



NOTICE OF PUBLIC MEETING

Monday, November 19, 2018

CITY COUNCIL CHAMBERS

680 Park Avenue

Idaho Falls, ID 83402

3:00 p.m.

The public is invited to attend. This meeting may be cancelled or recessed to a later time in accordance with law. If you need communication aids or services or other physical accommodations to participate or access this meeting or program of the City of Idaho Falls, you may contact City Clerk Kathy Hampton at 612-8414 or the ADA Coordinator Lisa Farris at 612-8323 as soon as possible and they will accommodate your needs.

SPECIAL MEETING (Council Work Session)

Times listed in parentheses are only estimates.

Call to Order and Roll Call

Mayor:

- Acceptance and/or Receipt of Minutes
- Calendar, Announcements and Reports (5)

Council:

- Liaison Reports and Concerns (10)

Municipal Services; Police;
Community Development; Legal:

- Child Care Ordinance Revisions Discussion (30)

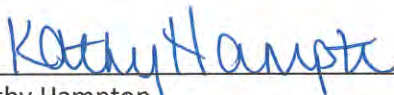
Police:

- Animal Control Licensing and Fees Discussion (15)

Public Works:

- Water Settlement Agreements Presentation/Discussion (45)

DATED this 16th day of November, 2018



Kathy Hampton
City Clerk



MEMORANDUM

TO: Honorable Mayor and Council

FROM: Brad Cramer, Director

DATE: November 7, 2018

RE: November 6, 2018, Planning Commission Action

Planning Commission took the following action during the November 6, 2018 meeting.

1. **CUP18-009: CONDITIONAL USE PERMIT.** Generally south of W Sunnyside Rd., west of S Yellowstone Ave., north of Pedersen St., and east of the Snake River. On 11/06/2018, the Planning and Zoning Commission approved the CUP for a vehicle washing facility with several conditions. Conditions:
 - 1) Hours of operation 6AM-11PM
 - 2) 8' masonry wall or equivalent in sound deadening adjacent to residential
 - 3) Landscape completed at same time of construction of vehicle washing facility
2. **RZON18-019. AMENDMENT TO THE COMPREHENSIVE ZONING MAP.** Amendments to the Comprehensive Zoning Ordinance in the following Sections and Tables: Sections 11-2-6, Standards for Allowed Land Uses, 11-3-4, Standards for Residential Zones, 11-3-6, Standards for Commercial Zones, 11-3-10, Standards for Special Purpose Zones, 11-4-4, Landscaping, Buffers and Screening, 11-4-8, Structures and Buildings, 11-6-7, Enforcement and 11-7-1, Definitions. Tables 11-2-2, Allowed Uses in Commercial Zones and 11-3-1 Standards for Residential Zones. On 11/06/2018, the Planning and Zoning Commission recommended to the Mayor and City Council approval of the amendment to the comprehensive zoning map as presented.
3. **CUP18-008: CONDITIONAL USE PERMIT.** Generally south of E 12th St., west of St Clair Rd., north of E 17th St., and east of Juniper Dr. On 11/06/2018, the Planning and Zoning Commission approved the CUP for a vehicle washing facility with several conditions. Conditions:
 - 1) Hours of operation 6AM-11PM
 - 2) Expires in 1 year if construction has not been started
 - 3) After 2 years of vacancy of vehicle wash facility CUP be revoked
 - 4) Landscape completed at same time of construction of vehicle washing facility
 - 5) Bond with Public Works to provide City an assurance, that at the earliest point in time possible the permanent removal of two curb cuts along 17th in front of the Payday Loans will be completed.

RECOMMENDED COUNCIL ACTION: To receive recommendation(s) from the Planning and Zoning Commission pursuant to the Local Land Use Planning Act (LLUPA).

PC Action 11/6/2018

GOLF ADVISORY BOARD MEETING MINUTES

Tuesday, September 18, 2018

7:00 P.M.

ACTIVITY CENTER

ATTENDANCE

Members in attendance: P. Wheatley, L. Densley, J. Graham, T. Lohse, M. Cole, F. Sica, M. Spraktes, J. Landon, B. McGiff, D. McCarty, G. Lattimore, T. Reinke, R. Elwood, J. Volley, D. Hendrickson, G. Weitzel

Members not in attendance: B. Bugger, R. Carosone, T. Hersh, A. Proctor, S. Priebe, G. Denning

APPROVAL OF MINUTES

D. McCarty motioned to approve the March 14, 2018 minutes. The motion was seconded by F. Sica. All in favor. Motion carried.

Director's Report – G. Weitzel

G. Weitzel reported on the following:

- A presentation was shown to the board that he and T. Reinke made for the National Congress in 2015. This presentation encourages making changes at golf courses to buck the current trends which show a decline in golf participation across the county.
- G. Weitzel discussed the Five Year Business Plan. He advised the board on the necessity of going forward with plans for the future of the courses. The members will choose from one of five committees to be on. The chairs of these committees will meet with their members and then report back monthly in hopes of having a plan by January or February 2019. The five committees are: 1. Staffing & Succession, 2. Revenue Centers & Fee Structure, 3. Marketing & Advertising, 4. Maintenance & Operations, 5. Programming – Future.

NEW BUSINESS

G. Weitzel reported on the following:

- The Medical Cart Grandfather Clause. We are leaving these fees alone for now.

STAFF REPORTS

Manager of Golf Operations – T. Reinke

T. Reinke reported on the following:

- He reviewed The Five Year Business Plan recommendations that are in various stages of completion or not yet started.
- He reviewed the revenue summary including daily greens fees, punch passes, rounds played, season passes, merchandise, etc. He explained any loss of revenue was due to the terrible spring weather.
- He summarized all the Income/Revenues for Operations and Capital funds for 2013-2017.
- He reviewed the 2018 Fiscal Year report and advised he won't have the complete and final numbers until November.
- He has the USGA report that is available for any board member who would like to review it. He advised the board on some sections of this report.

Women's Association – D. Hendrickson

D. Hendrickson reported on the following:

- A good summer with new members.
- Very pleased with course conditions.
- Fifty plus members playing on Tuesdays this summer.

Working Women's Association – A. Proctor (Absent – No Report)

Men's Association – D. McCarty

D. McCarty reported on the following:

- A good summer overall. Tournament participants up.
- Revamping Hall of Fame election process.
- They are on the cusp of making major changes to handicaps and enforcement similar to the Pro Am system.

Senior's Association – S. Priebe (Not Present) Reported by L. Densley

L. Densley reported on the following:

- They have changed to Golf Genius but have a challenge with seniors who are not familiar with computers.
- They have 133 members and an average of 85 of them playing weekly.
- Just had a three day championship.
- They have implemented forward tees with some of their members.

Junior Association – F. Sica

F. Sica reported on the following:

- They have 370 members. They had nine Junior Golf Days, and three of those days parents were allowed to play.
- He advised that our short course had 12,000 rounds played.
- The Jr. Club Championship had 160 players.
- They had 400 participants come to the Jr. Banquet.
- The Junior Association program remains very popular.

STAFF REPORTS

Pinecrest Maintenance – M. Spraktes

M. Spraktes reported on the following:

- Good season overall. Excellent crew.
- Constant irrigation issues. Soon as one issue is fixed, there is a breakage elsewhere.

Sand Creek Pro – J. Graham

J. Graham reported the following:

- The participation for the tournaments about the same as last year.
- They had 16 company events.
- 1st Tee program going well.
- Junior lessons are up with 72 participants.
- He advised on the upcoming tournaments.
- They now have sand on the carts for divots.

Sandcreek Maintenance – T. Lohse

T. Lohse reported on the following:

- The pump station was upgraded. Pressure better on the course with the exception of pump #2.
- There were upgrades to hundreds of heads.
- They did not lose any underground piping this year.
- Forward tees were leveled.
- They removed approximately twenty Russian olive trees.
- Very happy with his crew this year.
- They plan to put new material down on one of the deteriorating bridges.

Sage Lakes Pro – G. Denning (Absent – No Report)

Sage Lakes Maintenance – J. Landon

J. Landon reported on the following:

- He's been training a new crew. He's lost good crew members to better offers with benefits elsewhere.
- He mapped out the entire golf course head and controller locations.
- He advised the board of the spring lightning strikes that took out the irrigation control boards and well.
- They lost five trees during wind storm.
- They filled in three sand traps.
- Bunker repair update. Constant sand replacement due to wind.

Meeting adjourned at 8:42 p.m.

Next meeting will be held November 1, 2018.

*Recorded by:
Tracy Sessions, Clerk, Parks & Recreation*

**Idaho Falls Sister Cities Youth Meeting
October 15, 2018**

Attendees:

Cameron Archer	*Caleb Cloutier	Katherine Eaton	Aurora Mahoney	Dallin Peck
David Archer	*Charlotte Combs	Kylie Eaton	Chad Mahoney	Nathan Peck
*Noah Carter	*Laura Combs	Jo Gallegos	*Heather Medema	Rebecca Smith
*Aaron Carter	Tate Corbridge	Abby Gallegos	*Charlie Medema	Anna St. Michel
Melinda Cebull	*Aaron Doyle	Aidan Gallegos	Gabe Padron	Whitney St. Michel
Nicholas Cebull	*Able Doyle	Aliyah Gamino	Jorge Padron	Stephanie Van Ausdeln
Peter Cebull	David Eaton	Vina Gamino	Kendra Peck	*indicates guests

Note: Action items are in red.

Welcome:

David Eaton welcomed everyone to the meeting and introduced himself and the other officers. The officers are as follows: David and Katherine Eaton - co-presidents, Whitney St. Michel - vice president, Melinda Cebull – secretary, Peter Cebull – treasurer, Kendra Peck – student advisor, and Wendy Boring – historian.

Minutes:

The October 3rd meeting minutes were provided to the group by email. Whitney motioned to approve the meeting minutes and Peter seconded the motion.

Treasurer's Report:

Peter provided the treasurer's report. The current balance is \$4,533.66. The decrease of \$2.32 reflects \$3 in mistaken bank fees and \$0.68 in dividends. Peter will talk with the bank to get the \$3 refunded.

Skype:

Kendra told us the Japanese group would like to set up a Skype session where they could learn some fun English phrases. **She would like the students to think of some phrases to teach the group.** The Japanese students will be doing a Valentine's party this year and asked for recommendations on games they could play. **Please think about Valentine's games you have enjoyed and bring suggestions to the next meeting.**

Informational Meeting:

Nicholas and Dallin introduced themselves and presented a PowerPoint presentation with information about the Idaho Falls Youth Sister Cities group. A pdf version of the PowerPoint accompanies the minutes. Nicholas and Dallin and others in the group answered questions.

The new members were told Junko Flynn has been teaching some of our members Japanese. She gives lessons once a week and provides group lessons for \$10 an hour and individual lessons for \$15 an hour.

Videos with pictures of the 2018 exchange in Tokai and the 2017 exchange in Idaho Falls were shown.

David thanked everyone for coming and told people the next meeting date is November 7th at the library at 7 p.m. He told everyone about the JACL bento box fundraiser and asked Melinda to include the people signed up to work in the minutes.

JACL Bento Boxes:

The JACL has asked our group to help with their bento box fundraiser. The funds earned go to support community scholarships. The fundraiser will be on October 20th at 1575 N. Skyline Drive. David welcomed anyone to come help. The following people have signed up to help:

8:00 a.m. – 11:00 a.m.

Melinda Cebull	Peter Cebull	Nicholas Cebull	David Archer
Tate Corbridge	Brennan Corbridge	Gabe Padron	Cameron Archer

11:00 a.m. – 2:00 p.m.

Candice Aicher	Kohan Davis	Kylie Eaton	David Eaton
Kendra Peck	Dallin Peck	Nathan Peck	Elliot Boring
Wendy Boring?	Aliyah Gamino	Vina Gamino	

A motion to adjourn was made by Kendra and seconded by Rebecca.



Idaho Falls Civic Center for the Performing Arts Committee Meeting Minutes
Wednesday, September 5, 2018

Idaho Falls Civic Center for the Performing Arts Committee of the City of Idaho Falls met in a special committee meeting, Wednesday, September 5, 2018, at the Municipal Services Director's Office, 308 Constitution Avenue, Idaho Falls, Idaho at 1:30 p.m.

In Attendance:

Arthur Kull, Idaho Falls Civic Center for the Performing Arts Committee Member
Deidre Warden, Idaho Falls Civic Center for the Performing Arts Committee Member
Bonnee Taggart, Idaho Falls Civic Center for the Performing Arts Committee Member

Others Present:

Pam Alexander, Municipal Services Director
Chandra Witt, General Services Administrator
Ed Morgan, Civic Center for the Performing Arts Manager
Krista Heald, General Services Office Assistant
Terri Frickey, Maeck Foundation
Brandi Newton, Executive Director IF Arts Council
Lara Hill, Events and Rentals Manager IF Arts Council
Carol Johnson, Interior Architect
Greg Croft, Resin Architecture
Mike Price, East Idaho News

Absent:

Carrie Scheid, Idaho Falls Civic Center for the Performing Arts Committee Member
Anne Staton-Voilleque, Idaho Falls Civic Center for the Performing Arts Committee Member

The meeting was called to order by Chair Arthur Kull at 1:30 p.m.

Public Comment:

- None

Review of Meeting Minutes from Friday, August 3, 2018:

- Bonnee Taggart motioned for the approval of the meeting minutes from Friday, August 3, 2018, and Deidre Warden seconded the motion. Motion carried.



Idaho Falls Civic Center for the Performing Arts Committee Meeting Minutes
Wednesday, September 5, 2018


Phase I Renovation Project Updates:

- Chandra Witt read over emails from Ryan Judd of Big-D Construction and Brad McKinsey of McKinsey Management Services, Inc.
- There was a brief discussion as far as the status of the wall paint. It seems to be going well with no issues. There are some changes regarding the copper colored paint as it's not matching the desired look.
- There was a brief discussion as far as the vinyl being installed on the walls. Ryan Judd is suggesting some type of trim for the vinyl to help secure it and prevent it from being ripped. Carol Johnson is to give suggestions for the trim.
- Chandra Witt advised that a decision needed to be made regarding the molding around the doors, and what to do with the stone columns. Carol Johnson will give suggestions regarding these items.
- There was a brief discussion regarding the fabric on the sound walls. Chandra Witt provided a recommendation that fiber board be molded to the curvature of the existing sound wall and then the fabric that was decided on be attached to the fiber board. There was a discussion as to whether to keep the integrity of the building or to change this recommendation. Deidre Warden motioned to treat the back wall as recommended. Bonnee Taggart seconded the motion. Motion carried.
- There was a brief discussion regarding the seats. Chandra Witt provided the back story on the issues with the seats and advised of the current updates. Guilford of Maine advised that they could have the fabric in 7 weeks, and Norcon advised that they should have the seats completed sometime in November. Both Norcon and Guilford have committed. A seating chart should be provided by Friday, September 7, 2018, and a special meeting will need to be called to approve the seating chart as soon as possible to get the seats into production.
- Carol Johnson will need to make a decision as to the color for the hand rail paint and powder coating.
- There was a brief discussion as far as the marquee. Carol Johnson advised that as they have to stick with the original sign, they would go with a brushed chrome on the vertical pieces. The LED sign will be 5' x 9'. The exact material will need to be provided so that a quote could be obtained.
- Spreadsheets were provided as to the current costs of the phase 1 project and changes that were needing to be made as the dimmer system went out and will need to be replaced sooner than expected. Ed Morgan will obtain quotes for the dimmer system.
- There was a brief discussion regarding the acoustic paneling and the benefits of wood versus laminate as well as the costs associated with both.
- There was a brief discussion regarding the mechanical pit cover, the types available and the costs associated.



Idaho Falls Civic Center for the Performing Arts Committee Meeting Minutes
Wednesday, September 5, 2018

The meeting adjourned at 2:49 p.m.



Krista Heald - Secretary



Arthur Kull - Chair



Idaho Falls Civic Center for the Performing Arts Committee Meeting Minutes
Wednesday, October 10, 2018

Idaho Falls Civic Center for the Performing Arts Committee of the City of Idaho Falls met in a special committee meeting, Wednesday, October 10, 2018, at the Civic Center for the Performing Arts, 501 S. Holmes Ave., Idaho Falls, Idaho at 11:00 a.m.

In Attendance:

Carrie Scheid, Idaho Falls Civic Center for the Performing Arts Committee Member
Anne Staton-Voilleque, Idaho Falls Civic Center for the Performing Arts Committee Member
Bonnee Taggart, Idaho Falls Civic Center for the Performing Arts Committee Member

Others Present:

Chandra Witt, General Services Administrator
Ed Morgan, Civic Center for the Performing Arts Manager
Krista Heald, General Services Office Assistant
Georgina Goodlander, Visual Arts Director, IF Arts Council
Lara Hill, Events and Rentals Manager, IF Arts Council
Brad McKinsey, Project Manager, McKinsey Management Services, Inc.
Garrett Sherwood and Assistant, Account Executive, OEC
Dave Beck, Sales Consultant, Norcon Industries, Inc.
Julie Ahlander, Forgotten Carols

Absent:

Arthur Kull, Idaho Falls Civic Center for the Performing Arts Committee Member
Deidre Warden, Idaho Falls Civic Center for the Performing Arts Committee Member
Pam Alexander, Municipal Services Director

The meeting was called to order by Acting Chair Carrie Scheid at 11:00 a.m.

Public Comment:

- Julie Ahlander of Forgotten Carols expressed the need for a seating chart in order for her to begin ticket sales for the show scheduled November 24. She expressed her longstanding business with the City of Idaho Falls and how much she is looking to lose if her show does not move forward.

Review Proposed Seating Chart:

- Brad McKinsey provided a background of the issues with the seats. He expressed his frustrations with the lack of information being provided as far as a timeline for when the seats will arrive.



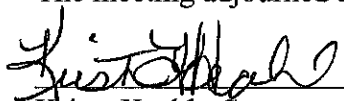
Idaho Falls Civic Center for the Performing Arts Committee Meeting Minutes
Wednesday, October 10, 2018

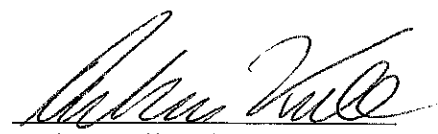
- Garrett Sherwood explained OEC's position regarding the seats. He expressed that the production of the fabric by Guilford of Main, is what has caused the delay in the seats.
- Dave Beck explained Norcon's issues with Guilford of Main.
- There was a brief discussion between Garrett, Dave, and Brad regarding all the delays surrounding the drafting of the seating chart. Brad expressed that no one had been out to actually confirm the measurements, and that they were relying on Ed Morgan to confirm their measurements. Ed Morgan expressed his frustrations in trying to explain issues with the drafts, and that the issues he addressed were not reflected in the revised drafts. Ed proceeded to point out the differences to Garrett and Dave between the drawing and the main floor of the Civic. Garrett and Dave acknowledged that they could see the differences.
- Acting Chair Carrie Scheid acknowledged the frustrations with the process. She requested an explanation of how to move forward and that a production schedule be provided.
- There was a brief discussion between Garrett and Dave explaining the steps taken to expedite and create an urgency for the chairs. Best estimate for seats is still the end of January, and no production schedule was provided.
- A discussion regarding temporary seating ensued. Ed Morgan explained the 2 options he found for temporary seating.
 - First Option – Folding chairs. They would be rented from a company out of California at \$41.00 per chair for the months of November and December and \$25.00 per chair for January.
 - Second Option – Purchasing the backs and bottoms of chairs that were being pulled out of Cheyenne, WY. This would require that the stanchions for the ordered chairs be done and available. The stanchions would fit the chair backs and bottoms, and would be a cheaper option than renting the folding chairs.

Discussion continued as to the need to find out if and when the stanchions could be provided before a determination could be made as to temporary seating.

- The committee briefly discussed that no decisions could be made at this time. That a seating chart, production schedule, and information on the possibility of the stanchions needed to be provided. The committee discussed holding a meeting on Friday, October 12, 2018, to allow time for the needed items to be obtained. Meeting was set for October 12, 2018, at 10:00 a.m.

The meeting adjourned at 11:50 a.m.


Krista Heald - Secretary


Arthur Kull - Chair



Idaho Falls Civic Center for the Performing Arts Committee Meeting Minutes
Friday, October 12, 2018

Idaho Falls Civic Center for the Performing Arts Committee of the City of Idaho Falls met in a special committee meeting, Friday, October 12, 2018, at the Civic Center for the Performing Arts, 501 S. Holmes Ave., Idaho Falls, Idaho at 10:00 am.

In Attendance:

Carrie Scheid, Idaho Falls Civic Center for the Performing Arts Committee Member
Anne Staton-Voilleque, Idaho Falls Civic Center for the Performing Arts Committee Member
Bonnee Taggart, Idaho Falls Civic Center for the Performing Arts Committee Member

Others Present:

Pam Alexander, Municipal Services Director
Chandra Witt, General Services Administrator
Michael Kirkham, Assistant City Attorney
Ed Morgan, Civic Center for the Performing Arts Manager
Krista Heald, General Services Office Assistant
Brandi Newton, Executive Director IF Arts Council
Georgina Goodlander, Visual Arts Director, IF Arts Council
Lara Hill, Events and Rentals Manager, IF Arts Council
Carol Johnson, Interior Architect
Brad McKinsey, Project Manager, McKinsey Management Services, Inc.
Garrett Sherwood, Account Executive, OEC (Via Telephone)
Dr. Thomas Heuser, Music Director Idaho Falls Symphony
Alekszandria Peugh, Executive Director Idaho Falls Symphony
Julie Ahlander, Forgotten Carols (Via Telephone)

Absent:

Arthur Kull, Idaho Falls Civic Center for the Performing Arts Committee Member
Deidre Warden, Idaho Falls Civic Center for the Performing Arts Committee Member

The meeting was called to order by Acting Chair Carrie Scheid at 10:00 a.m.

Public Comment:

- None.

Review Proposed Seating Chart:

- Garrett at OEC attended via telephone and advised that there was no seating chart as of yet. The seating chart should be provided no later than Monday morning.
- Garrett advised that he spoke to Stewart at Hussey, and that the fabric for the seats is scheduled to ship to China on November 5, 2018. Seats are scheduled to be ready on January 23, 2019. Garrett advised that he will try to obtain a more detailed

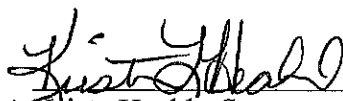


Idaho Falls Civic Center for the Performing Arts Committee Meeting Minutes
Friday, October 12, 2018

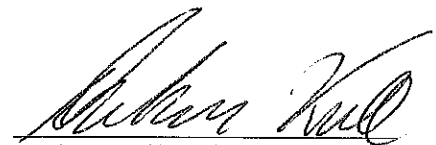
production schedule on the seats, and advise as to what the milestones are from Stewart.

- Acting Chair Carrie Scheid asked if there would be a time difference if they went with a fabric that was in stock rather than the "Lipstick" fabric. Garrett advised that at this time there would be no time difference to receive the seats.
- There was a discussion as to temporary seating. Ed Morgan advised that he found seats that are coming out of New York and are available for purchase through Preferred Seating. Ed advised that the seats could be delivered and installed prior to the shows in November. The owner of Preferred Seating advised that he could assist in the brokering of the sale of the seats once the new seats were installed in the Civic.
- Brad McKinsey asked how the temporary seating was to be installed. Garrett advised that the installers for OEC would have time in their schedule to help install. They would be on a split schedule with Wyoming, and so they would be here for a day or two and then in Wyoming on the others. Acting Chair Carrie Scheid requested a written commitment, and Garrett advised that they could do that and are working on a schedule.
- Acting Chair Carrie Scheid requested a motion to proceed on the temporary seating as discussed. That Ed pursue the purchase of the temporary seats from Preferred Seating, and that Norcon and OEC install at no cost with some assistance from City employees. Anne Staton-Voilleque so motioned. Bonnee Taggart seconded the motion, and the motion carried.
- There was a brief discussion regarding an email received from Terri Frickey of the Maeck Foundation. Terri requested a meeting with the committee. A meeting is set for Thursday, October 18, 2018, at 10:00 a.m. at the Civic Center.
- There was a brief discussion regarding the mechanical pit lift, the marquee, and the orchestra shell. Chandra Witt advised that there were no bids received for the mechanical pit lift, and so the pit lift can be purchased on the open market. Carol will provide a drawing of the marquee to Ed, and Chandra advised that she will obtain quotes. Chandra advised that she is working on getting the new orchestra shell. She should have a purchase order at the beginning of November.
- Carrie Scheid acknowledged Ed Morgan for all of his hard work in obtaining the temporary seating. The committee praised him for going above and beyond.

The meeting adjourned at 10:36 a.m.



Krista Heald - Secretary



Arthur Kull - Chair



Idaho Falls Civic Center for the Performing Arts Committee Meeting Minutes
Thursday, October 18, 2018

Idaho Falls Civic Center for the Performing Arts Committee of the City of Idaho Falls met in a special committee meeting, Friday, October 18, 2018, at the Civic Center for the Performing Arts, 501 S. Holmes Ave., Idaho Falls, Idaho at 10:30 am.

In Attendance:

Arthur Kull, Idaho Falls Civic Center for the Performing Arts Committee Member
Carrie Scheid, Idaho Falls Civic Center for the Performing Arts Committee Member
Anne Staton-Voilleque, Idaho Falls Civic Center for the Performing Arts Committee Member
Bonnee Taggart, Idaho Falls Civic Center for the Performing Arts Committee Member

Others Present:

Pam Alexander, Municipal Services Director
Chandra Witt, General Services Administrator
Jim Freeman, Idaho Falls City Council
Ed Morgan, Civic Center for the Performing Arts Manager
Krista Heald, General Services Office Assistant
Terri Frickey, Maeck Foundation
Brandi Newton, Executive Director IF Arts Council

Absent:

Deidre Warden, Idaho Falls Civic Center for the Performing Arts Committee Member

The meeting was called to order by Chair Arthur Kull at 10:30 a.m.

Public Comment:

- None.

Review Status of Seating Chart, Seats, Gala Orchestra Pit and Marquee:

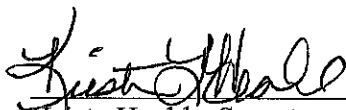
- Pam Alexander advised that Terri Frickey from the Maeck Foundation requested a meeting with the committee. Terri advised that she wanted to get the final numbers on the mechanical pit lift. Chandra Witt advised that the mechanical pit lift had gone out for bid, but no bids were made. That once City Council approved, it could be purchased on the open market. That the price would remain the same at \$303,000. Terri wanted to know when the money would be needed from the Maeck. Chandra advised that City Council would meet on October 25, and if approved, the money would be needed thereafter.
- Terri asked where the renovations were on budget. Carrie Scheid provided a background of the issues with the seats. There was an explanation that the seats and any damages incurred in the cost of temporary seating would be dealt with through



Idaho Falls Civic Center for the Performing Arts Committee Meeting Minutes
Thursday, October 18, 2018

- legal. Pam advised that City Council approved the down payment of the temporary seats, and that temporary seating should be in by the first week of November.
- There was a brief discussion regarding the marquee. Ed will be obtaining quotes for the marquee. He should have the quotes by Monday, the 22nd, and the process will move forward from there with the lowest bidder taking the project.
 - There was a brief discussion regarding the grand opening. It was agreed that a grand opening would occur sometime after everything in phase 1 of the renovation has been completed. There was discussion about the mechanical pit lift, and if it could not be installed prior to the last Symphony show, that the grand opening be held off until the fall.
 - There was a brief discussion regarding the Arts Council modifying their contracts with promoters. Brandi wanted to set a new minimum seating number. After discussion, it was agreed that the minimum seating would be set at 1,750 seats.
 - There was a brief discussion as to a future meeting date. It was suggested that a meeting be held after a decision was reached from legal, which would be approximately a week and a half. A meeting date of November 5, 2018, at 10:00 a.m. was agreed. There was a request that the lettering for the Maeck Foundation be done, and that an updated budget be provided.

The meeting adjourned at 11:04 a.m.


Krista Heald - Secretary


Arthur Kull - Chair



Idaho Falls Civic Center for the Performing Arts Committee Meeting Minutes
Monday, November 5, 2018

Idaho Falls Civic Center for the Performing Arts Committee of the City of Idaho Falls met in a special committee meeting, Monday, November 5, 2018, at the Municipal Services Director's Office, 308 Constitution Avenue, Idaho Falls, Idaho at 10:00 a.m.

In Attendance:

Arthur Kull, Idaho Falls Civic Center for the Performing Arts Committee Member
Carrie Scheid, Idaho Falls Civic Center for the Performing Arts Committee Member
Anne Staton-Voilleque, Idaho Falls Civic Center for the Performing Arts Committee Member
Bonnee Taggart, Idaho Falls Civic Center for the Performing Arts Committee Member
Deidre Warden, Idaho Falls Civic Center for the Performing Arts Committee Member

Others Present:

Pam Alexander, Municipal Services Director
Jim Freeman, Idaho Falls City Council
Ed Morgan, Civic Center for the Performing Arts Manager
Krista Heald, General Services Office Assistant
Terri Frickey, Maeck Foundation
Brandi Newton, Executive Director IF Arts Council
Lara Hill, Events and Rentals Manager, IF Arts Council
Carol Johnson, Interior Architect
Brad McKinsey, Project Manager, McKinsey Management Services, Inc.

Absent:

None

The meeting was called to order by Chair Arthur Kull at 10:01 a.m.

Public Comment:

- None.

Review and Approval of September 5, 2018; October 10, 2018; October 12, 2018; and October 18, 2018 Meeting Minutes:

- Chair Arthur Kull advised that he was unable to review the minutes as the email address that the secretary had for him was incorrect. He advised that this agenda item would be postponed until the next meeting.



Idaho Falls Civic Center for the Performing Arts Committee Meeting Minutes
Monday, November 5, 2018

Discussion of Renovations:

- Brad McKinsey provided an update of the current progress on the Civic Center. He advised that the installers for the temporary seats had been delayed and should be here today by noon. Carpet is being installed on the balcony, however, progress has been slow as they are having difficulty securing manpower. He advised that they needed to know where the outside stanchions would go prior to installing carpet on the main floor. The carpet installers advised that it would take approximately 5 days for them to install carpet on the main floor. There was a brief discussion regarding the aisle lights and potential need of electricians. It was advised that the City has electricians and they have already been put on notice of their potential need. Brandi at the Arts Council advised that if it comes down to damage control, that the first 25 rows on the main floor need to be installed and the front rows of the balcony need to be installed.
- There was a brief discussion regarding the production schedule on the seats and the fact that nothing could be shared as the issue was currently with the City Attorney. Committee Member Carrie Scheid expressed her frustrations with the decision to seek legal. She objected to the committee not being informed of the decision and Committee Member Anne Staton-Voilleque seconded. Pam Alexander advised that it was the City Council's Decision. Committee Chair Arthur Kull advised that they needed to meet with the City Council. Carrie wanted it on record that if the seats were not received because of the legal battle, that she would go public with it.
- There was discussion regarding the Marquee. Pam Alexander provided the bids on the Marquee and advised that Yesco had the lowest quote at \$47,263.00. Carol Johnson the design architect on the project wanted to have a discussion about the finished product. She advised that the sign should be brushed chrome in place of the copper. Also on the sign part itself, she expressed that historically the sign has had a light background with dark lettering and would like to see that continued. Also, that the lettering be in an Art Deco font to coincide with the lettering on the outside of the building. Anne Staton-Voilleque moved to proceed with the quote from Yesco with the changes as discussed with Carol Johnson. Committee Member Bonnee Taggart seconded, and the motion carried.
- There was a discussion regarding the "Naming Sign" and what the timeline is for it to be installed. It was expressed that the lettering needed to be in the same Art Deco font as the letters on the outside of the building. Ed Morgan advised that he could have the letters in before the first show. Terri Frickey of the Maeck Foundation expressed that she would like to see the wall that the sign will be placed on be painted prior to hanging the sign. Ed advised that if a color was picked out today, that he could get someone to paint the wall. Anne and Carol advised that they could go by the Civic and provide Ed with a color. It was also discussed that the sign needed to be illuminated from above.



Idaho Falls Civic Center for the Performing Arts Committee Meeting Minutes
Monday, November 5, 2018

- There was a discussion on the budget. Pam provided a spreadsheet showing what was currently outstanding, and what money was held for the remaining items. It was expressed that the project remains to be on budget.
- There was a discussion on whether they should hold a soft opening, and unveil the signs for the Maeck Foundation. Terri Frickey expressed her disappointment in the project not being completed. Brandi explained the benefits of using the Maeck's name and showing the public how far the renovations have come thanks to the Maeck's donation. That this project would not even have been possible without them. After further discussion, a motion was made by Carrie Scheid that a soft opening be held on December 14, 2018. It was seconded by Bonnee Taggart, and the motion carried.


Review Ordinance for Committee Member Renewal Terms:

- There was a brief discussion regarding the new Ordinance being proposed to the City Council to set term rotations of 2 year and 1 year terms.

Schedule Future Meeting:

- There was a brief discussion regarding a future meeting date. It was expressed that it needed to be soon to monitor the progress at the Civic and keep the committee advised of any issues. It was also discussed that the committee would need to have a preplanning meeting for the December 14, 2018, soft opening. A meeting date of November 13, 2018 at 1:30 p.m. was agreed upon.

The meeting adjourned at 11:21 a.m.



Krista Heald - Secretary



Arthur Kull - Chair

Municipal Services - Child Care Ordinance Revisions Discussion

<u>City's License</u>	<u>State License</u>
Definition of a child is less than 12	Definition of a child is less than 13
City license child care workers – requires background check prior to issuing license	State does not license child care workers – however, does require facility license holder to submit employees to background check prior to allowing worker to work.
City licenses “family day cares”- five or fewer children	State does not license “family daycares” – five or fewer children
City requires outdoor play areas, with adequate shade	State does not require outdoor space
City requires 8 hours of training for CPR, First Aid, and child development for each renewed license	State requires 4 hours every 12 months
City prohibits certain drug offenders from receiving a license	State does not prohibit drug offenders

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, AMENDING
TITLE 6, CHAPTER 3 CLARIFYING THE CITY'S DAY CARE LICENSING
AND ENSURING COMPLIANCE OF THE DAY CARE LICENSING WITH
THE STATE CODE, PUBLICATION BY SUMMARY, AND ESTABLISHING
EFFECTIVE DATE.

WHEREAS,

WHEREAS,

WHEREAS,

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY
OF IDAHO FALLS, IDAHO, THAT:

SECTION 1. Title 6, Chapter 3, of the City Code of the City of Idaho Falls, Idaho, is hereby
amended as follows:

6-3-1: PURPOSE: The City recognizes that the primary responsibility for evaluation and selection of child care services should remain with parents. The purpose of this Chapter is to provide standards for the operation, inspection and licensing of Child Care Facilities within the City. Idaho Code Sections 39-1101 and 39-1108, and the Idaho Administrative Code, Section 16.06.02.100.01 authorizes a local government to adopt ordinances to protect children in child care facilities to the extent such ordinances are at least as stringent as the minimum standards set forth in such State Codes and State regulations. The purpose of this Chapter is to increase the standards for the City of Idaho Falls above those minimally required under State law in order to promote a healthy and safe environment in which children receive child care. ~~Despite the foregoing, the City recognizes that the primary responsibility for evaluation and selection of child care services should remain with the parents.~~

6-3-2: DEFINITIONS: For the purposes of this Chapter, certain words and phrases are defined as follows:

- (A) Applicant: A person making an application for a Child Care Facility license or Child Care Worker Certification or the renewal of such certification, under the provisions of this Chapter.
- (B) Building Official: The Building Official of the City, or his or her designees, -as designated under the International Building Code adopted by the City.
- (C) Certified Child Care Worker: A person having obtained a Child Care Worker Certificate from the City for working in a Child Care Facility.
- (D) Chief of Police: The Chief of Police of the City, or his or her ~~nominee~~designee(s).

- (E) Child: An individual less than ~~twelve~~thirteen (~~12~~ 13) years of age who receives or is receiving Child Care at a Child Care Facility. Children seventeen (17) years or younger shall be considered a "Child" if they are mentally or developmentally disabled or delayed.
- (F) Child Care Center: A Child Care Facility that provides child care for thirteen (13) or more children at any given time upon the Premises of a Child Care Facility.
- (G) Child Care Facility: The generic term for any child care facility, whether it is a Child Care Center (for thirteen (13) or more children), Group Child Care Facility (for six to twelve (12) children), or Family Child Care Facility (for one (1) to five children).
- (H) Child Care: Care or supervision of a child for monetary compensation where such child is not related by blood or marriage within the second degree of consanguinity to the person or persons providing the care, in a place other than the child's own home.
- (I) Child Care Facility License: Any child care facility license required by this Chapter.
- (J) Child Care Worker: A person who provides child care at a Child Care Facility.
- (K) Child Care Training: Preparation, instruction and education related to child care that increases the knowledge, skill and abilities of a Child Care Worker or Volunteer and which is part of an educational/technical curriculum.
- (L) City: The City of Idaho Falls, Idaho.
- (M) City Council: The duly elected City Council of the City.
- (N) Contact: Verbal communication with and in the presence of a child or the act of being in immediate physical proximity to a child.
- (O) Criminal Background Investigation: A background investigation performed pursuant to Idaho Administrative Code, ~~Section 16.05.06.~~
- (P) Department: The Idaho Department of Health and Welfare.
- (Q) Director of the Community Development Services Department: The Director of the Community Development Services Department of the City, or his or her ~~nominee~~designee.
- (R) EIPHD: Eastern Idaho Public Health District. EIPHD will be responsible for health and safety inspections of Child Care Facilities.
- (S) Facility: The generic term referring to a Child Care Center Facility, Group Child Care Facility or Family Child Care Facility.

- (T) Family Child Care Facility: A home, place, or facility that provides child care for no more than five (5) children at any given time upon the Premises of a Child Care Facility.
- (U) Fire Marshall: The Fire Marshall of the City of Idaho Falls, or his or her ~~nominee~~ designee.
- (V) Group Child Care Facility: A home, place or facility that provides child care for at least ~~six-seven~~ (76), but no more than twelve (12) children at any given time upon the Premises of a Child Care Facility.
- (W) Immediate Family Member: A person related by blood or marriage within the second degree of consanguinity to an owner or operator of a Child Care Facility.
- (X) Licensee: A person having a City Child Care license in full force and effect, issued hereunder for ownership or operation of a child care facility.
- (Y) Mayor: The duly elected Mayor of the City.
- (Z) Member of the Household: Any person who resides in, or on the property of, a facility providing Child Care.
- (AA) Multi-Use Facility: A Child Care Facility which is owned by a person who conducts business or engages in commercial functions for pecuniary gain in addition to child care upon the Premises of a Child Care Facility.
- (BB) Occasional Care: Care provided for compensation on an infrequent or intermittent basis by neighbors or family members that does not exceed forty (40) days in a calendar year.
- (CC) On-Site Non-Provider: A person who is not a Child Care Worker or a Child Care Operator and who is either:
- a. A Resident of a Child Care Facility including immediate family members of the operator/director, and who has or may have unsupervised contact with children, or
 - b. Janitorial or lunch room staff, a bookkeeper, office manager, secretary, receptionist or other person employed at a Child Care Facility and who may have regular unsupervised contact with children, exclusive of child care operators or child care workers.
 - c. Any friend, significant other or neighbor who regularly visits the Child Care Facility.
- (DD) Operator: A person who is physically present at a Child Care Facility and whose primary responsibility is the supervision and operation of the Child Care Facility during any time when Child Care is being provided upon the premises.

- (EE) Owner: A person who owns any interest in, possesses or operates a Child Care Facility. Such interest may, without limitation, include an interest as a sole proprietorship, a partnership interest, shareholder of a corporation, a beneficiary or trustee of a trust or a member of a limited liability company.
- (FF) Person: Any individual, partnership, association, corporation, limited liability company or private organization of any kind.
- (GG) Premises: For commercial buildings, the part of the building owned or leased for daycare facility, including parking areas and outside play areas. For In-Home Daycares, "Premises" means, the entire home, including outside play areas.
- (HH) Regular: A frequency of at least once each ~~calendar seven (7) days~~ week.
- (II) Relative: Individuals related to a child by blood, marriage or adoption within the second degree of consanguinity.
- (JJ) Resident: Any individual twelve (12) years of age or older who resides in a Child Care Facility.
- (KK) Visitor: An individual who is a guest or invitee at a Child Care Facility on a random or infrequent basis.
- (LL) Volunteer: A person who intermittently provides care for children or other personal services to a Child Care Facility without pay or remuneration of any kind.

6-3-3: CHILD CARE FACILITY LICENSE: No person or entity shall own, operate or permit to be operated within the City any Child Care Facility without first having obtained an appropriate license under this Chapter.

- (A) Type 1: Child Care Center. Any person or operator applying for a Type 1 license shall deliver the following documents to the City Clerk at the time the application is made.
- (1) A list of all owners of the Child Care Facility and their current mailing and street addresses for their place of residence.
 - (2) A list of all Child Care Workers employed by the applicant and who are anticipated to provide child care at the facility, their mailing addresses and a copy of a current Child Care Worker's certification issued by the City for each worker included on such list.
 - (3) A list of all On-Site Non-Providers who will have any contact with the children at the facility.
 - (4) A certificate or letter signed by the Chief of Police or his or her designee certifying that a criminal background investigation has been completed, or is being completed, within two (2) years previous to such application for the following persons:

- (a) All owners who will have regular contact with children;
 - (b) All residents twelve (12) years of age and older of the facility; and
 - (c) Any spouse or significant other of an Owner.
 - (d) All residents twelve to seventeen (12-17) years of age must have a Juvenile Justice Search.
- (5) A certificate issued by the EIPHD issued within ninety (90) days previous and certifying that the Facility meets the requirements of Idaho Code ~~Section 39-1110~~.
- (6) A certificate issued by the Fire Marshall certifying that the Child Care Facility has been inspected and meets the requirements of the International Fire Code, as adopted by the City, ~~as well as Idaho Code Section 39-1109, and Idaho Administrative Code Section 18.01.55~~. An applicant must have the following fire safety items:
- (a) Working smoke detectors are required at all designated day care areas within the home;
 - (b) Fire extinguisher is required that meets the current Code requirements for accessibility, current service tag and mounted within a seventy-five foot (75') travel distance to day care areas; and
 - (c) An operating telephone or cell phone;
 - (d) That the distance from the Child Care area shall not exceed seventy-five feet to an exit door.
- (7) A certificate issued by the Director of Community Development Services Department certifying that the Child Care Facility has been inspected and that it meets the egress provisions of the International Building Code and other applicable health and safety codes of the City. Each In-Home Child Care Facility under this Section must have the following exiting components:
- (a) One swinging type door with a clear width of not less than thirty-two inches (32") which provides an unobstructed path outside the building to a public way or safe area away from the building is required from a single level building;
 - (b) If the day care is located in the basement, two (2) exits are required. One exit may pass through the dwelling and the other may be an emergency escape window or exterior door from the day care area. Day care areas above the main floor are prohibited; and

- (c) Required exit doors shall not be locked when children are in the Day Care area and shall be designed and constructed so that they can open from the inside without the use of a key or any special knowledge.
 - (8) A certificate issued by the Director of Community Development Services Department certifying that the Child Care Facility is a permitted use within the zone in which the facility is located.
 - (9) Proof of liability insurance for child care.
- (B) Type 2: Group Child Care. Any person or operator applying for a Type 2 license shall possess the following qualifications before a license may be issued for that facility.
- (1) A list of all owners of the Child Care Facility and their current mailing and street addresses for their place of residence.
 - (2) A list of all Child Care Workers employed by the applicant and who are anticipated to provide child care at the facility, their mailing addresses and a copy of a current Child Care Worker's certification issued by the City for each worker included on such list.
 - (3) A list of all On-Site Non-Providers who will have any contact with the children at the facility.
 - (4) A certificate or letter signed by the Chief of Police or his designee certifying that a criminal background investigation has been completed, or is being completed, within two (2) years previous to such application for the following persons:
 - (a) All owners who will have regular contact with children;
 - (b) All residents twelve years of age and older of the facility; and
 - (c) Any spouse or significant other of an Owner.
 - (d) All residents twelve to seventeen (12-17) years of age must have a Juvenile Justice Search.
 - (5) A certificate issued by the EIPHD issued within ninety (90) days previous and certifying that the Facility meets the requirements of Idaho Code ~~Section 39-1110~~.
 - (6) A certificate issued by the Fire Marshall certifying that the Child Care Facility has been inspected and meets the requirements of the International Fire Code, as adopted by the City, ~~as well as Idaho Code Section 39-1109, and Idaho Administrative Code Section 18.01.55.~~ An applicant must have the following fire safety items:
 - (a) Working smoke detectors are required at all designated day care areas within the home;

- (b) Fire extinguisher is required that meets the current Code requirements for accessibility, current service tag and mounted within a seventy-five foot (75') travel distance to day care areas;
 - (c) An operating telephone or cell phone; and
 - (d) That the distance from the child care area shall not exceed seventy-five (75') feet to an exit door.
 - (7) A certificate issued by the Director of Community Development Services Department certifying that the Child Care Facility has been inspected and that it meets the egress provisions of the International Building Code and other applicable health and safety codes of the City. Each In-home Child Care Facility under this Section must have the following exiting components:
 - (a) One swinging type door with a clear width of not less than thirty-two inches (32") which provides an unobstructed path outside the building to a public way or safe area away from the building is required from a single level building;
 - (b) If the day care is located in the basement, two (2) exits are required. One exit may pass through the dwelling and the other may be an emergency escape window or exterior door from the day care area. Day care areas above the main floor are prohibited; and
 - (c) Required exit doors shall not be locked when children are in the Day Care area and shall be designed and constructed so that they can open from the inside without the use of a key or any special knowledge.
 - (8) A certificate issued by the Director of Community Development Services Department certifying that the Child Care Facility is a permitted use within the zone in which the facility is located.
 - (9) Proof of liability insurance for child care.
- (C) Type 3: Family Child Care. Any person or operator applying for a Type 3 license shall possess the following qualifications before a license will be issued for that facility.
- (1) A list of all owners of the Child Care Facility and their current mailing and street addresses for their place of residence.
 - (2) A list of all Child Care Workers employed by the applicant and who are anticipated to provide child care at the facility, their mailing addresses and a copy of a current Child Care Worker's certification issued by the City for each worker included on such list.
 - (3) A list of all On-Site Non-Providers who will have any contact with the children at the facility.

- (4) A certificate or letter signed by the Chief of Police or his designee certifying that a criminal background investigation has been completed, or is being completed, within two (2) years previous to such application for the following persons:
 - (a) All owners who will have regular contact with children;
 - (b) All residents twelve years of age or older of the facility; and
 - (c) Any spouse or significant other of an Owner.
 - (d) All residents twelve to seventeen (12-17) years of age must have a Juvenile Justice Search.
- (5) A certificate issued by the EIPHD issued within ninety (90) days previous and certifying that the Facility meets the requirements of Idaho Code Section ~~39-1110~~.
- (6) A certificate issued by the Fire Marshall certifying that the Child Care Facility has been inspected and meets the requirements of the International Fire Code, as adopted by the City, ~~as well as Idaho Code Section 39-1109, and Idaho Administrative Code Section 18.01.55.~~
- (7) A certificate issued by the Director of Community Development Services Department certifying that the Child Care Facility is a permitted use within the zone in which the facility is located.
- (8) Proof of liability insurance for child care.
- (D) APPLICATIONS FOR LICENSE: The applicant shall obtain an application for a license from the City Clerk. Once an application for a license has been submitted, the City Clerk shall review the application and determine whether or not the application is complete. If the City Clerk deems that the application is complete, then the applicant and City will arrange for all necessary inspections to obtain the certificates required ~~by such Section in subsection (A), (B) or (C) above~~ Type 1, Type 2, or Type 3 license. Once all certifications are obtained and all requirements for a Type 1, Type 2, or Type 3 license ~~either subsection (A), (B) or (C) above~~ are met, the City Clerk shall issue a license. If the application is incomplete in any respect, the City Clerk shall promptly notify the applicant that the application is incomplete and shall specify the items which the City Clerk has determined are not complete or which do not otherwise comply with the provisions of subsection (A) hereof. Applications shall be made to the City Clerk in the form and manner prescribed by the City Clerk.
- (E) TERM OF LICENSE: A license is valid for a two (2) year period years and shall expire on the date endorsed on the license.
- (F) LICENSE POSTED: All facility licenses shall be posted in a conspicuous place, readably viewable by the facility's customers, at the Child Care facility whenever the facility is providing Child Care.

(G) FORM OF LICENSE: All licenses issued under this Chapter shall contain the following information.

- (1) The name of the Applicant.
- (2) The street address of the licensed Child Care Facility.
- (3) The date of expiration.
- (4) The maximum number of children the facility is authorized to have present in the facility at one time. Type 1 permits shall state "13+" as the maximum number. Type 2 permits shall state "up to 12". Type 3 permits shall state "up to 5."
- (5) Whether or not the applicant maintains liability insurance for child care.

(H) LICENSE/RENEWAL FEES: Each application/renewal for a Child Care Facility shall be accompanied by a license fee in an amount set from time to time by Resolution of the Council, ~~for the following:~~

~~Family Child Care;~~

~~Group Child Care; and~~

~~Child Care Center~~

(I) RENEWALS: At least thirty (30) days before a License is to expire, the Applicant ~~must~~ shall apply for a renewal license. The fees for a renewal license are ~~the same as set forth in subsection (H) above~~ set in an amount set from time to time by Resolution of the Council. Depending on the type of License Except as specifically listed below in this section, all information required under Sections 6-3-3(A), 6-3-3(B), and 6-3-3(C) to receive an initial License shall be provided with the renewal application in order to qualify for the a License renewal. – The following items do not need to be shown on renewal licenses:

- (1) A certificate showing that the Facility has been inspected by Community Development Services Department;
- (2) A certificate showing the Facility is permitted within the zone the Facility is located; and
- (3) A site plan and floor plan, unless the site plan and floor plan has changed since the ~~original~~ initial license was issued.

(J) BACKGROUND CHECKS:

In addition to the foregoing fees, the applicant shall also pay a fee -in an amount set from time to time by Resolution of the Council for each criminal background investigation required under the provisions of this Chapter ~~Sections 6-3-3(A)(4), 6-3-3(B)(4), 6-3-3(C)(4), 6-3-4(B)(2) and 6-3-4(C)(1) hereof.~~ Such fee shall be non-refundable,

notwithstanding any failure or refusal of the City to issue the requested certificate. A full background check needs to be completed on the initial application and every other year thereafter. If a person required to receive a background check already has a valid background check done within the last two (2) years, then that person will not be required to pay the background check fee. On the years which a full background check is not required, the persons required to have a background check will still be required to submit to a local and state-wide background check. If the person needing a background check is a minor, then the parent of such minor shall sign a release allowing a juvenile justice check to be performed.

To determine the suitability of prospective applicants ~~under Sections 6-3-3(A)(4), 6-3-3(B)(4), 6-3-3(C)(4), 6-3-4(B)(2) and 6-3-4(C)(1)~~, the City shall require an applicant to provide information and fingerprints necessary to obtain criminal history information from the Idaho State Police and the Federal Bureau of Investigation. Pursuant to Section 67-3008, Idaho Code, and congressional enactment Public Law Section 92-544, the City shall submit a set of fingerprints obtained from the applicant and the required fees to the Idaho State Police, Bureau of Criminal Identification, for a criminal records check of state and national databases. The submission of fingerprints and information required by this section shall be on forms prescribed by the Idaho State Police. The City is authorized to receive criminal history information from the Idaho State Police and from the Federal Bureau of Investigation for the purpose of evaluating the fitness of the applicants child care licensing. As required by state and federal law, further dissemination or other use of the criminal history information is prohibited.

- (K) ~~TIME BY WHICH CITY LICENSE MUST BE OBTAINED: If a child care facility or provider is not already licensed through the State of Idaho, then they must apply for a City license by October 1, 2008. Any child care facility or provider who is already licensed through the State of Idaho must file their initial application for a City license thirty (30) days before their State license expires. By October 1, 2008, a child care facility or provider, who is licensed through the State, must provide a copy of their State license to the City Clerk. The State licensed facility or provider must provide verification that a criminal background check for all persons required under Sections 6-3-3(A)(4), 6-3-3(B)(4), 6-3-3(C)(4), 6-3-4(B)(2) and 6-3-4(C)(1) hereof has been completed, or is being completed, within the last two years. All child care facilities and providers within the geographic limits of the City of Idaho Falls, even if licensed by the state, shall be subject to Sections 6-3-6 through 6-3-12 of this ordinance Chapter.~~

6-3-4: CERTIFICATION OF INDIVIDUAL CHILD CARE WORKERS OR ON-SITE NON-PROVIDERS:

- (A) No owner or operator of a Child Care Facility shall permit or allow any Child Care Worker or On-Site Non-Provider to provide Child Care or to be in contact with a child at a Child Care Facility unless such Child Care Worker or On-Site Non-Provider possesses a certification issued under the provisions of this Chapter.

(B) Child Care Worker Certification (CCWC). No Child Care Worker or Operator shall provide child care or supervise the rendering of child care at any Child Care Facility unless he or she is at least eighteen (18) years of age and possesses a Child Care Worker's certificate issued under the provisions of this Chapter. Anyone sixteen (16) years or seventeen (17) years old may obtain a CCWC. However, these sixteen (16) and seventeen year (17) old workers ~~must~~ shall always be supervised by another CCWC who is over eighteen (18) years old. In order to obtain such certification, and for each renewal, applicants shall submit a completed application form to the City Clerk, accompanied by the following certificates and information:

- (1) A current certificate issued by the Red Cross, the Fire Marshall or any certified CPR and First Aid trainer, certifying that the applicant has completed an instructional class for child CPR and First Aid.
- (2) Verification from the Chief of Police or his designee certifying that a criminal background investigation has been completed for the applicant within two (2) years previous.
- (3) A birth certificate and picture identification evidencing the applicant's age.
- (4) Copies of the applicant's records from the Child Abuse Registry or a letter from the Idaho Department of Health and Welfare that the Child Abuse Registry does not contain any records regarding the applicant.
- (5) For renewal certification only, a certificate issued by an educational/technical facility, certifying that the applicant has completed at least ~~eight-sixteen~~ (816) hours of child care training which addresses the following areas: child development, health and safety, and child guidance.

(C) On-Site Non-Provider Documentation. No On-Site Non-Provider shall be in unsupervised contact with any child at a Child Care Facility. The following documentation and information for each On-Site Non-provider must be in the facility file:

- (1) Verification issued by the Chief of Police or his or her designee certifying that a criminal background investigation has been completed for the On-Site Non-Provider within two (2) years previous. If the On-Site Non-Provider is a minor, then the parents of the minor ~~must~~ shall sign a release so that the juvenile justice review may be completed.
- (2) Copies of the applicant's records from the Child Abuse Registry or a letter from the Idaho Department of Health and Welfare that the Child Abuse Registry does not contain any records investigating regarding the applicant for child abuse.
- (3) The name and address of the Child Care Facility where the On-Site Non-Provider is employed or will be present at the Facility.

(D) Location of Certification and Documentation. The certification and documentation shall be kept upon the premises of any Child Care Facility where Child Care Worker or an On-

Site Non-Provider works, resides, or regularly visits. The certificate or documentation shall be promptly made available upon request by any member of the public or by the Fire Marshall, Building Official or law enforcement officer.

(E) The term of the certificate is for two (2) years.

6-3-5: LICENSE AND CERTIFICATION EXCLUSIONS: Nothing in this Chapter shall be construed to apply to:

(A) The occasional care of a child by his or her neighbors, relatives or friends, as long as such care is not provided in a Child Care Facility of any type.

(B) Public, Private or parochial educational facilities in which children of five years of age or older are taught a curriculum approved by the Idaho State Board of Education.

(C) Facilities providing temporary care for children whose parents remain on the premises at all times.

(D) Summer day camps, programs, religious schools and other summer activities operating less than a total of fourteen (14) days during a calendar year.

(E) Child Care of Relatives.

(F) State licensed foster care facilities and homes.

(G) Persons employed to care for children in the home where such children reside, provided the home is not otherwise classified as a Child Care Facility.

(H) Hospitals, clinics or rehabilitative facilities whose primary purpose is to provide medical care, rehabilitation services or therapy.

(I) Volunteers who provide educational or training services for children at a Child Care Facility for no more than two (2) hours in any day while under the supervision of a Certified Child Care Worker.

(J) Students who are participating in a publicly sponsored or funded educational program providing work experience in child care, child development, nutrition, or other child related subjects, provided such students are supervised by a Certified Child Care Worker at all times while the student is in contact with children on the Premises.

6-3-6: REVOCATION OF CHILD CARE FACILITY LICENSE, CHILD CARE WORKER CERTIFICATION OR NON-SITE NON-PROVIDERS CERTIFICATION:

(A) The following shall constitute grounds for revocation of a Child Care Facility license, Child Care Worker certification or On-Site Non-Providers documentation, or shall constitute grounds for a misdemeanor citation:

- (1) Use of any tobacco product, alcoholic beverage, or illegal controlled substance by any Owner, Operator, Child Care Worker or On-Site Non-Provider on the premises of any Child Care Facility while Child Care is being provided.
- (2) Knowingly keeping or storing firearms at a Child Care Facility while Child Care is being provided, unless such firearms are placed in a securely locked cabinet or storage area.
- (3) Knowingly allow pets or animals to have contact with the children when the children are eating meals or snacks.
- (4) Failure to keep and maintain immunization records for each child receiving Child Care at a Child Care Facility, as required by ~~Section 39-4118~~, Idaho Code.
- (5) The employment or use of any employee if such employee does not have a Certificate as required under this Chapter.
- (6) The failure by the Owner of a Child Care Facility to notify the City Clerk of any change of ownership of the Child Care Facility within three (3) business days after such change of ownership becomes effective. For the purposes hereof a "change of ownership" shall be defined as a transfer of a controlling interest in any sole proprietorship, partnership, corporation, limited liability company, or other lawful form of business organization.
- (7) Any knowing violation by an Owner, Operator, Child Care Worker or On-Site Non-Provider of any of the provisions of this Chapter.

(B) In the event there is good cause to believe that a Child Care Facility, Child Care Worker or On-Site Non-Provider has knowingly violated the provisions of ~~subsection (A) of this Chapter~~ hereof, the City Clerk shall notify the licensee or certificate holder of the nature of the alleged violation and shall notify the licensee of the time and place of a hearing before the City Council to consider whether or not the licensee's license or certification should be revoked. At such hearing, the licensee shall be afforded an opportunity to produce witnesses, submit documentary evidence and to otherwise submit testimony and evidence in opposition to the proposed revocation or suspension. At the conclusion of the hearing, the City Council may suspend or revoke the license or certification for such period of time as it deems appropriate. In the event any license or certification is revoked, the licensee or certificate holder shall not apply for or receive a new license or certification within one (1) year after the date of such revocation.

6-3-7: OUTDOOR SPACE PER CHILD:

(A) As a condition for continued operation and licensure of any Child Care Facility, the outdoor space shall be as follows:

- (1) For Child Care Centers and Group Child Care Facilities only, outdoor play areas should allow for at least sixty (60) square feet of outdoor play area for each child that is playing outside at a time. A determination should be made by the provider of the total outdoor play area, to determine the maximum amount of children that can play outside at a time.
- (2) Outdoor play areas shall adjoin, or be safely accessible to, the indoor area.
- (3) Outdoor play areas on the premises shall be enclosed by a fence or wall at least four ~~(4)~~ feet (4') in height. Fences or walls shall be free from sharp protruding edges. Gates shall be secured, so that children cannot leave without an adult. The fence shall be designed so that a young child cannot climb or squeeze under or through the fence.—~~This provision shall only apply to Child Care Facilities who come into existence after this section becomes law.~~
- (4) Pools, hot tubs, ponds and other bodies of water that are on the ~~daycare~~ child care facility premises must provide the following safeguards:
 - (a) The area surrounding the body of water ~~must~~ shall be fenced and locked in a manner that prevents access by children and meets the following requirements:
 - (i) The fence must be at least four ~~(4)~~ feet (4') high with no vertical opening more than four ~~(4)~~ inches (4") wide, be designed so that a young child cannot climb or squeeze under or through the fence, surround all sides of the pool and have a gate that is self-closing and that has a self-latching mechanism in proper working order out of the reach of young children;
 - (ii) If the house forms one (1) side of the barrier for the pool, all doors that provide unrestricted access to the pool ~~must~~ shall have alarms that produce an audible sound when the door is opened;
 - (iii) Furniture or other large objects ~~must~~ shall not be left near the fence in a manner that would enable a child to climb on the furniture or other large object and gain access to the pool.

- (b) If the area surrounding a pool, hot tub, pond or other body of water is not fenced and locked, there ~~must~~shall be a secured protective covering that ~~will~~shall not allow access by a child.
 - (c) Wading pools ~~must~~shall be empty when not in use.
 - (d) Children ~~must~~shall be under direct supervision of an adult staff member while using the pool, hot tub, pond or other body of water.
 - (e) A minimum of four ~~(4)~~(4') high fence must be present that prevents access from the ~~daycare~~child care facility premises if the daycare premises are adjacent to a body of water.
- (5) Adequate shade areas shall be provided.
- (6) The outdoor play area shall be free of the following hazardous conditions.
- (a) Concrete or asphalt shall not be used under outdoor playground equipment, except wheel toys.
 - (b) The outdoor play area shall be well-drained.
 - (c) Playground equipment which is not designed to be portable shall be securely anchored so that it cannot be tipped over, ~~by an adult.~~
 - (d) The outdoor play area shall not have any sharp or broken objects, or areas where body limbs may become trapped, or strangulation may occur.
- (7) Stairways or steps in the outside area which are used by the children shall have hand railings of a height no greater than 3 feet. (Ord. 2759, 06-24-08; Ord. 2878, 8-11-11; Ord. 2878, 08-11-11)

6-3-8: LICENSES/CERTIFICATION, DENIAL, SUSPENSION OR REVOCATION:
No Day Care license shall be issued:

A. Where Applicant, Licensee, Owner, Director, Staff, individual thirteen (13) years of age or older residing at the Premises, managing agent of a corporation, or active partner of a partnership has:

1. Been found guilty of, plead guilty to, received a withheld judgment, or admitted to the elements of any of the following enumerated crimes, or any substantially

similar provision of foreign criminal violation, notwithstanding the form of judgment(s):

- a. Felony injury of a child
 - b. The sexual abuse of a child under sixteen years of age
 - c. The ritualized abuse of a child under eighteen years of age
 - d. The sexual exploitation of a child
 - e. Sexual abuse of a child under the age of sixteen years
 - f. Lewd conduct with a child under the age of sixteen years
 - g. The sale or barter of a child for adoption or other purposes
 - h. Murder in any degree
 - i. Assault with intent to murder
 - j. Voluntary manslaughter
 - k. Rape
 - l. Incest
 - m. Forcible sexual penetration by use of foreign object
 - n. Abuse, neglect or exploitation of a vulnerable adult
 - o. Aggravated, first degree, second degree, and third degree arson
 - p. Crimes against nature
 - q. Kidnapping
 - r. Mayhem
 - s. Poisoning
 - t. Possession of sexually exploitative material
 - u. Robbery
 - v. Stalking in the first degree
 - w. Video voyeurism
 - x. Enticing of children
 - y. Inducing individuals under eighteen years of age into prostitution
 - z. Inducing Person under eighteen years of age to patronize a prostitute
 - aa. Any felony punishable by death or life imprisonment.
 - bb. Attempt, conspiracy, or accessory after the fact, to commit any of the crimes designated in this subsection.
2. Been classified as a voluntary patient or involuntary patient pursuant to the Idaho Code, or similar provision in another jurisdiction, unless:
- a. Such person has been released from, and is no longer under, any form of treatment in relation to such classification, and
 - b. Such person has been examined by at least one (1) professional licensed to evaluate mental health and such professional certifies that the person is no longer mentally ill and presents no threat or danger to any Child. Such examination shall not be at City expense.
3. Had his or her parental rights restricted or terminated by a Child protection action or Child custody termination action under Idaho Code
4. Where a registered sex offender resides on the Premises where Day Care services are provided.

B. Where Applicant, Licensee, Owner, Director, Staff, individual thirteen (13) years of age or older residing at the Premises, managing agent of a corporation, or active partner of a partnership has: Been found guilty of, plead guilty to, or received a withheld judgment, or admitted to the elements of any of the following enumerated crimes, or any substantially similar provision of foreign criminal violation, notwithstanding the form of judgment(s) for any offense involving neglect or any physical injury to, or other abuse of a child, or any of the following offenses or a similar provision in another jurisdiction, for a period of five (5) years immediately preceding the date of application for license or renewal:

1. Aggravated assault
2. Aggravated battery
3. Burglary
4. Felony theft
5. Forgery of a financial transaction card
6. Fraudulent use of a financial transaction card or number
7. Forgery or counterfeiting
8. Misappropriation of personal identifying information
9. Insurance fraud
10. Damage to or destruction of insured property
11. Public assistance fraud
12. Provider fraud
13. Attempted strangulation
14. Misdemeanor injury to a child
15. Felony domestic violence
16. Any violation (felony or misdemeanor) of the Idaho Uniform Controlled Substances Act
17. Grand theft
18. Disseminating obscene material to minors
19. Arson
20. Transporting a minor in a motor vehicle while under the influence
21. Driving under the influence of alcohol, drugs, or other intoxicating substances
22. Excessive alcohol concentration
23. Aggravated driving while under the influence of alcohol, drugs, or any other intoxicating substances
24. Reckless driving
25. Persons under the age of twenty one (21) not allowed to purchase, attempt to purchase, or otherwise consume or possess any alcoholic beverage
26. Persons under the age of twenty one (21) not allowed to purchase, attempt to purchase, possess, serve, dispense, or consume beer, wine or other alcoholic liquor
27. Any felony as defined by Idaho Code, Section 18-111 and 18-111A, other than those listed in hereinabove.
28. Any crime of physical violence against persons, other than those listed in hereinabove.

29. Attempt, conspiracy, or accessory after the fact to commit any of the crimes designated in this subsection.

- C. For any Applicant, Licensee, Owner, Director, Staff, or individual presiding at the Premises, who has supplied false or misleading information, failed or refused to disclose any information required on the application form, or refused to authorize the police investigation required herein. No Applicant, Licensee, Owner, Director, Staff, or individual presiding at the Premises shall be able to apply to receive a license under this Chapter for a period of less than six (6) months from the date of the denial, suspension, or revocation of the license for providing false or misleading information.
- D. For any Applicant, Licensee, Owner, Director, Staff, or individual presiding at the Premises, who has violated any of the provisions of this Chapter during licensure. No Applicant, Licensee, Owner, Director, Staff, or individual presiding at the Premises shall be qualified to receive a license under this Chapter for a period of less than six (6) months from the date of the denial or revocation of the license under this Subsection.

~~A license or certification applied for or issued under this Chapter may be denied, suspended or revoked if any criminal history investigation reveals that the applicant, licensee or On-Site Non-Provider has engaged in conduct which could pose a risk of harm to the health, safety, and welfare of the children who are or will be under the direct care of any potential applicant or current licensee. This provision shall include all convictions, judgments, withheld judgments, and guilty pleas of any type. Examples of conduct or events, but not limited to the following, which can pose a risk to children and are therefore grounds for denial, suspension or revocation include:~~

~~_____ (A) Having been found guilty of, pled guilty to, or admitted to conduct constituting a violation of a criminal law, regardless of the form of judgment, including, but not limited to, any felony, any misdemeanor involving moral turpitude or violence, any stalking or harassment of another person whether directly or indirectly Title 37, Chapter 27, Idaho Code, or similar provisions in another jurisdiction, within the past ten (10) years;~~

~~_____ (B) Having been found guilty of, pled guilty to, regardless of the form of judgment, or admitted to any offense involving neglect or any physical injury to, or other abuse of, a child, including any sex crime as defined in Idaho Code 18, Chapter 66; Idaho Code; rape as defined in Title 18, Chapter 61, Idaho Code; injuring a child as defined in Section 18-1501, Idaho Code; selling or bartering a child as defined in Section 18-1511, Idaho Code; sexually abusing or exploiting a child as defined in Sections 18-1506, 18-1506A, and 18-1508, Idaho Code; disseminating obscene material to minors as provided in Sections 18-1513, and 18-1515, Idaho Code; or similar provisions in another jurisdiction;~~

~~_____ (C) Having been committed pursuant to Title 66, Chapter 3, Idaho Code or similar provision in another jurisdiction, or having been taken into alcohol or mental protective custody, as a result of alcohol, drug, or mental health issues, unless such individual has been released from the protective custody or community treatment center and the individual presents no threat or danger to himself or herself or to any child.~~

~~_____ (D) Having been found guilty of or received a withheld judgment for a crime involving any controlled substance;~~

~~(A) (E) Having his or her parental rights affected by a child protection action under Section 16-1601 et. seq., Idaho Code or child custody termination action under Section 16-2001 et. seq.; Idaho Code or similar provisions in another jurisdiction;~~

~~(B) (F) Having been found guilty of or received a withheld judgment of any provision of Section 39-1113, Idaho Code;~~

~~(G) Violating any of the terms of this Chapter;~~

~~(H) Supplying false information, or refusing or failing to disclose any information required on the application form, or refusing to authorize the criminal background investigation required by this Chapter.~~

~~(C) (I) Having a substantiated claim of abuse and neglect against any child from the Child Abuse Registry with the Department~~

6-3-9: STAFFING REQUIREMENTS: All daycare providers shall follow the following staff to child ratio:

(A) Point System for Family Child Care Facilities. A maximum of twelve (12) points using the following points designation, ~~will~~ shall be allowed per certified staff member. Any child, even if that child is not being watched for compensation, under the age of five (5) years old ~~will~~ shall be counted in the ratio if they are present at the facility or home.

A child 0-12 months of age	2 points (maximum of 2 enrolled)
A child 13-24 months of age	1.5 points (maximum of 4 enrolled)
A child 25 months through 4 years of age	1 point
A child 5 years and up	.5 points

<u>A child 0-12 months of age</u>	<u>2 points (maximum of 2 enrolled)</u>
<u>A child 13-24 months of age</u>	<u>1.5 points (maximum of 4 enrolled)</u>
<u>A child 25 months through 4 years of age</u>	<u>1 point</u>
<u>A child 5 years and up</u>	<u>.5 points</u>

(B) Ratio System for Group Child Care and Child Care Center Facilities. The following worker to child ratio shall be used for Group Child Care and Child Care Center Facilities:

(1) For those facilities who have a separate classroom for the children of the same age group, the ratio is as follows:

A room with children from 0-12 months of age:	1 worker per 4
children.	
A room with children from 13-24 months of age:	1 worker per 6
children	

~~children~~ A classroom with children from 25-36 months of age: 1 worker per 8

~~children~~ A classroom with children from 3-4 years of age: 1 worker per 12

~~children~~ A classroom with children 5 years of age or older: 1 worker per 18

<u>A room with children from 0-12 months of age</u>	<u>1 worker per 4 children</u>
<u>A room with children from 13-24 months of age</u>	<u>1 worker per 6 children</u>
<u>A classroom with children from 25-36 months of age</u>	<u>1 worker per 8 children</u>
<u>A classroom with children from 3-4 years of age</u>	<u>1 worker per 12 children</u>
<u>A classroom with children 5 years of age or older</u>	<u>1 worker per 18 children</u>

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(2) For those facilities who combine age groups into a single room, then a point system shall be used. A maximum of twelve (12) points using the following points designation, will be allowed per certified staff member.

~~A child 0-12 months of age:~~ ~~2 points (maximum of 2 per worker)~~
~~A child 13-24 months of age:~~ ~~1.5 points (maximum of 4 per worker)~~
~~A child 25 months through 4 years of age:~~ ~~1 point~~
~~A child 5 years and up:~~ ~~.5 points~~

<u>A child 0-12 months of age</u>	<u>2 points (maximum of 2 per worker)</u>
<u>A child 13-24 months of age</u>	<u>1.5 points (maximum of 4 per worker)</u>
<u>A child 25 months through 4 years of age</u>	<u>1 point</u>
<u>A child 5 years and up:</u>	<u>.5 points</u>

(C) Service staff, such as cooks, janitors, bus drivers, or other on-site non-providers, shall not be counted in the required staff-child ratio unless they are licensed as a Child Care Worker, and are also providing child care at the licensed facility for a scheduled period of not less than twenty (20) hours per week.

6-3-10: RECORD MAINTENANCE: Each Child Care Facility shall maintain the following records on the premises at all times while the facility is in operation and make the same available upon request by any designated person set forth in ~~Section 6-3-12 of this Title~~ this Chapter:

- (A) A current facility license which shall be on display in a public area of the facility.
- (B) A copy of each Child Care Worker Certification for each employee.
- (C) A copy of all On-Site Non-Provider's documentation.

- (D) A separate file shall be maintained of each child receiving child care on the Premises. Said record shall contain the child's name, date of birth, address, parent/guardian's name(s) and contact information including work phone and/or cell phone numbers.
- (E) Immunization records for each child as required by the State of Idaho, Idaho Code §_39-1118 and Idaho State Regulation 16.02.11.
- (F) A daily listing of the children who are enrolled and who were actually cared for that day at the facility.
- (G) A daily listing of the staff on duty and the hours worked.
- (H) Medical release for each child signed by each parent or guardian.

6-3-11: **RIGHT OF ENTRY FOR GOVERNING OFFICIALS:** Every Facility shall, upon presentation of identification, allow the Fire Marshall, Fire Chief, Building Official, Police Officer, Idaho Department of Health and Welfare officer, Code Enforcement Officer, EIPHD Representative, City Clerk or other designated City Official immediate entry to the Child Care facility for the purposes of inspection for compliance with the terms of this Chapter. The license of any Child Care Facility or an employee's certification may be denied, suspended or revoked if such provider refuses to allow entry.

6-3-12: **REPORTING OF ABUSE, ABANDONMENT OR NEGLECT:** Pursuant to Idaho Code, ~~Section 16-605~~, any Child Care Facility, personnel or other person having reason to believe that a child under the age of eighteen (18) years has been abused, abandoned or neglected or who observes the child being subjected to conditions or circumstances which would reasonably result in abuse, abandonment or neglect shall report or cause to be reported within twenty-four (24) hours such conditions or circumstances to the proper law enforcement agency or the Idaho Department of Health and Welfare. Any employee of a Child Care facility shall also report any incident to their manager/owner.

6-3-13: **LIABILITY:** This Chapter is not intended to impose or create any private cause of action against the City, its agents, officials or employees for any loss or damage based upon the failure of any Child Care Facility, or the owner or operator thereof, to meet the standards contained in this Chapter or failure of such persons to enforce the standards and regulations adopted by this Chapter.

6-3-14: **PENALTY:** In addition to the revocation procedures as set forth in ~~section 6-3-6(B)~~ this Chapter, any willful violation of this Chapter shall be a misdemeanor.

SECTION 2. 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 3. Codification Clause. The City Clerk is instructed to immediately forward this Ordinance to the codifier of the official municipal code for proper revision of the Code.

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 _____, 2018.

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,
AMENDING TITLE 6, CHAPTER 3 CLARIFYING THE CITY’S DAY CARE
LICENSING AND ENSURING COMPLIANCE OF THE DAY CARE
LICENSING WITH THE STATE CODE, PUBLICATION BY SUMMARY,
AND ESTABLISHING EFFECTIVE DATE.”

(SEAL)

KATHY HAMPTON, CITY CLERK

Police – Animal Control Licensing and Fees Discussion

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER SIX OF TITLE FIVE OF THE IDAHO FALLS CITY CODE TO REQUIRE THE ANNUAL LICENSING OF DOGS AND CATS; PROVIDING SEVERABILITY, CODIFICATION, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

WHEREAS, the City Code currently allows the public to voluntarily license cats; and

WHEREAS, the City staff believes that that unaltered and unlicensed cats are contributing to the feral cat nuisance; and

WHEREAS, the City wishes to require that unaltered cats that are routinely impounded at the City's Animal Control Shelter be required to be spayed and neutered; and

WHEREAS, the City wishes to establish an annual dog and cat license.

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

SECTION 1: City Code Title 5, Section 6, is hereby amended as follows:

5-6-1: DEFINITIONS:

Certain terms used in this Chapter shall have the meaning ascribed below:

(A) ALTERED: Rendered permanently incapable of reproduction.

~~(A)~~(B) ANIMAL CONTROL SHELTER: Any animal shelter, lot, premises or building maintained by the City for the confinement and care of animals.

(C) AT LARGE: A dog shall be deemed to be at large when off the property of the owner, and not under restraint or control.

~~(B)~~(D) CAT: A cat of an age four (4) months or older that is kept as a household pet.

~~(C)~~(E) DOG: A dog of an age four (4) months or older that is kept as a household pet.

~~(D)~~(F) ENCLOSURE: A fence or structure suitable to prevent escape of the animal or the entry of young children.

~~(E)~~(G) NEUTERED: Rendered permanently incapable of reproduction.

~~(F)~~(H) NUISANCE ANIMAL: A nuisance animal, including a dog or cat, is one that:
1. Frequently runs at large;

2. Damages, soils, or defecates on private property other than property owned or controlled by the animal owner or on public property, including walks and recreation areas, unless such waste is immediately removed and properly disposed of by the animal owner or handler;
3. Causes unsanitary or dangerous conditions;
4. Causes a disturbance by excessive barking or other noise making
5. Creates a general public nuisance; and/or
6. Chases vehicles, or molests, attacks, or interferes with persons or other domestic animals on public property.

~~(G)~~(I) OWNER: A person having the right of property or custody of an animal or who keeps or harbors an animal or knowingly permits an animal to remain on or about any premises occupied, owned, or controlled by that person.

~~(H)~~(J) PERSON: Any individual, corporation, partnership, organization or institution commonly recognized by law as a unit.

~~(I)~~(K) RESTRAINT: A dog shall be considered under restraint if it is confined within a structure or fenced yard, is secured by a leash, lead or chain or is confined within a vehicle in a manner that prevents escape.

~~(J)~~(L) UNLICENSED DOG: A dog for which a license has not been issued for the current year, or to which the tag provided for in this Chapter is not attached.

~~(K)~~(M) VACCINATION: The inoculation of an animal against rabies in accordance with state law and the "Compendium of Animal Rabies Prevention and Control" published by the National Association of the State Public Health Veterinarians and published annually in the Journal of the American Veterinary Medical Association.

5-6-2 LICENSE REQUIRED.

- (A) It shall be unlawful for any person to keep or harbor any dog or cat within the City without paying a license fee as herein provided. ~~Dogs kept in a commercial dog kennel need not be individually licensed, but must be restricted to the premises or kept within a cage or enclosure at all times. Altered cats that have a current registered microchip need not be licensed.~~ This Section shall not apply to any person owning or possessing a dog or cat currently licensed and bearing the license issued by another licensing authority, nor shall it apply to any dog which has strayed into the City but is duly licensed by, and wearing the tag of, another licensing authority.
- (B) All dogs and cats over the age of four (4) months must be vaccinated for rabies, and a copy of the vaccination certificate must be present with the license application.
- ~~(C) Licensing of cats is voluntary. All cats over the age of four (4) months must be vaccinated for rabies, and a copy of the vaccination certificate must be presented with the license application.~~

5-6-3 LICENSE FEES.

(A) Each license for a cat or dog shall be issued for a term of ~~three (3)~~ one (1) years. It shall expire on December 31st of the ~~3rd~~ year following issuance of the license. The ~~triennial annual~~ fee for licensing all ~~unneutered~~ unaltered dogs or cats, and the ~~triennial annual~~ fee for the licensing of all ~~neutered~~ altered dogs and cats shall be in an amount set from time to time by Resolution of the Council, respectively. Each license shall be valid only for the dog or cat for which it was issued and shall not be transferred or used for any other ~~dog animal~~. Upon payment of such fee, the Clerk or other authorized representative shall issue a license and a metal tag bearing the year of expiration and a number corresponding to the number on the license. The license shall state the date of issuance, the date of expiration, the amount paid, the name and address of the person to whom issued and the breed and sex of the dog or cat.

(B) License fees shall be waived for:

1. Any ~~neutered~~ altered dog used primarily as a service animal when the owner or keeper establishes the service animal's function as an assistance animal under the Americans with Disabilities Act, 42 USC 12101 *et seq.*
2. Any ~~neutered~~ altered dog in training as a service animal when the owner or keeper establishes the service animal's function as an assistance animal under the Americans with Disabilities Act, 42 USC 12101 *et seq.*
3. Any ~~neutered~~ altered dog used by a public agency or a private organization under contract to a public agency as a police dog, tracking dog, search and rescue dog, arson or drug sniffing dog, or for any other job that furthers in the mission of the agency to protect and serve the public interest.

...

5-6-11 CONTROL OF CATS:

- (A) Cat nuisances include but are not limited to excessive noise, soiling of public property and of private property not owned or rented by the pet owner, and noxious odors or unsanitary conditions caused by failure to clean the cat's resident property.
- (B) Cats must be prevented from causing a nuisance by howling in a habitual, consistent, or persistent manner that repeatedly disturbs the peace of the neighborhood.
- (C) Owners must take steps to prevent feces deposits by their cats on public property, public and private rights-of-way, and private property not owned or rented by the animal owner and prevent them from continually spraying or depositing urine on lawns and landscaping that causes damage to grasses, flowers, shrubs, etc.
- (D) Animal Services shall investigate each complaint and issue a warning letter to the cat owner on the first offense. A citation may be issued on subsequent offenses.

(E) Impoundment of Unlicensed Cats. All impounded cats not licensed or not identified by tag or microchip, shall be retained in the Animal Services Shelter for a minimum of three (3) business days. At any time during this period, the owner or keeper of such cat may redeem it by procuring a microchip, applicable license, and by paying an impound fee plus a boarding fee as set forth in this Chapter. Any cat that is identified by a shelter personnel as "feral" or "wild" shall not be required to be held for the three (3) day period.

(F) Impoundment of Licensed Cats. All impounded cats which are licensed or otherwise identified with a tag or microchip or whose owner is known shall be retained in the Animal Control Shelter for a minimum period of five (5) days after the owner is notified of the impoundment. As soon as reasonably possible following impoundment of such cat, the Animal Services Manager shall give notice of the impoundment to the owner of the cat, either in writing, by telephone or by personal notification. The Animal Services Manager shall keep a record of the date, time and manner of giving notice, with respect to each impounded cat. At any time during the said five (5) day period the owner may redeem the cat by procuring a microchip, applicable license, and paying an impound fee plus a boarding fee as set forth in this Chapter. The five (5) day period shall commence to run at noon on the day following the date notice is given.

(G) Spaying and Neutering. Any cat adopted from the Animal Control Shelter shall be spayed or neutered by a licensed veterinarian either prior to adoption, or within thirty (30) days of adoption, or as soon after the cat is old enough to be spayed or neutered. If the cat is not already spayed or neutered, the adopter shall agree to provide evidence of spaying or neutering to the Animal Control Shelter within thirty (30) days. For cats determined by a licensed veterinarian to be too young to be spayed or neutered within thirty (30) days of adoption, proof of spaying or neutering shall be provided by the cat's owner within thirty (30) days of the age the cat became eligible for spaying or neutering, which date shall be designated on the adoption paperwork.

~~(G)~~(H) An unaltered cat that has been impounded at the Animal Control Shelter on two (2) previous occasions during the previous one (1) year period shall be required to be spayed or neutered prior to the owner redeeming the animal. The impound, and boarding fees, shall be applied toward the cost of the spay or neuter.

~~(H)~~(I) Unclaimed Cats. The ownership of any cat not redeemed within the periods of time herein stated shall be forfeited and the cat may be sold thereafter by the Animal Services Manager to any person.

~~(H)~~(J) No cat shall be released from the Animal Services Shelter unless the cat is microchipped under this Chapter.

~~(H)~~(K) Disposal of Cats. If any cat is not redeemed or sold, the cat may be humanely destroyed and the carcass disposed of in any lawful manner.

SECTION 2. 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 3. Codification Clause. The City Clerk is instructed to immediately forward this Ordinance to the codifier of the official municipal code for proper revision of the Code.

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 September, 2018.

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 AMENDING CHAPTER SIX OF TITLE FIVE OF
THE IDAHO FALLS CITY CODE TO REQUIRE THE ANNUAL LICENSING
OF DOGS AND CATS; PROVIDING SEVERABILITY, CODIFICATION,
PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE."

Kathy Hampton, City Clerk

Public Works - Water Settlement Agreements Presentation/Discussion

**SETTLEMENT AGREEMENT (“AGREEMENT”) BETWEEN THE SURFACE WATER
COALITION¹, PARTICIPATING MEMBERS OF IDAHO GROUND WATER
APPROPRIATORS, INC.², AND SIGNATORY CITIES³**

WHEREAS, Idaho water rights are constitutional property rights defined by the prior appropriation doctrine; and

WHEREAS, the Idaho Department of Water Resources (“IDWR”) administers ground water and surface water rights under the prior appropriation doctrine, the Conjunctive Management Rules (“CM Rules”; IDAPA 37.03.11 et seq.), statutes, and decisional law; and

WHEREAS, the SWC owns surface water rights for irrigation purposes; and

WHEREAS, IGWA’s members own ground water rights for irrigation and other purposes; and

WHEREAS, IGWA owns spring water rights for fish propagation; and

WHEREAS, the Cities own municipal ground water rights, some of which are junior to water rights owned by the SWC or IGWA; and

WHEREAS, the SWC filed a delivery call in 2005 with IDWR under the CM Rules; and

WHEREAS, ground water rights of the Cities and IGWA members have been subject to IDWR administration, including curtailment, as a result of the SWC delivery call; and

WHEREAS, in the Rangen, Inc. delivery call as part of assessing an individual city’s mitigation obligation, IDWR determined the amount of a city’s pumping that was junior to the

¹ The Surface Water Coalition (“SWC”) consists of A&B Irrigation District, American Falls Reservoir District No. 2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company.

² The participating members of Idaho Ground Water Appropriators, Inc. are Aberdeen-American Ground Water District, Bingham Ground Water District, Bonneville-Jefferson Ground Water District, Carey Valley Ground Water District, Henry’s Fork Ground Water District, Jefferson-Clark Ground Water District, Madison Ground Water District, Magic Valley Ground Water District, North Snake Ground Water District, and Southwest Irrigation District. The acronym “IGWA” is used in this Agreement to refer to all of these Districts collectively.

³ The cities of Bliss, Burley, Carey, Declo, Dietrich, Gooding, Hazelton, Heyburn, Idaho Falls, Jerome, Paul, Pocatello, Richfield, Rupert, Shoshone, and Wendell are referred to in this Agreement individually as a “Signatory City” and collectively as the “Signatory Cities.” The Signatory Cities and additional cities who participate in this Agreement in the future, pursuant to section I.B, are referred to herein individually as a “City” and collectively as the “Cities.” The SWC, IGWA, and Signatory Cities are referred to herein individually as “Party” and collectively as the “Parties.”

curtailment date, if any, based on the city's 5-year average annual pumping volume less the maximum annual diversion volume authorized by the city's water rights that were senior to the curtailment date⁴; and

WHEREAS, pursuant to Idaho Code § 42-233(b) IDWR designated the Eastern Snake Plain Aquifer ("ESPA")⁵ as a Ground Water Management Area ("GWMA") on November 2, 2016—the largest GWMA established to date; and

WHEREAS, the Cities perceive substantial uncertainty regarding IDWR's administration of municipal water rights in the ESPA-GWMA; and

WHEREAS, IGWA and the SWC entered into a settlement agreement on June 30, 2015, to mitigate the obligations of IGWA members under the SWC delivery call. This agreement was the subject of addenda on October 19, 2015, and December 14, 2016, and was approved by the Director of IDWR as a CM Rule 43 mitigation plan ("CM Rule 43 Plan") on May 9, 2017. Collectively these documents are referred to herein as the "IGWA-SWC Settlement Agreement"; and

WHEREAS, the Cities are not parties to the IGWA-SWC Settlement Agreement; and

WHEREAS, the Cities desire to implement a long-term resolution to mitigation obligations under both the SWC Delivery Call and the ESPA-GWMA that allows for cities to continue to grow and develop and use additional water;

NOW THEREFORE, in settlement of litigation involving the distribution of water to the members of the SWC and the establishment of the ESPA-GWMA pursuant to Idaho Code § 42-233b, the Parties agree as follows:

⁴ Memorandum from Jennifer Sukow, P.E., P.G. to Director Gary Spackman, *Technical Review of Coalition of Cities' Second Mitigation Plan*, January 2015. Available at <https://idwr.idaho.gov/files/legal/CM-MP-2014-007/CM-MP-2014-007-20150123-Staff-Memo-Cities-2nd.pdf> (last visited August 28, 2018).

⁵ For purposes of this Agreement the ESPA is the aquifer as designated by the IDWR Director's November 2, 2016 ESPA- GWMA Order.

I. CITIES OBLIGATED UNDER THIS AGREEMENT:

- A. The cities of Bliss, Burley, Carey, Declo, Dietrich, Gooding, Hazelton, Heyburn, Idaho Falls, Jerome, Paul, Pocatello, Richfield, Rupert, Shoshone, and Wendell (“Signatory Cities”) are obligated to satisfy the terms of this Agreement. In the Signatory Cities’ sole discretion, they shall determine the proper distribution of this Agreement’s obligations among themselves.
- B. Additional cities that divert water from the ESPA may participate in this Agreement upon written notice to IDWR and the Parties. Such notice must be given by January 15 for a city to participate in a given year. These cities are referred to herein individually as a “Participating City” and collectively as the “Participating Cities”. The Signatory Cities at their sole discretion shall establish the terms by which any Participating City, may participate in the obligations of the Signatory Cities under this Agreement.

II. SIGNATORY CITIES’ MITIGATION OBLIGATION:

- A. Initial Mitigation Obligation: The Signatory Cities will collectively supply average annual mitigation water in the amount of 7,650 acre-feet per year (“AF/y”), with a minimum requirement to supply 1,000 AF/y, commencing January 1, 2019, with compliance as set forth in section II.C.
 - 1. All mitigation water will be used for aquifer enhancement projects on the ESPA unless the Parties agree otherwise in writing.
 - 2. The following activities will count 1:1 towards meeting the Signatory Cities’ mitigation obligations:
 - a. Delivery of water to the Idaho Water Resource Board (“IWRB”) for managed aquifer recharge of the ESPA;
 - b. Managed aquifer recharge of the ESPA accomplished by entities other than IWRB provided: (1) a minimum of 50% of the volume is recharged east of the Great Rift; (2) the recharge occurs at any of the sites identified in Table 12 of the McVay Report⁶ or any other recharge site having an average minimum simulated retention period greater than or equal to 17.5% after five years consistent with analysis methods in the McVay Report; and (3) the water to

⁶ Michael McVay, P.E., P.G., *Incorporating Recharge Limitation into the Prioritization of Aquifer Recharge Sites Based on Hydrologic Benefits Using ESPAM 2.1*, November 2015.

be recharged pursuant to this subsection would not otherwise incidentally recharge the ESPA, excluding municipal wastewater;

- c. Ground water to surface water conversions within the boundaries of the ESPA;
 - d. Temporary or permanent dry up (i.e. retirement) of irrigated lands within the boundaries of the ESPA; or
 - e. Other activities agreed to by the Parties.
- 3. The Signatory Cities' decisions regarding aquifer enhancement activities described in section II.A.2 is in their sole discretion.
 - 4. Aquifer enhancement activities performed by the Signatory Cities under this Agreement shall be in addition to aquifer enhancement activities performed by IGWA under the IGWA-SWC Settlement Agreement or by the IWRB under Idaho Senate Concurrent Resolution no. 136 (2016).

B. Changes in Mitigation Obligation:

- 1. In the event IGWA's required annual mitigation obligation as set forth in paragraph 3.a.i of the IGWA-SWC Settlement Agreement equals or exceeds 340,000 AF/y and the goals as set forth in paragraph 3.e. of the IGWA-SWC Settlement Agreement are not met, the Signatory Cities' collective annual mitigation obligation will increase from 7,650 AF/y to 9,640 AF/y commencing January 1 following notice of the increase.
- 2. In the event IGWA's annual mitigation obligation equals or exceeds 340,000 AF/y, but then is subsequently reduced below 340,000 AF/y, the Signatory Cities' annual mitigation obligation will be reduced back down to 7,650 AF/y commencing on January 1 following notice of the decrease.

C. Compliance with Average Annual Mitigation Obligation: The Cities will be judged to be in compliance with the mitigation requirement set forth herein so long as the five-year rolling average mitigation volume computed each year equals or exceeds the average annual Mitigation Obligation. The Cities will commence reporting under section III beginning in 2020 but compliance with the average annual mitigation obligation will first be assessed in 2024 for the period 2019-2023. Thereafter, compliance with the average annual mitigation obligation will be assessed annually.

D. Costs of activities: The Signatory Cities will pay for all costs (i.e., wheeling fees) related to their own aquifer enhancement projects and recharge.

III. REPORTING AND INFORMATION SHARING:

- A. Prior to April 1 of each year, the Signatory Cities will compile and share with IGWA, the SWC and IDWR an annual report that includes: (1) the volume of ground water diverted by each City individually and the Cities collectively in each of the prior five calendar years, (2) the average annual volume of ground water diverted by the Cities collectively during the prior five calendar years, (3) a description of the mitigation activities accomplished by the Cities during the prior calendar year, (4) the volume of mitigation water provided by the Cities in each of the prior five calendar years, (5) the average annual volume of mitigation water provided by the Cities during the prior five calendar years, and (6) anticipated mitigation activities to be undertaken by the Cities during the current year.
- B. The Parties will request that IDWR analyze the data contained in the Signatory Cities' annual report to confirm the accuracy of the data. IDWR's analysis shall be provided to the Parties no later than July 1 following the Signatory Cities' April 1 submittal of the annual report.
- C. For purposes of sharing of information and coordinating aquifer enhancement activities, IGWA and SWC agree to: (1) deliver to the Signatory Cities the IGWA April 1 report required under the Second Addendum to the IGWA-SWC Settlement Agreement ("Report"); (2) deliver IDWR's review of the Report to the Cities; (3) upon request of any Party, host a meeting to discuss implementation of this Agreement; and (4) invite the Signatory Cities to attend any Steering Committee meeting that discusses increasing IGWA's mitigation obligation to equal or exceed 340,000 AF/y.

IV. INCORPORATION INTO ESPA GROUND WATER MANAGEMENT PLAN:

- A. The Signatory Cities will withdraw their opposition to the ESPA-GWMA Order that is subject to a contested case before IDWR (Docket No. AA-GWMA-2016-001), provided, however, that all Parties may remain as parties to the contested case to monitor the proceedings and participate as necessary.
- B. At such time as IDWR undertakes to develop a ground water management plan for the ESPA-GWMA, the mitigation obligations set forth in section II of this Agreement will be submitted to IDWR for approval as a ground water management plan for the Cities. The Parties agree to support a ground water management plan that incorporates such obligations.
 - 1. If the ground water management plan imposes mitigation obligations that are materially greater or more burdensome than the obligations set forth in section II of this Agreement, section IV of this Agreement shall be of no force and effect and the cities reserve all right to challenge the ESPA-GWMA ground water management plan.
- C. At such time as IDWR undertakes to develop a ground water management plan for the ESPA-GWMA, the mitigation obligations set forth in the IGWA-SWC

Settlement Agreement will be submitted to IDWR for approval as a ground water management plan for IGWA members. The Parties agree to support a ground water management plan that incorporates such obligations.

- D. In the event a ground water management plan is not implemented for the ESPA-GWMA or the ESPA-GWMA is dissolved for any reason, such action or inaction shall have no effect upon this Agreement as an approved CM Rule 43 Plan for the SWC delivery call proceeding.

V. SAFE HARBOR FROM IGWA SPRING RIGHTS:

- A. During the term of this Agreement, IGWA agrees to not assert a delivery call requesting priority administration against any City based on any of IGWA's spring water rights so long as the Signatory Cities are in compliance with the mitigation obligations set forth in section II of this Agreement.

VI. CM RULE 43 MITIGATION PLAN:

- A. This Agreement will be submitted to IDWR for approval, and will be supported by IGWA and the SWC, as a CM Rule 43 Plan in the SWC delivery call proceedings.
- B. In the event this Agreement is not approved as a CM Rule 43 Plan in the SWC delivery call proceedings, this Agreement shall be of no further effect unless the Parties agree otherwise.

VII. EFFECT ON GROUND WATER DISTRICT ASSESMENTS:

- A. This Agreement does not waive, cancel, or otherwise affect assessment obligations of any City that belongs to an IGWA ground water district with respect to existing mitigation plans and activities in the Thousand Springs area.
- B. Upon IDWR's approval of this Agreement as a CM Rule 43 Plan, Cities that are members of an IGWA ground water district or that participate in mitigation activities of an IGWA ground water district by contract under Idaho Code § 42-5259 shall have the right to be relieved from future monetary assessments associated with the SWC delivery call while this Agreement is in effect. Each City that desires to be relieved from such assessments shall, if the City is a member of the district, file a petition under Idaho Code § 42-5251, or shall, if the City has contracted with the district, file a written request with the district, to be excluded from the district for all purposes except for existing mitigation plans and activities in the Thousand Springs area, and the board of directors of such district will grant the petition or request. Any City may file such petition in advance of IDWR approval of this Agreement as a CM Rule 43 Plan, with such City's exclusion conditional upon IDWR approval of this Agreement as a CM Rule 43 Plan.

- C. This section VII does not otherwise affect any rights available to Cities under Chapter 52, Title 42, Idaho Code, including but not limited to the right to petition a ground water district to be excluded from existing mitigation plans and activities in the Thousand Springs area, which will be considered by the board of directors of such district on a case by case basis.

VIII. LEGISLATION AND SUPPORT FOR STATE-SPONSORED RECHARGE:

- A. Upon execution, the Parties shall provide this Agreement to Idaho's Senate Resources and Environment Committee. The Parties agree to use their best efforts to seek passage of a Senate Concurrent Resolution to approve this Agreement, similar to *Senate Concurrent Resolution 135* (2016).
- B. The Signatory Cities agree to support continued funding of state-sponsored managed aquifer recharge of the ESPA.

IX. TERM:

- A. The term of this Agreement shall be until the average annual ESPA pumping of the Cities reaches 120,000 AF/y as determined by a five-year rolling average, or December 31, 2053, whichever is earlier.
- B. Notwithstanding any other provision or provisions of this Agreement, the Signatory Cities do not commit to a legal or other obligation to make payments or to incur any liability beyond the revenue and income provided during their then fiscal years. In the event a Signatory City's governing body fails to include in its proposed budget or related documents for the ensuing fiscal year or fails to appropriate sufficient funds to fully fund all of lessee's obligations hereunder for any future fiscal year, or otherwise chooses to terminate this Agreement, then the Signatory City will immediately notify all parties to this agreement and said notice will terminate this Agreement as to the notifying Signatory City as of September 30 of the fiscal year in which the failure to appropriate or other terminating event occurs. In such case, the liability and obligations and remedies against the notifying Signatory City will be limited to recovery only of funds appropriated for payments for the then current fiscal year.

X. DISPUTE RESOLUTION:

- A. Written notice of a dispute arising from or relating to this Agreement, or any alleged breach thereof, shall be provided to all Parties. The Parties shall thereafter attempt to resolve the matter within thirty (30) days of receiving written notice of the dispute through negotiations between the Parties. If the dispute is not resolved through negotiations, the Parties will attempt to resolve the dispute through non-binding mediation with the use of a mediator mutually agreed to by the Parties before resorting to litigation. If the Parties cannot agree to a mediator, the Director of IDWR shall appoint the mediator.

- B. In the event the Parties cannot resolve their dispute via mediation, any one of them may seek judicial relief in district court to seek resolution of the dispute. The provision of this remedy shall not excuse the Parties from participating in good faith negotiations and mediation as set forth above.

XI. GENERAL PROVISIONS:

- A. Entire Agreement. This Agreement sets forth all understandings between the Parties with respect to the subject matter hereof. There are no understandings, covenants, promises, agreements, or conditions, either oral or written between the Parties other than those contained herein.
- B. Binding Date; Effective Date. This Agreement shall be binding upon and inure to the benefit of the Parties and their successors and assigns, and shall be effective when it is signed by all of the Parties.
- C. Reservation of Rights. The Parties expressly reserve all rights not modified by this Agreement.
- D. Headings. Headings appearing in this Agreement are inserted for convenience and reference and shall not be construed as interpretations of the text.
- E. Amendment. This Agreement may be amended at any time in writing signed by all Parties.
- F. Waiver. No term of this Agreement shall be deemed waived and no performance shall be excused hereunder unless prior waiver or consent shall be given in writing signed by the Party against whom it is sought to be enforced. Any waiver of any default by any Party shall not constitute a waiver of the same or different default on a separate occasion.
- G. Counterparts. This Agreement may be executed in counterparts which, when taken together, shall constitute one and the same agreement.
- H. Electronic signatures. Signatures to this Agreement transmitted by facsimile or email shall be valid and effective to bind the Party so signing.

[End of Agreement; Signatures Below]

**PARTICIPATING MEMBERS OF
IDAHO GROUND WATER APPROPRIATORS, INC.**

ABERDEEN-AMERICAN FALLS GROUND WATER DISTRICT

Nick Behrend, Chairman

Date

BINGHAM GROUND WATER DISTRICT

Craig Evans, Chairman

Date

BONNEVILLE-JEFFERSON GROUND WATER DISTRICT

Carl Taylor, Chairman

Date

CAREY VALLEY GROUND WATER DISTRICT

Leta Hansen, Chairman

Date

JEFFERSON CLARK GROUND WATER DISTRICT

Kirk Jacobs, Chairman

Date

MADISON GROUND WATER DISTRICT

Jason Webster, Chairman

Date

MAGIC VALLEY GROUND WATER DISTRICT

Dean Stevenson, Chairman

Date

NORTH SNAKE GROUND WATER DISTRICT

Lynn Carlquist, Chairman

Date

HENRY'S FORK GROUND WATER DISTRICT

Jeff Raybould, Chairman

Date

SOUTHWEST IRRIGATION DISTRICT

Randy Brown, Chairman

Date

AMERICAN FALLS RESERVOIR DISTRICT NO. 2

Ellis Gooch
Chairman

Date

A&B IRRIGATION DISTRICT

Harold Mohlman
Chairman

Date

BURLEY IRRIGATION DISTRICT

Dean Edgar
Chairman

Date

MILNER IRRIGATION DISTRICT

Scott Breeding
Chairman

Date

MINIDOKA IRRIGATION DISTRICT

Ron Kowitz
Chairman

Date

NORTH SIDE CANAL COMPANY

John Beukers
Chairman

Date

TWIN FALLS CANAL COMPANY

Roger Blass
Chairman

Date

SIGNATORY CITIES

CITY OF BLISS	Date
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CITY OF IDAHO FALLS	Date
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CITY OF BURLEY	Date
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CITY OF JEROME	Date
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CITY OF CAREY	Date
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CITY OF PAUL	Date
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CITY OF DECLO	Date
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CITY OF POCA TELLO	Date
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CITY OF DIETRICH	Date
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CITY OF RICHFIELD	Date
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CITY OF BLISS	Date
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CITY OF RUPERT	Date
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CITY OF GOODING	Date
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CITY OF SHOSHONE	Date
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CITY OF HAZELTON	Date
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CITY OF WENDELL	Date
-----------------	------

CITY OF HEYBURN	Date
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INTERNAL CITY MITIGATION ALLOCATION AGREEMENT

THIS INTERNAL CITY MITIGATION ALLOCATION AGREEMENT (this “Agreement”) is made and entered into to be effective as of the ____ day of _____, _____, by and between the undersigned municipal corporations.

RECITALS:

Cities entering into this Agreement own municipal water rights for diversion of ground water from the Eastern Snake Plain Aquifer (“ESPA”) and/or its tributary basins.

On ____, 2019, certain cities¹ (the “Signatory Cities”) entered into a *Settlement Agreement Between the Surface Water Coalition, Participating Members of Idaho Ground Water Appropriators, Inc., and Signatory Cities* (“Final Settlement Agreement” a copy of which is attached as **Exhibit 1**), to resolve disputes regarding the designation of the Eastern Snake Plain Aquifer Ground Water Management Area (“GWMA”) and the Surface Water Coalition² delivery call.

The terms of the Final Settlement Agreement obligate the Signatory Cities to supply 7,650 af/year of mitigation water for aquifer enhancement projects when the Idaho Ground Water Appropriators, Inc. (“IGWA”) obligation is 240,000 acre-feet per year (“af/yr”) or the Signatory Cities to supply 9,640/af yr of mitigation water for aquifer enhancement projects when the IGWA obligation is 340,000 af/yr (*see* paragraph II.B. of the Final Settlement Agreement). These mitigation water amounts are referred to herein as the “Mitigation Obligation” associated with the Signatory Cities’ duties under the Final Settlement Agreement. Upon satisfaction of the terms of the Final Settlement Agreement, the Signatory Cities will avoid curtailment of ESPA Wells during the 35-year term of the Final Settlement Agreement.

The Mitigation Obligation is a negotiated volume of water that the parties to the Final Settlement Agreement agreed, if supplied pursuant to the terms of the Final Settlement Agreement, will mitigate for any impacts to ESPA levels associated with pumping of **all** municipal ground water rights in the ESPA.

While the Signatory Cities willingly accepted responsibility for supplying the Mitigation Obligation to assist with impacts to the ESPA aquifer levels that might be associated with municipal pumping, the Signatory Cities themselves are not responsible for 100% of the municipal pumping on the ESPA.

1 The cities obligated under the Final Settlement Agreement are the cities of Bliss, Burley, Carey, Declo, Dietrich, Gooding, Hazelton, Heyburn, Idaho Falls, Jerome, Paul, Pocatello, Richfield, Rupert, Shoshone. These are referred to in the Final Settlement Agreement, and may also be referred to here, as the “Signatory Cities”.

2 The Surface Water Coalition (“SWC”) consists of A&B Irrigation District, American Falls Reservoir District No. 2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company

Based on available municipal pumping data from IDWR, a small portion of municipal pumping on the ESPA is associated with cities that do not execute the Final Settlement Agreement.

ESPA cities that do not execute the Final Settlement Agreement are still subject to priority administration and/or other types of administration that IDWR may impose under an approved ESPA-GWMA that are unrelated to the doctrine of prior appropriation. Stated another way, ESPA cities that do not execute the Final Settlement Agreement could be curtailed.

The Signatory Cities desire to clarify their roles and responsibilities in satisfying the Mitigation Obligation under the Final Settlement Agreement.

The Signatory Cities also desire to create a mechanism to extend the protections of the Final Settlement Agreement as agreed therein by all parties to other cities on the ESPA who are not parties to the Final Settlement Agreement, including protection from curtailment. Cities who did not execute the Final Settlement Agreement but which execute an agreement afterward with Signatory Cities will be referred to herein as “Participating Cities.”

AGREEMENT:

For and in consideration of the mutual covenants and promises set forth below, the Signatory Cities and any Participating Cities agree:

1. Term. The term of this Agreement shall match the term of the Final Settlement Agreement (*see* paragraph IX.A of the Final Settlement Agreement), which shall be for a period of: (a) 120,000 af/yr year of total municipal pumping; or (b) thirty-five (35) years beginning on or around January 1, 2019 and ending on December 31, 2053, unless the Final Settlement Agreement is terminated early as provided by its terms, whichever is earlier. In such case, the term of this Agreement shall likewise terminate early.
2. Parties. The Parties to this Agreement shall be the Signatory Cities. Cities who execute a Notice of Intent to Participate are referred to herein as “Participating Cities”. Participating Cities shall be bound by the terms of this agreement the same as if they signed concurrently with the Signatory Cities.
3. Facilitation of the Satisfaction of Mitigation Obligation.
 - a. The Signatory Cities’ Mitigation Obligation is set forth in paragraph II.A. of the Final Settlement Agreement.
 - b. Determination of Signatory Cities’ proportional amount of the Mitigation Obligation.
 - i. The Signatory Cities have determined their initial individual obligation associated with the entire Mitigation Obligation on a basis that equally accounts for the individual city’s water right priority dates and the volumetric pumping amounts reported by an individual city or reported to

IDWR by an individual city through IDWR's WMIS program. *See*, **Exhibit 2** attached.

- ii. Upon execution of a timely provided Notice of Intent to Participate (**Exhibits 3 and 4**) by any Participating City with Signatory Cities, the proportional amounts of the Mitigation Obligation each individual Participating City must provide will be derived using the same methods as those used to develop **Exhibit 2**.
 - iii. Exhibit 3 will be updated once every 3 years starting on January 1, 2022 to re-determine the Signatory Cities and the Participating Cities' proportional amounts to be supplied as part of the entire Mitigation Obligation.
- c. Cooperation.
- i. The Signatory Cities and Participating Cities agree to cooperate in ensuring that the Mitigation Obligation is satisfied every year, whether or not a Signatory City is leasing water from the City of Pocatello ("Pocatello"), the Water District 01 ("WD01") Rental Pool, or other supplier, or supplying mitigation through its own aquifer enhancement project(s) which is defined in paragraph II.A.2 of the Final Settlement Agreement.
 - ii. The Signatory Cities and Participating Cities agree to provide pumping information and data as may be required in order to satisfy any reporting requirements in the Final Settlement Agreement. This information will be provided to Greg Sullivan at Spronk Water Engineers, Inc., 1000 Logan St., Denver, CO 80203 or via email to no later than February 15 each year for the prior years' pumping. The Signatory Cities and Participating Cities agree to pay in equal amounts any fee associated with Spronk's reporting of the information as required by the Final Settlement Agreement.
 - iii. Any Signatory or Participating Cities that elects not to lease Pocatello storage water as described herein to meet the entirety of its mitigation obligation and instead decides to engage in its own aquifer enhancement activities, acknowledges that:
 - (1) any such independent action to satisfy its mitigation obligation is limited to the approved list of aquifer enhancement activities described in paragraph II.A.2 of the Final Settlement Agreement;
 - (2) It must comply with the terms of this Internal Agreement (specifically paragraph 3(c));
 - (3) It must obtain the approval of the parties to the Final Agreement for aquifer enhancement projects it seeks to undertake;

- d. The City of Pocatello agrees as follows:
- i. Pocatello will make available up to 7,650 (or 9,640) af/yr of storage water for lease to Signatory Cities, and Participating Cities, from its Palisades storage account. The main lease terms and price calculator are included below.
 - ii. Pocatello avoids this obligation to lease storage water only due to “Act of God” or as a result of actions from the United States Bureau of Reclamation (“BOR”) or the Committee of Nine (under the WD01 Rental Pool Procedures or otherwise) imposing restrictions on the use of Pocatello’s storage water that were not in place on the date of the Final Agreement.
 - iii. Pocatello’s obligation to lease storage water is limited to supplying the amount necessary to ensure the Signatory Cities and Participating Cities (if any) supply the full Mitigation Obligation. In other words, if a Signatory City or Participating City determines to provide its own mitigation water and not to lease from Pocatello, the proportional amount associated with that individual Signatory City or Participating City will be subtracted from the amount Pocatello must supply under this Agreement.
 - iv. Storage water leases will be for a term of three years which shall match the three-year periods for recalculating each Signatory City’s mitigation obligation described in paragraph 3.b herein, with payment for all three years of leased storage water made up front by any Signatory City. In the event a Participating City elects to participate in the Final Settlement Agreement and enters an agreement in the middle of a three-year term, the Participating City shall make payments as provided under the Notice of Intent to Join Mid-Term.
 - v. All leases executed under paragraph 3.b.iv shall automatically extend in increments of three years at a time until it is terminated by providing notice of intent to terminate on or before January 31 of the last year of the lease.
 - vi. Notice of lease renewal will include the following:
 - (1) An “intent to participate” which, if executed, obligates a city to pay at least \$___ [city surcharge] plus its portion of the lease price, set forth below in section 3.b.vi.(3) relating to its individual portion of the Mitigation Obligation calculated in **Exhibit 2**. *See, Exhibit 2.*
 - (2) Lease for the subsequent three-year term.
 - (3) The lease renewal will also include the lease price (determined under the algorithm below).

- (a) Years 1-3 lease rate shall be: WD01 tier 3 dry-year storage water lease rate + wheeling fees + \$1.30 per AF (WD01 administrative fee which may be adjusted from time to time in accordance with the Rental Pool Procedures) + Pocatello surcharge for cost recovery associated with managing the leases and coordinating with WD01 (to be determined by Pocatello).
 - (b) Years 4-6 lease rate and thereafter shall be: WD01 tier 3 dry-year storage water lease rate + wheeling fees + current WD01 administrative fee + current Pocatello surcharge (to be determined), subject to an **adjustment** based on actual water conditions and associated dry-year or wet year storage water lease rates in years 1-3.
- vii. To ensure the amount leased is made available for aquifer enhancement projects as set forth in the Final Settlement Agreement. Towards this end, Pocatello commits to:
 - (1) Work with WD01 and the Idaho Water Resource Board (“IWRB”) to ensure the leased block of Pocatello storage water by the Signatory and Participating Cities is assigned and actions taken to satisfy the Final Settlement Agreement requirements regarding aquifer enhancement projects.
 - (2) Account for mitigation actions taken and track the 5-year rolling average amount supplied for aquifer enhancement projects as set forth in the Final Settlement Agreement and compile the Signatory Cities’ annual report as set forth in paragraph III of the Final Settlement Agreement.
 - (a) Pocatello must meet the 5-year rolling average but the way in which it accomplishes the same is within its sole discretion. Pocatello agrees, however, to deliver mitigation in a manner that includes a minimum of 1,000 af/y as set forth in paragraph II.A. of the Final Settlement Agreement.
 - (3) Compile and report Signatory Cities and Participating Cities pumping data, including updated pumping data, for purposes of the annual report and for recalculating each Signatory Cities and Participating Cities’ obligations to supply their proportional amount of the 7,650/9,640 af/yr.
 - (4) To the extent the obligation becomes 9,640 af/year, the City of Pocatello agrees to ensure that the proper amount is delivered for aquifer enhancement. The Signatory and Participating Cities

agree to work with Pocatello to provide timely, additional payment based on circumstances.

- e. Signatory Cities will require of Participating Cities' the following responsibilities, in addition to the foregoing:
 - i. To remit the Intent to Participate form along proof of compliance with the terms therein no later than December 15 of the year prior to when the Participating Cities intends to be covered by this Agreement and the Final Settlement Agreement.
 - ii. To provide reporting as needed for compliance with the Final Settlement Agreement.
- 4. Participating Cities Joining in the Middle of a Three-Year Term. Notwithstanding the foregoing, paragraph 3.e.i., a Participating City that decides to join in the middle of any three-year term will do so pursuant to the terms of the attached Notice of Intent to Participate.
- 5. Default. Should any Party, whether a Signatory City or a Participating City, default in the performance of any of the covenants or agreements contained herein, other than non-appropriation, such defaulting party shall pay to the injured party or parties all costs and expenses, including, but not limited to, a reasonable attorney's fee, including such fees on an appeal, which the offended Party may incur in enforcing this agreement or in pursuing any remedy allowed by law for breach hereof, whether such is incurred by the filing of suit or otherwise. Upon default, the Signatory Cities and Participating Cities not in default, may 1) exclude the defaulting City from participating further in this Agreement and may 2) provide notice to IDWR regarding any City who is in default that the defaulting City is no longer being covered by the mitigation contained herein or in compliance with The Final Settlement Agreement.
- 6. Non-Appropriations. Notwithstanding any other provision or provisions of this Agreement, the Signatory Cities do not commit to a legal or other obligation to make payments or to incur any liability beyond the revenue and income provided during their then fiscal years. In the event a Signatory City's governing body fails to include in its proposed budget or related documents for the ensuing fiscal year or fails to appropriate sufficient funds to fully fund all the obligations hereunder for any future fiscal year, or otherwise chooses to terminate this Agreement, then the Signature City will immediately notify all parties to this Agreement and said notice will terminate this Agreement as to the notifying Signature City as of September 30 of the fiscal year in which the failure to appropriate or other terminating event occurs. In such case, the liability and obligations and remedies against the notifying Signature City will be limited to recovery only of funds appropriated for payments for the then-current fiscal year.
- 7. Not Joint Powers Agreement or Loan Agreement. The Parties understand and agree that this Agreement is not a joint powers agreement and should not be interpreted as such. Additionally, nothing herein shall be interpreted as a loan of credit or insurance for

another Signatory or Participating City or the collective group of Signatory and Participating Cities.

8. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the successors in interest and assigns of the Parties hereto.
9. Merger Clause. This writing evidences the complete and final agreement of the parties hereto of this subject matter and no other prior statement, representation, or understanding shall be binding, except as expressly set forth herein.
10. Mistakes Clause. In the event that Pocatello makes a mistake in the amount of water delivered for aquifer enhancement activities, or there is an unanticipated issue that arises, the Parties to this Agreement agree to negotiate in good faith in resolution thereof.
11. Dispute Resolution. If a dispute arises from this Agreement, written notice of the dispute shall be provided to all Signatory and Participating Cities that are then covered by this Agreement and the Final Settlement Agreement. The Signatory and Participating Cities will then attempt to resolve the dispute within 30 days and if the dispute is not resolved through such negotiation then the dispute shall be referred to meditation. In the event the Parties cannot resolve their dispute via mediation, any one of them may seek judicial relief in district court to seek resolution of the dispute. The provision of this remedy shall not excuse the Parties from participating in good faith negotiations and mediation.
12. Headings. Headings appearing in this Agreement are inserted for convenience and reference and shall not be construed as interpretations of the text.
13. Amendment. This Agreement may be amended at any time in writing signed by all Parties.
14. Waiver. No term of this Agreement shall be deemed waived and no performance shall be excused hereunder unless prior waiver or consent shall be given in writing signed by the Party against whom it is sought to be enforced. Any waiver of any default by any Party shall not constitute a waiver of the same or different default on a separate occasion.
15. Counterparts. This Agreement may be executed in counterparts which, when taken together, shall constitute one and the same agreement.
16. Electronic Signatures. Signatures to this Agreement transmitted by facsimile or email shall be valid and effective to bind the Party so signing.

IN WITNESS WHEREOF, the parties have each caused their names to be appropriately affixed by duly authorized representatives the day and year first above written.

CITY OF BLISS Date _____

CITY OF IDAHO FALLS Date _____

CITY OF BURLEY
Date

CITY OF JEROME
Date

CITY OF CAREY Date _____

CITY OF PAUL Date

CITY OF DECLO
Date

CITY OF POCA TELLO
Date

CITY OF DIETRICH
Date

CITY OF RICHFIELD
Date

CITY OF GOODING
Date

CITY OF RUPERT
Date

CITY OF HAZELTON Date _____

CITY OF SHOSHONE
Date

CITY OF HEYBURN Date _____

CITY OF WENDELL
Date

EXHIBIT 1

Final Settlement Agreement

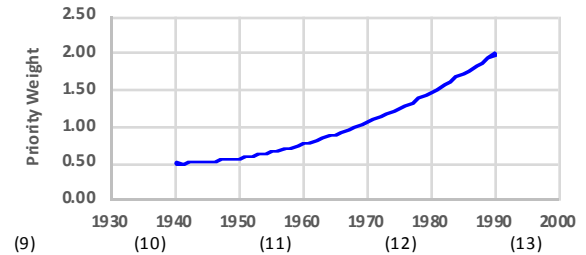
EXHIBIT 2

Mitigation Obligation Calculation

Proposed Allocation of Mitigation Obligation Among Participating Cities
Proposed Cities, IWGA, and SWC Settlement Framework

Annual Mitigation Volume (af)	7,650
Weighted by Pumping (%)	50%
Weighted by Priority (%)	50%

Priority Weighting	
Year	Weight
1940	0.5
1990	2.0



(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
City	2011 - 2015 Average Pumping (af/y)	Proportion of Total Pumping (%)	Mitigation Volume by Pumping (af/y)	Avg Annual Pumping Rate (cfs)	Peak Month Pumping Rate (cfs)	Weighted Priority Date of Peak Month Pumping (cfs)	Priority Weight	Priority Weighted Pumping (af/y)	Proportion of Total Priority Weighted Pumping (%)	Mitigation Volume by Priority (af/y)	Total Mitigation Volume (af/y)	Proportion of Total Mitigation Volume (%)
Bliss	52.9	0.1%	3.2	0.1	0.1	8/1/1960	0.8	40.4	0.1%	3.7	6.9	0.1%
Burley	6,416.2	10.3%	392.8	8.9	17.0	10/1/1935	0.5	3,208.1	7.6%	290.3	683.1	8.9%
Carey	120.1	0.2%	7.4	0.2	0.4	2/21/1979	1.4	171.7	0.4%	15.5	22.9	0.3%
Declo	122.9	0.2%	7.5	0.2	0.3	10/17/1954	0.6	78.4	0.2%	7.1	14.6	0.2%
Dietrich	60.5	0.1%	3.7	0.1	0.2	12/31/1910	0.5	30.2	0.1%	2.7	6.4	0.1%
Gooding	1,074.1	1.7%	65.8	1.5	2.9	9/17/1930	0.5	537.1	1.3%	48.6	114.4	1.5%
Heyburn	501.6	0.8%	30.7	0.7	1.5	8/27/1989	1.9	974.3	2.3%	88.2	118.9	1.6%
Hazelton	98.7	0.2%	6.0	0.1	0.2	6/21/1917	0.5	49.3	0.1%	4.5	10.5	0.1%
Idaho Falls	27,407.3	43.9%	1,677.9	37.8	82.5	8/27/1961	0.8	21,623.3	51.2%	1,956.8	3,634.7	47.5%
Jerome	3,270.4	5.2%	200.2	4.5	7.7	2/5/1945	0.5	1,713.7	4.1%	155.1	355.3	4.6%
Paul	397.7	0.6%	24.3	0.5	1.1	2/6/1935	0.5	198.8	0.5%	18.0	42.3	0.6%
Pocatello	14,960.3	23.9%	915.9	20.6	42.5	3/9/1939	0.5	7,480.1	17.7%	676.9	1,592.8	20.8%
Pocatello (irr)	3,173.9	5.1%	194.3	n/a	n/a	5/31/1967	1.0	3,054.1	7.2%	276.4	470.7	6.2%
Richfield	805.2	1.3%	49.3	1.1	1.2	12/14/1975	1.3	1,011.4	2.4%	91.5	140.8	1.8%
Rupert	2,516.8	4.0%	154.1	3.5	8.1	1/8/1927	0.5	1,258.4	3.0%	113.9	268.0	3.5%
Shoshone	783.2	1.3%	47.9	1.1	2.1	10/1/1951	0.6	461.9	1.1%	41.8	89.7	1.2%
Wendell	716.9	1.1%	43.9	1.0	2.1	5/15/1945	0.5	375.7	0.9%	34.0	77.9	1.0%
Total	62,478.7	100.0%	3,825.0					42,266.9	100.0%	3,825.0	7,650.0	100.0%
Total Pocatello	18,134.2	29.0%	1,110.2					10,534.2	24.9%	953.3	2,063.5	27.0%

Notes:

- (1) Participating cities in ESPA Cities Settlement Agreement.
- (2) Five-year average annual pumping data provided by cities.
- (3) 2011 - 2015 Average Pumping (2) for City / Total 2011 - 2015 Average Pumping.
- (4) Proportion of Total Pumping (3) x Annual Mitigation Volume (af) x 50%.
- (5) 2011 - 2015 Average Pumping (2) / 365.25 days / 1.9835 af/cfs.
- (6) Avg Annual Pumping Rate (5) x Peaking Factor.
- (7) Weighted Priority Date of Peak Month Pumping.
- (8) Priority weight computed using Non-Linear Weighting method.
- (9) 2011 - 2015 Average Pumping (2) x Priority Weight (8).
- (10) Priority Weighted Pumping (9) for City / Total Priority Weighted Pumping.
- (11) Proportion of Total Priority Weighted Pumping (10) x Annual Mitigation Volume (af) x 50%.
- (12) Mitigation Volume by Pumping (4) + Mitigation Volume by Priority (11).
- (13) Total Mitigation Volume (12) for City / Total Mitigation Volume.

EXHIBIT 3
Notice of Intent to Participate

ESPA CITY
NOTICE OF INTENT TO PARTICIPATE

As permitted under the terms and conditions of the *Settlement Agreement Between the Surface Water Coalition, Participating Members of Idaho Ground Water Appropriators, Inc., and Signatory Cities* (the “Final Settlement Agreement” attached hereto as **Exhibit 1**) and the terms of an associated agreement—the *Internal Mitigation Allocation Agreement* (the “Internal Agreement” attached hereto as **Exhibit 2**)—the **City of ESPA City** (“ESPA City”) hereby provides the following notice.

1. **Legal Effect of Notice.** ESPA City agrees to fully participate and become legally bound as though ESPA City was a party to the Final Settlement Agreement and the Internal Agreement.
2. **Responsibility To Perform Aquifer Enhancement Actions.** In providing this notice, ESPA City understands and agrees that it will be responsible to undertake its allocated share of aquifer enhancement actions as described in paragraph II.A of the Final Settlement Agreement.
3. **Calculation of Aquifer Enhancement Obligation.** ESPA City agrees to the methodology used to determine its yearly aquifer enhancement obligation calculated pursuant paragraph 3.b of the Internal Agreement.
4. **Lease of Pocatello Storage Water.** Pursuant to paragraph 3.d of the Internal Agreement, ESPA City understands that the City of Pocatello (“Pocatello”) has agreed to make storage water—which is allocated to Pocatello under its contract with the United States Bureau of Reclamation—available to ESPA cities who are parties to the Final Settlement Agreement and the Internal Agreement in order to meet the aquifer enhancement mitigation obligations required under the Final Settlement Agreement. ESPA City understands that use of Pocatello’s storage water will require execution of a private lease agreement with Pocatello. ESPA City hereby provides notice that ESPA City _____ IS or _____ IS NOT interested in leasing storage water from Pocatello to meet all or a portion of ESPA City’s mitigation obligation. To the extent ESPA City is interested in leasing Pocatello storage water, ESPA City will contact Pocatello and enter into a private lease agreement for such storage water.
5. **Other Aquifer Enhancement Activities.** ESPA City understands that if it elects not to lease Pocatello storage water to meet the entirety of its mitigation obligation and instead decides to engage in its own aquifer enhancement activities, that the approved list of aquifer enhancement activities is described in paragraph II.A.2 of the Final Settlement Agreement and to ensure compliance with the Final Settlement Agreement and the Internal Agreement will:

- a. Comply with the provision of the Internal Agreement (specifically paragraph 3.c) to inform the Signatory and Participating Cities of the aquifer enhancement projects ESPA City undertakes; and
- b. Will seek approval from the parties to the Final Agreement for aquifer enhancement projects that are not described in paragraph II.A.2 of the Final Settlement Agreement.

CITY OF [NAME OF CITY] Date

EXHIBIT 1
Final Settlement Agreement

EXHIBIT 2
Internal Agreement

EXHIBIT 4
Notice of Intent to Participate Mid-Term

ESPA CITY
NOTICE OF INTENT TO PARTICIPATE
(Mid-term)

As permitted under the terms and conditions of the *Settlement Agreement Between the Surface Water Coalition, Participating Members of Idaho Ground Water Appropriators, Inc., and Signatory Cities* (the “Final Settlement Agreement” attached hereto as **Exhibit 1**) and the terms of an associated agreement—the *Internal Mitigation Allocation Agreement* (the “Internal Agreement” attached hereto as **Exhibit 2**)—the **City of ESPA City** (“ESPA City”) hereby provides the following notice.

1. **Legal Effect of Notice.** ESPA City agrees to fully participate and become legally bound as though ESPA City was a party to the Final Settlement Agreement and the Internal Agreement.
2. **Responsibility To Perform Aquifer Enhancement Actions.** In providing this notice, ESPA City understands and agrees that it will be responsible to undertake its allocated share of aquifer enhancement actions as described in paragraph II.A of the Final Settlement Agreement.
3. **Calculation of Aquifer Enhancement Obligation.** ESPA City agrees to the methodology used to determine its yearly aquifer enhancement obligation calculated pursuant paragraph 3.b of the Internal Agreement.
4. **Lease of Pocatello Storage Water.**
 - a. **Background.** Pursuant to paragraph 3.d of the Internal Agreement, ESPA City understands that the City of Pocatello (“Pocatello”) has agreed to make storage water—which is allocated to Pocatello under its contract with the United States Bureau of Reclamation—available to ESPA cities who are parties to the Final Settlement Agreement and the Internal Agreement in order to meet the aquifer enhancement mitigation obligations required under the Final Settlement Agreement.
 - b. **Mid-Term Notice and Requirement to Lease Pocatello Storage.** Because ESPA City is providing this notice during a three-year term as described in the Internal Agreement, as a condition of filing this *ESPA City Notice of Intent to Participate*, ESPA City hereby agrees that in order to meet its mitigation obligation for the remaining portion of the current three-year time period where each Signatory or Participating City’s mitigation obligation is calculated, ESPA City must lease storage water from Pocatello to meet such City’s mitigation obligations.

- c. **Recalculation of Signatory and Participating City's Mitigation Obligations.** ESPA City understands that the result of its participation will be a recalculation of each Signatory and Participating City's mitigation obligation as provided in the Internal Agreement. Some or all of the Signatory or Participating Cities have already entered into lease agreements for a three-year supply of storage water from Pocatello to be used for mitigation purposes to meet such Cities' obligations, which amounts will be adjusted downward with ESPA City's participation.
- d. **Payments to Existing Signatory and Participating Cities.** ESPA City agrees that the reduced amounts allocated to the Signatory and Participating Cities resulting from ESPA City's participation are the source of ESPA City's mitigation supply, and therefore, agrees to provide payment to each Participating City for the cost of such Participating City's reduced amount of leased Pocatello storage water as described on **Exhibit 3** attached hereto.
- e. **Inclusion of Cover Letter.** ESPA City shall include a cover letter in substantially the same form as **Exhibit 4** to be provided to each Participating City with said payment.
- f. **Mitigation After End of Current Three-year Mitigation Period.** ESPA City understand that at the end of the current three-year time period where each Signatory or Participating City's mitigation obligation is calculated, ESPA City will need to enter into a lease agreement with Pocatello if ESPA City intends to use Pocatello storage water as its mitigation supply for the succeeding three-year term.

CITY OF [NAME OF CITY]

Date

EXHIBIT 1

Final Settlement Agreement

EXHIBIT 2

Internal Agreement

EXHIBIT 3

Adjusted Mitigation Obligations

EXHIBIT 4
Cover Letter

[DATE]

City of _____
[ADDRESS]

RE: Reimbursement to Your City of Funds Paid to Lease Pocatello Storage Water.

Dear _____:

The City of ESPA City recently submitted an *ESPA City Notice of Intent to Participate* (the “Notice”) in the *Settlement Agreement Between the Surface Water Coalition, Participating Members of Idaho Ground Water Appropriators, Inc., and Signatory Cities* (the “Final Settlement Agreement”) and the terms of an associated agreement—the *Internal Mitigation Allocation Agreement* (the “Internal Agreement”).

Pursuant to the Internal Agreement, ESPA City’s recent participation requires a recalculation of all of the Signatory and Participating City’s mitigation obligations. This recalculation has reduced the mitigation obligation originally calculated for your city. However, because you have already entered into lease agreement with the City of Pocatello for storage water to meet your mitigation obligation, it is necessary for ESPA City to reimburse you for the difference between what you originally leased and what you are now obligated to lease. Accordingly, enclosed with this letter is a check in the amount of \$_____ payable to your city.

If you have any questions or concerns regarding this letter or refund, you can contact one of the following attorneys who are familiar with the provision of the Final Agreement and Internal Agreement and this reimbursement process: (1) Candice McHugh and Chris Bromley of the law firm McHugh Bromley, PLLC, at (208) 287-0991; (2) Sarah Klahn of the law firm Somach Simmons & Dunn, at (720) 279-7868; or (3) Rob Harris of the law firm of Holden, Kidwell, Hahn & Crapo, P.L.L.C., at (208) 523-0620.

Sincerely,

[Title]

