



# City Council Agenda

---

**City of Idaho Falls**  
Regular Council Meeting  
680 Park Avenue

**Thursday**  
**February 8, 2024**  
**7:30 P.M.**

**Mayor**

Rebecca Casper

**City Council**

**Lisa Burtenshaw**  
Council President

**John Radford**  
Council Seat 5

**Jim Freeman**  
Council Seat 6

**Kirk Larsen**  
Council Seat 3

**Jim Francis**  
Council Seat 4

**Michelle Ziel-Dingman**  
Council Seat 1



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, proper 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

680 Park Avenue  
Idaho Falls, ID 83402

Thursday, February 8, 2024

7:30 PM

City Council Chambers

### City Council Agenda:

1. Call to Order.
2. Pledge of Allegiance.
3. Public Comment.

Please see guidelines above.

### 4. Consent Agenda.

Any 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.

#### A. Office of the Mayor

- 1) Appointments to City Boards, Committees and Commissions pursuant to City Code, Title 2 and Idaho Statute 50-2006 **24-126**

**Attachments:** CITY CODE TITLE 2 CH 8  
J. Durtschi Citizen Application  
Idaho Statute 50-2006  
Memo to Re-appoint HPC and IFRA  
CITY CODE TITLE 2 CH 11  
Memo to Appoint HPC  
M. Scales Citizen Application

#### B. Municipal Services

- 1) Quote - Purchase One Replacement Crack Sealer for Public Works **24-135**

**Attachments:** Idaho Falls Cimline M4 410 Gal Crack Sealer - Sourcewell -  
MetroQuip - 2-1-24

#### C. Idaho Falls Power

- 1) IFP 24-11 Gem State Vault Toilet - UBC Precast **24-125**

**Attachments:** Gem State Vault Toilet - Bid tabulation IFP 24-11

- 2) IFP 24-10 Recloser Switch **24-134**

**Attachments:** Reclosure Bid tabulation

**D. Public Works**

- 1) Bid Award - North Highland Park Concrete Improvements - 2024 **24-131**

**Attachments:** STR-2024-06 Bid Tab

- 2) Bid Award - Jefferson Avenue Water Line Replacement, Science Center Drive to Micro Street **24-132**

**Attachments:** WTR-2024-19 Bid Tab

**E. Office of the City Clerk**

- 1) Minutes from City Council Meetings **24-133**

**Attachments:** 2023 1207 City Council Unapproved

- 2) License Applications, all carrying the required approvals

**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. Community Development Services**

- 1) Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards, Sand Creek Estates Division No. 2. **24-130**

Attached is the application for the Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards for Sand Creek Estates Division No. 2. The Planning and Zoning Commission considered this item at its September 5, 2023, meeting and unanimously voted to recommend approval of the final plat to the Mayor and City Council as presented. Staff concurs with these recommendations.

**Action Item:**

1. Approve the Development Agreement for the Final Plat for Sand Creek Estates Division No. 2 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 Sand Creek Estates Division No. 2 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 Sand Creek Estates Division No. 2 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

**B. Municipal Services**

- 1) Addition to Public Works Fleet - One 2024 John Deere 60P Mini Excavator with Attachments **24-121**

This purchase will be an addition to the Public Works, Water Division

**Action Item:**

Accept and approve the purchase of one John Deere Mini Excavator from the Sourcewell cooperative purchasing contract #011723-JDC from John Deere for a total of \$124,986.79 (or take other action deemed appropriate).

**Attachments:** City of Idaho Falls John Deere 60G Excavator

**C. Idaho Falls Power**

- 1) 23-28 IFP Peaking Plant - ESI **24-124**

Idaho Falls Power (IFP) solicited a request for proposal (RFP) to select the most qualified company to construct a peaking plant. Three submissions were received with ESI being the most qualified bidder. The contract amount is \$22,912,159.00 plus a ten percent (10%) contingency of \$2,291,215.90 for a total not-to-exceed amount of \$25,203,374.90.

**Action Item:**

Accept and approve the ESI Agreement to construct a peaking plant for a not-to-exceed price of \$25,203,374.90 and give authorization to the Mayor and City Clerk to execute the necessary documents (or take other action deemed appropriate).

**Attachments:** 2024-1-31 Bidsheet and Design Bid Build Agreement - ESI

**D. Parks & Recreation**

- 1) Tautphaus Park Tennis Court Reconstruction Project for Parks and Recreation **24-108**

Due to the deterioration of the Tautphaus Park tennis courts, a reconstruction project was budgeted in the Parks and Recreation's 2023/24 budget. Pursuant to Idaho Code §67-2807 which authorizes the City to participate in cooperative purchasing agreements, staff recommends that the City enter into an agreement with FieldTurf USA and Renner Sports Surfaces under the Sourcewell contract for the

purchase of labor, materials, and windscreens in the total amount of \$473,892. The Sourcewell contract was awarded by the Sourcewell cooperative purchasing association pursuant to a competitive solicitation process, as required by Idaho Code §67-2807.

**Action Item:**

Accept and approve the pricing proposal from FieldTurf USA and Renner Sports Surfaces from the Sourcewell cooperative purchasing contract #031622-FTU in the amount of \$473,892 to reconstruct the Tautphaus Park tennis courts (or take other action deemed appropriate).

**Attachments:** IF-24-108 Tautphaus Park Tennis Court Reconstruction Project

**2) Sole Source - Demolishing and Rebuilding the Recreation Center Gym Floor for Parks and Recreation 24-129**

After more than 50 years of public use, the hardwood gym floor in the Idaho Falls Recreation Center must be replaced to assure that patrons have a playable and safe facility in the coming years. The Parks and Recreation Department recommends City Council authorize this purchase as a sole source purchase pursuant to State Statute §67-2808(2)(a)(viii) and 2808(2)(b), because there is only one (1) source reasonably available and a “where competitive solicitation is impractical, disadvantageous, or unreasonable under the circumstances.” State law further requires that, upon making the sole source declaration that there is only one (1) vendor for services, the notice of a sole source procurement shall be published in the official newspaper at least fourteen (14) calendar days prior to the award of the contract. This project was discussed during the 2024 budget process and spending authority was approved with the understanding that facility sponsorships would cover a portion of the total cost.

**Action Item:**

Accept and authorize the pricing proposal from United Services Inc. in the amount of \$189,986.00 and declare that this vendor is the only vendor reasonably able to demolish and rebuild the Recreation Center gym floor within the necessary 10-week time frame (or take other action deemed appropriate).

**Attachments:** Renner Sports Price Proposal  
Section 67-2808 – Idaho State Legislature

**6. Announcements.**

**7. Adjournment.**

**File #:** 24-126
 **City Council Meeting**

**FROM:** Rebecca Casper  
**DATE:** Friday, January 5, 2024  
**DEPARTMENT:** Mayor's Office

**Subject**  
 Appointments to City Boards, Committees and Commissions pursuant to City Code, Title 2 and Idaho Statute 50-2006

**Council Action Desired**

☐ Ordinance
 ☐ Resolution
 ☐ Public Hearing

☒ Other Action (Approval, Authorization, Ratification, etc.)









Give consent to the new appointment of Jake Durtschi to serve on the Sister Cities Advisory Committee, new appointment of Mary Scales to serve on the Historic Preservation Commission, and to the reappointments of Lisa Armstrong to the Sister Cities Advisory Committee, Hereschell Mynarcik to the Historic Preservation Committee, and Terri Gazdik to the Idaho Falls Redevelopment Agency pursuant to Title 2 of Idaho Falls City Code and pursuant to Idaho Statute 50-2006.

**Description, Background Information & Purpose**

Name	Status	Committee, Board, Commission	Capacity
Jake Durtschi	New Appointment	Sister Cities Advisory Committee	Voting Member
Mary Scales	New Appointment	Historic Preservation Commission	Voting Member
Lisa Armstrong	Reappointment	Sister Cities Advisory Committee	
Hereschell Mynarcik	Reappointment	Historic Preservation Commission	
Terri Gazdik	Reappointment	Idaho Falls Redevelopment Agency	

Attached for your review please find citizen applications from new appointees Jake Durtschi and Mary Scales, memoranda from Community Development Services Director Wade Sanner, Title 2 documents, and Idaho Statute 50-2006 in reference to these appointments/reappointments.

**Alignment with City & Department Planning Objectives**

☐
☒
☐
☐
☐
☐
☐
☐

Involving citizens in governance and decision-making processes supports the highest values of the strategic plan.

**Interdepartmental Coordination**  
 The appointment process included interviews of each new appointee.

**Fiscal Impact**

None. Service on City Boards, Commissions, and Committees is a volunteer position. Activities and expenses necessary for the proper function of these boards, commissions, and committees will be accounted for within the appropriate agency or department budget.

**Legal Review**

N/A

## **CHAPTER 8**

### **SISTER CITIES ADVISORY COMMITTEE**

#### **SECTION:**

- 2-8-1: Establishment
- 2-8-2: Purpose
- 2-8-3: Duties and Goals
- 2-8-4: Organization
- 2-8-5: Term of Office
- 2-8-6: Removal
- 2-8-7: Vacancy
- 2-8-8: Attendance
- 2-8-9: Open Meetings
- 2-8-10: Minutes
- 2-8-11: No Compensation
- 2-8-12: Funding and Donations

2-8-1: ESTABLISHMENT: The Sister Cities Advisory Committee (“Committee”) is hereby established. The Mayor, with the consent of the Council, shall appoint the Committee, which shall consist of seven (7) voting members and three (3) ex-officio non- voting members, as set forth in this Chapter. Committee members shall demonstrate interest in the Sister City’s purposes, duties, and goals, and shall serve without compensation. Voting members of the Committee shall consist of the current Mayor or the Mayor’s appointee to the Committee; one (1) member of the Sister Cities Adult Association recommended by its President; one (1) adult leader of the Sister Cities Youth Association; one (1) member recommended by Idaho School District 91 or by School District 93; one (1) member of a business located in the City; one (1) member of a local service club or cultural or arts organization; and one (1) member of the Idaho National Laboratory or one of its contractors or affiliates.

All voting members shall be City residents and shall not be members of a Sister Cities Association, except for voting members from the Sister Cities Youth Association and Sister Cities Adult Association, who may be non-City residents and members of a Sister Cities Association. Non-voting ex-officio members of the Committee shall consist of one (1) senior high school student who is an active member of the Sister Cities Youth Association, as recommended by the Association; one (1) employee of an institution of higher education located within the City; and one (1) member of a service organization located within the City.

2-8-2: PURPOSE: Committee is established to improve, promote, and sustain cultural understanding and to facilitate personal and business ties, friendships, and fellowships between Tokai-mura, Japan, and the City by providing input and advice to City elected officials and staff.

#### **2-8-3: DUTIES AND GOALS:**

- A. DUTIES. Committee duties include expansion of the Idaho Falls community’s awareness of and participation in the cultural understandings made possible by the

Sister Cities program; development of economic relationships and specific joint projects; cultivation of long-term personal relationships and friendships among people in both communities; development and presentation of a two-year budget for the Sister Cities program, which should be presented to and considered by the Council for annual appropriation of the Sister Cities program; and demonstration of the value to the taxpayers of Idaho Falls including economic benefits, as well as educational opportunities. When requested by the Mayor or the Council, the Committee shall report on the purposes, duties, and goals of the Committee.

B. GOALS. Goals to verify the continuing value of the Sister Cities program to City taxpayers may be achieved by implementing the following elements of the Sister Cities program: enhancing outreach to the community through such institutions as the Idaho Falls Library, local schools, the arts, and cultural organizations; expanding exchange opportunities through such programs as City-to-City and City Departmental-level exchanges; classroom-to-classroom or school-to-school exchanges; arts and cultural exchanges; expanding and promoting historical and cultural understandings of Japan for community travelers to Japan and for the City; in conjunction with the Idaho Falls Library and with the Museum of Idaho providing support for the Sister Cities Library exhibit; pursuing, where feasible, economic development opportunities and connections with Tokai-mura; and providing oversight of City monies budgeted for the Sister Cities program.

2-8-4: ORGANIZATION: During the first meeting of each calendar year, the Committee shall elect from its membership, by majority, a person to act as Chair and a person to act as Vice-Chair. The Chair and Vice-Chair shall serve until replaced or re-elected. The Chair shall preside at all meetings. If the Chair is absent or unable to act at any meeting, the Vice-Chair shall preside.

2-8-5: TERM OF OFFICE: All voting members shall serve terms of three (3) years, except that the terms of the initial Committee members may be less than three (3) years as necessary to provide for staggered terms of office. The terms of no more than three (3) voting members shall expire at any calendar year. Terms of voting members shall expire December 31 of the third year of their appointment. All non-voting ex-officio members of the Committee shall serve the greater of two (2) years or as long as they continue to serve in the offices or capacities designated in this Chapter. The Mayor's or Mayor's appointee's term shall coincide with the Mayor's term of office.

2-8-6: REMOVAL: A Committee member may be removed from the Committee by the Mayor and at the Chair's request, following two (2) consecutive meeting absences unexcused by the Chair or at any time by the majority vote of the Council.

2-8-7: VACANCY: The Mayor, with the consent of the Council, shall appoint a qualified person to fill the unexpired term of any Committee member in the event of a vacancy or in the event any member ceases to be qualified.

2-8-8: ATTENDANCE: A quorum of Committee members shall be present in order for purposes of conducting the business of the Committee. Non-voting members present at meetings shall not be considered when determining the number required for a quorum or

whether a quorum is present. (Ord. 3540, 9-21-23)

2-8-9: OPEN MEETINGS: All meetings of the Committee shall be open to the public and shall follow the requirements of the Idaho Open Meeting Law.

2-8-10: MINUTES: The Committee shall keep minutes of its proceedings, including the vote of each voting member on every presented issue. The meeting minutes and other records of the Committee shall be open to the public.

2-8-11: NO COMPENSATION: Committee members shall receive no compensation for their service on the Committee; however, expenses for equipment and supplies necessary for the Committee to conduct its business shall be allowed by the Council.

2-8-12: FUNDING AND DONATIONS: The Committee is authorized to seek outside funding and in-kind donations for Sister Cities projects, as may be approved by the Council and in accordance with City budget procedures. Expenditure of budgeted amount shall follow City budgeting and financial policies.





**City of Idaho Falls**  
**Boards, Committees and Commissions**  
**Citizen Application**

Thank you for your willingness to serve our community. Please fill out this form and attach a résumé to this application. If you wish, you may also submit a cover letter explaining your interest in city service.

Your application will be kept on file. When there is an opening on a relevant City Board, Committee or Commission, your application will be reviewed. Return the completed form to the Mayor's office at: City of Idaho Falls Mayor's office: P.O. Box 50220, Idaho Falls, ID 83405 or [mayor@idahofalls.gov](mailto:mayor@idahofalls.gov).

Name:		
Mailing Address:		
City, State, Zip:		
Email Address:		
Daytime Phone:		<input type="checkbox"/> Message? <input type="checkbox"/> Text?
Evening Phone:		<input type="checkbox"/> Message? <input type="checkbox"/> Text?
Cell Phone:		<input type="checkbox"/> Message? <input type="checkbox"/> Text?

What is your motivation for service on this/these committee(s)?

---

---

---

---

---

How does your background training and experience lend itself to service on this/these committee(s)?

---

---

---

---

---

Please list any relevant areas of expertise, education or training you possess that will be helpful for service.

---

---

---

---

FOR OFFICE USE ONLY:	
Date received by Mayor's Office:	Date appointed:
City Division(s) application forwarded to:	Board, Committee or Commission appointed to:

	<u>Length of term (Years)</u>	<u>Meeting Frequency</u>
<b>Mayor's Office</b>		
<input type="checkbox"/> Sister Cities Committee	Three (3)	As Needed
<b>Fire Department</b>		
<input type="checkbox"/> Fire Code Appeals Board	Five (5)	Yearly/As Needed
<b>Library</b>		
<input type="checkbox"/> Library Board	Five (5)	Monthly/As Needed
<b>Municipal Services</b>		
<input type="checkbox"/> Civic Center for the Performing Arts Committee	Two (2)	As Needed
<b>Parks and Recreation</b>		
<input type="checkbox"/> Golf Advisory Board	Three (3)	Every Other Month
<input type="checkbox"/> Parks and Recreation Commission	Three (3)	Monthly
<input type="checkbox"/> Shade Tree Committee	Three (3)	Monthly
<input type="checkbox"/> Tautphaus Park Zoological Society	Three (3)	Quarterly
<input type="checkbox"/> War Bonnet Round Up Advisory Committee	Three (3)	As Needed
<b>Community Development Services</b>		
<input type="checkbox"/> Board of Adjustment	Five (5)	2 <sup>nd</sup> Thursday/As Needed
<input type="checkbox"/> Building Code Board of Appeals	Three (3)	As Needed
<input type="checkbox"/> Electrical Board of Review	Two (2) & Three (3)	As Needed
<input type="checkbox"/> Historic Preservation Commission	Three (3)	1 <sup>st</sup> Thursday
<input type="checkbox"/> ADA Advisory Board	Three (3)	As Needed
<input type="checkbox"/> Idaho Falls Business Assistance Corp	Staggering Terms	Quarterly/As Needed
<input type="checkbox"/> Idaho Falls Redevelopment Agency	Five (5)	3 <sup>rd</sup> Thursday
<input type="checkbox"/> Mechanical Appeals Board	Three (3)	As Needed
<input type="checkbox"/> Planning Commission	Six (6)	1 <sup>st</sup> Tuesday
<input type="checkbox"/> Plumbing Appeals Board	Three (3)	As Needed
<b>Public Works</b>		
<input type="checkbox"/> Impact Fee Advisory Committee	Three (Staggered Terms)	As Needed
<b>Regional Committees</b>		
<input type="checkbox"/> Bonneville Metropolitan Planning Organization		
<b>Other</b>		
<input type="checkbox"/>		

1Where not specifically required by law, City of Idaho Falls residents will be given preference. 2Four (4) members shall have professional training or experience in the disciplines of architecture, history, architectural history, urban planning, archaeology, engineering, law, or other historic preservation-related disciplines. 3All members shall be a person with a disability or have a demonstrated interest, competence or knowledge of disabilities. 4One (1) member shall be a Bonneville County resident residing within the area of city impact. Please note: Those who stand to receive a direct financial benefit from a particular position, who are involved in litigation with a relevant city department, and who are not city residents may be declared ineligible to serve on a committee. Any Information supplied may be subject to disclosure under the Idaho Public Records Law §§ 9-337 through 9-350



# Idaho Statutes

Idaho Statutes are updated to the website July 1 following the legislative session.

TITLE 50  
MUNICIPAL CORPORATIONS  
CHAPTER 20  
URBAN RENEWAL LAW

50-2006. URBAN RENEWAL AGENCY.

(1) (a) There is hereby created in each municipality an independent public body corporate and politic to be known as the "urban renewal agency" that was created by resolution as provided in section 50-2005, Idaho Code, before July 1, 2011, for the municipality; provided, that such agency shall not transact any business or exercise its powers hereunder until or unless the local governing body has made the findings prescribed in section 50-2005, Idaho Code.

(b) An urban renewal agency created after July 1, 2011, shall not transact any business or exercise its powers provided for in this chapter until a majority of qualified electors, voting in a citywide or countywide election, depending on the municipality in which such agency is created, vote to authorize such agency to transact business and exercise its powers provided for in this chapter. If prior to July 1, 2011, the local governing body has made the findings prescribed in paragraph (a) of this subsection, then such agency shall transact business and shall exercise its powers hereunder and is not subject to the requirements of this paragraph.

(2) Upon satisfaction of the requirements under subsection (1) of this section, the urban renewal agency is authorized to transact the business and exercise the powers hereunder by a board of commissioners to be established as follows:

(a) Unless provided otherwise in this section, the mayor, by and with the advice and consent of the local governing body, shall appoint a board of commissioners of the urban renewal agency, which shall consist of not less than three (3) commissioners nor more than nine (9) commissioners. In the order of appointment, the mayor shall designate the number of commissioners to be appointed, and the term of each, provided that the original term of office of no more than two (2) commissioners shall expire in the same year. The commissioners shall serve for terms not to exceed five (5) years, from the date of appointment, except that all vacancies shall be filled for the unexpired term.

(b) For inefficiency or neglect of duty or misconduct in office, a commissioner may be removed by a majority vote of the local governing body only after a hearing and after he shall have been given a copy of the charges at least ten (10) days prior to such hearing and have had an opportunity to be heard in person or by counsel. Any commission position that becomes vacant at a time other than the expiration of a term shall be filled by the mayor or chair of the board of county commissioners, if that is the local governing body, by and with the

advice and consent of the local governing body, including the mayor, if applicable, and shall be filled for the unexpired term.

(c) By enactment of an ordinance, the local governing body may appoint and designate, from among its members, members of the board of commissioners of the urban renewal agency, provided that such representation shall be less than a majority of the board of commissioners of the urban renewal agency of the members of the local governing body on and after July 1, 2017, in which case all the rights, powers, duties, privileges, and immunities vested by the urban renewal law of 1965, and as amended, in an appointed board of commissioners, shall be vested in the local governing body, which shall, in all respects when acting as an urban renewal agency, be acting as an arm of state government, entirely separate and distinct from the municipality, to achieve, perform, and accomplish the public purposes prescribed and provided by said urban renewal law of 1965, and as amended.

(d) By enactment of an ordinance, the local governing body may terminate the appointed board of commissioners and thereby appoint and designate itself as the board of commissioners of the urban renewal agency for not more than one (1) calendar year.

(e) By enactment of an ordinance, the local governing body may provide that the board of commissioners of the urban renewal agency shall be elected at an election held for such purpose on one (1) of the November dates provided in section 34-106, Idaho Code, and the ordinance may provide term limits for the commissioners. In this case, all the rights, powers, duties, privileges, and immunities vested by the urban renewal law of 1965, and as amended, in an appointed board of commissioners, shall be vested in the elected board of commissioners of the urban renewal agency, which shall, in all respects when acting as an urban renewal agency, be acting as an arm of state government, entirely separate and distinct from the municipality, to achieve, perform, and accomplish the public purposes prescribed and provided by said urban renewal law of 1965, and as amended. The provisions of chapter 66, title 67, Idaho Code, shall apply to elected commissioners, and the county election law shall apply to the person running for commissioner as if the person were running for county commissioner. In the event of a vacancy in an elected commissioner position, the replacement shall be appointed by the mayor or chair of the board of county commissioners, if that is the local governing body, by and with the advice and consent of the local governing body, and shall be filled for the unexpired term.

(3) In all instances, a member of the board of commissioners of the urban renewal agency must be a resident of the county where the urban renewal agency is located or is doing business.

(4) A commissioner shall receive no compensation for his services but shall be entitled to the necessary expenses, including travel expenses, incurred in the discharge of his duties. Each commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk of the municipality and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner.

(5) (a) The powers of an urban renewal agency shall be exercised by the commissioners thereof. A majority of the commissioners shall

constitute a quorum for the purpose of conducting business and exercising the powers of the agency and for all other purposes. Action may be taken by the agency upon a vote of a majority of the commissioners present, unless in any case the bylaws shall require a larger number.

(b) The commissioners shall elect the chairman, cochairman, or vice chairman for a term of one (1) year from among their members. An agency may employ an executive director, technical experts, and such other agents and employees, permanent and temporary, as it may require, and determine their qualifications, duties, and compensation. For such legal service as it may require, an agency may employ or retain its own counsel and legal staff.

(c) An agency authorized to transact business and exercise powers under this chapter shall file, with the local governing body, on or before March 31 of each year a report of its activities for the preceding calendar year, which report shall include the financial data and audit reports required under sections 67-1075 and 67-1076, Idaho Code. The agency shall be required to hold a public meeting to report these findings and take comments from the public. At the time of filing the report, the agency shall publish in a newspaper of general circulation in the community a notice to the effect that such report has been filed with the municipality and the state controller and that the report is available for inspection during business hours in the office of the city clerk or county recorder, in the office of the agency, and at all times on the website of the state controller.

(d) An urban renewal agency shall have the same fiscal year as a municipality and shall be subject to the same audit requirements as a municipality. An urban renewal agency shall be required to prepare and file with its local governing body an annual financial report and shall prepare, approve, and adopt an annual budget for filing with the local governing body, for informational purposes. A budget means an annual estimate of revenues and expenses for the following fiscal year of the agency.

(6) An urban renewal agency shall comply with the public records law pursuant to chapter 1, title 74, Idaho Code, open meetings law pursuant to chapter 2, title 74, Idaho Code, the ethics in government law pursuant to chapter 4, title 74, Idaho Code, and the competitive bidding provisions of chapter 28, title 67, Idaho Code.

(7) Upon dissolution of the urban renewal agency, title to all property of the urban renewal agency shall revert to the municipality.  
History:

[50-2006, added 1965, ch. 246, sec. 6, p. 600; am. 1976, ch. 256, sec. 1, p. 871; am. 1986, ch. 9, sec. 1, p. 50; am. 1987, ch. 276, sec. 1, p. 568; am. 2002, ch. 143, sec. 1, p. 394; am. 2005, ch. 213, sec. 21, p. 656; am. 2011, ch. 317, sec. 1, p. 911; am. 2015, ch. 141, sec. 132, p. 477; am. 2016, ch. 349, sec. 1, p. 1014; am. 2019, ch. 288, sec. 24, p. 845; am. 2021, ch. 87, sec. 2, p. 292; am. 2021, ch. 89, sec. 17, p. 310; am. 2022, ch. 111, sec. 28, p. 386.]

How current is this law?





## MEMORANDUM

---

**TO:** Honorable Mayor Casper

**FROM:** Wade Sanner, CDS Director

**DATE:** December 6, 2023

**RE:** The re-appointments of Hereschell Mynarcik to the Historic Preservation Commission (HPC); and Terri Gazdik to the Idaho Falls Redevelopment Agency (IFRA).

---

Community Development Services respectfully requests the re-appointment of Hereschell Mynarcik to the Historic Preservation Commission for a term ending December 31, 2026.

Terri Gazdik to the Idaho Falls Redevelopment Agency for a term ending December 31, 2028.

Please feel free to contact me with any questions.



## **CHAPTER 11**

### **HISTORIC PRESERVATION COMMISSION**

#### **SECTION:**

- 2-11-1: Establishment
- 2-11-2: Definitions
- 2-11-3: Purpose
- 2-11-4: Duties
- 2-11-5: Organization
- 2-11-6: Term of Office
- 2-11-7: Removal
- 2-11-8: Vacancy
- 2-11-9: Attendance
- 2-11-10: Open Meetings
- 2-11-11: Minutes
- 2-11-12: No Compensation
- 2-11-13: Indebtedness

2-11-1: **ESTABLISHMENT:** The Historic Preservation Commission (“Commission”) is hereby established. The Mayor, with the consent of the Council, shall appoint seven (7) City residents to the Commission. All members of the Commission shall have a demonstrated interest, competence, or knowledge in history or historic preservation. Four (4) members of the Commission shall have professional training, experience, or interest in the disciplines of architecture, history, architectural history, urban planning, archaeology, engineering, law, or other historic preservation related disciplines.

2-11-2: **DEFINITIONS:** The following words and phrases, when used in this Chapter, shall have, unless the context clearly indicates otherwise, the following meanings:

**COMMISSION:** The Historic Preservation Commission of the City of Idaho Falls, as established under this Chapter.

**HISTORIC PRESERVATION:** The research, documentation, protection, restoration and rehabilitation of historic property.

**HISTORIC PROPERTY:** Any building, structure, object, district, area or site that is significant in the history, architecture, archaeology or culture of this community, the state, or the nation.

2-11-3: **PURPOSE:** The Commission shall assist the Director of the Community Development Services Department with promotion of educational, cultural, economic, and general welfare of the City residents through the identification, evaluation, designation, and protection of those buildings, sites, areas, structures, and objects which reflect the City’s, State’s and nation’s historic, architectural, archaeological, and cultural heritage.

2-11-4: **DUTIES:** The Commission shall have the following powers, duties, and

responsibilities:

- A. Advise and consult with the Director of the Community Development Services Department regarding the identification, evaluation, designation, and protection of historic buildings, site areas, and objects.
- B. Assist the Director of Community Service Department with conducting a survey of local historical properties;
- C. Recommend to the Director of the Community Development Services Department the acquisition of fee and lesser property interests in historic properties, including adjacent or associated lands, by purchase, bequests, or donation;
- D. Recommend to the Director of the Community Development Services Department methods and procedures necessary to preserve, restore, maintain, and operate historic properties under the ownership or control of the City;
- E. Recommend to the Director of the Community Development Services Department the lease, sale, other transfer or disposition of historic properties subject to rights of public access and other covenants and in a manner that will preserve the property;
- F. Recommend to the Director of the Community Development Services Department the adoption of ordinances that promote or regulate historic preservation within the City, in accordance with the powers set forth in Idaho Code Section 67-4612, as amended;
- G. At the direction of the Director of Community Development Services Department, cooperate with federal, State, and local governments in promoting historic preservation;
- H. At the direction of the Director of Community Development Services Department, make recommendations in the planning processes undertaken by Bonneville County, the City, the State, or the federal government and agencies thereof;
- I. At the direction of the Director of Community Development Services Department, promote and conduct educational and interpretive programs regarding historic preservation and historic properties in the City;
- J. Review nominations of properties to the National Register of Historic Places for properties within the City's jurisdiction.

2-11-5: ORGANIZATION: During the first meeting of each calendar year, the Commission shall elect from its membership, by majority, a person to act as Chair and a person to act as Vice-Chair. The Chair and Vice-Chair shall serve until replaced or re-elected. The Chair shall preside at all meetings. If the Chair is absent or unable to act at any meeting, the Vice-Chair shall preside.

The Commission may, with the approval of the Council, employ or contract with other persons or entities for the services of technical or professional experts or other consulting services it deems necessary to carry on the functions of the Commission.

2-11-6: **TERM OF OFFICE:** Initial appointments to the Commission shall be made as follows: One (1) one-year term; three (3) two-year terms; three (3) three-year terms. All subsequent appointments shall be made for terms of three (3) years each. Terms shall expire on December 31 of the designated year from their appointment. Committee members may be reappointed.

2-11-7: **REMOVAL:** A Commission member may be removed from the Commission by the Mayor and at the Chair's request, following two (2) consecutive meeting absences unexcused by the Chair or at any time by the majority vote of the Council.

2-11-8: **VACANCY:** The Mayor, with the consent of the Council, shall appoint a person that meets the qualifications of this Chapter to fill the unexpired term of any member of the Commission in the event of a vacancy.

2-11-9: **ATTENDANCE:** A quorum of Commission members shall be present in order for purposes of conducting the business of the Commission. Non-voting members present at meetings shall not be considered in determining the number required for a quorum or whether a quorum is present. (Ord. 3540, 9-21-23)

2-11-10: **OPEN MEETINGS:** All meetings of the Commission shall be open to the public and shall follow the requirements of the Idaho Open Meeting law.

2-11-11: **MINUTES:** The Commission shall keep minutes of its proceedings, including the vote of each voting member on every presented issue. The meeting minutes and other records of the Commission shall be open to the public.

2-11-12: **NO COMPENSATION:** Commission members shall receive no compensation for their service on the Commission; however, expenses for equipment and supplies necessary for the Commission to conduct its business shall be allowed by the Council.

2-11-13: **INDEBTEDNESS:** Nothing herein shall convey or otherwise delegate authority to the Commission to incur any obligation or indebtedness of the City, without the express authorization of the Council.



## MEMORANDUM

---

**TO:** Honorable Mayor Casper

**FROM:** Wade Sanner, CDS Director

**DATE:** January 22, 2023

**RE:** Board and Commission Appointment Recommendations

---

The City of Idaho Falls currently has one vacancy on our Historic Preservation Commission. Understanding that the appointment of members to the Historic Preservation Commission is under the purview of the mayor, the Community Development Services Department would like to recommend the appointment of Ms. Mary Scales to the Historic Preservation Commission. Caitlin Long and I have reviewed Ms. Scales's applications and interviewed her on 12/20/23. Staff feels that Ms. Scales expertise and input could be heavily utilized during the creation of the Historic Preservation Plan that will be undertaken by the commission this year.

Ms. Mary Scales has a master's degree in Historic Preservation and has worked as an Historic Structures Inventory Coordinator with the National Park Service where she completed survey and managed large databases of information associated with historic structures and buildings. Ms. Scales has extensive experience and knowledge and makes a great fit for the Historic Preservation Commission.

Historic Preservation Commission Recommended Appointment and Term:

Mary Scales                      Term ending December 31, 2026

Let me know if you have any further questions. Thank you for your help in this matter.

Sincerely,

Wade Sanner, AICP  
Community Development Services Director



**City of Idaho Falls**  
**Boards, Committees and Commissions**  
**Citizen Application**

Thank you for your willingness to serve our community. Please fill out this form and attach a résumé to this application. If you wish, you may also submit a cover letter explaining your interest in city service.

Your application will be kept on file. When there is an opening on a relevant City Board, Committee or Commission, your application will be reviewed. Return the completed form to the Mayor's office at: City of Idaho Falls Mayor's office: P.O. Box 50220, Idaho Falls, ID 83405 or [mayor@idahofalls.gov](mailto:mayor@idahofalls.gov).

Name:	Mary Scales		
Mailing Address:	1415 Whitewater Drive, Apt 6106		
City, State, Zip:	Idaho Falls, ID 83402		
Email Address:	mcandlerscales@gmail.com		
Daytime Phone:	706-400-9249	<input type="checkbox"/> Message?	<input checked="" type="checkbox"/> Text?
Evening Phone:	706-400-9249	<input checked="" type="checkbox"/> Message?	<input checked="" type="checkbox"/> Text?
Cell Phone:	Same as above	<input type="checkbox"/> Message?	<input type="checkbox"/> Text?

**What is your motivation for service on this/these committee(s)?**

Professionally, my career has shifted away from traditional historic preservation practices in the past year or so, but I am deeply engaged with maintaining my skills, knowledge, and experience within the world of historic preservation. Participating on the Historic Preservation Commission will allow me to support the Idaho Falls community more directly, as well as facilitate opportunities to stay relevant within the profession I have spent many years honing skills and diversifying experiences. I have lived in Idaho Falls prior, and worked for INL in the past (2019-2021). I recently returned to INL after two and a half years with the National Park Service.

**How does your background training and experience lend itself to service on this/these committee(s)?**

Since 2017, I have been a working historic preservation professional within the federal regulatory landscape. I have worked as a specialist within the Section 106 aspects of the National Historic Preservation Act (NHPA), completed survey and managed large databases of information associated with historic structures and buildings for the National Park Service under Section 110 of NHPA, and have shifted my areas of expertise into strategic planning and land use management. My education and work history in preservation law and policy will contribute to the Committee when reviewing and making advisory recommendations - as this has been a leading part of my career.

**Please list any relevant areas of expertise, education or training you possess that will be helpful for service.**

I have two degrees within the cultural resource management specialist world: a BA in Anthropology/Archaeology, and a MA in Historic Preservation. My expertise is in architectural history, applied preservation practices through documentation and survey recommendations for treatments of historic properties (including landscapes), and have maintained a level of engagement with federal laws and policies through my current position at Idaho National Laboratory that I would like to extend into the community.

<b>FOR OFFICE USE ONLY:</b>	
Date received by Mayor's Office:	Date appointed:
City Division(s) application forwarded to:	Board, Committee or Commission appointed to:

	<u>Length of term (Years)</u>	<u>Meeting Frequency</u>
<b>Mayor's Office</b>		
<input type="checkbox"/> Sister Cities Committee	Three (3)	As Needed
<b>Fire Department</b>		
<input type="checkbox"/> Fire Code Appeals Board	Five (5)	Yearly/As Needed
<b>Library</b>		
<input type="checkbox"/> Library Board	Five (5)	Monthly/As Needed
<b>Municipal Services</b>		
<input type="checkbox"/> Civic Center for the Performing Arts Committee	Two (2)	As Needed
<b>Parks and Recreation</b>		
<input type="checkbox"/> Golf Advisory Board	Three (3)	Every Other Month
<input type="checkbox"/> Parks and Recreation Commission	Three (3)	Monthly
<input type="checkbox"/> Shade Tree Committee	Three (3)	Monthly
<input type="checkbox"/> Tautphaus Park Zoological Society	Three (3)	Quarterly
<input type="checkbox"/> War Bonnet Round Up Advisory Committee	Three (3)	As Needed
<b>Community Development Services</b>		
<input type="checkbox"/> Board of Adjustment	Five (5)	2 <sup>nd</sup> Thursday/As Needed
<input type="checkbox"/> Building Code Board of Appeals	Three (3)	As Needed
<input type="checkbox"/> Electrical Board of Review	Two (2) & Three (3)	As Needed
<input checked="" type="checkbox"/> Historic Preservation Commission	Three (3)	1 <sup>st</sup> Thursday
<input type="checkbox"/> ADA Advisory Board	Three (3)	As Needed
<input type="checkbox"/> Idaho Falls Business Assistance Corp	Staggering Terms	Quarterly/As Needed
<input type="checkbox"/> Idaho Falls Redevelopment Agency	Five (5)	3 <sup>rd</sup> Thursday
<input type="checkbox"/> Mechanical Appeals Board	Three (3)	As Needed
<input type="checkbox"/> Planning Commission	Six (6)	1 <sup>st</sup> Tuesday
<input type="checkbox"/> Plumbing Appeals Board	Three (3)	As Needed
<b>Public Works</b>		
<input type="checkbox"/> Impact Fee Advisory Committee	Three (Staggered Terms)	As Needed
<b>Regional Committees</b>		
<input type="checkbox"/> Bonneville Metropolitan Planning Organization		
<b>Other</b>		
<input type="checkbox"/>		

1Where not specifically required by law, City of Idaho Falls residents will be given preference. 2Four (4) members shall have professional training or experience in the disciplines of architecture, history, architectural history, urban planning, archaeology, engineering, law, or other historic preservation-related disciplines. 3All members shall be a person with a disability or have a demonstrated interest, competence or knowledge of disabilities. 4One (1) member shall be a Bonneville County resident residing within the area of city impact. Please note: Those who stand to receive a direct financial benefit from a particular position, who are involved in litigation with a relevant city department, and who are not city residents may be declared ineligible to serve on a committee. Any Information supplied may be subject to disclosure under the Idaho Public Records Law §§ 9-337 through 9-350

# Memorandum

File #: 24-135

City Council Meeting

**FROM:** Pam Alexander, Municipal Services Director  
**DATE:** Thursday, February 1, 2024  
**DEPARTMENT:** Municipal Services

## Subject

Quote - Purchase One Replacement Crack Sealer for Public Works

## Council Action Desired

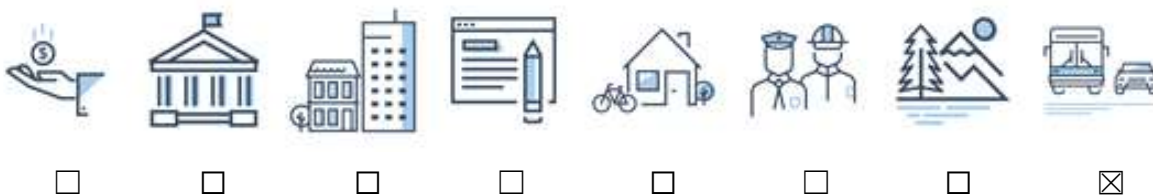
- ☐ Ordinance ☐ Resolution ☐ Public Hearing  
☒ Other Action (Approval, Authorization, Ratification, etc.)

Approve the purchase of one Cimline 410 Gallon, Diesel Crack Sealer for Public Works from the Sourcewell cooperative purchasing contract #080521-CME from MetroQuip, Inc. for a total of \$122,377.00 (or take other action deemed appropriate).

## Description, Background Information & Purpose

This purchase replaces unit 1532, a 2011 Cimline Magma 230HR that has reached its useful life and scheduled for replacement.

## Alignment with City & Department Planning Objectives



The purchase of the replacement crack sealer supports the reliable public infrastructure and transportation community-oriented result by replacing equipment that has reached its useful life.

## Interdepartmental Coordination

The Public Works Department concurs with the award recommendation.

## Fiscal Impact

Funds to purchase the Crack Sealer are budgeted in the 2023/24 Public Works Streets division municipal equipment replacement fund.

## Legal Review

The Legal Department concurs the Council action is within State Statute.





# QUOTE

MetroQuip, Inc.

1953 E. Commercial  
Meridian, ID 83642  
ph:(208)344-3318 fax:(208)345-5931

QUOTATION NO. Cimline M4  
DATE February 1, 2024  
CUSTOMER ID IdahoFalls  
EXPIRATION DATE 90 Days

TO Brian Cardon  
City of Idaho Falls - Street Division  
PO Box 50220  
Idaho Falls, ID 83405  
PH: 208-612-8490

[bcardon@idahofalls.gov](mailto:bcardon@idahofalls.gov)

SALESPERSON	FOB	PAYMENT TERMS	DUE DATE
Jeff McCoy (208)921-5332	Idaho Falls, ID	Standard Terms and Conditions	

AVAILABLE VIA SOURCEWELL CONTRACT #080521-CME  
LEAD TIME - APPROX 60 DAYS ARO

QUANTITY	DESCRIPTION	UNIT PRICE	LINE TOTAL
1.00	<b>Cimline 410 Gallon, Diesel, Heated Hose, Dual Pump Melter</b>  Material Capacity: 410 Gallons Engine: 25 hp, 40 Compressor Model Heating Method: Diesel Material Heating Rating: 400,000 BTUs Material Pump: 20 gpm GVWR: 9520 lbs GAWR: 10,000 lbs Axles/ Suspension: 2 Torsion  Brake Type: Electric Loading Height: 54 in Loading Doors: Dual Fuel Capacity: 33 Gallons Hydraulic Capacity: 33 Gallons Heat Transfer Oil: 40 Gallons  Available in Pintle or Ball Hitch	\$108,202.50	\$108,202.50
1.00	Engine Cover	\$2,601.00	\$2,601.00
1.00	29" Hitch Extension	\$1,134.00	\$1,134.00
1.00	LED Flashing Arrow Board	\$3,402.00	\$3,402.00
1.00	Dual Work Lights with Single Telescopic Mast Mount	\$1,372.50	\$1,372.50
1.00	10 lb Fire Extinguisher	\$585.00	\$585.00
2.00	Sealing Disk with Swivel, 4.0", 3/4" NPT Inlet	\$34.00	\$68.00
2.00	High Flow/Low Torque, Material Hydraulic Motor Change	\$756.00	\$1,512.00
1.00	Freight - Plymouth, MN to Idaho Falls, ID	\$3,500.00	\$3,500.00

This is a quotation for the goods named, subject to the conditions noted below. This quotation is valid for 30 days from date above unless otherwise noted. The prices do not include freight charges, sales tax, F.E.T., or other applicable taxes unless noted. All sales are subject to availability and/or prior sale.

To Accept this quotation, sign here and return: \_\_\_\_\_

<b>SUBTOTAL</b>	\$ 122,377.00
<b>SALES TAX</b>	-
<b>TOTAL</b>	\$ 122,377.00

**THANK YOU FOR YOUR BUSINESS!**



**INNOVATION  
IN PRESERVATION**

# M-Series™

**Crack Sealant  
Melter Applicators**



**M4 410**



**M2 230**



**M1 150**

## Redefining Productivity:

Cimline's new M1 and M2 crack sealers build on our fifty plus years of innovation. Known for reliability, performance and productivity, contractors rave about the operator ease of use in our Cimline M-Series™ crack sealers, which range from 150 to 410-gallons capacities. Simple and safe operation makes Cimline melter applicators the preferred pavement maintenance choice by contractors and municipalities alike.



## Redesigned Trailer and Tank:

A temperature probe mounted inside the pump is now standard, as is a smaller cabinet to house the pump. Both of which results in better temperature control and performance. The addition of a front recirculation port that can be used in transport mode keeps all the components hot resulting in less down time.

## High Quality Heated Hose System:

Cimline's heated hose is designed and manufactured in house right here in the USA and is built for demanding high use applications in the most challenging environments. The higher voltage generator powering the M1 and M2 heated hose, which is now standard, reaches full temperature in just 30 minutes.

## Quiet and Uncomplicated:

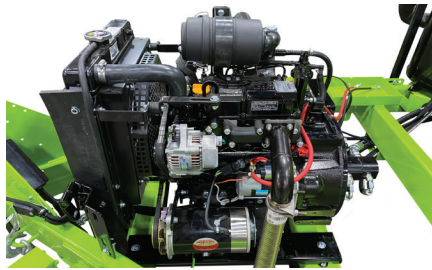
Contractors around the world give high praise over the lower loading height, low noise operation, simple automated control systems and overall operator comfort of the Cimline M-Series crack sealers.



**800-328-3874  
CIMLINE.COM**



Front and rear recirculation ports



19hp Isuzu tier IV diesel power plant



M4 with dual pump/dual hose option



External heated 20 gpm material pump



Variable material pump flow control



Convenient control panel and key switch

## SPECIFICATIONS

Cimline M-Series	M1 #311-001-902	M2 #311-021-902	M4 #301497
Material Capacity	150 Gallons	230 Gallons	410 Gallons
Tank Burner Heat Rating	250,000 BTU's	290,000 BTU's	400,000 BTU's
Heat Transfer Oil Capacity	22 Gallons	30 Gallons	42 Gallons
Tank Insulation	Fiberglass, 1.5 Inch Thickness		
Heating Method	Beckett Diesel Fired Burner		
Diesel Fuel Capacity	33 Gallons		
Hydraulic Capacity	33 Gallons		
Engine	Isuzu Tier IV 19HP Diesel		
Temperature Gauge	Electronic Control and 5 Inch Analog		
Material Loading Height	49 Inches	50 Inches	54 Inches
Material Loading Doors	Single Curbside	Dual (Both Sides)	Dual (Both Sides)
Material Pump Rate	20 GPM	20 GPM	20 GPM
GVWR	5,515 Lbs.	6,700 Lbs.	9259 Lbs.
GAWR	7,000 Lbs.	7,000 Lbs.	10,000 Lbs.
Axles	1x7,000 Torsion Type	2x3,500 Torsion Type	2x5,000 Torsion Type
Trailer Brake Type	Electric	Electric	Electric
Dimensions (LxWxH)	170 x 83 x 93 Inches	170 x 82 x 91 Inches	189 x 87 x 84 Inches
Shipping Weight	4,200 Lbs.	4,750 Lbs.	6,175 Lbs.
Warranty	1 Year Bumper to Bumper		

Due to continuous improvement, specifications are subject to change without notice.



Learn more at [cimline.com](http://cimline.com)  
Phone : 800-328-3874 Email : [orders@cimline.com](mailto:orders@cimline.com)

## PRODUCTS FROM CIMLINE



ME3  
Mastic Melter Machine



P2 Two-Person Patcher with  
DuraPatcher™ Technology



X2 Carry On  
Air Compressor

File #: 24-125

City Council Meeting

**FROM:** Bear Prairie, General Manager  
**DATE:** Monday, January 29, 2024  
**DEPARTMENT:** Idaho Falls Power

## Subject

IFP 24-11 Gem State Vault Toilet - UBC Precast

## Council Action Desired

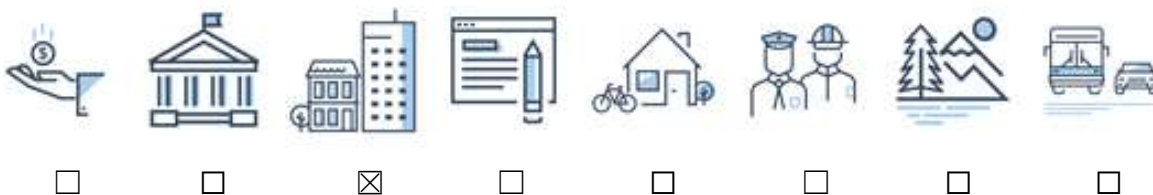
- ☐ Ordinance
 ☐ Resolution
 ☐ Public Hearing
 ☒ Other Action (Approval, Authorization, Ratification, etc.)

Accept and approve the UBC Precast bid for the purchase of two vault toilets for \$126,000 (or take other action deemed appropriate).

## Description, Background Information & Purpose

Idaho Falls Power solicited bids from qualified vendors to purchase two vault toilets for Gem State. Three bids were received, with UBC Precast being the lowest responsive, responsible bidder. There was a lower bidder that did not meet IFP's construction timeline.

## Alignment with City & Department Planning Objectives



This action supports our readiness for reliability by improving public infrastructure and facilities and also supports the improvement and reliability element of the IFP Strategic Plan.

## Interdepartmental Coordination

n/a

## Fiscal Impact

Funds for this purchase are included in the 2023/24 CIP budget.

## Legal Review

The Legal Department concurs that this action complies with state statute.

Idaho Falls Power Bid Tabulation												
Project: Gem State Vault Toilet				Number: IFP - 24-11								
Submitted Krista Thornton Facility Services Manager				Date: 1/26/2024								
				Missoula Concrete			Eagle Rock Timber			UBC Precast		
	Description	Quantity	Unit	Unit Cost	Total Amount	Delivery Time	Unit Cost	Total Amount	Delivery Time	Unit Cost	Total Amount	Delivery Time
1	Basic Double vault	2	each	\$ 36,770.00	\$ 73,540.00	Spring 2025	\$ 76,756.50	\$ 153,513.00	Spring 2025	\$ 56,000.00	\$ 112,000.00	Sep-24
2	Delivery	2	each	\$ 5,300.00	\$ 10,600.00	Spring 2025	\$ 7,786.50	\$ 15,573.00	Spring 2025	\$ 3,000.00	\$ 6,000.00	Sep-24
3	Complete install	2	each	\$ 4,650.00	\$ 9,300.00	Spring 2025	\$ 9,926.50	\$ 19,853.00	Spring 2025	\$ 3,000.00	\$ 6,000.00	Sep-24
4	Required state permit	2	each	\$ -	\$ -		\$ 2,770.50	\$ 5,541.00	Spring 2025	\$ 1,000.00	\$ 2,000.00	Sep-24
				Total	\$ 93,440.00			\$ 194,480.00			\$ 126,000.00	

Recommended Award

Sub Total \$ 413,920.00

Attending: Nikki Bradford  
Krista Thornton



File #: 24-134

City Council Meeting

**FROM:** Bear Prairie, General Manager  
**DATE:** Thursday, February 1, 2024  
**DEPARTMENT:** Idaho Falls Power

## Subject

IFP 24-10 Recloser Switch

## Council Action Desired

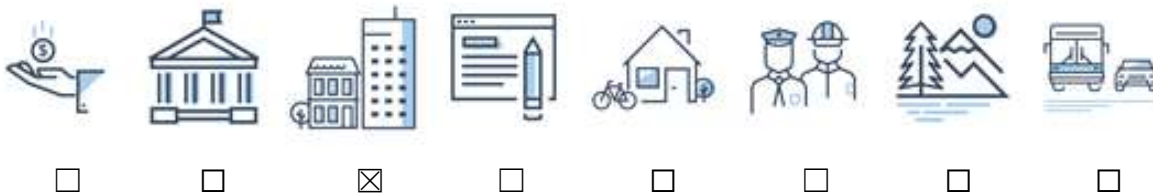
- ☐ Ordinance
 ☐ Resolution
 ☐ Public Hearing
 ☐ Other Action (Approval, Authorization, Ratification, etc.)

Accept and approve the D&S bid to purchase 10 recloser switch units for \$365,910.00 (or take other action deemed appropriate).

## Description, Background Information & Purpose

Idaho Falls Power (IFP) solicited bids from qualified vendors to purchase five recloser switches with an option to purchase five additional units. Five bids were received with D&S being the lowest responsive, responsible bidder.

## Alignment with City & Department Planning Objectives



This action supports our readiness for reliability and growth, ensuring that community infrastructure meets current and future needs and supports the reliability element of the IFP Strategic Plan.

## Interdepartmental Coordination

The Legal Department agrees this action is appropriate.

## Fiscal Impact

This purchase is accounted for in the 2023/24 IFP budget.

## Legal Review

The Legal Department concurs that this action complies with state statute.

<b>Idaho Falls Power</b>	
Bid Tabulation	
Project: IFP    Recloser-Switch	IFP 24-10
Submitted: Krista Thornton Facility Services Manager	January 25, 2024

Project: IFP Recloser-Switch  
Submitted: Krista Thornton Facility Services Manager

IFP 24-10  
January 25, 2024

		QTY	Bidder		Bidder		Bidder		Bidder		Bidder		Bidder	
	Description		Irbay (G&W)		Technology Int (Southern States)		General Pacific (Viper)		Western United Electric (G&W)		D&S (G&W)		Bidder	
Option 1	Recloser with 2 oil filled control transformers	5	\$ 36,630.00	\$ 183,150.00	\$ 39,750.00	\$ 198,750.00	\$ 37,078.00	\$ 185,390.00	\$ 37,800.00	\$ 189,000.00	\$ 36,591.00	\$ 182,955.00	\$ -	\$ -
Option 2	Additional 5 Reclosers	5	\$ 36,630.00	\$ 183,150.00	\$ 39,750.00	\$ 198,750.00	\$ 37,078.00	\$ 185,390.00	\$ 37,800.00	\$ 189,000.00	\$ 36,591.00	\$ 182,955.00	\$ -	\$ -
	Acknowledgement of Addendums 1 and 2 Yes/No													
	Total:			\$ 366,300.00		\$ 397,500.00		\$ 370,780.00		\$ 378,000.00		\$ 365,910.00		\$ -
	Project: Recloser-Switch													
							\$ -							



# Memorandum

File #: 24-131

City Council Meeting

**FROM:** Chris H Fredericksen, Public Works Director  
**DATE:** Wednesday, January 31, 2024  
**DEPARTMENT:** Public Works

## Subject

Bid Award - North Highland Park Concrete Improvements - 2024

## Council Action Desired

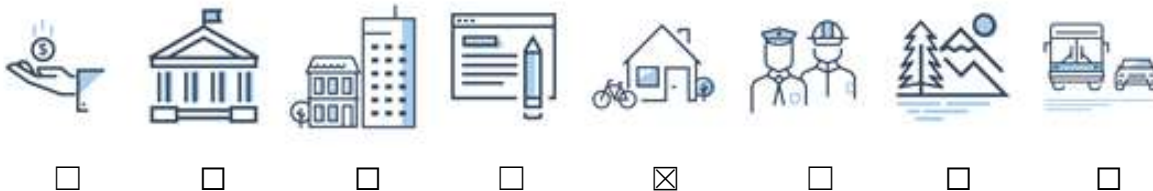
- ☐ Ordinance ☐ Resolution ☐ Public Hearing  
☒ Other Action (Approval, Authorization, Ratification, etc.)

Approve the plans and specifications; award to the lowest responsive, responsible bidder, BFC Diversified Inc., for \$229,055.00; and give authorization for the Mayor and City Clerk to execute the necessary documents (or take other action deemed appropriate).

## Description, Background Information & Purpose

On Tuesday, January 30, 2024, bids were received and opened for the North Highland Park Concrete Improvements 2024 project. A tabulation of bid results is attached. The proposed project will place sidewalk along several streets within North Highland Park Subdivision.

## Alignment with City & Department Planning Objectives



This project supports the community-oriented result of livable community. Project improvements will improve walkability by installing sidewalk where none currently exists.

## Interdepartmental Coordination

Project reviews have been conducted with all necessary city departments to ensure coordination of project activities.

## Fiscal Impact

Cost allocation for this project will come from Street Funds and a Community Development Block Grant. Sufficient funding and budget authority exist for completion of proposed improvements.

## Legal Review

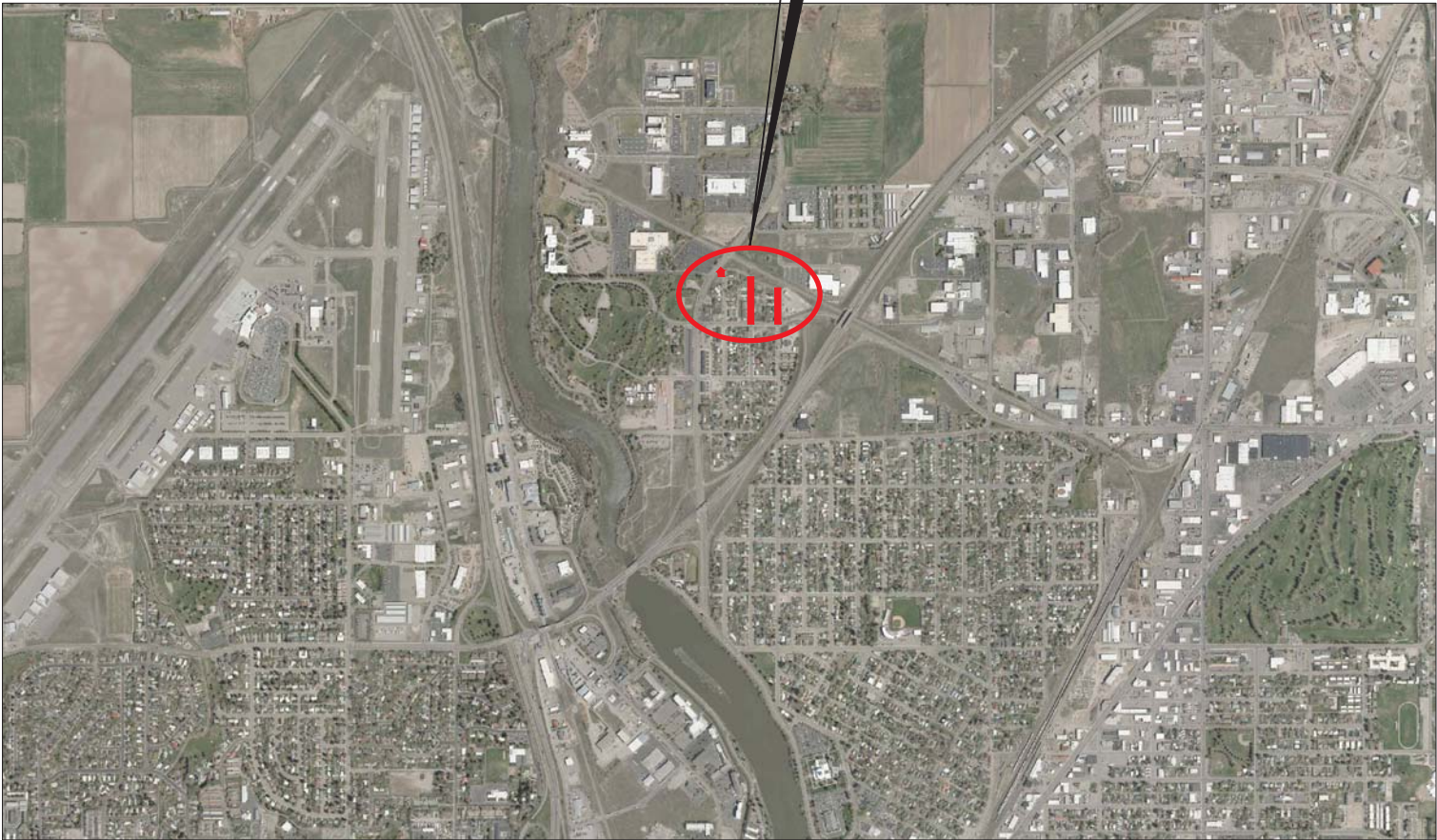
The Legal Department has reviewed the bid process and concurs that the Council action desired is compliant with Idaho State Statute.

2-37-12-4-STR-2024-06  
2024-007

# N. HIGHLAND PARK CONCRETE IMPROVEMENTS – 2024

## PROJECT # 2-37-12-4-STR-2024-06

PROJECT LOCATION



MAYOR

REBECCA L. NOAH CASPER

CITY COUNCIL

MICHELLE ZIEL-DINGMAN  
LISA BURTENSHAW  
KIRK LARSEN

JIM FRANCIS  
JOHN B. RADFORD  
JIM FREEMAN

ENGINEERING DIVISION

PUBLIC WORKS DIRECTOR  
CHRIS H FREDERICKSEN, P.E.

CITY ENGINEER  
KENT J. FUGAL, P.E., PTOE

2024



AS BUILT DATE / BY:

SCALE SHOWN IS FOR  
SHEET 11 x 17 ONLY

ENGINEERING  
DIVISION



NORTH HIGHLAND PARK  
CONCRETE IMPROVEMENTS 2024

CHECKED BY: CW	DESIGN TECH: RS	DATE PLOTTED: 1/11/2024	SHEET NO. 1 OF 5
-------------------	--------------------	----------------------------	---------------------

# City of Idaho Falls

## Engineering Division Bid Tabulation

**Project:** NORTH HIGHLAND PARK CONCRETE IMPROVEMENTS - 2024  
**Submitted:** Kent J. Fugal, P.E., PTOE

**Number:** 2-37-12-4-STR-2024-6  
**Date:** January 30, 2024

Reference Number	Description	Estimated Quantity	Unit	Engineer's Estimate		BFC Diversified LLC		JM Concrete Inc		Sunroc Corp	
				Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount
DIVISION 200 - EARTHWORK											
201.4.1.B.1	Clearing and Grubbing	1	LS	\$10,000.00	\$10,000.00	\$3,500.00	\$3,500.00	\$20,000.00	\$20,000.00	\$26,252.50	\$26,252.50
202.4.1.A.1	Excavation	199	CY	\$60.00	\$11,940.00	\$55.00	\$10,945.00	\$50.00	\$9,950.00	\$110.00	\$21,890.00
201.4.1.F.1.a	Removal of Tree 0" to 15" Diameter	6	EA	\$700.00	\$4,200.00	\$600.00	\$3,600.00	\$500.00	\$3,000.00	\$600.00	\$3,600.00
201.4.1.F.1.b	Removal of Tree 15" to 27" Diameter	4	EA	\$1,000.00	\$4,000.00	\$1,600.00	\$6,400.00	\$1,000.00	\$4,000.00	\$1,700.00	\$6,800.00
201.4.1.F.1.c	Removal of Tree 27" Diameter And Above	2	EA	\$2,000.00	\$4,000.00	\$2,250.00	\$4,500.00	\$2,000.00	\$4,000.00	\$2,950.00	\$5,900.00
202.4.6.A.1	Borrow	38	CY	\$60.00	\$2,280.00	\$60.00	\$2,280.00	\$20.00	\$760.00	\$150.00	\$5,700.00
DIVISION 400 - WATER											
404.4.1.C.1	Adjust Meter Box	15	EA	\$600.00	\$9,000.00	\$1,000.00	\$15,000.00	\$500.00	\$7,500.00	\$850.00	\$12,750.00
DIVISION 700 - CONCRETE											
706.4.1.E.1.a	Concrete Sidewalks, Thickness 4"	600	SY	\$100.00	\$60,000.00	\$175.00	\$105,000.00	\$170.00	\$102,000.00	\$152.50	\$91,500.00
706.4.1.E.1.b	Concrete Sidewalks, Thickness 5"	235	SY	\$110.00	\$25,850.00	\$180.00	\$42,300.00	\$180.00	\$42,300.00	\$179.50	\$42,182.50
DIVISION 800 - AGGREGATES & ASPHALT											
801.4.1.A.1	Drain Rock 3" Minus	101	CY	\$80.00	\$8,080.00	\$90.00	\$9,090.00	\$50.00	\$5,050.00	\$230.00	\$23,230.00
802.4.1.A.1.a	6" Crushed Aggregate for Base, Type I	113	CY	\$65.00	\$7,345.00	\$60.00	\$6,780.00	\$40.00	\$4,520.00	\$195.00	\$22,035.00
810.4.1.A.1.a	2.5" Plant Mix Pavement 1/2", PG 58-34	82	TON	\$300.00	\$24,600.00	\$205.00	\$16,810.00	\$300.00	\$24,600.00	\$310.00	\$25,420.00
DIVISION 1100 - TRAFFIC SIGNALS & STREET LIGHTING											
1105.4.1.F.1	Remove and Replace Traffic Sign	1	EA	\$300.00	\$300.00	\$350.00	\$350.00	\$500.00	\$500.00	\$2,125.00	\$2,125.00
SPECIAL PROVISIONS											
S2060A	Remove & Reset Individual Mailbox	5	EA	\$300.00	\$1,500.00	\$500.00	\$2,500.00	\$500.00	\$2,500.00	\$1,615.00	\$8,075.00
TOTAL					\$173,095.00	\$229,055.00		\$230,680.00		\$297,460.00	

# Memorandum

File #: 24-132

City Council Meeting

**FROM:** Chris H Fredericksen, Public Works Director  
**DATE:** Wednesday, January 31, 2024  
**DEPARTMENT:** Public Works

## Subject

Bid Award - Jefferson Avenue Water Line Replacement, Science Center Drive to Micro Street

## Council Action Desired

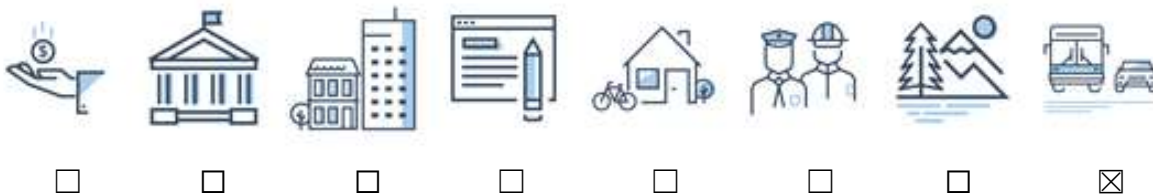
- ☐ Ordinance ☐ Resolution ☐ Public Hearing  
☒ Other Action (Approval, Authorization, Ratification, etc.)

Approve the plans and specifications; award to the lowest responsive, responsible bidder, Knife River Corporation, for \$114,985.00; and give authorization for the Mayor and City Clerk to execute the necessary documents (or take other action deemed appropriate).

## Description, Background Information & Purpose

On Tuesday, January 30, 2024, bids were received and opened for the Jefferson Avenue Water Line Replacement, Science Center Drive to Micro Street project. A tabulation of bid results is attached. The proposed project will replace aging water line in advance of sidewalk and road improvements to Jefferson Avenue.

## Alignment with City & Department Planning Objectives



This project supports the community-oriented result of reliable public infrastructure by replacing aging water lines.

## Interdepartmental Coordination

Project reviews have been conducted with all necessary city departments to ensure coordination of project activities.

## Fiscal Impact

Cost allocation for this project will come from the Water Fund and sufficient budget authority exists for completion of the proposed activities.

## Legal Review

The Legal Department has reviewed the bid process and concurs that the Council action desired complies with Idaho

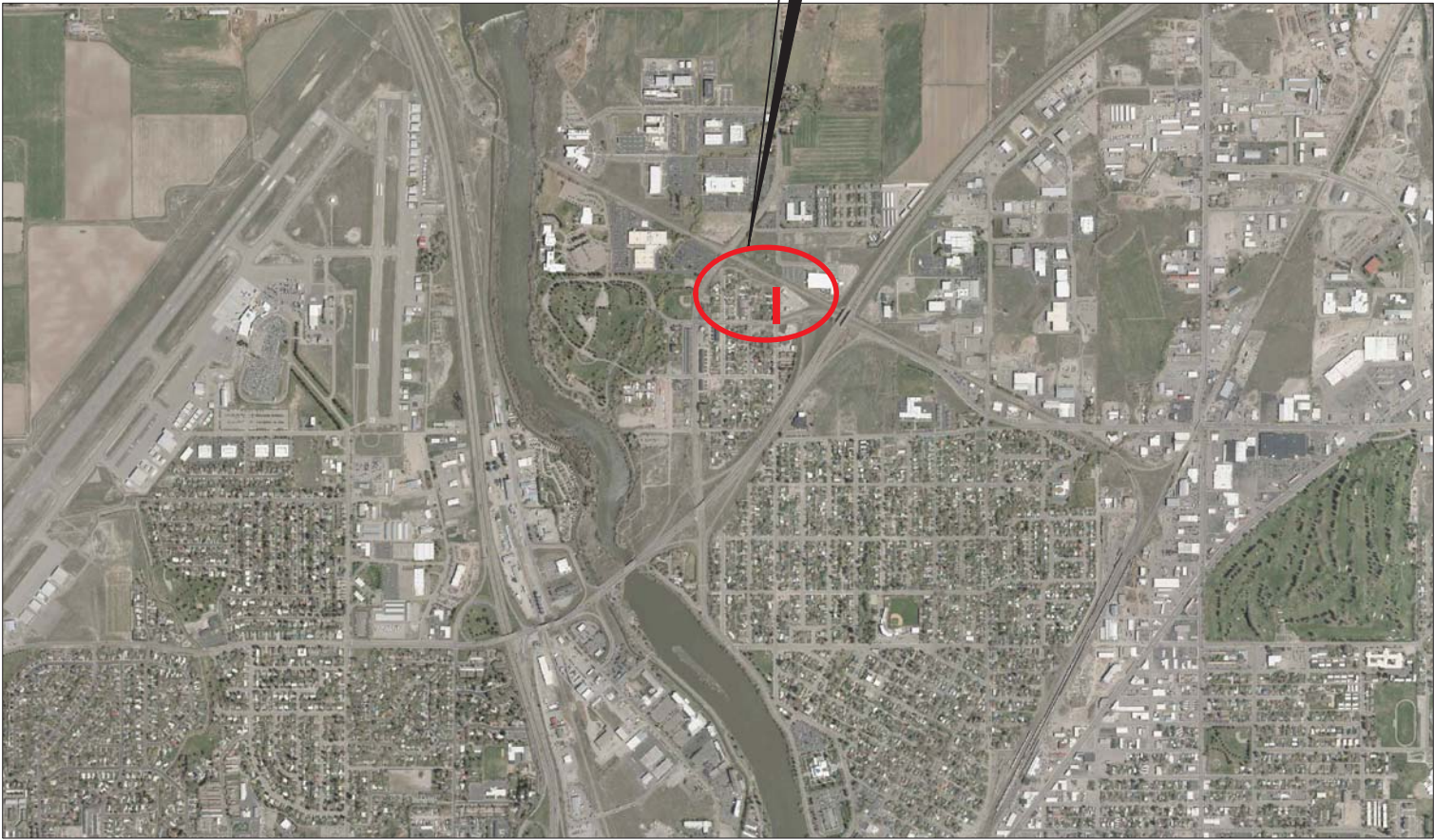
State Statute.

2-37-12-4-WTR-2024-19  
2024-008



# JEFFERSON WATER LINE REPLACEMENT SCIENCE CENTER TO MICRO PROJECT # 2-37-12-4-WTR-2024-19

PROJECT LOCATION



MAYOR

REBECCA L. NOAH CASPER

CITY COUNCIL

MICHELLE ZIEL-DINGMAN  
LISA BURTENSHAW  
KIRK LARSEN

JIM FRANCIS  
JOHN B. RADFORD  
JIM FREEMAN

ENGINEERING DIVISION

PUBLIC WORKS DIRECTOR  
CHRIS H FREDERICKSEN, P.E.

CITY ENGINEER  
KENT J. FUGAL, P.E., PTOE

2024

Digitally signed by Kent J Fugal;A01410C00000177F92E041C0001764  
Date: 2024.01.23 15:53:21-0700

AS BUILT DATE / BY:			
SCALE SHOWN IS FOR SHEET 11 x 17 ONLY			
ENGINEERING DIVISION			
JEFFERSON WATER LINE REPLACEMENT SCIENCE CENTER TO MICRO			
CHECKED BY: CW	DESIGN TECH: ME	DATE PLOTTED: 1/23/2024	SHEET NO. 1 OF 2

# City of Idaho Falls

## Engineering Division

### Bid Tabulation

**Project:** Jefferson Water Line Replacement - Science Center to Micro  
**Submitted:** Kent J. Fugal, P.E., PTOE

**Number:** 2-27-12-4-WTR-2024-19  
**Date:** January 30, 2024

Reference Number	Description	Estimated Quantity	Unit	Engineer's Estimate		Knife River		JM Concrete Inc		Sunroc Corp	
				Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount
DIVISION 300 - TRENCHING											
307.4.1.A.1	Miscellaneous Surface Restorationm (Landscaping)	132	LF	\$65.00	\$8,580.00	\$25.00	\$3,300.00	\$30.00	\$3,960.00	\$22.00	\$2,904.00
307.4.1.F.1	Main Line Type "P" Surface Restoration (Asphalt Roadway)	441	LF	\$75.00	\$33,075.00	\$100.00	\$44,100.00	\$140.00	\$61,740.00	\$135.00	\$59,535.00
DIVISION 400 - WATER											
401.4.1.A.1.b	Water Main Pipe – Size 8"	395	LF	\$70.00	\$27,650.00	\$90.00	\$35,550.00	\$80.00	\$31,600.00	\$97.00	\$38,315.00
401.4.1.C.1	Temporary Water Service	1	LS	\$7,500.00	\$7,500.00	\$5,600.00	\$5,600.00	\$10,000.00	\$10,000.00	\$15,096.00	\$15,096.00
402.4.1.A.1.b	Valve – Size 8" - Type Gate	2	EA	\$1,000.00	\$2,000.00	\$2,200.00	\$4,400.00	\$1,000.00	\$2,000.00	\$2,025.00	\$4,050.00
403.4.1.A.1	Hydrant	1	EA	\$4,000.00	\$4,000.00	\$4,785.00	\$4,785.00	\$5,000.00	\$5,000.00	\$4,575.00	\$4,575.00
404.4.1.B.1	Replace Water Service, Size 1"	5	EA	\$3,000.00	\$15,000.00	\$2,750.00	\$13,750.00	\$4,000.00	\$20,000.00	\$5,850.00	\$29,250.00
SPECIAL PROVISIONS											
S0405	Replace Fire Hydrant and Barrel	1	EA	\$3,000.00	\$3,000.00	\$3,500.00	\$3,500.00	\$5,000.00	\$5,000.00	\$4,575.00	\$4,575.00
TOTAL					\$100,805.00	\$114,985.00		\$139,300.00		\$158,300.00	



File #: 24-133

City Council Meeting

**FROM:** Corrin Wilde, City Clerk  
**DATE:** Wednesday, January 31, 2024  
**DEPARTMENT:** Mayor's Office

## Subject

Minutes from City Council Meetings

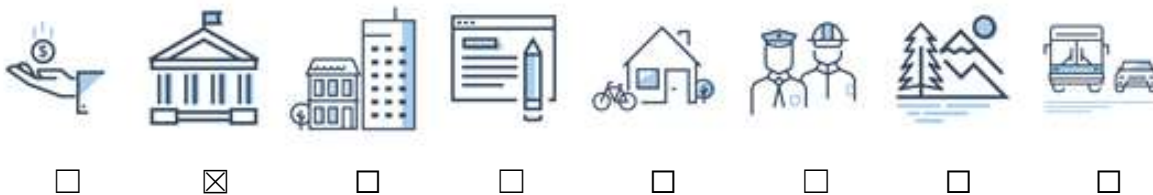
## Council Action Desired

- ☐ Ordinance
 ☐ Resolution
 ☐ Public Hearing
 ☒ Other Action (Approval, Authorization, Ratification, etc.)
- Approve the Minutes from the 7 December 2023 City Council Meeting

## Description, Background Information & Purpose

Attached are the minutes from the 7 December 2023 City Council Meeting for consideration.

## Alignment with City & Department Planning Objectives



Minutes support the Good Governance community-oriented result by proving assurance of regulatory and policy compliance. This facilitates transparency and minimizes and mitigates risk.

## Interdepartmental Coordination

N/A

## Fiscal Impact

N/A

## Legal Review

N/A



# City Council Meeting Minutes - Draft

680 Park Avenue  
Idaho Falls, ID 83402

---

**Thursday, December 7, 2023,**

**7:30 PM**

**City Council Chambers**

---

## **1. Call to Order**

**Present:** Mayor Rebecca L Noah Casper, Council President Michelle Ziel-Dingman, Councilor Radford, Councilor Hally, Councilor Freeman, Councilor Francis; and Councilor Burtenshaw

### **Also present:**

All available Department Directors  
John Dewey, City Prosecuting Attorney  
Corrin Wilde, City Clerk

## **2. Pledge of Allegiance**

Council President Michelle Ziel-Dingman led those present in the Pledge of Allegiance.

### **Public Comment**

No one appeared.

### **Consent Agenda**

#### **A. Airport**

- 1)** Approval of Airport Emergency Alert Notification System Agreement

#### **B. Municipal Services**

- 1)** Purchase Replacement Rear Loader for Public Works
- 2)** Purchase Mowers for the Parks and Recreation Department
- 3)** Upgrade and Refurbish Sewer Crawler Systems for Public Works

#### **C. Office of the City Clerk**

- 1)** License Applications

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

## **5. Regular Agenda**

### **A. Municipal Services**

# City Council Meeting Minutes - Draft

## **1) Northgate Mile Railroad Property Clean Up**

Director Alexander presented Northgate Mile Railroad Property Clean Up. This item was presented and discussed at Monday's Work session before the City Council meeting. Roadhouse Construction was the lowest of three attempted quotes to provide demolition, hauling, and removal of property debris located on the Northgate Mile Railroad property (behind the Law Enforcement Complex fence line). The quote includes one-time mobilization of heavy equipment, abatement and demolition of abandoned trailers and remaining corrals, hauling and proper disposal of debris. Director Alexander stated that after the Work Session on Monday, she had a discussion with a Union Pacific Railroad representative and was able to provide him a copy of the quote and an update from the discussion at the Work Session. Director Alexander stated that the representative from the Railroad did confirm that there are no leases on the property and there should not be anyone on there. He has also agreed to present to his director to offset the cost of this and will authorize us to conduct the removal of the debris.

Mayor Casper stated that this agenda item is to authorize the acceptance and approval of this quote for professional services but does not obligate us to spend the money. Mayor Casper reminded Council members that in their conversation last Monday there were some questions. Mayor Casper stated that what she had learned after speaking to Mr. Dewey is that the Railroad does enjoy the benefits of some Federal laws that preempt them from having to obey a lot of local laws. However, if there is a public health and safety situation, we can pursue that. Mayor Casper explained that following our process could take months and would lose the benefit of the timeliness of the quote, given that it is a winter work price. Tonight, we have noticed whether we are going to accept the price presented here. Mr. Dewey stated that the public funds cannot be expended for a private benefit. This issue can't benefit Union Pacific by cleaning up their property, it must be a public nuisance that is a valid exercise of the City's police powers to fix the issue. In that regard, we would need a finding that this is for public benefit as it is abating a public nuisance and not for the private benefit of anybody. Mayor Casper stated that for tonight we will recognize this item for what it is and have another discussion at a Monday Work session regarding all the other scenarios to be considered before taking definitive action.

It was moved by Council President Dingman, seconded by Councilor Burtenshaw to accept and approve the lowest quote received from Rhodehouse Construction, Inc. for a total of \$78,922.00. The motion was carried by the following vote: Aye – Councilors Francis, Dingman, Freeman, Hally, Burtenshaw. Nay – Councilor Radford

## **B. Public Works**

### **1) Local Professional Services Agreement with Horrocks Engineers in support of the Science Center Drive, North Boulevard to Holmes Avenue Improvement Project.**

The purpose of the agreement is to establish a contract to provide design engineering, planning, materials reports, and surveying for the Science Center Drive, North Boulevard to Holmes Avenue Improvement Project. It is a Federal Aid project intended to rehabilitate the pavement at East Anderson Street between North Boulevard and Holmes and in addition to that will also improve the intersection of North Boulevard and Anderson. Horrocks Engineers would provide the design engineering, planning, materials, reports, and surveying. The cost to perform these services is not to exceed the amount of

# City Council Meeting Minutes - Draft

\$352,586 to which the city is responsible for a 7.34 percent match which is approximately \$26,000. Director Fredericksen stated that the project is intended for destruction in the fiscal year 2025 and has program construction funding of nearly 2.4 million dollars.

It was moved by Councilor Burtenshaw, seconded by Councilor Hally to approve the Professional Services Agreement with Horrocks Engineers, Inc., and authorize the Mayor to execute the document. The motion was carried by the following vote: Aye – Councilors Freeman, Francis, Hally, Radford, Burtenshaw, Dingman. Nay -None.

## **2) Change Order 1 for the Raised Median Safety Improvement Project**

For consideration is a change order with DL Beck, Inc., regarding the Raised Curb Median Safety Improvement Project. The change order provides for a revised start date and accommodates additional work to construct median U-turns and roadway bulb-outs as part of this project.

Director Fredericksen presented a proposal for ratification of change order 1 for the Raised Median Safety Improvement Project. This is a federal aid project with an initial contract cost of \$258,751 and involves placing median curbs at three different intersections. The intersection of 25th Street and 25th East, 25th East and Sunnyside Rd. and 15th East and Sunnyside Road. During initial project discussions with staff and the City of Ammon as well as a public meeting, it was determined that U-turns would greatly benefit the proposed improvements. At that time, there was not sufficient funding so plans were made to expend City funds to build those U-turns. The project was put out to bid and received no bidders. We came back to the Council on September 28th and requested authority to negotiate on the open market. At the same time, the prime contractor indicated they would have time now and felt they could complete it as part of the federal aid projects and began negotiating that change order. The change order was renegotiated for \$148,655.08 and changed the contract start time from July 27th to October 9th. Assistant Director Canfield worked with LHTAC (Local Highway Technical Assistance Council.) and was able to secure an additional 102 thousand dollars in federal funding minimizing the city cost down to \$46,000 which is intended to be paid by the Street Division. Councilor Freeman said that he saw they were doing work in these intersections and saw the curbs in the center of the road, he asked if this was to widen the road in those places so that people could make a U-turn. Director Fredericksen indicated that this will be on the side of the road. He said we have some that exist at Target and indicated that these U-turns are wide on the median allowing you to pass the intersection as you enter the left turn lane, and then do a U-turn to get turned around allowing you to make your exit to the right.

It was moved by Councilor Hally, seconded by Councilor Burtenshaw to approve the ratification of the change order and authorization for the Mayor to sign the necessary documents. The motion was carried by the following vote: Aye – Councilors Radford, Freeman, Burtenshaw, Francis, Dingman, Hally. Nay - None.

## **3) State Local Agreement Addendum and Resolution with the Idaho Transportation Department (ITD) for the Meppen Canal Trail Project.**

# City Council Meeting Minutes - Draft

For consideration are a state-local agreement addendum and resolution with ITD allowing for advanced construction of pathway improvements along the Meppen Canal from the Idaho Canal to 25th East (Hitt Road). Proposed improvements include the construction of two pedestrian bridges and nearly 2.2 miles of pathways.

Director Fredericksen presented the Addendum and Resolution with the Idaho Transportation Department (ITD) for the Meppen Canal Trail Project. This is a federal aid project intended to construct a multi-use pathway along the Meppen Canal that would extend from the Idaho Canal along the Meppen Canal for nearly 2.2 miles over to CEI or 25th East and will also construct two pedestrian bridges. One over the Idaho Canal and the other over the Meppen Canal at Caribou Street. Director Fredericksen stated that this will modify sections one and three of the original agreement that was approved by the Council on July 28, 2022. Section one includes a revised cost of the project. He indicated that as they continued to develop the project and update the cost estimates it was realized that the original contract for this was approximately 1 million and 72 thousand dollars. Assistant Director Canfield was able to work with LHTAC to identify additional funding which was an increased amount of \$1,500,470 dollars and is an increase of 475,000 dollars and indicated that this will likely allow us with federal funding to build the two pedestrian bridges originally anticipated to be built with local funds. Section 3 allows for advanced construction of the project. Currently, there is no obligational authority for the federal funding associated with this project. The project is in our existing transportation improvement program and yet with all the issues with federal funding, there is no funding authority behind that. To continue with that work LHTAC requires that that federal funding is approved or does it have obligation authority. We could approve an advance construction where the city pays those construction costs up front and then seeks reimbursement. Approving this tonight with advanced construction we are likely to see are reimbursement 3 to 6 months later than we otherwise would have but this will allow us to bid it now so that we can construct the two bridges while the water is out of the canal so that it does not have to delay one year and we also know that we will have better prices in the bidding season that exists right now. Councilor Radford feels that having cash flow in these situations is good and feels it is proper planning from the finance department.

It was moved by Councilor Burtenshaw, seconded by Councilor Hally to approve the State Local Agreement Addendum and Resolution with ITD for the Meppen Canal Trail project and authorize the Mayor and City Clerk to sign the documents. The motion was carried by the following vote: Aye – Councilors Hally, Burtenshaw, Dingman, Freeman, Francis, Radford.  
Nay - None.

### **3. Announcements**

This coming week we have a Work Session on Monday and Thursday night Council meeting.

### **4. Adjournment.**

There being no further business, the meeting adjourned at 7:55 PM

s/ Corrin Wilde  
Corrin Wilde, City Clerk

s/Rebecca L. Noah Casper  
Rebecca L. Noah Casper, Mayor

# Memorandum

File #: 24-130

City Council Meeting

**FROM:** Wade Sanner, Director  
**DATE:** Tuesday, January 30, 2024  
**DEPARTMENT:** Community Development Services

## Subject

Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards, Sand Creek Estates Division No. 2.

## Council Action Desired

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

1. Approve the Development Agreement for the Final Plat for Sand Creek Estates Division No. 2 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 Sand Creek Estates Division No. 2 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 Sand Creek Estates Division No. 2 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 Sand Creek Estates Division No. 2. The Planning and Zoning Commission considered this item at its September 5, 2023, meeting and unanimously voted to recommend approval of the final plat to the Mayor and City Council as presented. Staff concurs with these recommendations.

## 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, as well as the Water, Planning, Wastewater, Engineering, and Survey Divisions.

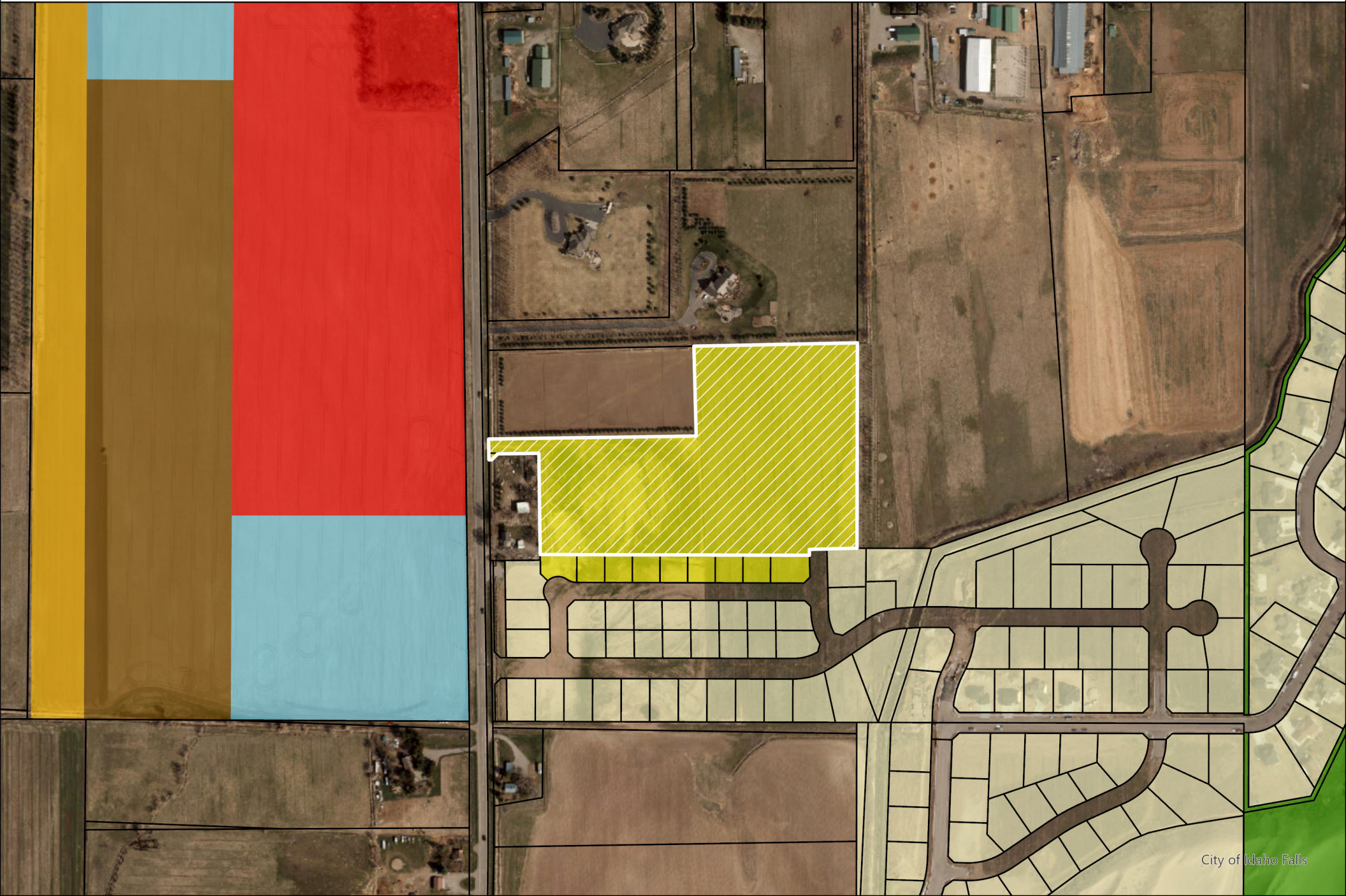
**Fiscal Impact**

NA

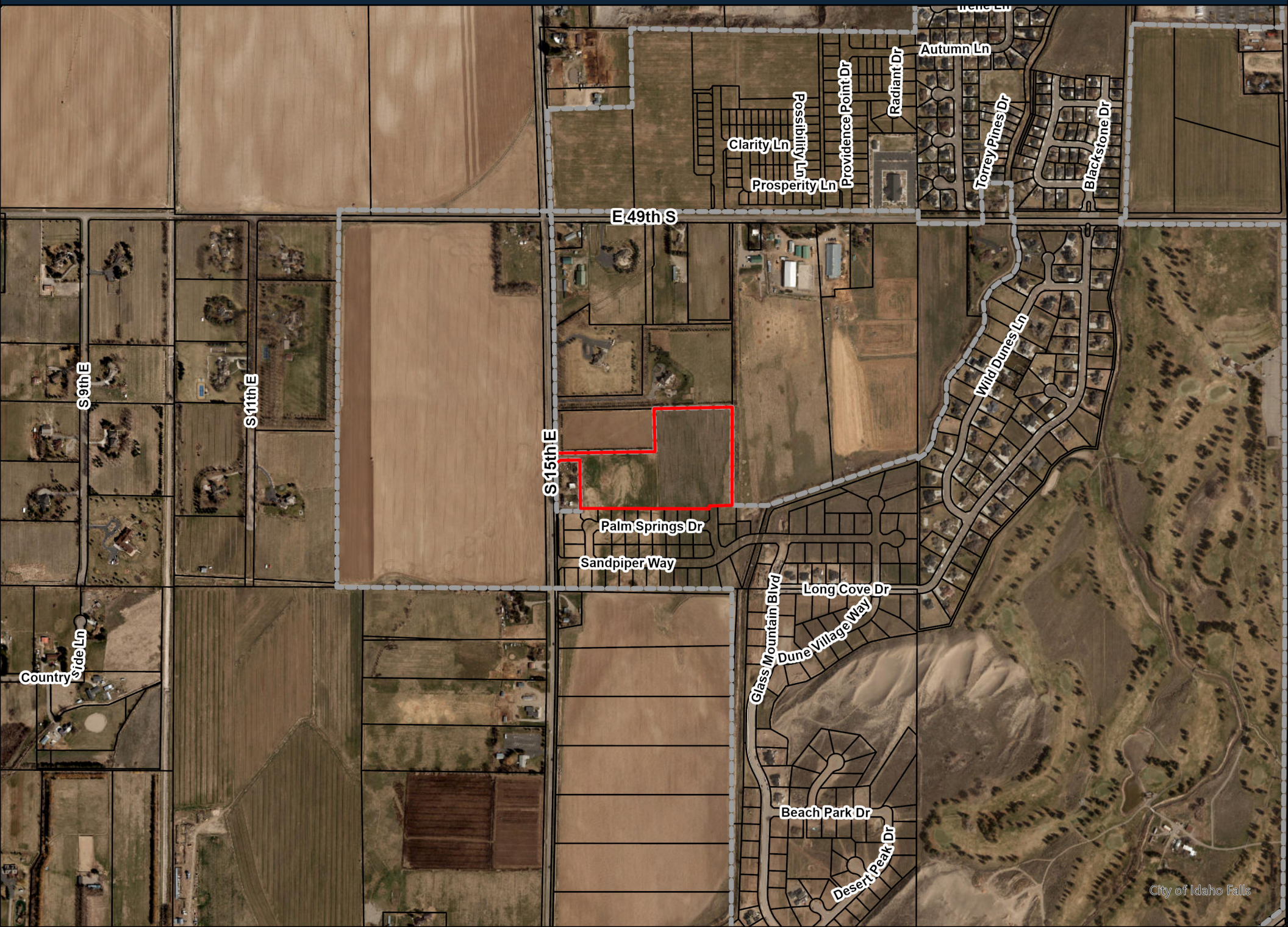
**Legal Review**

This application has been reviewed by the Legal Department and is consistent with applicable law.











32 33



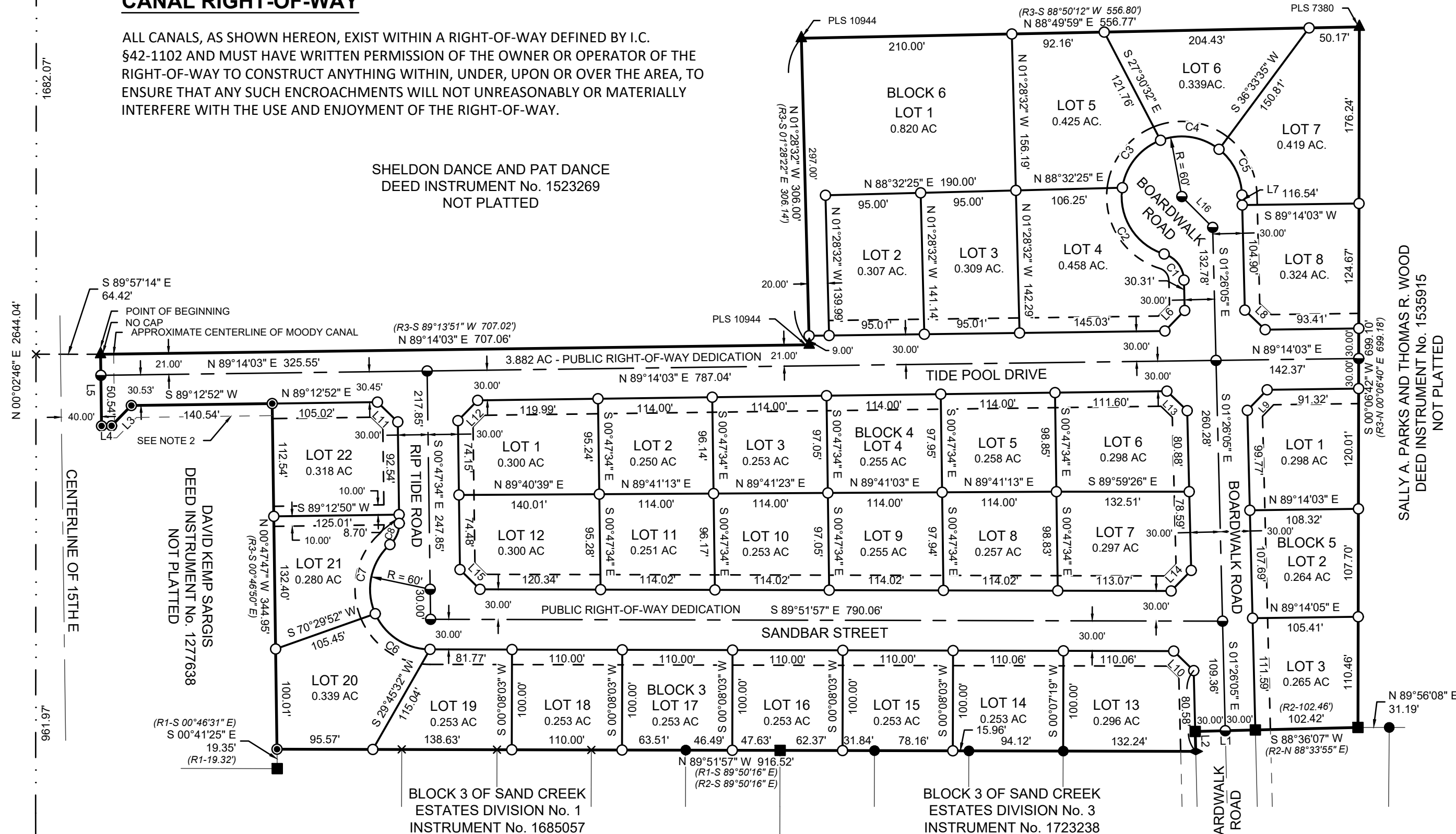
NORTHWEST CORNER OF SECTION 4,  
FOUND BRASS CAP MONUMENT  
PURSUANT TO CP&F INSTRUMENT No. 1725834

## CANAL RIGHT-OF-WAY

ALL CANALS, AS SHOWN HEREON, EXIST WITHIN A RIGHT-OF-WAY DEFINED BY I.C. §42-1102 AND MUST HAVE WRITTEN PERMISSION OF THE OWNER OR OPERATOR OF THE RIGHT-OF-WAY TO CONSTRUCT ANYTHING WITHIN, UNDER, UPON OR OVER THE AREA, TO ENSURE THAT ANY SUCH ENCROACHMENTS WILL NOT UNREASONABLY OR MATERIALLY INTERFERE WITH THE USE AND ENJOYMENT OF THE RIGHT-OF-WAY.

SHELDON DANCE AND PAT DANCE  
DEED INSTRUMENT No. 1523269  
NOT PLATTED

SHELDON R. DANCE AND PATRICIA T. DANCE  
DEED INSTRUMENT No. 1247752  
NOT PLATTED



WEST QUARTER CORNER OF SECTION 4,  
FOUND ALUMINUM CAP MONUMENT  
PURSUANT TO CP&F INSTRUMENT No. 1699290

## SURVEY NARRATIVE

THIS SURVEY WAS MADE AT THE REQUEST OF HF VENTURES, LLC TO CREATE LOTS, BLOCKS AND STREETS.

THE SOUTH BOUNDARY WAS DETERMINED BY FOUND MONUMENTS AND RECORD INFORMATION FROM SAND CREEK ESTATES DIVISION No. 1 AND No. 3 FILED UNDER INSTRUMENT No. 1685057 AND No. 1723238. THE WEST, NORTH AND EAST BOUNDARIES WERE DETERMINED BY FOUND MONUMENTS AND RECORD INFORMATION FROM RECORD OF SURVEY INSTRUMENT No. 1541216. ADJOINING DEED INFORMATION AS SHOWN ON THE FACE OF THIS PLAT WAS ALSO USED.

## NOTES

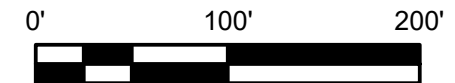
- ALL LOT LINES COMMON TO A PUBLIC RIGHT OF WAY HAVE A FIFTEEN FOOT (15') PERMANENT PUBLIC UTILITY EASEMENT.
- 12 FOOT (12') PUBLIC UTILITY EASEMENT PURSUANT TO INSTRUMENT No. 1744540
- LOT 1 BLOCK 6 IS GRANTED AS A PUBLIC UTILITY AND PUBLIC STORM WATER EASEMENT IN ITS ENTIRETY.

## BASIS OF BEARING

ALL MEASURED BEARINGS SHOWN HEREON RELATE DIRECTLY TO THE "CITY OF IDAHO FALLS COORDINATE SYSTEM OF 2004", WHICH IS DERIVED FROM THE IDAHO STATE PLANE COORDINATE SYSTEM (EAST ZONE 1101) US SURVEY FEET AND USING A COMBINED SCALE FACTOR OF 1.00027265 FOR A GRID TO GROUND CONVERSION, [REFERENCE FRAME NAD\_83(2011), EPOCH 2010.0000]. THE SYSTEM ORIENTATION IS BASED ON GRID NORTH ALONG THE EAST ZONE CENTRAL MERIDIAN. NO CONVERGENCE ANGLE HAS BEEN APPLIED.

# SAND CREEK ESTATES DIVISION No. 2

A SUBDIVISION OF THE CITY OF IDAHO FALLS, BONNEVILLE COUNTY, IDAHO  
BEING PART OF THE NORTHWEST 1/4 OF SECTION 4,  
TOWNSHIP 1 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN



## LEGEND

PLSS SECTION CORNER AS NOTED

PLSS QUARTER CORNER AS NOTED

FOUND 5/8" BARE REBAR, AFFIXED PLASTIC CAP STAMPED "PLS 18405" ON EXISTING REBAR

FOUND 5/8" REBAR WITH PLASTIC CAP STAMPED "PLS 14222"

FOUND 1/2" REBAR WITH PLASTIC CAP STAMPED "PLS 14222"

FOUND 1/2" REBAR AS NOTED, REPLACED WITH 5/8" REBAR WITH PLASTIC CAP STAMPED "PLS 18405"

SET 5/8" REBAR WITH PLASTIC CAP STAMPED "PLS 18405"

SET 5/8" REBAR WITH ALUMINUM CAP STAMPED "PLS 18405"

SET 1/2" REBAR WITH PLASTIC CAP STAMPED "PLS 18405"

CALCULATED POINT (NOTHING FOUND, NOTHING SET)

SUBDIVISION BOUNDARY

SECTION LINE

LOT LINE

PUBLIC UTILITY EASEMENT (PUE)

DIMENSIONAL TIE LINE

ADJOINING PARCELS

PUBLIC STREET CENTERLINE

EXISTING EASEMENT AS NOTED

SAND CREEK ESTATES DIVISION No. 1 INSTRUMENT No. 1685057

SAND CREEK ESTATES DIVISION No. 3 INSTRUMENT No. 1723238

RECORD OF SURVEY INSTRUMENT No. 1541216

## REFERENCE DOCUMENTS

- CP&F INSTRUMENT No. 16992990
- CP&F INSTRUMENT No. 1725834
- PLAT INSTRUMENT No. 1685057
- PLAT INSTRUMENT No. 1723238
- SURVEY INSTRUMENT No. 1541216
- SURVEY INSTRUMENT No. 1268226
- DEED INSTRUMENT No. 1252388
- DEED INSTRUMENT No. 1667251
- DEED INSTRUMENT No. 1744194
- DEED INSTRUMENT No. 1744195
- DEED INSTRUMENT No. 1758866
- DEEDS SHOWN ON THE FACE OF THIS PLAT



LINE	BEARING	DISTANCE
L1	S 88°34'00" W	60.00'
L2	S 01°26'05" E	19.86'
L3	S 44°13'23" W	28.29'
L4	S 89°12'52" W	10.00'
L5	N 00°46'31" E	71.54'
L6	N 43°53'59" E	28.45'
L7	S 01°26'05" E	10.00'
L8	S 46°06'01" E	28.12'
L9	S 43°53'59" W	28.45'
L10	N 45°39'01" W	27.89'
L11	N 45°47'21" W	28.28'
L12	N 44°13'15" E	28.29'
L13	S 46°06'01" E	28.12'
L14	S 44°20'59" W	28.67'
L15	N 45°19'46" W	28.05'
L16	S 45°00'00" E	43.53'

(RECORD INFORMATION LINE TABLE)

LINE	BEARING	DISTANCE
(R2-L1)	N 88°31'57" E	60.00'
(R2-L2)	N 01°28'03" W	20.04'

(R3-L5) N 00°46'09" W

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	28.00'	34.92'	32.70'	N 37°09'30" W	71°26'49"
C2	60.00'	85.17'	78.20'	N 32°13'01" W	81°19'46"
C3	60.00'	63.73'	60.77'	N 38°52'30" E	60°51'17"
C4	60.00'	61.69'	59.01'	S 81°14'39" E	58°54'25"
C5	60.00'	52.73'	51.05'	S 26°36'46" E	50°21'21"
C6	60.00'	68.94'	65.21'	N 56°57'04" W	65°49'47"
C7	60.00'	75.41'	70.55'	N 11°58'13" E	72°00'46"
C8	28.00'	23.83'	23.12'	N 23°35'31" E	48°46'10"



1823 East Center Street, Pocatello, Idaho 83201 Phone: 208.242.8753  
globallandworks@gmail.com globallandworks.com

## SAND CREEK ESTATES DIVISION 2

Drawn By:	C. PAYNE	Scale:	1" = 100'
Date:	1/5/2024	Project:	22025



OWNER'S DEDICATION

KNOW ALL MEN BY THESE PRESENTS: THAT THE UNDERSIGNED HF VENTURES, LLC AN IDAHO LIMITED LIABILITY COMPANY, IS THE LAWFUL OWNER OF THE TRACT OF LAND INCLUDED WITHIN THE BOUNDARY DESCRIPTION SHOWN HEREON AND HAS CAUSED THE SAME TO BE PLATTED AND DIVIDED INTO LOTS, BLOCKS AND STREETS, WHICH PLAT SHALL HEREFTER BE KNOWN AS SAND CREEK ESTATES DIVISION No. 2, A SUBDIVISION OF THE CITY OF IDAHO FALLS, IDAHO, BONNEVILLE COUNTY, IDAHO.

BE IT FURTHER KNOWN, THAT THE OWNER DOES HEREBY DEDICATE GRANT AND CONVEY TO THE PUBLIC, ALL STREETS AND RIGHT-OF-WAYS SHOWN HEREON, THAT OWNER ALSO DOES HEREBY GRANT AND CONVEY TO THE CITY OF IDAHO FALLS ALL PUBLIC EASEMENTS FOREVER AS IRREVOCABLE PERMANENT NON-EXCLUSIVE PUBLIC EASEMENTS AS SHOWN AND DESCRIBED HEREON.

OWNER, OR ITS HEIRS, SUCCESSORS AND ASSIGNS, AGREE THEY WILL CONSTRUCT NO PERMANENT STRUCTURE WITHIN OR UPON ANY EASEMENT SHOWN HEREON, AND THE CITY OF IDAHO FALLS AND ITS SUCCESSORS, ASSIGNS, PERMITEES OR LICENSEES SHALL ALSO HAVE THE RIGHT, TO REMOVE, CUT OR TRIM ANY TREES, BRUSH, ORNAMENTAL SHRUBBERY OR PLANT WHICH MAY INJURE OR INTERFERE WITH THE USE THEREOF FOR ITS INTENDED PURPOSES, SUCH RIGHT MAY BE EXERCISED WITHOUT PRIOR NOTICE TO OWNER, OR ITS HEIRS, SUCCESSORS OR ASSIGNS.

OWNER, OR ITS HEIRS, SUCCESSORS OR ASSIGNS FURTHER AGREE THAT THEY SHALL NOT PLANT ANY TREES, BRUSH, ORNAMENTAL SHRUBBERY OR PLANTS WHICH MAY HINDER THE SAFE AND EFFICIENT UTILIZATION OF SAID EASEMENTS.

OWNER, OR ITS HEIRS, SUCCESSORS OR ASSIGNS HEREBY RELEASES THE CITY OF IDAHO FALLS AND ITS SUCCESSORS, ASSIGNS, PERMITEES OR LICENSEES FROM ANY CLAIM FOR DAMAGES, BASED UPON CONCEALED OR UNDISCLOSED PRIVATE IMPROVEMENTS CONSTRUCTED OR PERMITTED TO BE CONSTRUCTED BY OWNER, OR ITS SUCCESSORS OR ASSIGNS WITHIN ANY PUBLIC EASEMENTS, SUBSEQUENT TO RECORDING THIS SUBDIVISION, THAT MAY BE INCURRED AS A RESULT OF THE CITY OF IDAHO FALLS AND ITS SUCCESSORS, ASSIGNS, PERMITEES OR LICENSEES ORDINARY USE OF THE PUBLIC EASEMENTS WITH DUE CARE.

OWNER OR ITS HEIRS, SUCCESSORS OR ASSIGNS DO HEREBY WARRANT AND SHALL DEFEND SUCH DEDICATION AND CONVEYANCES IN THE QUIET AND PEACEFUL POSSESSION OF THE PUBLIC OR THE CITY OF IDAHO FALLS, AS THE CASE MAY BE, AGAINST SAID OWNER AND ITS HEIRS, SUCCESSORS AND ASSIGNS, AND AGAINST EVERY PERSON WHOMSOEVER WHO LAWFULLY HOLDS OR WHO LATER CLAIMS TO HAVE LAWFULLY HELD ANY RIGHTS IN SAID ESTATE AS OF THE DATE HEREOF.

IN WITNESS WHEREOF, OWNER HAS HEREUNTO SUBSCRIBED ITS SEALS AND SIGNATURES THIS DAY OF , 20 .

HF VENTURES, LLC

BRETT FALKENRATH, MEMBER

COLLIN HUNTER, MEMBER

BOUNDARY DESCRIPTION

PART OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 1 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN, BONNEVILLE COUNTY, STATE OF IDAHO.

COMMENCING AT WEST CORNER OF SAID SECTION 4 (FROM WHICH THE NORTHWEST CORNER OF SECTION 4 BEARS N 00°02'46" E 2644.04'), THENCE N 00°02'46" E 961.97' ALONG THE WEST LINE OF SECTION 4, THENCE S 89°57'14" E 64.42' TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF 15TH EAST ALSO BEING THE POINT OF BEGINNING;

THENCE N 89°14'03" E 707.06' ALONG THE SOUTH BOUNDARY OF THE LANDS DESCRIBED IN DEED INSTRUMENT No. 1523269;  
THENCE N 01°28'32" W 306.00' ALONG THE EAST BOUNDARY OF THE LANDS DESCRIBED IN DEED INSTRUMENT No. 1523269;  
THENCE N 88°49'59" E 556.77' ALONG THE SOUTH BOUNDARY OF THE LANDS DESCRIBED IN DEED INSTRUMENT No. 1247752 TO THE WEST BOUNDARY OF THE LANDS DESCRIBED IN DEED INSTRUMENT No. 1535915;  
THENCE S 00°06'42" W 699.10' ALONG THE WEST BOUNDARY OF THE LANDS DESCRIBED IN DEED INSTRUMENT No. 1535915 TO THE NORTH BOUNDARY OF SAND CREEK ESTATES DIVISION No. 3 FILED AS INSTRUMENT No. 1723238;  
THENCE ALONG THE NORTH BOUNDARY OF SAND CREEK ESTATES DIVISION No. 3 INSTRUMENT No. 1723238 AND SAND CREEK ESTATES DIVISION No. 1 INSTRUMENT No. 1685057 FOR THE FOLLOWING FOUR (4) COURSES:

- 1) S 88°36'07" W 102.42';
- 2) S 88°34'00" W 60.00';
- 3) S 01°26'05" E 19.86';
- 4) N 89°51'57" W 916.52' TO THE EAST BOUNDARY THE LANDS DESCRIBED IN DEED INSTRUMENT No. 1277638;

THENCE N 00°47'47" W 344.95' ALONG THE EAST BOUNDARY THE LANDS DESCRIBED IN DEED INSTRUMENT No. 1277638 TO THE SOUTH BOUNDARY OF THE LANDS DESCRIBED IN DEED INSTRUMENT No. 1744194;  
THENCE ALONG THE SOUTH BOUNDARY OF THE LANDS DESCRIBED IN DEED INSTRUMENT No. 1744194 FOR THE FOLLOWING THREE (3) COURSES:

- 1) S 89°12'52" W 140.54';
  - 2) S 44°13'23" W 28.29';
  - 3) S 89°12'52" W 10.00' TO THE EAST RIGHT-OF-WAY LINE OF 15TH EAST;
- THENCE N 00°46'06" W 71.54' ALONG THE EAST RIGHT-OF-WAY LINE OF 15TH EAST TO THE POINT OF BEGINNING.

SAID PROPERTY CONTAINS 14.088 ACRES MORE OR LESS

ACKNOWLEDGMENT

STATE OF IDAHO )  
COUNTY OF ) SS.

ON THIS DAY OF , 20 , BEFORE ME THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED COLLIN HUNTER, KNOWN OR IDENTIFIED TO ME, TO BE A MEMBER OF THE LIMITED LIABILITY COMPANY OF HF VENTURES, LLC AND THE PERSON WHO SUBSCRIBED SAID LIMITED LIABILITY COMPANY'S NAME TO THE FOREGOING OWNER'S DEDICATION, AND THE DRINKING WATER SYSTEM CERTIFICATE AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME IN SAID LIMITED LIABILITY COMPANY'S NAME AS A PERSON AUTHORIZED TO BIND SUCH LIMITED LIABILITY COMPANY.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL THE DAY AND THE YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.

NOTARY PUBLIC FOR THE STATE OF IDAHO:

RESIDING AT:

MY COMMISSION EXPIRES ON:

ACKNOWLEDGMENT

STATE OF IDAHO )  
COUNTY OF ) SS.

ON THIS DAY OF , 20 , BEFORE ME THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED BRETT FALKENRATH, KNOWN OR IDENTIFIED TO ME, TO BE A MEMBER OF THE LIMITED LIABILITY COMPANY OF HF VENTURES, LLC AND THE PERSON WHO SUBSCRIBED SAID LIMITED LIABILITY COMPANY'S NAME TO THE FOREGOING OWNER'S DEDICATION, AND THE DRINKING WATER SYSTEM CERTIFICATE AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME IN SAID LIMITED LIABILITY COMPANY'S NAME AS A PERSON AUTHORIZED TO BIND SUCH LIMITED LIABILITY COMPANY.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL THE DAY AND THE YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.

NOTARY PUBLIC FOR THE STATE OF IDAHO:

RESIDING AT:

MY COMMISSION EXPIRES ON:

TREASURER'S CERTIFICATE

I, THE UNDERSIGNED COUNTY TREASURER IN AND FOR THE COUNTY OF BONNEVILLE, STATE OF IDAHO, PURSUANT TO THE REQUIREMENTS OF I.C. §50-1308, DO HEREBY CERTIFY THAT ALL COUNTY PROPERTY TAXES DUE FOR THE PROPERTY INCLUDED IN THE BOUNDARY DESCRIPTION SHOWN HEREON ARE CURRENT.

BONNEVILLE COUNTY TREASURER DATE

RECORDER'S CERTIFICATE

I HEREBY CERTIFY THAT THE FOREGOING PLAT OF SAND CREEK ESTATES DIVISION No. 2, WAS FILED IN THE OFFICE OF THE RECORDER OF BONNEVILLE COUNTY, IDAHO

BONNEVILLE COUNTY RECORDER DATE

HEALTH DEPARTMENT CERTIFICATE OF APPROVAL

SANITARY RESTRICTIONS AS REQUIRED BY I.C. §50-1326 HAVE BEEN SATISFIED BASED ON THE DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) APPROVAL OF THE DESIGN PLANS AND SPECIFICATIONS AND THE CONDITIONS IMPOSED ON THE DEVELOPER FOR CONTINUED SATISFACTION OF THE SANITARY RESTRICTIONS. BUYER IS CAUTIONED THAT AT THE TIME OF THIS APPROVAL, NO DRINKING WATER OR SEWER/SEPTIC FACILITIES HAVE BEEN CONSTRUCTED. BUILDING CONSTRUCTION CAN BE ALLOWED WITH THE APPROPRIATE BUILDING PERMITS IF DRINKING WATER OR SEWER FACILITIES HAVE SINCE BEEN CONSTRUCTED OR IF THE DEVELOPER IS SIMULTANEOUSLY CONSTRUCTING THOSE FACILITIES. IF THE DEVELOPER FAILS TO CONSTRUCT FACILITIES OR MEET THE OTHER CONDITIONS OF DEQ, THEN SANITARY RESTRICTIONS MAY BE REIMPOSED, IN ACCORDANCE WITH I.C. §50-1326, BY THE ISSUANCE OF A CERTIFICATE OF DISAPPROVAL, AND NO CONSTRUCITON OF ANY BUILDING OR SHELTER REQUIRING DRINKING WATER OR SEWER/SEPTIC FACILITIES SHALL BE ALLOWED.

EASTERN IDAHO PUBLIC HEALTH DEPARTMENT

ENVIRONMENTAL HEALTH SPECIALIST DATE

SAND CREEK ESTATES DIVISION No. 2

A SUBDIVISION OF THE CITY OF IDAHO FALLS, BONNEVILLE COUNTY, IDAHO  
BEING PART OF THE NORTHWEST 1/4 OF SECTION 4,  
TOWNSHIP 1 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN

DRINKING WATER SYSTEM CERTIFICATE

PURSUANT TO I.C. §50-1334, THE OWNER DOES HEREBY CERTIFY THAT ALL LOTS SHOWN ON THIS PLAT ARE ELIGIBLE TO RECEIVE WATER FROM THE CITY OF IDAHO FALLS MUNICIPAL WATER SYSTEM AND SAID CITY HAS AGREED IN WRITING TO PROVIDE CULINARY WATER SERVICE TO SAID LOTS PURSUANT TO THE PROVISIONS OF TITLE 8, CHAPTER 4 OF THE IDAHO FALLS CITY CODE AS AMENDED FROM TIME TO TIME.

IN WITNESS WHEREOF, OWNER HAS HEREUNTO SET ITS SIGNATURES THIS DAY OF , 20 .

HARVEST HOMES AT SAND CREEK ESTATES, LLC

BRETT FALKENRATH, MANAGING MEMBER

STEVE LAWSON, MANAGING MEMBER

IRRIGATION WATER RIGHTS STATEMENT

THE PROPERTY INCLUDED IN THIS PLAT HAS PETITIONED FOR AND HAS BEEN REMOVED FROM ALL FUTURE IRRIGATION WATER RIGHTS.

DATE: 02/11/2021 INSTRUMENT No. 1674924

FLOOD PLAIN DESIGNATION

ZONE X PER FLOOD INSURANCE RATE MAP COMMUNITY-PANEL NUMBER 1600270235 D, EFFECTIVE DATE APRIL 2, 2002.

CITY'S ACCEPTANCE

THE ACCOMPANYING PLAT WAS DULY ACCEPTED AND APPROVED AND THE GRANTS AND DEDICATIONS ARE HEREBY ACCEPTED BY THE CITY COUNCIL OF IDAHO FALLS ADOPTED THIS DAY OF , 20 .

MAYOR CITY CLERK

CITY ENGINEER CITY SURVEYOR  
KENT J. FUGAL, PE 9247 KENNETH BALDWIN ROBERTS, PLS 9755

COUNTY SURVEYOR'S VERIFICATION

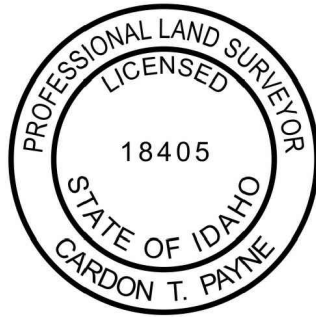
I CERTIFY THAT I AM A LICENSED PROFESSIONAL LAND SURVEYOR IN THE STATE OF IDAHO AND THAT I HAVE EXAMINED THIS PLAT AND FIND THAT IT COMPLIES WITH I.C. §50-1305.

BONNEVILLE COUNTY SURVEYOR, DAVID D. ROMRELL, PLS 12223 DATE

SURVEYOR'S CERTIFICATE

I, CARDON T. PAYNE, A LICENSED PROFESSIONAL LAND SURVEYOR IN THE STATE OF IDAHO, DO HEREBY CERTIFY THAT THE SURVEY OF THIS SUBDIVISION, DESIGNATED AS SAND CREEK ESTATES DIVISION No. 2, WAS MADE UNDER MY DIRECTION, AND THAT SAID SUBDIVISION IS TRULY AND CORRECTLY SURVEYED AND STAKED AS PROVIDED BY LAW AND IN ACCORDANCE WITH THE ACCOMPANYING PLAT AS DESCRIBED HEREON.

CARDON T. PAYNE, PLS 18405





**GLOBAL**  
**LAND WORKS**

1823 East Center Street, Pocatello, Idaho 83201 Phone: 208.242.8753  
globallandworks@gmail.com globallandworks.com

**SAND CREEK ESTATES DIVISION 2**

Drawn By:	C. PAYNE	Scale:	1" = 100'
Date:	1/5/2024	Project:	22025

STAFF REPORT

**FINAL PLAT**  
**SAND CREEK ESTATES DIVISION No. 2**  
**February 08, 2024**



Community  
Development  
Services

**Applicant:** Connect  
Engineering

**Location:** Generally, north of  
Sandpiper Way, east of S 15<sup>th</sup>  
E, south of E 49<sup>th</sup> S, west of  
Sand Creek.

**Size:** Approx. 14.088 acres

**Buildable Lots:** 32

**Unbuildable Lot:** 1

**Density:** 2.27 units per acre

**Existing Zoning:** R1

North: County A-1

South: R1, RP

East: County A-1

West: County A-1

**Existing Land Uses:**

Site: Vacant

North: Vacant

South: Residential

East: Vacant, Residential

West: Vacant

**Future Land Use Map:**

Suburban

**Attachments:**

1. Subdivision and Zoning  
Ordinance Requirements
2. Comprehensive Plan  
Policies
3. Maps and aerial photos

**Requested Action:** To **approve** the final plat for Sand Creek  
Estates Division No 2.

**History:** This property was annexed with the previous  
divisions of Sand Creek Estates in 2020 and is currently zoned  
R1, Single Dwelling Residential. A preliminary plat showing  
the street network and general lot layout was approved earlier  
that same year.

**Staff Comments:** The final plat application was submitted on  
July 17, 2023. The property is zoned R1. The plat includes 32  
buildable lots and 1 lot granted for storm water retention.  
There will be three dedicated streets – Tidepool Dr, Sandbar  
St, and an extension of Boardwalk Rd. All dedicated streets  
will be built to city standards with a 60' right of way. Access  
to the subdivision will come from S 15<sup>th</sup> E, an arterial, and  
Boardwalk Rd, a local street.

The Comprehensive Plan designates this area as Suburban,  
defined primarily as residential areas near or with easy  
vehicular access to regional commercial service areas that  
provide daily household needs.

**Staff Recommendation:** Staff has reviewed the final plat and  
finds that it complies with the subdivision ordinance and the  
development standards of the R1 Zone. Staff recommends  
approval of Sand Creek Estates Division No. 2.

# 10-1-9 FINAL PLAT APPROVAL PROCESS:

A (9) If the final plat conforms to the provisions of this Chapter and all other applicable State or Federal laws, or local ordinances, the Council shall approve the final plat and authorize the Mayor and Clerk to sign the original plat.

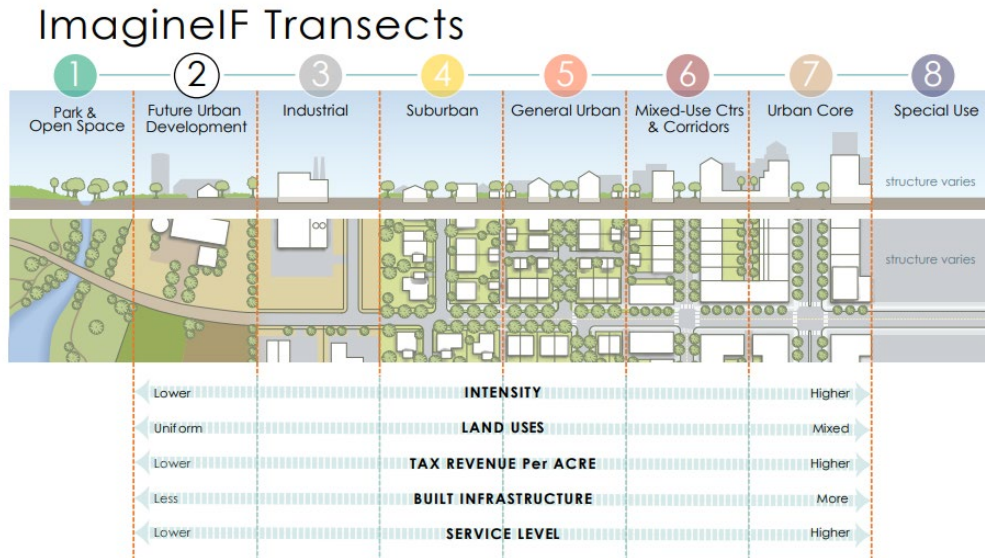
**Subdivision Ordinance:** Boxes with an “X” indicated compliance with the ordinance.

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.	X
All major streets in subdivision must conform to the major street plan of the City, as set forth in Comprehensive Plan.	X
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 development agreement shall include provisions for installation and continued maintenance of arterial buffers.	X
Planning Director to classify street on basis of zoning, traffic volume, function, growth, vehicular & pedestrian safety, and population density.	Tidepool Dr, Sandbar St, Boardwalk Rd – local streets



## Comprehensive Plan Policies:

**Low Density Residential.** Single family homes on individual lots at a density of 7 units or less per acre. This area may include detached homes or homes which share a common wall, open space, or other common facilities. (p. 63)



#### 4. Suburban

**Snapshot:** The Suburban Transect denotes existing or planned residential areas in close proximity to or with easy vehicular access to regional commercial service areas that provide daily household needs. These areas contain various housing types, generally including detached and attached single-unit dwellings, accessory dwelling units, duplexes and triplex and fourplex units at a house scale. Residential development should include a mix of housing types, price points and sizes and should not be exclusively detached single-dwelling units. These areas could also include parks, schools, churches and small commercial nodes adjacent to major roadways. Curvilinear streets and cul-de-sacs are common. Although existing road patterns and lot sizes have created low levels of connectivity and convenience to services, opportunities to increase these features should be identified and planned for.

**Local examples:** Silverleaf, Mill Run, Fairway Estates, Ivan's Acres, Shamrock Park, Home Ranch, Stonebrook, Brookside and Southpoint Subdivisions

## Zoning Ordinance:

### 11-3-3: PURPOSE OF RESIDENTIAL ZONES

(C) R1 Single Dwelling Residential Zone. This zone provides a residential zone which is representative of a less automobile-oriented, more walkable development pattern, characterized by somewhat smaller lot widths; and a somewhat denser residential environment than is characteristic of the RP, Residential Park Zone. The principal uses in the R1 Residential Zone shall be single detached and attached dwelling units. This zone is also generally located near limited commercial services that provide daily household need.

### 11-3-4: 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	5,000
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	50
<b>Setbacks, Minimum in ft.</b>								
Front	40	30*	25*	20*	15*	15	15	30
Front Maximum in ft.					20*			
Side	20	7.5/10*	6	6	5	6	6	10
Rear	40	25	25	25	10	25*	25*	25*
<b>Lot Coverage, Building Height, and Density</b>								
Maximum Lot Coverage in %	30	40	40	80	50	80	80	40
Maximum Building Height in ft*	24	24	24	24	*			24
Maximum Density in net units/acre	1	4	6	17	15	35	35	8
*See explanations, exceptions and qualifications in Section 11-3-4A,B,C of this Zoning Code.								

September 5, 2023

7:00 p.m.

Planning Department

City Annex Conference Room

**MEMBERS PRESENT:** Commissioners Margaret Wimborne, Marsha McDaniel, Arnold Cantu, Dale Storer, Forrest Ihler, Bill Scott, Kristi Brower (Via teams).

**MEMBERS ABSENT:** Scott Geddes, Glen Ogden

**ALSO PRESENT:** Assistant Planning Director Kerry Beutler, Planners David Peterson, Caitlin Long, Assistant City Attorney Michael Kirkham, Esq., and interested citizens.

**CALL TO ORDER:** Wimborne called the meeting to order at 7:00 p.m.

**MINUTES:** Scott moved to accept the minutes of August 1, 2023, Cantu seconded the motion. The motion passed unanimously.

**Business:**

**2. PLAT 23-020: FINAL PLAT. Sand Creek Estates Division No. 2.**

**Applicant: Connect Engineering, Travis Payne, 2295 N. Yellowstone Highway, Idaho Falls, Idaho.** Payne is requesting approval of the final division of the preliminary plat annexed in 2020. This is 33 lots in R1 zone, with one non buildable lot. Adjacent to south 15<sup>th</sup> East and is the final division of the Sand Creek Estates preliminary Plat.

Peterson presented the staff report, a part of the record.

Ihler asked about Tidepool Drive going off Woodruff and asked if the road will be finished on the north side of the road too. Peterson stated that it will be weird with a curb on one side because the north side is not annexed.

**McDaniel moved to recommend to the Mayor and City Council approval of the Final Plat for Sand Creek Estates Division No. 2, Ihler seconded. Wimborne called for roll call vote: Storer, yes; Cantu, yes; Scott, yes; Wimborne, yes; Ihler, yes; McDaniel, yes; Brower, yes. The motion passed unanimously.**



## **REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS**

### **APPROVAL OF THE FINAL PLAT OF SAND CREEK ESTATES DIVISION NO. 2, GENERALLY LOCATED NORTH OF SANDPIPER WAY, EAST OF S 15<sup>TH</sup> E, SOUTH OF E 49<sup>TH</sup> S, WEST OF LONG COVE DR.**

**WHEREAS**, the applicant filed an application for a final plat on July 17, 2023; and

**WHEREAS**, this matter came before the Idaho Falls Planning and Zoning Commission during a duly noticed public meeting on September 5, 2023; and

**WHEREAS**, this matter came before the Idaho Falls City Council during a duly noticed public meeting on February 08, 2024; 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 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 14.088-acre parcel generally located north of Sandpiper Way, east of S 15<sup>th</sup> E, south of E 49<sup>th</sup> S, west of Long Cove Dr.
3. The final plat includes 32 buildable lots and 1 lot granted as a public utility and storm water easement.
4. Access to the subdivision will come from S 15<sup>th</sup> E, a minor arterial, and Boardwalk Rd, a local street.
5. The plat complies with all requirements of the Subdivision Ordinance and Zoning Ordinance.
6. The proposed development is consistent with the principles of the City's Comprehensive Plan and the R1, Single Dwelling Residential Zone.

#### **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 CITY COUNCIL OF THE CITY OF IDAHO FALLS

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024

---

Rebecca L. Noah Casper-Mayor

DEVELOPMENT AGREEMENT  
SAND CREEK ESTATES DIVISION NO. 2

This DEVELOPMENT AGREEMENT SAND CREEK ESTATES DIVISION NO. 2 (“AGREEMENT”), made this \_\_\_\_\_ day of \_\_\_\_\_, 2024, 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 HF VENTURES, LLC, (“DEVELOPER”), whose mailing address is 4429 Tails Down Road, Tetonia, Idaho 83452.

W I T N E S S E T H:

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. Certification of No Chinese Ownership. Pursuant to Idaho Code 67-2359, DEVELOPER certifies that DEVELOPER is not currently owned or operated by the government of the People's Republic of China and will not, for the duration of this AGREEMENT, be owned or operated by the government of the People's Republic China.

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

HF VENTURES, LLC

By  \_\_\_\_\_  
Brett Falkenrath Member

STATE OF IDAHO                    )

County of Bonneville ) ss.  
)

On this \_\_\_\_\_ day of \_\_\_\_\_, 2024, 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 \_\_\_\_\_ )

On this 25<sup>th</sup> day of January, 2024, before me, the undersigned, a notary public, in and for said State, personally appeared Brett Falkenrath, known or identified to me to be an authorized signator 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 developer.

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



Katie Powell  
\_\_\_\_\_  
Notary Public of Idaho  
Residing at: Bonneville County / Idaho Falls  
My Commission Expires: 4/17/2029



**EXHIBIT "A"**  
**PROPERTY**

**LEGAL DESCRIPTION**  
**SAND CREEK ESTATES DIVISION NO. 2**

PART OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 1 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN, BONNEVILLE COUNTY, STATE OF IDAHO.

COMMENCING AT WEST CORNER OF SAID SECTION 4 (FROM WHICH THE NORTHWEST CORNER OF SECTION 4 BEARS N 00°02'46" E 2644.04'), THENCE N 00°02'46" E 961.97' ALONG THE WEST LINE OF SECTION 4, THENCE S 89°57'14" E 64.42' TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF 15TH EAST ALSO BEING THE POINT OF BEGINNING;

THENCE N 89°14'03" E 707.06' ALONG THE SOUTH BOUNDARY OF THE LANDS DESCRIBED IN DEED INSTRUMENT No. 1523269; THENCE N 01°28'32" W 306.00' ALONG THE EAST BOUNDARY OF THE LANDS DESCRIBED IN DEED INSTRUMENT No. 1523269; THENCE N 88°49'59" E 556.77' ALONG THE SOUTH BOUNDARY OF THE LANDS DESCRIBED IN DEED INSTRUMENT No. 1247752 TO THE WEST BOUNDARY OF THE LANDS DESCRIBED IN DEED INSTRUMENT No. 1535915; THENCE S 00°06'42" W 699.10' ALONG THE WEST BOUNDARY OF THE LANDS DESCRIBED IN DEED INSTRUMENT No. 1535915 TO THE NORTH BOUNDARY OF SAND CREEK ESTATES DIVISION No. 3 FILED AS INSTRUMENT No. 1723238; THENCE ALONG THE NORTH BOUNDARY OF SAND CREEK ESTATES DIVISION No. 3 INSTRUMENT No. 1723238 AND SAND CREEK ESTATES DIVISION No. 1 INSTRUMENT No. 1685057 FOR THE FOLLOWING FOUR (4) COURSES:

- 1) S 88°36'07" W 102.42';
- 2) S 88°34'00" W 60.00';
- 3) S 01°26'05" E 19.86';
- 4) N 89°51'57" W 916.52' TO THE EAST BOUNDARY THE LANDS DESCRIBED IN DEED INSTRUMENT No. 1277638;

THENCE N 00°47'47" W 344.95' ALONG THE EAST BOUNDARY THE LANDS DESCRIBED IN DEED INSTRUMENT No. 1277638 TO THE SOUTH BOUNDARY OF THE LANDS DESCRIBED IN DEED INSTRUMENT No. 1744194; THENCE ALONG THE SOUTH BOUNDARY OF THE LANDS DESCRIBED IN DEED INSTRUMENT No. 1744194 FOR THE FOLLOWING THREE (3) COURSES:

- 1) S 89°12'52" W 140.54';
- 2) S 44°13'23" W 28.29';
- 3) S 89°12'52" W 10.00' TO THE EAST RIGHT-OF-WAY LINE OF 15TH EAST; THENCE N

00°46'06" W 71.54' ALONG THE EAST RIGHT-OF-WAY LINE OF 15TH EAST TO THE  
POINT OF BEGINNING.

SAID PROPERTY CONTAINS 14.088 ACRES MORE OR LESS

**EXHIBIT "B"**  
**SPECIAL CONDITIONS**  
**SAND CREEK ESTATES DIVISION NO. 2**

**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 Thirty-Four Thousand Nine Hundred Fifty-Nine and ten cents (\$34,959.10) (11,462 square yards at \$3.05 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 after annexation.

**S.C. 4.00 Construction of Idaho Falls Power and Idaho Falls Fiber Infrastructure.** DEVELOPER shall at DEVELOPER's sole expense, install all power infrastructure as per the approved and signed contractor's map provided by Idaho Falls Power. All installation shall conform with Idaho Falls Power's service policy. Typical power trench installation shall have a warranty of workmanship of one (1) year beginning at time of CITY final acceptance. However, if power infrastructure is installed during winter conditions (where frost is evident in the ground and backfill has the potential to be frozen earth) the warranty of workmanship shall be extended to two (2) full years beginning at time of CITY final acceptance. DEVELOPER shall incur all costs associated with Idaho Falls Power/Idaho Falls Fiber crews removing infrastructure in order to remedy the settling. This includes but not limited to all settlement of trenching, transformer bases, fiber boxes, conduit separation.

**S.C. 5.00 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.

# Memorandum

File #: 24-121

City Council Meeting

**FROM:** Pam Alexander, Municipal Services Director  
**DATE:** Tuesday, January 23, 2024  
**DEPARTMENT:** Municipal Services

## Subject

Addition to Public Works Fleet - One 2024 John Deere 60P Mini Excavator with Attachments

## Council Action Desired

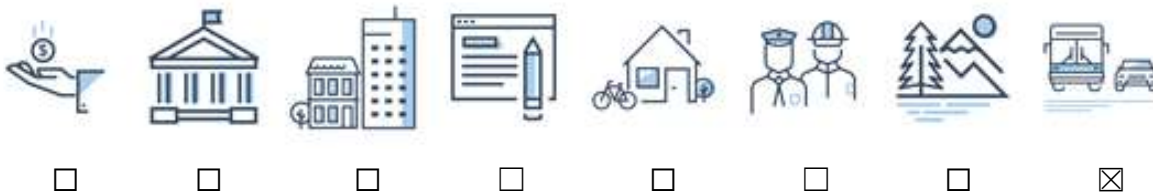
- ☐ Ordinance ☐ Resolution ☐ Public Hearing  
☒ Other Action (Approval, Authorization, Ratification, etc.)

Accept and approve the purchase of one John Deere Mini Excavator from the Sourcewell cooperative purchasing contract #011723-JDC from John Deere for a total of \$124,986.79 (or take other action deemed appropriate).

## Description, Background Information & Purpose

This purchase will be an addition to the Public Works, Water Division

## Alignment with City & Department Planning Objectives



The purchase of the mini excavator supports the reliable public infrastructure and transportation community-oriented result by acquiring equipment in response to growth of the city.

## Interdepartmental Coordination

Public Works concurs with the contract award.

## Fiscal Impact

Funding for the addition to the fleet is budgeted within the 2023/24 Public Works, Water Division capital budget.

## Legal Review

The Legal Department concurs that the desired Council action complies with State Statute.





**JOHN DEERE**

# Investment Proposal (Quote)

RDO Equipment Co.  
1505 Foote Dr  
Idaho Falls ID, 83402  
Phone: (208) 523-9915 - Fax:

**Proposal for:**  
CITY OF IDAHO FALLS  
PO BOX 50220  
IDAHO FALLS, ID, 834050220  
BONNEVILLE

**Investment Proposal Date:** 1/11/2024  
**Pricing Valid Until:** 1/25/2024  
**Deal Number:** 1734227  
**Customer Account#:** 84330001  
**Sales Representative:** Todd Robinson  
**Phone:** (208) 221-8385  
**Fax:**  
**Email:** trobinson@rdoequipment.com

## Comments

Machine includes block heater and radio kit.

City of Idaho Falls  
Idaho Falls, Idaho  
Account # 24221

Sourcwell Contact Good through 02/28/2024.

## Equipment Information

Quantity	Serial Number Stock Number	Hours (approx.)	Status / Year / Make / Model Additional Items	List Price Per Unit	Cash Price
1	1FF060PAKPJ000451 H85574	0	Excavator	<b>\$129,640.00</b>	\$99,714.68
			MFG Program Sourcwell Discount 12.5%		\$0.00
				<b>Item Subtotal:</b>	<b>\$99,714.68</b>
1	05668693 H85631	0	Thumb	<b>\$2,810.00</b>	\$2,303.27
1	05668692 H85630	0	24" Bucket	<b>\$2,710.00</b>	\$2,221.22
1	TBD TBD	0	Compactor	<b>\$8,900.00</b>	\$7,571.72
			Freight in NPK Freight		\$0.00
			Prep / Reconditioning PDI Compactor 2.0 hours		\$0.00
				<b>Item Subtotal:</b>	<b>\$7,571.72</b>
1	TBD TBD		Breaker	<b>\$16,030.00</b>	\$13,175.90
			Freight in NPK Freight		\$0.00
			Prep / Reconditioning PDI Compactor 2.0 hours		\$0.00
				<b>Item Subtotal:</b>	<b>\$13,175.90</b>
				<b>Equipment Subtotal:</b>	<b>\$124,986.79</b>

## Purchase Order Totals

**Balance:** \$124,986.79  
**Total Taxable Amount:** \$0.00  
**ID STATE TAX:** \$0.00  
**Sales Tax Total:** \$0.00  
**Sub Total:** \$124,986.79  
**Cash with Order:** **\$0.00**  
**Balance Due:** **\$124,986.79**

## Equipment Options

Qty	Serial Number	Year / Make / Model	Description
1	1FF060PAKPJ000451	Excavator	0202 DESTINATION CODE - US 0259 ENGLISH CUSTOMER DELIVERY OM 0407 CFG7 CAB RBRTRK STDARM AB 0190FF0407
1	05668693	Thumb	None
1	05668692	24" Bucket	None
1	TBD	Compactor	NPK MODELS: C4C BASE PLATE WIDTH: 23 IN NPK MODELS: C4C BASE PLATE WIDTH: 23 IN COMPACTOR CONFIGURATION: FIXED BACKFILL BLADE CONFIGURATION: NONE,CARRIER MANF: DEERE CARRIER MODEL # MTG: 50ZTS, 50C ZTS, 50D ZTS, 50G, 60
1	TBD	Breaker	PH3 HAMMER ASSEMBLY PH3 HAMMER ASSEMBLY,TOOL - FX CHISEL -E204 GH3 PH3 NPK MODELS: E204, GH3, PH3 HAMMER TOOL TIP TYPE: FX CROSSCUT CHISEL WORKING TOOL LENGTH: 16.1 IN, MTG INSTALLATION KIT CARRIER MA

# Memorandum

File #: 24-124

City Council Meeting

**FROM:** Bear Prairie, General Manager  
**DATE:** Wednesday, January 24, 2024  
**DEPARTMENT:** Idaho Falls Power

## Subject

23-28 IFP Peaking Plant - ESI

## Council Action Desired

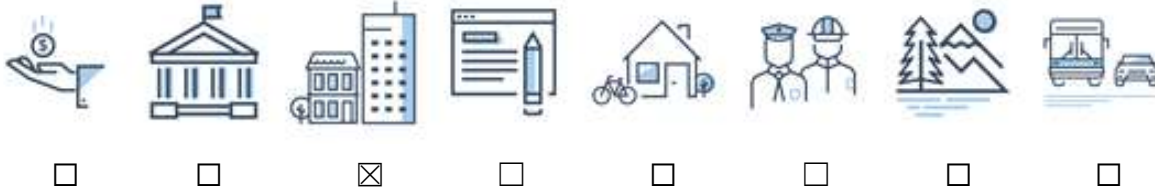
- ☐ Ordinance
 ☐ Resolution
 ☐ Public Hearing
 ☐ Other Action (Approval, Authorization, Ratification, etc.)

Accept and approve the ESI Agreement to construct a peaking plant for a not-to-exceed price of \$25,203,374.90 and give authorization to the Mayor and City Clerk to execute the necessary documents (or take other action deemed appropriate).

## Description, Background Information & Purpose

Idaho Falls Power (IFP) solicited a request for proposal (RFP) to select the most qualified company to construct a peaking plant. Three submissions were received with ESI being the most qualified bidder. The contract amount is \$22,912,159.00 plus a ten percent (10%) contingency of \$2,291,215.90 for a total not-to-exceed amount of \$25,203,374.90.

## Alignment with City & Department Planning Objectives



This action supports our readiness for strong, stable, and healthy economic growth, ensuring that community infrastructure meets current and future needs for long-term reliability. This action also supports the need for peaking generation capacity in IFP's Strategic Plan.

## Interdepartmental Coordination

The Legal Department has reviewed and approved this agreement.

## Fiscal Impact

This item is a budgeted Capital Improvement.

## Legal Review

The Legal Department concurs this action is appropriate.

## Peaking Plant RFP Evaluations

Evaluative Criteria as stated in the RFP	ESI Construction	YMC Mechanical	Wheeler Cat.
Respondent's relevant qualifications	Good/Good Good/Good	Good/Good Good/Good	Good/Good Good/Good
Respondent's professional reputation	Good/Acceptable Good/Good	Good/Acceptable Good/Good	Good/Good Good/Unknown
The quality of goods and services proposed	Good/Good Good/Good	Excellent/Acceptable Good/Good	Good/Good Good/Good
The respondent's ability, capacity, and skill to provide the scope of work	Good/Good Good/Good	Good/Good Good/Good	Good/Good Good/Good
The sufficiency of respondent's financial resources	Good/Good Acceptable/Not Provided	Good/Good Acceptable/Not Provided	Good/Good Acceptable/Not Provided
Any litigation or claims against a respondent	None/None None/None	None/None None/None	None/None None/None
Availability to perform the scope of work	Good/Good Good/Acceptable	Good/Questionable Good/Acceptable	Good/Good Good/Acceptable
The ability of a respondent to provide future maintenance and service	Good/Good Good/Good	Questionable/Questionable Questionable/Questionable	Acceptable/Acceptable Good/Acceptable
Determination of which technology and configuration will best fit the City's needs	Good/Acceptable Good/Good	Good/Acceptable Good/Good	Acceptable/Good Acceptable/Acceptable
Which proposal will provide the best economic and operational advantage to the City	Excellent/Good Excellent/Good	Acceptable/Questionable Good/Acceptable	Questionable/Acceptable Questionable/Acceptable

## Total Score of RFP Proposals

Stated scoring criteria & possible score	ESI score	YMC score	Wheeler score
Cost / Value Proposal - 20 points	71	15	16
Experience - 20 points	71	70	68
Documentation of processes - 10 points	34	38	34
Feed-back from references - 10 points	0	4	0
Ability to meet production requirements - 20 points	68	69	69
Capacity to meet the project's requirements - 20 points	70	70	70
<b>Total Score</b>	<b>314</b>	<b>266</b>	<b>257</b>

**AGREEMENT FOR PROFESSIONAL SERVICES FOR DESIGN AND  
GENERAL CONTRACTOR SERVICES FOR THE CONSTRUCTION OF  
IDAHO FALLS POWER PEAKING PLANT**

THIS AGREEMENT FOR PROFESSIONAL SERVICES FOR DESIGN AND GENERAL CONTRACTOR SERVICES FOR THE CONSTRUCTION OF IDAHO FALLS POWER PEAKING PLANT (hereinafter “Agreement”) between CITY OF IDAHO FALLS, a municipal corporation of the State of Idaho (“hereinafter “CITY”), and Engineered Structures, Inc (“ESI”) (hereinafter “DESIGN-BUILDER”), dated February 8, 2024.

**WITNESSETH:**

WHEREAS, CITY intends to construct an electric peaking power generation plant and associated facilities and infrastructure; and

WHEREAS, pursuant to the invitation of CITY through a "Request for Proposal," DESIGN-BUILDER submitted its qualifications; and

WHEREAS, CITY has determined that the DESIGN-BUILDER was the most qualified responder; and

WHEREAS, CITY has selected DESIGN-BUILDER to provide design, procurement, and construction services for the construction of the Idaho Falls Power Peaking Generation Plant (hereinafter “Project”); and

WHEREAS, DESIGN-BUILDER agrees to perform the various professional services required for the design of the Project and construction monitoring of the Project; and

WHEREAS, DESIGN-BUILDER will act as the CITY’s representative, including advocating for and advancing CITY’s economical and practical goals in working with consultants and subcontractors; and

WHEREAS, DESIGN-BUILDER shall cooperate with CITY and utilize DESIGN-BUILDER’s professional skill and judgment in furthering CITY’s interests to identify cost saving or project improvements throughout the Project; and

WHEREAS, DESIGN-BUILDER shall furnish efficient construction administration and management of the Project consistent with CITY’s fiduciary interests.

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

**ARTICLE 1- GENERAL PROVISIONS**

1.1.The Contract Documents which comprise the entire agreement between CITY and DESIGN-BUILDER concerning the work to be performed include this Contract and the following:

- a. Request for Proposal IFP 23-28 ;
- b. Bid/Proposal of DESIGN-BUILDER physically attached to this Contract as Exhibit G.
- c. Exhibits (reference attached)
  - Exhibit A – Concept Site Plan
  - Exhibit B – Concept Bldg Floor Plan
  - Exhibit C – Concept Oneline Diagram
  - Exhibit D – Miratech SCR-DEF
  - Exhibit E – Option 1 Storage Building
  - Exhibit F – IFP Post Bid Technical and Price Q&A FINAL 12.29.2023
  - Exhibit G – 12.29.2023 DESIGN-BUILDER’s Bid/Proposal
- d. The “Project Manual for the Construction of the Idaho Falls Power Peaking Generation Plant,” to be developed and issued during the Design Phase of this Agreement.
- e. The Project Plans, to be developed and issued during the Design Phase of this Agreement;
- f. Performance and Payment Bonds and Insurance Certificates;
- g. Change Orders which may be delivered or issued after the effective date of this Contract;
- h. Addenda issued prior to opening of bids.

There are no Contract Documents other than those listed in this Article 1. The Contract Documents, together with DESIGN-BUILDER’S and Surety’s performance and payment bonds for the Project, constitute the entire and exclusive agreement between CITY and DESIGN-BUILDER with reference to the Project. The Contract supersedes any and all prior documents, discussions, communications, representations, understandings, negotiations or agreements by and between the parties.

If there is a conflict between any of the Contract Documents and this Agreement, this Agreement shall control.

## **ARTICLE 2 – SCOPE OF WORK**

2.1. **Design and Construction of the Project.** DESIGN-BUILDER shall perform all services designated in this Agreement necessary for the design, procurement, and construction services for the construction of the Idaho Falls Power Peaking Generation Plant, including:

- a. **Design Services** – DESIGN-BUILDER shall provide any and all architectural and engineering services required, reasonably implied, or inferred by the Contract. DESIGN-BUILDER shall have all architectural and engineering services reviewed and approved by a licensed design professional employed or retained by DESIGN-BUILDER. If DESIGN-BUILDER procures these architectural and engineering services from a third party, such services shall be procured under a separate agreement between DESIGN-BUILDER and the third party; and

- b. Construction Services - DESIGN-BUILDER shall provide all Work necessary to construct the Project in strict compliance with the Contract and to deliver the Project complete and usable for its intended purposes within the time of completion. Any Work not in strict compliance with the Contract Documents shall be defective. If DESIGN-BUILDER procures these construction services from a third party or sub-contractor, services shall be procured under a separate agreement between DESIGN-BUILDER and the third party. DESIGN-BUILDER shall strictly supervise and direct the Work using DESIGN-BUILDER'S best and highest skill and effort. DESIGN-BUILDER shall bear full responsibility for any and all acts or omissions of those engaged in the Work on behalf of DESIGN-BUILDER.

### **ARTICLE 3 – DESIGN PHASE**

- 3.1. Design Phase Services - DESIGN-BUILDER agrees to provide Design Phase Services that shall include, but are not limited to the following:

- a. Programing Phase:

1. DESIGN-BUILDER shall, in collaboration with CITY, gather all pertinent data required to complete the Project. This shall include collecting all pertinent facts about the Project, including, but not limited to, evaluation of applicable laws, codes, and regulation review; zoning; cost parameters, including contingencies for bidding and construction; identifying and mitigating risk through analysis and assessment and programming the Project schedule; and
2. Develop and update Project schedules throughout the Design Phase using the Critical Path Method. Scheduling shall include procurement schedules for equipment, the adequacy of the construction duration/period, critical paths among the activities for the building systems, peak workforce requirements, and crunch points within the Project's logic/critical path; and
3. Development and use of a system of detailed cost estimates, cost monitoring, and cost forecasting to be maintained throughout the Project's design and construction phases; and
4. Submit copies of the completed design program documents to CITY for distribution and review, prior to final presentation. After review and correction, DESIGN-BUILDER shall submit the final completed design program documents to CITY. DESIGN-BUILDER shall then present to CITY and CITY's representatives the final completed design program documents for approval.

- b. Schematic Design

1. Based on the approved programing documents, with any adjustments as directed by CITY, DESIGN-BUILDER shall prepare and present for CITY's approval schematic design and cost estimate documents for CITY's approval. The Schematic Design



Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and some combination of study models, perspective sketches, or digital representations of the Project; investigation and verification of the existing conditions of the site, summation of any building code and zoning issues that affect the project, and a preliminary estimate of construction costs based on projected costs. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing. DESIGN-BUILDER shall consider the value of alternative materials, building systems, equipment, aesthetics, and other considerations to develop the Schematic Design documents.

2. Prior to starting the Design Phase of this Project, CITY and DESIGN-BUILDER shall mutually agree that the Project can be designed and built for the Guaranteed Maximum Not-to-Exceed Price. The approved Schematic Design Documents shall be incorporated into this Agreement via change order including any agreed upon adjustments with respect to program scope, schedule, or construction budget. Either party may terminate this Agreement prior to the start of Design Development, without penalty, if it is determined by both parties that the Project cannot be designed and built for the Guaranteed Maximum Not-to-Exceed Price.

c. Design Development

1. Based on approved schematic design documents and any adjustments as directed by CITY, DESIGN-BUILDER shall prepare development documents for CITY's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including building design drawings, floor plans, equipment layout, building elevations, building and wall sections, mechanical and electrical plans, structural plans, project manual, sections, elevations, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels. DESIGN-BUILDER shall provide an updated cost estimate, detail any changes in project assumptions, including site conditions, building and zoning code requirements, etc.
2. Prior to starting the Construction Phase of this Project, CITY and DESIGN-BUILDER shall mutually agree that the Project can be built for the Guaranteed Maximum Not-to-Exceed Price. The approved development documents shall be incorporated into this Agreement via change order including any agreed upon adjustments with respect to program scope, schedule, or construction budget. Either party may terminate this Agreement prior to the start of the Construction Phase, without penalty, if it is determined by both parties that the Project cannot be designed and built for the Guaranteed Maximum Not-to-Exceed Price.

## **ARTICLE 4 – CONSTRUCTION PHASE**

- 4.1. **Construction Phase Services** - DESIGN-BUILDER agrees to provide Construction Phase Services that shall include all work necessary to construct the Project and all the components to enable the Project to be operational, functional, and legally useable for its intended purposes.
- 4.2. **Work Defined** – “Work” under this Agreement means what is done by or required of DESIGN-BUILDER to perform its obligations related to the construction of the Project, including, but not limited to the following:
  - a. Construction of the whole and all parts of the Project in full and strict conformity with the Contract;
  - b. The provision and furnishing, and prompt payment therefore, of all labor, supervision (including the work of DESIGN-BUILDER’S own forces and subcontractors), services, materials, supplies, equipment, fixtures, appliances, facilities, tools, transportation, storage, power, fuel, heat, light, cooling, other utilities and things required for the construction of the Project;
  - c. The procurement and furnishing of all necessary building permit[s] and other permits required for the construction of the Project, and the payment of all applicable fees;
  - d. The creation and submission to CITY of detailed as-built drawings depicting all as-built construction;
  - e. The furnishing of all equipment and product warranties, manuals, test results and user guides required by the Contract or otherwise reasonably available to DESIGN-BUILDER;
  - f. The furnishing of all other services and things required or reasonably inferable from the Contract Documents.

## **ARTICLE 5 – ANTICIPATED SCHEDULE**

- 5.1. **Commencement of Design** – DESIGN-BUILDER shall commence performance of the Design Phase Services upon the execution of this Agreement.
- 5.2. **Anticipated Contract Schedule** – The DESIGN-BUILDER shall perform services following the anticipated design schedule:
  - a. April 12, 2024                      Complete Schematic Design
  - b. July 26, 2024                      Complete Design Development
  - c. May 31, 2024                      Complete Construction Documents  
and Permit Set for Site Excavation/Utilities
  - d. August 30, 2024                    Complete Construction Documents and  
Permit Set for Remaining Work

It is assumed that the above milestones and expected durations can change.

5.3. **Commencement of Construction:** After CITY has approved the Design Documents, CITY shall promptly notify DESIGN-BUILDER, in writing, by issuance of a Notice to Proceed for Work, that DESIGN-BUILDER should proceed with the Work or approved portions of the Work.

5.4. **Date of Completion** –The parties shall establish a date of completion at the time a Guaranteed Maximum Price is fixed or prior to the award of any subcontract if a Guaranteed Maximum Price has not yet been established. DESIGN-BUILDER shall commence the Work when authorized by CITY, and the Work shall be carried out regularly and without interruption.

DESIGN-BUILDER shall Substantially Complete the Work not later than the date of completion or such other date as may by Change Order be designated the “Scheduled Completion Date”. The number of calendar days between the effective date of the Notice to Proceed and the Scheduled Completion Date is the "Contract Time." DESIGN-BUILDER shall achieve Final Completion of the Work no later than or by such other date as may by Change Order be designated.

5.5. **Delays and Extension of Time** – If the DESIGN-BUILDER is delayed at any time in the progress of the Project by:

1. any act or neglect of CITY; or
2. changes ordered in the Project; or
3. labor disputes, fire unusual delay in transportation, unavoidable casualties or any causes beyond the DESIGN-BUILDER’S control; or
4. delay authorized by CITY;

the Contract Time Schedule shall be extended by Change Order for such reasonable time as CITY may determine and the Guaranteed Maximum Not to Exceed Price shall be equitably adjusted by Change Order for reasonable costs associated with the delay. All requests for extension of time or claims for extra costs occasioned by delays or neglect shall be subject to CITY’s approval and shall be made in writing to City no more than fourteen (14) days after the occurrence of the delay or event causing the extra costs; otherwise they shall be waived and barred.

5.6. **Detailed Construction Schedule** – The DESIGN-BUILDER is authorized to commence the construction work contemplated by this Agreement upon the issuance of a Notice to Proceed with Construction. Within forty-five (45) calendar days of receiving Notice to Proceed, the DESIGN-BUILDER shall submit to City a detailed construction schedule for the complete construction work scope as defined in this Agreement. The schedule of construction shall be a detailed critical path schedule in a form mutually agreeable to CITY and DESIGN-BUILDER. Strict compliance with the requirements of this Paragraph shall be a condition precedent for payment to DESIGN-BUILDER, and failure to strictly comply with said requirements shall constitute a material breach of the Agreement.

The DESIGN-BUILDER shall update and present the detailed construction schedule on a monthly basis at a project status meeting with City. DESIGN-BUILDER shall deliver an electronic or hard copy of the detailed construction schedule at the monthly project status meeting or at the request of City. A narrative schedule report documenting a description of the actual work accomplished during the reporting period, any problem areas, current and anticipated delays with recommended corrective actions to mitigate such delays.

The DESIGN-BUILDER shall also update the detailed construction schedule if it appears that the detailed construction schedule no longer represents the actual/logical progression of the work or the DESIGN-BUILDER'S plan for prosecution and progress of the work requires the DESIGN-BUILDER to revise the detailed construction schedule.

In the event progress falls behind schedule dates, the DESIGN-BUILDER shall prepare a recovery schedule indicating its revised plan to assure the timely completion of the Project. The recovery plan shall be subject to City's approval through the Change Order process causing the extra costs; otherwise they shall be waived and barred.

As part of the detailed construction schedule, DESIGN-BUILDER shall identify dates and durations for CITY's approvals and actions, which shall be incorporated into this Agreement by reference. Failure of the CITY to adhere to this schedule shall be cause for time extensions to the Contract Time and equitable adjustment to the Guaranteed Maximum Not to Exceed Price.

5.7. **Liquidated Damages for Delay in Substantial Completion.** DESIGN-BUILDER may be assessed up to Five Thousand and no/100 dollars (\$5,000) maximum per day as liquidated damages for each day of unexcused delay in achieving Substantial Completion beyond the Scheduled Completion Date.

Liquidated damages, if applicable, will be calculated based upon the economics of the plant running. The economic formula is the units heat rate multiplied by the daily delivered spot price for natural gas for each day, times the generating capacity of the facility. This value will give the cost of generation based upon unit efficiency and the price of fuel. Added to this number is \$14 per megawatt hour to take into account variable O&M on the plant running. This value gets subtracted from the higher of the Mid-Columbia Powerdex hourly spot market electricity price or the Mona Powerdex hourly spot market electricity price. If this value is positive it shows an economic loss in not being able to operate the plant as opposed to having to purchase energy from the market or forego an economic sale opportunity. The daily total of damages, if applicable, will be based on this calculation, however capped at a maximum of \$5,000 dollars per day.

Any sums due and payable under this Paragraph by DESIGN-BUILDER shall be payable, not as a penalty, but as liquidated damages as calculated in this Paragraph 5.7. Such liquidated damages shall apply regardless of whether DESIGN-BUILDER has been terminated by CITY prior to Completion so long as DESIGN-BUILDER'S actions or inactions substantially caused the delay; provided, however, that if DESIGN-BUILDER is in substantial compliance with the project schedule at the time of termination, no liquidated damages will be assessed against DESIGN-BUILDER. When CITY reasonably believes that Completion will be inexcusably

delayed, CITY shall be entitled, but not required, to withhold from any amounts otherwise due to DESIGN-BUILDER an amount then believed by CITY to be adequate to recover liquidated damages applicable to such delays. CITY shall provide DESIGN-BUILDER a ten (10) day notice of its intent to withhold liquidated damages and the amount of said liquidated damages to be withheld. If and when DESIGN-BUILDER overcomes the delay in achieving Completion, or any part thereof, for which CITY has withheld payment, CITY shall promptly release to DESIGN-BUILDER those funds withheld, but no longer applicable as liquidated damages.

## **ARTICLE 6 - GUARANTEED MAXIMUM NOT-TO-EXCEED PRICE**

- 6.1. **Fixing the Guaranteed Maximum Not-to-Exceed Price** - DESIGN-BUILDER will fix a Guaranteed Maximum Not-to-Exceed Price guaranteeing the maximum cost to City for the Cost of the Project and the DESIGN-BUILDER'S Design and Construction Phase Fees. DESIGN-BUILDER's fixing of the Guaranteed Maximum Not-to-Exceed Price will occur after the Schematic Design Phase outlined in Paragraph 3.1.(b). The DESIGN-BUILDER'S Design and Construction Phase Fees are to be included as part of the Guaranteed Maximum Not-to-Exceed Price.

When the DESIGN-BUILDER provides a Guaranteed Maximum Price, the subcontracts will contain the necessary provisions to allow the DESIGN-BUILDER to control the performance of the Work.

Unless otherwise provided in this Agreement, the Guaranteed Maximum Not-to-Exceed Price shall include all taxes that are or may be legally assessed or exacted during the construction of the Project.

- 6.2. **Adjustment to Guaranteed Maximum Not-to-Exceed Price** - In entering into this Agreement, DESIGN-BUILDER understands and agrees that the Guaranteed Maximum Not-to-Exceed Price can only be increased in limited circumstances, and in accordance with the provisions set forth in this Agreement. Subject to the provisions of this Agreement, the Guaranteed Maximum Not-to-Exceed Price can be increased if:

- a. CITY directs or agrees to a Change Order in the Project that increases the cost of the Design Services or the Work;
- b. the DESIGN-BUILDER encounters subsurface or concealed conditions at the Project site, which meet the requirements of Paragraph 14.2 and that cause the DESIGN-BUILDER to incur increased costs in the Design Services or the Work;
- c. the DESIGN-BUILDER encounters Hazardous Materials, complies with the provisions set forth therein, and incurs increased costs to the Design Services or the Work;
- d. DESIGN-BUILDER incurs unavoidable increased costs in performing Design Services or the Work as a direct result of changes, after the execution of this Agreement, in directly applicable laws, codes and ordinances, such as changes in life-safety building codes or



zoning laws, legislatively enacted new categories of taxes (such as a gross receipts tax), and changes in environmental regulations which relate to the Project;

- e. DESIGN-BUILDER incurs unavoidable increased costs in performing Design Services or the Work as a result of delay outside DESIGN-BUILDER'S control, as further described in Section 5.5; or
- f. emergencies that meet the requirements of Paragraph 15.9, and that cause DESIGN-BUILDER to incur increased costs in the Design Services or the Work.

Except for the foregoing, DESIGN-BUILDER agrees that the DESIGN-BUILDER assumes all other risks which may cause increased costs to the Design Services or the Work, and agrees that the Guaranteed Maximum Not-to-Exceed Price will not be increased as a result of any such risks. Costs not provided for above, that would cause the Guaranteed Maximum Not-to-Exceed Price to be exceeded, shall be paid by DESIGN-BUILDER without reimbursement by CITY.

In the event that there is an adjustment in the Project that leads to a decrease in the Guaranteed Maximum Not-to-Exceed Price, the adjustment shall be documented in a change order and the Guaranteed Maximum Not-to-Exceed Price, including DESIGN-BUILDER's construction fee, shall be decreased to reflect the adjustment.

### **6.3. Contingency.**

The DESIGN-BUILDER'S Guaranteed Maximum Price proposal includes a Design/Build "Contingency" of Six Hundred Thirty-Five Thousand Six Hundred Forty-Eight and no/100 Dollars (\$635,648.00). The Contingency shall be adjusted as mutually agreed at the time the Guaranteed Maximum Not-to-Exceed Price is fixed in accordance with Paragraph 6.1. DESIGN-BUILDER shall notify the CITY of any proposed use of the Contingency. DESIGN-BUILDER shall provide the CITY with detailed information relative to such use of the Contingency. Any use of the Contingency shall be tracked on the Schedule of Values. The Contingency shall not be construed as an amount available for upgrading or enlarging the scope of Work, nor for covering costs incurred by satisfying any additional requirements of the local jurisdiction after the issuance of a building permit. The Contingency shall not be used for remedying or repairing defective work or premium time costs to recover lost time due to error by the DESIGN-BUILDER or its subcontractor. Any balance remaining of the Contingency amount at the time of Final Completion shall be shared 50% - 50% between CITY and DESIGN-BUILDER and payable to the DESIGN-BUILDER at the time of final payment.

The DESIGN-BUILDER is authorized to utilize Contingency to defray direct costs of the Work not otherwise entitled to adjustment of the Guaranteed Maximum Not-to-Exceed Price as outlined in paragraph 6.2. Such costs include:

- a. Costs associated with design development and scope refinement through the Design Phase.
- b. Conditions and events which were not foreseen or known to the DESIGN-BUILDER.
- c. Gaps in subcontractor's scopes of work.

- d. Delays in receipt of materials or equipment not the fault of the DESIGN-BUILDER.
- e. Increases in pre-established subcontractor or vendor pricing, purchase orders, material quotes and the like at no fault of the DESIGN-BUILDER.
- f. Replacement costs for non-performing or defaulting subcontractors.

## **ARTICLE 7 – DESIGN-BUILDER’S FEE**

7.1. The fee for DESIGN-BUILDER’S services shall be as follows:

- a. **Design Phase Fee.** For DESIGN-BUILDER’S Design Phase Services described herein in Article 3, CITY shall compensate the DESIGN-BUILDER in the amount of One Million Four Hundred and Five Thousand Nine Hundred Seventy-Seven and no/100 Dollars (\$1,405,977.00).
- b. **Construction Phase Fee.** For DESIGN-BUILDER’S Construction Phase Services described herein in Article 4, CITY shall compensate the DESIGN-BUILDER a fee equal to seven and a half percent (7.5%) of the total construction phase cost. This Construction Phase Services Fee shall be presented to CITY as part of DESIGN-BUILDER’S Guaranteed Maximum Not-to-Exceed Price as outlined in Article 6. The Guaranteed Maximum Not-to-Exceed Price is currently estimated to be a not to exceed amount of Twenty-One Million Five Hundred and Six Thousand One Hundred Eighty-Two and no/100 Dollars (\$21,506,182.00). This estimated amount includes DESIGN-BUILDER’S estimated Construction Phase Services Fee.

## **ARTICLE 8 - PAYMENT OF THE GUARANTEED MAXIMUM NOT-TO-EXCEED PRICE**

8.1. **Payment Procedure.** CITY shall pay the Guaranteed Maximum Not-to-Exceed Price, as it may be adjusted by the operation of this Agreement, as follows:

- a. **Schedule of Values.** DESIGN-BUILDER shall prepare and present to CITY the DESIGN-BUILDER’S schedule of values apportioning the Guaranteed Maximum Not-to-Exceed Price among the different elements of the Project for purposes of periodic and final payment. DESIGN-BUILDER shall, within thirty (30) calendar days of the execution of this Agreement, submit to CITY a detailed schedule of values for Design Services and a preliminary schedule of values for Construction Services to be rendered in the performance of the Work and shall within thirty (30) days of the authorized Notice to Proceed with Construction submit to CITY a detailed schedule of values for all construction activities related to the performance of the Work. The DESIGN-BUILDER’S schedules of values shall be presented in a format, with such reasonable detail as CITY requests. DESIGN-BUILDER shall not imbalance its schedule of values nor artificially inflate any element thereof. The violation of this provision by the DESIGN-BUILDER shall constitute a material breach of this Agreement. The DESIGN-BUILDER’S schedule of values will be utilized for the DESIGN-BUILDER’S payment requests but shall only be so utilized after

it has been acknowledged in writing by CITY. The schedule of values submitted by DESIGN-BUILDER pursuant to this Paragraph may from time to time be amended by DESIGN-BUILDER, subject to the approval of CITY.

- b. Submission of Payment Requests. On or before the 25th day of each month after the commencement of performance, but no more frequently than once monthly, the DESIGN-BUILDER may submit to CITY's Representative, a payment request for the period ending the last day of the month. Said payment request shall be submitted to CITY shall include whatever supporting information as may be required by CITY. Therein, the DESIGN-BUILDER may request payment as follows:

- 1. For work not subject to retainage: One hundred percent (100%) of that part of the Guaranteed Maximum Not-to-Exceed Price allocated on the schedule of values to the following tasks performed by the DESIGN-BUILDER'S architect and engineers:

- a. Programming
- b. Schematic Design
- c. Design Development
- d. Construction Documents
- e. Construction Administration tasks of shop drawing review and document interpretation.

- c. For work subject to retainage: ninety-five percent (95%) of that part of the Guaranteed Maximum Not-to-Exceed Price allocated on the schedule of values to Construction Services to the date of the Payment Request for properly provided labor and materials, and for equipment properly incorporated in the Project, and materials or equipment necessary for the Project and properly stored at the Project site (or elsewhere if off-site storage is approved in writing by CITY, such approval not to be unreasonably withheld), less the total amount of previous payments received from CITY and closeout line item, less the total amount of previous payments received from CITY. Any payment on account of stored materials or equipment will be subject to the DESIGN-BUILDER providing written proof that CITY has title to such materials or equipment and that they are fully insured against loss or damage.

- 8.2. **CITY's Right to Inspect.** CITY may inspect DESIGN-BUILDER'S books and records which support and confirm all of the items set forth in the schedule of values and all other items described in any request for Payment, including payment for Final Completion, by DESIGN-BUILDER.

8.3. **Warranty of Completed Work; Review of Payment Requests.**

- a. Each Payment Request shall be signed by the DESIGN-BUILDER and shall constitute the DESIGN-BUILDER'S representation that the quantity of Work has reached the level for which payment is requested, that the Work has been properly installed or performed in

strict compliance with the Contract, and that the DESIGN-BUILDER knows of no reason why payment should not be made as requested.

- b. CITY's Representative shall review the Payment Request and may also review the Work at the Project site or elsewhere to determine whether the quantity and quality of the Work is as represented in the Payment Request and is as required by this Contract. CITY's Representative shall approve in writing the amount, which is properly owing to the DESIGN-BUILDER.

- 8.4. **Conditions Precedent to Payment.** In addition to all other conditions precedent contained herein, it shall be a condition precedent to payment of any pay request that DESIGN-BUILDER, if requested by CITY, have submitted updated schedules for the performance of its Work and Design Services as required by this Agreement. The submission by the DESIGN-BUILDER of a payment request also constitutes an affirmative representation and warranty that all work for which CITY has previously paid is free and clear of any lien, claim, or other encumbrance of any person whatsoever. Upon receipt of any payment from CITY, DESIGN-BUILDER shall promptly pay all Subcontractors, laborers, and Suppliers such amounts as they are entitled for the Work covered by such payment.
- 8.5. **Time for Payment.** Subject to CITY's right of review and objection, CITY shall make payment to the DESIGN-BUILDER within thirty (30) days following receipt of the DESIGN-BUILDER'S submittal of a proper payment request.
- 8.6. **Amount of Progress Payments.** CITY shall pay the amount of each pay request properly due under this Agreement less such amounts, if any, owing by DESIGN-BUILDER to CITY or which CITY shall have the right to withhold as authorized by this Agreement.
- 8.7. **Title Passes upon Payment.** DESIGN-BUILDER warrants and represents that upon payment of any pay request submitted by DESIGN-BUILDER, title to all Work covered by the pay request shall immediately pass to CITY.
- 8.8. **Payment Not A Waiver of Acceptance.** No payment to DESIGN-BUILDER shall be interpreted or construed to constitute acceptance of any Work not in strict compliance with the Contract, and DESIGN-BUILDER expressly accepts the risk that defective Work may not be detected (1) during any inspection by CITY, (2) prior to making of any payment to DESIGN-BUILDER, or (3) before CITY's occupancy of the Project.
- 8.9. **Withholding of Payment.** Notwithstanding any withholding of payments hereunder, CITY shall timely pay to DESIGN-BUILDER all amounts due DESIGN-BUILDER under this Agreement which are not in dispute. CITY shall have the right to refuse to make payment (and, if necessary, may demand the return of a portion or all of the amount previously paid to DESIGN-BUILDER) in an amount then believed by CITY to be adequate to cover the penalties, damages, and potential losses resulting or likely to result from:
  - a. The quality of a portion, or all, of DESIGN-BUILDER'S Work not being in strict accordance with the requirements of this Contract;

- b. The quantity of DESIGN-BUILDER'S Work not being as represented in DESIGN-BUILDER'S pay request, or otherwise;
- c. DESIGN-BUILDER'S rate of progress is such that, in CITY's opinion, Substantial Completion, Final Completion, or both, may be inexcusably delayed;
- d. DESIGN-BUILDER'S failure to use Contract funds, previously paid DESIGN-BUILDER by CITY, to properly pay DESIGN-BUILDER'S Project-related obligations including, but not limited to, Subcontractors, laborers and material and equipment Suppliers;
- e. Evidence that the balance of the Work cannot be completed under the Agreement for the unpaid balance of the Guaranteed Maximum Not-to-Exceed Price;
- f. Claims made, or likely to be made, against CITY or its property because of acts or omissions of DESIGN-BUILDER;
- g. Loss caused by DESIGN-BUILDER; or
- h. DESIGN-BUILDER'S failure or refusal to perform any of its obligations to CITY.

In the event that CITY makes a written demand upon DESIGN-BUILDER for amounts previously paid by CITY as contemplated in this Paragraph, DESIGN-BUILDER shall promptly comply with such demands.

- 8.10. **Unexcused Failure to Pay.** If CITY, without justifiable cause or basis hereunder, fails to pay DESIGN-BUILDER any amounts due and payable to DESIGN-BUILDER within forty-five (45) days after the date established herein for payment of such amounts, then DESIGN-BUILDER may suspend its Design Services or, as applicable, the Work until payment is made, provided that DESIGN-BUILDER first gives five (5) days' written notice to CITY of its intent. Any payment due hereunder which is not made within thirty (60) days after the date due shall bear interest at statutory interest rate set forth in Idaho Code 63-3045.

## **ARTICLE 9 - FINAL PAYMENT**

- 9.1. **Substantial Completion Defined.** Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete under the Contract Documents so that the CITY can occupy or utilize the Work for its intended use.

9.2. **Substantial Completion.**

- a. When DESIGN-BUILDER considers the Work ready for its intended use DESIGN-BUILDER shall notify City in writing that the Work is substantially complete and request that City issue a certificate of Substantial Completion. DESIGN-BUILDER shall at the same time submit to City an initial draft of punch list or work to complete items to be completed or corrected before final payment.
- b. Promptly after DESIGN-BUILDER'S notification, City shall make an inspection of the Work to determine the status of completion. If City does not consider the Work substantially complete for the purpose of City's ability to occupy and operate the Work



relative to Liquidated Damages, City will notify DESIGN-BUILDER in writing giving the reasons therefor.

- c. DESIGN-BUILDER shall have ten (10) days after receipt of City's notice to make written objection or clarifications as to any provisions of the City's determination of availability for Substantial Completion. Substantial Completion relative to Liquidated Damages is achieved when the gensets have been commissioned with connection and integration to the medium voltage switchgear bus and City can occupy and operate the facility for its intended use.
- d. If City considers the Work substantially complete, City will deliver to DESIGN-BUILDER a preliminary certificate of Substantial Completion which will fix the date of Substantial Completion. City shall attach to the certificate a punch list of items to be completed or corrected before final payment.
- e. At the time of receipt of the preliminary certificate of Substantial Completion, City and DESIGN-BUILDER will confer regarding City's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by City. Unless City and DESIGN-BUILDER agree otherwise in writing, City shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.
- f. After Substantial Completion the DESIGN-BUILDER shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases DESIGN-BUILDER may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth herein.

9.3. **Payment upon Substantial Completion.** Upon Substantial Completion of the Work, the CITY shall pay the DESIGN-BUILDER an amount sufficient to increase total payments to the DESIGN-BUILDER to ninety-five percent (95%) of the Guaranteed Maximum Not-to-Exceed Price, as adjusted by the operation of this Agreement less any amounts attributable to liquidated damages, together with the reasonable costs as determined by the CITY for completing all incomplete work, correcting and bringing into conformance all defective and nonconforming work, and handling any outstanding or threatened claims, which result from DESIGN-BUILDER'S acts or omissions.

9.4. **Final Completion Defined.** Final Completion means the completion of all Design Services and all Work required by, and in strict compliance with, the Agreement, as approved by CITY in writing, including the satisfactory completion or resolution of all deficiencies (punch list items) and DESIGN-BUILDER'S provision to CITY of all documents and things required by the Agreement.

9.5. **Final Payment Procedure.** When DESIGN-BUILDER considers the Project finally complete and the DESIGN-BUILDER is ready for a final inspection, it shall notify the CITY and CITY's Representative in writing. Thereupon, the CITY's Representative will perform a final inspection of the Project. Such notice shall include a warranty that all DESIGN-BUILDER'S obligations to Subcontractors, laborers, Suppliers, or other third parties in connection with the Project have been paid or satisfied, complete as-built drawings, all product warranties,

operating manuals, instruction manuals and other record documents, and verification that DESIGN-BUILDER has paid all taxes as required by Idaho Code, Title 63, Chapter 15.

If the CITY's Representative confirms that the entire Project is complete in full accordance with the Contract and that the DESIGN-BUILDER has performed all of its obligations to the CITY under the Contract, the CITY's Representative will furnish a final approval for payment to the CITY certifying to the CITY that the Project is complete and the DESIGN-BUILDER is entitled to the remainder of the unpaid Guaranteed Maximum Not-to-Exceed Price as adjusted by operation of this Agreement, less any amounts attributable to liquidated damages, together with the reasonable costs as determined by the CITY for completing all incomplete work, correcting and bringing into conformance all defective and nonconforming work, and handling any outstanding or threatened claims, which result from DESIGN-BUILDER'S acts or omissions. If the CITY's Representative is unable to issue its final approval for payment and is required to repeat its final inspection more than three (3) times, the DESIGN-BUILDER shall bear the cost of each additional inspection, which cost may be deducted by the CITY from the DESIGN-BUILDER'S final payment.

Acceptance by DESIGN-BUILDER of final payment shall constitute a waiver and release of all claims against CITY by DESIGN-BUILDER except for those claims previously made in writing against CITY by DESIGN-BUILDER, pending at the time of final payment and specifically identified on DESIGN-BUILDER'S pay request for final payment as unsettled at the time it submits its pay request.

## **ARTICLE 10 -INSURANCE AND BOND REQUIREMENTS**

10.1. **Insurance.** DESIGN-BUILDER shall purchase and maintain in full force and effect insurance as will protect DESIGN-BUILDER from claims which may arise out of or result from DESIGN-BUILDER'S operations under the Contract and for which DESIGN-BUILDER may be legally liable, whether such operations be by DESIGN-BUILDER or by a Subcontractor or by anyone directly or indirectly controlled by any of them or by anyone for whose acts any of them may be liable. The insurance required under this paragraph shall be written for not less than the following limits:

- a. Commercial General Liability ("CGL") with policy limits not less than one million dollars (\$1,000,000) for each occurrence and two million dollars (\$2,000,000) in the aggregate for bodily injury and property damage.
- b. Automobile Liability covering vehicles owned and non-owned vehicles used by DESIGN-BUILDER 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, along with any other statutorily required automobile coverage.
- c. Workers' Compensation at statutory limits and Employers Liability with policy limits not less than one million dollars (\$1,000,000) per accident, one million dollars (\$1,000,000) each employee, and one million dollars (\$1,000,000) policy limit.

- d. 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.
- e. Property Insurance. DESIGN-BUILDER shall purchase and maintain property insurance written on a builder's risk "all risk," including earthquake and flood or equivalent policy form in the amount of the Guaranteed Maximum Not-to-Exceed Price plus the value of any upward adjustments to the Maximum Not-to-Exceed Price permitted by the Contract, on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract or as otherwise agreed in writing by CITY, until final payment has been made as provided in the Contract or until no person other than CITY has an insurable interest in the Project, whichever is later. This insurance shall include interests of CITY, DESIGN-BUILDER, Subcontractors and sub-subcontractors in the Work, and CITY shall be named as an additional insured.

If the property insurance requires deductibles, the DESIGN-BUILDER shall pay costs of such deductibles.

- 10.2. **Performance and Payment Bonds.** Prior to the start of construction, DESIGN-BUILDER must furnish separate performance and payment bonds to CITY. Each bond shall set forth a penal sum in an amount not less than the Guaranteed Maximum Not-to-Exceed Price. Each bond furnished by DESIGN-BUILDER shall incorporate by reference the terms of the Agreement and Contract Documents as fully as though they were set forth verbatim in such bonds. In the event the Guaranteed Maximum Not-to-Exceed Price is adjusted by Change Order executed by DESIGN-BUILDER, the penal sum of both the performance bond and the payment bond shall be deemed increased by like amount. The performance and payment bonds furnished by DESIGN-BUILDER shall be in form suitable to CITY and shall be executed by a surety, or sureties, properly licensed in Idaho and having a Best's rating of A. DESIGN-BUILDER recognizes and acknowledges that the performance bond must cover all services (design and construction) to be provided by the DESIGN-BUILDER under this Agreement.

## **ARTICLE 11 - CITY'S RIGHT FOR TERMINATION OR SUSPENSION**

- 11.1. **Termination of the Contract for Default.** Without limitation to any of CITY's other rights or remedies at law or in equity, and reserving to itself all rights to losses related thereto, CITY shall have the right to terminate this Contract, in whole or in part, upon the failure of DESIGN-BUILDER to promptly commence and diligently continue efforts to cure any default within fourteen (14) days of CITY's written notice to DESIGN-BUILDER. CITY's election to terminate the Contract for default shall be communicated by giving DESIGN-BUILDER a written notice of termination. Any notice of termination given to DESIGN-BUILDER by CITY shall be effective immediately, unless otherwise provided.
- 11.2. **Suspension by City for Convenience.** CITY may, at any time and from time to time, without cause, order DESIGN-BUILDER, in writing, to suspend, delay, or interrupt the Project in whole or in part for such period of time, as CITY may determine, up to a period of fifteen (15) days. Upon receipt of a Suspension Order, DESIGN-BUILDER shall, at CITY's expense,

comply with its terms and take all reasonable steps to minimize costs allocable to the Project covered by the Suspension Order during the period of the Suspension Order.

Within the period of the above noted time, or such extension to that period as is agreed upon by DESIGN-BUILDER and CITY, CITY shall either

- a. cancel the Suspension Order; or
- b. delete the portion of the Project covered by the Suspension Order by issuing a change order.

If a Suspension Order is canceled or expires, DESIGN-BUILDER shall resume and continue with the Project. A change order shall be issued to cover any adjustments of the Guaranteed Maximum Not-to-Exceed Price, if applicable, or the Contract Time necessarily caused by such suspension. The provisions of this section shall not apply if an order to stop or suspend work is not issued by CITY.

A Suspension Order shall not be required to stop the Work as permitted or required under any other provision of the Contract Documents.

- 11.3. **Termination Without Cause.** CITY shall have the option, at its sole discretion and without cause, of terminating this Contract in part or in whole by giving thirty (30) days written notice to DESIGN-BUILDER. DESIGN-BUILDER agrees to accept such sums as allowed under this section as its sole and exclusive compensation and waives any claim for other compensation or losses, including, but not limited to, loss of anticipated profits, loss of revenue, lost opportunity, or other consequential, direct, indirect or incidental damages of any kind.

Following such termination and within forty-five (45) days after receipt of a billing from DESIGN-BUILDER seeking payment of sums authorized by this section, CITY shall pay to DESIGN-BUILDER as its sole compensation for performance of the Project the following:

- a. For Work Performed. The amount of the Guaranteed Maximum Not-to-Exceed Price allocable to the portion of the Project properly performed by DESIGN-BUILDER as of the date of termination, plus DESIGN-BUILDER'S fee thereon, less sums previously paid to DESIGN-BUILDER.
- b. For Close-out Costs. Reasonable costs of DESIGN-BUILDER and its Subcontractors and Sub-subcontractors for:
  1. Demobilizing, and
  2. Administering the close-out of its participation in the Project (including, without limitation, all billing and accounting functions, not including attorney or expert fees) for a period of no longer than thirty (30) days
- c. For Fabricated Items. Previously unpaid cost of any items delivered to the Project site which were fabricated for subsequent incorporation in the Project.

- d. As a liquidated damage, CITY shall pay DESIGN-BUILDER six percent (6%) of the remaining Guaranteed Maximum Not-to-Exceed less the amount paid and owed for work performed and for Close-out Costs.

11.4. **Subcontractors.** DESIGN-BUILDER shall include provisions in all of its subcontracts, purchase orders, and other contracts permitting termination for convenience by DESIGN-BUILDER on terms that are consistent with this Contract and that afford no greater rights of recovery against DESIGN-BUILDER than are afforded to DESIGN-BUILDER under this section.

11.5. **DESIGN-BUILDER'S Duties Upon Termination.** Upon receipt of a notice of termination for default or for convenience, DESIGN-BUILDER shall, unless the notice directs otherwise, do the following:

- a. Immediately discontinue the Project to the extent specified in the notice;
- b. Place no further orders or subcontracts for materials, equipment, services or facilities, except as may be necessary for completion of such portion of the Project as is not discontinued;
- c. Provide to CITY a description, in writing no later than fifteen (15) days after receipt of the notice of termination, of all subcontracts, purchase orders and contracts that are outstanding, including, without limitation, the terms of the original price, any changes, payments, balance owing, the status of the portion of the Project covered and a copy of the subcontract, purchase order or contract and any written changes, amendments or modifications thereto, together with such other information as CITY may determine necessary in order to decide whether to accept assignment of or request CONTRACTOR to terminate the subcontract, purchase order or contract;
- d. Promptly assign to CITY those subcontracts, purchase orders or contracts, or portions thereof, that CITY elects to accept by assignment and cancel, on the most favorable terms reasonably possible, all subcontracts, purchase orders or contracts, or portions thereof, that CITY does not elect to accept by assignment; and
- e. Thereafter do only such work as may be necessary to preserve and protect the Project already in progress and to protect materials, plants, and equipment on the Project site or in transit thereto.

## **ARTICLE 12 - DESIGN-BUILDER'S RIGHT FOR TERMINATION**

12.1. **Termination for Cause.** DESIGN-BUILDER may terminate this Contract for cause only upon the occurrence of one of the following:

- a. **For Work Stoppage.** The Work is stopped for sixty (60) consecutive days, through no act or fault of DESIGN-BUILDER, any Subcontractor, or any employee or agent of DESIGN-BUILDER or any Subcontractor, due to issuance of an order of a court or other public authority, other than CITY, having jurisdiction or due to an act of government, such as a declaration of a national emergency making material unavailable.



- b. For CITY's Non-Payment. If CITY does not make payment of sums that are not in good faith disputed by CITY and does not cure such default within thirty (30) days after receipt of notice from DESIGN-BUILDER, then upon an additional fourteen (14) days' notice to CITY, DESIGN-BUILDER may terminate the Contract.

12.2. **Damages to DESIGN-BUILDER.** In the event of termination for cause by DESIGN-BUILDER, CITY shall pay DESIGN-BUILDER the sums provided for in Paragraph 11.3 City's "Termination Without Cause" outlined above, with the exception that DESIGN-BUILDER shall not be entitled to the liquidated damages listed in 11.3(d) if termination is due to a declaration of a national emergency making materials or labor unavailable to continue Project. DESIGN-BUILDER agrees to accept such sums as its sole and exclusive compensation and agrees to waive any claim for other compensation or losses, including, but not limited to, loss of anticipated profits, loss of revenue, lost opportunity, or other consequential, direct, indirect and incidental damages, of any kind.

### ARTICLE 13 - CHANGES IN THE PROJECT

13.1. **Change Order Defined.** "Change Order" means and includes a written order to the DESIGN-BUILDER signed by the CITY or CITY's Representative and the DESIGN-BUILDER and issued after the execution of this Agreement, authorizing a change in the Project and/or an adjustment in the Guaranteed Maximum Not-to-Exceed Price or the Contract Time.

13.2. **Adjustment to Guaranteed Maximum Not-to-Exceed Price.** The increase or decrease in the Guaranteed Maximum Not-to-Exceed Price resulting from a Change Order shall be determined in the following order of precedence:

- a. First, by mutual agreement between the CITY and the DESIGN-BUILDER as evidenced by (1) the change in the Guaranteed Maximum Not-to-Exceed Price being set forth in a Change Order, (2) such change in the Guaranteed Maximum Not-to-Exceed Price together with any conditions or requirements relating thereto, being signed by both parties, and (3) the DESIGN-BUILDER'S execution of the Change Order;
- b. Second, if no mutual agreement occurs between the CITY and DESIGN-BUILDER, the change in the Guaranteed Maximum Not-to-Exceed Price, if any, shall be derived by determining the reasonable costs incurred or savings achieved, resulting from revisions in the Work, utilizing the 2023 Means Cost Guide, as adjusted for Idaho Falls, Idaho, provided DESIGN-BUILDER shall properly itemize the costs or savings and shall submit sufficient substantiating data to permit evaluation and including a reasonable design fee to perform needed design work to implement the revisions in the Work
- c. Third, if the parties do not agree on the adjustment to the Guaranteed Maximum Not-to-Exceed Price as outlined above, then the amount of the change in the Guaranteed Maximum Not-to-Exceed Price shall be calculated by pricing the labor at the actual wage or hourly rates paid for doing the additional Design Services and the Work; if any, plus the actual cost of materials and equipment, if any; provided, however, that such "actual costs" must be reasonable. In addition CITY shall allow a total mark-up of no greater than fifteen percent (15%) for all overhead, all indirect costs, and profit to be added to the actual costs

of labor, if any, and materials and equipment, if any, pro-rated between the DESIGN-BUILDER and Subcontractors, if any, as the DESIGN-BUILDER determines, and in no event shall include any consequential damages of the DESIGN-BUILDER; or

- d. Any such costs or savings shall be documented in the format and with such content and detail as is acceptable to the CITY.

- 13.3. **Extension of Contract Time.** Any extension of the Contract Time requested by DESIGN-BUILDER for the performance of any change in the Design Services or the Work ordered by CITY may be granted by mutual agreement and then outlined in the Change Order. Otherwise, extensions of the Contract Time must be requested by DESIGN-BUILDER pursuant to the terms and conditions of Article 14 “Claims for Additional Cost or Time” of this Agreement. The failure of DESIGN-BUILDER to provide notice in writing to CITY in accordance with Article 14 “Claims for Additional Cost or Time” of this Agreement of any request for extension of the Contract Time shall constitute a waiver by DESIGN-BUILDER of any entitlement to an extension of the Contract Time.
- 13.4. **Effect of Executed Change Order.** The execution of a Change Order by DESIGN-BUILDER shall constitute conclusive evidence of DESIGN-BUILDER’S and CITY’s agreement to the ordered changes in the Project, the Agreement as thus amended, the Guaranteed Maximum Not-to-Exceed Price as thus amended and the Contract Time as thus amended. DESIGN-BUILDER, by executing the Change Order, waives and releases any claim against CITY for additional time or compensation for matters relating to, arising out of, or resulting from the Design Services or the Work included within or directly affected by the executed Change Order.
- 13.5. **Consent of Surety.** DESIGN-BUILDER shall notify and obtain the consent and approval of DESIGN-BUILDER’S surety with reference to all Change Orders if such notice, consent or approval is required by CITY, DESIGN-BUILDER’S surety or by law. DESIGN-BUILDER’S execution of the Change Order shall constitute DESIGN-BUILDER’S warranty to CITY that the surety has been notified of, and consents to, such Change Order and the surety shall be conclusively deemed to have been notified of such Change Order and to have expressly consented thereto.
- 13.6. **Fiduciary Relationship.** DESIGN-BUILDER recognizes and accepts a fiduciary relationship of trust and confidence established between DESIGN-BUILDER and CITY by this Agreement and agrees that it shall at all times in good faith use its best efforts to advance CITY’s interests and agrees to perform the Design Services and the Work in the best professional manner.
- 13.7. **Field Orders.** The CITY will have authority to order minor changes in the Work not involving an adjustment in the Guaranteed Maximum Not-to-Exceed Price or an extension of the Contract Time and not inconsistent with the intent of the Detailed Design and Design Documents. Such Changes shall not bear any impact to cost or schedule and may be effected by written Field Order and shall be binding on the CITY and the DESIGN-BUILDER. If DESIGN-BUILDER believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

- 13.8. **Emergencies.** In any emergency affecting the safety of persons or property, the DESIGN-BUILDER shall act, at DESIGN-BUILDER'S discretion, to prevent threatened damage, injury or loss. Any increase in the Guaranteed Maximum Not-to-Exceed Price or extension of the Contract Time claimed by the Contractor on account of emergency work shall be determined as provided in this Article.

#### ARTICLE 14- CLAIMS FOR ADDITIONAL COST OR TIME

- 14.1. **Limitation on and Operation of DESIGN-BUILDER Claims.** DESIGN-BUILDER and CITY understand and agree that the Guaranteed Maximum Not-to-Exceed Price cannot increase, unless CITY specifically orders a Change to the Project pursuant to Article 13 – “Changes in the Project of this Agreement,” or unless DESIGN-BUILDER encounters a condition or situation within the risk assumed by the CITY under Paragraph 6.2 “Adjustment to Guaranteed Maximum Not-to-Exceed” of this Agreement. In the event DESIGN-BUILDER believes it is entitled to make claims to increase the Guaranteed Maximum Not-to-Exceed Price or to extend the Contract Time, such claims must be made in strict compliance with this Article 14. The use of the term “claim” in this Article does not constitute an error, omission, or inappropriate conduct by either party.
- 14.2. **Claims for Extraordinary Unforeseeable Subsurface or Concealed Conditions.** DESIGN-BUILDER understands and agrees that the risk of increased costs in the Design Services and the Work caused by the conditions of the Project site, is pending the completion of the geotechnical investigation at the site. The parties agree that there are limited circumstances under which DESIGN-BUILDER may be entitled to an increase in the Guaranteed Maximum Not-to-Exceed Price due to extraordinary subsurface or otherwise concealed conditions that are:
- a. unknown to DESIGN-BUILDER; and
  - b. not reasonably foreseeable or anticipated by DESIGN-BUILDER in view of DESIGN-BUILDER'S representations and warranties contained in this Agreement; and
  - c. which are either:
    - 1. materially different than the assumptions made as the basis for the DESIGN-BUILDER'S bid proposal; or
    - 2. materially different from those ordinarily found to exist and generally recognized and inherent in construction activities of the character provided for in the Contract, then DESIGN-BUILDER may seek an adjustment to the Guaranteed Maximum Not-to-Exceed Price and/or an extension of the Contract Time, provided that DESIGN-BUILDER shall give notice to the CITY in writing before the conditions are disturbed and in no event later than seven (7) calendar days after DESIGN-BUILDER discovers or observes the conditions.

3. Upon receipt of said notice, CITY shall investigate such conditions and decide whether the conditions meet the requirements in this Article for an extraordinary and unforeseeable condition. CITY shall notify DESIGN-BUILDER in writing within fourteen (14) days of its determination. If CITY determines that the conditions do not meet the requirements under this Article for an extraordinary and unforeseeable condition, CITY shall specify the reasons for that determination.
- d. Examples of conditions that would extraordinary and include: buried vehicle bodies, which reasonably require DESIGN-BUILDER to utilize equipment to remove said vehicles which was not contemplated by DESIGN-BUILDER as necessary to perform the Work; burial or archeological finds; dump or garbage pits that contain more than fifty (50) cubic yards of refuse to be hauled off of the Project site; drain fields; storage tanks, voids or tunnels; or rock formations which require “jack hammering” or “blasting” to excavate or remove; and groundwater higher than three (3) feet below existing ground level, which cannot be diverted or removed through the use of four-inch (4”) pumps on the Project site.
- e. Examples of conditions that are reasonably foreseeable and do not qualify for an adjustment include: materials expected to be found in river bottom soil, including but not limited to, cobblestones, clay, sand, silt and gravel (and combinations thereof), boulders up to one ton in size, car bodies or vehicles, which do not require DESIGN-BUILDER to utilize equipment for removal which was not contemplated by DESIGN-BUILDER for use in performing the Work, garbage pits containing less than fifty (50) cubic yards of material.

**14.3. Conditions for DESIGN-BUILDER Claims.** Claims by the DESIGN-BUILDER against the CITY are subject to the following terms and conditions:

- a. All DESIGN-BUILDER claims against the CITY shall be initiated by a written claim submitted to the CITY’s Representative. Such claim must be received by the CITY’s Representative no later than fourteen (14) calendar days after the event or the first appearance of the circumstances causing the claim, and must set forth in detail all known facts and circumstances supporting the claim and such claim must designate whether the claim affects the Design Services and Work;
- b. The DESIGN-BUILDER and the CITY shall continue their performance hereunder regardless of the existence of any claims submitted by the DESIGN-BUILDER;
- c. In the event the DESIGN-BUILDER seeks to make a claim for an increase in the Guaranteed Maximum Not-to-Exceed Price, as a condition precedent to any liability of the CITY therefore, the DESIGN-BUILDER shall strictly comply with the claim notice requirements above, and such claim shall be made by the DESIGN-BUILDER before proceeding to execute any additional or changed work. Failure of the condition precedent to occur shall constitute a waiver by the DESIGN-BUILDER of any claim for additional compensation;
- d. In connection with any claim by the DESIGN-BUILDER against the CITY for an increase in the Guaranteed Maximum Not-to-Exceed Price, any liability of the CITY shall be strictly limited to the actual costs incurred by the DESIGN-BUILDER and a total mark-up of no

greater than 15% for all overhead, all indirect costs, and profit of DESIGN-BUILDER and its Subcontractors, suppliers, consultants and agents, and shall in no event include consequential damages of the DESIGN-BUILDER. The CITY shall not be liable to the DESIGN-BUILDER for claims of third parties, including Subcontractors, unless and until liability of the DESIGN-BUILDER has been established therefore in a court of competent jurisdiction;

- e. In the event the DESIGN-BUILDER should be delayed in performing any task which at the time of the delay is then critical or which during the delay becomes or may become critical to the extent attributable to any act or omission by the CITY or someone acting in the CITY's behalf, or by CITY-authorized Change Orders, prolonged extreme weather not reasonably anticipatable, unavoidable accidents beyond DESIGN-BUILDER'S control, fire, active interference by third parties with DESIGN-BUILDER'S duties on-site, or other acts of God, all relating to the Project site, the date for achieving Substantial Completion, or, as applicable, Final Completion, shall be appropriately adjusted by the CITY, and the Guaranteed Maximum Not to Exceed Price will be equitably adjusted for reasonable unavoidable costs, upon the written claim of the DESIGN-BUILDER, in accordance claim notice requirements outlined above, as the DESIGN-BUILDER'S sole remedy. A task is critical within the meaning of this subparagraph if, and only if, said task is on the critical path of the project schedule so that a delay in performing such task will delay the Substantial or Final Completion of the Project. Any claim for an extension of time by the DESIGN-BUILDER shall strictly comply with the claim notice requirements above. If the DESIGN-BUILDER fails to make such claim as required in this subparagraph, any claim for an extension of time shall be waived.
- f. An extension of the Contract Time and equitable adjustment to the Guaranteed Maximum Not to Exceed Price will be the DESIGN-BUILDER'S sole remedy for any delays of DESIGN-BUILDER, whether or not delays are caused by CITY, CITY's Representative and whether or not such delays are foreseeable, unless delays are caused by acts of the CITY which constitute active interference with DESIGN-BUILDER'S performance of the Work, and only to the extent such acts continue after the DESIGN-BUILDER furnishes the CITY with written notice of such interference. In no other event shall the DESIGN-BUILDER be entitled to any compensation or recovery of any damages in connection with any delay, including, without limitation, consequential damages, lost opportunity costs, impact damages, or other similar remuneration. The CITY's exercise of any of its rights or remedies under the Contract Documents, including, without limitation, ordering changes in the Work, direct suspension, or correction of the Work and, regardless of the extent or frequency of the CITY's exercise of such remedies, shall not be construed as active interference with the DESIGN-BUILDER'S performance of the Work.
- g. If the DESIGN-BUILDER submits a schedule or progress report indicating, or otherwise expressing an intention to achieve completion of the work prior to any completion date required by the Contract Documents or expiration of the Contract Time, no liability of the CITY to the DESIGN-BUILDER for any failure of the DESIGN-BUILDER to so complete the Work shall be created or implied. However, CITY agrees to reasonably cooperate with requests of DESIGN-BUILDER to accelerate the Work.

## ARTICLE 15 – SUBCONTRACTORS

- 15.1. **Subcontractor Defined.** A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Design Services or Work at the site.
- 15.2. **Supplier Defined.** A Supplier means an entity or person providing only equipment or materials for the performance of the Work.
- 15.3. **Naming of Subcontractors.** At the time of the execution of this Agreement, DESIGN-BUILDER shall provide to CITY in writing a list of those subcontractors who DESIGN-BUILDER intends to use in the performance of those portions of the Work under the Contract which involve plumbing, heating, air conditioning or electrical work. Prior to any construction, and on an ongoing basis, to keep the information current, complete and accurate, DESIGN-BUILDER must provide to CITY forms, as required by the applicable taxing authorities, showing dates, names, addresses, contracting parties, including all Subcontractors and Suppliers and all other relevant information required.
- 15.4. **Terms of Subcontracts and Purchase Orders.** All subcontracts and purchase orders with Subcontractors shall afford DESIGN-BUILDER rights against the Subcontractor which correspond to those rights afforded to CITY against DESIGN-BUILDER herein, including those rights of Contract suspension, termination, and stop Work orders as set forth herein. It is expressly agreed that no relationship of agency, employment, contract, obligation or otherwise shall be created between CITY and any Subcontractor of DESIGN-BUILDER and a provision to this effect shall be inserted into all agreements between DESIGN-BUILDER and its Subcontractors.
- 15.5. **DESIGN-BUILDER Responsible for Acts of its Subcontractors.** DESIGN-BUILDER shall be responsible for all and any acts, defaults, omissions or negligence of its Subcontractors, Suppliers, and consultants, as related to or affecting the performance of Design Services and the Work.
- 15.6. **Personnel.** DESIGN-BUILDER shall employ and assign only qualified and competent personnel to perform any service or task concerning the Project. DESIGN-BUILDER shall designate one such person as the Project Manager. Absent written instruction from DESIGN-BUILDER to the contrary, the Project Manager shall be deemed to be DESIGN-BUILDER'S authorized representative and shall be authorized to receive and accept all communications from CITY. DESIGN-BUILDER shall provide a listing of key design and supervisory personnel to CITY within ten (10) days of an executed contract.

If, at any time during the course of the Project, CITY reasonably determines that the performance of any of the DESIGN-BUILDER'S personnel working on the Project is unsatisfactory, CITY'S Representative shall notify DESIGN-BUILDER of the same, and shall set forth the instances of unsatisfactory performance. CITY requests to remove any of the DESIGN-BUILDER'S personnel shall be in writing and shall contain substantive reasons therefore. In the event CITY requests the removal of any of the DESIGN-BUILDER'S personnel, DESIGN-BUILDER shall immediately comply and shall immediately replace such



individual with a qualified substitute to whom CITY makes no objection, at no cost or penalty to CITY for delays or inefficiencies the change may cause.

- 15.7. **Removal of Subcontractors.** If, at any time during the course of the Project, CITY reasonably determines that the performance of any Subcontractor working on the Project is unsatisfactory, CITY's Representative shall notify DESIGN-BUILDER of the same, and shall set forth the instances of unsatisfactory performance. Promptly on receipt of such notice, DESIGN-BUILDER shall undertake to cure such unsatisfactory performance or shall remove such Subcontractor from the Project and promptly replace such Subcontractor. Any cure of unsatisfactory performance or any replacement of a Subcontractor pursuant to this Paragraph shall be at no cost or penalty to CITY for any increased costs, delays or inefficiencies caused by such unsatisfactory performance, its cure, or by the replacement of a Subcontractor hereunder.

## **ARTICLE 16 - UNCOVERING AND CORRECTING WORK**

- 16.1. **DESIGN-BUILDER Not to Cover Work Contrary to Requirements.** If any of the Work is covered, concealed or obscured contrary to the written request of CITY, or contrary to any provision of the Agreement, said Work shall, if required by CITY, be uncovered for inspection and shall be properly replaced at DESIGN-BUILDER'S expense without change in the Contract Time.
- 16.2. **CITY's Right to Order Uncovering of Any Work.** If any of the Work is covered, concealed or obscured by DESIGN-BUILDER in a manner consistent with its obligations under this Agreement, it shall, if required by CITY, be uncovered for inspection. If such Work conforms strictly with the Agreement, the cost of uncovering and proper replacement shall by Change Order be charged to CITY. If such Work does not strictly conform with the Agreement, DESIGN-BUILDER shall pay the cost of uncovering and proper replacement.
- 16.3. **Duty to Correct Rejected Work.** DESIGN-BUILDER shall immediately proceed to correct Work rejected by CITY as defective or failing to conform to the Agreement. DESIGN-BUILDER shall pay all costs and expenses associated with correcting such rejected Work, including any additional testing and inspections made necessary thereby.
- 16.4. **Duty to Correct Defective Work Discovered After Completion.** In addition to its warranty obligations set forth elsewhere herein, DESIGN-BUILDER shall be specifically obligated to correct any and all defective or nonconforming Work for a period of twelve (12) months following Final Completion, upon written direction from CITY. This obligation shall survive final payment by CITY and termination of the Agreement. Nothing contained in this subparagraph shall establish any period of limitation with respect to other obligations, which DESIGN-BUILDER has under the Agreement. Establishment of the one-year time period relates only to the duty to DESIGN-BUILDER to specifically correct the Work.
- 16.5. **CITY's Option to Accept Defective Work.** CITY may, but shall in no event be required to, choose to accept defective or nonconforming Work. In such event, and if the DESIGN-BUILDER has refused to promptly remove and correct the defective work, the Guaranteed Maximum Not-to-Exceed Price shall be reduced by the reasonable costs of removing and

correcting the defective or nonconforming Work. CITY shall be entitled to such reduction in the Guaranteed Maximum Not-to-Exceed Price regardless of whether CITY has, in fact, removed and corrected such defective Work. If the unpaid balance of the Guaranteed Maximum Not-to-Exceed Price, if any, is insufficient to compensate CITY for the acceptance of defective or nonconforming Work, DESIGN-BUILDER shall, upon written demand from CITY, pay CITY such additional compensation for accepting defective or nonconforming Work.

## **ARTICLE 17 – DESIGN-BUILDER’S REPRESENTATIONS, WARRANTIES, DUTIES, AND RESPONSIBILITIES**

- 17.1. **Licensed and qualified.** DESIGN-BUILDER on its own behalf or through contracts with others, is professionally and fully qualified to act as the design professional and the general contractor for the Project and is, and will remain, properly licensed in the state of Idaho to practice engineering and/or architecture and general contracting by all public entities having jurisdiction over DESIGN-BUILDER or the Project.

Unless otherwise expressly provided in this Agreement, DESIGN-BUILDER shall obtain and maintain all necessary licenses, permits, or other authorizations necessary to allow DESIGN-BUILDER to perform the Work for the Project until DESIGN-BUILDER’S duties have been fully satisfied;

- 17.2. **Familiar with Site and Local Conditions.** Prior to the execution of this Agreement, DESIGN-BUILDER has visited and inspected the entire Project site and relevant areas adjacent thereto and the local conditions under which the Project is to be designed, constructed and operated and DESIGN-BUILDER has reviewed the site as necessary, to determine the conditions under which the Work will be performed, and DESIGN-BUILDER accepts the conditions of the Project site and areas adjacent thereto which may impact the performance of the Work and has taken those conditions into account in entering into the Agreement, provided, however, that DESIGN-BUILDER’S acceptance herein applies to the extent that the Site conditions are unchanged in any material respect from those described in the demolition design documents;

- 17.3. **At Risk; Guaranteed Maximum Not-to-Exceed Price.** In entering into this Agreement, DESIGN-BUILDER represents that it has made such independent inspections as it has determined, based on its extensive experience, to be reasonably necessary and prudent. The Guaranteed Maximum Not-to-Exceed Price includes amounts which DESIGN-BUILDER understands and agrees are sufficient to cover any foreseeable conditions (concealed, subsurface, or other). Consequently, should foreseeable concealed conditions encountered in the performance of the Work, whether surface or subsurface, be at variance with the conditions indicated by the Contract Documents or at variance with DESIGN-BUILDER’S expectations, DESIGN-BUILDER agrees that no adjustment in the Guaranteed Maximum Not-to-Exceed Price shall be made, and DESIGN-BUILDER shall complete the Work, absorbing all such unexpected expense; provided, however that DESIGN-BUILDER may seek an adjustment to the Guaranteed Maximum Not-to-Exceed Price if the conditions encountered in the performance of the Work are covered by and within risks expressly assumed by CITY in this Agreement;

- 17.4. **Time is of the Essence.** The DESIGN-BUILDER warrants that the Contract Time is a reasonable period for performing the work, and that the Scheduled Completion Date provides a reasonable period of time for performing the Work; DESIGN-BUILDER to perform all Design Services and Work required by the Contract. The intent of the Contract is to require complete, correct and timely execution of the Design Services and the Work. Any and all Design Services and Work that may be required, reasonably implied or reasonably inferred by the Contract, or any part of it, as necessary to fully comply with the Contract and produce the intended result, or as otherwise indicated by CITY as of the effective date of this Agreement consistent with the attachments to this Agreement described in Paragraph 1.1, shall be provided by DESIGN-BUILDER without increase to the Guaranteed Maximum Not-to-Exceed Price.
- 17.5. **Strict Compliance with the Contract Documents.** All Work performed by DESIGN-BUILDER shall be in strict compliance with the Contract Documents, unless deviation from strict compliance has been approved by CITY. "Substantial compliance" is not strict compliance. Any Work not in strict compliance with the Contract Documents is defective.
- 17.6. **Supervision of the Work.** The Work shall be strictly supervised and directed using DESIGN-BUILDER'S best and highest skill and effort, DESIGN-BUILDER bearing full responsibility for any and all acts or omissions of those engaged in the Work on behalf of DESIGN-BUILDER.
- 17.7. **Warranty of Workmanship and Materials.** DESIGN-BUILDER warrants and guarantees to CITY that all labor furnished to progress the Work under the Agreement will be competent to perform the tasks undertaken and is the best quality reasonably obtainable, that the product of such labor will yield only high quality results in strict compliance with the Contract, that materials and equipment furnished will be of high quality and new unless otherwise permitted by the Contract, and that the Work will be of high quality, free from faults and defects and in strict conformance with the Contract. CITY requires approval of the final finish materials. All Work not strictly conforming to these requirements shall be considered defective and shall constitute a breach of DESIGN-BUILDER'S warranty.
- 17.8. **Commencement of Guarantee and Warranty Periods.** Special or specific guarantees and warranties, which are required by the Agreement to run for a fixed period of time, shall commence running on the date of Substantial Completion of all the Work.
- 17.9. **Record Copy of Contract Documents.** DESIGN-BUILDER shall continuously maintain at the site, accessible by CITY, an updated copy of the Agreement, including one record copy of the Contract Documents marked to record on a current basis changes, selections and modifications made during construction. Additionally, DESIGN-BUILDER shall maintain at the site, accessible by CITY, a copy of all shop drawings, product data, samples, and other submittals. Upon Final Completion of the Work, or upon CITY's request, all the documents described in this Paragraph shall be finally updated, delivered, both electronic and hard copy, to CITY and shall become the property of CITY. DESIGN-BUILDER shall provide at completion of the project a timelapse video of the construction site from start to completion.
- 17.10. **Review and Approval of Submittals.** DESIGN-BUILDER shall review, study, and approve, or take other necessary action upon all shop drawings, product data, samples, and other

submittals to ensure that the Project will be constructed in a timely fashion in strict compliance with the Agreement. All such submittals shall be reviewed and accepted by the appropriate design architect or engineer as applicable.

- 17.11. **CITY's Option to Review Submittals.** CITY shall, in its discretion, have the right to review and approve submittals, and if CITY so elects, DESIGN-BUILDER shall not perform any portion of the Work as to which CITY has required submittal and review until such Submittal has been approved by CITY's Representative. Approval by CITY, however, shall not be evidence that Work installed pursuant thereto conforms with the requirements of the Agreement nor shall such approvals relieve DESIGN-BUILDER of any of its responsibilities or warranties under the Agreement. If CITY elects to review submittals, DESIGN-BUILDER shall upload into the CITY's electronic project management system and maintain a Submittal log which shall include, at a minimum, the date of each Submittal, the date of any resubmittal, the date of any approval or rejection, and the reason for any approval or rejection. CITY shall provide review comments within (10) ten business days. DESIGN-BUILDER shall have the duty to perform a review of all submittals for general content and for apparent compliance with the Detailed Design before submission of same to CITY. Shop drawings and other submittals from DESIGN-BUILDER do not constitute a part of the Contract, but such submittals are understood to provide further definition and specificity of materials and equipment to be incorporated into the Work; provided, however, that if DESIGN-BUILDER submits shop drawings or submittals which are at variance with the Contract Documents including the Detailed Design documents approved by CITY, DESIGN-BUILDER must designate such fact in writing on or with the shop drawing or submittal. Failure of the CITY to approve submittals in a timely fashion and to adhere to the schedule, shall be cause for time extensions to the Contract Time, provided DESIGN-BUILDER meets the requirements of Article 14 "Claims for Additional Cost or Time."
- 17.12. **Procurement and Review of Warranties.** DESIGN-BUILDER shall procure from all Subcontractors and Suppliers and shall transmit/upload to CITY, all warranties required by the Agreement. DESIGN-BUILDER shall review all such warranties and shall certify to CITY that the warranties are in strict compliance with the requirements of the Contract.
- 17.13. **Procurement of Operations and Maintenance Documentation.** DESIGN-BUILDER shall prepare or procure and shall transmit to CITY all documentation required by the Agreement regarding the operating and recommended maintenance programs relating to the various elements of the Work.
- 17.14. **As-Built Drawings.** DESIGN-BUILDER shall prepare and provide to CITY a set of all as-built drawings that shall be complete and, except as specifically noted, shall reflect performance of the Work in strict compliance with the requirements of the Agreement. As-built drawings shall incorporate subsequent information developed by and from any additional surveying performed by the DESIGN-BUILDER and shall indicate final as-built elevations of key site conditions including, but not limited to, sewer and water invert/connection, manhole rim, street/gutter high and low points, building first floor finish elevation, etc. For purposes of this Agreement, the Project site shall include the areas defined on the illustrative site plan.

- 17.15. **Compliance with Labor Laws.** DESIGN-BUILDER shall assume all labor responsibility for all personnel assigned to or contracted for the performance of the Work and agrees to strictly comply with all its obligations as employer with respect to said personnel, including without limitation, Idaho Code §44-1001 and §44-1002.
- 17.16. **Testing, Inspections, and Approvals.** DESIGN-BUILDER shall provide, at its cost, whatever testing and/or inspections required by law or otherwise that DESIGN-BUILDER deems necessary for the completion of the Project and performance of the Work in accordance with this Agreement.
- 17.17. **Permits, Licenses and Notices.** All plan review fees, construction and building permits, licenses and authorizations necessary for the construction of the Project shall be secured on behalf of CITY and paid for by DESIGN-BUILDER, except as specified in this Agreement. DESIGN-BUILDER shall notify CITY's Representative when it has received said permits, licenses and authorizations and upon receipt shall supply CITY with copies of same. The originals of said permits, licenses and authorizations shall be delivered to CITY upon completion of the Work, and receipt of such documents by CITY shall be a condition precedent to final payment. DESIGN-BUILDER shall also give and maintain any and all notices required by applicable laws pertaining to the construction of the Work.
- 17.18. **Site Safety and Security.** DESIGN-BUILDER shall take all reasonable steps and legally required measures at the site to comply with applicable safety regulations and standards and to adequately protect the Work, stored materials, and temporary structures located on the premises, and to prevent unauthorized persons from entering upon the site. DESIGN-BUILDER shall at all times safeguard CITY's property and employees from injury or loss in connection with the performance of the Agreement. DESIGN-BUILDER shall at all times safeguard and protect its own partially or completely finished Work and that of the adjacent property and all adjacent work from damage. DESIGN-BUILDER shall protect CITY's equipment, apparatus, machinery, and other property and all adjacent work with boarding and other safeguards so as to keep the premises free from dampness, dirt, dust, or other damage and shall remove all such temporary protection upon completion of the Work. DESIGN-BUILDER shall, upon execution of this Agreement, submit to CITY its Project Safety Manual, and shall operate in accordance with said Manual.
- 17.19. **Repair of Collateral Damages.** Unless otherwise instructed by CITY, DESIGN-BUILDER shall repair and return to original condition all buildings, streets, curbs, sidewalks, utilities or other facilities affected by DESIGN-BUILDER'S performance of the Work, all without additional cost to CITY.
- 17.20. **Cleaning the Site.** DESIGN-BUILDER shall keep the site reasonably clean during performance of the Work. Upon Substantial Completion of the Work, DESIGN-BUILDER shall thoroughly clean the Project site and the Project and remove all waste, debris, trash and excess materials or equipment, together with DESIGN-BUILDER'S property therefrom.
- 17.21. **CITY's Access to Work.** At all times relevant to the Agreement, DESIGN-BUILDER shall provide access to the Work to CITY and its designees.

- 17.22. **Decisions Regarding Aesthetic Effect.** CITY's decisions in matters relating to aesthetic effect shall be final and have no effect on the Guaranteed Maximum Not-to-Exceed Price if consistent with the intent of the Detailed Design and the project budget.
- 17.23. **Periodic Meetings and Updates.** Periodically, as agreed to by CITY and DESIGN-BUILDER, or upon reasonable request of CITY, DESIGN-BUILDER will attend meetings to update CITY on the progress of the Project and to answer any questions of CITY.

## **ARTICLE 18 – CITY'S DUTIES, OBLIGATIONS, AND RESPONSIBILITIES**

- 18.1. **Access to the Site and the Work; Providing Information.** CITY shall provide DESIGN-BUILDER access to the Project site and to the Work, and shall provide DESIGN-BUILDER with such information, existing and reasonably available, necessary to DESIGN-BUILDER'S performance of the Contract as DESIGN-BUILDER may request.
- 18.2. **Cooperation to Secure Permits, Licenses, Approvals, and Authorizations -** CITY shall cooperate with DESIGN-BUILDER in securing any necessary licenses, permits, approvals or other necessary authorizations for the design, construction and certification of the Project.
- 18.3. **Timely Performance** - CITY shall perform the duties set forth in this Article in a reasonably expeditious fashion and in accordance with the project schedule so as to permit the orderly and timely progress of DESIGN-BUILDER'S Design Services and of the Work.
- 18.4. **CITY's Reviews, Inspections, Approvals, and Payments Not a Waiver.** CITY's review, inspection, or approval of any Work, Design Documents, submittals, or pay requests by DESIGN-BUILDER shall be solely for the purpose of determining whether such Work and such documents are generally consistent with CITY's construction program and requirements. No review, inspection, or approval by CITY of such Work or documents shall relieve DESIGN-BUILDER of its responsibility for the performance of its obligations under the Agreement or the accuracy, adequacy, fitness, suitability, or coordination of its Design Services or the Work. Approval by any governmental or other regulatory agency or other governing body of any Work, Design Document, or Contract Documents shall not relieve DESIGN-BUILDER of responsibility for the strict performance of its obligations under the Agreement. Payment by CITY pursuant to the Agreement shall not constitute a waiver of any of CITY's rights under the Agreement or at law, and DESIGN-BUILDER expressly accepts the risk that defects in its performance, if any, may not be discovered until after payment, including final payment, is made by CITY.
- 18.5. **Delay or Forbearance Not a Waiver.** CITY's agreement not to exercise, or its delay or failure to exercise, any right under the Agreement or to require strict compliance with any obligation of DESIGN-BUILDER under the Agreement shall not be a waiver of the right to exercise such right or to insist on such compliance at any other time or on any other occasion.
- 18.6. **Subsurface and Other Information Provided by CITY** - CITY shall furnish to DESIGN-BUILDER any and all written and tangible material knowingly in its possession concerning conditions below ground at the site of the Project, including without limitation a soils report, survey and site demolition bidding documents, if any. By furnishing such material, CITY does



not represent, warrant, or guarantee its accuracy or completeness either in whole or in part, and shall have no liability therefore.

- 18.7. **Approvals and Easements.** CITY shall obtain all easements required for construction and shall pay for necessary assessments and charges required for use and occupancy of the Work. DESIGN-BUILDER shall render such assistance as CITY may request in obtaining such easements, certificates, and the like, including for example, assistance with drawings or legal descriptions and attendance at hearings if necessary.
- 18.8. **Right to Stop Work.** In the event DESIGN-BUILDER fails or refuses to perform the Work in strict accordance with the Agreement, or is otherwise in breach of this Contract, CITY may, at its option, instruct DESIGN-BUILDER to cease and desist from performing further Work, or any part thereof. Upon receipt of such instruction from CITY in writing specifying the reasons therefore, DESIGN-BUILDER shall immediately cease and desist as instructed by CITY and shall not proceed further until the cause for CITY's instructions has been corrected, no longer exists, or CITY instructs that the Work may resume. The rights set forth in this Paragraph are in addition to, and without prejudice to, any other rights or remedies CITY may have against DESIGN-BUILDER, including the rights to terminate or withhold payment as provided herein.
- 18.9. **CITY's Right to Perform Work.** In the event CITY issues such instructions to stop Work, and in the further event that DESIGN-BUILDER fails and refuses within seven (7) days of receipt of same to provide adequate assurance to CITY that the cause of such instructions will be eliminated or corrected, then CITY shall have the right to carry out the Work with its own forces, or with the forces of other contractors, and DESIGN-BUILDER shall be fully responsible for the reasonable costs incurred in performing such Work. The rights set forth in this Paragraph are in addition to, and without prejudice to, any other rights or remedies CITY may have against DESIGN-BUILDER, including the rights to terminate or withhold payment as provided herein.
- 18.10. **CITY Personnel.** CITY shall provide to DESIGN-BUILDER a listing of key project personnel of CITY working on the Project.

## ARTICLE 19 - MISCELLANEOUS PROVISIONS

- 19.1. **Independent Contractor** – The parties warrant by their signature that no employer-employee relationship is established between City and DESIGN-BUILDER by the terms of this Agreement. It is understood by the parties hereto that DESIGN-BUILDER is an independent contractor and as such neither it nor its employees, agents, representatives, or subcontractors, if any, are employees of City for purposes of tax, retirement system, or social security (FICA) withholding.
- 19.2. **Indemnification** –DESIGN-BUILDER agrees, to the fullest extent permitted by law, to indemnify and hold harmless CITY, its officers, directors, and employees against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by DESIGN-BUILDER'S 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 DESIGN-BUILDER or its subcontractors, any claims or amounts recovered from DESIGN-BUILDER'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.

CITY agrees, to the fullest extent permitted by law, to indemnify and hold harmless DESIGN-BUILDER, its officers, directors, employees, and subconsultants against all damages, liabilities, or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the CITY's negligent acts in connection with the Project and the acts of its contractors, subcontractors or consultants or anyone for whom CITY is legally liable. 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, is five hundred thousand dollars (\$500,000) Combined Single Limits.

The CITY shall not be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence or for the negligence of others.

- 19.3. **Conflict of Interest** – DESIGN-BUILDER 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. DESIGN-BUILDER 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, DESIGN-BUILDER shall immediately disclose such conflict to CITY.
- 19.4. **Entire Agreement** - This Agreement contains the entire Agreement for the design and construction of the Idaho Falls Power Peaking Plant between the parties, 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.
- 19.5. **Assignment** – DESIGN-BUILDER 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 consultant, subcontractor or assignee shall be bound by all of the terms and conditions of this Agreement as if named specifically herein.
- 19.6. **Binding of Successors** – The parties to this Agreement each bind themselves, their partners, successors, assigns, and legal representatives to the other parties to this Agreement and to the partners, successors, assigns, and legal representatives of such other parties with respect to all covenants of this Agreement.
- 19.7. **Adherence to the Law Required** – All applicable local, state and federal statutes and regulations (including all applicable construction codes) are hereby made a part of this Agreement and shall be adhered to at all times. Violation of any of these statutes or regulations by DESIGN-BUILDER shall be deemed material and shall subject DESIGN-BUILDER to termination of this Agreement for cause. No pleas of misunderstanding or ignorance on the part of DESIGN-BUILDER will in any way serve to modify the provisions of this requirement. DESIGN-BUILDER and its surety shall indemnify and save harmless CITY and its elected

officials, employees, agents, engineers and representatives against any claim or liability arising from or based on the violation of any such laws, codes, ordinances, or regulations, whether by DESIGN-BUILDER, DESIGN-BUILDER'S employees, or its subcontractors. Any fine or penalty which may be imposed as consequence of any violation of this provision shall be paid by DESIGN-BUILDER, and DESIGN-BUILDER shall, to the extent of any violation by DESIGN-BUILDER hereunder, indemnify and hold CITY harmless from all loss, damages, and expense, including attorney's fees, resulting from any such violation or alleged violation.

- 19.8. **Changes in Regulations** –In the event that DESIGN-BUILDER 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 through a Change Order.
- 19.9. **Dispute Resolution**. If a dispute arises out of or relates to this Agreement or its breach, the parties shall endeavor to settle the dispute first through direct discussions. If the dispute cannot be settled through direct discussions, the parties shall endeavor to settle the dispute by mediation.
- a. **Work Continuance and Payment**. Unless otherwise agreed in writing, the DESIGN-BUILDER shall continue the Work and maintain the approved schedules during any mediation proceedings. If the DESIGN-BUILDER continues to perform, the CITY shall continue to make payments in accordance with this Agreement.
  - b. **Multiparty Proceeding**. The parties agree that all parties necessary to resolve a dispute shall be parties to the same mediation proceeding.
  - c. **If Mediation Fails**. If mediation fails to resolve the dispute, either party may file an action in the state courts of the Seventh Judicial District of the State of Idaho, in and for the County of Bonneville.
- 19.10. **Legal Fees** – In the event either party incurs legal expenses to enforce the terms and conditions of this Agreement, the prevailing party is entitled to recover reasonable attorney's fees and other costs and expenses, whether the same are incurred with or without suit.
- 19.11. **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.
- 19.12. **Special Warranty** – DESIGN-BUILDER warrants that nothing of monetary value has been given, promised or implied as remuneration or inducement to enter into this Agreement. DESIGN-BUILDER further declares that no improper personal, political or social activities have been used or attempted in an effort to influence the outcome of the competition, discussion, or negotiation leading to the award of this Agreement. Any such activity by DESIGN-BUILDER shall make this Agreement null and void.

19.13. **City's Representatives** – CITY shall designate a representative authorized to act on 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.

19.14. **Ownership and Publication of Materials.** All reports, information, data, and other materials prepared by DESIGN-BUILDER pursuant to this Agreement shall be the property of CITY, which shall be the exclusive and unrestricted authority to release, publish, or otherwise use them, in whole or in part. All such materials developed under this Agreement shall not be subject to copyright or patent in the United States or in any other country without the prior written approval and express authorization of CITY.

The parties acknowledge that CITY is subject to the Idaho Public Records Law, Idaho Code Title 74 Chapter 1, and agree that CITY may comply with the Idaho Public Records Law's requirements, including the requirement to allow the public to inspect and copy "public records" as defined by the Idaho Public Records Law, which may include documents or materials provided by DESIGN-BUILDER.

CITY agrees to hold harmless DESIGN-BUILDER for any use of materials developed under this Agreement beyond the uses normally intended by the parties for the Project.

CITY agrees to make a reasonable effort to notify DESIGN-BUILDER of CITY's intent, if any, to use or adapt materials developed for the Project following completion of the Project.

All Project Records, which are in the possession of DESIGN-BUILDER or DESIGN-BUILDER'S Subcontractors, shall be made available to CITY for inspection and copying upon CITY's request at any reasonable time. Additionally, such records shall be made available upon request by CITY to any state, federal or other regulatory authorities, and any such authority may review, inspect and copy such records. The Project Records include, without limitation, all drawings, plans, specifications, submittals, correspondence, logs, minutes, memoranda, photographs, tape or videotape recordings, or other writings or things which document the Project, its design, or its construction. Said records include those documents reflecting the cost of design and construction to DESIGN-BUILDER. DESIGN-BUILDER shall maintain and protect all records relating in any manner to the Project for no less than four (4) years after Final Completion of the Project.

19.15. **Non-Discrimination** - DESIGN-BUILDER shall not discriminate against any employee or applicant for employment on the basis of race, color, religion, creed, political ideals, sex, sexual orientation, gender identification/expression, age, marital status, physical or mental handicap, or national origin. Nothing in this section shall be interpreted to require DESIGN-BUILDER to provide accommodation beyond the reasonable accommodations required by Idaho and Federal law.

19.16. **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 DESIGN-BUILDER employs ten (10) or more persons, DESIGN-BUILDER 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.

- 19.17. **Certification of No Chinese Ownership** - Pursuant to Idaho Code § 67-2359, DESIGN-BUILDER certifies that DESIGN-BUILDER is not currently owned or operated by the government of the People's Republic of China and will not, for the duration of this Agreement, be owned or operated by the government of the People's Republic China.
- 19.18. **Severability.** In the event that any portion or any portions of this Contract are held to be unenforceable by a court of competent jurisdiction, then the remainder of this Contract shall be enforced as though such portions had not been included, unless to do so would cause this Contract to fail of its essential purposes.

**[intentionally left blank]**

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

ATTEST:

“CITY”

City of Idaho Falls, Idaho

By \_\_\_\_\_

Corrin Wilde, City Clerk

By \_\_\_\_\_

Rebecca L. Noah Casper, Mayor

“DESIGN-BUILDER”

\_\_\_\_\_  
Engineered Structures, Inc. (“ESI”)

By \_\_\_\_\_

By \_\_\_\_\_



STATE OF IDAHO                    )  
  ) ss.  
County of Bonneville            )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2024, before me, the undersigned, a notary public for Idaho, personally appeared Rebecca L. Noah Casper, known to me to be the Mayor of the City of Idaho Falls, Idaho, the municipal corporation that executed the foregoing document, and acknowledged to me that she is authorized to execute the same for and on behalf of said City.

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

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

(Seal)

STATE OF \_\_\_\_\_ )  
  ) ss:  
County of \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2024, before me, the undersigned, a notary public, in and for said State, personally appeared \_\_\_\_\_, known to me to be the person named above and acknowledged that he executed the foregoing document as the duly authorized representative for \_\_\_\_\_ and acknowledged to me that he executed the same for an on behalf of said \_\_\_\_\_.

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

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

(Seal)

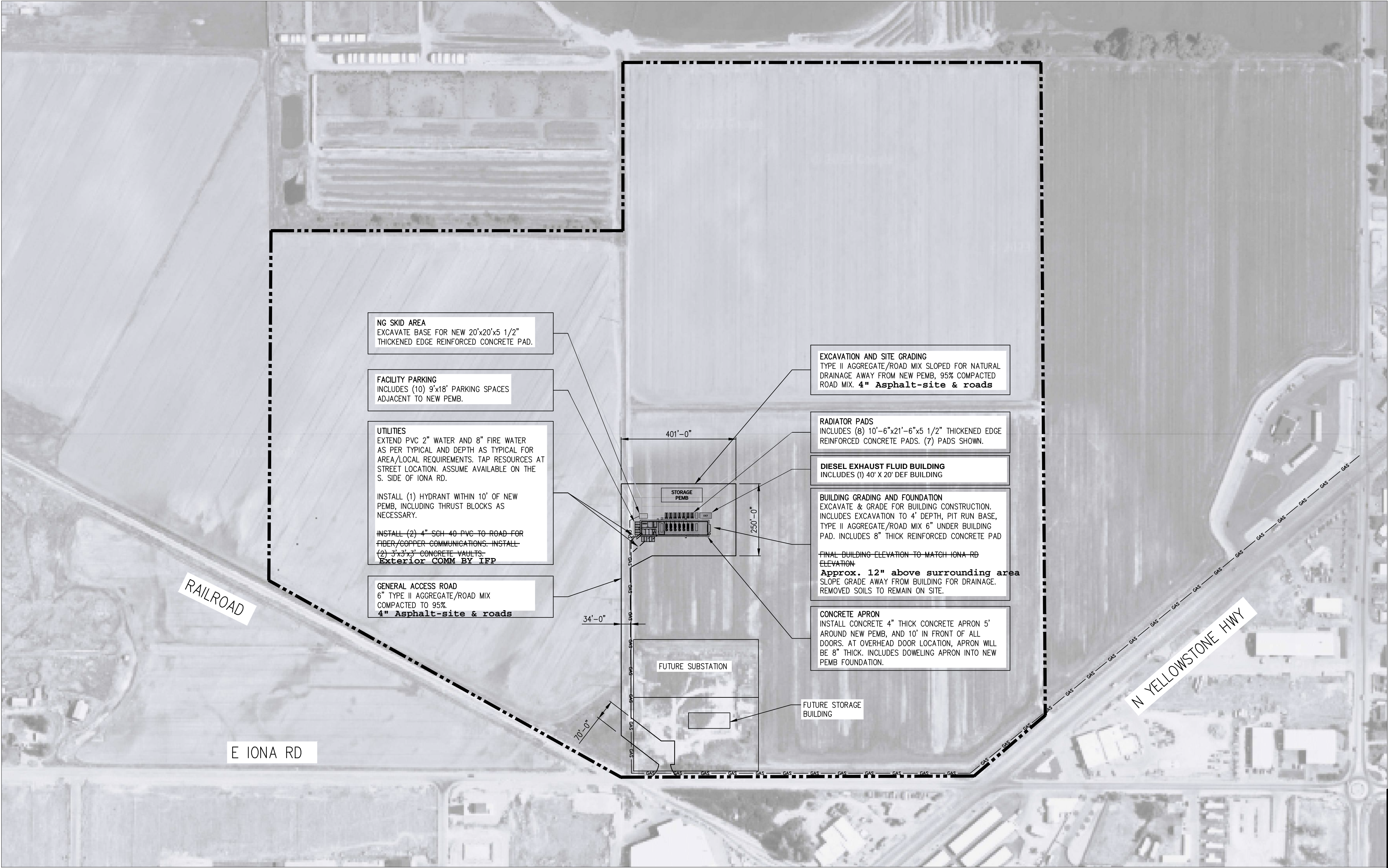




# Exhibit A - Concept Site Plan

GENERAL NOTES:

1. DRAWING IS INTENDED TO SHOW GENERAL ARRANGEMENT OF SITE. DETAILS OF SCOPE OF SUPPLY ARE CONTROLLED BY OTHER DOCUMENTS.



**PRELIMINARY**  
NOT FOR CONSTRUCTION

A	PRELIMINARY				
REV.	REVISIONS	DATE	BY	CKD	APP'D
<div><div><div>ITAC</div><div>INDUSTRIAL TURNAROUND CORPORATION 13141 N. ENON CHURCH ROAD CHESTER, VA 23836 804-414-1100 WWW.ITAC.US.COM</div></div><div><div>TITLE</div><div>IDAHO FALLS POWER NG POWER GENERATION PLANT OVERALL LAYOUT PLAN</div></div><div><div>DATE</div><div>10/4/23</div></div><div><div>SCALE</div><div>NOT TO SCALE</div></div><div><div>DRAWING NO.</div><div>234736-S-003</div></div><div><div>REV.</div><div>A</div></div></div>					

PROJECT NO.	234736	
DRAWN	JDH	10/4/23
CHECKED	BAW	10/4/23
ENGRG		

This drawing contains confidential information, data, and details of Industrial Turnaround Corporation and is supplied for use only on the authorized project. This document may be used by the client only for the project and for the specific purposes for which it was created and not for other projects, other clients, other companies, or other purposes. It is the property of Industrial Turnaround Corporation. Client may share this document in their parties performing maintenance or repair work for client if such they parties are under a contractual obligation not to disclose, distribute, duplicate, or use and modified information to other parties. Any use of, or reliance on, this document by any third party is at the third party's sole risk. This drawing must not be used for construction or fabrication until signed as checked and issued for construction.



Revised Site Plan Layout

Option 1- Provide a  
7000' SQFT Storage  
Building (PEMB)

**STORAGE  
PEMB**

**DEF**

250'-0"

New 20' x 40 DEF  
Building- Part of Base  
Bid.

GAS  
GAS  
G

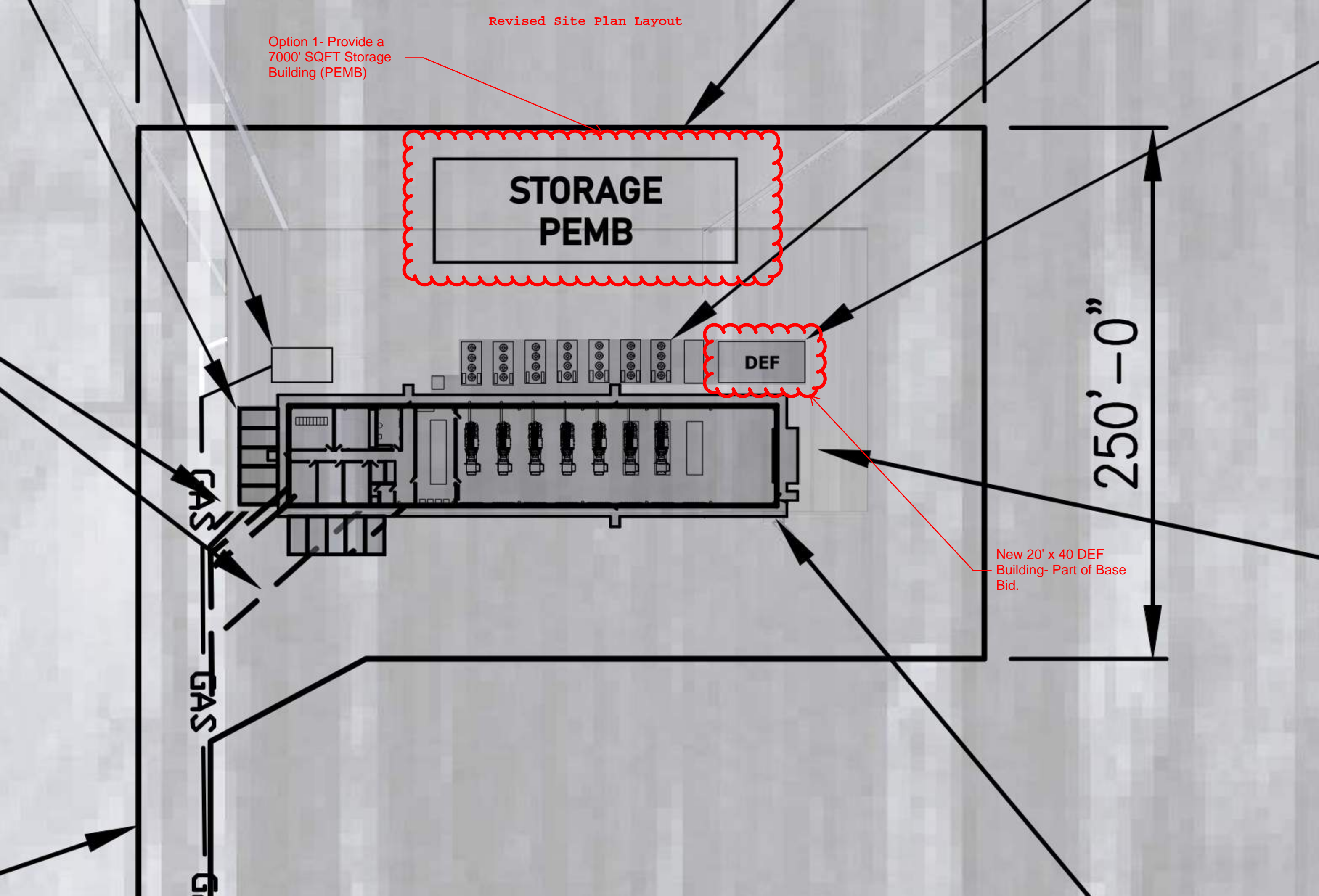
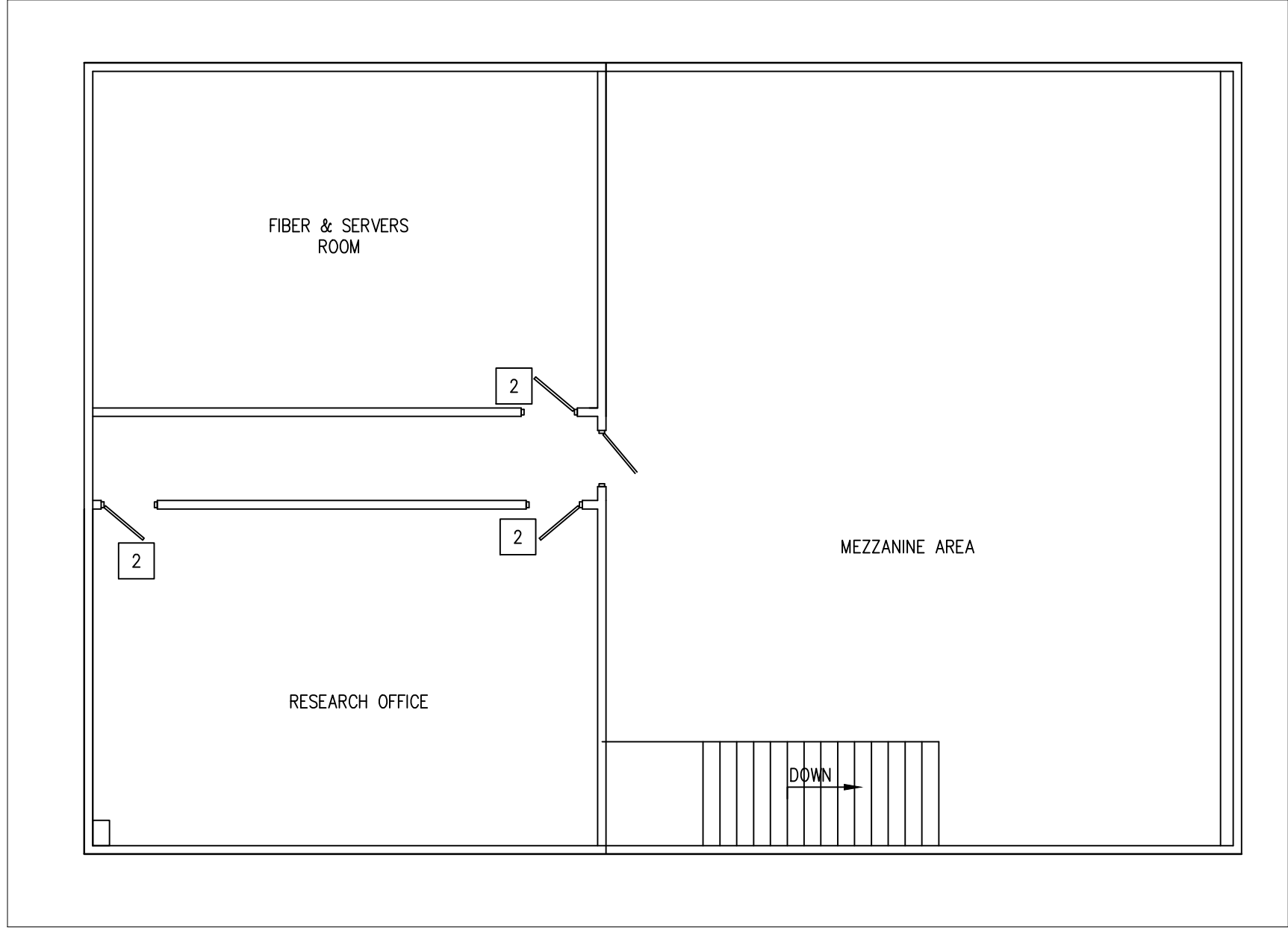
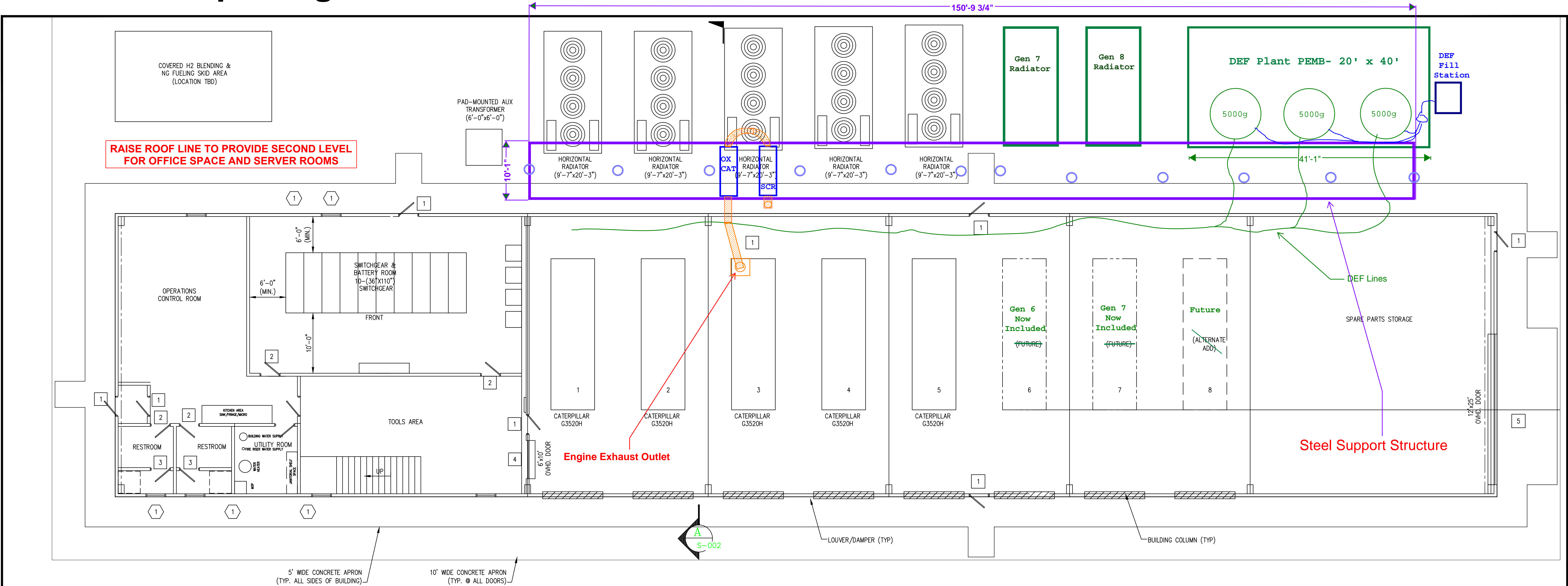


Exhibit B - Concept Bldg Floor Plan

FLOOR PLAN MODIFIED BY IDAHO FALLS POWER  
11-22-2023 OPTION 4



DOOR SCHEDULE							
DOOR NUMBER	QUANTITY	DOOR			FRAME		REMARKS/COMMENTS
		SIZE	TYPE	MATERIAL	CLOSER	MATERIAL	
1	8	3'-0"x7'-0"x1 3/4"	VISION LITE	H.M.	OVERHEAD CLOSER	H.M.	PANIC BAR/LEVER HARDWARE
2	6	3'-0"x7'-0"x1 3/4"	NARROW LITE	H.M.	OVERHEAD CLOSER	H.M.	LEVER HARDWARE
3	3	3'-0"x7'-0"x1 3/4"	FLUSH	H.M.	OVERHEAD CLOSER	H.M.	LEVER HARDWARE
4	1	6'-0"x10'-0"	ROLL-UP	STEEL	-	STEEL	SEE DOOR NOTES
5	1	25'-0"x12'-0"	ROLL-UP	STEEL	-	STEEL	SEE DOOR NOTES

DOOR NOTES:

- DOORS AND FRAMES SHALL BE HOLLOW STEEL IN ACCORDANCE WITH ANSI/SDI A250.8. DOOR HARDWARE SHALL BE IN ACCORDANCE WITH SDI-109. DOORS AND FRAMES SHALL BE AS MANUFACTURED BY CECO OR AN APPROVED EQUAL.
- DOORS SHALL BE 20 GA AND FRAMES SHALL BE, 16 GA. MINIMUM, SURFACE MOUNT TYPE W/ 2" JAMBS AND 2" HEADS UNLESS OTHERWISE NOTED. ALL VISION LITES SHALL BE WIRED AND TEMPERED SAFETY GLASS AND SHALL BE 6"x6" MINIMUM. HARDWARE SHALL BE FINISH US260 UNLESS OTHERWISE NOTED.
- DOORS, FRAMES AND HARDWARE SHALL BE AS FOLLOWS:  
DOOR: SIZES AS NOTED.  
PANIC BAR/LEVER: ARROW 3700 VERTICAL ROD SERIES LOCKSET  
CLOSERS: ARROW DON325 SERIES.  
THRESHOLD: WOOSTER ALUMOGIRIT TYPE 115S, 5" WIDE.  
HINGES: STANLEY 4 1/2" x 4 1/2" S.S. FBB179 FULL MORTISE.  
WEATHERSTRIP/SWEEP: PEMKO 315C.
- ROLL-UP DOORS SHALL BE INSULATED STEEL DOOR, FULLY WEATHERSTRIPPED WITH A CHAIN HOIST OPERATION ASSEMBLY. DOOR SHALL BE CORNELL IRON WORKS THERMISER MAX UNSULATED ROLLING DOOR, MODEL ESD30, OR APPROVED EQUAL.

FLOOR PLAN

1/8"=1'-0"

WINDOW SCHEDULE						
DOOR NUMBER	QUANTITY	WINDOW			FRAME	REMARKS/COMMENTS
		SIZE	TYPE	MATERIAL	MATERIAL	
1	5	3'-4"x5'-0"	DOUBLE HUNG	GLASS	ALUM.	SEE WINDOW NOTES

WINDOW NOTES:

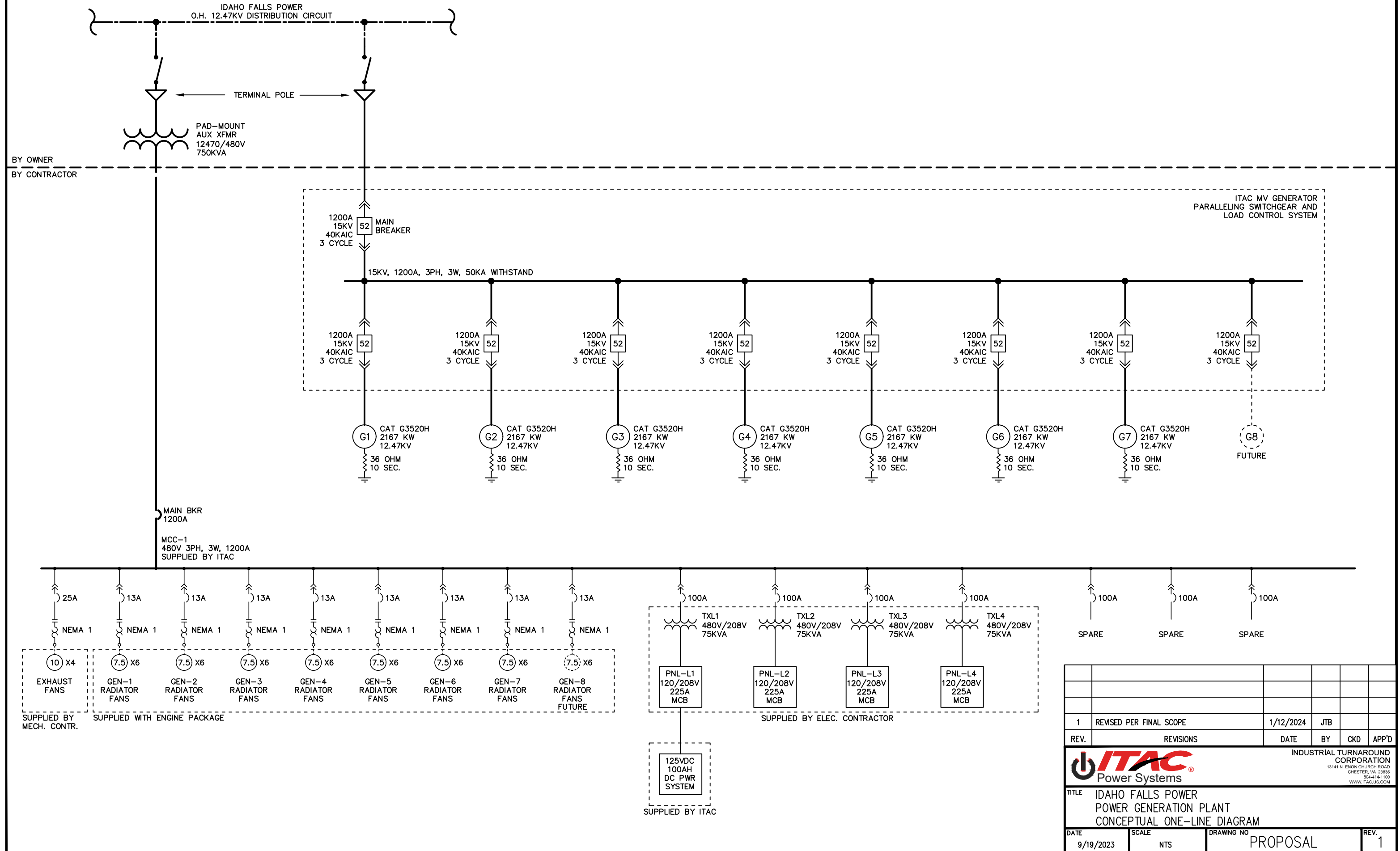
- WINDOWS SHALL BE HEAVY DUTY ALUMINUM WITH 3 1/4" FRAMES AND 1" TEMPERED, INSULATED CLEAR GLASS.
- WINDOWS SHALL INCLUDE ALL LOCKING HARDWARE AND WEATHERSTRIPPING.

**PRELIMINARY  
NOT FOR CONSTRUCTION**

PROJECT NO.	234736				
DRAWN	JDH	9/19/23			
CHECKED					
ENGRG					
DATE	9/19/23	SCALE	1/8"=1'-0"	DRAWING NO.	234736-S-001
TITLE	IDAHO FALLS POWER NG POWER GENERATION PLANT BUILDING LAYOUT PLAN				
REV.	A				

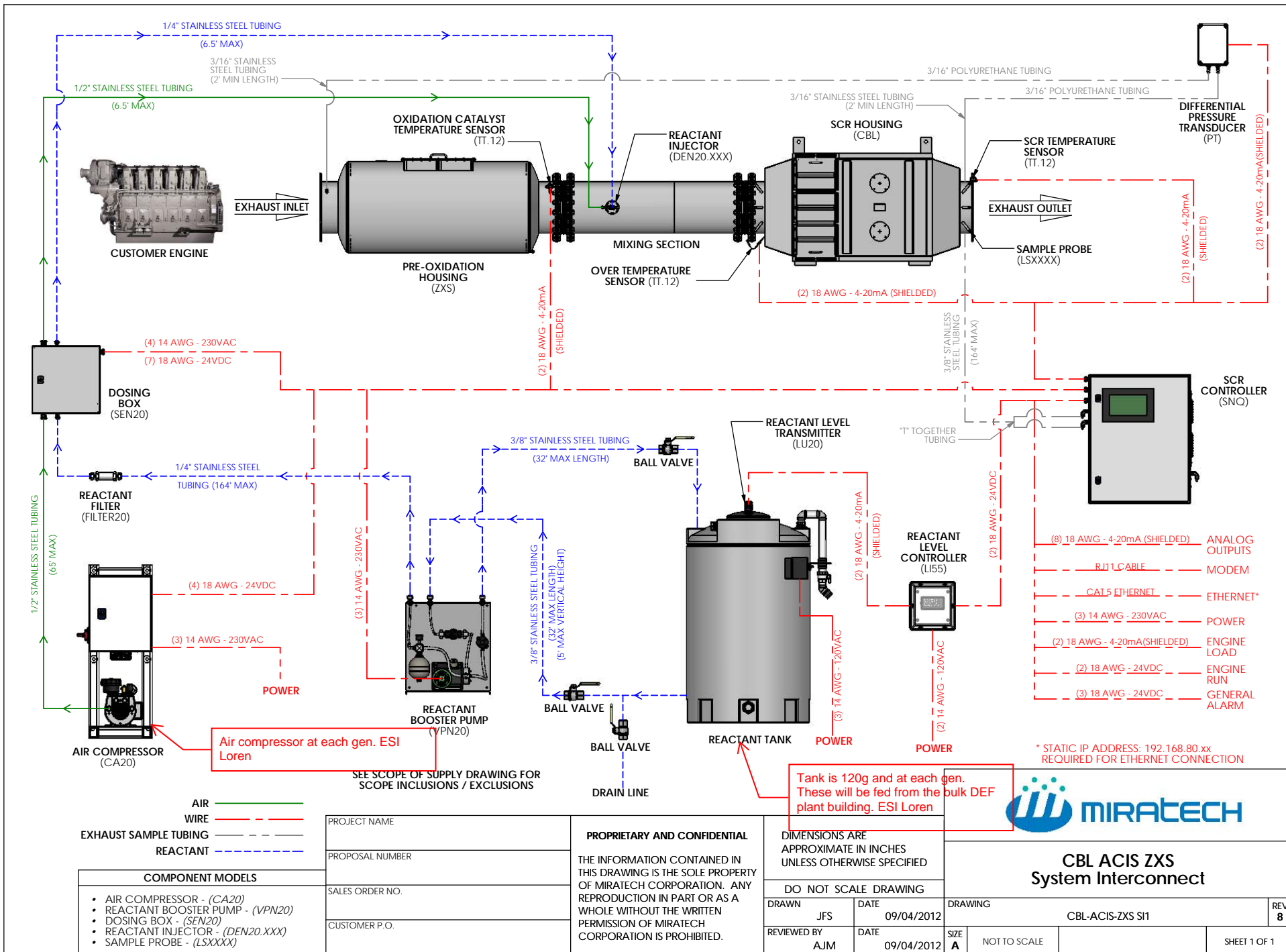
N:\Engineering\Design\Design Projects\Capital Improvement Projects\Feeding Plant-BLDG options\Design\Maps\_JFP\_VFP Option-4\_234736-S-001.dwg

## Exhibit C - Concept Oneline Diagram



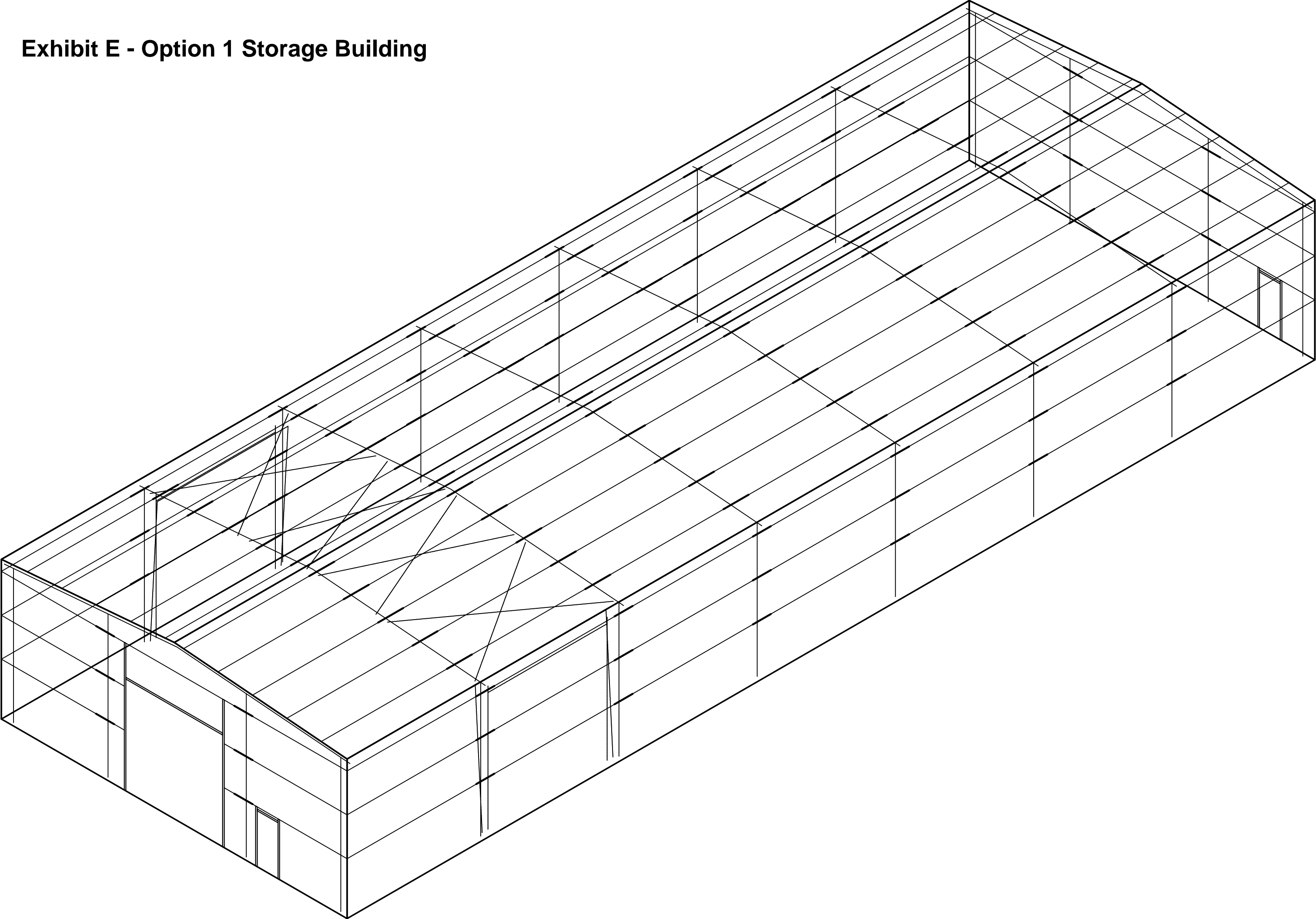


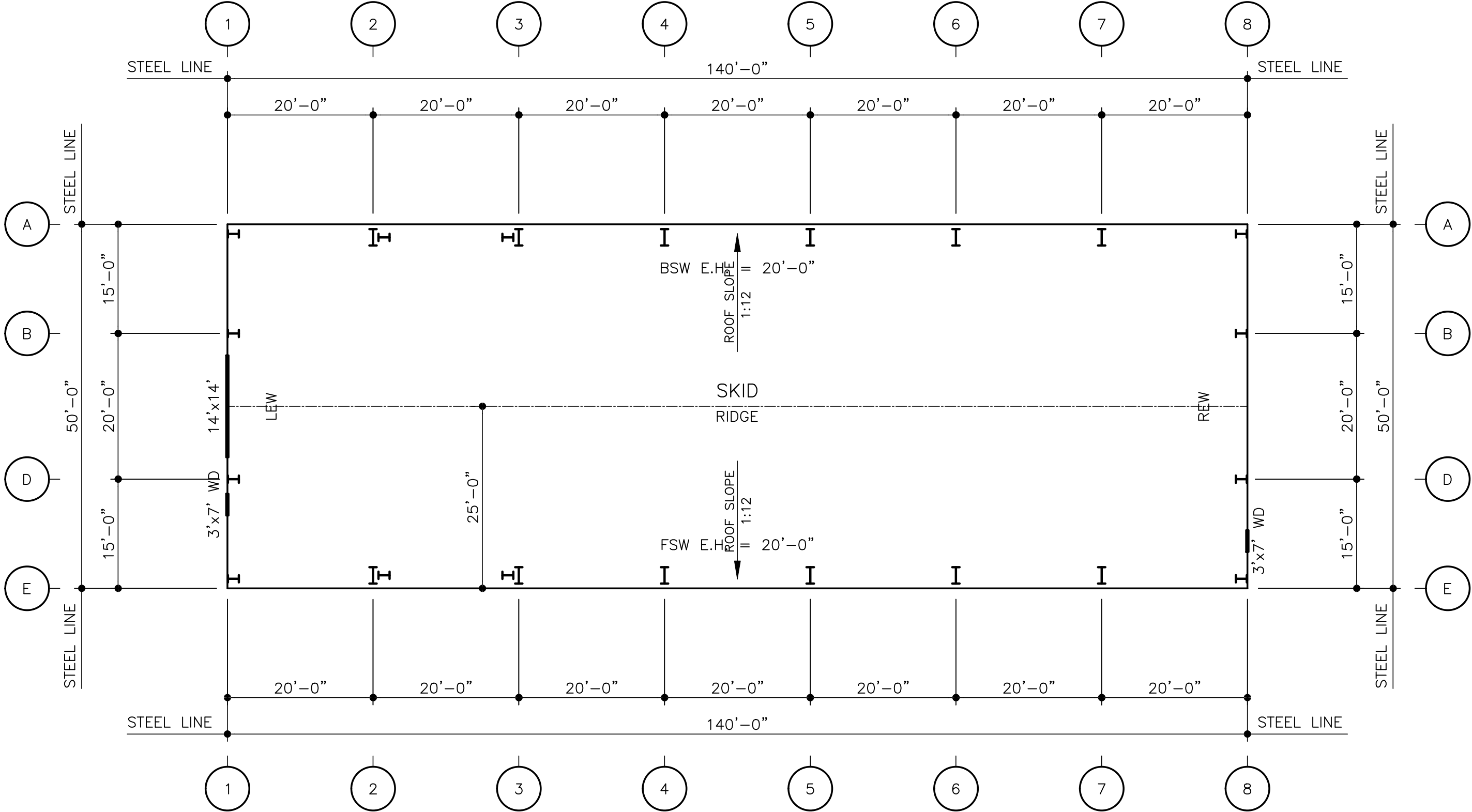
## Exhibit D - Miratech SCR-DEF





**Exhibit E - Option 1 Storage Building**





DO NOT USE FOR FINAL CONSTRUCTION

SHEET TITLE:  
PRELIMINARY FLOOR PLAN

SHEET NUMBER:  
FP1

QUOTE NUMBER:  
ID-17023F

PROJECT NAME:

IDAHO FALLS POWER – STORAGE

IDAHO FALLS, ID

CUSTOMER NAME:

ULTIMATE STEEL ERECTION INC

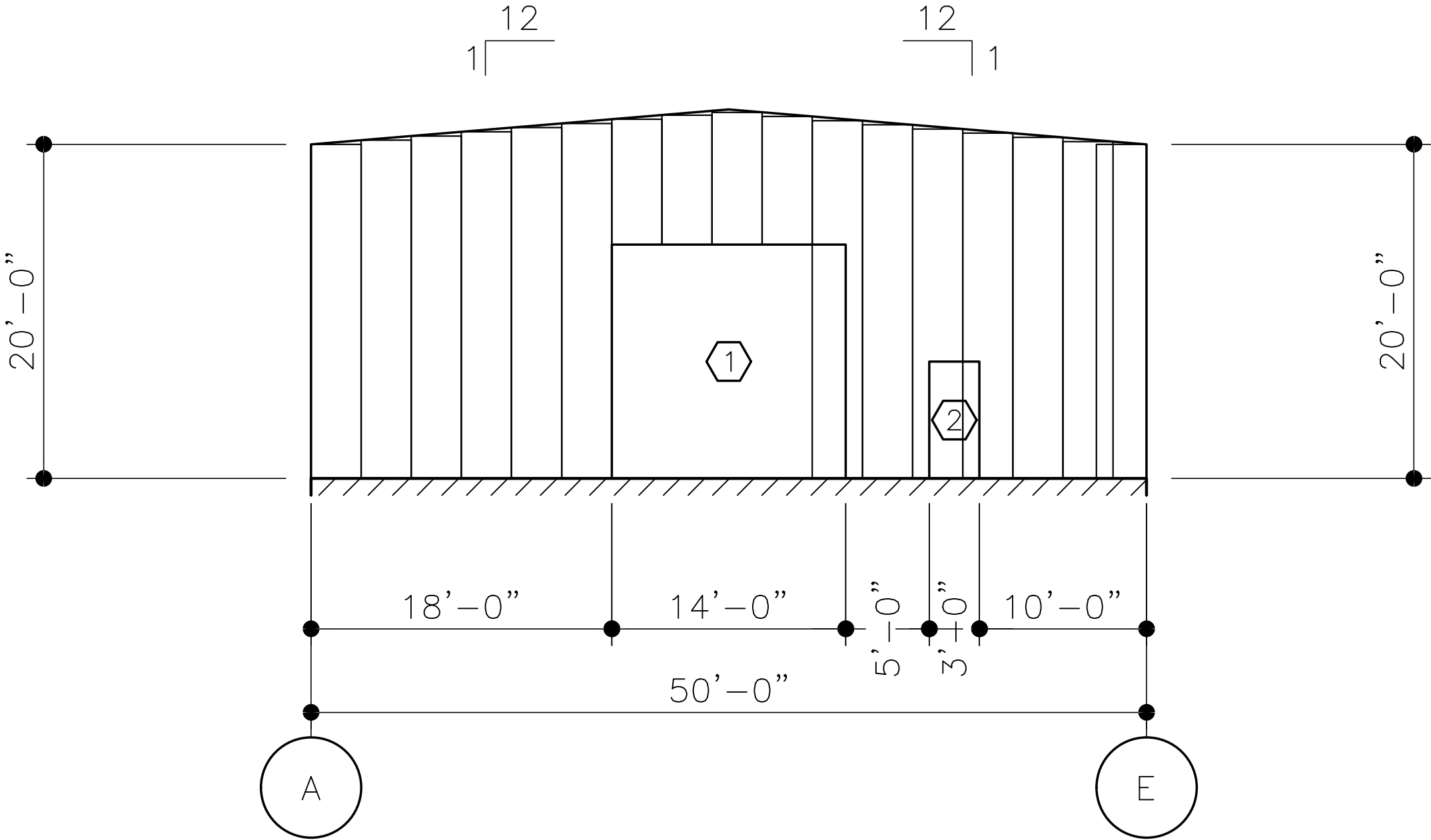
REXBURG, ID



KEY PLAN

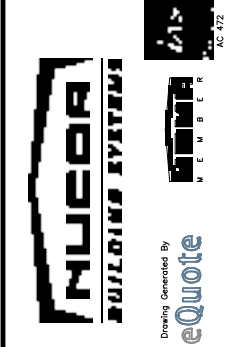


FRAMED OPENING SCHEDULE					
ID	QTY	WIDTH	HEIGHT	SILL HEIGHT	LOCATED
1	1	14'-0"	14'-0"	0'-0"	FACTORY
2	1	3'-0"	7'-0"	0'-0"	FACTORY



WALL SHEETING ELEVATION AT LINE 1

PANELS: 26 GA. R-PANEL – TO BE SELECTED (PVDF)



PROJECT NAME:  
IDAHO FALLS POWER – STORAGE  
IDAHO FALLS, ID  
CUSTOMER NAME:  
ULTIMATE STEEL ERECTION INC  
REXBURG, ID

DO NOT USE FOR FINAL CONSTRUCTION  
SHEET TITLE:  
PRELIMINARY SHEETING ELEVATIONS  
SHEET NUMBER:  
WS5  
QUOTE NUMBER:  
ID-17023F  
12/1/2023 7:04 PM



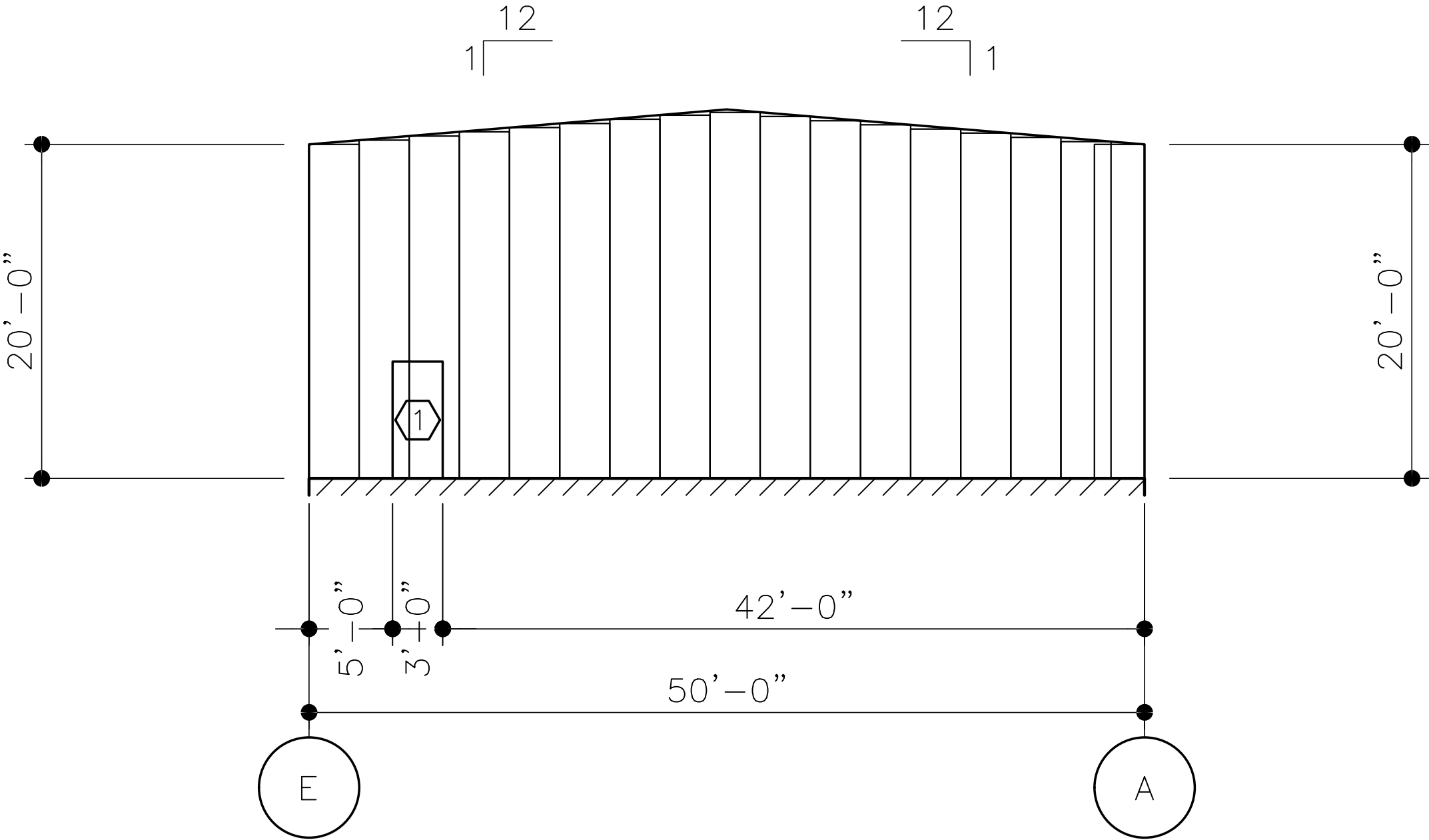
KEY PLAN



SKID

FRAMED OPENING SCHEDULE

ID	QTY	WIDTH	HEIGHT	SILL HEIGHT	LOCATED
1	1	3'-0"	7'-0"	0'-0"	FACTORY



WALL SHEETING ELEVATION AT LINE 8

PANELS: 26 GA. R-PANEL – TO BE SELECTED (PVDF)

DO NOT USE FOR FINAL CONSTRUCTION

SHEET TITLE: 12/1/2023 7:04 PM

PRELIMINARY SHEETING ELEVATIONS

SHEET NUMBER: QUOTE NUMBER:

WS7

ID-17023F

PROJECT NAME:

IDAHO FALLS POWER – STORAGE

IDAHO FALLS, ID

CUSTOMER NAME:

ULTIMATE STEEL ERECTION INC

REXBURG, ID



eQuote







# **Exhibit F - IFP-Post Bid Tech & Price Q&A FINAL 12.29.2023**

**See locked and password protected Excel  
file titled: IFP-Post Bid Tech & Price Q&A  
FINAL 12.29.2023**

## Exhibit G - Design-Builder's Bid/Proposal



Idaho Falls Power  
Peaking Power Generation Plant REV2  
December 29, 2023

<b>BASE + OPTIONS 1, 2, 3- ALL COSTS TOTAL SUM</b>					
DIV	SCOPE	CONSULTANTS / SUBCONTRACTS	LABOR	MATERIALS /POs / EQUIPMENT	TOTAL
01	General Requirements	\$ 1,124,891	\$ 76,914	\$ 320,414	\$ 1,522,219
02	Existing Conditions	\$ 1,269,817	\$ -	\$ -	\$ 1,269,817
31	Earthwork	\$ 146,302	\$ -	\$ -	\$ 146,302
32	Exterior Improvements	\$ 91,168	\$ -	\$ -	\$ 91,168
03	Concrete	\$ 1,424,634	\$ -	\$ -	\$ 1,424,634
05	Metals	\$ 65,598	\$ -	\$ 129,800	\$ 195,398
06	Wood, Plastics, and Composites	\$ -	\$ 8,433	\$ 25,000	\$ 33,433
07	Thermal and Moisture Protection	\$ 8,809	\$ 6,747	\$ 7,500	\$ 23,056
08	Openings	\$ 176,130	\$ 3,373	\$ 10,500	\$ 190,003
09	Finishes	\$ 331,830	\$ -	\$ 127,101	\$ 458,931
10	Specialties	\$ -	\$ 2,699	\$ 3,400	\$ 6,099
13	Special Construction	\$ 589,815	\$ -	\$ 756,941	\$ 1,346,756
14	Conveying System	\$ -	\$ -	\$ -	\$ -
21	Fire Suppression	\$ 158,500	\$ -	\$ -	\$ 158,500
22,23	Plumbing,HVAC, Mechanical	\$ 3,832,997	\$ -	\$ 3,690,872	\$ 7,523,869
26,27,28	Electrical, Communcations, Fire/Sec	\$ 2,200,276	\$ -	\$ 1,554,700	\$ 3,754,976
	Travel		\$ 40,516		\$ 40,516
<b>SUBTOTAL</b>		<b>\$ 11,420,767</b>	<b>\$ 138,682</b>	<b>\$ 6,626,228</b>	<b>\$ 18,185,677</b>
Overhead					\$ 485,845
General Conditions					\$ 854,848
Design Build Contingency					\$ 635,648
Taxes					\$ 410,485
Fee					\$ 1,596,798
Bond					\$ 183,616
Insurance					\$ 464,941
Builders Risk Insurance					\$ 94,301
<b>TOTAL PROPOSED</b>					<b>\$ 22,912,159</b>

File #: 24-108

City Council Meeting

**FROM:** PJ Holm, Director, Parks and Recreation Dept.  
**DATE:** Friday, January 26, 2024  
**DEPARTMENT:** Parks & Recreation

## Subject

Tautphaus Park Tennis Court Reconstruction Project for Parks and Recreation

## Council Action Desired

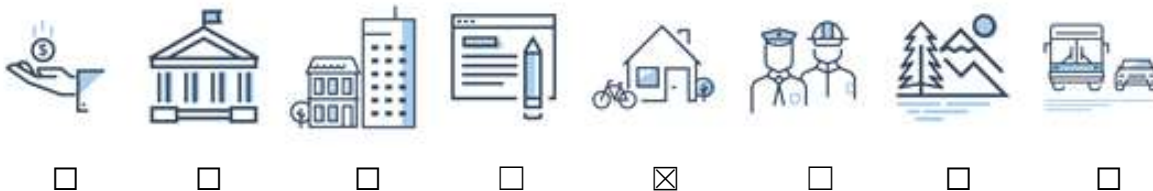
☐ Ordinance ☐ Resolution ☐ Public Hearing  
☒ Other Action (Approval, Authorization, Ratification, etc.)

Accept and approve the pricing proposal from FieldTurf USA and Renner Sports Surfaces from the Sourcewell cooperative purchasing contract #031622-FTU in the amount of \$473,892 to reconstruct the Tautphaus Park tennis courts (or take other action deemed appropriate).

## Description, Background Information & Purpose

Due to the deterioration of the Tautphaus Park tennis courts, a reconstruction project was budgeted in the Parks and Recreation's 2023/24 budget. Pursuant to Idaho Code §67-2807 which authorizes the City to participate in cooperative purchasing agreements, staff recommends that the City enter into an agreement with FieldTurf USA and Renner Sports Surfaces under the Sourcewell contract for the purchase of labor, materials, and windscreens in the total amount of \$473,892. The Sourcewell contract was awarded by the Sourcewell cooperative purchasing association pursuant to a competitive solicitation process, as required by Idaho Code §67-2807.

## Alignment with City & Department Planning Objectives



The reconstruction of the tennis courts supports the community-oriented result seeking well-planned growth and development, providing a livable community by developing park land that will provide affordable and accessible recreation activities, and preserving natural resources, open spaces, and amenities.

## Interdepartmental Coordination

The Municipal Services and Legal Departments provided support for accessing the Sourcewell cooperative purchasing contract for this project pursuant to Idaho Statute §67-2807.

**Fiscal Impact**

Sufficient spending authority for this project has been approved in the 2023/24 Parks and Recreation budget.

**Legal Review**

The Legal Department concurs that the desired Council action is compliant with State Statute.

# PRICING PROPOSAL



## Idaho Falls Tautphaus Park Courts

January 9, 2024

From		To	
Contact	Dylan Bird	Contact	Josh Stephens
Company	L.E.R., Inc. dba Renner Sports Surfaces	Company	Idaho Falls Parks and Rec
Address	PO Box 651477	Address	520 Memorial Dr
City, State, Zip	Salt Lake City, UT 84165	City, State, Zip	Idaho Falls, ID 83402
Country	United States	Country	
Phone	801-381-8385	Phone	208-252-2790
Fax		Email	jstephens@idahofalls.gov

FieldTurf USA, Inc. in conjunction with Renner Sports are pleased to present the following proposal. FieldTurf pricing is based on the Sourcwell contract (formerly NJPA). Sourcwell provides predetermined preferential pricing through approved vendors. Since the products have already been bid at the national level, individual municipalities do not have to duplicate the bidding process per Sourcwell Contract # 031622-FTU.

FieldTurf USA, Inc. holds the Cooperative Purchase contract, any PO for Contract must be made out to FieldTurf USA, Inc. 175 N Industrial Blvd NE. Calhoun, GA 30701

We are pleased to quote the following labor, equipment, and materials in accordance with the plans and specifications listed above. This proposal is subject to exclusions that may be listed below.

Scope of work for the project to be constructed as depicted in the plans and details as described herein:

### Inclusions, Exclusions, Clarifications

#### Inclusions

##### (4) Post Tensioned Tennis Courts

1. Site access and site access restoration by others.
2. Demolish and dispose of existing tennis courts including: asphalt, net post footings, and perimeter chain link fence.
3. Excavate to establish subgrade.
4. Note: All electrical disconnect and work to be by others.
5. Supply and install 4" of base material to achieve proper slope, laser grade and compact.
6. Supply and install (1) layer 15 mil. viper barrier over sub-grade to reduce friction and mitigate alkali silica reaction.
7. Supply and install industry standard post tensioned concrete tennis courts, (2) post tensioned slabs (102.5'x120'), 4000 PSI design, edges thickened to (12") inches, reinforced with 1/2" steel tendons, and #4 rebar.
8. Supply and install (4 sets) Douglas Premier net posts.
9. Supply and install (10') foot high (galvanized) chain link fence with (4) access gates. Top rails to be (galvanized) (1 5/8") "LG-40" pipe or equivalent with bottom wire. Corner Posts, Terminal Posts and Line Posts to be (2-7/8") inches "LG-40" pipe or equivalent. All fabric to be 1 3/4 " galvanized 9- gauge.
10. After 30 day curing period, acid wash concrete then apply acrylic primer coat.
11. Apply one (1) coat of acrylic surfacer with silica sand.
12. Apply two (2) coats of acrylic color with silica sand. Colors to be chosen by owner.
13. Paint playing lines as per USTA standards.
14. Pickleball Playing lines can be provided upon request.
15. Supply and install (4) Douglas Tennis nets.
16. Clean up job site.

We hereby propose to furnish labor and materials – complete in accordance with the above specifications, for the sum of:

**TOTAL: \$466,092.00**

#### Contract Alternate:

##### Windscreens – Add \$7,800.00

1. Supply and install black, 9' high windscreens to 10' perimeter chain link fencing.

Note: Due to the uncertainty and volatility in raw materials supplies, material costs, and shipping delays, this proposal is valid for 30 days. All pricing is based on current market value. Prices subject to change when job materials are ordered at market value.



# PRICING PROPOSAL



## Exclusions

All permits, bonds, excavation, site access roads and site access repair, sub-grade and sub-base prep., concrete and compaction testing, winter conditions, caulking joints, sidewalks, patios, viewing area concrete, surveys and staking, landscaping, irrigation, lighting, parking lot, curbing and road damages and all repairs thereof. If permits, bonds and testing are required by the Owner they will be billed at cost in excess of this proposal upon written change order between Renner Sports and GC/Owner.

Bonding, if required, will add approximately 1.5% to bid total

## Clarifications

All material is guaranteed as specified. All work shall be completed in a workmanlike manner according to standard industry practices. Any alteration or deviation from the above specifications will be executed only upon written change orders and may become an extra charge over and above the estimate. All agreements are contingent upon strikes, accidents or delays beyond our control. This proposal is subject to acceptance within **30** days and, if not accepted, is cancelable and voidable thereafter at the option of Renner Sports. Owner to carry fire, flood, earthquake, and other necessary insurance. We are fully covered by Workmen's Compensation Insurance.

Unless otherwise provided herein, all labor and materials will be warranted for a period of one (1) year from date of substantial completion **except for cracking and heaving**, which shall carry no warranty. Should the materials prove to be defective or the workmanship faulty within the **one (1) year warranty** period, the defects will be remedied within a reasonable time from Renner Sports receipt of notice of the defects, subject to weather conditions and crew schedule.

When patching cracks or resurfacing tracks/tennis courts with cracking, Renner Sports guarantees the cracks will reappear, and that they can reappear within 24 hours, depending upon temperature fluctuations.

Concealed, Unforeseen and/or Latent Conditions – Older tracks/tennis courts that have been resurfaced multiple times may experience widespread peeling of the coatings from the substrate following resurfacing. There comes a point where the coatings become too thick and the bond to the substrate is compromised. There is no way to ascertain this condition prior to resurfacing. Should this condition occur, the removal of the old coatings will be accomplished on a time and materials basis and billed to the owner.

For track/tennis court repair work involving asphalt paving in any form, please be aware that we have experienced contamination of asphalt mixes during recent years, and we cannot guarantee against this contamination. Should this condition occur, the owner will be responsible for all associated additional costs and expenses.

If digging is required, Renner Sports shall contact the local buried utility locating service. The owner will be responsible for repairs to any underground lines, if damaged, although reasonable care will be taken when Renner Sports is advised of their presence. This proposal is predicated upon normal digging conditions, and if rocks are encountered, the owner will be responsible for all associated additional extra time and equipment costs necessitated to complete the work.

The owner shall establish and provide suitable access to the construction site; Renner Sports will not be liable for any damages to the construction site and/or site restoration due to unsuitable access. Potable water will be available within fifty feet (50') of the site (along with a standard ¾" garden hoses)

Payments. The below payment schedule will be required and requires a **down payment/deposit of 0% of the proposed amount prior to ordering materials and scheduling work**. Progress payments will be required according to the following milestones:

- **0% of the proposed amount due upon acceptance**
- **Monthly Progress Payments,**
- **100% upon completion**

**Payment requests will be issued in accordance with the above payment schedule and are due within ten (10) days of the date of invoice. Work may be suspended and/or delayed if progress payments are not timely and current.** Accounts shall be considered overdue and delinquent thirty (30) days after date of invoice. Delinquent accounts shall bear interest at a rate of 1 ½% per month (18% annually) and will be subject to all charges necessary for collection, including, but not limited to, all attorney's fees and all related legal costs. Final payment shall become due upon completion of contractor's work. Opening or use of an installation by owner shall be considered acceptance. Liens and/or bond claims will be filed on delinquent accounts. In the event of termination by owner, the contractor shall be paid for all work performed to date and for all materials ordered, manufactured and/or procured as of the date of termination.

The contractor is not liable for delays caused by strikes, the inability to secure adequate materials, fuel shortage, weather conditions, mechanical failures, Acts of God, *force majeure* and/or any other cause beyond Renner Sports' control.

Renner Sports is a non-union entity and is not bound by any organized labor agreements and/or collective bargaining agreements.

It is understood that if a soil sterilant is applied, it is in an effort to retard weed growth as much as possible and no guarantee or warranty as to its effectiveness is expressed or implied. Contractor is not responsible for cracks due to heaving, soil expansion, frost, other conditions, *force majeure* and/or Acts of God.



# PRICING PROPOSAL



This proposal is predicated upon standard construction and industry practices developed over the past twenty-five (25) years. Be advised that it is inherent in all asphalt and concrete to crack and Renner Sports will not be responsible for all such cracks. Renner Sports cannot be responsible for ground movement and heaving or settling of the soils. This proposal does not include soils investigation or extraordinary drainage costs. Because of the possibility of expanding soil problems, the owner is urged to procure a soils investigation by a qualified soils engineer. Renner Sports disclaims any and all liability for soil heaving, but will modify this proposal to include any work, as recommended by the owner's soils engineer.

If the proposed work cannot be performed during the current construction season due to delays caused by the owner, his agents, or employees, this contract shall be valid for the subsequent construction season, subject to possible increases in labor and materials.

The owner may accept this proposal as a binding contract either by signature or by making any payments to Renner Sports in consideration of services, and either of the above modes of acceptance shall be deemed to incorporate all of the terms of this proposal into the contract between the parties thereby formed.

If this proposal is accepted, please sign one copy, indicating which alternates (if any) are accepted, and return it via email or to the office of Renner Sports as soon as possible.

## Proposal Details

Authorized

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

## Acceptance of Proposal:

The above prices, specifications and conditions are satisfactory and hereby accepted. You are authorized to do the work as specified.

Payments will be made as outlined above.

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

Date of Acceptance: \_\_\_\_\_

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

THE TARKETT SPORTS FAMILY - LEADERS IN SPORTS SURFACING





# Memorandum

File #: 24-129

City Council Meeting

**FROM:** PJ Holm, Director, Parks and Recreation Department  
**DATE:** Tuesday, January 30, 2024  
**DEPARTMENT:** Parks & Recreation

## Subject

Sole Source - Demolishing and Rebuilding the Recreation Center Gym Floor for Parks and Recreation

## Council Action Desired

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

Accept and authorize the pricing proposal from United Services Inc. in the amount of \$189,986.00 and declare that this vendor is the only vendor reasonably able to demolish and rebuild the Recreation Center gym floor within the necessary 10-week time frame (or take other action deemed appropriate).

## Description, Background Information & Purpose

After more than 50 years of public use, the hardwood gym floor in the Idaho Falls Recreation Center must be replaced to assure that patrons have a playable and safe facility in the coming years. The Parks and Recreation Department recommends City Council authorize this purchase as a sole source purchase pursuant to State Statute §67-2808(2)(a) (viii) and 2808(2)(b), because there is only one (1) source reasonably available and a “where competitive solicitation is impractical, disadvantageous, or unreasonable under the circumstances.” State law further requires that, upon making the sole source declaration that there is only one (1) vendor for services, the notice of a sole source procurement shall be published in the official newspaper at least fourteen (14) calendar days prior to the award of the contract. This project was discussed during the 2024 budget process and spending authority was approved with the understanding that facility sponsorships would cover a portion of the total cost.

## Alignment with City & Department Planning Objectives



The reconstruction of the Recreation Center gym floor, supports desired community-oriented results by maintaining easily accessible parks, trails, green spaces, and recreational facilities to meet community expectations.

## Interdepartmental Coordination

Procurement support was provided by the Municipal Services Department.

**Fiscal Impact**

Spending authority to replace a portion of the gym floor is derived from P&R's approved 2023/24 capital projects budget. The Municipal Services Department Finance Division concurs there is sufficient balance in the Recreation fund for this purchase.

**Legal Review**

The Legal Department has reviewed the project proposal and concurs the Council action meets State Statute §67-2808 (2)(a)(viii)(b).

# United Services Inc

2400 Gallatin Avenue

Idaho Falls ID 83402

## Estimate

DATE	ESTIMATE NO.
1/26/2024	3788

NAME / ADDRESS
City of Idaho Falls PO Box 50220 Idaho Falls ID 83405

JOB LOCATI...	REP
Parks and Rec	

DESCRIPTION	QTY	COST	TOTAL
Parks and Rec Center Hardwood Gym Floor Install new Hardwood Gym Floor using Double Plywood 3/4" Padded 2 1/4" 3rd and Better Maple Flooring System. Includes Main Basketball Court Includes Removal of Existing Flooring	7,500	19.81	148,575.00
Install Volleyball Sleeves, Sleeves Not Included	4	500.00	2,000.00
Remove Existing Hardwood Floor. Disposal Fees Not Included.	7,500	3.00	22,500.00
Endzone Lettering "IDAHO FALLS" "PARKS & REC"	19	65.00	1,235.00
Painted Border	1	576.00	576.00
Center Logo 3 Color	1	2,500.00	2,500.00
Host Logo	4	1,550.00	6,200.00
Aux Volleyball	2	500.00	1,000.00
Aux Basketball (2 Keys on One Side)	1	800.00	800.00
Paint Pickleball	2	500.00	1,000.00
		<b>TOTAL</b>	

# United Services Inc

2400 Gallatin Avenue  
Idaho Falls ID 83402

## Estimate

DATE	ESTIMATE NO.
1/26/2024	3788

### NAME / ADDRESS

City of Idaho Falls  
PO Box 50220  
Idaho Falls ID 83405

JOB LOCATI...	REP
Parks and Rec	

DESCRIPTION	QTY	COST	TOTAL
Stained 3 Point Area	2	1,800.00	3,600.00
This Estimate Excludes Concrete Slab Correction			
This Estimate is Good for 30 Days A 50% Deposit is required to Order Materials			
		<b>TOTAL</b>	\$189,986.00





# Idaho Statutes

Idaho Statutes are updated to the website July 1 following the legislative session.

## TITLE 67

### STATE GOVERNMENT AND STATE AFFAIRS

#### CHAPTER 28

##### PURCHASING BY POLITICAL SUBDIVISIONS

67-2808. EMERGENCY EXPENDITURES AND SOLE SOURCE EXPENDITURES. (1)  
Emergency expenditures.

(a) The governing board of a political subdivision may declare that an emergency exists and that the public interest and necessity demand the immediate expenditure of public money if:

- (i) There is a great public calamity, such as an extraordinary fire, flood, storm, epidemic, or other disaster;
- (ii) It is necessary to do emergency work to prepare for the national or local defense; or
- (iii) It is necessary to do emergency work to safeguard life, health, or property.

(b) Upon making the declaration of emergency, any sum required in the emergency may be expended without compliance with formal bidding procedures.

(2) Sole source expenditures.

(a) The governing board of a political subdivision may declare that there is only one (1) vendor if there is only one (1) vendor for the public works construction, services, or personal property to be acquired. For purposes of this subsection, only one (1) vendor shall refer to situations where there is only one (1) source reasonably available and shall include, but not be limited to, the following situations:

- (i) Where public works construction, services, or personal property is required to respond to a life-threatening situation or a situation that is immediately detrimental to the public welfare or property;
- (ii) Where the compatibility of equipment, components, accessories, computer software, replacement parts, or service is the paramount consideration;
- (iii) Where a sole supplier's item is needed for trial use or testing;
- (iv) The purchase of mass-produced movies, videos, books, or other copyrighted materials;
- (v) The purchase of public works construction, services, or personal property for which it is determined there is no functional equivalent;
- (vi) The purchase of public utility services;
- (vii) The purchase of products, merchandise, or trademarked goods for resale at a political subdivision facility; or
- (viii) Where competitive solicitation is impractical, disadvantageous, or unreasonable under the circumstances.

(b) Upon making the declaration that there is only one (1) vendor for public works construction, services, or personal property, unless the public works construction, services, or personal property is required for a life-threatening situation or a situation that is immediately detrimental to the public welfare or property, notice of a sole source procurement shall be published in the official newspaper of the political subdivision at least fourteen (14) calendar days prior to the award of the contract.

(c) A sole source declaration made pursuant to the provisions of this subsection may be made without an emergency declaration under subsection (1) of this section.

History:

[67-2808, added 2005, ch. 213, sec. 37, p. 678; am. 2013, ch. 344, sec. 2, p. 928; am. 2019, ch. 115, sec. 1, p. 440.]

How current is this law?