded street pattern is desired. The standards in this zone contain elements of a form-based code allowing a variety of uses that will be required to integrate with the established characteristics of the existing neighborhood

### 11-3-4: DIMENSIONAL STANDARDS FOR RESIDENTIAL ZONES.

Table 11-3-1: Standards for Residential Zones

	RE	RP	R1	R2	TN	R3	R3A	RMH
<b>Lot Area</b>								
Lot Area Minimum in ft <sup>2</sup>	1 acre*	12,000	7,000	6,000*	3,000*	5,000*	5,000	3,000
Lot Area Maximum in ft <sup>2</sup>			13,500*					
<b>Site Width</b>								
Site Width at Front Setback, Minimum in ft.	150	60	50	50	25	50	50	25
<b>Setbacks, Minimum in ft.</b>								
Front	40	30*	25*	20*	15*	15	15	15
Front Maximum in ft.					20*			
Side	20	7.5/10*	6	6	5	6	6	5
Rear	40	25	25	25	10	25*	25*	10
<b>Lot Coverage, Building Height, and Density</b>								
Maximum Lot Coverage in %	30	40	40	80	50	80	80	50
Maximum Building Height in ft*	24	24	24	36	*			24
Maximum Density in net units/acre	1	4	6	17	15	35	35	35
*See explanations, exceptions and qualifications in Section 11-3-4A,B,C of this Zoning Code.								

December 6, 2022  
7:00 p.m.

Planning Department  
City Annex Building

**MEMBERS PRESENT:** Commissioners Joanne Denney, George Morrison, Kristi Brower, Margaret Wimborne, Glen Ogden, Arnold Cantu, Lindsey Romankiw.

**MEMBERS ABSENT:** Brent Dixon

**ALSO PRESENT:** Planning Director, Brad Cramer, Assistant Planning Director Kerry Beutler; planner Naysha Foster, David Peterson; and interested citizens.

**CALL TO ORDER:** Joanne Denney called the meeting to order at 7:00 p.m.

**CHANGES TO AGENDA:**

**MINUTES** Cantu moved to accept the minutes of November 6, 2022, Morrison seconded the motion. The motion passed unanimously.

**Business:**

**2. PLAT 22-036: FINAL PLAT: Final Plat for Hidden Bridge Subdivision.**

**Applicant: Barry Bane, Connect Engineering, 2295 N. Yellowstone, Suite 6, Idaho Falls, Idaho.** Bane presented a plat west of Home Depot. The property is zoned TN and has been brought forward with a plat in the past, that did not get finalized, and a new company has now brought this plat forward. Bane stated that it consists of townhome lots, with a dedicated public street throughout the middle of the lots. Bane stated that there is alley way on the south side of the south road, which will be incorporated into the full width of the public street, and they are working with City Engineering to maintain rear access for the homes on the south with a possible rolled curb instead of a high back curb, so they can go in and out of the backs of the homes. Bane stated that there are 2 lots that are non-buildable, with one a storm pond and one up against a canal. Bane stated that all the road improvements along with a bridge going across the knuckle on the northeast corner will be built.

Morrison asked if the south edge of the property has an alley. Bane agreed that is currently an alley and it will be incorporated into a new road and on the far-right side, the alley way will be kept in place so the last lot that has access to the alley will have access to that alley.

Wimborne asked about the bridge location. Bane showed that the car bridge will be for access into the property.

Foster presented the staff report, a part of the record.

No discussion.

**Wimborne moved to recommend to the Mayor and City Council approval of the Final Plat for Hidden Bridge Subdivision, Brower seconded the motion. Denney called for roll call vote: Morrison, yes; Brower, yes; Wimborne, yes; Ogden, yes; Cantu, yes; Romankiw, yes. The motion passed unanimously.**



## **REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS**

### **APPROVAL OF THE FINAL PLAT OF HIDDEN BRIDGE SUBDIVISION GENERALLY LOCATED NORTH OF E 22<sup>ND</sup> ST, EAST OF S HIGBEE AVE, SOUTH E 19<sup>TH</sup> ST, WEST OF S HOLMES AVE**

**WHEREAS**, the applicant filed an application for a final plat on October 18, 2022; and

**WHEREAS**, this matter came before the Idaho Falls Planning and Zoning Commission during a duly noticed public meeting on December 6, 2022; and

**WHEREAS**, this matter came before the Idaho Falls City Council during a duly noticed meeting on July 13, 2023; and

**WHEREAS**, having reviewed the application, including all exhibits entered and having considered the issues presented:

#### **I. RELEVANT CRITERIA AND STANDARDS**

1. The Planning and Zoning Commission considered the request pursuant to the City of Idaho Falls 2013 Comprehensive Plan, the City of Idaho Falls Zoning Ordinance, the City of Idaho Falls Subdivision Ordinance, the Local Land Use Planning Act, and other applicable development regulations.
2. The property is an approximate 3.311-acre property generally located north of E 22<sup>nd</sup> St, east of S Higbee Ave, south of E 19<sup>th</sup> St, west of S Holmes.
3. The property is zoned TN, Traditional Neighborhood Residential.
4. The Final Plat includes 28 total lots, 27 Buildable lots and 1 common lot.
5. Access to the subdivision will come from S Higbee and 20<sup>th</sup> St, way of two local streets.
6. The plat complies with all requirements of the Subdivision Ordinance and Zoning Ordinance.
7. The proposed development is consistent with the principles of the City's Comprehensive Plan.

#### **II. DECISION**

Based on the above Reasoned Statement of Relevant Criteria, the City Council of the City of Idaho Falls approved the Final Plat.

PASSED BY THE CITY COUNCIL OF THE CITY OF IDAHO FALLS

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023

---

Rebecca L. Noah Casper, Mayor

DEVELOPMENT AGREEMENT  
HIDDEN BRIDGE SUBDIVISION

This DEVELOPMENT AGREEMENT HIDDEN BRIDGE SUBDIVISION ("AGREEMENT"), made this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by and between CITY OF IDAHO FALLS, IDAHO, a municipal corporation of the State of Idaho, ("CITY"), whose mailing address is P.O. Box 50220, Idaho Falls, Idaho 83405, and HIDDEN BRIDGE, LLC. ("DEVELOPER"), whose mailing address is 2184 Chaining Way, Suite No. 227, Idaho Falls, Idaho 83401.

WITNESSETH:

WHEREAS, DEVELOPER is the sole owner, in law or equity, of a certain tract of land in the County of Bonneville, State of Idaho, which land (hereafter referred to as "Subdivision"), is more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof; and,

WHEREAS, DEVELOPER desires to develop the Subdivision within CITY and has submitted a plat bearing the Subdivision name described in the caption of this AGREEMENT; and,

WHEREAS, City Engineer, and the Idaho Falls Planning and Zoning Commission, have recommended such development be allowed, subject to certain requirements and obligations on the part of DEVELOPER; and

WHEREAS, CITY is willing to allow the development of the Subdivision within City of Idaho Falls, Idaho, subject to the terms and conditions of this AGREEMENT and the Special Conditions attached hereto; and

WHEREAS, CITY has authority to approve Subdivision plats and the construction of streets, utility lines and other public improvements within CITY; and

WHEREAS, DEVELOPER specifically waives DEVELOPER's right to protest development requirements described in this AGREEMENT, including DEVELOPER's right of judicial review contained in Chapter 52, Title 67, Idaho Code, and pursuant to the standards set forth in § 67-5279, Idaho Code; and,

WHEREAS, DEVELOPER understands that the public improvements required herein are standards required pursuant to Idaho Falls City Code, Title 10, Chapter 1, and are authorized by Idaho Code §§ 67-6513 and 67-6518; and,

WHEREAS, DEVELOPER and CITY believe that without the public improvements required herein, CITY would not be able to otherwise provide for mitigation of the effects of the Subdivision development on the ability of CITY to deliver services without compromising quality of such service delivery to current CITY residents, or without imposing substantial additional costs upon current CITY residents to accommodate the proposed Subdivision; and,

WHEREAS, CITY desires to ensure that public improvements consisting of those described in this AGREEMENT, including Special Conditions for the Subdivision, are constructed; and,

WHEREAS, DEVELOPER understands that a waiver of public improvements is available pursuant to Idaho Falls City Code, but DEVELOPER specifically does not wish to request such a waiver and wishes to enter into this AGREEMENT; and,

WHEREAS, DEVELOPER enters into this AGREEMENT of DEVELOPER's own free will and accord, without coercion and without inducement and at DEVELOPER's request; and,

WHEREAS, DEVELOPER has read this AGREEMENT, has understood it, and has had the opportunity to avail itself of legal and other counsel prior to entering into this AGREEMENT and prior to signing it; and,

WHEREAS, DEVELOPER has submitted a preliminary plat bearing the Subdivision name described in the caption of this AGREEMENT; and,

WHEREAS, City Engineer and City Planning and Zoning Commission have recommended such Subdivision be approved subject to certain requirements and obligations on the part of DEVELOPER; and,

WHEREAS, CITY is willing to approve the Subdivision to CITY, subject to the terms and conditions of this AGREEMENT and the Special Conditions attached hereto;

NOW, THEREFORE, in consideration of the covenants and conditions set forth herein, the parties agree as follows:

1. Approval of Subdivision. CITY hereby approves the Subdivision plat as described in Exhibit "A" attached hereto and made a part to this AGREEMENT by reference, and agrees that upon DEVELOPER's full and complete performance of the terms and conditions hereto, it will accept and maintain the property dedicated to CITY on the Subdivision plat and all public facilities and improvements shown in the Improvement Plans for the Subdivision.

2. Improvement, Preliminary, and Final Improvement Plans. "Improvement Plans," used in this AGREEMENT, are engineer-designed plans showing all streets, sewer lines, water lines, storm drains, street signs, traffic control devices, barricades, other public utilities (telephone, gas, electricity, fiber optic and irrigation facilities) and other public improvements contemplated within the Subdivision. "Preliminary Improvement Plans" as used in this AGREEMENT, are those Improvement Plans submitted and considered for the Subdivision development prior to the approval of City Engineer, and not yet approved for construction. "Final Improvement Plans" as used in this AGREEMENT, are those Improvement Plans submitted, considered and approved by City Engineer for the Subdivision development.

DEVELOPER anticipates that development of the entire Subdivision will occur in phases or divisions. DEVELOPER has filed, and City Engineer has approved, Improvement Plans for the public improvements to be constructed within public rights-of-way exterior to the Subdivision, (hereafter referred to as the "Exterior Improvement Plans") showing the width, location and alignment of all streets, sewer lines and water lines within the Subdivision and the size and materials specifications for such water and sewer lines. Prior to the commencement of any construction or development within any phase or division of the Subdivision, DEVELOPER shall also file with, and obtain the approval of, City Engineer Improvement Plans (hereafter the "Interior Improvement Plans") for all streets, sewer lines, water lines, storm drainage facilities, street signs, traffic control devices, barricades and other public improvements contemplated within such phase or division of the Subdivision. The filed Improvement Plans shall also show the proposed location of other public utilities (telephone, gas and electricity), and irrigation facilities affected by the development of such phase or division of the Subdivision. Preliminary Improvement Plans are incorporated herein by reference as though set out in full, and the Final Improvement Plans shall also, upon approval by City Engineer, be deemed to be incorporated herein by reference.

3. Construction of Public Improvements. Unless otherwise agreed in the Special Conditions, DEVELOPER shall, at its expense, design and construct all public improvements shown in the Exterior Improvement Plans and Interior Improvement Plans. Unless otherwise agreed in writing by City Engineer, DEVELOPER shall construct all required public improvements within such Improvement Plans in strict accordance with the approved Preliminary and Final Improvement Plans and CITY Standard Engineering Drawings and Specifications (hereafter referred to as the "Standard Specifications") in effect at the time the construction is accomplished. The Standard Specifications are incorporated herein by reference as though set out in full and compliance to the Standard Specifications is a condition of this AGREEMENT.

4. Permits. DEVELOPER shall obtain all right-of-way, excavation and/or other permits required by local ordinance and comply with all requirements therein with respect to the

timely performance of the work governed by such permits.

5. Inspection. DEVELOPER shall retain a professional engineer (hereafter referred to as the "Project Engineer") licensed within the State of Idaho to supervise, inspect and test the construction of all public improvements within the Subdivision in order to ensure such improvements are constructed in accordance with this AGREEMENT, the Improvement Plans and the Standard Specifications. DEVELOPER shall not materially deviate from the Improvement Plans or Standard Specifications without the express written approval of the City Engineer.

6. Corrected Improvement Plans. Prior to acceptance of any phase or division of the Subdivision, DEVELOPER will file "As Constructed"/ "As Built" Improvement Plans (hereafter referred to as the "Corrected Improvement Plans") with City Engineer. Such Corrected Improvement Plans shall be prepared by the Project Engineer and shall show the actual constructed location of all public improvements within the Subdivision including the horizontal and vertical location of all water, sewer and storm drain lines, individual building service lines curb and gutter alignment and street grades. Such Corrected Improvement Plans shall also specifically show all changes between the Final Improvement Plans and the public improvements as actually constructed. The Project Engineer shall also certify upon the Corrected Improvement Plans that such Corrected Improvement Plans correctly show all public improvements as actually constructed and that such public improvements have been constructed in accordance with the Standard Specifications in effect at the time such construction was accomplished. The Project Engineer shall also deliver to City Engineer all compaction reports, daily construction logs, reports, written tests, analysis and other data as may be necessary to verify or support the certification of the Project Engineer.

7. Acceptance of Subdivision. Upon satisfactory completion of such public improvements and facilities, DEVELOPER's delivery of Corrected Improvement Plans and the filing and approval by CITY of a final plat, CITY will accept that portion of the Subdivision for which a final plat has been approved. Such acceptance shall not be valid unless expressly acknowledged in writing by City Engineer. Except as otherwise expressly provided in the Special Conditions, upon acceptance of any phase or division within the Subdivision, CITY shall assume ownership and control of all public facilities within any dedicated street or public utility right-of-way within the Subdivision and shall execute and record an instrument documenting such acceptance and that also references the recording information for this AGREEMENT and thereby releasing the Subdivision, or the accepted portion thereof, from the encumbrances of this AGREEMENT. Acceptance of the Subdivision Improvements and recording the acceptance instrument shall not be deemed as a waiver of DEVELOPER's agreement herein to fully and completely perform the terms and conditions of this AGREEMENT, or as a waiver or release of the warranty set forth below in this AGREEMENT.

8.      **Warranty.** DEVELOPER warrants that the materials and workmanship employed in the construction of all public improvements within the Subdivision shall be good and sound, and shall conform to generally accepted standards within the construction industry. Such warranty shall extend for a period of one (1) year after acceptance of any phase or division of the Subdivision within which such improvements are located, by CITY, provided nothing herein shall limit the time within which CITY may bring an action against DEVELOPER on account of DEVELOPER's failure to construct such improvements in accordance with this AGREEMENT, the Improvement Plans or the Standard Specifications. DEVELOPER, and DEVELOPER's heirs, successors and assigns, shall and do hereby respectively warrant and agree, to defend the quiet and peaceful possession of CITY in all easements, rights-of-way, street dedications or other estates conveyed pursuant to the terms of this AGREEMENT or pursuant to the subdivision plat which is the subject hereof, from and against all claims against DEVELOPER and DEVELOPER's successors or assigns, respectively, and against every person whomsoever who lawfully holds, or who later lawfully claims to have held, rights in the premises by or through DEVELOPER and DEVELOPER's successors or assigns, respectively, as of the date of this AGREEMENT.

9.      **Water and Sewer Main Connection Charges.** DEVELOPER agrees to pay to CITY at the time any separate sanitary sewer service or culinary water service connection to CITY sanitary sewer system or culinary water system is requested, all connection fees, main connection charges, and main charges as set forth in the City Code in effect at the time such request for service is made.

10.     **Failure to Pay Fees.** In the event DEVELOPER fails or refuses to pay any of the fees, charges or costs set forth herein, CITY may disannex any property owned by DEVELOPER within the Subdivision or declare the entire unpaid balance immediately due and payable and collect such sums in the manner provided by law, or may pursue any other remedy set forth herein or as may be available at law or in equity. All such remedies shall be cumulative and CITY may pursue the same separately or simultaneously as it deems necessary or appropriate. In the event of such acceleration, all sums due shall bear interest at the rate established by law for judgments entered in the State of Idaho, commencing on the date the unpaid amount is declared immediately due and written demand therefor is delivered to DEVELOPER.

11.     **Participation by CITY.** The parties agree that those portions of the water main, the sanitary sewer line, storm drains and street section work (hereafter collectively referred to as the "Shared Work"), the cost of which CITY has expressly agreed to pay pursuant to the Special Conditions, including any water or sewer line or storm line extensions, increased line size or capacity and road width or thickness, are required because of future service needs originating from properties not owned by DEVELOPER and located within the vicinity of the Subdivision, and that sound planning requires construction thereof at the present time in order to accommodate future expansion and development. In recognition of the cost savings which can be accomplished by



construction of such excess capacity and improvements concurrently with the facilities to be constructed for DEVELOPER's purposes, and the impracticality or impossibility of constructing such excess capacity and improvements separately or at a later time, DEVELOPER agrees to design and construct such facilities subject to CITY's agreement to reimburse DEVELOPER for a portion of such costs, all as set forth in the Special Conditions. Prior to the commencement of the Shared Work, DEVELOPER shall obtain and deliver to CITY three (3) independent bona fide bids for the performance of such work from qualified and responsible contractors. Such bids shall be solicited and itemized in a manner which allows clear and specific identification of that portion of the construction work for which CITY is responsible. CITY shall have no obligation to pay for any portion of the costs of the Shared work unless prior to the commencement of the work, the parties have expressly agreed in writing to a specific amount for which CITY will reimburse the DEVELOPER. Payment of such costs by CITY shall be due within thirty (30) days from acceptance of the Subdivision by CITY and delivery of an itemized statement to CITY setting forth in detail the total amount of the costs for which CITY is responsible.

12. Special Conditions. In recognition of the unique circumstances relative to this Subdivision the parties agree to the Special Conditions attached hereto as Exhibit "B" and by this reference made a part hereof.

13. Irrigation Facilities. DEVELOPER shall relocate or reconstruct, at DEVELOPER's expense, all ditches, headgate structures, culverts, siphons, drywells or other similar appurtenant structures that will be impaired or otherwise disturbed by the construction of this Subdivision. DEVELOPER shall also obtain the consent of all persons or entities who have any water right or control over such structures. DEVELOPER shall also indemnify and hold CITY harmless from any action, claim, demand or cost of any kind, including attorney's fees and court costs, arising from the relocation or reconstruction of such facilities or DEVELOPER's failure to properly relocate or reconstruct such facilities.

14. Relocation of Power Lines. DEVELOPER shall relocate at its expense, all existing electric utility poles or other utility lines or fixtures necessary to construct the public improvements within this Subdivision as shown on the Improvement Drawings.

15. Construction Schedule Change. Any modification to the public improvements shown in the Improvement Drawings or to the construction phase limits shall be approved by City Engineer. Prior to said approval, revised Improvement Drawings shall be resubmitted to City Engineering Department showing the proposed changes.

16. Taxes and Assessments. DEVELOPER shall pay all real property taxes and assessments levied or assessed against any interest in real property which DEVELOPER has agreed to convey to CITY pursuant to this AGREEMENT up to the date the final Subdivision plat

for this Subdivision is recorded. Such taxes and assessments shall be paid prior to the acceptance by CITY of the public improvements within any phase or division of the Subdivision.

17. Occupancy. No building or structure within the Subdivision shall be used or occupied for any purpose other than for the construction of such building or structure, unless a final plat has been filed and approved and all public improvements within the plat have been completed and accepted by City Engineer. CITY may withhold Certificates of Occupancy until all such work has been completed. Nothing herein shall prevent the use of a model building for the purpose of DEVELOPER's sales promotional efforts provided the building is not occupied for any other commercial or industrial purposes.

18. Default. In the event DEVELOPER fails to comply with the terms and conditions hereof in any material respect, CITY may, without further notice to DEVELOPER, exercise any or all of the following remedies:

- A. Withhold the issuance of any building permit or certificate of occupancy for any structure located within any phase or division of the Subdivision affected by such default;
- B. Withhold the connection of water, sewer or electric service to any property located within any phase or division of the Subdivision affected by such default;
- C. Refuse to accept public ownership and maintenance of public improvements within any phase or division of the Subdivision affected by such default and record a notice of such action with the Bonneville County Recorder's office;
- D. Issue a stop work order for any building under construction within any phase or division of the Subdivision affected by such default;
- E. Withhold reimbursement of Subdivision inspection fees collected pursuant to the Idaho Falls City Code; and
- F. Bring an action for damages, injunctive relief, specific performance or any other remedy available at law or in equity.

19. Notices. Any notice required by this AGREEMENT shall be mailed to the receiving party at the address set forth above or such other address as may be delivered to the sending party in writing. Such notice shall be mailed by certified mail, return receipt requested, postage prepaid and addressed as set forth above and shall be deemed received upon its deposit in the United States mail in such manner.

20. Recording and Recording Fees. CITY may record this AGREEMENT with the



Bonneville County Recorder's office and prior to the execution and approval of this AGREEMENT, DEVELOPER shall pay to CITY all recording fees necessary to record this AGREEMENT with the Bonneville County Recorder's office. Prior to the approval of any final plat within the Subdivision, DEVELOPER shall pay to CITY all recording fees necessary to record such final plat with the Bonneville County Recorder's office.

21. Irrigation District Release. Prior to the approval of the Subdivision plat, DEVELOPER shall: (i) include a statement on the Subdivision plat that the property subject to this AGREEMENT has been excluded from the applicable irrigation district and reference the district's exclusion order by recording date and instrument number; or (ii) obtain a certification upon the Subdivision plat signed by any irrigation district, canal company, ditch association or other similar water delivery entity who provides or delivers water to any property located within the Subdivision. This certification shall contain a statement certifying that the property subject to this AGREEMENT has been excluded from the irrigation district, canal company, ditch association or other similar water delivery entity who provides or delivers water to any property located within the Subdivision or the water rights for all property within the Subdivision have been transferred from such property and that all liens and assessments of such water delivery entity have been satisfied and released.

22. Compliance With Applicable Law and Regulation. DEVELOPER agrees to comply with all applicable rules, regulations, Ordinances, Resolutions, statutes or administrative laws having applicability to development to this Subdivision and or phase of this Subdivision including, of those of CITY, Bonneville County, the State of Idaho, the United States of America, or any agency or political subdivisions thereof having jurisdiction over the Subdivision and to obtain any permits, licenses, permissions, authorizations, etc., that are required for such development.

23. Conflict With Standard Specifications. In the event of any conflict between the terms of this AGREEMENT or the Improvement Plans and the Standard Specifications, the terms of this AGREEMENT or the Improvement Plans shall prevail over any contrary provision of the Standard Specifications. In the event of any conflict between the terms of this AGREEMENT and the Improvement Plans, the terms of this AGREEMENT shall prevail.

24. Covenants Appurtenant to the Land. All covenants and conditions set forth herein shall be appurtenant to and run with the Subdivision and shall be binding upon DEVELOPER's heirs, successors or assigns.

25. Governing Law. This AGREEMENT shall be governed by the laws of the State of Idaho. The venue for any action arising out of this Agreement shall be exclusively in the District Court of the Seventh Judicial District of the State of Idaho, Bonneville County or in the United

States District Court for the District of Idaho.

26. Anti-Boycott Against Israel Act. Pursuant to Idaho Code section 67-2346, if payments under this AGREEMENT exceed one hundred thousand dollars (\$100,000) and DEVELOPER employs ten (10) or more persons, DEVELOPER certifies that it is not currently engaged in, and will not for the duration of this AGREEMENT engage in, a boycott of goods or services from Israel or territories under its control. The terms in this Paragraph that are defined in Idaho Code section 67-2346 shall have the meaning defined therein.

27. Non-Discrimination. DEVELOPER shall not discriminate against any employee or applicant for employment on the basis of race, color, religion, creed, political ideals, sex, age, marital status, physical, or mental handicap, gender identity/expression, sexual orientation, or national origin.

28. Entire Agreement. This writing evidences the final and complete agreement between the parties and no other prior statement, representation or understanding shall be binding upon the parties unless expressly set forth herein.

29. Effective Date. This AGREEMENT shall become valid and binding only upon its approval by CITY Council of CITY and upon its execution by the Mayor.

INWITNESS WHEREOF, the parties have hereunto set their hands and seals this day and year first above written.

ATTEST:

CITY OF IDAHO FALLS, IDAHO

\_\_\_\_\_  
Corrin Wilde, City Clerk

By \_\_\_\_\_  
Rebecca L. Noah Casper, Ph.D., Mayor

HIDDEN BRIDGE, LLC.

By  \_\_\_\_\_  
Austin Fitzgerald, Manager

STATE OF IDAHO                    )  
  ) ss.  
County of Bonneville            )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2023, 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 they are 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.

(Seal)

\_\_\_\_\_  
Notary Public of Idaho

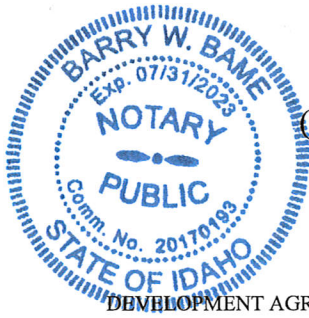
Residing at: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

STATE OF IDAHO                    )  
  ) ss:  
County of BONNEVILLE        )

On this 3<sup>rd</sup> day of May, 2023, before me, the undersigned, a notary public, in and for said State, personally appeared Austin Fitzgerald, known or identified to me to be an authorized signator of Hiddem Bridge, LLC., and whose name is subscribed to the within instrument and acknowledged to me that they are authorized to execute the same for and on behalf of said company.

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



(Seal)

[Signature]  
Notary Public of Idaho  
Residing at: BINGHAM COUNTY  
My Commission Expires: 7/31/2023

**EXHIBIT "A"**  
**PROPERTY**

**LEGAL DESCRIPTION**

**HIDDEN BRIDGE SUBDIVISION**

PART OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 2 NORTH, RANGE 38  
EAST OF THE BOISE MERIDIAN, BONNEVILLE COUNTY, STATE OF IDAHO.

COMMENCING AT NORTHEAST CORNER OF SAID SECTION 30 (FROM WHICH THE  
NORTH QUARTER CORNER OF SECTION 30 BEARS S 89°49'05" W 2630.13'), THENCE S  
89°49'05" W 95.12' ALONG THE NORTH LINE OF SECTION 30, THENCE S 00°10'55" E  
965.01' TO THE SOUTHEAST CORNER OF THE LANDS DESCRIBED IN DEED  
INSTRUMENT No. 1317890 POINT ALSO BEING THE POINT OF BEGINNING; THENCE S  
00°10'42" E 481.67' ALONG THE EAST BOUNDARIES OF LOTS 4 AND 41, BLOCK 16 AND  
LOT 4, BLOCK 17 SHOWN ON THE PLAT OF BRODBECK'S ADDITION TO THE  
SOUTHEAST CORNER OF SAID LOT 4, BLOCK 17; THENCE S 89°49'18" W 475.00' ALONG  
THE SOUTH BOUNDARIES OF LOTS 4 THROUGH 22, BLOCK 17 OF SAID BRODBECK'S  
ADDITION TO THE SOUTHWEST CORNER OF SAID LOT 22, BLOCK 17; THENCE N  
00°10'42" W 155.56' ALONG THE WEST LINE OF SAID LOT 22, BLOCK 17 TO THE  
NORTHWEST CORNER OF THE LANDS DESCRIBED IN DEED INSTRUMENT No.  
1610065; THENCE N 89°49'18" E 224.85' ALONG THE COMMON LINE BETWEEN DEED  
INSTRUMENT No. 1610065 AND No. 1610064 TO THE NORTHEAST CORNER OF THE  
LANDS DESCRIBED IN DEED No. 1610064; THENCE N 00°07'42" W 155.00' ALONG THE  
EAST BOUNDARY OF LOT 31, BLOCK 16 OF SAID BRODBECK'S ADDITION TO THE  
NORTHEAST CORNER OF SAID LOT 31; THENCE N 89°49'18" E 50.00' ALONG THE NORTH  
BOUNDARY OF LOTS 32 AND 33, BLOCK 16 OF BRODBECK'S ADDITION TO THE  
NORTHEAST CORNER OF SAID LOT 33; THENCE N 00°10'42" W 140.96' ALONG THE  
WEST BOUNDARY OF LOT 12, BLOCK 16 OF BRODBECK'S ADDITION TO THE  
NORTHWEST CORNER OF THE FIRST AMENDED PLAT OF THE BRODBECKS ADDITION  
FILED UNDER INSTRUMENT No. 1121016; THENCE N 89°49'18" E 76.78' ALONG THE  
NORTH BOUNDARY OF SAID FIRST AMENDED PLAT OF BRODBECK'S  
ADDITION; THENCE N 36°13'14" E 37.47' CONTINUING ALONG SAID NORTH BOUNDARY  
TO THE SOUTHWEST CORNER OF DEED INSTRUMENT No. 1317890; THENCE N 89°49'18"  
E 101.00' ALONG THE SOUTH BOUNDARY OF THE LANDS DESCRIBED IN DEED  
INSTRUMENT No. 1317890 TO THE POINT OF BEGINNING.

SAID PROPERTY CONTAINS 3.311 ACRES MORE OR LESS

**EXHIBIT "B"**  
**SPECIAL CONDITIONS**

**HIDDEN BRIDGE SUBDIVISION**

**S.C. 1.00 Traffic Signs.** DEVELOPER agrees to install all street signs designating the names of all streets within the Subdivision. Street signs designating the name of public streets shall be constructed with white letters over green background. Street signs designating the name of private streets shall be constructed with white lettering over blue background. Such signs shall be installed in the manner and locations as directed by CITY's Engineer.

**S.C. 2.00 Subdivision Seal Coat.** In order to preserve the long-term effectiveness of required roadway seal coat in the Subdivision, DEVELOPER shall pay all seal coat costs associated with Subdivision improvements rather than applying the seal coat. In lieu of DEVELOPER seal coat application, DEVELOPER shall pay Ten Thousand Five Hundred Twenty-one Dollars (\$10,521.00 (3,340 square yards at \$3.15 per square yard). CITY shall use such payment to apply the required seal coat at a later date, when Subdivision building permits are completed and at CITY's sole discretion on timing.

**S.C. 3.00 Existing Infrastructure.** When it is necessary to move or remove existing infrastructure not belonging to CITY and not within CITY right-of-way, DEVELOPER shall coordinate such activities with the applicable owner, (e.g., poles owned by PacifiCorp, dba Rocky Mountain Power). Any existing electrical infrastructure owned by PacifiCorp, dba Rocky Mountain Power, will require a buy-out from DEVELOPER prior to receipt of electrical service from CITY. Request for the buy-out, if any, is to be initiated by DEVELOPER following annexation.

**S.C. 4.00 Storm Drainage.** Storm Drainage shall be designed and constructed to accommodate drainage of the lots within the Subdivision by DEVELOPER. The storm drainage system shall meet CITY's Storm Drainage Policy. The storm pond shall be constructed as shown on the CITY-approved Improvement Drawings. DEVELOPER shall provide for the installation of grass and an irrigation system, at DEVELOPER's sole expense, to serve this Subdivision. Maintenance of the storm pond shall be the responsibility of DEVELOPER or DEVELOPER's heirs, successors, or assigns.

**S.C. 5.00 Water Line Connection in Higbee Avenue.** CITY agrees to allow DEVELOPER to connect to the water main, subject to DEVELOPER's payment of the water main connection fees in the amount of Six Thousand Eight Hundred Forty-Eight dollars and Forty Cents (\$6,848.40; 156 ft currently at \$43.90 per foot), upon execution of this AGREEMENT, pursuant to Section 8-4-14 (C) of Idaho Falls City Code. Pursuant to section 8-4-14 (B) of the City Code, DEVELOPER or DEVELOPER's heirs or assigns shall also pay individual water system connection fees each time an individual water service line is connected to CITY water systems. Such fees shall be paid in the amounts and manner set forth in such Code Sections.



**S.C. 6.00 Sewer Main Connection Fee Higbee Avenue.** CITY agrees to allow DEVELOPER to connect to the sewer previously constructed within the Subdivision, subject to DEVELOPER's payment of the sewer main connection charge pursuant to section 8-1-23(C) of the City Code in the amount of Four Thousand Nine Dollars and Twenty Cents (\$4,009.20; 156 feet; currently at \$25.70 per foot). Mainline connection fee costs shall be adjusted accordingly in the event that the connections are not made at time when CITY Fee Resolution reflects the rate referenced herein. Pursuant to section 8-1-23(B) of the City Code, DEVELOPER or DEVELOPER's heirs or assigns shall also pay individual sewer connection fees each time an individual sewer service line is connected to CITY sewer system. Such fees shall be paid in the amounts and manner set forth in such Code Section.

# Memorandum

File #: 23-195

City Council Meeting

**FROM:** Wade Sanner, Director  
**DATE:** Tuesday, June 27, 2023  
**DEPARTMENT:** Community Development Services

## Subject

Legislative Public Hearing-Part 1 of 2 of the Annexation and Initial Zoning-Annexation Ordinance and Reasoned Statement of Relevant Criteria and Standards for 1.703 acres of Part of the SE ¼ of Section 9, Township 2 North, Range 38 East.

## Council Action Desired

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

1. Approve the Ordinance annexing 1.703 acres of Part of the SE ¼ of Section 9, Township 2 North, Range 38 East and assign a Comprehensive Plan Designation of “Mixed Use Centers and Corridors” and under a suspension of the rules requiring three complete and separate readings and request that it be read by title and published by summary (or consider the Ordinance on the first reading and that it be read by title, reject the Ordinance, or take other action deemed appropriate).

2. Approve the Reasoned Statement of Relevant Criteria and Standards for the annexation of 1.703 acres of Part of the SE ¼ of Section 9, Township 2 North, Range 38 East and give authorization for the Mayor to execute the necessary documents (or take other action deemed appropriate).

## Description, Background Information & Purpose

Attached is part 1 of 2 of the application for Annexation and Initial Zoning of HC, Highway Commercial which includes the Annexation Ordinance and Reasoned Statement of Relevant Criteria and Standards for 1.703 acres of Part of the SE ¼ of Section 9, Township 2 North, Range 38 East. The Planning and Zoning Commission considered this item at its June 6, 2023, meeting and unanimously voted to recommended approval of the annexation with initial zoning of HC to the Mayor and City Council as presented.

## Alignment with City & Department Planning Objectives



Successful annexation consideration seeks for consistency with the principles of the Comprehensive Plan, including

Growth, Sustainability, and Livable Communities.

**Interdepartmental Coordination**

The annexation legal description has been reviewed by the Survey Division.

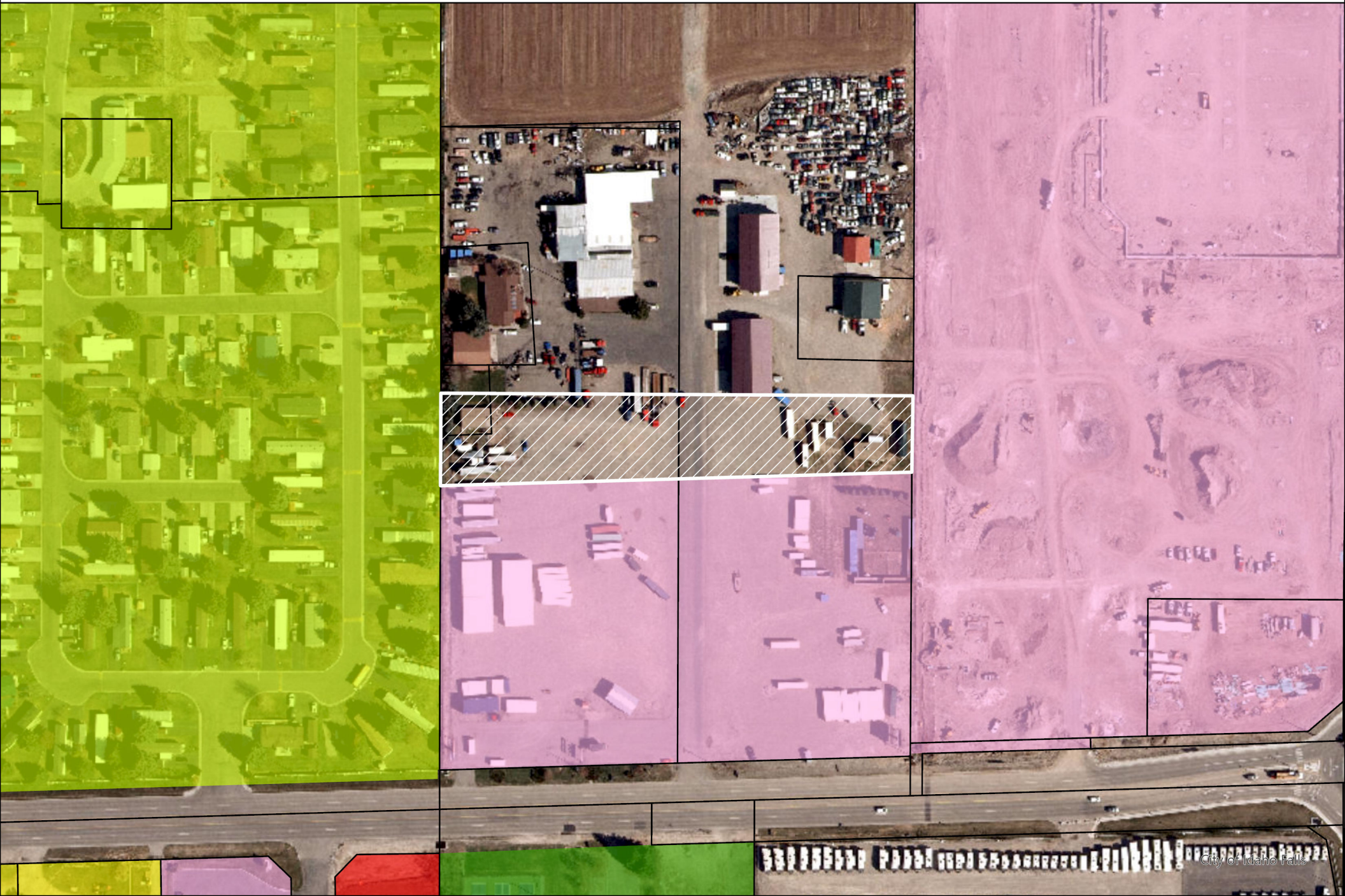
**Fiscal Impact**

NA

**Legal Review**

This application and ordinance have been reviewed by the City Attorney's Office for consistency with state statutes.











- General Urban
- Mixed Use Centers and Corridors
- Special Use
- Urban Core
- Industrial
- Natural and Open Space
- Suburban



STAFF REPORT

ANNEXATION AND INITIAL ZONING  
OF APPROXIMATELY 1.703 ACRES,  
SOUTHEAST ¼ OF SECTION 9, T 2N, R 38E

JULY 13, 2023



Community  
Development  
Services

**Applicant:** Connect  
Engineering

**Project Manager:** David  
Peterson

**Location:** Generally, north  
of Lincoln Rd, east of  
Pinewood Estates, south of  
E 26<sup>th</sup> N, west of N 25<sup>th</sup> E.

**Size:** Approximately  
1.703 acres.

**Zoning:**  
Existing: County C-2  
North: County C-2  
South: HC  
East: HC  
West: RMH

**Proposed Zoning:** HC

**Existing Land Uses:**  
Site: Vacant  
North: Vacant  
South:  
Commercial  
East: Commercial  
West: Residential

**Future Land Use Map:**  
Mixed Use Centers &  
Corridors

**Attachments:**

1. Comprehensive Plan  
Policies
2. Zoning Information
3. Maps & Aerial Photos

**Requested Action:** To **approve** the annexation and initial zoning of  
HC, Highway Commercial, to the Mayor and City Council.

**Annexation:** This is a Category “A” annexation as it is requested by  
the property owner. The property is in the Area of Impact and  
contiguous to City limits along the east, south, and west property lines.  
City utilities are present in the immediate area to provide services to  
the property.

**Staff Comments:** ++++This area is largely used for outdoor storage,  
automotive and trucking services, including towing and autobody  
operations. The proposed annexation is an addition to currently  
annexed property to accommodate the development of Pickering Place  
Division 1. A preliminary plat will determine the road network  
connecting the newly annexed property to Lincoln Rd and eventually N  
25<sup>th</sup> E.

The Comprehensive Plan identifies this area as Mixed Use Centers and  
Corridors, which encourages regional mixed use and commercial  
centers.

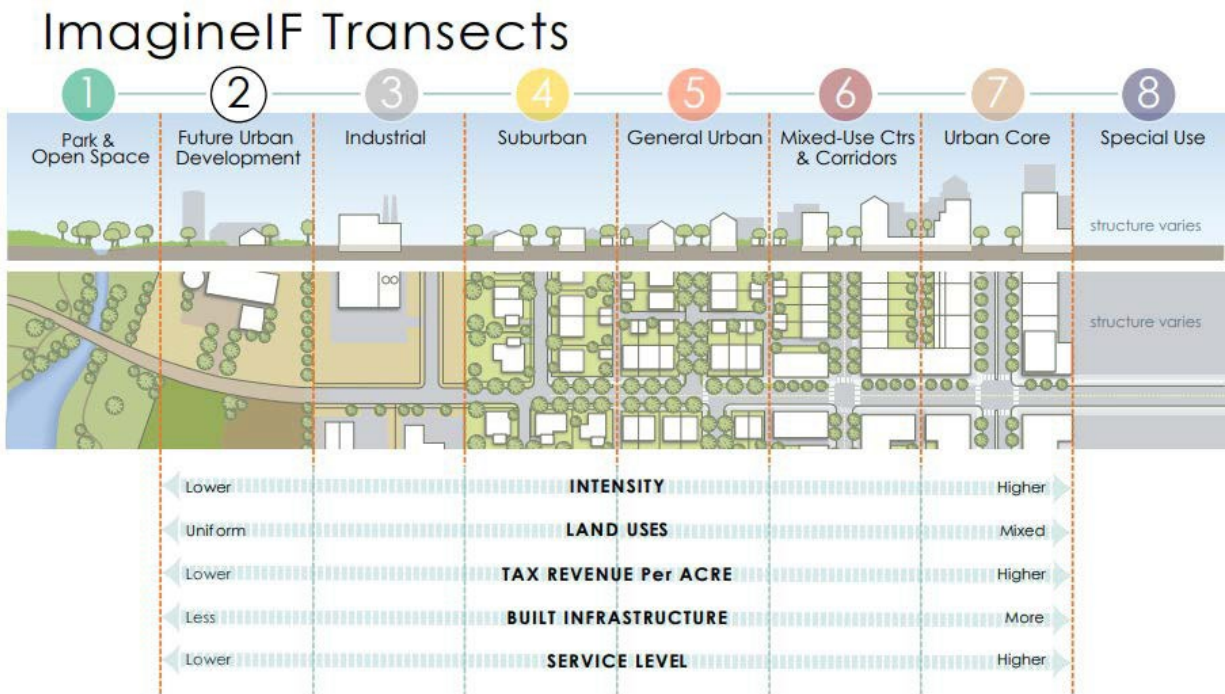
**Initial Zoning:** The proposed zone is HC, Highway Commercial.  
The HC zone is consistent with the Mixed Use Centers and Corridors  
designation of the Comprehensive Plan. The property to the south is  
under the same ownership and is also zoned HC.

**Staff Recommendation:** Staff recommends approval of the annexation  
and initial zoning of HC as it is consistent with the Comprehensive  
Plan and adjacent land uses.



## Comprehensive Plan Land Use Transects:

pg. 60-70



### 6. Mixed-Use Centers & Corridors

**Snapshot:** The Mixed-Use Centers and Corridors Transect denotes areas where people tend to shop, eat and gather. These areas include all housing types but generally at a more intense scale than other areas. These areas also include mixed-use buildings, recreation centers and commercial uses. Mixed-Use Centers and corridors may vary in scale from large, regional commercial centers with supportive housing to smaller commercial pockets called walkable centers that support a well-connected, walkable neighborhood.

**Local examples:** Northgate Mile and 1<sup>st</sup> Street corridors, Intersection of 65<sup>th</sup> South and 5<sup>th</sup> West, Intersection of Skyline and Broadway, Snake River Landing

## **Zoning Ordinance:**

### **11-3-5: PURPOSE OF COMMERCIAL ZONES**

(D) HC Highway Commercial Zone. This zone provides a commercial zone for retail and service uses serving the traveling public. Characteristics of the Zone are buildings set back from the right-of-way line to promote safety on the highway and maintain maximum use of highway right-of-way for travel purposes, and a wide variety of architectural forms and shapes. This Zone should be located at specific locations along highways leading into the City.

### **11-3-6: STANDARDS FOR COMMERCIAL ZONES**

(A) Dimensional Standards. Table 11-3-6 Dimensional Standards for Commercial Zones shall be used for determining the minimum site area, minimum site width measured at the setback line, minimum setbacks, maximum building height, maximum lot coverage and maximum gross density in each Commercial Zone.

**Table 11-3-5: Dimensional Standards for Commercial Zones**

	<b>CC</b>	<b>PB</b>	<b>LC</b>	<b>HC</b>
Site width at front setback - Minimum in ft.		50	*	50
<b>Setbacks – Minimum in ft.</b>				
Front		20	20*	20
Side			*	
Rear			*	
Landscape buffer contiguous to street* in ft.	7*	15	20*	20*
Landscape buffer contiguous to a residential Zones* in ft.	10	10	20/10	30/10
Building height – Maximum in ft.		*	*	
Lot Coverage- Maximum in %		80	80	
*See explanations, exceptions and qualifications that follow in Section 11-3-6A (1-3) of this Zoning Code.				

(Ord. 3233, 12-20-18) (Ord. 3277, 10-10-19)

June 6, 2023  
7:00 p.m.

Planning Department  
Civic Center

**MEMBERS PRESENT:** Commissioners Margaret Wimborne, Marsha McDaniel, Forrest Ihler, Bill Scott, Glen Ogden

**MEMBERS ABSENT:** Scott Geddes, Kristi Brower, Arnold Cantu, Dale Storer,

**ALSO PRESENT:** Assistant Planning Director Kerri Beutler, Planners Naysha Foster, David Peterson and interested citizens.

**CALL TO ORDER:** Margaret Wimborne called the meeting to order at 7:00 p.m.

**MINUTES:** McDaniel moved to accept the minutes of April 4, 2023, Scott seconded the motion. The motion passed unanimously.

**Public Hearing(s):**

**4. ANNEX 23-003: ANNEXATION/INITIAL ZONING. Annexation and Initial Zoning of 1.7 Acres with initial zoning of HC.**

**Applicant: Barry Bane, Connect Engineering, 2295 N. Yellowstone, Suite 6, Idaho Falls, Idaho.** Bane is presenting an annexation and initial zoning of 1.7 acres directly west of Costco. It will be for commercial use, and the property adjacent is zoned HC. This is a request of the property owner for annexation. The Comprehensive Plan lists this as mixed use and HC conforms with the use. The property is contiguous to the City. The property will have a preliminary plat and this area will be division 1 of the final plat.

Peterson presented the staff report, a part of the record.

Wimborne opened the public hearing.

No one appeared in support or opposition.

Wimborne closed the public hearing.

Ihler feels this is straight forward.

**Ihler moved to recommend to the Mayor and City Council approval of the Annexation of 1.703 acres of the Southeast ¼ of Section 9, T 2N, R 38 E, with initial zoning of HC, McDaniel seconded the motion. Wimborne called for roll call vote: McDaniel, yes; Ogden, yes; Ihler, yes; Wimborne, yes; Scott, yes. The motion passed unanimously.**

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE ANNEXATION OF APPROXIMATELY 1.703 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.

WHEREAS, the lands described in Exhibit A of this Ordinance are contiguous and adjacent to the City limits of the City of Idaho Falls, Idaho; and

WHEREAS, such lands described herein are subject to annexation to the City pursuant to the provisions of Idaho Code Section 50-222, and other laws, as amended; and

WHEREAS, the annexation of the lands described in Exhibit A is reasonably necessary to assure the orderly development of the City in order to allow efficient and economically viable provision of tax-supported and fee-supported municipal services; to enable the orderly development of private lands which benefit from a cost-effective availability of City services in urbanizing areas; and to equitably allocate the costs of City/public services in management of development on the City's urban fringe; and

WHEREAS, the City has authority to annex lands into the City pursuant to procedures of Idaho Code Section 50-222, as amended; and

WHEREAS, any portion of a highway lying wholly or partially within the lands to be annexed are included in the lands annexed by this Ordinance; and

WHEREAS, the lands annexed by this Ordinance are not connected to the City only by a "shoestring" or a strip of land which comprises a railroad or right-of-way; and

WHEREAS, all private landowners have consented to annexation of such lands, where necessary; and

WHEREAS, City of Idaho Falls Comprehensive Plan includes the area of annexation; and

WHEREAS, after considering the written and oral comments of property owners whose lands would be annexed and other affected persons, City Council specifically makes the following findings:



- 1) That the lands annexed meet the applicable requirements of Idaho Code Section 50-222 and do not fall within exceptions or conditional exceptions contained in Idaho Code Section 50-222;
- 2) The annexation is consistent with public purposes addressed in annexation and related plans prepared by the City; and
- 3) Annexation of the lands described in Section 1 are reasonably necessary for the orderly development of the City; and

WHEREAS, it appears to the Council that the lands described herein below in Exhibit A of this Ordinance should be annexed to and become a part of the City of Idaho Falls, Idaho; and

WHEREAS, the City wishes to exercise jurisdiction over the annexed lands in a way that promotes the orderly development of such lands; and

WHEREAS, the City of Idaho Falls Comprehensive Plan sets out policies and strategies designed to promote and sustain future growth within the City; and

WHEREAS, such designation is consistent with policies and principles contained within the City of Idaho Falls Comprehensive Plan; and

WHEREAS, the City desires the City of Idaho Falls Comprehensive Plan Map to be amended to reflect the designation contained in this Ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF IDAHO FALLS, IDAHO, as follows:

SECTION 1. Annexation of Property. The lands described in Exhibit A are hereby annexed to the City of Idaho Falls, Idaho.

SECTION 2. Amended Map and Legal Description. The City Clerk shall file a certified copy of this Ordinance with the Bonneville County Auditor, Treasurer, and Assessor, within ten (10) days after the effective date hereof. The City Engineer shall, within ten (10) days after such effective date, file an amended legal description and map of the City, with the Bonneville County Recorder and Assessor and the Idaho State Tax Commission, all in accordance with Idaho Code Section 63-2215.

SECTION 3. Findings. The findings contained in the recitals of this Ordinance be, and the same are hereby adopted as the official City Council findings for this Ordinance, and any further findings relative to this Ordinance shall be contained in the officially adopted Council minutes of the meeting in which this Ordinance was passed.

SECTION 4. Savings and Severability Clause. The provisions and parts of this Ordinance are intended to be severable. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

SECTION 5. Publication. This Ordinance, or a summary thereof in compliance with Idaho Code, shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

SECTION 6. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Rebecca L. Noah Casper, Mayor

ATTEST:

\_\_\_\_\_  
Corrin Wilde, City Clerk

(SEAL)

STATE OF IDAHO                    )  
  : ss.  
County of Bonneville            )

I, CORRIN WILDE, 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 Ordinance entitled: “AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE ANNEXATION OF APPROXIMATELY 1.703 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.”

---

Corrin Wilde, City Clerk

(SEAL)

## LEGAL DESCRIPTION

Beginning at the Northeast corner of the City of Idaho Falls Annexation Ordinance Number 3205 as found in the Bonneville County Recorder's Office as Instrument Number 1588919, said corner also lies on the Westerly boundary line of the City of Idaho Falls Annexation Ordinance Number 3215 as found in said Recorder's Office as Instrument Number 1591635, said corner lies 674.54 feet S 88° 18' 37" W along the Section line and 441.13 feet N 00° 18' 49" E along the said Westerly line from the Southeast corner of Section 9, Township 2 North, Range 38 East of the Boise Meridian, Bonneville County, Idaho, to the TRUE POINT OF BEGINNING; running thence along the Northerly line of said Ordinance Number 3205 S 88° 18' 37" W 642.32 feet to the Northwest corner of said Ordinance Number 3205 and to an Easterly corner of the City of Idaho Falls Annexation Ordinance Number 3203 as found in the said Recorder's Office as Instrument Number 1588918; thence along the Easterly boundary lines of said Ordinance Number 3203 the following (2) two courses: (1) S 88° 18' 37" W 0.99 feet, (2) N 00° 09' 03" E 126.60 feet; thence S 89° 41' 11" E 643.28 feet to the Westerly line of said Ordinance Number 3215; thence along said Westerly line S 00° 18' 49" W 104.11 feet to the TRUE POINT OF BEGINNING.

CONTAINING: 74,189 square feet or 1.703 acres.

Submitted by:

Eng/Survey Firm Name: Apex Engineering, INC

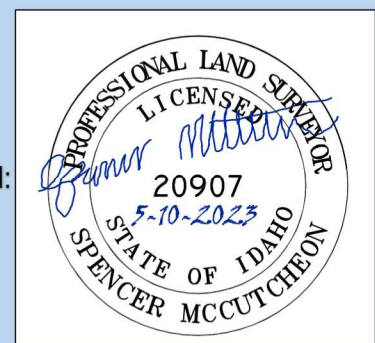
Contact Name: Spencer McCutcheon, PLS

Phone Number: 435-633-3012

Email: spencerm@apex20.com

Page 1 of 1

PLS Seal:



CITY OF IDAHO FALLS  
BONNEVILLE COUNTY

PART OF THE SE ¼ OF SECTION 9, T. 2 N., R. 38 E., B.M.  
CITY OF IDAHO FALLS, BONNEVILLE COUNTY, IDAHO

ANNEXATION  
ORDINANCE  
#

BOUNDARY DESCRIPTION

TRACT 1 - HC

Beginning at the Northeast corner of the City of Idaho Falls Annexation Ordinance Number 3205 as found in the Bonneville County Recorder's Office as Instrument Number 1588919, said corner also lies on the Westerly boundary line of the City of Idaho Falls Annexation Ordinance Number 3215 as found in said Recorder's Office as Instrument Number 1591635, said corner lies 674.54 feet S 88° 18' 37" W along the Section line and 441.13 feet N 00° 18' 49" E along the said Westerly line from the Southeast corner of Section 9, Township 2 North, Range 38 East of the Boise Meridian, Bonneville County, Idaho, to the **TRUE POINT OF BEGINNING**; running thence along the Northerly line of said Ordinance Number 3205 S 88° 18' 37" W 642.32 feet to the Northwest corner of said Ordinance Number 3205 and to an Easterly corner of the City of Idaho Falls Annexation Ordinance Number 3203 as found in the said Recorder's Office as Instrument Number 1588918; thence along the Easterly boundary lines of said Ordinance Number 3203 the following (2) two courses: (1) S 88° 18' 37" W 0.99 feet, (2) N 00° 09' 03" E 126.60 feet; thence S 89° 41' 11" E 643.28 feet to the Westerly line of said Ordinance Number 3215; thence along said Westerly line S 00° 18' 49" W 104.11 feet to the **TRUE POINT OF BEGINNING**.

CONTAINING: 74,189 square feet or 1.703 acres.

RECORDED WITH THE BONNEVILLE COUNTY RECORDERS  
OFFICE AS INSTRUMENT NO. \_\_\_\_\_

REFERENCES BONNEVILLE COUNTY IDAHO

SP1 -COSTCO SUBDIVISION - KELLY KEHRER PLS 16662 - INS. #1625732  
ROS1 - JEREMIAH BIGELO - THOMPSON ENGINEERING - KEVIN THOMPSON PLS 10563 INS. #1654964  
R1 - WARRANTY DEED - BRAD PICKERING - INS. #1108960  
R2 - QUIT CLAIM DEED - BRAD PICKERING - INS. #1172179

FOUND 5/8" REBAR NO CAP  
C¼ CORNER SECTION 9,  
T2N, R38E, BM  
INST NO. 1616069

N 89° 17' 33" E 2630.56' (M)  
(N 89° 17' 43" E 2630.80' ROS1)

FOUND 2" ALUMINUM CAP FLUSH  
WITH ASPHALT ILLEGIBLE  
E¼ CORNER SECTION 9,  
T2N, R38E, BM  
INST NO. 1100943

EASTERLY LINE OF  
ORDINANCE 3203

NOT ANNEXED

S89° 41' 11"E 643.28 FT

TRACT1 -HC ZONE

74,189 S.F.  
1.703 AC.

WESTERLY BOUNDARY  
LINE OF ORDINANCE NO.  
3215

POINT OF BEGINNING (P.O.B.)

NORTH BOUNDARY OF  
ORDINANCE NO. 3205

S88° 18' 37"W 642.32 FT

S88° 18' 37"W 0.99 FT

S00° 18' 49"W 104.11 FT

ORDINANCE NO 3215  
INS. NO. 1591635

N 00° 07' 43" E 2636.68' (M)  
S00° 08' 14"W 2636.71' (ROS1)  
S00° 07' 55"W 2636.69' (SP1)

441.13 FT  
N 00° 18' 49" E  
(SEC TO P.O.B.)

674.54 FT

FOUND 2 1/2" ALUMINUM CAP FLUSH  
WITH CONCRETE PLS 12224  
SE CORNER SECTION 9,  
T2N, R38E, BM  
INST NO. 1613339

LINCOLN ROAD

BASIS OF BEARING

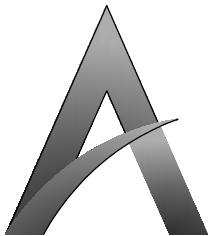
S 88° 18' 37" W. 2632.79' (M), (R1)

S 88° 18' 45 W 2632.77' (SP1)

S 88° 18' 42" W 2632.70' (ROS1) S 88° 18' 24"W (R1) (R2)

FOUND 2" ALUMINUM CAP MARKED  
PLS 8795  
S¼ CORNER SECTION 9,  
T2N, R38E, BM  
INST NO. 16554942

ORDINANCE NO 3203  
INS. NO. 1588918



NORTH

SCALE: 1" = 80'

0 80 160 240



ANNEXATION  
FOR: BRAD PICKERING  
PART OF THE SE ¼ SECTION 9,  
T2N, R38E, B.M.  
BONNEVILLE COUNTY, IDAHO

DRAWN BY: SJM

DATE: 5-10-2023

SCALE: 1" = 80'

CADFILE: PICK ANNEX

JOB NAME: CON. PICK. ANNEX

SHEET NO. 1 OF 1



661 N. Main St., Spanish Fork, UT  
8660  
801-796-2277

## **REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS**

### **ANNEXATION OF APPROXIMATELY 1.703 ACRES LOCATED GENERALLY NORTH OF LINCOLN RD, EAST OF PINEWOOD ESTATES, SOUTH OF E 26<sup>TH</sup> N, WEST OF N 25<sup>TH</sup> E.**

**WHEREAS**, the applicant filed an application for annexation on April 17, 2023; and

**WHEREAS**, this matter came before the Idaho Falls Planning and Zoning Commission during a duly noticed public hearing on June 06, 2023; and

**WHEREAS**, this matter came before the Idaho Falls City Council during a duly noticed public hearing on July 13, 2023; and

**WHEREAS**, having reviewed the application, including all exhibits entered and having considered the issues presented:

#### **I. RELEVANT CRITERIA AND STANDARDS**

1. The City Council considered the request pursuant to City of Idaho Falls Comprehensive Plan, City of Idaho Falls Zoning Ordinance, City of Idaho Falls Subdivision Ordinance, the Local Land Use Planning Act, and other applicable development regulations.
2. The property is approximately 1.703 acres generally located north of Lincoln Rd, east of Pinewood Estates, south of E 26<sup>th</sup> N, west of N 25<sup>th</sup> E.
3. This property is in the Area of Impact and contiguous to City limits along the north and east property lines.
4. This application is a Category “A” annexation.
5. City utilities are present in the area to provide services to this property.
6. The Comprehensive Plan designates this area as Mixed Use Centers and Corridors.
7. The proposed annexation is consistent with the policies of the Comprehensive Plan.
8. Idaho Falls Planning and Zoning Commission recommended approval of annexation.

#### **II. DECISION**

Based on the above Reasoned Statement of Relevant Criteria, the City Council of the City of Idaho Falls approved the annexation as presented.

PASSED BY CITY COUNCIL OF THE CITY OF IDAHO FALLS

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023

---

Rebecca L. Noah Casper - Mayor

# Memorandum

**File #:** 23-196

**City Council Meeting**

**FROM:** Wade Sanner, Director  
**DATE:** Tuesday, June 27, 2023  
**DEPARTMENT:** Community Development Services

## Subject

Legislative Public Hearing-Part 2 of 2 of the Annexation and Initial Zoning of HC, Highway Commercial, Initial Zoning Ordinance and Reasoned Statement of Relevant Criteria and Standards for 1.703 acres of Part of the SE ¼ of Section 9, Township 2 North, Range 38 East.

## Council Action Desired

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

1. Approve the Ordinance establishing the initial zoning for HC, Highway 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 (or consider the Ordinance on the first reading and that it be read by title, reject the Ordinance, or take other action deemed appropriate).
2. Approve the Reasoned Statement of Relevant Criteria and Standards for the initial zoning of HC, Highway Commercial and give authorization for the Mayor to execute the necessary documents (or take other action deemed appropriate).

## Description, Background Information & Purpose

Attached is part 2 of 2 of the application for Annexation and Initial Zoning of HC, Highway Commercial which includes the Initial Zoning Ordinance and Reasoned Statement of Relevant Criteria and Standards for 1.703 acres of Part of the SE ¼ of Section 9, Township 2 North, Range 38 East. The Planning and Zoning Commission considered this item at its June 6, 2023, meeting and unanimously voted to recommended approval of the annexation with initial zonings of HC to the Mayor and City Council as presented. Staff concurs with this recommendation.

## Alignment with City & Department Planning Objectives





Consideration of initial zoning must be consistent with the principles of the Comprehensive Plan which includes many policies and goals related to Good Governance, Growth, Sustainability, and Livable Communities.

**Interdepartmental Coordination**

N/A

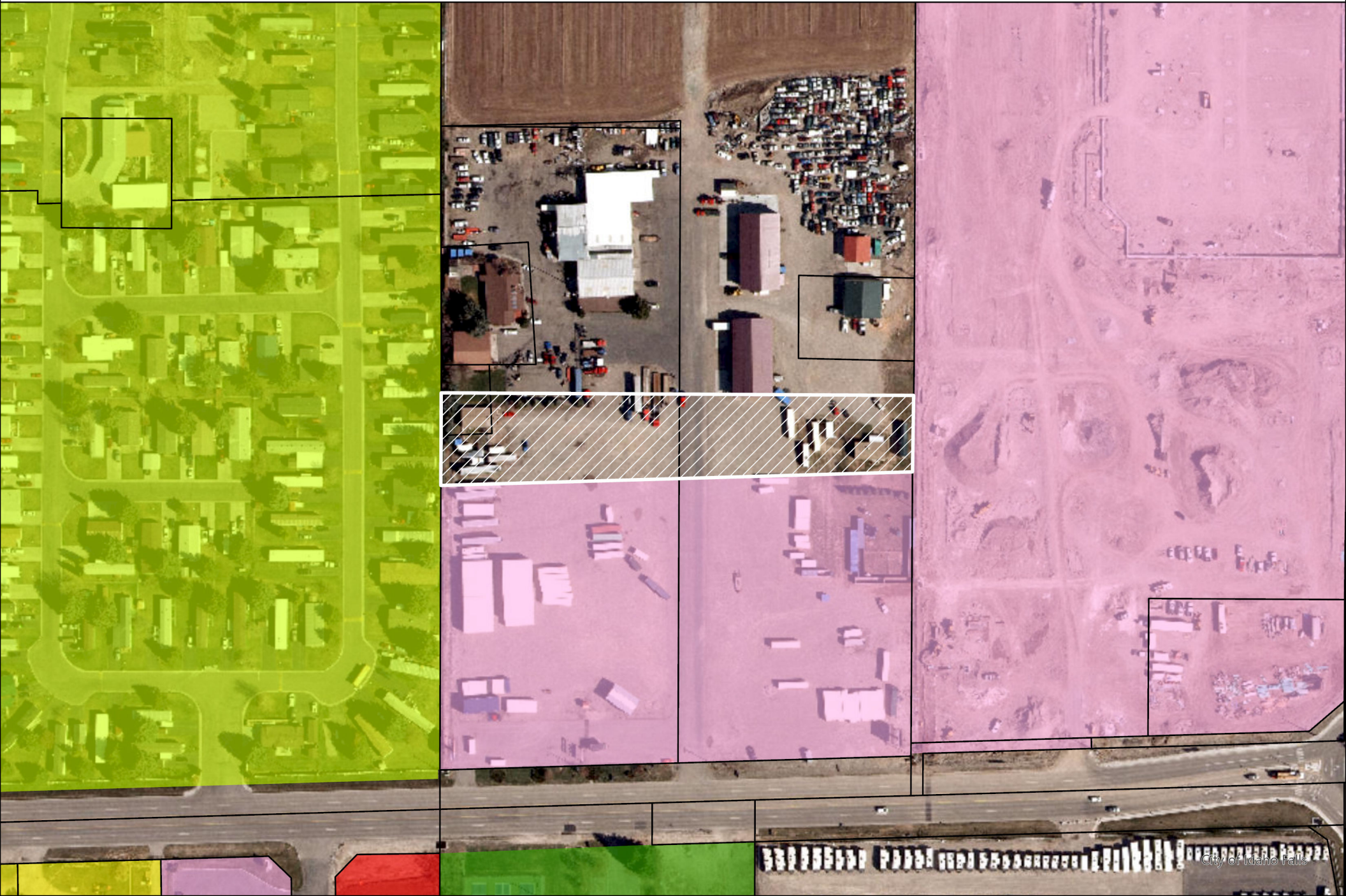
**Fiscal Impact**

N/A

**Legal Review**

These actions have been reviewed by the City Attorney Department pursuant to applicable State statute.











- General Urban
- Mixed Use Centers and Corridors
- Special Use
- Urban Core
- Industrial
- Natural and Open Space
- Suburban



**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE INITIAL ZONING OF APPROXIMATELY 1.703 ACRES DESCRIBED IN EXHIBIT A OF THIS ORDINANCE AS HC ZONE; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

WHEREAS, the proposed initial zoning district of lands described in Exhibit A is HC Zone for such annexed lands is consistent with the current City of Idaho Falls Comprehensive Plan Land use designation “Mixed Use Centers and Corridors”; and

WHEREAS, the proposed zoning district is consistent and compatible with the existing and surrounding zoning districts and is consistent with principles of the City of Idaho Falls Comprehensive Plan; and

WHEREAS, for consistency with the Comprehensive Plan, the Council desires to designate the lands within the area of annexation as “Mixed Use Centers and Corridors”; and

WHEREAS, Idaho Falls Planning and Zoning Commission held a duly noticed public hearing on June 06, 2023, and recommended approval of zoning the subject property to HC Zone; and

WHEREAS, the Council conducted a duly noticed public hearing and passed a motion to approve this zoning on July 13, 2023.

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

**SECTION 1:** Comprehensive Plan Designation. The area described in Exhibit A are hereby given a Comprehensive Plan designation of Mixed Use Centers and Corridors.

**SECTION 2:** Legal Description. The lands described in Exhibit A are hereby zoned as HC Zone.

**SECTION 3.** Zoning. The property described in Section 1 of this Ordinance be and the same hereby is zoned “HC, Highway Commercial Zone” and the City Planner is hereby ordered to make the necessary amendments to the official maps of the City of Idaho Falls which are on file at the City Planning Department Offices, 680 Park Avenue.

**SECTION 4.** Savings and Severability Clause. The provisions and parts of this Ordinance are intended to be severable. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

**SECTION 5.** Publication. This Ordinance, or a summary thereof in compliance with Idaho Code, shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

**SECTION 6.** Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED by the City Council and APPROVED by the Mayor of the City of Idaho Falls, Idaho, this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

CITY OF IDAHO FALLS, IDAHO

\_\_\_\_\_  
Rebecca L. Noah Casper, Mayor

ATTEST:

\_\_\_\_\_  
Corrin Wilde, City Clerk

(SEAL)

STATE OF IDAHO                    )  
  ) ss:  
County of Bonneville            )

I, CORRIN WILDE, 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 Ordinance entitled, “AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE INITIAL ZONING OF APPROXIMATELY 1.703 ACRES DESCRIBED IN SECTION 1 OF THIS ORDINANCE AS H C ZONE; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.”

\_\_\_\_\_  
Corrin Wilde, City Clerk



## LEGAL DESCRIPTION

Beginning at the Northeast corner of the City of Idaho Falls Annexation Ordinance Number 3205 as found in the Bonneville County Recorder's Office as Instrument Number 1588919, said corner also lies on the Westerly boundary line of the City of Idaho Falls Annexation Ordinance Number 3215 as found in said Recorder's Office as Instrument Number 1591635, said corner lies 674.54 feet S 88° 18' 37" W along the Section line and 441.13 feet N 00° 18' 49" E along the said Westerly line from the Southeast corner of Section 9, Township 2 North, Range 38 East of the Boise Meridian, Bonneville County, Idaho, to the TRUE POINT OF BEGINNING; running thence along the Northerly line of said Ordinance Number 3205 S 88° 18' 37" W 642.32 feet to the Northwest corner of said Ordinance Number 3205 and to an Easterly corner of the City of Idaho Falls Annexation Ordinance Number 3203 as found in the said Recorder's Office as Instrument Number 1588918; thence along the Easterly boundary lines of said Ordinance Number 3203 the following (2) two courses: (1) S 88° 18' 37" W 0.99 feet, (2) N 00° 09' 03" E 126.60 feet; thence S 89° 41' 11" E 643.28 feet to the Westerly line of said Ordinance Number 3215; thence along said Westerly line S 00° 18' 49" W 104.11 feet to the TRUE POINT OF BEGINNING.

CONTAINING: 74,189 square feet or 1.703 acres.

Submitted by:

Eng/Survey Firm Name: Apex Engineering, INC

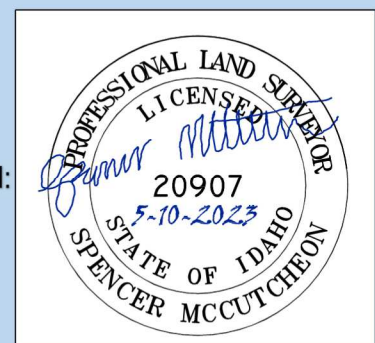
Contact Name: Spencer McCutcheon, PLS

Phone Number: 435-633-3012

Email: spencerm@apex20.com

Page 1 of 1

PLS Seal:



CITY OF IDAHO FALLS  
BONNEVILLE COUNTY

PART OF THE SE ¼ OF SECTION 9, T. 2 N., R. 38 E., B.M.  
CITY OF IDAHO FALLS, BONNEVILLE COUNTY, IDAHO

ANNEXATION  
ORDINANCE  
#

BOUNDARY DESCRIPTION

TRACT 1 - HC

Beginning at the Northeast corner of the City of Idaho Falls Annexation Ordinance Number 3205 as found in the Bonneville County Recorder's Office as Instrument Number 1588919, said corner also lies on the Westerly boundary line of the City of Idaho Falls Annexation Ordinance Number 3215 as found in said Recorder's Office as Instrument Number 1591635, said corner lies 674.54 feet S 88° 18' 37" W along the Section line and 441.13 feet N 00° 18' 49" E along the said Westerly line from the Southeast corner of Section 9, Township 2 North, Range 38 East of the Boise Meridian, Bonneville County, Idaho, to the **TRUE POINT OF BEGINNING**; running thence along the Northerly line of said Ordinance Number 3205 S 88° 18' 37" W 642.32 feet to the Northwest corner of said Ordinance Number 3205 and to an Easterly corner of the City of Idaho Falls Annexation Ordinance Number 3203 as found in the said Recorder's Office as Instrument Number 1588918; thence along the Easterly boundary lines of said Ordinance Number 3203 the following (2) two courses: (1) S 88° 18' 37" W 0.99 feet, (2) N 00° 09' 03" E 126.60 feet; thence S 89° 41' 11" E 643.28 feet to the Westerly line of said Ordinance Number 3215; thence along said Westerly line S 00° 18' 49" W 104.11 feet to the **TRUE POINT OF BEGINNING**.

CONTAINING: 74,189 square feet or 1.703 acres.

RECORDED WITH THE BONNEVILLE COUNTY RECORDERS  
OFFICE AS INSTRUMENT NO. \_\_\_\_\_

REFERENCES BONNEVILLE COUNTY IDAHO

SP1 -COSTCO SUBDIVISION - KELLY KEHRER PLS 16662 - INS. #1625732  
ROS1 - JEREMIAH BIGELO - THOMPSON ENGINEERING - KEVIN THOMPSON PLS 10563 INS. #1654964  
R1 - WARRANTY DEED - BRAD PICKERING - INS. #1108960  
R2 - QUIT CLAIM DEED - BRAD PICKERING - INS. #1172179

FOUND 5/8" REBAR NO CAP  
C¼ CORNER SECTION 9,  
T2N, R38E, BM  
INST NO. 1616069

N 89° 17' 33" E 2630.56' (M)  
(N 89° 17' 43" E 2630.80' ROS1)

FOUND 2" ALUMINUM CAP FLUSH  
WITH ASPHALT ILLEGIBLE  
E¼ CORNER SECTION 9,  
T2N, R38E, BM  
INST NO. 1100943

EASTERLY LINE OF  
ORDINANCE 3203

NOT ANNEXED

S89° 41' 11"E 643.28 FT

TRACT1 -HC ZONE

74,189 S.F.  
1.703 AC.

WESTERLY BOUNDARY  
LINE OF ORDINANCE NO.  
3215

POINT OF BEGINNING (P.O.B.)

NORTH BOUNDARY OF  
ORDINANCE NO. 3205

S88° 18' 37"W 642.32 FT

S88° 18' 37"W 0.99 FT

S00° 18' 49"W 104.11 FT

ORDINANCE NO 3215  
INS. NO. 1591635

N 00° 07' 43" E 2636.68' (M)  
S00° 08' 14"W 2636.71' (ROS1)  
S00° 07' 55"W 2636.69' (SP1)

441.13 FT  
N 00° 18' 49" E  
(SEC TO P.O.B.)

674.54 FT

FOUND 2 1/2" ALUMINUM CAP FLUSH  
WITH CONCRETE PLS 12224  
SE CORNER SECTION 9,  
T2N, R38E, BM  
INST NO. 1613339

LINCOLN ROAD

BASIS OF BEARING

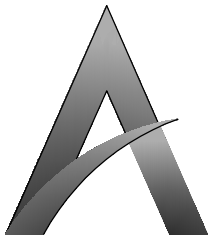
S 88° 18' 37" W. 2632.79' (M), (R1)

S 88° 18' 45 W 2632.77' (SP1)

S 88° 18' 42" W 2632.70' (ROS1) S 88° 18' 24"W (R1) (R2)

FOUND 2" ALUMINUM CAP MARKED  
PLS 8795  
S¼ CORNER SECTION 9,  
T2N, R38E, BM  
INST NO. 16554942

ORDINANCE NO 3203  
INS. NO. 1588918



NORTH

SCALE: 1" = 80'

0 80 160 240



ANNEXATION  
FOR: BRAD PICKERING  
PART OF THE SE ¼ SECTION 9,  
T2N, R38E, B.M.  
BONNEVILLE COUNTY, IDAHO

DRAWN BY: SJM

DATE: 5-10-2023

SCALE: 1" = 80'

CADFILE: PICK ANNEX

JOB NAME: CON. PICK. ANNEX

SHEET NO. 1 OF 1



661 N. Main St., Spanish Fork, UT  
8660  
801-796-2277

## **REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS**

### **INITIAL ZONING OF HC, HIGHWAY COMMERCIAL, APPROXIMATELY 1.703 ACRES LOCATED GENERALLY NORTH OF LINCOLN RD, EAST OF PINEWOOD ESTATES, SOUTH OF E 26<sup>TH</sup> N, WEST OF N 25<sup>TH</sup> E.**

**WHEREAS**, the applicant filed an application for annexation on April 17, 2023; and

**WHEREAS**, this matter came before the Idaho Falls Planning and Zoning Commission during a duly noticed public hearing on June 06, 2023; and

**WHEREAS**, this matter came before the Idaho Falls City Council during a duly noticed public hearing on July 13, 2023; and

**WHEREAS**, having reviewed the application, including all exhibits entered and having considered the issues presented:

#### **I. RELEVANT CRITERIA AND STANDARDS**

1. The City Council considered the request pursuant to City of Idaho Falls Comprehensive Plan, City of Idaho Falls Zoning Ordinance, City of Idaho Falls Subdivision Ordinance, the Local Land Use Planning Act, and other applicable development regulations.
2. The property is approximately 1.703 acres located generally north of Lincoln Rd, east of Pinewood Estates, south of E 26<sup>th</sup> N, west of N 25<sup>th</sup> E.
3. The proposed zoning of HC, Highway Commercial, is consistent with the policies of the Comprehensive Plan and existing zoning and land uses in the area.
4. Idaho Falls Planning and Zoning Commission recommended approval of zoning the property of HC, Highway Commercial.

#### **II. DECISION**

Based on the above Reasoned Statement of Relevant Criteria, the City Council of the City of Idaho Falls approved the initial zoning as presented.

PASSED BY CITY COUNCIL OF THE CITY OF IDAHO FALLS

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023

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Rebecca L. Noah Casper - Mayor



# Memorandum

File #: 23-197

City Council Meeting

**FROM:** Wade Sanner, Director  
**DATE:** Tuesday, June 27, 2023  
**DEPARTMENT:** Community Development Services

## Subject

Legislative Public Hearing-Part 1 of 2 of the Annexation and Initial Zoning-Annexation Ordinance and Reasoned Statement of Relevant Criteria and Standards for 169.043 acres in the SE ¼ of Section 6, Township 2 North, Range 38 East.

## Council Action Desired

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

1. Approve the Ordinance annexing 169.043 acres in the SE ¼ of Section 6, Township 2 North, Range 38 East, assign a Comprehensive Plan Designation of "General Urban", and under a suspension of the rules requiring three complete and separate readings, request that it be read by title and published by summary (or consider the Ordinance on the first reading and that it be read by title, reject the Ordinance, or take other action deemed appropriate).
2. Approve the Reasoned Statement of Relevant Criteria and Standards for the annexation of 169.043 acres in the SE ¼ of Section 6, Township 2 North, Range 38 East and give authorization for the Mayor to execute the necessary documents (or take other action deemed appropriate).

## Description, Background Information & Purpose

Attached is part 1 of 2 of the application for Annexation and Initial Zoning of HC, Highway Commercial, LC, Limited Commercial, R3A, Residential Mixed Use and the Controlled Airport Overlay Zone which includes the Annexation Ordinance and Reasoned Statement of Relevant Criteria and Standards for 169.043 acres in the SE ¼ of Section 6, Township 2 North, Range 38 East. The Planning and Zoning Commission considered this item at its April 4, 2023, meeting and voted to recommended approval of the annexation with initial zoning of R3A, LC, and HC as presented to the Mayor and City Council with a vote of 5 to 1.

## Alignment with City & Department Planning Objectives



Successful annexation consideration seeks for consistency with the principles of the Comprehensive Plan, including

Growth, Sustainability, and Livable Communities.

**Interdepartmental Coordination**

The annexation legal description has been reviewed by the Public Works Survey Division.

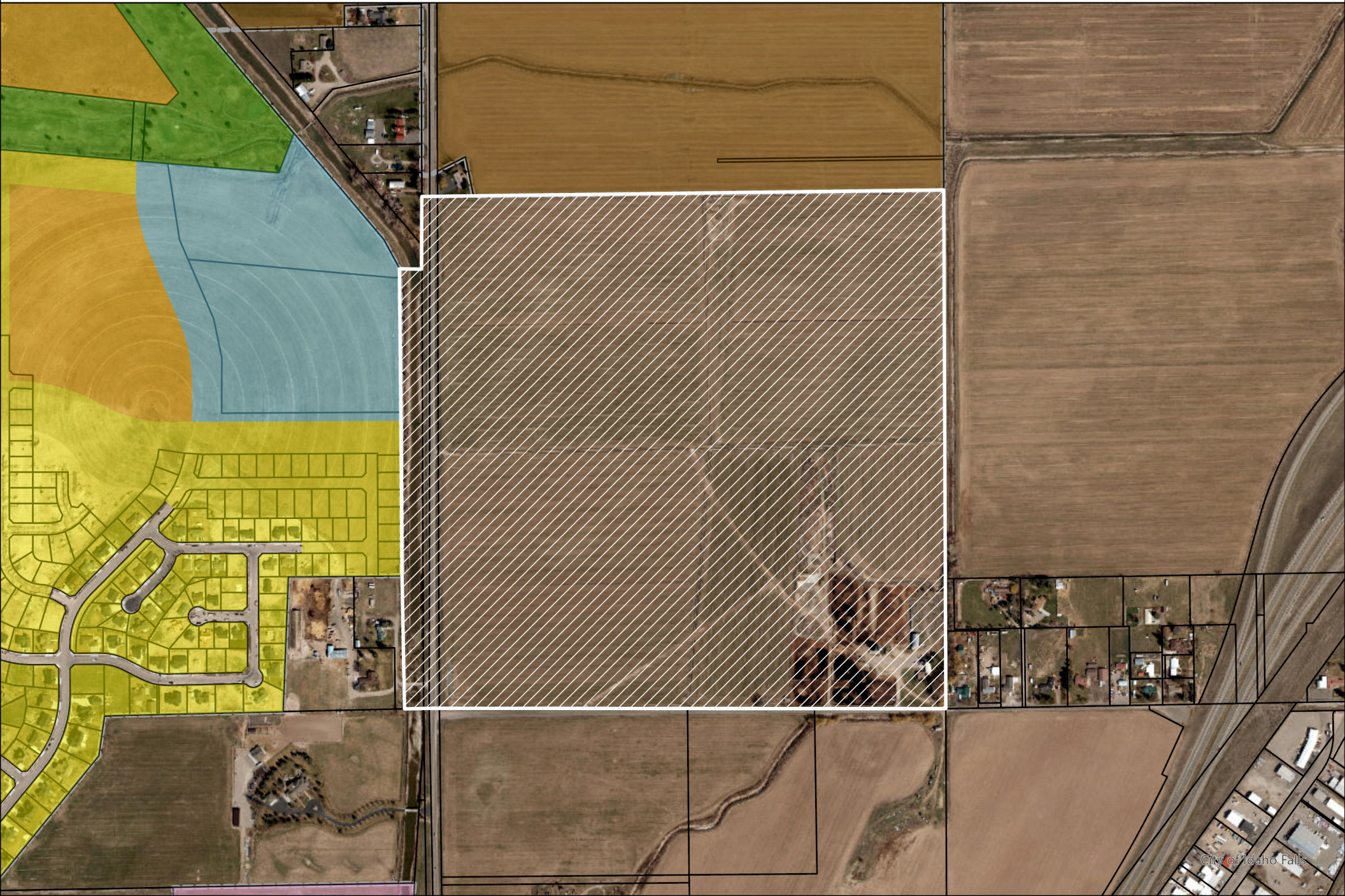
**Fiscal Impact**

NA

**Legal Review**

This application and ordinance have been reviewed by the City Attorney's Office for consistency with state statutes.



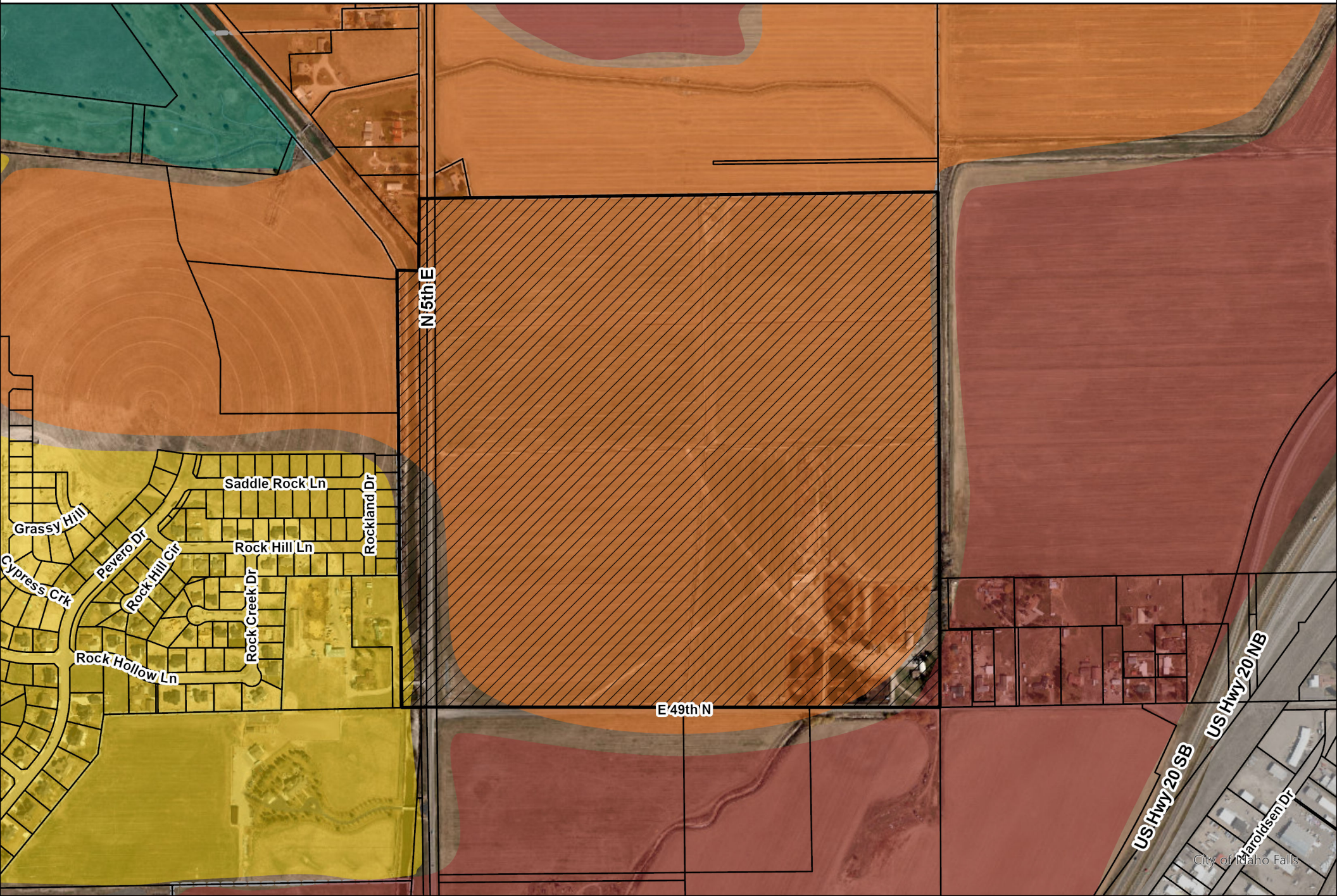








- General Urban
- Mixed Use Centers and Corridors
- Special Use
- Urban Core
- Industrial
- Natural and Open Space
- Suburban





## STAFF REPORT

Annexation of 166.59 acres in the SE ¼ of Section 6 Township 2 North, Range 38 East with an Initial Zoning of HC, Highway Commercial, LC, Limited Commercial, R3A, Residential Mixed Use, and Controlled Development Airport Overlay Zone  
July 13, 2023



Community  
Development  
Services

**Applicant:** Ellsworth & Associates

**Project Manager:** Naysha Foster

**Location:** North of E 49<sup>th</sup> N, east of 5<sup>th</sup> E, south of E 65<sup>th</sup> N, west of US Hwy 20

**Size:** Approximately 169.043 acres.

**Zoning:**

Existing: County A-1  
North: County A-1  
South: County A-1  
East: County A-1  
West: R1 & R3A

**Proposed Zoning:** HC, LC, R3A, Airport Overlay Zone

**Existing Land Uses:**

Site: Ag  
North: Ag  
South: Ag  
East: Ag  
West: Residential

**Future Land Use Map:**  
General Urban

**Attachments:**

1. Comprehensive Plan Policies
2. Zoning Information
3. Allowed Uses
4. Maps & Aerial Photos

**Requested Action:** To **approve** the annexation and initial zoning of HC, Highway Commercial, LC, Limited Commercial, R3A, Residential Mixed Use and the Controlled Development Airport Overlay to the Mayor and City Council.

**Staff Recommendation:** Because of the uncertainty of the transportation network in this area, staff would recommend denying the annexation until the Federal Highway Administration makes a determination of a preferred route for the I-15/US 20 Connector project or a proposed development plan in the form of a preliminary plat application is submitted to the City for review in conjunction with the annexation request. **Planning and Zoning Commission recommended** approval as presented by the applicant.

**Annexation:** This is a Category “A” annexation as it is requested by the property owner. The property is not in the Area of Impact, but it is contiguous to City limits along the north and west property line and is included in the Comprehensive or Future Land Use Planning Map. Annexation of the property is consistent with the policies of the City’s Comprehensive Plan but may be premature without knowing the final alignment of the I-15/US 20 Connector project.

**Initial Zoning:** The proposed zoning is HC, LC, R3A and the Airport Overlay Zone. The LC and R3A Zones are consistent with the Comprehensive Plan and Future Land Use Planning Map. The Future Land Use is General Urban for this area. The General Urban Transect denotes residential areas with a mix of commercial and service uses convenient to residents. These areas contain a wide variety of housing types. These areas should be near an existing or part of a new walkable center. The HC Zone is more consistent with the large or regional commercial centers identified in the Mixed Use Centers & Corridors designation. This designation is shown for areas to the east and south of this area. The General Urban and Mixed Use Centers designations support a mix of commercial and residential uses in this area and were considered based on the study and proposed routes from ITD for the I-15 and US 20 Connector project. ITD’s Recommended Preferred Route shows an interchange through portion of this property. Future development and road alignments for this property could need to take into account the possible interchange and alignment of existing road networks, like those across 5<sup>th</sup> East in Fairway Estates.

Please see second page

No specific development proposal has been identified for this property. Because of the uncertainty with future road alignments, it makes it difficult to assign the correct zoning boundaries for this property. The proposed HC, LC and R3A could be the correct mix, but it is uncertain how to place those zone boundaries. Zoning of the property, as proposed, will likely result in the need for immediate rezoning before development could occur.

There is less uncertainty with the area requested to be zoned R3A on the north end of the property. The south boundary of the proposed R3A Zone District lines up with the R3A Zoning in Fairway Estates across 5<sup>th</sup> East. This also aligns with Sages Lakes Blvd, a collector road bridged over the Idaho Canal with connection to 5<sup>th</sup> East. It's likely this intersection will include a traffic signal in the future and could connect with the proposed intersection if this alignment were chosen. This could mean that the boundary of the R3A Zoning could largely remain unchanged in the future. The areas identified for HC And LC are more likely to be impacted by future road network concerns. A preliminary plan for development would help in determining the correct zoning boundaries for this area.

The north 67.972 acres is proposed to have initial zoning of R3A, the middle 44.106 would be LC, and the 44.106 acres to the south is proposed to be HC. The Zoning is consistent with the Comprehensive Plan and would be compatible with the current zoning in the area.

**Staff Comments:** When writing a comprehensive plan, Idaho Code 67-6502, requires that a plan addresses several components. One of those components is transportation. Idaho Code 67-6508 also requires as part of the duties of the Planning and Zoning Commission to consider desirable future situations for each planning component based on reports, studies, charts and maps. The Comprehensive Plan also encourages strategic partnerships, well-planned growth and development, as well as reliable public infrastructure, transportation and mobility.

When the current Comprehensive Plan was adopted, staff, Planning and Zoning Commission, and City Council considered the reports and maps of the proposed future routes of the I-15 and US 20 interchange and corridors.

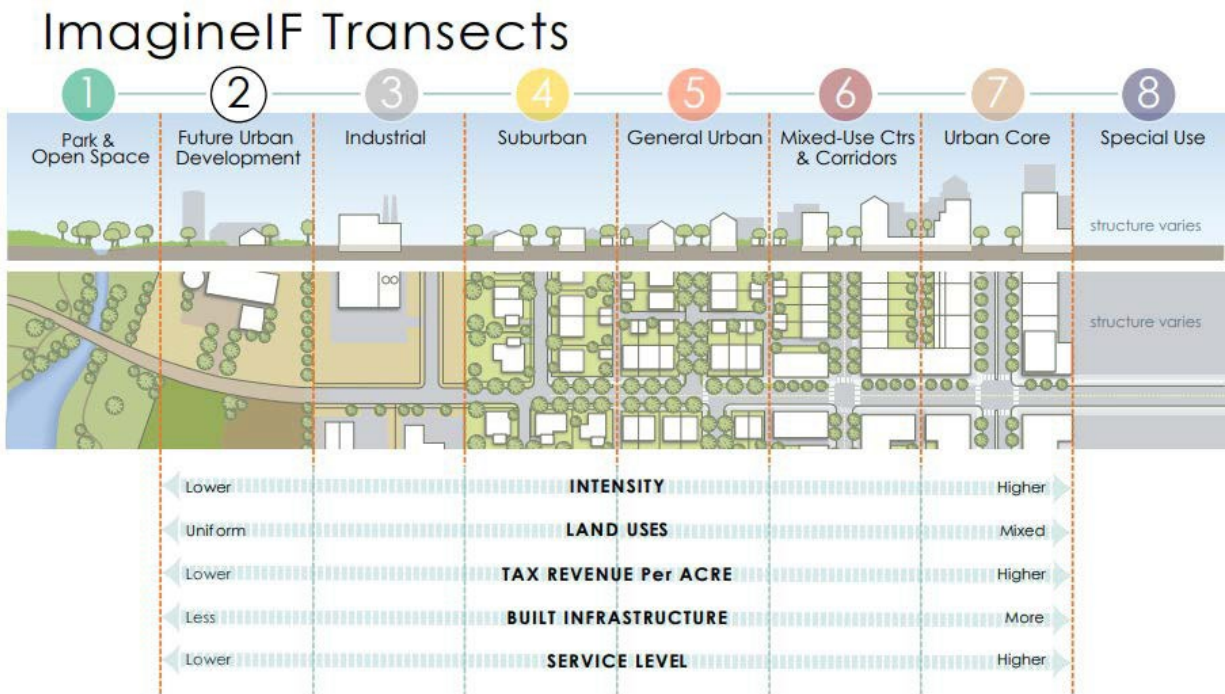
ITD's Recommended Preferred Route shows an interchange through this property. Other options being considered include a no build scenario as well as improving and staying on the existing alignment of US 20. Final determination of the route will come from the Federal Highway Administration. It's uncommon to have a project like this within an annexation area and the City should consider whether it is prudent to annex the property prior to the final determination on a highway alignment or a plan for development is presented. Annexation of the property could be appropriate if the City wishes to ensure development oversight of the property. Once annexation and initial zoning occur, a property is given property rights to the land uses allowed by the zoning designation. The City's ability to ensure structures and other improvements aren't placed in the highway alignment diminish.

Currently, water is located on the west side of N 5<sup>th</sup> W along the property. Sewer is approximately a half of a mile to the south in N 5<sup>th</sup> E. Power is also approximately a half a mile south of the property and fiber is a mile to the south. Utilities are present but could be complicated by the I-15/ US20 Project as the initial understanding is that the highway would run at grade and 5<sup>th</sup> East would be elevated. This could mean that utilities extension might need to run outside of the linear right-of-way if the project moves forward.



## Comprehensive Plan Land Use Transects:

pg. 60-70



## Comprehensive Plan Policies:

(i) Transportation: An analysis, prepared in coordination with the local jurisdiction(s) having authority over the public highways and streets, showing the general locations and widths of a system of major traffic thoroughfares and other traffic ways, and of streets and the recommended treatment thereof. This component may also make recommendations on building line setbacks, control of access, street naming and numbering, and a proposed system of public or other transit lines and related facilities including rights-of-way, terminals, future corridors, viaducts and grade separations. The component may also include port, harbor and other related transportation facilities. Pg. 27

### Issue:

#### Traffic Congestion and Safety

Increase Regional Coordination pg. 94

## **Zoning Ordinance:**

### **11-3-5: PURPOSE OF COMMERCIAL ZONES**

(D) HC Highway and General Commercial Zone. This zone provides a commercial zone for retail and service uses serving the traveling public. Characteristics of the Zone are buildings set back from the right-of-way line to promote safety on the highway and maintain maximum use of highway right-of-way for travel purposes, and a wide variety of architectural forms and shapes. This Zone should be located at specific locations along highways leading into the City.

(C) LC Limited Commercial Zone. This zone provides a commercial zone for retail and service uses which supply the daily household needs of the City's residents. This Zone is usually located on major streets contiguous to residential uses. This zone is characterized by smaller scale commercial uses which are easily accessible by pedestrians and non-motorized vehicles from the surrounding residential neighborhoods, although larger scale developments such as big-box stores may still serve as anchors. Connectivity is provided with walkways that provide access to and through the development site. Parking for vehicles is understated by the use of landscaping, location, and provision of pedestrian walkways to the businesses.

(6) In the LC Zone, residential uses shall comply with the R3A Zone dimensional standards

**Table 11-3-5: Dimensional Standards for Commercial Zones**

	<b>CC</b>	<b>PB</b>	<b>LC</b>	<b>HC</b>
Site width at front setback - Minimum in ft.		50	*	50
<b>Setbacks – Minimum in ft.</b>				
Front		20	20*	20
Side			*	
Rear			*	
Landscape buffer contiguous to street* in ft.	7*	15	20*	20*
Landscape buffer contiguous to a residential Zones* in ft.	10	10	20/10	30/10
Building height – Maximum in ft.		*	*	
Lot Coverage- Maximum in %		80	80	

### **11-3-3: PURPOSES OF RESIDENTIAL ZONES:**

(G) R3A Residential Mixed Use Zone. To provide for a mix of uses in which the primary use of the land is for residential purposes, but in which office buildings and certain other uses of a semi-commercial nature may be located. Characteristic of this Zone is a greater amount of automobile traffic, greater density, and a wider variety of dwelling types and uses than is characteristic of the R3 Residential Zone. While office buildings and certain other uses of a semi-commercial nature may be located in the Zone, the R3A Zone is essentially residential in character. Therefore, all uses must be developed and maintained in harmony with residential uses. This zone should be located along major streets such as arterials and collectors.

### 11-3-4: DIMENSIONAL STANDARDS FOR RESIDENTIAL ZONES.

**Table 11-3-1: Dimensional Standards for Residential Zones**

	RE	RP	R1	R2	TN	R3	R3A	RMH
<b>Lot Area</b>								
Lot Area Minimum in ft <sup>2</sup>	1 acre*	12,000	7,000	6,000*	3,000*	5,000*	5,000	3,000
Lot Area Maximum in ft <sup>2</sup>			13,500*					
<b>Site Width</b>								
Site Width at Front Setback, Minimum in ft.	150	60	50	50	25	50	50	25
<b>Setbacks, Minimum in ft.</b>								
Front	40	30*	25*	20*	15*	15	15	15
Front Maximum in ft.					20*			
Side	20	7.5/10*	6	6	5	6	6	5
Rear	40	25	25	25	10	25*	25*	10
<b>Lot Coverage, Building Height, and Density</b>								
Maximum Lot Coverage in %	30	40	40	80	50	80	80	50
Maximum Building Height in ft*	24	24	24	36	*			24
Maximum Density in gross units/acre	1	4	6	17	15	35	35	35

### 11-2-3: ALLOWED USES IN RESIDENTIAL ZONES.

**Table 11-2-1: Allowed Uses in Residential Zones**

<p>P = permitted use. C1 = administrative conditional use. C2 = Board of Adjustment conditional use. C3 = City Council conditional use. A blank denotes a use that is not allowed in that zone.</p> <p>*Indicates uses that are subject to specific land use provisions set forth in the Standards for Allowed Land Uses Section of this Chapter.</p>								
	Low Density Residential			Medium Density Residential			High Density Residential	
Proposed Land Use Classification	RE	RP	R1	R2	TN	RMH	R3	R3A
Accessory Use	P	P	P	P	P	P	P	P
Agriculture*	P							
Animal Care Clinic*					P*			P
Artist Studio					P*			
Bed and Breakfast*								P
Boarding /Rooming House							P	P
Day Care, Center*			C <sub>2</sub>	P	P		P	P
Day Care, Group*	C <sub>1</sub>		C <sub>1</sub>	P	P	C <sub>1</sub>	P	P
Day Care, Home	C <sub>1</sub>		C <sub>1</sub>	P	P	C <sub>1</sub>	P	P
Dwelling, Accessory Unit*	P	P	P	P	P	P	P	P
Dwelling, Multi-Unit*				P*	P		P	P
Dwelling, Multi-Unit Attached*				P	P		P	P
Dwelling, Single Unit Attached*			P	P	P	P	P	P
Dwelling, Single Unit Detached	P	P	P	P	P	P	P	P
Dwelling, Two Unit				P	P		P	P
Eating Establishment, Limited					P*			P
Financial Institutions					P*			P
Food Processing, Small Scale					P*			
Food Store					P*			
Fuel Station					P*			
Health Care and Social Services					P*			P
Home Occupation*	C <sub>1</sub>		C <sub>1</sub>	C <sub>1</sub>	C <sub>1</sub>	C <sub>1</sub>	C <sub>1</sub>	C <sub>1</sub>
Information Technology								P
Laundry and Dry Cleaning					P*			P
Live-Work*					C <sub>1</sub>			P
Manufactured Home*	P	P	P	P	P	P	P	P
Mobile Home Park*						P		C <sub>2</sub>
Mortuary								P
Park and Recreation Facility*	P	P	P	P	P	P	P	P
Parking Facility								P
Personal Service					P*			P
Planned Unit Development*	C <sub>3</sub>	C <sub>3</sub>	C <sub>3</sub>	C <sub>3</sub>	C <sub>3</sub>	C <sub>3</sub>	C <sub>3</sub>	C <sub>3</sub>
Professional Service								P
Public Service Facility*	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>
Public Service Facility, Limited	P	P	P	P	P	P	P	P
Public Service Use								P

Proposed Land Use Classification	RE	RP	R1	R2	TN	RMH	R3	R3A
Recreational Vehicle Park*						P		
Religious Institution*	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>
Residential Care Facility							P	P
Retail					P*			C <sub>2</sub>
School	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>
Short Term Rental*	P	P	P	P	P	P	P	P
Transit Station								P

(Ord. 3218, 9-13-18) (Ord. 3358, 12-10-20) (Ord. 3451, 3-31-22) (Ord. 3458, 4-14-22)

## 11-2-4: ALLOWED USES IN COMMERCIAL ZONES.

**Table 11-2-2: Allowed Uses in Commercial Zones**

P = permitted use. C1 = administrative conditional use. C2 = Board of Adjustment conditional use. C3 = City Council conditional use. A blank denotes a use that is not allowed in that zone.					
*Indicates uses that are subject to specific land use provisions set forth in the Standards for Allowed Land Uses Section of this Chapter.					
	Commercial				
Proposed Land Use Classification	PB	CC	LC	HC	PT
Accessory Use	P	P	P	P	P
Accessory Use, Fuel Station*		P	P	P	
Accessory Use, Storage Yard*		P	P	P	
Amusement Center, Indoor		P	P	P	
Amusement Center, Indoor Shooting Range*		P	P	P	
Amusement Center, Outdoor*				P	
Animal Care Clinic*	P	P	P	P	
Animal Care Facility*				P	
Bed and Breakfast*		P	P		P
Boarding /Rooming House		P	P		P
Building Material, Garden and Farm Supplies			P	P	
Cemetery*		C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	
Club*		P	P	P	
Communication Facility		P	P	P	
Day Care, all Types*	P	P	P	P	P
Drinking Establishment		P		P	
Drive-through Establishment *	P*	P	P	P	P
Dwelling, Accessory Unit *		P	P	P	P
Dwelling, Multi-Unit*		P	P		P
Dwelling, Multi-Unit Attached*		P	P		P
Dwelling, Single Unit Attached*			P		
Dwelling, Single Unit Detached			P		
Dwelling, Two Unit			P		P
Eating Establishment		P	P	P	P
Eating Establishment, Limited	P	P	P	P	P

<b>Proposed Land Use Classification</b>	<b>PB</b>	<b>CC</b>	<b>LC</b>	<b>HC</b>	<b>PT</b>
Financial Institutions	P	P	P	P	P
Entertainment and Cultural Facilities	P	P	P	P	P
Equipment Sales, Rental and Services			P	P	
Food Processing, Small Scale				P	
Food Store		P	P	P	P
Health Care and Social Services	P	P	P	P	P
Higher Education Center		P	P	P	P
Home Occupation*	P	P	P	P	P
Hospital*	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>
Industry, Craftsman	P	P	P	P	
Industry, Light		P		P	
Information Technology	P	P	P	P	P
Laundry and Dry Cleaning		P			P
Live-Work*	C <sub>2</sub>	P	P	P	P
Lodging Facility		P	P	P	P
Mortuary				P	P
Parking Facility		P	P	P	P
Pawn Shop		P			
Personal Service	P	P	P	P	P
Professional Service	P	P	P	P	P
Planned Unit Development*		C <sub>3</sub>	C <sub>3</sub>		C <sub>3</sub>
Public Service Facility*	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>
Public Service Facility, Limited	P	P	P	P	P
Public Service Use	P	P	P	P	P
Recreation Vehicle Park*				P	
Religious Institution*		P	P	P	P
Residential Care Facility	P	P	P	P	P
Retail		P	P	P	P
School		P	P	P	P
Short Term Rental*		P	P		P
Fuel Station		P	P	P	
Fuel Station, Super		C <sub>2</sub>	P	P	
Storage Facility, Indoor		P	P	P	P
Storage Facility, Outdoor				P	
Storage Yard*				P	
Transit Station		P	P	P	P
Vehicle Body Shop				P	
Vehicle Repair and Service		P	P	P	
Vehicle Sales, Rental and Service		P		P	
Vehicle Washing Facility		C <sub>2</sub>	C <sub>2</sub>	P	

(Ord. 3210, 8-23-18) (Ord. 3218, 9-13-18) (Ord. 3233, 12-20-18) (Ord 3277, 10-10-19)  
(Ord. 3358, 12-10-20) (Ord. 3451, 3-31-22)



## 11-2-5: ALLOWED USES IN INDUSTRIAL AND SPECIAL PURPOSE ZONES.

**Table 11-2-3: Allowed Uses in Industrial Zones**

P = permitted use. C1 = administrative conditional use. C2 = Board of Adjustment conditional use. C3 = City Council conditional use. A blank denotes a use that is not allowed in that zone.				
*Indicates uses that are subject to specific land use provisions set forth in the Standards for Allowed Land Uses Section of this Chapter.				
	Industrial		Special Purpose	
Proposed Land Use Classification	LM	I&M	R&D	P
Accessory Use	P	P	P	
Accessory Use, Fuel Station*	P	P	P	
Accessory Use, Storage Yard*	P	P	P	
Airport	P			
Agriculture*	C <sub>2</sub>	P		C <sub>2</sub>
Agriculture Tourism	C <sub>2</sub>	P		C <sub>2</sub>
Amusement Center	P	P		
Amusement Center, Indoor Shooting Range*	P	P		
Amusement Center, Outdoor*	P	P		C <sub>2</sub>
Adult Business*		P		
Animal Care Clinic*	P	P		
Animal Care Facility*	P	P		
Artist Studio	P	P		
Auction, Livestock		C <sub>2</sub>		
Building Contractor Shop	P	P		
Building Material, Garden and Equipment	P	P		
Cemetery*				C <sub>2</sub>
Club*	P	P		
Communication Facility	P	P	P	
Correctional Facility or Jail	C <sub>2</sub>	P		
Day Care Center*	P	P	P	
Drinking Establishment	P	P		
Drive-through Establishment*	P	P		
Dwelling, Accessory Unit*	P	P		
Eating Establishment	P	P		
Eating Establishment, Limited	P	P	P	
Equipment Sales, Rental and Service	P	P		
Financial Institution	P	P	P	
Food Processing, Small Scale Processing With or Without Sales	P	P		
Food Products, Processing, With or Without Retail Sales		P		
Food Store	P	P		
Fuel Station, Super	P	P		

<b>Proposed Land Use Classification</b>	<b>LM</b>	<b>I&amp;M</b>	<b>R&amp;D</b>	<b>P</b>
Health Care and Social Services			P	
Higher Education Facilities	P		P	
Hospital*	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	
Industry, Craftsman	P	P		
Industry, Heavy		P		
Industry, Light	P	P		
Information Technology	P	P	P	
Laundry and Dry Cleaning	P	P		
Lodging Facility	P		C <sub>2</sub>	
Medical Support Facilities	P		P	
Parking Facility	P	P	P	
Park and Recreation Facility*				P
Pawn Shop	P	P		
Personnel Service	P	P		
Professional Service	P	P	P	
Public Service Facility*	P	P	C <sub>2</sub>	C <sub>2</sub>
Public Service Facility, Limited	P	P	P	P
Public Service Use	P	P	P	P
Railroad Freight Terminal and Station		P		
Recreational Vehicle Park*				C <sub>2</sub>
Research and Development Business	P	P	P	
Retail	P	P		
Storage Facility, Indoor	P	P		
Storage Facility, Outdoor	P	P		
Storage Yard*	P	P		
Terminal Yard, Trucking and Bus		P		
Transit Station	P	P	P	
Vehicle Body Shop	P	P		
Vehicle Sales, Rentals and Service	P	P		
Vehicle Washing Facility	P	P		
Warehouse	P	P		
Warehouse, Wholesale With Flammable Materials	P	P		

(Ord. 3218, 9-13-18) (Ord. 3233, 12-20-18) (Ord. 3451, 3-31-22)

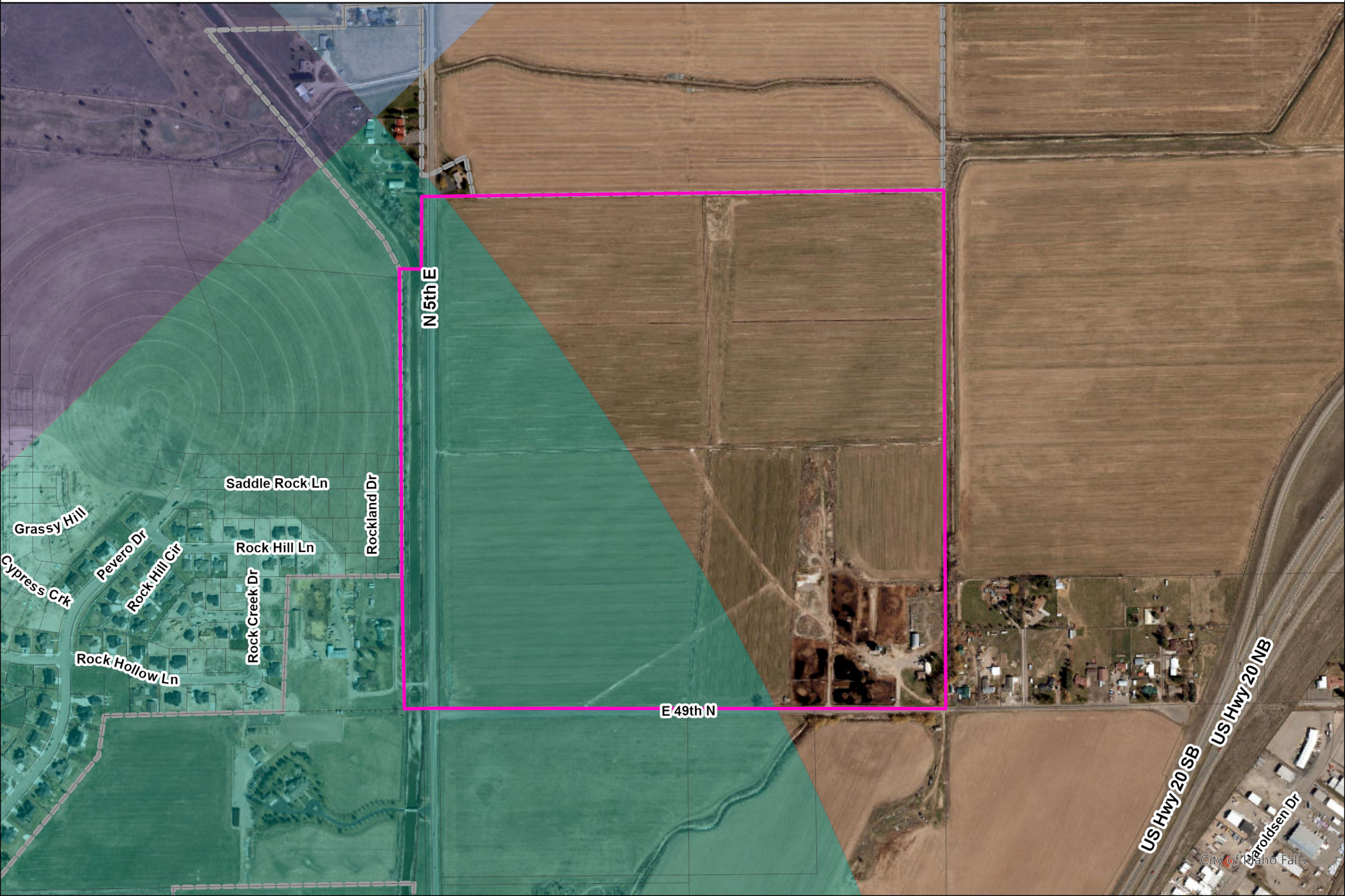
- Approach Surface

Controlled Development Approach Surface

Limited Development Approach Surface
- Controlled Development

Limited Development

No Development







**Your Safety • Your Mobility  
Your Economic Opportunity**

**IDAHO TRANSPORTATION DEPARTMENT**  
206 N Yellowstone Hwy, Rigby ID, 83442  
(208) 745-8735 • [itd.idaho.gov](http://itd.idaho.gov)

**February 28, 2023**

Dear Idaho Falls Community Development Services;

The Idaho Transportation Department (ITD) appreciates the efforts of the City of Idaho Falls in continued collaboration of roadway improvements that impact the Bonneville Metropolitan Planning Area (BMPA), and wants to make you aware of a project being planned. During the discussion we had with the department staff on February 8, 2023, we were provided with information regarding a proposed annexation near 49<sup>th</sup> N and 5<sup>th</sup> E.

<https://trakit.idahofallsidaho.gov/etrakit3/viewAttachment.aspx?Group=PROJECT&ActivityNo=ANNX23-001&key=ECO%3a2301261108512>

Shown in the attached exhibit is the current alignment of H2. ITD's recommended preferred alternative I-15/US-20 Connector project is in the area of this proposed annexation.

Beginning in 2017, the Idaho Transportation Department together with other BMPO stakeholders began investigating potential solutions to address safety and congestion concerns on I-15 and US-20 in the area. A Planning and Environmental Linkages (PEL) study was initiated and has progressed into an Environmental Impact Statement (EIS) study. ITD has worked to include affected agencies including Bonneville County and the City of Idaho Falls as well as performing a robust public outreach investigating solutions.

Based on recommendations from the PEL, as well as from the initial findings from the EIS, ITD has released its Recommended Preferred Alternative as **H2**. ITD is still in the early stages of the EIS process. The project is not yet funded, nor approved. ITD is aware that the recommendation and alignments may still change as we continue to complete the process. Nonetheless, ITD believes it is important enough to bring this to your attention.

Below are high level bullet points why ITD recommended H2 compared to alternative E3 and the No-Build alternative:

- Alternative H2 improves spacing of interchanges and provides more weaving length.
  - Alternative H2 interchange spacing provides better traffic access and smoother exiting.
  - Alternative H2 separates the regional traffic from local traffic reducing congestion in the city.
  - Alternative H2 disperses local traffic across a broader network to address congestion and mobility needs of the area.
  - Alternative H2 aligns with local growth and economic development plans outlined in BMPO studies including the Transportation Alternatives Study and Arterial Loop Study.
  - Alternative H2 provides better opportunity to enhance the bicycle and pedestrian facilities near the city.
  - Alternative H2 has fewer impacts to environmental justice communities along existing US-20.
  - Alternative H2 is easier to construct in phases and provides incremental improvements with each phase.
-



**Your Safety • Your Mobility  
Your Economic Opportunity**

**IDAHO TRANSPORTATION DEPARTMENT**

206 N Yellowstone Hwy, Rigby ID, 83442

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ITD would ask those considering future improvements in the area to take these factors into consideration and be aware of where we are in the process to address safety and congestion concerns on I-15 and US-20. For more information, please refer to [I-15/US-20 Connector \(i15us20connector.com\)](http://i15us20connector.com) for additional information.

Thank you in advance for your time. If you have urgent questions about the project please call me at 208-745-5659.

Ryan Day

ITD Project Manager

Ryan Day  
C/O ITD District 6  
206 N. Yellowstone Hwy,  
Rigby, ID 83442

[ryan.day@itd.idaho.gov](mailto:ryan.day@itd.idaho.gov)

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April 4, 2023  
7:00 p.m.

Planning Department  
City Annex Building

**MEMBERS PRESENT:** Commissioners Margaret Wimborne, Kristi Brower, Marsha McDaniel, Forrest Ihler, Bill Scott, Arnold Cantu, Dale Storer

**MEMBERS ABSENT:** Scott Geddes, Glen Ogden

**ALSO PRESENT:** Planners Naysha Foster, Brian Stevens and interested citizens.

**CALL TO ORDER:** Margaret Wimborne called the meeting to order at 7:00 p.m.

**MINUTES:** Cantu moved to accept the minutes of March 7, 2023, Scott seconded the motion. The motion passed unanimously.

**Public Hearing(s):**

**1. ANNX 23-001: ANNEXATION/INITIAL ZONING HC, Highway Commercial; LC, Limited Commercial; and R3A, Residential Mixed Use for approximately 166 acres.**

**Applicant: Rod Ellsworth, Ellsworth Engineering.** Ellsworth is bringing forth a proposal for annexation of 160+ acres. This property is now possibly part of the ITD connector route. Unfortunately there is not an alignment for that route, making it difficult to present a preliminary plan. Ellsworth related a story from 1985 when the City was working on a realignment of Pancheri Drive for many years, and one day they were driving by where the new alignment might go, and there was a property owner pouring a foundation in the middle of a new road. The City didn't have any idea that the foundation had been poured, and the owner had just used his division right with the County and built, and the realignment that the City had done, was down the drain. Ellsworth concluded that if the City doesn't annex this property, this property has division rights, and the same thing could happen. Ellsworth will have to come back with a plat in the future, but if it is not annexed, the City loses control.

Ihler asked if the zones proposed are based off what ITD might do. Ellsworth stated that the zones were set up prior to ITDs comments and possibly before the final route decision. Ellsworth stated that he came to planning in the beginning and asked what they could do, and this course of action is what staff suggested. There has been rumor that the ITD's final intersection might end up farther east, but without the annexation, the City loses control of the property.

Ellsworth added that the R3 Zone is not impacted, and the developer could move forward with the R3 portion and as he needs to move farther south, hopefully ITD will have an alignment to work with.

Scott asked what the current zoning is for the property. Ellsworth stated that it is zoned agriculture in the County. Scott stated that the zoning as proposed anticipates the interchange going through the property. Ellsworth stated that the interchange came in after his plan was presented to the City. Scott clarified and Ellsworth confirmed that the zoning map with the HC on the bottom was the original plan.

Storer asked if the property is currently in the area of impact. Ellsworth indicated that it is not in the impact area.



Foster presented the staff report, a part of the record.

Scott asked if the main issue is the LC Zone where that zone is located. Foster stated that LC and HC are a problem because the route could shift further north. Scott asked if the interchange was not in this area, then neither the HC nor LC would be appropriate for the area. Foster clarified that if the interchange were to be in this area, the HC zone would go along the interchange, and the LC would function as a buffer between the HC and the R3A. If the interchange didn't go there at all, the designation would be fine. Scott clarified that the only issue is what are the boundaries of the HC. Foster agreed that is the biggest issue. Foster indicated that when ITD met with the City to give them the recommended preferred route, it is pretty concrete, and it is not often that the Federal Highway Administration doesn't go along with t ITD's recommended or preferred route.

Storer clarified that this is an annexation unplatted. Foster agreed that staff usually see an annexation along with a plat, which the commission is not supposed to consider, but at this point they have only talked about the annexation and zoning. Storer indicated that the reality is the real control over how a project goes, comes when they submit that final plat.

Wimborne clarified that the annexation must include zoning. If the City approves the proposal, the City cannot come back and change it if they don't like it, because at that point it is a property right.

Scott asked if they were to approve as presented, what is the issue that staff foresees. Foster stated that it is not a problem, but there are different types of development allowed in those types of zones. HC is strictly commercial, LC would allow 35 units per acre of residential use, as well as limited commercial.

Wimborne opened the public hearing.

**Lance Schuster, Esq., Beard St. Clair.** Representing the property owners Steele Land Holdings. Schuster stated that Scott Steele is the principal of Steele Land Holding and wants to address the Commission separately. Schuster feels it is beneficial to the City and Steele Land Holding. Schuster stated that this will give the City some control over future development of the property. Schuster stated that it is beneficial to his client so he can market the property as annexed property. Steele is not a developer, but is a farmer, and the property is alfalfa and feed lot, and he will relocate the feed lot out of town, and in order to make that work financially, he needs to sell some of the property. There has been discussion about the northern portion of the property being annexed as R3A. Schuster understands from staff is there is no objection to that portion of the property being annexed, and that is compatible with the annexation that has already occurred on the other side of the Lewisville Highway. So, there should be no hesitation in annexing that portion of the property to the City with the R3A designation. Schuster stated that the southern half could likely have the interchange in this location, and since property needs to be zoned with annexation, it would make sense to zone it HC and LC as presented. They are requesting that all property be annexed even without knowing where the interchange will be. Schuster has met with ITD, and he understands that ITD is working on finalizing it and they have no deadline as to when it will happen. Schuster stated that it could not happen at all because the Federal Highway must approve too. Schuster stated that the proposed zoning is consistent with what the future development in this area could look like. Staff report reads that the "shoe fits" but there is concern about the highway and where it could be located, but annexation gives the

City more control, and it makes sense for the City to annex it all and let his client market the property as annexed. Schuster stated that by annexing the City will be in a better position to approve plats and approve development of the property and thus it is consistent with the City's goals. Schuster added that the staff report as read, says the property is contiguous to City limits, it is included in the future use planning map, and that annexation is consistent with the policies of the City's Comprehensive Plan. It makes sense to annex at this time, and the City can tailor it in the future as plats come forward. Schuster urged the Commissioners to recommend annexation.

**Scott Steele, 6130 1<sup>st</sup> Street, Idaho Falls, 83401.** Steele stated that Schuster and Ellsworth have covered it well. Steele stated that he is not a developer, his business is feeding cattle, in a small feed lot on his property and he hadn't planned to do anything with his property. Steele stated that the property north of his has been recommended for annexation, (Foster agreed). Steele stated that there is development going on all over, and he is becoming an island in the middle of the City. Steele doesn't need to convince the Commission that a feed lot and residential development don't go together. Steele stated that because of that he has decided to move his operation away from the City and to do that he needs to sell, as his wealth is invested in his property. He doesn't have time to wait for the State and Federal Government to wait to see what is going to happen to him. Steele stated that he is nearing retirement, but his son is going to take over. Steele stated that time is of the essence, and he cannot wait for a year. Steele stated that he can understand the reluctance and the questions about what might happen with the zones that would be impacted by the interchange. Steele stated that in discussions with future property owners, no one wants to deal with the State or Federal Government on imminent domain. Steele stated that the only interest in the property is in the R3, and maybe in the end if he can get the R3 annexed, he'd be willing to compromise and annex that portion. Steele understands the reluctance, given the concerns with ITD.

Storer clarified that the real issue is marketability now, in order to facilitate the relocation of the stock yards. Steele agreed with Storer, that is his driving force. Steele stated that this has happened quickly, and the development north of him is annexed, and his property is contiguous, and he needs to be moving, and annexation into the City will give the highest and best use of the property. Steele's business cannot be left in limbo.

Storer asked if he looked at the impact on the tax levy on Steele's property should the property be annexed. Steele stated that he has not. He has looked at selling in the County, and there are options, but he'd rather not go that direction, and he feels the "shoe fits" and he would like the entire piece of property in the City.

Scott stated that Steele is willing to negotiate on what is annexed and asked if there would be room for negotiation on the boundary of the HC Zone.

Kirkham stated that negotiation is not the right word. Wimborne added that they need to make a proposal after hearing the information. Kirkham stated that the question is whether annexation makes sense, and does the City have the resources and power and does it make sense to take the governing authority to this property. Kirkham stated that consideration of any future projects that could be developed on the property goes beyond the scope of the question of annexation and zoning. Kirkham clarified that there will not be a negotiation; rather, a recommendation will be made.

Scott stated that his seems to be a package, and that the problem isn't the annexation, but the zoning. Kirkham stated that it is a package deal, and the Local Land Use Planning Act requires a zone with annexation. It is a two-step question (1) is it inappropriate for the land to fall within the City's governing power? (if it is a bad idea to take jurisdiction over land, then don't annex and the zoning doesn't matter); and (2) If it makes sense for the City to exercise its governing power over the land, then what zone is to be applied? It is a two-step process that cannot be split up.

Scott stated that it is presented to the Commission with the question that it is appropriate to annex it, but they are not thrilled with the zoning, then what is the Commission's authority? Wimborne clarified that they could vote for a different zone of the Commission's choosing. Kirkham agreed that these are the zones the applicant requested, and the Commission can choose to annex with a different zone. The Commission does not have to adopt the zoning as presented, it must simply provide an explanation of why the particular zone is chosen.

Scott asked if they could annex the property with the condition that the zoning be different. Foster clarified that you cannot do conditions with an annexation or zoning. Kirkham stated that you cannot condition the annexation and zoning and you must deal with what is before you. Everyone acknowledges that there is uncertainty, but Kirkham advised Commissioners not to think about the highway too much, but rather answer the question if the City should govern this land, and if so, what are the appropriate uses.

Storer asked if there would be a problem with property notice, if for instance this body was to recommend a different zoning designation. Is there a proper notice requirement if the Commission is going to change the zoning in the middle of the process? Kirkham stated that it is a legislative zoning and not a rezone. If the City wanted to be extra certain, they could re-notice, but it is a legislative zoning which does not require special notice of a specific action. Storer asked if the proper process would be to re-notice the hearing with the different. Kirkham stated that would be the surest way to give the community notice of what would occur. Foster stated that because this is a legislative action, they do not notice property owners, as they statutorily don't have to. It is published, but they have had other circumstances when the Commission has approved the annexation with a different zone, and it has been published/noticed again prior to City Council consideration.

Wimborne asked if they have the latitude to break the property into pieces and do separate motions. Kirkham stated that the City has the ultimate decision on how to exercise authority. Kirkham stated they would need an explanation of why one makes sense, and one doesn't make sense based on hypotheticals. Wimborne stated that Kirkham has said that the Commission shouldn't consider the interchange as part of the discussion, but HC is all about whether there is a highway there or not, and how do you separate that question. Kirkham stated that this is precisely the difficulty with that request. Normally, there is a plan and vision of what the land proposed for annexation is going to have happen with it. However, this annexation doesn't have that vision. The City needs to look at the Comprehensive Plan and look at the vision for how the community is going to grow, and determine if it still makes sense to exercise governing authority. Kirkham stated that without knowing everything, if the Commission does what the applicant is requesting, the City will exercise its governing authority over the land and will apply zoning. If a plat comes in that is consistent with the Comprehensive Plan and meets the conditions of the zone, but doesn't account for the Highway, and the Highway is still

hypothetical, then the plat could be approved, as that is the landowner's right to subdivide and plat. There isn't a right to come in and be annexed. The City gets to make the decision as to whether it makes sense for the City to govern this land, and if it does then determine the right zone, and if you feel that the highway is so uncertain, then apply a zone that would make sense with or without the highway.

Scott asked if there are legal issues/liability down the road, if they make a decision based on the green line, and if they have impacted the landowners involved, with the Commissioner's decision. Kirkham stated that liability suggests a question of whether the City will be extracted damages and money because of a legal decision it made, and there won't be liability for that, but the City will have "made its bed and have to sleep in it." If they approve a specific zone, then the rights for those zones attach as soon as the City applies the zone. If the decision is made based on the expectation that there will be a highway and no highway comes, the land can develop as HC regardless of the Highway being there or not. Kirkham stated he is only giving advice, and he is not trying to make the decision for the Commission.

Wimborne stated that R3 makes sense even without a highway, but the HC doesn't make sense without the highway.

Scott asked Foster that if the highway were not going on this property, this proposed zoning would be ok, including the HC. Foster agreed.

**Scott Steele, 6130 1<sup>st</sup> Street, Idaho Falls.** Steele stated that the zones were chosen not by him but were recommended by City planners and the placement of the interchange is up in the air. Steele stated that the line between LC and R3 was recommended specifically because it aligns with the bridge that is coming in from the other side. Steele stated that he would like the entire piece annexed regardless of how the zoning is approved. Steele asked if he could amend his request.

**Rod Ellsworth, Ellsworth and Associates, Idaho Falls, Idaho.** Ellsworth stated that the property to the north has been annexed and that makes this property contiguous on 2 sides. Ellsworth's concern about separating this annexation would be the ability to move division rights to the south if the R3 portion is annexed. There could be 18 division rights on the south two pieces of property that could be used in the County as 5 acre lots, and the City would lose control of the property. If the property is annexed the division rights are gone. Ellsworth stated that the City needs to take control before they lose control over it.

Wimborne closed the public hearing.

Brower stated that she doesn't have a crystal ball, and feels it should be approved as written, and not get hung up on a highway that doesn't exist. Brower stated that based on the properties around it, it is appropriate to annex into the City.

McDaniel concurs and doesn't think it is right to wait for this decision which might take years.

Scott stated that he feels they need to consider Ellsworth comments that if they don't annex, they lose control to the County. Scott stated that the area that is zoned LC cannot be marketed realistically because there might be a road through it. Scott stated that they shouldn't have to worry about houses going up in that area.

Wimborne stated that based on her experience, the concern is that once it is zoned that way, all the uses are allowed, and whether the highway goes in or not, there are issues that need to be addressed, and whatever zone that is approved gives property rights to that property to develop.

Scott stated that the City has no control as is without annexation, and the City will have more control with annexation.

Cantu feels they are overthinking it and the question is whether it should be annexed, and he concurs with Brower.

Storer appreciates Steele's comments. Storer has a different view in terms of the amount of control the City has if the property is annexed, because once you approve the zone, any of the permitted uses within that zone are allowed, and you could not have timing in sync with what is going to happen with the property. Storer has more concern with annexing now, and having less control over the zones, as opposed to deferring until the highway decides what they are doing. Storer stated that a smaller annexation would make sense.

Ihler stated that being in real estate he sees both the City and developer side of things. Ihler stated that he doesn't want to see the same thing that has happened at every other single interchange, which is unorganized unattractive industrial or random buildings around the interchange which could be used in a better way. Ihler stated that the Amazon Warehouse and RC Willey and Smith Chevrolet is in the County, which is less tax revenue coming into the City, and the people are using the interchange coming into the City, and the City should be able to control what is going on around the interchange. The County does whatever they want. Ihler stated that having some control is good. Ihler stated that from a developer's point of view, this property may sell in 6 months or a year, and once a developer is interested, they will know about the interchange, and want to design a plan around the interchange and not deal with eminent domain, and whatever developer comes along will wait and see what the Highway does. When they buy this property, they will wait and see what ITD does with the highway. If the developer is ready to go, it still takes a while to get a preliminary plat and engineering and it could be 2 years out and by then hopefully there is a determination on the ITD Highway. Development takes time, and if the developer needs to rezone the developer will know that, and know the risks associated therewith. Ihler stated that if they keep this zoning and the freeway interchange 49<sup>th</sup> North is shifted north going right through LC, LC does allow residential. Jackson Hole Junction has apartments, and that is an LC zone right on the freeway. A Developer is confident enough that they know people will move there. It is not fair that the City recommended the zones and now is saying "not right now." Ihler feels that Steele needs to get the ball rolling and cannot move on without selling his property. A developer will know what they are buying.

**Cantu Moved to recommend to the Mayor and City Council approval of the Annexation of 166.59 acres in the SE ¼ of Section 6 Township 2 North, Range 38 East with an Initial Zoning of HC, Highway Commercial, LC Limited Commercial, R3A, Residential Mixed Use, and Controlled Development Airport Overlay Zone, Brower seconded the motion. Wimborne called for roll call vote: Brower, yes; Ihler, yes; Storer, no; Wimborne, yes; McDaniel, yes; Scott, yes; Cantu, yes. The motion passed 6-1.**

Storer feels it is a classic chicken and egg issue, and the question they are dealing with is who has control over the development. He is concerned that they are too far ahead of the game in

terms of knowing what is going to happen, and how the property is going to be developed. Storer feels that they are too far ahead of the curve, and that is why he voted no.

Wimborne added that it is difficult, and it does make sense to annex with the surrounding property, although she is nervous with the LC/HC and what might happen with ITD.

Wimborne called 5-minute recess.

Wimborne called the meeting back to order.



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE ANNEXATION OF APPROXIMATELY 169.043 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.

WHEREAS, the lands described in Exhibit A of this Ordinance are contiguous and adjacent to the City limits of the City of Idaho Falls, Idaho; and

WHEREAS, such lands described herein are subject to annexation to the City pursuant to the provisions of Idaho Code Section 50-222, and other laws, as amended; and

WHEREAS, the annexation of the lands described in Exhibit A is reasonably necessary to assure the orderly development of the City in order to allow efficient and economically viable provision of tax-supported and fee-supported municipal services; to enable the orderly development of private lands which benefit from a cost-effective availability of City services in urbanizing areas; and to equitably allocate the costs of City/public services in management of development on the City's urban fringe; and

WHEREAS, the City has authority to annex lands into the City pursuant to procedures of Idaho Code Section 50-222, as amended; and

WHEREAS, any portion of a highway lying wholly or partially within the lands to be annexed are included in the lands annexed by this Ordinance; and

WHEREAS, the lands annexed by this Ordinance are not connected to the City only by a "shoestring" or a strip of land which comprises a railroad or right-of-way; and

WHEREAS, all private landowners have consented to annexation of such lands, where necessary; and

WHEREAS, City of Idaho Falls Comprehensive Plan includes the area of annexation; and

WHEREAS, after considering the written and oral comments of property owners whose lands would be annexed and other affected persons, City Council specifically makes the following findings:

- 1) That the lands annexed meet the applicable requirements of Idaho Code Section 50-222 and do not fall within exceptions or conditional exceptions contained in Idaho Code Section 50-222;
- 2) The annexation is consistent with public purposes addressed in annexation and related plans prepared by the City; and
- 3) Annexation of the lands described in Section 1 are reasonably necessary for the orderly development of the City; and

WHEREAS, it appears to the Council that the lands described herein below in Exhibit A of this Ordinance should be annexed to and become a part of the City of Idaho Falls, Idaho; and

WHEREAS, the City wishes to exercise jurisdiction over the annexed lands in a way that promotes the orderly development of such lands; and

WHEREAS, the City of Idaho Falls Comprehensive Plan sets out policies and strategies designed to promote and sustain future growth within the City; and

WHEREAS, such designation is consistent with policies and principles contained within the City of Idaho Falls Comprehensive Plan; and

WHEREAS, the City desires the City of Idaho Falls Comprehensive Plan Map to be amended to reflect the designation contained in this Ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF IDAHO FALLS, IDAHO, as follows:

SECTION 1. Annexation of Property. The lands described in Exhibit A are hereby annexed to the City of Idaho Falls, Idaho.

SECTION 2. Amended Map and Legal Description. The City Clerk shall file a certified copy of this Ordinance with the Bonneville County Auditor, Treasurer, and Assessor, within ten (10) days after the effective date hereof. The City Engineer shall, within ten (10) days after such effective date, file an amended legal description and map of the City, with the Bonneville County Recorder and Assessor and the Idaho State Tax Commission, all in accordance with Idaho Code Section 63-2215.

SECTION 3. Findings. The findings contained in the recitals of this Ordinance be, and the same are hereby adopted as the official City Council findings for this Ordinance, and any further findings relative to this Ordinance shall be contained in the officially adopted Council minutes of the meeting in which this Ordinance was passed.

SECTION 4. Savings and Severability Clause. The provisions and parts of this Ordinance are intended to be severable. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

SECTION 5. Publication. This Ordinance, or a summary thereof in compliance with Idaho Code, shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

SECTION 6. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Rebecca L. Noah Casper, Mayor

ATTEST:

\_\_\_\_\_  
Corrin Wilde, City Clerk

(SEAL)

STATE OF IDAHO                    )  
  : ss.  
County of Bonneville            )

I, CORRIN WILDE, 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 Ordinance entitled: “AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE ANNEXATION OF APPROXIMATELY 169.043 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.”

---

Corrin Wilde, City Clerk

(SEAL)

EXHIBIT A

LEGAL DESCRIPTION

Commencing at the South ¼ corner of Section 32, Township 3 North, Range 38 East of the Boise Meridian, Bonneville County, Idaho; thence N.89°57 ' 37 " W. along the Section line 2632.87 feet to the Southwest corner of said Section 32, said point being the TRUE POINT OF BEGINNING; running thence S.86°16 ' 16 " W. 134.20 feet to the Southeast corner of Instrument No. 1233648; thence N.00°23 ' 01 " W. 686.22 feet to the Southeast corner of City of Idaho Falls Annexation Ordinance No. 3254; thence N.00°23 ' 01 " W. along said Ordinance 791.29 feet; thence N.00°23 ' 11 " W. along said Ordinance 772.49 feet; thence N.88°56 ' 51 " E. 112.76 feet to the West Rights-of-Way line of Highway 49; thence N.00°09 ' 57 " W. along said Rights-of-Way line 371.53 feet; thence N.00°18 ' 35 " W. along said Rights-of-Way line 109.67 feet to the Southwest corner of City of Idaho Falls Annexation Ordinance No. 3497; thence N.89°32 ' 50 " E. along said Ordinance 39.94 feet to the East line of said Section 31; thence N.62°39 ' 14 " E. crossing into Section 32 along said Ordinance 45.34 feet to the East Rights-of-Way line of said Highway; thence S.00°09 ' 57 " E. along said Rights-of-Way line 129.77 feet to the East-West Center Section line of said Section 32; thence N.89°15 ' 00 " E. along the East-West Center Section line and City of Idaho Falls Ordinance No. 3497 a distance of 2584.02 feet to the Center ¼ corner of said Section 32; thence S.00°08 ' 20 " E. along the North-South Center Section line 2651.53 feet to the South ¼ corner of said Section 32; thence S.00°08 ' 20 " E. crossing into Section 5, Township 2 North, Range 37 East of the Boise Meridian 22.42 feet to the South Rights-of-Way line of a County road; thence S.89°23 ' 58 " W. along said Rights-of-Way line 2632.07 feet to the West line of said Section 5; thence N.01°06 ' 23 " W. along the Section line 51.84 feet to the TRUE POINT OF BEGINNING.

CONTAINING: 7,363,527 Sq. Ft. or 169.043 acres.

Submitted by:

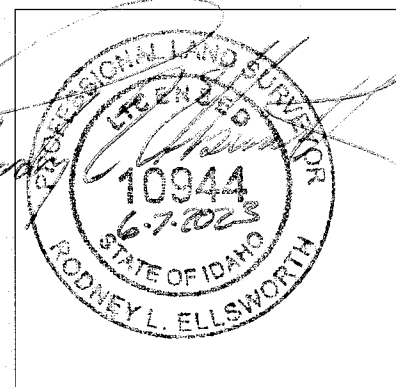
Eng/Survey Firm Name: Ellsworth & Associates

Contact Name: Steve Ellsworth

Phone Number: 208-522-5414

Email: Sellsworth@ida.net

PLS Seal:



Page \_\_\_\_ of \_\_\_\_

# CITY OF IDAHO FALLS

## BONNEVILLE COUNTY

PARTS OF SECTIONS 31, & 32, T. 3 N., R. 38 E. B.M

&

PART OF SECTIONS 5,& 6, T. 2 N., R. 38 E. B.M

CITY OF IDAHO FALLS, BONNEVILLE COUNTY, IDAHO

ANNEXATION  
ORDINANCE

# \_\_\_\_\_

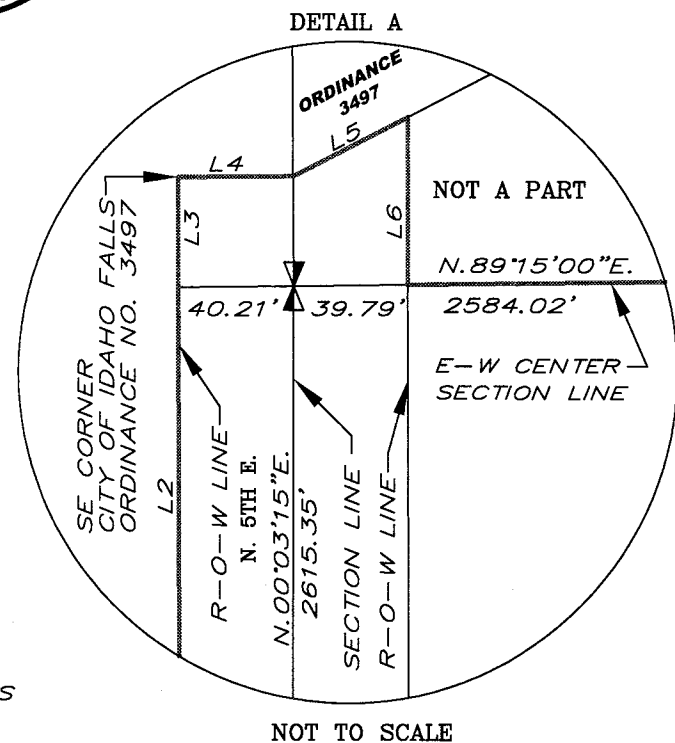
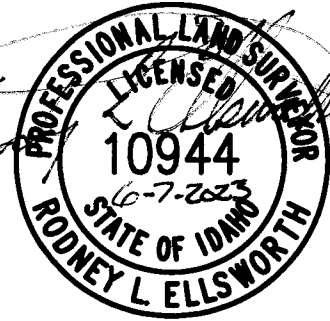
### BOUNDARY DESCRIPTION

Commencing at the South 1/4 corner of Section 32, Township 3 North, Range 38 East of the Boise Meridian, Bonneville County, Idaho; thence N.89°57'37"W. along the Section line 2632.87 feet to the Southwest corner of said Section 32, said point being the TRUE POINT OF BEGINNING; running thence S.86°16'16"W. 134.20 feet to the Southeast corner of Instrument No. 1233648; thence N.00°23'01"W. 686.22 feet to the Southeast corner of City of Idaho Falls Annexation Ordinance No. 3254; thence N.00°23'01"W. along said Ordinance 791.29 feet; thence N.00°23'11"W. along said Ordinance 772.49 feet; thence N.88°56'51"E. 112.76 feet to the West Rights-of-Way line of Highway 49; thence N.00°09'57"W. along said Rights-of-Way line 371.53 feet; thence N.00°18'35"W. along said Rights-of-Way line 109.67 feet to the Southwest corner of City of Idaho Falls Annexation Ordinance No. 3497; thence N.89°32'50"E. along said Ordinance 39.94 feet to the East line of said Section 31; thence N.62°39'14"E. crossing into Section 32 along said Ordinance 45.34 feet to the East Rights-of-Way line of said Highway; thence S.00°09'57"E. along said Rights-of-Way line 129.77 feet to the East-West Center Section line of said Section 32; thence N.89°15'00"E. along the East-West Center Section line and City of Idaho Falls Ordinance No. 3497 a distance of 2584.02 feet to the Center 1/4 corner of said Section 32; thence S.00°08'20"E. along the North-South Center Section line 2651.53 feet to the South 1/4 corner of said Section 32; thence S.00°08'20"E. crossing into Section 5, Township 2 North, Range 37 East of the Boise Meridian 22.42 feet to the South Rights-of-Way line of a County road; thence S.89°23'58"W. along said Rights-of-Way line 2632.07 feet to the West line of said Section 5; thence N.01°06'23"W. along the Section line 51.84 feet to the TRUE POINT OF BEGINNING.

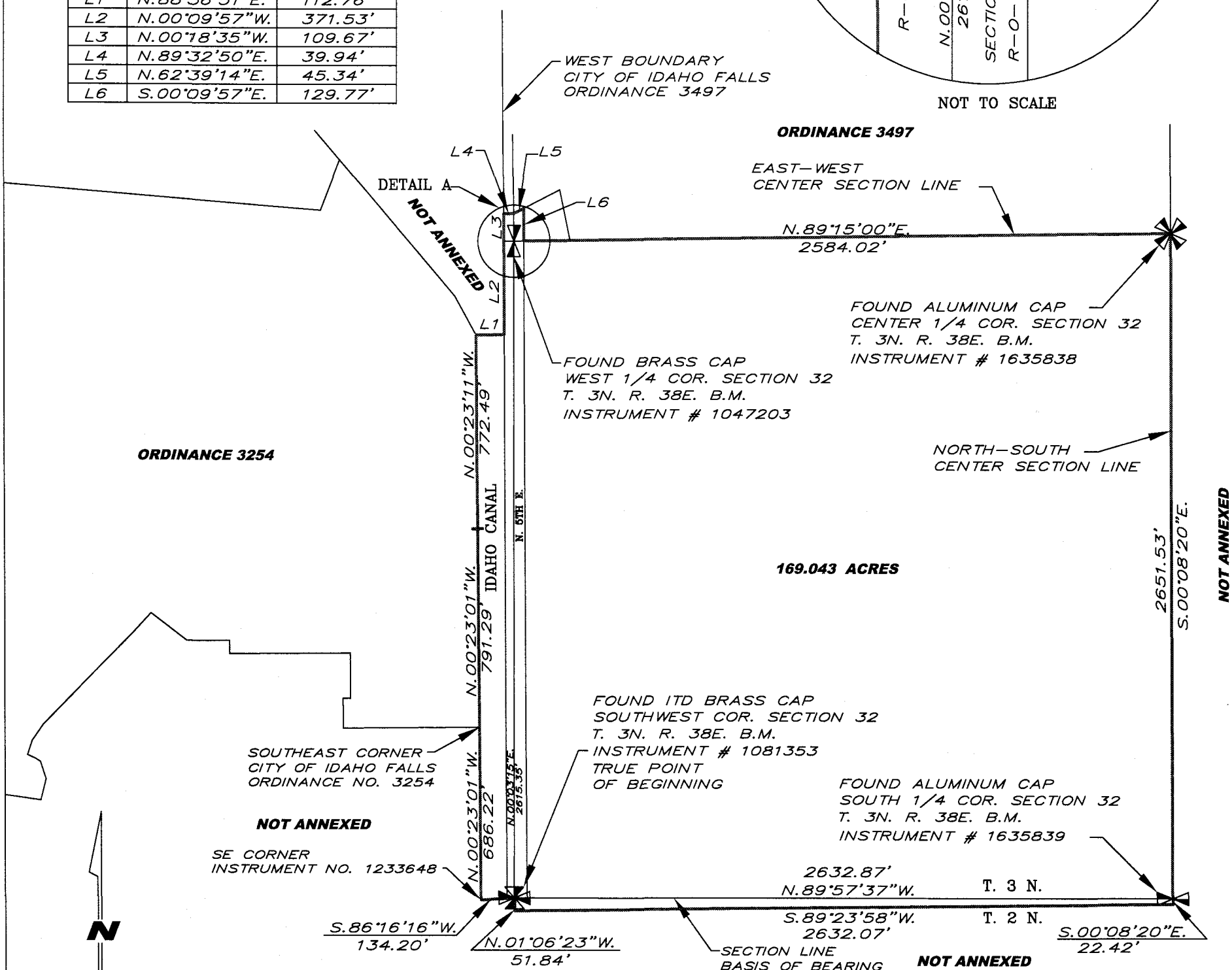
CONTAINING: 7,363,527 Sq. Ft. or 169.043 acres.

RECORDED WITH THE BONNEVILLE COUNTY RECORDERS OFFICE AS

INSTRUMENT NO. \_\_\_\_\_



LINE TABLE		
LINE	BEARING	DISTANCE
L1	N.88°56'51"E.	112.76'
L2	N.00°09'57"W.	371.53'
L3	N.00°18'35"W.	109.67'
L4	N.89°32'50"E.	39.94'
L5	N.62°39'14"E.	45.34'
L6	S.00°09'57"E.	129.77'



### ANNEXATION STEELE LAND HOLDINGS LLC

PART OF THE S 1/2 OF SECTIONS 31 & 32  
T. 3 N., R. 38 E. B.M.  
BONNEVILLE COUNTY, IDAHO

Job No.

**2359**

Sht. 1 of 1

Scale: 1" = 500'

Drawn By: S.D.E.

208 522 5414

253 1st Street,

Date: JANUARY, 2023

Cadfile: STEELE ANNEXATION

Fax 208 523 2614

Idaho Falls, ID. 83401



Ellsworth &  
Associates PLLC



## **REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS**

### **ANNEXATION OF APPROXIMATELY 169.043 ACRES LOCATED GENERALLY NORTH OF E 49<sup>th</sup> N, EAST OF 5<sup>th</sup> E, SOUTH OF E 65<sup>th</sup> N, WEST OF US HWY 20.**

**WHEREAS**, the applicant filed an application for annexation on January 26, 2023; and

**WHEREAS**, this matter came before the Idaho Falls Planning and Zoning Commission during a duly noticed public hearing on April 4, 2023; and

**WHEREAS**, this matter came before the Idaho Falls City Council during a duly noticed public hearing on July 13, 2023; and

**WHEREAS**, having reviewed the application, including all exhibits entered and having considered the issues presented:

#### **I. RELEVANT CRITERIA AND STANDARDS**

1. The City Council considered the request pursuant to City of Idaho Falls Comprehensive Plan, City of Idaho Falls Zoning Ordinance, City of Idaho Falls Subdivision Ordinance, the Local Land Use Planning Act, and other applicable development regulations.
2. The property is approximately 169.043 acres generally located north of E 49<sup>th</sup> N, east of 5<sup>th</sup> E, south of 65<sup>th</sup> N, west of US Hwy 20.
3. This property is not in the Area of Impact but is included in the Comprehensive Plan Map.
4. The property is contiguous to City limits along the north and west property lines.
5. This application is a Category "A" annexation.
6. City utilities are present in the area to provide services to this property.
7. The Comprehensive Plan designates this area as General Urban.
8. Idaho Falls Planning and Zoning Commission recommended approval of annexation.
9. The proposed annexation is consistent with the policies of the Comprehensive Plan.

#### **II. DECISION**

Based on the above Reasoned Statement of Relevant Criteria, the City Council of the City of Idaho Falls approved the annexation as presented.

PASSED BY CITY COUNCIL OF THE CITY OF IDAHO FALLS

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023

---

Rebecca L. Noah Casper - Mayor



# Memorandum

File #: 23-198

City Council Meeting

**FROM:** Wade Sanner, Director  
**DATE:** Tuesday, June 27, 2023  
**DEPARTMENT:** Community Development Services

## Subject

Legislative Public Hearing-Part 2 of 2 of the Annexation and Initial Zoning of HC, Highway Commercial, LC, Limited Commercial, R3A, Residential Mixed Use, and the Controlled Development Airport Overlay Zone, Initial Zoning Ordinance and Reasoned Statement of Relevant Criteria and Standards for 169.043 acres in the SE ¼ of Section 6, Township 2 North, Range 38 East.

## Council Action Desired

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

1. Approve the Ordinance establishing the initial zoning for HC, Highway Commercial, LC, Limited Commercial, R3A, Residential Mixed use, and the Controlled Development Airport Overlay Zone 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 (or consider the Ordinance on the first reading and that it be read by title, reject the Ordinance, or take other action deemed appropriate).
2. Approve the Reasoned Statement of Relevant Criteria and Standards for the initial zoning of HC, Highway Commercial, LC, Limited Commercial, R3A, Residential Mixed Use, and the Controlled Development Airport Overlay Zone and give authorization for the Mayor to execute the necessary documents (or take other action deemed appropriate).

## Description, Background Information & Purpose

Attached is part 2 of 2 of the application for Annexation and Initial Zoning of HC, Highway Commercial, LC, Limited Commercial, R3A, Residential Mixed use, and the Controlled Development Airport Overlay Zone which includes the Initial Zoning Ordinance and Reasoned Statement of Relevant Criteria and Standards for 169.043 acres in the SE ¼ of Section 6, Township 2 North, Range 38 East. The Planning and Zoning Commission considered this item at its April 6, 2023, meeting and voted to recommended approval of the annexation with initial zonings of HC, LC, R3A, and the Controlled Development Airport Overlay Zone to the Mayor and City Council as presented.

## Alignment with City & Department Planning Objectives



Consideration of initial zoning must be consistent with the principles of the Comprehensive Plan which includes many policies and goals related to Good Governance, Growth, Sustainability, and Livable Communities.

**Interdepartmental Coordination**

N/A

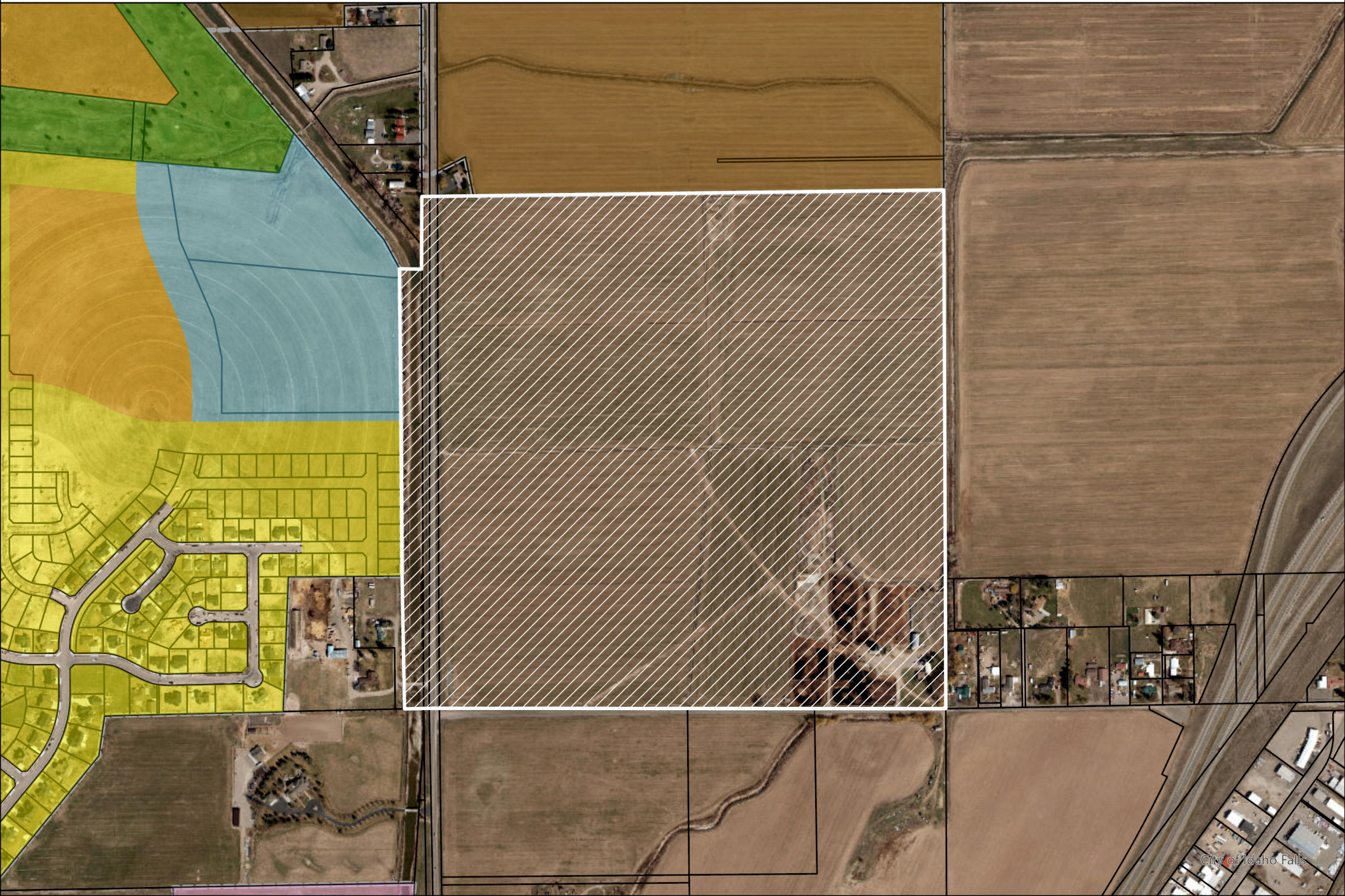
**Fiscal Impact**

N/A

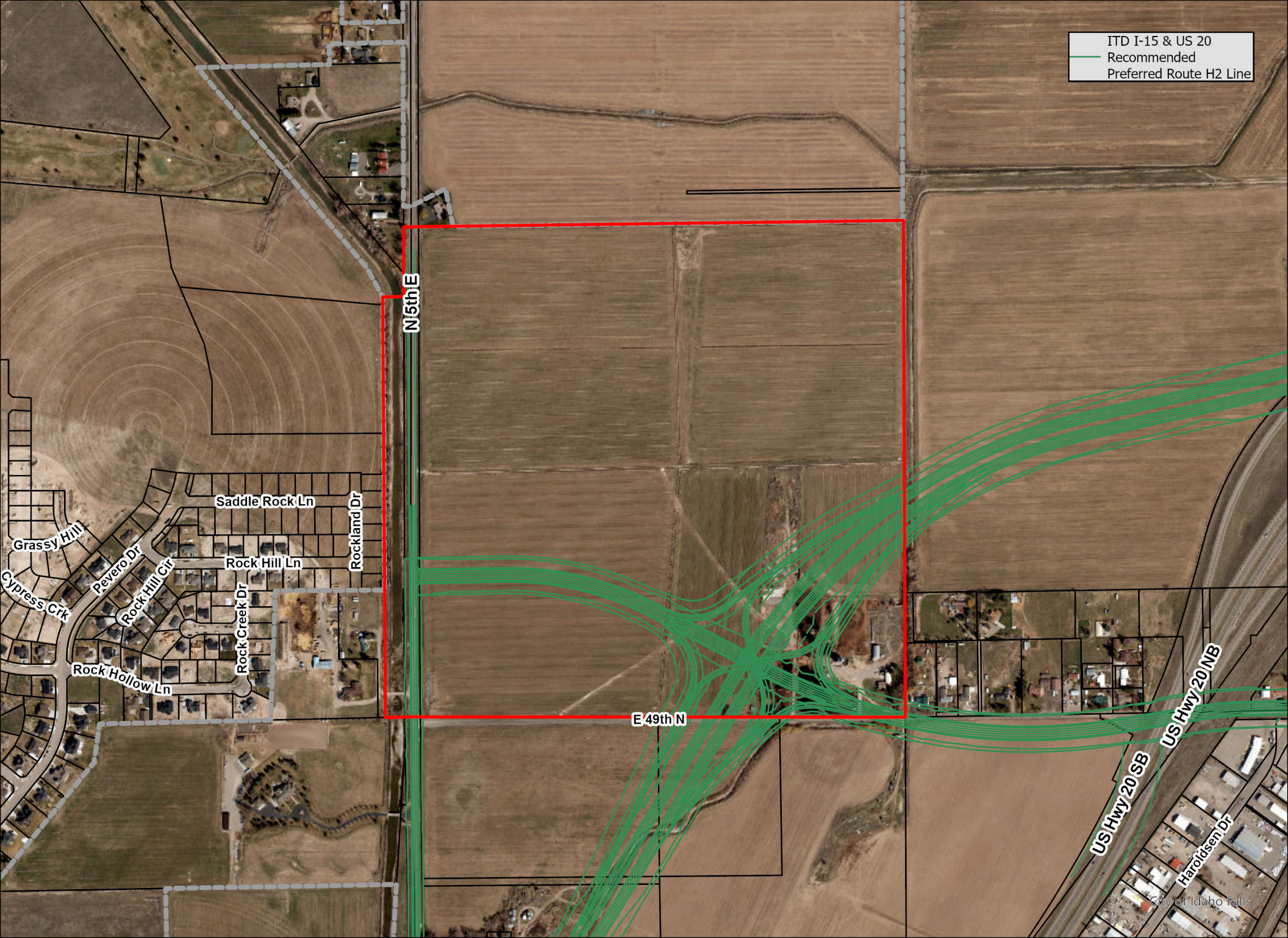
**Legal Review**

These actions have been reviewed by the City Attorney Department pursuant to applicable State statute.



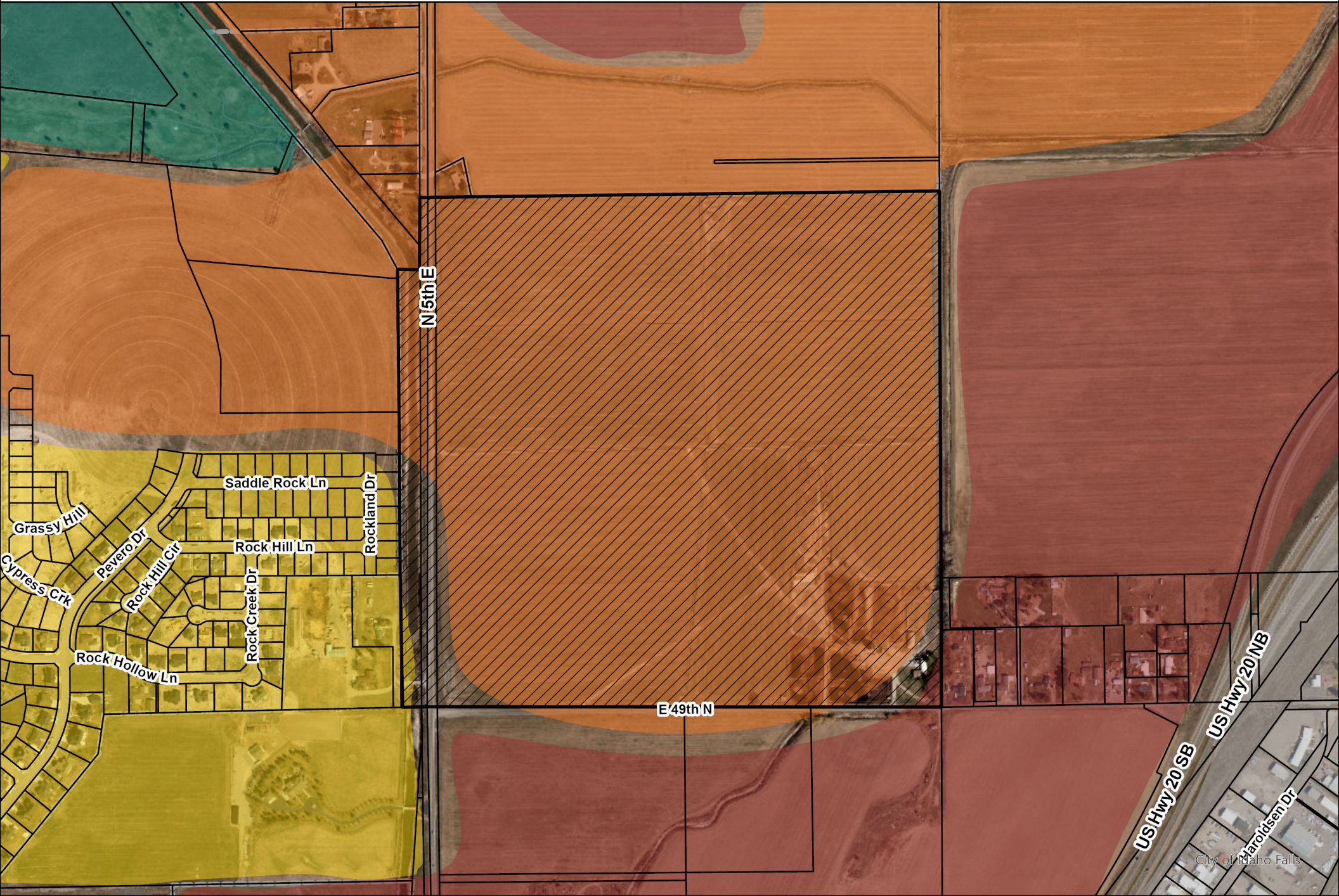








- General Urban
- Mixed Use Centers and Corridors
- Special Use
- Urban Core
- Industrial
- Natural and Open Space
- Suburban





**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE INITIAL ZONING OF APPROXIMATELY 169.043 ACRES DESCRIBED IN EXHIBIT A OF THIS ORDINANCE AS HC, HIGHWAY COMMERCIAL, LC, LIMITED COMMERCIAL, R3A, RESIDENTIAL MIXED USE, INCLUDING THE CONTROLLED DEVELOPMENT AIRPORT OVERLAY ZONE; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

WHEREAS, the proposed initial zoning district of lands described in Exhibit A is HC, LC, R3A and the Controlled Development Airport Overlay Zone for such annexed lands is consistent with the current City of Idaho Falls Comprehensive Plan Land use designation “General Urban”; and

WHEREAS, the proposed zoning district is consistent and compatible with the existing and surrounding zoning districts and is consistent with principles of the City of Idaho Falls Comprehensive Plan; and

WHEREAS, for consistency with the Comprehensive Plan, the Council desires to designate the lands within the area of annexation as “General Urban”; and

WHEREAS, Idaho Falls Planning and Zoning Commission held a duly noticed public hearing on April 4, 2023, and recommended approval of zoning the subject property to HC, LC, R3A and the Controlled Development Airport Overlay Zone; and

WHEREAS, the Council conducted a duly noticed public hearing and passed a motion to approve this zoning on July 13, 2023.

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

**SECTION 1:** Comprehensive Plan Designation. The area described in Exhibit A are hereby given a Comprehensive Plan designation of General Urban.

**SECTION 2:** Legal Description. The lands described in Exhibit A are hereby zoned as HC, LC, R3A and Controlled Development Airport Overlay Zone.

**SECTION 3.** Zoning. The property described in Section 1 of this Ordinance be and the same hereby is zoned “HC, LC, R3A and the Controlled Development Airport Overlay Zone” and the City Planner is hereby ordered to make the necessary amendments to the official maps of the City of Idaho Falls which are on file at the City Planning Department Offices, 680 Park Avenue.

**SECTION 4.** Savings and Severability Clause. The provisions and parts of this Ordinance are intended to be severable. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

**SECTION 5.** Publication. This Ordinance, or a summary thereof in compliance with Idaho Code, shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

**SECTION 6.** Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED by the City Council and APPROVED by the Mayor of the City of Idaho Falls, Idaho, this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

CITY OF IDAHO FALLS, IDAHO

\_\_\_\_\_  
Rebecca L. Noah Casper, Mayor

ATTEST:

\_\_\_\_\_  
Corrin Wilde, City Clerk

(SEAL)

STATE OF IDAHO                    )  
  ) ss:  
County of Bonneville            )

I, CORRIN WILDE, 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 Ordinance entitled, "AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE INITIAL ZONING OF APPROXIMATELY 169.043 ACRES DESCRIBED IN EXHIBIT A OF THIS ORDINANCE AS HC, HIGHWAY COMMERCIAL, LC, LIMITED COMMERCIAL, R3A, RESIDENTIAL MIXED USE, AND THE LIMITED DEVELOPMENT AIRPORT OVERLAY ZONE; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE."

---

Corrin Wilde, City Clerk



RE	R1	TN	R3	PB	LC	R&D	I&M
RP	R2	RMH	R3A	CC	HC	LM	P

ITD I-15 & US 20  
Recommended  
Preferred Route H2 Line

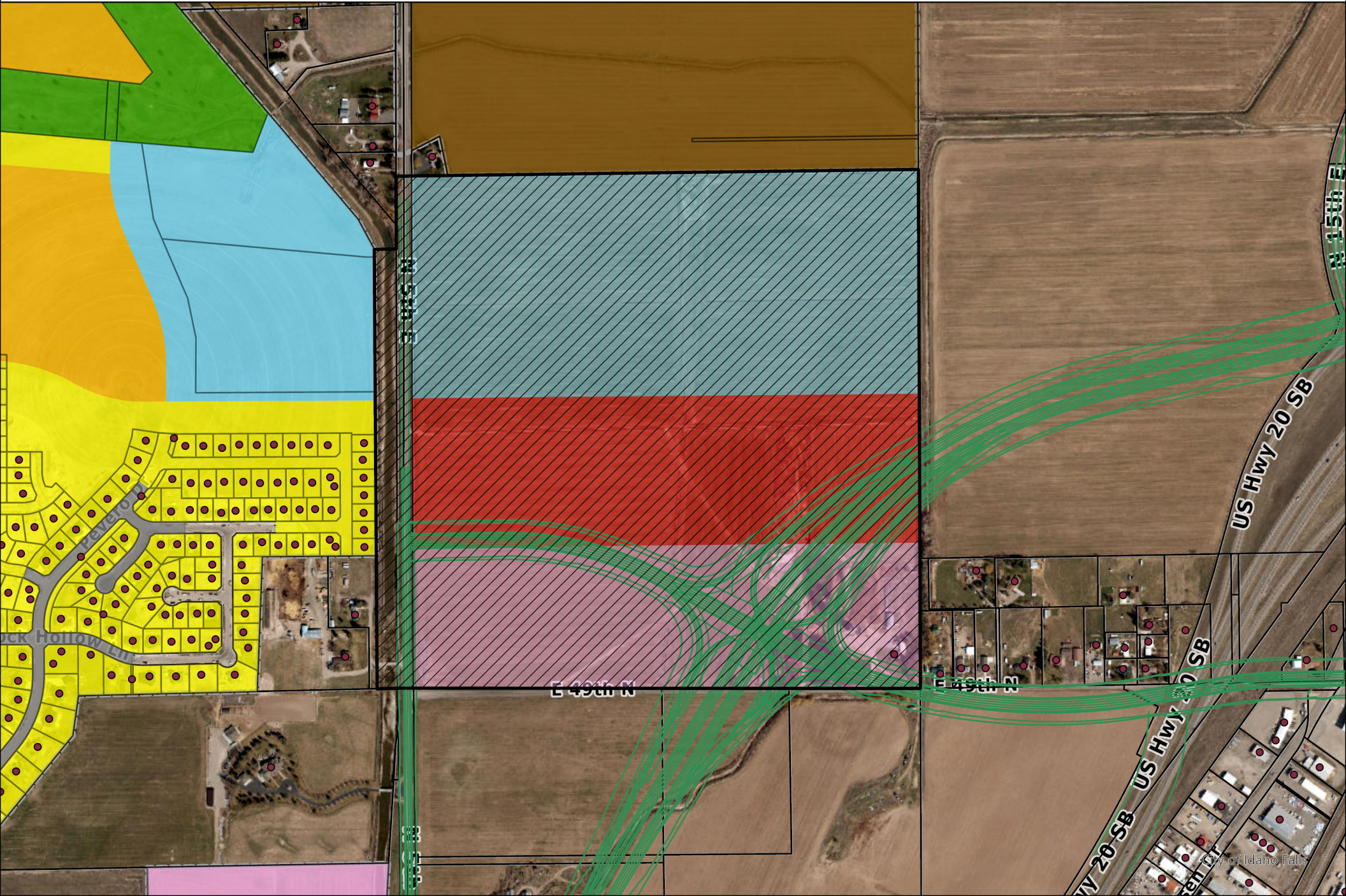




EXHIBIT A

LEGAL DESCRIPTION

Commencing at the South ¼ corner of Section 32, Township 3 North, Range 38 East of the Boise Meridian, Bonneville County, Idaho; thence N.89°57 ' 37 " W. along the Section line 2632.87 feet to the Southwest corner of said Section 32, said point being the TRUE POINT OF BEGINNING; running thence S.86°16 ' 16 " W. 134.20 feet to the Southeast corner of Instrument No. 1233648; thence N.00°23 ' 01 " W. 686.22 feet to the Southeast corner of City of Idaho Falls Annexation Ordinance No. 3254; thence N.00°23 ' 01 " W. along said Ordinance 791.29 feet; thence N.00°23 ' 11 " W. along said Ordinance 772.49 feet; thence N.88°56 ' 51 " E. 112.76 feet to the West Rights-of-Way line of Highway 49; thence N.00°09 ' 57 " W. along said Rights-of-Way line 371.53 feet; thence N.00°18 ' 35 " W. along said Rights-of-Way line 109.67 feet to the Southwest corner of City of Idaho Falls Annexation Ordinance No. 3497; thence N.89°32 ' 50 " E. along said Ordinance 39.94 feet to the East line of said Section 31; thence N.62°39 ' 14 " E. crossing into Section 32 along said Ordinance 45.34 feet to the East Rights-of-Way line of said Highway; thence S.00°09 ' 57 " E. along said Rights-of-Way line 129.77 feet to the East-West Center Section line of said Section 32; thence N.89°15 ' 00 " E. along the East-West Center Section line and City of Idaho Falls Ordinance No. 3497 a distance of 2584.02 feet to the Center ¼ corner of said Section 32; thence S.00°08 ' 20 " E. along the North-South Center Section line 2651.53 feet to the South ¼ corner of said Section 32; thence S.00°08 ' 20 " E. crossing into Section 5, Township 2 North, Range 37 East of the Boise Meridian 22.42 feet to the South Rights-of-Way line of a County road; thence S.89°23 ' 58 " W. along said Rights-of-Way line 2632.07 feet to the West line of said Section 5; thence N.01°06 ' 23 " W. along the Section line 51.84 feet to the TRUE POINT OF BEGINNING.

CONTAINING: 7,363,527 Sq. Ft. or 169.043 acres.

Submitted by:

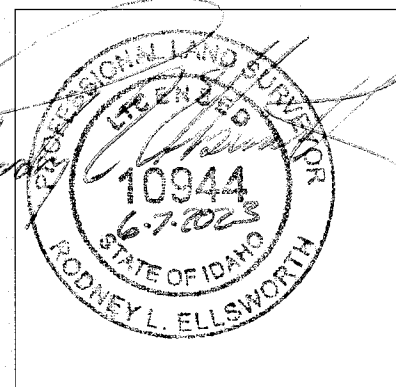
Eng/Survey Firm Name: Ellsworth & Associates

Contact Name: Steve Ellsworth

Phone Number: 208-522-5414

Email: Sellsworth@ida.net

PLS Seal:



Page \_\_\_\_ of \_\_\_\_

# CITY OF IDAHO FALLS

## BONNEVILLE COUNTY

PARTS OF SECTIONS 31, & 32, T. 3 N., R. 38 E. B.M

&

PART OF SECTIONS 5, & 6, T. 2 N., R. 38 E. B.M

CITY OF IDAHO FALLS, BONNEVILLE COUNTY, IDAHO

ANNEXATION  
ORDINANCE

# \_\_\_\_\_

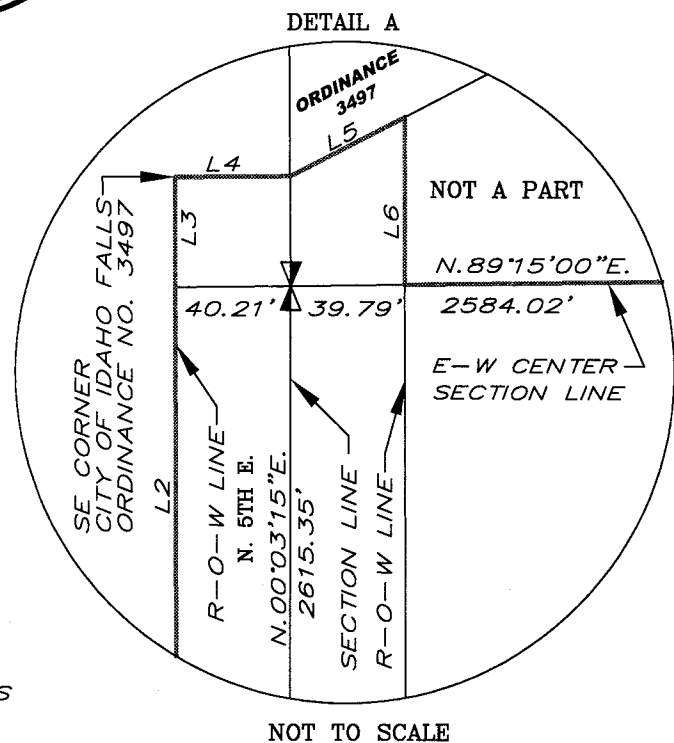
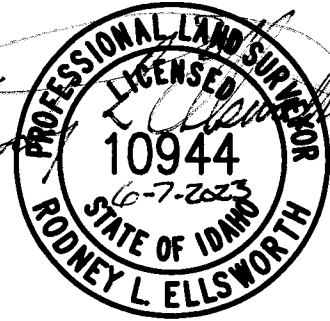
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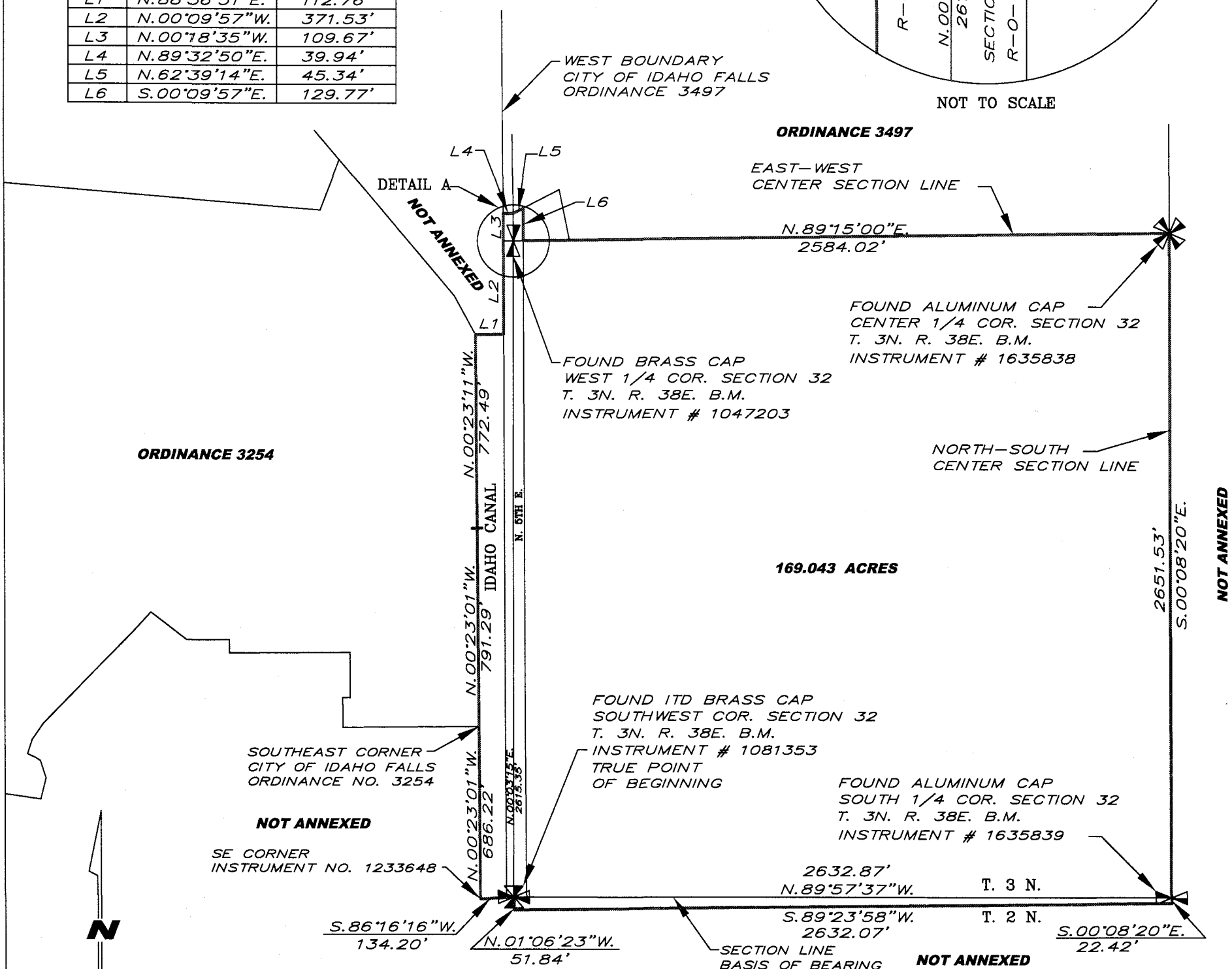
CONTAINING: 7,363,527 Sq. Ft. or 169.043 acres.

RECORDED WITH THE BONNEVILLE COUNTY RECORDERS OFFICE AS

INSTRUMENT NO. \_\_\_\_\_



LINE TABLE		
LINE	BEARING	DISTANCE
L1	N.88°56'51"E.	112.76'
L2	N.00°09'57"W.	371.53'
L3	N.00°18'35"W.	109.67'
L4	N.89°32'50"E.	39.94'
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ANNEXATION  
**STEELE LAND HOLDINGS LLC**  
PART OF THE S 1/2 OF SECTIONS 31 & 32  
T. 3 N., R. 38 E. B.M.  
BONNEVILLE COUNTY, IDAHO

Job No.  
**2359**  
Sht. 1 of 1

Scale: 1" = 500' Date: JANUARY, 2023  
Drawn By: S.D.E. Cadfile: STEELE ANNEXATION  
208 522 5414 Fax 208 523 2614  
253 1st Street, Idaho Falls, ID. 83401

**EA** Ellsworth & Associates PLLC



## **REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS**

**INITIAL ZONING OF HC, HIGHWAY COMMERCIAL, LC, LIMITED COMMERCIAL, R3A, RESIDENTIAL MIXED USE AND THE CONTROLLED DEVELOPMENT AIRPORT OVERLAY, APPROXIMATELY 169.043 ACRES, GENERALLY LOCATED NORTH OF E 49<sup>TH</sup> N, EAST OF 5<sup>TH</sup> E, SOUTH OF E 65<sup>TH</sup> N, WEST OF US HWY 20.**

**WHEREAS**, the applicant filed an application for annexation on January 26, 2023; and

**WHEREAS**, this matter came before the Idaho Falls Planning and Zoning Commission during a duly noticed public hearing on April 4, 2023; and

**WHEREAS**, this matter came before the Idaho Falls City Council during a duly noticed public hearing on July 13, 2023; and

**WHEREAS**, having reviewed the application, including all exhibits entered and having considered the issues presented:

### **I. RELEVANT CRITERIA AND STANDARDS**

1. The City Council considered the request pursuant to City of Idaho Falls Comprehensive Plan, City of Idaho Falls Zoning Ordinance, City of Idaho Falls Subdivision Ordinance, the Local Land Use Planning Act, and other applicable development regulations.
2. The property is approximately 169 acres generally located north of E 49<sup>th</sup> N, east of 5<sup>th</sup> E, south of E 65<sup>th</sup> N, west of US Hwy 20.
3. The Comprehensive Plan designates this area as General Urban.
4. The proposed zoning consists of 67.97 acres of R3A to the north, 44.10 acres of LC in the center and 44.10 acres of HC to the south, with Controlled Development Airport Overlay Zone over the entire property. The proposed zones are consistent with the policies of the Comprehensive Plan and existing zoning and land uses in the area.
5. Idaho Falls Planning and Zoning Commission recommended approval of zoning the property R3A, LC, HC and Controlled Development Airport Overlay Zone.
6. The proposed annexation is consistent with the policies of the Comprehensive Plan.

### **II. DECISION**

Based on the above Reasoned Statement of Relevant Criteria, the City Council of the City of Idaho Falls approved the initial zoning as presented.

PASSED BY CITY COUNCIL OF THE CITY OF IDAHO FALLS

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023

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Rebecca L. Noah Casper - Mayor