



## CITY COUNCIL MEETING

Thursday, June 9, 2016

7:30 p.m.

### CITY COUNCIL CHAMBERS

680 Park Avenue

Idaho Falls, Id 83402

*Thank you for your interest in City Government. If you wish to express your thoughts on a matter listed below, it is best to contact Councilmembers by email or personally before the meeting. Be aware that an amendment to this Agenda may be made upon passage of a motion that states the reason for the amendment and the good faith reason that the Agenda item was not included in the original Agenda posting. City Council Meetings are live streamed at [www.idahofallsidaho.gov](http://www.idahofallsidaho.gov), then archived on the city website. If you need communication aids or services or other physical accommodations to participate or access this meeting please contact City Clerk Kathy Hampton at 612-8414 or the ADA Coordinator Lisa Farris at 612-8323 as soon as possible and they will make an effort to accommodate your needs.*

1. **Call to Order.**

2. **Pledge of Allegiance.**

3. **Public Comment.** *Members of the public are invited to address the City Council regarding matters that are not on the Agenda or already noticed for a public hearing. When you address the Council, please state your name and address for the record and please limit your remarks to three (3) minutes. The Mayor may exercise discretion to decide if and when to allow public comment on an agenda item that does not include a public hearing. If the Mayor determines your comments may be made later in the meeting, she will let you know when you may make your comments. Please note that matters currently pending before the Planning Commission or Board of Adjustment which may be the subject of a pending enforcement action, or which are relative to a City personnel matter are not suitable for public comment.*

4. **Presentation.** River Rescue Honors.

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

**A. Item from Idaho Falls Power:**

- 1) Bonneville Power Administration (BPA) Contract Revision No. 4 to Exhibit D.

**B. Items from the City Clerk:**

- 1) Approval of Expenditure Summary for the month of May, 2016.
- 2) Approval of Minutes from the April 15 & 16, 2016, Strategic Planning Session, May 9, 2016, Joint Meeting with Ammon Officials, May 12, 2016, Idaho Falls Power Board Meeting, and May 12, 2016, Regular Council Meeting.
- 3) Approval of License Applications, all carrying the required approvals.

**RECOMMENDED ACTION:** To approve all items on the Consent Agenda according to the recommendations presented.

6. **Regular Agenda.**

**A. Municipal Services**

**1) Bid IF-16-20, Purchase and Removal of House:** It is the recommendation of Idaho Falls Power and Municipal Services Departments to accept the sole bid from Greg Rainey to purchase and remove a house located on City property in the amount of \$1,500.00. Idaho Falls Power purchased the property located at 2017 East Iona Road to be used for a future substation site location.

RECOMMENDED ACTION: To accept the sole bid from Greg Rainey in the amount of \$1,500.00 to purchase and remove a house located at 2017 East Iona Road to be used for future substation site location, and authorize the Mayor and City Clerk to sign any necessary documents (or take other action deemed appropriate).

**B. Parks and Recreation**

**1) Cemetery Plots Resolution:** For your consideration is a resolution to create protocol in alignment with recently passed protocol by Idaho State Legislature which allows for the more efficient distribution of unused cemetery plots. The resolution has been reviewed and approved by the City Attorney.

RECOMMENDED ACTION: To approve the resolution creating protocol for the efficient distribution of unused cemetery plots, and give authorization for the Mayor and City Clerk to sign the necessary documents (or take other action deemed appropriate).

**2) Primary Stock Contract – War Bonnet Roundup Rodeo:** For your consideration is the Primary Stock Contractor Agreement with Dakota Rodeo for the War Bonnet Roundup Rodeo in an estimated amount of approximately \$50,000.00. This one (1) event agreement has been reviewed and approved by the City attorney.

RECOMMENDED ACTION: To approve the Primary Stock Contractor Agreement for the War Bonnet Roundup Rodeo with Dakota Rodeo in an estimated amount of approximately \$50,000.00, and give authorization for the Mayor and City Clerk to sign the necessary documents (or take other action deemed appropriate).

**C. Public Works**

**1) Idaho Transportation Department State/Local Agreement – 12<sup>th</sup> Street Idaho Canal Bridge Project:** For your consideration is a State/Local Development Agreement with the Idaho Transportation Department and accompanying Resolution with respect to the 12<sup>th</sup> Street Idaho Canal Bridge project. This agreement stipulates that \$7,000.00 be forwarded as deposit against the City match with the signed agreement if approved. This agreement has been reviewed by the City Attorney.

RECOMMENDED ACTION: To adopt the resolution, approve the State/Local Development Agreement for the 12<sup>th</sup> Street Idaho Canal Bridge project, and give authorization for the Mayor and City Clerk to sign the necessary documents (or take other action deemed appropriate).

**2) Idaho Transportation Department State/Local Agreement – South Boulevard Corridor Rectangular Rapid Flashing Beacons:** For your consideration is a State/Local Development Agreement with the Idaho Transportation Department and accompanying Resolution with respect to the South Boulevard Corridor Rectangular Rapid Flashing Beacons project. This agreement stipulates that the City will administer the construction and inspection services in lieu of the customary fund match of 7.34%. This agreement has been reviewed by the City Attorney.

RECOMMENDED ACTION: To adopt the resolution, approve the State/Local Development Agreement for the South Boulevard Corridor Rectangular Rapid Flashing Beacons project, and give authorization for the Mayor and City Clerk to sign the necessary documents (or take other action deemed appropriate).

**3) Idaho Transportation Department State/Local Agreement – Lomax Street and F Street Flashing Stop Signs:** For your consideration is a State/Local Development Agreement with the Idaho Transportation Department and accompanying Resolution with respect to the Lomax Street and F Street Flashing Stop Signs project. This agreement stipulates that the City will administer the construction and inspection services in lieu of the customary fund match of 7.34%. This agreement has been reviewed by the City Attorney.

RECOMMENDED ACTION: To adopt the resolution, approve the State/Local Development Agreement for the Lomax Street and F Street Flashing Stop Signs project, and give authorization for the Mayor and City Clerk to sign the necessary documents (or take other action deemed appropriate).

**4) Right-of-Way Use Agreement – ExteNet:** For your consideration is a proposed Right-of-Way Use Agreement for ExteNet to install fiber optics in public right-of-way. The agreement was prepared by the City Attorney and has been reviewed by Idaho Falls Power.

RECOMMENDED ACTION: To approve the Right-of-Way Use Agreement for ExteNet and give authorization for the Mayor and City Clerk to sign the necessary documents (or take other action deemed appropriate).

#### **D. Idaho Falls Power**

**1) Approve Pole Attachment License Agreement with ExteNet Systems, Inc.:** Idaho Falls Power (IFP) has received a request from ExteNet Systems Inc. to attach communication infrastructure to power poles. IFP has a Federal Communications Commission (FCC)-approved template for licensing agreements that will be applied to the ExteNet request. This template will be adopted for all pole attachment requests and, in fact, Idaho Falls Power is currently negotiating agreements with three other companies.

RECOMMENDED ACTION: To approve the Pole Attachment License Agreement with ExteNet Systems Inc., and authorize the Mayor to execute the necessary documents (or take other action deemed appropriate).

**2) Bid Award - Gem State Right Dike Drain Replacement Project:** For your consideration is the bid tabulation for the Gem State Right Dike Drain Replacement Project. The right dike is part of the engineered earthen structure of the Gem State dam. This project is in the Capital Improvement Plan and in the FY16 budget.

RECOMMENDED ACTION: To approve the design and award the bid to the lowest responsive, responsible bidder, 3H Construction LLC, in the amount of \$159,227.00, and give authorization for the Mayor and City Clerk to sign any necessary documents (or take other action deemed appropriate).

**3) Approve a Resolution to Procure Services for the Upper Plant Boat Ramp Replacement Project on the Open Market:** Idaho Falls Power solicited bids to replace the boat ramp near the Upper Plant this fall while the sedimentation removal project is in progress. No bids were received. The project was included in the Capital Improvement Plan and the FY16 budget. Given the lack of bids, staff requests permission to negotiate services for the project on the open market.

RECOMMENDED ACTION: To approve the resolution to authorize staff to procure services for the Upper Plant Boat Ramp Replacement Project on the open market, and give authorization for the Mayor and City Clerk to sign the necessary documents (or take other action deemed appropriate).

#### **E. Legal Department**

**1) Resolution of City's Records Retention Schedule:** For your consideration is a Resolution which follows recent changes made by the Idaho Legislature regarding City records retention. The Legislature has changed some of the definitions and requirements relative to reproducing, retaining, and managing public records including an allowance for some photographic, digital, and other, non-paper records.

RECOMMENDED ACTION: To adopt the resolution regarding a City Records Retention Schedule and authorize the Mayor and City Clerk to sign the necessary documents (or take other action deemed appropriate).

#### **F. Community Development Services**

**1) Request for Waiver of Electric Line Extension Fees:** For your consideration is a request for waiver of the Electric Line Extension Fee for the Springhill Suites project located at 660 River Walk Drive. The fees requested for waiver total \$54,579.55. This request is made pursuant to City Code 8-5-31 which states, "Council reserves the right to waive or adjust fees (other than net metering fees) upon a finding of good cause to do so where such waiver or reduction supports redevelopment or the annexation of property contiguous with or surrounded by the City." The site under consideration is part of an urban renewal district and is an area that is redeveloping. Staff recommends approval of the waiver.

RECOMMENDED ACTION: To approve the waiver of the Electric Line Extension Fee for the Springhill Suites project located at 660 River Walk Drive (or take other action deemed appropriate).

**2) Community Development Block Grant (CDBG) 2015 Consolidated Annual Performance and Evaluation Report (CAPER) Resolution:** For your consideration is the resolution approving the 2015 CDBG CAPER. The CAPER was reviewed by the Council at the May 12, 2016, meeting. No comments were received during the public comment period.



RECOMMENDED ACTION: To approve the Community Development Block Grant 2015 Consolidated Annual Performance and Evaluation Report Resolution and give authorization for the Mayor and City Clerk to sign the necessary documents (or take other action deemed appropriate).

**3) Public Hearing – Annexation and Initial Zoning of HC- 1, Annexation Ordinance, Zoning Ordinance, and Reasoned Statements of Relevant Criteria and Standards, M&B: 5.66 Acres SE ¼, Section 8, T 2N, R 38E:** For your consideration is the application for Annexation and Initial Zoning of HC-1, Annexation Ordinance, Zoning Ordinance, and Reasoned Statements of Relevant Criteria and Standards, M&B: 5.66 Acres SE ¼, Section 8, T 2N, R 38E. The Planning and Zoning Commission considered this item at its May 3, 2016, meeting and recommended approval by unanimous vote. Staff concurs with this recommendation.

RECOMMENDED ACTIONS: (In sequential order)

- a. To approve the Ordinance annexing M&B: 5.66 Acres SE ¼, Section 8, T 2N, R 38E, under the suspension of the rules requiring three complete and separate readings and that it be read by title and published by summary (or consider the Ordinance on the first reading and that it be read by title, or reject the Ordinance).
- b. To approve the Reasoned Statement of Relevant Criteria and Standards for the annexation for M&B: 5.66 Acres SE ¼, Section 8, T 2N, R 38E, and give authorization for the Mayor to execute the necessary documents.
- c. To approve the Ordinance assigning a Comprehensive Plan Designation of HC-1 (Highway Commercial) Zone and establishing the initial zoning for M&B: 5.66 Acres SE ¼, Section 8, T 2N, R 38E, as “Commercial”, under the suspension of the rules requiring three complete and separate readings and that it be read by title and published by summary (*or consider the Ordinance on the first reading and that it be read by title, or reject the Ordinance*), that the Comprehensive Plan be amended to include the area annexed herewith, and that the City Planner be instructed to reflect said annexation, zoning, and amendment to the Comprehensive Plan on the Comprehensive Plan and Zoning Maps located in the Planning Office.
- d. To approve the Reasoned Statement of Relevant Criteria and Standards for the Initial Zoning of HC-1 Zone for M&B: 5.66 Acres SE ¼, Section 8, T 2N, R 38E, and give authorization for the Mayor to execute the necessary documents.

**4) Public Hearing – Annexation and Initial Zoning of R-1, Annexation Ordinance, Zoning Ordinance, and Reasoned Statements of Relevant Criteria and Standards, Heritage Park:** For your consideration is the application for Annexation and Initial Zoning of R-1, Annexation Ordinance, Zoning Ordinance, and Reasoned Statements of Relevant Criteria and Standards for Heritage Park. The Planning and Zoning Commission considered this item at its May 3, 2016, meeting and recommended approval by unanimous vote. Staff concurs with this recommendation.

RECOMMENDED ACTIONS: (In sequential order)

- a. To approve the Ordinance annexing Heritage Park, under the suspension of the rules requiring three complete and separate readings and that it be read by title and published by summary (or consider the Ordinance on the first reading and that it be read by title, or reject the Ordinance).
- b. To approve the Reasoned Statement of Relevant Criteria and Standards for the annexation for Heritage Park, and give authorization for the Mayor to execute the necessary documents.
- c. To approve the Ordinance assigning a Comprehensive Plan Designation of R-1 (Residence) Zone and establishing the initial zoning for Heritage Park as “Parks, Recreation”, under the suspension of the rules requiring three complete and separate readings and that it be read by title and published by summary (*or consider the Ordinance on the first reading and that it be read by title, or reject the Ordinance*), that the Comprehensive Plan be amended to include the area annexed herewith, and that the City Planner be instructed to reflect said annexation, zoning, and amendment to the Comprehensive Plan on the Comprehensive Plan and Zoning Maps located in the Planning Office.
- d. To approve the Reasoned Statement of Relevant Criteria and Standards for the Initial Zoning of R-1 Zone for Heritage Park, and give authorization for the Mayor to execute the necessary documents.

**7. Motion to Adjourn.**

# **CONSENT AGENDA:**



A Division of the City of Idaho Falls

"A community with its own kind of energy"



## MEMORANDUM

**TO:** Honorable Mayor and City Council

**FROM:** Bear Prairie, Assistant General Manager *Dean*

**DATE:** June 6, 2016

**Re:** Consent Agenda - BPA Contract Revision No. 4 to Exhibit D

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Attached is a revision to Exhibit D of our Power Sales Agreement, contract number 09PB-13056 with the Bonneville Power Administration. This revision update was necessitated by the need for specific scheduling requirements created by the termination of the General Transfer Agreement (GTA) between BPA and PacifiCorp. The GTA officially terminates July 1<sup>st</sup> 2016 and this revision reflects that change in service.

This exhibit has been reviewed by the City Attorney. Idaho Falls Power respectfully requests City Council approve the Exhibit D, revision 4 and authorize the Mayor to execute the document.

BP/198

Cc: City Clerk  
City Attorney  
File

**Revision No. 4, Exhibit D**  
**ADDITIONAL PRODUCTS AND SPECIAL PROVISIONS**  
**Effective July 1, 2016**

This revision deletes section 3 "Scheduling Error Compensation" and replaces it with "Financial Credit to Compensate for Undelivered Firm Requirements Power Due to Lack of Market, Transmission or BPA Scheduling Error"; deletes section 6 "Purchases of Surplus Power from BPA's Trading Floor" and replaces it with "Treatment of Bulb Turbines Generation Forecast Error" and adds section 7 "Storage and Return of Slice Output". This revision is necessary to reflect BPA's conversion to PacifiCorp's Open Access Transmission Tariff (OATT) service beginning July 1, 2016.

**1. CF/CT AND NEW LARGE SINGLE LOADS**

**1.1 CF/CT Loads**

Idaho Falls has no loads identified that were contracted for, or committed to (CF/CT), as of September 1, 1979, as defined in section 3(13)(A) of the Northwest Power Act.

**1.2 Potential NLSLs**

Idaho Falls has no identified potential NLSLs.

**1.3 Existing NLSLs**

Idaho Falls has no existing NLSLs.

**2. RESOURCE SUPPORT SERVICES**

RSS is only available to Idaho Falls to support renewable resources that are added after September 30, 2006 and are Specified Resources used to serve Total Retail Load. Idaho Falls' purchase of RSS shall include those support services necessary and consistent with Idaho Falls' Slice/Block purchase to convert the actual scheduled output from the resource being supported into a flat annual block.

**2.1** BPA shall develop the RSS products to support applicable Specified Resources listed in section 2 of Exhibit A for the FY 2012 through FY 2014 Purchase Period and offer such as a revision to this exhibit by August 1, 2009 and by August 1 prior to each Notice Deadline thereafter. Prior to that date, BPA shall provide Idaho Falls a reasonable opportunity to provide input into the development of the products and the related contract provisions. By the November 1, 2009 Notice Deadline and each Notice Deadline thereafter, Idaho Falls shall notify BPA in writing of any RSS products it elects to buy from BPA under the terms of this Agreement and shall identify the applicable resource(s), for which it shall purchase the RSS product(s) for the upcoming Purchase Period. Such election shall be a binding commitment of both Parties. If Idaho Falls makes such election, the Parties shall revise this exhibit so that it incorporates the agreed changes to applicable provisions, including the applicable resource amounts, if known, by March 31, 2010 or by March 31 of the year following the Notice Deadline for future years. By September 30 of the last Rate Case Year prior to the first Rate Period when service begins, and by each applicable September 30 thereafter in accordance with the applicable

incorporated contract language, BPA shall update the relevant tables included in the incorporated contract language with the applicable charges and any necessary updates to resource amounts.

- 2.2 If Idaho Falls adds a new Specified Resource within a Purchase Period to meet its obligations to serve Above-RHWM Load with Dedicated Resources, consistent with section 3.5.1 of the body of this Agreement, Idaho Falls may purchase DFS or FORS to support such resource. Idaho Falls shall request a copy of the then-current DFS or FORS standard contract provisions from BPA and shall notify BPA in writing by October 31 of a Rate Case Year that it elects to purchase DFS or FORS for the new Specified Resource under the terms stated in the then-current contract provisions and the terms of this section 2.2. Such election shall be a binding commitment of both Parties. The elected DFS or FORS will be effective at the start of the upcoming Rate Period. The duration of such purchase shall be for the remainder of the Purchase Period and for the following Purchase Period. If Idaho Falls makes such election, the Parties shall revise this exhibit by March 31 of the calendar year after Idaho Falls has given notice of its election. Such revision shall incorporate the agreed changes to applicable provisions, including the applicable resource amounts, if known. By September 30 of the last Rate Case Year prior to the first Rate Period when service begins, and by each applicable September 30 thereafter, in accordance with the applicable incorporated contract language, BPA shall update the relevant tables included in the incorporated contract language with the applicable charges and any necessary updates to resource amounts.

**3. FINANCIAL CREDIT TO COMPENSATE FOR UNDELIVERED FIRM REQUIREMENTS POWER DUE TO LACK OF MARKET, TRANSMISSION OR BPA SCHEDULING ERROR**

Except as provided in section 3.2 below, BPA shall provide Idaho Falls with a Financial Credit (Financial Credit) for any hour in which BPA is unable to deliver Firm Requirements Power to Idaho Falls' load due to (1) a lack of available power suppliers; (2) unavailability of transmission service to deliver the Firm Requirements Power; or (3) a BPA scheduling error. The Financial Credit shall be provided on Idaho Falls' bill on the next possible monthly billing cycle.

**3.1 Calculation of Financial Credit**

BPA shall calculate a Financial Credit as follows:

$$(\text{Power To Be Scheduled} - \text{Power Actually Scheduled}) \times \text{LAP} = \text{Financial Credit}$$

Where:

Power To Be Scheduled equals the hourly Slice Used for Load Service amount (as defined in Exhibit F, section 6.1) plus the hourly Scheduled Block Delivery amount (as defined in Exhibit F, section 6.3).

Power Actually Scheduled equals the hourly amount of energy actually scheduled by BPA to serve Idaho Falls' load.

LAP = The hourly Load Aggregation Point (LAP) price for power applicable to Idaho Falls' load as determined pursuant to schedule 4 of PacifiCorp's OATT, or such successor rate or price.

**3.2 No Financial Credit for Uncontrollable Forces**

A Financial Credit shall not be provided to Idaho Falls if the inability of BPA to deliver energy to serve Idaho Falls' load is due to an Uncontrollable Force as defined in section 21 of this Agreement, including loop-flow.

**3.3 Request for Adjustment in Index**

Idaho Falls may request that BPA use a different price for power to calculate a Financial Credit by submitting a letter to BPA stating that Idaho Falls has been financially harmed by the use of the LAP. For purposes of this section 3.3, the term "financially harmed" occurs when the average price Idaho Falls pays to the Utah Associated Municipal Power Systems (UAMPS) for energy imbalance over a six month period is 15% greater than the average LAP price over the same period of time.

Idaho Falls will include in the letter a copy of the UAMPS price used over the six month period. BPA will review the request and will meet with Idaho Falls to determine whether to set a new pricing index to apply prospectively.

**4. LIMITATIONS ON EXCHANGE OF EXISTING RESOURCES**

**4.1 Option on Full ASC Participation and Alternative Contract**

BPA's 2008 Average System Cost (ASC) Methodology limits the loads and resource costs included in ASCs for consumer-owned utilities that sign a CHWM Contract. The TRM establishes a Tier 1 PF Exchange Rate for such consumer-owned utilities. Pursuant to section 12.2 of the body of this Agreement and section 20 of the Residential Purchase and Sale Agreement (RPSA), Idaho Falls is contractually precluded from seeking or receiving Residential Exchange Program (REP) benefits based on an ASC other than as provided for in Section IV(G) of the 2008 ASC Methodology or its successor.

BPA and Idaho Falls understand and acknowledge that this is the first time BPA has attempted to implement an REP with two different ASC cost structures and two differing levels of benefits, and that as a consequence, the implementation of the REP may be revised over time. Because of the contractual preclusions in the paragraph above and because a limited number of consumer-owned utilities with CHWM Contracts may participate in the REP, the intent of this section 4 is to provide limited protection to such consumer-owned utilities from future changes in the REP.

Any impact to Idaho Falls' access to REP benefits, pursuant to section 5(c) of the Northwest Power Act, as a result of an action taken by BPA as required by a statutory change or final judicial action shall not be considered an Action as provided in section 4.2 below, shall not be subject to the criteria provided in section 4.3 below, and shall not make available the option provided in section 4.4 below.

Absent the exercise by Idaho Falls of the option set forth in section 4.4 below, nothing in this section 4 is intended to alter the application of any provision of the ASC Methodology.

#### 4.2 Actions

If BPA takes any of the following Actions and such Actions meet the criteria specified in section 4.3, then Idaho Falls may elect the option set forth in section 4.4 below.

**Action 1.** BPA adopts, in a final record of decision issued in a section 7(i) proceeding for a Rate Period, a Base Tier 1 PF Exchange Rate for customers with CHWM Contracts which is calculated in a manner that differs from the following:

$$\text{Base T1 PF Exchange Rate} = \frac{(\text{PFCosts} - \text{PFCredits}) - (\text{T2Costs} - \text{T2Credits})}{\text{PFLoad} - \text{T2Load}} + \text{TmnAddr}$$

Where:

Base T1 PF Exchange Rate is the Base Tier 1 PF Exchange rate prior to the final allocation of any rate protection costs arising from the section 7(b)(2) rate test, as determined in each 7(i) Process.

PFCosts are all costs allocated in a 7(i) Process to the Priority Firm rates when the Base PF Exchange rate is calculated (also known as the unbifurcated PF rate) and prior to any reflection of the tiering of the PF Preference rate.

PFCredits are all credits allocated in a 7(i) Process to the Priority Firm rates when the Base PF Exchange rate is calculated (also known as the unbifurcated PF rate) and prior to any reflection of the tiering of the PF Preference rate.

T2Costs are all costs allocated in a 7(i) Process to Tier 2 Cost Pools.

T2Credits are all credits allocated in a 7(i) Process to Tier 2 Cost Pools.

PFLoad is the BPA forecast of load used to determine the unbifurcated PF rate in a 7(i) Process.

T2Load is the BPA forecast of load used to determine Tier 2 Rates in a 7(i) Process.

TmnAddr is the same unit charge for transmission added to the Base PF Exchange rate.



The Tier 1 PF Exchange rate used to calculate Idaho Falls' REP benefits is the Base Tier 1 PF Exchange rate as modified by any Supplemental 7(b)(3) Rate Charge, as determined in each 7(i) Process and may be adjusted pursuant to the Supplemental 7(b)(3) Rate Charge Adjustment, any cost recovery adjustment clause, and any dividend distribution clause, as determined to be applicable to the Tier 1 PF Exchange rate in a 7(i) Process.

**Action 2.** BPA adopts, in a final record of decision, policy or interpretation, a method of calculating Idaho Falls' ASC for a Fiscal Year(s) of an Exchange Period pursuant to BPA's 2008 ASC Methodology or its successor that differs from the following formula:

$$\text{RHWM ASC} = \frac{\text{Contract System Cost} - \text{NewRes\$}}{\text{Contract System Load} - \text{NewResMWh}}$$

Where:

RHWM ASC is the ASC for Idaho Falls for an Exchange Period, as defined by BPA's 2008 ASC Methodology.

Contract System Cost is as defined in BPA's 2008 ASC Methodology.

NewRes\$ is the forecast cost of resources (including purchased power contracts) used under this Agreement to serve Idaho Falls' Above-RHWM Load. Such resources are exclusive of Idaho Falls' Existing Resources for CHWMs as specified in Attachment C, Column D, of the TRM, and exclusive of purchases of power at Tier 1 Rates from BPA. The costs included in NewRes\$ will be determined using a methodology similar to Appendix 1 Endnote d of BPA's 2008 ASC Methodology.

Contract System Load is as defined in BPA's 2008 ASC Methodology.

NewResMWh is the forecast generation from resources (including purchased power contracts) used under this agreement to serve Idaho Falls' Above-RHWM Load. Such resources are exclusive of Idaho Falls' Existing Resources for CHWMs specified in Attachment C, Column D, of the TRM, and exclusive of purchases of power at Tier 1 Rates from BPA.

**Action 3.** BPA offers Idaho Falls an RPSA with an Exchange Load used to calculate Idaho Falls' REP benefits payments that differs from the following formula, or interprets such RPSA in a manner that differs from the following formula:

$$\text{Actual RHWM Exchange Load} = \text{RRL} \times \text{T1Pctg}$$

Where:

Actual RHWM Exchange Load is the monthly residential and small farm load of Idaho Falls used to calculate the actual monthly REP payments to Idaho Falls as specified in the RPSA.

RRL is Idaho Falls' actual total qualifying residential and small farm retail load for a month as specified in the RPSA.

$$\text{T1Pctg} = \frac{\text{T1MWh} + \text{ExistResMWh}}{\text{TRL} - \text{NLSL}}$$

Where:

T1Pctg is BPA's forecast percentage of Idaho Falls' load that is expected to be served by purchases of power at Tier 1 Rates from BPA and from Idaho Falls' Existing Resources for CHWM, and will be computed for each Fiscal Year of the applicable Rate Period. Such computation will be performed in the applicable RHW process for the Rate Period.

T1MWh is the amount of power at Tier 1 Rates BPA forecasts to be purchased by Idaho Falls from BPA in each Fiscal Year of a Rate Period as forecast in each RHW process for a Rate Period.

ExistResMWh is the specified output of Idaho Falls' Existing Resources for CHWM, as specified in Attachment C, Column D, of the TRM.

TRL is BPA's forecast of Idaho Falls' Total Retail Load in each Fiscal Year of a Rate Period as forecast in each RHW process for a Rate Period.

NLSL is BPA's forecast of Idaho Falls' New Large Single Loads in each Fiscal Year of a Rate Period as forecast in each RHW process for a Rate Period.

**Action 4.** BPA adopts a final record of decision, policy or interpretation that changes the terms of the TRM or the 2008 ASC Methodology applicable to REP participants with CHWM Contracts and such change is not encompassed in Actions 1-3, and such change meets the criteria in section 4.3 for application of the option in section 4.4.

#### 4.3 Criteria

The option set forth in section 4.4 below is available to Idaho Falls if BPA has taken any of the Actions 1-4 set forth in section 4.2 and the Actions taken, when considered in combination with all BPA actions being undertaken at that time, result in a material reduction in the REP benefits of the class of REP participants with CHWM Contracts. A reduction shall not be "material" for purposes of this section 4.3 if such Action(s), when considered in combination with all BPA actions being undertaken at that time, are applied to the provisions applicable to all REP participants and produce the same or comparable effects on all REP participants, even if such Action(s) results in an otherwise material reduction in the REP benefits of the class of REP participants with CHWM Contracts.

#### 4.4 **Option**

If Idaho Falls believes that BPA has taken any of the Actions 1 through 4 set forth in section 4.2 that satisfies the criteria for this option as set forth in section 4.3, and if BPA has provided a public comment process as part of BPA's decision process (for the relevant Action of Actions 1 through 4 set forth in section 4.2) in which Idaho Falls has commented that BPA was proposing or about to take such Action, then Idaho Falls, within 30 calendar days of BPA taking such alleged Action(s), may provide written notice to BPA in accordance with section 20 of this Agreement requesting an alternative power sales contract without a CHWM. Upon receipt of such written notice, BPA shall review the request and, within 60 calendar days, issue a written statement regarding whether the criteria of section 4.3 have been satisfied.

4.4.1 If BPA believes the criteria of section 4.3 have not been satisfied, the dispute shall be resolved through the dispute resolution provisions in section 22 of this Agreement, provided, however, that the sole function of arbitration shall be to determine whether the criteria of section 4.3 have been satisfied, not the exclusive remedy of money damages set forth in section 22.4 of this Agreement. If the dispute resolution results in a final determination that the criteria of section 4.3 have been satisfied, BPA shall have 90 calendar days from the date of such final determination to take curative action to restore the REP benefits of the class of REP participants with CHWM Contracts to the level that would have existed had BPA not taken the Action(s) that resulted in the criteria of section 4.3 being satisfied; provided, however, that if BPA elects not to take such curative action within such 90 day period, BPA shall have 180 calendar days after the date of such determination to offer to Idaho Falls an alternative power sales contract without a CHWM.

4.4.2 If BPA determines that the criteria of section 4.3 have been satisfied, BPA shall have 90 calendar days from the date of such determination to take curative action to restore the REP benefits of the class of REP participants with CHWM Contracts to the level that would have existed had BPA not taken the Action(s) that resulted in the criteria of section 4.3 being satisfied; provided, however, that if BPA elects not to take such curative action, it shall have 180 calendar days after the date of such determination to offer to Idaho Falls an alternative power sales contract without a CHWM.

4.4.3 Such alternative power sales contract shall be for the same purchase obligation in section 3 of this Agreement that is in effect at the time the notice under this section 4.4 is provided to BPA. Idaho Falls acknowledges that the terms and conditions of such alternative power sales contract may vary from those contained in the CHWM Contract.

4.4.4 Idaho Falls shall notify BPA in accordance with section 20 no later than 60 calendar days after the date of its receipt of such alternative power sales contract whether it will terminate its CHWM Contract and execute such alternative power sales contract, or retain its CHWM Contract. If

Idaho Falls fails to notify BPA within the 60-day period of its decision regarding its CHWM Contract, BPA's offer of the alternative power sales contract without a CHWM shall be withdrawn as of the 61<sup>st</sup> day and Idaho Falls will be conclusively presumed to have elected to retain its CHWM Contract.

- 4.4.5 If Idaho Falls provides BPA timely notice of its election to terminate its CHWM Contract and executes the alternative power sales contract, service under such alternative power sales contract shall not commence until the beginning of the Rate Period immediately following the Rate Period in which the alternative power sales contract is executed. Termination of Idaho Falls' CHWM Contract shall be effective at commencement of service under the alternative power sales contract.

**5. CHARGES DUE TO REDUCED FY 2014 TIER 2 SHORT-TERM RATE PURCHASE AMOUNTS**

Idaho Falls shall be liable for payment of any costs that apply as a result of Idaho Falls reducing the amount of Firm Requirements Power that Idaho Falls is obligated to purchase at the Tier 2 Short-Term Rate for FY 2014 as reflected in section 2.4 of Exhibit C. Such costs shall be those that BPA: (1) is obligated to pay and will not recover from Idaho Falls under Tier 2 Short-Term Rates as a result of this reduction, and (2) is unable to recover through other transactions. BPA shall determine such costs, if any, during the 7(i) Process to establish Priority Firm rates for the FY 2014 – FY 2015 Rate Period. If BPA determines that Idaho Falls owes for such costs, then Idaho Falls shall pay the entire amount to BPA in no more than 24 equal monthly payment amounts, starting the first month of the upcoming Rate Period. In no event shall BPA make any payment to Idaho Falls as a result of Idaho Falls reducing its amounts of Firm Requirements Power that Idaho Falls is obligated to purchase at Tier 2 Short-Term Rates.

**6. TREATMENT OF BULB TURBINES GENERATION FORECAST ERROR**

BPA purchases the generation output of the Bulb Turbines per Power Purchase Agreement, Contract No. 09PB-12085. Idaho Falls acknowledges that the output of the Bulb Turbines is deemed to constitute a portion of BPA's obligation to deliver an amount of Block Product to Idaho Falls' load. The Bulb Turbines is a behind the meter resource and does not require electronic tags.

- 6.1 BPA shall determine the monthly total overgeneration or undergeneration amount for the prior month using the data provided in section 6 of Exhibit F and monthly metering data. No later than the 5<sup>th</sup> Business Day of each month, BPA shall notify Idaho Falls of the Bulb Turbines monthly total overgeneration or undergeneration amount for the prior month.

- 6.2 No later than the 7<sup>th</sup> Business Day of each month, BPA shall enter the monthly total overgeneration or undergeneration amount as a BOS Deviation Account adjustment in the Slice Computer Application. Overgeneration amounts shall be entered as a negative adjustment. Undergeneration amounts shall be entered as a positive adjustment.
- 6.3 Overgeneration occurs when the total hourly generation of the Bulb Turbines is greater than the total hourly Bulb Turbines Generation Forecast (as defined in Exhibit F, section 6.2.1) for the month. Overgeneration amount is equal to the month total Bulb Turbines generation in kilowatt-hours less the Bulb Turbines Generation Forecast in kilowatt-hours. If the result is negative then overgeneration amount for the month is deemed to be zero.
- 6.4 Undergeneration occurs when the total hourly Bulb Turbines Generation Forecast is greater than the total hourly generation of the Bulb Turbines for the month. Undergeneration amount is equal to the month total Bulb Turbines Generation Forecast in kilowatt-hours less the Bulb Turbines generation in kilowatt-hours. If the result is negative then undergeneration amount for the month is deemed to be zero.

**7. STORAGE AND RETURN OF SLICE OUTPUT ENERGY**

Idaho Falls shall enter into an agreement with UAMPS that permits UAMPS to receive and store, for later return, any hourly Slice Output Energy from Idaho Falls that exceeds Idaho Falls' Total Retail Load. This storage agreement shall provide that the hourly Slice Output Energy amounts stored are netted into a single MWh monthly total for return to Idaho Falls. The total stored Slice amount for a month will be scheduled back to Idaho Falls within three months. Idaho Falls agrees to provide BPA with a copy of the storage and return agreement with UAMPS. At BPA's request, Idaho Falls shall provide BPA an accounting at the end of each month of any Slice Output Energy stored and when such amounts were (or will be) returned to serve Idaho Falls' Total Retail Load.

**8. REVISIONS**

This exhibit shall be revised by mutual agreement of the Parties to reflect additional products Idaho Falls purchases during the term of this Agreement.

**9. SIGNATURES**

The Parties have executed this revision as of the last date indicated below.

**CITY OF IDAHO FALLS DBA IDAHO  
FALLS POWER**

**UNITED STATES OF AMERICA  
Department of Energy  
Bonneville Power Administration**

By \_\_\_\_\_

By \_\_\_\_\_

Name \_\_\_\_\_  
(Print/Type)

Name Nancy Schimmels  
(Print/Type)

Title \_\_\_\_\_

Title Account Executive

Date \_\_\_\_\_

Date \_\_\_\_\_

(W:\power\CONTRACT\CUSTOMER\IDAHO FALLS\13056 Slice\Exh D\13056 Exhibit D Rev 4.doc) 06/06/16

City of Idaho Falls  
Expenditure Summary  
From 5/01/2016 To 5/31/2016

| Fund                     | Total<br>Expenditure |
|--------------------------|----------------------|
| General Fund             | 958,535.25           |
| Street Fund              | 135,133.43           |
| Recreation Fund          | 37,529.85            |
| Library Fund             | 67,987.78            |
| MERF Fund                | 283,058.98           |
| EL Public Purpose Fund   | 66,353.79            |
| Bus Improvement District | 12,500.00            |
| Golf Fund                | 92,908.47            |
| Self-Insurance Fund      | 93,066.35            |
| Street Capital Imp Fund  | 10,000.00            |
| Traffic Light Cap Imp F  | 1,964.36             |
| Airport Fund             | 93,479.34            |
| Water & Sewer Fund       | 334,279.44           |
| Sanitation Fund          | 3,551.81             |
| Ambulance Fund           | 45,408.68            |
| Electric Light Fund      | 3,643,098.42         |
| Payroll Liability Fund   | 2,660,532.68         |
|                          | 8,539,388.63         |

## **APRIL 15, 2016 – STRATEGIC PLANNING SESSION**

The City Council of the City of Idaho Falls met in Special Council Meeting (Strategic Planning Session), Friday, April 15, 2016, at the City Council Chambers in the City Annex Building located at 680 Park Avenue in Idaho Falls, Idaho at 12:10 p.m.

There were present:

Mayor Rebecca L. Noah Casper  
Councilmember Thomas Hally  
Councilmember Ed Marohn  
Councilmember John B. Radford  
Councilmember Michelle Ziel-Dingman  
Councilmember David M. Smith  
Councilmember Barbara Ehardt

Also present:

Craig Davis, Airport Director  
Randy Fife, City Attorney  
Bear Prairie, Idaho Falls Power Assistant Director  
Dave Hanneman, Fire Chief  
Robert Wright, Library Director  
Pamela Alexander, Municipal Services Director  
Greg Weitzel, Parks and Recreation Director  
Brad Cramer, Community Development Services Director  
Mark McBride, Police Chief  
Chris Fredericksen, Public Works Director  
Dana Briggs, Economic Development Coordinator  
Kerry McCullough, Public Information Officer  
Kami Morrison, Executive Assistant to the Mayor  
Darrell West, Bonneville Metropolitan Planning Organization (BMPO) Deputy Director  
Amanda Ely, Targhee Regional Public Transportation Authority (TRPTA) General Manager  
Adelita Woolf, TRPTA  
Mary Lund, Library Board Trustee  
Kathy Hampton, City Clerk

Mayor Casper expressed appreciation for those in attendance and stated she wants a City to make citizens proud, a City that innovates and leads, and a City that has confidence in the City leadership team. She introduced Kathie Novak, a former Councilmember and Mayor of Northglenn, Colorado, as facilitator of the Strategic Planning Session. Ms. Novak has experience in many aspects of Strategic Planning as well as Priority Based Budgeting (PBB). She assisted with facilitating City Councilmembers and Department Directors in a Strategic Planning Session in October, 2014.

Mayor Casper called the meeting to order at 12:22 p.m. and turned the meeting to Ms. Novak with the following agenda items:

Desired Outcomes:

- Celebrate past accomplishments and successes
  - Review Council and staff roles and expectations
  - Review the PBB process, tools and timeline
  - Identify key strategic issues
  - Develop a plan for moving forward on key strategic issues
- Discussion regarding Ground Rules for this Strategic Planning included:



## **APRIL 15, 2016 – STRATEGIC PLANNING SESSION**

- Don't waste time
- Watch the sarcasm
- Stay on topic
- Control emotional outbreaks
- Be open-minded/maintain biases
- Maintain strategic perspective
- Have empathy, be willing to listen and learn
- Be respectful
- Have fun, enjoy, have humor

Recent success and accomplishments were discussed. The Councilmembers noted these accomplishments required teamwork between the elected officials and staff and were for the benefit of the community. They expressed appreciation to the professionalism and expertise of the staff. A sample of the successes and accomplishments included:

- Target and Hitt Road Signal
- Sunnyside Road
- New Fire Station
- Award-winning Comprehensive Plans
- Power Bond payoff and decreased rates
- River Gardens Award and Tautphaus Park Zoo accreditation
- Safe and secure Airport
- Library upgrades
- Computer software replacement/upgrade (Cayenta and TRAKiT)
- In-house Legal Department
- Automated electric metering
- D Street underpass
- City fiber
- Area of Impact discussions/negotiations
- Sanitation Autoload system

Discussion occurred regarding the working relations among and between staff, Councilmembers, and the Mayor. Several items from discussion included:

### **‘What Council Expects of the Staff’:**

- Full, forthright, loyalty to the City
- Connection with employees, leadership/management skills
- Mindful of budget
- Patient, visionary, good with communication
- All departments move together/efficient managers of departments
- Dedicated to residents/excellent customer service
- Don't feel attacked by questions/able negotiators
- Willing attitude/bring solutions and recommendations

### **‘What Council Should Expect of/from the Staff’:**

- Professionalism and tact
- Customer service/open communication
- Provide facts/be responsive and dependable
- Be supportive (both publically and privately)
- Fiscally responsible
- Leadership/focus on problem solving

## **APRIL 15, 2016 – STRATEGIC PLANNING SESSION**

- Consistency/efficiency/honesty/accountable to constituents
- Healthy departmental culture

### **‘What Staff Expects of the Council’:**

- Policy direction and clarity
- Be supportive (both publically and privately)
- Communicate openly, honestly, and professionally
- Become informed on issues/ask questions but don’t attack
- Don’t micromanage
- Assume staff competency
- Be respectful, patient, fair, accessible, empathetic
- Follow through with goals
- Collaborate and interact with and between each other
- Make best decisions for City and staff

### **‘What Staff Should Expect of/from the Council’:**

- Be fair, respectful, supportive, empathetic
- Be involved – with partners and with the community
- Do ‘homework/research’/be willing to learn
- Offer political assessment/advocate where possible
- Not to micromanage/threaten or throw weight around
- Attend City events/interface with the public
- Grace under pressure
- Avoid a culture of blame

### **‘What Council Expects of Each Other’:**

- Communication/open mindedness
- Move on when the decision is made – support the Council’s decision
- Show leadership by common vision and information for citizen/treat with respect
- Represent all the people for the good of the whole (remember the people not in the room)
- Make well thought out decisions/outcomes of decisions need to be effective
- Decorum – keep emotion out of deliberations/be a professional deliberative body

Discussion occurred regarding ‘How to maintain no surprises’ concept. It was decided any critical information (public safety/emergency) would be relayed from the Department Director(s) to the Mayor who would be responsible for informing the Councilmembers. Department liaisons should also be contacted. Brief discussion followed regarding utilizing technology solutions.

Priority Based Budgeting (PBB) was reviewed due to several new Councilmembers and staff. Steps to Success included: Determine Results, Clarify Result Definitions, Identify Programs and Services, Value Programs Based on Results, and Allocate Resources Based on Priorities. Minor changes were made to both the Results and Result Definitions and were defined as follows: (informational note – punctuation and wording reflects formatting of information received from facilitator)

### **Access to Culture, Recreation, Leisure, Education and Life-Long Learning Opportunities**

- Offers Residents and Visitors Diverse Options for Cultural, Recreational, and Entertainment Programming and Venues
- Provides Continuous Learning Options for Our Community Through Access to Higher Education Opportunities, a Variety of Training Opportunities and Other Educational Resources

## **APRIL 15, 2016 – STRATEGIC PLANNING SESSION**

- Provides a Variety of Multi-Season Affordable and Accessible Recreational Activities for All Ages, Abilities, and Interests
- Fosters Partnerships to Provide Diverse Public Art, Cultural Enrichment, and Museums for Residents and Visitors
- Develops Easily Accessible Parks, Trail Systems, Green Spaces, and Recreational Facilities to Meet Current and Future Community Expectations
- Plans, Develops and Maintains the Community, Preserving it's Natural Resources and it's Amenities that promote an Active Lifestyle

### **Attractive, Clean, Livable and Family-Oriented Community**

- Maintains a Visually Appealing, Clean and Safe Community that Balances Community Codes and Regulations with Broader Aesthetic Goals
- Develops Easily Accessible Parks, Trail Systems, Greenspaces, and Recreational Facilities to Meet Current and Future Community Expectations
- Fosters Neighborhoods that Encourage Diversity, Vibrancy, Safety and Acceptance for Current and Future Residents
- Plans for Well-planned Residential and Commercial Developments and Redevelopments
- Provides a Variety of Affordable and Accessible Recreational Activities for All Ages, Abilities, and Interests
- Provides Connected, Multi-modal transportation network supporting vehicles, public transportation, cyclists and pedestrians

### **Strong, Stable, and Healthy Economic Growth and Vibrancy**

- Maintains a Business Friendly Environment that Encourages Diverse and High Quality Development in an Appropriate Regulatory Environment
- Creates Vibrant Redevelopment Zones that Focus on Commercial Development and Encouraging Additional Tourism
- Prioritizes the Development of Amenities that Promote Our Quality of Life and Sense of Community
- Ensures the Provision of Community Infrastructure to Meet Current and Future Needs of the Community
- Retains, Expands and Attracts High Quality Businesses to Support Employment Stability and Growth
- Facilitates the Education and Continuous Training of the Workforce to Meet Community Job Retention and Creation Goals to Support a Diverse Workforce
- Ensures Access to Reliable and Affordable Power to Support Existing Businesses and Attract New Business

### **Environmental Sustainability and Resource Preservation**

- Implements Land Use Plans that Encourage High Quality Development, Reduces Sprawl, and Facilitates an Orderly Well-maintained Community
- Designs for a Bikeable and Walkable Community
- Encourages the Wide-spread Adoption of Energy Efficiency, Energy Conservation, and Alternative Energy Solutions to Promote Community Sustainability Objectives
- Ensures Long-term Community Goals are Met for Preserving & Conserving Natural Areas and Parks and Green Spaces are Provided
- Plans for the Protection, Preservation, and Conservation of Scarce Water Resources

## **APRIL 15, 2016 – STRATEGIC PLANNING SESSION**

### **Managed, Well-Planned Growth and Development**

- Implement Long-term Planning Processes that Include Land Use, Redevelopment, Infrastructure and Public Amenities/Facilities
- Facilitates Planning for Long-term Regional Transportation Planning and Program Implementation
- Encourages Collaboration with the County Government to Improve Long-term Planning Coordination, Economic Development, and Overall Relations
- Promotes Development and Redevelopment that Emphasize Blight Reduction and Elimination, Infill Development, and Reinvestment in Older Areas of the City
- Maintains a Business Friendly Environment that Encourages High Quality Development in an Appropriate Regulatory Environment

### **Reliable Public Infrastructure and Effective Transportation and Mobility**

- Creates and Maintains a Comprehensive Multi-modal Public Transportation Network that Addresses Current and Long-term Mobility and Development Objectives
- Plans, Designs, Maintains and Improves all Public Infrastructure and Facilities (including Water and Sewer Utility, Power and Internet Connectivity), Ensuring Long-term Reliability
- Promotes and Offers a Variety of Transportation Options including Air Travel and Public Transit
- Creates and Maintains a Safe and Inter-connected and Accessible Community by way of it's Bike Trails, Pedestrian Walkways, and Trail Systems
- Develops and Enforces Effective Building and Design Standards that Incorporate Comprehensive Infrastructure Planning for Transportation, Water, Sewer, Electric, and Internet Connectivity

### **Safe and Secure Community**

- Maintains a Mix of Regulations and Practices that Provide the Regulatory Framework for Supporting a High Quality Community
- Offers Residents and Visitors Diverse Options for Cultural, Recreational, and Entertainment Programming and Venues
- Promotes an Engaged and Educated Community that is Committed to Mutual Responsibility for a Safe Community and for Creating a Strong Sense of Community Pride
- Provides for Safe Travel and Mobility Options, Ensuring that Stops, Shelters, Streets, Sidewalks, Paths and Trails are Accessible, Traversable and Well-Maintained for Motorists, Cyclists and Pedestrians
- Implements Community Policing Initiatives to Foster Proactive and Visible Public Safety Presence
- Provides Safety Solutions that Focus on Prevention Crime and Rapid Response to Emergency Calls and Situations
- Ensures Public Safety Personnel are Well-trained and Well-equipped to Support Rapid Response Times to Emergency Situations

### **Good Governance**

- Attracts, develops, rewards and retains a high-quality, engaged and productive workforce
- Fosters innovative and sound fiscal management and enables trust and transparency by ensuring accountability, integrity, efficiency and effectiveness in all operations
- Protects, manages, optimizes and invests in its human, financial, physical and technology resources
- Provides assurance of regulatory and policy compliance to minimize and mitigate risk
- Provides responsive and accessible leadership, focused on community priorities, facilitates, timely and effective two-way communication and utilizes input from all stakeholders
- Supports decision-making with timely and accurate short-term and long-range analysis that enhances vision and planning

## **APRIL 15, 2016 – STRATEGIC PLANNING SESSION**

The Councilmembers and Staff participated in an Environmental Scanning Exercise which identified trends, including those with a positive and negative impact, as follows:

### **Political:**

- Dillon State
- County action impact city governance
- Revenue challenges: state allocation; 3% capital property tax; underfunding of transportation
- Rocky Mountain Power
- Relationship with Ammon
- Citizen expectations increasing, but also want lower taxes
- Statewide relationships impact the city
- Political philosophies that pressure local government: low taxes; inclusive/diversity
- Progress is slow (i.e. annexations) because we are dealing with other political entities

### **Economic:**

#### Positive Impact:

- Disposable income
- Interest rates
- General taxation issues
- Local economic trends (cost of living)

#### Negative Impact:

- Unemployment level
- Foreign economic trends
- General taxation issues

### **Social:**

- Family and Religion – State
- Disposable income shrinking
- Advertising – turning to social media
- Consumer buying – tightening wallets
- Demographics – schools
- Shifting population – shrinking middle age
- Change in lifestyles – townhomes
- Education – Community College

### **Technological:**

#### Positive Impact:

- Transparency
- Efficiency
- Budgeting
- Ease of access to information
- Collaboration with inside and outside entities
- Better and faster communication
- Workflow improvements
- Analytics

#### Negative Impact:

- Costs of more technology and storage
- Hiring and retaining tech staff
- More threats to systems
- Cyber-attacks, identity theft
- Dependence on technology – challenges is not working
- Not enough storage capacity for video

## **APRIL 15, 2016 – STRATEGIC PLANNING SESSION**

- Keeping technology updated

### **Legal:**

- Challenges in employment law: Affordable Care Act, diversity, collective bargaining
- Consumer protection: infrastructure, public safety, fairness of processes
- Industry specific regulations
- Competitive regulations: Alcohol; etc.
- Current legislation regarding home market: Non-discrimination ordinances; fair housing
- Future legislation: Urban Renewal; “anti-city” state legislation; gambling; plastic bags; fiber; sharing economy; local sales tax; public transportation; Dillon’s rule state
- Regulatory bodies and their processes: electric; fair and predictable; being transparent; strings attached to federal grants
- Environmental regulations
- Water issues
- Environmental justice (affects all transportation)
- Historic preservation
- Endangered species
- Storm water and erosion control standards
- Water recharge

### **Environmental:**

- Water Conservation: litigation and water waste
- Water quality
- INL waste
- Fleet changes – CNG (compressed natural gas) vehicles
- Wind technology
- Docking stations
- Climate change
- Pesticides and fertilizers impact on soil
- Energy production on the river
- Canal generators
- Small Modular Reactor (SMR)

The meeting was recessed at 6:30 p.m. until Saturday, April 16, 2016, at 7:30 a.m.

The Councilmembers and Staff participated in a SWOT/C (Strength, Weakness, Opportunities, Threats/Challenges) analysis with the following desired outcomes:

- Identify internal strengths and weaknesses and external opportunities and challenges
- Identify specific action and ideas to build on strengths and take advantage of opportunities
- Specific actions and ideas to deal with challenges and weaknesses
- Thoughtful deliberations among Council and staff concerning strengths, weaknesses, opportunities and challenges and their implications

Internal Strengths – Resources or capabilities that help the City accomplish its mandates and missions, and create public value – were prioritized as:

- Best Practices and training
- Financial stability
- Greenbelt/Riverwalk
- Staffing – culture
- Urban development

## **APRIL 15, 2016 – STRATEGIC PLANNING SESSION**

Internal Weaknesses – Deficiencies in resources or capabilities that hinder the City accomplish its mandates and missions, and create public value – were prioritized as:

- Long-term CIP (Capital Improvement Project) planning and funding
- Current infrastructure planning and funding
- Adequate O&M (Operations and Maintenance) funding
- Market wage study
- Recruit and retain Human Resources (HR) specialist

External Opportunities – Primarily outside factors or situations that the City can take advantage of to better fulfill its mission, meets its mandates, or create public value – were prioritized as:

- Partnership with INL (Idaho National Laboratory)
- Community College
- Leverage electric rates – economic development

External Challenges – Primarily outside factors or situations that can affect the City in a negative way-making it harder to meet its mission, meets its mandates, or create public value – were prioritized as:

- Agreeing on Regional Roles (county Relationships) and growth and planning (County and Ammon)
- Public perception/marketing of City
- Vulnerability to water calls

As a result of the SWOT/C analysis, Councilmembers and staff identified the following next steps:

- Create a communication plan (formal and informal) to reach out to regional partners with input from Department Directors at monthly meetings.
- Develop a schedule of monthly meetings between directors to discuss plans. First meeting to be held within 30 days.
- Discover opportunities for synergy and develop a plan for communication between directors as it relates to long-range planning.
- Define a timeline for goals as actions items are set.
- Mayor and Council to create a plan to update Council on long-range planning.
- All directors consider potential planning impacts and act accordingly.
- Define what is “long-range” and develop criteria.
- Create a list of viable, legal funding mechanisms.
- Create a plan to implement financial forecasting.
- Identify what O&M needs planned.
- Set policy that all capital projects include identification of one-time and ongoing O&M costs.
- Develop criteria from the PBB platform.

Additional steps will include additional education on PBB and to schedule follow-up meetings to continue the strategic discussions with the possibility of including community partners/planners.

There being no further business, the meeting was adjourned at 12:25 p.m.

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CITY CLERK

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MAYOR

### **MAY 9, 2016-Joint Meeting with Ammon Officials**

The City Council of the City of Idaho Falls met in Special Council Meeting (Joint Meeting with Ammon Officials), Monday, May 9, 2016, at the City Council Chambers in the City Annex Building located at 680 Park Avenue in Idaho Falls, Idaho at 4:30 p.m.

There were present:

Idaho Falls Officials/Staff:

Mayor Rebecca L. Noah Casper  
Councilmember John B. Radford  
Councilmember Barbara Ehardt  
Councilmember Thomas Hally  
Councilmember David M. Smith  
Councilmember Ed Marohn  
Councilmember Michelle Ziel-Dingman  
Kerry McCullough, Public Information Officer  
Chris Fredericksen, Public Works Director  
Brad Cramer, Community Development Services Director  
Dave Hanneman, Fire Chief  
Randy Fife, City Attorney  
Kathy Hampton, City Clerk

Ammon Officials/Staff:

Mayor Dana Kirkham  
Council President Brian Powell (left at 5:15 p.m.)  
Councilmember Rex Thompson  
Councilmember Sean Coletti (arrived at 4:35 p.m.)  
Councilmember Russell Slack  
Councilmember Brad Christensen  
Councilmember Byron Wiscombe  
Scott Hall, City Attorney (arrived at 5:26 p.m.)  
Ron Folsom, City Administrator/Planning Director  
Lance Bates, City Engineer  
Rachael Brown, City Clerk  
Ray Ellis, Public Works Director  
Stacy Hyde, Fire Chief  
Keith Banda, Fire Marshal

Mayor Casper called the meeting to order at 4:30 p.m. Mayor Kirkham requested a motion to amend the agenda to reflect the addition of Targhee Regional Public Transportation Authority (TRPTA) discussion. It was moved by Councilmember Powell, seconded by Councilmember Slack, to amend said agenda. Ammon roll call as follows: Aye – Councilmember Christensen, Slack, Powell, Thompson, Wiscombe. Nay – none. Motion carried.

Mayor Casper invited the Ammon officials to the Community Appreciation Reception for outgoing Idaho Clean-up Contractors on May 31, 2016.

Mayor Casper stated approximately two (2) years ago the Idaho Falls and Ammon officials met together and created subcommittees to assist with ongoing projects and needs of the communities. She believes in the spirit of cooperation and is optimistic for proceeding forward with areas of concern. Mayor Kirkham believes both City's officials are committed to the greater good for building a better community.



## **MAY 9, 2016-Joint Meeting with Ammon Officials**

Discussion items included:

### Hitt Road and 17<sup>th</sup> Street Planning:

Director Fredericksen reviewed the preliminary redesign of Hitt Road and 17<sup>th</sup> Street intersection stating it would be similar to the newly constructed Hitt Road and Sunnyside Road intersection. The intersection would include narrowing of current lanes to allow a 7-lane configuration (with the exception of the east leg of 17<sup>th</sup> Street) as well as construction of medians. Due to the width of the intersection a traffic signal bridge would be required. Director Fredericksen indicated discussion is continuing with the surrounding businesses to obtain Right of Way acquisition. General discussion followed regarding medians and access points. He reviewed the following information:

Projected costs for the 2016-2017 budget include:

|                                 |  |
|---------------------------------|--|
| Power Line Relocation:          | \$190,000                              |
| Design Cost Incurred:           | \$200,000                              |
| Design Cost Remaining:          | \$80,000                               |
| Construction Cost Estimate:     | \$3,500,000 (includes 10% Contingency) |
| <u>Contract Administration:</u> | <u>\$330,000</u>                       |
| Total Project Cost:             | \$4,300,000                            |

Scheduling Milestones:

|                         |                       |
|-------------------------|-----------------------|
| Joint Powers Agreement: | August 2016           |
| Power Line Relocation:  | October 2016          |
| Finalize Design:        | November 2016         |
| Project Bidding:        | January 2017          |
| Construction:           | June/July/August 2017 |

Mayor Kirkham recommended the formation of a subcommittee to include discussion with shareholders. Mayor Casper and Mayor Kirkham indicated money has been allocated for this project and both cities would like to proceed forward.

### Hitt Road Memorandum of Understanding (MOU) Committee Report:

Mayor Casper stated a subcommittee had been previously formed which did not reach resolution. Councilmember Marohn stated he, along with Councilmember Coletti and former Councilmember Sharon Parry, participated on this committee. He indicated many drafts of the MOU had been discussed with key items including maintenance, area of impact, and boundaries of the two (2) cities. He stated all project costs for capital improvement had previously been worked out in a joint task agreement. It has been proposed that a fixed dollar amount be included in future joint task agreements identifying allocation of costs. Councilmember Coletti believes the MOU is necessary but indicated the maintenance aspect of Hitt Road will require additional future discussion. Mayor Kirkham believes the previous decisions of former officials will influence the future maintenance of Hitt Road. Discussion followed regarding the cost sharing amounts of current Hitt Road intersections. A Joint Powers Agreement (JPA) may be necessary for each project with a master agreement for routine and on-going items. A subcommittee will be formed for continued discussion of a MOU.

### Area of Impact Update:

Director Cramer stated the last agreement for Area of Impact (AOI) was in 2001 and several parcels have been annexed beyond the boundaries. He indicated development along the Snake River and Interstate 15 has been very rapid and approaching the County boundary, therefore an Area of Impact toolkit, including a study map and timelines, has been created. He indicated this toolkit has been very beneficial. He believes the City of Idaho Falls

## **MAY 9, 2016-Joint Meeting with Ammon Officials**

and Bonneville County should be working from the same set of standards which would allow 15-20 years of growth. He prefers the City of Ammon utilize the same standards as well realizing their growth can be greater than the City of Idaho Falls. Mayor Kirkham stated she is in agreement with the standards that have been set and has had recent conversation with the Bonneville County Commissioners regarding the same expectations. General discussion followed regarding City services required for annexations. After further brief discussion, it was decided no committee will be formed to address Area of Impact and this item will be continued to be handled at staff level.

### **Fire Department Mutual Aid:**

Chief Hanneman stated previous discussions have occurred however, at the present time, there is no Mutual Aid Agreement between the City of Idaho Falls and the City of Ammon. Liability concerns were raised during a fire incident in Ammon in which Idaho Falls assisted. After brief discussion it was determined there was a misconception of the previous Mutual Aid Agreement discussion. Chief Hanneman indicated although the Emergency Medical Services (EMS) are somewhat similar the fire department systems, including response standards and training, are very different between the two (2) cities. Chief Hyde prefers the Cities work together to assist the citizens of the community. Chief Hanneman stated a Mutual Aid Agreement would be for those uncommon events and typically there is no exchange of funds. He also stated an Automatic Aid Agreement indicates the closest unit able to assist, determined by the Computer Aid Dispatch (CAD) System, would respond regardless of the jurisdiction. After general discussion it was decided a subcommittee would be formed to address the Mutual Aid Agreement.

### **Targhee Regional Public Transportation Authority (TRPTA) Support:**

Mayor Casper indicated the City of Idaho Falls has contributed in excess of \$100,000.00 to TRPTA over the course of the past two (2) years. The Idaho Falls Councilmembers were recently made aware that the combined contributions from all other surrounding communities is less the total amount of Idaho Falls' contribution. She stated public transportation provides a valuable benefit to our community but believes the established routes may need to be changed to reflect actual costs to each community. Councilmember Coletti stated there is only one established route in the City of Ammon and all other use of TRPTA has occurred through demand response, which is mainly paid by Medicaid. Councilmember Hally believes public transportation is a key component for growth and infrastructure. Councilmember Christensen expressed his concern for seeing TRPTA buses with a small number/no occupants and has requested use statistics from TRPTA for future evaluation and investment. Mayor Kirkham stated there is current conversation with TRPTA for supply and demand issues. General discussion of public transportation followed. It was decided no subcommittee was necessary for this item.

### **Formation of Inter-council Committees:**

After brief discussion committees were assigned as follows:

#### **Fire Department –**

Idaho Falls Councilmembers Ed Marohn and Barbara Ehardt  
Ammon Councilmembers Brad Christensen and Russell Slack

#### **Hitt Road –**

Idaho Falls Councilmembers Michelle Ziel-Dingman and David Smith  
Ammon Councilmembers Sean Coletti and Rex Thompson

#### **Hitt Road and 17<sup>th</sup> Street –**

Idaho Falls Councilmembers Thomas Hally and John Radford  
Ammon Councilmembers Brian Powell and Byron Wiscombe

Mayor Casper stated each committee would be responsible for identifying and collaborating on the scope of issues and to generate recommendations. It was decided the initial focus for each committee would be as follows:

**MAY 9, 2016-Joint Meeting with Ammon Officials**

Fire Department – Mutual Aid Agreement

Hitt Road – Consensus of the MOU draft

Hitt Road and 17<sup>th</sup> Street – Timeline, funding, and a Joint Powers Agreement

Mayor Kirkham believes stereotypes on both communities still exist but she expects the officials to be leaders for the benefit of the community to allow forward movement and to stop perpetuating those issues that may no longer be true. It is the best interest to be good neighbors.

Mayor Casper believes there is balance for the need to get along as well as deliver value in a mature manner.

Councilmember Dingman believes there is opportunity for the two communities to move forward and the example set by the Councilmembers is extremely important for the constituents.

There being no further business, it was moved by Councilmember Powell, seconded by Councilmember Christensen, to adjourn at 6:25 p.m. which motion passed followed a unanimous vote.

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CITY CLERK

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MAYOR

## MAY 12, 2016

The City Council of the City of Idaho Falls met in Special Council Meeting (Idaho Falls Power Board Meeting), Thursday, May 12, 2016, at the Idaho Falls Power Conference Room, located at 140 S. Capital Avenue in Idaho Falls, Idaho at 8:00 a.m.

There were present:

Councilmember Ed Marohn

Councilmember Michelle Ziel-Dingman

Councilmember Barbara Ehardt (departed at 8:42 a.m. and returned at 10:10 a.m.)

Councilmember Thomas Hally

Councilmember David M. Smith

Absent:

Mayor Rebecca L. Noah Casper

Councilmember John B. Radford

Also present:

Jackie Flowers, Idaho Falls Power Director

Randy Fife, City Attorney

Kathy Hampton, City Clerk

Council President Hally called the meeting to order at 8:05 a.m. and turned the meeting to Director Flowers for the following items:

### Idaho Falls Fiber Consultant Report:

Director Flowers stated following a Request for Proposal (RFP) in August 2015, Finley Engineering Company was awarded the contract to conduct a review of future options for the fiber optic network and develop a fiber report for the City of Idaho Falls. Finley Engineering has more than 60 years of communications and electric power engineering experience and nearly 30 years of experience with fiber communication and data projects, including municipal systems, and have been recognized as a communications industry leader. Finley Engineering Company has subconsulted with CCG Consulting who offers a strong business focus including planning, operations, budgeting, and billing. The consulting team has been scheduled for presentation of the report at the May 23, 2016, Council Work Session and will present various options for the City to consider. Director Flowers stated that the utility has assembled a fiber focus group of approximately twelve members to assist staff with the future evaluation and community outreach. She indicated that some of the options identified would lead to a significant investment by the City so we will need to spend the time having extensive dialog in the community about what needs exist and whether there is interest to pursue a solution for residential. The study also contemplates how to address the limited dark fiber lease capacity both in the interim and potential changes to that business model in the long term.

### Utah Associated Municipal Power Systems (UAMPS) Carbon Free Power Project (CFPP):

Director Flowers reviewed the UAMPS CFPP project timeline for 2016 both as relates to anticipated NuScale actions and UAMPS actions.

Director Flowers stated UAMPS and NuScale are continuing to meet with various stakeholders and local interest groups to solicit input on the project. UAMPS is scheduled to hold a technology conference in September, 2016, for member participants. She indicated that the Idaho Department of Labor has conducted an Economic Impact Analysis of the Small Modular Reactor (SMR) Project regarding Construction Impact and Operational Impact. Construction Impact of the estimated \$2.8 billion project could potentially create a total employment impact of 12,808 jobs in the local economy. Total labor income during construction is estimated to increase by \$1.5 billion, with a combined average wage of \$44,937. Combined industry sales are expected to increase by \$3.8 billion over the course of the construction project. Upon completion of the project, Operational Impact estimates the SMR

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would create a total employment impact of 1,507 jobs (360 jobs at the plant with 1,147 jobs indirectly created) with average wage of \$65,324 per year per job (plant jobs have an estimated wage of \$85,000 per year). Construction and Operational combined are estimated to create a labor income increase of \$98 million. Combined industry sales during operation is expected to increase by \$389 million. She indicated that the City's Economic Development Coordinator, Dana Briggs, is working with REDI (Regional Economic Development Eastern Idaho) to evaluate economic impact opportunities including developing a timeline and targeted focus.

### International Brotherhood of Electrical Workers (IBEW) Agreement:

Director Flowers reviewed the negotiations with the IBEW as follows:

*Amend Section 2.12* to fix the standby pay at 16 hours per week and allow it to be applied at 2 hours per day Monday – Friday and 3 hours per day on Saturday and Sunday.

*Amend Section 2.14* to reflect updated GSA meal rates.

*Amend Section 2.17j* to increase all longevity compensation by 2.3%.

*Amend Section 2.30b* – effective January 1, 2017, to reflect an increase in monthly premium and in the employee's share of the premium (will now contribute 5% of monthly premiums). Director Flowers stated even with the increase, overall premiums for IBEW employees will be approximately \$400 per month less than the City's monthly HSA premiums and \$550 per month less than the City's monthly PPO premiums per each employee.

*Amend Exhibit A* to add the following:

- Residential Meter Technician – Director Flowers stated this position was previously a Municipal Services employee although IFP was paying the wages through a budget transfer.

- Power Supply Dispatcher at 105% of the Certified Distribution Dispatcher rate based upon successful completion of the Associates Degree program, and Meter Temporary foreman at 105% of the regular wage.

- Set the Journeyman Electrician wage rate equal to the Substation Technician wage rate.

- Increase wages by 2.3% on all classifications – Director Flowers indicated the trend is for all journeymen to make the same wage.

Amendments to the IBEW contract will begin May 14, 2016, through May 13, 2017.

### Payment in Lieu of Taxes (PILOT):

Director Flowers stated benchmark projected general fund transfers against American Public Power Association (APPA) data were received with third quartile at 6.6% and FY16-17 Contribution anticipated at 7.4%. The data shows reduction in highest of the two quartiles, likely due to a return to pre-economic downturn levels. She indicated this is unprecedented territory for IFP. The new formula set last year eliminated most uncertainty as it did not contemplate a reduction in the benchmark, although some variability in actual operation revenues based on critical water year budgeting and in benchmark outcome from the benchmark survey still exist. Director Flowers indicated this reduction will not allow for addition of in-kind projects and will also require reduction in cash contribution or in proactive work in traffic or street lights. The impact could delay LED street light conversions as well as Parks and Recreation Department's reoccurring projects such as holiday lights and trees. As an alternative, a partial reduction could occur this year and then step down the contribution over the course of the next two (2) years with the possibility of adjusting the percent of revenue. Budgetary impacts being analyzed are the Final Operating Revenue (currently at \$51 million and would need to be at \$57 million to the hit benchmark, not likely given softening of loads) and Final Traffic budget.

### Idaho Falls Power Waysides for Assets on River Walk:

Director Flowers stated during the Signage and Wayfinding project it was noted that IFP destination and interpretive signage at several locations should be updated to coincide with the new City logo/theme and the

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existing signs are showing signs of fatigue. She indicated destination signs are not included in the Hunt Design project, IFP signage areas could include:

The Falls – interpretive sign with story (replacement sign)

The Rock Garden – interpretive sign with story on rocks from Gem State (new sign)

Old Lower Plant (OLP) at Sunnyside Road – interpretive sign with story about the OLP surviving the Teton Dam flood (new sign)

Director Flowers noted an estimate to design a replacement of the existing interpretive sign on the River Walk trail system was received from Interpretive Solutions in an amount of approximately \$15,000.00. After brief discussion, it was decided discussion will occur with the current IFP graphic designer for a possible informal proposal for interpretive signage and possibly develop a Request for Proposal (RFP) for design and development for interpretive signage.

**Federal Court Ruling on the National Oceanic and Atmospheric Administration (NOAA) Fisheries 2014 Biological Opinion:**

Director Flowers stated US District Judge Michael Simon's recent ruling on the NOAA indicated the Environment Impact Study (EIS) did not meet the requirements of the Endangered Species Act (ESA). The ruling does not provide a path forward for the region nor does it allow enough time for a complete National Environmental Policy Act (NEPA) EIS, including contemplated options of dam removal. Judge Simon acknowledges the measures are benefitting the salmon but he concluded the salmon plan is not enough. This ruling is detrimental to public power as IFP is already paying \$7 million each year through wholesale power rates to BPA for fish mitigation. Director Flowers reviewed the importance of the four (4) lower Snake River dams; Ice Harbor Dam, Lower Monumental Dam, Little Goose Dam, and Lower Granite Dam, as follows:

Capacity > 3,000 MW carbon free power

Produces an output average of >1,000 MW carbon free power, enough for 800,000 homes

Completed in 1970's

Would cost \$1.3 - \$2.6 million to breach (dams would need replacement power)

Includes some of the most advanced and successful fish passage systems in the world

Could not be replaced with wind/solar, would have to be base load (likely natural gas)

Critical to balancing the regions more than 4,800 MW of wind which makes up ¾ of BPA's operating reserves

Director Flowers stated in 2007 the Council passed the following Resolution No. 2007-05:

**RESOLUTION RELATING TO THE NORTHWEST'S FEDERAL DAMS AND HYDRO SYSTEM**

NOW, THEREFORE, BE IT RESOLVED, that Idaho Falls Power, a division of the City of Idaho Falls, opposes funding the study of removing the lower Snake River dams and opposes removing the lower Snake River dams or making onerous changes in federal hydro system operations that are not science-based or cost-effective, because they will have devastating impacts on the Northwest's economy and will unnecessarily remove a clean, renewable and reliable energy resource with questionable benefits for listed fish.

**Board Meeting Schedule:**

Director Flowers stated beginning in June, IFP Board Meetings will be held once per the summer months with continuation of APPA webinars. Brief discussion followed regarding upcoming Idaho Consumer-Owned Utilities Association (ICUA) and UAMPS meetings. Councilmember Ehardt requested future service policy discussion for extending services beyond City boundaries.

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There being no further business, it was moved by Councilmember Hally, seconded by Councilmember Marohn, to adjourn the meeting at 10:22 a.m. which motion passed following a unanimous vote.

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CITY CLERK

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MAYOR

**MAY 12, 2016**

The City Council of the City of Idaho Falls met in Regular Council Meeting, Thursday, May 12, 2016, in the Council Chambers in the City Annex Building located at 680 Park Avenue in Idaho Falls, Idaho at 7:30 p.m.

There were present:

Councilmember David M. Smith  
Councilmember Thomas Hally  
Councilmember John B. Radford  
Councilmember Michelle Ziel-Dingman  
Councilmember Barbara Ehardt  
Councilmember Ed Marohn

Absent:

Mayor Rebecca L. Noah Casper

Also present:

Randy Fife, City Attorney  
Kathy Hampton, City Clerk  
All available Department Directors

Mayor Pro Tem Hally invited Brandon Collette, Boy Scout Troop #342, to come forward and lead those present in the Pledge of Allegiance.

Mayor Pro Tem Hally requested any public comment not related to items on the agenda. No one appeared.

**Consent Agenda Items:**

The City Clerk requested approval of minutes from the April 25, 2016, Council Work Session and April 28, 2016, Council Meeting.

The City Clerk requested approval of the Expenditure Summary for the month of April, 2016.

| <b><u>FUND</u></b>                          | <b><u>TOTAL EXPENDITURE</u></b> |
|---|---------------------------------|
| General Fund                                | \$1,222,548.56                  |
| Street Fund                                 | 15,016.13                       |
| Recreation Fund                             | 25,973.11                       |
| Library Fund                                | 130,172.75                      |
| Municipal Equipment Replacement Fund (MERF) | 269,717.34                      |
| Electric Light Public Purpose Fund          | 65,858.43                       |
| Golf Fund                                   | 159,604.31                      |
| Self-Insurance Fund                         | 57,689.33                       |
| Municipal Capital Improvement Fund          | 11,100.08                       |
| Street Capital Improvement Fund             | 19,862.27                       |
| Traffic Light Capital Improvement Fund      | 13,359.17                       |
| Parks Capital Improvement Fund              | 657.54                          |
| Airport Fund                                | 204,025.15                      |
| Water and Sewer Fund                        | 225,146.14                      |
| Sanitation Fund                             | 2,706.40                        |
| Ambulance Fund                              | 212,845.74                      |
| Electric Light Fund                         | 3,486,086.47                    |



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|                        |              |
|------------------------|--------------|
| Payroll Liability Fund | 2,643,963.98 |
| TOTAL                  | 8,766,332.90 |

The City Clerk requested approval of the Treasurer's Report for the month of April, 2016.

The City Clerk requested approval of license applications, all carrying the required approvals.

It was moved by Councilmember Marohn, seconded by Councilmember Smtih, to approve all items on the Consent Agenda according to recommendations presented. Roll call as follows: Aye – Councilmembers Dingman, Smith, Marohn, Ehardt, Hally, Radford. Nay – none. Motion carried.

**Regular Agenda Items:**

The Idaho Falls Police Department submitted the following item for Council consideration:

Subject:           Amendment to Traffic Safety Ordinance

Staff members have made recommendations to improve the efficiency of the Traffic Safety Committee. With staff recommendation an amendment to the City Ordinance, Title 2, Chapter 8, has been drafted by the City Attorney.

Councilmember Dingman stated amendments will include any recommendations be reported to the Director of Public Works, the number of voting members determined, and establishing term limits for committee members.

It was moved by Councilmember Dingman, seconded by Councilmember Marohn, to approve the amended Traffic Safety Ordinance under the suspension of the rules requiring three complete and separate readings and that it be read by title and published by summary. Roll call as follows: Aye – Councilmembers Marohn, Dingman, Ehardt, Hally, Radford, Smith. Nay – none. Motion carried.

At the request of Mayor Pro Tem Hally, the City Clerk read the ordinance by title only:

**ORDINANCE NO. 3069**

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, AMENDING TITLE 2, CHAPTER 8, CLARIFYING TRAFFIC SAFETY ADVISORY COMMITTEE MEMBERSHIP, TERMS OF OFFICE, PURPOSE, DUTIES, AND CONSTITUENCY; PROVIDING SEVERABILITY, CODIFICATION, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

Public Works Department submitted the following items for Council consideration:

Subject:           Bid Award – Water Line Replacement – 2016

On May 3, 2016, bids were received and opened for the Water Line Replacement - 2016 project. A tabulation of bid results is below.

|  |                     |                      |
|--|---------------------|----------------------|
| Bidder   | Engineer's Estimate | HK Contractors, Inc. |
| Total Bid Base Schedule                          | \$1,390,033.00      | \$1,777,843.50       |
| Total Alternative Bid Schedule No. 1             | \$327,447.00        | \$349,537.50         |
| Total Combined Bid Schedule with Alternate No. 1 | \$1,717,480.00      | \$2,127,381.00       |

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Public Works recommends approval of the plans and specifications, award to the lowest responsive, responsible bidder, HK Contractors, Inc., for the base bid and bid alternate in an amount of \$2,127,381.00.

It was moved by Councilmember Ehardt, seconded by Councilmember Dingman, to approve of the plans and specifications and award to the lowest responsive, responsible bidder, HK Contractors, Inc., an amount of \$2,127,381.00, and give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows: Aye – Councilmembers Hally, Marohn, Radford, Dingman, Smith, Ehardt. Nay – none. Motion carried.

Subject: Bid Award – Ryder Park Pump Station

On May 5, 2016, bids were received and opened for the Ryder Park Pump Station project. A tabulation of bid results is below.

| Bidder | Engineer's Estimate | 3H Construction, LLC | Knife River Corporation-<br>Northwest | MD Nursery &<br>Landscaping |
|--------|---------------------|----------------------|---------------------------------------|-----------------------------|
| Total  | \$144,900.00        | \$152,638.40         | \$187,800.00                          | \$217,890.00                |

Public Works Director Chris Fredericksen stated this project will allow water to be drawn from the Snake River for Ryder Park. The pump will save approximately two (2) million gallons of potable water each month which is currently being pumped into the pond. He indicated the water being pumped from the river is considered a non-consumptive source and will flow back into the ground and/or the river. Director Fredericksen stated Idaho Falls Power also has a cost associated with this project with an estimated amount of \$58,000.00.

It was moved by Councilmember Ehardt, seconded by Councilmember Radford, to approve of the plans and specifications and award to the lowest responsive, responsible bidder, 3H Construction, LLC, an amount of \$152,638.40, and give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows: Aye – Councilmembers Ehardt, Radford, Smith, Marohn, Dingman, Hally. Nay – none. Motion carried.

Subject: Resolution to Order the Condemnation of Property for a Funded and Approved Public Right-of-Way Project

The City has received Federal funding for the expansion of Grandview Drive between Skyline Drive and Saturn Avenue. This project is designed to better serve the traveling public as the Idaho Falls Airport expands services, to improve the public safety for pedestrians and automobiles, and to provide an integral physical and economic link between the Arco Highway, Interstate 15, and the U.S. Route 20 interchange across the northwest part of the City. The City has completed the design and environmental assessments for the project and the project is out to bid. The City will review bids to construct this project on May 24, 2016. Construction is expected to begin on July 9, 2016. The City has successfully acquired all but one of the properties necessary for this project. The City has made numerous attempts to acquire the last parcel by making a fair-market offer (which was supported by an appraisal conducted by a licensed real property appraiser). Efforts to enter into negotiations to purchase the property have been unsuccessful. Because the project's funding is contingent on starting construction of the project as scheduled, it is recommended that the City exercise its eminent domain authority.

Director Fredericksen stated this project is in conjunction with a City project for water line replacement. The expansion will allow for five (5) lanes of traffic as well as a 12-foot wide pedestrian walkway on the south side of Grandview. He indicated staff has provided numerous offers to the current property owner, all unsuccessful, for the 2200 square feet of the right-of-way property required for a right turn lane from Skyline Drive onto Grandview Drive towards US 20 and Interstate 15. The proposed resolution would allow the legal authority to proceed with condemnation of property. After brief discussion, it was moved by Councilmember Ehardt, seconded by Councilmember Dingman, to adopt the Resolution to condemn the property necessary to complete the Grandview

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Drive expansion project, and give authorization for the Mayor to sign the necessary documents. Roll call as follows: Aye – Councilmembers Radford, Ehardt, Hally, Smith, Marohn, Dingman. Nay – none. Motion carried.

**RESOLUTION 2016-16**

A RESOLUTION OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, ORDERING THE CONDEMNATION OF PROPERTY FOR A FUNDED AND APPROVED PUBLIC RIGHT OF WAY PROJECT; AND PROVIDING THAT THIS RESOLUTION BE EFFECTIVE UPON ITS PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

Municipal Services submitted the following item for Council consideration:

Subject: Civic Auditorium Professional Services Agreement

For review is a professional services agreement between the City of Idaho Falls and Idaho Falls Arts Council. This agreement outlines the scope of work for the Idaho Falls Arts Council to provide event management, marketing, and execution of professional services for the Civic Auditorium. This agreement would begin July 1, 2016. Funding for the professional services agreement, in the amount of \$65,000, is within the 2015/16 Municipal Services Department, Civic Auditorium budget and will be included in the 2016/17 budget.

Councilmember Marohn stated the City has owned the Civic Auditorium since 1950 and believes the facility has become an important asset of the community. This agreement will allow professional administration to assist with additional marketing and event planning.

It was moved by Councilmember Marohn, seconded by Councilmember Smith, to approve the Civic Auditorium Professional Services Agreement and give authorization for the Mayor and City Clerk to sign the necessary documents. Roll call as follows: Aye – Councilmembers Marohn, Dingman, Ehardt, Hally, Radford, Smith. Nay – none. Motion carried.

Idaho Falls Power submitted the following item for Council consideration:

Subject: Collective Bargaining Agreement with International Brotherhood of Electrical Workers (IBEW) Local 57

For your consideration is the Collective Bargaining Agreement between the City of Idaho Falls and the International Brotherhood of Electrical Workers Local 57, and the summary of negotiations as agreed upon with the Union. The agreement has been negotiated in good faith with Union leadership.

Councilmember Smith stated this contract includes a 2.4% overall increase of compensation of benefits.

It was moved by Councilmember Smith, seconded by Councilmember Hally, to approve the Collective Bargaining Agreement between the City of Idaho Falls and the International Brotherhood of Electrical Workers Local 57, and authorize the Mayor to sign the necessary documents. Roll call as follows: Aye – Councilmembers Ehardt, Marohn, Hally, Radford, Smith, Dingman. Nay – none. Motion carried.

Community Development Services Department submitted the following items for Council consideration:

Subject: Community Development Block Grant (CDBG) Consolidated Annual Performance and Evaluation Report (CAPER) – 2015

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As part of the CDBG reporting requirements, the CAPER for 2015 is due to the U.S. Department of Housing and Urban Development (HUD) on June 30, 2016. Approval of the CAPER requires a public hearing, a 15-day public comment period, and approval of a resolution. The public hearing is scheduled for May 12, 2016. The comment period will begin on May 13, 2016, and will end on May 27, 2016. Staff will request Council approval of the resolution at the June 9, 2016, Council Meeting.

Mayor Pro Tem Hally opened the public hearing and stated all staff reports and presentations be entered into the record.

Lisa Farris, Grant Administrator, appeared with the following presentation:

### Slide 1: CDBG Basics – Criteria for Projects/Activities

Must meet 1 of 3 National Objectives (HUD):

- Benefit Low to Moderate Income Person

*Idaho Falls family of 4 making less than \$48,250 (FY2015 HUD Income Limit)*

- Prevent/Eliminate conditions of Slum and Blight

- Meet an Urgent Need

Must be a HUD Eligible Activity:

- Construction of Public Infrastructure

- Handicapped Access to Public Facilities

- Housing Rehab, Social Services, Business Rehab

- Acquisition, Clearance, and Disposition of Property

- Relocation Costs, Economic Development, Job Creation or Training

Additional Criteria

- Projects must meet the goals of City's 2011-15 Five Year Consolidated Plan

- Selected for the Annual Action Plan

### Slide 2: Project/Activity must fit into 1 of 4 Priorities defined by HUD

Community Development Priority – Neighborhood revitalization activities that promote public health, safety and welfare.

Economic Development Priority – Improve economic conditions throughout the community, principally for Low to Moderate Income (LMI) persons.

Housing Development Priority – Encourage development of new, affordable single-, multi-family, and special needs housing through private developers and non-profits.

Public Service Priority – Encourage partnerships with social service providers, faith-based groups, private businesses, school districts, non-profit agencies, and community leaders to meet the needs of families in poverty.

### Slide 3: Making a Difference with FY2015 CDBG Funds Projects/Activities completed (includes Administration and Public Services)

Code Enforcement (6) Neighborhood Cleanups in (2) LMI Census Tract neighborhoods and one large coordinated effort to Whittier property

IFDDC- (5) Façades Idaho Mountain Trading - Façade rehab to west entryway Farmers Merchant Bank Building - Exterior paint and awnings

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|                                 |  |
|---------------------------------|--|
|                                 | Romaine's - Awning removed, east windows and doors replaced  |
|                                 | Shadow Domain - Exterior sign  |
| Public Works                    | (21) LMI properties improved with sidewalk/curb/gutter in CT 9707  |
| Public Works                    | (1) Water line replacement for LMI client in CT 9707   |
| LIFE, Inc. (Initiated)          | (3) ADA housing rehab projects for LMI clients with a disability   |
| CLUB, Inc.                      | (86) Assists with Case Management/services for homelessness  |
| Senior Center                   | Kitchen swamp cooler/window replaced, repairs to ADA (Americans with Disabilities Act) ramp                |
| Hospice of E. ID                | 2 furnaces and air conditioner units replaced  |
| Behavioral Health Crisis Center | Rehab to exterior sign   |
| EICAP- GRG                      | 29 grandparents, raising grandchildren, received legal aid   |
| BMPO/SR2S                       | (6) LMI area schools/neighborhoods received education/encouragement  |
| Idaho Legal Aid                 | (29) Victims of domestic violence received legal aid assistance  |
| Fair Housing                    | Workshop in Idaho Falls (over 90 attendees), City hosted and co-sponsored with Pocatello and IHFA.         |
| Point in Time Count             | 2015 - 22 Unsheltered and 182 sheltered  |
| Administration                  | 2016-20 CDBG 5 YR Consolidated Plan, Area Of Impact (AOI) to Fair Housing, AAP2016, and onsite HUD Monitor |

Slide 4: Previous CDBG funding years spent in 2015 (FY 2013 and 2014)

2014 Veterans Memorial Bldg. - Ramp and restroom renovation project completed  
 2013 and 2014 Habitat 4 Humanity Idaho Falls - (1) Property acquired for single family LMI homeownership  
 2013 Targhee Regional Public Transportation Authority (TRPTA) - Redirected 2013 TRPTA funds - Facility improvements for Blue TRPTA bus route at N Saturn/Mountain View. Continued curb/gutter and sidewalk. Pedestrian crosswalk with ADA curb cuts added. Bus bench, concrete pad, and TRPTA sign installed.  
 2014 IFDDC- (1) Façade Project -Treasurer's - Sign project

Slide 5: Current Balances 05/10/2016

| Year   | Award        | Balance     | % remaining |
|--------|--------------|-------------|-------------|
| FY2004 | \$ 491,000   | \$0         | 0%          |
| FY2005 | \$ 465,543   | \$0         | 0%          |
| FY2006 | \$ 418,940   | \$0         | 0%          |
| FY2007 | \$ 417,257   | \$0         | 0%          |
| FY2008 | \$ 402,199   | \$0         | 0%          |
| FY2009 | \$ 407,064   | \$0         | 0%          |
| CDBG-R | \$ 109,234   | \$0         | 0%          |
| FY2010 | \$ 441,751   | \$0         | 0%          |
| FY2011 | \$ 369,546   | \$0         | 0%          |
| FY2012 | \$ 314,082   | \$0         | 0%          |
| FY2013 | \$ 361,453   | \$0         | 0%          |
| FY2014 | \$ 342,373   | \$16,734.25 | ~4.8%       |
| FY2015 | \$ 342,928   | \$58,895.31 | ~17.12%     |
| Totals | \$ 4,883,370 | \$75,629.56 | ~21.92%     |

FY2016 CDBG allocation Pending Federal Budget Approval

Ms. Farris presented several before and after-project pictures. She indicated any public comments will be included in the report sent to HUD.

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Mayor Pro Tem Hally requested any public comments. No one appeared. Mayor Pro Tem Hally commented he would like to see the dirt roads in the Highland area be paved and is hopeful some funding from the CDBG could assist with this project.

Mayor Pro Tem Hally closed the public hearing. At this time no action is required on behalf of the Councilmembers.

Subject:           Planned Unit Development and Reasoned Statement of Relevant Criteria and Standards, Lot 2, Block 1, Freeman Medical Plaza and Lot 1, Block 18, St. Clair Estates, Division No. 13

For your consideration is the application for a Planned Unit Development and Reasoned Statement of Relevant Criteria and Standards, Lot 2, Block 1, Freeman Medical Plaza and Lot 1, Block 18, St. Clair Estates, Division No. 13. The Planning and Zoning Commission considered this application at its April 5, 2016, meeting and recommended approval by a unanimous vote. Staff concurs with this recommendation.

Councilmember Dingman opened the public hearing. Mayor Pro Tem Hally requested all staff reports and presentations be entered into the record.

Councilmember Dingman stated the applicants have requested a reduced setback of 15 feet adjacent to the street, which would be consistent with other locations in the area.

Community Development Services Director Brad Cramer appeared. He stated the site plan for this PUD had been previously approved, however the applicant acquired additional property which is now being reconsidered per the ordinance requirements.

|          |  |
|----------|--|
| Slide 1: | Zoning map of location                     |
| Slide 2: | Aerial photo of parcel under consideration |
| Slide 3: | Additional aerial photo of site            |
| Slide 4: | Site Plan                                  |

Director Cramer restated the reduced setback has been requested for three (3) of the four (4) sides of the parcel and staff has no concerns with the request. He stated the applicant has requested to reduce the parking by three (3) stalls, the requirement is five (5) stalls per 1000 square feet of building. Due to time constraint, staff did not have an opportunity to evaluate the parking stall request. Director Cramer indicated the ordinance would allow reduced parking but the ordinance states any modifications need to be listed in the application to allow review from the Planning and Zoning Commission as well as the Councilmembers. The Planning and Zoning Commission has not reviewed the reduced parking request.

|          |  |
|----------|--|
| Slide 5: | Photo looking northwest across site                |
| Slide 6: | Photo looking northeast across site                |
| Slide 7: | Photo looking east at newly constructed facilities |
| Slide 8: | Rendering of proposed facility – front view        |
| Slide 9: | Rendering of proposed facility – side view         |

Director Cramer stated the Planning and Zoning Commission as well as staff recommends approval of the PUD with the exception of the parking reduction, which there is no recommendation at this time due to lack of information for the parking reduction request. He expressed concern with the recent modification request. Mr. Fife recommended to not consider the late request for parking modification.

Mayor Pro Tem Hally requested any public comment.

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Blake Jolley, Idaho Falls, appeared. Mr. Jolley stated the reduced parking modification of three (3) stalls is to allow the main entrance to be more aesthetically pleasing. He stated if the modification is not approved by Council, the project will continue to proceed as originally intended.

Mayor Pro Tem Hally closed the public hearing.

It was moved by Councilmember Dingman, seconded by Councilmember Smith, to approve the Planned Unit Development for Lot 2, Block 1, Freeman Medical Plaza and Lot 1, Block 18, St. Clair Estates, Division No. 13, as provided in the application. Roll call as follows: Aye – Councilmembers Hally, Smith, Dingman, Ehardt, Marohn, Radford. Nay – none. Motion carried.

It was moved by Councilmember Dingman, seconded by Councilmember Smith, to approve the Reasoned Statement of Relevant Criteria and Standards for the Planned Unit Development and the Reasoned Statement of Relevant Criteria and Standards for Lot 2, Block 1, Freeman Medical Plaza and Lot 1, Block 18, St. Clair Estates, Division No. 13, and give authorization for the Mayor to execute the necessary documents. Roll call as follows: Aye – Councilmembers Smith, Hally, Radford, Dingman, Ehardt, Marohn. Nay – none. Motion carried.

There being no further business, it was moved by Councilmember Radford, seconded by Councilmember Marohn, to adjourn the meeting at 8:27 p.m. which motion passed following a unanimous vote.

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CITY CLERK

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MAYOR

# **REGULAR AGENDA:**



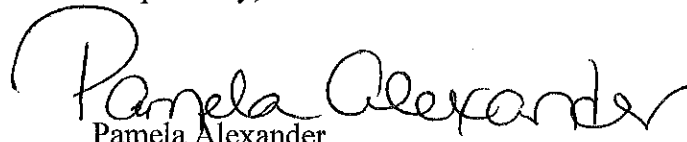


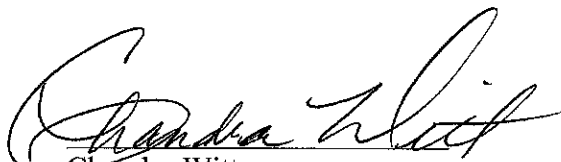
## MEMORANDUM


**TO:** Mayor and City Council  
**FROM:** Municipal Services Department  
**DATE:** June 3, 2016  
**RE:** Bid IF-16-20 Purchase and Removal of House

It is the recommendation of Idaho Falls Power and Municipal Services Departments to accept the sole bid from Greg Rainey to purchase and remove a house located on City property in the amount of \$1,500.00. Idaho Falls Power purchased the property located at 2017 East Iona Road to be used for a future substation site location. The buyer of the house will arrange to have Lemon's House Moving move the house by September 30, 2016.

Respectfully,

  
Pamela Alexander  
Municipal Services Director

  
Chandra Witt  
General Services Administrator

  
Heidi Carlson  
Purchasing Agent

# CITY OF IDAHO FALLS

## INSTRUCTION TO BIDDERS

### Invitation to Bid Number: IF - 16 - 20

#### INVITATION:

Sealed proposals for the purchase and removal of a house, owned by the City of Idaho Falls, as described in "Minimum Specifications" will be received at the Office of the Purchasing Agent, 308 Constitution Way, Idaho Falls, Idaho 83402 until 11:00 A.M. on the 31st day of May, 2016, and then will be publicly opened and read. The price page(s) and the signature page(s) of the proposal must be the original—copies or faxed copies are not acceptable and will result in rejection of the bid.

The Envelope containing your proposal must be sealed, show the Invitation to Bid Number, the date and time of opening and your Company name. The envelope should be addressed as follows:

|  |                        |    |                         |
|--|------------------------|----|-------------------------|
| Vendor's Name  | <u>Mailing Address</u> | OR | <u>Special Delivery</u> |
| Invitation to Bid Number: <b><u>IF - 16 - 20</u></b> | City of Idaho Falls    |    | City of Idaho Falls     |
| Date: <u>May 31, 2016</u>                            | Purchasing Department  |    | Purchasing Department   |
| Time: <u>11:00 A.M.</u>                              | PO Box 50220           |    | 308 Constitution Way    |
|  | Idaho Falls, ID 83405  |    | Idaho Falls, ID 83402   |

#### PROPOSAL AND BID BOND:

Each proposal must be submitted on the prescribed form. The proposal must be accompanied by a Certified Check or Cashier's Check drawn on a bank in good standing or a Bid Bond issued by a Surety authorized to issue such bonds in the State of Idaho, all in an amount not less than (5%) of the total amount bid. Bidder agrees this bid may not be withdrawn for a period of thirty (30) calendar days after the opening of bids.

#### RETURN OF BID SECURITY:

The bid security of the successful bidder will be retained until he has executed the Agreement and furnished the required Payment and Performance Bonds. If he fails to execute and deliver the Agreement and furnish such bonds within ten (10) days of the Notice of Award, the City may annul the Notice of Award and the bid security of that Bidder will be forfeited. The bid security of any Bidder whom the City believes to have a reasonable chance of receiving the award may be retained by the City until after the executed Agreement is delivered to the City.

#### CERTIFICATE OF ELIGIBILITY:

The successful Bidder shall be required to execute a Certificate of Eligibility (See attached) as a condition for the award of this Bid / Contract.

WORKER'S COMPENSATION INSURANCE:

The successful Bidder shall provide Worker's Compensation Insurance for all of their employees working on site. All subcontractors will also be required to have said insurance.

INDEMNITY:

The person or persons submitting the accepted bid proposal, agrees to indemnify and hold harmless the City of Idaho Falls and its agents from any loss, damage, injury, claim, demand, cost or expense which might result or arise in the use, transportation and/or removal of the house herein described.

PAYMENT

Buyer will make payment to the City of Idaho Falls by Cashier's Check, cash or money order within 30 days of receipt of written notice of acceptance of bid and prior to commencing removal of the house. The price bid will not include sales tax. An appropriate sales tax will be added to the amount bid, and collected on each item sold. However, if the Buyer is purchasing the items for resale, sales tax will not be collected. The buyer will need to provide a completed and signed Idaho State Tax Commission Sales Tax Resale or Exemption Certificate Form ST101 at time of payment.

The building must be removed by September 30, 2016 after payment has been made to the City of Idaho Falls.

DISCLAIMER:

The City of Idaho Falls reserves the right to accept or reject any or all proposals, to waive any or all proposals, to waive any informalities and irregularities in said proposals, and to accept individual bid items.

**CERTIFICATE OF ELIGIBILITY**

*(Please fill out the top or bottom portion of this document, whichever is applicable)*

Greg Rainey, represented by Greg Rainey represents that:  
(Bidder/Vendor) (Representative's Name)

- 1) For the purposes of this certificate, the term "Ineligible Person" shall mean any officer, agent or employee of the City of Idaho Falls, and the spouse and any member of the household of such officer, agent or employee. The term "Ineligible Entity" shall mean any corporation, partnership, trust, association, sole proprietorship or organization of any kind in which an Ineligible Person holds any pecuniary or ownership interest of any kind or which employs an Ineligible Person.
- 2) Bidder is not an Ineligible Person or Ineligible Entity.
- 3) No Ineligible Person or Ineligible Entity has an interest of any kind in the abovementioned Bidder, nor will any Ineligible Person or Ineligible Entity receive any consideration or benefit of any kind on account of the above-referenced project or purchase.
- 4) To the best of my knowledge no Ineligible Person or Ineligible Entity has any interest in the above-referenced project or purchase, which is prohibited under Idaho Code Section 59-201.
- 5) I am over eighteen (18) years of age, have personal knowledge of the foregoing and would so testify if called upon in a court of law.

Dated the 27 day of May, 2016

BIDDER/VENDOR:

[Signature]  
Representative's Signature

\_\_\_\_\_  
Bidder/Vendor

-----  
If you are unable to sign the above Certificate of Eligibility, you may, depending upon the circumstances, still be eligible to carry out this contract (PO). In order to receive such consideration, please explain the reasons why you are unable to execute the Certificate of Eligibility.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

BIDDER/VENDOR:

\_\_\_\_\_  
Representative's Signature

\_\_\_\_\_  
Bidder/Vendor

### MINIMUM SPECIFICATIONS

The house located at 2017 East Iona Road in Idaho Falls, Idaho, herein described are being offered for sale by the City of Idaho Falls on an "AS IS" and "WHERE IS" basis with removal and associated costs from the premises to be the responsibility of the purchaser.

Removal of the house must be completed prior to September 30, 2016. Upon receipt of written notice of acceptance, the person or persons submitting the accepted bid proposal shall be responsible for any loss or damage occurring to the buildings.

The two driveway access areas shall be left in good condition. The ditch shall also be left open and clear if closed or filled for moving purposes. If modifications to the ditch are required for the removal, it is the responsibility of the purchaser to coordinate with the ditchmaster or canal company for approval. Any damage or repair to the previous mentioned items shall be repaired at the expense of the purchaser. The purchaser shall arrange for any applicable permits, coordination with utilities (power line or communication lines raising or dropping) associated with the move. This bid is for the home only and does not include any other unattached buildings or property.

The City will arrange for all utility disconnects at the house, i.e.: power, water, gas.

Site Visit (not mandatory): Thursday, May 26, 2016 at 11:00 A.M. at 2017 East Iona Road.

SUMMARY

**House – Location: 2017 East Iona Road, Idaho Falls, Idaho**

House was built in 1929 and has approximately 1,872 square feet of living area. It is a frame home with metal siding exterior.

PRICE FOR HOUSE:

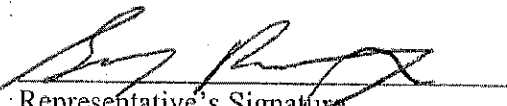
House

PRICE

\$ 1500.00

The City of Idaho Falls reserves the right to accept or reject any proposal.

\*\*BID PROPOSAL SIGNATURE\*\*

  
Representative's Signature

Greg Rainey  
Representative's Name—Printed

raineyagtrans@gmail.com  
Representative's E-Mail Address

208-313-9093239  
Telephone

N/A  
Fax Telephone

Greg Rainey  
Bidder-Company

1826 E. 49th N.  
Address

Idaho Falls  
City

ID 83401  
State Zip Code

5/07/16  
Date

UNCOMMON VALOR

2940  
SNAKE RIVER FUNDING, INC  
1869 N. YELLOWSTONE HWY, SUITE 4  
IDAHO FALLS, ID 83401

ZIONS FIRST NATIONAL BANK  
(800) 974-8800  
WWW.ZIONS BANK.COM

31-5-1240

5/31/2016

PAY TO THE  
ORDER OF CITY OF IDAHO FALLS

\$1,500.00

One Thousand Five Hundred and 00/100 \*\*\*\*\*

DOLLARS

CITY OF IDAHO FALLS  
UTILITY DEPT  
PO BOX 50220  
IDAHO FALLS, ID 83405

MEMO

Purchase of property

⑈002940⑈ ⑆1240000054⑆ 425 00473 5⑈

*[Signature]*

MP

000971/1240

⑈002940⑈ ⑆1240000054⑆ 425 00473 5⑈

Security Features Included.

Details on back.





# VALUATION BEFORE Direct Sales Comparison Approach

Form No. 1375, Page #3  
13755  
File No.: 0023-12

**RESIDENTIAL APPRAISAL SUMMARY REPORT**

My research (1375) does not reveal any prior sales or transfers of the subject property for the three years prior to the effective date of this appraisal.

Date Source(s): MLE  
1st Prior Subject Sale/Transfer: None  
2nd Prior Subject Sale/Transfer: None  
Date: None  
Price: None  
Source(s): None

Analysis of comparable history and/or any current agreement of sale/lease: none

**SALES COMPARISON APPROACH TO VALUE (If developed)** The Sales Comparison Approach was not developed for this appraisal.

| FEATURE                                      | SUBJECT  | COMPARABLE SALE # 1                    | COMPARABLE SALE # 2                      | COMPARABLE SALE # 3                     |
|--|--|--|--|---|
| Address                                      | 2017 E 10th Rd<br>Kahala Falls, ID 83401   | 7786 E 113 N<br>Kahala Falls, ID 83401 | 16092 Pima Hwy<br>Kahala Falls, ID 83401 | 2621 W 17th S<br>Kahala Falls, ID 83402 |
| Proximity to Subject                         | 7.87 miles NE  | 16.70 miles NE                         | 5.46 miles SW                            |   |
| Sale Price                                   | \$ 118,000   | \$ 130,000                             | \$ 121,000                               |   |
| Sale Price/GA                                | \$ 81.01/sq ft   | \$ 120.71/sq ft                        | \$ 92.93/sq ft                           |   |
| Date Source(s)                               | ML S 88R177776C  | ML S 88R174774C                        | ML S 88R175425C                          |   |
| Verification Source(s)                       | ML S 88R177776C  | ML S 88R174774C                        | ML S 88R175425C                          |   |
| Sales or Financing Concessions               | RD   | RD                                     | RD                                       |   |
| Date of Sale/Time                            | 4/12/78 days   | 1/12/201 days                          | 8/11/82 days                             |   |
| Days to Appraisal                            | Free Simple  | Free Simple                            | Free Simple                              |   |
| Location                                     | suburban/ranch   | suburban/ranch                         | suburban/ranch                           |   |
| Size   | 1.0 acre   | 1.67 acres                             | 1.18 acres                               |   |
| View   | average  | average                                | average                                  |   |
| Design (Style)                               | ranch  | ranch                                  | ranch                                    |   |
| Quality of Construction                      | metal/wood   | wood/wood                              | stucco/wood                              |   |
| Age  | 82 years   | 59 years/2000                          | 59 years/2000                            |   |
| Condition                                    | avg/good   | avg/good                               | avg/good                                 |   |
| Above Grade                                  | 1.0  | 1.0                                    | 1.0                                      |   |
| Room Count                                   | 7  | 9                                      | 9  |   |
| Gross Living Area                            | 1,872 sq ft  | 1,464 sq ft                            | 1,840 sq ft                              |   |
| Basement & Finished                          | 1,661 sq ft  | 708 sq ft                              | 1,476 sq ft                              |   |
| Rooms Below Grade                            | no finish  | FR                                     | FR                                       |   |
| Functional Utility                           | good   | good                                   | good                                     |   |
| Heating/Cooling                              | gas/heat exchanger   | gas/heat exchanger                     | gas/heat exchanger                       |   |
| Energy Efficient Items                       | none   | none                                   | none                                     |   |
| Garage/Carport                               | 4 car garage   | 2 car carport                          | 2 attached/1 detached                    |   |
| Porch/Patio/Deck                             | patio  | none                                   | patio                                    |   |
| Fireplaces                                   | 1 fireplace  | no fireplace                           | 1 fireplace                              |   |
| Landscaping                                  | landscaping  | landscaping                            | landscaping                              |   |
| Net Adjustment (Total)                       | -16,826  | -16,826                                | -16,826                                  |   |
| Adjusted Sale Price                          | 101,174  | 113,174                                | 104,174                                  |   |
| Summary of Sales Comparison Approach         | All three sales are located in a competitive market area. An adjustment was made for acreage. All three are the best available requiring the least amount of adjustments. All three are the most recent sales available. All three are the closest sales available. The market is the best indicator of value. This is a summary appraisal report. |  |  |   |
| Indicated Value by Sales Comparison Approach | \$ 145,000   |  |  |   |

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### Direct Sales Comparison Approach

Form No. 137(Rev. 12/74) Page #2

13775

File No. 6822-12

**RESIDENTIAL APPRAISAL SUMMARY REPORT**

COST APPROACH TO VALUE (If developed) [X] The Cost Approach was not developed for this appraisal.  
Provide adequate information for completion of the following Cost figures and calculations.

Support for the opinion of the value (summary of comparable land sales or other methods for substantiating the value).

ESTIMATED REPRODUCTION OR REPLACEMENT COST NEW

Source of cost data  
Quality rating from cost service  
Comments on Cost Approach (items affecting area calculations, depreciation, etc.)

OPINION OF SITE VALUE

|                                    |            |      |
|------------------------------------|------------|------|
| DWELLING                           | \$/FL @ \$ | = \$ |
|                                    | \$/FL @ \$ | = \$ |
|                                    | \$/FL @ \$ | = \$ |
|                                    | \$/FL @ \$ | = \$ |
|                                    | \$/FL @ \$ | = \$ |
| Garage/Carport                     | \$/FL @ \$ | = \$ |
| Total Estimate of Cost-In-situ     |            | = \$ |
| Less Physical Functional External  |            |      |
| Depreciation                       |            | = \$ |
| Unspecified Cost of Improvements   |            | = \$ |
| The "C" Value of Site Improvements |            | = \$ |
|                                    |            | = \$ |
|                                    |            | = \$ |
|                                    |            | = \$ |

Estimated Remaining Economic Life (if required)

Year(s) INDICATED VALUE BY COST APPROACH

INCOME APPROACH TO VALUE (If developed) [X] The Income Approach was not developed for this appraisal.

Estimated Monthly Rental Rate \$ X Gross Rent Multiplier = Indicated Value by Income Approach

Summary of Income Approach (including support for market rent and GRM).

PROJECT INFORMATION FOR PURCHASER (If applicable)

The Subject is part of a Planned Unit Development.

Legal Name of Project:

Describe common elements and recreational facilities:

Indicated Value by Sales Comparison Approach \$ 146,000

Cost Approach (If developed) \$

Income Approach (If developed) \$

Fair Reconciliation All three values were considered in arriving at the final estimate. The market is the best indicator of value.

This appraisal is made (1) "As Is," (2) subject to completion per plans and specifications of the basis of a Hypothetical Condition that the improvements have been completed; I subject to the following repairs or alterations on the basis of a Hypothetical Condition that the repairs or alterations have been completed; I subject to the following uncompleted inspection based on the Extraordinary Assumption that the condition or deficiency does not require alteration or repair.

[ ] This report is also subject to other Hypothetical Conditions and/or Extraordinary Assumptions as specified in the attached addenda.

Based on the degree of inspection of the subject property, as indicated below, defined Scope of Work, Statement of Assumptions and Limiting Conditions, and Appraiser's Certifications, my (our) Opinion of the Market Value (or other specified value type), as defined herein, of the real property that is the subject of this report is: \$ 146,000 as of May 31, 2012, which is the effective date of this appraisal.

If indicated above, this Opinion of Value is subject to Hypothetical Conditions and/or Extraordinary Assumptions included in this report. See attached addendum.

A true and complete copy of this report contains \_\_\_\_\_ pages, including exhibits which are considered an integral part of the report. This appraisal report may not be properly understood without reference to the information contained in the complete report.

Attached Exhibits:

☐ Scope of Work      ☐ Limiting Cond./Certifications      ☐ Narrative Addendum      ☐ Photograph Addenda      ☐ Sketch Addenda

☐ Map Addenda      ☐ Additional Data      ☐ Cost Addendum      ☐ Flood Addendum      ☐ Market Values Addendum

Hypothetical Conditions

Extraordinary Assumptions

Client Contact:

Client Name: Thompson & Associates

Address: 101 Park Avenue, Idaho Falls, ID 83402

Appraiser:

SUPERVISORY APPRAISER (If required)

or CO-APPRAISER (If applicable)

Appraiser Name: Justin C. Morgan

Company:

Phone: (208) 824-0227 Fax:

Supervisor Name: Paul J. Morgan

Phone: (208) 524-0227 Fax: (208) 524-4489

E-Mail:

Date of Report (Signature): JAN 20, 2012

Effective Date of Report (Signature): June 28, 2012

Licenses or Certification #: CRA 2900 State: ID

Licenses or Certificates #: LRA 72 State: Id

Designation:

Designation:

Expiration Date of License or Certification: 3/12/2013

Expiration Date of License or Certification: 3/22/2013

Inspection of Subject: [X] Interior & Exterior [ ] Exterior Only [ ] None

Inspection of Subject: [X] Interior & Exterior [ ] Exterior Only [ ] None

Date of Inspection:

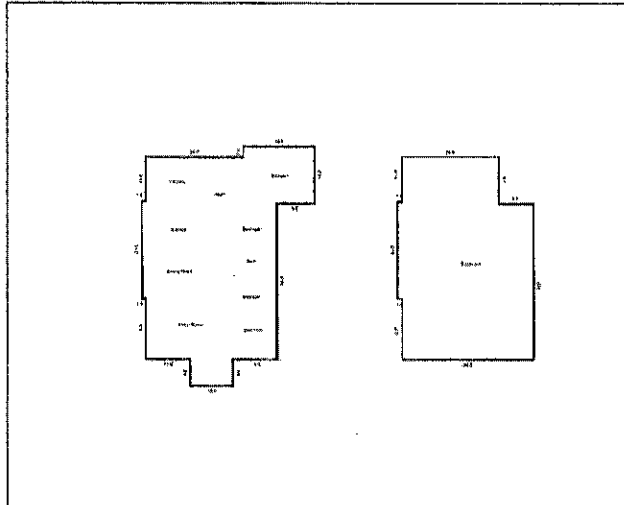
Date of Inspection:

PREPARED BY

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## Notrec File No. 137251 Page 451

|                  |                        |        |        |                |
|------------------|------------------------|--------|--------|----------------|
| Property Class   | Quarter Circle O Ranch |        |        |                |
| Property Address | 2017 E Iona Rd         |        |        |                |
| City             | Idaho Falls            | County | Carver | Zip Code 83401 |
| Lender           | Thompson & Associates  |        |        |                |



Continents.

| AREA CALCULATIONS SUMMARY |             |         |            |
|---------------------------|-------------|---------|------------|
| Code                      | Description | Size    | Net Totals |
| GRAL                      | First Floor | 1871.92 | 1871.92    |
| SECT                      | Basement    | 1593.25 | 1593.25    |
| TOTAL BUILDING (rounded)  |             |         | 1872       |

| BUILDING AREA BREAKDOWN        |                  |           |
|--------------------------------|------------------|-----------|
|                                | Breakdown        | Subtotals |
| First Floor                    |                  |           |
|                                | 6.6 x 10.2       | 89.25     |
|                                | 14.0 x 18.0      | 252.00    |
|                                | 13.5 x 24.0      | 324.00    |
|                                | 12.5 x 38.5      | 1251.25   |
|                                | 0.5 x 24.0 x 0.2 | 2.25      |
|                                | 0.5 x 0.0 x 0.0  | 0.00      |
|                                | 0.5 x 0.2 x 24.0 | 2.44      |
|                                | 0.0 x 24.0       | 10.50     |
| U Calculations Total (rounded) |                  | 1872      |

Form SKT.015K1 — 'WnTOTAL' appraisal schedule by a firm, etc. — 1-800-ALABAMA

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VALUATION BEFORE  
Direct Sales Comparison Approach

Form 166 No. 13724 Page #6

Subject Photo Page

|                  |                        |        |           |       |    |          |       |
|------------------|------------------------|--------|-----------|-------|----|----------|-------|
| Borrower/Client  | Quarter Circle O Ranch |        |           |       |    |          |       |
| Property Address | 2017 E Iowa Rd         |        |           |       |    |          |       |
| City             | Monticello             | County | Granville | State | ND | Zip Code | 58401 |
| Lender           | Thompson & Associates  |        |           |       |    |          |       |

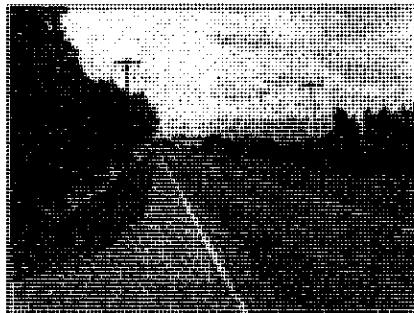


Subject Front

2017 E Iowa Rd  
Sales Price on limit val  
Gross Living Area 1,872  
Total Rooms 7  
Total Bathrooms 4  
Total Bedrooms 1.5  
Location suburban/avg  
View average  
Site 1.0 acre  
Culley mtn/wood  
Age 82 years



Subject Rear



Subject Street

Form 166AS EN -- "WYTOTAL" appraised software by a la mode, Inc. -- 1-800-ALAMO06

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VALUATION BEFORE  
Direct Sales Comparison Approach

Form 156 (6-15-15) Page 27

Subject Photo Page

|                   |                        |         |            |        |    |           |       |
|-------------------|------------------------|---------|------------|--------|----|-----------|-------|
| Broker/Client:    | Chamber Circle C Ranch |         |            |        |    |           |       |
| Property Address: | 2017 E Iona Rd         |         |            |        |    |           |       |
| City:             | Idaho Falls            | County: | Bonneville | State: | ID | Zip Code: | 83401 |
| Loader:           | Thompson & Associates  |         |            |        |    |           |       |



2017 E Iona Rd



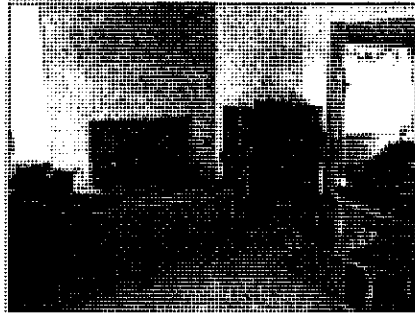
Form PACS-5.1R — "WHOTOTAL" appraisal software by a la mode, Inc. — 1-800-M-AMBER

VALUATION BEFORE  
Direct Sales Comparison Approach

Order File No. 15724 Page #8

Subject Interior Photo Page

|                  |                        |
|------------------|------------------------|
| Property Class   | Quarter Circle O Ranch |
| Property Address | 2017 E. Iona Rd        |
| City             | Gallop Falls           |
| County           | Bentonville            |
| State            | ID                     |
| Zip              | 83409                  |
| Order            | Thompson & Associates  |



Subject Interior

2017 E. Iona Rd  
Sales Price  
Gross Living Area  
Total Rooms  
Total Bedrooms  
Total Bathrooms  
View  
Site  
Quality  
Age

est unit val  
1,872  
7  
4  
1.6  
substantive  
average  
1.0 acre  
mild/mod  
82 year



Subject Interior



Subject Interior

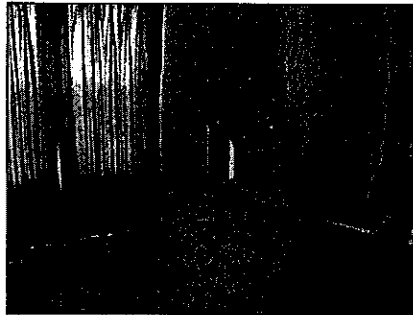
Form PC265-S -- "McTOTAL" appraisal software by a la mode, Inc. -- 1-800-4-A-MORE

VALUATION BEFORE  
Direct Sales Comparison Approach

Sheet No. 13725, Page #10

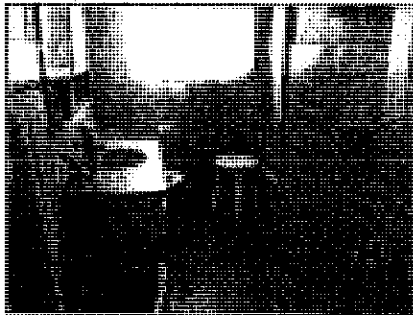
Subject Interior Photo Page

|                  |                        |
|------------------|------------------------|
| Borrower/Client  | Quarter Circle O Ranch |
| Property Address | 2017 E Iowa Rd.        |
| City             | Waho Falls             |
| County           | Bohemio                |
| State            | NY                     |
| Zip              | 13725                  |
| Lender           | Thompson & Associates  |



Subject Interior

2017 E Iowa Rd  
Sales Price est. mkst val  
Gross Living Area 1,872  
Total Rooms 7  
Total Bedrooms 4  
Total Bathrooms 1.5  
Location suburban/ring  
View overage  
Site 1.0 acres  
Quality mid/upper  
Age 62 years



Subject Interior



Subject Interior

Form PC-513 - "MUTUAL" appraisal software by A to Z Appraisal, Inc. - 1-800-ALAMODE

VALUATION BEFORE  
Direct Sales Comparison Approach

Object File No. 18725, Page #10

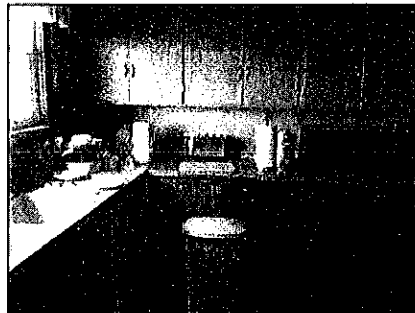
Subject Interior Photo Page

|                  |                        |
|------------------|------------------------|
| Property/Client  | Quarter Circle O Ranch |
| Property Address | 2017 E. Iowa Rd.       |
| City             | Altoona, Pennsylvania  |
| County           | Butler                 |
| State            | PA                     |
| Zip Code         | 16801                  |
| Listing Agent    | Thompson & Associates  |



Subject Interior

2017 E. Iowa Rd.  
Sales Price: not mkt val  
Gross Living Area: 1,872  
Total Rooms: 7  
Total Bedrooms: 4  
Total Bathrooms: 1.5  
Location: suburban/rural  
View: average  
Site: 1.0 acre  
Quality: excellent  
Age: 02 years



Subject Interior



Subject Interior

Form PC345-SI -- "WinTOTAL" appraised software by A. L. Smith, Inc. -- 1-800-ALANMOSE



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**VALUATION BEFORE**  
**Direct Sales Comparison Approach**

(Form No. 137251 Page #11)

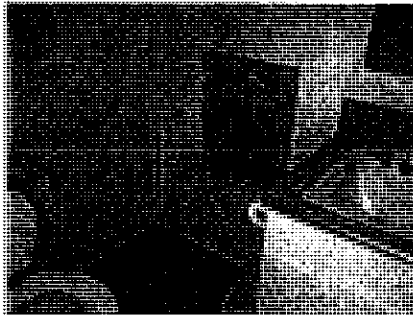
**Subject Interior Photo Page**

|                  |                              |          |               |
|------------------|------------------------------|----------|---------------|
| Property Name    | Quartermaster Circle O Ranch |          |               |
| Property Address | 2017 E Iowa Rd               |          |               |
| City             | Waco Falls                   | County   | Borger/Bl     |
| Listing          | Thompson & Associates        | State ID | Sp 0008 83401 |



**Subject Interior**

2017 E Iowa Rd  
Sales Price: est mkt val  
Gross Living Area: 1,372  
Total Rooms: 7  
Total Bedrooms: 4  
Total Bathrooms: 1.5  
Location: suburban/ring  
View: over top  
Site: 1.0 acre  
Quality: rental/good  
Age: 82 years



**Subject Interior**

**Subject Interior**

Form PRE-251-11 -- "PROFESSIONAL" appraisal software by T & A, INC., Inc. -- 1-800-363-ASAP

## MEMORANDUM

To: Honorable Mayor and City Council

From: Greg A. Weitzel, Director, Parks and Recreation Department

Date: June 2, 2016

Subject: **UNUSED CEMETERY PLOT RESOLUTION**

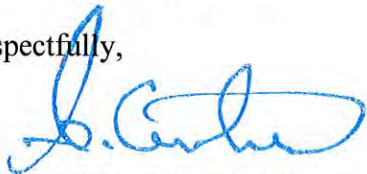
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Mayor and Council:

Attached for your consideration is a draft resolution to create protocol in alignment with recently passed protocol by Idaho State Legislature which allows for the more efficient distribution of unused cemetery plots. The resolution has been reviewed and approved by the City Attorney.

The Department of Parks and Recreation respectfully requests the authorization and approval of said document by City Council.

Respectfully,



Greg A Weitzel, MS, CPRP  
Department of Parks and Recreation

laj

Attachments

c: Mayor  
City Clerk  
File

## **RESOLUTION NO. 2016-**

A RESOLUTION OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, ESTABLISHING POLICIES AND PROCEDURES REGARDING UNUSED CEMETERY PLOTS PURSUANT TO IDAHO CODE; AND PROVIDING THAT THIS RESOLUTION BE EFFECTIVE UPON ITS PASSAGE, APPROVAL, AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the City owns and controls Rose Hill Cemetery and Fielding Memorial Cemetery; and  
WHEREAS, many people desire to be interred or to inter loved ones in these beautiful, respectful, and well-groomed places of peace and tranquility; and  
WHEREAS, the City desires to provide opportunities for those who wish internment in a fair, orderly, and efficient manner; and  
WHEREAS, the Idaho State Legislature has recently changed procedures allowing for the more efficient distribution of unused cemetery plots; and  
WHEREAS, the City wishes to establish some procedures and conditions on the use of cemetery plots consistent with Idaho Code.

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

1. Council hereby request that the owner or his or her heir or assign, of a lot, site, or a portion of a cemetery (hereinafter "plot(s)") unused for burial purposes for more than fifty (50) years files with the City Clerk a written statement of continuing claim or interest in the plot(s).
2. This Resolution shall be personally served on the owner of the plot(s) where possible by delivering a copy of this Resolution to a person personally or by leaving a copy of this Resolution at the individual's dwelling, house, or usual place of abode with a person over eighteen (18) years of age, who is residing at such dwelling, house, or usual place of abode.
3. This Resolution shall notify the owner that the owner shall, within sixty (60) days after service of the Resolution on the owner, express his or her interest in maintaining the plot(s) by filing with the City Clerk the written statement of his or her continuing claim or interest in the plot(s).
4. Where the owner is deceased, personal service requirements in Paragraph 2 of this Resolution may be met by mailing a copy of this Resolution to all known or reasonably ascertainable heirs of the owner following a search for heirs that includes inquiry into the next succeeding owners of a descendant's real property and a basic online search for information about the heir or the deceased owner.
5. If an owner cannot be personally served with this Resolution, the Council may publish this Resolution for three (3) successive weeks in a newspaper that is in general circulation within Bonneville County and shall mail a copy of this Resolution within fourteen (14) days after the publication to the owner's last known address, if available.
6. a. If the owner or one (1) of his or her heirs or assigns shall, in response to this Resolution, submit a written statement of continuing interest, the City shall reissue to that person a new

conveyance document evidencing the interest in the plot(s) for burial purposes in according with the City's normal and usual practices.

b. Where there is more than one (1) heir or assign who brings forward a competing claim for the plot(s) in question, the City shall notify all competing heirs and assigns of such a competing claim; however, the City shall have no authority to adjudicate the relative merits of such claim or interest.

If within ten (10) years from the date of the notification required by this Resolution, competing heirs or assigns have not agreed upon a resolution of their various claims or interests or adjudicated those claims or interests, the City may require from each of the competing claimants a renewed written statement regarding the continuing claim or interest in the plot(s) by complying with the notification provisions of Paragraph 6 of this Resolution.

The City may repeat the processes required by this Resolution every ten (10) years, as necessary, until ownership of the plot(s) is vested in one (1) individual. Alternatively, when there are competing claims among heirs, the City, through its staff, may file an interpleader in a court of competent jurisdiction to determine the rights of all claim and ownership in the plot(s).

7. If, for sixty (60) days after the last date of service, mailing, and/or publication by the City in accordance with this Resolution, the owner or his or her heir or assign fails to state an interest in the plot(s) for burial purposes, such owner's, heir's, and assign's rights shall be and are thereby terminated and ownership and control of the plot(s) shall be vested again in the City free and clear of cloud on title or of any other legal encumbrance.

8. Where, after following the procedures in this Resolution, a plot has reverted to City ownership and has not been resold, an owner shall have the right, upon presentation of a certificate of title or a right to burial to the City, to receive (at the sole option of the City), either the right to internment in another plot or to be compensated for the plot at the reasonable value of such plot as of the date of this presentation of the certificate to the City.

9. All proceeds for resale of a plot less the costs of any expenses occurred in the proceeding, shall remain part of the permanent care and improvement fund of a City cemetery.

10. This Resolution shall become effective as of July 1, 2016.

ADOPTED and effective this \_\_\_\_ day of June, 2016.

CITY OF IDAHO FALLS, IDAHO

---

Rebecca L. Noah Casper, Mayor

ATTEST:

---

Kathy Hampton, City Clerk

(SEAL)

STATE OF IDAHO                    )  
  ) ss:  
County of Bonneville            )

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

That the above and foregoing is a full, true and correct copy of the Resolution entitled, "A RESOLUTION OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, ESTABLISHING POLICIES AND PROCEDURES REGARDING UNUSED CEMETERY PLOTS PURSUANT TO IDAHO CODE; AND PROVIDING THAT THIS RESOLUTION BE EFFECTIVE UPON ITS PASSAGE, APPROVAL, AND PUBLICATION ACCORDING TO LAW."

---

Kathy Hampton, City Clerk

(SEAL)



## MEMORANDUM

To: Honorable Mayor and City Council

From: Greg A. Weitzel, Director, Parks and Recreation Department

Date: June 7, 2016

Subject: **PRIMARY STOCK CONTRACT WAR BONNET ROUNDUP**

---

Mayor and Council:

Attached for your consideration is the Primary Stock Contractor Agreement for the War Bonnet Roundup Rodeo. This one (1) event agreement has been reviewed and approved by the City attorney.

The Parks and Recreation Department respectfully requests approval and authorization for the Mayor to execute said agreement with Dakota Rodeo.

Respectfully,

Greg A Weitzel  
Department of Parks and Recreation

laj

Attachment

cc: Mayor  
City Clerk  
File





### **PRIMARY STOCK CONTRACTOR**

AGREEMENT FOR PROFESSIONAL SERVICES FOR WAR BONNET ROUNDUP 2016 (hereinafter "Agreement") between CITY OF IDAHO FALLS, IDAHO, a municipal corporation of the State of Idaho (hereinafter "CITY") and Dakota Rodeo, (hereinafter "PRIMARY STOCK CONTRACTOR"), 4757 Highway 6, Mandan, ND 58554-8513

### **WITNESSETH:**

Whereas, WarBonnet Roundup (the Roundup) is Idaho's oldest rodeo; and

Whereas, the Roundup is located in Idaho Falls, Idaho; and

Whereas, the Roundup is a very important and well known regional event which offers rodeo entertainment at the highest professional level; and

Whereas, the Roundup is sanctioned by the Professional Rodeo Cowboys Association (PRCA); and

Whereas, CITY wishes to contract for primary stock contractor of record for the 2016 Roundup, which takes place August 4, 5, 6, 2016.

NOW, THEREFORE, it is agreed, for and in consideration of the mutual covenants and promises and covenants contained herein, the parties, hereinafter referred to as PRIMARY STOCK CONTRACTOR and CITY agree that the following terms and conditions shall be binding upon the parties to this Agreement.

### **SECTION I: PARTIES**

#### **PRIMARY STOCK CONTRACTOR**

Dakota Rodeo  
c/o Mr. Chad Berger  
4757 Highway 6  
Mandan, ND 58554-8513  
(701) 667-2942  
[cbbuckingbulls@hotmail.com](mailto:cbbuckingbulls@hotmail.com)  
Fax (701) 667-2942

#### **CITY**

City of Idaho Falls, Idaho  
c/o Greg A. Weitzel, Director of Parks and Recreation  
520 Memorial Drive  
Idaho Falls, ID 83402  
(208) 612-8480  
[GWeitzel@idahofallsidaho.gov](mailto:GWeitzel@idahofallsidaho.gov)  
Fax (208) 612-8179

## **SECTION II: SCOPE OF WORK AND PAYMENT**

**A. PRIMARY STOCK CONTRACTOR SERVICES. PRIMARY STOCK CONTRACTOR** is to serve as the primary stock contractor of record for the Roundup's schedule three (3) performances, Thursday, August 4; Friday, August 5; and Saturday, August 6, 2015.

**PRIMARY STOCK CONTRACTOR** agrees to provide the following services for the Roundup:

1. Professional Rodeo Cowboys Association (PRCA) certified livestock for the rough stock events;
2. Equipment for the roping box;
3. A signature on the last page of the Roundup's PRCA approval form; and
4. Personnel for the care and feeding of their livestock.

**PRIMARY STOCK CONTRACTOR** agrees to arrive in Idaho Falls, Idaho, no later than one (1) day before the first rodeo performance date herein (i.e. on or before Wednesday, August 3, 2016). Upon arrival, **PRIMARY STOCK CONTRACTOR** agrees to make himself immediately available to meet designated representatives of the Roundup. The purpose of the Roundup representative meeting is to review and plan all details of primary stock contractor activities during Roundup performances.

**PRIMARY STOCK CONTRACTOR** also agrees to make himself available for any promotional and media functions as requested by the Roundup, including but not limited to radio, television, and other media outlets and on Wednesday's pre-rodeo events, (which may include remotes, kick-off meeting, parade, and the "Alive After Five" downtown event).

**B. SPECIAL CONDITIONS OR CONSIDERATIONS. PRIMARY STOCK CONTRACTOR** shall be PRCA Stock Contractor throughout all times during the Roundup and during transportation of livestock to and from the Roundup.

**C. PAY FOR PERFORMANCE.** In exchange for the work performed in Sections II. A. and B. herein, CITY agrees to pay **PRIMARY STOCK CONTRACTOR** a total payment of three hundred dollars (\$300) for each head of livestock used in the Roundup (on a "per out" basis) or forty thousand dollars (\$40,000), whichever is less. For purposes of payment, the number of "outs" will be determined by the Producer.

In the event that **PRIMARY STOCK CONTRACTOR** is unable to perform in any of the above-listed performance dates held in connection with the Roundup, the single performance fee designated above shall be deducted from the contract total for each performance at which **PRIMARY STOCK CONTRACTOR** is unable to perform.

Unless otherwise specifically provided for in this Agreement, should **PRIMARY STOCK CONTRACTOR** incur additional expenses for anything else, **PRIMARY STOCK CONTRACTOR** shall bear such additional expense.

### **D. CITY SPECIAL OBLIGATIONS.**

CITY shall provide the following at no expense to **PRIMARY STOCK CONTRACTOR**:

1. Hay for feeding the **PRIMARY STOCK CONTRACTOR** livestock;
2. Four (4) hotel rooms for four (4) nights (August 3, 2016, through August 6, 2016); and



3. Payment of five thousand dollar (\$5,000) fee for livestock trucking and transportation expenses.

### **SECTION III: INDEPENDENT CONTRACTOR**

#### **A. INDEPENDENT CONTRACTOR.**

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

#### **B. PRIMARY STOCK CONTRACTOR ACKNOWLEDGEMENT.**

PRIMARY STOCK CONTRACTOR acknowledges that it is an experienced stock contractor, and that while performing its duties, it risks its life as well as serious and minor physical injury to itself. PRIMARY STOCK CONTRACTOR willingly assumes all risk of injury, death, or loss in the performance of its duties as a stock contractor in this extremely dangerous and hazardous profession and further agrees to hold harmless the Roundup, and any and all stock contractors, CITY, and their officers, employees, directors, heirs and assigns, both as officers and individuals, from any and all claims or losses of any kind for injuries to PRIMARY STOCK CONTRACTOR, its equipment or damages to any of PRIMARY STOCK CONTRACTOR property in connection with its participation in the ROUNDUP including all claims or losses arising from PRIMARY STOCK CONTRACTOR coming and going to and from the rodeo grounds and all claims or losses arising from the performance of its duties as a rodeo bullfighter and PRIMARY STOCK CONTRACTOR further assumes all risk of loss, injury, or damage to himself of its property in that regard.

PRIMARY STOCK CONTRACTOR, on behalf of itself and its agents, employees, and subcontractors waives any right of contribution against and shall indemnify, protect, defend, save and hold harmless the Roundup, CITY and all their members, officers, directors, agents, employees, independent contractors, and insurers and anyone else acting for or on behalf of any of them (all of said parties are herein collectively referred to as "Indemnitees") from and against any and all liability, damage, loss, claims, demands, actions, and expenses, including but not limited to attorneys' fees, of any nature whatsoever that arise out of or are connected with or are claimed to arise out of or be connected with PRIMARY STOCK CONTRACTOR performance or related activities.

Without limiting the generality of the foregoing, the indemnification hereinabove set forth shall include all liability, damages, loss, claims, demands, and actions on account of personal injury, death, or property loss to any Indemnatee, any of Indemnatee's employees, agents, licensees, or invitees, or to any other persons, whether based on or claimed to be based on statutory contractual, tort, or other liability of PRIMARY STOCK CONTRACTOR or any other persons, Without limiting the generality of the foregoing, the liability, damage, loss, claims, demands, and actions indemnified against shall include all liability, damage, loss, claims, demands and actions for trademark, or patent infringement, for unfair competition or infringement of any other so call "intangible" property right, for defamation, false arrest, malicious prosecution, or any other infringement of personal or property rights of any kind whatsoever or which arise out of failure of the Indemnities to discharge the duties specified herein. Any Indemnatee shall be entitled to recover all costs and expenses, including attorney fees, from PRIMARY STOCK CONTRACTOR, incurred by Indemnatee in requiring PRIMARY STOCK CONTRACTOR to abide by the terms of this provision. PRIMARY STOCK CONTRACTOR shall not be obligated to indemnify CITY for CITY's sole negligence.

#### C. TERMINATION OF AGREEMENT.

This Agreement may be terminated by PRIMARY STOCK CONTRACTOR upon thirty (30) days written notice, should CITY fail to substantially perform in accordance with its terms through no fault of PRIMARY STOCK CONTRACTOR. CITY may terminate this Agreement with thirty (30) days' notice without cause and without further liability to PRIMARY STOCK CONTRACTOR except as designated by this Section. All work shall become the property of, and shall be surrendered to, CITY.

#### D. EXTENT OF AGREEMENT.

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

#### E. COSTS AND ATTORNEY 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 attorneys fees and other costs and expenses, whether the same are incurred with or without suit.

#### F. 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.

#### G. MODIFICATION AND ASSIGNABILITY OF AGREEMENT.

This Agreement contains the entire agreement between the parties concerning the Roundup performance, 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. PRIMARY STOCK CONTRACTOR may not subcontract or assign his rights (including the right to compensation) or duties arising hereunder without the prior written consent and express authorization of CITY. Any such subcontractor or assignee shall be bound by all of the terms and conditions of this Agreement as if named specifically herein.

#### H. CITY'S REPRESENTATIVES.

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

#### I. CONFLICT OF INTEREST.

CONSULTANT covenants that they presently have no interest and will not acquire any interest, direct or indirect, in the Roundup which would conflict in any manner or degree with the performance of services hereunder. PRIMARY STOCK CONTRACTOR further covenants that, in performing this Agreement, PRIMARY STOCK CONTRACTOR will employ no person who has any such interest.

Dated \_\_\_\_\_

\_\_\_\_\_  
Rebecca L. Noah Casper, Mayor

City of Idaho Falls

Dated 6/3/16 \_\_\_\_\_

  
\_\_\_\_\_  
Chad Berger

PRIMARY STOCK CONTRACTOR



## MEMORANDUM

To: Honorable Mayor & City Council

From: Chris H Fredericksen, Public Works Director

Date: May 25, 2016

Subject: **IDAHO TRANSPORTATION DEPARTMENT STATE/LOCAL AGREEMENT – 12<sup>TH</sup> STREET IDAHO CANAL BRIDGE PROJECT**

Attached is a State/Local Development Agreement with the Idaho Transportation Department and accompanying Resolution with respect to the 12<sup>th</sup> Street Idaho Canal Bridge project.

This agreement stipulates that \$7,000.00 be forwarded as deposit against the City match with the signed agreement if approved. This agreement has been reviewed by the City Attorney.

Public Works recommends adoption of the resolution, approval of this agreement; and, authorization for Mayor and City Clerk to sign the necessary documents.

Respectfully,

Chris H Fredericksen, P.E.  
Public Works Director

CF:jk

Attachment

c: Mayor  
Council  
Canfield

2-38-20-4-STR-2015-15

2016-47

STATE/LOCAL AGREEMENT  
(PROJECT DEVELOPMENT)  
PROJECT NO. A018(995)  
12<sup>TH</sup> ST IDAHO CANAL CULVERT  
BONNEVILLE COUNTY  
KEY NO. 18995

**PARTIES**

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the IDAHO TRANSPORTATION BOARD, by and through the IDAHO TRANSPORTATION DEPARTMENT, hereafter called the State, and the CITY OF IDAHO FALLS, acting by and through its Mayor, hereafter called the Sponsor.

**PURPOSE**

The Sponsor has requested that the State include in its Idaho Transportation Investment Program Federal-Aid Project No. A018(995), described as 12<sup>th</sup> Street Idaho Canal Culvert. Project development is to be performed by Sponsor's Staff. The purpose of this Agreement is to set out the terms and conditions to accomplish the project development phase of this project.

The Sponsor acknowledges that this Agreement covers a project wherein federal aid funds will be allocated, and Sponsor will comply with the requirements of 23 U.S.C. §313, 23 CFR §635.410, and 28 CFR Part II.

**NOTE:** Securing the services of a consultant for any aspect of project development must follow the process outlined in the Idaho Transportation Department Guidelines for Local Public Agency Projects.

Since certain functions under this Agreement are to be performed by the State, requiring the expenditure of funds, and since the State can only pay for work associated with the State Highway System, the Sponsor is fully responsible for all costs incurred by the State related to the project.

Authority for this Agreement is established by Section 40-317 of the Idaho Code.



The Parties agree as follows:

**SECTION I. GENERAL**

1. It is necessary to develop construction plans and specifications in order that federal participation may be obtained in the construction costs of the project. Federal-aid for project development is available on this project.
2. Federal participation in the project is at the rate of 92.66%; local participation is 7.34%. Scheduled funding for this project is listed in the approved Idaho Transportation Investment Program, and subsequent revisions. Current estimated funding is as follows:
  - a. Project Development - \$232,000
    - (PE-\$7,000, PL-\$25,000, PC-\$200,000)
  - b. Right-of-Way - \$0
  - c. Utilities - \$0
  - d. Construction Engineering - \$124,000
    - (CE-\$7,000, CL-\$25,000, CC & Cont.-\$92,000)
  - e. Construction - \$601,000
  - f. Total Estimated Project Costs - \$957,000
3. The Sponsor's match for this project will be provided with cash and in-kind services up to the total of the match for the project (current estimate \$70,244). In-kind services are itemized in the attached Exhibit A (ITD-2394, Request for Approval of In-Kind Work by Local Sponsor on Federal-Aid Projects).
4. Funds owed by the Sponsor shall be remitted to the State through the ITD payment portal at:  
<https://apps.itd.idaho.gov/PayITD> .
5. This project shall be designed to State Standards as defined in the current version of the Idaho Transportation Department's Roadway Design Manual, or as subsequently revised. The current version of the Design Manual can be viewed at the following web site:  
<http://itd.idaho.gov/manuals/ManualsOnline.htm>.

6. All information, regulatory and warning signs, pavement or other markings, and traffic signals required and warranted will be developed as a part of the plans, regardless of whether the work is done as a portion of the contract or by the Sponsor's forces.
7. If the project is terminated prior to completion, the Sponsor shall repay to the State all federal funds received for the project, and shall be liable to the State for any un-reimbursed incidental expenses as provided for in Section II, Paragraph 1 of this Agreement.
8. Sufficient Appropriation. It is understood and agreed that the State is a governmental agency, and this Agreement shall in no way be construed so as to bind or obligate the State beyond the term of any particular appropriation of funds by the Federal Government or the State Legislature as may exist from time to time. The State reserves the right to terminate this Agreement if, in its sole judgment, the Federal Government or the legislature of the State of Idaho fails, neglects or refuses to appropriate sufficient funds as may be required for the State to continue payments. Any such termination shall take effect immediately upon notice and be otherwise effective as provided in this Agreement.

SECTION II. That the State shall:

1. Provide the following services incidental to the project development:
  - a. Assist Sponsor in the selection of a Consulting Engineer as needed, and furnish the Agreement for Engineering Services and any supplements thereto, to be used between the Sponsor and Consultant Engineers on this project.
  - b. Review Preliminary Environmental Evaluation and recommend other appropriate environmental documentation.
  - c. Furnish to the engineers copies of materials test reports and other data applying to the project and available to the State.

- d. Provide a hearing officer to conduct a formal public hearing as necessary.
  - e. Assign State personnel or assist in hiring a qualified relocation agent consultant to determine relocation entitlements and assistance which might be required by the project.
  - f. File with the Federal Highway Administration applications for exceptions to AASHTO Standards when appropriate and for government land withdrawals for rights-of-way and airport clearance.
  - g. If requested by the Sponsor, assist in negotiations with public carriers and utilities for agreements on behalf of the Sponsor.
  - h. Review the plans, estimates, reports and environmental studies, and issue notice of approval.
  - i. Supply roadway summary sheets and such standard drawings as may be required to supplement the plans.
  - j. Print and assemble plans, special provisions, specifications and contracts.
  - k. Advertise for bids and let the construction contract. Prior to construction, the parties will enter into a separate agreement covering responsibilities of the parties relating to construction.
2. Within sixty (60) days of receipt of appropriate documentation from the Sponsor showing expenditure of funds for project development, reimburse the Sponsor for eligible expenses at the approved Federal-aid rate.
3. Bill the Sponsor for costs incurred by the State under this Agreement for project development, if those costs exceed the amount set out in Section III, Paragraph 1.



4. Bill the Sponsor for any federal funds to be repaid by the Sponsor if the project is terminated prior to completion, and the Sponsor has been reimbursed with federal funds for preliminary engineering.
5. Appoint the Local Highway Technical Assistance Council as the contract administrator for the State.

**SECTION III.** That the Sponsor shall:

1. Pay to the State, before the State begins the incidental services referred to in Section II, Paragraph 1, the sum of **SEVEN THOUSAND DOLLARS (\$7,000)**, estimated to be the total expense to the State. In addition, pay to the State the cost of all incidental services provided by the State upon receipt of the billing provided for in Section II, Para. 3.
2. Sponsor warrants that it will repay any federal reimbursements on this project if the project is terminated prior to completion.
3. With its own forces, provide for design of the project.
4. With the assistance of the State, hire a consultant for development services if needed.
5. Provide to the State documentation of the actual expenses related to the design of the project. The Sponsor will maintain complete records and submit an itemized statement of all manpower, materials, and out-of-pocket expenses, and accomplish all record-keeping in accordance with the following procedures:
  - a. Individual time sheets will be maintained reflecting the total hours spent on the project. It is imperative that the hours be traceable to the project.
  - b. Material - Costs of new material utilized on the project shall be supported by copies of invoices.

- c. Out-of-pocket expenses - All expenses shall be supported by copies of receipts.
  - d. The record system will be such that all costs can be traceable from all billings through the Ledgers and the source document.
- 6. Advertise for formal public hearing if required.
  - 7. Coordinate the relocation of utilities within the right-of-way of the project. Federal-aid utility relocations will be processed in accordance with the applicable provisions of 23 CFR and the Sponsor's utility policies and procedures.
  - 8. Acquire all rights-of-way and easements needed to provide for construction and maintenance of the project.
  - 9. Employ an approved certified general appraiser to complete all appraisals and an independent certified general appraiser to review appraisals required for the project.
  - 10. Review the appraisal reviewer's statement of the estimated fair market value and approve an amount to be just compensation for each parcel to be acquired.
  - 11. Provide a monthly right-of-way status report (ITD-2161), and forward it to the project manager.
  - 12. Before initiating negotiations for any real property required for right-of-way, establish, in writing, an amount considered to be just compensation, under Idaho law, Federal Regulations or any other applicable law, and make a prompt offer to acquire the property for the full amount established.
  - 13. Make a good faith effort, in accordance with Real Property Acquisition Policies Act of 1970, to acquire the real property by negotiation. Employ a State Approved Negotiator if necessary.
  - 14. Inform the property owner, in those cases where he indicates a willingness to donate a portion of his

real property for rights-of-way, of all his rights including his right to full compensation in money for land and damages, if any, in accordance with Idaho Code.

15. Provide relocation assistance and payments for any displaced person, business, farm operation, or nonprofit organization in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; 49 CFR 24; 23 CFR 710; the Idaho Real Property Acquisition Act of 1971; Title 40, Chapter 20; and Title 58, Chapter 11; Idaho Code, as amended, and regulations promulgated thereunder. No individual or family shall be displaced until decent, safe and sanitary replacement housing is available to the relocatees for immediate occupancy. In addition, advise the State of any relocations required by the project and upon request of the State, authorize the State to negotiate on the Sponsor's behalf for all relocation assistance and payments, the cost of which will be assumed by the Sponsor at the time of negotiation.
16. Ensure to the greatest extent practicable that no person lawfully occupying the real property shall be required to move from his home, farm or business without at least ninety (90) days written notice prior to advertisement of the project.
17. Before advertisement for bids, provide a certification that all rights-of-way, easements, permits, materials sources and agreements necessary for the construction of the project have been acquired in accordance with the provisions of this Section. Provide a value of any right-of-way donations obtained, which may be credited as a matching share.
18. Evaluate the impact the project might have on the quality of the human environment and prepare and furnish to the State an environmental evaluation that includes cultural resources and any other documentation required by the National Environmental Policy Act.

19. At all required public hearings, furnish all necessary exhibits and provide for a representative of the Sponsor to describe the project; present information about the location and design, including alternates; discuss the tentative schedules for rights-of-way acquisitions and construction; discuss the Sponsor's relocation assistance program; discuss the economic, sociological, and environmental effects of the project; and answer all questions concerning the project.
20. Comply with Appendix A, Title 49 CFR, Part 21, attached hereto and made a part hereof. By this agreement Sponsor agrees to comply with and be bound to the Civil Rights provisions of Title VI of the Federal Code and to generally insert those provisions in all contracts that it enters into that are federally funded on this project. If property acquired for this project with Federal financial assistance is transferred, the recipient of the property will be subject to Appendix A if the property is used for the same purpose it was originally acquired or for another purpose involving similar services or benefits to the general public. Sponsor should contact the State prior to disposing of any property acquired under this agreement.
21. Maintain all project records, including source documentation for all expenditures and in-kind contributions, for a period of three (3) years from the date of final acceptance. If any litigation, claim, negotiation, or audit has been started before expiration of the three-year period, the records shall be retained until completion of the action and resolution of all issues that arise from it.
22. Comply with all other applicable State and Federal regulations.

**EXECUTION**

This Agreement is executed for the State by its Engineering Services Division Administrator, and executed for the Sponsor by the Mayor, attested to by the City Clerk, with the imprinted Corporate Seal of the City of Idaho Falls.

**IDAHO TRANSPORTATION DEPARTMENT**

\_\_\_\_\_  
Engineering Services  
Division Administrator

**ATTEST:**

**CITY OF IDAHO FALLS**

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

(SEAL)

By regular/special meeting  
on \_\_\_\_\_.

Reviewed by FS:

JN 5/23/16

hm:18995 SLAPD V2.docx



## RESOLUTION

**WHEREAS**, the Idaho Transportation Department, hereafter called the **STATE**, has submitted an Agreement stating obligations of the **STATE** and the **CITY OF IDAHO FALLS**, hereafter called the **CITY**, for development of 12<sup>th</sup> St Idaho Canal Culvert; and

**WHEREAS**, the **STATE** is responsible for obtaining compliance with laws, standards and procedural policies in the development, construction and maintenance of improvements made to the Federal-aid Highway System when there is federal participation in the costs; and

**WHEREAS**, certain functions to be performed by the **STATE** involve the expenditure of funds as set forth in the Agreement; and

**WHEREAS**, The **STATE** can only pay for work associated with the State Highway system; and

**WHEREAS**, the **CITY** is fully responsible for its share of project costs; and

### **NOW, THEREFORE, BE IT RESOLVED:**

1. That the Agreement for Federal Aid Highway Project A018(995) is hereby approved.
2. That the Mayor and the City Clerk are hereby authorized to execute the Agreement on behalf of the **CITY**.
3. That duly certified copies of the Resolution shall be furnished to the Idaho Transportation Department.

## CERTIFICATION

I hereby certify that the above is a true copy of a Resolution passed at a *regular, duly* called special (X-out non-applicable term) meeting of the City Council, City of Idaho Falls, held on \_\_\_\_\_, \_\_\_\_\_.

(Seal)

\_\_\_\_\_  
City Clerk

**Appendix A**  
**Non-Discrimination Agreement for Local Public Agencies**

**Title VI Program**

**Organization and Staffing**

Pursuant to 23 CFR 200, the Sponsor has designated a Title VI Coordinator who is responsible for monitoring practices, procedures, policies, and documents for compliance with Title VI. This individual is the designated liaison for Title VI program activities and for coordinating compliance monitoring with the Idaho Transportation Department Equal Employment Opportunity Office.

**Assurances of Non-Discrimination**

**49 CFR Part 21.7**

The Sponsor hereby gives assurances:

1. That no person shall on the grounds of **race, color, or national origin**, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity conducted by the Sponsor regardless of whether those programs and activities are Federally funded or not. The Federal-aid Highway Transportation Act of 1973 added **sex** to the list of prohibitive factors. **Disability** was added through Section 504 of the Rehabilitation Act of 1973. **Age** was subsequently added in 1975 under the Age Discrimination Act. **Minority populations and low-income populations** were added by Presidential Executive Order 12898. **Limited English proficient persons** was added by Presidential Executive Order 13166.
2. That it will promptly take any measures necessary to effectuate this agreement.
3. That each program, activity, and facility (i.e. lands change to roadways, park and ride lots etc.) as defined at 49 CFR 21.23(b) and (e), and the Civil Rights Restoration Act of 1987 will be (with regard to a program or activity) conducted, or will be (with regard to a facility) operated in compliance with the nondiscriminatory requirements imposed by, or pursuant to, this agreement.

Further assurance is given that the Sponsor will comply with all requirements of **Title II of the Americans with Disabilities Act of 1990 (ADA)** and **Section 504 of the Vocational Rehabilitation Act of 1973**. Public agencies are required to have completed a self-evaluation of all their programs and services (including pedestrian facilities) by 1992. In addition, public agencies with 50 or more employees were required to develop an ADA Transition Plan describing in detail how corrections would be made. If corrections could not be made within one year (or 1993), the Plan was to include a detailed schedule of how corrections would be made (CFR 28 35.105 & 35.150).

4. That these assurances are given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended

after the date hereof to the Sponsor by the Idaho Transportation Department (ITD) under the Federally-Funded Program and is binding on it, other recipients, sub-grantees, contractors, sub-contractors, transferees, successors in interest and other participants.

5. That the Sponsor shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and made in connection with all Federally-Funded programs and, in adapted form all proposals for negotiated agreements: *The (Sponsor), in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR Part 23 will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, sex, or disability in consideration for an award.*
6. That the Sponsor shall insert the clauses of Attachment 1 of this Agreement in every contract subject to the Act and the Regulations.
7. That the Sponsor shall insert the clauses of Attachment 2 of this Agreement, as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.
8. The Sponsor agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this agreement.

#### Implementation Procedures

This agreement shall serve as the Sponsor's Title VI plan pursuant to 23 CFR 200 and 49 CFR 21.

For the purpose of this agreement, "Federal Assistance" shall include:

1. grants and loans of Federal funds,
2. the grant or donation of Federal property and interest in property,
3. the detail of Federal personnel,
4. the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the Sponsor, or in recognition of the public interest to be served by such sale or lease to the Sponsor, and
5. any Federal agreement, arrangement, or other contract which has as one of its purposes, the provision of assistance.

The Sponsor shall:



1. Issue a policy statement, signed by the Sponsor's authorized representative, which expresses its commitment to the nondiscrimination provisions of Title VI. The policy statement shall be circulated throughout the Sponsor's organization and to the general public. Such information shall be published where appropriate in languages other than English.
2. Take affirmative action to correct any deficiencies found by ITD or the United States Department of Transportation (USDOT) within a reasonable time period, not to exceed 90 days, in order to implement Title VI compliance in accordance with this agreement. The Sponsor's authorized representative shall be held responsible for implementing Title VI requirements.
3. Designate a Title VI Coordinator who has a responsible position in the organization and easy access to the Sponsor's authorized representative. The Title VI Coordinator shall be responsible for initiating and monitoring Title VI activities and preparing required reports.
4. Adequately implement the civil rights requirements.
5. Process complaints of discrimination consistent with the provisions contained in this agreement. Investigations shall be conducted by civil rights personnel trained in discrimination complaint investigation. Identify each complainant by race, color, national origin, sex, or disability; the nature of the complaint; the date the complaint was filed; the date the investigation was completed; the disposition; the date of the disposition; and other pertinent information. A copy of the complaint, together with a copy of the Sponsor's report of investigation, will be forwarded to ITD's EEO Office - External Programs within 10 days of the date the complaint was received by the Sponsor.
6. Collect statistical data (race and sex) of participants in, and beneficiaries of the Transportation programs and activities conducted by the Sponsor.
7. Conduct Title VI reviews of the Sponsor and sub-recipient contractor/consultant program areas and activities. Revise where applicable, policies, procedures and directives to include Title VI requirements.
8. Attend training programs on Title VI and related statutes conducted by ITD's EEO Office.
9. Participate in an annual review of the Sponsor's Title VI Program, the purpose of which is to determine to what extent the Sponsor has complied with Title VI requirements including the ADA. This review is conducted one year from the date of approval of the Non-Discrimination Agreement and then annually on the same date. The format for the Title VI review will be provided each year to the Sponsor for completion. A determination of compliance will be made by ITD's EEO Office based on

the information supplied in the review. This review of the Sponsor's Title VI Program may also include an on-site review in order to determine compliance.

#### **Discrimination Complaint Procedure**

Any person who believes that he or she, individually, as a member of any specific class, or in connection with any disadvantaged business enterprise, has been subjected to discrimination prohibited by Title VI of the Civil Rights Act of 1964, the American with Disabilities Act of 1990, Section 504 of the Vocational Rehabilitation Act of 1973 and the Civil Rights Restoration Act of 1987, as amended, may file a complaint with the Sponsor. A complaint may also be filed by a representative on behalf of such a person. All complaints will be referred to the Sponsor's Title VI Coordinator for review and action.

In order to have the complaint consideration under this procedure, the complainant must file the complaint no later than 180 days after:

- a) The date of alleged act of discrimination; or
- b) Where there has been a continuing course of conduct, the date on which that conduct was discontinued.

In either case, the Sponsor or his/her designee may extend the time for filing or waive the time limit in the interest of justice, specifying in writing the reason for so doing.

Complaints shall be in writing and shall be signed by the complainant and/or the complainant's representative. Complaints shall set forth as fully as possible the facts and circumstances surrounding the claimed discrimination. In the event that a person makes a verbal complaint of discrimination to an officer or employee of the Sponsor, the person shall be interviewed by the Title VI Coordinator. If necessary, the Title VI Coordinator will assist the person in reducing the complaint to writing and submit the written version of the complaint to the person for signature. The complaint shall then be handled according to the Sponsor's investigative procedures.

Within 10 days, the Title VI Coordinator will acknowledge receipt of the allegation, inform the complainant of action taken or proposed action to process the allegation, and advise the complainant of other avenues of redress available, such as ITD and USDOT.

The Sponsor will advise ITD within 10 days of receipt of the allegations. Generally, the following information will be included in every notification to ITD:

- a) Name, address, and phone number of the complainant.
- b) Name(s) and address(es) of alleged discriminating official(s).
- c) Basis of complaint (i.e., race, color, national origin or sex)
- d) Date of alleged discriminatory act(s).
- e) Date of complaint received by the Sponsor.
- f) A statement of the complaint.
- g) Other agencies (state, local or Federal) where the complaint has been filed.

- h) An explanation of the actions the Sponsor has taken or proposed to resolve the issue raised in the complaint.

Within 60 days, the Title VI Coordinator will conduct an investigation of the allegation and based on the information obtained, will render a recommendation for action in a report of findings to the Sponsor's authorized representative. The complaint should be resolved by informal means whenever possible. Such informal attempts and their results will be summarized in the report of findings.

Within 90 days of receipt of the complaint, the Sponsor's authorized representative will notify the complainant in writing of the final decision reached, including the proposed disposition of the matter. The notification will advise the complainant of his/her appeal rights with ITD, or USDOT, if they are dissatisfied with the final decision rendered by the Sponsor. The Title VI Coordinator will also provide ITD with a copy of this decision and summary of findings upon completion of the investigation.

Contacts for the different Title VI administrative jurisdictions are as follows:

Idaho Transportation Department  
Equal Employment Opportunity Office - External Programs  
EEO Manager  
PO Box 7129  
Boise, ID 83707-1129  
208-334-8852

Federal Highway Administration  
Idaho Division Office  
3050 Lakeharbor Lane, Suite 126  
Boise, ID 83703  
208-334-9180

#### **Sanctions**

In the event the Sponsor fails or refuses to comply with the terms of this agreement, the ITD may take any or all of the following actions:

1. Cancel, terminate, or suspend this agreement in whole or in part;
2. Refrain from extending any further assistance to the Sponsor under the program from which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the Sponsor.
3. Take such other action that may be deemed appropriate under the circumstances, until compliance or remedial action has been accomplished by the Sponsor;
4. Refer the case to the Department of Justice for appropriate legal proceedings.

Distribution: EEO Office  
Appendix A revised: 03-09, 08-10

## **Attachment 1**

This Attachment is to be inserted in every contract subject to Title VI of the Civil Rights Act of 1964 and associated Regulations.

During the performance of this contract, the contractor/consultant, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

### **1. Compliance with Regulations**

The contractor shall comply with the Regulations relative to non-discrimination in federally assisted programs of United States Department of Transportation (USDOT), Title 49, Code of Federal Regulations, part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

### **2. Non-discrimination**

The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-contractors, including procurement of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

### **3. Solicitations for Sub-contracts, Including Procurement of Materials and Equipment**

In all solicitations either by competitive bidding or negotiations made by the contractor for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-contractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to non-discrimination on the grounds of race, color, sex, or national origin.

### **4. Information and Reports**

The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the contracting agency or the appropriate federal agency to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to ITD or the USDOT as appropriate, and shall set forth what efforts it has made to obtain the information.

### **5. Sanctions for Non-compliance**

In the event of the contractor's non-compliance with the non-discrimination provisions of this contract, the contracting agency shall impose such contract sanctions as it or the USDOT may determine to be appropriate, including, but not limited to:

- Withholding of payments to the contractor under the contract until the contractor complies, and/or;
- Cancellation, termination, or suspension of the contract, in whole or in part

### **Incorporation of Provisions**

The contractor shall include the provisions of paragraphs (1) through (5) in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The



contractor shall take such action with respect to any sub-contractor or procurement as the contracting agency or USDOT may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a sub-contractor or supplier as a result of such direction, the contractor may request ITD enter into such litigation to protect the interests of the state and, in addition, the contractor may request the USDOT enter into such litigation to protect the interests of the United States.

## Attachment 2

The following clauses shall be included in any and all deeds affecting or recording the transfer of real property, structures or improvements thereon, or interest therein from the United States.

### GRANTING CLAUSE

NOW THEREFORE, Department of Transportation, as authorized by law, and upon the condition that the state of Idaho will accept title to the lands and maintain the project constructed thereon, in accordance with Title 23, United States Code, the Regulations for the Administration of Federal Aid for Highways and the policies and procedures prescribed by the United States Department of Transportation and, also in accordance with and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in federally assisted programs of the Department of Transportation ITD (hereinafter referred to as the Regulations) pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252: 42 USC 2000d to 2000d - 4) does hereby remise, release, quitclaim, and convey unto the state of Idaho all the right, title, and interest of the Department of Transportation in and to said land described in Exhibit A attached hereto and made a part thereof.

### HABENDUM CLAUSE

TO HAVE AND TO HOLD said lands and interests therein unto the state of Idaho, and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which the federal financial assistance is extended or for another purpose involving the provisions of similar services or benefits and shall be binding on the state of Idaho, its successors, and assigns.

The state of Idaho, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person shall on the grounds of race, color, sex or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed (,)(and)\* (2) that the state of Idaho, shall use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, part 21, Non-discrimination of federally assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended (,) and (3) that in the event of breach of any of the above mentioned non-discrimination conditions, the department shall have a right to reenter said lands and facilities on said land, and the above described land and facilities shall thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this instruction.<sup>1</sup>

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<sup>1</sup> Reverter Clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purpose of Title VI of the Civil Rights Act of 1964.





## Request for Approval of In-Kind Work By Local Sponsor on Federal-Aid Projects

ITD 2394 (Rev. 06-14)  
itd.idaho.gov

|  |                             |  |
|--|-----------------------------|--|
| Key Number<br>18995  | Project Number<br>A018(995) | Project Name<br>12 <sup>th</sup> St. Idaho Canal Culvert   |
| Local Agency Name<br>City of Idaho Falls   |                             | <input checked="" type="checkbox"/> Engineer Services During Project Development<br><input checked="" type="checkbox"/> Construction Engineering and Inspection, Sampling, and Testing |
| Nature of Work to be Performed by Local Agency<br>Design (Roadway & Survey, & Traffic Control), and Construction Management and Inspection Services  |                             |  |
| Total Estimated Cost – <b>Note:</b> Costs for these services that exceed the match required on the project are not eligible for reimbursement<br>Up to \$99,246.12 for services (see attached) anticipated match is understood to be up to \$70,243.80 |                             |  |

List the employees who will be providing services. List employees' qualifications, certifications, and experience for the work to be performed. Attach additional pages if necessary.

| Name  | Qualifications and Certifications             | Experience (If listing specific project experience, indicate if the project was federally funded)   | Estimated Cost*             |
|---|---|---|-----------------------------|
| Chris Canfield, P.E.                          | PE License # 10551 & WAQTC # 20098            | 7 years at ITD, 8 years as a consultant and 2.5 years at the City administering Federal funded projects (design and construction). See attached | see attached Exhibits A & B |
| Kent Fugal, P.E.                              | PE license # WAQTC # 22115                    | 5.5 yrs with Cities & 20 years with consultant working on the design of Federal aid projects.   | see attached Exhibits A & B |
| Kenny Roberts, PLS                            | PLS licence # 9755                            | Consultant surveyor for 9 years and then 13 years as City surveyor on federal aid projects. (see attached)                                      | see attached Exhibits A & B |
| Gary Olson                                    | WAQTC # 43665                                 | Chief Inspector for City 2 years, 10 years inspection as consultant on federal aid projects. See attached                                       | see attached Exhibits A & B |
| Robert Cox                                    | WAQTC # 20018                                 | See attached sheets   | see attached Exhibits A & B |
| See attached sheets for additional personnel. | See attached sheets for additional personnel. | See attached sheets for additional personnel.   | see attached Exhibits A & B |

\*Provide separate page with details – see the attached exhibits for examples and for documentation requirements upon completion of work

|  |  |                                 |                  |
|--|--|---------------------------------|------------------|
| Reviewed By - Project Manager's Printed Name<br>Chris Canfield, P.E.                           |  | Project Manager's Signature<br> | Date<br>04/27/16 |
| In-Kind Work Approved**<br><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | Approval Authority Engineer's Printed Name<br>Monica Under | Engineer's Signature<br>        | Date<br>5/10/16  |

\*\*Approval Authority:  
Local Projects Administered by LHTAC – Contract Services Engineer  
Local Projects Administered by the District – District Engineer

Exhibit A



| Project Descriptions   | Construction Time Date   | Services |      |            |                         |                    |                         |                            | Client                      |
|--|--------------------------|----------|------|------------|-------------------------|--------------------|-------------------------|----------------------------|-----------------------------|
|  |                          | Testing  | CCDC | Inspection | Weekly SWPPP Inspection | Records Inspection | Contract Administration | 3rd Party SWPPP Inspection |                             |
| 16th Street Pedestrian Bridge  | July 2010 - April 2011   | •        | •    | •          | •                       | •                  | •                       | •                          | ITD D-3 Region 1            |
| 3700 N; 2000 E. to 2050 E., Filter   | Sept 2010 - Oct 2010     |          |      |            |                         |                    |                         | •                          | LHTAC/ City of Filer        |
| Blacks Creek Rest Area   | 2007                     |          |      |            |                         |                    |                         |                            | ITD D-3 Region 1            |
| Canyon Creek Bridge, N of Min Home   | Nov 2010 - April 2011    | •        | •    | •          | •                       |                    |                         |                            | ITD D-3 Res 2/LHTAC/M/HID   |
| Conkling Road Overlay  | Sept 2010 - Oct 2010     |          | •    |            |                         |                    | •                       |                            | LHTAC                       |
| Eckert to Amity Bike Path Extension  | Nov 2009-Jun 2007        | •        | •    |            |                         | •                  | •                       | •                          | Ada County                  |
| FEMA Silver City Road Reconstruction   | 2006                     | •        | •    | •          | •                       | •                  | •                       | •                          | Owyhee County               |
| Franklin & 21st Avenue Intersection Stages 1 thru 3  | 2008-2010                |          | •    |            |                         |                    | •                       | •                          | ITD D-3 Res 3, Caldwell     |
| FY 10 ACHD Overlays  | June 2010 - Nov 2010     |          | •    |            |                         |                    |                         |                            | ITD/ACHD                    |
| I-84, Black Cat and Robinson Bridges Reconstruction  | 2008-2009                | •        | •    | •          |                         |                    |                         |                            | ITD D-3 Res 3               |
| I-84, Eagle Exit Ramps   | Mar-Nov 2007             | •        | •    | •          |                         | •                  |                         |                            | ITD D-3 Res 1               |
| I-84, Garrity Interchange to Ten Mile Overpass Median Reconstruction                               | 2008-2009                | •        | •    | •          |                         | •                  |                         |                            | ITD D-3 Res 3               |
| I-84, Garrity to Ten Mile Reconstruction   | 2008-2009                | •        | •    | •          |                         | •                  |                         |                            | ITD D-3 Res 3               |
| I-84, Meridian to Garrity Mill and Widening  | 2007-2008                | •        | •    | •          |                         | •                  |                         |                            | ITD D-3 Res 3               |
| I-84, NP 17.6 to Caldwell  | 2007                     |          |      |            |                         |                    |                         | •                          | ITD D-3 Res 2               |
| I-84, Ten Mile Creek Drain Widening  | Jan-Apr 2008             | •        | •    | •          | •                       | •                  | •                       |                            | ITD D-3 Res 3               |
| I-84, Ten Mile to Meridian Reconstruction  | 2008-2009                | •        | •    | •          |                         |                    |                         |                            | ITD D-3 Res 4               |
| I-90, Washington State Line to Sherman Ave., Kootenai Co.  | 2007-2008                |          |      |            |                         |                    |                         |                            | ITD D-1                     |
| Indian Creek, 11th Avenue and 21st Avenue Bridges  | Apr 2008-2009            | •        | •    | •          | •                       | •                  | •                       |                            | ITD D-3 Res 3, Caldwell     |
| Kings Corner Railroad Overpass   | 2005-2006                |          |      |            |                         |                    |                         |                            | City of Nampa               |
| Main St.; Boise Ave. to Washington, Emmett   | April 2010 - August 2011 |          |      |            |                         |                    |                         |                            | ITD D-3/LHTAC/Emmett        |
| O'Gara Road Overlay  | September 2010           |          |      |            |                         |                    |                         |                            | LHTAC                       |
| Pioneer Corridor Ped/Bike Improvement, Boise   | Aug 2010 - April 2011    | •        | •    | •          | •                       | •                  | •                       |                            | ITD D-3 Res 1/Boise CCDC    |
| SH-21 Warm Springs to Diversion Dam and Federal Way to I-84  | Jul-Sep 2009             | •        | •    | •          | •                       |                    |                         |                            | ITD D-3 Res 1               |
| SH-55 Main Street, Donnelly  | 2009                     |          |      |            |                         |                    |                         | •                          | ITD D-3 Res 4               |
| SH-44, Chinden Boulevard to State Street and Junction SH-55N to Glenwood                           | Jun-Aug 2009             | •        | •    | •          |                         |                    |                         |                            | ITD D-3 Res 1               |
| SH-55, Marsing to Sunnyslope Cv.   | 2007                     |          |      |            |                         |                    |                         | •                          | ITD D-3 Res 2               |
| STC 2714; Center St., Main to Ash St., Kimberly  | May 2010 - Oct 2010      |          | •    | •          |                         |                    | •                       |                            | ITD D-4/LHTAC/Kimberly      |
| STC 7808, N Middleton Rd; Jct SH-44 to Mill Slough & STC 7807, Int. Cemetery Rd & SH-44, Middleton | Aug. 2010 - Dec. 2010    | •        | •    | •          | •                       | •                  | •                       |                            | ITD D-3 Res 3/Middletown    |
| Strike Dam Cutoff Rd, Phases I & III   | March 2010 - Sept 2010   | •        | •    | •          | •                       | •                  | •                       |                            | ITD D-3 Res 2/LHTAC/M/HID   |
| I-84; Ten Mile I.C.  | Sept 2009 - July 2011    | •        | •    | •          | •                       | •                  | •                       |                            | ITD D-3 Res 1               |
| U.S. 20, Broadway Avenue, Rossi Street to Ridenbaugh Canal   | Aug-Sep 2007             | •        | •    | •          |                         |                    |                         | •                          | ITD D-3 Res 2               |
| U.S. 20, Cat Creek Summit  | 2007                     |          |      |            |                         |                    |                         |                            | ITD D-3 Res 1               |
| U.S. 20, Cloverdale Road to Hewlett-Packard Main Entrance  | Mar-Oct 2007             | •        | •    | •          |                         |                    |                         |                            | ITD D-3 Res 1               |
| Meridian WWTP Filters Building   | June 2011 - Dec 2011     |          |      |            | •                       |                    |                         |                            | City of Meridian            |
| Meridian WWTP Secondary Clarifiers Retrofit  | July 2011 - Present      |          |      |            | •                       |                    |                         |                            | City of Meridian            |
| Meridian WWTP Grit Classifier  | August 2011 - Dec 2011   |          |      |            | •                       |                    |                         |                            | City of Meridian            |
| Buhl WWTP  | 2010-2011                |          | •    | •          |                         |                    |                         |                            | City of Buhl                |
| Filer WWTP   | 2010-2011                |          | •    | •          |                         |                    |                         |                            | City of Filer               |
| Garfield St Bridge, Idaho Falls  | Nov 2011- Present        | •        | •    | •          | •                       | •                  | •                       |                            | City of Idaho Falls / LHTAC |
| Watson St. Bridge  | June 2010 - October 2011 | •        | •    | •          |                         |                    |                         |                            | ITD D-2/LHTAC/Cul De Sac    |



Mr. Michael A. Carlile joined the City of Idaho Falls in 2008 and aids in the design and inspection of City local federal aid projects. He works as a Design Tech in GIS & Inspector with the City.

**Relevant Federal Aid Projects Supported with Idaho Falls:**

- 12472 Pancheri Bridge over the East Lateral Canal (2013/2014)
- 13133 ADA Pedestrian Ramps & Concrete Improvements Citywide (2014)
- 11686 Pancheri Rd.; Bellin Rd to Skyline (2014/2015)

**Education**

BS in Geography from Utah  
State University, with a Minor in  
Geographic Information Science

**Professional Certifications**

- WAQTC # 23205

**Michael Carlile** (Qualification Number: 23,205)

**ITD Inspector Qualifications**

C. & S. (Original Qualification: Nov 2013 Expires: Nov 2018)

C.A. (Original Qualification: Nov 2013 Expires: Nov 2018)

TCI (Original Qualification: Nov 2013 Expires: Nov 2018)

**WAQTC Sampler/Tester Qualifications**

ACI-CFT (Original Qualification: Oct 2013 Expires: Oct 2018)

AgTT (Original Qualification: Apr 2014 Expires: Apr 2019)

**Education**

One year college

**Professional Certifications**

WAQTC # 20018

- Inspector Qualifications – C&S, C. A., T. C. I.
- WAQTC – ACI-CIT, Ag'IT

**Work History**

Worked from fall of 1992 to 2000 inspecting road and bridge projects for the Idaho Transportation Dept. Joined the City of Idaho Falls in 2000 and have designed and inspected several projects for the City which have included Federal Aid projects.

Mr. Robert Cox joined the City of Idaho Falls in 2000 and aids in the design and Construction of City local federal aid projects. He works as an Inspector/Right-of-way Agent with the City. His prior experience includes 7.5 years at the Idaho Transportation Department (ITD) where he was charged with inspecting road projects as a Principal Inspector.

**Relevant Federal Aid Projects Supported with Idaho Falls:**

- 12472 Pancheri Bridge over the East Lateral Canal (2013/2014)
- 13133 ADA Pedestrian Ramps & Copconcrete Improvements Citywide (2014)
- 11686 Pancheri Rd.; Bellin Rd to Skyline (2014/2015)
- Key #7979 Sunnyside Rd.

**Relevant Federal Aid Projects Prior to the City of Idaho Falls:**

- Several Interstate and State Highway projects

**Education**

Associates from Idaho State  
University in Design Drafting

Mr Grant Campbell joined the City of Idaho Falls in 2011 and aids in the design and Construction of City local federal aid projects. He works as a Designer with the City.

**Work History**

Mountain River Engineering  
2006-2011

**Relevant Federal Aid Projects Supported with Idaho Falls:**

- 13133 ADA Pedestrian Ramps & Concrete Improvements Citywide (2014)
  - 11686 Pancheri Rd.; Bellin Rd to Skyline (2014/2015)
  - 14052 1<sup>st</sup> & Holmes Traffic Reconstruction (2016)
-

**Education**

High School/some Tech collage

**Work History**

Mountain River inc. 1999-2011

Skidmore inc. 1995-1999

Mr. Neal Cunningham joined the City of Idaho Falls in May 2011 and aids in the design and Construction of City local federal aid projects. He works as a Survey Tech with the City. Prior to that he worked as a construction surveyor for 10 years from in 1999 to 2011 surveying administering Federal Aid projects

**Relevant Federal Aid Projects Supported with Idaho Falls:**

- 12472 Pancheri Bridge over the East Lateral Canal (2013/2014)
  - 13133 ADA Pedestrian Ramps & Concrete Improvements Citywide (2014)
  - 11686 Pancheri Rd.; Bellin Rd to Skyline (2014/2015)
-



**Education**

**Some College**

**1996 High School Diploma**

**Professional Certifications**

- Nuclear Testing
- Forklift Certified
- 40hr Hazmat Certified

**Work History**

2011-Current City of Idaho Falls

2003-2011 Schiess and Associates

2002-2003 Forsgreen Associates

2001-2002 Operators Union at the INL

1999-2001 Benton Engineering

Mr Nathan Anderson joined the City of Idaho Falls in September 2011 and aids in the design and Construction of City local federal aid projects. He works as an Survey Tech with the City. Prior to that he worked as a Construction Surveyor for 11 years from 1999 to 2010 surveying Federal Aid projects. His prior experience includes 11 years at different local engineering companies where he was charged with duties such as surveying ITD funded bridges with Global Positioning Systems (GPS), Total Stations, and different types of levels including Digital Levels.

**Relevant Federal Aid Projects Supported with Idaho Falls:**

- 12472 Pancheri Bridge over the East Lateral Canal (2013/2014)
- 13133 ADA Pedestrian Ramps & Copconcrete Improvements Citywide (2014)
- 11686 Pancheri Rd.; Bellin Rd to Skyline (2014/2015)

**Relevant Federal Aid Projects Prior to the City of Idaho Falls:**

Firth Bridge over the Snake River

Targhee Creek Bridge in Island Park just North of Henry's Lake

Yellowstone Highway Bridge South of Shelley, Idaho

Advanced Mixed Waste Treatment Plant at the INL

(18995) 12st St Idaho Canal Culvert  
 Project Development Services (Survey, Roadway Design & Traffic Control)  
 LHTAC  
 04/15/2016

Exhibit A

LABOR DAY ESTIMATE SUMMARY

| SUMMARY            | Total<br>L-Hours | Proj Manager<br>L-Hours | Designer<br>L-Hours | Tech<br>L-Hours | Office M.<br>L-Hours | Survey<br>L-Hours |
|--------------------|------------------|-------------------------|---------------------|-----------------|----------------------|-------------------|
| 1 City-Labor Hours | 300.00           | 53.00                   | 64.00               | 134.00          | 9.00                 | 40.00             |

SALARY COSTS

A. Summary of Man-Day Costs

|                   |        |           |         | Fully Loaded<br>Hourly Rate |                     |
|-------------------|--------|-----------|---------|-----------------------------|---------------------|
| 1 Project Manager | 53.00  | L-Hours X | \$48.61 | \$102.56                    | /hour = \$ 5,435.50 |
| 2 Designer        | 64.00  | L-Hours X | \$32.06 | \$67.64                     | /hour = \$ 4,328.71 |
| 3 Tech            | 134.00 | L-Hours X | \$24.75 | \$52.22                     | /hour = \$ 6,996.87 |
| 4 Office Manager  | 9.00   | L-Hours X | \$17.82 | \$37.60                     | /hour = \$ 338.40   |
| 5 Survey Crew *   | 40.00  | L-Hours X | \$50.03 | \$105.56                    | /hour = \$ 4,222.53 |

TOTAL DIRECT PAYROLL

\$ 21,322.01

B. Payroll Burden & Fringe Benefit Costs

|  |        |        |  |
|--|--------|--------|--|
| 1 ITD Office OH Rate                           | 1.1100 | 2.1100 |  |
| 2 Fee  | 0.0000 | 2.1100 |  |
| 3 ITD Approved FCCM (with office OH rate only) | 0.0000 | 2.1100 |  |

TOTAL PAYROLL, BURDEN, FRINGE & FEE

\$ 21,322.01

C. Out-of-Pocket Costs - (See detail sheet)

|                        |  |           |   |          |
|------------------------|--|-----------|---|----------|
| 1 City Direct Expenses |  | \$ 41.625 | = | \$ 41.63 |
|------------------------|--|-----------|---|----------|

TOTAL ESTIMATED FEE

\$ 21,363.64

\* Survey hours are crew hours (2-man crew).

## Idaho Falls

| 4 PS & E |                             | Total<br>L-Hours | PM<br>L-Hours | Designer<br>L-Hours | Tech<br>L-Hours | Office M.<br>L-Hours | Survey*<br>Crew-Hrs |
|----------|-----------------------------|------------------|---------------|---------------------|-----------------|----------------------|---------------------|
| 4.1      | PS & E SUBMITTAL            | 50.00            | 8.00          | 12.00               | 30.00           |                      |                     |
| 4.2      | ADVIRTISMENT REVIEW/SUPPORT | 24.00            | 4.00          | 8.00                | 8.00            | 4.00                 |                     |
| 4        | TOTAL FOR PROJECT PS & E    | 74.00            | 12.00         | 20.00               | 38.00           | 4.00                 | -                   |

| 5 Monthly Invoices |                  | Total<br>L-Hours | PM<br>L-Hours | Designer<br>L-Hours | Tech<br>L-Hours | Office M.<br>L-Hours | Survey*<br>Crew-Hrs |
|--------------------|------------------|------------------|---------------|---------------------|-----------------|----------------------|---------------------|
| 5                  | Monthly Invoices | 8.00             | 4.00          |                     |                 | 4.00                 |                     |
| <b>Total</b>       |                  | <b>300.00</b>    | <b>53.00</b>  | <b>64.00</b>        | <b>134.00</b>   | <b>9.00</b>          | <b>40.00</b>        |

(18995) 12st St Idaho Canal Culvert  
 Project Development Services (Survey, Roadway Design & Traffic Control)  
 LHTAC

Exhibit A

**DIRECT EXPENSES**

| Total                                |           |       |          |    |
|--------------------------------------|-----------|-------|----------|----|
| Number of Trips (engr 1 x per month) | 5         | Trips |          |    |
| Average Miles per Trip (engr)        | 5         | Mi    | 25       | Mi |
| Number of Trips (designer)           | 10        |       |          |    |
| Average miles per trip (designer)    | 5         |       | 50       | Mi |
| Total Miles                          |           |       | 75       |    |
| Cost per Mile                        | \$ 0.5550 | /Mi   |          |    |
| Total Mileage Cost*                  |           |       | \$ 41.63 |    |
|                                      |           |       |          |    |
|                                      |           |       |          |    |
| Total Direct Cost                    |           |       | \$41.63  |    |



## EXHIBIT B

Idaho Falls

| 1 CONSTRUCTION ADMINISTRATION |   | Total   | PM      | CI      | Tech    | Office M. | Survey  |
|-------------------------------|---|---------|---------|---------|---------|-----------|---------|
|                               |   | L-Hours | L-Hours | L-Hours | L-Hours | L-Hours   | L-Hours |
| 1.1                           | General Contract Administration           | -       |         |         |         |           |         |
| 1.1                           | Submittal Log & Min. Testing Requirements | 4.00    | 4.00    |         |         |           |         |
| 1.2                           | Pre-Construction Conference               | 10.00   | 4.00    | 2.00    | 2.00    | 2.00      |         |
| 1.3                           | Labor Compliance                          | 40.00   | 4.00    |         | 16.00   | 20.00     |         |
| 1.4                           | Civil Rights Compliance                   | 44.00   |         |         | 24.00   | 20.00     |         |
| 1.5                           | Filing & Records Verification             | 20.00   |         |         |         | 20.00     |         |
| 1.6                           | Progress Estimates                        | 60.00   | 20.00   | 20.00   |         | 20.00     |         |
| 1.7                           | Materials Certifications                  | 52.00   | 12.00   | 20.00   |         | 20.00     |         |
| 1.7.1                         | MTR                                       | 24.00   | 12.00   | 12.00   |         |           |         |
| 1.7.2                         | Source Approvals                          | 24.00   | 6.00    | 12.00   |         | 6.00      |         |
| 1.7.3                         | Mix Design Reviews                        | 6.00    | 6.00    |         |         |           |         |
| 1.8                           | Contract Changes                          | 10.00   | 10.00   |         |         |           |         |
| 1.9                           | Weekly Progress Meetings                  | 46.00   | 20.00   | 20.00   |         | 6.00      |         |
| 1.10                          | Payroll Submittals                        | 32.00   | 12.00   |         |         | 20.00     |         |
| 1.11                          | Change Orders                             | 12.00   | 10.00   |         |         | 2.00      |         |
| 1.12                          | Submittal Reviews                         | 30.00   | 20.00   | 10.00   |         |           |         |
| 1.13                          | Claims                                    | -       | 0.00    | 0.00    |         |           |         |
| 1                             | TOTAL FOR CONTRACT ADMIN.                 | 414.00  | 140.00  | 96.00   | 42.00   | 136.00    | -       |

| 2 Survey Control |                          | Total   | PM      | CI      | Tech    | Office M. | Survey* |
|------------------|--------------------------|---------|---------|---------|---------|-----------|---------|
|                  |                          | L-Hours | L-Hours | L-Hours | L-Hours | L-Hours   | L-Hours |
| 2                | Survey Verification      | 52.00   | 16.00   | 16.00   |         |           | 20.00   |
| 2                | TOTAL FOR SURVEY CONTROL | 52.00   | 8.00    | 8.00    | -       | -         | 20.00   |

## EXHIBIT B

| 4 PROJECT CLOSE OUT |                                   | Total<br>L-Hours | PM<br>L-Hours | CI<br>L-Hours | Tech<br>L-Hours | Office M.<br>L-Hours | Survey*<br>Crew-Hrs |
|---------------------|-----------------------------------|------------------|---------------|---------------|-----------------|----------------------|---------------------|
| 4.1                 | Document Review                   | 5.00             |               |               |                 | 5.00                 |                     |
| 4.2                 | Final Payment Certifications      | 4.00             |               |               |                 | 4.00                 |                     |
| 4.3                 | Substantial Completion Inspection | 14.00            | 3.00          | 4.00          | 6.00            | 1.00                 |                     |
| 4.4                 | Final Inspection                  | 7.00             | 3.00          | 4.00          |                 |                      |                     |
| 4                   | TOTAL FOR PROJECT CLOSEOUT        | 30.00            | 6.00          | 8.00          | 6.00            | 10.00                | -                   |

| 5 Monthly Invoices |                  | Total<br>L-Hours | PM<br>L-Hours | CI<br>L-Hours | Tech<br>L-Hours | Office M.<br>L-Hours | Survey*<br>Crew-Hrs |
|--------------------|------------------|------------------|---------------|---------------|-----------------|----------------------|---------------------|
| 5                  | Monthly Invoices | 4.00             | 2.00          |               |                 | 2.00                 |                     |
| <b>Total</b>       |                  | <b>1,181.00</b>  | <b>224.00</b> | <b>275.00</b> | <b>498.00</b>   | <b>148.00</b>        | <b>20.00</b>        |

## EXHIBIT B

(18995) 12st St Idaho Canal Culvert  
Construction Engineering & Inspection (not including Testing Services)

### DIRECT EXPENSES

|                                     | Total     |       |           |    |
|-------------------------------------|-----------|-------|-----------|----|
| Number of Trips (engr 1 x per week) | 35        | Trips |           |    |
| Average Miles per Trip (engr)       | 9         | Mi    | 315       | Mi |
| Number of Trips (observer)          | 100       |       |           |    |
| Average miles per trip (observer)   | 9         |       | 900       | Mi |
| Total Miles                         |           |       | 1215      |    |
| Cost per Mile                       | \$ 0.5550 | /Mi   |           |    |
| Total Mileage Cost*                 |           |       | \$ 674.33 |    |
|                                     |           |       |           |    |
|                                     |           |       |           |    |
| Total Direct Cost                   |           |       | \$674.33  |    |

# IDAHO TRANSPORTATION DEPARTMENT


## Department Memorandum

**DATE:** MAY 23, 2016

**Project No.(s):** A018(995)

**TO:** HEATHER PARKER  
LHTAC

**Key No.(s):** 18995

**FROM:** HOLLY MCCLURE   
CAU

**Project Identification:**  
12<sup>TH</sup> ST IDAHO  
CANAL CULVERT

**RE:** AGREEMENT

Heather, enclosed is the State/Local Agreement (Project Development) for the above project.

Please obtain the appropriate signatures from the City of Idaho Falls, and then return the original to me for further processing.

If you have any questions, please give me a call at 78486.

hm

Enclosures

cc: CAU, W/ATT

**Received**  
MAY 24 2016  
LHTAC & T2 CENTER





## MEMORANDUM

To: Honorable Mayor & City Council

From: Chris H Fredericksen, Public Works Director

Date: June 1, 2016

Subject: **IDAHO TRANSPORTATION DEPARTMENT STATE/LOCAL AGREEMENT – SOUTH BOULEVARD CORRIDOR RECTANGULAR RAPID FLASHING BEACONS**

Attached is a State/Local Development Agreement with the Idaho Transportation Department and accompanying Resolution with respect to the South Boulevard Corridor Rectangular Rapid Flashing Beacons project.

This agreement stipulates that the City will administer the construction and inspection services in lieu of the customary fund match of 7.34%. This agreement has been reviewed by the City Attorney.

Public Works recommends adoption of the resolution, approval of this agreement; and, authorization for Mayor and City Clerk to sign the necessary documents.

Respectfully,

Chris H Fredericksen, P.E.  
Public Works Director

CF:jk

Attachment

c: Mayor  
Council  
Canfield

2-38-30-4-TRF-2014-47

2016-49

STATE/LOCAL AGREEMENT  
(CONSTRUCTION)  
PROJECT NO. A018(811)  
S BLVD CORRIDOR RRFB LIGHT  
BONNEVILLE COUNTY  
KEY NO. 18811

**PARTIES**

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the IDAHO TRANSPORTATION BOARD by and through the IDAHO TRANSPORTATION DEPARTMENT, hereafter called the State, and the CITY OF IDAHO FALLS, acting by and through its Mayor and Council, hereafter called the Sponsor.

**PURPOSE**

The Sponsor has requested federal participation in the costs of constructing three pedestrian crossings to include Rectangular Rapid Flashing Beacons along S Blvd. between Sunnyside Rd and Yellowstone Hwy, which has been designated as Project No. A018(811). This Agreement sets out the responsibilities of the parties in the construction and maintenance of the project.

Authority for this Agreement is established by Section 40-317 of the Idaho Code.

The Parties agree as follows:

**SECTION I. GENERAL**

1. This Agreement is entered into for the purpose of complying with certain provisions of the Federal-Aid Highway Act in obtaining federal participation in the construction of the project.
2. Federal participation in the costs of the project will be governed by the applicable sections of Title 23, U.S. Code (Highways) and rules and regulations prescribed or promulgated by the Federal Highway Administration.

3. Funds owed by the Sponsor shall be remitted to the State through the ITD payment portal at:  
<https://apps.itd.idaho.gov/PayITD> .
4. All information, regulatory and warning signs, pavement or other markings, and traffic signals, the cost of which is not provided for in the plans and estimates, must be erected at the sole expense of the Sponsor upon the completion of the project.
5. The location, form and character of all signs, markings and signals installed on the project, initially or in the future, shall be in conformity with the Manual of Uniform Traffic Control Devices as adopted by the State.
6. This State/Local Agreement (Construction) upon its execution by both Parties, supplements the State/Local Agreement (Project Development) by and between the same parties, dated March 31, 2015.
7. The Sponsor has obtained approval to perform in-kind work on this project as shown on the Request for Approval of In-kind Work by Local Sponsor on Federal-aid Projects, attached to the Project Development agreement.
8. Sufficient Appropriation. It is understood and agreed that the State is a governmental agency, and this Agreement shall in no way be construed so as to bind or obligate the State beyond the term of any particular appropriation of funds by the Federal Government or the State Legislature as may exist from time to time. The State reserves the right to terminate this Agreement if, in its sole judgment, the Federal Government or the legislature of the State of Idaho fails, neglects or refuses to appropriate sufficient funds as may be required for the State to continue payments. Any such termination shall take effect immediately upon notice and be otherwise effective as provided in this Agreement.



SECTION II. That the State shall:

1. Enter into an Agreement with the Federal Highway Administration covering the federal government's pro rata share of construction costs.
2. Advertise, open bids, prepare a contract estimate of cost based on the successful low bid and notify the Sponsor thereof.
3. Award a contract for construction of the project, based on the successful low bid, if it does not exceed the State's estimate of cost of construction by more than ten (10) percent. If the low bid exceeds the estimate by more than 10%, the bid will be evaluated, and if justified, the contract will be awarded and the Sponsor will be notified.
4. Obtain concurrence of the Sponsor before awarding the contract if the Sponsor's share of the low bid amount exceeds the amount set forth in Section III, Paragraph 1 by more than ten (10) percent.
5. Provide to the Sponsor sufficient copies of the Contract Proposal, Notice to Contractors, and approved construction plans.
6. Designate a resident engineer as the State deems necessary to supervise and oversee the overall progress and construction of the project in accordance with the plans and specifications in the manner required by applicable state and federal regulations. This engineer, or his authorized representatives, will review and approve all monthly and final contract estimates and change orders.
7. Appoint the Local Highway Technical Assistance Council as the contract administrator for the State.
8. Authorize the Sponsor to administer the project and make any necessary changes and decisions within the general scope of the plans and specifications. Prior approval of the State will be obtained if it is necessary to deviate from the plans and specifications during the life of the construction contract.



9. Authorize the Sponsor to provide construction inspection, sampling and testing (IS&T) services on the project. Requirements for IS&T Services are detailed in Exhibit B to this Agreement.
10. Within sixty (60) days of receipt of invoices from the Sponsor for the Sponsor's contract administration and inspection costs, review and credit the federal participating amount towards the sponsors match.
11. Upon receipt of contract estimates of construction costs from the Sponsor, process and make payment to the general contractor.
12. Review the materials certification documentation, make appropriate determination of participation, and prepare the materials certification in accordance with the State's Quality Assurance Manual.
13. Maintain complete accounts of all project funds received and disbursed, which accounting will determine the final project costs.
14. Conduct a final cost accounting of the project, which will reconcile eligibility for federal reimbursement with the costs recorded in the project program. The district records inspector will submit a report of expenditures, and a report of completion that will include materials certification, a final invoice, detail of final estimate, change order summary, and any contractor claims.

The final cost accounting will determine if overpayments must be recovered from the Sponsor, or if final reimbursements are due to the Sponsor. Any excess funds transmitted by the Sponsor and not required for the project will be applied to any outstanding balance the Sponsor may have on a previously completed project. If no such outstanding balance exists, the excess funds will be returned to the Sponsor.

15. Perform a final inspection of the project upon completion of construction.

16. Upon satisfactory inspection and project closeout, execute a Certification and Acceptance of Project, and provide a copy to the Sponsor.
17. Subject to the limitations hereinafter set forth, State shall indemnify, defend and save harmless Sponsor from and against any and all demands, claims or liabilities caused by or arising out of any negligent acts by State, or State's officers, agents, and employees while acting within the course and scope of their employment, which arise from this project. Any such indemnification hereunder by State is subject to the limitations of the Idaho Tort Claims Act (currently codified at chapter 9, title 6, Idaho Code). Such indemnification hereunder by State shall in no event cause the liability of State for any such negligent act to exceed the liability limits set forth in the Idaho Tort Claims Act. Such indemnification shall in no event exceed the amount of loss, damages, expenses or attorney fees attributable to such negligent act, and shall not apply to loss, damages, expenses or attorney fees attributable to the negligence of Sponsor.

**SECTION III.** That the Sponsor shall:

1. Be responsible for its share of the cost for construction plus preliminary engineering, and construction engineering & inspection (CE&I). These costs and the Sponsor's match are detailed in the attached *Worksheet for State/Local Construction Agreements* marked Exhibit A. The actual cost to the Sponsor will be determined from the total quantities obtained by measurement plus the actual cost of engineering and contingencies required to complete the work. Construction engineering and contingencies will be approximately 25.4% of total construction cost.
2. Upon approval of the lowest qualified bid received, if the Sponsor's share exceeds the amount set forth in Section III, Paragraph 1, transmit to the State the Sponsor's portion of such excess cost.
3. Designate Chris Canfield, Assistant Public Works Director, as its agent to administer the project in accordance with the plans and specifications in the

manner required by applicable state and federal regulations. The designated agent will prepare all monthly and final contract estimates and change orders, and submit all change orders to the State for their review and approval.

4. Designate Sponsor personnel to provide construction inspection, sampling and testing (IS&T) services on the project as detailed in Exhibit B to this Agreement.
5. Estimate the anticipated project completion costs when construction costs reach 85% of the funds that have been obligated for the project. The Sponsor shall monitor construction costs, and if costs are anticipated to exceed 105% of the total project costs, provide for additional funding necessary to complete the project.
6. Submit invoices to the State on a monthly basis for the contract administration costs of this project, to be credited toward the Sponsor's match per Section II, Paragraph 10 of this Agreement.
7. Submit contract estimates of construction costs to the State on a monthly basis.
8. Upon receipt of the statement referred to in Section II, Paragraph 14 indicating an adjustment in cost against the Sponsor, promptly remit such amount to the State.
9. Maintain the project upon completion to the satisfaction of the State. Such maintenance includes, but is not limited to, preservation of the entire roadway surface, shoulders, roadside cut and fill slopes, drainage structures, and such traffic control devices as are necessary for its safe and efficient utilization. Failure to maintain the project in a satisfactory manner will jeopardize the future allotment of federal-aid highway funds for projects within the Sponsor's jurisdiction.

10. To the extent provided by the Idaho Tort Claims Act, indemnify, save harmless, and defend, regardless of outcome the State from expenses of, and against suits, actions, claims, or losses of every kind, nature, and description, including costs, expenses, and attorney fees that may be incurred by reason of any negligence of the Sponsor in the work which is the subject of this Agreement.

**EXECUTION**

This Agreement is executed for the State by its Engineering Services Division Administrator, and executed for the Sponsor by the Mayor, attested to by the City Clerk, with the imprinted corporate seal of the City of Idaho Falls.

**IDAHO TRANSPORTATION DEPARTMENT**

\_\_\_\_\_  
Engineering Services  
Division Administrator

ATTEST:

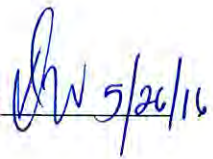
**CITY OF IDAHO FALLS**

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

(SEAL)

By regular/special meeting  
on \_\_\_\_\_.

Reviewed by FS:  5/26/16

hm:18811 SLAConst.docx

RESOLUTION

**WHEREAS**, the Idaho Transportation Department, hereafter called the **STATE**, has submitted an Agreement stating obligations of the **STATE** and the **CITY OF IDAHO FALLS**, hereafter called the **CITY**, for construction of S Blvd. Corridor RRFB Lights; and

**WHEREAS**, the **STATE** is responsible for obtaining compliance with laws, standards and procedural policies in the development, construction and maintenance of improvements made to the Federal-aid Highway System when there is federal participation in the costs; and

**WHEREAS**, certain functions to be performed by the **STATE** involve the expenditure of funds as set forth in the Agreement; and

**WHEREAS**, The **STATE** can only pay for work associated with the State Highway system; and

**WHEREAS**, the **CITY** is fully responsible for its share of project costs; and

**NOW, THEREFORE, BE IT RESOLVED:**

1. That the Agreement for Federal Aid Highway Project A018(811) is hereby approved.
2. That the Mayor and the City Clerk are hereby authorized to execute the Agreement on behalf of the **CITY**.
3. That duly certified copies of the Resolution shall be furnished to the Idaho Transportation Department.

CERTIFICATION

I hereby certify that the above is a true copy of a Resolution passed at a *regular, duly* called special (X-out non-applicable term) meeting of the City Council, City of Idaho Falls, held on \_\_\_\_\_, \_\_\_\_\_.

(Seal)

\_\_\_\_\_  
City Clerk



# **WORKSHEET FOR STATE / LOCAL CONSTRUCTION AGREEMENTS**

Key No: 18811  
 Project No: A018(811)  
 Project Name: S Blvd Corridor RRFB Light  
 Sponsor: City of Idaho Falls  
 Description of work: This project provides 3 Pedestrian Crossings to include Rectangular Rapid Flashing Beacons along S Blvd. between Sunnyside Road and Yellowstone Hwy.

Date of State/Local Agreement for Project Development: 3/31/2015

|   |                  |  |  |
|---|------------------|--|--|
| <b>TOTAL ESTIMATED COST OF CONSTRUCTION</b> <i>Includes E&amp;C</i> | \$143,238        |  |  |
| <b>APPROVED FORCE ACCOUNT WORK</b>                                  | \$32,900         |  |  |
| <b>PLUS PE BY STATE</b> <i>(from 2101)</i>                          | \$1,000          |  |  |
| <b>PLUS PC BY LHTAC</b> <i>(from 2101)</i>                          | \$7,000          |  |  |
| <b>PLUS PC</b> <i>(from PC Agreements)</i>                          | \$10,700         |  |  |
| <b>MINUS ALL NON-PARTICIPATING</b>                                  | \$0              |  |  |
| <b>PARTICIPATING TOTAL</b>  | <b>\$194,838</b> |  |  |
| <b>MATCH PERCENTAGES</b>  |                  |  |  |
| <b>PERCENTAGE AMOUNTS</b>   |                  |  |  |
| <b>MINUS FEDERAL MAXIMUM</b>  |                  |  |  |
| <b>ADD OVERAGE</b> <i>( If Any To Local )</i>                       |                  |  |  |
| <b>LOCAL SHARE OF CONSTRUCTION AMOUNT</b>                           |                  |  |  |

| FEDERAL      | LOCAL       |
|--------------|-------------|
| 92.66%       | 7.34%       |
| \$180,536.89 | \$14,301.11 |
| \$0          |             |
| 180,537      | \$0         |
|              | \$14,301    |

## **ADJUSTMENTS**

|  |          |
|--|----------|
| <b>PLUS ALL NON-PARTICIPATING</b> <i>(From above if work by contract)</i>          | \$0      |
| <b>MINUS FUNDS ADVANCED BY THE SPONSOR FOR STATE PE</b> <i>(from PD Agreement)</i> | \$1,000  |
| <b>MINUS APPROVED FORCE ACCOUNT WORK</b> <i>(From above)</i>                       | \$32,900 |
| <b>MINUS PRELIMINARY ENGINEERING PAID BY LOCAL</b>                                 | \$785    |

*(If LPA has not rec'd reimbursement, use actual PC dollars paid by LPA)*  
*(If LPA has rec'd reimbursement, use local match % of actual PC dollars paid by LPA)*  
*(Amounts must be supported by District Records Inspector Audit)*

**CONSTRUCTION AMOUNT REQUIRED FROM SPONSOR AFTER ADJUSTMENTS** **-\$20,384**

### **Comments:**

The city has approval to provide in-kind services for construction engineering & inspection, in the total estimated \$32,900. Cost for these services that are exceed the match required on the project are not eligible for reimbursement.

PREPARED BY: Heather Parker

Date: 5/23/2016

## EXHIBIT B

### Construction Inspection, Sampling and Testing Services

The Sponsor shall provide services relating to office and field documentation, Verification Sampling & Testing of materials and inspection staff. The Sponsor shall provide oversight and coordination activities of the project staff which will include Sampler/Testers with the necessary Western Alliance for Quality Transportation Construction (WAQTC) qualifications and skills to perform all associated tests for Aggregate, Embankment & Base/In-Place Density, Asphalt and Concrete. Inspectors shall be IQP (ITD) Certified Inspectors with sufficient skills and experience to assist in administration of this construction project, from project start up, throughout the duration of the construction activities and through project closeout. The project will be administered to ensure compliance with the following contract documents: Special Provisions, sealed Project Drawings and Plans; 2012 (or current) Idaho Standard Specifications for Highway Construction; January 2013 (or current) Supplemental Specifications; July 2013 (or current) QC/QA Special Provisions (QASP); SP-SA Special Provisions- Federal Aid; and all addenda issued prior to bid opening.

The Sponsor shall provide the qualified personnel as necessary to effectively carry out its responsibilities under this agreement.

*The work required by this project is as follows:*

#### I. Construction Administration

This consists of all necessary efforts to administer the project construction contract under the direction of the Idaho Transportation Department (ITD). The Sponsor will be responsible to ensure the project is completed and accepted by the ITD and the Federal Highway Administration (FHWA). This will require interpretation of the plans, coordination of changes to the project, assistance in processing change orders, resolving disputes, claims analysis, and all other engineering tasks normally handled by a Project Engineer/Manager. In addition, the Sponsor shall provide photographic equipment, safety equipment as well as any other necessary items to perform the work. Quality and quantity of these items shall meet with ITD approval. Sponsor is to provide all necessary personnel safety equipment in accordance with OSHA, MSHA, Department of Labor, FHWA, MUTCD and ITD standards and conduct safety reviews/inspections as necessary to ensure a safe work environment.

The Sponsor shall:

1. Under the direction of ITD, act as the Resident Engineer's authorized representative as defined in the Contract Documents. The extent and limitation of the duties, responsibilities and authority of the Engineer as assigned in said Contract Documents shall not be modified, except as the Engineer may otherwise agree in writing. Serve as ITD's liaison with the Contractor, working principally through the Contractor's superintendent and assist in understanding the intent of the Contract Documents.
2. Provide general contract administration on the construction contract in accordance with the ITD Contract Administration Manual, and assist the Project Manager in monitoring Contractor's compliance with contract requirements. Notify Resident Engineer when Contractor is found in non-compliance.
3. Analyze the plans, specifications, special provisions and other contract documents, and recommend to the ITD any necessary or desirable changes to accomplish the project in accordance with the plans and specifications.
4. Attend and assist in the facilitation of pre-construction conferences, partnering meetings, job conferences, weekly coordination meetings, pre-operational meetings, public information meetings, and other project related meetings. Take and maintain notes of all meetings and conferences and then distribute copies to participants within one week.
5. Document any project delay or potential delay caused by conflicts or utilities.

6. Analyze the Contractor's work schedule (Critical Path Diagram, CPM) when submitted and make recommendations to the ITD regarding any changes, or needed changes, to the schedule. Monitor the Contractor's adherence to the work schedule during construction.
7. Maintain a complete set of project records, including daily diaries, quantities for pay items, progress estimates, material deliveries and correspondence.
8. Maintain a daily record of each pay item for the progress estimate. Quantities will be based on daily records and calculations. All such records will be retained.
9. Prepare pay items for posting to ledgers in accordance with established procedures and submit to the ITD with recommendation for payment. The recommendation will be based on such observations and review that, to the best of the Sponsor's knowledge, information and belief, the contractor's work has progressed to the point indicated, the quality of such work is generally in accordance with the Contract Documents, and the conditions precedent to the Contractor's being entitled to such payment appear to have been fulfilled.
10. Track and maintain a log on all shop drawing and/or sample submittal and encourage all reviewers to complete their review in a timely manner. Deficiencies will be immediately reported to the ITD.
11. Identify and monitor all project permit requirements and notify the Contractor and ITD immediately when violations or potential violations occur.
12. Upon notice by the Contractor of pending claims for extra work or work beyond the original scope, maintain accurate records showing actual cost of such work.
13. Analyze and make recommendations to the ITD on all requests received from the Contractor for time extensions, contract changes, and extra work.
14. Coordinate all contract changes with the Contractor, ITD, and others as required.
15. Monitor and reinforce each Contractor's compliance with contract provisions in regard to payment of predetermined wage rates in accordance with ITD procedures. This includes verifying Contractor and Subcontractor's payrolls for format classification, pay scale, timely submissions, and concurrence with field reviews. Maintain filing system for payrolls and labor interviews and notify contractors on incorrect classification, pay scales, etc.
16. Monitor and reinforce each Contractor's compliance with contract provisions in regard to Equal Employment Opportunity and Affirmative Action and check job site at least once to verify bulletin board and posters adhere to the contract. Coordinate corrective actions with the ITD.
17. Monitor and reinforce each Contractor's compliance with contract provisions in regard to environmental provisions and permits.
18. Assist ITD in preparing for any litigation or other action that may arise. Prepare claim package in accordance with Memo No. 28 of the Contract Administration Manual on all claims of ITD and Contractor relating to the acceptability of the Contractor's work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the Contractor's work.

## **II. Survey Control**

The Sponsor shall be responsible for verifying the existence and accuracy of location for all reference points and baseline control points indicated on the plans. In performing verification surveys of construction layout, the Sponsor shall:



1. Make and record such measurements as necessary to calculate and document quantities for pay items.
2. Do independent check and verify line, grade, and structure layout.
3. Perform incidental engineering surveys as directed to carry out the services covered by this agreement and to verify and confirm the accuracy of the contractor's survey layout work. All survey work shall be performed under the supervision of a Surveyor registered in Idaho.

### **III. Project Inspection**

There are four distinct and independent areas of inspection and materials testing associated with this project which is as follows:

- Materials Quality Control (QC) and acceptance sampling and testing and inspection when materials are installed into the work by the Contractor.
- Materials verification sampling and testing and inspection to verify the results of the acceptance testing and inspection performed by the Contractor.
- Independent Assurance evaluations will be performed by ITD Materials Section.
- Dispute resolution sampling and testing.

The Sponsor shall coordinate any IA inspections that may be required with ITD.

This includes all work necessary to monitor the Contractor's work in progress to verify the work is in substantial conformance with the Contract Documents. ITD must approve all the inspectors working under this agreement before doing any work on this project. All inspectors will meet the requirements outlined in the Contract Administration Manual, Section 114. Inspectors shall be IQP (ITD) certified Inspectors with sufficient skills and experience to assist in administration of this construction project, from project start up, throughout the duration of the construction activities and through project closeout.

The Sponsor shall provide construction inspection as needed to ensure a quality project. Senior inspectors shall be high school graduates (or GED equivalent) with a minimum of eight (8) years of experience in construction inspection. Inspectors shall be high school graduates (or GED equivalent) with at least three (3) years experience in construction inspection. Inspectors in charge of reviewing the contractor's traffic control shall be TCI IQP certified.

The Sponsor shall:

1. Conduct on-site inspection of the Contractor's work in progress to determine if the work is in accordance with the Contract Documents. Prepare daily reports on ITD forms recording the Contractor's hours on the site, weather conditions, data relative to questions of change orders, field orders, or changed conditions, site visitors, daily activities, decisions, observations in general, and specific observations in more detail as the case of observing test procedures; maintain in the project files, and send copies to ITD on a weekly basis.
2. Assist in enforcing the current ITD safety policy and the safety provisions of the contract. Take immediate action if warranted and report immediately to ITD the occurrence of: safety deficiencies, incidences, hazardous environmental conditions, emergencies, or acts of God endangering: personnel, work, property or the environment.
3. Report to ITD whenever part of the Contractor's work in progress may not produce a completed project that conforms to the Contract Documents or may prejudice the integrity of the design concept of the completed project as a functioning whole as indicated in the Contract Documents.

4. Identify and recommend corrections for any omissions, substitutions, defects and deficiencies in the work of the Contractor.
5. Receive and review all certificates of inspections, tests, and approvals required by the Contract Documents.
6. Check measurements of pay quantities for accuracy, as requested by the ITD, and prepare required documentation for processing of payment to the Contractor.

The frequency and scope of inspections will vary with the work activity being performed; however, the Sponsor shall perform inspection services in accordance with ITD's procedures, policies, directives and industry-accepted standards.

#### *IV. Material Testing*

This task includes all work to determine that the materials supplied and constructed by the Contractor meet the conditions set forth in the contract documents. All sampling and testing personnel working under this agreement must meet the requirements outlined in the Contract Administration Manual, Section 114, for testing and sampling which they perform. All samplers and testers must be accepted by the ITD before performing any work on this project. All testing must be performed at a laboratory qualified through the ITD Laboratory Qualification Program.

The Sponsor shall provide oversight and coordinate the activities of their staff which will include Sampler/Testers with the necessary WAQTC qualifications and skills to perform all associated tests. ITD will provide IA Inspectors and IA testing will be performed by ITD. Materials Verification Testing and inspection duties shall include, but not be limited to asphalt pavement, soils, aggregate, structural and non-structural concrete, conduit installation, incidental items and traffic control operations, and preparation of QC/QA data analysis and review. All work shall be performed in accordance with the project plans, special provisions, ITD Standard Specifications, ITD QA-SP, the ITD Quality Manual and other appropriate standards. The Sponsor will provide all sampling equipment, disposable molds for casting concrete cylinders, sample cartons, sample bags, and other expendable type testing supplies.

The Sponsor shall:

1. Perform project on-site sampling and testing of component materials and completed work items to verify that the materials and workmanship incorporated in each project are in substantial conformity with the plans, specifications and contract provisions. The Sponsor shall meet the minimum sampling frequencies and other provisions as contained in the contract documents, QA Special Provision, ITD Quality Manual, and as required due to project phasing, or other factors which could affect minimum testing frequencies.
2. Keep ITD informed about schedules for sampling and testing on each project and ensure that all documentation reports on sampling and testing are completed and submitted the same week the work is done or as otherwise directed.
3. Monitor the Contractor's Quality Control Plan pursuant to QC/QA Special Provisions. Insert the acceptance and verification testing results into the electronic QC/QA statistical analysis spreadsheet for aggregates and asphalt pavement pay items and forward this spreadsheet via email to the proper ITD representative.
4. Be responsible for transporting samples to be tested in an ITD laboratory or other laboratory to the appropriate laboratory.
5. The responsibility for control of concrete production is assigned to the Contractor. The Sponsor shall provide daily monitoring of the Contractor's Quality Control activities at the project site and perform acceptance sampling and testing at the specified frequency.

6. Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by the Contractor. Make recommendations to the ITD for change orders before allowing any substitutes.
7. Compile and maintain in current status, the Materials Summary Log and applicable QC/QA data entry in accordance with the ITD Policy (MAP's Program).

#### **V. Project Closeout**

This task involves acquiring and preparing the necessary project closeout documents, which shall include all supporting records. The Sponsor shall:

1. Verify to ITD that all the necessary documents have been received for submission of contractor's affidavit of payment.
2. Receive bonds, certificates, or other evidence of insurance not previously submitted and required by the Contract Documents, including certificates of inspection, tests and approvals, shop drawings, samples, and the annotated record documents which are to be assembled by the Contractor in accordance with the Contract Documents to obtain final payment.
3. Promptly conduct an inspection after notice from the Contractor that the entire work is ready for its intended use, in the company of ITD and the Contractor, to determine if the work is Substantially Complete. If there are no objections from ITD and the Sponsor considers the work substantially complete, the Sponsor shall deliver a certificate of substantial completion to ITD and the Contractor.
4. Participate in a final inspection, to include representatives from ITD, to determine if the completed work by the contractor is acceptable so that the Sponsor may recommend in writing, final payment to the Contractor. Accompanying the recommendation for final payment, the Sponsor shall also provide a notice that the work is acceptable to the best of their knowledge, information and belief and based on the extent of the services provided under this agreement.
5. Prepare and furnish to ITD record plans showing appropriate record information based on project annotated documents received from the Contractor. Supply two (2) sets of red marked plans depicting all changes to the original contract will be supplied to ITD.



## MEMORANDUM

To: Honorable Mayor & City Council

From: Chris H Fredericksen, Public Works Director

Date: June 1, 2016

Subject: **IDAHO TRANSPORTATION DEPARTMENT STATE/LOCAL AGREEMENT – LOMAX STREET AND F STREET FLASHING STOP SIGNS**

Attached is a State/Local Development Agreement with the Idaho Transportation Department and accompanying Resolution with respect to the Lomax Street and F Street Flashing Stop Signs project.

This agreement stipulates that the City will administer the construction and inspection services in lieu of the customary fund match of 7.34%. This agreement has been reviewed by the City Attorney.

Public Works recommends adoption of the resolution, approval of this agreement; and, authorization for Mayor and City Clerk to sign the necessary documents.

Respectfully,

Chris H Fredericksen, P.E.  
Public Works Director

CF:jk

Attachment

c: Mayor  
Council  
Canfield

2-38-18-4-TRF-2014-46

2016-50



STATE/LOCAL AGREEMENT  
(CONSTRUCTION)  
PROJECT NO. A019(048)  
LOMAX & F ST FLASHING STOP SIGNS  
BONNEVILLE COUNTY  
KEY NO. 19048

**PARTIES**

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the IDAHO TRANSPORTATION BOARD by and through the IDAHO TRANSPORTATION DEPARTMENT, hereafter called the State, and the CITY OF IDAHO FALLS, acting by and through its Mayor and Council, hereafter called the Sponsor.

**PURPOSE**

The Sponsor has requested federal participation in the costs of installing flashing LED stop signs at the intersection of Lomax and F Streets, which has been designated as Project No. A019(048). This Agreement sets out the responsibilities of the parties in the construction and maintenance of the project.

Authority for this Agreement is established by Section 40-317 of the Idaho Code.

The Parties agree as follows:

**SECTION I. GENERAL**

1. This Agreement is entered into for the purpose of complying with certain provisions of the Federal-Aid Highway Act in obtaining federal participation in the construction of the project.
2. Federal participation in the costs of the project will be governed by the applicable sections of Title 23, U.S. Code (Highways) and rules and regulations prescribed or promulgated by the Federal Highway Administration.
3. Funds owed by the Sponsor shall be remitted to the State through the ITD payment portal at:  
<https://apps.itd.idaho.gov/PayITD> .

4. All information, regulatory and warning signs, pavement or other markings, and traffic signals, the cost of which is not provided for in the plans and estimates, must be erected at the sole expense of the Sponsor upon the completion of the project.
5. The location, form and character of all signs, markings and signals installed on the project, initially or in the future, shall be in conformity with the Manual of Uniform Traffic Control Devices as adopted by the State.
6. This State/Local Agreement (Construction) upon its execution by both Parties, supplements the State/Local Agreement (Project Development) by and between the same parties, dated March 31, 2015.
7. The Sponsor has obtained approval to perform in-kind work on this project as shown on the Request for Approval of In-kind Work by Local Sponsor on Federal-aid Projects, attached to the Project Development agreement.
8. Sufficient Appropriation. It is understood and agreed that the State is a governmental agency, and this Agreement shall in no way be construed so as to bind or obligate the State beyond the term of any particular appropriation of funds by the Federal Government or the State Legislature as may exist from time to time. The State reserves the right to terminate this Agreement if, in its sole judgment, the Federal Government or the legislature of the State of Idaho fails, neglects or refuses to appropriate sufficient funds as may be required for the State to continue payments. Any such termination shall take effect immediately upon notice and be otherwise effective as provided in this Agreement.

**SECTION II.** That the State shall:

1. Enter into an Agreement with the Federal Highway Administration covering the federal government's pro rata share of construction costs.

2. Advertise, open bids, prepare a contract estimate of cost based on the successful low bid and notify the Sponsor thereof.
3. Award a contract for construction of the project, based on the successful low bid, if it does not exceed the State's estimate of cost of construction by more than ten (10) percent. If the low bid exceeds the estimate by more than 10%, the bid will be evaluated, and if justified, the contract will be awarded and the Sponsor will be notified.
4. Obtain concurrence of the Sponsor before awarding the contract if the Sponsor's share of the low bid amount exceeds the amount set forth in Section III, Paragraph 1 by more than ten (10) percent.
5. Provide to the Sponsor sufficient copies of the Contract Proposal, Notice to Contractors, and approved construction plans.
6. Designate a resident engineer as the State deems necessary to supervise and oversee the overall progress and construction of the project in accordance with the plans and specifications in the manner required by applicable state and federal regulations. This engineer, or his authorized representatives, will review and approve all monthly and final contract estimates and change orders.
7. Appoint the Local Highway Technical Assistance Council as the contract administrator for the State.
8. Authorize the Sponsor to administer the project and make any necessary changes and decisions within the general scope of the plans and specifications. Prior approval of the State will be obtained if it is necessary to deviate from the plans and specifications during the life of the construction contract.
9. Authorize the Sponsor to provide construction inspection, sampling and testing (IS&T) services on the project. Requirements for IS&T Services are detailed in Exhibit B to this Agreement.

10. Within sixty (60) days of receipt of invoices from the Sponsor for the Sponsor's contract administration and inspection costs, review and credit the federal participating amount towards the sponsors match.
11. Upon receipt of contract estimates of construction costs from the Sponsor, process and make payment to the general contractor.
12. Review the materials certification documentation, make appropriate determination of participation, and prepare the materials certification in accordance with the State's Quality Assurance Manual.
13. Maintain complete accounts of all project funds received and disbursed, which accounting will determine the final project costs.
14. Conduct a final cost accounting of the project, which will reconcile eligibility for federal reimbursement with the costs recorded in the project program. The district records inspector will submit a report of expenditures, and a report of completion that will include materials certification, a final invoice, detail of final estimate, change order summary, and any contractor claims.

The final cost accounting will determine if overpayments must be recovered from the Sponsor, or if final reimbursements are due to the Sponsor. Any excess funds transmitted by the Sponsor and not required for the project will be applied to any outstanding balance the Sponsor may have on a previously completed project. If no such outstanding balance exists, the excess funds will be returned to the Sponsor.

15. Perform a final inspection of the project upon completion of construction.
16. Upon satisfactory inspection and project closeout, execute a Certification and Acceptance of Project, and provide a copy to the Sponsor.



17. Subject to the limitations hereinafter set forth, State shall indemnify, defend and save harmless Sponsor from and against any and all demands, claims or liabilities caused by or arising out of any negligent acts by State, or State's officers, agents, and employees while acting within the course and scope of their employment, which arise from this project. Any such indemnification hereunder by State is subject to the limitations of the Idaho Tort Claims Act (currently codified at chapter 9, title 6, Idaho Code). Such indemnification hereunder by State shall in no event cause the liability of State for any such negligent act to exceed the liability limits set forth in the Idaho Tort Claims Act. Such indemnification shall in no event exceed the amount of loss, damages, expenses or attorney fees attributable to such negligent act, and shall not apply to loss, damages, expenses or attorney fees attributable to the negligence of Sponsor.

SECTION III. That the Sponsor shall:

1. Be responsible for its share of the cost for construction plus preliminary engineering, and construction engineering & inspection (CE&I). These costs and the Sponsor's match are detailed in the attached *Worksheet for State/Local Construction Agreements* marked Exhibit A. The actual cost to the Sponsor will be determined from the total quantities obtained by measurement plus the actual cost of engineering and contingencies required to complete the work. Construction engineering and contingencies will be approximately 25.5% of the total construction cost.
2. Upon approval of the lowest qualified bid received, if the Sponsor's share exceeds the amount set forth in Section III, Paragraph 1, transmit to the State the Sponsor's portion of such excess cost.
3. Designate Chris Canfield, Assistant Public Works Director, as its agent to administer the project in accordance with the plans and specifications in the manner required by applicable state and federal

regulations. The designated agent will prepare all monthly and final contract estimates and change orders, and submit all change orders to the State for their review and approval.

4. Designate Sponsor personnel to provide construction inspection, sampling and testing (IS&T) services on the project as detailed in Exhibit B to this Agreement.
5. Estimate the anticipated project completion costs when construction costs reach 85% of the funds that have been obligated for the project. The Sponsor shall monitor construction costs, and if costs are anticipated to exceed 105% of the total project costs, provide for additional funding necessary to complete the project.
6. Submit invoices to the State on a monthly basis for the contract administration costs of this project, to be credited toward the Sponsor's match per Section II, Paragraph 10 of this Agreement.
7. Submit contract estimates of construction costs to the State on a monthly basis.
8. Upon receipt of the statement referred to in Section II, Paragraph 14 indicating an adjustment in cost against the Sponsor, promptly remit such amount to the State.
9. Maintain the project upon completion to the satisfaction of the State. Such maintenance includes, but is not limited to, preservation of the entire roadway surface, shoulders, roadside cut and fill slopes, drainage structures, and such traffic control devices as are necessary for its safe and efficient utilization. Failure to maintain the project in a satisfactory manner will jeopardize the future allotment of federal-aid highway funds for projects within the Sponsor's jurisdiction.

10. To the extent provided by the Idaho Tort Claims Act, indemnify, save harmless, and defend, regardless of outcome the State from expenses of, and against suits, actions, claims, or losses of every kind, nature, and description, including costs, expenses, and attorney fees that may be incurred by reason of any negligence of the Sponsor in the work which is the subject of this Agreement.

#### EXECUTION

This Agreement is executed for the State by its Engineering Services Division Administrator, and executed for the Sponsor by the Mayor, attested to by the City Clerk, with the imprinted corporate seal of the City of Idaho Falls.

#### IDAHO TRANSPORTATION DEPARTMENT

\_\_\_\_\_  
Engineering Services  
Division Administrator

ATTEST:

CITY OF IDAHO FALLS

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

(SEAL)

By regular/special meeting  
on \_\_\_\_\_.

Reviewed by FS: JSW 5/26/14

hm:19048 SLAConst.docx

## RESOLUTION

**WHEREAS**, the Idaho Transportation Department, hereafter called the **STATE**, has submitted an Agreement stating obligations of the **STATE** and the **CITY OF IDAHO FALLS**, hereafter called the **CITY**, for construction of Lomax & F St Flashing Stop Signs; and

**WHEREAS**, the **STATE** is responsible for obtaining compliance with laws, standards and procedural policies in the development, construction and maintenance of improvements made to the Federal-aid Highway System when there is federal participation in the costs; and

**WHEREAS**, certain functions to be performed by the **STATE** involve the expenditure of funds as set forth in the Agreement; and

**WHEREAS**, The **STATE** can only pay for work associated with the State Highway system; and

**WHEREAS**, the **CITY** is fully responsible for its share of project costs; and

### **NOW, THEREFORE, BE IT RESOLVED:**

1. That the Agreement for Federal Aid Highway Project A019(048) is hereby approved.
2. That the Mayor and the City Clerk are hereby authorized to execute the Agreement on behalf of the **CITY**.
3. That duly certified copies of the Resolution shall be furnished to the Idaho Transportation Department.

## CERTIFICATION

I hereby certify that the above is a true copy of a Resolution passed at a *regular, duly* called special (X-out non-applicable term) meeting of the City Council, City of Idaho Falls, held on \_\_\_\_\_, \_\_\_\_\_.

(Seal)

\_\_\_\_\_  
City Clerk



# WORKSHEET FOR STATE / LOCAL CONSTRUCTION AGREEMENTS

Key No: 19048  
Project No: A019(048)  
Project Name: Lomax & F St Flashing Stop Signs  
Sponsor: City of Idaho Falls  
Description of work: This project will, at two-way stop controlled intersection, replace standard stop signs with flashing LED stop signs.

Date of State/Local Agreement for Project Development: 3/31/2015 ✓

|   |           |  |  |
|---|-----------|--|--|
| <b>TOTAL ESTIMATED COST OF CONSTRUCTION</b> <i>Includes E&amp;C</i> | \$125,866 |  |  |
| <b>APPROVED FORCE ACCOUNT WORK</b>                                  | \$28,750  |  |  |
| <b>PLUS PE BY STATE</b> <i>(from 2101)</i>                          | \$2,000   |  |  |
| <b>PLUS PC BY LHTAC</b> <i>(from 2101)</i>                          | \$5,000   |  |  |
| <b>PLUS PC</b> <i>(from PC Agreements)</i>                          | \$10,700  |  |  |
| <b>MINUS ALL NON-PARTICIPATING</b>                                  | \$0       |  |  |
| <b>PARTICIPATING TOTAL</b>  | \$172,316 |  |  |
| <b>MATCH PERCENTAGES</b>  |           |  |  |
| <b>PERCENTAGE AMOUNTS</b>   |           |  |  |
| <b>MINUS FEDERAL MAXIMUM</b>  |           |  |  |
| <b>ADD OVERAGE</b> <i>( If Any To Local )</i>                       |           |  |  |
| <b>LOCAL SHARE OF CONSTRUCTION AMOUNT</b>                           |           |  |  |

FEDERAL

LOCAL

92.66%

7.34%

\$159,668.01

\$12,647.99

\$0

159,668



\$0

\$12,648

## **ADJUSTMENTS**

**PLUS** ALL NON-PARTICIPATING *(From above if work by contract)* \$0  
**MINUS** FUNDS ADVANCED BY THE SPONSOR FOR STATE PE *(from PD Agreement)* \$2,000  
**MINUS** APPROVED FORCE ACCOUNT WORK *(From above)* \$28,750  
**MINUS** PRELIMINARY ENGINEERING PAID BY LOCAL \$785  
*(If LPA has not rec'd reimbursement, use actual PC dollars paid by LPA)*  
*(If LPA has rec'd reimbursement, use local match % of actual PC dollars paid by LPA)*  
*(Amounts must be supported by District Records Inspector Audit)*

**CONSTRUCTION AMOUNT REQUIRED FROM SPONSOR AFTER ADJUSTMENTS** -\$18,887

### Comments:

The city has approval to provide in-kind services for construction engineering & inspection, in the total estimated \$28,750. Cost for these services that are exceed the match required on the project are not eligible for reimbursement.

PREPARED BY: Heather Parker

Date: 5/20/2016

Exhibit A

## EXHIBIT B

### Construction Inspection, Sampling and Testing Services

The Sponsor shall provide services relating to office and field documentation, Verification Sampling & Testing of materials and inspection staff. The Sponsor shall provide oversight and coordination activities of the project staff which will include Sampler/Testers with the necessary Western Alliance for Quality Transportation Construction (WAQTC) qualifications and skills to perform all associated tests for Aggregate, Embankment & Base/In-Place Density, Asphalt and Concrete. Inspectors shall be IQP (ITD) Certified Inspectors with sufficient skills and experience to assist in administration of this construction project, from project start up, throughout the duration of the construction activities and through project closeout. The project will be administered to ensure compliance with the following contract documents: Special Provisions, sealed Project Drawings and Plans; 2012 (or current) Idaho Standard Specifications for Highway Construction; January 2013 (or current) Supplemental Specifications; July 2013 (or current) QC/QA Special Provisions (QASP); SP-SA Special Provisions- Federal Aid; and all addenda issued prior to bid opening.

The Sponsor shall provide the qualified personnel as necessary to effectively carry out its responsibilities under this agreement.

*The work required by this project is as follows:*

#### I. Construction Administration

This consists of all necessary efforts to administer the project construction contract under the direction of the Idaho Transportation Department (ITD). The Sponsor will be responsible to ensure the project is completed and accepted by the ITD and the Federal Highway Administration (FHWA). This will require interpretation of the plans, coordination of changes to the project, assistance in processing change orders, resolving disputes, claims analysis, and all other engineering tasks normally handled by a Project Engineer/Manager. In addition, the Sponsor shall provide photographic equipment, safety equipment as well as any other necessary items to perform the work. Quality and quantity of these items shall meet with ITD approval. Sponsor is to provide all necessary personnel safety equipment in accordance with OSHA, MSHA, Department of Labor, FHWA, MUTCD and ITD standards and conduct safety reviews/inspections as necessary to ensure a safe work environment.

The Sponsor shall:

1. Under the direction of ITD, act as the Resident Engineer's authorized representative as defined in the Contract Documents. The extent and limitation of the duties, responsibilities and authority of the Engineer as assigned in said Contract Documents shall not be modified, except as the Engineer may otherwise agree in writing. Serve as ITD's liaison with the Contractor, working principally through the Contractor's superintendent and assist in understanding the intent of the Contract Documents.
2. Provide general contract administration on the construction contract in accordance with the ITD Contract Administration Manual, and assist the Project Manager in monitoring Contractor's compliance with contract requirements. Notify Resident Engineer when Contractor is found in non-compliance.
3. Analyze the plans, specifications, special provisions and other contract documents, and recommend to the ITD any necessary or desirable changes to accomplish the project in accordance with the plans and specifications.
4. Attend and assist in the facilitation of pre-construction conferences, partnering meetings, job conferences, weekly coordination meetings, pre-operational meetings, public information meetings, and other project related meetings. Take and maintain notes of all meetings and conferences and then distribute copies to participants within one week.
5. Document any project delay or potential delay caused by conflicts or utilities.

6. Analyze the Contractor's work schedule (Critical Path Diagram, CPM) when submitted and make recommendations to the ITD regarding any changes, or needed changes, to the schedule. Monitor the Contractor's adherence to the work schedule during construction.
7. Maintain a complete set of project records, including daily diaries, quantities for pay items, progress estimates, material deliveries and correspondence.
8. Maintain a daily record of each pay item for the progress estimate. Quantities will be based on daily records and calculations. All such records will be retained.
9. Prepare pay items for posting to ledgers in accordance with established procedures and submit to the ITD with recommendation for payment. The recommendation will be based on such observations and review that, to the best of the Sponsor's knowledge, information and belief, the contractor's work has progressed to the point indicated, the quality of such work is generally in accordance with the Contract Documents, and the conditions precedent to the Contractor's being entitled to such payment appear to have been fulfilled.
10. Track and maintain a log on all shop drawing and/or sample submittal and encourage all reviewers to complete their review in a timely manner. Deficiencies will be immediately reported to the ITD.
11. Identify and monitor all project permit requirements and notify the Contractor and ITD immediately when violations or potential violations occur.
12. Upon notice by the Contractor of pending claims for extra work or work beyond the original scope, maintain accurate records showing actual cost of such work.
13. Analyze and make recommendations to the ITD on all requests received from the Contractor for time extensions, contract changes, and extra work.
14. Coordinate all contract changes with the Contractor, ITD, and others as required.
15. Monitor and reinforce each Contractor's compliance with contract provisions in regard to payment of predetermined wage rates in accordance with ITD procedures. This includes verifying Contractor and Subcontractor's payrolls for format classification, pay scale, timely submissions, and concurrence with field reviews. Maintain filing system for payrolls and labor interviews and notify contractors on incorrect classification, pay scales, etc.
16. Monitor and reinforce each Contractor's compliance with contract provisions in regard to Equal Employment Opportunity and Affirmative Action and check job site at least once to verify bulletin board and posters adhere to the contract. Coordinate corrective actions with the ITD.
17. Monitor and reinforce each Contractor's compliance with contract provisions in regard to environmental provisions and permits.
18. Assist ITD in preparing for any litigation or other action that may arise. Prepare claim package in accordance with Memo No. 28 of the Contract Administration Manual on all claims of ITD and Contractor relating to the acceptability of the Contractor's work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the Contractor's work.

## **II. Survey Control**

The Sponsor shall be responsible for verifying the existence and accuracy of location for all reference points and baseline control points indicated on the plans. In performing verification surveys of construction layout, the Sponsor shall:



1. Make and record such measurements as necessary to calculate and document quantities for pay items.
2. Do independent check and verify line, grade, and structure layout.
3. Perform incidental engineering surveys as directed to carry out the services covered by this agreement and to verify and confirm the accuracy of the contractor's survey layout work. All survey work shall be performed under the supervision of a Surveyor registered in Idaho.

### **III. Project Inspection**

There are four distinct and independent areas of inspection and materials testing associated with this project which is as follows:

- Materials Quality Control (QC) and acceptance sampling and testing and inspection when materials are installed into the work by the Contractor.
- Materials verification sampling and testing and inspection to verify the results of the acceptance testing and inspection performed by the Contractor.
- Independent Assurance evaluations will be performed by ITD Materials Section.
- Dispute resolution sampling and testing.

The Sponsor shall coordinate any IA inspections that may be required with ITD.

This includes all work necessary to monitor the Contractor's work in progress to verify the work is in substantial conformance with the Contract Documents. ITD must approve all the inspectors working under this agreement before doing any work on this project. All inspectors will meet the requirements outlined in the Contract Administration Manual, Section 114. Inspectors shall be IQP (ITD) certified Inspectors with sufficient skills and experience to assist in administration of this construction project, from project start up, throughout the duration of the construction activities and through project closeout.

The Sponsor shall provide construction inspection as needed to ensure a quality project. Senior inspectors shall be high school graduates (or GED equivalent) with a minimum of eight (8) years of experience in construction inspection. Inspectors shall be high school graduates (or GED equivalent) with at least three (3) years experience in construction inspection. Inspectors in charge of reviewing the contractor's traffic control shall be TCI IQP certified.

The Sponsor shall:

1. Conduct on-site inspection of the Contractor's work in progress to determine if the work is in accordance with the Contract Documents. Prepare daily reports on ITD forms recording the Contractor's hours on the site, weather conditions, data relative to questions of change orders, field orders, or changed conditions, site visitors, daily activities, decisions, observations in general, and specific observations in more detail as the case of observing test procedures; maintain in the project files, and send copies to ITD on a weekly basis.
2. Assist in enforcing the current ITD safety policy and the safety provisions of the contract. Take immediate action if warranted and report immediately to ITD the occurrence of: safety deficiencies, incidences, hazardous environmental conditions, emergencies, or acts of God endangering: personnel, work, property or the environment.
3. Report to ITD whenever part of the Contractor's work in progress may not produce a completed project that conforms to the Contract Documents or may prejudice the integrity of the design concept of the completed project as a functioning whole as indicated in the Contract Documents.



4. Identify and recommend corrections for any omissions, substitutions, defects and deficiencies in the work of the Contractor.
5. Receive and review all certificates of inspections, tests, and approvals required by the Contract Documents.
6. Check measurements of pay quantities for accuracy, as requested by the ITD, and prepare required documentation for processing of payment to the Contractor.

The frequency and scope of inspections will vary with the work activity being performed; however, the Sponsor shall perform inspection services in accordance with ITD's procedures, policies, directives and industry-accepted standards.

#### *IV. Material Testing*

This task includes all work to determine that the materials supplied and constructed by the Contractor meet the conditions set forth in the contract documents. All sampling and testing personnel working under this agreement must meet the requirements outlined in the Contract Administration Manual, Section 114, for testing and sampling which they perform. All samplers and testers must be accepted by the ITD before performing any work on this project. All testing must be performed at a laboratory qualified through the ITD Laboratory Qualification Program.

The Sponsor shall provide oversight and coordinate the activities of their staff which will include Sampler/Testers with the necessary WAQTC qualifications and skills to perform all associated tests. ITD will provide IA Inspectors and IA testing will be performed by ITD. Materials Verification Testing and inspection duties shall include, but not be limited to asphalt pavement, soils, aggregate, structural and non-structural concrete, conduit installation, incidental items and traffic control operations, and preparation of QC/QA data analysis and review. All work shall be performed in accordance with the project plans, special provisions, ITD Standard Specifications, ITD QA-SP, the ITD Quality Manual and other appropriate standards. The Sponsor will provide all sampling equipment, disposable molds for casting concrete cylinders, sample cartons, sample bags, and other expendable type testing supplies.

The Sponsor shall:

1. Perform project on-site sampling and testing of component materials and completed work items to verify that the materials and workmanship incorporated in each project are in substantial conformity with the plans, specifications and contract provisions. The Sponsor shall meet the minimum sampling frequencies and other provisions as contained in the contract documents, QA Special Provision, ITD Quality Manual, and as required due to project phasing, or other factors which could affect minimum testing frequencies.
2. Keep ITD informed about schedules for sampling and testing on each project and ensure that all documentation reports on sampling and testing are completed and submitted the same week the work is done or as otherwise directed.
3. Monitor the Contractor's Quality Control Plan pursuant to QC/QA Special Provisions. Insert the acceptance and verification testing results into the electronic QC/QA statistical analysis spreadsheet for aggregates and asphalt pavement pay items and forward this spreadsheet via email to the proper ITD representative.
4. Be responsible for transporting samples to be tested in an ITD laboratory or other laboratory to the appropriate laboratory.
5. The responsibility for control of concrete production is assigned to the Contractor. The Sponsor shall provide daily monitoring of the Contractor's Quality Control activities at the project site and perform acceptance sampling and testing at the specified frequency.

6. Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by the Contractor. Make recommendations to the ITD for change orders before allowing any substitutes.
7. Compile and maintain in current status, the Materials Summary Log and applicable QC/QA data entry in accordance with the ITD Policy (MAP's Program).

#### **V. Project Closeout**

This task involves acquiring and preparing the necessary project closeout documents, which shall include all supporting records. The Sponsor shall:

1. Verify to ITD that all the necessary documents have been received for submission of contractor's affidavit of payment.
2. Receive bonds, certificates, or other evidence of insurance not previously submitted and required by the Contract Documents, including certificates of inspection, tests and approvals, shop drawings, samples, and the annotated record documents which are to be assembled by the Contractor in accordance with the Contract Documents to obtain final payment.
3. Promptly conduct an inspection after notice from the Contractor that the entire work is ready for its intended use, in the company of ITD and the Contractor, to determine if the work is Substantially Complete. If there are no objections from ITD and the Sponsor considers the work substantially complete, the Sponsor shall deliver a certificate of substantial completion to ITD and the Contractor.
4. Participate in a final inspection, to include representatives from ITD, to determine if the completed work by the contractor is acceptable so that the Sponsor may recommend in writing, final payment to the Contractor. Accompanying the recommendation for final payment, the Sponsor shall also provide a notice that the work is acceptable to the best of their knowledge, information and belief and based on the extent of the services provided under this agreement.
5. Prepare and furnish to ITD record plans showing appropriate record information based on project annotated documents received from the Contractor. Supply two (2) sets of red marked plans depicting all changes to the original contract will be supplied to ITD.



## MEMORANDUM

To: Honorable Mayor & City Council

From: Chris H Fredericksen, Public Works Director

Date: June 3, 2016

Subject: **RIGHT-OF-WAY USE AGREEMENT – EXTENET**

Attached is a proposed Right-of-Way Use Agreement for ExteNet to install fiber optics in public right-of-way.

The Agreement was prepared by the City Attorney and has been reviewed by Idaho Falls Power.

Public Works recommends approval of the Right-of-Way Use Agreement; and, authorization for the Mayor and City Clerk to sign the documents.

Respectfully,

Chris H Fredericksen, P.E.  
Public Works Director

c: Mayor  
Council  
Fugal  
Cox

## **Right-of-Way Use Agreement**

THIS RIGHT-OF-WAY USE AGREEMENT ("AGREEMENT") is entered into on the \_\_\_\_\_ day of \_\_\_\_\_ 2016, by and between City of Idaho Falls, Idaho (herein referred to as "City,") and ExteNet a Delaware corporation (hereinafter referred to as the "ExteNet").

WHEREAS, ExteNet, has requested that City grant it the right to install, operate and maintain a fiber optic telecommunications line within the rights-of-way of City; and

WHEREAS, City has the authority, and is willing, to grant the rights requested subject to certain terms and conditions herein expressed; and

WHEREAS, the parties desire to enter into an agreement authorizing ExteNet to use the rights-of-way and specifying the terms and conditions under which said use may be made,

NOW, THEREFORE, City and ExteNet agree as follows:

**Section 1. Authority Granted.** City hereby grants to ExteNet subject to the terms and conditions set forth in this AGREEMENT, a revocable license to construct, operate, maintain, replace, and use all necessary equipment and facilities thereto for a fiber optic telecommunications lines, in, under, on, across, over, through, along, or below the public rights-of-way, and easements, in the City subject to approval of City engineer, provided however, the depth, horizontal alignment, and precise location of any and all facilities installed pursuant to this AGREEMENT shall be first approved by City Engineer prior to issuance of a street use and excavation permit in the manner set forth in Section 8 below.

The rights, authority, and privileges granted herein shall be subject to all ordinances, regulations, and police powers now exercised by City or which may hereafter be exercised

generally with respect to telecommunications operations or facilities located within the public street rights-of-way.

Nothing herein shall be construed as a grant of any right or privilege or authority to cross, occupy, or otherwise use any facility or railroad company or canal company located within such rights-of-way, or above or below any railroad right-of-way or canal company right-of-way, and ExteNet shall secure such rights or privileges directly from the railroad company or canal companies, independent of this AGREEMENT.

**Section 2. Right-of-Way Use Fees.** ExteNet shall pay a one-time administrative permit fee in the amount of Five Hundred Dollars (\$500) to cover City's costs in drafting and processing this AGREEMENT and performing all engineering review and inspection related to the initial installation of ExteNet facilities. The fee shall be paid within thirty (30) days after the date ExteNet and City execute this AGREEMENT. City reserves the right to impose, require, and collect, to the fullest extent permitted by law, additional nondiscriminatory permit fee, rental, charges, compensation, or license fees hereafter adopted by ordinance and allowable under state and federal law, including but not limited to Section 253(c) of the United States Telecommunications Act of 1996, for the right to use the public right-of-way.

**Section 3. Non-Exclusive Grant.** This AGREEMENT shall not in any manner prevent City from entering into other similar agreements with other telecommunication companies or granting other or further rights for use in, under, on, across, over, through, along, or below any of City rights-of-way, streets, avenues, or all other public lands and properties of every type and description. This AGREEMENT shall in no way prevent or prohibit City from using any of said roads, streets, or other public properties or affect its jurisdiction over them or any part of them, and City shall retain power to make all necessary changes, relocations, repairs,

maintenance, establishment, improvement, dedication of same as City may deem fit, including the dedication, establishment, maintenance, and improvement of all new rights-of-way, thoroughfares and other public properties of every type and description and all rights and privileges granted herein to ExteNet shall be subordinate to such reservation of rights in favor of City. The rights, privileges, and authorities granted therein shall be subject to and subordinate to all existing electric lines, telecommunications lines, sewer mains, water mains, gas lines, street improvements, and other public or privately owned facilities located within the public right-of-way, and ExteNet shall at all times take all reasonable and necessary precautions to ensure that the installation and operation of its lines will not in any way interfere with, endanger or compromise the operations of such facilities.

#### **Section 4. Relocation of Telecommunications System Facilities.**

A. ExteNet agrees and covenants at its sole cost and expense, to protect, support, and relocate from any street, right-of-way, or easement any of its installations when so required by City by reason of traffic conditions or public safety, dedication of new rights-of-way and the establishment and improvement thereof, widening and improvement of existing rights-of-way, street, vacations, freeway construction, change or establishment of street grade, or the construction of any other public improvement or structure by any governmental agency acting in a governmental or proprietary capacity, provided that ExteNet shall in all such cases have the privilege to temporarily bypass, in the authorized portion of the same street upon approval by City, any section of cable or any other facility required to be relocated.

Upon request of City and in order to facilitate the design of City street and right-of-way improvements, ExteNet agrees, at its sole cost and expense, to locate and



if determined necessary by City, to excavate and expose ExteNet's facilities for inspection so that the location of the same may be taken into account in the improvement design. The decision as to whether said facilities need to be relocated in order to accommodate City's improvements shall be made by City at its sole discretion upon review of the location and construction of ExteNet's facilities.

If City determines that the project necessitates the relocation of ExteNet's then existing facilities, City shall:

1. At least one hundred eighty (180) days prior to the commencement of such improvement project, provide ExteNet with written notice requiring such relocation provided, however, that in the event of an emergency posing a threat to the public safety or welfare, or on the event of an emergency beyond the control of City, City shall give ExteNet written notice as soon as practicable; and

2. Provide ExteNet with copies of pertinent portions of the plans and specifications for such improvement project and a proposed location for ExteNet's facilities so the ExteNet may relocate its facilities in other City right-of-way in order to accommodate such improvement project.

3. After receipt of such notice and such plans and specifications, ExteNet shall complete relocation of its facilities at no charge or expense to City so as to accommodate the improvement project at least ten (10) days prior to commencement of the project.

ExteNet may, after receipt of written notice requesting a relocation of its facilities, submit

to City written alternatives to such relocation. City shall evaluate such alternatives and advise ExteNet in writing if one or more of the alternatives is suitable to accommodate the work which would otherwise necessitate relocation of the facilities. If so requested by City, ExteNet shall submit additional information to assist City in making such evaluations. City shall give each alternative proposed by ExteNet full and fair consideration, within a reasonable time so as to allow for the relocation work to be performed in a timely manner. In the event City ultimately determines that there is no other reasonable alternative, ExteNet shall relocate its facilities as otherwise provided in the section. The provisions of this section shall survive the expiration, revocation or termination of this AGREEMENT, provided that relocation shall not be required after expiration of this AGREEMENT if City consents to ExteNet abandoning its facilities in place.

B. ExteNet will indemnify, hold harmless, and pay the costs of defending City against any and all claims, suits, actions, damages or liabilities for delays on City construction projects caused by ExteNet Systems, Inc.'s breach of this Section. The indemnity provisions of this Section shall survive the expiration, revocation or termination of this AGREEMENT.

**Section 5. Undergrounding of Facilities.** ExteNet agrees that all facilities contemplated by this AGREEMENT shall be installed underground. ExteNet shall have no right to erect poles, run or suspend wires, cables, or install any other pad, box, or other facility above ground, except as expressly permitted in writing by the parties in a Pole attachment agreement. ExteNet shall bear all costs of undergrounding its facilities and nothing herein

shall require City to pay any costs associated with such undergrounding.

**Section 6. As-Built Drawings, Maps and Records.** After construction of ExteNet Systems, Inc.'s facilities is complete, and as a condition of this AGREEMENT, ExteNet shall provide to City at no cost, complete and accurate copies of as-built drawings, plans, maps, and records of all portions of ExteNet's system located within City. Such information shall include digital information in a format suitable for City's Geographical Information System ("GIS"). A copy of the GPS survey performed by ExteNet's engineer shall also be simultaneously delivered to City Engineer. In the event of any changes in the location or configuration of ExteNet's facilities, ExteNet shall also provide updated as-built drawings which accurately reflect such changes.

**Section 7. Work in the Right-of-Way.** During any period of relocation, construction, or maintenance, all surface structures, if any, shall be erected and used in such places and positions within said public rights-of-way and other public properties so as to interfere as little as possible with the free passage of traffic and the free use of adjoining property. ExteNet shall at all times post and maintain proper barricades and comply with all applicable safety regulations during such period of construction as required by the ordinance, and resolutions during such period of construction as required by the ordinance, and resolutions of City or the laws of the State of Idaho. ExteNet shall at all times take all reasonable and prudent measures as are necessary for the protection and safety of the general public using the public right of way within the vicinity of ExteNet's facilities.

During the progress of any work within the public right-of-way, ExteNet shall not

unnecessarily obstruct the passage or proper use of the right-of-way, and shall take all necessary precautions to protect the public health and safety. All work by ExteNet in any area covered by this AGREEMENT and as described in this Section shall be performed in accordance with City of Idaho Falls Standard Specifications and Drawings, or if not specifically addressed therein, then in accordance with the directions of City Engineer. Permits may be issued subject to construction schedules established by City Engineer as necessary to avoid unduly burdening traffic or business access during the course of construction.

ExteNet shall at all times comply with the Underground Facilities Damage Prevention Act of the State of Idaho, as set forth in Chapter 22, Title 55, Idaho Code.

**Section 8. Restoration After Construction.** ExteNet shall, after installation, construction, relocations, maintenance, removal, or repair of cable/facilities within Agreement area, promptly restore the surface of the right-of-way and any other City facilities which may be disturbed by the work, to at least the same condition the right-of-way or facility was in immediately prior to any such installation, construction, relocation, maintenance, removal, or repair. City Engineer or his representative shall have final approval of the condition of such streets and public places after restoration. All survey monuments which are to be disturbed or displaced by such work shall be referenced and restored as per all pertinent federal, state and local standards and specification. ExteNet agrees to promptly complete all restoration work and to promptly repair any damage caused by such work to the right-of-way or other affected area at its sole cost and expense according to the time and terms specified in the permit issued by City as the same now exists or as it may hereafter be amended or superseded. The provision of this Section shall survive the expiration, revocation or termination by other means of this Agreement. All

work by ExteNet pursuant to this section shall be performed in accordance with City of Idaho Falls Standard Specifications and Drawings. ExteNet further agrees to repair or replace all such remedial work found to be defective in any respect for a period of one (1) year from the date such work is accepted by City.

**Section 9. Emergency Work – Permit Waiver.** In the event of any emergency in which any of ExteNet's facilities located in, above, or under any street, right-of-way or easement, breaks, are damaged, or if ExteNet's construction area is otherwise in such a condition as to immediately endanger the property, life, health or safety of any individual, ExteNet shall immediately take the proper emergency measures to repair its facilities to cure or remedy the dangerous conditions for the protection of property, life, health or safety of the public. However, this Section shall not relieve ExteNet from complying with any provisions of any ordinance adopted by City which regulates work within the public right-of-way or from any obligation to obtain permits necessary for this purpose, unless such permits are temporarily waived by City Engineer. In such event, ExteNet shall notify City Engineer by telephone immediately upon learning of the emergency and ExteNet shall apply for all required permits not later than the second succeeding day during which City is open for business. In addition to the above, ExteNet shall promptly reimburse City for any and all costs City reasonably and necessarily incurred in response to any emergency caused by the installation, operation or maintenance of ExteNet Systems, Inc.'s cable or facilities.

**Section 10. Dangerous Conditions, Authority for City to Abate.** Whenever construction, installation, or excavation of facilities authorized by this AGREEMENT has caused or contributed to a condition that appears to substantially impair the lateral support of

the adjoining street or public place, or endangers the public, an adjoining public place, street utilities or City property, City Engineer may direct ExteNet at ExteNet's own expense, to take action to protect the public, adjacent public places, City property or street utilities, and such action may include compliance within a prescribed time.

In the event that ExteNet fails or refuses to promptly take the actions directed by City, or fails to fully comply with such directions, or if emergency conditions exist which require immediate action, City may enter upon the property and take such actions as are necessary to protect the public, the adjacent streets, or street utilities, or to maintain the lateral support thereof, or actions regarded as necessary safety precautions; and ExteNet shall be liable to City for the costs thereof. The provisions of this Section shall survive the expiration, revocation or termination by other means of this AGREEMENT.

**Section 11. Reservation of Authority to Recover City Expenses.** City reserves the right to adopt an ordinance requiring ExteNet to pay its proportionate share of all actual, identified expenses incurred by City in any future construction, installation, repair, or alteration of any City facility as a direct result of the presence in the right-of-way or public easement of ExteNet's facilities on a non-discriminatory basis to the fullest extent permitted under state and federal law, including but not limited to Section 253(c) of the United States Telecommunications Act of 1996. Nothing herein shall be deemed to obligate ExteNet to pay such costs and expenses. Such costs and expenses may include but shall not be limited to ExteNet Systems, Inc.'s proportionate cost of City personnel utilized to oversee or engage in any work in the right-of-way. Such costs and expenses may also include ExteNet's proportionate share of any time spent by City or its consultant in reviewing construction plans in order to either accomplish the relocation of ExteNet's facilities or the routing or rerouting of any utilities



so as not to interfere with ExteNet's facilities.

**Section 12. Indemnification.** It is expressly understood and agreed by and between ExteNet and City that ExteNet shall save City harmless from all loss sustained by City on account of any suit, judgment, execution, claim, or demand whatsoever, resulting from negligence on the part of ExteNet in the construction, operation, or maintenance of its system in City. City shall notify ExteNet's representative within ten (10) days after the presentation of any claim or demand, either by suit or otherwise, made against City on account of any negligence as aforesaid.

**Section 13. Insurance.** ExteNet shall procure and maintain for the duration of the AGREEMENT, a policy of commercial general liability insurance against claims for injuries to persons or damages to property which may arise from or in connection with the exercise of the rights, privileges, and authority granted hereunder to ExteNet its agents, representatives or employees. ExteNet shall provide an insurance certificate to City for its inspection prior to the commencement of any work or installation of any facilities pursuant to this AGREEMENT, and such insurance certificate shall evidence:

A. Automobile liability insurance with limits no less than \$1,000,000 Combined Single Limit per accident for bodily injury and property damage; and

B. Commercial General Liability insurance, written on an occurrence basis with limits no less than \$1,000,000 combined single limit per occurrence and \$2,000,000 aggregate for personal injury, bodily injury and property damage. Coverage shall include but not be limited to: blanket contractual; products/completed operations; broad form property damage; explosion, collapse and underground (XCU); and

employer's liability.

The above coverage may be provided in part through an umbrella policy with the approval of City.

The insurance policy or policies required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to City. The insurance certificate shall contain language evidencing these requirements.

**Section 14. Abandonment and Removal of ExteNet's Cable or Telecommunication System Facilities.** No cable, or other facility placed in the right-of-way by ExteNet may be abandoned by ExteNet without the express written consent of City. Any plan for abandonment or removal of ExteNet's cable and facilities must be first approved by City Engineer or his representative, and all necessary permits must be obtained prior to such work. The provisions of this section shall survive the expiration, revocation, or termination of this AGREEMENT. ExteNet agrees to remove any abandoned cable or facilities within sixty (60) days of abandonment, at their own cost.

**Section 15. Commencement of Construction.** Construction of the facilities contemplated by this AGREEMENT shall commence no later than one year after execution of the AGREEMENT by both parties, provided that such time limit shall not apply to delays caused by acts of God, strikes, eminent domain litigation or other occurrences over which ExteNet has no control.

**Section 16. Bond.** Before undertaking any of the work, installation, improvements,

construction, repair, relocation, or maintenance authorized by this AGREEMENT, ExteNet shall, upon the request of City, furnish a bond executed by ExteNet and a corporate authorized to do a surety business in the State of Idaho in the sum of Ten Thousand Dollars (\$10,000) or a sum to be determined by City Engineer or his representative as sufficient to ensure performance of ExteNet Systems, Inc.'s obligations under this AGREEMENT. The bond shall be conditioned upon ExteNet Systems, Inc.'s performance of all the covenants, terms, conditions and obligations of this AGREEMENT, including without limitation upon ExteNet Systems, Inc.'s agreement to repair or replace any defective work or materials discovered in the repair of City's streets or property located within the public right of way for a period of one (1) year from the date of the acceptance of such repaired streets or property by City.

**Section 17. Modification.** This AGREEMENT shall not be modified or altered except upon express written agreement of both parties approved by motion or resolution of the board of directors or City Council, as the case may be, of each party.

**Section 18. Forfeiture and Revocation.** If ExteNet willfully violates or fails to comply with any of the material provisions of this AGREEMENT, or through willful misconduct or gross negligence fails to heed or comply with any notice given ExteNet by City under the provisions of this AGREEMENT, then ExteNet shall, at the sole election of City, forfeit all rights conferred hereunder, provided such action shall not be taken unless written notice is first sent to ExteNet at least ten (10) days prior to the date such action is taken. City may decide, after consideration of the reasons for ExteNet's failure to comply with the AGREEMENT, to allow ExteNet additional time to cure before such termination or revocation. City may elect, in lieu of the above and without any prejudice to any of its

other legal rights and remedies, to obtain an order from the superior court having jurisdiction compelling ExteNet to comply with the provisions of this AGREEMENT and to recover damages and cost incurred by City by reason of ExteNet's failure to comply.

**Section 19. Election of Remedies.** In addition to any other remedy provided herein, City reserves the right to pursue any remedy to compel or force ExteNet and/or its successors and assigns to comply with the terms hereof, and the pursuit of any right or remedy by City shall not prevent City from thereafter declaring a forfeiture or revocation for breach of the conditions herein. In making such election, City may pursue any remedy cumulatively or simultaneously, except to the extent simultaneous or cumulative exercise of such remedy is directly inconsistent with the exercise of any other remedy.

**Section 20. City Ordinances and Regulations.** Nothing herein shall be deemed to prohibit or restrict City's ability to adopt and enforce all necessary and appropriate ordinances regulating the modification, maintenance and repair of existing telecommunication lines or facilities within the public rights-of-way of City. City shall also have and does hereby reserve the authority at all times to control by appropriate regulations or ordinances the location, elevation, and manner of construction of any new communication lines or cable facilities installed by ExteNet after the effective date of such regulations or ordinances and ExteNet shall promptly conform with all such regulations, without notice or demand by City. Subject to the provisions of state and federal law including the Telecommunications Act of 1996, City reserves the right to pass ordinances or regulations that may also levy or impose a non-discriminatory obligation to pay reasonable right-of-way use fees and/or other charges for the use and maintenance of the rights-of-way occupied by ExteNet irrespective of whether such

facilities and lines were installed prior to the effective date of such ordinances or regulations.

**Section 21. Survival of Terms.** All of the provisions, conditions and requirements of Section 1, “Authority Granted; 5, Relocation of Telecommunications Facilities; 6, Undergrounding of Facilities; 8. Work in the Right-of-Way; 9, Restoration After Construction; 11, Dangerous Conditions; 13, Indemnification; and 15, Abandonment and Removal of ExteNet’s Facilities” of this AGREEMENT shall be in addition to any and all other obligations and liabilities ExteNet may have to City at common law, by statute, or by contract, and shall survive the expiration or termination of this AGREEMENT, and any renewals or extensions thereof. All of the provisions, conditions, regulations, and requirements contained in this AGREEMENT shall further be binding upon the heirs, successors, executors, administrators, legal representatives and assigns of ExteNet and all privileges, as well as all obligations and liabilities of ExteNet shall inure to its heirs, successors, and assigns equally as if they were specifically mentioned whenever ExteNet is named herein.

**Section 22. Non-Severability.** Each term and condition of this AGREEMENT is an integral part of the consideration given by each party and as such, the terms and conditions of this AGREEMENT are not severable. If any section, sentence, clause, or phase of this AGREEMENT should be held to be invalid or unconstitutional by a court of competent jurisdiction, this AGREEMENT shall terminate unless suitable replacement terms can be worked out by the parties.

**Section 23. Assignment.** This AGREEMENT may not be assigned or transferred without the written approval of City, which approval shall not be unreasonably withheld or delayed, except ExteNet may freely assign this AGREEMENT in whole or in part to a parent, subsidiary, or affiliated corporation or as part of any corporate financing, reorganization or refinancing.

**Section 24. Notice.** Any notice or information required or permitted to be given to the parties under this AGREEMENT may be sent to the following addresses, unless otherwise specified, to-wit:

City of Idaho Falls  
P.O. Box 50220  
Idaho Falls, Idaho 83405

ExteNet Systems, Inc.  
3030 Warrenville Road, Suite 340  
Lisle, Illinois 60532  
ATTN: CFO

**Section 25. 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.

**Section 26. Entire Agreement.** This AGREEMENT constitutes the complete and final understanding and agreement between the parties as to the subject matter herein and no other agreements or understandings, written or otherwise, shall be binding upon the parties except as expressly set forth herein.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written.

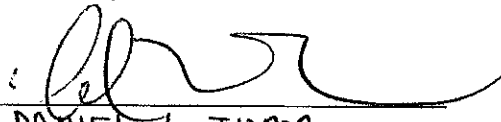
CITY OF IDAHO FALLS

\_\_\_\_\_  
Kathy Hampton  
City Clerk

\_\_\_\_\_  
Rebecca L. Noah Casper  
Mayor

(SEAL)

ExteNet Systems, Inc.

  
\_\_\_\_\_  
DANIEL L. TIMM  
EVP-CFO  
06/01/16

STATE OF IDAHO            )  
                                      ) ss.  
County of Bonneville        )

On this \_\_\_\_ day of \_\_\_\_\_, 2016, 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, a 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: \_\_\_\_\_

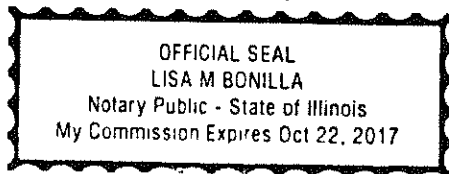
(Seal)



STATE OF ~~IDAHO~~ <sup>Illinois</sup> )  
County of ~~Booneville~~ <sup>DePue</sup> ) ss.

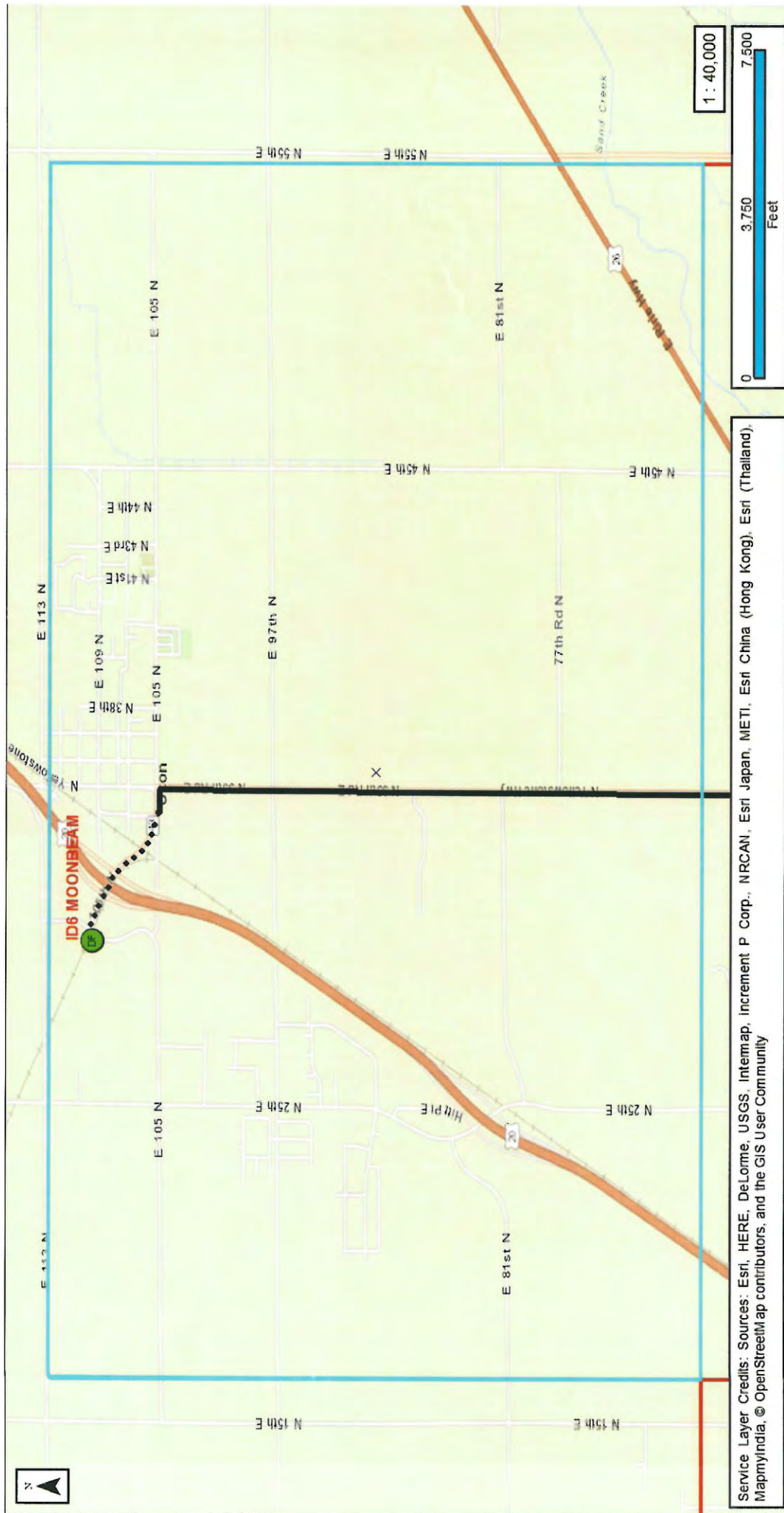
On this 1<sup>st</sup> day of June, 2016, before me, the undersigned, a notary public for Idaho, personally appeared Daniel True known to me to be the ENR-CFO of ExteNet Systems, Inc., a municipal corporation that executed the foregoing document, and acknowledged to me that he/she is authorized to execute the same for and on behalf of said company.

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

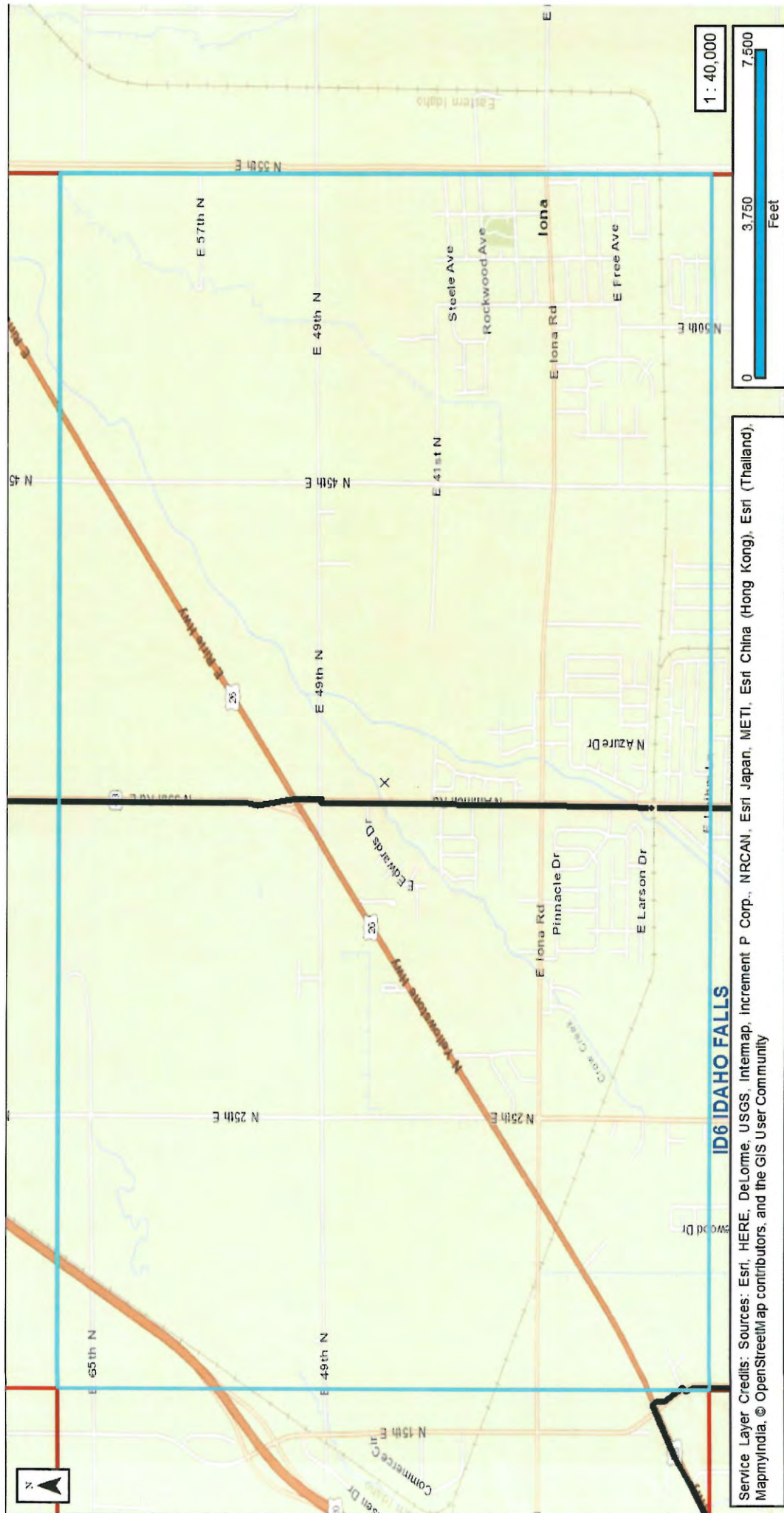


[Signature]  
Notary Public of ~~Idaho~~ <sup>Illinois</sup>  
Residing at:  
3030 Warrenville Rd, Lisle, IL 60532  
My Commission Expires: 10/22/17

(Seal)

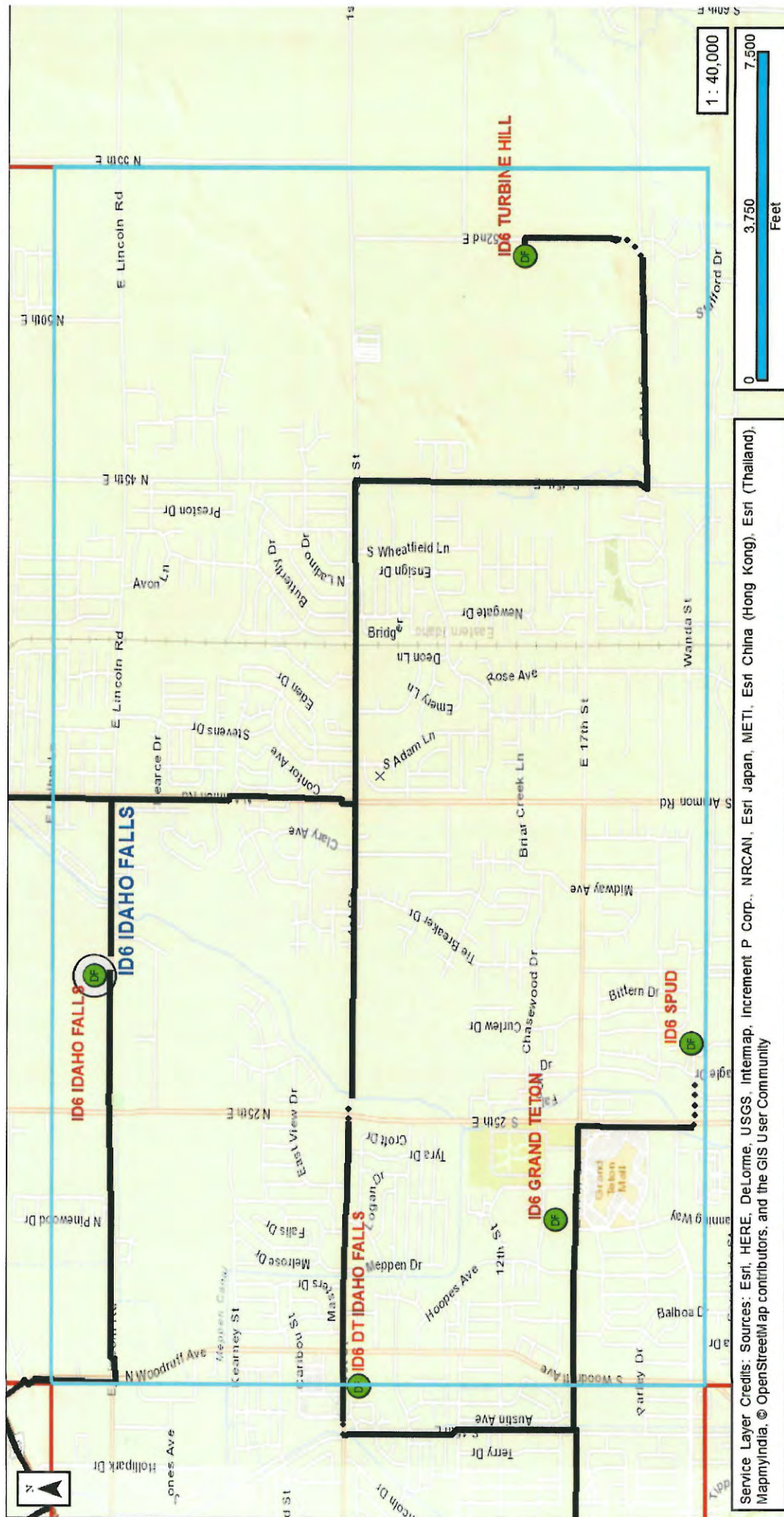


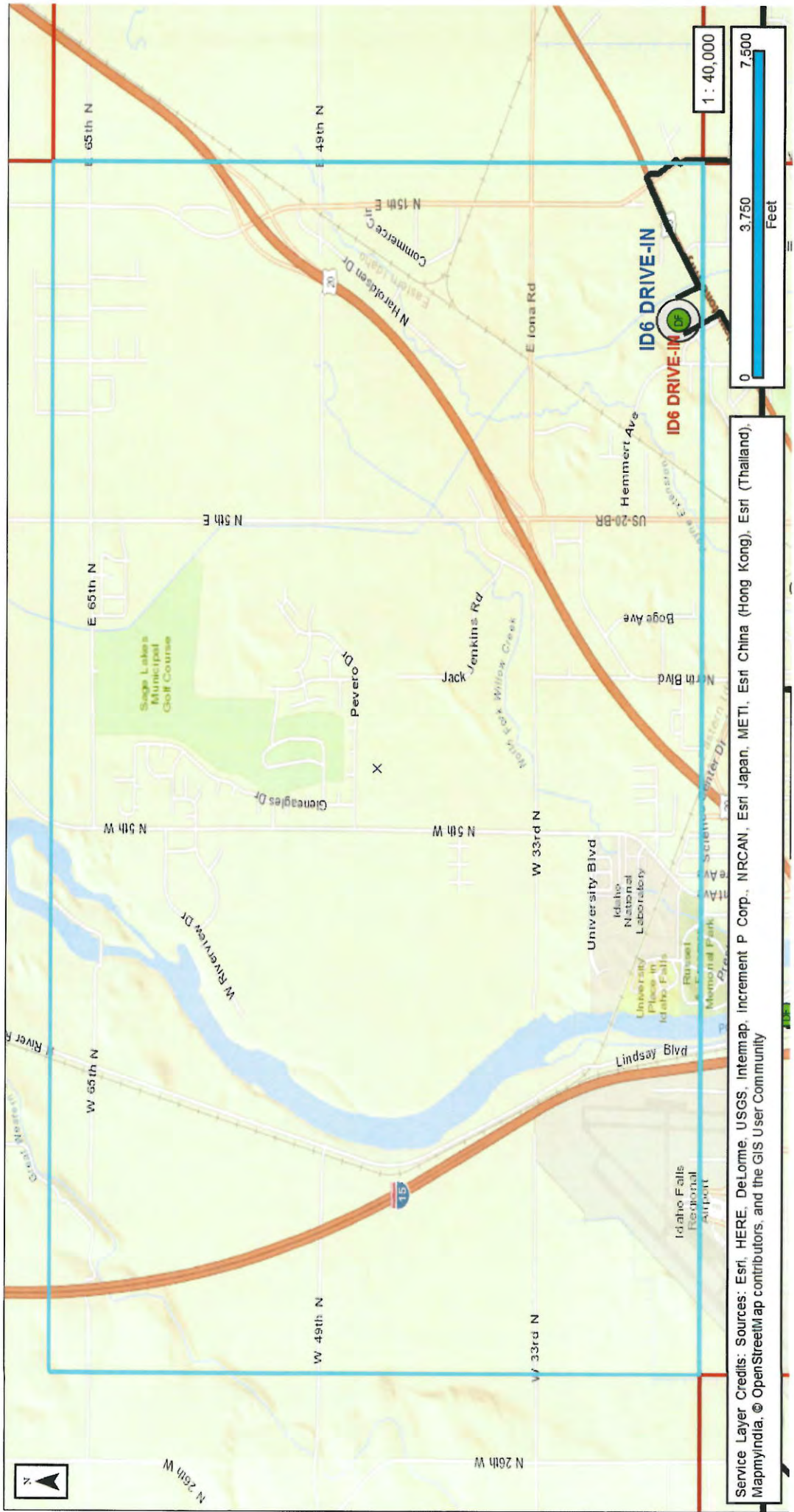
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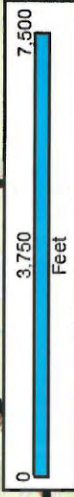
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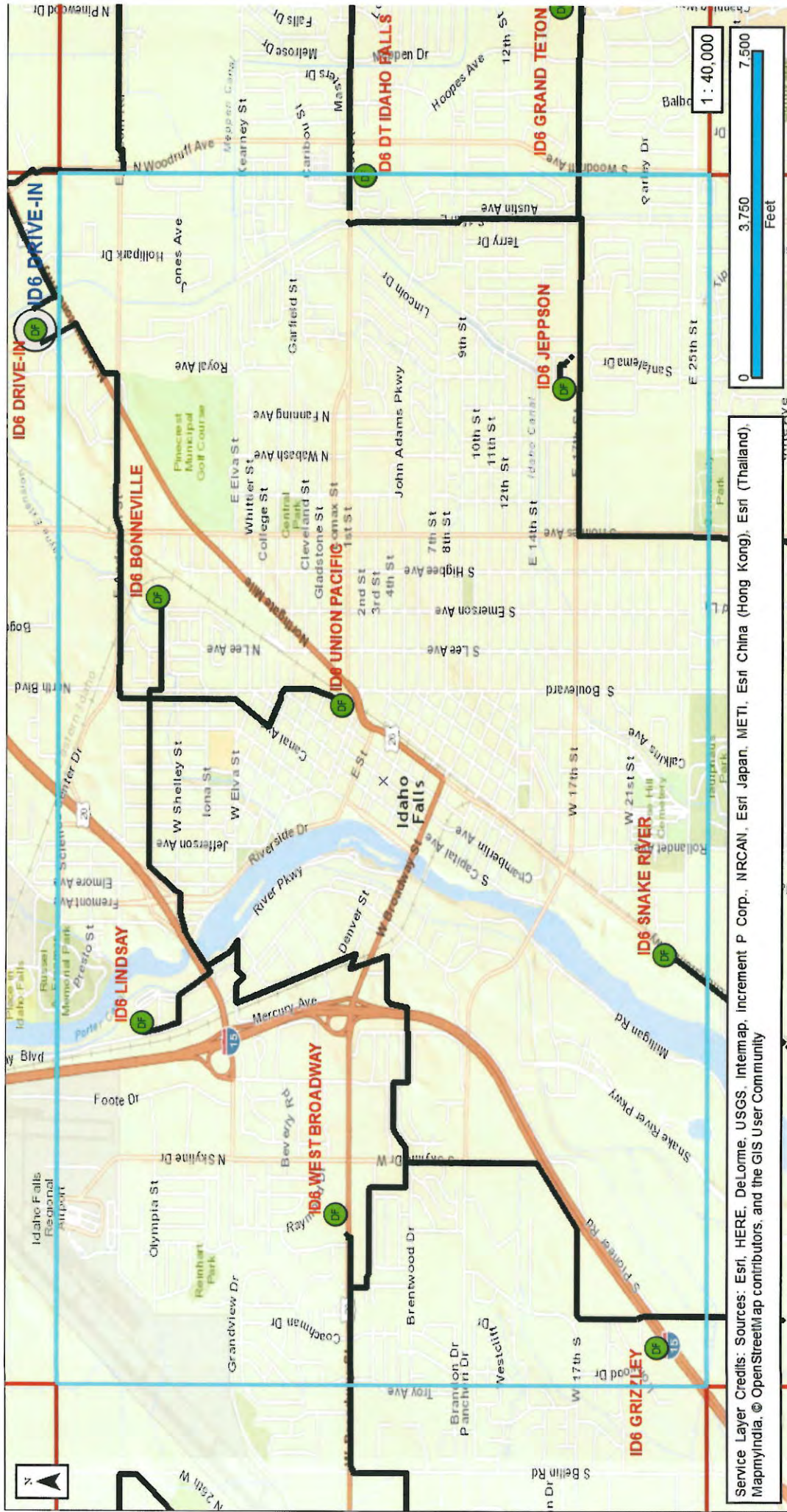


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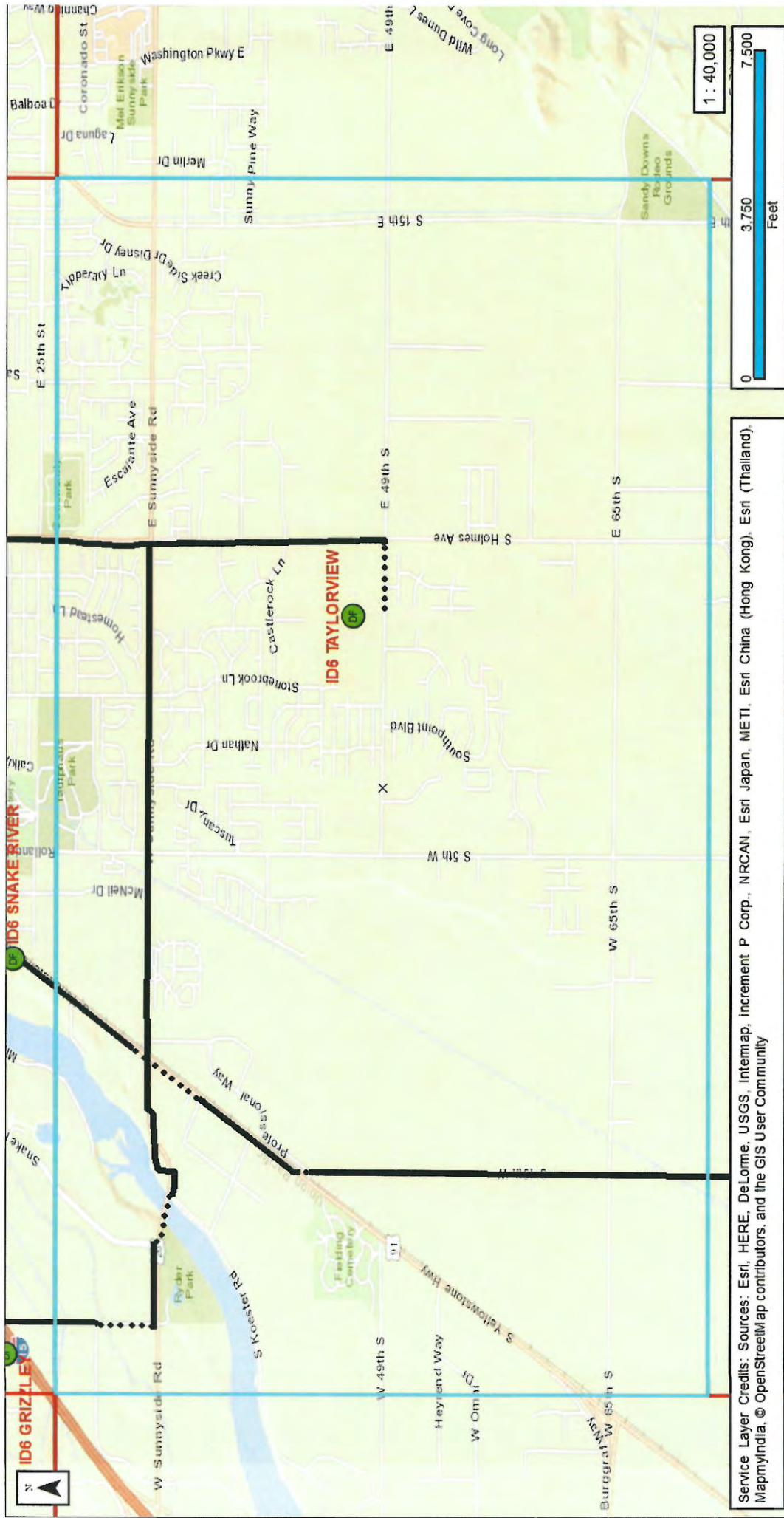
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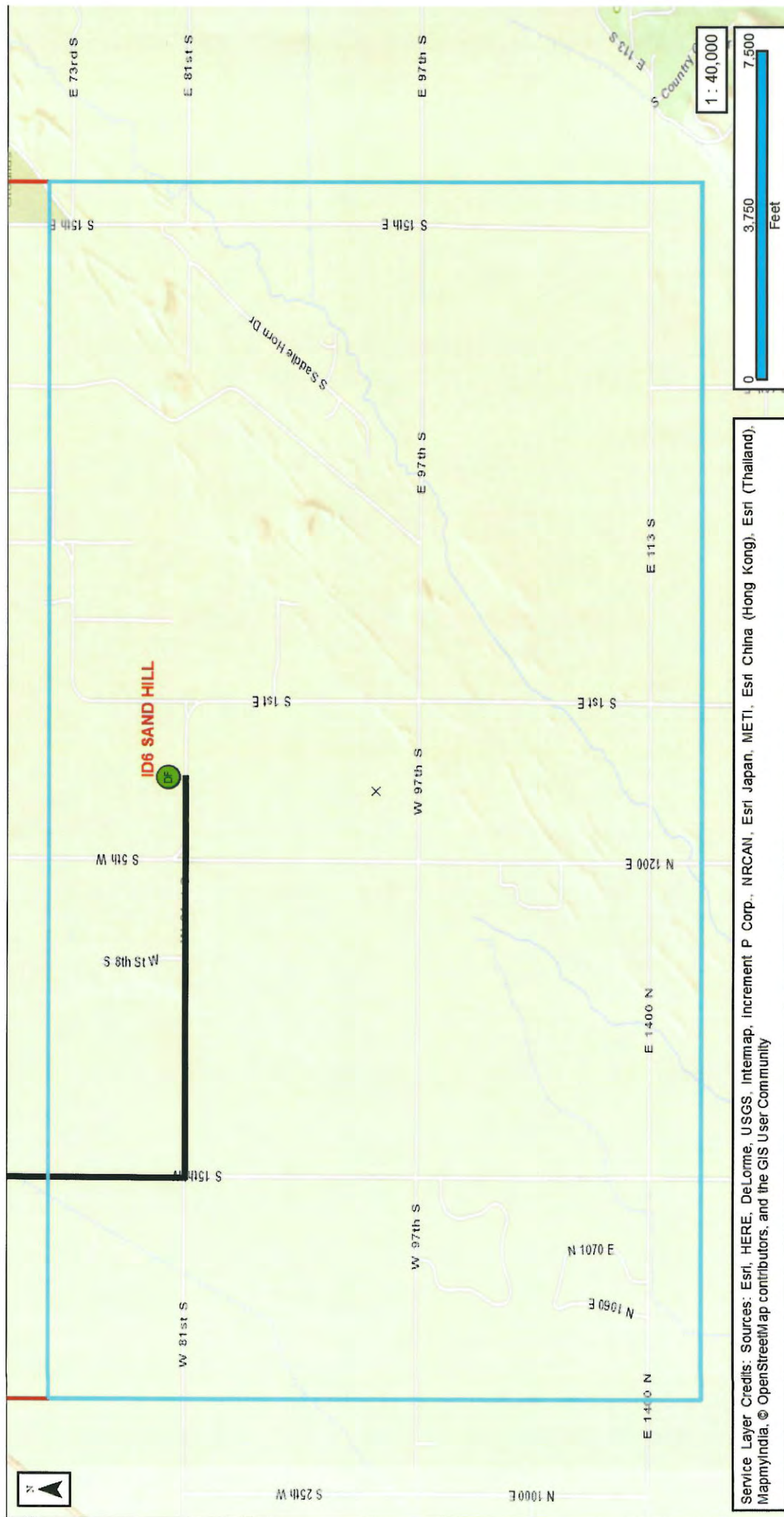
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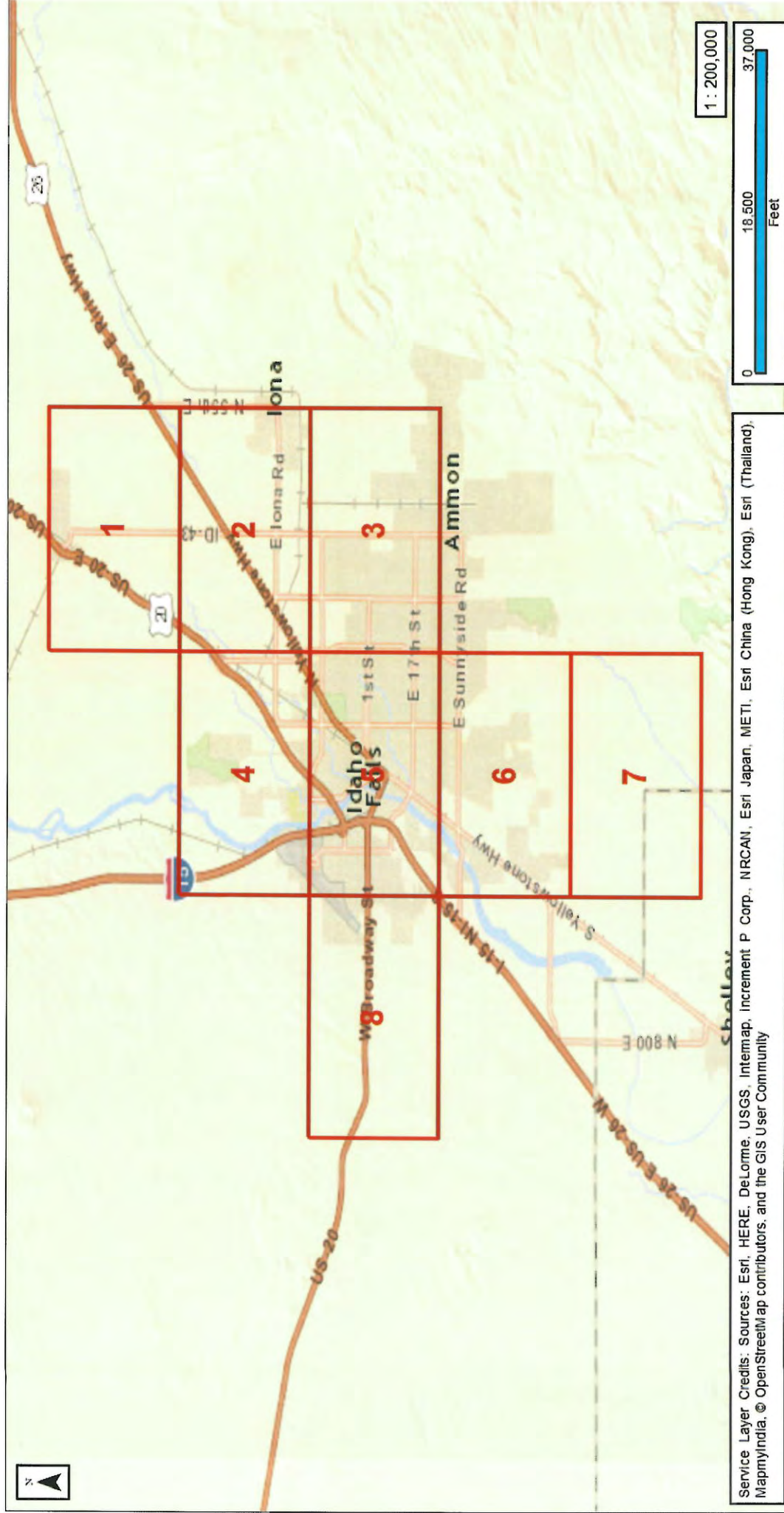
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*A Department of the City of Idaho Falls*

*"A community with its own kind of energy"*



## MEMORANDUM

**TO:** Honorable Mayor and City Council

**FROM:** Jackie Flowers, General Manager

**DATE:** June 3, 2016

**Re:** Approve Pole Attachment License Agreement with Extenet Systems Inc.

---

Idaho Falls Power has received a request from Extenet Systems Inc. to attach communication infrastructure to power poles. Extenet Systems Inc. is a telecommunications infrastructure company who constructs, owns, and operates wireless telecommunications networks who then leases use of those networks to major wireless carriers.

The American Public Power Association recently published a Pole Attachment Toolkit that includes a template agreement that complies with newer Federal Communications Commission requirements. It also sets a pole attachment calculator consistent with the FCC allowable formula. This template will be adopted for all pole attachment requests and, in fact, Idaho Falls Power is currently negotiating agreements with three other companies.

Idaho Falls Power respectfully requests City Council approve the Pole Attachment License Agreement with Extenet Systems Inc. and authorize the Mayor to sign the document.

JRF/746

C: City Clerk  
City Attorney  
File

## **POLE ATTACHMENT LICENSE AGREEMENT BETWEEN CITY OF IDAHO FALLS, IDAHO AND EXTENET SYSTEMS, INC.**

THIS POLE ATTACHMENT LICENSE AGREEMENT BETWEEN CITY OF IDAHO FALLS, IDAHO AND EXTENET SYSTEMS, INC. (hereinafter "Agreement"), is made this 22<sup>nd</sup> day of April, 2016, by and between CITY OF IDAHO FALLS, IDAHO, a municipal corporation of the State of Idaho, and its Electric Light Division d/b/a Idaho Falls Power, (hereinafter "IFP"), whose address is P.O. Box 50220, Idaho Falls, Idaho 83405, and Extenet Systems, Inc., a Delaware corporation (hereinafter "LICENSEE"), whose address is 3030 Warrenville Road, Suite 340, Lisle, IL 60532.

### **RECITALS**

WHEREAS, LICENSEE proposes to install and maintain Communications Facilities and associated equipment, LICENSEE's Attachments, on IFP's Poles to provide Communications Services; and

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

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

### **AGREEMENT**

#### **Article 1—Definitions**

For the purposes of this Agreement, the following terms, phrases, words, and their derivations, shall have the meaning given below, unless more specifically defined within a specific Article or Paragraph of this Agreement. When not inconsistent with the context, words used in the present tense include the future and past tense, and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

- 1.1 Affiliate:** when used in relation to LICENSEE, means another entity that owns or controls, is owned or controlled by, or is under common ownership or control with LICENSEE.
- 1.2 Applicable Standards:** means all applicable engineering and safety standards governing

the installation, maintenance, and operation of facilities and the performance of all work in or around electric Utility Facilities and includes the most current versions of National Electric Safety Code ("NESC"), the National Electrical Code ("NEC"), and the regulations of the Occupational Safety and Health Administration ("OSHA"), each of which is incorporated by reference in this Agreement, and/or other reasonable safety and engineering requirements of IFP or other federal, state, or local authority with jurisdiction over IFP Facilities.

- 1.3 **Attaching Entity:** means any public or private entity, including LICENSEE, that, pursuant to a license agreement with IFP, places an Attachment on IFP's Pole or within IFP's Conduit System to provide Communications Service.
- 1.4 **Attachment(s):** means LICENSEE's Communications Facilities that are placed directly on IFP's Poles, are Overlashed onto an existing Attachment, or are placed within IFP's Conduit System, but does not include either a Riser or a service drop attached to a single Pole where IFP has an existing Attachment on such Pole.
- 1.5 **Capacity:** means the ability of a Pole or Conduit System segment to accommodate an additional Attachment based on Applicable Standards, including space and loading considerations.
- 1.6 **Climbing Space:** means that portion of a Pole's surface and surrounding space that is free from encumbrances to enable IFP employees and contractors to safely climb, access, and work on IFP Facilities and equipment.
- 1.7 **Communications Facilities:** means wireline or wireless facilities, including but not limited to, fiber optic, copper, and/or coaxial cables, wireless antennas, receivers or transceivers, including any and all associated equipment, utilized to provide Communications Service.
- 1.8 **Communications Service:** means the transmission or receipt of voice, video, data, broadband Internet, or other forms of digital or analog signals over Communications Facilities.
- 1.9 **Conduit System:** means Utility's conduits, Innerduct, manholes, handholes, vaults, pull-boxes, and trenches.
- 1.10 **Innerduct:** means flexible conduit installed inside a larger rigid conduit for the placement of wire or cable.

1.11 **LICENSEE**

The party, including its parent, subsidiaries or affiliates, successor or assigns, granted a License by Owner under this Agreement.

**Make-Ready Work:** means all work that IFP reasonably determines to be required to accommodate LICENSEE's Communications Facilities and/or to comply with all Applicable Standards. Such work includes, but is not limited to, rearrangement and/or transfer of IFP Facilities or existing Attachments, inspections, engineering work, permitting work, tree trimming (other than tree trimming performed for normal maintenance purposes), pole replacement and construction, or Conduit System clearing, but does not include LICENSEE's routine maintenance.

- 1.12 **Occupancy:** means the use or reservation of space for Attachments on an IFP Pole or portion



of IFP's Conduit System.

- 1.13 **Overlash:** means to place an additional wire or cable Communications Facility onto an existing attached Communications Facility.
- 1.14 **Pedestals/Vaults/Enclosures:** means above- or below-ground housings that are not attached to IFP Poles but are used to enclose a cable/wire splice, power supplies, amplifiers, passive devices, and/or to provide a service connection point (see Appendix D Specifications).
- 1.15 **Permit:** means written or electronic authorization (see Appendix C) by IFP for LICENSEE to make or maintain Attachments to specific IFP Poles or spans of the Conduit System pursuant to the requirements of this Agreement. LICENSEE's attachments made prior to the Effective Date and authorized by Utility (Existing Attachments) shall be deemed Permitted Attachments hereunder.
- 1.16 **Pole:** means a pole owned or controlled by IFP that is used for the distribution of electricity and/or Communications Service and is capable of supporting Attachments for Communications Facilities.
- 1.17 **Post-Construction Inspection:** means the inspection by IFP or LICENSEE or some combination of both to verify that the Attachments have been made in accordance with Applicable Standards and the Permit.
- 1.18 **Pre-Construction Survey:** means all work or operations required by Applicable Standards and/or IFP to determine the Make-Ready Work necessary to accommodate LICENSEE's Communications Facilities on a Pole or within a span of the Conduit System. Such work includes, but is not limited to, field inspection and administrative processing.
- 1.19 **Reserved Capacity:** means capacity or space on a Pole or within a portion of the Conduit System that IFP has identified and reserved for its own future utility requirements at the time of the Permit grant, including the installation of communications circuits for operation of IFP's electric system.
- 1.20 **Riser:** means metallic or plastic encasement materials placed vertically on the Pole to guide and protect wires and cables.
- 1.21 **Tag:** means to place distinct markers on wires and cables, coded by color or other means specified by IFP and/or applicable federal, state or local regulations, that will readily identify the type of Attachment (e.g., cable TV, telephone, high-speed broadband data, public safety) and its owner.
- 1.22 **IFP Facilities:** means all personal property and real property owned or controlled by IFP, including Poles, Conduit System, and related facilities.

## **Article 2—Scope of Agreement**

**2.0 Grant of License.** Subject to the provisions of this Agreement, IFP grants LICENSEE a revocable, nonexclusive license authorizing LICENSEE to install and maintain Attachments to

IFP's Poles and to install its Communications Facilities within IFP's Conduit System.

- 2.2 Parties Bound by Agreement.** LICENSEE and IFP agree to be bound by all provisions of this Agreement.
- 2.3 Permit Issuance Conditions.** IFP will issue one or more Permit(s) to LICENSEE only when IFP determines, in its sole judgment, exercised reasonably, that (i) it has sufficient Capacity to accommodate the requested Attachment(s), (ii) LICENSEE meets all requirements set forth in this Agreement, and (iii) such Permit(s) comply with all Applicable Standards.
- 2.4 Reserved Capacity.** Access to space on IFP Poles will be made available to LICENSEE with the understanding that certain Poles may be subject to Reserve Capacity for future electric service use. At the time of Permit issuance, IFP shall notify LICENSEE if capacity on particular poles is being reserved for reasonably foreseeable future electric use. For Attachments made with notice of such a Reservation of Capacity, on giving LICENSEE at least sixty (60) calendar days prior notice, IFP may reclaim such Reserved Capacity at any time following the installation of LICENSEE's Attachment if required for IFP's future utility service. If reclaimed for IFP's use, IFP may at such time also install associated facilities, including the attachment of communications lines for internal IFP operational or governmental communications requirements. IFP shall give LICENSEE the option to remove its Attachment(s) from the affected Pole(s) or to pay for the cost of any Make-Ready Work needed to expand Capacity for core utility service requirements, so that LICENSEE can maintain its Attachment on the affected Pole(s). The allocation of the cost of any such Make-Ready Work (including the transfer, rearrangement, or relocation of third party Attachments) shall be determined in accordance with Article 9. LICENSEE shall not be required to bear any of the costs or rearranging or replacing its Attachment(s), if such rearrangement or replacement is required as a result of an additional attachment or the modification of an existing attachment sought by any other entity.
- 2.5 No Interest in Property.** No use, however lengthy, of any IFP Facilities, and no payment of any fees or charges required under this Agreement, shall create or vest in LICENSEE, any easement or other ownership or property right of any nature in any portion of such Facilities. Neither this Agreement, nor any Permit granted under this Agreement, shall constitute an assignment of any of IFP's rights to IFP Facilities. Notwithstanding anything in this Agreement to the contrary, IFP shall, at all times, be and remain a licensee only.
- 2.6 LICENSEE's Right to Attach.** Nothing in this Agreement, other than a Permit issued pursuant to Article 6, shall be construed as granting LICENSEE any right to attach LICENSEE's Communications Facilities to any specific Pole or within any specific portion of the Conduit System.
- 2.7 Utility's Rights over Poles.** The parties agree that this Agreement does not in any way limit IFP's right to locate, operate, maintain, or remove its Poles or Conduit System in the manner that will best enable it to fulfill its service requirements or to comply with any

federal, state, or local legal requirement.

- 2.8 Expansion of Capacity.** IFP will take reasonable steps to expand Pole/Conduit System Capacity when necessary to accommodate LICENSEE's request for Attachment. Notwithstanding the foregoing sentence, nothing in this Agreement shall be construed to require IFP to install, retain, extend, or maintain any Pole or portion of the Conduit System for use when such Pole/Conduit System is not needed for IFP's own service requirements.
- 2.9 Other Agreements.** Except as expressly provided in this Agreement, nothing in this Agreement shall limit, restrict, or prohibit IFP from fulfilling any agreement or arrangement regarding its Poles or Conduit System into which IFP has previously entered, or may enter in the future, with others not party to this Agreement.
- 2.10 Permitted Uses.** This Agreement is limited to the uses specifically stated in the recitals set forth above and no other use shall be allowed without IFP's express written consent to such use. Nothing in this Agreement shall be construed to require IFP to allow LICENSEE to use IFP's Poles or Conduit System after the termination of this Agreement.
- 2.11 Overlapping.** The following provisions apply to Overlapping:
  - 2.11.1** LICENSEE shall obtain a Permit for each Overlapping, in accordance with the requirements of Article 6. Absent such authorization, Overlapping constitutes an unauthorized Attachment and is subject to removal or, at IFP's discretion, imposition of an Unauthorized Attachment fee, as specified in Appendix A, Item 3.
  - 2.11.2** Authorized Overlapping to accommodate Attachments of LICENSEE or its Affiliate(s) shall not increase the Annual Attachment Fee paid by LICENSEE pursuant to Appendix A, Item 1. LICENSEE or LICENSEE's Affiliate shall, however, be responsible for all Make Ready Work and other charges associated with the Overlapping. LICENSEE shall not have to pay a separate Annual Attachment Fee for such Overlapped Attachment.
  - 2.11.3** At LICENSEE's request, IFP may allow Overlapping to accommodate facilities of a third party, not affiliated with LICENSEE. In such circumstances, the third party must enter into a License Agreement with IFP, obtain Permit(s), and pay a separate Attachment Fee (Appendix A, Item 1) as well as the costs of all necessary Make-Ready Work required to accommodate the Overlapping. IFP shall not grant such Permit(s) to third parties allowing Overlapping of LICENSEE's Communications Facilities without LICENSEE's consent. Authorized Overlapping shall not increase the fees and charges paid by LICENSEE pursuant to Appendix A, Item 1. Nothing in this Agreement shall prevent LICENSEE from seeking a contribution from an Overlapping third party to defray fees and charges paid by LICENSEE.
  - 2.11.4** Make Ready Work procedures set forth in Article 7 shall apply, as necessary, to all Overlapping.
- 2.12 Enclosures.** LICENSEE shall not place Pedestals, Vaults, and/or other Enclosures on or

within four feet (4') of any Pole or other Utility Facilities without IFP's prior written permission. If permission is granted, all such installations shall be per the Specifications and Drawings in Appendix D of this Agreement and charges as provided in Appendix A. Such permission shall not be unreasonably withheld. Further, LICENSEE agrees to move any such above-ground enclosures in order to provide sufficient space for IFP to set a replacement Pole.

### **Article 3—Fees and Charges**

- 3.1 Payment of Fees and Charges.** LICENSEE shall pay to IFP the fees and charges specified in Appendix A and shall comply with the terms and conditions specified in this Agreement.
- 3.2 Payment Period.** Unless otherwise expressly provided, LICENSEE shall pay any invoice it receives from Utility pursuant to this Agreement within thirty (30) calendar days after IFP issues the invoice.
- 3.3 Billing of Attachment Fee.** IFP shall invoice LICENSEE for the per-pole Attachment Fee annually. IFP will submit to LICENSEE, an invoice for the annual rental period not later than \_\_\_\_\_ [e.g., June 30] of each year. The initial annual rental period shall commence upon the execution of this Agreement and conclude on [e.g., May 31] of the next year, and each subsequent annual rental period shall commence on the following \_\_\_\_\_ [e.g., June 1] and conclude on \_\_\_\_\_ [e.g., May 31] of the subsequent year. The invoice shall set forth the total number of IFP's Poles or portion of Conduit System on/in which LICENSEE was issued and/or holds Permit(s) for Attachments during such annual rental period, including any previously authorized and valid Permits.
- 3.4 Refunds.** No fees and charges specified in Appendix A shall be refunded on account of any surrender of a Permit granted under this Agreement. Nor shall any refund be owed if a Pole or portion of Conduit System is not used or abandoned by IFP.
- 3.5 Late Charge.** If IFP does not receive payment for any fee or other amount owed within thirty (30) calendar days after it becomes due, LICENSEE shall pay interest to IFP at the rate of (1%) per month, or the maximum interest allowed by law, whichever is greater, on the amount due.
- 3.6 Payment for Work.** LICENSEE will be responsible for payment to IFP for all work that IFP or IFP's contractors perform pursuant to this Agreement to accommodate LICENSEE's Communications Facilities.
- 3.7 Advance Payment.** At its sole discretion, IFP may require that LICENSEE pay in advance all reasonable costs, including, but not limited to, administrative, construction, inspections, and Make-Ready Work expenses, in connection with the initial installation or rearrangement of LICENSEE's Communications Facilities pursuant to the procedures set forth in Articles 6 and 7 below.
- 3.8 True-Up.** Whenever IFP, in its discretion, requires advance payment of estimated expenses prior to undertaking an activity on behalf of LICENSEE and the actual cost of the activity exceeds the advance payment of estimated expenses, LICENSEE agrees to pay IFP for the

difference in cost, provided that IFP documents such costs with sufficient detail to enable LICENSEE to verify the charges. To the extent that IFP's actual cost of the activity is less than the estimated cost, IFP shall refund to LICENSEE the difference in cost.

- 3.9 Determination of Charges.** Wherever this Agreement requires LICENSEE to pay for work done or contracted by IFP, the charge for such work shall include all reasonable material, labor, engineering, administrative, and applicable overhead costs. IFP shall bill its services based upon actual costs, and such costs will be determined in accordance with IFP's cost accounting systems used for recording capital and expense activities. All such invoices shall include an itemization of dates of work, location of work, labor costs per hour, persons employed, and costs of materials used. Labor costs shall be the greater of the fully loaded costs of municipal labor or the current "union scale" for comparable work in the region. If LICENSEE was required to perform work and fails to perform such work, necessitating completion of the work by IFP, IFP may either charge an additional ten percent (10%) of its costs or assess the penalty specified in Appendix A.
- 3.10 Work Performed by IFP.** Wherever this Agreement requires IFP to perform any work, IFP, at its sole discretion, may utilize its employees or contractors, or any combination of the two, to perform such work.
- 3.11 Default for Nonpayment.** Nonpayment of any amount due under this Agreement beyond sixty (60) days shall constitute a material default of this Agreement.

#### **Article 4—Specifications**

- 4.1 Installation/Maintenance of Communications Facilities.** When a Permit is issued pursuant to this Agreement, LICENSEE's Communications Facilities shall be installed and maintained in accordance with the requirements and specifications of Appendix D. All of LICENSEE's Communications Facilities must comply with all Applicable Standards. LICENSEE shall be responsible for the installation and maintenance of its Communications Facilities. LICENSEE shall, at its own expense, make and maintain its Attachment(s) in safe condition and good repair, in accordance with all Applicable Standards. Notwithstanding anything in this Agreement to the contrary, LICENSEE shall not be required to update or upgrade its Attachments if they met Applicable Standards at the time they were made, unless such updates or upgrades are required by any revised Applicable Standards.
- 4.2 Tagging.** LICENSEE shall Tag all of its Communications Facilities as specified in Appendix D and/or applicable federal, state, and local regulations upon installation of such Facilities. Within one year of the execution of this Agreement, LICENSEE shall also tag any untagged Communications Facilities that were on IFP Poles or in its Conduit System on the effective date of this Agreement. Failure to provide proper tagging will be considered a violation of the Applicable Standards.
- 4.3 Interference.** LICENSEE shall not allow its Communications Facilities to impair the ability of IFP or any third party to use IFP's Poles or Conduit System, nor shall LICENSEE allow its Communications Facilities to interfere with the operation of any IFP Facilities or third-party facilities.

- 4.4 Protective Equipment.** LICENSEE and its employees and contractors shall utilize and install adequate protective equipment to ensure the safety of people and facilities. LICENSEE shall, at its own expense, install protective devices designed to handle the electric voltage and current carried by IFP's facilities in the event of a contact with such facilities. Except as provided in Paragraph 16.1, IFP shall not be liable for any actual or consequential damages to LICENSEE's Communications Facilities, LICENSEE's customers' facilities, or to any of LICENSEE's employees, contractors, customers, or other persons.
- 4.5 Violation of Specifications.** If LICENSEE's Communications Facilities, or any part of them, are installed, used, or maintained in violation of this Agreement, and LICENSEE has not corrected the violation(s) within thirty (30) calendar days from receipt of written notice of the violation(s) from IFP, IFP, at its option, may correct such conditions. IFP will attempt to notify LICENSEE in writing prior to performing such work whenever practicable. When IFP believes, however, that such violation(s) pose an immediate threat to the safety of any person, interfere with the performance of IFP's service obligations, or present an immediate threat to the physical integrity of IFP Facilities, IFP may perform such work and/or take such action as it deems necessary without first giving written notice to LICENSEE. As soon as practicable afterward, IFP will advise LICENSEE of the work performed or the action taken. LICENSEE shall be responsible for all actual and reasonable costs incurred by IFP in taking action pursuant to this Paragraph, and LICENSEE shall indemnify IFP against any liability, costs, and expenses, including reasonable attorney's and expert fees, arising out of or relating to any such work.
- 4.6 Restoration of IFP Service.** IFP's service restoration requirements shall take precedence over any and all work operations of LICENSEE on IFP's Poles or within IFP's Conduit System.
- 4.7 Effect of Failure to Exercise Access Rights.** If LICENSEE does not exercise any access right granted pursuant to this Agreement and/or applicable Permit(s) within ninety (90) calendar days of the effective date of such right and any extension to such Permit(s), IFP may, but shall have no obligation to, use the space scheduled for LICENSEE's Attachment(s) for its own needs or make the space available to other Attaching Entities. In such instances, IFP shall endeavor to make other space available to LICENSEE, upon written application under Article 6, as soon as reasonably possible and subject to all requirements of this Agreement, including the Make-Ready Work provisions. If IFP uses the space for its own needs or makes them available to other parties, then from the date that IFP or a third party begins to use such space, LICENSEE may obtain a refund on the portion of any Attachment Fees that it has paid in advance for that space. For purposes of this paragraph, LICENSEE's access rights shall not be deemed effective until any necessary Make-Ready Work has been performed.
- 4.8 Removal of Nonfunctional Attachments.** At its sole expense, LICENSEE shall remove any of its Attachments or any part thereof that becomes nonfunctional and no longer fit for service (Nonfunctional Attachment) as provided in this Paragraph 4.8. A Nonfunctional Attachment that LICENSEE has failed to remove as required in this paragraph shall constitute an unauthorized Attachment and is subject to the Unauthorized Attachment fee specified in Appendix A, Item 3. Except as otherwise provided in this Agreement,



LICENSEE shall remove Nonfunctional Attachments within one (1) year of the Attachment becoming nonfunctional, unless LICENSEE receives written notice from IFP that removal is necessary to accommodate IFP's or another Attaching Entity's use of the affected Pole(s) or portion of the Conduit System, in which case LICENSEE shall remove the Nonfunctional Attachment within sixty (60) days of receiving the notice. Where LICENSEE has received a Permit to Overlash a Nonfunctional Attachment, such Nonfunctional Attachment may remain in place until IFP notifies LICENSEE that removal is necessary to accommodate IFP's or another Attaching Entity's use of the affected Pole(s). LICENSEE shall give IFP notice of any Nonfunctional Attachments as provided in Article 15.

## **Article 5—Private and Regulatory Compliance**

- 5.1 Necessary Authorizations.** Before LICENSEE occupies any of IFP's Poles or any portion of IFP's Conduit System, LICENSEE shall obtain from the appropriate public or private authority, or from any property owner or other appropriate person, any required authorization to construct, operate, or maintain its Communications Facilities on public or private property. IFP retains the right to require evidence that appropriate authorization has been obtained before any Permit is issued to LICENSEE. LICENSEE's obligations under this Article 5 include, but are not limited to, its obligation to obtain and pay for all necessary approvals to occupy public/private rights-of-way and easements and all necessary licenses and authorizations to provide the services that it provides over its Communications Facilities. LICENSEE shall defend, indemnify, and reimburse IFP for all losses, costs, and expenses, including reasonable attorney's fees, that IFP may incur as a result of claims by governmental bodies, owners of private property, or other persons, that LICENSEE does not have sufficient rights or authority to attach LICENSEE's Communications Facilities on IFP's Poles or within its Conduit System or to provide particular services.
- 5.2 Lawful Purpose and Use.** LICENSEE's Communications Facilities must at all times serve a lawful purpose, and the use of such Facilities must comply with all applicable federal, state and local laws.
- 5.3 Forfeiture of IFP's Rights.** No Permit granted under this Agreement shall extend, or be deemed to extend, to any of IFP's Poles or to any portion of IFP's Conduit System, to the extent that LICENSEE's Attachment would result in a forfeiture of IFP's rights. Any Permit that would result in forfeiture of IFP's rights shall be deemed invalid as of the date that IFP granted it. Further, if any of LICENSEE's existing Communications Facilities, whether installed pursuant to a valid Permit or not, would cause such forfeiture, LICENSEE shall promptly remove its Facilities upon receipt of written notice from IFP. If LICENSEE does not remove its Communications Facilities in question within thirty (30) days of receiving written notice from IFP, IFP may at its option perform such removal at LICENSEE's expense. Notwithstanding the forgoing, LICENSEE shall have the right to contest any such forfeiture before any of its rights are terminated, provided that LICENSEE shall indemnify IFP for liability, costs, and expenses, including reasonable attorney's fees, that may accrue during LICENSEE's challenge.
- 5.4 Effect of Consent to Construction/Maintenance.** Consent by IFP to the construction or maintenance of any Attachments by LICENSEE shall not be deemed consent, authorization,

or acknowledgment that LICENSEE has obtained all required Authorizations with respect to such Attachment.

## **Article 6—Permit Application Procedures**

**6.1 Permit Required.** LICENSEE shall not make any Attachments to any of IFP's Poles or within any IFP Conduit System without first applying for and obtaining a Permit pursuant to the applicable requirements of Appendix B. Unless updates or upgrades are required by Applicable Standards, or unless IFP notifies LICENSEE to the contrary, LICENSEE shall not be required to obtain Permits for Attachment(s) existing as of the effective date of this Agreement. Such grandfathered Attachments shall, however, be subject to the Attachment Fees specified in Appendix A. LICENSEE shall provide IFP a list of all such pre-existing Attachments within six (6) months of the effective date of this Agreement.

**6.2 Permits for Overlashing.** As set out in Paragraph 2.11, Permits are required for any Overlashing allowed under this Agreement and LICENSEE, LICENSEE's Affiliate or other third party, as applicable, shall pay any necessary Make-Ready Work costs to accommodate such Overlashing.

**6.3 Professional Certification.** Unless otherwise waived in writing by IFP, as part of the Permit application process and at LICENSEE's sole expense, a qualified and experienced professional engineer, or an employee or contractor of LICENSEE who has been approved by IFP, must participate in the Pre-Construction Survey, conduct the Post-Construction Inspection, and certify that LICENSEE's Communications Facilities can be and were installed on the identified Poles or within specified portions of the Conduit System in compliance with the standards in Paragraph 4.1 and in accordance with the Permit. The professional engineer's qualifications must include experience performing such work, or substantially similar work, on electric transmission or distribution systems. IFP may require LICENSEE's professional engineer to conduct a post-construction inspection that IFP will verify by means that it deems to be reasonable.

IFP, at its discretion, may waive the requirements of this Paragraph 6.3, with respect to service drops.

**6.4 IFP Review of Permit Application.** Upon receipt of a properly executed Application for Permit (Appendix C), which shall include the Pre-Construction Survey, certified per Paragraph 6.3 above, and detailed plans for the proposed Attachments in the form specified in Appendix D, IFP will review the Permit Application and discuss any issues with LICENSEE, including engineering or Make-Ready Work requirements associated with the Permit Application. IFP acceptance of the submitted design documents does not relieve LICENSEE of full responsibility for any errors and/or omissions in the engineering analysis. Unless otherwise agreed, the Permit application process shall be consistent with the following timeline:

**6.4.1 Review Period.** IFP shall review and respond to properly executed and complete Permit Applications for routine installations as promptly as is reasonable with a goal of providing a response during normal circumstances of within forty-five (45) days

of receipt. For Permit Applications seeking Attachments to fifty (50) or more Poles, IFP may require additional time to review. IFP's response will either provide a written explanation as to why the Application is being denied, in whole or in part, or provide an estimate of the costs of all necessary Make-Ready Work.

**6.4.2** Upon receipt of IFP's Make-Ready estimate, LICENSEE shall have fourteen (14) days to approve the estimate and provide payment in accordance with this Agreement and the specifications of the estimate.

**6.4.3** IFP will complete routine Make-Ready Work within ninety (90) days of receipt of payment. If there are extenuating circumstances that make the necessary Make-Ready more complicated or time-consuming, including, but not limited to, the number of Poles, seasonal weather conditions, IFP shall identify those factors in the Make-Ready estimate and the parties shall agree upon a reasonable timeframe for completion.

**6.4.4** Make-Ready Work for attachments of wireless Communications Facilities located above the electric space, if authorized under this Agreement, and for attachments within Conduits shall be provided on a reasonable, timely basis but are not subject to a specific time period.

**6.4.5** IFP may toll the time period for completion of Make-Ready Work by written notice in order to respond to severe storms, natural disasters, or other emergency situations.

- 6.5 Permit as Authorization to Attach.** Upon completion of any necessary Make-Ready Work and receipt of payment for such work, IFP will sign and return the Permit Application, which shall serve as authorization for LICENSEE to make its Attachment(s).

## **Article 7—Make-Ready Work/Installation**

- 7.1 Estimate for Make-Ready Work.** If IFP determines that it can accommodate LICENSEE's request for Attachment(s), including Overlapping of an existing Attachment, it will, upon request, advise LICENSEE of any estimated Make-Ready Work charges necessary to accommodate the Attachment.
- 7.2 Payment of Make-Ready Work.** Upon completion of the Make-Ready Work, IFP shall invoice LICENSEE for IFP's actual cost of such Make-Ready Work. Alternatively, IFP, at its discretion, may require payment in advance for Make-Ready Work based upon the estimated cost of such work. In such case, upon completion, LICENSEE shall pay IFP's actual cost of Make-Ready Work. The costs of the work shall be itemized in accordance with Paragraph 3.9 and trued up in accordance with Paragraph 3.8.
- 7.3 Who May Perform Make-Ready Work.** Make-Ready Work shall be performed only by IFP and/or a contractor authorized by IFP to perform such work. If IFP cannot perform the Make-Ready Work to accommodate LICENSEE's Communications Facilities within ninety

(90) calendar days of LICENSEE's agreement to Make-Ready Work estimate, LICENSEE may request the ability to use a qualified contractor to perform such work and shall specify when such work would be performed. In all instances, qualified contractors, if allowed, must be pre-approved by IFP for such work on an annual basis.

- 7.4 Scheduling of Make-Ready Work.** In performing all Make-Ready Work to accommodate LICENSEE's Communications Facilities, IFP will endeavor to include such work in its normal work schedule. If LICENSEE requests that the Make-Ready Work be performed on a priority basis or outside of IFP's normal work hours, LICENSEE will pay any resulting increased costs. Nothing in this Agreement shall be construed to require IFP to perform LICENSEE's work before other scheduled work or IFP service restoration.
- 7.5 Notification of Make-Ready Work.** Before starting Make-Ready Work, IFP shall notify all Attaching Entities of the date and location of the scheduled work and shall afford all such entities an opportunity to make any modifications to their existing Attachments in connection with the Make-Ready Work.
- 7.6 Written Approval of Installation Plans Required.** Before making any Attachments to IFP's Poles or Conduit System, including Overlashing of existing Attachments, LICENSEE must obtain IFP's written approval of detailed plans for the Attachments. Such detailed plans shall accompany a Permit application as required under Paragraph 6.4.
- 7.7 LICENSEE's Installation/Removal/ Maintenance Work.**
- 7.7.1** All of LICENSEE's installation, removal, and maintenance work, by either LICENSEE's employees or authorized contractors, shall be performed at LICENSEE's sole cost and expense, in a good and workmanlike manner, and must not adversely affect the structural integrity of IFP's Poles, Conduit System, or other Facilities or other Attaching Entity's facilities or equipment. All such work is subject to the insurance requirements of Article 18.
- 7.7.2** All of LICENSEE's installation, removal, and maintenance work, either by its employees or authorized contractors, shall comply with all applicable regulations specified in Paragraph 4.1. LICENSEE shall assure that any person installing, maintaining, or removing its Communications Facilities is fully qualified and familiar with all Applicable Standards, the provisions of Article 17, and the Minimum Design Specifications contained in Appendix D.

## **Article 8—Transfers**

**8.1 Required Transfers of LICENSEE's Communications Facilities.** If IFP reasonably determines that a transfer of LICENSEE's Communications Facilities is necessary, IFP will, at its option, either require LICENSEE to perform such transfer at its own expense within thirty (30) calendar days after receiving notice from IFP, or perform the transfer itself, using its personnel, and/or contractors. If LICENSEE fails to transfer its Facilities within thirty (30) calendar days after receiving such notice from IFP, IFP shall have the right to transfer LICENSEE's Facilities using its personnel and/or contractors. The costs of such transfers shall be apportioned as specified under

Article 9. IFP shall not be liable for damage to LICENSEE's Facilities except to the extent provided in Paragraph 16.1. The written advance notification requirement of this Paragraph shall not apply in emergency situations. In emergency situations, IFP shall provide such advance notice as is practical, given the urgency of the particular situation. IFP shall then provide written notice of any such actions taken within ten (10) days following the occurrence. Irrespective of who owns Facilities that are overlashed on to LICENSEE's Attachments, LICENSEE is responsible for the transfer of such Facilities and the costs of doing so. Licensee ALSO MAY REQUEST THAT IT TRANSFER ANY OF ITS Communication Facilities to any available substitute IFP Pole, at LICENSEE's sole cost and expense, which request may be approved or denied by IFP at its reasonable discretion.

#### **Article 9—Modifications and/or Replacements**

- 9.1 LICENSEE's Action Requiring Modification/Replacement.** If any Pole or Conduit to which LICENSEE desires to make Attachment(s) is unable to support or accommodate the additional facilities in accordance with all Applicable Standards, IFP will notify LICENSEE of the necessary Make-Ready Work, and associated costs, to provide adequate Pole or Conduit space, including, but not limited to, replacement of the Pole and/or rearrangement or transfer of IFP's Facilities, as well as the facilities of other Attaching Entities. LICENSEE shall be responsible for separately entering into an agreement with other Attaching Entities concerning the allocation of costs for the relocation or rearrangement of such entities existing Attachments. If LICENSEE elects to go forward with the necessary changes, LICENSEE shall pay to IFP the actual cost of the Make-Ready Work, performed by IFP, in accordance with Paragraph 3.9. IFP, in its discretion, may require advance payment. LICENSEE shall also be responsible for obtaining and furnishing to IFP before the commencement of any Make-Ready Work, agreements between LICENSEE and the other Attaching Entities (including Overlashers) concerning the relocation or rearrangement of their Attachments and the costs involved.
- 9.2 Treatment of Multiple Requests for Same Pole or Conduit.** If IFP receives Permit Applications for the same Pole or Conduit from two or more prospective licensees within sixty (60) calendar days of the initial request, and accommodating their respective requests would require modification of the Pole or Conduit or replacement of the Pole, IFP will allocate among such licensees the applicable costs associated with such modification or replacement.
- 9.3 Guying.** The use of guying to accommodate LICENSEE's Attachments shall be provided by, and at the expense of, LICENSEE and to the satisfaction of IFP, as specified in Appendix D. LICENSEE shall not attach its guy wires to IFP's anchors without prior written permission of IFP. If permission is granted, charges may apply.
- 9.4 Allocation of Costs.** The costs for any rearrangement or transfer of LICENSEE's Communications Facilities or the replacement of a Pole (including any related costs for tree cutting or trimming required to clear the new location of IFP's cables or wires) shall be allocated to IFP and/or LICENSEE and/or other Attaching Entity on the following basis:
- 9.4.1** If IFP intends to modify or replace a Pole solely for its own requirements, it shall

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

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

**9.4.3** If the modification or the replacement of a Pole is the result of an additional Attachment or the modification of an existing Attachment sought by an Attaching Entity other than IFP or LICENSEE, the Attaching Entity requesting the additional or modified Attachment shall bear the entire cost of the modification or replacement, as well as the costs for rearranging or transferring LICENSEE's Communications Facilities. LICENSEE shall cooperate with such third-party Attaching Entity to determine the costs of moving LICENSEE's facilities.

**9.4.4** If the Pole must be modified or replaced for reasons unrelated to the use of the Pole by Attaching Entities (e.g., storm, accident, deterioration), IFP shall pay the costs of such modification or replacement and LICENSEE shall pay the costs of rearranging or transferring its Communications Facilities.

**9.5 IFP Not Required to Relocate.** Nothing in this Agreement shall be construed to require IFP to relocate its Attachments or to modify or replace its Poles for the benefit of LICENSEE.

## **Article 10—Abandonment or Removal of IFP Facilities**

**10.1 Notice of Abandonment or Removal of IFP Facilities.** If IFP desires at any time to abandon, remove, or underground any IFP Facilities to which LICENSEE's



Communications Facilities are attached, it shall give LICENSEE notice in writing to that effect at least sixty (60) calendar days prior to the date on which it intends to abandon or remove such IFP's Facilities. Notice may be limited to thirty (30) calendar days if IFP is required to remove or abandon its IFP Facilities as the result of the action of a third party and the lengthier notice period is not practical. Such notice shall indicate whether IFP is offering LICENSEE an option to purchase the Pole(s). If, following the expiration of the 30-day period, LICENSEE has not yet removed and/or transferred all of its Communications Facilities and has not entered into an agreement to purchase IFP's Facilities pursuant to Paragraph 10.2, IFP shall have the right, but not the obligation, to remove or transfer LICENSEE's Communications Facilities at LICENSEE's expense. IFP shall give LICENSEE prior written notice of any such removal or transfer of LICENSEE's Facilities.

- 10.2 Option to Purchase Abandoned Poles.** Should IFP desire to abandon any Pole, IFP may, in its sole discretion, grant LICENSEE the option of purchasing such Pole at a price to be negotiated with IFP. LICENSEE must notify IFP in writing within thirty (30) calendar days of the date of IFP's notice of abandonment that LICENSEE desires to purchase the abandoned Pole. Thereafter, LICENSEE must also secure and deliver proof of all necessary governmental approvals and easements allowing LICENSEE to independently own and access the Pole within forty-five (45) calendar days. Should LICENSEE fail to secure the necessary governmental approvals, or should IFP and LICENSEE fail to enter into an agreement for LICENSEE to purchase the Pole within forty-five (45) calendar days, LICENSEE must remove its Attachments as required under Paragraph 10.1. Nothing in this Agreement shall be construed as requiring IFP to sell LICENSEE Poles that IFP intends to remove or abandon.
- 10.3 Underground Relocation.** If IFP moves any portion of its aerial system underground, LICENSEE shall remove its Communications Facilities from any affected Poles within sixty (60) calendar days of receipt of notice from IFP and must either relocate its affected Facilities underground with IFP or find other means to accommodate its Facilities. If LICENSEE does not remove its Attachments within sixty (60) days, IFP shall have the right to remove or transfer LICENSEE's Communications Facilities at LICENSEE's expense. LICENSEE's failure to remove its Facilities as required under this Paragraph 10.3 shall subject LICENSEE to the penalty provisions of Appendix A.

## **Article 11—Removal of LICENSEE's Facilities**

**11.1 Removal on Expiration/Termination.** At the expiration or other termination of this License Agreement or individual Permit(s), LICENSEE shall remove its Communications Facilities from the affected Poles or portions of Conduit System at its own expense. If LICENSEE fails to remove such Facilities within sixty (60) calendar days of expiration or termination or some greater period as allowed by IFP, IFP shall have the right, but not the obligation, to remove or transfer such Facilities at LICENSEE's expense.

## **Article 12—Termination of Permit**

**12.1 Automatic Termination of Permit.** Any Permit issued pursuant to this Agreement shall

automatically terminate when LICENSEE ceases to have authority to construct and operate its Communications Facilities on public or private property at the location of the particular Pole(s) or portion of the Conduit System covered by the Permit.

- 12.2 Surrender of Permit.** LICENSEE may at any time surrender any Permit for Attachment(s) and remove its Communications Facilities from the affected Pole(s) or segment of the Conduit System, provided, however, that before commencing any such removal, LICENSEE must obtain IFP's written approval of LICENSEE's plans for removal, including the name of the person or entity performing such work and the date(s) and time(s) during which such work will be completed. All such work is subject to the insurance requirements of Article 18. No refund of any fees or costs will be made upon removal. If LICENSEE surrenders such Permit pursuant to the provisions of this Article, but fails to remove its Attachments from IFP's Facilities within thirty (30) calendar days, IFP shall have the right, but not the obligation, to remove or transfer LICENSEE's Attachments at LICENSEE's expense.

### **Article 13—Inspection of LICENSEE's Facilities**

- 13.1 Inspections.** IFP may conduct an inventory and inspection of Attachments at any time. Within thirty (30) calendar days of receiving written notice from IFP, LICENSEE shall correct all Attachments that IFP identifies as being out of compliance with Applicable Standards. If IFP finds that five percent (5%) or more of LICENSEE's Attachments are either in non-compliance or not permitted, LICENSEE shall pay its pro-rata share of the costs of the inspection.
- 13.2 Notice.** IFP will give LICENSEE reasonable advance written notice of such inspections, except in those instances in which safety considerations justify the need for such inspection without delay.
- 13.3 No Liability.** Inspections performed under this Article 13, or the failure to do so, shall not operate to impose upon IFP any liability of any kind whatsoever or to relieve LICENSEE of any responsibility, obligations, or liability, whether assumed under this Agreement or otherwise existing.
- 13.4 Attachment Records.** Notwithstanding the above inspection provisions, LICENSEE shall furnish to IFP annually an up-to-date electronic map depicting the locations of its Attachments, in a format specified by IFP.

### **Article 14—Unauthorized Occupancy or Access**

- 14.1 Penalty Fee.** If any of LICENSEE's Attachments are found occupying any Pole or segment of the Conduit System for which no Permit has been issued, IFP, without prejudice to its other rights or remedies under this Agreement, may assess an Unauthorized Access Penalty Fee, as specified in Appendix A, Item 3. If LICENSEE fails to pay such Fee within thirty (30) calendar days of receiving notification of it, IFP shall have the right, but not the obligation, to remove such Communications Facilities at LICENSEE's expense.

- 14.2 No Ratification of Unauthorized Use.** No act or failure to act by IFP with regard to any unauthorized use shall be deemed as ratification of the unauthorized use. Unless the parties agree otherwise, a Permit for a previously unauthorized Attachment shall not operate retroactively or constitute a waiver by IFP of any of its rights or privileges under this Agreement or otherwise, and LICENSEE shall remain subject to all obligations and liabilities arising out of or relating to its unauthorized use.

### **Article 15—Reporting Requirements**

At the time that LICENSEE pays its annual Attachment Fee, LICENSEE shall also provide the following information to IFP, using the reporting form contained in Appendix E:

- 15.1** The Poles on which LICENSEE has installed, during the relevant reporting period, Risers and service drops, for which no Permit was required.
- 15.2** All Attachments that have become nonfunctional during the relevant reporting period. The report shall identify the Pole on which the nonfunctional Attachment is located, describe the nonfunctional equipment, and indicate the approximate date the Attachment became nonfunctional.
- 15.3** Any equipment LICENSEE has removed from Poles during the relevant reporting period. The report shall identify the Pole from which the equipment was removed, describe the removed equipment, and indicate the approximate date of removal. This requirement does not apply where LICENSEE is surrendering a Permit pursuant to Paragraph 12.2.

### **Article 16—Liability and Indemnification**

- 16.1 Liability.** IFP reserves to itself the right to maintain and operate its Poles and Conduit System in the manner that will best enable it to fulfill its service requirements. LICENSEE agrees to use IFP's Poles and Conduit System at LICENSEE's sole risk. Notwithstanding the foregoing, IFP shall exercise reasonable precaution to avoid damaging LICENSEE's Communications Facilities and shall report to LICENSEE the occurrence of any such damage caused by its employees, agents or contractors. Subject to Paragraph 16.5, IFP agrees to reimburse LICENSEE for all reasonable costs incurred by LICENSEE for the physical repair of facilities damaged by the gross negligence or willful misconduct of IFP; provided, however, that the aggregate liability of IFP to LICENSEE, in any fiscal year, for any fines, penalties, claims, damages, or costs, arising out of or relating in any way to LICENSEE's service or interference with the operation of LICENSEE's Communications Facilities (including special, indirect, punitive, or consequential damages) shall not exceed the amount of the total Annual Attachment Fees paid by LICENSEE to IFP for that year, as calculated based on the number of Attachments under Permit at the time of the occurrence, as set forth in Appendix A, Item 1.
- 16.2 Indemnification.** LICENSEE, and any agent, contractor, or subcontractor or LICENSEE, shall defend, indemnify, and hold harmless IFP and its officials, officers, board members, council members, commissioners, representatives, employees, agents, and contractors against any and all liability, costs, damages, fines, taxes, special charges by others, penalties, payments (including payments made by IFP under any Workers Compensation Laws or

under any plan for employees disability and death benefits), and expenses (including reasonable attorney's fees of IFP and all other costs and expenses of litigation) (Covered Claims) arising in any way, including any act, omission, failure, negligence, or willful misconduct, in connection with the construction, maintenance, repair, presence, use, relocation, transfer, removal or operation by LICENSEE, or by LICENSEE's officers, directors, employees, agents, or contractors, of LICENSEE's Communications Facilities, except to the extent of IFP's gross negligence or willful misconduct solely giving rise to such Covered Claims. Such Covered Claims include, but are not limited to, the following:

- 16.2.1** Intellectual property infringement, libel and slander, trespass, unauthorized use of television or radio broadcast programs and other program material, and infringement of patents;
- 16.2.2** Cost of work performed by IFP that was necessitated by LICENSEE's failure, or the failure of LICENSEE's officers, directors, employees, agents or contractors, to install, maintain, use, transfer, or remove LICENSEE's Communications Facilities in accordance with the requirements and specifications of this Agreement, or from any other work this Agreement authorizes IFP to perform on LICENSEE's behalf;
- 16.2.3** Damage to property, injury to or death of any person arising out of the performance or nonperformance of any work or obligation undertaken by LICENSEE, or LICENSEE's officers, directors, employees, agents, or contractors, pursuant to this Agreement;
- 16.2.4** Liabilities incurred as a result of LICENSEE's violation, or a violation by LICENSEE's officers, directors, employees, agents, or contractors, of any law, rule, or regulation of the United States, any state, or any other governmental entity or administrative agency.

### **16.3 Procedure for Indemnification.**

- 16.3.1** IFP shall give prompt written notice to LICENSEE of any claim or threatened claim, specifying the factual basis for such claim and the amount of the claim. If the claim relates to an action, suit, or proceeding filed by a third party against IFP, IFP shall give the notice to LICENSEE no later than fifteen (15) calendar days after IFP receives written notice of the action, suit, or proceeding.
- 16.3.2** IFP's failure to give the required notice will not relieve LICENSEE from its obligation to indemnify IFP unless, and only to the extent, that LICENSEE is materially prejudiced by such failure.
- 16.3.3** LICENSEE will have the right at any time, by notice to IFP, to participate in or assume control of, the defense of the claim with counsel of its choice, which counsel must be reasonably acceptable to IFP. IFP agrees to cooperate fully with LICENSEE. If LICENSEE assumes control of the defense of any third-party claim, IFP shall have the right to participate in the defense at its own expense. If LICENSEE does not assume control or otherwise participate in the defense of

any third-party claim, LICENSEE shall be bound by the results obtained by IFP with respect to the claim.

**16.3.4** If LICENSEE assumes the defense of a third-party claim as described above, then in no event will IFP admit any liability with respect to, or settle, compromise or discharge, any third-party claim without LICENSEE's prior written consent.

**16.4 Environmental Hazards.** LICENSEE represents and warrants that its use of IFP's Poles will not generate any Hazardous Substances, that it will not store or dispose on or about IFP's Poles/ Conduit System or transport to IFP's Poles/Conduit System any hazardous substances and that LICENSEE's Communications Facilities will not constitute or contain and will not generate any hazardous substance in violation of federal, state, or local law now or hereafter in effect, including any amendments. "Hazardous Substance" shall be interpreted broadly to mean any substance or material designated or defined as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic or radioactive substance, dangerous radio frequency radiation, or other similar terms by any federal, state, or local laws, regulations or rules now or hereafter in effect, including any amendments. LICENSEE further represents and warrants that in the event of breakage, leakage, incineration, or other disaster, its Communications Facilities would not release any Hazardous Substances. LICENSEE and its agents, contractors, and subcontractors shall defend, indemnify, and hold harmless IFP and its respective officials, officers, board members, council members, commissioners, representatives, employees, agents, and contractors against any and all liability, costs, damages, fines, taxes, special charges by others, penalties, punitive damages, or expenses (including reasonable attorney's fees and all other costs and expenses of litigation) arising from or due to the release, threatened release, storage, or discovery of any Hazardous Substances on, under, or adjacent to IFP's Poles/Conduit System attributable to LICENSEE's use of IFP's Poles or Conduit System.

Should IFP's Poles be declared to contain Hazardous Substances, IFP, LICENSEE, and all Attaching Entities shall share proportionately in the cost of disposal of the affected Poles based on each entity's individual percentage use of same. For Attaching Entities, such percentage shall be derived from the sum of space occupied by each Attaching Entity plus its share of the common space, including the NESC safety space. For IFP, such percentage shall be equal to the space above the NESC safety space plus its share of the common Space. If the source or presence of the Hazardous Substance is solely attributable to particular parties, such costs shall be borne solely by those parties.

**16.5 Mnncipal Liability Limits.** No provision of this Agreement is intended, or shall be construed, to be a waiver for any purpose by IFP of any applicable state limits on municipal liability or governmental immunity. No indemnification provision contained in this Agreement under which LICENSEE indemnifies IFP shall be construed in any way to limit any other indemnification provision contained in this Agreement.

**16.6** If IFP brings a successful action in a court of competent jurisdiction to enforce this Agreement, LICENSEE shall pay IFP's reasonable attorney's fees.

## **Article 17—Duties, Responsibilities, and Exculpation**

- 17.1 Duty to Inspect.** LICENSEE acknowledges and agrees that IFP does not warrant the condition or safety of IFP's Facilities, or the premises surrounding the Facilities, and LICENSEE further acknowledges and agrees that it has an obligation to inspect IFP's Poles or Conduit System and/ or premises surrounding the Poles or Conduit System, prior to commencing any work on IFP's Poles or within IFP's Conduit System or entering the premises surrounding such Poles or Conduit System.
- 17.2 Knowledge of Work Conditions.** By executing this Agreement, LICENSEE warrants that it has acquainted, or will fully acquaint, itself and its employees and/or contractors and agents with the conditions relating to the work that LICENSEE will undertake under this Agreement and that it fully understands or will acquaint itself with the facilities, difficulties, and restrictions attending the execution of such work.
- 17.3 DISCLAIMER.** IFP MAKES NO EXPRESS OR IMPLIED WARRANTIES WITH REGARD TO IFP'S POLES OR CONDUIT SYSTEM, ALL OF WHICH ARE HEREBY DISCLAIMED, AND IFP MAKES NO OTHER EXPRESS OR IMPLIED WARRANTIES, EXCEPT TO THE EXTENT EXPRESSLY AND UNAMBIGUOUSLY SET FORTH IN THIS AGREEMENT. IFP EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
- 17.4 Duty of Competent Supervision and Performance.** The parties further understand and agree that, in the performance of work under this Agreement, LICENSEE and its agents, employees, contractors, and subcontractors will work near electrically energized lines, transformers, or other IFP Facilities. The parties understand and intend that energy generated, stored, or transported by IFP Facilities will not be interrupted during the continuance of this Agreement, except in emergencies endangering life or threatening grave personal injury or property. LICENSEE shall ensure that its employees, agents, contractors, and subcontractors have the necessary qualifications, skill, knowledge, training, and experience to protect themselves, their fellow employees, agents, contractors, and subcontractors; employees, agents, contractors, and subcontractors of IFP; and the general public, from harm or injury while performing work permitted pursuant to this Agreement. In addition, LICENSEE shall furnish its employees, agents, contractors, and subcontractor's competent supervision and sufficient and adequate tools and equipment for their work to be performed in a safe manner. LICENSEE agrees that in emergency situations in which it may be necessary to de-energize any part of IFP's equipment, LICENSEE shall ensure that work is suspended until the equipment has been de-energized and that no such work is conducted unless and until the equipment is made safe.
- 17.5 Requests to De-energize.** If IFP de-energizes any equipment or line at LICENSEE's request and for its benefit and convenience in performing a particular segment of any work, LICENSEE shall reimburse IFP in accordance with Paragraph 3.9, for all costs and expenses that IFP incurs in complying with LICENSEE's request. Before IFP de-energizes any equipment or line, it shall provide, upon request, an estimate of all costs and expenses to be incurred in accommodating LICENSEE's request.
- 17.6 Interruption of Service.** If LICENSEE causes an interruption of service by damaging or



interfering with any equipment of IFP, LICENSEE shall, at its own expense, immediately do all things reasonable to avoid injury or damages, direct and incidental, resulting therefrom and shall notify IFP immediately.

- 17.7 Duty to Inform.** LICENSEE further warrants that it understands the imminent dangers (INCLUDING SERIOUS BODILY INJURY OR DEATH FROM ELECTROCUTION) inherent in the work necessary to make installations on IFP's Poles or within IFP Conduit System by LICENSEE's employees, agents, contractors, or subcontractors, and LICENSEE accepts the duty and sole responsibility to notify and inform LICENSEE's employees, agents, contractors, or subcontractors of such dangers, and to keep them informed regarding same.

## **Article 18—Insurance**

- 18.1 Policies Required.** At all times during the term of this Agreement, LICENSEE shall keep in force and effect all insurance policies as described below:

**18.1.1 Workers Compensation and Employers' Liability Insurance.** Statutory workers' compensation benefits and employers' liability insurance with a limit of liability no less than that required by Idaho law at the time of the application of this provision for each accident. This policy shall be endorsed to include a waiver of subrogation in favor of IFP. LICENSEE shall require subcontractors and others not protected under its insurance to obtain and maintain such insurance.

**18.1.2 Commercial General Liability Insurance.** Policy will be written to provide coverage for, but not limited to, the following: premises and operations, products and completed operations, personal injury, blanket contractual coverage, broad form property damage, independent contractor's coverage with Limits of liability not less than \$2,000,000 general aggregate, \$2,000,000 products/completed operations aggregate, \$2,000,000 personal injury, \$2,000,000 each occurrence.

**18.1.3 Automobile Liability Insurance.** Business automobile policy covering all owned, hired and non-owned private passenger autos and commercial vehicles. Limits of liability not less than \$1,000,000 each occurrence, \$1,000,000 aggregate.

**18.1.4 Umbrella Liability Insurance.** Coverage is to be in excess of the sum employers' liability, commercial general liability, and automobile liability insurance required above. Limits of liability not less than \$4,000,000 each occurrence, \$4,000,000 aggregate.

**18.1.5 Property Insurance.** Each party will be responsible for maintaining property insurance on its own facilities, buildings, and other improvements, including all equipment, fixtures, and utility structures, fencing, or support systems that may be placed on, within, or around IFP Facilities to protect fully against hazards of fire, vandalism and malicious mischief, and such other perils as are covered by policies of insurance commonly referred to and known as extended coverage insurance or self-insure such exposures.

- 18.2 Qualification; Priority; Contractors' Coverage.** The insurer must be authorized to do

business under the laws of the state of Idaho and have an "A" or better rating in Best's Guide. Such insurance will be primary. All contractors and all of their subcontractors who perform work on behalf of LICENSEE shall carry, in full force and effect, workers' compensation and employers' liability, comprehensive general liability, and automobile liability insurance coverages of the type that LICENSEE is required to obtain under this Article 18 with the same limits.

- 18.3 Certificate of Insurance; Other Requirements.** Prior to the execution of this Agreement and prior to each insurance policy expiration date during the term of this Agreement, LICENSEE will furnish IFP with a certificate of insurance (Certificate) and, upon request, certified copies of the required insurance policies. The Certificate shall reference this Agreement and workers' compensation and property insurance waivers of subrogation required by this Agreement. IFP shall be given thirty (30) calendar days advance notice of cancellation or nonrenewal of insurance during the term of this Agreement. IFP, its council members, board members, commissioners, agencies, officers, officials, employees and representatives (collectively, "Additional Insureds") shall be named as Additional Insureds under all of the policies, except workers' compensation, which shall be so stated on the Certificate of Insurance. All policies, other than workers' compensation, shall be written on an occurrence and not on a claims-made basis. All policies may be written with deductibles, not to exceed One Hundred Thousand Dollars (\$100,000), or such greater amount as expressly allowed in writing by IFP. LICENSEE shall defend, indemnify and hold harmless IFP and Additional Insureds from and against payment of any deductible and payment of any premium on any policy required under this Article. License shall obtain Certificates from its agents, contractors, and their subcontractors and provide a copy of such Certificates to IFP upon request.
- 18.4 Limits.** The limits of liability set out in this Article 18 may be increased or decreased by mutual consent of the parties, which consent will not be unreasonably withheld by either party, in the event of any factors or occurrences, including substantial increases in the level of jury verdicts or judgments or the passage of state, federal, or other governmental compensation plans, or laws that would materially increase or decrease LICENSEE's exposure to risk.
- 18.5 Prohibited Exclusions.** No policies of insurance required to be obtained by LICENSEE or its contractors or subcontractors shall contain provisions that: (1) exclude coverage of liability assumed by this Agreement with IFP except as to infringement of patents or copyrights or for libel and slander in program material, (2) exclude coverage of liability arising from excavating, collapse, or underground work, (3) exclude coverage for injuries to IFP's employees or agents, or (4) exclude coverage of liability for injuries or damages caused by LICENSEE's contractors or the contractors' employees, or agents. This list of prohibited provisions shall not be interpreted as exclusive.
- 18.6 Deductible/Self-insurance Retention Amounts.** LICENSEE shall be fully responsible for any deductible or self-insured retention amounts contained in its insurance program or for any deficiencies in the amounts of insurance maintained.

## **Article 19—Authorization Not Exclusive**

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

#### **Article 20—Assignment**

- 20.1 Limitations on Assignment.** LICENSEE shall not assign its rights or obligations under this Agreement, nor any part of such rights or obligations, without the prior written consent of IFP, which consent shall not be unreasonably withheld.
- 20.2 Obligations of Assignee/Transferee and LICENSEE.** No assignment or transfer under this Article 20 shall be allowed until the assignee or transferee becomes a signatory to this Agreement and assumes all obligations of LICENSEE arising under this Agreement. LICENSEE shall furnish IFP with prior written notice of the transfer or assignment, together with the name and address of the transferee or assignee. Notwithstanding any assignment or transfer, LICENSEE shall remain fully liable under this Agreement and shall not be released from performing any of the terms, covenants, or conditions of this Agreement without the express written consent to the release of LICENSEE by IFP.
- 20.3 Sub-licensing.** Without IFP's prior written consent, LICENSEE shall not sub-license or lease to any third party, including but not limited to, allowing third parties to place Attachments on IFP's Facilities, including Overlapping, or to place Attachments for the benefit of such third parties on IFP's Poles or within IFP's Conduit System. Any such action shall constitute a material breach of this Agreement. The use of LICENSEE's Communications Facilities by third parties (including but not limited to leases of dark fiber) that involves no additional Attachment or Overlapping is not subject to this Paragraph 20.3.

#### **Article 21—Failure to Enforce**

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

#### **Article 22 Issue Resolution Process**

- 22.1 Dispute Resolution.** Except for an action seeking a temporary restraining order or an injunction or to compel compliance with this dispute resolution procedure, the parties can invoke the dispute resolution procedures in this Article at any time to resolve a controversy, claim, or breach arising under this Agreement. Each party will bear its own costs for dispute resolution activity.
- 22.2 Initial Meeting.** At either party's written request, each party will designate knowledgeable, responsible, senior representatives to meet and negotiate in good faith to resolve a dispute. The representatives will have discretion to decide the format, frequency, duration, and conclusion of these discussions. The parties will conduct any meeting in-person or via

conference call, as reasonably appropriate.

- 22.3 Executive Meeting.** If ninety (90) days after the first in-person meeting of the senior representatives, the parties have not resolved the dispute to their mutual satisfaction, each party will designate executive representatives at the director level or above to meet and negotiate in good faith to resolve the dispute. To facilitate the negotiations, the parties may agree in writing to use mediation or another alternative dispute resolution procedure.
- 22.4 Unresolved Dispute.** If after sixty (60) days from the first executive-level, in-person meeting, the parties have not resolved the dispute to their mutual satisfaction; either party may invoke any legal means available to resolve the dispute, including enforcement of the default and termination procedures set out in Article 24.
- 22.5 Confidential Settlement.** Unless the parties otherwise agree in writing, communication between the parties under this Article will be treated as confidential information developed for settlement purposes, exempt from discovery and inadmissible in litigation.
- 22.6 Business as Usual.** During any dispute resolution procedure or lawsuit, the Utilities will continue providing services to each other and performing their obligations under this Agreement.

#### **Article 23—Termination of Agreement**

IFP shall have the right, pursuant to the procedures set out in this Article 23, to terminate this entire Agreement, or any Permit issued under it, whenever LICENSEE is in default of any material term or condition of this Agreement, including, but not limited to, the following circumstances:

- 23.1.1** Construction, operation, or maintenance of LICENSEE's Communications Facilities in violation of law, or in aid of any unlawful act or undertaking; or
- 23.1.2** Construction, operation, or maintenance of LICENSEE's Communications Facilities after any authorization required of LICENSEE has lawfully been denied or revoked by any governmental authority or any private holder of easements or other rights, or violation of any other agreement with IFP; or
- 23.1.3** Construction, operation, or maintenance of LICENSEE's Communications Facilities without the insurance coverage required under Article 18.
- 23.3** IFP will notify LICENSEE in writing of any defaults by LICENSEE under this Agreement. LICENSEE shall take immediate corrective action to eliminate any such defaults within fifteen (15) calendar days, or such longer period as the parties may agree, and shall confirm in writing to IFP that the cited condition or conditions have ceased or been corrected, or are in the process of being corrected.
- 23.4** If LICENSEE contests the existence of the default, it may invoke the dispute resolution procedures of Article 22.
- 23.5** If the parties are unable to resolve the dispute and LICENSEE fails to discontinue or correct a default in a timely manner or fails to give the required confirmation, IFP may immediately terminate this Agreement or any Permit(s) granted under it. In the event of

termination of this Agreement or any of LICENSEE's rights, privileges, or authorizations, IFP may seek removal of LICENSEE's Communications Facilities pursuant to the terms of Article 11, from any or all of IFP's Poles or portions of IFP's Conduit System. In such instance, LICENSEE shall remain liable to IFP for all fees and charges accrued pursuant to the terms of this Agreement.

#### **Article 24—Term of Agreement**

- 24.1** This Agreement shall become effective upon its execution and, if not terminated in accordance with other provisions of this Agreement, shall continue in effect for a term of ten (10) years and, unless terminated by either party, shall automatically be renewed for two additional five- (5) year terms. Either party may terminate this Agreement at the end of the initial term or a successor term by giving written notice of intent to terminate the Agreement at the end of the then-current term. Such a notice must be given least ninety (90) calendar days prior to the end of the then-current term.
- 24.2** Even after the termination of this Agreement, LICENSEE's indemnity obligations shall continue with respect to any claims or demands related to LICENSEE's Communications Facilities, as provided for in Article 16.

#### **Article 25—Amending Agreement**

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

#### **Article 26—Notices**

- 26.1** Wherever in this Agreement notice is required to be given by either party to the other, such notice shall be in writing and shall be effective when personally delivered to, or when mailed by certified mail with return receipt requested, with postage prepaid, and except where specifically provided for elsewhere, properly addressed as follows:

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

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If to LICENSEE, at:  
ExteNet Systems, Inc. 3030 Warrenville Road, Suite 340 Lisle, Illinois 60532 ATTN: CFO With a copy to General Counsel at the same address

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

- 26.2 The above notwithstanding the parties may agree to utilize electronic communications such as email for notifications related to the Permits application and approval process and necessary transfer or pole modifications.
- 26.3 LICENSEE shall maintain a staffed 24-hour emergency telephone number, not available to the general public, where IFP can contact LICENSEE to report damage to LICENSEE's facilities or other situations requiring immediate communications between the parties. Such contact person shall be qualified and able to respond to IFP's concerns and requests. Failure to maintain an emergency contact shall subject LICENSEE to a penalty of One Hundred Dollars (\$100) per incident, and shall eliminate IFP's liability to LICENSEE for any actions that IFP deems reasonably necessary given the specific circumstances.

#### **Article 27—Entire Agreement**

This Agreement and its appendices constitute the entire agreement between the parties concerning attachments of LICENSEE's Communications Facilities on IFP's Poles or within IFP's Conduit System within the geographical service area covered by this Agreement. Unless otherwise expressly stated in this Agreement, all previous agreements, whether written or oral, between IFP and LICENSEE are superseded and of no further effect.

#### **Article 28—Severability**

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

#### **Article 29—Governing Law**

All matters relating to this Agreement shall be governed by the laws (without reference to choice of law) of the state of Idaho.

#### **Article 30—Incorporation of Recitals and Appendices**

The recitals stated above and all appendices to this Agreement are incorporated into and constitute part of this Agreement.

#### **Article 31—Performance Bond**

On execution of this Agreement, LICENSEE shall provide to IFP a performance bond or letter of credit in an amount of One Hundred Thousand Dollars (\$100,000). The bond shall be with an entity and in a form acceptable to IFP. The purpose of the bond is to ensure LICENSEE's performance of all of its obligations under this Agreement and for the payment by LICENSEE of any claims, liens, taxes, liquidated damages, penalties, and fees due to IFP that arise by reason of the construction, operation, maintenance, or removal of LICENSEE's Communications Facilities on or about IFP's Poles or within its Conduit System.



## Article 32—Force Majeure

- 32.1** If either IFP or LICENSEE is prevented or delayed from fulfilling any term or provision of this Agreement by reason of fire, flood, earthquake, or like acts of nature, wars, revolution, civil commotion, explosion, acts of terrorism, embargo, acts of the government in its sovereign capacity, material changes of laws or regulations, labor difficulties, including without limitation, strikes, slow-downs, picketing or boycotts, unavailability of equipment of vendor, or any other such cause not attributable to the negligence or fault of the party delayed in performing the acts required by the Agreement, then performance of such acts shall be excused for the period of the unavoidable delay, and the affected party shall endeavor to remove or overcome such inability as soon as reasonably possible.
- 32.2** IFP shall not impose any charges on LICENSEE stemming solely from LICENSEE's inability to perform required acts during a period of unavoidable delay as described in Paragraph 32.1, provided that LICENSEE present IFP with a written description of such force majeure within a reasonable time after occurrence of the event or cause relied on, and further provided that this provision shall not operate to excuse LICENSEE from the timely payment of any fees or charges due IFP under this Agreement.

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

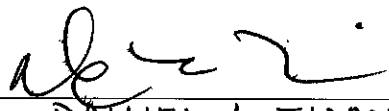
CITY OF IDAHO FALLS, IDAHO  
Electric Light Division d/b/a Idaho Falls Power ("IFP")

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

ATTEST:

\_\_\_\_\_  
Kathy Hampton, City Clerk

LICENSEE

By:   
Name: DANIEL L. TIMM  
Its: EVP-CFO  
DATE: 05/20/16

ATTEST:

By: Adela Reynoso ADELA REYNOSO  
Its: LEGAL COORDINATOR

STATE OF IDAHO )  
 ) ss.  
County of Bonneville )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2014, before me, the undersigned, a notary public for Idaho, personally appeared Rebecca L. Noah Casper, known to me to be the Mayor of the City of Idaho Falls, Idaho, the municipal corporation that executed the foregoing document, and acknowledged to me that she is authorized to execute the same for and on behalf of said City.

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

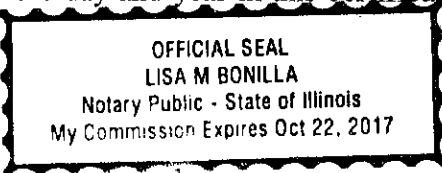
\_\_\_\_\_  
Notary Public for Idaho  
Residing at Idaho Falls  
My Commission Expires: \_\_\_\_\_

(SEAL)

STATE OF ~~IDAHO~~ <sup>ILLINOIS</sup> )  
 ) ss:  
County of ~~Booneville~~ <sup>DePue</sup> )

On this 20<sup>th</sup> day of May, 2014, before me, the undersigned, a notary public, in and for said State, personally appeared Danell L. Turner, known or identified to me to be the ENR-CFO of LICENSEE, and whose name is subscribed to the within instrument and acknowledged to me that he is authorized to execute the same for and on behalf of said corporation.

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



\_\_\_\_\_  
Notary Public for ~~Oregon~~ <sup>Illinois</sup>  
Residing at: 3830 Linnville Rd, Lisle, IL 60132  
My Commission Expires: 10/22/17

(SEAL)

## **Appendix A—Fees and Charges**

### **Pole Attachment Fees and Charges**

Effective Date: TBD

#### **1. Annual Pole Attachment Fee:**

\$ 25.28 (FCC Telecom Non-Urban Rate) per attachment/per year

#### **2. Non-Recurring Fees:**

|                         |   |
|-------------------------|---|
| Make Ready Work Charges | See Article 3 of Agreement  |
| Miscellaneous Charges   | See Article 3 of Agreement [or Attach Fee Schedule for Work Performed for LICENSEE] |
| Inspection Fees         | See Article 3 of Agreement  |

5 x annual attachment fee, per occurrence.

#### **3. Failure To Timely Transfer, Abandon, or Remove Facilities Penalty:**

1/5 annual attachment fee per day, per pole, first 30 days; after the initial 30 days the penalty shall be equal to the annual attachment fee per day, per pole.

## **Appendix B— Pole Attachment Permit Application Process**

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

1. LICENSEE shall submit a written request to perform a Pre-Construction Inspection. The request must include a preliminary route description. LICENSEE shall have a professional engineer or IFP-approved employee or contractor, participate in a Pre-Construction Inspection, which will include a review of the proposed Attachment(s) to determine the feasibility of the request and identify any potential Make-Ready Work. Appendix F to this Agreement contains the minimum design review information that an applicant must provide and a worksheet for determining the minimum specifications that the proposed Attachment must meet.
2. Following the Pre-Construction Inspection, LICENSEE shall submit a completed Permit Application (Appendix C) that includes: route map, information required in Appendix F, installation plans, recommendations on Make-Ready Work, and a pole-loading analysis stamped by a professional engineer. LICENSEE shall prepare the Permit Application in adherence with the Applicable Standards (Section 1.2 of Agreement) and specifications (Appendix D).
3. At the attacher's expense, IFP will review the recommendations from the inspection and the pole-loading analysis, and discuss any issues with LICENSEE.
4. Upon receipt of written authorization, IFP will proceed with Make-Ready Work according to the specific agreed-upon installation plans and the terms of the Agreement, including payment for the Make-Ready Work charges as set out by IFP and agreed to by LICENSEE.
5. Upon completion of the Make-Ready Work, IFP will sign and return the Application for Permit authorizing LICENSEE to make its Attachment(s) in accordance with agreed-upon installation plans.
6. Unless waived in writing by IFP, LICENSEE's professional engineer, IFP-approved employee, or contractor shall submit written certification that he/she has completed the Post-Construction Inspection and that the installation was done in accordance with the provisions of the Permit. The Post-Construction Inspection shall be submitted within ninety (90) calendar days after installation is complete. IFP will verify the inspection by means that it deems to be reasonable.

**Appendix C— Application  
for Permit**

**Application for Permit**

Application Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

To: General Manager  
Idaho Falls Power  
P.O. Box 50220  
Idaho Falls, ID 83405

Desire to:      ☐ Attach to IFP Pole(s)      ☐ Remove Attachment from IFP Pole(s)  
  
                 ☐ Overlash to existing facility attached to IFP Pole(s)

Permit No. \_\_\_\_\_ Superseded Permit No. \_\_\_\_\_

Number of Poles this permit \_\_\_\_\_ Sheet 1 of \_\_\_\_\_

LICENSEE Name \_\_\_\_\_

Address \_\_\_\_\_

Contact Person: Phone \_\_\_\_\_ Title \_\_\_\_\_

IFP  
Contact Person: Phone \_\_\_\_\_ Title \_\_\_\_\_



**Narrative Description of proposed activity:**

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**Application for Permit**

In accordance with the terms and conditions of the Pole Attachment Licensing Agreement dated \_\_\_\_\_, application is hereby made for a Permit to attach to and/or vacate Pole(s) in the locations detailed on the attached Route Map(s). Also, attached is documentation as required by Appendix F of the Agreement. If applicable, the engineer's name, state registration number, and phone number are:

Name \_\_\_\_\_ Phone \_\_\_\_\_

Registration # \_\_\_\_\_

Permission is hereby granted to LICENSEE to attach and/or vacate poles listed on the attached Field Data Summary Sheets, subject to payment of the necessary Make-Ready Work charges as set out by IFP and agreed to by LICENSEE.

SUBMITTED:

APPROVED:

LICENSEE \_\_\_\_\_ IFP \_\_\_\_\_

By \_\_\_\_\_ By \_\_\_\_\_

Title \_\_\_\_\_ Title \_\_\_\_\_

Date \_\_\_\_\_ Date \_\_\_\_\_

## Appendix D—

### Specifications for LICENSEE's Attachments to IFP Poles

LICENSEE, when making Attachments to IFP Poles, will adhere to the following engineering and construction practices.

- A. All Attachments shall be made in accordance with the Applicable Standards, as defined in Paragraph 1.2 of this Agreement.

#### B. Clearances

1. **Attachment and Cable Clearances:** LICENSEE's Attachments on IFP Poles, including metal attachment clamps and bolts, metal cross-arm supports, bolts and other equipment, must be attached so as to maintain the minimum separations specified in the National Electrical Safety Code ("NESC") and in drawings and specifications IFP may from time to time furnish LICENSEE. (See Drawings A-01 to A-11.)

2. **Service Drop Clearance:** From the pole to the home/building the parallel minimum separation between IFP's service drops and communications service drops shall be twelve (12) inches, per NESC 235C1b (exception 3). (See drawing A-5)

3. All other drop clearances at the midspan must conform to NESC table 235-6.

**Sag and Mid-Span Clearances:** LICENSEE will be particularly careful to leave proper sag in its lines and cables and shall observe the established sag of power line conductors and other cables so that minimum clearances are: (a) achieved at poles located on both ends of the span; and (b) retained throughout the span.

At mid-span, a minimum of twelve (12) inches of separation must be maintained between all telecommunication cables that meet NESC rule 230E1 (includes common phone, CATV, and fiber optic cables lashed to an effectively grounded messenger strand, or self-supporting cables).

NESC table 235-6 requires:

- 12" from neutral (by exception #16)
- 30" from supply lines carrying 0 to 8.7 kV (secondary)
- 30" plus 0.4" per kV in excess of 8.7 (primary)

4. **Vertical Risers:** All Risers, including those providing 120/240 volt power for LICENSEE's equipment enclosure, shall be placed on the quarter faces of the Pole and must be installed in conduit with weatherhead (if possible), attached to the Pole with stand-off brackets. A two- (2) inch clearance in any direction from cable, bolts, clamps, metal supports, and other equipment shall be maintained. (See Drawings A-02 and A-04.)

5. **Climbing Space:** A clear Climbing Space must be maintained at all times on the face of the Pole. All Attachments must be placed so as to allow and maintain a clear and proper Climbing Space on the face of IFP Pole. LICENSEE's cable/wire Attachments shall be placed on the same side of the Pole as those of other Attaching Entities. In general, all other Attachments and Risers should be placed on Pole quarter faces. (See Drawing A-09.)

6. **Pedestals and Enclosures:** Every effort should be made to install Pedestals, vaults and/or Enclosures at a minimum of four (4) feet from Poles or other IFP Facilities, or the distance specified by IFP, whichever is greater.

### **C. Down Guys and Anchors**

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

### **D. Certification of LICENSEE's Design**

1. LICENSEE's Attachment Permit application must be signed and sealed by a professional engineer, registered in the [state], certifying that LICENSEE's aerial cable design fully complies with the NESC and IFP's Construction Standards and any other applicable federal, state or local codes and/or requirements.
2. This certification shall include the confirmation that the design is in accordance with pole

strength requirements of the NESC, taking into account the effects of IFP's Facilities and other Attaching Entities' facilities that exist on the Poles without regard to the condition of the existing facilities.

### **E. Miscellaneous Requirements**

1. **Cable Bonding:** LICENSEE's messenger cable shall be bonded according to NESC rule 92C1 as a minimum, or at every pole with a vertical ground, as determined by IFP. If no ground exists on a pole to be bonded, LICENSEE shall install a Pole ground in accordance with the attached detail drawing. (See Drawings A-03 to A-04.)
2. **Customer Premises:** LICENSEE's service drop into customer premises shall be protected as required by the most current edition of the NEC.
3. **Communication Cables:** All Communications cables/wires not owned by IFP shall be attached within the Communications space that is located 40 inches below the lowest IFP conductors. (See Drawings A-01 through A-11.)
4. **Riser Installations:** All LICENSEE's Riser installations shall be in utility-approved conduit materials and placed on stand-off brackets. Ground wires may be attached directly to Pole. (See Drawings A-02 to A-04.)
5. **Tagging:** All LICENSEE's cables shall be identified with a band-type communications cable tag or other identification acceptable to IFP at each Attachment within twelve (12) inches of the Pole. The communications tag shall be consistent with communication industry standards and shall include at least the following: LICENSEE name, emergency contact number, and cable type. At the discretion of IFP, Tags shall be color-coded to permit identification of Attaching Entity by observation from the ground. [NOTE: This provision may be removed if tagging will not be required.]

## **F. IFP Construction Drawings and Specifications**

1. Refer to the attached IFP Construction Drawings, and obtain additional construction specifications from IFP in accordance with its requirements.
2. Apply IFP's construction drawings and specifications in accordance with the NESC, NEC, and any other federal, state, or local code requirements.

## **G. Distributed Antenna System**

1. The applicant is responsible for responding to any and all community concerns or complaints related to the antenna, including aesthetic appearance, health concerns due to radio frequency emissions, etc.
2. Applicants seeking to attach pole-top antennas must provide the utility with the following:
  - Spec sheets (including typical attachment drawings) and design information for the equipment proposed for attachment;
  - Maps detailing locations for proposed attachment.
3. IFP must approve the design and mounting requirements for all pole-top, and other type antennas.
4. IFP must approve all pole locations selected for antenna placement.
5. Proposed pole-top antenna locations must have adequate pole space and not exceed the pole's maximum loading. The applicant is solely responsible for all associated make-ready costs needed to bring the pole into compliance.
  - Only one antenna will be allowed on a pole.
6. Poles selected for pole-top antennas must meet the following criteria
  - Must be a tangent pole;
  - Poles selected must not have existing equipment (regulators, gang switches, capacitors, etc.);
  - Pole must be readily accessible by bucket truck; and
  - Minimum of a class 3 pole.
7. Antennas must be a minimum of five feet (5') above the highest electric attachment.
  - Pole extensions are not permitted.
  - In most cases, the pole must be changed out.
  - The Applicant will be responsible for the cost of the pole-loading analysis (if required by IFP).
  - In the event the total height of the pole with the antenna attachment exceeds sixty (60) feet, NESC rule 250D shall apply to the pole-loading analysis.
8. All pole-top antennas will be installed by IFP or a contractor approved by IFP.
9. A new ground rod is required at all pole-top antenna locations.
10. Antenna riser cables and grounds must be installed in a minimum of Schedule 40 conduit not larger than two inches (2").
11. All antenna power sources must have a lockable disconnect installed, to allow for the antenna power source and any back-up power sources to be disconnected. The attacher must provide IFP with access to the disconnect by providing keys or combination to the lock. Disconnect and meter boxes must be installed according to IFP's standards.
12. Where required, two RF warning signs must be installed. One RF warning sign must be placed at eye level, a second sign must be placed at the pole top, just beyond where the safe approach distance ends. The sign must include the owner's name, contact number, and the approach distance of the antenna
  - The Applicant must provide IFP with documentation that confirms all RF emissions comply with applicable laws governing RF exposure levels.
13. Applicants seeking to attach antennas to streetlight arms must provide IFP with the following:
  - Spec sheets and design information for the equipment proposed for attachment; Maps

detailing locations for proposed attachment.

14. IFP must review and approve the design and mounting requirements for antennas.
15. All antennas must clamp to the streetlight arm. Holes drilled in the arm or bracket will not be permitted.

**Appendix E—  
Distribution Line  
Minimum Design  
Review  
Information and  
Suggested  
Worksheet**

The following guidelines are provided, and corresponding information must be submitted with each Permit application for Pole Attachments on IFP's system. IFP may direct that certain Attachments do not require the submittal of Design Review Information. These Attachments are noted at the end of this section.

**Each Permit application must include a report from a professional engineer \_\_\_\_\_ registered to practice in the state of \_\_\_\_\_, and experienced in electric utility system design, or a utility-approved employee or contractor of LICENSEE. This report must clearly identify the proposed construction and must verify that the Attachments proposed will maintain IFP's compliance with NESC Class B construction for the loading district as outlined in the NESC Section 25.**

IFP may or may not require that all of the following information be submitted at the time of the Permit application. The applicant shall have performed all required calculations and be ready to provide the detailed information below within fifteen (15) calendar days of notice. Applicant shall keep copies of the engineering data available for a period of twenty (20) years.

In determining compliance, the following minimum conditions shall be used in the calculations for pole strength:

1. All single-phase lines shall be assumed to have been reconducted to [code name] \_\_\_\_\_ (e.g., 4/0 AWG ACSR, code name Penguin) conductor for both phase and neutral. [If IFP standard size

conductor is larger, enter the larger size here.] If a larger conductor size exists, the larger size shall be used in the calculations.

2. All three-phase lines shall be assumed to have been to [code name] \_\_\_\_\_ (e.g., 4/0 AWG ACSR, code name Penguin) conductor for three (3) phases and neutral. [If IFP standard size conductor is larger, enter the larger size here.] If existing conductors are larger than 4/0 AWG ACSR, the larger size shall be used in the calculations.
3. All pole lines shall assume a secondary/service conductor, installed from pole to pole, of #4/0 AWG triplex cable, with an ACSR messenger.
4. For pole strength calculations, all poles shall be as they actually exist, or be considered Class 4 for calculations.
5. All line angles or dead ends shall be guyed and anchored. Transverse pole strength shall not be assigned to attaching pole users for line angles, i.e., pole should be viewed as being void of other cables, conductors, wires, or guys and considering only the applicant's wires/cables for guying calculations.
6. Points of attachment shall be as they actually exist on the poles.
7. For an IFP-approved joint use of anchors, LICENSEE shall utilize guy insulators in its guys.
8. Lessee shall comply with any NESC and/or IFP safety factors, whichever are more conservative, in their designs. The engineer for the Permit applicant shall provide for each application the following confirmations:

**Required permits that have been obtained (insert n/a if not applicable):**

- \_\_\_\_\_ (y/n) U.S. Corp of Engineers.
- \_\_\_\_\_ (y/n) Highway—state, county, city.
- \_\_\_\_\_ (y/n) Railroad.
- \_\_\_\_\_ (y/n) Local zoning boards, town boards, etc.
- \_\_\_\_\_ (y/n) Joint-use permits, if required.
- \_\_\_\_\_ (y/n) Notified other pole users of contacts or crossings.

**Confirm that you have:**

- \_\_\_\_\_ (y/n) Obtained appropriate franchise(s).
- \_\_\_\_\_ (y/n) Obtained pole/anchor easements from landowners.
- \_\_\_\_\_ (y/n) Obtained crossing and overhang permits.
- \_\_\_\_\_ (y/n) Obtained permit to survey R/W.
- \_\_\_\_\_ (y/n) Completed State of Department of Transportation requirements.
- \_\_\_\_\_ (y/n) Placed permit number on plans.
- \_\_\_\_\_ (y/n) Complied with Underground Facility Location requirements.
- \_\_\_\_\_ (y/n) Included sag/tension data on proposed cable.

Calculations are based upon the latest edition of the NESC and the latest editions of the requirements of the state of \_\_\_\_\_.

It is LICENSEE's responsibility to obtain all necessary permits and provide IFP with a copy of each.

The engineer for the Permit applicant shall provide for each Pole(s) the following information:

**Project ID**

Pole number \_\_\_\_\_ [if pole tag missing, contact IFP]  
Pole class \_\_\_\_\_ [existing—i.e., 4, 3, 2...]  
Pole size \_\_\_\_\_ [existing—i.e., 35, 40...]  
Pole type \_\_\_\_\_ [Southern Yellow Pine, Douglas Fir...]  
Pole fore span \_\_\_\_\_ [feet]  
Pole fore span direction \_\_\_\_\_ [degrees from Magnetic North]  
Pole back span \_\_\_\_\_ [feet]  
Pole back span direction \_\_\_\_\_ [degrees from Magnetic North]  
Calculated bending  
moment at ground level \_\_\_\_\_ [ft-lbs]

**Existing:**

Power phase condition \_\_\_\_\_ quantity of \_\_\_\_\_ AWG/MCM  
\_\_\_\_\_ CU/AA/ACSR @ \_\_\_\_\_ feet above ground line  
Power neutral condition \_\_\_\_\_ quantity of \_\_\_\_\_ AWG/MCM  
\_\_\_\_\_ CU/AA/ACSR @ \_\_\_\_\_ feet above ground line  
Power sec condition \_\_\_\_\_ quantity of \_\_\_\_\_ AWG/MCM  
\_\_\_\_\_ CU/AA/ACSR @ \_\_\_\_\_ feet above ground line  
Power service #1 \_\_\_\_\_ qty of \_\_\_\_\_ size @ \_\_\_\_\_ ft above ground line  
@ \_\_\_\_\_ ° \_\_\_\_\_ ' \_\_\_\_\_ ''  
Power service #2 \_\_\_\_\_ qty of \_\_\_\_\_ size @ \_\_\_\_\_ ft above ground line  
@ \_\_\_\_\_ ° \_\_\_\_\_ ' \_\_\_\_\_ ''  
Power service #3 \_\_\_\_\_ qty of \_\_\_\_\_ size @ \_\_\_\_\_ ft above ground line  
@ \_\_\_\_\_ ° \_\_\_\_\_ ' \_\_\_\_\_ ''



Telco #1 cables \_\_\_\_\_ qty of \_\_\_\_\_ dia @ \_\_\_\_\_ ft above ground line

Telco service #1 \_\_\_\_\_ qty of \_\_\_\_\_ size @ \_\_\_\_\_ ft above ground line  
@ \_\_\_\_\_ ° \_\_\_\_\_ ' \_\_\_\_\_ "

Telco service #2 \_\_\_\_\_ qty of \_\_\_\_\_ size @ \_\_\_\_\_ ft above ground line  
@ \_\_\_\_\_ ° \_\_\_\_\_ ' \_\_\_\_\_ "

CATV #2 cables \_\_\_\_\_ qty of \_\_\_\_\_ dia @ \_\_\_\_\_ ft above ground line

CATV service #1 \_\_\_\_\_ qty of \_\_\_\_\_ size @ \_\_\_\_\_ ft above ground line  
@ \_\_\_\_\_ ° \_\_\_\_\_ ' \_\_\_\_\_ "

CATV service #2 \_\_\_\_\_ qty of \_\_\_\_\_ size @ \_\_\_\_\_ ft above ground line  
@ \_\_\_\_\_ ° \_\_\_\_\_ ' \_\_\_\_\_ "

User #3 cables \_\_\_\_\_ qty of \_\_\_\_\_ dia @ \_\_\_\_\_ ft above ground line

User #4 cables \_\_\_\_\_ qty of \_\_\_\_\_ dia @ \_\_\_\_\_ ft above ground line

User #5 cables \_\_\_\_\_ qty of \_\_\_\_\_ dia @ \_\_\_\_\_ ft above ground line

User #6 cables \_\_\_\_\_ qty of \_\_\_\_\_ dia @ \_\_\_\_\_ ft above ground line

Equipment #1 type \_\_\_\_\_ qty of \_\_\_\_\_ size @ \_\_\_\_\_ ft above ground line

Equipment #1 type \_\_\_\_\_ qty of \_\_\_\_\_ size @ \_\_\_\_\_ ft above ground line

Equipment #1 type \_\_\_\_\_ qty of \_\_\_\_\_ size @ \_\_\_\_\_ ft above ground line

Equipment #1 type \_\_\_\_\_ qty of \_\_\_\_\_ size @ \_\_\_\_\_ ft above ground line

**Proposed:**

Proposed cables \_\_\_\_\_ qty of \_\_\_\_\_ dia @ \_\_\_\_\_ ft above ground line  
fore and back span direction \_\_\_\_\_ ° ' " \_\_\_\_\_ ° ' " \_\_\_\_\_

Proposed cables \_\_\_\_\_ qty of \_\_\_\_\_ dia @ \_\_\_\_\_ ft above ground line  
fore and back span direction \_\_\_\_\_ ° ' " \_\_\_\_\_ ° ' " \_\_\_\_\_

Equipment #1 type \_\_\_\_\_ qty of \_\_\_\_\_ size @ \_\_\_\_\_ ft above ground line

Equipment #2 type \_\_\_\_\_ qty of \_\_\_\_\_ size @ \_\_\_\_\_ ft above ground line

AGL = Above Ground Level

The minimum vertical clearance under all loading conditions measured from the proposed cable to ground level on each conductor span shall be stated above. Variations in topography resulting in ground elevation changes shall be considered when stating the minimum vertical clearance within a given span.

Calculated pole bending moment at ground level: \_\_\_\_\_ [ft-lbs]

Pole breaking bending moment at ground level: \_\_\_\_\_ [ft-lbs]

Calculated transverse safety factor: \_\_\_\_\_ [ratio should be greater than 1.00]

**Proposed loading data [provide similar data for each cable proposed]**

**A. Weight data (cable and messenger)**

1. Vertical weight, bare = \_\_\_\_\_ [# / ft]

**B. Tension data (final tensions on messenger)**

1. NESC maximum load for area of construction: \_\_\_\_\_ [lbs]

2. 60° F, NO wind: \_\_\_\_\_ [lbs]

Permit applicant's engineer shall provide for each transverse guy, or dead end to which guys and/or anchors are attached, the following information:

Pole number \_\_\_\_\_

Calculated cable messenger tension under NESC maximum loading conditions \_\_\_\_\_ [lbs]

**If connection is:**

A dead end, is it a single or double? \_\_\_\_\_ [S, D]

A change in tension, what is change? \_\_\_\_\_ [lbs]

A line angle, what is angle change? \_\_\_\_\_ [degrees]

What is tension change at angle? \_\_\_\_\_ [lbs]

**For each dead end:**

Point of attachment for guy hook \_\_\_\_\_ [feet AGL]

Anchor distance from pole \_\_\_\_\_ [feet]

Calculated guy tension \_\_\_\_\_ [lbs]

Rated guy working strength \_\_\_\_\_ [lbs]

**For each change in tension:**

Point of attachment for guy hook \_\_\_\_\_ [feet AGL]

Anchor distance from pole \_\_\_\_\_ [feet]

Calculated guy tension \_\_\_\_\_ [lbs]

Rated guy working strength \_\_\_\_\_ [lbs]

**For each line angle:**

Point of attachment for guy hook \_\_\_\_\_ [feet AGL]

Anchor distance from pole \_\_\_\_\_ [feet]

Calculated guy tension \_\_\_\_\_ [lbs]

Rated guy working strength \_\_\_\_\_ [lbs]

**For each anchor:**

Anchor distance to nearest anchor \_\_\_\_\_ [feet]

Calculated anchor tension \_\_\_\_\_ [lbs]

Rated anchor strength \_\_\_\_\_ [lbs]

Soil composition \_\_\_\_\_ [sandy, loam, clay, rock]

**For each dead end:**

Point of attachment for guy hook \_\_\_\_\_ [feet AGL]

Anchor distance from pole \_\_\_\_\_ [feet]

Calculated guy tension \_\_\_\_\_ [lbs]

Rated guy working strength \_\_\_\_\_ [lbs]

**For each change in tension:**

Point of attachment for guy hook \_\_\_\_\_ [feet AGL]

Anchor distance from pole \_\_\_\_\_ [feet]

Calculated guy tension \_\_\_\_\_ [lbs]

Rated guy working strength \_\_\_\_\_ [lbs]

**For each line angle:**

Point of attachment for guy hook \_\_\_\_\_ [feet AGL]

Anchor distance from pole \_\_\_\_\_ [feet]

Calculated guy tension \_\_\_\_\_ [lbs]

Rated guy working strength \_\_\_\_\_ [lbs]

**For each anchor:**

Anchor distance to nearest anchor \_\_\_\_\_ [feet]

Calculated anchor tension \_\_\_\_\_ [lbs]

Rated anchor strength \_\_\_\_\_ [lbs]

Soil composition \_\_\_\_\_ [sandy, loam, clay, rock]

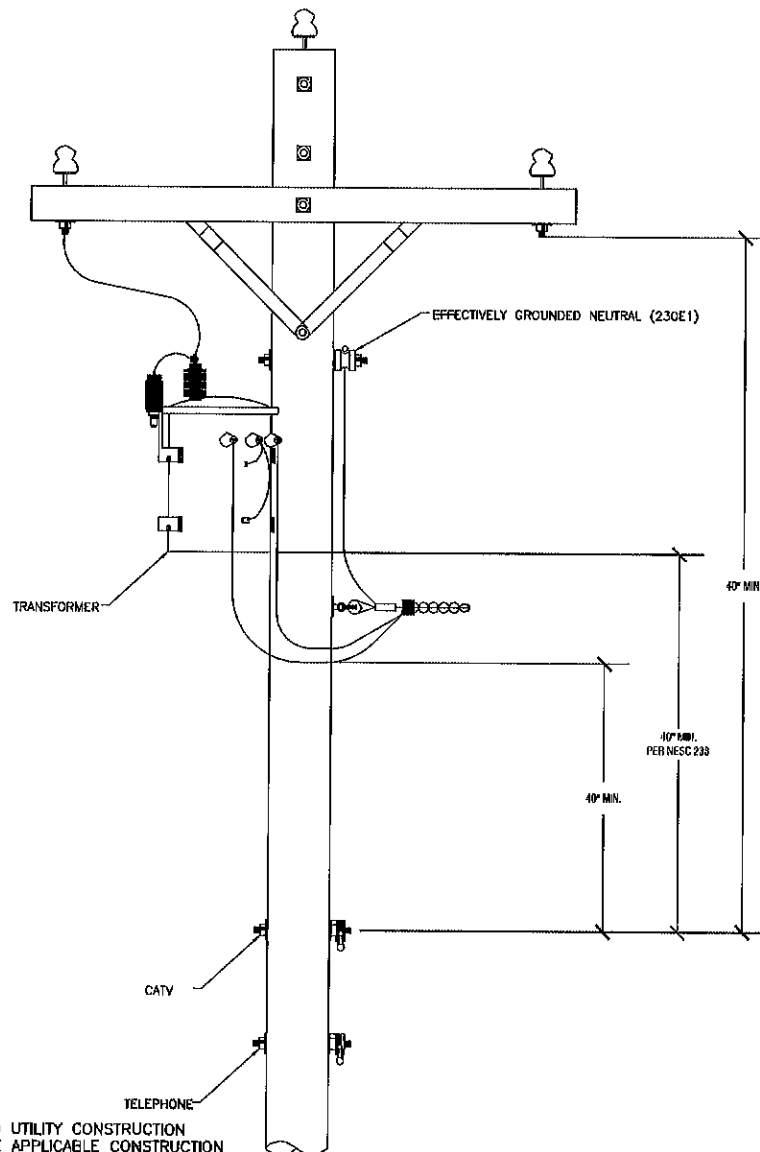
## Appendix F— Field Data Summary Sheet Instructions

| Column  | Instructions  |
|---|---|
| <b>IFP Pole Number</b>                                | If a Pole stencil is not in place, it may be left for IFP if the accompanying sketch is adequate to determine the Location.                           |
| <b>Communication Company's Plan Sheet Pole Number</b> | This must correspond with the plan sheet or Pole Sketch Pole identification number.   |
| <b>Pole Height and Class</b>                          | List the present Pole height and class and list the proposed Pole height and class if it is necessary for IFP to replace the Pole for clearance, etc. |
| <b>Guy Attachments</b>                                | All unbalanced loading on Poles must be guyed. Attachments to IFP's anchors will not be allowed.  |
| <b>Attachment Height</b>                              | Communications Company attachment height above ground level. List guy lead in feet.   |
| <b>Inches Below IFP</b>                               | The number of inches Communications Company is to be attached below IFP while maintaining clearance as required in Item #4.                           |
| <b>Span Length</b>                                    | List the back span length for each attachment.  |
| <b>Inches Sag</b>                                     | List the messenger sag for the design listed on the cover sheet at 60 degrees Fahrenheit.   |
| <b>Ground Clearance</b>                               | List the ground clearance at the low point of the back span. Must not be less than the <i>National Electrical Safety Code</i> (latest edition).       |

## Drawing A-01—Overhead Minimum Clearances

NO COMMUNICATIONS POWER  
SUPPLY SHALL BE MOUNTED ON  
POLES EXCEPT BY PERMISSION OF  
UTILITY.

LICENSEE'S ATTACHMENTS ON  
UTILITY POLES, INCLUDING METAL  
ATTACHMENT CLAMPS AND BOLTS,  
METAL CROSS ARM SUPPORTS,  
BOLTS AND OTHER EQUIPMENTS,  
MUST BE ATTACHED SO AS TO  
MAINTAIN THE MINIMUM  
SEPARATIONS SPECIFIED IN THE  
NESC AND IN THESE DRAWINGS  
AND SPECIFICATIONS.



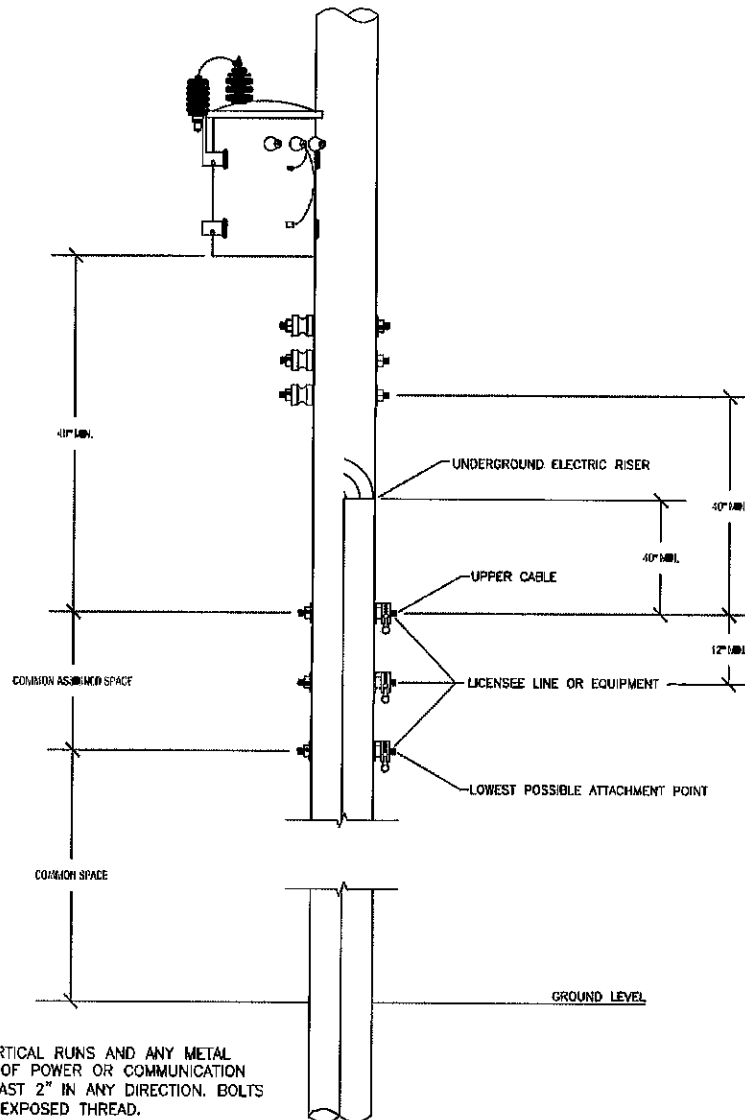
### NOTE 1:

1. REFER TO THE ATTACHED UTILITY CONSTRUCTION STANDARDS, OR OBTAIN THE APPLICABLE CONSTRUCTION STANDARDS FROM UTILITY IN ACCORDANCE WITH THE AFFECTED UTILITY'S REQUIREMENTS.

2. APPLY THE UTILITY CONSTRUCTION STANDARDS IN COORDINATION OF THE APPLICABLE NESC, NEC OR STATE STATUTE CODE REQUIREMENTS.

3. SEE DRAWING A-02 FOR ADDITIONAL NOTES.

## Drawing A-02—Overhead Minimum Clearances



### NOTE 1:

1. SEPARATION BETWEEN VERTICAL RUNS AND ANY METAL PARTS OR THROUGH BOLTS OF POWER OR COMMUNICATION EQUIPMENT SHALL BE AT LEAST 2" IN ANY DIRECTION. BOLTS SHALL HAVE LESS THAN 2" EXPOSED THREAD.

2. NO COMMUNICATION EQUIPMENT SHALL BE

MOUNTED ON POLES EXCEPT BY PERMISSION OF UTILITY.

3. THE ABOVE CLEARANCES MAY HAVE TO BE INCREASED TO ALLOW FOR CODE CLEARANCE REQUIREMENT IN MID SPAN.

4. LICENSEE'S ATTACHMENTS ON UTILITY POLES, INCLUDING METAL ATTACHMENTS (CLAMPS AND BOLTS, METAL CROSS ARM SUPPORTS, BOLTS AND OTHER EQUIPMENT, MUST BE ATTACHED SO AS TO MAINTAIN THE MINIMUM SEPARATIONS SPECIFIED IN THE NESC AND IN THESE DRAWINGS AND SPECIFICATIONS.

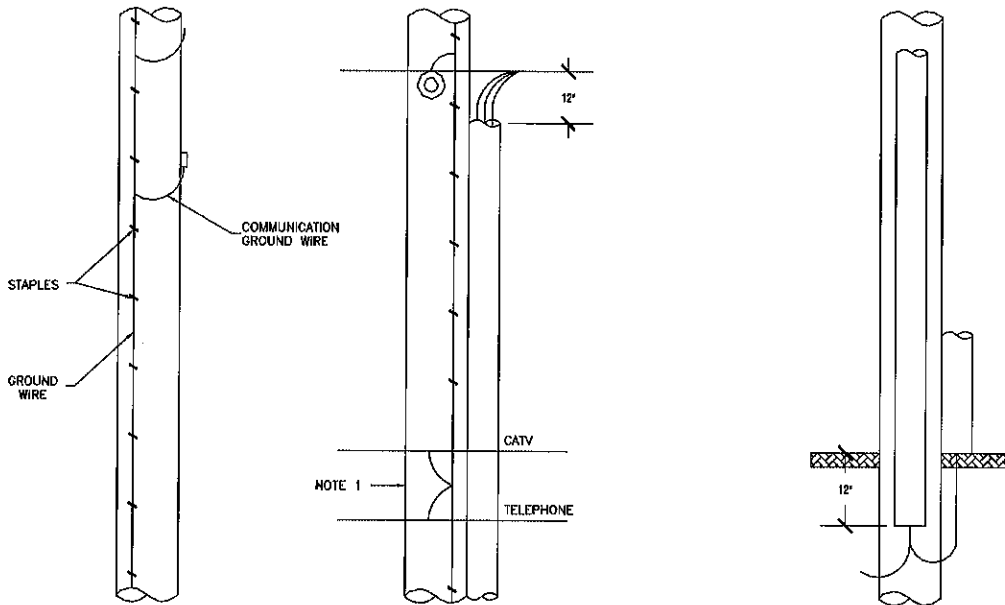
OVERHEAD MINIMUM CLEARANCES

NTS

A-02



## Drawing A-03—Grounding Connections



NO COMMUNICATION EQUIPMENT SHALL BE MOUNTED ON POLES EXCEPT BY PERMISSION OF UTILITY.

LICENSEE'S ATTACHMENTS ON UTILITY POLES, INCLUDING METAL ATTACHMENT CLAMPS AND BOLTS, METAL CROSS ARM SUPPORTS, BOLTS AND OTHER EQUIPMENTS, MUST BE ATTACHED SO AS TO MAINTAIN THE MINIMUM SEPARATIONS SPECIFIED IN THE NESC AND IN THESE DRAWINGS AND SPECIFICATIONS.

### NOTE 1:

1. LICENSEE SHALL BOND TO UTILITY POLE GROUND WHEREVER UTILITY HAS A DOWN GROUND ON THE POLE. IF THE GROUND IS UNDER THE METAL U-GUARD, CONTACT UTILITY TO MAKE THE GROUND CONNECTION.

2. IF NO POLE GROUND EXISTS INSTALL A POLE DOWN GROUND ON THE POLE. PROTECT THE POLE GROUND WITH A GROUND WIRE Moulding. TOP OF GROUND ROD SHALL BE AT LEAST 6" BELOW GRADE.

3. BOND WIRE SHALL BE #6 BARE COPPER OR LARGER. IF BOND WIRE IS UNSUPPORTED MORE THAN 12" LONG, STAPLE TO POLE.

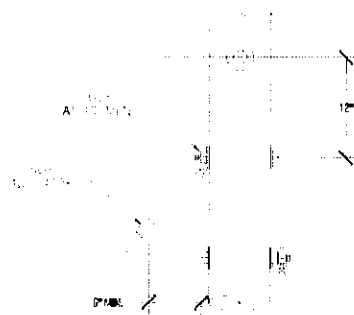
4. WHEN COMMUNICATIONS ARE UNDERGROUND, THE POWER IS OVERHEAD AND IT IS REQUIRED THAT THE COMMUNICATIONS GROUND BE INTERCONNECTED TO THE POWER SUPPLY GROUND, THE CONNECTION SHALL BE MADE BELOW GRADE.

5. IN NO CASE SHALL LICENSEE GROUND BE CONNECTED TO GUYS/ANCHORS.  
6. IF A NEUTRAL ISOLATION DEVICE IS INSTALLED ON THIS POLE THE ATTACHER MUST CONTACT UTILITY FOR SPECIAL GROUNDING INSTRUCTIONS.

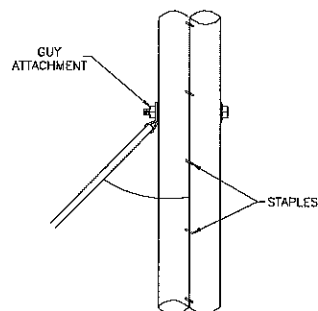
7. LICENSEE'S MESSENGER CABLE SHALL BE BONDED TO UTILITY'S POLE GROUND WIRE AT EACH POLE THAT HAS A GROUND WIRE.

|                       |   |            |
|-----------------------|---|------------|
|                       | A | 03/15/2013 |
| POLE ATTACHMENTS      |   |            |
| GROUNDING CONNECTIONS |   |            |
| NTS                   |   | A-03       |

### Drawing A-04—Guy Wire Requirements



### INSULATED GUY OPTION



### GROUNDING GUY OPTION

CONTACT UTILITY TO DETERMINE  
IF GUYS ARE TO BE INSULATED OR  
GROUNDED.

NOTE 1:

NOTE 1:  
1. LICENSEE SHALL BE RESPONSIBLE FOR PROCURING AND INSTALLING ALL ANCHORS AND GUY WIRES TO SUPPORT THE ADDITIONAL STRESS PLACED ON UTILITY'S POLES BY LICENSEE'S ATTACHMENTS.

2. ANCHORS AND GUY WIRES MUST BE SET ON EACH UTILITY POLE WHERE THERE IS A TURN OR ANGLE  
DEAD-END UTILITY POLES. ON ALL

USE OF INFORMATION FOR THE PURPOSES OF UTILITY OR THIRD PARTY USER WITHOUT PRIOR WRITTEN

[illegible]

POLE AND SHALL NOT  
F PERMITTED OR

12" LE

NO COMMUNICATION EQUIPMENT SHALL BE MOUNTED ON  
POLES EXCEPT BY PERMISSION OF UTILITY.

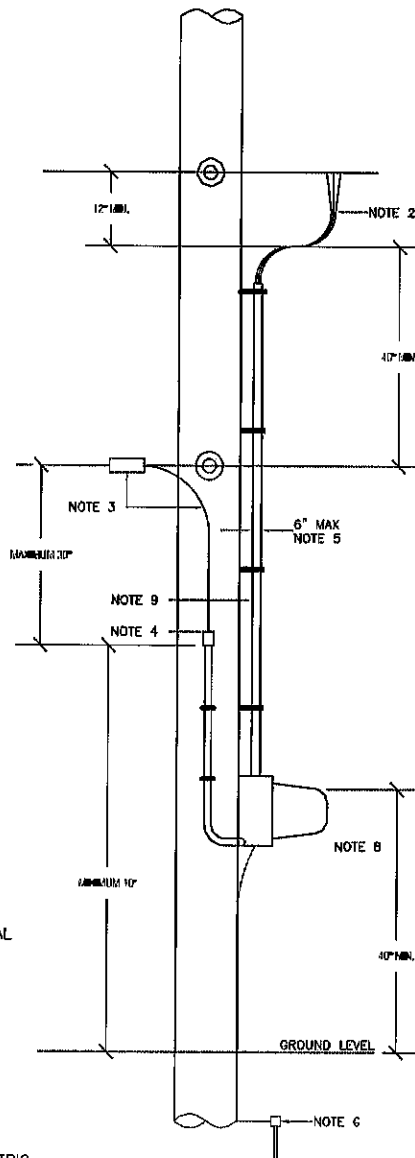
|                       |      |
|-----------------------|------|
| A                     |      |
| POLE ATTACHMENTS      |      |
| GUY WIRE REQUIREMENTS |      |
| NTS                   | A-04 |

---

## Drawing A-05—Power Service

NO COMMUNICATIONS POWER  
SUPPLY SHALL BE MOUNTED ON  
POLES EXCEPT BY PERMISSION OF  
UTILITY.

LICENSEE'S ATTACHMENTS ON  
UTILITY POLES, INCLUDING METAL  
ATTACHMENT CLAMPS AND BOLTS,  
METAL CROSS ARM SUPPORTS,  
BOLTS AND OTHER EQUIPMENTS,  
MUST BE ATTACHED SO AS TO  
MAINTAIN THE MINIMUM  
SEPARATIONS SPECIFIED IN THE  
NESC AND IN THESE DRAWINGS  
AND SPECIFICATIONS.



### NOTE 1:

1. THIS INSTALLATION SHALL COMPLY WITH ALL APPLICABLE ELECTRICAL CODES AND STATE, CITY, VILLAGE, TOWN, AND UTILITY REQUIREMENTS.

2. SERVICE ENTRANCE CONDUCTORS SHALL EXTEND 30" BEYOND WEATHERHEAD AND HAVE 600 VOLT RATED INSULATION.

3. COMMUNICATION POWER SUPPLY CABLE.

4. COMMUNICATION POWER SUPPLY.

5. 6" MAXIMUM BETWEEN SERVICE ENTRANCE CONDUIT AND COMMUNICATIONS CABLE, IF POSSIBLE.

6. GROUNDING SHALL BE IN ACCORDANCE WITH NATIONAL ELECTRIC CODE ARTICLE 250. TOP OF ROD TO BE 6" BELOW GRADE.

7. LOCATION OF ALL LICENSEE EQUIPMENT IS TO BE APPROVED BY UTILITY AND SHALL BE RELOCATED BY LICENSEE IF INCORRECT.

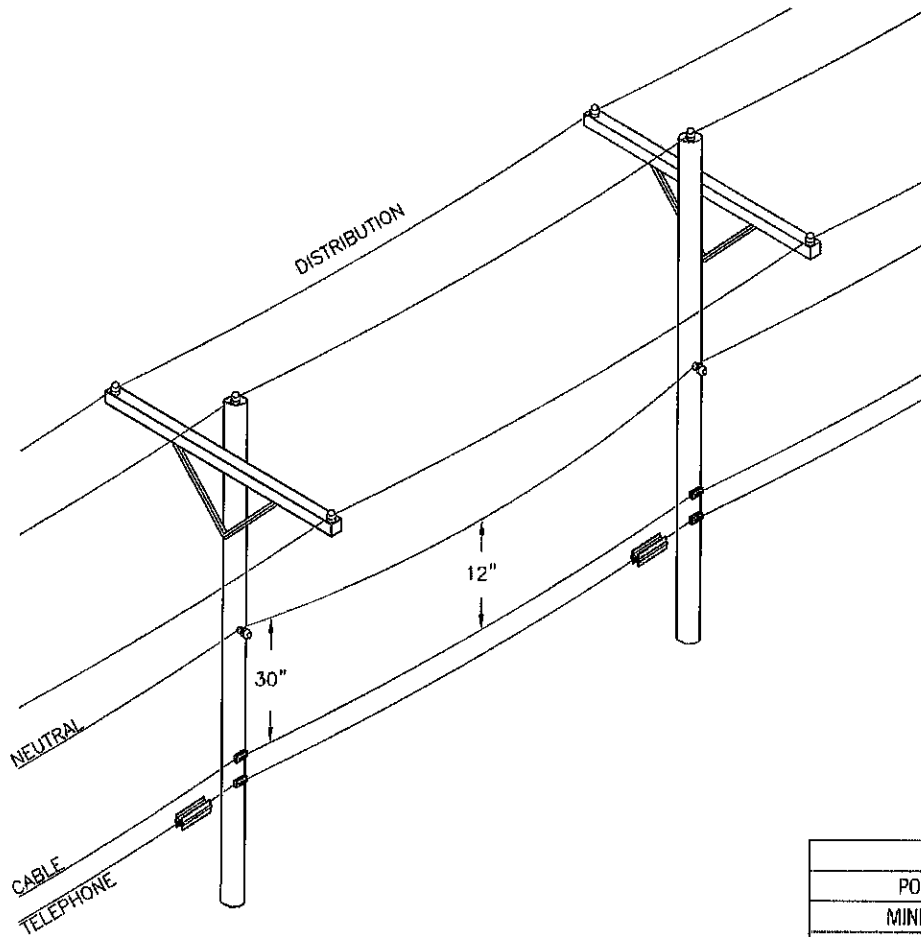
8. PROOF OF COMPLIANCE SHALL BE APPROPRIATELY CERTIFIED. INSTALL DISCONNECT AND OVERCURRENT PROTECTION WITH METER.

9. ALL RISERS ON POLES WILL BE PLACED IN RIGID STEEL OR ALUMINUM METALLIC CONDUIT ON THE QUARTER FACES OF THE POLE.

10. THIS SERVICE DETAIL APPLIES TO ALL COMMERCIAL USERS REQUIRING POWER FOR POLE MOUNTED DEVICES.

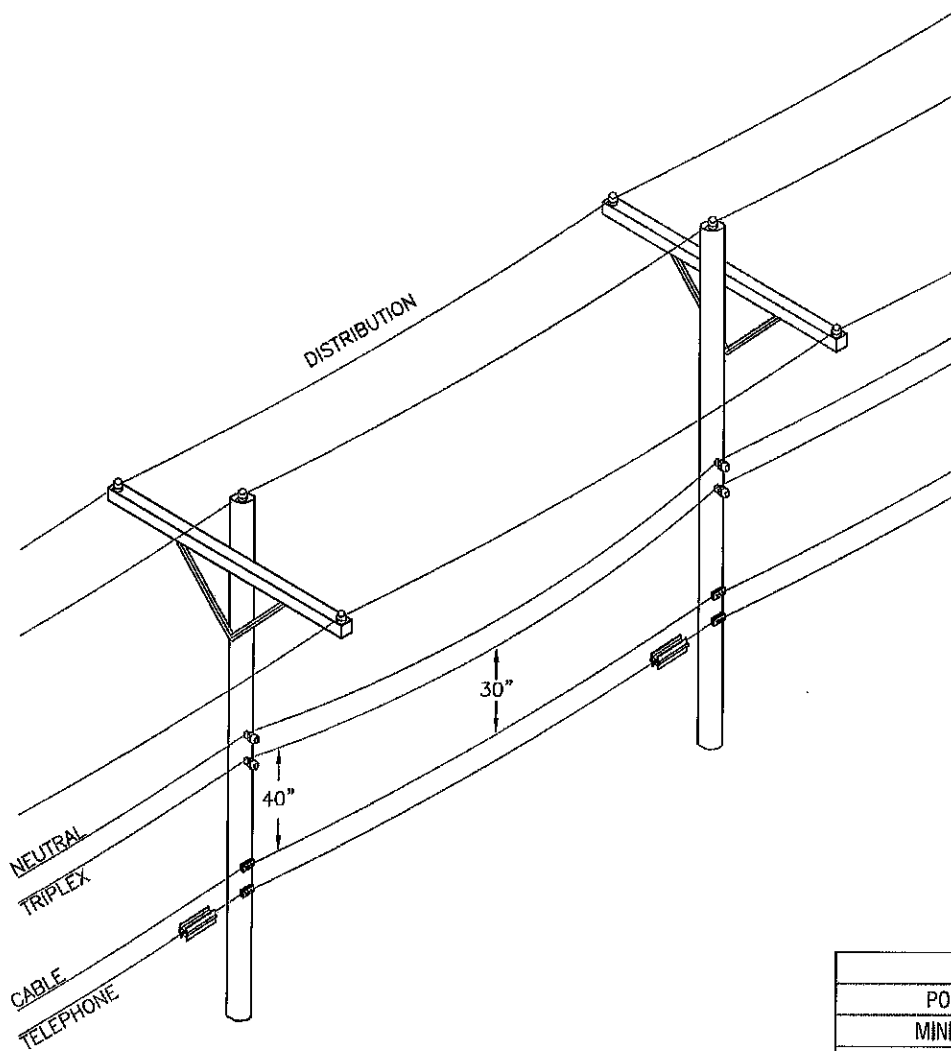
|                  |   |            |
|------------------|---|------------|
|                  | A | 03/15/2013 |
| POLE ATTACHMENTS |   |            |
| POWER SERVICE    |   |            |
| NTS              |   | A-05       |

# **Drawing A-06—Minimum Clearance at Pole/Midspan from Neutral**



|                    |   |            |
|--------------------|---|------------|
|                    | A | 03/15/2013 |
| POLE ATTACHMENTS   |   |            |
| MINIMUM CLEARANCES |   |            |
| NTS                |   | A-06       |

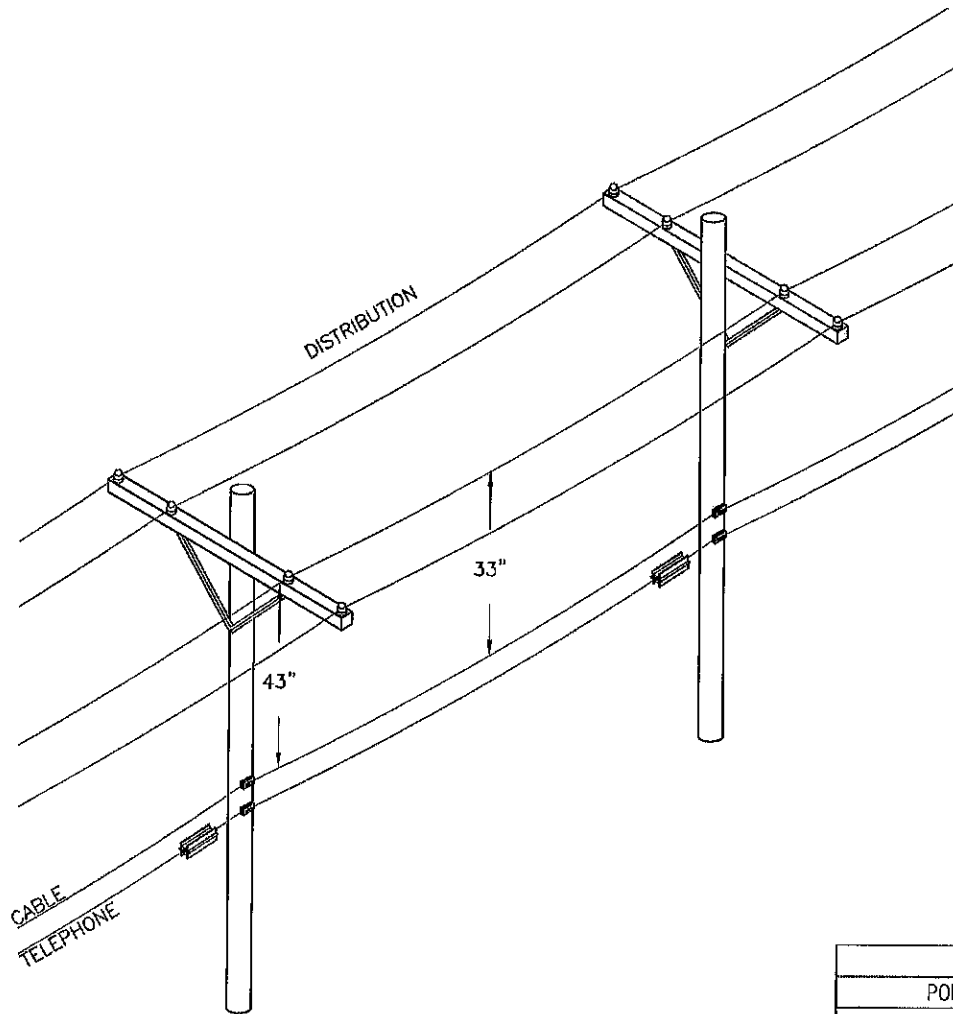
**Drawing A-07—Minimum Clearance at Pole/Midspan from Secondary**



|                    |   |            |
|--------------------|---|------------|
|                    | A | 03/15/2013 |
| POLE ATTACHMENTS   |   |            |
| MINIMUM CLEARANCES |   |            |
| NTS                |   | A-07       |

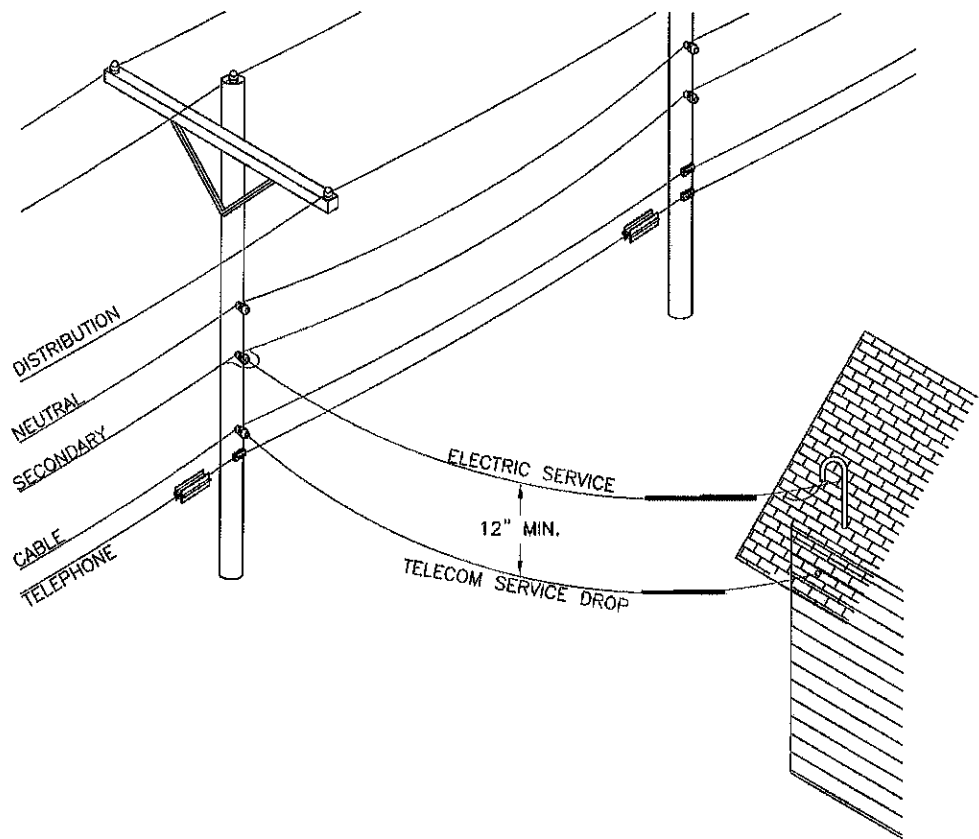


**Drawing A-08—Minimum Clearance at Pole/Midspan from Primary**



|                    |   |            |
|--------------------|---|------------|
|                    | A | 03/15/2013 |
| POLE ATTACHMENTS   |   |            |
| MINIMUM CLEARANCES |   |            |
| NTS                |   | A-08       |

**Drawing A-09—Midspan Service Drop Clearance from Electric Service**

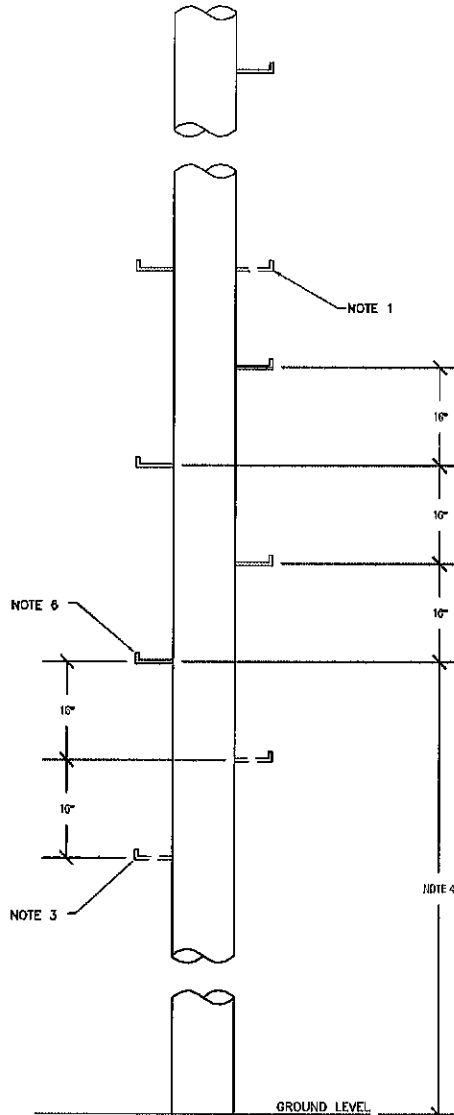


|                                       |      |            |
|---------------------------------------|------|------------|
|                                       | A    | 03/15/2013 |
| POLE ATTACHMENTS                      |      |            |
| MINIMUM CLEARANCE SERVICE AND ROADWAY |      |            |
| NTS                                   | A-09 |            |

## Drawing A-10—Pole Step Requirements

NO COMMUNICATIONS POWER  
SUPPLY SHALL BE MOUNTED ON  
POLES EXCEPT BY PERMISSION OF  
UTILITY.

LICENSEE'S ATTACHMENTS ON  
UTILITY POLES, INCLUDING METAL  
ATTACHMENT CLAMPS AND BOLTS,  
METAL CROSS ARM SUPPORTS,  
BOLTS AND OTHER EQUIPMENTS,  
MUST BE ATTACHED SO AS TO  
MAINTAIN THE MINIMUM  
SEPARATIONS SPECIFIED IN THE  
NESC AND IN THESE DRAWINGS  
AND SPECIFICATIONS.



POLE STEPS MUST BE AUTHORIZED BY THE UTILITY BEFORE INSTALLATION.

### NOTE 1:

1. AN ADDITIONAL STEP SHALL BE PLACED OPPOSITE A STEP LOCATED WHERE WORK IS FREQUENTLY PERFORMED.

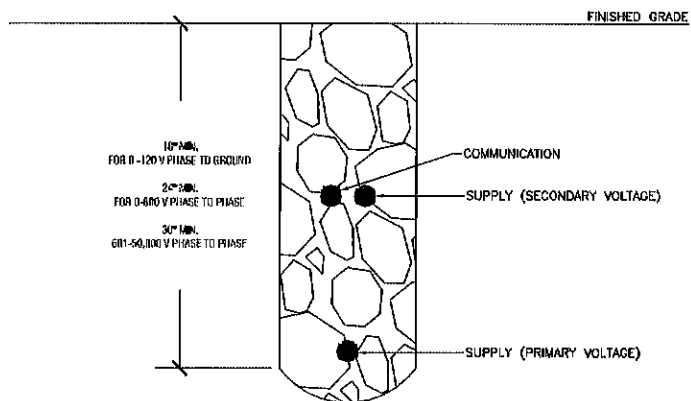
2. WHERE POLE IS SET CLOSE TO A BUILDING WITH AN ACCESSIBLE ROOF USE DETACHABLE STEPS FROM THE ROOF LEVEL UP TO A LEVEL 8 FT. ABOVE THE ROOF.

3. USE DETACHABLE POLE STEPS WHERE STEPS ARE REQUIRED BELOW THE 8 FT. LEVEL.

4. LOCATED LOWEST HOOK POLE STEP 8 FT. ABOVE THE GROUND ON DISTRIBUTION POLES AND 8 FT. ABOVE THE GROUND ON JOINT POLES.

|                        |      |            |
|------------------------|------|------------|
|                        | A    | 03/15/2013 |
| POLE ATTACHMENTS       |      |            |
| POLE STEP REQUIREMENTS |      |            |
| NTS                    | A-10 |            |

## Drawing A-11—Joint Trench Requirements



DIRECT BURIED SEPARATION

NOTE 1:  
COMMUNICATIONS EQUIPMENT SHALL MEET REQUIREMENTS OF NESC 345D.

COMMUNICATIONS CABLES SHALL BE RANDOM LAID WITH PRIMARY AND SECONDARY CABLES AS SPECIFIED IN NESC 354D.

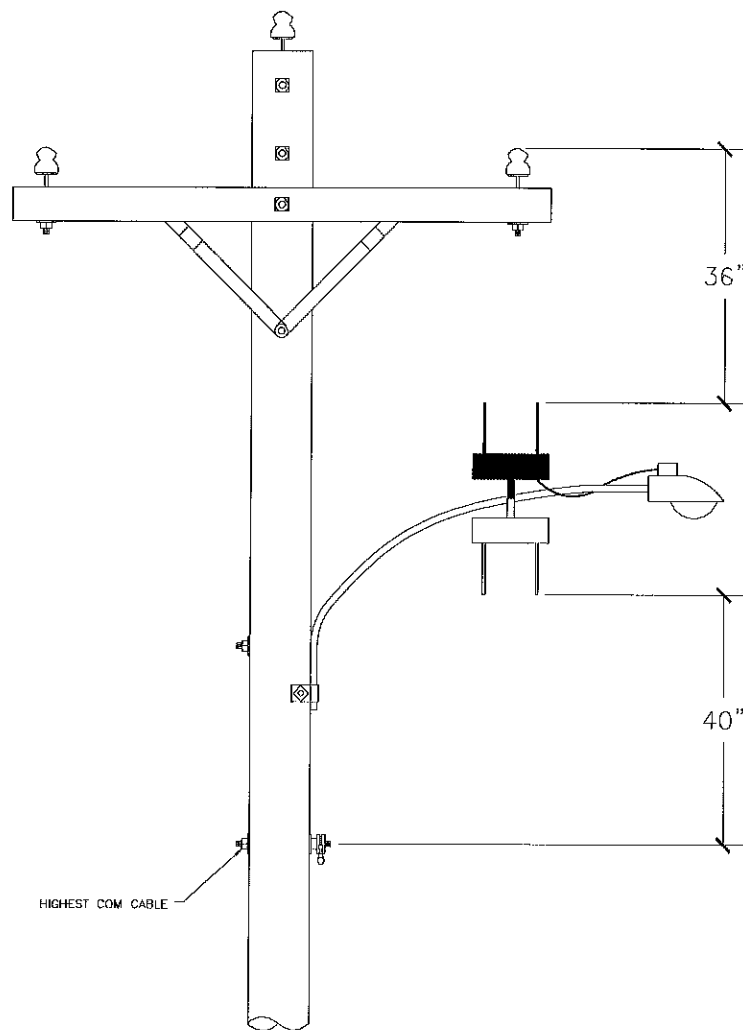
THE BONDING CONDUCTOR REQUIRED NESC SHALL BE PROVIDED AS PART OF THE COMMUNICATIONS PEDESTAL INSTALLATION. A COMMUNICATIONS BONDING CONDUCTOR CLAMP OF SUFFICIENT LENGTH FOR ROUTING INTO THE SUPPLY PEDESTAL/TRANSFORMER NEUTRAL CONNECTOR SHALL BE PROVIDED.

INSTALLATION MAY BE BY PLOWING, TRENCHING, OR BACKHOE AS CONDITIONS WARRANT.

|                          |   |            |
|--------------------------|---|------------|
|                          | A | 03/15/2013 |
| POLE ATTACHMENTS         |   |            |
| JOINT CABLE INSTALLATION |   |            |
| NTS                      |   | A-11       |

## Drawing A-12—DAS Streetlight Arm Attachment

NOTES:  
DRAWING DEPICTS ONE OF MANY POSSIBLE SITUATIONS  
PLEASE CONTACT YOUR THE POLE OWNER IF YOU HAVE QUESTIONS





A 04/15/2013

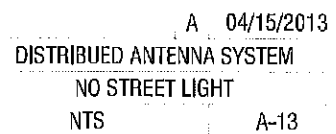
DISTRIBUTED ANTENNA SYSTEM

STREET LIGHT

NTS

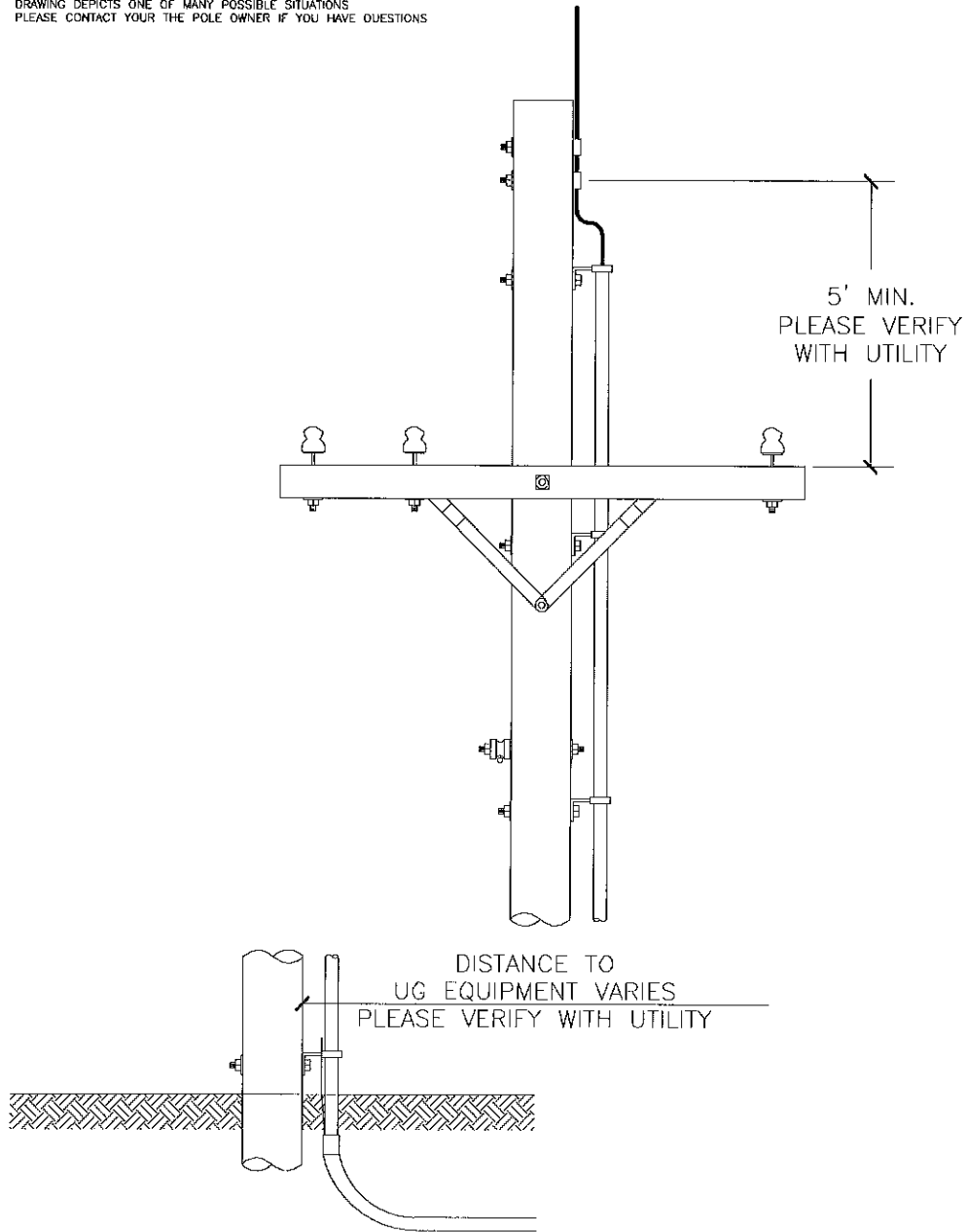
A-12

DRAWING DEPICTS ONE OF MANY POSSIBLE SITUATIONS  
PLEASE CONTACT YOUR THE POLE OWNER IF YOU HAVE QUESTIONS



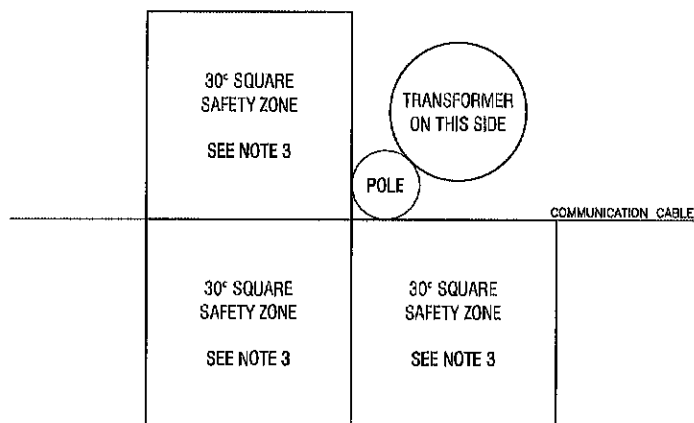
## Drawing A-14—DAS Pole Top Antenna

NOTES:  
DRAWING DEPICTS ONE OF MANY POSSIBLE SITUATIONS  
PLEASE CONTACT YOUR THE POLE OWNER IF YOU HAVE QUESTIONS



A 04/15/2013  
DISTRIBUTED ANTENNA SYSTEM  
NO STREET LIGHT  
NTS A-13

## Drawing A-15—Climbing Space Requirements



NO COMMUNICATIONS POWER SUPPLY SHALL BE MOUNTED ON POLES EXCEPT BY PERMISSION OF UTILITY.

LICENSEE'S ATTACHMENTS ON UTILITY POLES, INCLUDING METAL ATTACHMENT CLAMPS AND BOLTS, METAL CROSS ARM SUPPORTS, BOLTS AND OTHER EQUIPMENTS, MUST BE ATTACHED SO AS TO MAINTAIN THE MINIMUM SEPARATIONS SPECIFIED IN THE NESC AND IN THESE DRAWINGS AND SPECIFICATIONS.

### NOTE 1:

1. FOR NEW CABLE INSTALLATIONS LOCATE CABLE ON THE SAME SIDE OF THE POLE AS UTILITY'S LOWEST CONDUCTOR.
2. STANDOFF BRACKETS TO MOUNT CABLE TO POLE ARE NOT ALLOWED WITHOUT APPROVAL OF UTILITY.
3. CLIMBING AND WORKSPACE THROUGH THE COMMUNICATION SPACES SHALL EXTEND FROM 40' BELOW THE LOWEST COMMUNICATION CABLE TO THE TOP OF THE POLE.
4. ON TRANSFORMER POLES THE COMMUNICATION SERVICE DROPS SHALL BE LOCATED SO THAT THEY ORIGINATE FROM THE MESSENGER ON THE SIDE OF THE POLE OPPOSITE THE TRANSFORMER.
5. MINIMUM CLEARANCES FOR CLIMBING AND WORKING SPACE SHALL BE FOLLOWED AS PER NESC SECTION 236.

|                             |      |            |
|-----------------------------|------|------------|
|                             | A    | 03/15/2013 |
| POLE ATTACHMENTS            |      |            |
| CLIMBING SPACE REQUIREMENTS |      |            |
| NTS                         | A-15 |            |



*A Department of the City of Idaho Falls*

*"A community with its own kind of energy"*



## MEMORANDUM

**TO:** Honorable Mayor and City Council

**FROM:** Jackie Flowers, General Manager

**DATE:** June 3, 2016

**Re:** Tabulation and Bid Award for the Gem State Right Dike Drain Replacement Project

---

Attached for your consideration is the bid tabulation for the Gem State Right Dike Drain Replacement Project. The right dike is part of the engineered earthen structure of the Gem State dam. This project will replace the single wall ADS pipe between manholes 1 and 2 on the right dike, where the pipe has collapsed. This project is in the Capital Improvement Plan, a copy of the detail sheet is attached, and in the FY16 budget.

Idaho Falls Power respectfully requests that the City Council approve the design and award the bid to the lowest responsive, responsible bidder 3H Construction LLC in the amount of \$159,227.

JRF/744

### Attachments

C: City Clerk  
Purchasing  
File

**IDAHO FALLS POWER  
CAPITAL IMPROVEMENT PROGRAM  
PROJECT DETAIL SHEET**

**Operation:** Gem State

**Project Lead:** Cooper

**Project Title:** Right dike drain replacement from MH 1 to 2

**Anticipated Construction Year:** 2016

**Internal Forces Used to Complete Project:** External Engineering, Installation and Testing

**Description and Justification:** Current single wall ADS pipe is collapsing due to poor application.

**Project Location:** Right Dike between Manholes 1 and 2

**Project Delay Consequences:** Failure of sections cause the inability to inspect with camera for proper operation and integrity. Could also cause drain to not operate properly with the possible consequence of a dike failure.

**Relationship to Comprehensive Plan or other Divisional Capital Plans:**  
None

**Project Budget & Summary Close Out**

*Work Order #:*

*Date Completed:*

*Engineering Total:*

*RoW Total:*

*Construction Contracts Total:*

*Equipment & Materials:*

*Misc. Expenses:*

*Total Expenses \$*

*Labor Internal \$:*

*Labor Internal OT \$:*

*Notes:*

*If Project Canceled Explanation:*

Reviewed report, compared budget and noted discrepancies. (Project Manager Initials)

|    |         |    |   |
|----|---------|----|---|
| \$ | -       | \$ | - |
| \$ | -       | \$ | - |
| \$ | -       | \$ | - |
| \$ | 210,000 | \$ | - |
| \$ | -       | \$ | - |
| \$ | 210,000 | \$ | - |
| \$ | 5,000   | \$ | - |
| \$ | -       | \$ | - |



|                  |  |                |
|------------------|--|----------------|
| DATE OF OPENING: | May 31, 2016   | TIME: 10:30 am |
| LOCATION:        | Annex Conference Room, 380 Constitution Way  |                |
| PROJECT:         | Idaho Falls Power Gem State Right Dike Drain Replacement<br>Project No. ELEC-2016-07 |                |

ANTICIPATED COUNCIL  
AWARD DATE: Thursday, June 09, 2016

[illegible]

**ENGINEER'S ESTIMATE: \$ 163,912.00**



A Division of the City of Idaho Falls

"A community with its own kind of energy"



## MEMORANDUM

**TO:** Honorable Mayor and City Council

**FROM:** Bear Prairie, Assistant General Manager *Dean*

**DATE:** June 3, 2016

**Re:** Approve a Resolution to Procure Services for the Upper Plant Boat Ramp Replacement Project on the Open Market

---

Idaho Falls Power solicited bids to replace the boat ramp near the Upper Plant this fall while the sedimentation removal project was in progress. We received no bids. The project was included in the Capital Improvement Plan, see attached detail sheet, and the FY16 budget. Given the lack of bids, staff requests permission to negotiate services for the project on the open market.

Idaho Falls Power requests that the City Council approve the attached resolution to authorize staff to procure the above stated services on the open market.

BP/200

Cc: City Clerk  
City Attorney  
Electric Division Director  
File



## MEMORANDUM

**TO:** The Honorable Mayor and City Council  
**FROM:** Randall D. Fife, City Attorney  
**DATE:** June 6, 2016

**RE:** Proposed Resolution on City's Records  
Retention Schedule

Mayor and Council,

For your consideration is a Resolution which follows recent changes made by the Idaho Legislature regarding City records retention. The Legislature has changed some of the definitions and requirements relative to reproducing, retaining, and managing public records. The most significant change allows cities, under certain circumstances, to maintain a copy of a city record in a photographic, digital, or other non-paper medium. The Resolution contains a definition of "ephemera," which addresses transitory, non-permanent records which do not normally constitute something likely to have intrinsic value or constitute something that the City would keep in the normal course of City business

Recommended Action: Adopt the Resolution regarding a City Records Retention Schedule.

Randall D. Fife

## **RESOLUTION NO. 2016-**

A RESOLUTION OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, PROVIDING A DEFINITION OF CITY RECORDS AND THE CLASSIFICATION AND RETENTION OF CERTAIN PUBLIC RECORDS PURSUANT TO IDAHO CODE AND COUNCIL POLICY; AND PROVIDING THAT THIS RESOLUTION BE EFFECTIVE UPON ITS PASSAGE, APPROVAL, AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the Idaho Code allows for the classification, retention, preservation, and destruction of certain records as “historical”, “permanent”, “semipermanent” and “temporary” records; and

WHEREAS, Idaho Code requires the Council adopt by Resolution a Records Retention Schedule listing the various types of City records and the retention period for each type of records; and

WHEREAS, the City has made a survey of all its records and has reviewed current Idaho Code regarding classification of records; and

WHEREAS, the Council has determined that the records categorizations and respective retention schedules, as set out in Idaho Code § 50-907, is appropriate for the City to adopt, with some minor clarifications; and

WHEREAS, the City wishes to classify some writings, documents, and other similar City information as neither “historical records”, “permanent records”, “semipermanent records” or “temporary records” because they are ephemeral and have no reasonable intrinsic, historical, or other value which requires retention; and

WHEREAS, Council is confident that the City Clerk and City Attorney (with the input of relevant City staff) can make determinations regarding those records not considered “historical records”, “permanent records”, “semipermanent records”, or “temporary records”, as those terms are defined in Idaho Code Title 50, Chapter 9.

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

### **CITY OF IDAHO FALLS RECORDS RETENTION SCHEDULE**

#### **I. Historical Records.**

##### **A. The following records shall be classified as historical records:**

Records which, due to age or cultural significance, are themselves artifacts of historical value. Such records have enduring value based on the administrative, legal, fiscal, evidential, or historical information they contain. The City Clerk, in consultation with the City Attorney and those who have specialized interest or knowledge (which may include the Idaho State Historical Society, the Bonneville County Historical Society, and the Idaho Falls Heritage Association) in the nature of historical records, shall determine which records shall be considered “historical records” for purposes of this Records Retention Schedule and may confirm such classification with the Council, where appropriate.

##### **B. Retention Schedule.**

Historical records shall be retained by the City in perpetuity or may be transferred to the Idaho State Historical Society’s permanent records repository pursuant to Idaho Code 67-4126(8) and (9), upon separate Resolution of the Council.

## II. Permanent Records

### A. The following records shall be classified as permanent records:

1. Adopted meeting minutes of the City Council and City boards and commissions;
2. Ordinances and Resolutions;
3. Building plans and specifications for commercial projects and government buildings;
4. Fiscal year-end financial reports;
5. Records affecting the title to real property or liens thereon;
6. Cemetery records of lot ownership, headstone inscriptions, interment, exhumation and removal records, cemetery maps, plot plans, and 22 surveys;
7. Poll books, excluding optional duplicate poll books used to record that the elector has voted, tally books, sample ballots, campaign finance reports, declarations of candidacy, declarations of intent, notices of election, and records of voting results by precinct; and
8. Executed contracts.

### B. Retention Schedule.

Permanent records shall be retained by the City in perpetuity or may be transferred to the Idaho State Historical Society's permanent records repository upon Resolution of the City Council authorizing such transfer.

## III. Semipermanent Records

### A. The following records be classified as semipermanent records:

1. Claims, canceled checks, warrants, duplicate warrants, purchase orders, vouchers, duplicate receipts, utility, and other financial records;
2. Building applications for commercial projects and government buildings;
3. License applications;
4. Departmental reports; and
5. Bonds and coupons.

### B. Retention Schedule.

Semipermanent records shall be kept for not less than five (5) years after the date of issuance or completion of the matter contained within such semipermanent record. Semipermanent records may only be destroyed by Resolution of the City Council, and upon the advice of the City Attorney. Such disposition shall be under the direction and supervision of the City Clerk. The Resolution ordering destruction of semipermanent records shall list in detail such semipermanent records to be destroyed.

Prior to destruction of semipermanent records, the City Clerk shall provide written notice, including a detailed list of the semipermanent records proposed for destruction, to the Idaho State Historical Society thirty (30) days prior to the destruction of any records.

## IV. Temporary Records

### A. The following records be classified as temporary records:

1. Building applications, plans, and specifications for noncommercial and nongovernment projects after the structure or project receives final inspection and approval;

2. Cash receipts subject to audit;
3. Election ballots and duplicate poll books;
4. The most current draft of an unexecuted contract until such contract is executed; and
5. Records which are normally believed to be the subject of litigation discovery and determined to be so after consultation with the City Attorney.

B. Retention Schedule.

Temporary records shall be retained for not less than two (2) years, but in no event shall financial records be destroyed until completion of the City's financial audit as provided in Idaho Code § 67-450B related to such financial records.

Temporary records may only be destroyed by Resolution of the City Council, and upon the advice of the City Attorney. Such disposition shall be under the direction and supervision of the City Clerk. The Resolution ordering destruction of temporary records shall list in detail such temporary records to be destroyed.

Prior to destruction of temporary records, the City Clerk shall provide written notice including a detailed list of the temporary records proposed for destruction, to the Idaho State Historical Society thirty (30) days prior to the destruction of any records.

V. Ephemera.

A. The following shall not be considered records:

Writings, documents, and other similar City information not classified as “historical records”, “permanent records”, “semipermanent records”, or “temporary records” herein shall not be considered “records” for the purposes of retention pursuant to this Records Retention Schedule. Such non-“record” writings, documents, and other similar City information include, but are not limited to, document drafts, “post-it” notes, duplicates of records (unless they are controlled by Idaho Code Title 50, Chapter 9), phone call slips, voice mail, “to-do” lists, telephone text messages, and email not related to the conduct or promotion of the business of City government, and other ephemera used only for temporary transition, transitory purposes, and not intended to be other than briefly helpful.

B. Retention Schedule.

Writings, documents, and other similar City information which, in the reasonable belief of the recipient or custodian which do not have any historical, intrinsic or other value, and records which are not reasonably believed to be the subject of litigation discovery shall not be considered “records” for purposes of this Records Retention Schedule and shall not be required to be a subject of a Resolution authorizing their destruction.

VI. Where there is a question regarding whether something is a “record”; the classification of a record; or retention of a record; such questions are to be directed to the City Clerk and/or the City Attorney prior to any destruction.

VII. Where the City Clerk determines, in his or her best judgement and based upon acceptable practices, a non-paper reproduction of a record is appropriate, the City Clerk shall create, retain, or destroy such non-paper copies of a City record pursuant to Title 50, Chapter 9, of the Idaho Code.

VIII. City Resolution 2007-01 is hereby repealed in its entirety and shall have no effect following the passage of this Resolution.

IX. This Resolution shall become effective as of July 1, 2016.

ADOPTED this \_\_\_\_\_ day of June, 2016.

CITY OF IDAHO FALLS, IDAHO

---

Rebecca L. Noah Casper, Mayor

ATTEST:

---

Kathy Hampton, City Clerk

(SEAL)

STATE OF IDAHO                    )  
  ) ss:  
County of Bonneville    )

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

That the above and foregoing is a full, true and correct copy of the Resolution entitled, "A RESOLUTION OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, PROVIDING A DEFINITION OF CITY RECORDS AND THE CLASSIFICATION AND RETENTION OF CERTAIN PUBLIC RECORDS PURSUANT TO IDAHO CODE AND COUNCIL POLICY; AND PROVIDING THAT THIS RESOLUTION BE EFFECTIVE UPON ITS PASSAGE, APPROVAL, AND PUBLICATION ACCORDING TO LAW."

---

Kathy Hampton, City Clerk

(SEAL)

COMMUNITY DEVELOPMENT SERVICES



Planning Division  
Office (208) 612-8276  
Fax (208) 612-8520

Building Division  
Office (208) 612-8270  
Fax (208) 612-8520

BGC-067-16

**TO:** Honorable Mayor and City Council  
**FROM:** Brad Cramer, Community Development Services Director  
**SUBJECT:** Request for Waiver of Electric Line Extension Fees  
**DATE:** June 2, 2016

Attached is a request for waiver of the Electric Line Extension Fee for the Springhill Suites project located at 660 River Walk Drive. The fees requested for waiver total \$54,579.55. This request is made pursuant to City Code 8-5-31 which states, "Council reserves the right to waive or adjust fees (other than net metering fees) upon a finding of good cause to do so where such waiver or reduction supports redevelopment or the annexation of property contiguous with or surrounded by the City." The site under consideration is part of an urban renewal district and is an area that is redeveloping. Staff recommends approval of the waiver. This item is now being submitted to the Mayor and City Council for consideration.

Attachments: Request letter from Woodbury

Cc: Kathy Hampton, City Clerk  
File





Realtors / Brokers / Managers  
Developers / Consultants / Architects

2733 East Parleys Way, Suite 300 / Salt Lake City, Utah 84109-1662

(801) 485-7770  
Fax (801) 485-0209

Jeff Stokes | Project Manager  
Woodbury Corp  
IF Spring LLC.  
Email: j\_stokes@woodburycorp.com  
Mobile: 801-201-9172

May 25, 2016

Brad Cramer | Planning Director  
Planning and Building Department  
City of Idaho Falls  
380 Constitution Way  
Idaho Falls, ID 83405  
Office: 208-612-8268

**RE: Request to waive powerline extension fee per the amended ordinance Title 8 Chapter 5 Section 35.**

Dear Brad Cramer,

We request to waive our commercial power line extension fees required by the City of Idaho Falls. Pursuant to Section 35 section 2C-7. Whereas this project is identified for redevelopment in the comprehensive plan and we hereby formally request Idaho Falls Power to consider waiving entirely the powerline extension fee.

Regards,

A handwritten signature in blue ink, appearing to read "Jeff Stokes", is written over a light blue circular stamp.

Jeff Stokes | Project Manager

CC: Alan Cunningham, Clay Stephenson



BGC-066-16

**TO:** Honorable Mayor and City Council  
**FROM:** Brad Cramer, Community Development Services Director  
**SUBJECT:** CDBG 2015 CAPER Resolution  
**DATE:** June 2, 2016

Attached is the Resolution approving the 2015 CDBG Consolidated Annual Performance and Evaluation Report (CAPER). The CAPER was reviewed by the Council at the May 12, 2016 meeting. No comments were received during the public comment period. The Resolution is now being submitted to the Mayor and City Council for approval.

Attachments: 2015 CAPER Resolution

Cc: Kathy Hampton, City Clerk  
Lisa Farris, Grant Administrator  
File

RESOLUTION NO. \_\_\_\_\_  
RESOLUTION OF THE CITY OF IDAHO FALLS  
ADOPTING THE **FY2015 ANNUAL REPORT**  
***Consolidated Annual Performance and Evaluation Report (CAPER)***  
FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT

WHEREAS, the City of Idaho Falls has been designated as an entitlement city by the U.S Department of Housing and Urban Development;

WHEREAS, The City of Idaho Falls receives annual grant funding as an entitlement city;

WHEREAS, the City of Idaho Falls is required to submit an Annual Report describing how the grant funds were used and the resulting benefits;

WHEREAS, the City of Idaho Falls held a public hearing on the FY2015 Annual Report held before City Council on May 12, 2016;

WHEREAS, a 15 day public comment period was opened on May 12, 2016 and closed on and through May 27, 2016;

WHEREAS, the City of Idaho Falls has considered all comments received during the 15 day comment period;

WHEREAS, all requirements for adopting the report have been met;

NOW, THEREFORE, be it resolved by the Mayor and City Council of the City of Idaho Falls to adopt the FY2015 Annual Report and submit the FY2015 Annual Report to the U.S. Department of Housing and Urban Development.

DATED this 9<sup>th</sup> day of June, 2016.

---

Rebecca L. Noah Casper, Mayor

ATTEST:

---

Kathy Hampton, City Clerk

COMMUNITY DEVELOPMENT SERVICES

Planning Division

Office (208) 612-8276

Fax (208) 612-8520



Building Division

Office (208) 612-8270

Fax (208) 612-8520

BGC-065-16

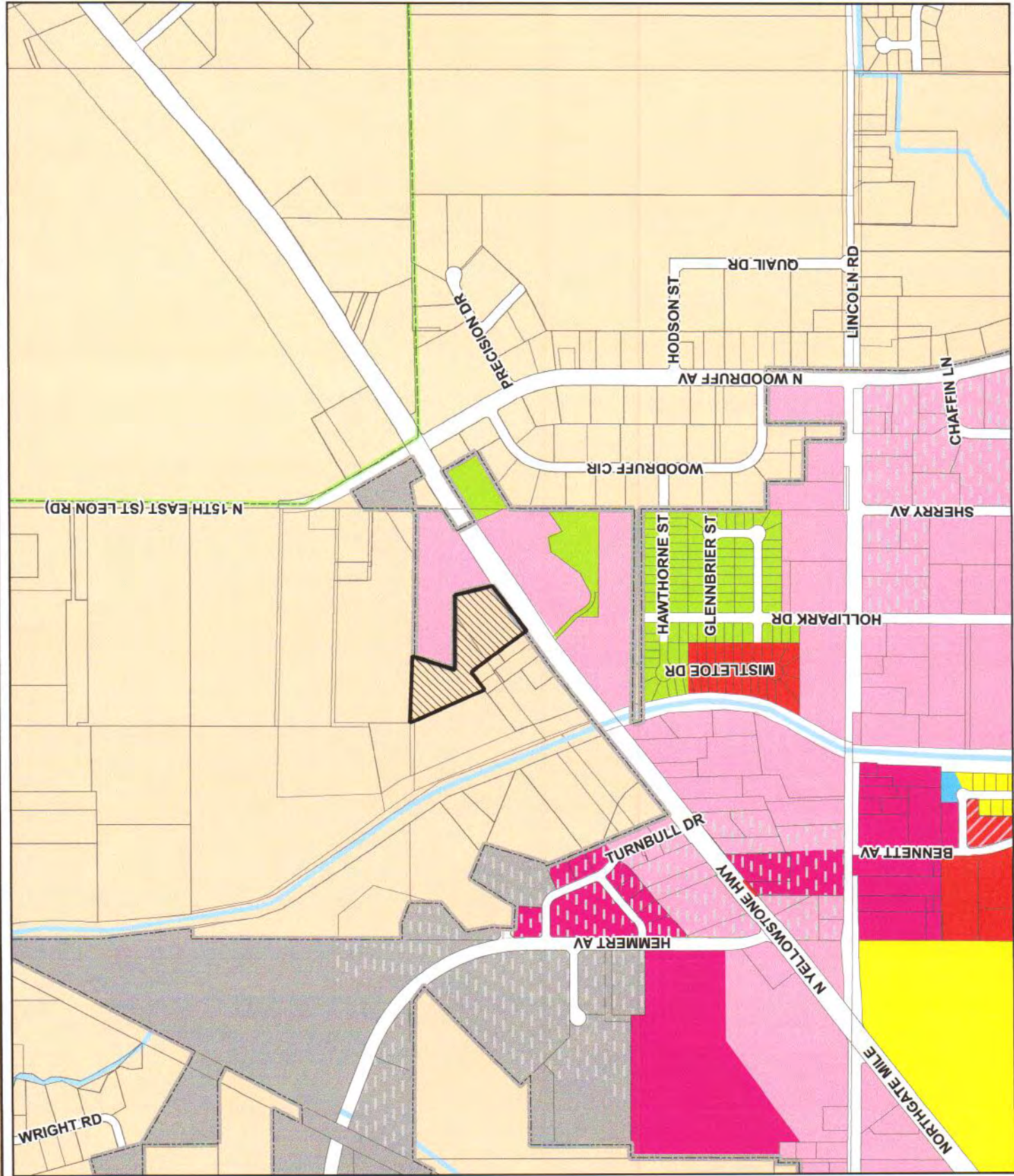
**TO:** Honorable Mayor and City Council  
**FROM:** Brad Cramer, Community Development Services Director  
**SUBJECT:** Annexation and Initial Zoning of HC-1, Annexation Ordinance, Zoning Ordinance, and Reasoned Statements of Relevant Criteria and Standards, M&B: 5.66 Acres SE ¼ Section 8, T 2N, R 38E  
**DATE:** June 2, 2016

Attached is the application for Annexation and Initial Zoning of HC-1, Annexation Ordinance, Zoning Ordinance, and Reasoned Statements of Relevant Criteria and Standards, M&B: 5.66 Acres SE ¼ Section 8, T 2N, R 38E. The Planning and Zoning Commission considered this item at its May 3 meeting and recommended approval by unanimous vote. Staff concurs with this recommendation. This item is now being submitted to the Mayor and City Council for consideration.

Attachments: Vicinity Map  
Aerial Photo  
Staff Report May 3, 2016  
Draft Planning and Zoning Commission Minutes May 3, 2016  
Annexation Ordinance  
Zoning Ordinance  
Reasoned Statements of Relevant Criteria and Standards

Cc: Kathy Hampton, City Clerk  
File





**Legend**

- Site
- RP
- RP-A
- R-1
- R-2
- R2A
- R-3
- R-3A
- PB
- MS
- RSC-1
- C-1
- HC-1
- CC-1
- GC-1
- R&D-1
- M-1
- I&M-1
- I&M-2
- RMH
- PT-1
- PT-2
- PT-2 & T-1
- PUD
- T-1
- T-2
- 30' Setback
- 50' Setback
- City Limits
- Area of Impact

**IDAHO FALLS**

Planning Division  
City Annex Building  
680 Park Ave.  
Idaho Falls, ID 83402  
(208) 612-8276




















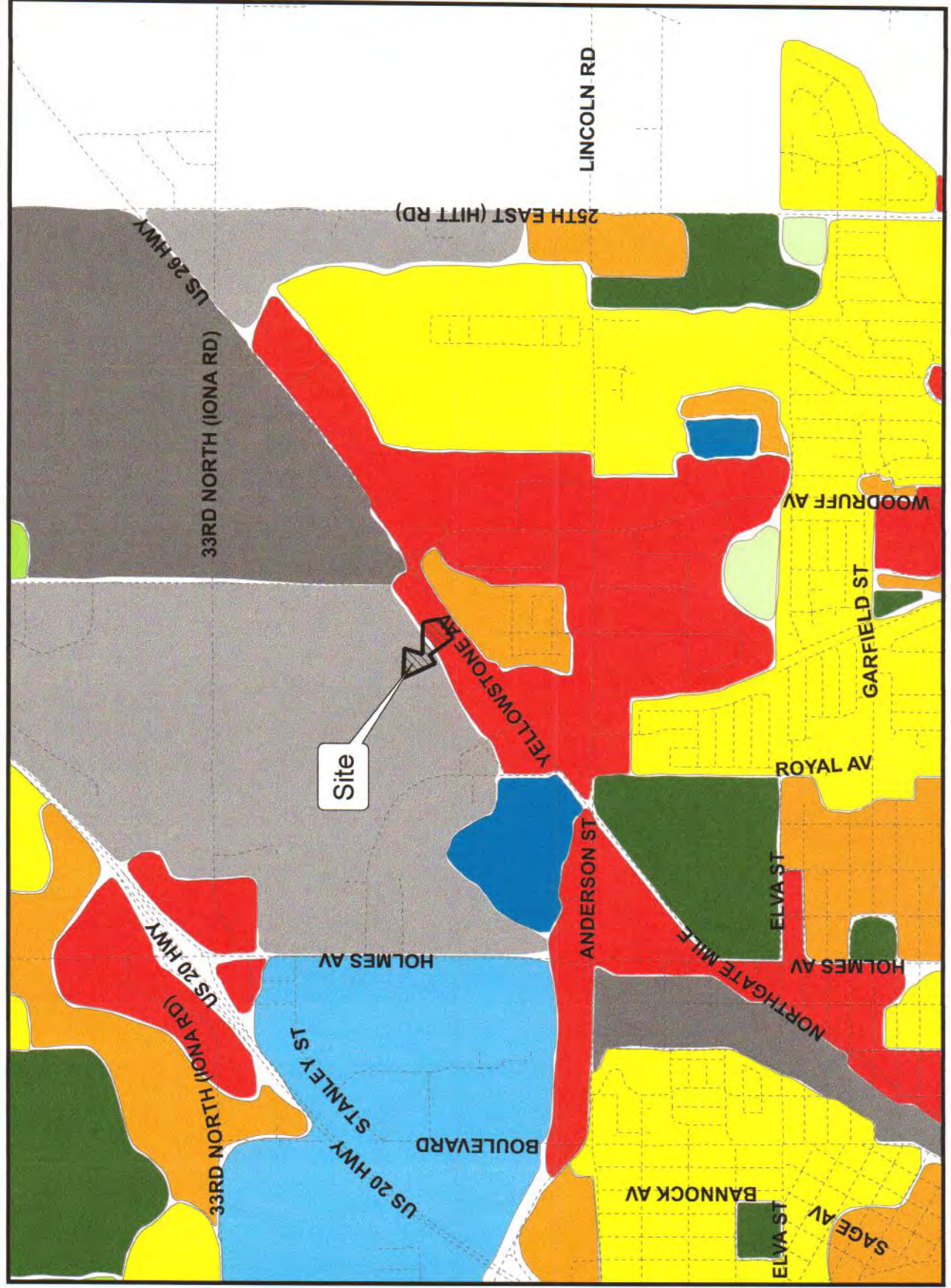


# Annexation & Initial Zoning

M&B: Approximately 5.66 Acres SE1/4 Section 8, T 2N, R 38E

- |  |  |   |  |   |
|--|--|---|--|---|
|  Estate         |  Greenbelt Mixed Uses           |  Commercial              |  Higher Education Centers   |  Railroad-related industrial |
|  Low Density    |  Parks, Recreation              |  Employment Centers      |  Planned Transition         |   |
|  Higher Density |  Public Facilities, Open Spaces |  Medical Services Center |  Highway-related industrial |   |

## Comprehensive Plan





IDAHO FALLS PLANNING AND ZONING COMMISSION  
STAFF REPORT

ANNEXATION AND INITIAL ZONING OF R-1  
SE¼ of Section 8, T2N, R38E (Hult Property)

May 3, 2016



Community  
Development  
Services

**Applicant:** Harper Leavitt  
Engineering

**Location:** Generally  
northwest of N Yellowstone  
Hwy., west of N 15th E,  
south of E Iona Rd., and east  
of Hemmert Ave.

**Size:** 5.66 acres

**Existing Zoning:**  
Site: County C-2 General  
Commercial and I&M-1  
Industrial & Manufacturing

**Proposed Zoning:**  
HC-1

**Existing Land Uses:**  
Site: Commercial/  
Residential Uses  
North: Industrial  
South: Commercial  
East: Commercial  
West: Commercial

**Future Land Use Map:**  
Commercial and Highway-  
related Industrial

**Attachments:**  
1. Maps and aerial photos

**Requested Action:** To approve the Annexation and Initial  
Zoning of HC-1.

**Staff Comments:**

**History:** The property has been used as a sales lot for  
manufactured homes on the front portion of the property  
with nine trailer homes located to the middle of the property  
and the back portion being undeveloped. The applicant  
intends to remove all of the homes on the property in  
preparation for future commercial development. In 1989 the  
property entered into outside service contracts with the City  
for water and sewer service for two trailer house units on the  
west end of the park.

**Annexation:** This is a Category "A" annexation in which  
the property owner is requesting incorporation into the City.  
The property is contiguous to the northeast and south across  
the Yellowstone Hwy. Utilities are present within the  
Yellowstone Hwy right-of-way. Curb, gutter and sidewalk  
improvements will be required for the frontage of the  
property when development occurs.

**Zoning:** The applicant has requested HC-1 zoning for the  
property. The comprehensive plan for the area is designated  
as Commercial and Highway-related Industrial. The  
HC-1 Zone is consistent with the principles of the  
Comprehensive Plan and surrounding zoning in the area.

**Staff Recommendation:** Staff recommends approval of the  
annexation and initial zoning of HC-1.



## **Comprehensive Plan Policies:**

### **Commercial**

Retail shops, restaurants, and offices. (pg. 63)

**Encourage development in areas served by public utilities or where extensions of facilities are least costly.** Not only is a compact city convenient but the provision of public facilities is less expensive. Growth does not always occur at the fringe of a community. Vacant lands or underutilized parcels may redevelop to more intensive uses which use existing utilities. In the Broadway-Utah Avenue area between I-15 and Snake River Parkway, 42 properties redeveloped in the period from 1989 to 2013, over 1,800 jobs were created, and assessed valuations increased by \$141 million. The City should continue programs which use private/public partnerships to redevelop the land inside the City's boundaries. (pg. 67)

## **Zoning Ordinance:**

### **10-3-18 – HC-1 LIMITED BUSINESS ZONE**

#### **(A) General Objectives and Characteristics.**

The HC-1 Limited Business Zone has been established as a district in which the primary use of the land is for retail stores and service establishments to serve the traveling public. This Zone is usually located at specific locations along highways leading into the City, and is characterized by buildings set back from the right-of-way line and having a wide variety of architectural forms and shapes.

The objectives in establishing this zone are to:

- (1) Encourage the development and continued use of the land within the Zone for business purposes.
- (2) To promote safety on the highway.
- (3) To maintain maximum use of highway right-of-way for travel purposes.
- (4) To prohibit uses which tend to thwart or militate against the continued use and development of the land within the zone for its primary purpose.

In order to accomplish the objectives and purposes of this Zoning Code and to promote the essential characteristics of this Zone, the following regulations shall apply in the HC-1 Limited Business Zone:

#### **(B) Use Requirements.**

The following uses shall be permitted in the HC-1 Zone:

- (1) Any use permitted in the RSC-1 Residential Shopping Center Zone, and in the C-1 Limited Business Zone, except that dwellings shall not be permitted unless such dwellings are custodial or caretaker's dwellings incidental to the use of the land for commercial purposes.
- (2) Super service stations.
- (3) Automobile sales lots.
- (4) Drive-in eating establishments.
- (5) Machinery sales establishments.
- (6) Amusement enterprises, such as merry-go-rounds, penny arcades, etc.

- (7) Retail establishments with incidental wholesaling, but excluding establishments the principle activity of which is a storage warehouse.
- (8) Auto body shops.
- (9) Beer parlors, taverns and cocktail lounges.
- (10) Open storage areas, provided they are buffered from public streets by:
  - (a) Site planning that uses structures to buffer open storage areas from public streets, or
  - (b) A minimum seven foot (7') foot wide landscaped buffer, which may include a fence or wall at the rear of the buffer.
- (11) Indoor shooting ranges when approved by the Planning Commission as a conditional use.
- (12) Other uses ruled by the Council to be similar to the above listed uses, and in harmony with the objectives and characteristics of this zone.

(C) Area, Width, Location, Height, and Size Requirements.

No requirements, except that all buildings shall be setback a minimum distance of thirty feet (30') feet from any public street except as herein provided and required under the provisions of this Zoning Code.

(D) See Supplementary Regulations to Zones.

(E) Special Provisions.

- (1) No dust, odor, smoke, vibration, or intermittent light, glare or noise shall be emitted which is discernible beyond the premises, except for normal movement of automobile traffic.
- (2) When a development in the HC-1 Zone adjoins land zoned RP, RP-A, RMH, or unincorporated land designated as single-family residential in the Idaho Falls Comprehensive Plan, a thirty foot (30') foot wide landscape buffer with landscaped berm to a height of six feet (6') and trees spaced at twenty foot (20') intervals shall be provided on the property line shared with such residential designation. Natural buffers such as canals may be included within this thirty foot (30') buffer and shall eliminate the need for berms where the canal is elevated or at least twenty feet (20') in width; however, landscaping with trees spaced at twenty foot (20') intervals shall still be provided.
- (3) A landscaped strip at least twenty feet (20') feet in width with lawn, ground cover, shrubbery, and trees at forty foot (40') centers shall be provided and maintained along the development side of the property line bordering any street, except for permitted driveways.



on the east side of the river. Beutler indicated that the property is private and owned by Rocky Mountain Power and has power equipment/substation. Dixon asked if the City will still allow the access to the roads and paths on the property. Beutler stated that he has not heard of any intent to fence the property.

Dixon opened the public hearing.

No one appeared in support or opposition to the application.

Dixon closed the public hearing.

**Morrison moved to recommend to the Mayor and City Council approval of the Annexation and Initial Zoning of R-1 for the Heritage Park property as presented, Wimborne seconded the motion and it passed unanimously.**

**2. ANNEXATION/INITIAL ZONING. (Hult Property).** Beutler presented the staff report, a part of the record. Dixon asked if the mobile home park would fit within the HC-1. Beutler indicated it would become a non-conforming use. Beutler indicated that the applicant's intent is to have the mobile home park and homes removed within the next nine months and not have any residential use on the property. Dixon asked if this property and HC-1 would fit with the Comprehensive Plan as the back portion of the property is in a different area of the Comprehensive Plan. Beutler indicated that the Comprehensive Plan is not meant to be well defined boundaries. Beutler stated that HC-1 is a more intense commercial zoning designation and thus would fit with the intent of the Comprehensive Plan. Beutler stated that as the property is annexed curb gutter and sidewalk improvements will be required along the frontage when development occurs.

Dixon opened the public hearing.

**Applicant:**

**Darryl Kofoed, HLE, 985 N. Capital Ave., Idaho Falls, Idaho.** Kofoed indicated that the plans for the property are to put an office park on the property. Kofoed indicated that the mobile homes will move out as the leases come due.

No one appeared in support or opposition to the application.

Dixon closed the public hearing.

Wimborne asked if there needs to be anything addressed in the motion for the mobile home use. Beutler stated that once the City annexes the property it will become a non-conforming use, but because they were established prior to it being annexed, and the City annexed it with the mobile homes, it would be a legal non-conforming use so the use could continue until it is vacated and it cannot be replaced. Swaney verified that once the annexation and initial HC-1 Zoning is implemented and when development occurs, curb and gutter and landscaping requirements will be required. Beutler agreed that all of the minimum standards of the City and the zone will apply.

**Morrison moved to recommend to the Mayor and City Council approval of the Annexation with Initial Zoning of HC-1 for the Hult Property as presented, Denney seconded the motion and it passed unanimously.**

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE ANNEXING APPROXIMATELY 5.66 ACRES LOCATED NORTH OF YELLOWSTONE HIGHWAY AND WEST OF 15<sup>TH</sup> EAST TO THE CITY OF IDAHO FALLS; DESCRIBING SUCH LANDS; AMENDING THE CITY MAP; AMENDING THE LEGAL DESCRIPTION OF THE CITY WITH THE APPROPRIATE COUNTY AND STATE AUTHORITIES; ESTABLISHING A COMPREHENSIVE PLAN DESIGNATION, AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

WHEREAS, the lands described in Exhibit A of this Ordinance are contiguous and adjacent to the City limits of the City of Idaho Falls, Idaho; and

WHEREAS, such lands described herein are subject to annexation to the City pursuant to the provisions of Idaho Code Section 50-222, and other laws, as amended; and

WHEREAS, the annexation of the lands described in Exhibit A is reasonably necessary to assure the orderly development of the City in order to allow efficient and economically viable provision of tax-supported and fee-supported municipal services; to enable the orderly development of private lands which benefit from a cost-effective availability of City services in urbanizing areas; and to equitably allocate the costs of City/public services in management of development on the City's urban fringe; and

WHEREAS, the City has authority to annex lands into the City upon compliance with procedures required in Idaho Code Section 50-222, as amended; and

WHEREAS, any portion of a highway lying wholly or partially within the lands to be annexed are included in the lands annexed by this Ordinance; and

WHEREAS, the lands annexed by this Ordinance are not connected to the City only by a "shoestring" or a strip of land which comprises a railroad or right-of-way; and

WHEREAS, all private landowners have consented to annexation of such lands where necessary; and

WHEREAS, the lands to be annexed are contiguous to the City and the City of Idaho Falls Comprehensive Plan includes the area of annexation; and

WHEREAS, after considering the written and oral comments of property owners whose lands would be annexed and other affected persons, City Council specifically makes the following findings:

- 1) That the lands annexed meet the applicable requirements of Idaho Code Section 50-222 and does not fall within exceptions or conditional exceptions contained in Idaho Code Section 50-222;
- 2) The annexation is consistent with public purposes addressed in annexation and related plans prepared by the City; and
- 3) Annexation of the lands described in Exhibit A are reasonably necessary for the orderly development of the City; and

WHEREAS, it appears to the City Council that the lands described hereinbelow in Exhibit A of this Ordinance should be annexed to and become a part of the City of Idaho Falls, Idaho; and

WHEREAS, the City wishes to exercise jurisdiction over the annexed lands in a way that promotes the orderly development of such lands; and

WHEREAS, the City of Idaho Falls Comprehensive Plan sets out policies and strategies designed to promote and sustain future growth within the City; and

WHEREAS, for consistency with the Comprehensive Plan, the Council desires to designate the lands within the area of annexation as “Commercial”; and

WHEREAS, such designation is consistent with policies and principles contained within the City of Idaho Falls Comprehensive Plan; and

WHEREAS, the City desires the City of Idaho Falls Comprehensive Plan Map to be amended to reflect the designation contained in this Ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF IDAHO FALLS, IDAHO, as follows:

SECTION 1. Annexation of Property. The lands described herein in Exhibit A are hereby annexed to the City of Idaho Falls, Idaho.

SECTION 2. Amended Map and Legal Description. The City Clerk shall file a certified copy of this Ordinance with the Bonneville County Auditor, Treasurer, and Assessor, within ten (10) days after the effective date hereof. The City Engineer shall, within ten (10) days after such effective date, file an amended legal description and map of the City, with the Bonneville County Recorder and Assessor and the Idaho State Tax Commission, all in accordance with Idaho Code Section 63-2215.

SECTION 3. Findings. That the findings contained in the recitals of this Ordinance be, and the same are hereby, adopted as the official City Council findings for this Ordinance, and that any further findings relative to this Ordinance shall be contained in the officially adopted Council minutes of the meeting in which this Ordinance was passed.

SECTION 4. Savings and Severability Clause. The provisions and parts of this Ordinance are intended to be severable. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

SECTION 5. Publication. This Ordinance, or a summary thereof in compliance with Idaho Code, shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

SECTION 6. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Rebecca L. Noah Casper, Mayor

ATTEST:

\_\_\_\_\_  
Kathy Hampton, City Clerk

(SEAL)

STATE OF IDAHO                    )  
  : ss.  
County of Bonneville            )

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

That the above and foregoing is a full, true and correct copy of the Ordinance entitled: "AN ORDINANCE ANNEXING APPROXIMATELY 5.66 ACRES LOCATED NORTH OF YELLOWSTONE HIGHWAT AND WEST OF 15<sup>TH</sup> EAST TO THE CITY OF IDAHO FALLS; DESCRIBING

SUCH LANDS; AMENDING THE CITY MAP; AMENDING THE LEGAL DESCRIPTION OF THE CITY WITH THE APPROPRIATE COUNTY AND STATE AUTHORITIES; ESTABLISHING A COMPREHENSIVE PLAN DESIGNATION, AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.”

---

Kathy Hampton, City Clerk

(SEAL)



EXHIBIT A

## LEGAL DESCRIPTION

Part of the NE 1/4 of the SE 1/4 and part of the SE 1/4 of the NE 1/4 of Section 8, Township 2 North, Range 38 East B.M., Bonneville County, Idaho described as:

Beginning at a point on the east-west centerline of said Section 8 that is N 89°23'18" W 892.83 feet along the east-west centerline from the East 1/4 corner of said Section 8 being N 00°16'30" E 2633.16 feet from the SE corner of Said Section 8 and running S 17°29'47" W 250.20 feet, (Instrument No.1307493 - S 17°29'34" W 250.23 feet) along the west line of Lot 1, Block 1 of Idaho Falls Trailer Sales; thence S 89°37'29" E 447.25 feet, (Instrument No.1307493 - S 89°37'29" E 447.14 feet) along said Lot 1, Block 1 boundary line; thence S 13°24'47" E 234.17 feet (Instrument No.1307493 - S 13°24'47" E 250.23 feet) along said Lot 1, Block 1 to the north line of North Yellowstone Highway to a point on a non-tangent curve; thence to the left along said curve 334.04 feet (Curve Data Delta = 1°39'41" Radius = 11519.20 feet) Chord Bears S 55°09'12" W 334.03 feet; thence N 36°27'55" W 400.09 feet; thence S 53°46'00" W 139.26 feet; thence N 24°00'53" W 493.35 feet; thence S 87°58'01" E 403.83 feet; thence S 17°25'11" W 16.32 feet to the Point of Beginning.

Parcel contains 5.661 acres more or less.

RECEIVED  
APR 2 2016  
CITY OF IDAHO FALLS

Submitted by:

Eng/Survey Firm Name: HLE

Contact Name: Clint Jolley

Phone Number: 208-524-0212

Email: clintj@hleinc.com

PLS Seal:



Page \_\_\_\_ of \_\_\_\_

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE INITIAL ZONING OF APPROXIMATELY 5.66 ACRES DESCRIBED IN EXHIBIT A OF THIS ORDINANCE AS HC-1 ZONE; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

WHEREAS, the proposed initial zoning district of lands described in Exhibit A is HC-1 Zone for such annexed lands such zoning is consistent with the current City of Idaho Falls Comprehensive Plan Land use designation "Commercial"; and

WHEREAS, the proposed zoning district is consistent and compatible with the existing and surrounding zoning districts and is consistent with the City of Idaho Falls Comprehensive Plan; and

WHEREAS, Idaho Falls Planning and Zoning Commission held a duly noticed public hearing on May 3, 2016, and recommended approval of zoning the subject property to HC-1 Zone; and

WHEREAS, the Idaho Falls City Council conducted a duly noticed public hearing and passed a motion to approve this zoning on June 9, 2016.

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

**SECTION 1: LEGAL DESCRIPTION:**

This ordinance shall apply to the lands described in Exhibit A in Idaho Falls, Idaho, Bonneville County.

**SECTION 2. Zoning.** That the property described in Exhibit A of this Ordinance be and the same hereby is zoned "HC-1, Zone" and the City Planner is hereby ordered to make the necessary amendments to the official maps of the City of Idaho Falls which are on file at the City Planning Department Offices, 680 Park Avenue.

**SECTION 3. Savings and Severability Clause.** The provisions and parts of this Ordinance are intended to be severable. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

**SECTION 4. Publication.** This Ordinance, or a summary thereof in compliance with Idaho Code, shall be published once in the official newspaper of the City, and shall take effect

immediately upon its passage, approval, and publication.

**SECTION 5.** Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED by the City Council and APPROVED by the Mayor of the City of Idaho Falls, Idaho, this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

CITY OF IDAHO FALLS, IDAHO

\_\_\_\_\_  
Rebecca L. Noah Casper, Mayor

ATTEST:

\_\_\_\_\_  
Kathy Hampton, City Clerk

(SEAL)

STATE OF IDAHO                    )  
  ) ss:  
County of Bonneville            )

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

That the above and foregoing is a full, true and correct copy of the Ordinance entitled, "AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE INITIAL ZONING OF APPROXIMATELY 5.66 ACRES DESCRIBED IN EXHIBIT A OF THIS ORDINANCE AS HC-1 ZONE; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE."

\_\_\_\_\_  
Kathy Hampton, City Clerk

# EXHIBIT A

## LEGAL DESCRIPTION

Part of the NE 1/4 of the SE 1/4 and part of the SE 1/4 of the NE 1/4 of Section 8, Township 2 North, Range 38 East B.M., Bonneville County, Idaho described as:

Beginning at a point on the east-west centerline of said Section 8 that is N 89°23'18" W 892.83 feet along the east-west centerline from the East 1/4 corner of said Section 8 being N 00°16'30" E 2633.16 feet from the SE corner of Said Section 8 and running S 17°29'47" W 250.20 feet, (Instrument No.1307493 - S 17°29'34" W 250.23 feet) along the west line of Lot 1, Block 1 of Idaho Falls Trailer Sales; thence S 89°37'29" E 447.25 feet, (Instrument No.1307493 - S 89°37'29" E 447.14 feet) along said Lot 1, Block 1 boundary line; thence S 13°24'47" E 234.17 feet (Instrument No.1307493 - S 13°24'47" E 250.23 feet) along said Lot 1, Block 1 to the north line of North Yellowstone Highway to a point on a non-tangent curve; thence to the left along said curve 334.04 feet (Curve Data Delta = 1°39'41" Radius = 11519.20 feet) Chord Bears S 55°09'12" W 334.03 feet; thence N 36°27'55" W 400.09 feet; thence S 53°46'00" W 139.26 feet; thence N 24°00'53" W 493.35 feet; thence S 87°58'01" E 403.83 feet; thence S 17°25'11" W 16.32 feet to the Point of Beginning.

Parcel contains 5.661 acres more or less.

RECEIVED  
APR 2 2016  
CITY OF IDAHO FALLS

Submitted by:

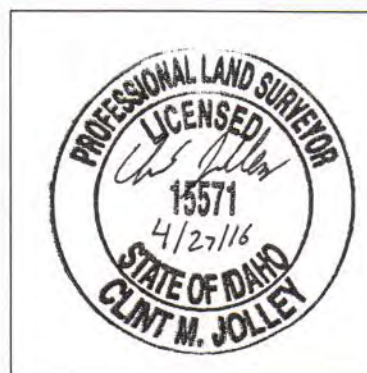
Eng/Survey Firm Name: HLE

Contact Name: Clint Jolley

Phone Number: 208-524-0212

Email: clintj@hleinc.com

PLS Seal:



Page \_\_\_\_ of \_\_\_\_



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

### **ANNEXATION OF PROPERTY LOCATED NORTHWEST OF N YELLOWSTONE HWY., WEST OF N 15TH E, SOUTH OF E IONA RD., AND EAST OF HEMMERT AVE.**

**WHEREAS**, the applicant filed an application for annexation and initial zoning of HC-1 on March 24, 2016; and

**WHEREAS**, this matter came before the Idaho Falls Planning and Zoning Commission during a duly noticed public meeting on May 3, 2016; and

**WHEREAS**, this matter came before the Idaho Falls City Council during a duly noticed public meeting on June 9, 2016

**WHEREAS**, having reviewed the application, including all exhibits entered and having considered the issues presented:

#### **I. RELEVANT CRITERIA AND STANDARDS**

1. The Idaho Falls City Council considered the request pursuant to the City of Idaho Falls 2013 Comprehensive Plan, the City of Idaho Falls Zoning Ordinance, the Local Land Use Planning Act, and other applicable development regulations.
2. The property is an approximate 5.66 acre parcel located northwest of N Yellowstone Hwy., west of N 15th E, south of E Iona Rd., and east of Hemmert Avenue.
3. The Comprehensive Plan designates this area as Commercial and Highway-related Industrial.
4. The application is a Category A annexation with the property owner requesting incorporation into the City.

#### **II. DECISION**

Based on the above Reasoned Statement of Relevant Criteria, the City Council of the City of Idaho Falls approved the annexation for property located northwest of N Yellowstone Hwy., west of N 15th E, south of E Iona Rd., and east of Hemmert Avenue.

**PASSED BY THE CITY COUNCIL OF THE CITY OF IDAHO FALLS**

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016

---

Rebecca L. Noah Casper, Mayor

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

### **INITIAL ZONING OF HC-1 OF PROPERTY LOCATED NORTHWEST OF N YELLOWSTONE HWY., WEST OF N 15TH E, SOUTH OF E IONA RD., AND EAST OF HEMMERT AVENUE**

**WHEREAS**, the applicant filed an application for annexation and initial zoning of HC-1 on March 24, 2016; and

**WHEREAS**, this matter came before the Idaho Falls Planning and Zoning Commission during a duly noticed public meeting on May 3, 2016; and

**WHEREAS**, this matter came before the Idaho Falls City Council during a duly noticed public meeting on June 9, 2016

**WHEREAS**, having reviewed the application, including all exhibits entered and having considered the issues presented:

#### **I. RELEVANT CRITERIA AND STANDARDS**

1. The Idaho Falls City Council considered the request pursuant to the City of Idaho Falls 2013 Comprehensive Plan, the City of Idaho Falls Zoning Ordinance, the Local Land Use Planning Act, and other applicable development regulations.
2. The property is an approximate 5.66 acre parcel located northwest of N Yellowstone Hwy., west of N 15th E, south of E Iona Rd., and east of Hemmert Avenue.
3. The Comprehensive Plan designates this area as Commercial and Highway-related Industrial.
4. The proposed HC-1 zone is consistent with the principles of the Comprehensive Plan and surrounding zoning in the area.

#### **II. DECISION**

Based on the above Reasoned Statement of Relevant Criteria, the City Council of the City of Idaho Falls approved the initial zoning for property located northwest of N Yellowstone Hwy., west of N 15th E, south of E Iona Rd., and east of Hemmert Avenue.

**PASSED BY THE CITY COUNCIL OF THE CITY OF IDAHO FALLS**

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016

---

Rebecca L. Noah Casper, Mayor



BGC-064-16

**TO:** Honorable Mayor and City Council  
**FROM:** Brad Cramer, Community Development Services Director  
**SUBJECT:** Annexation and Initial Zoning of R-1, Annexation Ordinance, Zoning Ordinance, and Reasoned Statements of Relevant Criteria and Standards, Heritage Park  
**DATE:** June 2, 2016

Attached is the application for Annexation and Initial Zoning of R-1, Annexation Ordinance, Zoning Ordinance, and Reasoned Statements of Relevant Criteria and Standards, for Heritage Park. The Planning and Zoning Commission considered this item at its May 3 meeting and recommended approval by unanimous vote. Staff concurs with this recommendation. This item is now being submitted to the Mayor and City Council for consideration.

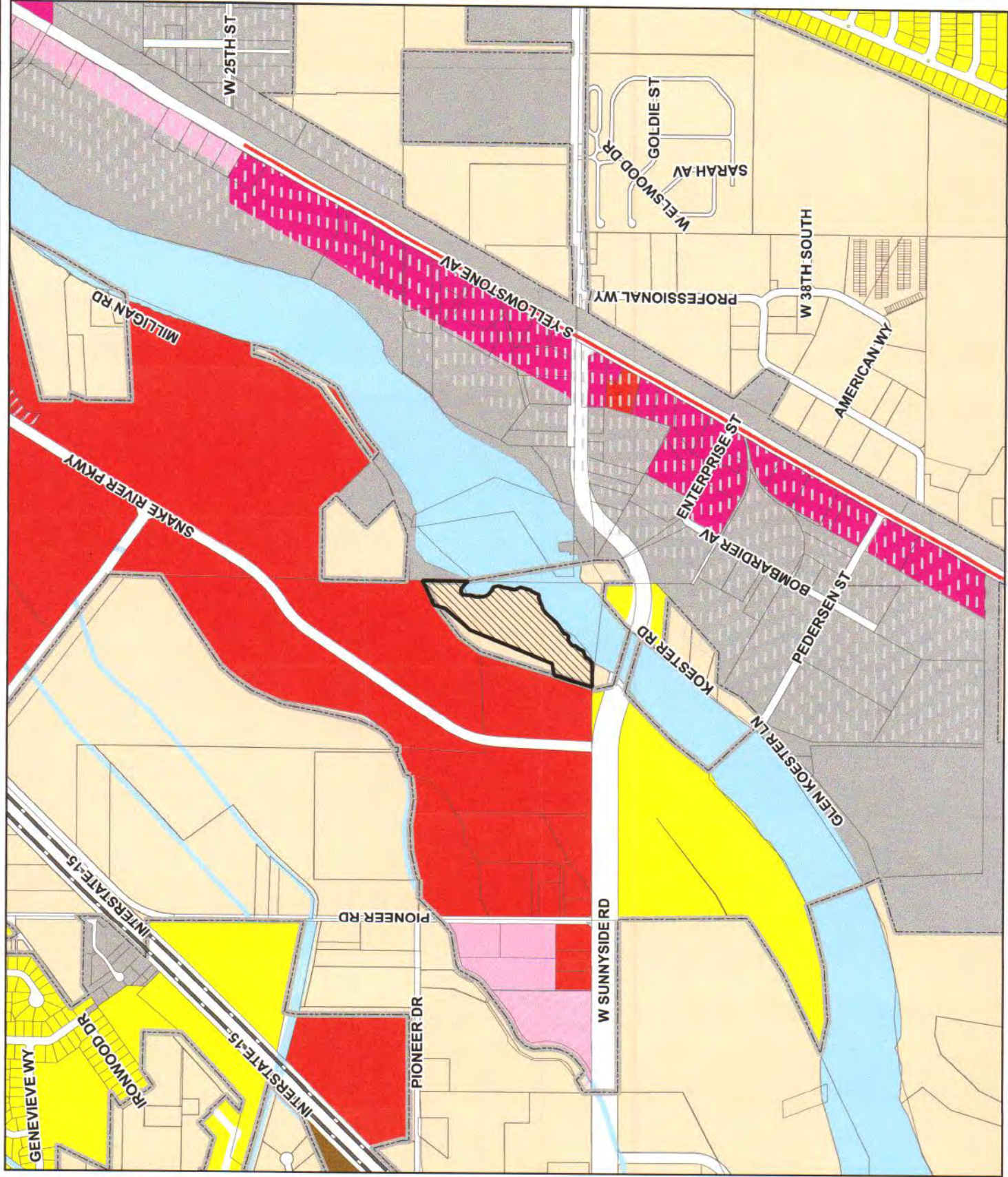
Attachments: Vicinity Map  
Aerial Photo  
Staff Report May 3, 2016  
Draft Planning and Zoning Commission Minutes May 3, 2016  
Annexation Ordinance  
Zoning Ordinance  
Reasoned Statements of Relevant Criteria and Standards

Cc: Kathy Hampton, City Clerk  
File





- Legend**
- Site
  - RP
  - RP-A
  - R-1
  - R-2
  - R2A
  - R-3
  - R-3A
  - PB
  - MS
  - RSC-1
  - C-1
  - HC-1
  - CC-1
  - GC-1
  - R&D-1
  - M-1
  - I&M-1
  - I&M-2
  - RMH
  - PT-1
  - PT-2
  - PT-2 & T-1
  - PUD
  - T-1
  - T-2
  - 30' Setback
  - 50' Setback
  - City Limits
  - Area of Impact







Gallatin Ave  
W 25th St

Steepchase Ln

Purser Ln  
Goldie St  
Sarah Ave  
E Elwood Dr

S Yellowstone Ave

Professional Way

W 38th S

American Way

Milligan Rd

Snake River Pkwy

Event Center Dr

Enterprise St

Bombardier Ave

Pedersen St

Koester Rd

Glen Koester Ln

W Sunnyside Rd

Pioneer Rd

Pioneer Dr

Interstate 15 SB

Interstate 15 NB














Grizzly Way

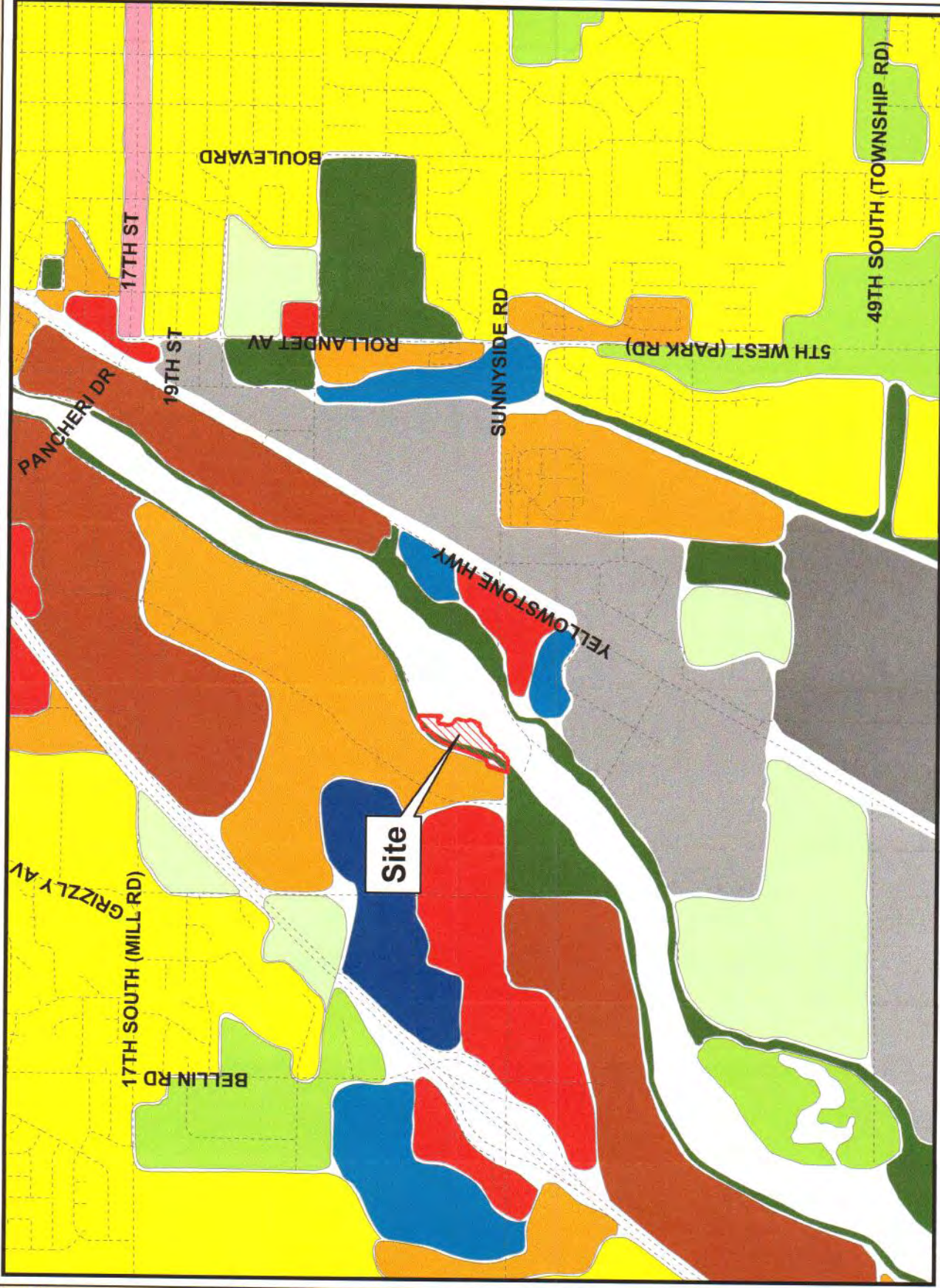
Ironwood Dr



# Annexation & Initial Zoning

M&B: Approximately 9.41 Acres SE1/4 Section 26, T 2N, R 37E (Heritage Park)

- |  |  |   |  |   |
|--|--|---|--|---|
|  Estate         |  Greenbelt Mixed Uses           |  Commercial              |  Higher Education Centers   |  Railroad-related industrial |
|  Low Density    |  Parks, Recreation              |  Employment Centers      |  Planned Transition         |   |
|  Higher Density |  Public Facilities, Open Spaces |  Medical Services Center |  Highway-related industrial |   |



IDAHO FALLS

## Comprehensive Plan



Planning Department  
P.O. Box 50220  
380 Constitution Way  
Idaho Falls, ID 83405  
(208) 612-8276

Date: 02/26/2016



IDAHO FALLS PLANNING AND ZONING COMMISSION  
STAFF REPORT  
ANNEXATION AND INITIAL ZONING OF R-1  
SE¼ of Section 26, T2N, R37E (Heritage Park)  
May 3, 2016



Community  
Development  
Services

**Applicant:** City of Idaho Falls

**Location:** Generally south and east of Snake River Parkway, west of the Snake River and north of W Sunnyside Rd.

**Size:** 9.41 acres

**Existing Zoning:**  
Site: County A-1 Agricultural

**Proposed Zoning:**  
R-1 Residential

**Existing Land Uses:**  
Site: Vacant/ Undeveloped  
North: Vacant/ Undeveloped  
South: Snake River  
East: Snake River  
West: Vacant/ Undeveloped

**Future Land Use Map:**  
Parks, Recreation

**Attachments:**  
1. Maps and aerial photos

**Requested Action:** To approve the Annexation and Initial Zoning of R-1.

**Staff Comments:**

**History:** This property was donated to the City for a future park and is currently being masterplan through the Parks and Recreation Department.

**Annexation:** This is a Category "A" annexation in which the property owner is requesting incorporation into the City. This property is part of a larger County enclave within the City in this area. The annexation does not include the entire enclave. The remaining portions of the enclave are under different ownership or include the river. The City's intent was to only annex the property under its ownership. Annexation of the river portion would involve working with the state and the City Surveyor would advise delaying and working on all the river enclaves at once.

**Zoning:** The applicant is proposing R-1 Zoning for the development of a city park. The comprehensive plan for the area is designated as Parks, Recreation. The R-1 Zoning is consistent with all other park properties throughout the City. Development of a park on the property will require a conditional use permit.

**Staff Recommendation:** Staff recommends approval of the annexation and initial zoning of R-1.

**Comprehensive  
Plan Policies:**

**Continue development of the Greenbelt from the upper power plant to Gem Lake. (pg. 16)**

People told us they wanted residential areas with neighborhood parks, the extension of the Snake River Greenbelt, and the development of more active outdoor recreational facilities such as soccer and baseball fields. Many would like some of these facilities to be geared towards the youth in our community who are 14 to 18 years of age. (pg. 54)

**Develop a community park on the west side of the Snake River.**

The development of a community park will move us towards the concerns we heard from the people: the need for more active recreational facilities and a large park on the west side. Idaho Falls recently purchased land for enlarging the soccer complex near Old Butte Road, and the development of Ryder Park has begun with the fishing pond and path. In both of these locations, the park should be developed with passive areas, i.e., areas for walking and picnicing, as well as active recreational areas. At citizen participation events, residents have asked that parks not be developed totally as sports fields. (pg. 57)

**Parks and recreation**

Parks and recreation facilities. (pg. 63)

**Develop new parks to meet recreational needs as the community grows into new areas. (pg. 70)**

**Zoning Ordinance:**

**10-3-5-Z-2 Public and Semi-Public Parks, Playgrounds, and Schools.**

**(a) Intent of this Provision.**

- (i) To foster the appropriate location and layout of public parks and playgrounds.
- (ii) To harmonize the various features and facilities of parks and playgrounds with the surrounding area, so as to produce sound, stable residential neighborhoods.
- (iii) To foster a coordination of public recreational facilities on the part of the City, the School Districts, and other public and semi-public agencies.

**(b) Approval Necessary - Plans.** Before a permit for the construction of a public or semi-public park, playground or school shall be issued by the Zoning Administrator, the overall plan of said park, playground or school shall be prepared and submitted to the Planning Commission. The Planning Commission may also act on its own initiative in preparing and approving plans for parks and playgrounds. An application for approval of

a permit shall be accompanied by plans showing the general layout and location of roadways, entrances and exits, walks, paths and buildings and structures; the general layout and location of landscaped areas, play areas, play apparatus areas, hard-surfaced areas, off-street parking, drainage, water supply, sewerage and other features of design.

(c) Standards and Requirements.

- (i) Trees, shrubs, grass and other forms of landscaping shall be provided in sufficient quantities to insure a park-like appearance.
- (ii) Facilities involving lights shall be so located, and the lights shall be designed and located so that glare and discomfort will not be unreasonably detrimental to surrounding residences.
- (iii) Off-street parking areas and other facilities which attract or are intended to accommodate spectators, shall be screened or located so that the detrimental effects of noise and traffic on any surrounding residential area will be kept to a minimum.
- (iv) The entire layout and design of the park and playground shall be so arranged as to harmonize with the objectives and characteristics of the Zone in which the park and playground are located.
- (v) Adequate ingress and egress shall be provided for both vehicles and pedestrians which the park, playground or school is intended to serve.



it will be more difficult for Staff if it is only recommended as opposed to mandatory under certain circumstances, so it is black and white for developers. Beutler stated that applicants that do not want anyone involved, might not like the discussion, but most applicants come and visit ahead of time and are involved and they talk about what the neighbors would think, so no additional effort on staff's part would be needed. Dixon suggested encouraging it in certain circumstances, and then giving the Commission the authority that after a hearing, but prior to it moving forward to City Council to require a neighborhood meeting at the Commission's discretion. Black agreed with Dixon's suggestion that it would have some enforcement without having an absolute requirement. Swaney stated that they could table the application until they have a neighborhood meeting. Foster asked if the purpose of the neighborhood meeting is to inform or to resolve. Wimborne indicated that the application would need to come back to the Commission after the meeting. Black stated that sometimes, even after the developer has a meeting the application is still contentious, but the developer did what they were supposed to do. Beutler stated that sometimes the crowd has concerns that the Commission has no control over, such as property values. Dixon indicated they would have to use the neighborhood meeting with caution when there really are some things that could be resolved by working together. Wimborne stated that sometimes the application can be completely legal and the neighbors just might not like it. Dixon asked if through the standard notification process, if the developer wanted to have a meeting they could piggyback off of that notification as a way to notify neighbors. Beutler stated that it would have to happen after they made application and prior to the planning commission hearing.

**Darryl Kofoed, HLE, 985 Capital, Idaho Falls, Idaho.** Kofoed stated that a neighborhood meeting could fix a lot of problems and sometimes it could precipitate the problem. If the meeting goes well then the big questions will be taken care of, and if it goes poorly then the neighbors will go and choose sides and it could get heated.

Swaney stated that some of the value of the neighborhood meeting would be to find the issues and the positions of the neighbors as it can make things go faster in the public hearing when the neighbors bring testimony and can choose a few speakers to state the problem, instead of the whole group stating the same problem. Beutler stated that he will put a list of recommended application types for a neighborhood meeting and recommendations as to what would be a good way to conduct a neighborhood meeting and bring it back to the Commission for review next month and start off with a recommendation of standards. Dixon asked Beutler to check with legal to see if the Commission needs authority to require the meeting.

**CALL TO ORDER:** Chairman Dixon called the meeting to order at 7:00 p.m. and reviewed the public hearing procedure.

**CHANGE TO AGENDA:** None.

**Minutes:** Wimborne moved to approve the minutes of April 5, 2016, Morrison seconded the motion and it passed unanimously.

**Public Hearings:**

**1. ANNEXATION/INITIAL ZONING. (Heritage Park).** Beutler presented the staff report, a part of the record. Black asked about the small sliver of land that is County, and asked whether it is the same ownership as the City property adjacent. Dixon and Beutler discussed the property



on the east side of the river. Beutler indicated that the property is private and owned by Rocky Mountain Power and has power equipment/substation. Dixon asked if the City will still allow the access to the roads and paths on the property. Beutler stated that he has not heard of any intent to fence the property.

Dixon opened the public hearing.

No one appeared in support or opposition to the application.

Dixon closed the public hearing.

**Morrison moved to recommend to the Mayor and City Council approval of the Annexation and Initial Zoning of R-1 for the Heritage Park property as presented, Wimborne seconded the motion and it passed unanimously.**

**2. ANNEXATION/INITIAL ZONING. (Hult Property).** Beutler presented the staff report, a part of the record. Dixon asked if the mobile home park would fit within the HC-1. Beutler indicated it would become a non-conforming use. Beutler indicated that the applicant's intent is to have the mobile home park and homes removed within the next nine months and not have any residential use on the property. Dixon asked if this property and HC-1 would fit with the Comprehensive Plan as the back portion of the property is in a different area of the Comprehensive Plan. Beutler indicated that the Comprehensive Plan is not meant to be well defined boundaries. Beutler stated that HC-1 is a more intense commercial zoning designation and thus would fit with the intent of the Comprehensive Plan. Beutler stated that as the property is annexed curb gutter and sidewalk improvements will be required along the frontage when development occurs.

Dixon opened the public hearing.

**Applicant:**

**Darryl Kofoed, HLE, 985 N. Capital Ave., Idaho Falls, Idaho.** Kofoed indicated that the plans for the property are to put an office park on the property. Kofoed indicated that the mobile homes will move out as the leases come due.

No one appeared in support or opposition to the application.

Dixon closed the public hearing.

Wimborne asked if there needs to be anything addressed in the motion for the mobile home use. Beutler stated that once the City annexes the property it will become a non-conforming use, but because they were established prior to it being annexed, and the City annexed it with the mobile homes, it would be a legal non-conforming use so the use could continue until it is vacated and it cannot be replaced. Swaney verified that once the annexation and initial HC-1 Zoning is implemented and when development occurs, curb and gutter and landscaping requirements will be required. Beutler agreed that all of the minimum standards of the City and the zone will apply.

**Morrison moved to recommend to the Mayor and City Council approval of the Annexation with Initial Zoning of HC-1 for the Hult Property as presented, Denney seconded the motion and it passed unanimously.**

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE ANNEXING APPROXIMATELY 9.41 ACRES LOCATED NORTH OF SUNNYSIDE ROAD, WEST OF THE SNAKE RIVER AND EAST OF SNAKE RIVER PARKWAY TO THE CITY OF IDAHO FALLS; DESCRIBING SUCH LANDS; AMENDING THE CITY MAP; AMENDING THE LEGAL DESCRIPTION OF THE CITY WITH THE APPROPRIATE COUNTY AND STATE AUTHORITIES; ESTABLISHING A COMPREHENSIVE PLAN DESIGNATION, AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

WHEREAS, the lands described in Exhibit A of this Ordinance are contiguous and adjacent to the City limits of the City of Idaho Falls, Idaho; and

WHEREAS, such lands described herein are subject to annexation to the City pursuant to the provisions of Idaho Code Section 50-222, and other laws, as amended; and

WHEREAS, the annexation of the lands described in Exhibit A is reasonably necessary to assure the orderly development of the City in order to allow efficient and economically viable provision of tax-supported and fee-supported municipal services; to enable the orderly development of private lands which benefit from a cost-effective availability of City services in urbanizing areas; and to equitably allocate the costs of City/public services in management of development on the City's urban fringe; and

WHEREAS, the City has authority to annex lands into the City upon compliance with procedures required in Idaho Code Section 50-222, as amended; and

WHEREAS, any portion of a highway lying wholly or partially within the lands to be annexed are included in the lands annexed by this Ordinance; and

WHEREAS, the lands annexed by this Ordinance are not connected to the City only by a "shoestring" or a strip of land which comprises a railroad or right-of-way; and

WHEREAS, all private landowners have consented to annexation of such lands where necessary; and

WHEREAS, the lands to be annexed are contiguous to the City and the City of Idaho Falls Comprehensive Plan includes the area of annexation; and

WHEREAS, after considering the written and oral comments of property owners whose lands would be annexed and other affected persons, City Council specifically makes the following findings:

- 1) That the lands annexed meet the applicable requirements of Idaho Code Section 50-222 and does not fall within exceptions or conditional exceptions contained in Idaho Code Section 50-222;
- 2) The annexation is consistent with public purposes addressed in annexation and related plans prepared by the City; and
- 3) Annexation of the lands described in Exhibit A are reasonably necessary for the orderly development of the City; and

WHEREAS, it appears to the City Council that the lands described hereinbelow in Exhibit A of this Ordinance should be annexed to and become a part of the City of Idaho Falls, Idaho; and

WHEREAS, the City wishes to exercise jurisdiction over the annexed lands in a way that promotes the orderly development of such lands; and

WHEREAS, the City of Idaho Falls Comprehensive Plan sets out policies and strategies designed to promote and sustain future growth within the City; and

WHEREAS, for consistency with the Comprehensive Plan, the Council desires to designate the lands within the area of annexation as “Parks, Recreation”; and

WHEREAS, such designation is consistent with policies and principles contained within the City of Idaho Falls Comprehensive Plan; and

WHEREAS, the City desires the City of Idaho Falls Comprehensive Plan Map to be amended to reflect the designation contained in this Ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF IDAHO FALLS, IDAHO, as follows:

SECTION 1. Annexation of Property. The lands described herein in Exhibit A are hereby annexed to the City of Idaho Falls, Idaho.

SECTION 2. Amended Map and Legal Description. The City Clerk shall file a certified copy of this Ordinance with the Bonneville County Auditor, Treasurer, and Assessor, within ten (10) days after the effective date hereof. The City Engineer shall, within ten (10) days after such effective date, file an amended legal description and map of the City, with the Bonneville County Recorder and Assessor and the Idaho State Tax Commission, all in accordance with Idaho Code Section 63-2215.

SECTION 3. Findings. That the findings contained in the recitals of this Ordinance be, and the same are hereby, adopted as the official City Council findings for this Ordinance, and that any further findings relative to this Ordinance shall be contained in the officially adopted Council minutes of the meeting in which this Ordinance was passed.

SECTION 4. Savings and Severability Clause. The provisions and parts of this Ordinance are intended to be severable. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

SECTION 5. Publication. This Ordinance, or a summary thereof in compliance with Idaho Code, shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

SECTION 6. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Rebecca L. Noah Casper, Mayor

ATTEST:

\_\_\_\_\_  
Kathy Hampton, City Clerk

(SEAL)

STATE OF IDAHO                    )  
  : ss.  
County of Bonneville            )

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

That the above and foregoing is a full, true and correct copy of the Ordinance entitled: "AN ORDINANCE ANNEXING APPROXIMATELY 9.41 ACRES LOCATED NORTH OF SUNNYSIDE ROAD, WEST OF THE SNAKE RIVER AND EAST OF SNAKE RIVER PARKWAY TO THE

CITY OF IDAHO FALLS; DESCRIBING SUCH LANDS; AMENDING THE CITY MAP; AMENDING THE LEGAL DESCRIPTION OF THE CITY WITH THE APPROPRIATE COUNTY AND STATE AUTHORITIES; ESTABLISHING A COMPREHENSIVE PLAN DESIGNATION, AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.”

---

Kathy Hampton, City Clerk

(SEAL)



## Exhibit "A"

Beginning at a point that is N.89°48'50"E. along the Section line 1783.30 feet from the South 1/4 Corner of Section 26, Township 2 North, Range 37 East of the Boise Meridian; running thence N.16°33'50"E. 300.00 feet; thence N.79°02'43"E. 89.58 feet; thence N.21°33'00"E. 669.64 feet; thence N.40°29'23"E. 245.45 feet; thence N.17°16'00"E. 90.31 feet; thence N.65°02'50"E. 210.74 feet to the East line of said Section 26; thence S.00°26'30"W. along said East line 346.87 feet to mean ordinary high water line of the West bank of the Snake River; thence Northwesterly and Southerly along said mean ordinary high water line the following fifty five (55) courses: N.55°54'56"W. 15.42 feet; thence N.37°49'58"W. 19.04 feet; thence N.53°07'58"W. 41.84 feet; thence N.70°32'03"W. 19.69 feet; thence S.81°01'30"W. 12.76 feet; thence S.60°28'03"W. 18.75 feet; thence S.33°07'37"W. 9.31 feet; thence S.05°22'27"W. 32.03 feet; thence S.02°55'02"E. 25.54 feet; thence S.20°46'56"W. 39.46 feet; thence S.02°43'51"E. 58.98 feet; thence S. 22°55'08"E. 38.18 feet; thence S.52°27'01"E. 36.92 feet; thence S.23°01'13"E. 5.06 feet; thence S.70°01'35"E. 30.62 feet; thence S.18°04'06"E. 31.15 feet; thence South 25.86 feet; thence S.29°23'52"W. 25.79 feet; thence S.06°24'37"W. 38.78 feet; thence S.14°07'37"W. 44.37 feet; thence S.17°01'38"E. 20.08 feet; thence S.28°52'06"E. 29.60 feet; thence S.16°22'30"W. 84.63 feet; thence S.56°09'46"W. 11.87 feet; thence S.13°39'05"W. 16.61 feet; thence S.42°38'42"W. 12.05 feet; thence S.18°24'46"W. 24.38 feet; thence S.56°07'09"W. 12.50 feet; thence S.85°19'29"W. 9.69 feet; thence N.63°51'57"W. 12.49 feet; thence S.65°28'18"W. 64.05 feet; thence S.76°57'44"W. 19.90 feet; thence S.54°40'32"W. 39.67 feet; thence S.41°55'41"W. 115.85 feet; thence S.55°02'04"W. 94.19 feet; thence S.00°27'54"E. 12.32 feet; thence S.37°32'34"W. 29.80 feet; thence N.85°36'57"W. 30.22 feet; thence S.60°16'11"W. 19.36 feet; thence S.49°25'32"W. 34.82 feet; thence S.05°25'39"E. 19.14 feet; thence S.29°00'52"W. 19.46 feet; thence S.83°00'00"W. 8.53 feet; thence S.23°28'31"W. 14.69 feet; thence S.63°24'10"W. 7.95 feet; thence S.18°04'52"E. 9.22 feet; thence S.44°16'52"W. 11.27 feet; thence S.15°34'44"W. 11.17 feet; thence S.59°35'26"W. 6.20 feet; thence S.84°28'29"W. 7.69 feet; thence S.67°13'22"W. 28.03 feet; thence S.49°20'17"W. 17.39 feet; thence S.24°47'16"W. 15.72 feet; thence S.47°35'23"W. 30.20 feet; thence S.09°06'59"W. 6.82 feet; thence S.89°48'50"W. 187.65 feet to the POINT OF BEGINNING.

SUBJECT TO: existing easements of record.

Text derived from legal written by Mt River Engineering June 8, 2007





**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE INITIAL ZONING OF APPROXIMATELY 9.41 ACRES DESCRIBED IN EXHIBIT A OF THIS ORDINANCE AS R-1 ZONE; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

WHEREAS, the proposed initial zoning district of lands described in Section 1 is R-1 Zone for such annexed lands such zoning is consistent with the current City of Idaho Falls Comprehensive Plan Land use designation "Parks, Recreation"; and

WHEREAS, the proposed zoning district is consistent and compatible with the existing and surrounding zoning districts and is consistent with the City of Idaho Falls Comprehensive Plan; and

WHEREAS, Idaho Falls Planning and Zoning Commission held a duly noticed public hearing on May 3, 2016, and recommended approval of zoning the subject property to R-1 Zone; and

WHEREAS, the Idaho Falls City Council conducted a duly noticed public hearing and passed a motion to approve this zoning on June 9, 2016.

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

**SECTION 1: LEGAL DESCRIPTION:**

This ordinance shall apply to the lands described in Exhibit A in Idaho Falls, Idaho, Bonneville County.

**SECTION 2. Zoning.** That the property described in Exhibit A of this Ordinance be and the same hereby is zoned "R-1, Zone" and the City Planner is hereby ordered to make the necessary amendments to the official maps of the City of Idaho Falls which are on file at the City Planning Department Offices, 680 Park Avenue.

**SECTION 3. Savings and Severability Clause.** The provisions and parts of this Ordinance are intended to be severable. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

**SECTION 4. Publication.** This Ordinance, or a summary thereof in compliance with Idaho Code, shall be published once in the official newspaper of the City, and shall take effect

immediately upon its passage, approval, and publication.

**SECTION 5.** Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED by the City Council and APPROVED by the Mayor of the City of Idaho Falls, Idaho, this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

CITY OF IDAHO FALLS, IDAHO

\_\_\_\_\_  
Rebecca L. Noah Casper, Mayor

ATTEST:

\_\_\_\_\_  
Kathy Hampton, City Clerk

(SEAL)

STATE OF IDAHO                    )  
  ) ss:  
County of Bonneville            )

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

That the above and foregoing is a full, true and correct copy of the Ordinance entitled, "AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE INITIAL ZONING OF APPROXIMATELY 9.41 ACRES DESCRIBED IN EXHIBIT A OF THIS ORDINANCE AS R-1 ZONE; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE."

\_\_\_\_\_  
Kathy Hampton, City Clerk

## Exhibit "A"

Beginning at a point that is N.89°48'50"E. along the Section line 1783.30 feet from the South 1/4 Corner of Section 26, Township 2 North, Range 37 East of the Boise Meridian; running thence N.16°33'50"E. 300.00 feet; thence N.79°02'43"E. 89.58 feet; thence N.21°33'00"E. 669.64 feet; thence N.40°29'23"E. 245.45 feet; thence N.17°16'00"E. 90.31 feet; thence N.65°02'50"E. 210.74 feet to the East line of said Section 26; thence S.00°26'30"W. along said East line 346.87 feet to mean ordinary high water line of the West bank of the Snake River; thence Northwesterly and Southerly along said mean ordinary high water line the following fifty five (55) courses: N.55°54'56"W. 15.42 feet; thence N.37°49'58"W. 19.04 feet; thence N.53°07'58"W. 41.84 feet; thence N.70°32'03"W. 19.69 feet; thence S.81°01'30"W. 12.76 feet; thence S.60°28'03"W. 18.75 feet; thence S.33°07'37"W. 9.31 feet; thence S.05°22'27"W. 32.03 feet; thence S.02°55'02"E. 25.54 feet; thence S.20°46'56"W. 39.46 feet; thence S.02°43'51"E. 58.98 feet; thence S. 22°55'08"E. 38.18 feet; thence S.52°27'01"E. 36.92 feet; thence S.23°01'13"E. 5.06 feet; thence S.70°01'35"E. 30.62 feet; thence S.18°04'06"E. 31.15 feet; thence South 25.86 feet; thence S.29°23'52"W. 25.79 feet; thence S.06°24'37"W. 38.78 feet; thence S.14°07'37"W. 44.37 feet; thence S.17°01'38"E. 20.08 feet; thence S.28°52'06"E. 29.60 feet; thence S.16°22'30"W. 84.63 feet; thence S.56°09'46"W. 11.87 feet; thence S.13°39'05"W. 16.61 feet; thence S.42°38'42"W. 12.05 feet; thence S.18°24'46"W. 24.38 feet; thence S.56°07'09"W. 12.50 feet; thence S.85°19'29"W. 9.69 feet; thence N.63°51'57"W. 12.49 feet; thence S.65°28'18"W. 64.05 feet; thence S.76°57'44"W. 19.90 feet; thence S.54°40'32"W. 39.67 feet; thence S.41°55'41"W. 115.85 feet; thence S.55°02'04"W. 94.19 feet; thence S.00°27'54"E. 12.32 feet; thence S.37°32'34"W. 29.80 feet; thence N.85°36'57"W. 30.22 feet; thence S.60°16'11"W. 19.36 feet; thence S.49°25'32"W. 34.82 feet; thence S.05°25'39"E. 19.14 feet; thence S.29°00'52"W. 19.46 feet; thence S.83°00'00"W. 8.53 feet; thence S.23°28'31"W. 14.69 feet; thence S.63°24'10"W. 7.95 feet; thence S.18°04'52"E. 9.22 feet; thence S.44°16'52"W. 11.27 feet; thence S.15°34'44"W. 11.17 feet; thence S.59°35'26"W. 6.20 feet; thence S.84°28'29"W. 7.69 feet; thence S.67°13'22"W. 28.03 feet; thence S.49°20'17"W. 17.39 feet; thence S.24°47'16"W. 15.72 feet; thence S.47°35'23"W. 30.20 feet; thence S.09°06'59"W. 6.82 feet; thence S.89°48'50"W. 187.65 feet to the POINT OF BEGINNING.

SUBJECT TO: existing easements of record.

Text derived from legal written by Mt River Engineering June 8, 2007



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

### **ANNEXATION OF PROPERTY LOCATED SOUTH AND EAST OF SNAKE RIVER PARKWAY, WEST OF THE SNAKE RIVER AND NORTH OF W SUNNYSIDE ROAD**

**WHEREAS**, the applicant filed an application for annexation and initial zoning of R-1 on February 26, 2016; and

**WHEREAS**, this matter came before the Idaho Falls Planning and Zoning Commission during a duly noticed public meeting on May 3, 2016; and

**WHEREAS**, this matter came before the Idaho Falls City Council during a duly noticed public meeting on June 9, 2016

**WHEREAS**, having reviewed the application, including all exhibits entered and having considered the issues presented:

#### **I. RELEVANT CRITERIA AND STANDARDS**

1. The Idaho Falls City Council considered the request pursuant to the City of Idaho Falls 2013 Comprehensive Plan, the City of Idaho Falls Zoning Ordinance, the Local Land Use Planning Act, and other applicable development regulations.
2. The property is an approximate 9.41 acre parcel located south and east of Snake River Parkway, west of the Snake River and north of W Sunnyside Road.
3. The Comprehensive Plan designates this area as Parks, Recreation.
4. The application is a Category A annexation with the property owner requesting incorporation into the City.

#### **II. DECISION**

Based on the above Reasoned Statement of Relevant Criteria, the City Council of the City of Idaho Falls approved the annexation for property located south and east of Snake River Parkway, west of the Snake River and north of W Sunnyside Road.

**PASSED BY THE CITY COUNCIL OF THE CITY OF IDAHO FALLS**

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016

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Rebecca L. Noah Casper, Mayor



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

### **INITIAL ZONING OF R-1 OF PROPERTY LOCATED SOUTH AND EAST OF SNAKE RIVER PARKWAY, WEST OF THE SNAKE RIVER AND NORTH OF W SUNNYSIDE ROAD**

**WHEREAS**, the applicant filed an application for annexation and initial zoning of R-1 on February 26, 2016; and

**WHEREAS**, this matter came before the Idaho Falls Planning and Zoning Commission during a duly noticed public meeting on May 3, 2016; and

**WHEREAS**, this matter came before the Idaho Falls City Council during a duly noticed public meeting on June 9, 2016

**WHEREAS**, having reviewed the application, including all exhibits entered and having considered the issues presented:

#### **I. RELEVANT CRITERIA AND STANDARDS**

1. The Idaho Falls City Council considered the request pursuant to the City of Idaho Falls 2013 Comprehensive Plan, the City of Idaho Falls Zoning Ordinance, the Local Land Use Planning Act, and other applicable development regulations.
2. The property is an approximate 9.41 acre parcel located south and east of Snake River Parkway, west of the Snake River and north of W Sunnyside Road.
3. The Comprehensive Plan designates this area as Parks, Recreation.
4. The proposed R-1 zone is consistent with the zoning designation given park properties throughout the city.

#### **II. DECISION**

Based on the above Reasoned Statement of Relevant Criteria, the City Council of the City of Idaho Falls approved the initial zoning for property located south and east of Snake River Parkway, west of the Snake River and north of W Sunnyside Road.

**PASSED BY THE CITY COUNCIL OF THE CITY OF IDAHO FALLS**

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016

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Rebecca L. Noah Casper, Mayor